



Flygtningenævnets baggrundsmateriale

Bilagsnr.:	138
Land:	Indien
Kilde:	Amnesty International
Titel:	"India - Amnesty International"
Udgivet:	12. juni 2006
Optaget på baggrundsmaterialet:	13. juni 2006

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Asia-Pacific : India

REPUBLIC OF INDIA

Head of state: A.P.J. Abdul Kalam

Head of government: Manmohan Singh

Death penalty: retentionist

International Criminal Court: not signed

UN Women's Convention: ratified with reservations

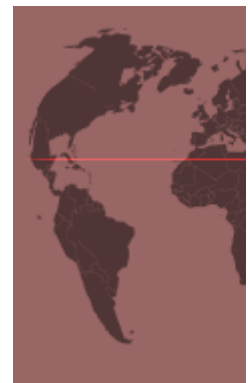
Optional Protocol to UN Women's Convention: not signed

Overview - Covering events from January - December 2005

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Perpetrators of human rights violations continued to enjoy impunity, particularly in Gujarat, which witnessed widespread violence in early 2002. There were reports of human rights violations in the context of unrest in several states, including Jammu and Kashmir and some north-eastern states. The government repealed security legislation which had been used to facilitate arbitrary arrests, torture and other grave human rights violations. However, some of the provisions allowing these violations were transferred into existing laws, a move widely criticized by human rights organizations. Socially and economically marginalized groups, including women, *dalits* and *adivasis* (tribal people), continued to face systemic discrimination and serious doubts remained about whether moves to enact new laws could achieve the intended aim of protecting their rights. Some states in central and eastern India, where traditional *adivasi* habitations are located, witnessed an increase in violence involving armed groups and state forces.

Background



India

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Ongoing peace talks between India and Pakistan ensured the resumption of bus services across the divided Himalayan region of Kashmir after 58 years. In October and November, transport lines were opened at five points along the Line of Control in Kashmir to facilitate the delivery of aid to people affected by the earthquake in October. However, with issues at the core of the conflict yet to be taken up, relations between the two countries improved at only a slow pace.

During the year, government and foreign agencies were engaged in the relief efforts for those affected by the 26 December 2004 tsunami which killed an estimated 15,000 people and displaced more than 112,000 others in the southern states of Tamil Nadu, Kerala and Andhra Pradesh and the union territories of Pondicherry and Andaman and the Nicobar Islands.

In Andhra Pradesh, peace talks between the state government and the Maoist (naxalite) People's War Group (PWG) collapsed after eight months, signalling a return to a series of attacks during which civilians were routinely targeted. Similar incidents were witnessed in several central and eastern states, putting members of already marginalized rural and *adivasi* populations at increased risk.

In the north-east, talks between the Union government and a section of the National Socialist Council of Nagaland remained inconclusive. There were moves to initiate talks between the Union government and the United Liberation Front of Assam. The region also witnessed sporadic clashes between members of tribal communities during which civilians were targeted.

The United Progressive Alliance (UPA) government introduced a draft bill to prevent communal violence, following widespread criticism of its predecessor for failing to halt the 2002 communal violence in Gujarat targeting the Muslim minority. However, some of the bill's provisions were criticized as repressive.

Proceedings regarding the 1992 demolition of Babri Mosque at Ayodhya, in which senior leaders of the Bharatiya Janata Party (BJP) were facing trial, made little progress during the year.

Following a vigorous civil society campaign, the Indian parliament passed landmark legislation guaranteeing the right to information. However, it was unclear whether various union and state government agencies would fully enforce this legislation.

Violence against women

In an effort to stem increasing abuses against girls and women, including dowry deaths, sexual assault and acid attacks, parliament in August passed the Protection of Women from Domestic Violence Bill (2005), which legislates for comprehensive protection of women from all forms of domestic violence.

Traditional preference for boys has led to thousands of female fetuses being aborted despite the prohibition of pre-natal sex determination for this purpose. In May the Health Minister stated that there had not been a single conviction for breaking the ban since it was introduced eight years earlier.

Many of the abuses suffered by Muslim women in Gujarat in 2002 fell outside the definition of rape in national law, thereby hampering victims' quest for justice.

The Supreme Court in October objected to a 2003 order of the Madhya Pradesh High Court reducing a 10-year sentence for rape to nine months' imprisonment. It held that an inadequate punishment for rape was an "affront to society".

The personal law of specific communities became a political issue after the All India Muslim Personal Law Board confirmed Muslim clerics' *fatwa* concerning the marriage of Imrana Ilahi. Imrana Ilahi alleged rape by her father-in-law in June in Muzzaffarnagar, Uttar Pradesh; the Board subsequently annulled her marriage and pressed for her rape allegation to be re-framed as a charge of adultery. Imrana Ilahi and her husband defied the directive but the local village council continued to put pressure on them to withdraw their charge of rape.

A petition seeking to prevent the establishment of a parallel Muslim judicial system and binding *fatwas* issued by Muslim clerics or organizations was pending in the Supreme Court at the end of the year.

Jammu and Kashmir

Politically motivated violence slightly decreased but torture, deaths in custody and "disappearances" continued to be reported. At least 38 people were reported to have died in custody. In January, the Minister of State for Home Affairs stated that some 600 people,

including 174 foreigners, were held under the Public Safety Act (PSA), a preventive detention law. In October 44 detainees were released but new detentions were reported. Several people had been held under the PSA for over 10 years under successive PSA detention orders.

- Farooq Ahmad Dar was detained in November under his ninth consecutive PSA order. He had been in continuous detention under the PSA since 1991.

Civilians were repeatedly targeted by state agencies and armed groups.

- In May, armed fighters threw a grenade just as children were leaving their school in Srinagar, killing two women who had come to pick up children and injuring 50 others, including 20 pupils.
- In July, four juveniles aged between 11 and 15 were shot dead by paramilitary Rashtriya Rifles in Kupwara district. Local people said that the boys had participated in a marriage party and gone for a stroll but ran away when ordered to stop. They said that the army had been informed of possible movements of people attending the party late at night.

In September, the State Human Rights Commission, which had registered 3,187 cases of human rights violations since its inception in 1991, reiterated its earlier complaint that government departments failed to implement its recommendations.

Gujarat

Survivors of targeted killings and sexual violence in 2002, some of which had amounted to crimes against humanity, continued to be denied justice and reparations. Key cases relating to these killings and sexual assaults of Muslim women in which complainants had sought transfers to courts outside the state, were still pending in the Supreme Court at the end of the year. In December a mass grave containing the remains of Muslim victims was found.

Impunity

Members of the security forces continued to enjoy impunity for human rights violations.

- Nine years after the “disappearance” and killing of human rights lawyer Jalil Andrabi in Srinagar, Jammu and Kashmir, an army major identified as responsible by a special investigation team had still not been brought to justice. Army representatives asserted that they had not been able to locate him.

More than two decades after the anti-Sikh riots in Delhi and elsewhere in the aftermath of Prime Minister Indira Gandhi’s assassination, a judicial commission concluded that there was credible evidence pointing to the involvement of two leaders of the Congress party heading the ruling UPA. Both were forced to resign from their official posts. Several others belonging to the same party were cleared of charges, leading to criticism by human rights organizations. Prime Minister Manmohan Singh offered a public apology to the Sikh community and the government promised to reopen some of the riot cases.

In Punjab, the vast majority of police officers responsible for serious human rights violations during the period of civil unrest in the mid-1990s continued to evade justice, despite the recommendations of several judicial inquiries and commissions. In response to 2,097 reported cases of human rights violations during this period, the National Human Rights Commission (NHRC) had ordered the state of Punjab to provide compensation in 109 cases concerning people who died in police custody. The NHRC did not address issues of liability; the culture of impunity developed during that period prevailed. Reports of abuses including torture and ill-treatment persisted.

- Six policemen were convicted of the abduction and murder of human rights defender Jaswant Singh Kalra in 1995. Kalra had exposed large-scale violations in Punjab.

Human rights defenders

Human rights defenders in many parts of the country continued to be harassed and attacked. Among them were activists working on behalf of marginalized communities including *dalits* and *adivasis* who faced systemic discrimination.

Abuses by armed groups

There were reports of abuses – including torture, attacks and killings of civilians – by armed

groups in Jammu and Kashmir, the north-east and several central and eastern states where left-wing armed groups were becoming increasingly active. (See Jammu and Kashmir above.)

- In November, during elections in Bihar, Maoists (naxalites) attacked the Jehanabad prison. More than 340 prisoners, including key Maoist leaders, were freed. Eight prisoners belonging to a private army of dominant landed castes, Ranvir Sena, were killed and 20 others kidnapped.

Following the upsurge in the activities of left-wing armed groups in several states, the government set in motion plans for joint inter-state anti-naxalite operations. These initiatives raised concerns over the rights and safety of *adivasi* populations who traditionally inhabit the area.

In July, there was an attack on the disputed religious site at Ayodhya. Later in October, during the run-up to the annual festival season, Delhi was rocked by a series of blasts which left 66 people dead and more than 220 injured.

Death penalty

At least 77 people were sentenced to death during the year; no executions took place. No comprehensive information on the number of people under sentence of death in each state was available.

President Kalam and the newly-appointed Chief Justice to the Supreme Court expressed themselves in general against the death penalty. The President sought from the Indian parliament a comprehensive policy to deal with clemency petitions from those under sentence of death.

Security legislation

More than a year after the repeal of the Prevention of Terrorism Act (POTA), cases of all those held under the Act had not been fully reviewed within the stipulated period. In addition, a number of state governments had not taken action on the recommendations of a judicial committee set up to review the cases.

Human rights organizations continued to express concern over amendments made to the Unlawful Activities (Prevention) Act which granted special powers to the state, similar to those previously provided by the POTA. Although the 1958 Armed Forces Special Powers Act (AFSPA) was under review, there was concern over its continued enforcement in "disturbed areas", including large parts of the north-east.

- Syed Geelani, a Kashmiri lecturer sentenced to death under the POTA for conspiring, planning and abetting the attack on the parliament building in New Delhi in December 2001 and acquitted on appeal in 2003, was shot and injured in February outside his lawyer's office. The inquiry into the shooting was entrusted to the very police force that Syed Geelani alleged had harassed him since his release. An appeal filed by police against his acquittal was dismissed by the Supreme Court in September.

Economic, social and cultural rights

Despite positive economic gains in recent years, approximately 300 million people remained mired in poverty.

Following persistent reports over increasing rural unemployment and campaigns to empower the rural poor, the UPA government enacted legislation to guarantee minimum annual employment for all poor households in selected rural areas. However, guidelines for its implementation had not been fully framed by the end of the year.

Twenty-one years after the Union Carbide Corporation's (UCC) pesticide plant in Bhopal leaked toxic gases that took a heavy toll on lives and the environment, survivors continued to struggle for adequate compensation, medical help and rehabilitation. The plant site had still not been cleaned and toxic wastes continued to pollute groundwater. UCC and Dow Chemicals (which took over UCC in 2001) had publicly stated that they had no responsibility for the leak or its consequences. AI joined a year-long campaign by the Bhopal survivors and other organizations to call for an immediate clean-up of the pollutants from the site and the affected surroundings as well as a full remedy for the victims, and for those responsible to be brought to justice.

Other issues

There was grave concern at the intensification of social, political, cultural and economic discrimination, oppression and violence against *dalits*. Data suggested that few cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 had resulted in convictions.

Adivasi communities in several states continued to face great pressure from dam and mining development projects, expansion of modern forms of agriculture and settlements. Legislation aimed at recognizing and guaranteeing the rights of these communities to access forest areas and resources was under debate in the Indian parliament at the end of the year.

AI country visits

AI delegates, including AI's Secretary General, visited India in February and met government officials, NHRC representatives and civil society organizations.

AI representatives met government officials and activists in December.

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