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2008 Country Reports on Human Rights Practices - India

Bureau of Democracy, Human Rights, and Labor
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India is a multiparty, federal, parliamentary democracy with a bicameral parliament and a population of approximately 1.1 billion with an active civil society. Manmohan Singh became prime minister following his Congress Party-led coalition's victory in the 2004 general elections, which were considered free and fair, despite scattered instances of violence. Serious internal conflicts affected the states of Jammu and Kashmir, as well as several states in the north and east. While civilian authorities generally maintained effective control of the security forces, security forces occasionally acted independently of government authority during incidents of communal tensions in states such as Karnataka.

The government generally respected the rights of its citizens; however, serious problems remained. Major problems included extrajudicial killings of persons in custody, disappearances, and torture and rape by police and other security forces. Investigations into individual abuses and legal punishment for perpetrators occurred, but for the majority of abuses, the lack of accountability created an atmosphere of impunity. Poor prison conditions and lengthy detentions during both pretrial and trial proceedings remained significant problems. Officials used special antiterrorism legislation to justify the excessive use of force. Corruption existed at all levels of government and police. The government applied restrictions to the travel and activities of visiting experts and scholars. Significant restrictions remained on the funding and activities of NGOs. Increasing attacks against religious minorities and the promulgation of antireligious conversion laws were concerns. Violence associated with caste-based discrimination occurred. Domestic violence, child marriage, dowry-related deaths, honor crimes, female infanticide and feticide remain serious problems. Trafficking in persons and exploitation of indentured, bonded, and child labor were continuing problems.

Separatist guerrillas and terrorists in Kashmir, the Northeast, and the Naxalite belt committed numerous serious abuses, including killing armed forces personnel, police, government officials, judges, and civilians. Insurgents engaged in widespread torture, rape, beheadings, kidnapping, and extortion; however, the number of incidents declined compared to the previous year.

RESPECT FOR HUMAN RIGHTS

1. Respect for the Integrity of the Person, Including

Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were credible reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents. A high rate of encounter killings occurred in the Northeast, particularly in the states of Assam and Manipur. Sources also reported encounter killings in Jammu and Kashmir, Maharashtra, and Chhattisgarh. Custodial deaths remained a serious problem, and authorities often delayed prosecutions.

Despite the National Human Rights Commission's (NHRC) recommendations that all police encounter deaths be investigated by the Criminal Investigations Department (CID), many states conducted internal reviews only at the discretion of senior officers. For example, between January and July, Mumbai police killed 12 alleged criminals in nine separate encounters. There was no investigation of these incidents despite NHRC recommendations to do so. On August 31, police dismissed senior inspector Pradeep Sharma of the Mumbai police after he was implicated in numerous encounter deaths. He is alleged to have killed more than 112 persons over 25 years.

On July 4, according to Human Rights Alert, Manipur Police arrested L. Bimolchandra in Imphal, Manipur, on suspicion of armed activities against police. His death in police custody at Changangei prompted a July 6 general strike by civil society organizations; the inquiry into his death continued at year's end.

On September 19, police killed two suspected terrorists for involvement in the September 13 Delhi serial blasts during an encounter at Batla House, Delhi. Police Inspector MC Sharma was killed. Media and human rights groups alleged that Delhi police staged the encounter, including the shooting of Inspector Sharma. After the NGO Real Cause filed a petition to investigate the shooting, the court directed an inquiry according to NHRC guidelines. The investigation continued at year's end.

On October 27, Rahul Raj, who had taken passengers hostage on a public bus, was shot by police in Mumbai. The case was under investigation at year's end.

There were no updates on several high profile killings. These included the March 2007 killings of seven villagers near Santoshpur village in Dantewara district of Chhattisgarh by "unknown uniformed persons." No investigation occurred in the April 2007 killings of two boys, Asif Iqbal and Sahin Sk, allegedly by Border Security Forces (BSF) in Murshidabad district. No developments occurred in the October 2007 arrest of Mohammed Tariq for the alleged torture and encounter killing of schoolteacher Abdur Rashid Mir in Jammu.

In February a civil court in Srinagar charged seven policemen, including Hans Raj Parihar, Senior Superintendent of Police, for the 2006 encounter killing of Abdur Rahman Padder. A trial continued at year's end.

There were no developments in the following 2006 cases: the killing of Fayaz Ahmad Bhat, the killing of Abu Osama, or the encounter killing of two suspected Lashkar-e-Tayyiba (LeT) terrorists in Delhi. The 2006 death of Captain Sumit Kohli in Kupwara, Jammu and Kashmir, remained unresolved, with the army claiming he committed suicide but the family alleging that he was killed because he was scheduled to testify against another officer.

The 2006 Ram Narayan Gupta case before the Mumbai High Court continued after investigators introduced evidence in September that Gupta had been killed while in police custody.

Deaths while in police and judicial custody remained a significant problem. According to the Home Ministry, the NHRC reported 1,459 deaths nationally in police and judicial custody between April and December 2007. The Asian Center for Human Rights (ACHR) alleged that custodial deaths were a severe problem and reported that 7,468 persons died in prison or police custody since 2002.

According to the NHRC, several states had significant numbers of reported deaths in custody. In Jammu and Kashmir, 3,575 persons died in custody during the past six years. The NHRC noted that deaths in custody declined in both Andhra Pradesh and Tamil Nadu due to measures undertaken to improve prison conditions. In 2007, 25 persons died in custody in Maharashtra compared to 21 in 2006. Beginning in June 2007, according to a media report, the government of Maharashtra stopped automatic CID probes into custodial deaths to avoid "demoralizing the police force." According to the Kerala State Human Rights Commission (KSHRC), 46 persons died in state custody in 2007, but the commission found no evidence that any of the deaths were the result of police torture as alleged by human rights groups.

NGOs reported other cases of deaths in custody. For example, on March 30, Kadir Shaikh died in the custody of the Navi Mumbai police. On May 3, Mohammad Yusuf died in Arthur Road jail in Mumbai. While NGOs asserted that he died from beatings, prison officials claimed he died from narcotics withdrawal. On May 25, Mainabai Naitam died while in the custody of Gadchiroli district police. In these cases, the government of Maharashtra ordered a CID enquiry, all of which continued at year's end.

There was no further progress on 2007 cases, such as the death of Krishnapada Das in the Pathor Pratima police station in West Bengal or the beating death of Hayat Seikh during a one-week detention at the Beldanga police station for which one policeman had been suspended.

On March 11, authorities arrested Subinspector Narayan Tamuli, assistant subinspector Pramode Ranjan Nath, and Constable Ramjan Hossain for the custodial death of Matahar Ali Talukdar in 2007.

There were no developments in the 2006 custodial deaths of Gurmail Singh, Madan Lal, or Premnath Janardan Rao.

As a result of an army inquiry into the 2006 killing of eight civilians during protests of the custodial death of Ajit Mahanta, a military court suspended soldier Nishant Sharma for one year and imprisoned soldier Sudip Gurung for two months. The army paid 100,000 rupees (approximately \$2,066) in compensation and agreed to pay for the education and basic needs of Ajit Mahanta's two children. The Assam government paid 500,000 rupees (\$10,330) to Mahanta's widow and 300,000 rupees (\$6,198) each to the families of those who died in the firing.

There were no updates following the July 2007 judicial inquiry commission report into 15 custodial deaths in Kerala in 2006. It was not known whether compensation promised by the Kerala home minister had been paid to the families of nine victims.

In July Justice Basant ordered a Central Bureau of Investigation examination into the 2005 custodial death of Udayakumar in Kerala. Authorities had arrested three police constables and charged two with murder and in 2007, a Division Bench of the Kerala High Court directed the CBI to investigate the case. A pending appeal against the High Court's Division Bench order at the Supreme Court of India has prevented the investigation.

Government agencies funded and directed combat operations of former separatist guerrillas who surrendered to the Jammu and Kashmir government and who used their own weapons as part of police auxiliary units. According to NGOs, these units also used children both as soldiers and in logistical and tactical support. There were credible allegations that Naxalites (Maoist militants) in eastern and central parts of the country who surrendered retained their weapons and worked for the police as "anti-People's War Group (PWG) officers" to kill other Naxalites and human rights activists with Maoist links. Police denied the charges, attributing such killings to feuds within the PWG.

On February 5, police fired 30 rounds into a group of Forward Bloc supporters in Dinhata, killing five persons. On February 11, the West Bengal Chief Minister ordered a judicial probe into the incident, which was pending at year's end.

A magisterial inquiry into the July 2007 killing by members of the Anti-Naxal Special Police Force of five persons at Ammadlu village in Chikmagalur district found that two of those killed were Naxalites, while three were relatives of one of the militants. The inquiry absolved the state police.

Unlawful killings due to societal violence, including vigilante action, continued. For example, in September 2007, villagers in Bihar beat to death a group of 10 suspected robbers. There were no updates in this case during the year. Credible sources estimated that nearly 1,100 persons, including 726 civilians, have been killed by Maoists since 2004.

In November 2007 a key witness in a 1984 anti-Sikh riots case involving senior Congress leader Jagdish Tytler reappeared. A Delhi court ordered the CBI to reinvestigate the 1984 case and file a fresh report. The case accused Tytler of encouraging Congress party workers, police, and mobs in Delhi to kill Sikhs and destroy their property in retribution for the assassination of former Prime Minister Indira Gandhi. The case continued at year's end. Additional court action on the 1984 anti-Sikh riots occurred on August 27 when the Delhi High Court sentenced four persons to life imprisonment and imposed a fine of 21,000 rupees (approximately \$477). The court found them guilty of rioting, murder, and conspiracy.

Allegations of witchcraft resulted in several deaths. In June crowds of villagers in Sonitpur district of Assam killed four members of a family for allegations of witchcraft. In October three members of another family were killed in another village in Assam. There were no further developments during the year concerning the 2006 killing in Sonitpur of five family members.

b. Disappearance

As in the previous year, there were credible reports that police throughout the country failed to file required arrest reports for detained persons, resulting in hundreds of unresolved disappearances. Police usually denied these claims.

While the government maintained that state government screening committees provided information about the detainees to their families, other sources indicated that families often needed to bribe prison guards to confirm detention of their relatives. The screening committee for Jammu and Kashmir has not met for the past two years, although in 2006 the committee released 140 persons detained under the state Public Safety Act (PSA).

On June 23, the Jammu and Kashmir police exhumed the body of Mohammed Ashraf Shiekh, who disappeared on June 3. Police arrested Reyaz Ahmed Chechi (alias Regan) and Tahir Ahmed Pathan of Shiek Muqam Aloosa. Regan and Pathan alleged that Indian Army troops of the 3rd Jammu and Kashmir Light Infantry Regiment (JAKLI) killed Ashraf in their presence. The case continued at year's end.

There were no developments during the year in the 2006 case filed by Paramjit Kaur Khalra, the widow of human rights activist Jaswant Singh Khalra, against former police chief K. P. S. Gill, or in the case of Ghulam Nabi Mir, who disappeared in Pulwama, Jammu and Kashmir, after Rashtriya Rifle officers allegedly raided his home.

Despite a special investigatory commission, the government made little progress during the year in holding hundreds of police and security officials accountable for disappearances committed during the Punjab counterinsurgency and the Delhi anti-Sikh riots of 1984-94. On February 25, the NHRC criticized the Justice Bhalla Commission for its inability to identify 657 victims still unaccounted for during the Punjab counterinsurgency. The government initially had investigated 2,097 cases of death and cremation during that period.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and generally did not allow for confessions extracted by force to be admissible in court; however, allegations were made that authorities used torture to extort money, as summary punishment, and to obtain confessions. In some instances, these confessions subsequently were used as evidentiary support for a death sentence.

Methods of torture and abuse reportedly included beating; electric shock; denial of food and water; rape; stripping; pins under nails; chili pepper inserted in body cavities; denial of medical treatment; and threats to harm children. Armed groups have used torture methods such as severing of the ears and nose, rape, abduction, and beating.

According to the ACHR, prison authorities and armed forces were the main perpetrators of torture, and the practice was considered routine in police detentions and antiterrorist operations. Alleged reasons for torture included obtaining bribes, extracting information, preventing a complaint that may lead to a criminal inquiry, and compelling confessions.

Because many alleged torture victims died in custody, and other victims were afraid to speak out, there were few firsthand accounts. Marks of what appeared to be torture were found on deceased detainees. Police and jailers allegedly assaulted new prisoners or threatened violence in exchange for money, favors, and personal articles. Although police were subject to prosecution for such offenses, the government often failed to hold them accountable. According to Amnesty International (AI), torture was "endemic" to the justice system and often used against individuals "on the basis of their caste, religion, socioeconomic, and sexual identity."

NGOs asserted that custodial torture was common in Tamil Nadu, and credible sources claimed that police stations in Punjab, Andhra Pradesh, Haryana, and Chandigarh used torture to obtain desired testimony. The AHRC claimed that police used torture and assault in Kerala as a means of criminal investigation. According to the AHRC, Gujarat interrogation centers also used torture as part of questioning.

Between February 12 and 16, according to AHRC, officers at the Bally police station in the Howrah district of West Bengal tortured Ajay Yadav Kumar, when they found a body suspected of being Kumar's missing wife, who disappeared in December 2006. At year's end Ajay Yadav remained in jail, and the government had not investigated the case.

On April 3, the Jammu and Kashmir State Human Rights Commission directed the state police to reopen a 2003 rape case of an unnamed victim involving army troops in the Kathua district. There were no developments at year's end.

Several 2007 cases continued at year's end. The case against Deganga Police Inspector Julfikaqr Ali Mollah for allegedly burning Giasuddin Mando with acid was reported by the West Bengal Human Rights Commission, and the CID began an investigation. On August 13, the local magistrate ordered Mando released and hospitalized. The 2007 case of Syed Aliin Vadapalani who died in Chennai police custody remained unsolved at year's end, although the Tamil Nadu government ordered an inquiry into allegations that the death resulted from police torture.

There were no developments in the 2006 torture and death of Saju, a private bus driver. According to the AHRC, police tortured him when he refused to pay a bribe, and he subsequently died in police custody.

On June 11, the NHRC asked the Jammu and Kashmir government to pay 300,000 rupees (approximately \$6,818) in compensation to the next of kin of Banarsi Das Sharma. He and his two sons were arrested in 2000, and Sharma subsequently died. NHRC alleges that Army Intelligence tortured Sharma and requested a report from the state government.

In Jammu and Kashmir, torture victims and relatives reportedly had difficulty opening cases because local police were waiting for permission from higher authorities. Concerns

were raised about the Jammu and Kashmir Armed Forces Special Powers Act (AFSPA) of 1990, which states that no "prosecution, suit, or other legal proceeding shall be instituted against any person" without the approval of the central government. The act allows security forces to shoot suspects and destroy structures suspected of harboring violent separatists or containing weapons. Human rights organizations claimed this provision allowed security forces to act with impunity.

NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police, and the likelihood that many rapes went unreported due to the victims' shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared to reduce the frequency of rape in custody. There were no recent NHRC data available on the extent of custodial rape.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the Northeast as a means of instilling fear among noncombatants in insurgency-affected areas, but these incidents were not included in NHRC statistics, as the NHRC does not have direct investigative authority over the military.

On February 21, Chandigarh police detained two commandos belonging to the Haryana police on charges of rape. Authorities ordered a First Information Report (FIR) registered and a medical examination conducted. The case continued at year's end.

During the year the CBI's Ambala, Haryana, court continued its investigation into the 2007 rape and suicide of a woman, Savita, at the Haryana police headquarters in Panchkula.

Prison and Detention Center Conditions

Prison conditions were life threatening and did not meet international standards. Prisons were severely overcrowded, and food and medical care were inadequate. On April 16, the Ministry of Home Affairs stated that since 2007, 38,366 cases of human rights violations were registered in prisons throughout the country. A 2006 NHRC report, the latest available, indicated that the country's prisons were overcrowded on average by 38.5 percent, according to each prison's capacity. According to the NHRC report, the country's prisons held 324,852 persons, with an authorized capacity of 234,462.

The legal system was overburdened. On September 7, Chief Justice KG Balakrishnan reported that 610,000 cases were pending in the lower courts, while the Delhi High Court records showed 330,000 pending cases. During the year 48,000 cases were pending in the Supreme Court and 3,800,000 cases were pending in high courts throughout the country. Balakrishnan stated that the country needs at least 5,000 more courts, 1,539 more High Court judges, and 18,479 subordinate court judges to clear the backlog of cases. On September 8, the Dwarka districts courts complex in New Delhi opened with 79 courtrooms and 344 lawyers' chambers to address this issue.

In September 2007 NHRC notified Uttar Pradesh's director general of police (DGP) that the conditions in Mirzapur prison for female inmates were in extremely poor condition and lacked medical facilities. Minor girls were also lodged in the prison instead of government homes for children, in violation of the law. NHRC asked the DGP for a detailed report, which was pending at year's end.

The NHRC requested high court chief justices to resolve the problem of overcrowded prisons. In 2006 the government introduced a plea bargain option to reduce the pending time of cases in trial courts and overcrowded prisons. The government set up 1,562 Fast Track Courts during the year, but there was no information on the numbers of cases pending or resolved.

According to the 2006 NHRC report, a large proportion of the deaths in judicial custody

were from natural causes such as tuberculosis and HIV/AIDS, which were aggravated by poor prison conditions. The NHRC assigned a special rapporteur to ensure that state prison authorities performed medical checkups on all inmates. Authorities released no information on the number of such deaths.

While local authorities appeared to hide custodial deaths, the NHRC and the courts investigated and prosecuted some perpetrators. While the courts awarded monetary compensation of 17,600-97,000 rupees (approximately \$400-\$2,200) to the next of kin, NGO sources claimed that relatives often had to pay bribes to receive the compensation or never received it at all.

There were no developments in the Maharashtra State Human Rights Commission's investigation into the 2006 allegations that officials in the Arthur Road Jail in Mumbai ignored a prisoner who died after suffering from chest pains.

By law, juveniles must be detained in rehabilitative facilities, although at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

The government allowed some NGOs to work in prisons, within specific guidelines, but their findings often remained confidential due to agreements with the government. Increased press reporting and parliamentary questioning provided evidence of growing public awareness of custodial abuse. The NHRC identified torture and deaths in detention as one of its priority concerns.

According to the Home Ministry, the International Committee of the Red Cross (ICRC) conducted 832 visits since 2005 to 67 detention centers, including all 25 acknowledged detention centers in Jammu and Kashmir and all facilities where Kashmiris were held elsewhere in the country. The ICRC was not authorized to visit interrogation or transit centers, nor did it have regular access to detention centers in the northeastern states. Surprise visits to state prisons by the NHRC were authorized by 2006 amendments to the 1993 Protection of Human Rights Act (PHRA).

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but both occurred during the year. In May 2007, authorities arrested Manipur human rights activist Irom Sharmila on charges of attempted suicide. She has conducted an intermittent six-year hunger strike against the AFSPA and was force-fed in government custody.

On May 29, the NHRC asked the Uttar Pradesh government to pay 50,000 rupees (approximately \$1,136) in compensation to Naveen Upadhyay for illegal detention in 1999. The state government had not submitted the incident report that the NHRC requested by year's end.

Role of the Police and Security Apparatus

The central government provides guidance and support for the 28 states and seven union territories that have primary responsibility for maintaining law and order. The Ministry for Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and provides training for senior police officers of the state-organized police forces.

Corruption in the police force was pervasive and acknowledged by many government officials. Officers at all levels acted with impunity and were rarely held accountable for illegal actions. When officers were found guilty of a crime, the punishment was often a transfer. Human rights activists and NGOs reported that bribery was often necessary to receive police services.

According to the 2007-08 Ministry of Home Affairs Annual Report, 1,158 complaints of

human rights violations were reported between 1994 and 2007 against army and Central Military Forces personnel. Of these, 1,118 were investigated, 1,085 were found false, and 33 were judged as genuine. The military imposed penalties on 62 personnel and, in six cases, awarded compensation. On May 16, the army announced that it had punished 80 personnel for human rights violations in Jammu and Kashmir during the past 19 years. Punishments ranged from dismissal to 10 years' imprisonment.

Arrest and Detention

The law requires that detainees be informed of the grounds for their arrest, be represented by legal counsel, and, unless held under a preventive detention law, arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, in practice thousands of criminal suspects were detained without charge, adding to already overcrowded prisons.

The law provides arrested persons the right to be released on bail and prompt access to a lawyer; however, those arrested under special security legislation often received neither. Court approval of a bail application is mandatory if police do not file charges within 60 to 90 days of arrest. In most cases, bail was set between 485 rupees (approximately \$11) and 198,000 rupees (\$4,500).

By law detainees should be provided an attorney and allowed access to family members. In practice this was rarely implemented.

In 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). The revised UAPA provides broader protection for human rights. For example, coerced confessions are no longer admitted as evidence in court.

The South Asia Human Rights Documentation Centre (SAHRDC) reported that more than 1,000 persons remained in detention under POTA and that cases opened under POTA continued through the judicial system. In December Union Minister Kapil Sibal announced that there were between 90 and 100 POTA cases.

On July 20, the Mumbai High Court reversed a POTA court decision and directed that the credibility of two prime witnesses in the August 2003 terror blasts be examined and the case expedited.

On October 21, the Supreme Court followed the recommendations of the Central POTA Review Committee and directed that 134 persons charged under POTA for the 2002 Godhra (Gujarat) train burning incident be charged under the Penal Code. The court also ordered persons accused under POTA in various states to receive bail if the central POTA review committee has so determined. However, not all state governments had complied as of year's end.

In 2003 the Supreme Court stayed nine high profile cases, including the Godhra train arson case, while it considered transferring the cases outside Gujarat. In March the court instituted a Special Investigation Team (SIT) to reinvestigate these cases. The SIT began its work in May, and in November, arrested 11 individuals allegedly connected with three incidents from 2002 relating to the train burning and resulting communal riots in which 138 persons were killed. Three of those arrested were local leaders of the Bharatiya Janata Party (BJP) and the Vishwa Hindu Parishad (VHP).

The UAPA is used to hold persons without bail for extended periods prior to the filing of formal charges. In 2007 Mumbai police arrested and held under UAPA Arun Ferreira Sridhar Srinivasan (alias Vishnu), Murli Ashok Reddy, and Vernon Gonsalves for allegations of involvement in Naxalite violence. In December 2007 the Mumbai High Court intervened and, citing concerns of possible abuse in police custody, ordered Gonsalves and Srinivasan transferred to a Mumbai jail under the court's jurisdiction. The court also compelled the police to provide medical care to Reddy. As of year's end, trials

had not commenced, as prosecutors had not been appointed. The defendants commenced a habeas corpus proceeding in the Mumbai High Court.

The Terrorist and Disruptive Activities (TADA) Act, which was annulled in 1995, curtailed legal protections for cases that were filed under the Act. For example, in TADA courts, defense counsel was not permitted to see prosecution witnesses, and confessions extracted under duress were admissible as evidence. On April 30, the Ministry of Home Affairs reported that 142 persons were in detention under TADA. On October 6, a TADA court in Jalandhar, Punjab acquitted ex-militant Mohinder Singh Titu for a case which was registered 18 years ago under the Penal code and TADA Act.

Maharashtra police utilized preventive arrests to curb public unrest. For example, on August 28, police arrested over 1,000 activists of the Maharashtra Navnirman Sena (MNS) political party after MNS activists damaged some stores.

The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country, except Jammu and Kashmir, without charge or trial for as long as one year. State governments must confirm the detention order, which is then reviewed by an advisory board of three high court judges within seven weeks of the arrest. Family members and lawyers are allowed to visit NSA detainees, who must be informed of the grounds of their detention within five days (10 to 15 days in exceptional circumstances).

Human rights groups expressed concerns that the NSA would allow authorities to order preventive detention after only a cursory review by an advisory board and that no court would overturn such a decision.

The PSA, which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to two years. During this time detainees do not have access to family members or legal counsel. According to press reports, in the past five years, 2,700 Kashmiris had been arrested under the PSA. From January to May, 117 cases of detention under PSA were reported.

The 2005 NHRC set guidelines regarding arrest, which included establishing reasonable belief of guilt; avoiding detention if bail is an option; protecting the dignity of those arrested; refusing public display or parading; and allowing access to a lawyer during interrogation.

In practice police routinely employed arbitrary and incommunicado detention and denied detainees, particularly the destitute, access to lawyers and medical attention to extract confessions. Lower-caste individuals were more likely to be illegally detained than others. The government appeared to avoid prosecuting security officers by providing financial compensation to victims' families in lieu of punishment. In some instances victims or their families who distrusted the military judicial system petitioned to have their cases transferred to a civil court. The NHRC has no jurisdiction over any courts, including military courts.

In 2006 the Chhattisgarh state government enacted the Special Public Security Act (SPSA), which allows up to three years' detention for loosely defined unlawful activities. NGOs criticized the law for being overly broad. For example, Dr. Binayak Sen, a human rights activist and a leader of the People's Union for Civil Liberties (PUCL), was arrested in May 2007, denied bail in December 2007, and held in solitary confinement for three weeks. His trial began in May and continued at year's end. Concerns were raised that the law criminalizes any support given to Naxalites, even with evidence of duress.

The PUCL filed a petition against the SPSA in the Supreme Court in May, but the court refused to hear the case, ruling that any challenge to a state law must first be brought before the high court of that state. The PUCL petition identified 52 citizens illegally detained under the law. The petition was filed with the state court and was pending at year's end.

The AFSPA remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under AFSPA the government can declare any state or union territory a "disturbed area." This allows the security forces to fire on any person to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds. Security forces are also granted immunity from prosecution for acts committed under AFSPA.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision; however, serious problems remained. In Jammu and Kashmir, members of the judiciary were subject to threats and intimidation by insurgents and terrorists.

The judicial system is headed by the Supreme Court, which has jurisdiction over constitutional issues, and includes state high courts, state lower courts, and special tribunals. Lower courts hear criminal and civil cases, and appeals go to state high courts. The president appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

Trial Procedures

The Criminal Procedure Code provides that trials be conducted publicly, except in proceedings involving official secrets, trials in which statements prejudicial to the safety of the state might be made, or under provisions of special security legislation. Defendants are presumed innocent and can choose their counsel. Sentences must be announced publicly, and there are effective channels for appeal at most levels of the judicial system. The state provides free legal counsel to indigent defendants. The law allows defendants access to relevant government-held evidence in most civil and criminal cases; however, the government reserved the right to withhold information and did so in cases it considered sensitive.

The Supreme Court continued efforts to find those responsible for the 2002 violence following the train burning in Godhra in which 59 men, women, and children died. In June 2007, after the Supreme Court asked Gujarat police to review the closure of 1,600 complaints from 2002 without investigation, the Gujarat police concluded in January that a majority of these cases could not be reinvestigated due to lack of witnesses. The Supreme Court instituted a Special Investigation Team (SIT) to reinvestigate nine high profile cases. The SIT was scheduled to submit its report to the Supreme Court by the end of the year.

In 2006 Human Rights Watch (HRW) reported that Hindu extremists threatened and intimidated victims, witnesses, and human rights activists attempting to investigate the Gujarat riots. HRW claimed the Gujarat government launched selective tax probes against Islamic organizations to pressure Muslim witnesses to withdraw murder and arson charges. AI's 2007 annual human rights report noted that "justice continued to evade" victims and survivors of the riots. Muslim victims faced difficulty obtaining housing and access to public resources. However, 41 police were being tried for their alleged roles in the violence.

During the year the Gujarat High Court continued to conduct DNA analysis on remains recovered in mass graves discovered in 2005 and 2006 in Kidiad town and near Lunawada town that seemed to be from the 2002 violence. According to government figures, 223 individuals, mainly Muslims, remained missing after the 2002 violence.

In January a Mumbai special court sentenced 11 Hindu rioters and one policeman in the 2002 gang rape of Bilkis Bano and the killing of several members of her family.

Since 1993, central and state governments have jointly funded Fast Track Courts, which concentrate on a specific type of case, allowing judges to develop expertise in a given

area. Preference was given to cases pending for extended periods, and fees were generally lower since trials were shorter. Most Fast Track cases were civil.

As in previous years, courts were regularly in session in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of abuses committed as part of the government's counterinsurgency campaign and the frequent refusal by security forces to obey court orders.

Due in part to intimidation by insurgents and terrorists, courts in Jammu and Kashmir often were reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases.

Political Prisoners and Detainees

Political prisoners were reported in Jammu and Kashmir, and the government temporarily detained hundreds of persons characterized as terrorists, insurgents, and separatists. The All Parties Hurriyat Conference (APHC) estimated the number of political prisoners at 500, while human rights activists based in the state identified 150 such prisoners.

On August 26, leaders of the APHC and the Jammu and Kashmir Liberation Front were among 100 activists arrested and released in connection with the Amarnath shrine controversy and subsequent protests, except for Shabir Shah and Asiya Andrabi, who were detained under the PSA.

The government permitted international humanitarian organizations, such as the ICRC, access to such persons on a regular basis.

There was no update in the 2007 case of 34 Burmese nationals who spent nine years in detention for allegedly being members of the National United Party of Arakan and Karen National Union. The trial continued at year's end.

Civil Judicial Procedures and Remedies

There are different personal status laws for the various minority religious communities, and the legal system accommodates religion-specific laws in matters of marriage, divorce, adoption, and inheritance. Muslim personal status law governs many noncriminal matters, including family law and inheritance.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice; however, at times the authorities infringed upon the right to privacy. Police must obtain warrants to conduct searches and seizures, except in cases where such actions would cause undue delay. Police must justify such warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. In Jammu and Kashmir, Punjab, and Manipur, authorities have special powers to search and arrest without a warrant.

On July 6, Jammu residents accused the Rapid Action Force (RAF) of using excessive force and illegal entry into their homes during a peaceful protest. No action was taken on the allegations by year's end.

The Information Technology Act allows police under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting "lascivious" material.

The Indian Telegraph Act authorizes the surveillance of communications, including

monitoring telephone conversations and intercepting personal mail in cases of public emergency or "in the interest of the public safety or tranquility." The central government and state governments used these surveillance techniques during the year.

Although the Telegraph Act gives police the power to intercept telephonic conversations, such evidence is inadmissible in court. The UAPA allows use of evidence obtained from intercepted communications in terrorist cases. While legal safeguards to prevent police from encroaching on personal privacy existed, there were no such protections in terrorist cases.

Laws favoring families that have no more than two children remained in place in seven states. The laws, lightly enforced, provide government jobs and subsidies to those who have no more than two children and reduced subsidies and access to health care for those who have more than two. National health officials noted that the central government was unable to regulate state decisions on population issues.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Terrorist and insurgent groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, several northeastern states, and in the Naxalite belt in the eastern part of the country.

Killings

Security forces allegedly staged encounter killings to cover up the deaths of captured non-Kashmiri insurgents and terrorists from Pakistan or other countries. Human rights groups claimed that police officials refused to turn over bodies in cases of suspected staged encounters. The bodies were often cremated before their families could view them. Most police stations failed to comply with a 2002 Supreme Court order requiring the central government and local authorities to conduct regular checks on police stations to monitor custodial violence.

According to human rights groups, security forces in Jammu and Kashmir targeted suspected terrorists, insurgents, and their supporters, but there were no widely accepted data on the magnitude of extrajudicial killings and custodial deaths. The Justice Makhan Lal Kaul Commission of Inquiry, which investigated alleged custodial killings and encounters in Jammu and Kashmir, received only five complaints and was extended by two months on April 10. The commission asked for another extension, as it had not been able to complete its investigations.

On March 25, the Jammu and Kashmir Police stated that civilian deaths by terrorists had declined by 50 percent. The security forces often claimed that insurgents or civilians died in crossfire. According to the South Asia Terrorism Portal (SATP) in 2007, 164 civilians, 121 security force personnel, and 492 terrorists were killed as a result of terrorist violence. According to local NGOs based in Jammu and Kashmir, 124 security forces and 233 militants were killed through August. According to media reports, two civilians were killed by security forces during the year.

Human rights groups maintained that, in Jammu and Kashmir and in the northeastern states, the military and paramilitary forces continued to hold numerous persons. Human rights activists feared that many of these unacknowledged prisoners were subjected to torture and that some may have been killed.

Civilians were reportedly killed in crossfire in Jammu and Kashmir during the year. According to JKCSS based in Jammu and Kashmir, 55 persons were killed and 1,500 injured in a mass uprising in the state during the year. After an October 9 hearing into the 2006 deaths of four youths, the army expressed regret and offered to compensate the victims' families.

On May 13, eight blasts took place in Jaipur, Rajasthan, killing 80 and injuring 150.

Authorities suspected that the Students Islamic Movement of India (SIMI) was responsible. On July 26, 17 blasts took place in different parts of Ahmedabad, Gujarat, killing 53 persons and injuring 145. The SIMI was suspected in the attack.

On July 25, eight low intensity blasts killed one person and injured seven in Bangalore. The organization behind the blasts was not identified.

On September 13, five synchronized bombs blasts exploded throughout New Delhi, killing 30 persons and injuring over 100 persons. The Islamist "Indian Mujahideen" claimed responsibility in an email to major television channels. Police arrested several suspects.

From November 26 to 29, 10 terrorists carried out coordinated attacks across Mumbai, targeting luxury hotels, restaurants, the railway station, a hospital, and the Nariman House. The attackers killed 173 persons and injured at least 308 persons. Mohammed Ajmal Amir Kasab, the only terrorist captured alive, disclosed that the attackers belong to LeT. Investigations continued at year's end.

In the Northeast, violence persisted despite talks between separatist groups and state government officials and a 1997 government ceasefire. In August 2007 the government and the National Socialist Council of Nagaland Isak-Muivah (NSCN-IM) extended the ceasefire indefinitely. Factional violence between the NSCN-IM and the National Socialist Council of Nagaland Khaplang (NSCN-K) resulted in numerous deaths. The Institute for Conflict Management indicated that of the 108 persons killed in 2007, 88 died due to intrafactional fighting. In April the central government extended the ceasefire with the NSCN-K for one year.

During the year SATP reported 373 deaths related to insurgency in Assam, where the United Liberation Front of Asom (ULFA) continued its violent campaign against Hindi-speakers from the northern part of the country. In 2007 ULFA militants killed more than 110 persons in bomb attacks in the Dibrugarh, Tinsukia, and Sivsagar districts of Assam.

SATP reported the following deaths as a result of insurgency-related violence in the seven northeast states during the year: 402 civilians, 36 security forces, and 599 militants. For Jammu and Kashmir, SATP reported that 69 civilians, 90 security forces, and 382 militants were killed.

There was no progress in the complaint filed by family members in the August 2007 killing of Md. Ramesh and Md. Isir by the Assam Rifles (AR). The AR claimed the dead were members of the People's United Liberation Front; the victims' families denied this.

In February Maoist attacks in Nayagarh and Daspalla in Orissa killed 15 persons. On June 29, the Maoists killed 33 special forces of the Andhra Pradesh police in the Malkangiri district of Orissa. On July 9, Maoists killed a former minister and sitting legislator, Ramesh Singh Mundu. The attack also killed three bodyguards and one student. On July 16, Maoist insurgents killed at least 21 persons, including 17 policemen, in the Malkangiri district of Orissa. In August Chhattisgarh police raided a Naxalite camp and killed four Maoists in two incidents in Dantewara district.

On March 12, four persons were killed and four injured when police opened fire in Bengtol in Assam to combat what the police claimed was a camp set up by the militant group National Democratic Front of Bodoland (NDFB). On March 13, police killed three persons and injured 10 who were protesting the dismantling of the NDFB camp.

On March 15, the United National Liberation Front (UNLF) attacked an AR post at T. Minnou village near the Burma border. While the UNLF claimed to have killed 10 soldiers, the AR stated that one trooper died and four others were wounded. The AR claimed soldiers killed two militants and wounded five others. On May 1, two AR personnel were killed and four others injured in the New Somtal area of Chandel district.

In March and June, many encounters between ULFA and security forces occurred. For

example, on March 15, four persons died and 54 others were injured when suspected ULFA militants set off a grenade in Jonai, Dhemaji. On June 10, security forces killed three ULFA militants during an encounter in the Dibrugarh district. On June 14, ULFA militant Prabin Gogoi was killed in Dibrugarh district of Assam.

According to the Home Affairs Annual Report, 76 districts in the nine states of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Orissa, Maharashtra, Madhya Pradesh, Uttar Pradesh, and West Bengal were affected by Naxalite violence.

In 2005 officials in Chhattisgarh organized the Salwa Judum movement to counter Naxalite groups in Dantewada district. The Naxalite response resulted in violent civil conflict and a large number of civilian deaths. Many villagers fled to makeshift refugee camps near towns. The Chhattisgarh government commissioned some Salwa Judum members in the camps as Special Police Officers (SPOs) and used them in anti-Naxalite operations. The Peoples Union for Civil Liberties (PUCL) and HRW claimed that the Salwa Judum had become part of a state-sponsored counterinsurgency effort that committed atrocities against the tribal persons of southern Chhattisgarh, including killing, arson, rape, assaults, and forcing villagers from their homes into internally displaced persons (IDP) camps. In April the Supreme Court ordered the NHRC to investigate the Salwa Judum. In October the NHRC found some allegations false, could not confirm other allegations, and concluded that many abuses, including extrajudicial killings, could not be specifically attributed to Salwa Judum, SPOs, state security forces, or Naxalites and called for further investigation.

In 2007 the SATP found 619 deaths related to Naxalite attacks on internally displaced persons (IDP) camps, government installations, police patrols, and remote villages, and in police-Naxalite skirmishes. Of the 336 individuals killed in Chhattisgarh, 93 were civilians, 170 were police personnel (regular forces, as well as SPOs), and 73 were alleged Naxalites. According to the Andhra Pradesh police, incidents of Maoist violence declined 42 percent in 2007. Maoists killed 211 civilians in 2005, 40 in 2007, and 26 through August. Police operations resulted in the death of 124 Maoists in 2005, 43 in 2007, and 25 through August.

On February 8, the Kolkata High Court directed the West Bengal state government to provide compensation to the victims of the Nandigram violence, which included 14 persons killed and 45 injured by police. In November 2007, Communist Party Marxist (CPM) members, whom human rights groups claimed had state government support, conducted a violent campaign to regain control over the Nandigram area from the Bhumi Uchhed Protirodh Committee (BUPC). News reports and eyewitness accounts noted that CPM cadres fired on BUPC supporters and local villagers, raped villagers, and burned houses. Journalists later discovered mass graves in the area. The CID responded by launching an inquiry into the identity of the bodies; the case was pending at year's end.

Abductions

Human rights groups maintained that, in Jammu and Kashmir and in the northeastern states, numerous persons continued to be held by military and paramilitary forces. Human rights activists feared that many of these unacknowledged prisoners were tortured and that some may have been killed.

There were no reliable figures for disappearances in Jammu and Kashmir during the year. While the Association of Parents of Disappeared Persons (APDP) and other NGOs reported a decrease in disappearances, estimates on the number of disappearances varied widely. For example, the Jammu and Kashmir government stated in 2003 that 3,931 persons had disappeared since 1990, compared with an APDP estimate of between 8,000 to 10,000 persons. ACHR reported in 2005 that more than 6,000 cases of disappearances remained unresolved in the state. According to JKCCS, based in Jammu and Kashmir, 38 cases of disappearances were reported during the year. In May the Chief Minister reported that there had been no cases of custodial disappearances in the state in the past two years.

On July 6, the People's Revolutionary Party of Kangleipak (PREPAK) reported that it

abducted and then released two boys from their neighborhood in the Imphal West district. On July 8, PREPAK reportedly abducted two other schoolchildren in the Thoubal district and claimed the children had voluntarily joined PREPAK.

On December 31, the United Liberation Front of Barak Valley insurgents along the Assam-Mizoram border kidnapped three persons, including the son of a Congress Party leader, and demanded a ransom of approximately 1,000,000 rupees (approximately \$25,000).

Physical Abuse

Raj Thackeray, Chief of the Maharashtra Navnirman Sena (MNS), repeatedly verbally attacked north Indians settled in Maharashtra. On February 3, MNS members assaulted and injured 10 persons attending a rally in Mumbai. Attacks by MNS members continued over the next several days in Mumbai, Pune, and Nasik. While the police did not stop the attacks, they later arrested over 60 MNS members and ordered a probe into Thackeray's remarks. MNS activists were alleged to have threatened north Indians in Nasik and Pune, causing many laborers to flee the state. MNS activists allegedly hit one person with stones, who later died of his injuries. Police charged Thackeray with inciting the violence, and twice briefly arrested him. On February 22, the Supreme Court condemned Thackeray's inflammatory remarks against north Indians. The investigation of the February incidents continued at year's end.

In October MNS activists assaulted and injured dozens of north Indian candidates who came to Mumbai for an Indian Railways recruitment examination, preventing many from taking the exam. Mumbai police arrested Thackeray for instigating the violence, and MNS members rioted and caused considerable damage. Police arrested more than 2,000 rioters. Multiple cases continued against Thackeray in various Mumbai courts and in the Jharkhand High Court at year's end. He and most MNS activists arrested in October remained out on bail.

2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and expression; however, freedom of the press is not explicitly mentioned. The government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Under the 1923 Official Secrets Act, the government may prosecute any person who publishes or communicates information that could be harmful to the state. However, no such cases were reported during the year.

The Press Council is a statutory body of journalists, publishers, academics, and politicians, with a government-appointed chairman, that investigates what it believes is irresponsible journalism and sets a code of conduct for publishers. This code includes injunctions against publishing stories that might incite caste or communal violence. The council publicly criticized those it believed had broken the code of conduct.

Independent newspapers and magazines regularly published and television channels broadcast investigative reports, including allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses. Most print media and 80 percent of television channels were privately owned.

After filmmaker Ajay TG was arrested in May under the SPSA and held for two months with no charges filed, journalists in Raipur reportedly feared being arrested and were reluctant to report critically on the state's actions to address the Naxalite problem. The PUCL identified TG and 53 others arrested under the Chhattisgarh Special Public Security Act in its petition challenging the law.

With the exception of radio, foreign media generally were allowed to operate freely.

Private satellite television distributed widely provided competition for Doordarshan, the government-owned television network. While there were allegations that the government network manipulated the news, some privately owned satellite channels often promoted the platforms of political parties their owners supported. On September 19, the Union Indian Cabinet approved foreign news magazines to print local editions of their publications. Previously only scientific, technical, and specialty periodicals were allowed to be printed by foreign magazines.

The government often held foreign satellite broadcasters, rather than domestic cable operators, liable under civil law for what it deemed objectionable content on satellite channels – notably, tobacco and alcohol advertisements and adult content.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licenses only authorized entertainment and educational content. Local editions of foreign press were prohibited; however, the government allowed country-specific editions published by a local company, with no more than a 26 percent foreign partnership.

The authorities generally allowed foreign journalists to travel freely, including in Jammu and Kashmir, where they regularly met with separatist leaders and filed reports on a range of issues, including government abuses.

In Jammu and Kashmir, the Newspapers Incitements to Offenses Act allows a district magistrate to prohibit publication of material likely to incite violence. Newspapers in Srinagar were able to report in detail on alleged human rights abuses by the government, and separatist Kashmiri groups regularly published press releases. However, due to the threat of violence by terrorist groups, many journalists self-censored their articles. Smaller media outlets also self-censored for fear of losing state government advertising revenue.

On August 3, the Jammu District Magistrate prohibited the transmission of JK channel and Take-1 news channel for violating the Cable Television Networks (Regulation) Act 1995 during the Amarnath shrine dispute. The order was revoked, and transmission resumed of what many observers felt was coverage aimed at inciting communal hatred.

On August 24, security personnel belonging to the Central Reserve Police Force (CRPF) beat 13 media personnel and damaged their vehicles in Srinagar. The following day, the security personnel beat six more journalists, and local television channels remained off the air in protest. Local English and Urdu dailies also protested by not publishing on August 25. During this period the local government banned cellular phone text messaging service for fear of its role in inciting communal tension. The authorities also took off the air from August 24 to September 2 local television channels in Jammu and Kashmir for broadcasting protests.

There were several attacks against journalists for allegedly inciting attacks. These included an August 25 attack by CRPF soldiers against Asif Qureshi of Star News at Hyderabad, Jammu and Kashmir, and an August 29 attack by army soldiers against Hakeem Irfan, a correspondent with Rising Kashmir.

In August the Kangleipak Communist Party (Military Council)'s L. Khuman faction in Manipur imposed a ban on the newspaper Poknapham after it failed to publish a story on the front page. On August 5, Manipur media called a strike in sympathy with the newspaper.

Some attacks on the media were apparently intended to harass or inhibit the free expression of opinions. On January 20, Hindu Samrajay Sena members attacked the office of NDTV in Bhopal, Madhya Pradesh, to protest the television channel's broadcast in support of a state award for controversial painter M. F. Hussein.

On April 2, activists of the Hindu Garjana Pratishthan damaged the Communist Party of

India (Marxist) (CPI(M)) office in Pune and assaulted three party workers. Police detained and released 12 persons but issued no formal charges. In June the MTV office in Mumbai was vandalized for an allegedly negative portrayal of a Sikh in a publicity campaign. On June 5, Shiv Sangram Sena activists damaged the house of Mumbai journalist Kumar Ketkar to protest an article written by him. Police registered a complaint and arrested the alleged attackers.

On October 16, the Jammu and Kashmir State Human Rights Commission (SHRC) responded to the 2007 attack and torture of Naseer Ahmad Khora, a journalist and human rights activist, by directing the state administration to pay 70,000 rupees (approximately \$1,489) in compensation. The SHRC noted that such acts pose a threat to the freedoms of press and expression.

There were no developments stemming from the May 2007 fire that killed three persons at the Dinakaran newspaper office in Madurai. Police were present but did not stop a faction of Tamil Nadu's ruling party from entering the compound.

There were no developments from the August 2007 assault allegedly by CPI(M) workers against three journalists of the Malayala Manorama Group during a demonstration at Kannur.

There were no developments in the 2006 killing of Arun Narayan Dekate, a rural correspondent for Marathi daily Tarun Bharat.

The government maintained a list of banned books that may not be imported or sold in the country for fear of aggravating communal tensions. In July religious and opposition party members accused the ruling CPI(M) government in Kerala of promoting communist ideology in seventh grade social science books.

On November 13, the Maharashtra government banned the showing of the film Deshdrohi due to police concerns it might incite violence between North Indians and ethnic Marathis. The Film Censor Board had cleared the movie for distribution throughout the country.

In 2007 three legislators of the All India Majlis-e-Ittehadul Muslimeen in Hyderabad attacked Bangladeshi writer Taslima Nasreen for alleged anti-Muslim remarks. In November she self-censored her autobiography after a series of protests in West Bengal in which 43 persons were injured. She was granted asylum in New Delhi, but she left the country for Sweden. She briefly returned to the country but was not allowed to visit Kolkata, and left the country in October.

In 2006 the government of Rajasthan banned Haqeeqat (Reality), a Hindi translation of a controversial anti-Hindu book by Kerala-based evangelist M. G. Mathew.

The government's Film Censor Board reviewed films before licensing them for distribution, censoring material it deemed offensive to public morals or communal sentiment.

Internet Freedom

The Information Technology Act provides for censoring the Internet on public morality grounds and defines "unauthorized access to certain types of electronic information" as a crime. The government retained the right to limit access to the Internet, specifically information deemed detrimental to national security. The act requires Internet cafes to monitor Internet use and inform the authorities of offenses.

Academic Freedom and Cultural Events

The government continued to apply restrictions to the travel and activities of visiting experts and scholars. During the year the Ministry of Home Affairs denied visas to three

scholars. In 2003 the Ministry of Human Resources Development (MHRD) passed academic guidelines requiring all central universities to obtain HRD permission before organizing "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. While the restrictions remained in force, in most cases, the MHRD permitted the international academic exchanges to take place after bureaucratic delays.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected this right in practice.

Freedom of Assembly

The authorities normally required permits and notification prior to holding parades or demonstrations, and local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where the local government sometimes denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

On some occasions, security forces either claimed harsh tactics were warranted or failed to protect demonstrators from violence during demonstrations. On February 6, during a strike, police killed five activists from the All India Forward Bloc party and injured 25 in Dinhata, West Bengal.

In May 41 persons were killed in clashes between the police and members of the Gujjar tribe in Rajasthan. Twenty-six persons were killed in similar clashes in 2007. A six-member team from the NHRC visited the state to investigate.

According to media reports, on August 11, security forces killed five persons, including Hurriyat Party leader Shiekh Abdul Aziz, and injured 230 when security forces opened fire during a protest in Kashmir. On August 12, security forces killed an additional 15 persons across Jammu and Kashmir during additional protests. Media and NGOs reported that on August 25, 59 persons were killed and 200 injured when the CRPF and the army fired upon protesters who defied curfew and staged demonstrations in Jammu and Kashmir. No official figures were available at year's end.

On August 13, police killed two persons and injured 45 in Noida, Uttar Pradesh, during a demonstration.

In 2007 Andhra Pradesh police shot and killed six villagers in Mudigonda in the Khammam district after a two-month protest demanding free land for the poor. The government announced compensation of 491,000 rupees (approximately \$12,500) and a government job for one family member of each person killed, as well as two acres of agricultural land and education for victims' children.

Freedom of Association

The law provides for the freedom of association, and the government generally respected this right in practice.

NGOs must secure approval from the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provided the government with political control over the work of NGOs and restricted their freedom of assembly and association. NGOs alleged that some members from abroad were denied visas arbitrarily.

c. Freedom of Religion

The law provides for secular government and the protection of religious freedom, and the central government generally respected these provisions in practice. While the law generally provides remedy for violations of religious freedom, it was not enforced rigorously or effectively in many cases of religiously oriented violence. Some Hindu hardliners interpreted ineffective investigation and prosecution of their attacks on religious minorities, particularly at the state and local levels, as evidence that they could commit such violence with impunity. The country's federal political system accords state governments exclusive jurisdiction over maintenance of law and order, which limits the national government's capacity to deal directly with state-level abuses, including abuses of religious freedom.

Legally mandated benefits were assigned to certain groups, including some defined by their religion. For example, the government allowed educational institutions administered by minority religions to reserve seats for their coreligionists even when they received government funding. Article 17 of the constitution outlawed untouchability; however, members of lower castes remained in a disadvantageous position. A quota system reserved government jobs and places in higher education institutions for Scheduled Castes (SC) and Scheduled Tribes (ST) members belonging to the Hindu, Sikh, and Buddhist religious groups, but not for Christians or Muslims. Christian groups filed a court case demanding that SC converts to Christianity and Islam enjoy the same access to "reservations" as other SC groups. The case was appealed to the Supreme Court, which had not ruled by the end of the reporting period.

The Religious Institutions (Prevention of Misuse) Act of 1988 criminalizes the use of all religious sites for political purposes or the use of temples to harbor persons accused or convicted of crimes. The Religious Buildings and Places Act requires a state government permit before construction of any religious building. The act's supporters claimed that its aim is to curb the use of Muslim institutions by Islamist extremist groups, but the measure became a controversial political issue among Muslims.

The states of Gujarat, Himachal Pradesh, Chhattisgarh, Madhya Pradesh, and Orissa have laws against conversion by force, enticement, or coercion. Arunachal Pradesh has a similar law that has not been implemented. On March 20, the government of Rajasthan passed a law that restricts and regulates religious proselytism. On April 1, the state of Gujarat published the rules and regulations necessary to activate its "Freedom of Religion Law," which was adopted by the legislature in 2003.

In May 2007 the Andhra Pradesh government enacted a law that sharply limits the "propagation of other religion in places of worship or prayer." The law forbids the distribution of literature of one religion within the vicinity of designated places of worship of a different religion. The Andhra Pradesh assembly passed an act modeled on this ordinance in July 2007.

Faith-based NGOs and media reported that under the Penal Code, the Criminal Procedure Code, and state anti-conversion laws, there were 17 arrests in Andhra Pradesh, six in Chhattisgarh, 25 in Madhya Pradesh, and two in Uttar Pradesh through October 14. In most cases police released on bail those arrested after a night in jail. Faith-based NGOs alleged that this was a systematic strategy to discourage Christian prayer meetings.

There is no national law barring a person from professing or propagating his or her religious beliefs; however, the law prohibits international visitors on tourist visas from engaging in religious proselytizing without prior permission from the Ministry of Home Affairs. Travel by any foreigner to some of the northeastern states is granted on a case-by-case basis due to political instability and security concerns in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA) of 1976, which restricts funding from abroad. The government can ban a religious organization that violates the FCRA, provokes intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodates minority religions' personal status laws by providing for

different personal laws for different religious communities. Religion-specific laws are paramount in matters of marriage, divorce, adoption, and inheritance. The personal status laws of the religious communities sometimes discriminated against women.

The law limits inheritance, alimony payments, and property ownership of persons from interfaith marriages and prohibits the use of churches to celebrate marriage ceremonies in which one party is a non-Christian. Clergymen who break the law could face up to 10 years' imprisonment. However, the act does not bar interfaith marriages.

Two significant episodes of communal violence erupted in the Kandhamal district of Orissa, on Christmas Day 2007 and again in August 2008. The December 2007 violence was triggered by desecration of Christmas holiday displays and an attempt on the life of Hindu religious leader Laxmanananda Saraswati. Five persons were killed and a number of homes, businesses, and churches were damaged.

On August 23, unidentified individuals killed Laxmanananda Saraswati and four other religious leaders. Their deaths caused revenge killings, assaults, and property destruction in the district, with a few incidents located in surrounding districts. According to government statistics, 40 persons died and 134 were injured, including tribal Kandhas and ethnic Panas, Christians, and Hindus, although more than 80 percent of the attacks were against Christians. Property disputes and social tensions also played a role in the violence. The extent of the violence attracted worldwide media attention, including the alleged August 25 rape of a Christian nun.

The majority of attacks occurred within the first week of violence when local police were unable to control the situation. Attacks continued until mid-October. The police arrested more than 1,200 persons and opened almost 1,000 criminal cases, although the killers of the Hindu religious leaders had not been identified by year's end. An estimated 9,500 individuals remained in temporary camps in Kandhamal and Gajapati at year's end, wary of returning. Government sources calculated that at least 4,215 houses had been damaged or destroyed and that potentially 252 prayer halls and religious places had been damaged. The government allocated funds to compensate next of kin and repair damaged houses, businesses, and places of worship. A government commission was established to investigate the killing of Laxmanananda and the resulting violence.

On September 14 and 15, militant Hindu activists attacked Christian churches in and around Mangalore in Karnataka. Three Christians were critically injured and more than a dozen others were assaulted. Mahendra Kumar, the local leader of the Hindu Bajrang Dal organization, claimed responsibility, stating the attacks were in response to "forced conversions" and insults towards Hindu deities. Media and Christian groups reported that some police refused to intervene to protect Christians and suppress the violence. There were also reports that police entered and damaged at least three churches. The central government threatened to invoke emergency provisions if the state government failed to take action. On September 18, police arrested Kumar, which sparked additional vandalism against churches in the state. While the state government increased security around churches, occasional acts of vandalism against churches and assaults on persons occurred sporadically in Karnataka. The state initiated a judicial inquiry into the September 14-15 attacks, which continued at year's end.

On July 3, Hindus and Muslims clashed in Indore, Madhya Pradesh when protests called by Hindu nationalist parties BJP and VHP turned violent. The parties called the protests in response to the government's revocation of its decision to transfer land in the Muslim-occupied area of Kashmir to the Amarnath Shrine, a Hindu religious site.

On August 6, the Supreme Court extended the ban on the Students Islamic Movement of India (SIMI) for six weeks. The Delhi High Court had removed the ban after an appeal by SIMI.

On August 15, MNS activists damaged a school in Pune for allegedly failing to celebrate Independence Day. In August MNS activists damaged several shop fronts in Mumbai for not having signs in the local language, Marathi. In both these incidents, the police

arrested MNS activists for vandalism.

On April 16, the Ministry of Home Affairs testified to the parliament that 4,356 victims' claims connected to the 1984 anti-Sikh riots following the assassination of former Prime Minister Indira Gandhi were pending with the various state governments. So far, 27,916 claims had been settled. On August 27, the Delhi High Court sentenced four persons to life imprisonment for their involvement in the 1984 anti-Sikh riots. A fine of 21,000 rupees (approximately \$477) was imposed on Lal Bahadur, Ram Lal, Virender, and Surinder Pal Singh after finding them guilty of rioting, murder, and conspiracy. The verdict came 18 years after a trial court acquitted the four due to lack of evidence.

On October 5, 10 persons were killed, 383 persons injured, 1,157 homes damaged, and 400 homes destroyed during Hindu-Muslim violence in Dhule, Maharashtra.

At year's end Harkat-ul-Jehad-i-Islami activist Mohammed Abdul Sahed (alias Bilal) remained the key suspect in the May 2007 bomb explosion in the Mecca Masjid in Hyderabad, which killed nine persons and injured more than 50.

Two Catholic nuns, arrested in July 2007 in Mayurbhanj, Orissa, for allegedly forcibly converting and torturing students in their school, were released on bail days after their arrest.

On July 8, a special riot court in Mumbai sentenced Madhukar Sarpotdar, Shiv Sena leader and former member of parliament, to one year in prison in connection with the 1993 Mumbai riots. The court sentenced two others to similar punishments and a fine of 5,000 rupees (approximately \$113).

In May the central government announced (approximately \$80 million) in compensation for victims of the 2002 post-Godhra riots in Gujarat. Approximately 1000 relatives of those killed have received compensation, but property loss claims had not been paid by year's end.

On September 18, the Gujarat state-organized Nanavati-Mehta Commission published the first part of its report on the February 2002 Godhra train burning and subsequent violence that killed more than one thousand persons, the majority of whom were Muslims. The commission differed from other investigations in both exonerating Chief Minister Narendra Modi for instigating anti-Muslim violence and finding the Godhra incident to be premeditated and not accidental. The government of Gujarat granted a one-year extension, to December 31, 2009, to the commission.

Societal Abuses and Discrimination

On May 9, the Ministry of Home Affairs testified to the parliament that 761 cases of communal violence occurred in 2007, in which 77 persons were killed and 2,227 were injured. These attacks occurred against several different communities including Christian, Hindu, and Muslim.

According to the NCRB, 75,027 persons were arrested for atrocities against STs and SCs in 2006 and 2007. In 2007, 35,563 incidents were reported against STs and SCs. In 2007 the average conviction rate for SCs was 27.6 percent and for STs, 28 percent. In 2006 the Ministry, citing NCRB records, found that 13,449 persons faced conviction for crimes against persons belonging to the SC/STs. The NCRB had not released updated conviction rates by year's end.

Several human rights and religious freedom NGOs continued to express concern over anti-Christian violence in several states governed by the BJP and claimed that some attackers had affiliations with the Hindu extremist group Rashtriya Swayamsevak Sangh (RSS).

During October 3-6, communal violence broke out between migrant Muslim settlers and Bodos, killing 47 persons and leaving 86,000 persons homeless in two districts in Assam.

Twenty-two persons were killed by police fire.

NGOs reported that attacks against Christians occurred in many urban areas. On September 5, two nuns and children in their care were removed from a train in Chhattisgarh by alleged VHP and Bajrang Dal activists, who claimed that the nuns were forcibly converting the orphans. All were released after the local bishop interceded and spoke to the governor.

In April a lawsuit seeking compensation for Muslim youths who were allegedly tortured by police was filed in Hyderabad city civil court. Police detained a youth on suspicion of involvement in the 2007 Hyderabad attacks. Hyderabad-based Muslim organizations alleged that police detained innocent Muslim youths to link them to terrorist activities in the state.

Muslims in some Hindu-dominated areas continued to experience intimidation and reported poor government attention to their concerns, resulting in a lack of access to work, residency, or education. In some areas, primarily in Gujarat, Hindutva groups displayed signs stating "Hindus only" and "Muslim-free area." Hindutva is the ideology that espouses politicized inculcation of Hindu religious and cultural norms above other religious norms. There were also allegations of prohibitions on the Muslim call to prayer.

Hindu organizations frequently alleged that Christian missionaries forced or lured Hindus, particularly those of lower castes, to convert to Christianity. In Christian majority areas, Christians reportedly harassed members of other communities.

From April to July, Hindu groups such as the Hindu Aikya Vedi organized violent marches against Christian organizations and churches in Kerala. In April in Thiruvalla, Pathanamthitta District, marchers threw stones at Christian buildings and in July, protesters prevented Christians in Kottayam from meeting by throwing stones. No serious injuries were reported.

Hearings in the 2007 Rizwanur Rehman killing case continued at Kolkata High Court. The body of Rehman, a Muslim who had married the daughter of a Hindu businessman, was discovered in 2007. While a CBI report had indicated "suicide prompted by circumstances" was the cause of death, on October 1, three officers of the Kolkata City Police were among seven persons charged by the CBI and sent to judicial custody for Rehman's death. On October 28, the CBI raided the house of Ashok Todi, father-in-law of Rehman. In December police arrested Todi and his brother.

Most Indian Jews emigrated to Israel in 1948. There are believed to be only 13 Indian-born Jews from seven families still living in Kochi and approximately 40 Jews living in Delhi. Small but active communities remain in Mumbai, estimated at around 1,500. Most Mumbai Jews are known as Baghdadi Jews who came from Iraq, Iran, Syria, and Afghanistan possibly 250 years ago. In Northeastern India, an estimated 9,000 Indians started practicing Judaism in the 1970s, saying they were a lost tribe and descendants of the tribe of Manasseh. In recent years over 1,400 members of the community emigrated to Israel. During the November 26 attacks in Mumbai, terrorists allegedly belonging to LeT attacked the Jewish Chabad-Lubavitch center located at the Nariman House, as part of several coordinated attacks on high profile civilian targets in the city. The attackers killed six Jewish persons of United States, Israeli, and Mexican nationality before being killed by security forces.

For a more detailed discussion, see the [2008 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement, and the government generally respected this in practice; however, in certain border areas the government required special permits.

Security forces often searched and questioned occupants at vehicle checkpoints, mostly in troubled areas in the Kashmir Valley or after major terrorist attacks. The government also completed construction (except in areas of difficult terrain) of a 330-mile security fence along the Line of Control in Jammu and Kashmir, causing difficulties as it cut through some villages and agricultural lands. The government asserted that a decline in insurgent crossings during the year was due in part to the fence.

Under the Passports Act of 1967, the government may deny a passport to any applicant who may engage in activities outside of the country "prejudicial to the sovereignty and integrity of the nation." The government prohibited foreign travel by some government critics, especially those advocating Sikh independence, and members of the separatist movement in Jammu and Kashmir.

Unlike in previous years, there were no reports of the government using the issuance of passports or travel documents to restrict travel of separatist leaders in Jammu and Kashmir. However, citizens from Jammu and Kashmir continued to face extended delays, often up to two years, before the Ministry of External Affairs would issue or renew their passports. Government officials demanded bribes for applicants from Jammu and Kashmir who required special clearances. Applicants born in Jammu and Kashmir – even the children of serving military officers born during their parents' deployment in the state – were subjected to additional scrutiny, requests for bribes, and police clearances prior to passport issuance.

There was no law banning forced exile and no reports of its use during the year.

Internally Displaced Persons (IDPs)

According to the Norwegian Refugee Council, regional conflicts in Jammu and Kashmir, Gujarat, and the northeast displaced at least 650,000 persons. According to the Ministry of Home Affairs' Annual Report for 2007-08, there were 55,456 Kashmiri Pandit migrant families, of which 34,878 resided in Jammu, 19,338 in Delhi, and 1,240 in other states. There were 230 migrant families living in 14 camps in Delhi and 5,778 families in 16 camps in Jammu.

The 2007-08 report stated that the ministry had engaged the government of Mizoram on the repatriation of Reang refugees from Tripura to Mizoram.

According to media sources, tensions in six Reang/Bru refugee camps in Kanchanpur were due to noninclusion of over 7,000 children in ration cards. A survey conducted by Asian Indigenous and Tribal Peoples' Network (AITPN) on Bru internally displaced families found that more than 94 percent of the camp inmates had documents issued by Mizoram authorities to prove their bona fide residence.

On October 1, 300 cadres belonging to United Liberation Front of Barak Valley (ULFBV), a militant group of Reang tribe members, surrendered before Assam Chief Minister Tarun Gogoi.

AITPN presented its findings to the Supreme Court, but neither the state nor central governments tried to verify the Brus' status. Despite the Tripura government's recommendation, the central government failed to increase the ration card numbers to include 1,514 children, forcing families to share their food allocation. More than 1,000 Hmar refugees, one of the numerous tribes that belonged to the Chin-Kuku-Mizo tribe, were reportedly displaced in and around Mizoram, some of them from Manipur.

In 2005 the Supreme Court ordered the Ministry of Home Affairs, the election commission, and the governments of Mizoram and Tripura to resettle approximately 40,000 displaced Reangs and add them to the electoral rolls. By year's end, approximately 1,000 Reangs were resettled in Mizoram.

The Bru National Liberation Front (BNLF) and Mizoram government agreed on a financial

package of 278 million rupees (approximately \$6.3 million) and paved the way for the return of Reang IDPs in North Tripura.

The violence in Gujarat in 2002 displaced, according to the National Commission for Minorities (NCM) in 2006, 5,307 Muslim families to 46 camps in "precarious conditions" across Gujarat. By November 2007, the government of Gujarat completed the process of giving ration and voter cards to the IDPs at their camp addresses, confirming their permanent relocation.

More than 87,000 persons lived under poor conditions in IDP camps in Assam as a result of continuing violence in the northeast. According to press reports, nearly 2,000 families who were riot victims from the Kokrajhar, Bongaigaon, and Dhubri districts in Assam awaited rehabilitation grants sanctioned by the state government following the periodic riots that occurred during 1993-99 in these areas.

An NGO reported that the Assam state government released part of the grants in 2007. The government also provided assistance to IDPs and allowed them access to NGO and human rights organizations. As in previous years, there were no reports that the government attacked or forcibly resettled IDPs. No government programs were specifically designed to facilitate resettlement.

During 2006 the Chhattisgarh government opened IDP camps in Dantewara district for tribal persons caught in fighting between Naxalites and the Salwa Judum. Credible reports claimed the police forced villagers to relocate to the camps. In October the NHRC report identified 23 government relief camps, with an estimated camp population of 40,000 IDPs, down from 27 camps with as many as 60,000 IDPs in 2006.

The camps lacked adequate shelter, food, health care, education, and security. Civil society groups alleged that men, women, and children from the camps were trafficked for labor, sexual exploitation, and child soldiering. Numerous sources alleged that children were armed by both Naxalites and Salwa Judum activists. Police acknowledged that some minors could have been armed as SPOs but stated they dismissed minors upon learning their true ages.

NGOs alleged that hundreds of Chhattisgarh IDPs settled in reserved forest areas in Andhra Pradesh were denied basic assistance, including food, water, shelter, medical facilities, and sanitation. Little was known about the population or its living conditions. According to HRW, the Andhra Pradesh forest department made several attempts to evict displaced persons from Kothooru.

Protection of Refugees

According to the World Refugee Survey 2007, 435,900 refugees were in the country, including the Dalai Lama, spiritual leader of the Tibetan Buddhists.

The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees against the expulsion or return of refugees to countries where their lives or freedom would be threatened, especially to Tibetans and Sri Lankans. According to the Office of the UN High Commissioner for Refugees (UNHCR), during the year there were 11,321 refugees under UNHCR mandate in the country. Since 1960, the government has hosted approximately 110,000 de facto refugees from Tibet. Tibetan leaders in the country stated that the government treated them extremely well. The Ministry of Home Affairs has spent 180,600,000 rupees (approximately \$4.2 million) on Tibetan refugee resettlement.

Due to the absence of clear guidelines, the refugees are governed under the Foreigners Act 1946 that defines a foreigner as a person who is not a citizen of India and is thus eligible to be deported.

Prior to the Olympic Games in August, Tibetan refugees protested throughout the country. The Tibetan Youth Congress (TYC) organized most of the protests and reported that, on the whole, police did not mistreat the refugees during arrests or dispersion of the crowds. These demonstrations began on March 13, when an estimated 100 Tibetan protesters were arrested near Dharamsala, Himachal Pradesh, in their protest march to the Tibetan capital of Lhasa. Police detained the protesters for 11 days. On April 15, 45 TYC members participated in the Tibet Independence Torch relay, and 33 of them were arrested and detained in Tihar jail. The following day, 65 activists protested at the Chinese Embassy in Delhi, and 48 were arrested.

According to TYC reports, some female activists were injured when police officers forcibly arrested them.

On April 17, TYC organized 300 protesters to demonstrate against the arrival of the Olympic torch in the country. According to TYC, police arrested almost all of the protesters. TYC accused Mayapuri police of beating some protesters, resulting in injuries for two protesters.

On April 30, in an address before the parliament, the Ministry of Home Affairs stated that 680 Tibetan protesters were arrested in various states in the country during the March protests.

On July 28, TYC launched a series of three hunger strikes in Delhi as part of the Olympic protests. When police forcibly removed the first group of hunger strikers, Tibetans protested. Police arrested 86 protesters who tried to prevent police from reaching the hunger strike tent; the protesters were released on August 20. On August 24, TYC terminated the fast.

The government generally denied NGOs, international humanitarian organizations, and the office of the UNHCR direct access to refugee and IDP camps, particularly in Mizoram. While the UNHCR had no formal status, the government permitted its staff to access refugees in urban centers and maintained a local office in Tamil Nadu. The government did not formally recognize UNHCR grants of refugee status, although it provided "residential permits" to many Afghans and Burmese. An estimated 1,908 Burmese refugees have lived in New Delhi since 1982. The government considered Tibetans and Sri Lankans in settlements and refugee camps to be refugees and provided assistance to them, but since it regarded most other groups, especially Bangladeshis, as economic migrants, it did not provide them with aid. However, in recent years a number of court rulings extended protection to refugees whom the government had formerly considered economic migrants.

The government permitted recognized refugees to work, and the state and central governments paid for the education of refugee children and provided limited welfare benefits.

According to NGOs, conditions in the Sri Lankan refugee camps were generally acceptable, although much of the housing, as well as water and sanitation facilities, were of poor quality. The UNHCR continued to meet outside the camps with Tamil refugees considering voluntary repatriation. The NGO Organization for Eelam Refugee Rehabilitation had regular access to the camps during the year. As of September 8, a total of 73,536 Sri Lankan refugees resided in 117 refugee camps throughout Tamil Nadu. The central government and the state of Tamil Nadu jointly provided monthly cash payments and food subsidies to the refugees. The refugees were free to move in and out of the camps, but they had to return for periodic roll calls. The refugees were subject to surveillance by police. Refugee children generally were enrolled in local schools.

Those living in the country not formally recognized as refugees included approximately 80,000 Chakmas and approximately 200,000 Santhals, both from Bangladesh, who remained in Arunachal Pradesh, Mizoram, and Assam. Afghans, Iraqis, and Iranians without valid national passports were also present. The government chose not to deport

them, issued them renewable residence permits, or ignored their presence. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and could not regularize their status.

UNHCR provided refugee status and assistance to approximately 1,800 Chins from Burma living in New Delhi. However, UNHCR did not have access to the larger population of ethnic Chin living in the northeastern states. An estimated 80,000 Chins lived and worked illegally in Mizoram. NGOs stated that in 2005, 10,000 Chins with alleged ties to Burmese insurgent groups were expelled to Burma, where the military government reportedly jailed them. Mizoram human rights groups estimated that approximately 31,000 Reangs, a tribal group from Mizoram displaced by sectarian conflict, remained in six camps in North Tripura. Conditions in these camps were poor, and the Tripura government asked the central government to allot funds for their care.

3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The country has a democratic, parliamentary system of government, with representatives elected in multiparty elections. The government changed hands following free and fair national parliamentary elections in April and May 2004. The parliament sits for five years unless dissolved earlier for new elections, except under constitutionally defined emergency situations.

Citizens elected state governments at regular intervals, except in states under the president's rule. The 2007 elections in Uttar Pradesh resulted in a Dalit-led party winning a majority of seats in the State Assembly. During the year free and fair assembly elections were held in Nagaland, Karnataka, Meghalaya and Tripura, Rajasthan, Madhya Pradesh, Chhattisgarh, Mizoram, Jammu and Kashmir, and Delhi. According to the Election Commission, voter turnout for the elections in Jammu and Kashmir was 61.1 percent, compared to 26 percent during the last election in 2002. Seven civilians were killed in elections in the state during the year, compared to 26 in 2002.

Political parties could operate without restriction or outside interference.

In July 2007 Pratibha Patil became the country's first female president. There were 73 women in the 784-seat national legislature, two in the 32-member cabinet of ministers, and eight among the 47 ministers of state. There were numerous female representatives in all major parties in the national and state legislatures. The chief minister of Uttar Pradesh, the country's largest state with a population of 183 million, was a woman. The constitution reserves 33 percent of seats for women in elected village councils.

The constitution reserves a proportionate number of seats in the parliament and state legislatures for STs and SCs. Indigenous persons actively participated in national and local politics.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, in practice officials frequently engaged in corrupt practices with impunity.

Both the Election Commission and the Supreme Court upheld mandatory disclosures of criminal and financial records for election candidates. However, election campaigns for the parliament and state legislatures often were funded with unreported money, and the government failed to combat the problem.

In 2006 the government launched a national antibribery campaign to raise public awareness of the right to information. The law mandates stringent penalties for failure to provide information or affecting its flow and requires agencies to proactively reveal sensitive information. While the government took extended periods of time to reply to information requests, local community members as well as noncitizens could access the Right to Information Act (RTI) online portal to get information on personal documentation, city plans, and other public records. The government charged 10 rupees (approximately \$0.21) as a fee at the time the request was made. Nine state governments have right to information laws. The Ministry of Home Affairs' 2007 annual report stated that 8,311 applications were processed under the RTI in 2006-07. If a request is denied, the individual can appeal to the Central Information Commissioner and then to the High Court.

During the year action was taken against 262 Bihar state government officials for not supplying information to RTI applicants.

4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in a few circumstances, groups faced restrictions. Government officials assisted some NGO inquiries and actions.

In 2006 the Ministry of Home Affairs barred 8,673 organizations from seeking foreign funds under the Foreign Contribution and Regulation Act (FCRA) for failing to provide the proper paperwork. NGOs called the FCRA restrictive and claimed that the government failed to notify organizations when the requisite paperwork was needed. Until December 2007, funds under FCRA were granted to 475 additional organizations. According to the Home Ministry Annual Report 2007-08, under FCRA, 475 organizations were granted registration and 255 organizations were granted prior permission to receive foreign funds. The main domestic human rights organization was the government-appointed NHRC. While the NHRC generally acted independently, some human rights groups claimed the NHRC was hampered by institutional and legal weaknesses. For example, while the NHRC was not required to notify and receive approval for visits to state-managed prisons, the NHRC was unable to inquire independently into human rights violations by the armed forces, initiate proceedings for prosecution, or grant interim compensation. NGOs also criticized the NHRC's financial dependence on the government and the failure to investigate abuses more than one year old.

In 2007 the NHRC received 76,444 complaints of human rights abuses. The NHRC closed 101,272 cases, including those brought forward from previous years. It recommended interim relief in 86 cases amounting to 15,050,000 rupees (approximately \$350,000). The NHRC did not have the statutory power to investigate allegations and could only request that a state government submit a report, which state governments often ignored. Human rights groups claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and failed to investigate cases thoroughly.

In April the Supreme Court directed the NHRC to investigate alleged human rights violations in Chhattisgarh connected with the government-sponsored counterinsurgency efforts. On September 20, the Supreme Court asked the Chhattisgarh government to implement the NHRC's recommendations concerning allegations of human rights abuses by the state-sponsored counterinsurgency campaign Salwa Judum, SPOs, other security forces, and the Naxalites. The NHRC recommended further investigation into allegations of human rights violations, including extrajudicial killings.

On October 27, the NHRC initiated an inquiry into the MNS violence against north Indians in Maharashtra, and the investigation continued at year's end.

Human rights monitors in Jammu and Kashmir were able to document human rights

violations, but they were at times restrained or harassed by security forces, counterinsurgents, and police.

International human rights organizations faced difficulties obtaining visas to visit the country for investigative purposes, and in country, occasional harassment and restrictions limited the public distribution of materials. International humanitarian organizations, such as the ICRC, had access to most regions, with the exception of the Northeast and Naxalite-controlled areas.

Despite the recommendation to create state human rights commissions in the 1993 Protection of Human Rights Act (PHRA), only 17 of the 28 states had established them by year's end. Human rights groups alleged that state human rights commissions were limited by local politics and less likely to offer fair judgments than the NHRC. For example, the Jammu and Kashmir commission did not have the authority to investigate alleged human rights violations committed by members of the security forces. Also, the Maharashtra State Human Rights Commission (MSHRC), after receiving a court order, was forced to disclose that it had dismissed 27,000 of the 30,000 complaints it received between July 2000 and July 2007 without any action. It heard 39 cases and recommended action against police or government officials in only eight cases.

In October the Punjab State Human Rights Commission (PSHRC) stated that most cases taken up by the commission deal with alleged atrocities committed by the Punjab police. According to the PSHRC, 6,000 of 10,000 complaints registered through September pertained to police atrocities.

5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, religion, place of birth, or social status, and the government worked to enforce these provisions with varying degrees of success.

Women

The law provides for protection from all forms of abuse against women in the home, including physical, sexual, verbal, emotional, or economic abuse. Domestic violence includes actual abuse or the threat of abuse. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman can be provided with alternative accommodations, for which the spouse pays. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care. The law bans harassment by way of dowry demands and empowers magistrates to issue protection orders where needed. The law criminalizes spousal rape. Punishment ranges from jail terms of up to one year and/or a fine of approximately 19,800 rupees (approximately \$450).

In practice rape and other violent attacks against women continued to be a serious problem. There has been a dramatic increase in reported crimes against women, which credible sources stated was due to a growing sense of security in reporting such crimes. The 2005-06 National Family Health Survey (NFHS) reported that one-third of women ages 15 to 49 had experienced physical violence, and approximately one in 10 had been a victim of sexual violence. The survey also found that only one in four abused women had ever sought help, and that 54 percent of women believed it was justified for a husband to beat his wife. The National Crime Record Bureau (NCRB) reported 20,737 incidents of rape in 2007, and 19 of 20 victims knew their attackers. NGOs asserted that rape by police, including custodial rape, was common.

In 2005 the parliament amended the Code of Criminal Procedure to stipulate mandatory DNA tests in all rape cases. The act also requires a judicial inquiry into any death or rape of a woman in police custody and prohibits the arrest of women after sunset and before sunrise except in "exceptional circumstances." Human rights groups claimed there was no subsequent decrease in the prevalence of custodial abuse or killings. The law sets criminal penalties for rape, including spousal rape, but the government did not

enforce the law effectively. Only 10 percent of rape cases were adjudicated fully by the courts, and police often failed to arrest rapists, perpetuating a climate of impunity.

Domestic violence remained a significant problem, with the highest prevalence in Delhi, according to a study conducted by the NGO Lawyers Collective and UNIFEM. A total of 3,534 cases were reported in Delhi, followed by Kerala with 3,287 cases, and Maharashtra with 2,751 cases, between 2006 and October. The NFHS also found that 59 percent of married women in the state of Bihar suffered from domestic violence and that this rate of domestic violence was positively correlated with illiteracy.

Upper caste gangs used mass rape to intimidate lower castes, and gang rape was reportedly used as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes.

There was no progress in the 2007 case in which three rioters in a rally stripped an Adivasi woman while others took pictures of her on their cellular phones.

An investigation continued in the 2006 rape of 25 women in Manipur by 18 armed insurgents belonging to the United National Liberation Front and Kanglaipak Communist Party. A judicial commission investigated the incident and submitted its findings to the state government in 2007, but there were no further developments by year's end.

There was no response to an NHRC request of state officials to investigate a 2006 case in which upper caste men raped seven Dalit women in the Lakhisarai district of Bihar.

On September 15, the court found eight persons guilty of murder and acquitted three others in the 2006 case of four Dalit family members killed by Kunbi caste villagers in Khairlanji village of Maharashtra.

The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also provides extensive powers to magistrates to issue protection orders that deal with dowry-related harassment and murder. From January 1 through September 30, Andhra Pradesh police reported 392 dowry deaths, Tamil Nadu police recorded 178, and the Karnataka State Commission for Women recorded 98. According to the NCRB, 8,093 dowry cases were registered in 2007.

On September 22, the Supreme Court directed Abhinav to pay 4,000,000 rupees (approximately \$85,106) to his wife Shilpa and her family for mentally and physically torturing them for dowry.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer, although it was unclear how effective these officers were. Madhya Pradesh required government employees to produce a sworn affidavit by prospective brides, grooms, and the groom's father that no dowry was exchanged.

The government continued to ban and discourage sati, the practice of burning a widow on the funeral pyre of her husband, and there were few instances of sati. There were no reports of sati during the year.

Honor killings continued to be a problem, especially in Punjab and Haryana, where up to 10 percent of all killings in those two states were honor killings. In July the Association for Advocacy and Legal Initiative, a women's advocacy group, reported that it identified 73 cases of honor killings from Hindi-speaking states in 2007.

For example, on September 18, Rekha and Sonu, college students in Noida, Uttar Pradesh, were killed by their family because Rekha belonged to the Dalit community. On November 6, two cousins, Pinki and Sonam, were killed by their families after they left home with boys from different castes. Five persons, including the fathers of both girls, were arrested and investigations continued at year's end.

There remained no judgments in two high profile honor killings, despite confessions and supporting police investigations. The July 2007 killing of a Jat woman, Baljeet Kaur, and her Valmiki husband by Kaur's father Kartar Singh and brothers, and the 2006 killing of Kamlesh Chand by her father Deep Chand and his three sons both remained unresolved.

While the act of prostitution is not illegal, most activities such as the selling, procuring, and exploiting of any person for commercial sex as well as profiting from the prostitution of another individual are illegal. Unlike in previous years, Section 8 of the Immoral Trafficking Prevention Act (ITPA), which criminalizes the act of solicitation for prostitution, was infrequently used to arrest and punish women and girls who were victims of trafficking. The country is a significant source, transit point, and destination for trafficked women.

In October the Jammu and Kashmir High Court criticized the CBI's "lax and deficient" handling of the 2006 arrest of the former state minister for tourism in Jammu and Kashmir Pirzada Mohammed Sayeed and his wife for allegedly trafficking and blackmailing approximately 40 local girls into prostitution. On May 27, the Jammu and Kashmir state government asked the High Court bench to reconsider the case. The CBI and the High Court Bar Association disagreed, and the case was still pending at year's end.

Sexual harassment of women in the workplace included physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In 2006 the Supreme Court instructed all state chief secretaries to comply with its mandate that all state departments and institutions with over 50 employees establish committees to deal with matters of sexual harassment. According to NCRB, 4,541 cases of sexual harassment were filed in 2006.

On July 30, Delhi University's enquiry committee found a professor guilty of, and dismissed him for, charges of sexual harassment.

On November 7, B. N. Ray, ex-vice principal of Ramjas College, Delhi University, was found guilty of sexual harassment after his suspension one year earlier, when six cases of sexual harassment were filed against him.

On October 20, the National Commission for Women reported 153 cases of sexual harassment cases were registered from 2006-08. Sixty cases were registered in Delhi, and 77 in Uttar Pradesh; the remaining 16 cases were divided among other states.

On August 11, a cab driver and his accomplice were sentenced to death for the 2004 rape and killing of Australian national Dawn Emelie Griggs.

The law prohibits discrimination in the workplace; however, in practice employers paid women less than men for the same job, discriminated against them in employment and credit applications, and promoted women less frequently than men. In 2006 the government amended the law to provide flexibility for women to work in factories on the night shift.

On March 17, the All India Muslim Women Personal Law Board released a new Shariat nikahnama (marriage law), applicable to both Shias and Sunnis, that makes registration of marriages compulsory and expands the rights to women. For example, the new marriage law prohibits divorce via text message, e-mail, or telephone, and the wife can file for divorce if her husband forces her to have sex.

Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Shari'a (Muslim traditional law) determines land inheritance for Muslim women rather than state statutes. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh, Meghalaya, and Himachal Pradesh, where women traditionally controlled family property and enjoyed full inheritance rights.

Children

The law provides for protection from abuse for children in a variety of different areas. In 2007 the NHRC developed guidelines for handling child rape cases and issued recommendations on missing children. The NHRC recommended that state directors general of police should issue standing instructions to protect children and require that every police station have special squads or missing persons desks to trace missing children. District administrations were charged with periodically inspecting locations where children often work, in accordance with the law. NHRC recommended that state police headquarters create a system of mandatory reporting whereby all incidents of missing children were reported to the newly constituted National Commission for Protection of Child Rights (NCPCR) within 24 hours of occurrence.

NHRC stated that enforcement agencies, in partnership with NGOs and social workers, should develop a mechanism for counseling and awareness on child abduction, and that the National Crime Research Bureau should establish a National Tracking System in the form of data, including efforts by grassroots organizations, to help in locating and tracing missing children.

The Registration of Birth and Death Act 1969 provides for establishing birth registration procedures for state governments. According to the National Commission on Population, approximately 55 percent of national births were covered at year's end, and the level of registration varied substantially across states.

The constitution provides for free, compulsory education for children between the ages of six and 14 years of age; however, the government did not enforce this provision.

A 2006 report commissioned by the MHRD showed that lower caste and Muslim student attendance rates were much lower than those of children in high caste families.

Abuse of children in both public and private educational institutions was a problem. Although corporal punishment is banned, schoolteachers often used it on their students. There was still no progress in the 2007 case of Brijesh Prajapati, a sixth grade student in Farukhabad, Uttar Pradesh, who died after a beating from his teacher, Kishan Singh. Authorities suspended Singh and the school principal; the case was pending at year's end.

On March 27, Rinky Kaushik, a 15-year-old student at the Dinkar Model School, died after her teacher beat her. A complaint was registered against the principal, and the central government revoked its recognition of the teacher and the school.

In April 2007 the Ministry of Women and Child Development released its first study of child abuse. The survey found two out of three children were physically abused, with a higher percentage reported among children aged five to 12. The states of Andhra Pradesh, Assam, Bihar, and Delhi consistently reported the highest rates of abuse in all forms. Sixty-five percent of school children reported facing corporal punishment. Fifty-three percent of children reported experiencing one or more forms of sexual abuse, and 22 percent reported experiencing severe sexual abuse.

The government sponsored a toll-free 24-hour help line for children in distress in 72 cities across the country. A network of NGOs staffed the "Childline 1098 Service" number, which could be accessed by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counseling.

In October the NCPCR found that 22 children's homes failed to provide regular meals, clean sheets, and potable water, and required children to cook for the staff and themselves. The NCPCR found no effective system existed to manage and supervise such homes.

The 1929 Child Marriage Restraint Act prohibits child marriage. In 2006 the government

tightened its legislation against child marriage and passed the Prohibition of Child Marriage Bill, declaring that existing child marriages were null and void.

While the law states the legal age of marriage for women is 18 and for men 21, in practice this law was not followed. According to a 2005 Health Ministry report, half of all women were married by the age of 15. The report found that 45 percent of women aged 18 to 24, and 32 percent of men aged 18 to 29, married before the legal age. According to a 2005 report from the Office of the Registrar General of India, 240 girls died every day due to pregnancy-related complications in early child marriages. The International Center for Research on Women (ICRW) concluded that those married under the age of 18 were twice as likely to be abused by their husbands compared with women married later; they were also three times more likely to report marital rape. ICRW reported that child brides often showed signs of child sexual abuse and post-traumatic stress. Child marriages also limited girls' access to education and increased their health risks, since they had higher mortality rates and exposure to HIV/AIDS than girls married after 18.

Trafficking and commercial sexual exploitation of children was a serious problem. According to the UN Children's Fund (UNICEF), in 2004 the country supplied half of the one million children worldwide who entered the sex trade.

A study conducted by a group of NGOs revealed that approximately 10,000 children were trafficked into the northeast states every year. The study reveals that children were also brought in from bordering countries to the northeast.

On August 26, the Central Adoption Resource Agency (CARA) expressed concern over incidents of child trafficking in the guise of adoption. Media reports named a Chennai-based adoption agency that had fabricated records of children and placed them for adoption in 2000. The CARA chairperson stated that the agency lost its license in 2002. A criminal case was filed and the matter was pending in the court at year's end.

Female feticide was an acute problem in Punjab, Haryana, and Rajasthan. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low female/male ratios. Nationally, there were only 933 girls per 1,000 boys per the 2001 census. In 14 districts of Haryana and Punjab there were fewer than 800 girls per 1,000 boys. The low male/female ratio resulting from female feticide caused families in Punjab and Haryana to traffic women and girls from Bihar and other northeastern states.

Sex determination tests are illegal under the 1994 Pre-Natal Diagnostic Techniques Act (PNDT). However, credible sources stated the problem was widespread and calculated that feticide was a \$116 million industry. Officials claimed that the practice was prominent among educated and urban sections of society.

On January 17, media reports revealed a poor conviction rate under the PNDT. Despite claims made by the Punjab government, police had obtained only six convictions under the act in the state, and 78 cases were pending in the courts at year's end. Out of 17 cases involving clinics carrying out the sex determination tests using ultra sound machines, three were discharged and 14 cases were pending in the courts at year's end.

On July 1, two diagnostic clinics and a hospital were shut down in Rohini, New Delhi, for conducting sex determination tests. On August 14, the Supreme Court issued a notice to the central government on public interest litigation charging that efforts to block search engine advertisements promoting sex selection technology had been insufficient.

On November 2, the ultrasound center in Sriram Memorial Hospital in Gurgaon, Haryana, was closed for violating the PNDT for purposes of sex determination.

There were no updates in the 2007 arrest by the Haryana Health Department of an unlicensed doctor, A. K. Singh, for feticide based on gender. Haryana registered 35

cases against doctors illegally conducting sex determination tests in the past two years.

Efforts to combat feticide included a program by the Health and Family Welfare Ministry to target and apprehend those who carry out or abet female feticide. The government also launched a "Save the Girl Child" campaign. The New Delhi municipal government sponsored a program that provided every girl born in a government hospital with a gift deposit of 5,000 rupees (approximately \$114) that accumulated interest until cashed at the child's age of 18. In the village of Lakhanpal in central Punjab, a program to end female feticide resulted in 1,400 female and 1,000 male births.

Trafficking in Persons

The ITPA prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. The law provides for imprisonment of seven years to life for offenses committed against a child (under 16), or seven to 14 years for offenses against minors between 16 and 18. The minimum term of imprisonment for brothel keeping was one year for the brothel offense and seven years to life imprisonment for detaining a person, with or without consent, for prostitution.

The country was a significant source, transit point, and destination for trafficking victims, primarily for the purposes of prostitution and forced labor. Women and girls were lured into commercial sexual exploitation through deception and expectations of opportunities. Tribal women and those from economically depressed areas were particularly vulnerable to sexual exploitation. Extreme poverty, combined with the low social status of women, often resulted in parents handing over their daughters to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages home.

To a lesser extent, the country was a point of origin for women and children trafficked to other countries in Asia, the Middle East, and other countries for forced domestic servitude or commercial sexual exploitation. Men were also trafficked to the Arabian Gulf for involuntary servitude in the construction sector.

Women and girls as young as seven years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas of the country to the major prostitution centers of Mumbai, Kolkata, and New Delhi. In West Bengal, organized trafficking of illegal Bangladeshi immigrants was a principal source of bonded labor. Kolkata was a transit point for traffickers sending Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East. The government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral antitrafficking agreements, particularly through the South Asian Association for Regional Cooperation.

Trafficking of children into domestic servitude and sweatshops remained a problem. States in the northeast region (Assam, Meghalaya, Nagaland, Manipur, Mizoram, Tripura, Arunachal Pradesh, Sikkim), and Bihar served as main source areas for domestic servants in Kolkata, Delhi, Hyderabad, Mumbai, and, to a certain extent, Bangalore. The increasing number of domestic servant recruitment agents suggested that large trafficking networks operated in the region. In many cases women and girls were first brought by agents to Siliguri, West Bengal; they then traveled to different destinations with the traffickers. Often traffickers used truck drivers to carry women and girls from the northeast through National Highway 31, which connects the region to the central part of the country.

Traffickers usually targeted minors and Dalit women. A study conducted by credible sources stated that out of the 173 identified cases of women who had become victims of the sex trade, 85 percent were minors and half were Dalits.

NGOs knowledgeable about the trafficking situation frequently identified traffickers and the locations where brothel owners held girls captive but were reluctant to trust police with this information due to the likelihood that many trafficking victims would be

arrested and revictimized rather than assisted by such raids. Several NGOs had significant successes, however, in working with police to target brothels with children.

According to the United Nations Office on Drugs and Crimes (UNODC) latest report, from January 2007 to June, 920 cases of human trafficking were registered; 371 rescue operations were conducted; 1,606 victims were rescued, including 266 minors; 1,919 were arrested; 801 customers/clients were arrested; 30 traffickers were convicted; 33 places of exploitation were closed; and 863 victims began the process of rehabilitation.

On October 10, Ram Kishore, station house officer of the Railway Police, and six others were charged with the alleged sale of a woman into illegal captivity in Jind, Haryana. Police lodged a First Information Report, but had not located the accused by year's end.

On October 30, Chander Shekhar, employee of the NGO Prayas Kendra, was sentenced to two years in jail for child trafficking. Delhi police arrested Shekhar in 2006 for selling three children residing at the NGO for 30,000 rupees (approximately \$638).

Although arrests and prosecutions for trafficking increased, convictions remained low, and collection of law enforcement data was difficult because there was no national system for collecting arrest information. The law's requirement of an inspector-level officer to investigate cases made charges unlikely. Many police officials preferred to use India Penal Code (IPC) provisions rather than antitrafficking laws to arrest traffickers, both because they claimed to have more success in getting convictions and because many IPC provisions were not subject to bail.

The government significantly increased police training and modestly improved interstate coordination of antitrafficking efforts, cooperated with NGOs, supported awareness campaigns, and increased the number of shelter facilities available to rescued trafficking victims; the conditions of the shelters, however, were often substandard. They also stated that persons claiming to be parents would remove girls and reinsert them into the industry.

The Ministry of Women and Child Development improved coordination with its state counterparts and NGOs to deliver counseling, legal aid, medical care, repatriation and restoration services, as well as awareness programs such as peer education, rallies, posters, booklets, and street plays. The ministry also completed the Protocol on Inter State Rescue and Post Rescue Activities relating to trafficked persons.

See also the State Department's [2008 Trafficking in Persons Report](#).

Persons with Disabilities

The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights for persons with disabilities; however, a clause that makes the implementation of programs dependent on the "economic capacity" of the government was believed to significantly weaken the law.

Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and access to health care. Accessibility for persons with disabilities to public buildings, transport, and spaces was not required by law, and provisions for wheelchair access were limited.

According to the 2001 census, there were 22 million persons with disabilities in the country, but NGOs estimated the actual number to be much higher. A World Bank report noted that 4 to 8 percent of the population consisted of persons with disabilities.

The government and the PDA improved employment prospects for persons with disabilities. For example, the PDA required that 3 percent of public sector jobs be reserved for persons with physical, hearing, and visual disabilities. While only 0.44

percent of public sector employees were persons with disabilities, the government increased funds to NGO partners to increase this number. Private sector employment of persons with disabilities remained low despite PDA benefits to private companies at which persons with disabilities constitute more than 5 percent of the workforce. On July 17, the central government approved an incentive program for private sector employers that covers positions with a monthly wage of 25,000 rupees (approximately \$568).

The PDA created a Central Coordination Committee, which reported that approximately 100,000 children with special needs attended approximately 2,500 schools that provided integrated and inclusive education or nonformal education. The MHRD reported in 2006 that children with mental disabilities had the lowest rate of school attendance out of any group at 53 percent, followed by those with speech disabilities at 57.5 percent, and those with hearing disabilities at 68 percent.

The law stipulates that 3 percent of all educational spots are reserved for persons with disabilities; however, statistics showed that only an estimated 1 percent of students consisted of those with disabilities. The Ministry of Social Justice and Empowerment offered 500 educational scholarships to persons with disabilities to pursue higher education. However, university enrollment of students with disabilities was still very low for reasons including inaccessible infrastructure, poor availability of resource materials, nonimplementation of the 3 percent reservation, and harassment.

On July 14, the central government pledged to fund programs to provide toilets accessible for persons with disabilities, sloped ramps, lifts with audio systems and Braille buttons, computer rooms usable for persons with disabilities, and one room in each hostel for persons with disabilities in the country's universities. On July 15, Delhi University organized a special orientation program for students with disabilities and announced plans to start a transportation system to facilitate their commute.

The disability division of the Ministry of Social Justice and Empowerment delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the government to provide rehabilitation centers to more than 400 districts, but services were concentrated in urban areas. The impact of government programs was limited due to the concentration of funding provided to a few organizations.

National/Racial/Ethnic Minorities

The law provides that the practice of untouchability, which discriminated against Dalits and others defined as SCs, is a punishable offense; however, such discrimination remained ubiquitous.

The law gives the president the authority to identify historically disadvantaged castes, Dalits, and tribal persons (members of indigenous groups historically outside the caste system) for special quotas and benefits. These groups were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. According to the 2001 census, SCs, including Dalits, made up 16 percent (168.6 million) of the population, and STs were 8 percent (84.3 million). In 2006 the parliament passed a bill to reserve 27 percent of seats at educational institutions for SCs and members of disadvantaged social classes.

While the law protects Dalits, in practice they faced significant discrimination in access to services such as health care and education, attending temples, and marriage. Many Dalits were malnourished and were the majority of bonded laborers. Dalits who asserted their rights were often attacked, especially in rural areas. As agricultural laborers for caste landowners, Dalits often worked without remuneration. Crimes committed by upper caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute such cases or because the crimes were unreported by victims fearing retaliation.

Reports from the UN Committee on the Elimination of Racial Discrimination described

systematic abuse of Dalits, including extrajudicial killings and a considerable rate of sexual violence against Dalit women. For example, on January 9, a Dalit man was pierced in the eyes by upper caste attackers because of his relationship with a relative. Police arrested six persons for the assault and charged them under the Scheduled Castes (Prevention) Act.

On April 30, the Ministry of Home Affairs reported that there had been 13,449 persons convicted for crimes against persons belonging to the SC and ST according to NCRB records.

On June 7, a Dalit girl alleged that she was raped and tortured for over a year in Jatapar village in Gujarat after her disappearance in 2006. No arrests were made in the case by year's end. On June 12, a group of upper caste men stripped and beat a Dalit woman and her daughter in Ajmer, Rajasthan. The police registered a case against the accused, who were at large at year's end.

There were no updates in the September 2007 case against those who allegedly killed two members of the Pardhi tribe and destroyed 62 Pardhi houses in Multai, Madhya Pradesh.

In 2006 the Supreme Court ordered the police and government to help intercaste couples and prevent social ostracism, and the Ministry of Social Justice and Empowerment directed state governments to increase incentives for intercaste marriages to 46,000 rupees (approximately \$1,050). The central government pays 50 percent.

On September 5, six persons were sentenced to death and two to life imprisonment for lynching four members of a Dalit family in Vidarbha, Maharashtra, in 2006.

On September 24, four persons were sentenced to death and 11 to life imprisonment for killing Chhedu, in Barabanki, Uttar Pradesh, in 1993. Chhedu belonged to the Chamar caste and was killed when he tried to prevent his attackers from molesting his daughter.

Indigenous People

The law provides for safeguarding tribal rights in most of the northeastern states, and the regulations were generally followed. These regulations prohibit any nontribal person, including citizens from other states, from crossing an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. Tribal authorities must approve the sale of land to nontribal persons. According to the Indian Confederation of Indigenous and Tribal Peoples, 80 percent of the tribal population lived below the poverty level, and more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation.

Businesses and illegal undocumented Bangladeshi immigrants encroached on tribal lands in almost every eastern state. Numerous tribal movements demanded the protection of tribal land and property rights. As a result of complaints, tribal-majority states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh, and authorities provided local autonomy to some tribes in the northeast.

In May approximately 41 persons were killed in clashes between the police and members of the Gujjar tribe in the state of Rajasthan. The Gujjars demanded inclusion in affirmative action quotas and the List of Scheduled Tribes. In 2007, 26 persons were killed in similar clashes. A six-member team from the NHRC visited the state to investigate. On July 17, the Rajasthan Assembly passed the Reservation Bill for the Gujjar tribe. The Gujjars were expected to get 5 percent reservation in the category of Special Backward Classes.

In November 2007 members of the CPI(M) claimed approximately 1,500 acres of land in

Munnar, Kerala, after forcibly removing 200 tribal families from the area.

Since August 2007, thousands of mainly indigenous groups of Scheduled Castes and Tribal protesters in Chengara, Kerala, staged a continuing strike on a private estate demanding land ownership. Discussions with the state government to resolve the situation continued at year's end.

In Assam, tensions remained high between indigenous Assamese tribal members and the Adivasi because of Adivasi demands for ST status. While police charged several individuals for stripping one Adivasi woman publicly, the woman refused the government's offer for a job and 100,000 rupees (approximately \$2,066) in compensation and decided to run for the parliament. No other violence occurred. There was no progress on other 2007 incidents in which one person was killed.

Civil rights organizations, working with indigenous persons in Kodagu district of Karnataka, accused the state government of actively promoting tourism at their expense. The groups alleged that more than 1,600 families had been evicted since 1972. While the 2006 Scheduled Tribes Act grants indigenous persons certain rights pertaining to lands from which they were evicted, in practice little has changed. The government had not determined by year's end which department should implement the new rules, with the practical effect that none of the evicted families were to take up permanent residence in their former homes.

Other Societal Abuses and Discrimination

The law punishes acts of sodomy and bestiality; however, the law was often used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who did not hide their orientation were fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail. Police committed crimes against homosexuals and used the threat of arrest to coerce victims into not reporting the incidents.

Voices Against 377, a high profile campaign to overturn Section 377, which outlaws homosexuality, continued its efforts during the year. On August 27, the Law Ministry rejected the demand of the Health Ministry to legalize homosexuality.

In 2006 the Supreme Court ruled that the Delhi High Court should not have dismissed an earlier case challenging Section 377 brought by two NGOs and returned the case to the Delhi High Court, which began hearings on September 18. The government opposed the case based upon the Ministry of Home Affairs' view that homosexuality is morally wrong. On November 7, the Delhi High Court allowed litigants one week to present final statements. The case continued at year's end.

On May 21, 40 gay and transgender groups collaborated on a bid for funding from the International Global Fund for AIDS, Tuberculosis, and Malaria (GFATM). The occasion marked the first time the groups had formed a united front to secure benefits for their cause.

On August 28, the Home Ministry informed the Delhi High Court that it was not empowered to issue directions to treat transsexuals as a special class entitled to jobs and other benefits. The Ministry was responding to the Public Interest Litigation regarding the dismissal of Sanju Behra from the CRPF on the grounds of gender ambiguity. Notices were issued to the CISF, Home Ministry, Ministry of Women and Child Development, and the Health Ministry during the year.

In December the central government submitted a report which asserted that legalizing homosexuality would lead to more cases of HIV/AIDS.

In March 2007 the UN Development Program released a report on "launda dancers,"

young men and boys hired to dance in women's clothing at various events in Bihar and Uttar Pradesh. Dancers were vulnerable to exploitation by being cheated of earnings or being forced into prostitution. Sexual assault and gang rape were frequent, and dancers were at high risk of contracting HIV/AIDS. Some laundas who had illegal castrations to join the hijra (traditional transvestite) community suffered from post operation complications due to inadequate medical care.

According to the National AIDS Control Organization (NACO), the government agency responsible for monitoring HIV/AIDS, there were approximately 2.3 million persons living with HIV/AIDS in the country, and according to the International Labor Organization (ILO), 70 percent of persons suffering from HIV/AIDS faced discrimination. HRW reported that many doctors refused to treat HIV-positive children and that some schools expelled or segregated them because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing.

NACO, with support from UNAIDS and the WHO, produced revised AIDS estimates that showed as of December 2007 approximately 2.31 million persons were living with the virus and that HIV prevalence among adults was around 0.36 percent. Estimates for previous years (since 2002) have also been revised.

On February 14, an AIDS victim's body was denied cremation in Kendrapara district, Orissa, due to fears the smoke from the funeral pyre would spread the virus.

On August 13, Kerala became the first state to reserve government jobs for HIV-positive candidates.

On August 14, an initiative to provide insurance to persons with HIV/AIDS was launched in Karnataka. The state estimated that 250,000 residents were infected with HIV/AIDS; however, only 22,000 were registered with the main HIV/AIDS NGO, the Karnataka Network for Positive People.

In Karnataka, civil society organizations alleged that since the May elections there was an increased intolerance on the part of police. On October 20, police in Bangalore arrested five hijras on unclear charges. When representatives from Sangama, a Bangalore-based NGO that defends the human rights of sexual minorities, visited the jail, they alleged that both they and the original arrestees were verbally and physically abused, and at least one female representative was assaulted by police officials. The confrontation escalated, and 31 were eventually arrested. The group included women and men who were detained in the same cell, in violation of police code. Cases were pending at year's end, but all those arrested were released within 24 hours on bail. On November 9, Bangalore police issued notices to a number of landlords in the Desarahalli neighborhood alleging that hijras were "indulging in immoral activities on the premises" and demanding that the landlords appear at the local police station. The landlords responded by evicting some 30-40 hijras, many of whom were long-term residents.

In 2006 authorities denied five HIV-positive children admission to the Mar Dionysius Lower Primary School in Kottayam district, Kerala, after pressure from the community. In August 2007 state government authorities readmitted them.

6. Worker Rights

a. Right of Association

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and in practice the government generally respected this right. However, while the country's active work force was more than 400 million persons, only 30 million persons were employed in the formal sector, with the rest as agricultural workers and, to a lesser extent, urban nonindustrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were in the formal sector. An

estimated 80 percent of the unionized workers were members of unions affiliated with one of the five major trade unions.

In practice legal protections of worker rights were effective only for the organized industrial sector, where authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities. Unaffiliated unions were generally not able to secure the protections and rights provided by the law. The 2001 Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

Trade unions have a limited right to strike, and workers exercised this right. The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires arbitration in specified essential industries; however, the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right. Collective bargaining is protected by law, but is limited mostly to the private sector. Public servants have limited organizing and collective bargaining rights. When parties cannot agree on equitable wages, the government may establish boards of union, management, and government representatives to make a determination. Specialized labor courts adjudicate labor disputes; however, there were long delays and a backlog of unresolved cases.

The law provides workers in export processing zones (EPZs) the right to join trade unions and bargain collectively, although EPZ workers often did not exercise their full labor rights. The Trade Union Act designates the EPZs as "public utilities" and requires a 45-day strike notice.

Entry into the EPZs ordinarily was limited to employees, and entry restrictions applied to union organizers. Unions have not vigorously pursued efforts to organize private sector employees since EPZs were established. Most EPZ workers were women. The International Confederation of Free Trade Unions reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their dismissal.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or bonded labor, including by children; however, such practices remained widespread. Offenders may be sentenced up to three years in prison, but successful prosecutions were rare. Enforcement and compensation for victims were the responsibility of state and local governments and varied in effectiveness due to inadequate resources and societal acceptance of bonded or forced labor. When inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children. The Institute for Socio-Economic Development research found that, in Bihar and Uttar Pradesh, the main form of bonded labor involved agricultural laborers. According to NGOs, nonagricultural sectors that had a high incidence of bonded labor were stone quarries, brick kilns, rice factories, jewelry, beedi making (hand-rolled cigarettes), and carpet weaving.

According to the Ministry of Labor and Employment (MOLE), during the period April 2007 to March, 716 bonded laborers had been rescued and rehabilitated from the states of West Bengal, Uttar Pradesh, Bihar, Madhya Pradesh, and Haryana.

Members of Scheduled Castes and Tribes lived and worked under traditional arrangements of servitude in many areas of the country. In Arunachal Pradesh, the Nishi tribe traditionally subjugated the Sulungs or Puroiks as customary slaves. Local customs and landlessness made the eradication of slavery difficult.

The MOLE partnered with the NHRC and NGOs to investigate allegations of bonded labor. MOLE statistics showed a large decrease in the number of bonded labor cases brought before the courts, although the extent to which this reflected a decrease in bonded labor was unclear.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits forced and bonded child labor; however, the prohibition was not effectively enforced, and forced child labor remained a serious problem. Estimates of the number of child laborers varied widely. The government's 2004 national survey estimated the number of working children in the age group of five to 14 at 16.4 million. However, NGOs reported the number of child laborers was closer to 60 million.

According to 2001 census figures, 65.3 million (29 percent) of 226 million children between the ages of five and 14 did not receive any formal education. Most, if not all, of the 87 million children not in school worked in the informal sector, often in private homes, with the highest rate (15 percent) in Uttar Pradesh. Child labor continued due to social acceptance of the practice, ineffective state and federal government enforcement of existing laws, and poverty. Many officials claimed they were unable to stop this practice because the children were working with their parents' consent. Working conditions often amounted to bonded labor.

According to UNICEF, private companies in Andhra Pradesh reportedly employed 200,000 children in the hybrid seed industry. Most were girls between the ages of seven and 14 from other parts of the state. The majority were Dalits and members of economically disadvantaged castes and tribal groups forced to work in debt-bondage. They were routinely abused, subjected to dangerous pesticides, and denied access to education.

Human rights organizations estimated as many as 300,000 children worked in the carpet industry. Child labor was also used in the following industries: gemstone polishing, leather goods, sari weaving, beadwork, sporting goods, brassware, fireworks, footwear, hand-blown glass bangles, handmade locks, hand-dipped matches, hand-quarried stones, hand-spun silk thread, hand-loomed silk cloth, handmade bricks, roadside restaurants, roadside auto repair, mining, sorting trash for items to resell or recycle, and beedis. A number of these industries exposed children to hazardous work conditions.

According to UNICEF and others, the number of children involved in the silk spinning industry dropped due to competition from China and concerted action by the state government against employers of child labor. The government of Karnataka, in partnership with UNICEF, monitored child labor and developed programs to enable former child workers to enter the state-sponsored formal education system.

The NHRC declared the implementation of existing child labor laws inadequate. A child assisting its family is exempt from the provisions of the act, and employers in cottage industries often exploited this to claim that children were assisting their families.

There is no overall minimum age for child labor; however, work by children under 14 is prohibited in factories, mines, domestic work, roadside eateries, and other hazardous industries. In occupations and processes in which child labor is permitted, work by children is permissible only for six hours between 8 a.m. and 7 p.m., with one day's rest weekly. Employers who failed to abide by the law were subject to penalties specified in the Bonded Labor System (Abolition) Act and to disciplinary action at the workplace.

A ruling, effective 2006, prohibits children under the age of 14 from labor in the domestic sector and the hospitality industry, although child labor in some other

nonhazardous industries is legally permissible. In 2006 the Delhi High Court ordered the central and state governments to develop a plan to eradicate child labor in the capital area.

The penalty for employers of children in hazardous industries is set at 20,000 rupees (approximately \$430) per child employed, which establishes a welfare fund for formerly employed children. The government is required to find employment for an adult member of the child's family or pay 5,000 rupees (\$108) to the family. NGOs noted that requiring the government to pay the family of a child laborer or finding the adult family member a job could be a disincentive to investigating crimes.

The country made moderate progress on addressing child labor during the year. The MOLE raised awareness about child labor and coordinated efforts with states through videoconferences. The MOLE also drafted a Protocol on Prevention, Rescue, Repatriation, and Rehabilitation of Trafficked and Migrant Child Labor to provide practical guidelines relating to trafficked and migrant child labor. The MOLE, through its 250 National Child Labor Projects, rehabilitated more than 400,000 children from child labor situations. The MOLE also continued to expand the list of occupations and activities that are banned from employing children. In September MOLE added nine items including diving, mechanized fishing, food processing, timber handling, and processes involving exposure to free silica.

In February a joint operation launched by the Delhi state government's Labor Department, the Delhi police, and the NGO Bachpan Bachao Andolan rescued 140 child laborers in two separate raids working in the zari industry and factories making photo frames, bangles, and mirror frames.

On October 6, Real Sports India conducted an investigation on child labor. The investigation revealed children as young as six years old working in Jalandhar and Meerut sewing soccer balls. The children were required to work 10 to 15 hours a day and paid two rupees (approximately \$0.04) per hour.

On October 21, Bachpan Bachao Andolan rescued 17 children at Saharsah railway station from being trafficked for child and bonded labor. The rescued children were sent home. Three traffickers were arrested and charged under the IPC; however, two managed to escape.

e. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an eight-hour workday, a 48-hour workweek, and safe working conditions, which include adequate provisions for rest rooms, canteens, medical facilities, and proper ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime. These standards generally were enforced in the modern industrial sector; however, they were generally not observed in the vast informal economy, which included nearly 93 percent of the work force.

Minimum wages varied according to the state and to the sector of industry. Such wages were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. State governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as apparel and footwear, generally did not adhere to a prescribed minimum wage.

The enforcement of safety and health standards was poor, especially in the informal sector. Industrial accidents occurred frequently. Chemical industries had the highest number of accidents. Workers from Scheduled Castes and Tribes often worked as rag pickers, recycling bits of trash under hazardous and generally deplorable conditions. Workers from these groups also cleaned sewers and drains of human excrement without

proper equipment and under extremely unsanitary conditions.

The NHRC had not reported by year's end on the working conditions in West Bengal tea estates and the alleged starvation deaths that may have occurred in early 2007.

Safety conditions were better in the EPZs than in the manufacturing sector outside the EPZs. The law does not provide workers with the right to leave workplaces that endanger health and safety, without jeopardizing their continued employment. The country's undocumented foreign workers were not extended basic occupational health and safety protections.
