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FREEDOM IN THE WORLD

5

India

[India](#) | [Freedom in the World 2014](#) |

OVERVIEW:

In September 2013, the Hindu nationalist Bharatiya Janata Party (BJP) nominated Narendra Modi, the chief minister of Gujarat, as its candidate for prime minister in the 2014 general elections, in which it hoped to unseat the ruling coalition led by the secular Indian National Congress party. Although Modi had a reputation for good economic management in his state, he has also been accused of failing to stop 2002 sectarian riots in which some 1,000 Gujarati Muslims were killed. The issue of communal violence, though in decline over the long term, remained acutely relevant during the year, as the country recovered from 2012 ethnic and religious clashes in which half a million people were displaced from northeastern states. New violence erupted in September 2013, when confrontations between Hindus and Muslims killed 40 people and displaced roughly 40,000 Muslims near the Uttar Pradesh town of Muzaffarnagar. Separately, a terrorist attack, possibly orchestrated by the Islamic extremist group Indian Mujahideen, killed 16 people in the southern city of Hyderabad in February.

Despite the concerns about Modi's past, analysts argued that his probusiness stance gave the BJP an advantage over the Congress-led United Progressive Alliance (UPA) government, which has struggled to rally support in the wake of high-profile corruption scandals and an economic slowdown in recent years. Malfeasance in the awarding of telecommunications licenses and coal-mining contracts was alleged to have caused large public losses, and former telecommunications minister Andimuthu Raja, first charged in 2011, remained on trial at the end of 2013 for bribery, forgery, and abusing his position. The scandals had fueled the growth of an anticorruption protest movement in 2011, and the formation of a new antigraft political faction, the Aam Aadmi (Common Man) Party, in 2012. The government's popularity was battered further that year, when it undertook a set of controversial economic reforms, including reducing subsidies for diesel and cooking gas, in an effort to decrease fiscal deficits and stave off a potential downgrade from credit rating agencies. The cuts led to protests across India and the withdrawal of one partner from the governing coalition.

The ruling coalition announced in 2013 that it would

2014 SCORES

STATUS

Free

FREEDOM RATING
(1 = BEST, 7 = WORST)

2.5

CIVIL LIBERTIES
(1 = BEST, 7 = WORST)

3

POLITICAL RIGHTS
(1 = BEST, 7 = WORST)

2

support the creation of a 29th state, Telangana, carved out of southern Andhra Pradesh, before the 2014 polls. Both houses of Parliament and the state assembly would have to approve a bill to establish the new state. The decision was widely viewed as politically opportunistic. Groups in Andhra Pradesh's inland districts have lobbied for the creation of Telangana for decades, saying the state government disproportionately favors the coastal Seemandhra region when allocating resources. Their opponents fear the loss of the present capital, Hyderabad, a commercial hub that would become part of the new state. Protests against the split crippled Andhra Pradesh in October, as striking power plant workers left an estimated 21 million people without electricity. Nationally, other regions with movements seeking statehood saw increased strikes and demonstrations.

POLITICAL RIGHTS AND CIVIL LIBERTIES:

Political Rights: 34 / 40 [Key]

A. Electoral Process: 11 / 12

Under the supervision of the Election Commission of India, elections have generally been free and fair. 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 current, 15th Lok Sabha will complete its term on May 31, 2014. The Lok Sabha determines the leadership and composition of the government. Most members of the less powerful 250-seat upper house, the Rajya Sabha (Council of States), are elected by state legislatures using a proportional-representation system to serve staggered six-year terms; up to 12 members are appointed. Executive power is vested in a prime minister and cabinet. The president, who plays a largely symbolic role but possesses some important powers, is chosen for a five-year term by state and national lawmakers. In July 2012, former finance minister and senior Congress Party leader Pranab Mukherjee was elected as the 13th president of India. Manmohan Singh has been prime minister since 2004.

In the last parliamentary elections in 2009, the UPA decisively defeated the BJP-led National Democratic Alliance, its closest rival. The 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 the 2004 elections, helped reduce election-day irregularities. Congress itself won 206 of 543 lower house seats, and the UPA won 260 seats overall. The UPA also made alliances with independent parties that gave it a significant majority, leading to a more stable government.

At the state level, Karnataka, Delhi, Tripura, Rajasthan, Nagaland, Mizoram, Meghalaya, Madhya Pradesh, and Chhattisgarh each held assembly elections during 2013. In Delhi, after Congress lost control of the assembly and the BJP failed to win the majority, the untried Aam Aadmi Party formed a minority government.

B. Political Pluralism and Participation: 14 / 16

India hosts a dynamic multiparty system. The Congress Party ruled at the federal level for nearly all of the first 50 years of independence, but the BJP became a major factor in Parliament in the 1990s and led a governing coalition from 1998 to 2004. Also during the 1990s, a pattern of single-party governments gave way to ruling coalitions involving large numbers of parties. The change stemmed in part from the rise of new parties that held power and legislative seats in a single state or region.

Political participation is affected to a certain degree by insurgent violence in some areas, powerful economic interests, and ongoing practical disadvantages for some marginalized segments of the population. Nevertheless, women and religious and ethnic minorities vote in large numbers and are represented in government. As of 2013, the vice president was a Muslim, the prime minister was a Sikh, and the speaker of the Lok Sabha was a Dalit woman. A number of states were headed by female chief ministers.

C. Functioning of Government: 9 / 12

Political corruption has a negative effect on government efficiency and economic performance. India was ranked 94 out of 177 countries and territories surveyed in Transparency International's 2013 Corruption Perceptions Index. Though politicians and civil servants are regularly caught accepting bribes or engaging in other corrupt behavior, a great deal of corruption goes unnoticed and unpunished.

Domestic and international pressure has led to legislation and activism to counter this trend. Federal initiatives include the 2005 Right to Information Act, which is widely used to improve transparency and expose corrupt activities. While this legislation has had clear positive effects, over a dozen right-to-information activists have reportedly been killed since late 2009.

Civil Liberties: 43 / 60 (+1)

D. Freedom of Expression and Belief: 13 / 16

The private media are vigorous and diverse. Investigations and scrutiny of politicians make the news media one of the most important components of India's democracy. Nevertheless, revelations of close relationships between politicians, business executives, lobbyists, and some leading media personalities have dented public confidence in the press in recent years. While radio remains dominated by the state and private radio stations are not allowed to air news content, the television and print sectors have expanded considerably over the past decade, with many of the new outlets targeting specific regional or linguistic audiences.

Despite this vibrant media landscape, journalists continue to face a number of constraints. The government has used security laws, criminal defamation legislation, hate-speech laws, and contempt-of-court charges to curb critical voices on social media as well as traditional media platforms. According to the Committee to Protect Journalists, at least three journalists were killed because of their work in 2013, more than in any of the previous four years.

Internet access is largely unrestricted, though officials periodically implement overbroad blocks on supposedly offensive content to prevent unrest. Under Indian internet crime law, the burden is on website operators to remove content if requested to do so, and they face possible criminal penalties. Potentially inflammatory books and films are also occasionally banned or censored. A nationwide Central Monitoring System, launched in April 2013 and reportedly active in at least some states, will allow authorities to intercept any digital communication in real time. The surveillance does not require judicial oversight, and India does not have a privacy law to protect citizens in case of abuse.

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.” Hindus 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.

Academic freedom is generally robust, though intimidation of professors and institutions over political and religious issues sometimes occurs. Scholars and activists accused of sympathizing with Maoist insurgents have faced pressure from authorities and alleged torture by police.

E. Associational and Organizational Rights: 11 / 12

There are some restrictions on freedoms of assembly and association. Section 144 of the criminal procedure code empowers the authorities to restrict free assembly and impose curfews whenever “immediate prevention or speedy remedy” is required. State laws based on this standard are often abused to limit the holding of meetings and assemblies. Nevertheless, protest events take place regularly in practice. Peaceful demonstrations associated with anticorruption activist Anna Hazare drew tens of thousands of people into the streets in 2011 and 2012, and similar activity to protest violence against women occurred in 2013.

Human rights organizations operate freely, but continue to face threats, legal harassment, excessive police force, and occasionally lethal violence. While India is home to a strong civil society sector and academic community, foreign monitors and journalists are occasionally denied visas to conduct research trips in the country on human rights and other topics. Under certain circumstances, the Foreign Contributions (Regulation) Act permits the federal government to deny nongovernmental organizations access to foreign funding. The government has been accused of abusing this power to target political opponents.

While workers in the formal economy regularly exercise their rights to bargain collectively and strike, the Essential Services Maintenance Act has enabled the government to ban certain strikes.

F. Rule of Law: 9 / 16 (+1)

The judiciary is independent of the executive branch. Judges have displayed considerable activism in response

to public-interest litigation matters. However, in recent years some judges have initiated 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. The lower levels of the judiciary in particular have been rife with corruption, and most citizens have great difficulty securing justice through the courts. The system is severely backlogged and understaffed, with an estimated 32 million cases pending in lower courts and 66,000 at the Supreme Court. 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. According to the International Centre for Prison Studies, 66 percent of the country's approximately 385,000 prisoners were on or awaiting trial at the end of 2012. The creation of various fast-track courts to clear the backlog has prompted charges that due process is being denied in some instances.

The criminal justice system fails to provide equal protection to marginalized groups. Muslims, who make up some 13 percent of the population, are underrepresented in the security forces as well as in the foreign and intelligence services. Particularly in rural India, informal councils often issue edicts concerning social customs. While these bodies play a role in relieving the overburdened official courts, their decisions sometimes result in violence or persecution aimed at those perceived to have transgressed social norms, especially women and members of the lower castes.

Police torture, abuse, and corruption are entrenched in the law enforcement system. The police also suffer from understaffing in relation to the size of the population. Citizens frequently face substantial obstacles, including demands for bribes, in getting the police to file a First Information Report, which is necessary to trigger an investigation of an alleged crime. Custodial rape of female detainees continues to be a problem, as does routine abuse of ordinary prisoners, particularly minorities and members of the lower castes. According to the Working Group on Human Rights in India and the United Nations, 14,231 people died in police custody between 2001 and 2010, and approximately 1.8 million people are victims of police torture every year. This is likely an underestimate, since it only includes cases registered with the National Human Rights Commission (NHRC).

The NHRC is headed by a retired Supreme Court judge and handles roughly 8,000 complaints each year. While it monitors abuses, initiates investigations, makes independent assessments, and conducts training sessions for the police and others, its recommendations are often not implemented and it has few enforcement powers. The commission also lacks jurisdiction over the armed forces, one of the principal agents of abuse in several parts of the country, further hampering its effectiveness. The NHRC nevertheless makes a substantial contribution to accountability by submitting reports to international bodies such as the UN Human Rights Council, often contradicting the government's account of its performance.

Security forces operating in the context of regional

insurgencies continue to be implicated in extrajudicial killings, rape, torture, arbitrary detention, kidnappings, and destruction of homes. The criminal procedure code requires the government to approve the prosecution of security force members, but approval is rarely granted, leading to impunity. 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. In northeastern Manipur, much of which is designated a “disturbed area” for the purposes of the act, activist Irom Sharmila Chanu has been on a hunger strike since November 2000 to demand the revocation of the AFSPA, but has faced continual arrests and forced feeding by the authorities. A number of other security laws allow detention without charge or based on vaguely worded offenses.

The Maoist insurgency in several parts of India is of serious concern to the government. Deaths related to this left-wing extremism peaked in 2010 with 1,180 across India, according to the South Asia Terrorism Portal (SATP). The group documented 421 related fatalities—including 159 civilians—in 2013. Twenty-seven people were killed when Maoist militants ambushed a convoy of state-level Congress party representatives returning from a political rally in Chhattisgarh in May. Among other abuses, the rebels have allegedly imposed illegal taxes, seized food and shelter, and engaged in abduction and forced recruitment of children and adults. Local civilians and journalists who are perceived to be progovernment have been targeted by the Maoists. Security forces responding to the threat, including paramilitary troops and police, have also been accused of serious human rights abuses. 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 operate extensive extortion networks. The number of deaths related to the northeastern insurgencies declined from 316 in 2012 to 252 in 2013, according to the SATP. These levels represent a substantial reduction compared with the 852 killed in 2009 and the more than 1,000 killed in each of the two years prior to that.

The constitution bars discrimination based on caste, and laws set aside quotas in education and government jobs for historically underprivileged scheduled tribes, scheduled castes (Dalits), and groups categorized by the government as “other backward classes.” However, members of the lower castes and minorities continue to face routine discrimination and violence. Dalits are often denied access to land and other public amenities, abused by landlords and police, and forced to work in miserable conditions. Indian Muslims are more likely than the general population to be poor and illiterate, with less access to government employment, medical care, and loans.

G. Personal Autonomy and Individual Rights: 10 / 16

Freedom of movement is hampered in some parts of the country by insurgent violence or communal tensions. Property rights are somewhat tenuous for tribal groups and other marginalized communities, and members of these groups are often denied adequate resettlement opportunities and compensation when their lands are seized for development projects. While many states have laws to prevent transfers of tribal land to nontribal groups, the practice is reportedly widespread. In 2013, the Land Acquisition, Rehabilitation, and Resettlement Bill was passed into law, providing increased rights to people threatened with displacement for industrial and infrastructure projects. It takes effect January 1, 2014.

Rape, harassment, and other transgressions against women are serious problems, and lower-caste and tribal women are particularly vulnerable. The fatal gang rape of a woman on a Delhi bus in December 2012 caused mass demonstrations and drew international attention. The government responded by enacting significant legal reforms, and a special court sentenced four men to death for the crime less than nine months later. However, less publicized rape investigations and trials are still lagging nationwide. Despite the criminalization of dowry demands and hundreds of convictions each year, the practice continues. According to India's most recent National Family Health Survey report, released in 2009 and covering the years 2005 and 2006, 37 percent of married women between ages 15 and 49 have experienced physical or sexual violence at the hands of their husbands. A 2006 law banned dowry-related harassment, widened the definition of domestic violence to include emotional or verbal abuse, and criminalized spousal rape. However, reports indicate that enforcement is poor.

Muslim personal 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.

A landmark 2009 decision by the Delhi High Court struck down Section 377 of the Indian penal code, which criminalized homosexual behavior. However, a panel of the Supreme Court reversed that ruling in December 2013, finding that an act of Parliament would be required to change the code. An appeal was pending at the end of 2013. Widespread discrimination against LGBT (lesbian, gay, bisexual, and transgender) people continues in practice, including violence and harassment in some cases, though transgender people receive varying degrees of official recognition across the country.

Article 23 of the constitution bans human trafficking, and bonded labor is illegal, but the practice is fairly common. Estimates of the number of affected workers range from 20 to 50 million. Children are also banned from working in potentially hazardous industries, though in practice the law is routinely flouted.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

[Full Methodology](#)

EXPLANATORY NOTE:

The numerical ratings and status listed above do not reflect conditions in Indian-controlled Kashmir, which is examined in a separate report.

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