



## Freedom in the World - India (2011)

---

**Capital:** New Delhi

**Population:**  
1,171,029,000

**Political Rights Score:** 2 \*

**Civil Liberties Score:** 3 \*

**Status:** 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.

### Overview

**The Congress Party–led coalition government considered several reforms aimed at poverty alleviation and social development in 2010. The entry into force of the Right of Children to Free and Compulsory Education Act in April marked the first time that the right to education was legally guaranteed to children throughout the country. While the year was relatively peaceful, ongoing Maoist and separatist insurgencies, lawlessness, and human rights violations continued to plague a number of states.**

---

India achieved independence from Britain in 1947. The centrist, secular Congress Party ruled at the federal level for nearly all of the first 50 years of independence. In the 1990s, however, the Hindu nationalist Bharatiya Janata Party (BJP) became a major factor in Parliament, leading a number of subsequent governments. 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 1990s also featured major economic reform, with a Congress government initiating a shift toward market-oriented policies following a balance-of-payments crisis in 1991.

The BJP, which had held power since 1998, was unexpectedly defeated after calling early national elections in 2004. The Congress Party formed a ruling coalition with a number of regional parties, but Congress leader Sonia Gandhi decided to hand the premiership to former finance minister Manmohan Singh. The new Congress-led United Progressive Alliance (UPA) government agreed to reverse several of the previous government's policies, including controversial antiterrorism legislation and the injection of Hindu nationalist ideology into state-run schools. However, the UPA faced internal rifts and pressure from leftist allies over economic issues such as privatization and labor law reform. The government survived a contentious July 2008 confidence vote in Parliament triggered by leftist objections to a nuclear pact with the United States, though the vote was marred by bribery allegations.

The UPA gained strength in the April–May 2009 parliamentary elections, decisively defeating the BJP-led National Democratic Alliance, which remained its closest rival. Congress itself won 206 of 543 lower house seats, compared with 116 for the BJP, and the UPA won 260 seats overall. Moreover, the coalition made alliances with several independent parties, eventually giving it a majority of 322 seats.

Congress's electoral victory led to a more stable government, and India's success in weathering the global financial crisis that began in late 2008 weakened calls for additional free-market economic reforms. In 2010, the government focused on measures designed to bolster existing legal protections and benefits for the poor and other vulnerable groups. In April 2010, the Right of Children to Free and Compulsory Education Act took effect, making education a fundamental right for every child in India between the ages of 6 and 14. The act also reserved 25 percent of the seats in private schools for disadvantaged children. Lawmakers also drafted a National Food Security Bill, which seeks to ensure that poor families receive monthly quotas of wheat and rice grains, as well as other benefits related to food access. At year's end, the government was in consultations with

civil society groups to agree on the bill's final provisions.

## **Political Rights and Civil Liberties**

India is an electoral democracy. Members of the lower house of Parliament, the 545-seat Lok Sabha (House of the People), are directly elected 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 the 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 as head of state, is chosen for a five-year term by state and national lawmakers.

Under the supervision of the Election Commission of India (ECI), elections in India have generally been free and fair. The 2009 national polls were mostly peaceful, though Maoist militant attacks in parts of the country led to 17 deaths during the first phase of voting. Electronic voting machines, also used in 2004, have helped reduce election-day irregularities. Violence has also declined during state-level elections, which were held in Andhra Pradesh, Orissa, Sikkim, Arunachal Pradesh, Maharashtra, and Haryana in 2009, and Bihar in 2010. Incumbents retained power in all of the votes. Badly maintained voter lists and the intimidation of voters in some areas continue to be matters of concern, although the ECI has made efforts to make voter lists available online. A wide range of political parties operate freely. Due to the rising popularity of parties based in a single state, coalition governments have become the norm at the national level.

Political corruption continues to plague government efficiency in India. Transparency International's 2010 Corruption Perceptions Index ranked India 87 out of 178 countries surveyed, while the latest survey by Political and Economic Risk Consultancy ranked India's bureaucracy as the worst in Asia. Legal limits on electoral spending are invariably exceeded, with campaigns drawing on large amounts of "black money" obtained through tax evasion and other means. Misdirection of funds meant for public goods and social programs has undermined overall progress on development. Though politicians and civil servants are regularly caught accepting such bribes or engaging in other corrupt behavior, a great deal of corruption goes unnoticed and unpunished. The federal government has introduced a number of initiatives to address the problem, such as the 2005 Right to Information Act, internet-based government services and information, and accountability and transparency agreements between organizations and individuals, known as citizen charters. The Right to Information Act has reportedly been used heavily and successfully to improve transparency, although many information requests are still denied because of poor record keeping by government agencies and broad restrictions on the release of information remain in place. In January 2010, a right to information activist responsible for exposing several corrupt land deals was attacked and killed by unidentified assailants. A system of "social audits" was intended to allow individuals and independent monitors to assess the public utility of government programs, but many reports indicate that local government officials distrust the program and attempt to thwart the inquiries.

India's private media are vigorous and diverse. Investigations and scrutiny of politicians in print, online, and television outlets—as well as linkages with human rights groups, other civil society organizations, and government bodies tasked with responding to problems through the political process—make the news media one of the most important components of India's democracy. While radio remains dominated by the state and private stations are not allowed to air news content, the television and print sectors have expanded considerably in recent years, with many of the new outlets targeting specific regional or linguistic audiences. Despite this vibrant media landscape, journalists, creative writers, and human rights defenders continue to face a number of constraints. The government sometimes uses its power under the Official Secrets Act to censor security-related articles. Authorities have also on occasion used other security laws, criminal defamation legislation, hate-speech laws, and contempt-of-court charges to curb critical voices.

Journalists remain subject to physical intimidation. On a number of occasions during 2010, reporters were attacked, threatened, or detained by police, local authorities, insurgents, or right-wing groups. Members of the press are particularly vulnerable in rural areas and insurgency-racked states such as Chhattisgarh, Kashmir, Assam, and Manipur. In May, for instance, newspaper journalist Biranjan Mallick was beaten in Orissa by a local elected leader and his supporters for publishing an article alleging financial irregularities in the area's implementation of the National Rural Employment Guarantee Act (NREGA). Incidents of attacks or harassment aimed at journalists

in Orissa reportedly increased during the year. Perpetrators of violence against journalists in India are rarely punished in practice.

Internet access is largely unrestricted, although some states have passed legislation that requires internet cafes to register with the state government and maintain user registries. Under Indian internet crime law, the burden is on website operators to demonstrate their innocence. Potentially inflammatory books, films, and internet sites are occasionally banned or censored.

Freedom of religion is constitutionally guaranteed in India and is generally respected. However, legislation in several states criminalizes religious conversions that take place as a result of "force" or "allurement," and impunity for violence against religious minorities is not uncommon. Hindus of various ethnicities make up over 80 percent of the population, but the state is secular. An array of Hindu nationalist organizations and some local media outlets promote antiminority views. In September 2010, the Allahabad High Court issued a decision in a high-profile case stemming from the 1992 destruction of a 16th-century mosque in Ayodhya by Hindus who claimed it was built on a Hindu holy site. The court ruled that the land should be divided, with one-third going to a Muslim organization and two-thirds set aside for use by Hindus. Reactions to the decision were notably muted, and it did not trigger religious violence, but lawyers for both sides filed appeals.

Academic freedom is generally quite robust, though intimidation of professors and institutions over political and religious issues sometimes occurs. Scholars and activists accused of sympathizing with Maoist insurgents have reportedly faced increased pressure from the authorities.

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; officials occasionally use it to prevent demonstrations. Police and hired thugs sometimes beat, arbitrarily detain, or otherwise harass villagers and members of nongovernmental organizations (NGOs) who protest forced relocation from the sites of development projects. In May 2010, police officers injured more than a hundred villagers in Baliththa, Orissa, who had been protesting since January against the government's decision to allow a South Korean company to set up factories in the area, which would displace local residents.

Human rights organizations generally operate freely. However, they have expressed concern about threats, legal harassment, the use of excessive force by police, and occasionally lethal violence. In July 2010, activist and lawyer Amit Jethwa was shot and killed in Gujarat after filing a lawsuit that implicated local political figures in illegal mining; one of those he accused was later arrested and charged with organizing the murder. In December, civil liberties activist Binayak Sen was convicted of sedition and sentenced to life in prison for his peaceful opposition to government counterinsurgency tactics used against Maoist rebels. Foreign monitors are occasionally denied visas to conduct research trips to India on human rights 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 industries and limits public servants' right to strike. Article 23 of the Indian constitution bans human trafficking, and bonded labor is illegal, but the practice is fairly common across the country. Estimates of the number of affected workers range from 20 to 50 million. Children younger than 14 are banned from working in potentially hazardous industries, including domestic servitude and positions at hotels, restaurants, or roadside food stalls, though in practice the law is routinely flouted. In July 2010, the ministry of labor initiated a five-year program aimed at eliminating child labor and trafficking.

The judiciary is independent of the executive branch. Judges have displayed considerable activism in response to public-interest litigation on official corruption, environmental issues, and other matters. However, in recent years judges have initiated several contempt-of-court cases against activists and journalists who expose judicial corruption or question verdicts. Contempt-of-court laws were reformed in 2006 to make truth a defense with respect to allegations against judges, provided the information is in the public and national interest.

At the end of 2010, lawyer Prashant Bhushan was facing contempt-of-court proceedings for asserting in September that many of India's recent Supreme Court judges have been corrupt. Rejecting offers to resolve the case with an apology, he indicated that he would test his claims in court. In 2009, following a public debate over judicial accountability, India's 29 Supreme Court justices announced that they would disclose their assets publicly on the court's website.

The lower levels of the judiciary in particular are reportedly rife with corruption, and most citizens

have great difficulty securing justice through the courts. The system is severely backlogged and understaffed, with millions of civil and criminal cases pending. This leads to lengthy pretrial detention for a large number of suspects, many of whom remain in jail beyond the duration of any sentence they might receive if convicted. To help address the problem, the government has proposed establishing thousands of village courts to hear cases in rural areas.

Despite legal reforms in recent years, the criminal justice system still generally fails to provide equal protection to minorities, lower castes, and tribal members. Muslims, who make up some 14 percent of the population, are underrepresented in the security forces as well as in the foreign and intelligence services.

Particularly in rural India, informal caste councils or Muslim religious leaders often issue edicts concerning marriage, divorce, and other social customs. While these bodies play a role in relieving the overburdened official courts, their edicts sometimes result in violence or persecution aimed at those perceived to have transgressed social norms, especially women and members of the lower castes.

Police often torture or abuse suspects to extract confessions or bribes. The police also suffer from understaffing, as according to a 2009 Human Rights Watch report, there is one officer for every 1,037 civilians—half of Asia's average and less than a third of the global average of one officer for every 333 civilians. 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. Between 2001 and March 2009, there were 1,184 reported deaths in police custody, nearly all of which were caused by torture, according to the Asian Centre for Human Rights. The group estimated that the actual number of deaths is far greater. The National Human Rights Commission (NHRC) is headed by a retired Supreme Court judge and handles roughly 80,000 complaints each year. However, 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, which severely hampers its effectiveness.

Security forces operating in the context of regional insurgencies continue to be implicated in extrajudicial killings, rape, torture, arbitrary detention, kidnappings, and destruction of homes. The criminal procedure code requires the federal or relevant state government to approve prosecution of security force members, but such approval is rarely granted, leading to impunity for personnel implicated in human rights abuses. The Armed Forces Special Powers Act (AFSPA) 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. Security forces also continue to hold suspects under the National Security Act, which authorizes detention without charge for up to one year, as well as the Unlawful Activities Prevention Act. In response to spiraling Maoist-related violence, the Chhattisgarh state government passed the Special Public Protection Act in 2006, with broad language allowing three-year detentions for "unlawful activities" and criminalizing the provision of support to the rebels, even if under duress.

The spread and growth of the Maoist insurgency in recent years has been of serious concern to the government. There were 1,180 Maoist-related deaths across nine states in 2010, including those of over 600 civilians, according to the South Asia Terrorism Portal (SATP). In an April 2010 raid in Chhattisgarh, Maoist fighters killed some 75 policemen, making it one of their deadliest attacks to date. 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 who are perceived to be progovernment have been targeted by the Maoists. Tens of thousands of civilians have been displaced by the violence and live in government-run camps.

Separately, in India's seven northeastern states, more than 40 insurgent factions—seeking either greater autonomy or complete independence for their ethnic or tribal groups—attack security forces and engage in intertribal violence. Such fighters have been implicated in numerous bombings, killings, abductions, and rapes of civilians, and they also operate extensive extortion networks. However, the number of killings of civilians, security personnel, and militants in the northeastern insurgencies fell sharply to 322 in 2010, compared with 852 in 2009, according to the SATP.

The constitution bars discrimination based on caste, and laws set aside quotas in education and government jobs for the so-called scheduled tribes, scheduled castes (Dalits), and other backward classes (OBCs). Women and religious and ethnic minorities are represented in national and local government; as of 2010, the president was a woman, the vice president was a Muslim, the prime

minister was a Sikh, and the speaker of the Lok Sabha was a Dalit woman. However, members of the lower castes and 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. A government proposal to reserve an extra 27 percent of places in universities and technical institutes for OBCs—taking the total portion of reserved slots to 49.5 percent—was approved in 2008. Indian Muslims are disproportionately more likely to be poor and illiterate, and less likely to have access to government employment, medical care, or loans.

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 land transfers to nontribal groups, the practice is widespread, according to a 2008 Asian Indigenous and Tribal People's Network report. The 2006 Forest Rights Act gave tribal groups ownership rights over forestland they farmed, though some reports have suggested that the law has not been effectively implemented.

Each year, several thousand women are killed or driven to suicide, and countless others are abused or deserted by husbands, in the context of domestic disputes. Rape and other violence against women are serious problems, and lower-caste and tribal women are particularly vulnerable. Despite the criminalization of dowry demands and hundreds of convictions each year, the practice continues. 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 released in 2009 by the Delhi-based Lawyers' Collective indicated that enforcement of the law was poor in many states. So-called honor killings, in which women are murdered by relatives for perceived sexual or moral transgressions, remain a problem, especially in the northwestern states of Punjab and Haryana.

Muslim personal-status laws and traditional Hindu practices discriminate against women in terms of inheritance, adoption, and property rights. The malign neglect of female children after birth remains a concern, as does the banned but growing use of prenatal sex-determination tests to selectively abort female fetuses. These trends have contributed to a significant imbalance in the male-female birth ratios in a number of states. In 2008 the government announced an award of nearly \$3,000 for families that raise female children. The trafficking of women and children to, from, and within India—primarily for prostitution and forced labor—remains a significant problem.

In a landmark decision in July 2009, a court scrapped colonial-era laws that banned homosexual behavior. The laws had contributed to the harassment of gay men and the NGOs that work with them, according to Human Rights Watch, and the court ruling came after a protracted campaign against the statutes by rights groups. Gay activist groups organize openly, despite harassment and occasional violence.

---

*\*Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom. Click [here](#) for a full explanation of Freedom in the World methodology.*