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COUNTRY OF ORIGIN INFORMATION REPORT

INDIA

12 AUGUST 2008

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Preface

- i This Country of Origin Information Report (COI Report) has been produced by COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 14 July 2008. The 'Latest News' section contains further brief information on events and reports accessed from 15 July to 12 August 2008. The report was issued on 19 August 2008.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.
- viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.
- ix COI Reports are published regularly on the top 20 asylum intake countries. COI Key Documents are produced on lower asylum intake countries according to operational need. UKBA officials also have constant access to an information request service for specific enquiries.
- x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

Country of Origin Information Service

UK Border Agency
Apollo House
36 Wellesley Road
Croydon CR9 3RR
United Kingdom

Email: cois@homeoffice.gsi.gov.uk

Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

- xi The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UKBA's country of origin information material. The APCI welcomes all feedback on the UKBA's COI Reports, Key Documents and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk
- xii In the course of its work, the APCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. The APCI may or may not have reviewed this particular document. At the following link is a list of the COI Reports and other documents which have, to date, been reviewed by the APCI: www.apci.org.uk/reviewed-documents.html
- xiii Please note: It is not the function of the APCI to endorse any UKBA material or procedures. Some of the material examined by the Panel relates to

countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

Advisory Panel on Country Information:

Email: apci@homeoffice.gsi.gov.uk

Website: www.apci.org.uk

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Latest News

EVENTS IN INDIA FROM 15 JULY 2008 TO 12 AUGUST 2008

- 12 August Security forces opened fire on Muslim protesters in Indian-administered Kashmir, killing 10 and injuring many more. The unrest started in June, initiated by a dispute over a piece of land. At least 20 have died and many hundreds injured in clashes between demonstrators and the security forces.
BBC News, 'Protesters shot dead in Kashmir', 12 August 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7555398.stm
Date accessed 12 August 2008
- 7 August "A strike called by the ruling leftists has paralysed life in the troubled enclave of Nandigram in India's West Bengal state."
BBC News, 'Strike paralyses Bengal enclave', 7 August 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7546510.stm
Date accessed 7 August 2008
- 6 August "An Indian government ban on an Islamic student group accused of terrorism is to remain in force after a Supreme Court ruling, officials say."
BBC News, 'Indian student group ban upheld', 6 August 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7544060.stm
Date accessed 6 August 2008
- 5 August "The world will fail to reach millennium development goals unless India improves its record on health and child protection...Unicef, the UN children's agency, says India is failing to provide basic healthcare for its poorest children – despite robust economic growth."
BBC News, 'UN warning on India child health', 5 August 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7542521.stm
Date accessed 5 August 2008
- 4 August "A court in the Indian city of Mumbai (Bombay) has rejected a couple's plea to abort their 25-week fetus. The case was as a key test of India's abortion law, which does not permit termination of pregnancies after 20 weeks unless it is fatal to the mother."
BBC News, 'India court in key abortion order', 4 August 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7540849.stm
Date accessed 4 August 2008
- 27 July "At least 38 people have been killed and more than 100 wounded after a series of explosions struck the western Indian city of Ahmedabad, officials have said."
BBC News, 'Deadly blast strikes Indian city', 27 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7527004.stm
Date accessed 28 July 2008
- 25 July "Seven bombs have hit the southern Indian city of Bangalore within minutes of each other, police say."
BBC News, 'Serial bombs' hit India's IT hub', 25 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7525033.stm
Date accessed 25 July 2008-08-04
- 23 July "Indian newspapers say the Congress party-led government's win in the vote of confidence has been 'tainted' by charges of vote buying."

- BBC News, 'India media condemns vote 'taint'', 23 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7520726.stm
Date accessed 23 July 2008
- 22 July "India's Congress party-led government has survived a vote of confidence over a civilian nuclear deal with the US."
BBC News, 'Indian government survives vote', 22 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7519860.stm
Date accessed 22 July 2008
- 21 July "India says its peace process with Pakistan is under stress following this month's suicide attack on the Indian embassy in Kabul."
BBC News, 'India says dialogue under stress', 21 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7517840.stm
Date accessed 21 July 2008
- 21 July "Four people, including two civilians, have been killed in two separate attacks in Indian-administered Kashmir."
BBC News, 'Four killed in Kashmir violence', 21 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7516633.stm
Date accessed 21 July 2008
- 15 July "India should take action against the state-backed vigilantes active in the central state of Chhattisgarh, US-based Human Rights (HRW) says. Since 2005, security forces and members of the Salwa Judum militia group have killed and raped villagers, HRW says. Salwa Judum was launched in 2005 to fight the Maoist rebels in the area. HRW also says the Maoists have kidnapped and executed civilians and targeted people suspected of supporting Salwa Judum."
BBC News, 'Indian state 'backing vigilantes'', 15 July 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7505252.stm
Date accessed 15 July 2008

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Human Rights Watch – “Being Neutral is Our Biggest Crime”, Government, Vigilante and Naxalite Abuses in India’s Chhattisgarh state, published 15 July 2008
<http://hrw.org/reports/2008/india0708/> Date accessed 15 July 2008

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Background Information

1. GEOGRAPHY

- 1.01 The Republic of India covers an area of 3,287,263 sq km including the whole of Jammu and Kashmir, which is divided between India and Pakistan (Europa World Online). [1] **(Area and Population)** Pakistan borders India on the north-west, Burma (Myanmar) on the north-east, and Bangladesh to the east. Tibet, Bhutan and Nepal lie to the north (Europa World Online). [1] **(Location, Climate, Language, Religion, Flag, Capital)**
- 1.02 The population of India (2007 estimate) is 1.12 billion, of which the urban population accounts for 27.8 per cent. Although India occupies only 2.4 per cent of the world's land area, it supports over 15 per cent of the world's population. The population growth rate is 1.4 per cent per annum. The capital is New Delhi (pop.12.8 million, 2001 census). Other major cities are Mumbai, formerly Bombay (16.4 million); Kolkata, formerly Calcutta (13.2 million); Chennai, formerly Madras (6.4 million); Bangalore (5.7 million); Hyderabad (5.5 million); Ahmedabad (5 million) and Pune (4 million). (US State Department's Background Note for India, updated June 2008). [2a]
- 1.03 There are 28 states and seven Union Territories. The states are: Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal, and West Bengal. (Government of India website, undated) [24e]
- 1.04 The Union Territories are: Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Delhi, Lakshadweep, and Pondicherry. (Government of India, States and Union Territories, undated) [24e]
- 1.05 The national language of India is Hindi, and the first language of 30 per cent of the population. English has "associate status" but is the most important language for national, political and commercial communication. (CIA World Factbook, 19 June 2008) [35] The Foreign & Commonwealth Office (FCO) India Country Profile, updated 22 February 2008 states: "The official language of India is Hindi written in the Devanagari script... In addition there are 18 main and regional languages recognised for adoption as official state languages." [7b]
- (For further information on languages see source [31] Ethnologue Languages of the World – Languages of India)
- 1.06 Estimates for 2000 recorded in the CIA World Factbook, updated 19 June 2008, stated that the biggest ethnic group in India is the Indo Aryans (72 per cent), followed by the Dravidians (25 per cent), Mongoloid and others (3 per cent). 81.3 per cent of the population is Hindu, 12 per cent Muslim, 2.3 per cent, Christian, 1.9 per cent Sikh. Other religious groups include Buddhist, Jain and Parsi totalling 2.5 per cent. [35]

See Section 20.01 – Ethnic Groups

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MAP

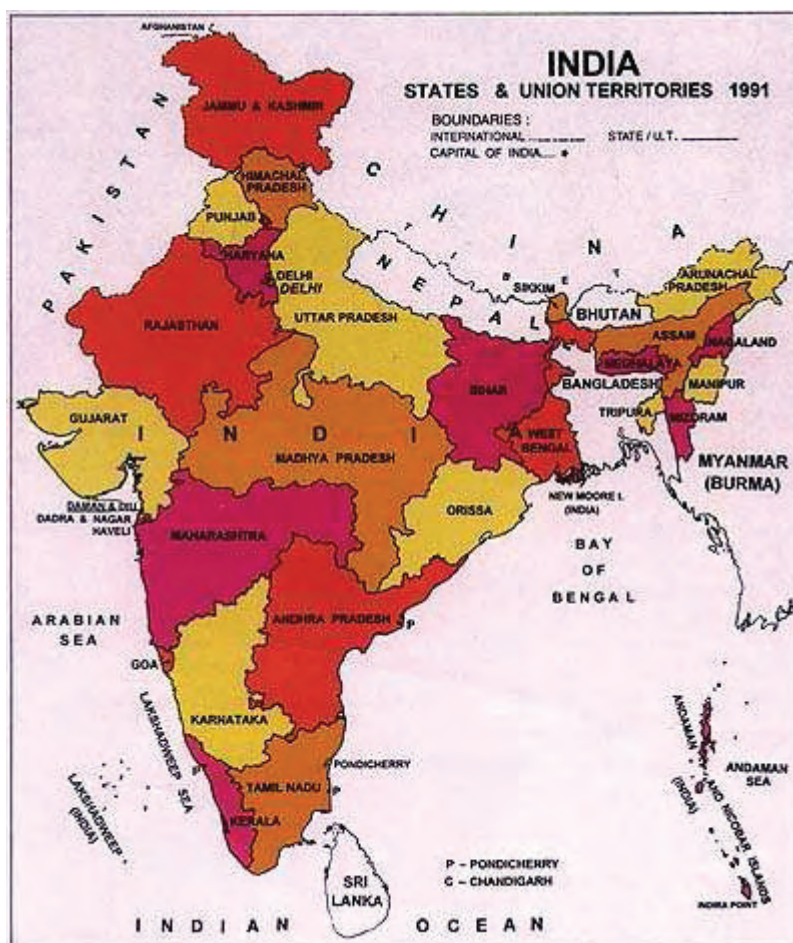
1.07

SOUTH ASIA



<http://www.un.org/Depts/Cartographic/map/profile/seasia.pdf>

[6c]



“Based upon the Survey map with the permission of the Surveyor General of India. The territorial waters of India extend into the sea to a distance of twelve nautical miles measured from the appropriate base line. The boundary of Meghalaya shown on this map is as interpreted from the North-Eastern Areas (reorganisation) Act, 1971, but has yet to be verified.”

© Government of India, 1996

Government of India: India - States and Union Territories 1991 [24d]

Languages and minority religion map:

[http://www.lib.utexas.edu/maps/middle east and asia/india lang 1973.jpg](http://www.lib.utexas.edu/maps/middle%20east%20and%20asia/india_lang_1973.jpg)

Religions of India Map:

[http://www.lib.utexas.edu/maps/middle east and asia/india religions87.jpg](http://www.lib.utexas.edu/maps/middle%20east%20and%20asia/india_religions87.jpg)

[6c]

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2. ECONOMY

2.01 The CIA World Factbook, updated 19 June 2008 noted that:

“India’s diverse economy encompasses traditional village farming, modern agriculture, handicrafts, a wide range of modern industries, and a multitude of services. Services are the major source of economic growth, accounting for more than half of India’s output with less than one third of its labor force. About three fifths of the work force is in agriculture, leading the United Progressive Alliance (UPA) government to articulate an economic reform package that includes developing basic infrastructure to improve the lives of the rural poor and boost economic performance. The government has reduced controls on foreign trade and investment. Higher limits on foreign direct investment were permitted in a few key sectors, such as telecommunications. However, tariff spikes in sensitive categories, including agriculture, and incremental progress on economic reforms still hinder foreign access to India’s vast and growing market. Privatization of government-owned industries remains stalled and continues to generate political debate; populist pressure from within the UPA government and from its Left Front allies continues to restrain needed initiatives. The economy has posted an average growth rate of more than 7% in the decade since 1997, reducing poverty by about 10 percentage points. India achieved 8.5% [Gross Domestic Product] GDP growth in 2006, and again in 2007, significantly expanding production of manufactures. India is capitalizing on its large numbers of well-educated people skilled in the English language to become a major exporter of software services and software workers. Economic expansion has helped New Delhi continue to make progress in reducing its federal fiscal deficit. However, strong growth combined with easy consumer credit and a real estate boom fueled inflation concerns in 2006 and 2007, leading to a series of central bank interest rate hikes that have slowed credit growth and eased inflation concerns. The huge and growing population is the fundamental social, economic, and environmental problem.” [35]

2.02 Though agriculture represents only 17% of the India’s Gross Domestic Product (GDP), with industry and services constituting 29.4% and 52.9% respectively of total GDP (2007 estimates) in 2003 the majority of India’s labour force worked in agriculture (60%), with 12% in industry and 28% in services India’s principal industries are textiles, chemicals, food processing, steel, transportation equipment, cement, mining, petroleum, machinery, and the production of software. Its key agricultural products are rice, wheat, oilseed, cotton, jute, tea, sugarcane, potatoes; cattle, water buffalo, sheep, goats, poultry; and fish. (CIA World Factbook, 19 June 2008) [35]

2.03 GDP growth for 2007 was 9%, while consumer inflation averaged 6.4%. GDP per person, at purchasing power parity, was US\$2,784 and the rate of unemployment in 2007 was estimated to be 7.2%. (Economist Intelligence Unit, 9 June 2008) [16]

2.04 The FCO profile of India recorded that there were 78.8 Indian rupees per UK Pound Sterling in January 2008. [7b]

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3. HISTORY

3.01 The CIA World Factbook, updated 19 June 2008, recorded that:

“By the 19th century, Britain had assumed political control of virtually all Indian lands. Indian armed forces in the British army played a vital role in both World Wars. Nonviolent resistance to British colonialism led by Mohandas Gandhi and Jawaharlal Nehru brought independence in 1947. The subcontinent was divided into the secular state of India and the smaller Muslim state of Pakistan. A third war between the two countries in 1971 resulted in East Pakistan becoming the separate nation of Bangladesh. India’s nuclear weapon testing in 1998 caused Pakistan to conduct its own tests that same year. The dispute between the countries over the state of Kashmir is ongoing, but discussions and confidence-building measures have led to decreased tensions since 2002.” [35]

3.02 Further information on the history of the country can be obtained from the sources listed below.

BBC News: http://news.bbc.co.uk/1/hi/world/south_asia/default.stm

US Library of Congress, Country Studies:
<http://lcweb2.loc.gov/frd/cs/intoc.html>

US State Department, Background Note: India, updated June 2008:
<http://www.state.gov/r/pa/ei/bgn/3454.htm>

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4. RECENT DEVELOPMENTS

- 4.01 The Freedom House report 'Freedom in the World – India, 2008' noted:

"The ruling Congress Party-led coalition in 2007 suffered defeats in several state elections and faced opposition from leftist parties on major policy issues, raising the prospect of early national elections. The peace dialogue with Pakistan continued during the year, despite bombings by suspected Islamist militants in February and August that killed dozens of civilians. Little progress was made on ensuring justice for the victims of the 2002 communal violence in Gujarat, despite the sustained efforts of local activists and lawyers, the Supreme Court, and the National Human Rights Commission. Also during the year, Maoist insurgent movements and separatist violence contributed to increased lawlessness and human rights violations in a number of states in India's tribal belt, particularly Chhattisgarh, as well as in the northeast." [43a]

- 4.02 Further information about recent developments in the country can be obtained from the sources listed below.

BBC News http://news.bbc.co.uk/1/hi/world/south_asia/default.stm

Relief Web:

<http://www.reliefweb.int/rw/dbc.nsf/doc104?OpenForm&rc=3&cc=ind>

South Asian Terrorism Portal, Timeline of security incidents in 2008:
<http://www.satp.org/satporqtp/countries/india/timeline/index.html>

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5. CONSTITUTION

- 5.01 The Government of India website, accessed on 15 November 2007, stated the the Indian Constitution was passed on 26 November 1949. The Preamble to the Constitution resolved to constitute India into a:

“Sovereign socialist secular democratic republic and to secure to all its citizens:
Justice - social, economic and political;
Liberty of thought, expression, belief, faith and worship;
Equality of status and opportunity
and to promote among them all
Fraternity, assuring the dignity of the individual and the unity and integrity of the nation.” [24c]

- 5.02 The fundamental rights section of the Constitution of India (part III, articles 12 to 35), accessed on 25 September 2004, indicated that the rights of the citizen included the:

- Right to Equality: Equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, equality of opportunity in matters of public employment and abolition of untouchability and titles
- Right to Freedom: Freedom of speech and expression, protection of life and personal liberty, protection against arrest and detention
- Right against Exploitation: Prohibition of human trafficking, forced labour and child labour
- Right to Freedom of Religion
- Cultural and Educational Rights: protection of interests of minorities
- Right to Constitutional Remedies [24c]

- 5.03 Europa World Online, undated accessed 1 June 2008, reported that the Constitution is flexible in character and has been amended many times. [1] (Amendments)

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6. POLITICAL SYSTEM

- 6.01 The FCO Country Profile on India, last reviewed on 22 February 2008, noted that “The Indian constitution provides a system of parliamentary and cabinet government both at the centre and in the states.” [7b]
- 6.02 The US Department of State (USSD) Country Report on Human Rights Practices 2007 (USSD Country Report 2007), India, released 11 March 2008, recorded:
- “The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free and fair parliamentary elections based on universal suffrage. The government changed hands following free and fair national parliamentary elections in April and May 2004. The country has a democratic, parliamentary system of government, with representatives elected in multiparty elections. Parliament sits for five years unless dissolved for new elections, except under constitutionally defined emergency situations. Citizens elected state governments at regular intervals, except in states under the president’s rule.” [2c] (Section3)
- 6.03 Europa World Online, accessed 20 February 2007, noted that:
- “Legislative power is vested in Parliament, consisting of the President and two Houses. The Council of States (Rajya Sabha) has 245 members, most of whom are indirectly elected by the state assemblies for six years (one-third retiring every two years), the remainder being nominated by the President for six years. The House of the People (Lok Sabha) has 543 elected members, serving for five years (subject to dissolution). A small number of members of the Lok Sabha may be nominated by the President to represent the Anglo-Indian community, while the 543 members are directly elected by universal adult suffrage in single-member constituencies.” [1] (Government)
- 6.04 The same source noted that “The President is a constitutional Head of State, elected for five years by an electoral college comprising elected members of both Houses of Parliament and the state legislatures. The President exercises executive power on the advice of the Council of Ministers, which is responsible to Parliament. The President appoints the Prime Minister and, on the latter’s recommendation, other ministers.” [1] (Government)
- 6.05 The USSD Country Report 2007 observed that “Although the governments of 28 states and seven union territories have primary responsibility for maintaining law and order, the central government provides guidance and support.” [2c] (Section 1d)
- 6.06 Europa World Online reported that “The Panchayat Raj Scheme is designed to decentralize the powers of the Union and State Governments. It is based on the Panchayat (Village Council) and the Gram Sabha (Village Parliament) and envisages the gradual transference of local government from state to local authority.” [1] (The Panchayat Raj Scheme)
- 6.07 The FCO India Country Profile, updated 22 February 2008, stated:

“The Bharatiya Janata Party (BJP) and the Congress Party are the two main forces in the current Indian political scene, but neither can command a clear Parliamentary majority. The balance of power is held by a loose collection of regional and other parties.” [7b]

- 6.08 The Commonwealth Secretariat country profile on India, undated, accessed on 1 July 2008, in the section on the Indian constitution, noted:

“Each state [in India] has its own legislature (usually unicameral), governor (appointed by the president for five years) and a ministerial council headed by a chief minister. There has been a trend towards devolution of union and state power to local government...Responsibility for enacting laws is set out in three lists: the Union List (for legislation by national parliament), the State List and the Concurrent List (either national or state legislatures). State legislatures make their own laws on such matters as education, health, taxation, public order, lands and forests. Constitutional amendments must be passed by both houses and ratified by at least half the state legislatures. On proclamation of a state of emergency by the president, the federal government may assume temporary executive and financial control of a state and the president may rule it in place of the governor. The president appoints an administrator to govern the union territories. The 1950 constitution set out a number of individual freedoms and abolished discrimination on the basis of caste.” [56]

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Human Rights

7. INTRODUCTION

- 7.01 The US State Department (USSD) Country Report on Human Rights Practices 2007 (USSD Country Report 2007), released 11 March 2008, stated:

“The government generally respected the rights of its citizens; however, numerous serious problems remained. Major problems included extrajudicial killings of persons in custody, disappearances, and torture and rape by police and other security forces. A lack of accountability permeated the government and security forces throughout the country, creating an atmosphere of impunity. Although the country has numerous laws protecting human rights, enforcement was inadequate and convictions rare. Poor prison conditions, lengthy pretrial detention without charge, and prolonged detention while undergoing trial remained significant problems. Government officials used special antiterrorism legislation to justify the excessive use of force while combating terrorism and several regional insurgencies. While security officials who committed human rights abuses generally enjoyed impunity, there were investigations into individual abuse cases as well as legal punishment of some perpetrators. Endemic corruption existed at all levels within the government and the police, and attempts to combat the problem were unsuccessful. The government continued to apply restrictions to the travel and activities of visiting experts and scholars. Significant restrictions on the funding and activities of NGOs also continued. Attacks against religious minorities and the promulgation of antireligious conversion laws were concerns. Social acceptance of caste-based discrimination often validated human rights violations against persons belonging to lower castes. Domestic violence, dowry-related deaths, honor crimes, female infanticide, and feticide were serious problems. Trafficking in persons and exploitation of indentured, bonded, and child labor were ongoing problems.” [2c] (Introduction)

- 7.02 The same report continued: “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 also engaged in widespread torture, rape, beheadings, kidnapping, and extortion.” [2c] (Introduction)

- 7.03 The Human Rights Watch (HRW) World Report 2008, India, Events in 2007 (HRW Report 2008), released in January 2008, stated that “India claims an abiding commitment to human rights, but its record is marred by continuing violations by security forces in counterinsurgency operations and by government failure to rigorously implement laws and policies to protect marginalized communities. A vibrant media and civil society continue to press for improvements, but without tangible signs of success in 2007” and highlighted the impunity of officials and members of the security services as a critical issue. HRW also noted India’s failure to implement policies protecting the rights of children, religious minorities, people living with HIV/AIDS, and vulnerable communities such as Dalits, as other leading human rights concerns. [26b]

- 7.04 The FCO noted in its Country Profile on India, last reviewed on 22 February 2008:

“...India has signed and ratified all of the major International Treaties and Covenants on Human Rights except the Convention Against Torture, which it has signed only. There has been progress in a number of areas but implementation varies from state to state and awareness of human rights issues is inconsistent. As a result, the rights of women, children, minorities, Scheduled Castes and Scheduled Tribes often suffer. The socially and economically disadvantaged sections are particularly vulnerable.” [7b]

UN CONVENTIONS

7.05 Listed below is India’s position in relation to a number of UN Conventions taken from the Office of the High Commission for Human Rights website, accessed on 12 June 2008:

- Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment – Signature only
- Convention for the Protection of All Persons from Enforced Disappearance – Signature only
- Convention on the Elimination of All Forms of Discrimination against Women – Ratification
- International Convention on the Elimination of All Forms of Racial Discrimination – Ratification
- Convention on the Rights of Persons with Disabilities – Ratification
- Convention on the Rights of the Child – Accession

[All 108a, except Convention on the Rights of the Child, 108b]

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8. SECURITY SITUATION

- 8.01 In its assessment of the security situation of India in 2007, undated, the South Asian Terrorism Portal stated that:

“The 2,765 people died in terrorism-related violence in India during year 2006. A review of the data indicates that nearly 41 per cent of all such fatalities occurred in Jammu and Kashmir (J&K) alone as a result of the Pakistan-backed separatist proxy war in that State. 27 per cent resulted from Left Wing Extremism (Maoism/Naxalism) across parts of 14 States, prominently including Chhattisgarh, Andhra Pradesh, Maharashtra, Orissa, West Bengal, Uttar Pradesh, Jharkhand, Bihar and Karnataka. 23 per cent of the total fatalities in 2006 occurred in the multiple insurgencies of India’s Northeast.

“By comparison, year 2005 witnessed a total of 3,236 fatalities in terrorism-related incidents across the country. The fatality index, consequently, registered a definite decrease in year 2006.

“At least 231 of the country’s 608 Districts are currently afflicted, at differing intensities, by various insurgent and terrorist movements. Terrorism in Jammu & Kashmir (affecting 12 of the States 14 Districts), in different States of the Northeast (54 Districts) and Left Wing extremism (affecting at least 165 Districts in 14 States, estimate based on end-2005 data) continue to pose serious challenges to the country’s security framework. In addition, wide areas of the country appear to have ‘fallen off the map’ of good governance, and are acutely susceptible to violent political mobilization, lawlessness and organized criminal activity.” [44b]

See also [section 11: Abuses by Non-Government Armed Forces](#); and [section 16: Armed Opposition Groups](#)

Recent information about the security situation in the country can be obtained from the sources listed below:

South Asia Terrorism Portal: <http://www.satp.org/>

Reuters : <http://www.alertnet.org/db/cp/india.htm>

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9. SECURITY FORCES

POLICE

- 9.01 Jane's Sentinel Security Risk Assessment of India, Security and Foreign Forces, Police, updated 6 May 2008, observed:

"Law and order is primarily a state concern, with individual states responsible for their own poorly paid and ill-equipped police forces. There is no national police force as such, and state police are in general corrupt and inefficient. In many rural areas they are extensions of local landlords' power and in some instances co-operate in caste-oriented persecution. In urban centres they find it difficult to prosecute criminal acts by well-connected dignitaries or their relatives and associates, and are on occasion drawn into co-operation with criminal gangs. Petty corruption is rife, and few citizens have any respect for the police.

"Each state has its own armed police force (national total some 400,000) which is meant primarily for duty in its own state but can be moved elsewhere in response to emergencies. In addition, the Central Reserve Police Force (CRPF) [total of 180,000] is tasked with internal security duties and is deployable throughout the country" [58a]

- 9.02 The USSD Country Report 2007 stated that:

"Although the governments of 28 states and seven union territories have primary responsibility for maintaining law and order, the central government provides guidance and support. 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 considerable impunity and were rarely held accountable for illegal actions. Should authorities find an officer guilty of a crime, transfer to a different post or position was the common response. Human rights activists and NGOs reported that bribery was often necessary to receive police services." [2c] (Section 1d)

See also [section 19: Corruption](#)

Central Reserve Police Force (CRPF)

- 9.03 Jane's Sentinel Country Risk Assessment for India noted "The CRPF, which consists of 191 battalions totalling some 180,000 personnel... Of the 191 battalions, 173 are 'executive', namely non-specialist. The main tasks of the force are:

- Assisting states in maintaining internal security;
- Election monitoring;
- Participation in international peacekeeping forces (which have included Sri Lanka, Haiti, Namibia, Kosovo and Somalia);

- Protection of the environment (in the form of the CRPF's; 'Green Force'; and
- Rescue and relief operations." [58b] (Security and Foreign Forces, Central Reserve Police Force, 6 May 2008)

9.04 Jane's further noted that "Over-rapid expansion of the force, inadequate training, poor facilities and sub-standard equipment have meant that effectiveness on the ground is irregular." [58b] (Security and Foreign Forces, Central Reserve Police Force, 6 May 2008)

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Arbitrary Arrest and Detention

9.05 A Response to Information Request, compiled by the Immigration and Refugee Board of Canada, dated 12 January 2006, noted "Although the Indian Constitution prohibits arbitrary arrest, such practice occurred in 2002, 2003, and 2004...Amnesty International documented the 'preventive arrest' of political opponents in Jammu and Kashmir, Andhra Pradesh, Arunachal Pradesh, Karnataka and New Delhi Union Territory, as well as the arbitrary arrest of indigenous peoples and the activists working with them in 2003." [4g]

9.06 The USSD 2007 Country Report stated:

"Custodial deaths, often made to appear as encounter deaths, remained a serious problem, and authorities often delayed prosecutions. During 2005 the Home Ministry reported 139 deaths in police custody. However, the National Human Rights Commission (NHRC) confirmed 1,730 deaths in police custody during the same time period. During 2006 the National Crimes Record Bureau reported 38 unnatural deaths in police custody. According to the Home Ministry's 2006-2007 Report, the NHRC reported 1,159 total deaths in police custody between April and December 2006." (2c) (Section 1a)

9.07 The same source noted that:

"Police routinely employed arbitrary and incommunicado detention, denied detainees access to lawyers and medical attention, and used torture or ill treatment to extract confessions. Human rights experts claimed that discrimination and custodial torture of those too poor to afford legal assistance was common. During 2006 the media reported that lower-caste individuals were more likely to be illegally detained than others. Human rights activists maintained that the government increasingly avoided prosecuting security officers involved in illegal conduct 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." [2c] (Section 1d)

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Torture

- 9.08 The USSD Country Report 2007 stated “The law prohibits torture and generally did not allow for confessions extracted by force to be admissible in court; however, authorities often used torture during interrogations to extort money and as summary punishment.” [2c] (Section 1c)
- 9.09 The Freedom House Freedom in the World 2008 report for India stated “Police often torture or otherwise ill-treat suspects to extract confessions or bribes. Custodial rape of female detainees continues to be a problem, as does routine abuse of ordinary prisoners, especially minorities and members of the lower castes.” [43a]
- 9.10 The USSD Country Report 2007 further noted:
- “The ACHR alleged that custodial deaths were a severe problem and that police regularly used torture. Because many alleged torture victims died in custody, and other victims were afraid to speak out, there were few firsthand accounts. Marks of torture, however, were often found on the bodies of deceased detainees. The prevalence of torture in detention facilities by police throughout the country was reflected in the number of deaths in police custody. Police and jailers typically assaulted new prisoners or threatened violence in exchange for money, favors, and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police were subject to prosecution for such offenses, the government often failed to hold them accountable. According to Amnesty International (AI), torture is ‘endemic’ to the justice system and often used against individuals ‘on the basis of their caste, religion, socioeconomic, and sexual identity’.” [2c] (Section 1c)
- 9.11 The same source added:
- “NGOs asserted that custodial torture was common in Tamil Nadu, and one human rights lawyer claimed that all police stations in Punjab, Andhra Pradesh, Haryana, and Chandigarh have torture cells to ‘soften up’ the accused prior to court appearance. However, increased reporting of custodial torture may be the result of greater awareness. The AHRC claimed that local police in Kerala continued to use torture and assault as a means of criminal investigation. According to the AHRC, though not verified by other sources, Gujarat interrogation centers function in public view. The suspects allegedly are brought in, kept in illegal detention and tortured as part of questioning.” [2c] (Section 1c)
- 9.12 The ACHR in its report, ‘Torture in India 2008: A State of Denial’, published on 25 June 2008, stated “7,468 persons, at an average of 1,494 persons per year or about four persons per day, have died and/or been killed in prison and police custody during 2002 to 2007. An equal number of persons, if not more, have been killed in the custody of the army, Central armed forces and States’ para-military forces in insurgency affected areas. A large number of these deaths are as a result of torture.” [18d]
- 9.13 The report continued:

“A pervasive regime of impunity is the single most important factor for institutionalising widespread use of torture even in areas where there are no armed conflicts. Only 4 police personnel were convicted in 2004 and 3 in 2005 for custodial deaths...India has failed to ratify the Convention Against Torture after signing it in 1997...India holds the dubious record for refusing an invitation to the United Nations Special Rapporteur on Torture for the longest time since 1993.” [18d]

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Extra-Judicial Killings

9.14 The USSD Country Report 2007 noted that:

“There were numerous reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents, or staged encounter deaths. . .

“According to human rights groups, security forces in Jammu and Kashmir targeted suspected terrorists, insurgents and their supporters, but there was no widely accepted data on the magnitude of extrajudicial killings, which included encounter killings and custodial deaths. For example, according to the Jammu and Kashmir Coalition of Civil Society, 18 cases of custodial killings and extrajudicial killings took place during the year.” [2c] (Section 1a)

9.15 A murder charge was brought against seven policemen from Indian-administered Kashmir for the killing of 35 year-old carpenter, Abdul Rehman Paddar, in December 2006, and their attempt to cover it up by saying he was a militant, and staging a so-called ‘fake encounter’. The accused were charged with criminal conspiracy, abduction, murder and destruction of evidence. It is the first time that senior officials have faced such serious charges in the 18 years of Kashmir insurgency. (BBC News, 28 February 2007) [32e]

Impunity

9.16 A Human Rights Watch Report, ‘Universal periodic Review of India’ of 10 April 2008 noted:

“Despite the existence of laws protecting human rights, India has failed to properly implement laws and policies to protect its marginalized communities, particularly Dalits, tribal groups, religious minorities, women and children. Beyond failing to implement laws that vindicate human rights due to a lack of genuine political will, India has also maintained other laws shielding abusers of human rights – so that perpetrators remain unaccountable. Impunity is a major problem in India; serious crimes perpetuated by security forces are rarely investigated or prosecuted.”

9.17 The report continued:

“Impunity occurs because there is a reluctance by the government to hold its officials and troops accountable...police and paramilitary forces are protected under Section 197 of the Criminal Procedure Code, which provides that no

court will recognize any offence alleged to have been committed by a public servant (including a member of the armed forces) in the discharge of official duty without the express sanction of the federal government. Permission to prosecute is rarely granted, even when an investigation has strong evidence of human rights violations...With such impunity provided to police and armed forces, abuses such as extrajudicial killings occur not only in counter-insurgency operations, but even in regular implementation of law and order.” [26c]

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ARMED FORCES

- 9.18 The US Background Note for India, updated June 2008, noted that “The supreme command of the Indian armed forces is vested in the President of India. Policies concerning India’s defense, and the armed forces as a whole, are formulated and confirmed by the Cabinet.” [2a] (Defence)
- 9.19 The CIA World Factbook, updated 19 June 2008, reported that the military consists of the army, navy, air force, Coast Guard, various security or paramilitary forces (including Border Security Force, Assam Rifles, National Security Guards, Indo-Tibetan Border Police, Special Frontier Force, Central Reserve Police Force, Central Industrial Security Force, Railway Protection Force and Defence Security Corps). [35]
- 9.20 Jane’s Country Risk Assessment of India described:
- “...the Indian army as the world’s third largest with a current strength of some 1,100,000. There are 300,000 first-line reservists who were former regular soldiers and have five years reserve commitment, and a further 500,000 who have commitment until age 50. The Territorial Army has 40,000 first-line and 160,000 second-line troops. This includes 7000 and 1200 marine commando force personnel...The principal role of the army is to safeguard the territorial integrity of the state against external threats, which is a considerable task as almost half India’s 16,500 km land border is disputed by China, Pakistan and Bangladesh.” [58c]

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Arbitrary Arrest and Detention

(See [section 12, Army Forces Special Powers Act](#) for information on laws governing the Armed Forces conduct in parts of India)

- 9.21 Freedom House’s Freedom in the World 2008 India report recorded:
- “Police, army, and paramilitary forces continue to be implicated in disappearances, extrajudicial killings, rape, torture, arbitrary detention, and destruction of homes, especially in the context of ongoing insurgencies in Kashmir, the tribal belt, and several northeastern states... The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remain in effect in a number of states, granting security forces broad powers of arrest and

detention. In June 2005, a government-appointed review panel unanimously recommended that AFSPA be repealed, but the government has not yet complied. Security forces also continue to hold suspects under the broadly drawn National Security Act, which authorizes detention without charge for up to one year, as well as the Unlawful Activities Prevention Act.” [43a]

- 9.22 The Freedom House Freedom in the World Kashmir (India) 2008 report stated:

“[that] the government and security forces frequently disregard court orders, including those quashing detentions. Two other broadly written laws – the Armed Forces Special Powers Act and the Disturbed Areas Act – allow Indian forces to search homes and arrest suspects without a warrant, shoot suspects on sight, and destroy buildings believed to house militants or arms... Impunity for rights abuses by Indian forces has been the norm, in part because under the Special Powers Act New Delhi is required to approve any prosecutions. However, several prosecutions were launched in 2007. The discovery of apparent victims of fake encounter killings in February 2007 prompted an unusually thorough investigation, and at least 18 policemen were charged, including a number of senior officers and a former superintendent. In another positive development, the state government appointed a commission of inquiry in April to probe custodial killings and fake encounter deaths. Nevertheless, impunity surrounding thousands of other cases continued, and rights groups expressed doubts as to whether the latest investigations represented a genuine change in policy. While the state human rights commission examines several dozen complaints a year (it has received hundreds since its inception), it is hampered by inadequate resources and infrastructure. In addition, it cannot directly investigate abuses by the army or other federal security forces, nor can it take action against those found to have committed violations.” [43b]

- 9.23 A Human Rights Watch document of 20 November 2007, entitled ‘India: Repeal the Armed Forces Special Powers Act’, stated:

“The Armed Forces Special Powers Act (AFSPA) grants the military wide powers of arrest, the right to shoot to kill, and to occupy or destroy property in counterinsurgency operations. Indian officials claim that troops need such powers because the army is only deployed when national security is at serious risk from armed combatants. Such circumstances, they say, call for extraordinary measures. The AFSPA, which has been in force for decades in Jammu and Kashmir state and the seven northeastern states, has provided immunity for killings and other serious human rights violations committed by the army...Clauses in the AFSPA state that no prosecutions can be initiated without permission from the central government. Such permission is rarely granted, providing troops with de facto immunity from prosecutions for human rights abuses.” [26c]

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Torture

- 9.24 The USSD Country Report 2007 observed “Countrywide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of insurgents and

noncombatant civilians, particularly in areas of insurgency. . .” [2c] (Section 1a) The HRW Report 2008 noted that the security forces have committed “... large-scale violations [of human rights] including arbitrary detention, torture, and extrajudicial killings. Perpetrators are rarely prosecuted and the Indian government has not acknowledged or addressed institutional shortcomings that foster such impunity.” [26b]

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Extra-Judicial Killings

9.25 The USSD Country Report 2007 stated “According to human rights groups, security forces in Jammu and Kashmir, targeted suspected terrorists, insurgents and their supporters.” [2c] (Section 1a) The Human Rights Watch World Report of 2008 reported that “in February 2007, police investigations into ‘a missing persons’ case in Jammu and Kashmir exposed a problem long alleged by human rights groups: people were being killed in custody by security forces who constructed fake armed encounters, staging executions to look like acts of defense.” [26b]

9.26 The USSD Country Report 2007 further noted:

“There was a consistently high rate of encounter killings by law enforcement and security forces in the northeast – particularly in the states of Assam and Manipur – as law enforcement attempted to combat insurgent groups, many of whom financed their operations through criminal activities such as extortion, kidnapping and trafficking in narcotics...” [2c] (Section 1a)

9.27 The Freedom House report Freedom in the World 2008, Kashmir (India) covering events in 2007 stated:

“Approximately 600,000 Indian security personnel based in Kashmir carry out arbitrary arrests and detentions, torture, ‘disappearances,’ and custodial killings of suspected militants and alleged civilian sympathizers. As part of the counterinsurgency effort, the government has organized and armed pro-government militias composed of former militants. Members of these groups act with impunity and have reportedly carried out a wide range of human rights abuses against pro-Pakistani militants and civilians.” [43b]

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OTHER GOVERNMENT FORCES

Paramilitary Forces

9.28 The USSD Country Report 2007 noted that:

“Government agencies funded, exchanged intelligence with, and directed the operations of counterinsurgents, former separatist guerrillas who surrendered

to the Jammu and Kashmir government and participated in the counterinsurgency effort with their own weapons as part of police auxiliary units. During 2006 killings and abductions of suspected progovernment counterinsurgents continued to be a significant problem in Jammu and Kashmir, although the number of such instances declined substantially from the 1990s.” [2c] (Section 1a)

9.29 The same report stated:

“Countrywide, there were allegations that... paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of insurgents and noncombatant civilians, particularly in areas of insurgency. According to human rights activists and journalists, during the year a few Naxalites (Maoist guerillas) in eastern and central parts of the country who surrendered were allowed to retain their weapons and worked for the police as ‘anti-People’s War Group (PWG) officers.’ Human rights groups alleged that police used former Naxalites to kill current Naxalites and human rights activists with Maoist links. Police denied the charges, attributing such killings to internal feuds within the PWG.” [2c] (Section 1a)

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AVENUES OF COMPLAINT

National Human Rights Commissions

9.30 The National Human Rights Commission (NHRC) was set up by the Government of India under the Protection of Human Rights Act 1993, amended 2006, to provide for the constitution of a National Human Rights Commission: “State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto.” The National Human Rights Commission can inquire suo motu (on its own initiative) or on a petition presented to it by a victim or any person on his behalf, into complaints of human rights violations or abetment or negligence in the prevention of such violation. The Commission has the powers of a civil court trying a suit under the Code of Civil Procedure in the course of inquiry. When dealing with complaints of violation of human rights by members of the armed forces, the Commission may seek a report from the central Government and on receipt of this report it may decide to proceed with the case and make its recommendations to the Government. The central Government must report on the action taken within three months or further time as the Commission suggests. The Commission must publish its report along with the recommendation and actions taken and a copy shall be provided to the petitioner or representative. State Human Rights Commissions exist. (National Human Rights Commission, accessed 1 June 2008) [47a]

9.31 The USSD Country Report 2007 stated that:

“The main domestic human rights organization was the government-appointed NHRC [National Human Rights Commission], which acted independently and often voiced strong criticism of government institutions and actions. Some human rights groups claimed the NHRC was nevertheless hampered by

institutional and legal weaknesses... 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 such as ACHR [Asian Centre for Human Rights] claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and did not investigate cases thoroughly.

“The NHRC could investigate cases against the military and recommend-but not mandate-compensation to victims of abuse... Many states had their own human rights commissions, and human rights groups alleged that state human rights commissions were more likely than the NHRC to be influenced by local politics and less likely to offer fair judgements.” [2c] (Section 4)

- 9.32 The same report continued: “As of October, only 17 of the 28 states had state human rights commissions, as recommended by the 1993 Protection of Human Rights Act (PHRA). The Jammu and Kashmir state legislature established its state human rights commission in 1997. The commission does not have the authority to investigate alleged human rights violations committed by members of the security forces.” [2c] (Section 4) The NHRC website, accessed 28 September 2007, listed State Human Rights Commissions existing in: Andhra Pradesh, Assam, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal, Chhattisgarh, Karnatka and Gujarat. [47c]

[See also section 18: Human Rights Institutions, Organisations and Activists](#)

Human Rights Courts

- 9.33 The USSD Country Report 2006 stated “Tamil Nadu and Andhra Pradesh have special courts to hear human rights cases. The Uttar Pradesh government continued to defy a court order to reactivate its special human rights court.” [2e] (Section 4)

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10. MILITARY SERVICE

- 10.01 The Child Soldiers Global Report 2004 noted that “The 1950 constitution says that ‘It shall be the duty of every citizen of India...to defend the country and render national service when called upon to do so’ (Article 51A). According to the 1972 National Service Act, certain people may be called to perform national service but no minimum age is specified. However, there is currently no conscription in India.” [78a]
- 10.02 The Child Soldiers Global Report 2008 stated:
- “The minimum age for recruitment into the armed forces was raised from 16 to 17 years and 6 months in mid-2004, although legislation governing the armed forces did not stipulate a minimum recruitment age. However, India’s November 2005 declaration on ratifying the Optional Protocol did not reflect the rise in minimum age, stating that the minimum age of recruitment was 16. The declaration did, however, contain a clear statement reiterating the government’s position that after enrolment and a requisite training period, personnel were sent to operational areas only after reaching the age of 18.” [79b]
- 10.03 As noted in War Resisters International 1998, there is no known legal provision for conscientious objection. [21]

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11. ABUSES BY NON-GOVERNMENT ARMED FORCES

See [Section 8: Security Situation](#) for an overview of terrorist related incidents during 2007

- 11.01 The HRW World Report 2008, India, released January 2008, noted "India faces serious insurgencies and armed political movements in several states. Armed groups have been responsible for attacks on civilians, killings, torture, and extortion." [26b]
- 11.02 The USSD Country Report 2007 stated "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.." [2c] (Section 1g)
- 11.03 The same report continued that:

"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. Chhattisgarh was a center of Naxalite activity, with over 350 insurgent-related casualties from January to December [2007]. In Chhattisgarh, the government touted the Salwa Judum Movement, a village level self-defense militia created in June 2005, as a successful counterweight to the Naxalite threat. Naxalite retaliations against the movement resulted in violent civil conflict in Dantewara district and a large number of civilian deaths.

"Throughout the year, according to data compiled from news reports by SATP [South Asian Terrorism Portal], 619 deaths related to Naxalite violence occurred throughout the country. These deaths occurred during 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 police personnel (regular forces, as well as Special Police Officers) and 73 were alleged Naxalites. According to Andhra Pradesh police, Maoists killed 44 civilians throughout the year. The police were responsible for 47 encounter killings of Maoists during the year, compared with 110 in 2006.

"During the year SATP reported 426 deaths related to insurgency in Assam, where the United Liberation Front of Assam (ULFA) continued its violent campaign against Hindi-speakers from mainland India. From January through December [2007], ULFA militants killed more than 110 persons in bomb attacks in the Dibrugarh, Tinsukia and Sivsagar districts of Assam.

"From January through December 18 [2007], SATP reported the following deaths as a result of insurgency-related violence in the seven northeast states: 445 civilians, 65 security forces, and 470 militants." [2c] (Section 1g)

For further information also see [section 16: Armed Opposition Groups](#); [section 17.01: Human rights institutions, organisations, activists](#); [Annex B Political Organisations](#); ;

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TORTURE

11.04 The HRW Report 2008, India, released in January 2008, observed that “India’s diverse ethnic and regional identities, coupled with deeply rooted economic and social grievances, have fueled violent insurgencies and armed campaigns. Militants often target civilians and engage in torture and extortion.” [26b] As reported by Freedom House Freedom in the World 2008 India report “In India’s seven northeastern states, more than 40 insurgent groups, who seek either greater autonomy or complete independence for their ethnic or tribal groups, attack security forces and engage in intertribal violence. The rebels have been implicated in numerous bombings, killings, abductions, and rapes of civilians.” [43a]

11.05 The Freedom House Freedom in the World Kashmir (India) Report for 2008 noted:

“Armed with increasingly sophisticated and powerful weapons, and relying to a greater degree on the deployment of suicide squads, militant groups backed by Pakistan continue to kill pro-India politicians, public employees, suspected informers, members of rival factions, soldiers, and civilians. The roughly 1,400 active militants also engage in kidnapping, rape, extortion, and other forms of intimidation. Violence targeting Pandits, or Kashmiri Hindus, is part of a pattern dating to 1990 that has forced several hundred thousand Hindus to flee the region; many continue to reside in refugee camps near Jammu. According to the US State Department, entire families of Pandits were killed in several attacks by insurgents throughout 2007. Other religious and ethnic minorities such as Sikh and Gujjars have also been targeted... Female civilians continue to be subjected to harassment, intimidation, and violent attack, including rape and murder, at the hands of both the security forces and militant groups.” [43b]

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12. JUDICIARY

ORGANISATION

- 12.01 The USSD Country Report 2007 observed that “The judicial system is headed by a 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 send appeals to state high courts. The president appoints judges, who they may serve until the age of 62 on state high courts and 65 on the Supreme Court.” [2c] (Section 1e)

Supreme Court

- 12.02 Europa World online, accessed 30 May 2008, stated:

“The Supreme Court, consisting of a Chief Justice and not more than 25 judges appointed by the President, exercises exclusive jurisdiction in any dispute between the Union and the states (although there are certain restrictions where an acceding state is involved). It has appellate jurisdiction over any judgment, decree or order of the High Court where that Court certifies that either a substantial question of law or the interpretation of the Constitution is involved. The Supreme Court can enforce fundamental rights and issue writs covering habeas corpus, mandamus, prohibition, quo warranto and certiorari. The Supreme Court is a court of record and has the power to punish for its contempt.

“Provision is made for the appointment by the Chief Justice of India of judges of High Courts as ad hoc judges at sittings of the Supreme Court for specified periods, and for the attendance of retired judges at sittings of the Supreme Court. The Supreme Court has advisory jurisdiction in respect of questions which may be referred to it by the President for opinion. The Supreme Court is also empowered to hear appeals against a sentence of death passed by a State High Court in reversal of an order of acquittal by a lower court, and in a case in which a High Court has granted a certificate of fitness.

“The Supreme Court also hears appeals which are certified by High Courts to be fit to be heard, subject to rules made by the Court. Parliament may, by law, confer on the Supreme Court any further powers of appeal.

“The judges hold office until the age of 65 years. [1] (The Supreme Court)

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High Court

- 12.03 The website of the Supreme Court of India in the section titled Jurisdiction of the Supreme Court, undated, accessed on 30 May 2008 stated:

“The High Court stands at the head of a State’s judicial administration. There are 18 High Courts in the country, three having jurisdiction over more than one State. Among the Union Territories Delhi alone has a High Court of its own. Other six [sic] Union Territories come under the jurisdiction of different State High Courts. Each High Court comprises of a Chief Justice and such other Judges as the President may, from time to time, appoint... They hold office

until the age of 62 years and are removable in the same manner as a Judge of the Supreme Court. To be eligible for appointment as a Judge one must be a citizen of India and have held a judicial office in India for ten years or must have practised as an Advocate of a High Court or two or more such Courts in succession for a similar period.

“Each High Court has power to issue to any person within its jurisdiction directions, orders, or writs including writs which are in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of Fundamental Rights and for any other purpose... Each High Court has powers of superintendence over all Courts within its jurisdiction...” [73] (High Courts)

- 12.04 Europa World Online, undated accessed 1 June 2008 stated “The High Courts are the Courts of Appeal from the lower courts, and their decisions are final except in cases where appeal lies to the Supreme Court.” [1] (High Courts) Lower criminal courts are the courts of Session which are competent to try all persons committed for trial and inflict any punishment authorised by the law. The President and the local government concerned exercise the prerogative of mercy. (Europa World Online, accessed 1 June 2008) [1] (Lower Courts)

Fast Track Courts

- 12.05 The USSD Country Report 2007 noted “Fast Track Courts concentrated on a specific type of case, allowing judges to develop expertise in a given area of law. These courts gave preference to cases pending for extended periods and often focused on civil issues. Court fees were generally lower for these courts, since trials were shorter.” [2c] (Section 1e)

- 12.06 BBC News reported on 9 July 2007:

“Fast track courts in Bihar have convicted and sentenced more criminals than courts in any other Indian state in the past 18 months. The government launched speedy trials to rid the state of its ‘most lawless’ taint...Between January 2006 and May 2007, a total of 11,665 criminals were convicted through speedy trials and sent to prison. More than 2,500 were sentenced to life, and 21 others given the death penalty. Critics of the speedy trials express concerns about the quality of evidence and justice being dispensed in such a short time in a country where court cases typically drag on for years. The fastest judgement in Bihar was delivered by a court in 13 days flat from the date of the incident. Politicians across part lines have also been tried through speedy trials ” [32q]

Lok Adalats

- 12.07 The Supreme Court of India website, Jurisdiction of the Supreme Court, accessed on 30 May 2008, noted:

“Lok Adalats which are voluntary agencies are monitored by the State Legal Aid and Advice Boards. They have proved to be a successful alternative forum for resolving of disputes through the conciliatory method.

“The Legal Services Authorities Act, 1987 provides statutory status to the legal aid movement and it also provides for setting up of Legal Services Authorities at the Central, State and District levels. These authorities will have their own

funds. Further, Lok Adalats which are at present informal agencies will acquire statutory status. Every award of Lok Adalats shall be deemed to be a decree of a civil court or order of a Tribunal and shall be final and binding on the parties to the dispute. It also provides that in respect of cases decided at a Lok Adalat, the court fee paid by the parties will be refunded.” [73] (Lok Adalats)

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INDEPENDENCE

- 12.08 The USSD Country Report 2007 stated “The law provides for an independent judiciary, and the government generally respected this provision in practice: however, serious problems remained. In Jammu and Kashmir, members of the judiciary were subject to threats and intimidation by insurgents and terrorists.” [2c] (Section 1e)
- 12.09 The same report continued “As in previous years, courts were regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of abuses committed as part of the government’s anti-insurgent campaign and because of the frequent refusal by security forces to obey court orders.” [2c] (Section 1e)

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WITNESS PROTECTION

- 12.10 The USSD Country Report 2006 stated that “In 2003 the Delhi High Court issued new witness protection guidelines to reduce the number of witnesses who recanted their testimony under threat from defendants.” [2e] (Section 1e)
- 12.11 Witnesses appearing in court on criminal cases cannot be provided with police protection. The Supreme Court of India stated that it was not “physically possible” for police to grant protection to the thousands coming to court on a daily basis. However, if the court is convinced that the witness needs protection, provision should be given to the public prosecutor and trial judge to order it. (Rediff.com, 22 January 2007) [71b]

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FAIR TRIAL

- 12.12 The USSD Country Report 2007 noted:

“The law provides a person in detention the right to a prompt trial; however, due to a severe backlog, this was not the case in practice. Human rights organizations reported that 60 to 75 percent of all detainees were in jail awaiting trial, drastically contributing to overcrowding. Human rights organizations asserted that approximately 65 percent of those detained were found innocent. Due to persistent inefficiencies in the judicial system, there were numerous instances in which detainees spent more time in jail under

pretrial detention than they would have if found guilty and sentenced to the longest possible term.” [2c] (Section 1d)

- 12.13 A response to an unstarred question (no. 2103) by the Minister of State in the Ministry of Law and Justice, Department of Justice in the Rajya Sabha, on 21 March 2005, concerning the number of pending cases in both the High and Supreme Court, stated:

“There are 24 cases pending for more than 20 years in the Supreme Court, 121 cases for more than 10 years and 1204 cases in excess of 5 years...The Government has been periodically monitoring the pendency position in various courts. The steps taken for speedy disposal of pending cases, include timely filling the vacancies of judges, increasing the judge strength, grouping of cases involving common Lok Adalats at regular intervals, encouraging alternative modes of dispute resolution like negotiation, mediation and arbitration and setting up of special tribunals like Central Administrative Tribunals, State Administrative Tribunals, Income Tax Appellate Tribunals, Family Courts, Labour Courts etc.” [27a]

- 12.14 On 31 March 2005, the Immigration and Refugee Board of Canada cited “In 23 March 2005 correspondence, an official at the High Commission of Canada in India indicated that, generally, court proceedings and hearings in India, criminal or civil, are not held in camera, that the date and place of hearings are generally not confidential and that police officers are likely to have access to this information.” [4e]

- 12.15 An article in *The Hindu*, dated 14 January 2003, reported that the Legal Services Authorities Act was promulgated in 1987 and amended in 2002 when national and state legal services authorities were created to provide free and competent legal services to the weaker sections of society. It means that persons covered by the Act are entitled to legal advice, legal representation and legal adjudication free of cost. Despite this laudable objective, some of the provisions of the Act have attracted criticism from lawyers who claim that it seeks to reduce justice dispensation to an informal and casual process. The reason for the backlogs is the abysmal infrastructure, enormous delays in filling up vacancies, low entry level barriers into the legal profession and the appallingly low judge-to-population ratio in India. [60a]

- 12.16 The USSD Country Report 2007 stated “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.” [2c] (Section 1e)

- 12.17 The same report stated “The Terrorist and Disrupted Activities (TADA) courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extracted under duress were admissible as evidence.” [2c] (Section 1d)

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Provision of Legal Aid

- 12.18 The Supreme Court of India website, Jurisdiction of the Supreme Court, accessed on 30 May 2008 stated that:

“If a person belongs to the poor section of the society having annual income of less than Rs. 18,000/- or belongs to Scheduled Caste or Scheduled Tribe, a victim of natural calamity, is a woman or a child or a mentally ill or otherwise disabled person or an industrial workman, or is in custody including custody in protective home, he/she is entitled to get free legal aid from the Supreme Court Legal Aid Committee. The aid so granted by the Committee includes cost of preparation of the matter and all applications connected therewith, in addition to providing an Advocate for preparing and arguing the case. Any person desirous of availing legal service through the Committee has to make an application to the Secretary and hand over all necessary documents concerning his case to it. The Committee after ascertaining the eligibility of the person provides necessary legal aid to him/her.

“Persons belonging to middle income group i.e. with income above Rs. 18,000/- but under Rs. 1,20,000/- per annum are eligible to get legal aid from the Supreme Court Middle Income Group Society, on nominal payments.” [73]
(Provision of Legal Aid)

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PENAL CODE

- 12.19 The Indian Penal Code of 1860 is applicable to the whole of India except the state of Jammu and Kashmir. (The Net Lawman, accessed 1 June 2008) [74]

- 12.20 It was stated by Country data.com, listed September 1995:

“The prevailing law on crime prevention and punishment is embodied in two principal statutes: the Indian Penal Code [1860] and the Code of Criminal Procedure of 1973. These laws take precedence over any state legislation, and the states cannot alter or amend them. Separate legislation enacted by both the states and the central government also has established criminal liability for acts such as smuggling, illegal use of arms and ammunition, and corruption. All legislation, however, remains subordinate to the constitution.

“The Indian Penal Code came into force in 1862; as amended, it continued in force in 1993. Based on British criminal law, the code defines basic crimes and punishments, applies to resident foreigners and citizens alike, and recognizes offenses committed abroad by Indian nationals.” [79]

- 12.21 The same report continued:

“The penal code classifies crimes under various categories: crimes against the state, the armed forces, public order, the human body, and property; and crimes relating to elections, religion, marriage, and health, safety, decency, and morals. Crimes are cognizable or noncognizable, comparable to the distinction between felonies and misdemeanors in legal use in the United States. Six categories of punishment include fines, forfeiture of property,

simple imprisonment, rigorous imprisonment with hard labor, life imprisonment, and death. An individual can be imprisoned for failure to pay fines, and up to three months' solitary confinement can occur during rare rigorous imprisonment sentences." [79]

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CODE OF CRIMINAL PROCEDURE

12.22 The USSD Country Report 2007 noted that:

"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 enjoy a presumption of innocence and have the right to 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 had the right to withhold information and did so in cases it considered sensitive." [2c] (Section 1e)

12.23 The Code of Criminal Procedure Act 1973 extends to the whole of India except Jammu and Kashmir. (Asset Recovery, accessed 1 June 2008) [75]

12.24 In a Response to Information Request by the Immigration and Refugee Board of Canada, dated 12 January 2006, a New Delhi-based lawyer and the senior director of the Punjab state-based international human rights organisation, Voices for Freedom Asia (VFF), wrote that offences in India are categorised as "cognizable" and "non-cognizable"; "cognizable" refers to a more serious offence:

"While police are required to obtain a court-issued arrest warrant for those individuals implicated in non-cognizable offences, they are not required to do so for those implicated in cognizable offenses. A 'cognizable offence' means an offence for which, and 'cognizable case' means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant. 'Non-cognizable offence' means an offence for which, and 'non-cognizable case' means a case in which, a police officer has no authority to arrest without warrant. A New Delhi based lawyer stated that those arrested without a warrant must be produced before the court within 24 hours of the arrest." [4g]

12.25 The same response stated that all warrants of arrest issued by a Court under this code shall be in writing and signed by the presiding officer of the Court and should bear the court seal. [4g]

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13. ARREST AND DETENTION – LEGAL RIGHTS

13.01 The USSD Country Report 2007 noted that:

“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, thousands of criminal suspects remained in detention without charge during the year, adding to already overcrowded prisons.” [2c] (Section 1d, Arrest & Detention)

13.02 The same report also notes that “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 received neither in most cases. 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 [US]\$11 (485 rupees) and [US]\$4,500 (198,000 rupees).” [2c] (Section 1d Arrest & Detention)

13.03 The report continued: “By law, detainees should be provided an attorney and allowed access to family members. However, this was rarely implemented.” [2c] (Section 1d Arrest & Detention)

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Armed Forces Special Powers Act (AFSPA)

13.04 The USSD Country Report 2007 stated that:

“The Armed Forces Special Powers Act (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 in order to ‘maintain law and order’ and to arrest any person ‘against whom reasonable suspicion exists’ without informing the detainee of the grounds for arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA.” [2c] (Section 1d)

13.05 The Asian Centre for Human Rights, Indian Human Rights Report 2007, released 30 May 2007, noted:

“On 2 December 2006, Prime Minister Dr Manmohan Singh announced from the Kangla Fort that the Central government was considering amendments to the Armed Forces Special Powers Act to make it ‘humane’. However, the Central Government failed to implement the recommendations of the Committee to Review the Armed Forces Special Powers Act of 1958 under the chairmanship of Justice Jeevan Reddy which recommended for repeal of the AFSPA, among others, in its final report submitted in June 2005.” [18a] (Manipur)

13.06 A Human Rights Watch document of 20 November 2007, ‘India: Repeal the Armed Forces Special Powers Act, stated:

“The Indian government should repeal the Armed Forces Special Powers Act , which has prevented the military from being held accountable for human rights violations.” A senior South Asia researcher at Human Rights Watch said “The Armed Forces Special Powers Act effectively allows Indian troops to get away with murder. The Indian government may claim that it has zero tolerance of human rights abuses, but this law shields troops from persecution and punishment.” [26c]

(For the impact of the AFPSA in Jammu and Kashmir see paragraph 13.10 below)

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National Security Act

13.07 The USSD Country Report 2007 stated that:

“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 on loosely defined security reasons. 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. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds of their detention within five days (10 to 15 days in exceptional circumstances).” [2c] (Section 1d)

Prevention of Terrorism Act/Unlawful Activities Prevention Act

13.08 The USSD Country Report 2007 observed:

“In 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA. Human rights groups reported that the revised UAPA contained important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court. SAHRDC [South Asian Human Rights Documentation Centre] reported that more than 1,000 persons remained in detention awaiting prosecution under lapsed special terrorism legislation, and that cases opened under POTA continued through the judicial system.” [2c] (Section 1d)

13.09 The same report continued:

“In June 2005 the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who should have been charged under regular law. According to the Ministry of Home Affairs, following the repeal of POTA in 2004, three review committees reviewed 263 cases involving 1,529 accused persons and determined that there was no prima facie evidence under POTA against 1,006 of them. ..UAPA is used to hold people without bail in jail for extended periods prior to the filing of formal charges.” [2c] (Section 1d)

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JAMMU & KASHMIR

AFPSA

13.10 The USSD Country Report 2007 noted that:

“The AFSPA and the Disturbed Areas Act (DAA) remained in effect in the Jammu and Kashmir districts of Kathua, Udhampur, Poonch, Rajouri, Doda, Srinagar, Budgam, Anantnag, Pulwama, Baramulla, and Kupwara, where active and violent secessionist movements existed. The DAA gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrant. Human rights groups alleged that security forces operated with virtual impunity in areas under the act. The government did not repeal the act despite the January 2006 Supreme Court recommendation that the Unlawful Activities Prevention Act (UAPA) provides sufficient authority to combat the insurgency.” [2c] (Section 1g)

13.11 The same report also stated that

“... under the (Jammu and Kashmir) Armed Forces Special Powers Act (AFSPA) of 1990, no ‘prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers of the act,’ without the approval of the central government. The act gives security forces the authority to shoot suspected lawbreakers and those disturbing the peace and to destroy structures suspected of harboring violent separatists or containing weapons. Human rights organizations alleged that this provision allowed security forces to act with virtual impunity.” [2c] (Section 1c)

Public Safety Act

13.12 A further act regulating arrest and detention, the Public Safety Act (PSA), applied only to Jammu and Kashmir and permitted “... 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 the Office of Director General of Jammu and Kashmir Police, authorities arrested 473 persons in 2005 and 420 in 2006 under PSA. According to the ACHR, there were 140 foreign nationals in prisons in Jammu and Kashmir under the PSA.” (USSD Country Report 2007) [2c] (Section 1d)

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14. PRISON CONDITIONS

14.01 The USSD Country Report 2007 observed:

“Prison conditions were life-threatening and did not meet international standards. Prisons were severely overcrowded and food and medical care inadequate. There were no developments in the Maharashtra State Human Rights Commission investigation into the June 2006 allegations, made by a former inmate of Arthur Road Jail in Mumbai, that the prison’s medical doctor ignored a prisoner who died after suffering from chest pains. In March 2006 an NHRC report indicated that the country’s prisons were overcrowded on average by 38.5 percent.” [2c] (Section 1c) (Prison and Detention Center Conditions)

14.02 The same report continued:

“According to one NHRC report, a large proportion of the deaths in judicial custody were from natural causes, in some cases aggravated by poor prison conditions. Tuberculosis caused many deaths, as did HIV/AIDS. The NHRC assigned its special rapporteur and chief coordinator of custodial justice to ensure that state prison authorities performed medical check-ups on all inmates. By the end of 2006, only a few examinations had been performed.” [2c] (Section 1c)

14.03 The USSD Country Report 2007 also noted that “Custodial deaths, often made to appear as encounter deaths, remained a serious problem, and authorities often delayed prosecutions.” [2c] (Section 1a)

14.04 The same source stated “The government allowed selected NGOs to work in prisons, within specific guidelines, but NGO findings remained largely confidential as a result of agreements made 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.” [2c] (Section 1c)

14.05 The same report noted that “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.” [2c] (Section 1c)

14.06 The USSD Country Report 2007 continued:

“According to the Home Ministry, the International Committee of the Red Cross (ICRC) conducted visits to 21 detention centers and 1,174 detainees during the year, 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 access to regular detention centers in the northeastern states.” [2c] (Section 1c)

14.07 A Stakeholders’ Report under the Universal Periodic Review produced by the Asian Centre for Human Rights on 20 November 2007 for the United Nations Human Rights Council stated that:

“The showpiece of India’s prisons, Tihar Jails is so overcrowded that Delhi High Court in June 2007 observed ‘You (jail authorities) wait till the prisoner is in his deathbed to give him medical attention.’ A three-member probe committee appointed by the High Court found that the prison cells were highly overcrowded, medical facilities were virtually ‘non-existent’ and acute shortage of water and fans in the prison. On 7 November 2007, the Delhi High Court directed Tihar jail authorities to put ‘petition box’ in the jail where the inmates could drop their complaints to be considered by the National Human Rights Commission. But, under the Human Rights Protection Act, the NHRC must give prior information to the state authorities before visiting the prisons.” [18c]

- 14.08 It was reported by the BBC on 21 May 2008 that India and Pakistan had signed an accord granting greater access to prisoners in each other’s jails. [32r]

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15. DEATH PENALTY

- 15.01 Article 21 of the Constitution of India states: "No person may be deprived of their life or personal freedom except in cases established by law." [24c]
Amnesty International in its report 'The Death Penalty in India: A Lethal Lottery (Summary Report)' dated 2 May 2008 noted that there are two broad categories of legislation that provide for the death penalty: the India Penal Code (IPC) and special or local laws. Under the penal code there are nine capital offences (Amnesty International, 2 May 2008, Facts and Figures):
- "Treason, for waging war against the Government of India (s.121)
 - Abetment of mutiny actually committed (s.132)
 - Perjury resulting in the conviction and death of an innocent person (s.194)
 - Threatening or inducing any person to give false evidence resulting in the conviction and death of an innocent person (s.195A)
 - Murder (s.302) and murder committed by a life convict (s. 303). Though the latter was struck down by the Supreme Court, it still remains in the IPC
 - Abetment of a suicide by a minor, insane person or intoxicated person (s.305)
 - Attempted murder by a serving life convict (s.307(2))
 - Kidnapping for ransom (s.364A)
 - Dacoity [armed robbery or banditry] with murder (s.396)" [3c] (Footnote 4)
- 15.02 The same source stated that there at least 14 other offences under special and local laws that potentially could result in the death penalty. [3c]
- 15.03 India's Supreme Court ruled that the death penalty can only be prescribed in the "rarest of rare" cases. However, this has not been defined and no clear guidelines exist, leaving it up to individual judges to interpret the phrase and to decide whether to impose the death penalty or not. (Amnesty International, India: Death Penalty, accessed 30 May 2007) [3d]
- 15.04 Amnesty International's 2008 Report on India stated "At least 100 people were sentenced to death although no executions took place. In December, India voted against a UN General Assembly resolution for a moratorium on the death penalty." [3a]
- 15.05 As noted in Amnesty International's 2007 Report for India "Anxiety rose over the fate of clemency petitions after the Supreme Court ruled that it could review executive decisions on such petitions. The ruling followed fierce debate triggered by the clemency petition submitted on behalf of Mohammed Afzal, who was sentenced to death on charges relating to the armed attack on India's parliament in December 2001." [3a]
- 15.06 An Amnesty International report in May of 2008, 'The Death Penalty in India: A Lethal Lottery (Summary Report)' noted:
- "The government of India will not disclose how many people have been executed and how many are awaiting execution today. According to the latest official figures, there were 273 people under sentence of death as of 31 December 2005. However, the National Crime Records Bureau, which publishes these figures, does not distinguish between condemned prisoners whose sentences have been passed by a trial court, those whose sentences

have been upheld by a High Court or the Supreme Court, and those whose mercy petitions are pending or have been rejected by the executive. Amnesty International believes this figure to be a gross underestimate. At least 140 people are believed to have been sentenced to death in 2006 and 2007. Some 44 persons are currently known to be on death row awaiting a decision on their mercy petitions by the President of India (the last possible recourse). The execution of some of these prisoners may be imminent. Executions in India are carried out by hanging.” [3c]

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16. POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

16.01 The Freedom House Freedom in the World 2008, India stated:

“India is a mature democracy that has held regular and reasonably free elections since independence. A large number of regional and national parties participate, and sitting governments are thrown out of office with increasing frequency. Under the supervision of the vigilant Election Commission of India (ECI), recent elections have generally been free and fair. The last national elections, held in spring 2004, featured a decline in election-related violence, but some vote fraud and other minor irregularities occurred in Bihar despite the introduction of electronic voting machines throughout the country. Violence has also declined during recent state-level elections. However, badly maintained voter lists and the intimidation of voters in some areas continue to be matters of concern.” [43a]

FREEDOM OF ASSOCIATION AND ASSEMBLY

16.02 The USSD Country Report 2007 noted that:

“The law provides for freedom of assembly and association, and the government generally respected this right in practice. 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.” [2c] (Section 2b)

16.03 The USSD Country Report 2007 also noted that:

“The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and the government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons made up the country’s active work force, and some 30 million of these workers were employed in the formal sector. The rest were 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 part of the 30-million-member formal sector. Of these 13 to 15 million unionised workers, some 80 percent of the unionised workers were members of unions affiliated with one of the five major trade union centrals.” [2c] (Section 6a)

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

16.04 The USSD Country Report 2007 noted that India “...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...Political parties could operate without restriction or outside interference.” [2c] (Section 3) The Freedom House report, *Freedom in World 2008*, India, observed that “A wide range of political parties operate freely, and there are no restrictions on peaceful political activism. However, due to the rising popularity of regional and caste-based parties, coalition governments have become the norm, and effective governance has suffered as a result.” [43a]

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ARMED OPPOSITION GROUPS

Jammu and Kashmir

- 16.05 Jane’s Sentinel Risk Assessment of India, Non-State Armed Groups, updated 17 October 2007, observed that:

“Diverse groups resident within Pakistan-administered Kashmir have waged a bloody campaign since 1988 in Indian-administered Kashmir and beyond, crossing the Line of Control [border dividing Indian and Pakistan administered parts of Kashmir] and launching raids on security forces with small arms, improvised explosive devices, and more recently assassinating low-level politicians. The real threat from the Kashmir violence is that it creates friction and enmity between India and its nuclear rival Pakistan, particularly when the violence escalates or expands beyond the northwest... Despite a current peace process between [India and Pakistan], the possibility of more high-publicity attacks in India remains high.” [58d]

Naxalites (Maoists)/Tribal Groups

- 16.06 The Freedom House report, *Freedom in the World 2008*, India, observed that:

“The recent spread and influence of the Naxalites is cause for serious concern. There are an estimated 10,000 armed fighters supported by a further 40,000 cadre members, organized into a number of groups that since late 2004 have been loosely allied as the Communist Party of India (Maoist). The *Economist* has reported that they operate in 170 of India’s 602 districts, controlling some rural areas outright. Focusing on the tribal areas in states such as Andhra Pradesh, Orissa, Bihar, Chhattisgarh, and Jharkhand, their stated aim is to establish a Communist state on behalf of marginalized groups, including tribal peoples, lower castes, and the landless poor. According to Human Rights Watch, they have imposed illegal taxes; requisitioned food and shelter from villagers; engaged in forced recruitment, extortion, and abduction; and hampered the delivery of aid to the isolated rural areas whose inhabitants they claim to represent.

“Naxalite-related violence, including bombings and assassinations, killed more than 450 security personnel and civilians during 2007, according to the SATP. Particularly after the June 2005 launch of the anti-Maoist Salwa Judum campaign in Chhattisgarh, local civilians who are perceived to be progovernment have been targeted. Around 60,000 civilians have been displaced by armed clashes between Naxalites and security forces, and live in temporary government-run camps.” [43a]

- 16.07 Jane's Sentinel Risk Assessment, updated 17 October 2007, noted that there is:

"... a growing communist (Naxalite) insurgency which currently affects 13 of India's 28 states (Andhra Pradesh, Chhattisgarh, Jharkhand, Bihar, Orissa, Uttar Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Karnataka, Tamil Nadu, Uttaranchal and Kerala), and is spreading through Gujarat, Haryana, Punjab, Rajasthan and Himachal Pradesh. The broad area affected, combined with the relative success of the Maoist movement in neighbouring Nepal, means the insurgencies should be a high policy priority for the national government, but until now it has been largely ignored and left to the state governments. The announcement in October 2004 of a merger between the two leading Naxalite groups, namely the Maoist Communist Centre and the People's War, to form the Communist Party of India-Maoist (CPI-M) heightens the concern over the movement. Following the failure of peace talks in January 2005 between the People's War and the Andhra Pradesh government there has been a new surge of violence, with 893 deaths in 2005 throughout the country, and increasing sophistication of attacks, occasionally involving hundreds of rebels. The insurgency has now become one of the most urgent internal security issues for New Delhi. This has been recognised by the army, which has made plans to deal with the widening insurrection, but it cannot act without orders from the central government, which in turn must receive request from state governments to take action. State governments are most reluctant to seek such assistance as this would give the impression that they are incapable of managing their own affairs. [58d] (India, Non-state Armed Groups)

- 16.08 On the issue of insurgent activities by various tribal and ethnic groups in North East India, Freedom House noted in its Freedom in the World 2008, India, that:

"... more than 40 insurgent factions, who seek either greater autonomy or complete independence for their ethnic or tribal groups, attack security forces and engage in intertribal violence. The rebels have been implicated in numerous bombings, killings, abductions, and rapes of civilians, and they also operate extensive extortion networks. More than 1,000 troops, militants, and civilians were killed in 2007, according to the South Asia Terrorism Portal (SATP), with the states of Manipur and Assam registering the highest levels of violence. In January 2007, some 80 mostly Hindi-speaking migrant workers were massacred in a remote area of Assam, probably by the United Liberation Front of Asom (ULFA) separatist group; smaller but similar attacks continued throughout the year. Meanwhile, tens of thousands of civilians have been displaced, and many live in squalid camps and are unable to return to their homes." [43a]

- 16.09 Jane's Sentinel Risk Assessment, updated 17 October 2007, also stated:

"Several insurgencies have also been waged in the northeast since the 1950s. The seven northeastern Indian states ('seven sisters'), which are connected to the rest of India via the 20 km-wide Siliguri corridor north of Bangladesh, are rich in resources but the peoples (largely of Naga, Bodo, Asomese, Manipuri and Tripuran ethnicity) consider themselves to be exploited by the central government which, many sections of the various communities claim, fails to provide the economic reward they consider their due. The continuing flow of

economic refugees from Bangladesh, seeking and generally obtaining land, is threatening the livelihoods of tribes and farmers in addition to being socially disruptive. There is much resentment concerning the alleged failure of successive governments in the states and in New Delhi to deal with the situation. The region is therefore not only productive in agricultural and minerals' terms, but also a fertile breeding ground for dissidents only too prepared to take advantage of ethnic nationalist tendencies that have been evident since the first revolts by Naga tribesmen against the central Indian government immediately after independence in 1947. Although less of a threat to India than the Kashmiri insurgency, the probability of a successful political solution is slim owing to the autonomy and intense local support felt by the groups." [58d] (India, Non-state Armed Groups)

For more information about acts of violence committed by insurgent groups see [section 8: Security Situation](#); and [section 11: Abuses by Non-Government Armed Forces](#)

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17. Freedom of Speech and Media

17.01 The USSD Country Report 2007 noted:

“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, a somewhat 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 cases were reported during the year.” [2c] (Section 2a)

17.02 The report further stated:

“Independent newspapers and magazines regularly published and television channels regularly 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. However, by law, only government-controlled radio stations were allowed to report news over the radio.

“With the exception of radio, foreign media generally was allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing competition for Doordarshan, the government-owned television network. While the public frequently accused the government television of manipulating the news in the government's favor, some privately owned satellite channels often promoted the platforms of political parties their owners supported.” [2c] (Section 2a)

17.03 The Freedom House report, ‘Freedom in the World, 2008 – India’ stated:

“The predominantly private media remain vigorous and are by far the freest in South Asia, although journalists face a number of constraints. The constitution protects freedom of speech and expression but does not explicitly mention media freedom. The government occasionally uses its power under the Official Secrets Act to censor security-related articles. State and national authorities have also on occasion used other security laws, contempt-of-court charges, and criminal defamation legislation to curb the media and other critical voices. In 2006, Parliament passed an amendment to the Contempt of Courts Act that introduced truth as a defense. However, in a troubling test case that was condemned by local professional groups, a New Delhi court in September 2007 sentenced the publisher of the ‘Mid-Day’ newspaper, as well as two editors and a cartoonist, to four-month prison terms for contempt of court after they ran an article accusing a former senior judge of issuing a ruling that benefited his son; the four were eventually freed pending an appeal.” [43a]

17.04 The Freedom House report continued:

“Journalists remain subject to intimidation. On a number of occasions during 2007, reporters were attacked or detained by police or others while attempting to cover the news. Some were abducted or threatened by right-wing groups, insurgents, or the local-level officials, and newspaper offices were attacked.

Members of the press are particularly vulnerable in rural areas and insurgency-racked states such as Chhattisgarh, Kashmir, Assam, and Manipur. Conditions in Manipur worsened in 2007, according to the Committee to Protect Journalists, as journalists faced threats from competing military groups as well as a new state government directive banning the publication of any statements made by 'unlawful organizations'. At least twice during the year, media outlets responded to pressure by temporarily ceasing operations. Internet access is largely unrestricted in India, although some states have proposed legislation that would require the registration of customers at internet cafes. Potentially inflammatory books and films are occasionally banned or censored by the national or state governments." [43a]

- 17.05 Reporters Without Borders Annual Report 2007, released in February 2007, noted "The New Delhi government in November [2006] promulgated a revolutionary law on community radios which opened the way to long-awaited development of local media...The federal government awarded several hundred licences for privately-run FM stations in 2006, after years of protectionism." [42a]
- 17.06 BBC Country Profile, dated 6 February 2008, stated "India's press is lively. Driven by a growing middle class, newspaper circulation has risen and new titles compete with established dailies." The same source reported "Broadcasting in India has flourished since state TV's monopoly was broken in 1992. The array of channels is still growing... Internet use has soared; more around 42 million Indians were online by 2007." [32h]
- 17.07 The BBC News Country Profile also noted that only public All India Radio (AIR) is permitted to broadcast news on the radio. [32h]
- 17.08 Reporters Without Borders Worldwide Press Freedom Index for 2007, covering the period of September 2006 to September 2007, which reflects the degree of freedom of journalists and news organisations, ranked India at 120 out of 169 countries (with the lower the ranking equating to less freedom). [42b]

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TREATMENT OF JOURNALISTS

- 17.09 In their 2008 Annual Report, Reporters Without Borders stated "Press freedom was threatened by the violence of political parties as well as religious and separatist groups. In some states, beleaguered by rebellion, the authorities have turned against independent journalists. Courts made rulings which were contrary to the spirit of the Constitution, which protects freedom of the press." [42a]
- 17.10 The Committee for the Protection of Journalists (CPJ) report on Attacks on the Press in 2007, released February 2008, noted:

 "The threat of physical violence was most acute in conflict areas such as those in the North-East States, the central Indian state of Chhattisgarh, and the disputed territory of Kashmir. The media in Manipur, in northeast India, faced perhaps the most severe pressures in 2007, balancing official restrictions on the publication of statements made by 'unlawful organizations' against the

competing demands made by more than a dozen insurgent groups involved in separatist activity or factional fighting. Local journalists said they were caught in an impossible situation, facing physical reprisal from militants on the one hand and government prosecution on the other. Twice during the year, Manipuri print media shut down their presses for days on end to protest the severe threats against them.” [46c]

17.11 The same report went on to say:

“The Indian judiciary continued to use contempt-of-court provisions to silence critics and shield the institution from public scrutiny. The highest profile contempt case involved the sentencing of four journalists from the New Delhi edition of the daily newspaper ‘Mid-Day’ to four months in prison apiece for a series of articles and a political cartoon accusing a former chief justice of official misconduct. The journalists were freed on bail and filed an appeal with the Supreme Court. India’s parliament had passed an amendment to the Contempt of Courts Act in 2006 that introduced truth as a defense. Local journalists said the ‘Mid-Day’ case marked the first known test of that new provision.” [46c]

17.12 The report also noted that “... broadcast liberalization led to positive developments, including the growth of community radio stations addressing the concerns of the rural poor, who still make up India’s vast majority but who are largely ignored by the mainstream media.” [46c]

17.13 For further information about incidents against the press, the sources listed below can be consulted.

Committee for the Protection of Journalists, [Attacks on the Press in 2008](#)
Reporters without Borders, [Press Freedom Day by Day](#)

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18. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

18.01 The US State Department Country Report 2007 noted that:

“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 were somewhat cooperative and responsive to their views. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities. In February, the Ministry of Home Affairs barred 8,673 organizations from seeking foreign funds under the Foreign Contribution and Regulation Act (FCRA), reportedly 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. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities...International human rights organizations faced difficulties obtaining visas to visit the country for investigative purposes, and in-country, there was occasional harassment. In March the AHRC reported that the District Magistrate of Leh ordered the arbitrary closure of some NGOs and banned the public use of materials produced by these organizations. International humanitarian organizations, such as ICRC, had access to most regions, with the exception of the northeast and Naxalite-controlled areas. UNHCR did not have access to the Northeast; Burmese Chin and other refugees had to travel to New Delhi to seek refugee status.” [2c] (Section 4)

18.02 The same source noted:

“In August [2007] the government amended the PHRA [Protection of Human Rights Act, 1993] to strengthen the NHRC [National Human Rights Commission] by removing the requirement of prior notification and approval for visits to state-managed prisons. However, NGOs stated the government did not address the NHRC's inability to inquire independently into human rights violations by the armed forces, initiate proceedings for prosecution, and grant interim compensation. Further, NGOs argued that the amendment did not guarantee the NHRC's financial independence or the extension of its mandate to investigate abuses more than one year old.” [2c] (Section 4)

18.03 Human Rights Watch, in its 2008 World Report, stated:

“In Chattisgarh state, which experienced more Maoist violence than any other state in 2007, civil society organizations have come under attack in a classic example of ‘punishing the messenger’. Prominent human rights defender Dr. Binayak Sen was detained for his alleged contact with the Maoist groups. Several journalists and other human rights activists said that they had been threatened by government officials.” [26b]

18.04 The Freedom House, Freedom in the World 2008, India, report noted:

“Human rights organizations generally operate freely. However, rights groups have expressed concern over the intimidation of human rights defenders through threats, legal harassment, the use of excessive force by police, and occasionally lethal violence. In Gujarat, individuals and organizations that

have pushed for justice following the 2002 communal riots have faced harassment from state authorities, including police or tax investigations and threatening telephone calls, according to Human Rights Watch. Human rights defenders also met with heightened threats and harassment in Chhattisgarh during 2007. The work of rights activists may be hindered by a 2001 Home Ministry order that requires organizations to obtain clearance before holding international conferences or workshops if the subject matter is 'political, semi-political, communal, or religious in nature or is related to human rights.' Foreign monitors are occasionally denied visas to conduct research trips in India on human rights issues." [43a]

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19. CORRUPTION

- 19.01 The USSD Country Report 2007 stated in its introductory section that “Endemic corruption existed at all levels within the government and police, and attempts to combat the problem were unsuccessful...” and further stated that “The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank’s worldwide governance indicators reflect that corruption was a severe problem.” [2c] (Section 3)
- 19.02 Freedom House stated in its Freedom in the World 2008 India report:
- “Government effectiveness and accountability are undermined by pervasive criminality in politics, decrepit state institutions, and widespread corruption.... The electoral system depends on ‘black money’ obtained through tax evasion and other means. Politicians and civil servants are regularly caught accepting bribes or engaging in other corrupt behavior. In one recent incident, 11 members of Parliament (MPs) were forced to resign after being filmed taking cash in return for asking specific questions in Lok Sabha sessions. Moreover, a number of candidates with criminal records have been elected, particularly in the state legislatures. Despite laws requiring candidates to declare their financial assets, criminal records, and educational backgrounds, those with links to organized crime or whose election victories were dependent on unreported money continue to serve as lawmakers, as do a number of MPs who face serious criminal charges. More positively, the 2005 Right to Information Act has reportedly improved bureaucratic transparency by giving citizens better access to records. However, whistleblowers and other activists who try to expose corruption within the bureaucracy often receive threats or are otherwise penalized in terms of career prospects.” [43a]
- 19.03 In its 2007 Corruption Perceptions Index (CPI), Transparency International ranked India 72nd in the world corruption ranking, out of 180 countries, giving a CPI score of 3.5. (CPI Score relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and 0 (highly corrupt). [72]
- 19.04 The Central Vigilance Commission (CVC) Act came into force on 11 September 2003. It governs the CVC which is an independent office within the Government designated to receive complaints alleging corruption or misuse of office by civil servants and recommend investigation where appropriate. In addition the 1988 Prevention of Corruption Act, aimed at the activities of civil servants, applies to all states except for Jammu and Kashmir and includes Indian citizens abroad. Offences under this act include accepting “gratification” for official acts (other than legal entitlement), influencing a public servant and exercising personal influence with a public servant. Offences under this act are punishable with imprisonment between six months to five years. Depending on the circumstances a public servant may be found to have committed criminal misconduct under this act and may incur a fine and imprisonment from one to seven years. (Immigration and Refugee Board of Canada, 14 December 2005) [4i]
- 19.05 The Government of India Central Vigilance Commission website, undated, accessed 1 June 2008 stated that “The Government of India has authorized

the Central Vigilance Commission as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action." [24a]

For reference on corruption in the police see [Section 9: Police](#)

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20. FREEDOM OF RELIGION

INTRODUCTION

- 20.01 The USSD Country Report 2007, in its introductory paragraph on freedom of religion, stated:

“The law provides for secular government and the protection of religious freedom, and the central government generally respected these provisions in practice; however, occasionally the government did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted in part from legal constraints inherent in the country's federal structure and in part from shortcomings in the law enforcement and judicial systems. There is no state religion, although the fact that the majority of citizens are Hindus adversely affected on occasion the religious freedom of others. Some Hindu hardliners interpreted ineffective investigation and prosecution of their attacks on religious minorities as evidence that they could commit such violence with impunity.” [2c] (Section 2c)

- 20.02 The Freedom House report, Freedom in the World 2008, India, observed that “Freedom of religion is constitutionally guaranteed and generally respected in this officially secular but Hindu-majority country. However, violence against religious minorities, including attacks on clergy and the destruction of churches and mosques, remains a problem, and prosecution of the culprits has been inadequate.” [43a] The US Department of State International Religious Freedom Report 2007 (USIRF), India, released September 2007, noted that “The Constitution provides for freedom of religion, and the National Government generally respected this right in practice. However, some state and local governments limited this freedom in practice.” [2b] (Introduction)

- 20.03 The USIRF 2007 Report continued:

“There was no change in the status of respect for religious freedom by the National Government during the period covered by this report and government policy continued to contribute to the generally free practice of religion; however, problems remained in some areas. Some state governments enacted and amended ‘anti-conversion’ laws and police and enforcement agencies often did not act swiftly enough to effectively counter societal attacks, including attacks against religious minorities. Despite Government efforts to foster communal harmony, some extremists continued to view ineffective investigation and prosecution of attacks on religious minorities, particularly at the state and local level, as a signal that they could commit such violence with impunity, although numerous cases were in the courts at the end of the reporting period. The National Government, led by the United Progressive Alliance (UPA), continued to implement an inclusive and secular platform that included respect for the right to religious freedom.” [2b] (Introduction)

- 20.04 The USIRF 2007 Report further noted that:

“Federal and state laws that regulate religion include the Foreign Contribution Regulation Act (FCRA) of 1976, several state-level ‘anti-conversion’ laws, the Unlawful Activities Prevention Act of 1967, the Religious Institutions

(Prevention of Misuse) Act of 1988, India's Foreigners Act of 1946, and the Indian Divorce Act of 1869... The Unlawful Activities Prevention Act (UAPA) of 1967 empowers the Government to ban religious organizations that provoke intercommunity friction, have been involved in terrorism or sedition, or violated the 1976 FCRA. [2b] (Section II. Legal/Policy Framework)

20.05 The USIRF 2007 Report stated that:

"According to the 2001 Government census, Hindus constitute 80.5 percent of the population, Muslims 13.4 percent, Christians 2.3 percent, Sikhs 1.8 percent, and others, including Buddhists, Jains, Parsis (Zoroastrians), Jews, and Baha'is, 1.1 percent. Slightly more than 90 percent of Muslims are Sunni; the rest are Shi'a. Tribal groups (members of indigenous groups historically outside the caste system), which are generally included among Hindus in government statistics, often practiced traditional indigenous religions (animism).

"Large Muslim populations are found in the states of Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, Karnataka, and Kerala, and Muslims are the majority in Jammu and Kashmir. Christians are concentrated in the northeast, as well as in the southern states of Kerala, Tamil Nadu, and Goa. Three small northeastern states (Nagaland, Mizoram, and Meghalaya) have large Christian majorities. Sikhs are a majority in the state of Punjab.

"There are Buddhist, Christian, Hindu, Jewish, Muslim, and Sikh missionaries operating in the country.

"Approximately 200 million persons or 17 percent of the population belong to the Scheduled Castes and Scheduled Tribes (SC/ST, formerly called 'untouchables'). Some converted from Hinduism to other religious groups, ostensibly to escape widespread discrimination." [2b] (Section I, Religious Demography)

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INTER-RELIGIOUS MARRIAGES

20.06 As noted in an Immigration and Refugee Board of Canada response, dated 9 January 2006 "According to several sources, inter-religious and inter-caste marriages are legal in India and are governed by the Special Marriage Act 1954." Marriage between couples across caste and religious lines may be sanctified under the Special Marriage Act 1954 subject to certain conditions at the time of the marriage. [4f]

20.07 The same source continued:

"...Inter-religious marriages are more common between students and among professionals in urban areas, and are less likely in rural areas.' The professor consulted commented that marriages between Sikhs and Hindus are 'not uncommon' in the state of Punjab because of prominent numbers of Hindus. It was his opinion that: ...The general societal attitude toward inter-religious married couples in India is 'not favourable'. In correspondence to the Research Directorate, an India-based lawyer agreed that society in general

disapproves of inter-religious marriages but added that the treatment of married couples with different religious backgrounds depends on their location and social levels, and an associate professor of social and cultural anthropology added that 'social attitudes often [cause people to] ostracize and discriminate against such unions'. A July 2004 news article stated that society is 'deeply opposed' to inter-religious marriages, and highlighted that such attitudes are prevalent in Gujarat, where relations between Muslims and Hindus became 'polarized' after Hindu-instigated violence against Muslims in 2002, in which 2,000 people, mainly of Muslim faith, died. The news article also highlighted parents' opposition to inter-religious marriage." [4f]

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RELIGIOUS TENSION

20.08 The USIRF 2007 Report noted:

"[that] there were instances of societal discrimination and violence based in whole or in part on religion. Many such incidents were linked to politics, conversion, retaliation and/or revenge. Economic competition between different religious communities also played an important role in such conflicts. According to the Ministry of Home Affairs' 2006 Annual Report, there were 698 instances of communal violence or violence along religious lines in which 133 persons were killed and 2,170 injured.

"Efforts at ecumenical understanding brought religious leaders together to defuse religious tensions. Prominent secularists of all religions make public efforts to show respect for other religion groups by celebrating their holidays and attending social events such as weddings. Muslim groups protested against the mistreatment of Christians by Hindu extremists. Christian clergy and spokespersons for Christian organizations issued public statements condemning anti-Muslim violence in places such as Gujarat." [2b] (Section III. Societal Abuses and Discrimination)

20.09 The same source reported:

"The Ministry for Minority Affairs, the National Human Rights Commission (NHRC) and the National Commission for Minorities (NCM) are governmental bodies created to investigate allegations of discrimination and make recommendations for redress to the relevant local or national government authorities. Although NHRC recommendations do not have the force of law, central and local authorities generally follow them. The NCM and NHRC intervened in several high profile cases, including the 2002 anti-Muslim violence in Gujarat and other instances of communal tension, the enactment of anti-conversion legislation in several states, and incidents of harassment and violence against minorities." [2b] (Section II. Status of Religious Freedom)

20.10 The USSD Country Report 2007 stated that:

"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 co-religionists even when they received government funding. Benefits accorded

Dalits (formerly known as 'untouchables') were revoked once they converted to Christianity or Islam, but not to Buddhism or Sikhism, ostensibly because once a Dalit converted to Christianity or Islam, he or she would no longer technically be a Dalit." [2c] (Section 2c)

20.11 The same report noted:

"The Religious Institutions (Prevention of Misuse) Act of 1988 criminalizes the use of any religious site for political purposes or the use of temples to harbor persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building. The act's supporters claimed that its aim is to curb the use of Muslim institutions by Islamic extremist groups, but the measure became a controversial political issue among Muslims." [2c] (Section 2c)

20.12 The Annual Report of The United States Commission on International Religious Freedom, May 2008, noted that despite India's democracy and tradition of secular governance:

"... religious minorities in India have been the victims of violent attacks by fellow citizens, including killings, in what is called 'communal violence.' In the late 1990s, there was a marked increase in violent attacks against members of religious minorities, particularly Muslims and Christians, throughout India, including killings, torture, rape, and destruction of property. Those responsible for communal violence were rarely held responsible for their actions, helping to foster a climate in which it was believed that attacks on religious minorities could be carried out with impunity. The increase in such violence in India coincided with the rise in political influence of groups associated with the Sangh Parivar, a collection of organizations that view non-Hindus as foreign to India and aggressively press for governmental policies to promote a Hindu nationalist agenda. Although it was not directly responsible for instigating the violence against religious minorities, the BJP-led national government clearly did not do all in its power to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility against these minority groups..." [67] (p242) The same report further noted "[that] the current Congress-led government has also continued to act decisively to prevent communal violence in situations where it has erupted in the past." [67] (p243)

20.13 The Government continued in its efforts to improve religious tolerance and build communal harmony. The National Human Rights Commission and the National Commission for Minorities continued to promote freedom of religion and focused on human rights problems in their annual reports, encouraging judicial resolution where possible. (USIRF 2007 Report, September 2007) [2b] (Section II. Improvements and Positive Developments in Respect for Religious Freedom)

20.14 The USIRF 2007 Report noted that during the previous reporting period that the Government:

"...introduced legislation to give New Delhi the power to intervene in states in which the [State] Government refuses to take strong measures to end communal outbreaks. The [Central Government] also acted to increase the

powers of the human rights commission to investigate abuse cases. After its introduction in Parliament, the legislation was moved to a standing committee, where it remained throughout the reporting period.” [2b] (Section II. Improvements and Positive Developments in Respect for Religious Freedom)

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RELIGIOUS CONVERSIONS

20.15 As noted in the USIRF 2007 Report:

“There are active ‘anti-conversion’ laws in 4 of the 28 States: Orissa, Chhattisgarh, Madhya Pradesh, and Himachal Pradesh; however there were no reports of convictions under these laws during the reporting period. Gujarat and Arunchal Pradesh have inactive ‘anti-conversion’ laws awaiting accompanying regulations needed for enforcement. In September 2006 the Gujarat State Assembly passed an amendment to make further clarifications on the provisions of the law, but the Governor did not take action by the end of the reporting period. The Rajasthan law passed the State Assembly during the previous reporting period, but was refused twice by the Governor and forwarded to the President on June 20, 2007, for legal review and guidance on its constitutional merit.” [2b] (Section II. Legal Policy Framework)

20.16 Christian Solidarity Worldwide (CSW), however, reported on 2 May 2008 that a Gujarat anti-conversion law came into effect in April 2008. It stated that:

“Under the newly published rules, which allow the 2003 law to be implemented, any convert to another religion could face a year’s imprisonment if they fail to explain to the district magistrate how long they had followed their previous religion, and the reason for their conversion. The Gujarat Freedom of Religion Act, known informally as its anti-conversion law, was passed in 2003. The publication of its rules... on 1 April 2008... allowed the law to be implemented. A controversial amendment to the Gujarat law was passed in 2006, construing Jainism and Buddhism as denominations of Hinduism, but this was withdrawn after widespread protests. Like the anti-conversion laws in other states, the Gujarat law prohibits the conversion of another person by ‘force’, ‘fraudulent means’ or ‘allurement’, although their conditions are very loosely defined. However, the Gujarat law is unique in stipulating that the priest performing a ‘ceremony’ for converting another person must take prior permission from the District Magistrate. Christian leaders are concerned that this will constitute a major obstacle to religious freedom under Gujarat’s extremist Hindu nationalist government, which is reputed for its antagonism towards religious minorities.” [17a]

20.17 The USIRF 2007 Report added on anti-conversion legislation that :

“The Orissa Freedom of Religion Act of 1967 states, ‘No person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means nor shall any person abet any such conversion.’... Individuals breaking the law are subject to penalties such as imprisonment, a fine, or both. These penalties are harsher if the offence involves minors, women, or a person belonging to SC/ST. The law also requires that District

Magistrates maintain a list of religious organizations and individuals propagating religious beliefs, that individuals intending to convert provide a declaration before a Magistrate, that priests declare the intent to officiate in a conversion ceremony, and that police officers determine if there are objections to a given conversion. There were no reports of district magistrates denying permission for religious conversions or of convictions under the Act during the period covered by this report.” [2b] (Section II. Legal Policy Framework)

20.18 The same report continued:

“Under current provisions in the states of Chhattisgarh and Madhya Pradesh, it is prohibited ‘to convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use force or by allurement or by any fraudulent means nor shall any person abet any such conversion.’ Such an offense is punishable with a maximum of two years’ imprisonment, and a maximum fine of \$220 (8,800 INR), with harsher penalties in the case of children, women, or members of SC/ST.” [2b] (Section II. Legal/Policy Framework)

20.19 The USIRF 2007 Report further noted:

“Authorities arrested numerous Christians under state-level ‘anti-conversions’ laws during the reporting period for allegedly engaging in conversions by force, allurement, or fraud. Hindu nationalist organizations frequently alleged that Christian missionaries lured low-caste Hindus with offers of free education and healthcare and equated such actions with forced conversions. Christians responded that low-caste Hindus convert of their own free will and that efforts by Hindu groups to ‘re-convert’ these new Christians to Hinduism were themselves accompanied by offers of remuneration and thus, fraudulent.” [2b] (Section II. Forced Religious Conversion)

20.20 The USSD Country Report 2006 noted:

“On May 28 [2006], five men from Madhya Pradesh allegedly raped two Christian women reportedly for refusing to convert to Hinduism. The press reported that the police filed charges against the alleged rapists only after the National Commission for Minorities (NCM) intervened. The alleged rapists retaliated by lodging charges against the women and their husbands for forcibly converting village residents to Christianity. The prime minister sent a NCM team to Madhya Pradesh to investigate the alleged gang rape. The NCM noted with concern the countercharges filed against the rape victims; the investigation continued at year’s end.” [2e] (Section 5)

20.21 The USIRF 2007 Report notes that “Christian groups filed a court case demanding that SC/ST [Scheduled Castes/Scheduled Tribes] converts to Christianity and Islam enjoy the same access to ‘reservations’ as other SC/STs and argued that Christian SC/STs suffer from the same caste-based socio, economic and political stigmas and discrimination. The usual counter argument is that there is no caste system in Christianity and, therefore, no need to extend reservations to SC/ST Christians. The case was appealed to the Supreme Court, which had not ruled by the end of the reporting period. Reservations existed in Andhra Pradesh for followers of Islam.” [2b] (Section II. Legal/Policy Framework)

20.22 The USIRF 2007 Report also noted:

“The opposition party BJP, the RSS, and other affiliated organizations (collectively known as the Sangh Parivar) claimed to respect and tolerate other religious groups. However, the RSS opposed conversions from Hinduism and expressed the view that all citizens, regardless of their religious affiliation, should adhere to Hindu cultural values. During the reporting period, the BJP continued to advocate for contentious measures such as the passage of ‘anti-conversion’ legislation in all states in the country, the construction of a Hindu temple in the Ayodhya site, and the enactment of a uniform civil code.” [2b] (Section II. Abuses of Religious Freedom)

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MUSLIMS

20.23 The USIRF 2007 Report noted that large Muslim populations were located in the states of Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, Karnataka and Kerala. Muslims formed the majority in Jammu and Kashmir. Over 90 per cent of Muslims were Sunni; the rest were Shia. [2b] (Section I. Religious Demography)

20.24 A Council on Foreign Relations background document of 22 June 2007, ‘India’s Muslim Population’, stated:

“Although home to a Hindu majority, India has a Muslim population of some 150 million, making it the state with the second-largest Muslim population in the world after Indonesia...India’s booming economy has left the nation’s largest minority group lagging behind. Muslims experience low literacy and high poverty rates, and Hindu-Muslim violence has claimed a disproportionate number of Muslim lives. Yet Muslims can impact elections, using their power as a voting bloc to gain concessions from candidates who court them.” [55]

20.25 The Council on Foreign Relations document further stated:

“Muslims in southern and western India tend to be better off than in the north. Historically, wealthier Muslims lived in western and southern states, while many of their counterparts in the north left for Pakistan during the 1947 partition of India. Also, Muslims in rural areas are less poor than in urban areas, where their poverty rate of 38 percent is higher than any other population’s, including low-caste Hindus. Although no Muslim caste system exists, three groups of Indian Muslims – ashraf, ajlaf, and arzal – essentially function as such. The ashrafs are upper-class Muslims thought to be of Arab ancestry, while the ajlafs tend to be considered Hindus who converted to Islam to escape India’s caste system. A third group, the arzals, correlates to the lowest caste of Hindus.” [55]

20.26 The USIRF 2007 Report noted:

“There are different personal status laws for the various religious communities, and the legal system accommodates religion-specific laws in matters of marriage, divorce, adoption, and inheritance. The Government grants a significant amount of autonomy to personal status law boards in crafting these laws. There is a Hindu law, a Christian law, a Parsi law, and a Muslim law - all legally recognized and judicially enforceable. None of these are exempt from

national and state level legislative powers and social reform obligations as laid down in the Constitution.” [2b] (Section II. Legal Policy Framework)

- 20.27 As reported by the BBC in February 2005, Indian Shias recently broke away from the country’s most important Muslim organisation, the All India Muslim Personal Law Board (AIMPLB):

“Under the Indian constitution Muslims have the right to separate laws in matters such as marriage, divorce and inheritance. And it is the AIMPLB that sets out those laws... Shias and Sunnis do not interpret family laws in a similar way. The Shias say they don’t believe in the controversial ‘triple talaq’ or instant divorce – a system wherein a Muslim man can divorce his wife in a matter of minutes. There are also differences in inheritance laws. Among the Sunnis, a man’s sister – along with his children – is entitled to a share of inheritance after his death. When a Shia man dies, his property is only inherited by his children. No other family member has any claim.”

According to a Shia priest interviewed, they also have different mosques and burial grounds. [32i]

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GUJARAT RIOTS 2002

- 20.28 The USIRF 2007 Report noted that:

“During the reporting period, the Nanavati-Shah commission, established in April 2002, continued its hearings into the Gujarat 2002 violence. It has received six month extensions on a regular basis and its current term is scheduled to end December 2007. In its February 2006 response to the Supreme Court, the Gujarat police said that it would reexamine 1,600 of the 2,108 cases that were closed after the riots. However, during the reporting period, the Gujarat police had closed as many as 1,600 cases, citing the unavailability of witnesses.” [2b] (Section II. Abuses of Religious Freedom)

- 20.29 The same source stated that “According to a report submitted by the Government to a UN agency in October 2006, 6 cases relating to 2002 violence resulted in convictions, whereas 182 cases resulted in acquittals. Human rights groups contend that, barring the few high-profile cases the Indian Supreme Court is directly supervising, the majority of the accused would not be convicted.” [2b] (Section II. Abuses of Religious Freedom)
- 20.30 On 30 October 2007, a local Godhra court convicted 11 people for killing seven Muslims in Eral village, in the aftermath of the 2002 Godhra train attack. Eight of the convicted were given life imprisonment, whilst the other three were ordered to serve three years in prison. (Hindustan Times, 31 October 2007) [61a]

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CHRISTIANS

- 20.31 The USIRF 2007 Report noted that Christians constitute 2.3 percent of the population and were concentrated in the north east in addition to the southern states of Kerala, Tamil Nadu and Goa. The north eastern states with large Christian majorities are Nagaland, Mizoram and Meghalaya. **[2b] (Section I. Religious Demography)**
- 20.32 A report published in May 2008 by the United States Commission on International Religious Freedom stated "Attacks on Christian churches and individuals, largely perpetrated by individuals associated with extremist Hindu nationalist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus." **[67] (p244)**
- 20.33 Christian Solidarity Worldwide (CSW) produced a report in March 2008, 'Religious violence and discrimination against Christians in 2007. The executive summary of the report recorded:
- "Despite the existence of strong constitutional and legislative protections for freedom of religion and belief in India, 2007 saw a continued pattern of societal opposition to the religious activities of minorities (particularly including Christians) which often erupted into violent attacks. There continued to be a chronic problem of impunity for perpetrators of religiously-motivated violence...Religiously-motivated violence was recorded throughout 2007, particularly in the states of Andhra Pradesh, Chhattisgarh, Karnataka, and Madhya Pradesh." **[17b]**
- 20.34 The report continued:
- "During the last week of the year [2007], large-scale communal violence broke out in the Kandhamal district of Orissa, resulting in the destruction of approximately at least 730 houses and 95 churches and Christian institutions, and the death of a small number of people...One fact-finding visit reports and the National Commission for Minorities (NCM) report interpreted the violence as the culmination of a long process of co-opting the local tribal population into Hinduism and the concomitant vilification of the minority Christian community and of conversions from Hinduism. This process was carried out by the Hindu extremist Vishwa Hindu Parishad (VHP)." **[17b] (Executive Summary)**
- 20.35 The report further stated:
- "The propagation of a culture assuming the illegitimacy of religious conversions from Hinduism fuelled the wider pattern of anti-Christian violence in 2007. Such a culture is rooted in the extremist nationalist ideology of 'Hindutva', which in practice, seeks to preserve and defend the cultural hegemony of Hinduism at the expense of minority religions. Many attacks on Christian targets were incited or perpetrated by proponents of Hindutva, chiefly Rashtriya Swayamsevak Sangh (RSS) and its subsidiary organisations, including the VHP and Bajrang Dal. Such attacks were often justified by unsubstantiated allegations of illegitimate conversions carried out by the victims, perceived as a threat to the cultural and national integrity of India. The nature and severity of attacks varied, but included murders, mob beatings, arson attacks and vandalism of houses, church buildings and schools." **[17b] (Executive Summary)**
- 20.36 The report also noted:

“Police inaction or complicity was a pervasive problem throughout 2007, with perpetrators of religiously-motivated attacks commonly receiving little more than a superficial censure. In numerous cases, particularly in Chhattisgarh, Karnataka, and Madhya Pradesh, police refused to register the complaints of Christians or arrested the Christian victims instead of their attackers. In some cases, police were directly implicated in violence against Christians... The culture of opposition to conversions from Hinduism was also reflected in state-level anti-conversion laws, in force in Orissa, Madhya Pradesh, Chhattisgarh and Himachal Pradesh, and introduced but not implemented in Arunachal Pradesh, Gujarat and Rajasthan. Such laws appear to contribute towards dominant notions of the illegitimacy of conversions to minority religions and the consequent vilification of the minority Christian community.” [17b] (Executive Summary)

20.37 The USIRF 2007 Report noted that:

“The issue of conversion of Hindus or members of lower castes to Christianity remained highly sensitive and resulted in assaults and/or arrests of Christians. However, Christians often held large public prayer meetings without violence or protests. For example, hundreds of Christians participated in a program of nonstop devotional chants (akhand keertan) for two nights and days, from February 2-4, 2007, in Raigarh, Chhattisgarh. According to faith-based organizations, including the AICC and the Christian Legal Association of India, there were at least 128 attacks against Christians in 2006.” [2b] (Section III. Societal Abuses and Discrimination)

See also section 20.15 [Religious conversions](#)

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SIKHS AND THE PUNJAB

Sikh Religion and Historical Background

- 20.38 A response to an information request produced by the Immigration and Refugee Board of Canada in July 2007 noted that, “Sikhism is the fifth largest organized religion in the world with approximately 23 to 24 million adherents. Sikhs represent approximately two per cent of the population in India [about 20 million people]. Most Sikhs in India live in the state of Punjab where they account for roughly 60 per cent of the state’s population.” [4d]
- 20.39 A BBC website, Religion & Ethics, Origins of Sikhism, undated, stated that “Sikhism was born in the Punjab area of South Asia, which now falls into the present day states of India and Pakistan. The main religions of the area were Hinduism and Islam. The Sikh faith began around 1500 CE, when Guru Nanak began teaching a faith that was quite distinct from Hinduism and Islam. Nine Gurus followed Nanak and developed the Sikh faith and community over the next centuries.” [83a]
- 20.40 The same source continued “Guru Arjan completed the establishment of Amritsar as the capital of the Sikh world, and compiled the first authorised book of Sikh scripture, the Adi Granth. The tenth Guru, Gobind Singh,

recreated the Sikhs as a military group of men and women called the Khalsa in 1699, with the intention that the Sikhs should for ever be able to defend their faith. Gobind Singh established the Sikh rite of initiation (called khandey di pahul) and the 5Ks which give Sikhs their unique appearance.” [83a]

20.41 The website noted that “The 5 Ks taken together symbolise that the Sikh who wears them has dedicated themselves (sic) to a life of devotion and submission to the Guru. The five Ks are: Kesh (uncut hair); Kara (steel bracelet); Kanga (a wooden comb); Kaccha – also spelt Kacch, Kachera (cotton underwear); Kirpan (steel sword).” [83b]

20.42 As observed in a background paper published in 1990 by the Immigration and Refugee Board of Canada, new religious ideologies early in the twentieth century caused tensions in the Sikh religion. “The Akali Dal (Army of the Immortals) a political-religious movement founded in 1920, preached a return to the roots of the Sikh religion.” The Akali Dal became the political party that would articulate Sikh claims and lead the independence movement. [4a] (p9)

20.43 In a response to an information request produced by the Immigration and Refugee Board of Canada in July 2007,

“Following the partition of India in 1947, some Sikhs in Punjab have actively promoted the idea of a Sikh homeland or sovereign state, also referred to as ‘Khalistan’. In the early 1980s, the Sikh community’s movement for an independent state turned violent. In May 1984, the Sikh political party Akali Dal engaged in popular agitation by obstructing the transportation of Punjabi wheat and by withholding taxes from the Indian government. In retaliation, the government sent 100,000 army troops to Punjab, which resulted in violent attacks against the Sikh community in June 1984.” [4d]

20.44 BBC News reported on 16 March 2005 in an article entitled “The fading of Sikh militancy”, over two decades after the militancy period began in Punjab, the divide between Sikhs and Hindus has been bridged and the antagonism with the Congress party largely disappeared. “The elevation last year of Manmohan Singh as India’s first Sikh prime minister was the culmination in the changing relations. ‘The alienation between the Sikhs and Congress is a distant memory now. The ground realities are very different now,’ according to analyst Mahesh Rangarajan. In the 1999 general elections the Congress led in Punjab over its rivals the Akali Dal. Two years ago, the Congress convincingly won the state elections in Punjab, dislodging the Akali Dal from power. The state continues to have a Congress-led government.” [32dm]

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Militant Violence in Punjab

20.45 The South Asia Terrorism Portal (SATP), accessed 6 June 2008, listed 12 organisations as terrorist groups in the Punjab:

- Babbar Khalsa International (BKI)
- Khalistan Zindabad Force (KZF)
- International Sikh Youth Federation (ISYF)
- Khalistan Commando Force (KCF)

- All-India Sikh Students Federation (AISSF)
- Bhindrawala Tigers Force of Khalistan (BTFFK)
- Khalistan Liberation Army (KLA)
- Khalistan Liberation Front (KLF)
- Khalistan Armed Force (KAF)
- Dashmesh Regiment
- Khalistan Liberation Organisation (KLO)
- Khalistan National Army (KNA) [44a]

- 20.46 The same source noted in its 2008 Punjab Assessment that “Punjab remained peaceful through 2007, though it was marred by a single and significant terrorist strike at Ludhiana in October. This is the 14th consecutive year the State has remained relatively free of major political violence after the widespread terrorist-secessionist movement for ‘Khalistan’ was comprehensively defeated in 1993.” [44k]
- 20.47 The same report went on to say that “Central intelligence sources... indicate that a concerted attempt to revive militancy in the State is under way. Sources disclose that Pakistan-sponsored terrorist cells are plotting to trigger sectarian violence, and that there had been a three-fold increase of narcotics and arms trading into Punjab from Pakistan.” [44k]

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Human Rights Concerns in Punjab

- 20.48 The Asian Centre for Human Rights (ACHR) reported in their Indian Human Rights Report 2007, released May 2007 “[that] Punjab continued to be engulfed in serious human rights violations. Asian Centre for Human Rights (ACHR) documented several cases of extrajudicial and custodial killing of civilians during 2006. Police investigation was synonymous with torture.” The report also noted that law enforcement personnel were responsible for extrajudicial killings and the shooting of civilians. [18b] (Punjab)
- 20.49 The same source stated “The police routinely used torture. In early June 2006, two persons identified as Tarsem Singh and Sukhvinder Singh were seriously injured after being allegedly tortured in police custody in Gurdaspur after their arrest on the charge of preparing forged document [sic]. However, the police maintained that the two rammed their heads with iron bars and tried to commit suicide with broken glass pieces.” [18b] (Punjab)
- 20.50 The US Citizenship and Immigration Services, in a response to a query, (updated on 16 May 2003), noted that:
- “Several observers suggest, though, that while Punjab police may be serious about pursuing Sikhs anywhere in India whom they view as hard-core militants, in practice only a handful of militants are likely to be targeted for such long-arm law enforcement. While noting that Sikhs who are on police lists for past involvement with armed groups could be at risk even if not presently active, the Indian human rights attorney said in his May 2003 e-mail to the RIC that, ‘[t]he number of persons who figure in such lists is really very small and I do not think the police and intelligence agencies have in the last years been adding many names’ (Indian human rights lawyer 4 May 2003). A South Asia expert at the U.S. State Department’s Bureau of Intelligence and

Research said that it is unlikely that Punjab police are currently pursuing many Sikhs for alleged militant activities given that the insurgency there was crushed in the early 1990s (U.S. DOS INR 25 Apr 2003).” [76] (p2)

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Prosecution of Security Force Personnel

20.51 The US State Department Country Report 2007 noted that:

“The government made little progress in holding hundreds of police and security officials accountable for serious human rights abuses committed during the Punjab counterinsurgency of 1984-94, despite the presence of a special investigatory commission. The NGO ENSAAF estimated that security forces killed and caused to disappear more than 10,000 Punjabi Sikhs and cremated 6,017 Sikhs in Amritsar alone in counter insurgency operations during the militancy. The National Human Rights Commission (NHRC) also continued to investigate 2,097 cases of murder and cremation that occurred between 1984 and the early 1990s. In May 2006 it ordered monetary compensation to the next of kin of 45 persons whom the Punjab government admitted were in police custody immediately before they were killed and illegally cremated.” [2c] (Section 1b)

20.52 The same report also noted:

“There were no developments in the 2006 case filed by Paramjit Kaur Khalra, the widow of human rights activist Jaswant Singh Kalra, seeking prosecution of former police chief K.P.S. Gill in the abduction, illegal detention, torture and murder of her husband. At year’s end Khalra’s case had not been tried in court. According to ENSAAF and other human rights organizations, in 1995 members of the Punjab police operating under Gill’s command abducted and killed Khalra for investigating and exposing the disappearances and secret cremations of thousands of Sikhs in Punjab by security forces ” [2c] (Section 1b)

20.53 Amnesty International’s Report 2008 noted:

“In Punjab, a majority of police officers responsible for serious human rights violations during civil unrest between 1984 and 1994 continued to evade justice. The findings of a Central Bureau of Investigation probe into allegations of unlawful killings of 2,097 people who were cremated by the police had still not been made fully public, nine years after the investigation was launched. The [National Human Rights Commission] NHRC awarded compensation to the relatives of 1,298 victims of such killings in one district, Amritsar. However, the NHRC was criticized for the slow pace of its investigations, and a commission appointed by the NHRC in 2006 to examine compensation claims was criticized in October by human rights organizations for various failings. In May, the government ordered an investigation into three unlawful killings by the police in the Punjab in 1993-94, after reports that three people, listed as among those killed, surfaced in their native villages.” [3a] (Impunity)

20.54 ACHR’s India Human Rights Report 2007 stated:

“On 2 June 2006, Additional Sessions Judge D.S. Malwai sentenced six personnel of Sherpur police station including Deputy Superintendent of Police

Gurjit Singh, Station House Officer (SHO) Kulwinder Singh, Additional SHO Yudhishter Singh, Head Constable Chamkaur Singh and constables Sohan Singh and Mukhtiar Singh to rigorous imprisonment for life for the custodial killing of Ravinder Singh in Sherpur police station on 18 January 2004. During 2006, some policemen faced suspension or dismissal from service in connection with custodial death cases.” [18b] (Punjab)

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Punjab State Human Rights Commission

- 20.55 The Punjab State Human Rights Commission (PSHRC) started work in July 1997 to enquire into complaints of human rights violations. [84a]
- 20.56 The Indian Human Rights Report 2007, published by the ACHR, noted “The Punjab State Human Rights Commission (PSHRC) received 17,144 complaints relating to violations of human rights in 2005. The PSHRC disposed of 14,329 complaints, while 2815 remained pending by the end of 2005.” [18b] (Punjab)
- 20.57 During 2006 until the end of January 2007 the PSHRC received a further 16,447 complaints, of which 13,877 were disposed of, with 2,570 pending. [84a]

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Committee for Co-ordination on Disappearances in Punjab (CCDP)

- 20.58 When asked for their views on the occurrence of disappearances by the Danish Immigration Service on their fact-finding mission to Punjab in March-April 2000, two members of the CCDP observed that extrajudicial executions no longer took place in Punjab. However, a third member of the committee interviewed by the Danish mission did not believe that disappearances and extrajudicial executions had stopped. Therefore, “there was general agreement between the sources [we] asked that disappearances and extrajudicial executions almost never occur, or only in very small numbers. This applies to both ordinary criminals and political activists.” This conclusion was found not to be because of a change in the attitude of the police but because there was no terrorism left in Punjab. [37] (p42)

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Internal Relocation for Sikhs

- 20.59 As noted in an Immigration and Refugee Board (IRB) of Canada Response to Information Request, dated 18 January 2006, the Indian Constitution allows for freedom of movement of citizens. A human right activist stated that “theoretically, Sikhs can, like others, move and relocate themselves in any part of India that does not come under excluded or restricted zones like some parts in the northeast of India.” [4c]

20.60 After consulting various sources, the same source recorded that:

“Although the majority of Sikhs in India reside in Punjab state...there are many Sikh communities in India located outside of Punjab state... In correspondence to the Research Directorate, a specialist in Indian affairs reported that Sikhs are located in every state in India, and in 579 districts out of a total of 593 districts (23 Nov. 2005). After Punjab state, the next greatest numbers of Sikhs reside in northern Haryana state (1,170,662 persons), northern Rajasthan state (818,420 persons), north central Uttar Pradesh state (678,059 persons), northern Delhi union territory (555,602 persons), northern Jammu and Kashmir state (207,154), central Maharashtra state (215,837 persons), north central Uttaranchal state (212,025 persons) and central Madhya Pradesh state (150,772 persons). Statistics on the Sikh population in India received by the Research Directorate from the World Sikh Organization (WSO), which are drawn from the results of the 2001 Indian census, corroborate the information that most Sikhs live in the states cited above by the specialist in Indian affairs, though the numbers of Sikhs reported by WSO are slightly lower in each state, except for Jammu and Kashmir state, in which the number of Sikhs is considerably higher at 500,000 people... Minorities at Risk, a University of Maryland research project that monitors and analyzes ethnic conflict worldwide, also indicates the presence of Sikhs in the capital Delhi, as do news articles...A professor of Asian studies, with extensive experience in India, commented in a telephone interview with the Research Directorate that Sikh communities are ‘doing quite well’ in various states in India and that they consider these places their home (14 Nov. 2005).” [4c]

20.61 The IRB response continued “Citizens are not required to register their faith in India. Several oral sources consulted for this response commented that Sikhs are able to practise their religion without restriction in every state of India. The central Indian government recognizes Sikhs as one of five religious minority groups and, as such, Sikhs are provided access to ‘various Constitutional guarantees’ for the protection of the rights of religious minorities.” Sikhs hold prominent positions in India, Manmohan Singh is India’s first non-Hindu Prime Minister. (Immigration and Refugee Board of Canada, 18 January 2006) [4c]

20.62 There were no checks on a newcomer to any part of India arriving from another part of India, even if the person is a Punjabi Sikh. Local police forces have neither the resources nor the language abilities to perform background checks on people arriving from other parts of India. There is no system of registration of citizens, and often people have no identity cards, which in any event can be easily forged. “Sikhs relocating from Punjab state to other parts of India do not have to register with the police in their area of relocation, unless they are on parole...” (Immigration and Refugee Board of Canada, 18 January 2006) [4c]

20.63 The Danish Immigration Service fact-finding mission to Punjab, dated March to April 2000, noted “The Director of the South Asia Human Rights Documentation Centre believed that a high-profile person would not be able to move elsewhere in India without being traced, but that this would be possible for low-profile people.” Sources from foreign diplomatic missions in India considered that there was no reason to believe that someone who has or has had problems in Punjab would not be able to reside elsewhere in India. Reference was made to the fact that the authorities in Delhi are not informed about those wanted in Punjab. [37] (p53)

- 20.64 The US Citizenship and Immigration Services, in a response to a query (updated on 22 September 2003), noted that:
- “Observers generally agree that Punjab police will try to catch a wanted suspect no matter where he has relocated in India. Several say, however, that the list of wanted militants has been winnowed [whittled] down to ‘high-profile’ individuals. By contrast, other Punjab experts have said in recent years that any Sikh who has been implicated in political militancy would be at risk anywhere in India. Beyond this dispute over who is actually at risk, there is little doubt that Punjab police will pursue a wanted suspect. ‘Punjab police and other police and intelligence agencies in India do pursue those militants, wherever they are located, who figure in their lists of those who were engaged in separatist political activities and belonged to armed opposition groups in the past,’ a prominent Indian human rights lawyer said in an e-mail message to the Resource Information Center (RIC) (Indian human rights lawyer 4 May 2003).” [76] (p1)
- 20.65 The Immigration and Refugee Board (IRB) of Canada indicated in a response paper dated 18 January 2006 that “A professor of Asian studies, commented that in pursuing a wanted individual, it is unlikely that the central Indian authorities will attempt to locate the person in another state, and this is the case with Sikhs...such pursuits have more to do with the profile of the individual than with the faith the individual subscribes to.” A human rights activist consulted said he was not aware of any police sweeps or searches of Sikhs in India on the basis of their religion. [4c]
- 20.66 The same source indicated that Punjabi, which is the Sikh language, closely resembles Hindi and is also spoken by Hindus and Muslims living in Punjab state. Opinion differs as to whether Sikhs would be understood in all other states as they would understand Hindi, Urdu or English; however others argue that Sikhs would only be understood in certain areas and if the individual only spoke Punjabi then they would only be understood in northern and eastern parts of India, so would have to learn the local language. [4c]
- 20.67 Sikhs would have unlimited access to housing in localities outside Punjab state to whatever extent they could afford it, as the main factor limiting access to housing is financial rather than religion, according to two sources consulted by the Canadian IRB in their response dated 18 January 2006. The report continues to state that Muslims experience the greatest discrimination in housing, not Sikhs, and although there may be isolated instances of discrimination against Sikhs in terms of housing, it is by no means a common occurrence. Citizens may buy agricultural land only in their state of residence except for Punjab state, where agricultural land may be purchased by Indian citizens living in any Indian state. It was thought by one source that the application of this law was mainly used against Sikhs and other religious minorities. (Immigration and Refugee Board of Canada, 18 January 2006) [4c]
- 20.68 Upon relocation Sikhs would have indiscriminate access to employment dependent on their skill level. There may be isolated instances where an individual feels discriminated against because of a tendency by some firms to employ locally born and educated people. Sikhs would also have indiscriminate access to health care in states outside of Punjab although access depends largely on their financial situation and their proximity to an

urban location. It was also agreed by two sources that Sikhs would have access to education outside of Punjab and again poverty is the main obstacle to education and proximity to an urban area affects the availability of education. (Immigration and Refugee Board of Canada, 18 January 2006) [4c]

See also [Section 29: Freedom of Movement](#)

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21. ETHNIC GROUPS

- 21.01 The 2004 report of the Library of Congress Federal Research Division India country profile noted:

“The exact number of ethnic groups depends on source and method of counting, and scholars estimate that only the continent of Africa exceeds the linguistic, cultural, and genetic diversity of India. Seventy-two percent of the population is Indo-Aryan, 25 percent Dravidian, and 3 percent Mongoloid and other. Each of these groups can be further subdivided into various – and changing – combinations of language, religion, and, very often, caste. The Hindu caste system is technically illegal but widely practiced (generally more in rural areas) and comprises four major categories (varnas) that are found India-wide but are often subdivided into hundreds of sub-categories (jatis), many of which are often found only in specific areas. Similar hereditary and occupational social hierarchies exist within Sikh and Muslim communities but are generally far less pervasive and institutionalized. About 16 percent of the total population is ‘untouchable’ (Scheduled Castes is the more formal, legal term; Dalit is the term preferred by ‘untouchables’ and roughly translates to downtrodden); around 8 percent of the population belongs to one of 461 indigenous groups (often called Scheduled Tribes for legal purposes, although the term adivasi is commonly used).” [77]

- 21.02 The USIRF 2007 Report stated:

“Discrimination based on caste is officially illegal but remains prevalent, especially in rural areas. With more job opportunities in the private sector and better chances of upward social mobility, the country has begun a quiet social transformation in this area. However, in rural areas, caste remains a major impediment to social advancement, and low-caste Muslim, Christian, Hindu, Buddhist, and Sikh Dalits continue to face class and race discrimination as a result. Some Dalits who seek to convert out of a desire to escape discrimination and violence have encountered hostility and backlash from upper castes. Ultimately, caste is a complex issue entrenched in society and the Government has taken steps to address it.” [2b] (**Section III. Societal Abuses and Discrimination**)

- 21.03 Freedom House Freedom in the World 2008, India stated:

“The constitution bars discrimination based on caste, and laws set aside generous quotas in education and government jobs for members of the so-called scheduled tribes, scheduled castes (Dalits), and other backward castes (OBCs). In addition, women and religious and ethnic minorities are represented in national and local government; in 2004, Manmohan Singh, a Sikh, became India’s first prime minister from a minority group... However, members of the lower castes and minorities continue to face routine unofficial discrimination and violence. The worst abuse is experienced by the country’s 160 million Dalits, who are often denied access to land and other public amenities, abused by landlords and police, punished by village councils or members of the upper castes for alleged social transgressions, and forced to work in miserable conditions.” [43a]

- 21.04 The same report continued:

“Tension between different ethnic groups over land, jobs, or resources occasionally flares into violent confrontation, and sporadic Hindu-Muslim violence remains a concern. Other forms of discrimination against Muslims are sometimes excused in the context of ongoing tensions with Pakistan and the global campaign against terrorism. Although India hosts several hundred thousand refugees from neighboring countries, it has no federal refugee law, and the treatment of displaced persons varies widely, according to Refugees International.” [43a]

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DALITS

- 21.05 The USSD Country Report 2007 noted that “The law provides that the practice of untouchability, which discriminated against Dalits and others defined as scheduled castes, is a punishable offense; however, such discrimination remained ubiquitous, stratifying almost every segment of society.” [2c] (Section 5)

- 21.06 A report by Human Rights Watch, published in February 2007 and entitled Hidden Apartheid – Caste Discrimination against India’s “Untouchables”, stated:

“Under-educated, severely impoverished, and brutally exploited, Dalits struggle to provide even their most basic daily needs. Dalits must also endure daily threats to their physical security from both state and private actors. The violence by upper-caste groups against Dalits have two major causes: the ‘untouchability’ and discrimination upper-caste community members practice on a daily basis and the desire of upper-caste community members to protect their own entrenched status by preventing Dalit development and the fulfillment of Dalits’ rights. A review of the political, social, economic, and cultural status of Dalits in India shows the State Party to be in violation of its obligation to respect, protect, and ensure Convention [UN International Convention on the Elimination of All Forms of Racial Discrimination] rights to all individuals in its jurisdiction. India routinely denies Dalits the rights and privileges that many of its other citizens take for granted.” [26a] (p111)

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22. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

- 22.01 The background information to a court case in New Delhi produced by the International Gay and Lesbian Rights Commission (IGLHRC) on 20 May 2008 noted that:

“Section 377 of the Indian Penal Code (IPC) penalizes ‘voluntary carnal intercourse against the order of nature with any man, woman or animal’. Punishment includes 10 years to life in prison and/or a fine. Part of British colonial law enacted in the 1860s, Section 377 was intended to criminalize ‘all unnatural acts, ranging from consensual same-sex sexual activity between adults, or even oral sex between a married heterosexual couple, are offenses, though the pervasive homophobia in [Indian] society ensures that only the first is ever prosecuted.’ [80a]

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SOCIETAL AND GOVERNMENT ATTITUDES

- 22.02 As noted in a Request for Information Response, by the Immigration and Refugee Board of Canada, dated 13 May 2004:

“With respect to the government of India’s attitude toward homosexuality, the government has declared that homosexuality is ‘not tolerated in Indian society’; however, it also has ‘no objection to homosexuality if it is practised in private by consenting adults despite a law [Section 377] banning such relationships’ (DPA 14 Sept. 2003). The statements were made in an affidavit after the Naz Foundation, a New Delhi-based, non-governmental HIV/AIDS organization, lobbied the government for the legalization of homosexuality.” [4h]

- 22.03 The same source noted “[that] According to the government of India, Section 377 is rarely applied except when child abuse or rape is alleged...the Indian higher courts have heard only 30 cases relating to Section 377 between 1860 and 1992 and that the majority of defendants were prosecuted for ‘non-consensual acts of sodomy (including sexual assault of minors).’ [4h]

- 22.04 An article on the International Gay and Lesbian Human Rights Commission (IGLHRC) website, dated 20 May 2008 reported that:

“Documented reports and anecdotal evidence suggest that the impact of Section 377 on lesbian, gay, bisexual, hijra, and transgender communities in India include: police violence including sexual assault, custodial abuse and extortion; forced electroshock and drug-based reparative therapies in mental health institutions; the use of police by parents and older siblings to detain and intimidate family members in gay and lesbian relationships; the arrest of NGO workers doing HIV/AIDS prevention with men who have sex with men (MSM); and daily stigma and discrimination against LGBT people contributing to significant suffering and suicides. As noted by one Indian activist, ‘violence, intimidation and fear in the lives of queer people are legitimized in the name of the law.’ [80a]

22.05 The US State Department Country Report 2007 noted:

“The law punishes acts of sodomy, buggery and bestiality; however, the law was often used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups argued that gay and lesbian rights were not addressed along with other human rights concerns in the country. ...Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation are fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail.” [2c] (Section 5)

22.06 BBC News reported on 30 June 2008 that:

“Hundreds of gay rights supporters have marched in the Indian capital, Delhi, for the first time. Gays, lesbians and transgender people gathered in the central Connaught Place area in what was the country’s largest ever display of gay pride. Activists also marched in the cities of Calcutta, which has seen similar events in the past, and Bangalore. The marchers were demanding an end to discrimination in a society where homosexuality is still illegal...In some Indian states people have taken their own lives because they found the law unbearable.” [32z]

22.07 An article in the Economist of 3 July 2008 referred to the gay pride parades in the cities of Delhi, Bangalore and Kolkata (Calcutta) on 29 June 2008 and noted that:

“Many of those who paraded under heavy monsoon clouds in Delhi said one of their main motives was to campaign for the repeal of the law, Section 377 of India’s penal code, which deems homosexuality an ‘unnatural sexual offence’ alongside bestiality. They say the section, drawn up 150 years ago by the British, is routinely used by the police to harass and blackmail homosexuals, even if few are arrested. Delhi’s High Court is currently weighing a petition against Section 377 brought by an umbrella group of Indian NGOs...Despite a burgeoning gay scene in India’s big cities, many Indian homosexuals worry more about exposure to their families and colleagues than about the law.” [20]

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Lesbians

22.08 On 6 December 2006, BBC News reported on the consent to a lesbian ‘marriage’ by an Indian tribe, in the eastern Indian state of Orissa. The ceremony was led by a priest belonging to the Kandha tribe. [32c] In July 2005, two women belonging to scheduled tribes in Jharkhand announced that they were ‘married’, defying both law and tradition, despite same sex marriages not being recognised in India. (USSD Country Report 2006) [2e] (Section 5)

22.09 *The Times of India* reported on 31 March 2006 that the order of a magistrate’s court in a small town Halol ruled that the lesbian couple could live together wherever they wished and they did not have to return to their families. The two had eloped from Halol town and were forced to return when one set of parents

filed a kidnapping complaint which was rejected by the court, the first time such a case had been heard in India. It is thought that the case will set a precedent that Section 377 is not applicable to lesbians. [13b]

22.10 An article in Pink News of 22 May 2008 stated that:

“... a lesbian couple who committed suicide by setting themselves on fire have been put to rest in a joint cremation this week. [The couple] set themselves ablaze after their families took objection to their ‘unnatural relationship’. It has been reported that the two women had suffered years of torment from their families who objected to the closeness of the couple. Although being in a relationship since their school days the women both had husbands. This is common in India where there are huge social and legal pressures to live a heterosexual lifestyle.” [89]

Transsexual/transgender groups

22.11 As cited in a BBC News report of 4 February 2003:

“A court has said eunuchs are still technically men in a controversial ruling set to force a mayor from a job held for women. The landmark judgement in the central northern state of Madhya Pradesh has thrown the political status of eunuchs throughout India into doubt... In India Eunuchs often form close-knit and ostracised communities. Some are castrated men but others are transsexuals or hermaphrodites who have been rejected by their families. Traditionally eunuchs earn money by singing and dancing at weddings and births but recently they have also started to enter politics, standing as independents and offering an alternative to mainstream political parties.” [32j]

22.12 An article in the New Statesman of 13 May 2008 reported that:

“Thanks to a large number of internationally funded support groups that are gaining considerable momentum in many big Indian cities, hijras [transgender persons], as well as other sexuality minority groups, are slowly starting to get a better deal... In March this year hijras were factored into the government’s policy making for the first time when they were named as a target group for a breakthrough de-addiction programme. In the same month the state of Tamil Nadu allowed hijras, if they wish, to be recognised as ‘T’ rather than just ‘M’ or ‘F’ on ration cards with the same being planned soon for passports and driving licences.” [88]

22.13 An article from the 21 June 2008 issue of Economic & Political Weekly recorded:

“The government of Tamil Nadu has taken the bold step of officially recognising transgender as a separate sex. For the first time in the country, a government order has been issued by an education department of a state government creating a third gender category for admission in educational institutions. Government and aided colleges will have to admit transgenders (‘hijras/aravanis/alīs’) and they will share 30 per cent of the seats reserved for women. A newly-designed application form for the undergraduate courses will include transgender as a separate category, thus permitting these students to join any college of their choice – co-educational, men’s or women’s colleges.” [5]

Groups in support of the LGBT community

- 22.14 As reported on IBN Live, on 22 March 2006, homosexuals in Chennai have formed the first gay club to be officially registered. The group's aim is to alleviate social stigma attached to homosexuality and to help the gay community in cases of injustice and to speak out against the "ambiguous" Section 377 of the Indian Penal Code. The group is called The Men Community Development Society. The report notes that the gay movement in India has been active but at a discreet and subtle level as homosexuality as a phenomenon is frowned upon by Indian society. [22] Rediff.com reported on 16 March 2006 that The Men Community Development Society formed by the anti-AIDS non-governmental organisation Indian Community Welfare Organisation to address violations of homosexuals' human rights is a milestone in Chennai. [71a]
- 22.15 The Indian Network for Sexual Minorities (INFOSEM), accessed 28 June 2008, listed 26 organisations throughout India offering counselling and support to sexual minorities in the country. [68]

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23. DISABILITY

23.01 The US State Department Country Report 2007 stated:

“The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights to all persons with disabilities; however, advocacy organizations acknowledged that its practical effects were minimal, in part due to a clause that makes the implementation of programs dependent on the ‘economic capacity’ of the government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and in access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, public transportation and public spaces throughout the country had almost no provisions for wheelchair access.” [2c] (Section 5)

23.02 The same source noted:

“Despite the PDA’s requirement that three percent of public sector jobs be reserved for people with physical, hearing, and visual disabilities and the government’s development of a list of jobs for people with these disabilities, only 0.44 percent of public sector employees are disabled. The government increased funds to NGO partners to implement the national policy. The PDA provides benefits to private companies at which persons with disabilities constitute more than five percent of the workforce. The government recently began implementing these benefits. Private sector employment of persons with disabilities remained low.”

23.03 The report continued:

“According to the Central Coordination Committee established under the PDA, approximately 100,000 children with special needs attended approximately 2,500 schools that provided integrated and inclusive education or nonformal education. The Human Resource Development Ministry reported in January 2006 that children with mental disabilities had the lowest rate of school attendance out of any group at 53 percent, followed by the speech disabled at 57.5 percent and the hearing disabled at 68 percent.” [2c] (Section 5)

23.04 The same report further noted:

“The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates a three percent reservation in all educational institutions for persons with disabilities; however, statistics showed that only about one percent of students had disabilities. In 2005 the Times Insight Group reported that most colleges and universities were unaware of the law. 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 three percent reservation, and harassment.” [2c] (Section 5)

23.05 BBC News reported on 12 March 2008:

“The Indian government has launched its first interactive web portal for people with disabilities. The site, whose name, Punarbhava, means to reinvent oneself, offers information for people with disabilities and for those who work with them...India officially has 21 million disabled people but non-government agencies say the figure is much higher. The agencies estimate up to 60 million Indians can be classed as disabled if milder forms of impairment are taken into account. The Punarbhava site includes a link to a disability register, an online chatroom, a blog, a discussion forum and an online ‘court’ where redress can be sought for grievances.” [32s]

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24. WOMEN

Additional information on the situation of women in India can be found in the Home Office Fact Finding Mission to India report, conducted in July 2004, published in December 2004. Also section 25: Children and section 26: Trafficking for issues related to women.

OVERVIEW

- 24.01 A July 2008 estimate, as stated in the CIA World Factbook updated 19 June 2008, noted that out of a population of nearly 1,147 million, approximately 555 million are female. [35]
- 24.02 India ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 9 July 1993. [6b] **(CEDAW States Parties, undated)** A report published by the International Women's Rights Action Watch (IWRAP) entitled 'India: Second NGO Shadow Report on CEDAW', co-ordinated by the National Alliance of Women (NAWO) and dated November 2006, noted that "The Constitution of India does not define 'discrimination against women' in the elaborate terms of Article 1 of CEDAW. No legislation reflects such a definition either. Further, the right to equality contained in fundamental guarantees does not cover discrimination by private parties. This constitutes a serious lacuna in the Indian legal system." [30] (p7)
- 24.03 The Department of Women and Child Development noted in their National Policy for the Empowerment of Women 2001, accessed 1 June 2008 "[that] there still exists a wide gap between the goals enunciated in the Constitution, legislation, policies, plans, programmes, and related mechanisms on the one hand and the situational reality of the status of women in India, on the other." [24f] **(Women Development; National Policy for the Empowerment of Women, 2001)**
- 24.04 In their concluding comments of their 37th session, dated 2 February 2007, CEDAW commended the Indian Government on its introduction of a National Policy on the Empowerment of Women, 2001, which, among other things, committed to ensure that all marriages were registered by 2010. In addition, the Women Component Plan in the national budget, where 30 per cent of planned development expenditure in all sectors was to be spent on women, was regarded favourably by the committee. Also viewed as positive by the committee was the achievement of the State party in increasing enrolment in primary education through various programmes and the introduction of the Protection of Women from Domestic Violence Act, 2005. [6f]
- 24.05 However the same CEDAW report recorded a number of areas of concern where the State party had not acted on, or implemented, certain recommendations. Such areas of concern included the non-introduction of a sex discrimination act; the development of a national plan of action to address the issue of gender-based violence in a holistic manner; the enforcement of laws preventing discrimination against Dalit women; taking affirmative action to increase women's participation in the judiciary; wider usage of free legal services for poor and marginalised women in rural and tribal areas; the displacement of tribal women; no laws enacted or regulations made relating to the status of asylum seekers and refugees which had an adverse impact on women asylum seekers and refugees. [6f]

24.06 The IRAW report of November 2006 noted:

“The prevalence of pervasive gender based violence has prevented the practical realization of the right to equality for most women across the country. The forms of gender-based violence prevalent in India include domestic violence, dowry linked violence, sexual assault, sexual harassment and sex-selective abortion, violence against dalit women, violence through the medium of the law on the persons on grounds of sexual orientation.” [30] (p8)

24.07 OneWorld.net, in its country guide for India, updated in September 2007, accessed 1 July 2008, noted:

“Of the many awesome human statistics for India, none is more disconcerting than the gender ratio of only 927 girls for every 1,000 boys under age 6, the most imbalanced in the world and declining further each year. The horrific inference of infanticide has cultural and economic considerations at its root, coupled with failure to enforce legislation. Gender discrimination pervades Indian society, from the extreme practice of honour killings to resistance in parliament to quotas for female representation. The government is however attempting to improve the status of women both in the draft 11th five year plan and by passing legislation such as the Hindu Succession (Amendment) Bill, 2004, giving daughters and sons equal rights to property. The Domestic Violence Act passed in 2005 also represents the culmination of years of campaigning by women’s groups.” [70]

24.08 Freedom House Freedom in the World 2008, India noted that “Muslim personal status laws and traditional Hindu practices discriminate against women in terms of inheritance, adoption and property rights.” [43a]

Socio-economic indicators

24.09 The 2001 Census noted that female literacy in India was recorded at 54.16 per cent. From 1991 to 2001, the female literacy rate increased by 14.87 per cent, 3.15 per cent higher than the male literacy rate increase for the same period. (The National Literacy Mission – India) [10]

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LEGAL RIGHTS

24.10 The Constitution of India states that women are guaranteed:

- Equality before the law. Article 14
- No discrimination by the State on the grounds only of religion, race, caste, sex, place of birth or any of these. Article 15 (1)
- Special provisions to be made by the State in favour of women and children. Article 15 (3)
- Equality of opportunity for all citizens in matters relating to employment of appointment to any office under the State. Article 16
- State policy to be directed to securing for men and women equally the right to an adequate means of livelihood. Article 39(a)
- Equal pay for equal work for both men and women. Article 39 (d)

- Provisions to be made by the State for securing just and humane conditions of work and for maternity relief. Article 42
- To promote harmony and to renounce practices derogatory to the dignity of women. Article 52 (a) [24c]

- 24.11 The USSD Country Report 2007 notes that “Numerous laws exist to protect women’s rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the Sati Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However the government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted.” [2c] (Section 5) The same report added “The law prohibits discrimination on the basis o/f... sex... and the government worked to enforce these provisions with varying degrees of success.” [2c] (Section 5) The [Ministry of Women and Child Development](#), accessed 1 June 2008, lists various Acts relating directly to women. [73] (Legislation/Acts)
- 24.12 A 2006 report by the Center for Reproductive Rights, entitled “Litigating Reproductive Rights: Using Public Interest Litigation and International Law to Promote Gender Justice in India”, noted “[that] many of the personal laws reinforce norms that are patriarchal and oppressive toward women. The personal laws therefore violate the principles of equality and non-discrimination promoted by the Indian Constitution and the international treaties that India has ratified.” [62a] (p48)

See Section 24.58 [Domestic Violence](#) below for information on Protection of Women from Domestic Violence Bill, 2005

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POLITICAL RIGHTS

Women in Politics

- 24.13 The USSD Country Report 2007 noted “In July [2007] Pratibha Patil became the country's first female President. There were 73 women in the 784-seat legislature, and two in the 32-member cabinet of ministers, and eight among the 47 Ministers of State. Numerous women were represented in all major parties in the national and state legislatures. The Constitution reserves 33 percent of seats for women in elected village councils.” [2c] (Section 3)
- 24.14 In their 37th session, dated 15 January – 2 February 2007, the Committee on the Elimination of Discrimination against Women expressed concern at the continuing low representation of women in India’s Parliament and state legislatures, and in government service. The Committee requested “[that] the State party... speed up its efforts to forge consensus on the constitutional amendment reserving one third of the seats in Parliament and state legislatures for women and undertake awareness-raising about the importance of women’s participation in decision-making for society as a whole.” [6f] (paragraph 42)
- 24.15 India’s first woman president was sworn in at a ceremony at the Indian Parliament. Pratibha Patil, 72, won a comprehensive presidential election victory, taking nearly two-thirds of votes cast in state assemblies and India’s

parliament. Although the role is largely ceremonial, Congress Party members say her victory is an important step towards gender equality in India. However, many say it is merely a symbolic gesture in a country where millions of women face discrimination, often linked to traditions. (BBC News, 25 July 2005) [32o]

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SOCIAL AND ECONOMIC RIGHTS

Women in the Workplace

24.16 The USSD Country Report 2007 stated:

“The law prohibits discrimination in the workplace; however, enforcement was inadequate. 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. State government and NGO-supported microcredit programs for women began to have an impact in many rural districts. In March 2006 the government amended the law to provide flexibility for women to work in factories on the night shift.” [2c] (Section 5)

24.17 As noted in the same report “Sexual harassment of women in the workforce included physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In January 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” [2c] (Section 5)

24.18 A Social Science Research Network document, ‘Experiences of Sexual Harassment of Women Health Workers in Four Hospitals in Kolkata’, published in November 2007, stated:

“In 1997, the Supreme Court of India recognised sexual harassment in the workplace as a violation of human rights. However, little is known about the extent or persistence of sexual harassment. To obtain an understanding of women’s experiences of sexual harassment in the health sector, an exploratory study was undertaken in 2005-2006 among 135 women health workers, including doctors, nurses, health care attendants, administrative and other non-medical staff working in two government and two private hospitals in Kolkata, West Bengal, India. Four types of experience were reported by the 77 women who had experienced 128 incidents of sexual harassment: Verbal harassment (41), psychological harassment (45), sexual gestures and exposure (15), and unwanted touch (27). None of the women reported rape, attempted rape or forced sex but a number of them knew of other women health workers who had experienced these. The women who had experienced harassment were reluctant to complain, fearing for their jobs or being stigmatised, and most were not aware of formal channels for redress. Experiences of sexual harassment reflected the obstacles posed by power imbalances and gender norms in empowering women to make a formal complaint, on the one hand, and receive redress on the other.” [90]

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Gender Imbalance – Female infanticide

24.19 Freedom House's report, *Freedom in the World 2008*, India, observed that:

"The malign neglect of female children after birth remains a concern. Sex-determination tests are increasingly used during pregnancy, after which female fetuses are more likely to be aborted, despite a prohibition on tests being conducted for this purpose. The trend, coupled with the practice of female infanticide by those who cannot afford the tests, has contributed to a significant imbalance in the male-female birth ratios in a number of states, particularly in the northwest." [43a]

24.20 The USSD Country Report 2007 noted:

"Sex determination tests are illegal in the country under the 1994 Pre-Natal Diagnostic Techniques Act (PNDT). However, NGOs reported that some family planning centers continued to reveal the sex of fetuses. NGOs alleged that medical practitioners and government workers often were complicit in pushing or persuading women to abort their girl children... Officials claim that the practice is prominent among educated and urban sections of society.

"On June 15 [2007], the *Hindustan Times* reported a Haryana Health Department raid on a maternity clinic run by an unlicensed doctor, A.K. Singh. Officials arrested Singh and seized a portable ultrasound machine and equipment used to terminate pregnancies, in addition to a large quantity of fetal remains. Haryana has registered 35 cases against doctors illegally conducting sex determination tests in the past two years.

"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 are only 933 girls per 1,000 boys. In 14 districts of Haryana and Punjab there were fewer than 800 girls per 1000 boys. The low male/female ratio resulting from female feticide encouraged families in Punjab and Haryana to import brides from Bihar and other northeastern states" [2c] (Section 5)

24.21 A report by *The Guardian*, dated 28 February 2007, noted that "Although ministers in India have woken up to 'a national crisis' [of female infanticide], the response has been to condone the abandonment of female babies. 'If you don't want a girl, leave her to us,' Renuka Chowdhury, India's minister of state for women and child development, said recently. The government 'will bring up your children. Don't kill them'. The announcement was a desperate response to stem India's dramatic deficit of women..." [40a]

24.22 The USSD Country Report 2007 noted:

"The Health and Family Welfare Ministry set up a 'National Support and Monitoring Cell' to curb the practice of female feticide by targeting and apprehending those who carry out or abet female feticide. The government also encouraged education campaigns to change the social preference for male children and launched a 'Save the Girl Child' campaign designed to highlight the achievements of young girls.

“During the year the New Delhi municipal government sponsored a program that provided every girl born in a government hospital with a gift deposit of \$114 (5,000 rupees) that accumulated interest and could be cashed once the girl reached the age of 18. Authorities from the village of Lakhanpal in central Punjab ran a program to end female feticide, and as a result, the latest figures showed 1,400 female and 1,000 male births. Historically, Punjab had the lowest girl-to-boy ratio in the country, at 776 to 1,000.” [2c] (Section 5)

24.23 *The Guardian* reported on 25 April 2008:

“The Indian government yesterday signalled that it would be imposing tougher sentences on doctors who illegally abort female fetuses – a tacit admission that the law was not working. Experts estimate India has lost 10 million girls in the past 20 years. Yet in the 14 years since selective abortion was outlawed only two doctors has (sic) been convicted of the crime – and officials admit one of those is back in business. The reason, says the government, is that under the existing act doctors are only suspended, face a fine of 50,000 rupees (£625) and a jail term of three months. Instead the health minister wants doctors conducting illegal sex determination tests to be struck off permanently, face a fine of 700,000 rupees (£8,750) and imprisonment for up to three years [40b]

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Marriage and divorce

24.24 The USSD Country Report 2007 observed that “The 1939 child marriage restraint act prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18 and boys at 21. In December 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.” [2c] (Section 5)

24.25 As reported in the USIRF 2007 Report “The Indian Divorce Act of 2001 limits inheritance, alimony payments, and property ownership of persons from interfaith marriages and prohibits their use of churches to celebrate marriage ceremonies in which one party is a non-Christian. Clergymen who contravene its provisions could face up to ten years’ imprisonment. However, the act does not bar interfaith marriages in other places of worship.” [2b] (Section II. Legal/Policy Framework)

24.26 As reported in the USSD Country Report 2007:

“In 2005 the All-India Muslim Personal Law Board adopted new ‘talaq’ (‘divorce’ in Urdu) guidelines, which called for the husband to pay compensation to the wife’s family in case of divorce, equality in property rights, protection against physical and emotional abuse by husbands, and assurances that remarried women will be able to maintain contact with their families. In November 2006, the All India Shi’a Personal Law Board unanimously approved a model nikahnama (marriage contract) that provided women the same divorce rights as men.” [2c] (Section 5)

24.27 The USSD Country Report 2007 also noted that “In 2005 parliament removed discriminatory clauses from the Hindu Succession Act by giving equal inheritance rights to Hindu, Buddhist, Jain, and Sikh women, including giving married daughters the same inheritance rights as male heirs.” [2c] (Section 5)

24.28 The same report further noted:

“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 and Meghalaya, where women traditionally controlled family property and enjoyed full inheritance rights.” [2c] (Section 5)

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Dowry

24.29 The Freedom House report, Freedom in the World 2008, India, noted that “Despite the fact that making demands for dowry is illegal and hundreds of people are convicted each year for the crime, the practice continues.” [43a] On the same subject the USSD 2007 Country Report recorded:

“The law forbids the provision or acceptance of a dowry but dowries continued to be offered and accepted, and dowry disputes remained a serious problem. The law also provides extensive powers to magistrates to issue protection orders to deal with dowry-related harassment and murder. Andhra Pradesh police reported 541 dowry deaths: Tamil Nadu recorded 208; and the Karnataka State Commission for Women recorded 68 dowry deaths during the year. [National Crime Record Bureau] NCRB reported 11,300 incidents of dowry deaths that occurred from 2004-6 in the country.” [2c] (Section 5)

24.30 BBC News reported on 6 November 2007 that, according to official estimates, nearly 7,000 women are killed each year by their spouses and in-laws due to inadequate dowry payments. The article also reported on the death of a police officer, who was killed whilst trying to protect two grooms from being attacked by anti-dowry protesters in Uttar Pradesh. The grooms, two brothers who came to marry two sisters, were accused of demanding dowry payments by the brides’ family. [32f]

24.31 The USSD Country Report 2007 observed:

“Under the law courts must presume that a husband and/or his family are responsible if his wife dies an unnatural during the first seven years of marriage and if harassment is proven. NGOs claimed that accused in-laws often avoided legal consequences by bribing police officials. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, cases took an average of six to seven years to conclude.” [2c] (Section 5)

24.32 As recorded in the USSD Country Report 2007 “Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer (CDPO),

although it was unclear how effective these officers were. Madhya Pradesh also required that all government servants seeking to marry produce a sworn affidavit by the bride, the groom, and his father that no dowry exchanged hands.” [2c] (Section 5)

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VIOLENCE AGAINST WOMEN

Domestic violence

24.33 The Indian Ministry of Women and Child Development included on its website, accessed on 11 July 2008, details of legislation and proposed legislation on the protection of women and children: <http://wcd.nic.in/> [24f]

24.34 The USSD Country Report 2007 stated:

“The Protection of Women from Domestic Violence Act, passed in October 2006, recognizes all forms of abuse against women in the home, including physical, sexual, verbal, emotional, and/or economic abuse. Domestic violence includes actual abuse or threat of abuse. The law recognizes the right of women to reside in a shared household with her spouse or partner even while the dispute continues, although women can be provided with alternative accommodations, to be paid for by the spouse or partner. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care. The new law bans harassment by way of dowry demands and empowers magistrates to issue protection orders where needed. Under the new Act, spousal rape is also criminalized. Punishment ranges from jail terms of up to one year and/or a fine of approximately \$450 (19,800 rupees). As of November the Act had been ratified by four of 28 state governments: Andhra Pradesh, Tamil Nadu, Uttar Pradesh, and Orissa. Citizens registered 8,000 nationwide criminal cases under the Act since it was brought into force.” [2c] (Section 5)

24.35 On the same subject the Freedom House report, Freedom in the World 2008, India, commented that “The Protection of Women from Domestic Violence Act, which took effect in October 2006, banned dowry-related harassment, widened the definition of violence to include emotional or verbal abuse, and criminalized spousal rape.” [43a]

24.36 The UN Committee on the Elimination of Discrimination against Women expressed concern, in their session dated 15 January to 2 February 2007, that despite the enactment of the Domestic Violence Act 2005, various states and union territories had not put into place the mechanisms to effectively enforce the Act. [6f] (paragraph 20)

24.37 Freedom House Freedom in the World 2008, India noted “Each year, several thousand women are burned to death, driven to suicide, or otherwise killed, and countless others are harassed, beaten, or deserted by husbands, in the context of domestic disputes that sometimes include dowry-related issues.” [43a]

- 24.38 An International Institute for Population Sciences National Family Health Survey 3, published in the autumn of 2007 and conducted during 2006, involving interviews of more than 230,000 women aged 15-49 and men aged 15-54 throughout India recorded that:

“More than half of women (54 percent) and men (51 percent) agree that it is justifiable for a husband to beat his wife under some circumstances.

-women and men most often agree that wife beating is justified when the wife disrespects her in-laws.

-Neglect of the house or children is the second most commonly agreed to justification for wife beating for both women and men.” [91]

- 24.39 On the subject of ‘sati’ the USSD Country Report 2007 observed that “The government banned sati, the practice of burning a widow on the funeral pyre of her husband, and there were few instances of sati in recent years.” [2c] (Section 5)

(See also section 24.44 below on [Rape](#))

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Societal Violence

- 24.40 The USSD Country Report 2007 noted that rape and other violent attacks against women were a serious problem. [2c] (Section 5) The Human Rights Watch Annual Report 2008 observed that “India has a mixed record on women’s rights: despite recent improvements in legal protections, gender-based discrimination and violence remained deeply entrenched.” [26b]
- 24.41 The Freedom House Freedom in the World 2008, India noted that “Each year, several thousand women are burned to death, driven to suicide, or otherwise killed, and countless others are harassed, beaten, or deserted by husbands, in the context of domestic disputes that sometimes include dowry-related issues... Rape and other violence against women are serious problems, and lower-caste and tribal women are particularly vulnerable.” [43a]
- 24.42 It was stated in a news article, *The Asian Age*, New Delhi, dated 28 August 2005 “In a move to curb rising crime against women, Delhi police is recruiting 1,000 more women personnel. The recruitment process has already begun and women police personnel will be trained and deployed within the next 18 months.” Currently in the Delhi police, out of 60,000 personnel, 3,000 are women. The current drive is geared towards comprising ten per cent of women in the police force. Kanwaljit Deol, joint commissioner of police, said it would be easier for the department to curb crimes against women once the women brigade was in the field. The article states, “Last year Delhi witnessed 551 rapes, whereas in the first 7 months of this year the number has crossed 400.” She stated that Delhi police force was also introducing a new system of Women Beat Constables in certain areas, aimed at combating crime against women, in particular molestations and ‘eve-teasing’ (a term used to denote harassment of women). [52]
- 24.43 As stated in a reply by the Minister of State in the Ministry of Home Affairs to an unstarred question in the Lok Sabha for 1 March 2005, the Government of

India has been advising the State Governments, from time to time, to take the necessary measures for the prevention of crime against women and other vulnerable sections of society.

“In an advisory sent to the State Governments on 5 May 2004, they have been requested, inter alia, to take following measures to check crime against women:

- Identification of crime prone areas and to put in place a mechanism to monitor infractions in schools/colleges to ensure safety and security of female students,
- Registration of FIR [First Information Report] in all cases of crime against women,
- Prominent exhibition of help-line numbers of the crime against women cells at public places,
- Setting up of women police cells in the police stations and exclusive women police stations where necessary,
- Adequate training of police personnel in special laws who deal with crime against women.” [28a]

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Rape

24.44 The USSD Country Report 2007 recorded:

“The law sets criminal penalties for rape, including spousal rape, but the government did not enforce the law effectively. Although the government prosecuted rape cases during the year, only 10 percent were adjudicated fully by the courts, and police typically failed to arrest rapists, perpetuating a climate of impunity...While official statistics confirmed a dramatic increase in reported crimes against women, this may have reflected a growing sense of security in reporting such crimes. The 2005-2006 National Family Health Survey (NFHS) reported that only one in four abused women had ever sought help to end the violence they experienced and only two percent of abused women had ever sought help from the police. According to the [National Crime Record Bureau] NCRB, two rapes took place every hour nationwide, and 19 of 20 victims knew their attackers. NGOs asserted that rape by police, including custodial rape, was common. The 2005-2006 NFHS reported that one-third of women ages 15 to 49 had experienced physical violence and approximately one in ten had been a victim of sexual violence.” [2c] (Section 5)

24.45 The same report noted that parliament amended the Code of Criminal Procedure in May 2005, stipulating mandatory DNA tests in all rape cases. The bill also prohibited the arrest of women after sunset and before sunrise except in “exceptional circumstances”, in an attempt to protect women from sexual assault by police officers. [2c] (Section 5)

24.46 The same source further added that “In response to an [National Human Rights Commission] NHRC recommendation to investigate a January 2006 incident in which 18 armed insurgents belonging to the United National Liberation Front and Kanglaipak Communist Party raped 25 women in Manipur, the government of

Manipur established a Justice Commission to investigate the case. At year's end the investigation was underway." [2c] (Section 5)

24.47 It was noted in USSD Country Report 2007 that:

"The rape of persons in custody was part of a broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than the NHRC [National Human Rights Commission] figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behaviour by police, and the likelihood that many rapes were 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 on the extent of custodial rape." [2c] (Section 1c)

24.48 A dedicated unit, aimed at representing rape victims in New Delhi, has been set up by a team of three female lawyers. "Rape Crisis Cell" tries to persuade rape victims to speak out and fight for justice. Many rape victims refuse to pursue their attackers through the courts due to threats, pay-offs or shame. Speaking on the difficulty of securing a maximum sentence, Aparna Bhat, one of the three lawyers, said the unit recently secured a life sentence, which is almost unheard of. (CNN news, 8 March 2007) [33a]

24.49 A BBC News article dated 1 May 2008 reported:

"A court in the Indian state of Rajasthan has sentenced a guest house owner to life imprisonment for raping a British journalist. The trial, which concluded within four months of the charges being brought...is one of the fastest in India's usually slow legal system. This is the third such conviction handed out by special fast-track courts in Rajasthan in the past three years...In 2006, a court in Rajasthan sentenced the son of a top police official to seven years in prison for raping a German student. The trial was completed in 10 working days. In 2005, a similar court handed out a life sentence to two men in Rajasthan for abducting and raping a German tourist." [32t]

24.50 A DNA India article of 20 June 2008 recorded that in Ahmedabad:

"Five people...were awarded life imprisonment by an additional sessions judge for the gang-rape of Bijal Joshi, who later committed suicide, in a hotel during a New Year eve party"...Sajal Jain, son of an industrialist and owner of Delhi's Apollo Millennium Hospital, "was arrested on charges of rape and abetting suicide after Joshi committed suicide. In her suicide note, she named Jain and his four friends for raping and torturing her. Her body had borne several bite marks... Six policemen, including an inspector of Shahibaug police station, were suspended for their laxity in the case in 2004." [92]

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Organisations Offering Assistance to Women

24.51 The [South Asian Women's Network](#) (SAWNET), undated, accessed 10 June 2008, listed a number of organisations dealing with women's issues. [25a] As

does the National Resource Centre for Women, part of the Ministry of Women and Child Development, accessed on 10 June 2008 [24g], and, only for Delhi, the Delhi Directory, accessed on 10 June 2008 [8]

- 24.52 As stated in the UN-commissioned report for 2001, “Women in India, how free, how equal?”:

“Indian women have far greater visibility and voice than they did fifty years ago – they have entered into and created impacts in every sphere of public activity. There are many strong and vibrant movements around issues of importance not only to their own lives, but also to the country as a whole. Movements in India – for the right to control and manage natural resources, the right to information, the right to participation in decisions and development – have set the parameters of global debates on these issues. Millions of women are part of these struggles and movements. Tangible proof of the relevance and effectiveness of Indian women’s movements, is the fact that the issue of women’s rights is today a central tenet of political and development discourse in India. Affirmative actions for women’s political participation, the implementation of major poverty alleviation programmes through women’s groups, the review of laws and regulations to ensure women’s equality – all demonstrate this recognition at the political level and at the level of policy. Nevertheless there is no denying the facts documented in this report – evidence of the huge gaps between constitutional guarantees and the daily realities of women’s lives.” [6e] (p79)

- 24.53 Amnesty International, in its May 2001 “The battle against fear and discrimination” report, welcomed the Policy on Empowerment of Women as a symbol of the Government’s commitment to empower women and to bestow rights with equality. However AI criticised the “contradictory character” of the Indian State. Amnesty delegates recognised good administrative policies and practices when they visited Uttar Pradesh and Rajasthan. They saw the idea behind the Zilla Mahila Sahayata Samitis (District Women’s Support Committees) in Rajasthan as a positive step. However, they levied some criticism. In Rajasthan regular meetings are held between members of the women’s movement and the Home Commissioner and additional Director General of Police. This was seen as an extremely effective mechanism for ensuring that action was taken in several individual cases; however, it was dependent on a measure of goodwill being established between the women’s movement and organs of government. AI commented that this was absent in many states. [3e] (Conclusion)

- 24.54 As same source noted:

“Outside the formal criminal justice system, women in India can turn to other bodies for support and redress. There are a large number of active non-governmental and voluntary organizations which provide legal support to women. However, given their localised nature, the lack of resources available and the vulnerability of such initiatives to pressure from families, police, community or state, these initiatives cannot wholly address the scale of the problem in a country the size of India.” [3e] (Relief and Rehabilitation)

- 24.55 The AI report continued:

“Women activists in India have played a crucial role in highlighting the problems faced by women. Delegates saw clear evidence of this in Rajasthan and Uttar Pradesh where alliances of women’s organisations come together regularly in protest of incidents of violence and pressure the authorities to take action against the perpetrators. Many victims would be alone without redress for justice, without such pressure... Many of the positive initiatives of the state have been taken as a result of the forceful arguments of the women’s movement in India.” [3e] **(The context of violence against women in Uttar Pradesh and Rajasthan)**

- 24.56 The Centre for Social Research (an NGO for women in India) website listed non-governmental organisations involved in combating violence in Delhi and it stated that the organisation could be contacted for help or counselling. Crime Against Women cells throughout Delhi were listed, as were a number of shelter homes and counsellors. [54]
- 24.57 SAWNET listed various organisations available to women who suffer domestic violence. Delhi based Sakshi helped as violence intervention for women and children with their work on sexual harassment, sexual assault, child sexual abuse and domestic violence, and with a focus on equality education for judges, implementation of the 1997 Supreme Court Sexual Harassment Guidelines, outreach and education. The Women’s Rights Initiative [based in New Delhi] ran a pro bono legal aid cell for domestic violence cases and was associated with law reforms in connection with domestic violence. [25b] (p1-2)
- 24.58 The Self-Employed Women’s Association (SEWA) recorded on its website:
- “SEWA is a trade union registered in 1972. Today it is a national union of poor, self-employed women workers, with members from nine states – Gujarat, Madhya Pradesh, Bihar, Kerala, Uttar Pradesh, Rajasthan, Delhi, West Bengal and Uttarakhand. Our members are women who earn a living through their own labour or small businesses. They do not obtain regular salaried employment with welfare benefits like workers in the organized sector. They are the unprotected labour force of our country. Constituting 93% of the labour force, these are workers of the informal economy. Of the female labour force in India, more than 94% are in this informal or unorganized sector...SEWA’s main goals are to organize workers for full employment and self reliance. Full employment means employment whereby workers obtain work security and social security (at least health care, child care and shelter).” [53]
- 24.59 As reported by Amnesty International in a report on women in Uttar Pradesh and Rajasthan, “The battle against fear and discrimination”, many States have set up Mahila thanas (women’s police stations) to encourage women to register their complaints with the police. However, the majority of these are in large cities, thus denying access to the most marginalised women in rural areas and there are few of them even in large cities. Rajasthan had nine and was planning to establish a further three as at December 2000. [3e] **(Registering a complaint)**
- 24.60 A report issued by the Government of Tamil Nadu in 2003 on Human Development in Tamil Nadu noted that institutional structures including all-women police stations, free legal aid boards, family counselling centres and the State Commission for Women had been established. In addition, several

NGOs were working to prevent atrocities against women. The report further stated "Recognising that the attitude of the police is one of the barriers to institutional redress, the State Commission for Women has initiated gender sensitization of Tamil Nadu Police functionaries and legal literacy programmes for teachers with the support of NGOs." [51a] (p111)

24.61 The USSD Country Report 2006 stated that "The government took a number of steps to assist female crime victims, including telephone help lines, creating short-stay homes, counseling, occupational training, medical aid, and rehabilitation." [2e] (Section 5)

24.62 The Ministry of Home Affairs answer to an unstarred question (no.3005) in the Lok Sabha for 22 March 2005 stated:

"The Government of India has issued guidelines to the State Governments to give more focused attention to improving the administration of criminal justice system and to take such measures as are necessary for prevention of crime against women. The steps taken by Delhi Police to check crime against women and children include:

- Establishment of a Crime Against Women Cell;
- Setting up of Rape Crises Intervention Centres in all the nine Police Districts;
- Association of Women Police Officers in investigation of rape cases;
- Setting up of Special Courts headed by Women judges to try rape cases;
- Networking with Non-Governmental Organisations;
- Deployment of staff in plain clothes at vulnerable places;
- Starting of dedicated telephone helplines;
- Constitution of 'Women Mobil [sic] Team' to attend to distress calls from women on round-the-clock basis;
- Briefing of the police personnel regularly to be more vigilant to prevent crime against children;
- Deployment of Police personnel at schools specially to keep watch on suspicious persons at the time of opening and closing time of schools;
- Advising school authorities in Delhi not to allow the children to go out of the school premises during school hours and to persuade the parents to educate the children not to mix-up/be friendly with strangers and also not to accept any gift or eatable from any unknown person; and
- Collection of intelligence to identify and keep watch on gangs and persons suspected to be involved in committing crime against children." [28b]

24.63 India's National Commission for Women (NCW India), accessed 10 July 2007, noted that it "...regularly extends financial support to NGOs and educational institutions to conduct Legal Awareness Programmes to enable women and girls to know their legal rights and to understand the procedure and method of access to the legal systems. So far 55 Legal Awareness Programmes have been conducted." [49a]

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WOMEN'S HEALTH

Ante and post natal care

24.64 On 16 October 2007, *The Times of India* reported on recent figures released in the latest Maternity Mortality report, published 12 October 2007 and compiled by the World Health Organisation (WHO), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA) and the World Bank. The report revealed that, in 2005, India had the highest maternal mortality rate in the world, accounting for the deaths of 117,000 women during pregnancy or after childbirth. The maternal mortality ration (MMR) for India was 450 deaths per 100,000 live births. *The Times of India* stated "[that] the probability that a girl will die from a complication related to pregnancy and childbirth during her lifetime is 1 in 70, in India." [13a]

24.65 In the same article, *The Times of India* noted that:

"According to an Indian health ministry expert, the recently released NFHS-III [National Family Health Survey] findings could explain why maternal mortality is a cause of such shame for India. 'NFHS-III found that women in India lack quality care during pregnancy and childbirth. Almost one in four women (23%), who gave birth in the last eight years, received no antenatal care, ranging from 1% or less in Kerala and Tamil Nadu to 66% in Bihar. At least 40% of pregnant women did not get any antenatal care in Jharkhand, Arunachal Pradesh and Nagaland,' he said." [13a]

24.66 The same source continued:

"The quality of antenatal care also needs improvement in India. 'Only 65% of women receiving antenatal care received iron and folic acid supplements, and only 23% took the supplements for at least 90 days. Only 4% of expectant mothers took a deworming drug during pregnancy. Failure to take an iron supplement and deworming drugs increases the risk of anaemia, a major problem for mothers and children in India,' an expert said. Home births are still common in India - accounting for almost 60% of recent births. NFHS-III found that 37% of deliveries were assisted by a traditional birth attendant, and 16% were delivered by a relative or other untrained person." [13a]

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Mental health services

24.67 A report issued by the National Commission for Women (NCW), on a national seminar entitled "Mentally ill women – is destitution the only answer?" held on 8 and 9 March 2007, report itself is undated, stated that:

"Homelessness is a crucial issue for women who are suffering from mental illness. It is estimated that of the 10 million affected population about 50,000 to 1 lakh [one lakh is equal to a hundred thousand] are homeless. The city of Delhi has about 3000 mentally ill women who are on the streets and have nowhere to go. Mental health hospitals are in a deplorable condition where

only a meager amount is spent for the care and rehabilitation of the inmates. There is an acute shortage of psychiatrists in the country.” [49b] (p4)

See also section 26.28 [Mental health](#)

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25. CHILDREN

This section should be read in conjunction with [Section 24: Women](#), [Section 26: Trafficking](#) and [Section 30.05: Child IDPs](#)

BASIC INFORMATION

- 25.01 India ratified the UN Convention on the Rights of the Child in December 1992, and also ratified the optional protocols on the involvement of children in armed conflict, and the sale of children, child prostitution and child pornography in November and August 2005 respectively. (Office for the High Commissioner of Human Rights, undated, accessed 10 July 2008) [36]
- 25.02 A Ministry of Women and Child Development (MWCD) report, 'Study on Child Abuse: India 2007', undated, in its foreword noted that "India is home to almost 19 percent of the world's children. More than one third of the country's population, around 440 million, is below 18 years. In a country like India with its multicultural, multi-ethnic and multi-religious population, the problems of socially marginalized and economically backward groups are immense. Within such groups the most vulnerable section is always the children." [24f] (Publications/Reports)
- 25.03 The UNICEF website for India, under children's issues, undated, stated that "In India, children's vulnerabilities and exposure to violations of their protection rights remain [wide]spread and multiple in nature. The manifestations of these violations are various, ranging from child labour, child trafficking, to commercial sexual exploitation and many other forms of violence and abuse." [85a]
- 25.04 The charity Avert stated that "India's age of consent for heterosexual sex is 16 except in Manipur, where it is 14. If the partners are married then a lower age of consent applies (13 in Manipur and 15 elsewhere). A law banning 'carnal intercourse against the law of nature' may be used to prosecute people for having anal or oral sex, though prosecutions are rare." [86] The Indian Elections website stipulated that "the minimum age for registration of a voter is 18 years." [14c] (Electoral Systems; Who can vote) The minimum age for voluntary military service was 16 years old; there was no conscription. (CIA World Factbook, 19 June 2008) [35] The right to education.org website indicated that the minimum school leaving age was 14. The same website stated that the minimum age for criminal responsibility in the country was 7 years old. [48]

LEGISLATION AND GOVERNMENT POLICY ON CHILDREN

- 25.05 In her foreword to the report, 'Study on Child Abuse: India 2007', the secretary of the MWCD, Deepa Singh, stated that

"Independent India has taken large strides in addressing issues like child education, health and development. However, child protection has remained largely unaddressed. There is now a realization that if issues of child abuse and neglect like female foeticide and infanticide, girl child discrimination, child marriage, trafficking of children and so on are not addressed, it will affect the overall progress of the country.

“Realizing this, the Government of India is focusing on child issues and created a new Ministry of Women and Child Development [MWCD]. MWCD has taken significant steps to address the issue of child protection by setting up a National Commission for the Protection of Child Rights, amending the Juvenile Justice (Care and protection of Children) Act 2000 and the Child Marriage Restraint Act 1929, launching the Integrated Child Protection Scheme (ICPS) and the proposed amendments to the [Immoral Trafficking Prevention Act] ITPA and the draft Offences against Children (Prevention) Bill.” [24f] (Publications/Reports)

25.06 The MWCD website lists various pieces of legislation to protect children and policies in place to improve child welfare and protection. [24f] (Child Welfare, Brief on Child Welfare; and Legislation/Acts) A detailed list of all relevant law, policies, actions plans and schemes in place to assist children is also provided in chapter three of the MWCD report, ‘Study on Child Abuse: India 2007’. [24f] (Publications/Reports)

25.07 The USSD Country Report 2007 noted that:

“In August 2006 Parliament passed the Juvenile Justice (Care and Protection of Children) Amendment Bill, which is the primary law for not only the care and protection of children but also for the adjudication and disposition of matters relating to children in conflict with law. In 2005 the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months.” [2c] (Section 5)

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CHILD MARRIAGE

25.08 The USSD Country Report 2007 stated that:

“The 1939 [sic, the Act is in fact dated 1929] child marriage restraint act prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18 and boys at 21. In December 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.

“Despite legal constraints, according to a 2005 Health Ministry report on population and development, half of all women were married by the age of 15. The 2005 NFHS reported that forty-five percent of women (18-24) and 32 percent of men (18-29) marry before the legal age of 18 years and 21 years, respectively. According to another 2005 report from the Office of the Registrar General of India, 240 girls die 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.” [2c] (Section 5)

- 25.09 The Ministry of Women and Child Development (MWCD), accessed 9 January 2008, announced that the Prohibition of Child Marriage Act 2006 came into force on 1 November 2007. [24f] The Human Rights Law Network (HRLN), dated 2007, noted a “flaw in the law” and stated that “Section 3 of the Prohibition of Child Marriage Act, 2006 lays down that a child marriage will be rendered void only if the children or their guardians file legal proceedings. Given the social pressure surrounding such marriages, it is unlikely that any such case will be filed. Child marriages will be void only in cases of ‘compulsion’ and trafficking thereby implicitly acknowledging customary and traditional marriages as valid.” [82]

See also [section 24: Women; Marriage and divorce](#)

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CHILD ABUSE

- 25.10 The MCWD report, Study on Abuse: India 2007, in its preface under major findings, noted that children aged between 5 and 12 years old were most vulnerable. The results from interviews indicated that physical, sexual and emotional was widespread and common. Of the children sampled for the report (over 12,000), two out three had been physically abused, a little over 50% had been subject to some form of sexual abuse and about 50% claimed to have suffered emotional abuse. Over 50% of children worked seven days a week. (Definitions of physical, sexual and emotional abuse are provided in chapter one of the report, pages 2 and 3). [24f] (p. vi and vii)

- 25.11 The same report noted that there was a dearth of accurate information on child abuse, and many incidents went unreported. It further stated that

“While on the one hand girls are being killed even before they are born, on the other hand children who are born and survive suffer from a number of violations. The world's highest number of working children is in India. To add to this, India has the world's largest number of sexually abused children, with a child below 16 years raped every 155th minute, a child below 10 every 13th hour and one in every 10 children sexually abused at any point of time.

“The National Crime Records Bureau (NCRB) reported 14,975 cases of various crimes against children in 2005. Most subtle forms of violence against children such as child marriage, economic exploitation, practices like the 'Devadasi' tradition of dedicating young girls to gods and goddesses, genital mutilation in some parts of the country are often rationalized on grounds of culture and tradition. Physical and psychological punishments take place in the name of disciplining children and are culturally accepted. Forced evictions, displacement due to development projects, war and conflict, communal riots, natural disasters - all of these take their own toll on children. Children also stand worst affected by HIV/AIDS. Even those who have remained within the protective, net stand at the risk of falling out of it.” [24f] (p7-8)

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CHILD LABOUR

- 25.12 In its report, Freedom in the World 2008, India, Freedom House stated “Estimates of the number of child laborers vary widely, from 12 million to 55 million. Many work in the informal sector in hazardous conditions, and some are bonded laborers.” [43a] On the same subject the USSD Country Report 2007 noted that:

“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 2001 census recorded 12.66 million working children between the ages of five and 14, with 90 percent of child workers hailing from rural areas. 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 that the number of child laborers was closer to 60 million.” [2c] (Section 6d)

- 25.13 The USSD report of 2007 also noted “There is no overall minimum age for child labor; however, work by children under 14 is prohibited in factories, mines, roadside eateries, and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for six hours between 8 a.m and 7 p.m, with one day’s rest weekly.” [2c] (Section 6d) However the Freedom House report, Freedom in the World 2008, India, noted that “In October 2006, new legislation banned children younger than 14 from working as domestic servants or at hotels, restaurants, or roadside food stalls.” [43a]

- 25.14 The USSD Country Report 2007 stated that “The country made moderate progress on child labor over the past year. The Ministry of Labour and Employment began public campaigns to raise awareness and prevent child labor, and conducted videoconferences with states to coordinate efforts.” [2c] (Section 6d)

- 25.15 The same report noted that:

“The government assisted working children through the National/Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates a penalty for employers of children in hazardous industries to be [US]\$430 (20,000 rupees) per child employed, and 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 \$108 (5,000 rupees) to the family. According to the South Asian Coalition on Child Servitude, authorities were pursuing over 6,000 cases against employers. 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.” [2c] (Section 6d)

- 25.16 The USSD Country Report 2007 further stated:

“Children often were sent away to work because their parents could not afford to feed them or in order to pay off a debt. Officials claimed that they were unable to stop this practice because the children were working with their parents’ consent. Working conditions often amounted to bonded

labor...Human rights organizations estimated that there were as many as 300,000 children working in the carpet industry. There was evidence that 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, hand-made locks, hand-dipped matches, hand-quarried stones, hand-spun silk thread, hand-loomed silk cloth, hand-made bricks, and 'beedis' (hand-rolled cigarettes)." [2c] (Section 6d)

- 25.17 An Asian Human Rights Commission appeal of 23 June 2008 indicated that "Bonded labour of children continues in Jaunpur of Uttar Pradesh...It is reported that the children are forced out at gunpoint by a local landlord. It is also reported that the landlord before abducting the children used to rape their mothers at gunpoint." [57a]

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EDUCATION

- 25.18 The USSD Country Report 2007 stated that:

"The constitution provides free, compulsory education for children between the ages of six and 14 years of age; however, the government did not enforce this provision. In practice, children in poor and rural areas did not attend school. UNICEF and the National Institute of Educational Planning Administration reported that approximately 60 percent of the 203 million children between the ages of six and 14 were in schools, and net attendance in the primary level was 60 percent of enrolment. The 2005-6 NFHS indicated that girls are almost as likely to attend primary school as boys. Nationwide, 85 percent of boys and 81 percent of girls ages six to 10 attend primary school. By ages 15 to 17, 49 percent of boys and only 34 percent of girls attend school. The government launched programs to increase literacy among girls from marginalized social groups through the National Program for Education of Girls at Elementary Level and the Kasturba Gandhi Balika Vidyalaya." [2c] (Section 5)

- 25.19 The same source noted that "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."
- 25.20 A residential school for HIV-positive children was opened in Karunapuram, enabling children with HIV, who had been denied admission elsewhere, to study, as well as receive medical help and free anti-retro viral (ARV) medicines. (USSD Country Report 2007) [2c] (Section 5)
- 25.21 The USSD Country Report 2007 noted:
- "According to the Central Coordination Committee established under the PDA, approximately 100,000 children with special needs attended approximately 2,500 schools that provided integrated and inclusive education or nonformal education. The Human Resource Development Ministry reported in January 2006 that children with mental disabilities had the lowest rate of school attendance out of any group at 53 percent, followed by the speech disabled at 57.5 percent and the hearing disabled at 68 percent." [2c] (Section 5)

[See also section 24.30 Health Issues](#)

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CHILD CARE

- 25.22 The MWCD report, Study on Abuse: India 2007, undated, observed that there were a number of schemes provided by the Indian government to assist children. These included:

“A Programme for Juvenile Justice for children in need of care and protection and children in conflict with law. The Government of India provides financial assistance to the State Governments/UT Administrations for establishment and maintenance of various homes, salary of staff, food, clothing, etc. for children in need of care and protection and juveniles in conflict with law. Financial assistance is based on proposals submitted by States on a 50-50 cost sharing basis.

“An Integrated Programme for Street Children without homes and family ties. Under the scheme NGOs are supported to run 24 hours drop-in shelters and provide food, clothing, shelter, non-formal education, recreation, counselling, guidance and referral services for children. The other components of the scheme include enrolment in schools, vocational training, occupational placement, mobilizing preventive health services and reducing the incidence of drug and substance abuse, HIV/AIDS etc.

“CHILDLINE Service for children in distress, especially children in need of care and protection so as to provide them medical services, shelter, rescue from abuse, counseling, repatriation and rehabilitation. Under this initiative, a telephone helpline, number 1098, runs in 74 urban and semi-urban centres in the country.

“Shishu Greha Scheme for care and protection of orphans/abandoned/destitute infants or children up to 6 years and promote in-country adoption for rehabilitating them.

“Scheme for Working Children in Need of Care and Protection for children working as domestic workers, at roadside dhabas, mechanic shops, etc. The scheme provides for bridge education and vocational training, medicine, food, recreation and sports equipments.

“Rajiv Gandhi National Creche Scheme for the Children of Working Mothers in the age group of 0-6 years. The scheme provides for comprehensive day-care services including facilities like food, shelter, medical, recreation, etc. to children below 6 years of age.

“Pilot Project to Combat the Trafficking of women and Children for Commercial Sexual Exploitation in Source and Destination Areas for providing care and protection to trafficked and sexually abused women and children. Components of the scheme include networking with law enforcement agencies, rescue operation, temporary shelter for the victims, repatriation to hometown and legal services.

“National Child Labour Project (NCLP) for the rehabilitation of child labour. Under the scheme, Project Societies at the district level are fully funded for

opening up of Special Schools/Rehabilitation Centres for the rehabilitation of child labourers. These Special Schools/Rehabilitation Centers provide non-formal education, vocational training, supplementary nutrition and stipend to children withdrawn from employment.

“INDO-US Child Labour Project (INDUS): The Ministry of Labour, Government of India and the US Department of Labour have initiated a project aimed at eliminating child labour in 10 hazardous sectors across 21 districts in five States namely, Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and NCT of Delhi.” [24f] (Chapter 3, Instruments and Standards for the Protection of Child Rights, page 30)

- 25.23 The USSD Country Report 2007 noted that “ Sponsored by the Childline India Foundation, UNICEF, NGOs, the government and private individuals, a toll-free 24 hour help line for children in distress was available in 72 cities. The ‘Childline’ number could be accessed by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counselling.” [2c] (Section 5)

Orphanages

- 25.24 The majority of orphanages throughout India are run by charities and religious organisations which made it difficult to determine the exact numbers. Orphanage.org, accessed 24 June 2008, listed over 100 orphanages throughout India. [9]
- 25.25 As noted in an article dated 16 December 2007 entitled ‘Inter-Country Adoptions from India’ from Commonwealth Law Bulletin, “...At present there exists no law on adoption of children governing non-Hindus and foreigners. Adoption is permitted by statute among Hindus, and by custom among other communities... At present non-Hindus and foreign nationals can only be guardians of children under the Guardians and Ward Acts 1890. They cannot adopt children.” [87]
- 25.26 BBC News reported on 23 June 2008 that “The Indian authorities have given approval for the establishment of orphanages for children whose parents have died of Aids. The National Aids Control Organisation is to set up 10 homes across India to care for and educate the orphans. A spokesman for the organisation said it was possible to find families willing to take in Aids orphans if they were healthy. But that was not the case if the orphans were HIV positive.” [32u]

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HEALTH ISSUES

- 25.26 It was reported in a BBC News article dated 8 May 2008 that:

“More than half of Indian children do not get the health care they need, according to a report by Save the Children. It ranks India alongside Ghana when it comes to providing basic health care to its children under five years of age...The report, called State of the World’s Mothers, says girls die at much higher rates in India than most countries. Although India has cut its child

mortality rate by 34% since 1990, Indian girls are 61% more likely than boys to die between the ages of one and five. Inequity of health care among male and female children is responsible for the situation, the report says. The report says experts predict that over 60% of the nearly 10 million children who die every year could be saved by delivering basic health services through a health facility or community health worker.” [32v]

25.27 A further BBC News article of 13 May 2008 reported that:

“More than 1.5 million children in India are at risk of becoming malnourished because of rising global food prices, the UN children’s charity, Unicef, says...The region already has the largest number of malnourished children in the world and levels could get even worse. Even before the current crisis almost half of all Indian children showed signs of stunted growth, Unicef says...According to Unicef’s latest State of the World’s Children report, India has the worst indicators of child malnutrition in South Asia: 48% of under fives in India are stunted...Meanwhile 30% of babies in India are born underweight...Unicef calculates that 40% of all underweight babies in the world are Indian.” [32w]

25.28 UNICEF reported on their website under Health, Children’s Issues (accessed on 24 June 2008) that more than two million children die every year from preventable infections...”Children in India continue to lose their life to vaccine-preventable diseases such as measles, which remains the biggest killer. Tetanus in newborns remains a problem in at least five states: Uttar Pradesh, Madhya Pradesh, Rajasthan, West Bengal, and Assam...With only 225 cases of polio reported in 2003, India is well on its way to interrupting transmission and eradicating the disease.” [85b]

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26. TRAFFICKING

- 26.01 The USSD Trafficking in Persons Report for 2008 (USSD Trafficking Report 2008), released 4 June 2008, observed:

“The Government of India does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. India is placed on Tier 2 Watch List for a fifth consecutive year for its failure to provide evidence of increasing efforts to combat trafficking in persons over the last year. Despite the reported extent of the trafficking crisis in India, government authorities made uneven efforts to prosecute traffickers and protect trafficking victims. During the reporting period [June 2007 to June 2008], government authorities continued to rescue victims of trafficking for commercial sexual exploitation and forced child labor and child armed combatants, and began to show progress in law enforcement against these forms of trafficking. Overall, the lack of significant federal government action to address bonded labor, the reported complicity of some law enforcement officials in trafficking and related criminal activity, and the critical need for an effective national-level law enforcement authority impeded India’s ability to effectively combat its trafficking in persons problems.” [2d] (Country narrative. India Tier 2 Watch List)

- 26.02 The USSD Country Report 2007 noted that:

“The ITPA [Immoral Traffic Prevention Act] prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. The law provides for imprisonment for 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... The NCW [National Commission for Women] reported that trafficked women and children were frequently subjected to extortion, beatings, and rape.” [2c] (Section 5)

- 26.03 The same report stated that:

“Although arrests and prosecutions under the ITPA increased, the rate of trafficking convictions remained low, and collection of law enforcement data was difficult...many police officials preferred to use the India Penal Code (IPC) provisions to arrest traffickers, both because they claimed to have more success with getting convictions and because many IPC provisions were not bailable... The Ministry of Women and Child Development (MWCD) improved coordination with its state counterparts and NGOs to deliver counseling, legal aid, medical care, repatriation and restoration services, as well as awareness generation programs such as peer education, rallies, posters, booklets, and street plays...” [2c] (Section 5)

- 26.04 The USSD Trafficking Report 2008 noted:

“Government authorities made no progress in addressing one of India’s largest human trafficking problems - bonded labor – during the year [June 2007 to June 2008], but made some improvements in law enforcement efforts

against sex trafficking and forced child labor.” [2d] (Country narratives. India: Prosecution)

26.05 The USSD Country Report 2007 continued:

“NGOs knowledgeable about the trafficking situation frequently identified traffickers and the location of girls being held captive by brothel owners. However, other NGOs were reluctant to trust police with this information, due to their past conduct in brothel raids and 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.” [2c] (Section 5)

Please also see sections 24: [Women](#) and 25: [Children](#)

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27. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

- 27.01 As indicated in the World Health Organization's (WHO) Project Atlas Country Profile for India, 2005, the proportion of health budget to GDP is 5.1 per cent (WHO, 2000). The life expectancy at birth is 60.1 years for males and 62 years for females. [61a] (p1)
- 27.02 In a letter dated 7 June 2001, the British High Commission in New Delhi outlined the standards of medical facilities in India. In the larger cities, particularly the State capitals, there were hospitals offering care in a wide range of medical specialities. These included: general medicine and surgery, obstetrics and gynaecology, paediatrics, neurology, gastro-enterology, cardiology, cardiothoracic surgery, neurosurgery, dental surgery, dermatology, ENT surgery, endocrinology, renal and liver transplant, orthopaedic surgery, nephrology, nuclear medicine, oncology, ophthalmology, plastic surgery, psychiatry, respiratory medicine, rheumatology and urology. Outside these cities medical care was more variable, but most districts were served by referral hospitals. [7g]
- 27.03 The USSD Country Report 2006 noted "The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas." [2e] (Section 5) However, most care is provided within the private sector. Private health care costs are less than in the UK, but vary according to the type of ward and tests needed. The private hospitals are expected to offer free treatment to a proportion of poor patients, as noted in FCO correspondence dated June 2001. [7g]
- 27.04 The US Department of State, Bureau of Consular Affairs, Consular Information Sheet for India, dated 29 May 2008, with regard to medical facilities noted that, "The quality of medical care in India varies considerably. Medical care is available in the major population centers that approaches and occasionally meets Western standards, but adequate medical care is usually very limited or unavailable in rural areas." [81] (Medical Facilities & Health Information)
- 27.05 In an Immigration and Refugee Board of Canada response, dated 18 January 2006, access to health care depends on income. The source noted that:
- "All health care is privately accessed. One can attend a government hospital for free medical consultation and surgical procedures but the waiting times are long and attention in many places inadequate. In almost every government hospital patients have to pay for the cost of drugs, surgical dressings, and provide food to family members in hospital. As a result, those who can afford it obtain private health care....The primary obstacle to obtaining good health care is lack of income and the remoteness of many rural communities from good hospital facilities. (Specialist on Indian Affairs 23 Nov. 2005)." [4c]
- 27.06 One World.net commented in their In Depth Country Guides, accessed on 1 July 2008:
- "There is immense unevenness in the provision of healthcare across the country. The government is happy to boast of a target of one million overseas 'medical tourists' by 2010 whilst its own public hospitals are scraping for funds

and facilities. Staff vacancies remain unfilled and absenteeism is high, forcing patients to revert to private treatment which they cannot afford. Immunisation programmes are in reverse in some areas and the target date for eradication of polio has been pushed back as far as 2010.” [70]

- 27.07 The FCO advice of June 2001 indicated that there is good availability of medications and many are cheaper than in the UK. Some are imported from abroad but there are many firms now producing drugs under licence in India. The standard of nursing and social care is not as high as in the UK, but with support from family this can be overcome. There are very few medical problems for which suitable care cannot be found in India. [7g]
- 27.08 *The Times* reported in an article of 14 August 2007 discussing medical tourism in India noted “The quality of medical facilities and staff in India is increasingly rated internationally...About 75 per cent of health care facilities in India are now in the private sector and new private hospitals with state of the art equipment have been built in many of the big cities.” [93]
- 27.09 The *New York Times* reported on the medical tourism of a US national in an article of 1 June 2008 who:

“...had flown half way round the world [to Bangalore] last month to save his heart, at a price he could pay. He had a mitral valve repaired at a state-of-the-art private hospital here, called Wockhardt, and for 10 days, he was recuperating in a carpeted, wood-paneled room, with a view of a leafy green courtyard... Where you stand on the Indian social ladder shapes to a large degree what kind of health care you receive...India has a countrywide network of government-funded primary health centers and hospitals, but staffing, medicines and resources vary widely. Some, especially in rural India are notorious for having staff doctors on paper at best. This is only beginning to change. The government has increased health spending in recent years, and this year began a health insurance program that would allow people in poverty access to a hospital of their choice.” [50]

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

- 27.10 UNAIDS, in its 2007 AIDS Epidemic Update for Asia, dated March 2008, reported that new more accurate estimates indicated that approximately 2.5 million people in India were living with HIV in India. Although the proportion of people living with HIV was lower than previously estimated, India’s epidemic continued to be substantial in terms of absolute numbers. [15a]
- 27.11 The National AIDS Control Organisation (NACO) increased the number of centres in New Delhi offering free anti-retroviral treatment (ART) to 91. Tamil Nadu and Maharashtra both had 13 centres, Karnataka had 11, Andhra Pradesh had ten and Kerala had four centres. The number of people receiving ART was 40,000. (*The Hindu*, 29 September 2006) [60a] UNAIDS 2007 AIDS Epidemic Update for Asia noted that 57,000 people received ART at 103 centres by the end of January 2007 in India. [15b] NACO provided a list of Antiretroviral Therapy Centres in states across India, revised 27 June 2008. [41a]

- 27.12 Out of the combined 35 states and Union Territories in India, Andhra Pradesh, Tamil Nadu, Maharashtra and Karnataka in the south, and Manipur and Nagaland in the north, account for nearly 80 per cent of all reported AIDS cases in the country. (UNAIDS, India country profile, accessed 31 May 2007) [15b]
- 27.13 The World Bank noted in their profile for India relating to HIV/AIDS, updated December 2006, that:
- “There are numerous NGOs [Non-Governmental Organisations] and CBOs [Community Based Organisations] working on HIV/AIDS issues in India at the local, state, and national levels. Projects include targeted interventions with high risk groups; direct care of people living with HIV/AIDS; general awareness campaigns; and care for children orphaned by AIDS. Funding for non-government and community-based groups comes from a variety of sources: the federal or state governments of India, international donors, and local contributions.” [65a]
- 27.14 With regard to people living with HIV/AIDS, the USSD Country Report 2007 noted that “... 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.” [2c] (Section 5)

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CANCER TREATMENT

- 27.15 An extract from a 2008 newsletter of the International Network for Cancer Treatment Research, written by the Chief of Department of Medical Oncology at the Tata Memorial Centre in Mumbai, recorded:
- “India faces 2.5 million cases of cancer at any given time. The most commonly encountered cases are those related to tobacco use in men, i.e. cancer in the head and neck region, lung and esophagus. In women, the most common cancers are cervical, breast, oral cavity, esophagus and stomach. Since most of these cancers are related to lifestyle, many are amenable to both primary and secondary prevention. The high cancer toll in developing countries like India is attributed to late detection (70% of all cases). Also, there are very few comprehensive cancer centres with good infrastructure.” [11]

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KIDNEY DIALYSIS

- 27.16 There were at least 179 dialysis centres located throughout India. (Global Dialysis, accessed 20 June 2008) [29]

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MENTAL HEALTH

- 27.17 As noted in the WHO Project Atlas Country Profile for India, 2005, the national mental health programme was reviewed in 1995 by the Central Council, which led to the launch of the District Mental Health Programme: “(it covers 24 districts currently, with plans for expansion to 100 districts in the near future and all districts by 2020).” Pilot projects were undertaken looking at the feasibility of extending mental health services to the community and primary care levels. [61a] (p1-2)
- 27.18 The same report continued “A large, mostly indigenous, pharmaceutical industry ensures that most psychotropic drugs are available often at a fraction of their cost in high-income countries.” [61a] (p1-2)
- 27.19 The same report also noted:
- “The Mental Health Act of 1987 simplified admission and discharge procedures, provided for separate facilities for children and drug abusers and promoted human rights of the mentally ill. In 2002, it was implemented in 25 out of 30 states and Union territories from which information was available. Other acts relevant to the mental health field are: the Juvenile Justice Act, the Persons with Disabilities Act and the Narcotic Drugs and Psychotropic Substances Act (amended in 2001).” [61a] (p1-2)
- 27.20 As indicated in the same WHO source, the Government spends 2.05 per cent of its total health budget on mental health. Financing for health services is provided both by the states and the centre:
- “Government funding for health services are provided both by the states and the centre. Services provided at Government health centres are free. Certain industrial/governmental organizations provide health care schemes for their employees. In the 10th Five Year Plan estimates, mental health constitutes 2.05% of the total plan outlay for health. The country has disability benefits for persons with mental disorders. Details about disability benefits for mental health are not available. Disability benefits have become available recently and in a limited way.
- “Mental health care in primary care is available in 22 districts out of about 600 districts. It will be extended to over 100 districts in the next few years.” Regular training of primary care professionals in the field of mental health is present. Community care facilities in mental health are present. “Mental health facilities in community care [are] available in some designated districts. In addition, various non-governmental organizations provide different types of services ranging from telephone hotlines to residential rehabilitative services.” [61a] (p1-2)
- 27.21 The same report continued:
- “There are 200 mental health workers of other types. One third of mental health beds are in one state (Maharashtra) and several states have no mental hospitals. Some mental hospitals have more than 1,000 beds and several still

have a large proportion of long-stay patients. During the past two decades, many mental hospitals have been reformed through the intervention of the voluntary organizations (e.g. Action Aid India), media, National Human Rights Commission and judiciary (courts), and yet a survey in 2002 showed that about a quarter had shortages in terms of drugs/treatment modalities and three quarters in terms of staff. The current emphasis is on general health psychiatry units that support voluntary admissions and encourage family members to stay with the patient. Some beds are allocated to treatment of drug abuse and for child psychiatry. Very few mental health professionals are based in rural areas. Most states allow public sector psychiatrists to have private clinics... Psychologists do not have prescription privileges, and there is no formal system of licensing clinical psychologists.” [61a] (p2-3)

27.22 The WHO report further stated “NGOs are involved in advocacy, promotion, prevention, treatment and rehabilitation. NGOs are involved in counselling, suicide prevention, training of lay counsellors and provision of rehabilitation programmes through day care, sheltered workshops, halfway homes, hostels for recovering patients and long-term care facilities. Parents and other family members of mentally ill persons have recently come together to form self-help groups.” [61a] (p4-5)

27.23 The USSD Country Report 2007 noted that:

“Hospitals were overcrowded and often served primarily to house persons with disabilities. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with inadequate sanitary conditions. In July 2005 the NHRC determined that insufficient attention was paid to issues of mental illness and called for better enforcement of national laws. At the end of the year, no action was taken on the 2001 NHRC recommendation to remove all persons with mental illness from jails.” [2c] (Section 5)

27.24 In an article in *The Hindu*, dated 23 February 2008, the Union Minister for Health and Family Welfare in Bangalore was quoted:

“The discipline of mental health and neurological sciences faced the toughest challenge of human resources shortage. The shortage level was around 80 per cent for doctors, psychiatric nurses and psychologists. There were many districts which did not even have a mental health professional. There was an urban-rural divide in terms of quality of mental healthcare in the country. The country had about 3,300 qualified psychiatrists of whom nearly 3,000 had settled in the four metros. The Union Government was planning to train general doctors to handle simple mental health disorders to cope with the shortage of mental health specialists.” [60b]

27.25 The WHO Atlas Project 2005 stated that the following therapeutic drugs are generally available at the primary health care level of the country, though not routinely distributed by the government at the primary health care level except for some designated districts where a special programme is operational:

- Carbamazepine
- Phenobarbital
- Phenytoinsodium
- Sodium Valproate

- Amitriptyline
 - Chlorpromazine
 - Diazepam
 - Fluphenazine
 - Haloperidol
 - Lithium
 - Carbidopa
 - Levodopa
- [61a] (p4-5)

See also section 23.106 [Women's Health: Mental health services](#)

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28. HUMANITARIAN ISSUES

28.01 As reported by the BBC in an article dated 22 April 2008:

“In February [2008], the [Indian] government agreed a \$15bn (£7.6bn) scheme to write off the debts of millions of small farmers...Farm activists say debts have been driving many farmers to suicide. At least 10,000 debt-ridden farmers have committed suicide in India each year over the last decade – and activists say hundreds more have done so in recent months, despite the aid package...Drought, a fall in crop prices and an increase in the cost of cultivation are cited as reasons for the farmers’ plight ” [32x]

28.02 A BBC News article dated 5 May 2008 reported:

“The worst-hit states for farmer suicides are Andhra Pradesh, Karnataka, Kerala and Maharashtra...Vidarbha is the area of Maharashtra where the farmer suicide problem is worst...[A government] report says there were more than 600 deaths in the first six months of 2007-2008...The report, prepared by the Comptroller and Auditor General of India, says there have been ‘serious efficiency lapses in the implementation of the relief schemes.’ ” [32y]

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29. FREEDOM OF MOVEMENT

29.01 The USSD Country Report 2007 noted that “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.” [2c] (Section 2d)

29.02 The same source stated:

“Under the Passports Act of 1967, the government may deny a passport to any applicant who ‘may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India.’ In the past, the government used this provision to prohibit the 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.” [2c] (Section 2d)

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30. INTERNALLY DISPLACED PEOPLE (IDPs)

- 30.01 The Internal Displacement Monitoring Centre (IDMC) in April 2008 recorded that:

“At least 600,000 people remained displaced in India following earlier or ongoing conflict and localised violence. In the western state of Gujarat, thousands of Muslim IDPs remained displaced by inter-communal violence which erupted in 2002. The squalid relief camps in which many of the IDPs were living were shut down by the state government in an effort to make them return to their homes, but their return continued to be blocked by the hostility of former neighbours. At the end of 2007, some 19,000 Muslims were living in more than 40 emergency settlements across the state and in ghettos within cities and towns ” [34]

- 30.02 The IDMC 2008 report continued:

“In the central Indian state of Chhattisgarh, up to 50,000 members of tribal groups or Adivasi remained in government-run makeshift camps in the Dantewada and Bijapur districts. While some had initially sought refuge in the camps from the violence between Maoist rebels and pro-government militias, others were forced to move there by the militias and even forcefully prevented from leaving them. In the north-eastern states, the return of over 200,000 people continued to be blocked: for example local authorities denied over 30,000 IDPs from the Bru community in Mizoram the option of return as a Bru armed faction had not given up their armed struggle.” [34]

RELIEF CAMPS

- 30.03 The Internal Displacement Monitoring Centre (IDMC), in its report in April 2008, noted that:

“Displaced women in India continued to face threats to their security. In the north-east, the water tanks and wells in many camps were out of order, and women were forced to walk many kilometres to collect water from streams and ponds, rendering them vulnerable to harassment from the local population. In some areas, the government provided rations, but no firewood, and women also had to venture out of the IDP camps to collect firewood, exposing themselves to further risks.” [34]

- 30.04 The IDMC report continued:

“Living conditions for IDPs in relief camps in India’s Chhattisgarh state continued to be unsatisfactory. Having lost access to agricultural activity, IDPs were largely dependent on government rations and occasional manual labour on government projects under a food-for-work programme. A number of the camp shelters had no adequate roofs, with IDPs using leaves as they could not get any tarpaulin. Conditions for IDPs in camps in the north-east remained similarly desperate. In many cases, they had to do without adequate food rations, resulting in widespread malnutrition. Lack of clean drinking water remained a concern, and many camp residents had to travel miles in search of clean drinking water or collect it from dirty ponds. Health facilities remained non-existent in many cases and diseases such as malaria, jaundice, dysentery

and influenza posed serious threats as existing government dispensaries often lacked basic medicines.” [34]

CHILD IDPs

30.05 The IDMC 2008 report stated:

“IDP children remained without education in many parts of India in 2007. In Gujarat, many Muslim IDPs who returned to their areas of origin stopped sending children to school for fear of violence there, while thousands of tribal children in India’s north-eastern states were forced to abandon their education after being displaced. Children as young as nine years of age were forced to seek work under a food-for-work programme in Chhattisgarh state, and fact-finding missions to the Chhattisgarh relief camps in 2007 noted that a number of children were unaccompanied by their parents, and that some children had been deported to the camps without the consent or the knowledge of their parents.” [34]

See also [section 25: Children](#)

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31. FOREIGN REFUGEES

31.01 India is not a party to the 1951 Refugee Convention or its 1967 Protocol, and has no national refugee legislation. However, India is a member of UNHCR's Executive Committee. Members of the Executive Committee should have a "demonstrated interest in and devotion to the solution of refugee problems". (Human Rights Watch, Last Hope: The Need for Durable Solutions for Bhutanese Refugees in Nepal and India, 17 May 2007, Chapter XII Unregistered Bhutanese Refugees in India) [26d]

31.02 The US Committee for Refugees and Immigrants (USCRI) World Refugee Survey 2008 reported that:

"India treated refugees differently depending on their nationality. It generally granted protection to Tibetans and Sri Lankan Tamils. Tibetans received government authorization closest to a residence permit. Nepalis could enter freely; those with documentation enjoyed most of the rights of Indian citizens under the 1950 Indo-Nepali Peace and Friendship treaty. The Government allowed Afghans who had completed 12 years of residency to apply for citizenship. More than 120 naturalized and another 4,000 expressed interest. [12a]

31.03 The same report also noted that:

"India hosted around 420,000 refugees, including some 110,000 from Tibet who fled since China's 1951 annexation. Another 102,300, mostly Tamil Sri Lankans, escaped fighting between the Liberation Tigers of Tamil Eelam and Sri Lankan armed forces. About 35,000 of them, living in refugee camps in Tami Nadu, were of Indian origin. About 75,000 ethnic Chin from Myanmar lived in the eastern state of Mizoram, fleeing persecution because of their Christian faith and non-Burman ethnicity. Some 50,000 Nepalis fled to India after recurrent violence between Maoist rebels and their Government over the past few years. In September [2007], thousands of lowland Madhesis arrived after the murder of their leader. There were about 36,000 Buddhist ethnic Chakmas and Hajongs from present day Bangladesh who fled to Arunachal Pradesh after Muslim annexation of their land in 1964. More than 31,000 from Afghanistan, mostly Hindus, fled to India during the rise of the Taliban in the 1990s. . About 15,000 Lhotshampa and Sarchop Bhutanese lived in Assam and West Bengal after Bhutan had expelled them following its 1985 census, and many more resided in Nepal. Around 200 Palestinian refugees from Iraq arrived during the year." [12a]

31.04 The USCRI noted in their World Refugee Survey 2006 Country Report for India that "The [Indian] Government allowed some 15,000 ethnic Nepali, Hindu refugees from Bhutan to live freely in West Bengal and Assam but did not grant them permanent status." [12b] Referring to the expulsion of ethnic Nepalese from Bhutan, the USSD Country Report 2006 for Bhutan stated "Approximately 15,000 additional ethnic-Nepalese Bhutanese fled Nepal to India, but UNHCR did not accord them refugee status." [2e]

31.05 The Immigration and Refugee Board of Canada issued a response to a question dated 20 October 2004, which indicated that Afghan citizens who have not registered with the UNHCR remain in India illegally. The same source noted that although India was not a signatory to the 1951 Convention

Relating to the Status of Refugees nor did it have any domestic refugee legislation, between 1980 and 2000, 'Afghan asylum seekers [were] freely admitted to India and allowed to remain in the country once recognized as refugees by UNHCR'. Further, Afghan asylum seekers were given 'annually renewable residence permits'.

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32. CITIZENSHIP AND NATIONALITY

- 32.01 The Government of India, Ministry of Home Affairs website, accessed on 3 July 2008 noted:

“A person born in India on or after 26th January 1950 but before 1st July, 1987 is citizen of India by birth irrespective of the nationality of his parents. A person born in India on or after 1st July, 1987 but before 3rd December, 2004 is considered citizen of India by birth if either of his parents is a citizen of India at the time of his birth. A person born in India on or after 3rd December, 2004 is considered citizen of India by birth if both the parents are citizens of India or one of the parents is a citizen of India and the other is not an illegal migrant at the time of his birth.

“A person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India by birth at the time of his birth. In case the father was a citizen of India by descent only, that person shall not be a citizen of India, unless his birth is registered at an Indian Consulate within one year from the date of birth or with the permission of the Central Government, after the expiry of the said period.

“A person born outside India on or after 10th December 1992 but before 3rd December, 2004, is considered as a citizen of India if either of his parents was a citizen of India by birth at the time of his birth. In case either of the parents was a citizen of India by descent, that person shall not be a citizen of India, unless his birth is registered at an Indian Consulate within one year from the date of birth or with the permission of the Central Government, after the expiry of the said period.” [24h]

- 32.02 The same source indicated that Indian citizenship by naturalisation may be acquired by a foreigner (not illegal migrant) if the person has resided in India for 12 years (continuously for the 12 months preceding the date of application and for 11 years in the aggregate in the 14 years preceding the 12 months). [24h]

- 32.03 As stated on the Ministry of Home Affairs website, accessed on 25 June 2008, with regard to overseas citizenship of India (OCI):

“The Constitution of India does not allow holding Indian citizenship and citizenship of a foreign country simultaneously. Based on the recommendation of the High Level committee on Indian Diaspora, the Government of India decided to grant Overseas Citizenship of India (OCI) commonly known as ‘dual citizenship’. Persons of Indian Origin (PIOs) of certain category as has been specified in the Brochure who migrated from India and acquired citizenship of a foreign country other than Pakistan and Bangladesh, are eligible for grant of OCI as long as their home countries allow dual citizenship in some form or the other under their local laws.

“Persons registered as OCI have not been given any voting rights, election to Lok Sabha/Rajya Sabha/Legislative Assembly/Council, holding Constitutional posts such as President, Vice President, Judge of Supreme Court/High Court etc. Registered OCIs shall be entitled to following benefits:

- (i) Multiple entry, multi-purpose life long visa to visit India;

- (ii) Exemption from reporting to Police authorities for any length of stay in India; and
- (iii) Parity with NRIs in financial, economic and educational fields except in the acquisition of agricultural or plantation properties. Any further benefits to OCIs will be notified by the Ministry of Overseas Indian Affairs (MOIA) under section 7B(1) of the Citizenship Act, 1955.

“A person registered as OCI is eligible to apply for grant of Indian citizenship under section 5(1)(g) of the Citizenship Act, 1955 if he/she is registered as OCI for five years and has been residing in India for one year out of the five years before making the application.” [24b]

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ENTRY/EXIT PROCEDURES

- 32.04 Anyone who tries to enter India without a valid passport, or who enters or attempts to enter India using a forged passport or visa, may face either up to three months imprisonment, a fine, or both. (UNHCR Legal documents – India, Passport (Entry into India) Rules, 1950, accessed 19 June 2007) [6a]
- 32.05 The Advance Passenger Information System (APIS) came into effect in India on 1 October 2005. The rules state that pilots of aircrafts destined for India are required to send passenger information, including name, date of birth, nationality, sex, passport number, country issuing passport, country of permanent residence and visa number, date and place of issue, to immigration authorities in India within 15 minutes of departing for India. This information is then checked by the immigration authorities and shared with other Indian government border control agencies. (Immigration and Refugee Board of Canada, Responses to Information Requests, IND100662.E, 9 January 2006) [4b]
- 32.06 The same source stated that:
- “According to a UNHCR legal officer, Indian nationals who returned after having their asylum applications rejected abroad did not have problems if they returned with valid travel documents, and, if their departure had taken place with valid travel documents. Those who had not complied with Indian laws on departure and return to India might be prosecuted. Refused Indian asylum-seekers who returned to India with temporary travel documents could enter without any problems as such, but if they arrived after their passport had expired then they would be questioned about the reasons for this. These arrivals were questioned briefly and then were able to leave the airport freely (3 Nov. 2005).” [4b]
- 32.07 The IRB of Canada further noted “[that] those suspected of having requested refugee status abroad are often treated with suspicion and likely to be ‘harassed’.” However, the general secretary of an India-based human rights organisation stated “[that] there appears to be no possibility of any harassment against such persons.” [4b]

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33. EMPLOYMENT RIGHTS

- 33.01 The US Department of State (USSD) Report on Human Rights Practices 2007 noted:

“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, canteen, medical facilities, and proper ventilation. There was a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime as mandated by law. These standards generally were enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries or in the vast informal economy, which includes nearly 93 percent of the workforce.” [2c] (Section 6e)

- 33.02 The same USSD report noted “Trade unions have a limited right to strike, and workers exercised this right.” [2c] (Section 6b)

- 33.03 The USSD Country Report 2007 also stated that:

“The law allows unions to conduct their activities without interference and the government protected this right...When parties cannot agree on equitable wages, the government may establish boards of union, management and government representatives to make a determination. .” [2c] (Section 6b)

- 33.04 The same source further noted “[that] In 2004 the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.” [2c] (Section 6b)

- 33.05 The same report stated “The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalised if they discriminated against employees engaged in union activities.” [2c] (Section 6a)

- 33.06 The USSD Country Report 2007 continued:

“The law prohibits discrimination in the workplace, however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to their owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported microcredit programs for women that began to have an impact in many rural districts. In March [2005] the government amended the law to provide flexibility for women to work in factories on the night shift. Women’s organizations welcomed the move but stressed the need to improve security for such women.” [2c] (Section 5)

- 33.07 The same report also noted:

“The law prohibits forced or bonded labor, including by children; however, such practices remained widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to three years in prison (sic), but prosecutions were rare.

Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions 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.” [2c] (Section 6c)

See also [Section 24.11 Child labour](#)

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Annex A Chronology of Major Events

- 1947** End of British rule and partition of sub-continent into mainly Hindu India and Muslim-majority state of Pakistan.
- 1947-48** Hundreds of thousands die in widespread communal bloodshed after partition.
- 1948** Mahatma Gandhi assassinated by Hindu extremist.
- 1948** War with Pakistan over disputed territory of Kashmir.
- 1951-52** Congress Party wins first general elections under leadership of Jawaharlal Nehru.
- 1962** India loses brief border war with China.
- 1964** Death of Prime Minister Jawaharlal Nehru.
- 1965** Second war with Pakistan over Kashmir.
- 1966** Nehru's daughter Indira Gandhi becomes prime minister.
- 1971** Third war with Pakistan over creation of Bangladesh, formerly East Pakistan.
- 1971** Twenty-year treaty of friendship signed with Soviet Union.
- 1974** India explodes first nuclear device in underground test.
- 1975** Indira Gandhi declares state of emergency after being found guilty of electoral malpractice.
- 1975-77** Nearly 1,000 political opponents imprisoned and programme of compulsory birth control introduced.
- 1977** Indira Gandhi's Congress Party loses general elections.
- 1980** Indira Gandhi returns to power heading Congress party splinter group, Congress (Indira).
- 1984** Troops storm Golden Temple - Sikh's most holy shrine - to flush out Sikh militants pressing for self-rule.
- 1984** Indira Gandhi assassinated by Sikh bodyguards, following which her son, Rajiv, takes over.
- 1984** **December** Gas leak at Union Carbide pesticides plant in Bhopal. Thousands are killed immediately, many more subsequently die or are left disabled.
- 1987** India deploys troops for peacekeeping operation in Sri Lanka's ethnic conflict.
- 1989** Falling public support leads to Congress defeat in general election.
- 1990** Indian troops withdrawn from Sri Lanka.

- 1990** Muslim separatist groups begin campaign of violence in Kashmir.
- 1991** Rajiv Gandhi assassinated by suicide bomber sympathetic to Sri Lanka's Tamil Tigers.
- 1991** Economic reform programme begun by Prime Minister PV Narasimha Rao.
- 1992** Hindu extremists demolish mosque in Ayodhya, triggering widespread Hindu-Muslim violence.
- 1996** Congress suffers worst ever electoral defeat as Hindu nationalist BJP emerges as largest single party.
- 1998** BJP forms coalition government under Prime Minister Atal Behari Vajpayee.
- 1998** India carries out nuclear tests, leading to widespread international condemnation.
- 1999** **February** Vajpayee makes historic bus trip to Pakistan to meet Premier Nawaz Sharif and to sign bilateral Lahore peace declaration.
May Tension in Kashmir leads to brief war with Pakistan-backed forces in the icy heights around Kargil in Indian-held Kashmir.
October Cyclone devastates eastern state of Orissa, leaving at least 10,000 dead.
- 2000** **May** India marks the birth of its billionth citizen.
- 2000** US President Bill Clinton makes a groundbreaking visit to improve ties.
- 2001** **January** Massive earthquakes hit the western state of Gujarat, leaving at least 30,000 dead.
April 16 Indian and three Bangladeshi soldiers are killed in border clashes. A high-powered rocket is launched, propelling India into the club of countries able to fire big satellites deep into space.
July Vajpayee meets Pakistani President Pervez Musharraf in the first summit between the two neighbours in more than two years. The meeting ends without a breakthrough or even a joint statement because of differences over Kashmir.
July Vajpayee's BJP party declines his offer to resign over a number of political scandals and the apparent failure of his talks with Pakistani President Musharraf.
September US lifts sanctions which it imposed against India and Pakistan after they staged nuclear tests in 1998. The move is seen as a reward for their support for the US-led anti-terror campaign.
October India fires on Pakistani military posts in the heaviest firing along the dividing line of control in Kashmir for almost a year.
December Suicide squad attacks parliament in New Delhi, killing several police. The five gunmen die in the assault.
December India imposes sanctions against Pakistan, to force it to take action against two Kashmir militant groups blamed for the suicide attack on parliament. Pakistan retaliates with similar sanctions, and bans the groups in January.
December India, Pakistan mass troops on common border amid mounting fears of a looming war.

- 2002** **January** India successfully test-fires a nuclear-capable ballistic missile - the Agni - off its eastern coast.
February Inter-religious bloodshed breaks out after 59 Hindu pilgrims returning from Ayodhya are killed in a train fire in Godhra, Gujarat. More than 1,000 people, mainly Muslims, die in subsequent riots. (Police and officials blamed the fire on a Muslim mob; a 2005 government investigation said it was an accident.)
May Pakistan test-fires three medium-range surface-to-surface Ghauri missiles, which are capable of carrying nuclear warheads. War of words between Indian and Pakistani leaders intensifies. Actual war seems imminent.
June UK, US urge their citizens to leave India and Pakistan, while maintaining diplomatic offensive to avert war.
July Retired scientist and architect of India's missile programme APJ Abdul Kalam is elected president.
- 2003** **August** At least 50 people are killed in two simultaneous bomb blasts in Bombay.
November India matches Pakistan's declaration of a Kashmir ceasefire.
December India, Pakistan agree to resume direct air links and to allow overflights.
- 2004** **January** Groundbreaking meeting held between government and moderate Kashmir separatists.
May Surprise victory for Congress Party in general elections. Manmohan Singh is sworn in as prime minister.
September India, along with Brazil, Germany and Japan, launches an application for a permanent seat on the UN Security Council.
November India begins to withdraw some of its troops from Kashmir.
December Thousands are killed when tidal waves, caused by a powerful undersea earthquake off the Indonesian coast, devastate coastal communities in the south and in the Andaman and Nicobar Islands.
- 2005** **7 April** Bus services, the first in 60 years, operate between Srinagar in Indian-administered Kashmir and Muzaffarabad in Pakistani-administered Kashmir.
July More than 1,000 people are killed in floods and landslides caused by monsoon rains in Mumbai (Bombay) and Maharashtra region.
8 October An earthquake, with its epicentre in Pakistani-administered Kashmir, kills more than 1,000 people in Indian-administered Kashmir.
29 October Bombs kill 62 people in Delhi. A little-known Kashmiri group says it is behind the attacks.
- 2006** **February** India's largest-ever rural jobs scheme is launched, aimed at lifting around 60 million families out of poverty.
March US and India sign a nuclear agreement during a visit by US President George W Bush. The US gives India access to civilian nuclear technology while India agrees to greater scrutiny for its nuclear programme.
7 March 14 people are killed by bomb blasts in the Hindu pilgrimage city of Varanasi.
May Suspected Islamic militants kill 35 Hindus in the worst attacks in Indian-administered Kashmir for several months.
11 July More than 180 people are killed in bomb attacks on rush-hour trains in Mumbai. Investigators blame Islamic militants based in Pakistan.

8 September Explosions outside a mosque in the western town of Malegaon kill at least 31 people.

November Hu Jintao makes the first visit to India by a Chinese president in a decade.

December US President George W Bush approves a controversial law allowing India to buy US nuclear reactors and fuel for the first time in 30 years.

2007 18 February 68 passengers, most of them Pakistanis, are killed by bomb blasts and a blaze on a train travelling from New Delhi to the Pakistani city of Lahore.

February India and Pakistan sign an agreement aimed at reducing the risk of accidental nuclear war.

March Maoist rebels in Chhattisgarh state kill more than 50 policemen in a dawn attack.

April India's first commercial space rocket is launched, carrying an Italian satellite.

May At least nine people are killed in a bomb explosion at the main mosque in Hyderabad. Several others are killed in subsequent rioting.

July India says the number of its people with HIV or AIDS is about half of earlier official tallies. Health ministry figures put the total at between 2 million and 3.1 million cases, compared with previous estimates of more than 5 million.

Pratibha Patil becomes country's first woman to be elected president.

(BBC Timeline, updated 18 June 2008) [32a]

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Annex B Political Organisations

(Sources: [1] [5h] [7f] [32m] [32l] unless otherwise stated)

Akali Dal also termed as Shiromani Akali Dal

A Sikh party, formed in 1920 and demanding an independent Sikh state. This demand has been dropped since the Punjab peace accord of 1985. Formed an alliance with the BJP in 1997, but lost the Punjab state elections in 2002. Strong performance in the 2004 elections, winning 10 out of 13 seats in Punjab. It is a major player in the northern state of Punjab where it is currently in opposition. [32m]

All India Anna Dravida Munnetra Kazhagam (All India Anna Dravidian Progressive Association: AIADMK)

A Tamil Nadu party, with its headquarters in Chennai (Madras). Founded in 1972 as a breakaway group from the DMK. It went into the 1998 national elections in alliance with the BJP and joined the BJP-led Government afterwards. However its withdrawal of support in April 1999 led to the collapse of the Government and another national election. [32m] Leader: Jayaram Jayalalitha has been the Chief Minister since 2001. [7c] Its alliance with the BJP failed to win a single seat in Tamil Nadu in the 2004 national elections. [32m]

All India Forward Bloc

Founded in 1940 by Netaji Subhash Chandra Bose and has socialist aims, including nationalisation of major industries, land reform and redistribution. A minor Marxist-Leninist ally of CPI-M in West Bengal. General Secretary: Debabrata Biswas. (900,000 members) [1]

All India Majlis-e-Ittehadul Muslimen

All India Trinamool Congress

Merged with the Sangma faction of the Nationalist Congress Party in 2004. Leader: Mamata Banerjee. [1]

Asom Gana Parishad (AGP) (Assam People's Council)

Founded 1985. Draws support from the All Assam Gana Sangram Parishad and the All Assam Students' Union. (President: Keshab Mahanta.) Advocates the unity of India in diversity and a united Assam. President: Mr Brindaban Goswami. [1] [7c] The AGP split in 2005. Its Founder is President Prafulla Kumar Mahanta, who was expelled, formed a separate outfit, AGP-Progressive (P). Mr Brindaban Goswami is the President of the original AGP. [7c]

Bahujan Samaj Party (BSP)

Formed in 1980 as the champion of scheduled castes and is strong in Uttar Pradesh, where it briefly formed the Government in alliance with the BJP in 1996. President: Mayawati. The party won 19 seats (5.4% of the vote) in the recent elections. [63]

Bharatiya Janata Party (Indian People's Party) (BJP)

The leading political party of the 24-party National Democratic Alliance (NDA) governing coalition, which has downplayed its Hindutva associations since coming to power in 1998 in order to accommodate secular NDA partners. The BJP was formed in 1980 from the former Bharatiya Jana Sangh, founded in 1951 as the political wing of the extremist Hindu nationalist organisation Rashtriya Swayamsevak Sangh (RSS), responsible for outbreaks of communal violence in which a mosque was destroyed at Ayodhya. The BJP and its allies (NDA) were routed in a surprise defeat in the 2004

elections. The former PM Atal Behari Vajpayee is viewed as the leading moderate while former deputy PM and current BJP parliamentary leader L.K. Advani fronts the hardline faction. [5h] [63]

Biju Janata Dal (BJD)

Made up of almost the entire Janata Dal unit of Orissa, which formed the BJD because of neglect by the Janata Dal national leadership. Main Government party in Orissa. An ally of the BJP. Led by Naveen Patnaik (Chief Minister of Orissa).

Communist Party of India (CPI)

Founded 1925 and advocates the establishment of a socialist society led by the working class, and ultimately of a communist society. Support in West Bengal, Bihar and Kerala. General-Secretary: Ardhendu Bhushan Bardhan. CPI is recognised by the Election Commission of India as a "National Party". On the national level it supports the Indian National Congress-led United Progressive Alliance Government, but without taking part in it. The CPI won 43 seats (5.7% of the vote) in the recent elections. [63]

Communist Party of India - Marxist (CPI-M)

Formed in 1964, as a breakaway faction of the Communist Party of India because of what it describes as the latter's revisionism and sectarianism. In October 2000, the Election Commission demoted CPI-M's status from that of a national party to a State party. CPI(M) took 5.5 per cent of the vote in the last legislative election (May 2004) and it has 43 MPs. It supports the Indian National Congress-led United Progressive Alliance Government but without taking part in it. In West Bengal and Tripura it participates in Left Front. In Kerala the party is part of the Left Democratic Party. In Tamil Nadu it is part of the Progressive Democratic Alliance. General-Secretary: Prakash Karat. The CPI (M) MP Somnath Chatterjee is the speaker of the Lok Sabha (2004). The CPI(M) is the third largest party in the Indian parliament and is a key ally of the country's governing Congress-led coalition. Mr Karat's wife, Brinda, has become the first woman to be elected to the 18-member politburo, the supreme decision-making authority in the party. [32d]

Dravida Munnetra Kazhagam (DMK)

Founded in 1949. Supports greater federalism; resents northern domination. Exclusive to Tamil Nadu and supported primarily by locally dominant scheduled castes. In 1972, a faction of the party broke away to form the AIADMK. Member of the National Democratic Alliance. Led by Muthuvel Karunanidhi (President). The DMK won all the 16 seats it contested in the 2004 elections. [32n]

Indian National Congress (INC)

Party of Indian independence, then of Government for 45 of the following 50 years under Nehru, his daughter Indira Gandhi (Congress I) and grandson Rajiv Gandhi. Had support throughout India, but suffered massive losses in the North and partially in the West in 1998 and lost the confidence of traditional voters such as Muslims and scheduled castes. Sonia Gandhi, widow of Rajiv Gandhi, took over as President of Congress (I) in April 1998. In December 2003, Congress began actively seeking alliance partners. The 2004 national elections ended governance by the BJP and brought in a new left-leaning coalition Government, the United Progressive Alliance, led by Prime Minister Manmohan Singh after Sonia Gandhi declined the post. The INC with its allies won 217 seats (35.8% of the votes) in the parliamentary election. [63]

Indian Union Muslim League

Concerned with the interests of the Muslims of Kerala.

Jammu and Kashmir National Conference (JKNC)

Headquarters in Srinagar. Formerly All Jammu and Kashmir National Conference. Founded 1931, renamed 1939, reactivated 1975. A State-based party campaigning for internal autonomy and responsible self-government. Accepts accession to the Indian Union. President: Omar Abdullah. (1m members) [1]

Jammu & Kashmir Peoples Democratic Party (JKPDP)**Janata Dal (United)**

Formed on the eve of the 1999 Lok Sabha election due to a split in the Janata Dal over whether to ally with the BJP in the National Democratic Alliance. The JD(U) favoured the alliance. Merged with another regional party, the Samata. Strong support base in Bihar. George Fernandes is the main national leader. Sharad Yadav is the President. The party, along with the BJP, defeated Laloo Prasad Yadav's Rashtriya Janata Dal in Bihar in 2005. It suffered a major setback in the elections in 2004 winning only eight seats. [32m] [7c]

Janata Dal (Secular)

A smaller section of the Janata Dal did not agree with an alliance with the BJP and formed the Janata Dal (Secular). Led by former Prime Minister H.D. Deve Gowda.

Jharkhand Mukti Morcha

Aligned with the ruling coalition, the United Progressive Alliance. Led by Shibu Soren [1]

Kerala Congress (M)

Concerned with the interests of the Christians of Kerala.

Lok Jan Shakti Party (LJSP)

Founded in 2000 as a breakaway faction of Janata Dal – United; left wing. President: Ram Vilas Paswan [1]

Marumalarchi Dravida Munnetra Kazhagam**Nationalist Congress Party (NCP)**

Formed in 1999 by Sharad Pawar, a senior Congress leader from Maharashtra, and others expelled from Congress for being unwilling to accept Sonia Gandhi, a non-Indian born citizen, as Congress' candidate for Prime Minister. Formed coalition Government with Congress after State elections in Maharashtra. The NCP won half of the 18 seats it contested in the 2004 elections. [32n] Pawar is a minister in the Congress-led UPA coalition at the Centre. [7c]

Pattali Makkal Katchi

Leader: Dr Anbumani Ramdoss [1]

Rashtriya Janata Dal (RJD) (National People's Party)

Formed in 1997 by a breakaway group of former Janata Dal MPs from Bihar. Supported by the backward Yadav caste and Muslims of Bihar. Led by Laloo Prasad Yadav. Leading an alliance with Congress, the RJD won 19 of the 23 seats it contested in the 2004 elections. The Congress-RJD alliance won 26 of the 40 seats in Bihar. [32n] Its leader Laloo Prasad Yadav is the Union Minister for Railways.

Republican Party of India (RPI)

Founded 1952; by 2003 the group had split into 10 factions; the three main factions were led by Prakash Rao Ambedkar, Ramdas Athavale and R. S. Gavai, respectively. [1]

Revolutionary Socialist Party

Minor Marxist-Leninist party allied with CPI-M, and supported in West Bengal. Leaders: Debarata Bandopadhyay; Abani Roy.

Samajwadi Party (Socialist Party)

Emerged from V.P. Singh's Janata Dal as an aggressive champion of specific backward castes and Muslims. Supports reservations for jobs and education. Support confined to Uttar Pradesh. Led by Mulayam Singh Yadav. Mulayam Singh Yadav is the Chief Minister of Uttar Pradesh. [7c]

Samajwadi Janata Party (SJP)

The one-man party of Chandra Shekhar, a former Prime Minister.

Samata Party

A breakaway from V.P. Singh's Janata Dal. Supported by backward castes mainly in Bihar and also in Uttar Pradesh. It was led by George Fernandes. It has completely merged its identity with the Janata Dal United, which is the ruling party in Bihar. [7c]

Shiromani Akali Dal (SAD)

A moderate Sikh party controlled by the dominant Jat Sikh farming community of Punjab. Supports greater federalism and is a strong ally of the BJP. Main leader is Prakash Singh Badal. (see under Akali Dal for a more detailed account)

Shiv Sena (Shiva's Army)

A member of the NDA and more hard-line than the BJP, Shiv Sena is based in Mumbai (Bombay), the capital of Maharashtra State. [5h] An important ally of the BJP. [32m] Shiv Sena is described as an ultra-nationalistic Hindu party based in Maharashtra state with a powerful presence in Mumbai, headed by one of India's most controversial and militant right-wing leaders, Bal Thackeray:

"Over the years, the party has acquired a reputation of promoting religious and ethnic chauvinism while targeting minorities, especially Muslims. An important ally of the BJP, the western state of Maharashtra remains the Shiv Sena's main support base where it formed its first government in 1995." [32m]

Tamil Maanila Congress (TMC)

TMC returned to Congress in 2002. Broke away from Congress (I) in 1996 in protest against Rao's decision to fight elections with the AIADMK. Policies not otherwise distinct from Congress (I). Confined to Tamil Nadu.

Telangana Rashtra Samithi

Founded in 2001. [1]

Telugu Desam Party (NAIDU)

Founded in 1982 by Telugu film star N.T. Rama Rao, who died in 1996. Based in Andhra Pradesh, and is supported by locally dominant middle castes. Led by N. Chandrababu Naidu, Chief Minister of Andhra Pradesh. His defeat in the 2004 elections has cast him in the political wilderness. Continues to back the BJP at the federal level. [32m]

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Annex C Proscribed Terrorist/Insurgent Groups (by the Government of India)

(Unless otherwise stated, source used South Asia Terrorism Portal (SATP) [44j])

Achik National Volunteer Council (ANVC)

Formed in 1995 with aims to establish a homeland called "Achik Land" comprising of the Garo Hills in Meghalaya and a large area of Kamrup and Goalpara district of Assam. Proscribed in November 2000, the ANVC signed a ceasefire agreement with the Government of India in July 2004. [43d]

Akhil Bharat Nepali Ekta Samaj (ABNES)

Founded in 1979 to work for the unity amongst and welfare of Nepalese people living in India. Gradually became involved in terrorism and acted as a front for the Maoist insurgents of Nepal. Proscribed in July 2002 under the Prevention of Terrorism Act (POTA) 2002. [44e] (Other Extremist groups)

Al Badr

Formed in 1998 to strengthen the "Kashmiri freedom struggle" and "liberate" Jammu and Kashmir. Part of the United Jihad Council (UJC), a coalition of Pakistan-based terrorist groups active in Jammu and Kashmir. Proscribed in April 2002 and also designated a Foreign Terrorist Organisation in the United States. [44f]

All Tripura Tiger Force (ATTF)

Founded as the All Tripura Tribal Force in July 1990 as a small group of tribal extremists in North and South Tripura and emerged as a formidable terrorist outfit in 1991. Banned in April 1997. [44g]

Al Qaeda

Al Qaeda (The Base), formed in 1988 by Osama Bin Laden. Serves as a focal point/umbrella outfit for a global network that includes terrorist cells in an estimated 60 countries. [44h]

Al-Umar-Mujahideen

Founded in 1989 with aims to liberate Jammu and Kashmir through armed struggle. [44f]

Babbar Khalsa International (BKI)

Among the oldest and most organised Khalistan terrorist groups. Formed in 1978 with aims to create an independent Sikh state called Khalistan. [44a]

Communist Party of India-Maoist

The Maoist Communist Centre of India (MCC) and the Communist Party of India (Marxist-Leninist) People's War (also known as the People's War Group or PWG) merged to form a new entity, the Communist Party of India-Maoist (CPI-Maoist) in September 2004.

According to a CPI-Maoist press release...the unity was aimed at furthering the cause of "revolution" in India. The new party also pledged to work in close collaboration with the Communist Party of Nepal (Maoist). As part of its strategy, the CPI-Maoist would fiercely oppose the Central Government run by the Congress and its mainstream communist allies, the Communist Party of India (CPI) and the CPI-Marxist.

[44e] (Left-wing Extremist groups)

Deendar Anjuman

The Deendar Anjuman (the Religious Association) perceives Islam as the only true global religion. The group came into prominence in the aftermath of 13 bomb explosions at various places of worship across the states of Andhra Pradesh, Goa and Karnataka between May and July 2000. [44e] (Other Extremist groups)

Dukhtaran-e-Millat

The all-women outfit, formed in 1987, has claimed that the Kashmir issue is primarily a religious issue and jihad is mandatory. It also supports the accession of the Kashmir valley with Pakistan. [44f]

Hynniewtre National Liberation Council (HNLC)

Formed in 1992 following a split in the Hynniewtre Achik Liberation Council (HALC) with aims to transform Meghalaya as a province exclusively for the Khasi tribe and to fight the presence of "outsiders". Proscribed in November 2000. [43d]

Harkat-ul-Mujahideen (HuM)

Formerly known as Harkat-ul-Ansar, HuM is a Pakistan-based terrorist outfit. [44f]

Hizb-ul-Mujahideen (HM)

One of the largest groups operating in Jammu and Kashmir. Formed in 1989, reportedly as the militant wing of Jamaat-e-Islami (JeL), an Islamist organisation. [44f]

International Sikh Youth Federation

Founded in the UK in 1984. Aims to establish an independent homeland for Sikhs. Currently headed by Lakhbir Singh Rode. [44a]

Jaish-e-Mohammed

Formed in 2000 and held responsible for the December 2001 terrorist attack on the Indian parliament in New Delhi. Banned under POTA in October 2001. Also designated a Foreign Terrorist Organisation by the USA. Part of the Islamist terrorist outfit based in Pakistan and active in Jammu and Kashmir. [44f]

Jamiat-ul-Mujahideen

Breakaway faction of Hizb-ul-Mujahideen and formed in 1990. [44f]

Jammu and Kashmir Islamic Front

This group is no longer active. (MIPT Terrorism Knowledge Base) [69a]

Kanglei Yawol Kanna Lup (KYKL)

Formed in January 1994 with a purported objective to 'rebuild' Manipuri society by clearing it of all vices like immoral activities including drug trade and corruption. The name of the group means 'Organization to Save the Revolutionary Movement in Manipur'." [44i]

Kangleipak Communist Party (KCP)

Formed in 1980 to restore the independence of Manipur. The KCP is concerned with the preservation of Meitei culture and demands secession of Manipur from India. [44i]

Khalistan Commando Force

Lashkar-e-Taiba (LeT)

Meaning “Army of the Pure”. Also known as Jama’at-ud-Da’awa. Based in Lahore, Pakistan. Operates primarily in Jammu and Kashmir but has also carried out attacks across India.

“The LeT’s professed ideology goes beyond merely challenging India’s sovereignty over the State of Jammu and Kashmir. The Lashkar’s ‘agenda’, as outlined in a pamphlet titled Why are we waging jihad includes the restoration of Islamic rule over all parts of India. Further, the outfit seeks to bring about a union of all Muslim majority regions in countries that surround Pakistan. Towards that end, it is active in J&K, Chechnya and other parts of Central Asia.” [44f]

Liberation Tigers of Tamil Eelam (LTTE)

The LTTE aims to create a separate homeland for the Tamils known as the Tamil Eelam (state) in the Northern and Eastern provinces of Sri Lanka. The Tigers control most of the northern and eastern areas of Sri Lanka but have also conducted operations throughout the island. [44e] (Other Extremist groups)

Manipur People’s Liberation Front (MPLF)

See United National Liberation Front (UNLF), People’s Liberation Army (PLA) and People’s Revolutionary Party of Kangleipak (PREPAK) who all now operate from a unified platform known as the Manipur People’s Liberation Front. [44e] (Manipur)

National Democratic Front of Bodoland (NDFB)

Formed in 1986 as the Bodo Security Force (BdSF), the NDFB is currently observing a ceasefire agreement with the Government. [44j]

National Liberation Front of Tripura (NLFT)

Formed in 1989 and outlawed in April 1997. Also proscribed under POTA. Purported aims to establish an independent Tripura through armed struggle. [44g]

People’s Liberation Army (PLA)

Established in 1978 with aims to organise a revolutionary front covering the entire Northeast and unite all ethnic groups, including the Meiteis, Nagas and Kukis, to liberate Manipur. PLA, though a Meiti outfit, claims itself to be a trans-tribal organisation seeking to lead the non-Meiteis as well. [44i]

People’s Revolutionary Party of Kangleipak (PREPAK)

Formed in 1979 and demands the expulsion of “outsiders” from Manipur state. [44i]

Revolutionary People’s Front (RPF)

The RPF is the political wing of the PLA. The group runs a government-in-exile based in Bangladesh. [44i] (People’s Liberation Army)

Students Islamic Movement of India (SIMI)

Islamic fundamentalist group that advocates Islamic revolution in India. [44e] (Other Extremist Groups)

Tamil Nadu Liberation Army (TNLA)

The TNLA became active in the early 1980’s during the period when the Indian Peacekeeping Force (IPKF) was sent to Sri Lanka and pro-Liberation Tigers of Tamil Eelam (LTTE) sentiments were running high among a section of people in the State. Proscribed under POTA in July 2002. Official sources indicated that following proscription, TNLA cadres started operating under a new name, Tamizhar Vidhuthalai Iyakkam. [44e] (Other Extremist Groups)

Tamil National Retrieval Troops (TNRT)

Believed to have been functioning in Tamil Nadu since the late 1980s, fighting for an independent homeland for Tamils in India. [44e] (**Other Extremist Groups**)

United Liberation Front of Assam (ULFA)

Also known as United Liberation Front of Asom. Formed in 1979 with a clearly partitioned political and military wing. Aims to establish a “sovereign socialist Assam” through armed struggle. Most of ULFA’s top leadership reportedly operates from Bangladesh. [44j]

United National Liberation Front (UNLF)

The UNLF was formed in 1964 with aims to achieve independence and a socialist society in Manipur. In 1990, the UNLF launched an armed struggle for the “liberation” of Manipur from India. It also formed an armed wing called the Manipur People’s Army (MPA) in the same year. [44i]

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Annex D Other Organisations/Insurgent/Extremist groups

Rashtriya Swayamsevak Sangh (RSS) (Association of National Volunteers)

A Hindu supremacist umbrella organisation, founded in 1925 by Keshav Baliram Hedgewar. Prime Minister Vajpayee. Most BJP ministers and leading members of the party are RSS members. The RSS was banned between December 1992 and June 1993 for its role in the destruction of the Babri mosque at Ayodhya in 1992. [5h]

All-India Sikh Students Federation (AISSF)

The AISSF was founded in 1944. Its founder President was Sardar Swarup Singh. It was the first body to pass a resolution seeking the formation of a separate Sikh homeland. Its other objectives were to promote and propagate Sikhism amongst the college-going Sikh students. While the AISSF sought a separate Sikh homeland, it did not fight for it until militancy erupted under Bhindranwale in 1981. From then onwards, a number of AISSF members joined the ranks of the militants. [7d] FCO advice in correspondence dated 18 August 2005, noted that to the best of its understanding the AISSF was banned in 1984 and the ban was subsequently lifted in 1985:

“The AISSF has since split into various factions and is believed to be active in various universities in Punjab. The AISSF now operates in the name of Sikh Students Federation (SSF). The ‘All India’ was dropped in 1991. There were originally three factions, now there are two: the main SSF faction and the Bitto factions, the latter led by Mandhir Singh.” [7a]

It is thought that the current president of the SSF is Gurucharan Singh Grewal, and that the organisation is based in Amritsar but now operates from Ludhiana district (address: 1756, Tehsil Road, Jagraon, Ludhiana, Punjab – 142 026). The SSF has a 100-member executive including 50 office bearers. Senior Vice Presidents are: Surendrapal Singh, Kulwant Singh Kamal, Sarabjit Singh and Paramjit Singh. General Secretaries are Major Singh, Shispal Singh and Jaspal Singh. The SSF adheres to the ideology of the Guru Granth Sahib (Religious book of Sikhs) and the principles of the Akal Takht (the highest seat of religious-political power) headed by the Jathedar, the head priest. The SSF works to the Sikh principles but often takes the advice of the Jathedar. [7a]

Bajrang Dal

The youth wing of the Vishwa Hindu Parishad (VHP). Banned between December 1992 and June 1993, Bajrang Dal was originally formed in the 1980s to counter “Sikh terrorism”, but has since then shifted to militant activism against the Muslim and Christian minorities. [5h]

Sangh Parivar (Family of Associations)

The Sangh Parivar is the collective name for the various loosely associated Hindu nationalist organisations. All embraced the concept of Hindutva (“Hindu-ness”), Hindu nationalism, and an ideal of Hindu supremacy in India, often called “saffron power”. The Hindutva project was intended to redress supposed grievances deriving from the contamination of Hindu India by Islam and Christianity, two religions that refused to incorporate the Hindu caste structure. [5h]

Vishwa Hindu Parishad (VHP) (World Council of Hindus)

Led by Ashok Singhal. [5g] Right-wing ally of the BJP, concerned explicitly with religious matters, founded in August 1964. The VHP was banned between December

1992 and June 1995 for its role in the destruction of the Babri mosque in Ayodhya. A wealthy organisation, the VHP is partly funded by donations from Hindu communities abroad, especially the USA. The VHP's militant women's wing is known as Durga Vahini. [5h] Dr Pravin, also spelt Praveen Togadia, is its international General Secretary. [7c]

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Birsa Commando Force (BCF)

Bodo Liberation Tigers (BLT)

Aliases: Bodo Liberation Tiger Force (BLTF); Terrorist Group of Assam. Formed in 1996 and based in Bhutan & India. The last attack was on 24 March 2003. Founded by Prem Singh Brahma to safeguard the interests of the Bodo people living in Assam. The BLT favoured the creation of a 'Bodo State' independent from Assam but under the control and protection of the Indian Constitution. The BLT has agreed to abide by the rule of law. It is thought to be fully disbanded and it is unlikely that the group will re-emerge. [69a]

Borok National Council of Tripura (BNCT)

Communist Party of Nepal-Maoist (CPN-M)

The group maintains bases in India as well as Nepal and enjoys support from many Indian insurgent groups, most notably the United Liberation Front of Assam and the Communist Party of India-Maoist, and was first mentioned in 1996. "The Communist Party of Nepal-Maoist (CPN-M) is one of the largest and most potent Communist insurgent groups in the world. In little over a decade, the CPN-M has been responsible for hundreds of attacks on government and civilian targets." [69a]

Dima Halam Daoga (DHD)

Formed in 1996 with less than 400 members:

"Dima Halam Daoga (DHD) is a terrorist organization that has been operating in the Assam region of northeast India for over 10 years. DHD was founded in 1996 by Jewel Garlossa as an offshoot of Dimasas National Security Force (DNSF) after the organization surrendered in 1995...The group seeks to establish political autonomy for its tribe, the Dimasas, and a separate state, called Dimaraji, exclusively for the tribe...Currently, DHD is observing a ceasefire which was declared on December 23, 2002. However, there are still reports of extortion and armed violence between the DHD and other tribal terrorist organizations of the Karbi tribe, such as the United People's Democratic Solidarity (UPDS), leading the government to claim the group has violated the ceasefire agreement. Members of the DHD continue to remain active in the Cachar, N C Hills, Karbi Anglong and Nagaon districts of Assam, India." [69a]

Islami Inqilabi Mahaz

Alias: Islamic Revolutionary Group. Bases of Operation: India; Kashmir; Pakistan

MIPT noted:

"Islami Inqilabi Mahaz (Islamic Revolutionary Group) is a shadowy group of militants thought to be operating in Pakistan, Kashmir, and India. The group first drew notice in 1997 after claiming responsibility for the killing of four American contractors in

Pakistan. Islami Inqilabi Mahaz then disappeared for a period of years, only to reemerge in October 2005, when they claimed responsibility for a trio of devastating bombings that killed dozens of people in New Delhi, India...At the current time, it is unclear whether Islami Inqilabi Mahaz was actually responsible for the New Delhi market bombings. It is also unknown whether the group is an independent outfit, or operating as a front for LeT or other militant groups.” [69a]

Islamic Defense Force

The group is currently inactive. [69a]

Janashakti

“The Communist Party of India (Marxist-Leninist) Janashakti is a left-wing extremist group operating in India’s southern Andhra Pradesh state. Officially created in July 1992...Janashakti is still active in Andhra Pradesh, but the killing and imprisonment of many of its top leaders, have severely limited the group’s operational capability to wage ‘revolution’. In an extremely telling decision in August 2005, the Andhra Pradesh government re-banned several Maoist groups, but Janashakti was not among them. This is due to the perceived lack of threat from the group.” [69a]

Jihad Committee

“Jihad Committee is an Islamic extremist group in Tamil Nadu, India. The group has been held responsible for several acts of terrorism and communal violence since the early 1990s...Although both the state and federal Indian government have initiated a large crackdown on militant activities in Tamil Nadu, Jihad Committee remains an active organization and a moderate security threat in the region.” [69a]

Karbi Longri North Cachar Hills Resistance Force (KNPR)

“It is estimated that the KLNLF currently has as many as 60 cadres; it is unknown how many of those are members of the armed KNPR. In 2006, KNPR activity has been relatively minimal. The group is suspected in several abductions, but multiple wanted KLNLF cadres have also turned themselves in to the police, showing that group security and morale is likely low. It is estimated that the KLNLF currently has as many as 60 cadres; it is unknown how many of those are members of the armed KNPR. In 2006, KNPR activity has been relatively minimal. The group is suspected in several abductions, but multiple wanted KLNLF cadres have also turned themselves in to the police, showing that group security and morale is likely low.” [69a]

Kuki Liberation Army (KLA)

“The Kuki Liberation Army (KLA) is a small insurgent group in Manipur, India. One of many separatist groups in the region, the KLA claims to be fighting for an independent Kuki state, but it is better known for a series of high-profile kidnappings for ransom money.” It is currently observing a ceasefire and has agreed to pursue peaceful negotiations with the government. The group is not considered a high security threat in the region. [69a]

Kuki Revolutionary Army

“The Kuki Revolutionary Army is a tribal terrorist organization fighting for an autonomous administrative council for the minority Christian Kuki tribe in India. They are located in the Karbi Anglong district of Assam. In October 2005, the KRA and seven other militant groups announced their desire to enter peace talks with the Indian government in hopes to settle the insurgency. Despite this announcement, the KRA continues to conduct armed attacks and remains a security threat in the Karbi Anglong district.” [69a]

Lashkar-e-Jabbar (LeJ)

Alias: The Army of the Omnipotent Almighty based in India; Kashmir.

MIPT notes:

"LeJ continues to attempt to enforce the Islamic dress code in Kashmir. They also issued an edict mandating that men and women be separated on buses..." [69a]

Lashkar-e-Jhangvi (LeJ)

"Aliases: Army of Jhangvi, Lashkar I Jhangvi (LJ) Base of Operation: India; Pakistan"

MIPT notes:

"Lashkar-e-Jhangvi is the militant offshoot of the Sunni sectarian group Sipah-i-Sahaba Pakistan (SSP) (the Army of Mohamed's companions). The breakaway group was formed in 1996 by Akram Lahori, Malik Ishaque, and Riaz Basra, after they accused the SSP of deviating from the ideals of its slain co-founder, Maulana Haq Nawaz Jhangvi. The Sunni-Deobandi group focuses primarily on anti-Shia attacks and was banned by Pakistani President Musharraf in August 2001 as part of an effort to rein in sectarian violence. Many of its members then sought refuge with the Taliban in Afghanistan, with whom they had existing ties." The group is banned in the UK. [69a]

National Socialist Council of Nagaland-Isak-Muivah (NSCN-IM)

"The main goal of the NSCN-IM continues to be an independent greater Nagaland... Formed on April 30, 1988, the National Socialist Council of Nagaland-Isak-Muivah (NSCN-IM) is the largest and most formidable of the ethnic Naga separatist groups in northeastern India... The main goal of the NSCN-IM continues to be an independent greater Nagaland." Despite a ceasefire being in place since 1997, the group is still considered highly active and dangerous. [69a]

National Socialist Council of Nagaland-Khaplang (NSCN-K)

This group is a Naga separatist outfit in northeastern India. "Formed as a splinter group in 1988, the NSCN-K has been responsible for numerous attacks on Indian security forces and other militant groups in the region. The NSCN-K states that its goal is an independent Nagaland state consisting of all ethnic Naga territories with a Socialist government based on Maoist principles." [69a]

People's United Liberation Front (PULF)

An Islamic terrorist group fighting for an independent Islamic state in northeastern India for the region's Muslims, many of them migrants from Bangladesh. [69a]

People's War Group (PWG)

Official name: The Communist Party of India (Marxist Leninist) (Peoples War) CPI-ML (PW). [44e] (Left-wing Extremist groups) Banned guerrilla organisation. Campaigns to establish Communist state in the tribal areas of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh. Peace talks between the PWG and the Government broke down in July 2003 when the Government decided to renew its ban on the group. [43a]

Save Kashmir Movement

Base of operation: India; Kashmir. "The Save Kashmir Movement is a terrorist organization opposed to Indian rule of the disputed province of Kashmir." [69a]

Ukrainian Reactionary Force

No longer active in India. [69a]

United Kuki Liberation Front (UKLF)

"The United Kuki Liberation Front (UKLF) is one of several small insurgent groups that are fighting for an ethnic Kuki state within the Indian state of Manipur. The Kuki are one

of over 30 tribes in Manipur, where they inhabit the hill-country. Ethnic Kukis also inhabit small areas of Bangladesh and Burma. Little is known about the formation of the UKLF, although sources indicate that in the late 1990s they splintered off from a larger Kuki insurgent group, possibly the Kuki National Army (KNA), or the Kuki National Front (KNF).” [69a]

United People’s Democratic Solidarity (UPDS)

“The United People’s Democratic Solidarity (UPDS) is a terrorist organization operating in the Assam region of India. UPDS is a separatist group that aims to create an independent country for the tribal people of Assam’s eastern territory. Specifically, UPDS is comprised of people from the Karbi tribe and advocates for improved rights on behalf of the tribe...It is believed that the anti-negotiation faction renamed itself the Karbi Longri North Cachar Hills Resistance Force (KNPR) in May 2004...The United People’s Democratic Solidarity operates primarily in the eastern area of the Assam region. Compared with the region’s larger terrorist organizations, UPDS is fairly small with just 150 insurgents. Of these 150 insurgents, some are actually engaged in peace talks with the government.” [69a]

Zomi Revolutionary Army (ZRA)

“The ZRA was founded in June 1997 after clashes broke out between Kukis and Paites in India’s Manipur state...The Zomi Revolutionary Army (ZRA) is the armed wing of the Zomi Revolutionary Organization, a nationalist-separatist group dedicated to the protection of the ethnic Paites and the re-unification of all ethnic Zomi peoples in northeast India, Bangladesh, and Burma.” [69a]

al-Faran

Presumed inactive. [69a]

al-Hadid

Non-active since 1994. [69a]

al-Madina

Aliases: al-Madina Regiment, al-Madinah, al-Medina. Bases in India; Kashmir; Pakistan.

“Al-Madina is a little-known Kashmiri militant group responsible for several terrorist attacks in Indian-controlled Kashmir.” [69a]

al-Mansoorain

Base of operation: India; Kashmir; Pakistan. Founded in 2003.

“Al-Mansoorain is a Kashmiri separatist organization conducting attacks on Indian targets within the Kashmir valley. Al-Mansoorain is believed to be one of many fronts for the Pakistan-based Lashkar-e-Taiba (LeT) which have arisen since the U.N. banned LeT. Al-Mansoorain primarily employs suicide-bombing tactics.” [69a]

al-Zulfikar

“Base of Operation: Afghanistan; India; Libya; Pakistan; Syria.

Al-Zulfikar was formed in 1977 by Mir Murtaza Bhutto, the eldest son of former Pakistani Prime Minister Zulfikar Ali Bhutto, who was deposed by a military coup in July and arrested on murder charges in September of that year. Al-Zulfikar’s goal was to overthrow the military regime that ousted Bhutto; the regime was headed by General Zia ul-Haq. Al-Zulfikar was funded by the security agencies of both Afghanistan and India, both of whom were opposed to the Zia regime.” [69a]

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Organisations Proscribed in the United Kingdom under the Terrorism Act 2000

Babbar Khalsa (BK)

BK is a Sikh movement that aims to establish an independent Khalistan within the Punjab region of India. [64]

Harakat Mujahideen (HM)

HM, previously known as Harakat Ul Ansar (HuA), seeks independence for Indian-administered Kashmir. The HM leadership was also a signatory to Osama Bin Laden's 1998 fatwa, which called for worldwide attacks against US and Western interests. [64]

International Sikh Youth Federation (ISYF)

ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India. [64]

Jaish e Mohammed (JeM)

JeM seeks the "liberation" of Kashmir from Indian control as well as the "destruction" of America and India. JeM has a stated objective of unifying the various Kashmiri militant groups. [64]

Lashkar e Tayyaba (LT)

LT seeks independence for Kashmir and the creation of an Islamic state using violent means. [64]

[64] (UK Home Office, Terrorism Act 2000, Proscribed terrorist groups)

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Annex E Prominent People: Past and Present

ADVANI Lal Krishna

Deputy Prime Minister in the Bharatiya Janata Party-led coalition Government which took office in March 1998 and a former President of the BJP, L.K. Advani is credited with scripting the BJP's swift rise as a major political force from its two parliamentary seats in 1984. In 1990, he travelled across the country whipping up support for a campaign to build a Hindu temple on the site of the sixteenth-century Babri mosque in the northern town of Ayodhya. After the shock election defeat of 2004, Advani was elected by the BJP as its new leader in Parliament. He has often been seen as Mr Vajpayee's natural successor if the BJP is returned to power. [32o] Charges against him were revived in 2005 after the UPA came to power. [7c]

CHIDAMBARAM P

Beginning as a congressman, Mr Chidambaram first got elected to Parliament from Tamil Nadu in 1984. He went on to hold the Commerce portfolio in the Congress party Government of P.V. Narasimha Rao. Later on he left Congress on account of differences with the leadership and became Finance Minister in 1996 under the United Front Government. Economists acclaimed his budget for 1996-97, in which he brought discipline in Government spending and launched an ambitious tax reform programme. He lost the elections in 1999, which he contested on behalf of the erstwhile Tamil Maanila Congress party; the latter merged with Congress in 2002. After the election victory of 2004, Chidambaram was appointed India's new Finance Minister. [32p]

GANDHI Sonia

Italian-born widow of former Prime Minister Rajiv Gandhi. She refused to become involved in politics after her husband's assassination but officially took charge of the Congress party in 1998 and was elected to Parliament in the last elections in 1999. She declined the prime ministership following her surprise general election success and was re-elected Party President in May 2005. She is also a Member of Parliament and heads the Congress delegation in the Lok Sabha. [32k] [2a] (Political Conditions)

KALAM Abdul Dr APJ

Sworn in as India's twelfth President in July 2002 [presidency ended July 2007]. A Muslim, an eminent scientist and architect of India's missile programme. [32g]

PATIL Pratibha

Elected India's first woman president in July 2007, favoured by Sonia Gandhi. Previously a low-profile governor of the state of Rajasthan. [32o]

SINGH Dr Manmohan

Manmohan Singh, India's Prime Minister, is widely regarded as the architect of the country's economic reform programme. He is the first Sikh to hold the position. The academic-turned-civil servant, who studied economics at Cambridge and Oxford, became India's Finance Minister in 1991 when the country was plunging into bankruptcy. Under his stewardship, the economy revived and inflation was checked. A trusted confidante of Congress leader Sonia Gandhi, Dr Singh piloted the economic manifesto for the Congress party during this year's election campaign. [32du]

VAJPAYEE Atal Behari

Prime Minister of India (1996, 1998-2004). He was a founding member of the Bharatiya Jana Sangh, the Hindu nationalist precursor of the Bharatiya Janata Party (BJP). When the BJP won the largest number of parliamentary seats in 1996, Vajpayee became

Prime Minister; failing to form a coalition, he resigned 13 days later. After the 1998 elections gave the BJP a greater representation in Parliament, Vajpayee again became Prime Minister; he was returned to office in 1999. Vajpayee has softened some of the more strident nationalist and anti-Muslim rhetoric of other BJP members and has pressed for the continuation of free-market reforms, the eradication of untouchability, and the rights of women. He also advocates the development of India as a nuclear power; several nuclear tests were conducted in 1998. He has written a number of books, including collections of his speeches, a work on Indian foreign policy, and poetry. [63]

YADAV Lalu Prasad

A key ally of Sonia Gandhi. He formed the Rashtriya Janata Dal (RJD) in 1997 after breaking away from the Janata Dal. He is regarded as a formidable force in Bihar which his Rashtriya Janata Dal has governed for many years. He was accused of corruption by his opponents following a corruption scandal that he and the state's bureaucrats and politicians were alleged to be involved in. Following his resignation as Chief Minister he made his wife, Rabi Devi, his successor. She is illiterate and knows little about politics. [32b] The RJD lost the state elections in 2005. [7c]

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Annex F List of Abbreviations

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organization for Migration
IRB	Immigration and Refugee Board of Canada
MSF	Médecins sans Frontières
NGO	Non Governmental Organization
OCHA	Office for the Coordination of Humanitarian Affairs
ODPR	Office for Displaced Persons and Refugees
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
RSF	Reporteurs sans Frontières (Reporters without Borders)
STC	Save The Children
STD	Sexually Transmitted Disease
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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Annex G References to Source Material

The UK Border Agency is not responsible for the content of external websites.

Numbering of source documents is not always consecutive because some older sources have been removed in the course of updating this document.

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