

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	158
Land:	Indien
Kilde:	British Home Office
Titel:	"Country of Origin Information Report"
Udgivet:	31. januar 2008
Optaget på baggrundsmaterialet:	5. februar 2008

COUNTRY OF ORIGIN INFORMATION REPORT

INDIA

31 JANUARY 2008

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Annex G – References to Source Material

Preface

- i This Country of Origin Information Report (COI Report) has been produced by COI Service, Border and Immigration Agency (BIA), 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 31 January 2008. The 'Latest News' section contains further brief information on events and reports accessed from 1 January to 31 January 2008.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any BIA 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 BIA 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. BIA 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 the BIA as below.

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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 BIA's country of origin information material. The APCI welcomes all feedback on the BIA'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 BIA 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 BIA 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 1 JANUARY 2008 TO 31 JANUARY 2008

- 25 January Police in Indian-administered Kashmir say security forces have killed top militant, Bashir Ahmad, also known as Sabha, who was involved in a series of explosions across the country.
BBC News, 'Top militant killed' in Kashmir, 25 January 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7208324.stm
Date accessed 25 January 2008
- 23 January Two bomb blasts in Assam, triggered by suspected militants, wounded eight people, two of whom suffered serious injuries.
The Hindu, 8 injured in Assam blasts, 23 January 2008
<http://www.hindu.com/2008/01/23/stories/2008012355931200.htm>
Date accessed 23 January 2008
- 18 January 13 people were convicted in connection with the murder of 14 Muslims and the gang-rape of three women during the 2002 riots in Gujarat state.
BBC News, Thirteen convicted for India riot, 18 January 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7196017.stm
Date accessed 21 January 2008
- 17 January Following recent attacks on Christians in Orissa, workers from a Hindu organisation reportedly attacked Christian missionaries conducting a health camp in Chattisgarh.
NDTV, Christians attacked in Chattisgarh, 17 January 2008
<http://www.ndtv.com/convergence/ndtv/story.aspx?id=NEWEN20080038784&ch=1/17/2008%203:23:00%20PM>
Date accessed 17 January 2008
- 17 January A United Liberation Front of Assam (ULFA) insurgent has been killed in an encounter with the army in Arunachal Pradesh along the Assam border.
Times of India, ULFA insurgent killed in Arunachal Pradesh encounter, 17 January 2008
http://timesofindia.indiatimes.com/India/ULFA_insurgent_killed_in_Arunachal_Pradesh_encounter/articleshow/2707168.cms
Date accessed 17 January 2008
- 10 January Atrocities against Dalits continue in Uttar Pradesh, despite the election of state chief minister, Mayawati, a Dalit woman.
Times of India, Atrocities against Dalits on rise, 10 January 2008
http://timesofindia.indiatimes.com/Atrocities_against_Dalits_on_rise/articleshow/2688114.cms
Date accessed 10 January 2008
- 9 January Two United Liberation Front of Assam (ULFA) militants surrender to security forces in Assam.
Times of India, Two ULFA militants surrender in Assam, 9 January 2008
http://timesofindia.indiatimes.com/India/Two_ULFA_militants_surrender_in_Assam/articleshow/2686448.cms
Date accessed 9 January 2008

7 January Hundreds of prisoners riot at Jalandhar's main jail in Punjab state. The prisoners were protesting at the alleged high-handedness of staff.
BBC News, Prisoners riot in northern India, 7 January 2008
http://news.bbc.co.uk/1/hi/world/south_asia/7175369.stm
Date accessed 8 January 2008

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REPORTS ON INDIA PUBLISHED OR ACCESSED SINCE 1 JANUARY 2008

Amnesty International USA, India: Urgent need to address large scale human rights abuses during Nandigram "recapture", 15 January 2008

<http://www.amnestyusa.org/document.php?id=ENGASA200012008&lang=e>

Date accessed 21 January 2008

UNICEF 'The State of the World's Children 2008: Child Survival', released 23 January 2008

http://www.unicef.org/publications/files/The_State_of_the_Worlds_Children_2008.pdf

Date accessed 24 January 2008

Asian Centre for Human Rights, India: Stakeholders' Report under the UPR [Universal Periodic Review of the United Nations Human Rights Council due to start April 2008], dated 20 November 2007

http://www.achrweb.org/UN/HRC/UPR-India.html#_Toc183402491

Date accessed 30 January 2008

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Background Information

1. GEOGRAPHY

- 1.01 Europa World Online noted that 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. [1] (**Area and Population**) As stated in the CIA World Factbook, updated 13 December 2007, India's neighbours are Bangladesh, Bhutan, Burma, China, Nepal, and Pakistan. [35] Europa World Online further noted that Pakistan borders India on the north-west, Myanmar (Burma) on the north-east, and Bangladesh to the east. Tibet, Bhutan and Nepal lie to the north. [1] (**Location, Climate, Language, Religion, Flag, Capital**)
- 1.02 As noted in the US State Department's Background Note for India, updated October 2007, 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). [21] BBC timeline for India, updated 3 October 2007, noted that the country marked the birth of its billionth citizen in May 2000. [32a]
- 1.03 As recorded by the Government of India's website, 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. [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) [24e]
- 1.05 As noted in the CIA World Factbook, updated 13 December 2007, the national language is Hindi, and the first language of 30 per cent of the population. The English language has "associate status" but is the most important language for national, political, and commercial communication. [35] As stated in the Foreign & Commonwealth Office (FCO) India Country Profile, updated 17 December 2007:
- "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." [7i]
- (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 13 December 2007, 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) are Hindu, (12 per cent) Muslim, (2.3 per cent), Christian, (1.9 per cent) Sikh. Other religious groups include Buddhist, Jain and Parsi (2.5 per cent). [35]

See Section 20.01 – Ethnic Groups

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MAP

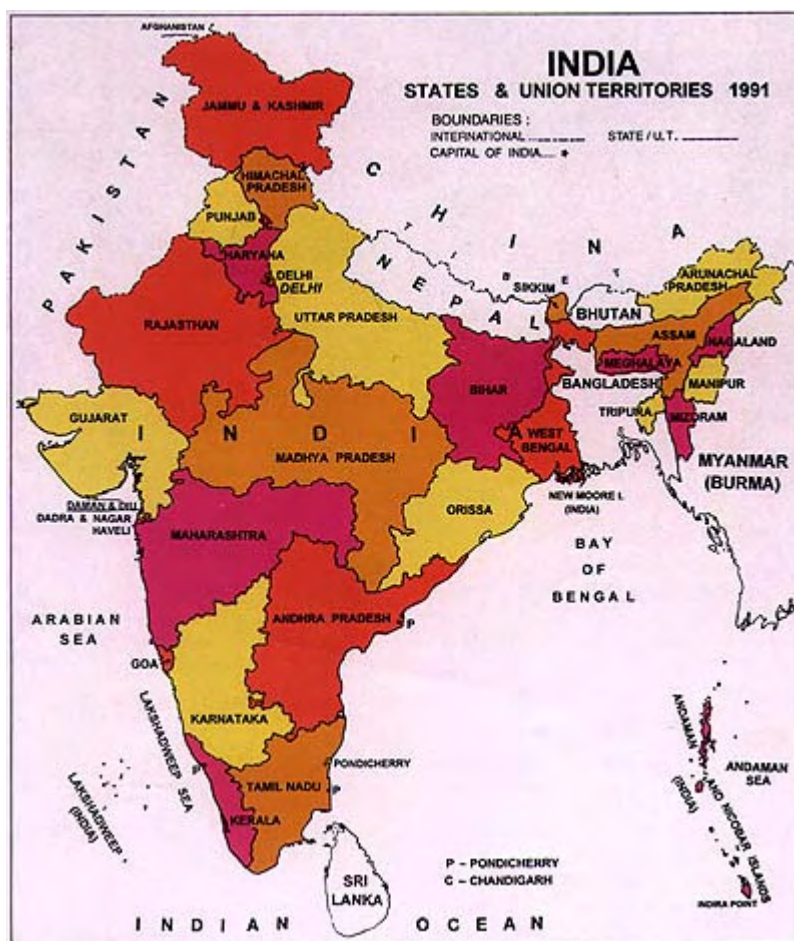
1.07

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 As noted in the US State Department's Background Note for India, reviewed in October 2007:

"It has the world's 12th largest economy – and the third largest in Asia behind Japan and China – with total GDP of around \$1 trillion (\$1,000 billion). Services, industry and agriculture account for 55%, 27% and 18% of GDP respectively. Nearly two-thirds of the population depends on agriculture for its livelihood. 700 million Indians live on \$2 per day or less, but there is a large and growing middle class of 325-350 million with disposable income for consumer goods." [2f] (Economy)

- 2.02 As reported by the same source:

"India is continuing to move forward with market-oriented economic reforms that began in 1991. Recent reforms include liberalized foreign investment and exchange regimes, industrial decontrol, significant reductions in tariffs and other trade barriers, reform and modernization of the financial sector, significant adjustments in government monetary and fiscal policies and safeguarding intellectual property rights...Economic growth is constrained by inadequate infrastructure, a cumbersome bureaucracy, corruption, labor market rigidities, regulatory and foreign investment controls, the 'reservation' of key products for small-scale industries and high (although declining) fiscal deficits...The rapidly growing software sector is boosting service exports and modernizing India's economy." [2f] (Economy)

- 2.03 The Indian government announced its strongest economic growth figures for 20 years - 9.4% in the year up to March 2007. (BBC Timeline, updated 3 October 2007) [32a]
- 2.04 As noted in the CIA World Factbook, updated 13 December 2007, the unemployment rate for 2006 was estimated at 7.8 per cent. [35] Around 350 million people live below the \$1USD poverty line. (DfID, India Country Profile, last updated 2 September 2005) [76] (p3)
- 2.05 XE.com stated that the approximate rate of exchange on 15 August 2007 was £1 = 80.67 Indian rupees. [36]

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3. HISTORY

Tension with Pakistan

- 3.01 The Freedom House Freedom in the World Kashmir (India) 2007 report stated:

“Meaningful progress on a solution to the conflict over Kashmir, which has killed at least 45,000 civilians, soldiers, and militants since 1989, remained elusive throughout 2006. However, the November 2003 reciprocal cease-fire between Indian and Pakistani troops was largely upheld during the year, the two national governments held several rounds of talks, and New Delhi also engaged in discussions with local separatist groups in Indian-administered Kashmir. Although attacks targeting Hindu civilians and other minorities took place on a number of occasions, the overall level of violence fell during 2006, continuing a four-year trend.” [43c]

- 3.02 The same report noted:

“During 2006, peace talks with Pakistan continued but progress on resolving the Kashmir dispute remained incremental. In a token gesture, India reduced troop levels in Kashmir by 3,000 men, although a much more substantive demilitarization has been discussed. Following talks between the Indian government and various separatist factions in May, the Indian prime minister announced the formation of five working groups tasked with discussing various issues related to the conflict, including improving Srinagar–New Delhi relations, improving relations across the LOC [line of control], furthering the state’s economic development, reviewing the cases of detainees, and ensuring good governance. He also reiterated the importance of cracking down on human rights abuses. In a positive development, four by-elections for the state legislature were held in April 2006 with close to a 60 percent turnout, despite militant groups’ calls for a boycott.” [43c]

- 3.03 The same source further noted:

“India issued travel documents to a number of separatist political leaders that allowed them to meet with Pakistan-based Kashmiri separatists in June 2005; at the meeting, APHC [All Parties Hurriyat Conference] spokesperson and leading moderate Mirwaiz Umar Farooq said that the time had come for Kashmiri politicians to take the lead in finding a peaceful solution. The APHC’s commitment to renouncing violence was reiterated in September, when an APHC delegation met with Indian Prime Minister Manmohan Singh. However, the desire of Kashmiris to become more deeply involved in the negotiating process has been hampered by an emerging split within the APHC between hard-liners, who favor a continuation of the insurgency, and moderates, who favor a political solution.” [43c]

- 3.04 As stated in the Economist Intelligence Unit Country Report for India, dated 1 June 2007:

“Resolution of the conflict over the disputed territory of Kashmir appeared likelier in early April [2007], when Mr Singh responded to pressure from Congress’s coalition partner in the Jammu and Kashmir state government for

a reduction in India's military presence in the state. India has around 600,000 military personnel in Jammu and Kashmir, a situation which is deeply resented in the state and is increasingly disproportionate to the declining intensity of the insurgency there.” [16]

- 3.05 As reported by Keesings News Digest April 2005, the first bus service connecting the Indian and Pakistani zones of the divided state of Jammu and Kashmir since 1947 was successfully inaugurated on 7 April 2005. “A bus from Srinagar, the summer capital of Indian controlled Kashmir, took 19 people across the Line of Control (LoC), the de facto border, to Muzaffarabad, capital of Pakistan controlled (Azad) Kashmir, for family reunions... Prime Minister Manmohan Singh on April 13 [2005] opened the first phase of a railway to connect Jammu and Kashmir to the rest of India’s railway network.” [5i]
- 3.06 As reported by BBC news on 5 April 2005, a bomb blast on the route of the bus service in Kashmir, two days before the opening of the service, wounded at least seven people. Shortly after the blast, four Kashmir militant groups renewed their warning not to use the bus service. Militants see the bus service as a climb-down by Pakistan in allowing the service which undermines their campaign against Indian rule, although they insist they are not opposed to divided families reuniting. [32t]
- 3.07 It was reported by BBC News on 2 June 2005, a group of top Kashmiri separatist leaders made a landmark visit as a representative group across the LoC into Pakistani-administered territory, the first time India had allowed Kashmiri separatist leaders to travel from territory it administers to Pakistan. The visit was opposed by hardliners and militant groups. The separatists were set to hold talks with Pakistani officials as well as local Kashmiri representatives. Chairman of the JKLF, Yasin Malik said, “In 1989 I crossed the LoC to bring the gun, today I’m on a peace mission.” [32ad]

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Religious Strife

- 3.08 As recorded in the BBC timeline, updated 3 October 2007, in 1992 Hindu extremists demolished a mosque in Ayodhya, triggering widespread Hindu-Muslim violence and communal riots throughout India. [32a]
- 3.09 As recorded in the US State Department’s Background Note for India, updated October 2007:
- “Hindu nationalists supportive of the BJP agitated to build a temple on a disputed site in Ayodhya, destroying a 17th century mosque there in December 1992, and sparking widespread religious riots in which thousands, mostly Muslims, were killed. In February 2002, 57 Hindu volunteers returning from Ayodhya were burnt alive when their train caught fire. Alleging that the fire was caused by Muslim attackers, anti-Muslim rioters throughout the state killed over 900 people and left 100,000 homeless. This led to accusations that the BJP-led state government had not done enough to contain the riots, or arrest and prosecute the rioters.” [2f] (History)

- 3.10 BBC News reported on 21 May 2004 that the Supreme Court had ordered a retrial of the riot case in which 12 Muslims were burned to death by a Hindu mob in Gujarat in 2002. It ruled that the new trial must take place in neighbouring Maharashtra state and called for a fresh investigation. [32cp]
- 3.11 Nine people were convicted in India's Best Bakery case, which many saw as a landmark judgement. The system was accused of failing Muslims in Gujarat following the rioting. Serious questions were raised about the justice system, where cases had been registered against unnamed persons with few arrests and no mass-scale resignations of senior officials. Initially some 2,000 cases were closed for lack of evidence. As reported by BBC News on 24 February 2006, "The Best Bakery case is only one of more than one thousand that are still to be heard." [32j]

[For more information on the Gujarat riots see section 19.45](#)

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General Elections 2004

- 3.12 As reported by BBC News on 1 March 2004, and CNN on 20 April 2004, early elections were called by Prime Minister Atal Behari Vajpayee and voting held over four days starting on 20 April and ending on 10 May. Ballots were cast on electronic voting machines for the first time with 675 million eligible to vote. [32ay] [33a] The CNN report and a further BBC report of 29 April 2004 announced that India's autonomous election commission had ordered an inquiry into complaints of widespread vote-rigging and other irregularities in Bihar. Violence and ballot box theft required reballoting in some areas. [32dj] [33c]
- 3.13 As recorded in the India Today May 2004 issue, in an unexpected turnaround, the Congress-led front emerged victorious, securing 217 seats with its allies. [11a] (p3-10)
- 3.14 The ruling United Progressive Alliance (UPA) coalition consists of the following constituents:
- India National Congress (INC)
 - Rashtriya Janata Dal (RJD)
 - Dravida Munnetra Kazhagam (DMK)
 - Nationalist Congress Party (NCP)
 - Pattali Makkal Katchi (PMK)
 - Telangana Rashtra Samithi (TRS)
 - Jharkhand Mukti Morcha (JMM)
 - Marumalarchi Dravida Munnetra Kazhagam (MDMK)
 - Lok Jan Shakti Party (LJSP)
 - Indian Union Muslim League (IUML)
 - Jammu & Kashmir Peoples Democratic Party (JKPDP)
 - Republican Party of India
 - All India Majlis-e-Ittehadul Muslimen
 - Kerala Congress
 - Communist Party of India (Marxist) (CPI-M)

- Communist Party of India (CPI)
- Revolutionary Socialist Party (RSP)
- All India Forward Bloc

(The Times of India, 8 July 2006) [13g]

See also Annex B Political Organisations

- 3.15 The BBC reported on 18 May 2004 that Sonia Gandhi, the leader of the Congress Party, had declined the Prime Ministership. [32dl] As reported by BBC Timeline for India, updated 3 October 2007, the May 2004 issue of India Today and the CRS (Congressional Research Service) Report for Congress, Manmohan Singh, a former Finance Minister, was sworn in as Prime Minister on 22 May 2004, becoming India's first-ever non-Hindu Prime Minister. He led a coalition Government, called the United Progressive Alliance (UPA). [32a] [11a] [64] (p2) As cited in the US State Department's Background Note for India, updated October 2007, Party President Sonia Gandhi was re-elected by the Party National Executive in May 2005. [2f] (Political Conditions) A BBC report of 1 June 2004 reported that the BJP, the main opposition party, elected L.K. Advani, the former Deputy Prime Minister, as its new leader. [32dr]
- 3.16 As noted in the CRS Report for Congress, 12 July 2004, Prime Minister Singh has said that development will be a central priority of the UPA (United Progressive Alliance) Government with reforms aimed at reducing poverty and increasing employment. The foreign policy focus will be on India's immediate neighbours. "The UPA has indicated that it will make the 1972 Simla Agreement between India and Pakistan the basis of its relationship with Islamabad even as it will abide by all subsequent accords." The two countries vowed to bolster defence and trade ties, while moving forward to resolve outstanding territorial disputes. [64] (p10)

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State Assembly Elections 2007

- 3.17 The Hindu nationalist Bharatiya Janata Party (BJP) won a key election in Gujarat state, taking 117 out of 182 seats in the Gujarat Legislative Assembly. (BBC News, 23 December 2007) [32dx] The BJP also swept to victory at the Himachal Pradesh elections, winning 41 seats in the 68-member Assembly. (India Today, 28 December 2007) [11b]
- 3.18 Uttar Pradesh, Indian's most populous state, saw the low-caste Bahujan Samaj Party (BSP) take a landslide victory at the assembly elections. (BBC News, 11 May 2007) [32ag] Ending 14 years of coalition rule, BSP leader, Mayawati Kumari, became Chief Minister for the fourth time. (The Hindu, 12 May 2007) [60b] The BSP took 206 out of the 402 seats, leaving the Samajwadi Party (SP), Bharatiya Janata Party (BJP) and Indian National Congress (INC) trailing with 97, 51 and 22 seats respectively. (Indian Elections, accessed 30 May 2007) [14a]
- 3.19 Keesing's Record of World Events, dated March 2007, noted that Prakash Singh Badal, leader of the Shiromani Akali Dal (SAD) party, was sworn in for

his fourth term as chief minister on 2 March 2007, following Punjab's state assembly elections in February 2007. [5c]

- 3.20 Despite falling one short of a majority in February's state assembly elections, Bhuwan Chandra Khanduri of the BJP took his place as chief minister of the northern state of Uttarakhand after winning a vote of confidence on 14 March 2007 with the support of three legislators of the Uttarakhand Kranti Dal (UKD) and three independents. (Keesing's Record of World Events, March 2007) [5c]
- 3.21 The Indian National Congress won 30 seats at Manipur's state assembly elections in February 2007. (Indian Elections, accessed 30 May 2007) [14b] Okram Ibobi Sing was sworn in as chief minister for a second consecutive term on 3 March 2007. (Keesing's Record of World Events, March 2007) [5c]

By-elections

- 3.22 The Guardian reported on 12 May 2006 that Sonia Gandhi won a by-election by more than 400,000 votes in Uttar Pradesh. However Congress lost overall control in Assam and Kerala which fell to a Communist-led bloc. Congress held onto Pondicherry and a Congress ally won in Tamil Nadu. The communists retained their hold in West Bengal for the seventh consecutive time. In excess of 130 million people voted in the polls. [40b]

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4. RECENT DEVELOPMENTS

BOMB BLASTS

- 4.01 On 23 November 2007, a triple bomb attack killed 13 people in India's northern state of Uttar Pradesh. The blasts, which occurred within five minutes of each other and all outside or near local courts, killed nine people in the holy city of Varanasi and four in the city of Faizabad. The third attack was in the state capital, Lucknow. (BBC News, 23 November 2007) [32au]
- 4.02 A bomb blast killed six, and injured at least 30 other people, at a cinema in the town of Ludihana, on 14 October 2007. Punjab. Police suspected a single bomb caused the explosion. (BBC News, 15 October 2007) [32dw] On 11 October 2007, the previous week saw two people killed when an explosion occurred in a Sufi shrine in Ajmer, Rajasthan. Thousands of people had gathered at the Muslim shrine for prayers during Ramadan. (BBC News, 11 October 2007) [32bw]
- 4.03 At least 42 people were killed in a twin bomb attack in Hyderabad on 25 August 2007. The explosions took place minutes apart in an open-air auditorium and at an outdoor restaurant. (BBC News, 26 August 2007) [32ba] The authorities stated that groups in Pakistan and Bangladesh were responsible for the blasts although both these countries denied the accusations. (BBC News, 27 August 2007) [32bp]
- 4.04 An explosion outside the Mecca Masjid, Hyderabad, one of India's biggest mosques, killed at least 14 people during Friday prayers on 18 May 2007. Security around the mosque was increased considerably following the blast. (BBC News, 25 May 2007) [32bi]
- 4.05 At least 67 people were killed and 50 injured on 18 February 2007, when two firebombs went off on the New Delhi-Wagah Samjhauta (Friendship) Express train travelling to Pakistan. Most of the dead were Pakistani citizens. (The Hindu, 20 February 2007) [60f] The attack occurred a day before Pakistani foreign minister, Khurshid Kasuri, was due in Delhi for talks with Indian leaders. The blast was denounced as an act of terrorism aimed at disrupting the India/Pakistan peace process. (BBC News, 19 February 2007) [32dq]
- 4.06 On 29 October 2005 bomb blasts in Delhi killed 62 people; a little-known Kashmiri group claimed responsibility. (BBC Timeline, updated 3 October 2007) [32a]
- 4.07 On 7 March 2006, 14 people were killed by bomb blasts in the city of Varanasi, a Hindu pilgrimage city. (BBC Timeline, updated 3 October 2007) [32a]
- 4.08 On 11 July 2006 eight bombs exploded on the suburban rail network in Mumbai at seven locations killing up to 200 people and wounding 700. Hours earlier suspected Islamic militants killed seven people in a series of grenade attacks in Srinagar. (CBC News In Depth: Kashmir: last updated 13 July 2006) [59] BBC News reported on 30 September 2006, that India accused Pakistan's intelligence agency of being behind the Mumbai train blasts and said they were carried out by Lashkar-e-Toiba. Pakistan rejected the allegation. [32g]

- 4.09 Indian police charged 30 people in connection with the Mumbai bombings, which killed 185 people in July 2006. Anti-terrorism chief, KP Raghuvanshi, said that 13 Indians were charged in court, whilst 15 others, including 11 Pakistanis and four Indians, were accused in absentia. Police said two further suspects were dead. Azam Cheema of Pakistan is alleged to have masterminded the attacks. (BBC News, 30 November 2006) [32bh]

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5. CONSTITUTION

- 5.01 As cited on the Government of India website, accessed on 15 November 2007, 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, 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 As stated by Europa World Online, the Constitution is flexible in character, and a simple process of amendment has been adopted. [1] (**Amendments**)

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6. POLITICAL SYSTEM

- 6.01 As noted in the FCO Country Profile on India, updated 17 December 2007 “The Indian constitution provides a system of parliamentary and cabinet government both at the centre and in the states.” [7i]
- 6.02 As cited in the USSD Country Report 2006:
- “The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The government changed hands following free and fair national parliamentary elections in April and May 2004 in which approximately 675 million citizens participated. The country has a democratic, parliamentary system of government, with representatives elected in multiparty elections. Parliament sits for five years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. Citizens elected state governments at regular intervals, except in states under president’s rule.” [2c] (Section3)
- 6.03 Europa World Online 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 “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 As noted in US State Department Report of 2006 “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 As reflected by Europa World Online “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 As reported in the FCO India Country Profile, updated 17 December 2007:
- “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.” [7i]

6.08 As further noted in the Library of Congress Country Profile 2004:

“From independence (1947) until 1989, the left-of-center Indian National Congress and its factions dominated national politics. In the 1990s, the center-right Bharatiya Janata Party (BJP) and the centrist Janata Dal emerged as influential political parties, although Congress returned to power in May 2004 with Manmohan Singh as prime minister. There are numerous national and state parties. Among the best known and most prominent are: Akali Dal, All-India Anna DMK (AIADMK), Asom Gana Parishad, Bahujan Samaj Party (BSP), Bharatiya Janata Party (BJP), Communist Party of India (CPI), Communist Party of India-Marxist (CPI-M), Dravida Munnetra Kazhagam (DMK), Indian National Congress, Rashtriya Janata Dal (RJD), Samajwadi Party, Samata Party, Shiv Sena, and Telugu Desam.

“Since the late 1960s, minority parties in Parliament have often been majority parties in state legislatures. Since 1989, single political parties have generally failed to win a parliamentary majority. As a result, parliament is often run by coalitions of political parties. It is believed that the emergence of multiparty governments is caused by voters’ frustration with political corruption and the fragmentation of electorate support among the growing number of political parties that represent specific parochial or local interests. Thus, those parties have strong support only in particular states. Furthermore, lower castes and other social groups have become more involved in politics as both voters and politicians...” [87]

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Human Rights

7. INTRODUCTION

7.01 As cited in US State Department (USSD) Country Report of 2006:

“India is a longstanding and stable multiparty, federal, parliamentary democracy with a bicameral parliament... The government generally respected the rights of its citizens; however, numerous serious problems remained. Major problems included extrajudicial killings of persons in custody, disappearances, torture and rape by police and security forces. The lack of accountability permeated the government and security forces, creating an atmosphere in which human rights violations often went unpunished. Although the country has numerous laws protecting human rights, enforcement was lax and convictions were rare. Poor prison conditions, lengthy pretrial detention without charge, and prolonged detentions while undergoing trial remained significant problems. Government officials used special antiterrorism legislation to justify the excessive use of force while combating terrorism and active, violent insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto impunity, although there were investigations into individual abuse cases as well as punishment of some perpetrators by the court system. Corruption was endemic in the government and police forces, and the government made little attempt to combat the problem, except for a few instances highlighted by the media. The government continued to apply restrictions to the travel and activities of visiting experts and scholars. Attacks against religious minorities and the promulgation of antireligious conversion laws were concerns. Social acceptance of caste-based discrimination remained a problem, and for many, validated human rights violations against persons belonging to lower castes. Domestic violence and abuses against women such as dowry-related deaths, honor crimes, female infanticide and feticide, and trafficking in persons remained significant problems. 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, and other forms of violence, including beheadings, kidnapping, and extortion.”
[2c] (Introduction)

7.03 In its 2007 World Report, Human Rights Watch (HRW) echoed the concerns reflected in the USSD 2006 report, and highlighted the impunity of officials and members of the security services as a critical issue. HRW also included 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, updated 17 December 2007:

“...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.” [71]

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8. SECURITY FORCES

POLICE

- 8.01 The 2006 USSD Country Report on Human Rights Practices for India 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. The civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous serious human rights abuses.

“Corruption in the police force was pervasive and acknowledged by many government officials. Officers at all levels acted with relative impunity and were rarely held accountable for illegal actions. When an officer was found guilty of a crime, the most common punishment was transfer to a different position or post. Human rights activists and NGOs reported that bribery was often necessary to receive police services.” [2c] (Section 1d)

- 8.02 Jane’s Sentinel Country Risk Assessment for India stated that individual state police forces were “poorly paid and ill-equipped” and “in general corrupt and inefficient”. The report noted “[that] In many rural areas they [the police] 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 occasions drawn into co-operation with criminal gangs. Petty corruption is rife, and few citizens have any respect for the police.” [58a] (Security and Foreign Forces, Police, 22 January 2007)
- 8.03 The same source noted “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) is tasked with internal security duties and is deployable throughout the country.” [58a] (Security and Foreign Forces, Police, 22 January 2007)

Central Reserve Police Force (CRPF)

- 8.04 Jane’s Sentinel Country Risk Assessment for India noted that the CRPF consisted of 191 battalions totalling approximately 180,000 personnel. The main tasks of the force included:
- Assisting states in maintaining internal security;
 - Election monitoring;
 - Participation in international peacekeeping forces;
 - Rescue and relief operations. [58b] (Security and Foreign Forces, Central Reserve Police Force, 22 January 2007)

- 8.05 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, 22 January 2007)

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Arbitrary Arrest and Detention

- 8.06 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]
- 8.07 An urgent appeal dated 3 March 2006 by the Asian Human Rights Commission stated:
- "The Asian Human Rights Commission (AHRC) has received information from its local partner, the Peoples' Vigilance Committee for Human Rights (PVCHR), regarding human rights violations in Varanasi, India, at the hands of local police officers who act with complete impunity. In this latest incident Santosh Kumar Singh was forcibly and arbitrarily detained and later shot-dead by the police, who have labeled the killing a death by an 'encounter'." [57b]
- 8.08 The USSD 2006 Country Report stated:
- "Custodial deaths remained a serious problem, and authorities often delayed prosecutions. According to data available with the National Crime Records Bureau (NCRB), there were 121 custodial deaths in 2003, 94 in 2004, and 144 in 2005. On December 15, a court convicted three former Delhi police officers for their role in a 1987 custodial death of Mahender Kumar. Retired senior Delhi police officer Rishi Prakash Tyagi was sentenced with the death penalty and KP Singh and sub-inspector Tej Singh were sentenced to one and three years of rigorous imprisonment and a fine of \$566 and \$680 (Rs 25,000 and Rs 30,000) for shielding Tyagi and destroying evidence." (2c) (Section 1a)
- 8.09 It was further noted by the 2006 USSD Country Report that the Home Ministry reported 139 deaths in police custody from January 2005 to July 2006. However, the National Human Rights Commission (NHRC) recorded 1,730 deaths in police custody during the same period.

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Torture

- 8.10 The USSD 2006 Country Report 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)

- 8.11 As reported by the Amnesty International Annual report of 2006 “Politically motivated violence slightly decreased but torture, deaths in custody and ‘disappearances’ continued to be reported. At least 38 people were reported to have died in custody.” [3c]
- 8.12 The Freedom House Freedom in the World 2007 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, particularly minorities and members of the lower castes.” [43b]
- 8.13 The USSD 2006 Country Report further noted:
- “The ACHR alleged that deaths in custody 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 by police in detention facilities 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 officers were subject to prosecution for such offenses, the government often failed to hold them accountable. According to Amnesty International (AI), torture usually took place during criminal investigations and following unlawful and arbitrary arrests.
- “NGOs asserted that custodial torture was common in Tamil Nadu. 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. In some cases, the state government provided compensation for victims. In July the Madras High Court ordered the state government to pay \$6,666 (Rs 294,000) to a woman. The AHRC claimed that local police in Kerala continued to use torture and assault as a means of criminal investigation.
- “On September 23, three police officers arrested Saju, a private bus conductor, allegedly because of a complaint filed by the local telephone company. According to the AHRC, the police demanded a bribe of \$68 (Rs 3,000). Police allegedly abused Saju when he refused to pay the bribe. Saju died while in police custody.” [2c] (Section 1c)

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Extra-Judicial Killings

- 8.14 As stated in the USSD 2006 Country Report:
- “Government forces continued arbitrary and unlawful deprivation of life of those in their custody. Police and prison officers also committed extrajudicial killings of suspected insurgents and suspected criminals by staging encounter killings. . .

“There were no widely accepted data on the magnitude of extrajudicial killings in Jammu and Kashmir, as estimates or reports depended on the political orientation of the source. However, according to Asia Centre for Human Rights (ACHR), only a minuscule percentage of encounter killings resulted in a trial or conviction. Some trials of security forces for alleged staged encounters in Jammu and Kashmir and Punjab have lingered for over a decade.” [2c] (Section 1a)

- 8.15 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) [32u]

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ARMED FORCES

- 8.16 As reflected in the US Background Note for India, updated October 2007 “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.” [2f] (Defence)
- 8.17 As cited in the CIA World Factbook, updated 13 December 2007, 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]
- 8.18 The US Background Note for India, updated October 2007, noted “The Indian Army numbers over 1.1 million strong and fields 34 divisions. Its primary task is to safeguard the territorial integrity of the country against external threats. The Army has been heavily committed in the recent past to counterterrorism operations in Jammu and Kashmir, as well as in the Northeast.” [2f] (Defense)

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Arbitrary Arrest and Detention

- 8.19 The Freedom House Freedom in the World Kashmir (India) 2007 report stated:

“[that] the government frequently disregards judicial orders quashing detentions, and security forces refuse to obey court orders. Many judicial abuses are facilitated by the 1978 Public Safety Act and other broadly drawn laws that allow authorities to detain people for up to two years without charge or trial. Although detentions under the security laws are nonrenewable,

authorities frequently re-arrest suspects and impose new detentions; sources estimate that several hundred people are held in preventative detention under such legislation at any given time.” [43c]

8.20 The same report continued:

“In a positive step, the draconian 2002 Prevention of Terrorism Act was repealed by the new Indian government in September 2004. However, 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 homes or buildings believed to house militants or arms. Moreover, the Special Powers Act requires New Delhi to approve any prosecution of Indian forces. Impunity is the norm, and efforts to bring soldiers to justice have been rare, but disciplinary action is occasionally meted out to members of the police and security forces, and in a few cases criminal charges have been filed. In April 2006, the national Central Bureau of Investigation indicted five army officers for the March 2000 extrajudicial killing of five villagers at Pathribal. While the state human rights commission (HRC) examines some complaints (it has received hundreds since its inception, mostly regarding prisoner release, custodial deaths, and alleged harassment by security forces), it is hampered by inadequate resources and infrastructure. In addition, it cannot directly investigate abuses by the army or other federal security forces, or take action against those found to have committed violations. In August 2006, the chairperson of the HRC resigned, citing concern that the state government was not sufficiently serious about human rights issues.” [43c]

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Torture

8.21 As reported in the USSD 2006 Country Report:

“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. . . Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, numerous persons continued to be held by military and paramilitary forces. Human rights activists feared that many of these unacknowledged prisoners were subjected to torture and that some may have been killed extrajudicially.” [2c] (Section 1a)

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Extra-Judicial Killings

8.22 As reported in the USSD Country Report for 2006 “Security forces often staged encounter killings to cover up the deaths of captured non-Kashmiri insurgents and terrorists from Pakistan or other countries, sometimes after torturing them. Circumstances around allegedly faked encounter killings were often in dispute. On May 18 [2006], the Defense Ministry reported that it was aware of two fake encounter killings that occurred in 2003, and it court

martialled the officers involved.” [2c] (Section 1a) However, in their September 2006 report “Everyone lives in Fear” Patterns of Impunity in Jammu and Kashmir, Human Rights Watch could find no cases of a public prosecution leading to a conviction of soldiers, paramilitaries or police alleged to be responsible for fake encounter killings in Jammu and Kashmir. [26d] (p63) The USSD 2006 Country Report stated “Human rights groups accused security forces of targeting suspected terrorists, insurgents and their suspected supporters.” [2c] (Section 1a)

8.23 The USSD 2006 Country Report further noted:

“According to an NGO in Kashmir, security forces were responsible for seven extrajudicial killings in Jammu and Kashmir during the year. According to the Public Commission on Human Rights, it ordered 73 inquiries since the new Jammu and Kashmir government was elected in 2002, but by the year's end, it had only received information on six cases.

“In January, members of the Rashtriya Rifles (RR) and the Special Operations Group (SOG) allegedly killed three persons in Shopian District of Kashmir and buried them without a proper investigation. Authorities ordered an inquiry but at year's end had not conducted an investigation.

“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. . .

“In January police ordered an inquiry and charged two RR soldiers for torturing and killing a Kashmiri, Fayaz Ahmad Bhat. On January 16, RR troopers picked up Bhat and Abdul Majid Parray in Baramulla District. Parray died as a result of torture the same day. Bhat's relatives later told the media that the army had tried to rearrest Bhat while he was recovering in a Srinagar hospital, apparently wanting him to change his statement. Army officers claimed that they wanted to move Bhat to an army hospital. Bhat later died in an encounter with the RR.” [2c] (Section 1a)

8.24 The Freedom House Freedom in the World Kashmir (India) 2007 report stated:

“Approximately 600,000 Indian security personnel based in Kashmir, including soldiers, federal paramilitary troops, and the police, 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.” [43c]

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OTHER GOVERNMENT FORCES

Paramilitary Forces

8.25 The USSD Country Report for 2006 noted that:

“Counterterrorists were former separatist guerillas who surrendered but who were permitted by the Jammu and Kashmir government to retain their weapons and paramilitary structure and were inducted into police auxiliary units. Government agencies funded, exchanged intelligence with, and directed the operations of counterterrorists as part of the counterinsurgency effort. During the year killings and abductions of suspected pro-government counterterrorists continued to be a significant problem in Jammu and Kashmir, although the number of such instances declined substantially from the 1990s.” [2c] (Section 1a)

8.26 The same report stated:

“According to human rights activists and journalists, during the year a few Naxalites (Maoist guerillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) 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)

8.27 The Amnesty International Human Rights Report for 2006 stated “In July, four juveniles aged between 11 and 15 were shot dead by paramilitary Rashtriya Rifles in Kupwara district. Local people said that the boys had participated in a marriage party and gone for a stroll but ran away when ordered to stop. They said that the army had been informed of possible movements of people attending the party late at night.” [3c]

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AVENUES OF COMPLAINT

8.28 The National Human Rights Commission was set up by the Government of India under the the Protection of Human Rights Act 1993 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 15 October 2006) [47b]

8.29 Forms for filing a complaint, along with guidelines, are available on the National Human Rights Website, and require the complainant's details, incident and victims details. Complaints should be made in writing in English or Hindi and can be posted, faxed or e-mailed. The jurisdiction of the Commission is limited to complaints made within one year of receipt by the Commission. (National Human Rights Commission, Government of India Website, accessed 15 October 2006) [47a]

8.30 The USSD 2006 Country Report stated that:

"The main domestic human rights organization was the government-appointed NHRC [National Human Rights Commission], which acted independently of the government, often voicing strong criticism of government institutions and actions. However, some human rights groups claimed the NHRC was hampered by numerous institutional and legal weaknesses, including statutory regulations and operational inefficiencies. The NHRC did not have the statutory power to investigate allegations and could only request that a state government submit a report. State governments often ignored these requests and governments rarely carried out NHRC recommendations. 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 was able to investigate cases against the military; however, it could only recommend compensation for victims of abuse, and its recommendations were not binding. Many states had their own human rights commissions, and the NHRC only has jurisdiction if a state commission fails to investigate. 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)

8.31 The same report continued:

"The 1993 Protection of Human Rights Act (PHRA) recommended that each state establish a human rights commission. As of October only 14 of the 28 had state human rights commissions. The Jammu and Kashmir state legislature established a state human rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces." [2c] (Section 4)

8.32 Amnesty International's 2007 report stated that 11 of the 28 states had still to set up state level human rights commissions and that five of those in operation had no chairpersons. The report also noted "There were concerns that amendments to the Protection of Human Rights Act, 1993, would weaken the operating framework of the NHRC which already had no mandate to

investigate abuses by armed forces and complaints more than a year old.” [3a]
(Other issues)

See also section 17.01 Human Rights Institutions, Organisations and Activists

- 8.33 As cited in a Human Rights Watch letter to the EU dated 8 November 2004, with regard to monitoring mechanisms, HRW identified the NHRC as having emerged as one of the best such institutions and as a powerful means of protecting human rights. “However its capacity is limited because it is only allowed funding through government and is severely short-staffed. In addition, the Commission is not allowed to investigate abuses committed by the armed forces.” [26g] (p2)
- 8.34 As cited by the USSD Country Report of 2006 “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.” [2c] (Section 4)
- 8.35 As noted on the National Human Rights Commission website, accessed 28 September 2007, State Human Rights Commissions exist 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]

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9. MILITARY SERVICE

- 9.01 As recorded in the Child Soldiers Global Report 2004 “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.” [89]
- 9.02 Information provided by the Indian Government indicated that:
- “Persons who are recruited at the age of 16 years undergo basic military training for up to two and a half years from the date of enrolment and are then inducted into regular service.” In its report to the Committee on the Rights of the Child, India claimed that “children are not inducted into the armed forces and hence do not take a direct part in hostilities.” During the 1998 session of the UN Working Group negotiating the Optional Protocol, the representative of India reported that: “discussion was going on within the Government about the possibility of raising the age limit for voluntary recruitment from 16...”
- 9.03 As noted in War Resisters International 1998, there is no known legal provision for conscientious objection. [21]

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10. ABUSES BY NON-GOVERNMENT ARMED FORCES

10.01 As cited in the Indian Ministry of Home Affairs website [undated], 34 banned organisations, declared as terrorist, were listed under the Unlawful Activities (Prevention) Act, 1967. These were:

- United Liberation Front of Assam (ULFA)
- National Democratic Front of Bodoland (NDFB)
- People's Liberation Army (PLA)
- United National Liberation Front (UNLF)
- People's Revolutionary party of Kangleipak (PREPAK)
- Kangleipak Communist Party (KCP)
- Kanglei Yaol Kanba Lup (KYKL)
- Manipur People's Liberation Front (MPLF)
- Revolutionary People's Front (RPF) in Manipur
- All Tripura Tiger Force (ATTF)
- National Liberation Front of Tripura (NLFT) in Tripura
- Hynniewtre National Liberation Council (HNLC)
- Achik National Volunteer Council (ANVC) in Meghalaya
- Babbar Khalsa International
- Khalistan Commando Force
- International Sikh Youth Federation
- Lashkar-E-Taiba/Pasban-E-Ahle Hadis
- Jaish-E-Mohammed/Tahrir-E-Furqan.
- Harkat-UI-Mujahideen/Harkar-UI-Ansar/Karkat-UI-Jehad-E-Islami
- Hizb-UI-Mujahideen/Hizb-UI-Mujahideen Pir Panjal Regiment
- Al-Umar-Mujahideen
- Jammu And Kashmir Islamic Front
- Liberation Tigers of Tamil Eelam (LTTE)
- Students Islamic Movement Of India
- Deendar Anjuman
- Communist Party of India (Marxist-Leninist)-People's War, All Its Formations and Front Organisations
- Maoist Communist Centre (MCC), All Its Formations and Front Organisations
- Al Badr
- Jamiat-UI-Mujahidden
- Al-Qaida
- Dukhtaran-E-Millat (DEM)
- Tamil Nadu Liberation Army (TNLA)
- Tamil National Retrieval Troops (TNRT)
- Akhil Bharat Nepali Ekta Samaj (ABNES) [39a]

For further information please see [Section 17.01: Human rights institutions, organisations, activists and Annex B Political Organisations](#)

10.02 The 2006 USSD Country Report 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 1a)

10.03 Amnesty International, in its annual report of 2006, noted that “There were reports of abuses – including torture, attacks and killings of civilians – by armed groups in a number of states in the north-east as well as Andhra Pradesh, Bihar, Jharkhand, and West Bengal.” [3c] (**Abuses by Opposition Groups**)

10.04 As reported by MIPT Terrorism Knowledge Base in its 2006 Patterns of Global Terrorism India: 2006 Overview:

“The most prominent terrorist groups were violent extremists operating in Jammu and Kashmir; Maoists operating in the ‘Naxalite belt’ in eastern, southern and central India; and ethno-linguistic nationalists in India’s northeastern states. The federal and state governments tried various strategies to address some of these grievances within the context of Indian democracy, but the government was firm: groups must cease violence before negotiations can begin, and the government will not entertain territorial concessions.

“India alleged, based on numerous arrests and several major attacks, that UN designated Foreign Terrorist Organizations (FTOs) began a campaign in the Indian heartland to gain support from India’s minority Muslim population for terrorist attacks. The Indian government blamed two prominent Pakistani-based FTOs, Lashkar-e-Taiba (LT) and Jaish-e-Mohammad (JEM), for several attacks in major Indian cities.” [77b]

See also section 15.13 Naxalites

10.05 The banned People’s War Group, as noted in a BBC report of 23 June 2004, is an armed peasant movement active in a number of states that advocates revolution in the countryside. The rebels have been fighting for 20 years for a communist state and have been accused of targeting wealthy landlords. [32db]

See also Section 15.13 Naxalites

10.06 BBC News reported on 23 August 2006 that the Indian Government extended its suspension of military operations against separatist rebels in Assam by 15 days in a hope to help peace talks between officials and negotiators acting for Ulfa who called for a suspension in military action prior to any talks with Delhi. [32k]

10.07 A BBC News report dated 30 July 2004 noted that the Indian government and Naga rebels in the north-east of the country had extended their cease-fire by another year until 31 July 2005. The Naga insurgency is five decades old and talks have continued since 1997. The agreement was reached with the main faction of the National Socialist Council of Nagaland (NSCN). [32cz]

See also section 15.08 Opposition Groups and Political Activists

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TORTURE

10.08 The Amnesty International Human Rights Report for 2006 stated:

“There were reports of abuses – including torture, attacks and killings of civilians – by armed groups in Jammu and Kashmir, the north-east and several central and eastern states where left-wing armed groups were becoming increasingly active. In November, during elections in Bihar, Maoists (naxalites) attacked the Jehanabad prison. More than 340 prisoners, including key Maoist leaders, were freed. Eight prisoners belonging to a private army of dominant landed castes, Ranvir Sena, were killed and 20 others kidnapped.” [3c]

10.09 The 2006 USSD Country Report noted “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 Naxalite belt in the eastern part of the country.” [2c] (Section 1a)

10.10 As reported by Freedom House in the India Annual Report 2006 “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, sporadically attack security forces and engage in intertribal violence. The rebel groups have also been implicated in numerous bombings, killings, abductions, and rapes of civilians.” [43b]

10.11 The Freedom House Freedom in the World Kashmir (India) Report for 2007 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. On April 30 and May 1, 2006, militants killed at least 35 Hindus living in Udhampur and Doda districts. Other religious and ethnic minorities such as Sikhs and Gujjars have also been targeted. Until a cease-fire was declared in November 2003, shelling by Indian and Pakistani troops along the LOC [Line of Control] killed numerous civilians, displaced thousands more, and disrupted schools and the local economy... 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.” [43c]

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11. JUDICIARY

ORGANISATION

- 11.01 As stated in the US State Department Country Report of 2006 “The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the court of appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the court of appeals. The President appoints judges, and they may serve until the age of 62 on state high courts and 65 on the Supreme Court.” [2c] (Section 1e)
- 11.02 As reported in the Library of Congress Federal Research Division Country Profile for India 2004:
- “The legal system is derived from English common law and based on the 1950 constitution. Judges decide cases, and there is no trial by jury. Defendants can choose counsel independent of the government, and the government provides free legal counsel for defendants unable to afford such. The judiciary enforces the right to fair trial, and there are effective channels for appeal, but the judicial system is so overburdened with a case backlog that some courts barely function. In non-criminal matters, the government does not interfere with the personal status laws of Muslims and other communities on matters dealing with family law, inheritance, divorce, and discrimination against women.” [87]
- 11.03 The same report continued:
- “The Supreme Court is the top legal entity, and it is composed of a chief justice appointed by the president and 25 associate judges also appointed by the president in consultation with the chief justice. The Supreme Court has numerous legal powers, such as appellate jurisdiction over all civil and criminal proceedings, with the potential of influencing interpretation of the constitution. The parliament and Supreme Court have maintained a contentious relationship on issues related to judicial review and parliamentary sovereignty. Below the Supreme Court are high courts, followed by a hierarchy of subordinate courts, and some states also have panchayat (village-level) courts that decide civil and criminal matters. Some high courts serve more than one state, and all are independent of state legislatures and executives.” [87]
- 11.04 As indicated by Europa World Online “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.” [1] (The Supreme Court)
- 11.05 The 2006 USSD Country Report noted “According to the ACHR, as of December 2005, there were 34,481 cases pending in the Supreme Court, approximately 3.5 million cases pending in the High Court and approximately 25.6 million cases pending in the subordinate courts.” [2c] (Section 1d)

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High Court

- 11.06 As stated on the Supreme Court of India website, Jurisdiction of the Supreme Court, accessed on 14 September 2006:

“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...” [83] (High Courts)

- 11.07 As noted by Europa World Online “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) [1] (Lower Courts)

Fast Track Courts

- 11.08 The USSD Country Report of 2006 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. As of October, there were 1,734 fast track courts. A total of 18 million cases were pending in courts across the country, of which 16 million were criminal cases. There were approximately 10 judges for every million people.” [2c] (Section 1e)

- 11.09 BBC News reported on 12 August 2006 that Bihar is trying to stem its crime wave with speedy trials in the new fast track courts. Authorities say quick investigation and speedy trials have been made a priority since the drive was launched in January. Sometimes a case is dispensed with in 24 hours and since January there have been 620 convictions in criminal cases averaging three convictions a day. Last month a rape trial was concluded in two days and resulting in a jail term of seven years for the accused. A prominent criminal lawyer noted that, “Sometimes the best evidence in a case may not be produced in court in a short span of time. But a speedy trial is essential as delays almost always go in favour of the accused.” [32n]

Lok Adalats

- 11.10 The Supreme Court of India website, Jurisdiction of the Supreme Court, accessed on 14 September 2006, 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.” [83] (Lok Adalats)

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INDEPENDENCE

- 11.11 As stated in the USSD Country Report 2006 “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)
- 11.12 The same report continued “Unlike 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 the government’s anti-insurgent actions and because of the frequent refusal by security forces to obey court orders.” [2c] (Section 1e)

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WITNESS PROTECTION

- 11.13 The 2006 USSD Country Report 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.” [2c] (Section 1e)
- 11.14 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) [81f]

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FAIR TRIAL

11.15 The USSD Country Report for 2006 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)

11.16 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.” [27b]

11.17 As reported by News 24.com on 13 February 2006, a 70-year-old man was set free on bail after spending 38 years in prison without charge and seemingly forgotten. The man was arrested in 1968 on suspicion of killing his sister-in-law but failed to face trial because the authorities lost his records. It is claimed that the poor and powerless are often overlooked in India's vast and disorganised justice system. [20]

11.18 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.” [41]

11.19 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]

- 11.20 The USSD Country Report 2006 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)

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Provision of Legal Aid

- 11.21 As stated on the Supreme Court of India website, Jurisdiction of the Supreme Court, accessed on 14 September 2006:

“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.” [83] (Provision of Legal Aid)

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PENAL CODE

- 11.22 The Indian Penal Code of 1860 is applicable to the whole of India except the state of Jammu and Kashmir. (The Indian Penal Code Act No.45 of Year 1860) [84]

- 11.23 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.” [91]

11.24 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.” [91]

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CODE OF CRIMINAL PROCEDURE

11.25 As cited in the 2006 USSD Country Report:

“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. Sentences must be announced publicly, and defendants have the right to choose counsel independent of the government. There are effective channels for appeal at most levels of the judicial system and, the state provides free legal counsel to indigent defendants. Defendants were allowed 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)

11.26 As cited in the Freedom House Survey report for 2003, Section 144 of the Criminal Procedure Code empowers state-level authorities to declare a state of emergency, restrict free assembly, and impose curfews. [43a]

11.27 The Code of Criminal Procedure Act 1973 extends to the whole of India except Jammu and Kashmir. (Code of Criminal Procedure Act – India lawInfo.comm) [85]

11.28 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]

- 11.29 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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12. ARREST AND DETENTION – LEGAL RIGHTS

12.01 As stated in the USSD Country Report of 2006:

“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)

12.02 As stated in the same report “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 \$11 (Rs.485) and \$4,500 (Rs.198,000).” [2c] (Section 1d Arrest & Detention)

12.03 Information sourced by the Immigration and Refugee Board of Canada, in August 2001, indicated that a police officer or arresting officer should not proceed to arrest unless he has a warrant in his possession, otherwise resistance offered to him would not be punishable. The warrant is the justification of arrest and need not be parted with. The arresting officer’s status must be shown or notified to the person to be arrested. The arrest warrant has to be in writing, must be signed by the Presiding Officer and bear the seal of the Court. A warrant of arrest remains in force until it is cancelled by the Court which issued it or until it is executed. [4d]

12.04 As reported by the Immigration and Refugee Board of Canada on 27 March 2003:

“The concept of anticipatory bail is mandated under Section 438 of the Indian Criminal Procedure Code. Under its provisions, any person who has reason to believe that they may be arrested ‘on an accusation of having committed a non-bailable offence’ may apply to the High Court or the Court of Session for grant of bail in the event of an arrest. Anticipatory bail is not available in the state of Uttar Pradesh. Unlike a regular bail order that follows a person’s arrest and results in that person’s release from police custody, anticipatory bail is effective at the moment of arrest.” [4j]

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Armed Forces Special Powers Act (AFSPA)

12.05 As stated in the USSD Country Report of 2006:

“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)

12.06 The ACHR Indian Human Rights Report 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.” [18c] (Manipur)

12.07 In a public statement dated 18 December 2006, Amnesty International expressed concern at the announcement that the Indian Home Ministry was working on “modifying existing provisions or inserting new provisions” in the Armed Forces Special Powers Act, 1958 (AFSPA), so as to give “due regard to the protection of basic human and civil rights”. AI stated “Amnesty International has repeatedly expressed its concern that the AFSPA contains provisions which contravene, either directly or by granting perpetrators impunity, key human rights including the right to life, the right to be free from torture and other ill-treatment, the right to be free from arbitrary deprivation of liberty and the right to remedy and reparation.” [3b]

12.08 As reported in the USSD 2006 Country Report:

“The AFSPA and the Disturbed Areas Act 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 Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants. Human rights groups alleged that security forces operated with virtual impunity in areas under the act. In January a committee headed by Supreme Court Justice Jeevan Reddy recommended the act be scrapped because the government had authority under UAPA [Unlawful Activities Prevention Act] to combat the insurgency in the northeast. At year’s end, the act remained in force.” [2c] (Section 1g)

12.09 The report continued:

“The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country – except for 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 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 for their detention within 5 days (10 to 15 days in exceptional circumstances).” [2c] (Section 1d)

12.10 As cited in the same USSD report:

“In 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA).

Nonetheless, 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 and [the] Terrorism and Disruptive Activities Act (TADA) continued through the judicial system.” [2c] (Section 1d)

- 12.11 The USSD 2006 Country Report stated “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)

- 12.12 The same report continued:

“POTA contained a sunset feature, which gave the Central POTA review committee one year to review all existing POTA cases. The Government established three central review committees to review the cases, registered under POTA. The committees were required to review all cases registered under POTA by September 2005, but at year’s end, numerous cases had not been reviewed and at least 400 persons remained in detention, according to AI. The sunset provisions also allowed the government to make new arrests under POTA, despite its repeal, if the arrests were tied to an existing POTA case. The government could issue a new indictment on a case opened five years earlier under POTA, even if the government was never associated with the case. It can also extend the one-year limit for reviews; however, at year’s end, it had not done so. The law provides that the review committees constituted by the government shall review all cases registered under POTA by September 2005. In June 2005 the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who instead should be charged under the regular law...

“UAPA and POTA continued to be used to hold people in jail for extended periods prior to the filing of formal charges. 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.” [2c] (Section 1d)

- 12.13 As noted in Keesings record of World Events for December 2004:

“The Rajya Sabha (the upper house of Parliament, the federal legislature) on Dec.9 passed a bill repealing the draconian and controversial Prevention of Terrorism Act (POTA) introduced by the previous Bharatiya Janata Party (BJP)-led government. On the same day, the Rajya Sabha passed substitute legislation, the Unlawful Activities (Prevention) Amendment bill, which Home Minister Shivraj Patil said would continue the fight against terrorism but at the same time protect the innocent.” [5b]

- 12.14 A Human Rights Watch report dated 22 September 2004, “India, POTA Repeal, A Step Forward for Human Rights”, stated that:

“The Indian government’s decision to repeal the controversial Prevention of Terrorism Act (POTA) is a major step forward for civil liberties in India, Human Rights Watch said today....POTA was enacted soon after the September 11, 2001 attacks on the United States and the adoption of a United Nations

Security Council resolution against terrorism. The legislation allowed security agencies to hold suspects for up to 180 days without filing charges. In practice, the law was often used against marginalized communities such as Dalits (so-called 'untouchables'), indigenous groups, Muslims, and the political opposition." [26f] (p1)

12.15 The report continued:

"India's move to repeal POTA is an important signal to other countries that counter-terror efforts can be pursued while respecting basic rights... The government has appointed a central review committee to review all cases brought under POTA. This review committee was established in December 2003 in response to widespread criticism of egregious abuses under POTA, but it has not processed many cases. It has been given one year to review all cases. Human Rights Watch also called on the government to address the cases of dozens of individuals arrested under the earlier Terrorist and Disruptive Activities (Prevention) Act (TADA) who are still being held in custody. TADA was widely criticized for its overbroad scope and the abuses it allowed and was allowed to lapse in 1995. Yet unfair trials continue in several cases and many remain in jail." [26f] (p1)

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13. PRISON CONDITIONS

13.01 As stated in the USSD Country Report of 2006:

“Prison conditions were harsh, life-threatening, and did not meet international standards. Prisons were severely overcrowded, and food and medical care inadequate. For example, in June a former inmate of Arthur Road Jail in Mumbai filed a complaint with the Maharashtra State Human Rights Commission (MSHRC) alleging that the prison’s medical doctor ignored a prisoner suffering from chest pains who subsequently died. As of year’s end, the MSHRC was investigating the complaint. . . In March 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)

13.02 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 year’s end only a few examinations had been performed.” [2c] (Section 1c)

13.03 The USSD report 2006 also noted that:

“According to data available with the National Crime Records Bureau (NCRB), there were 121 custodial deaths in 2003, 94 in 2004, and 144 in 2005. On December 15, a court convicted three former Delhi police officers for their role in a 1987 custodial death of Mahender Kumar. Retired senior Delhi police officer Rishi Prakash Tyagi was sentenced with the death penalty and KP Singh and sub-inspector Tej Singh were sentenced to one and three years of rigorous imprisonment and a fine of \$566 and \$680 (Rs 25,000 and Rs 30,000) for shielding Tyagi and destroying evidence. [2c] (Section 1a)

13.04 The same source stated:

“Some NGOs were allowed to work in prisons, within specific guidelines, but their findings remained largely confidential as a result of agreements made with the government. Although custodial abuse was deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.” [2c] (Section 1c)

13.05 The USSD report of 2006 further noted “According to human rights activists, press reports, and anecdotal accounts, the bodies of persons suspected of terrorism and detained by security forces in Jammu and Kashmir often had bullet wounds or marks of torture, although according to the South Asian Human Rights Documentation Center (SAHRDC) and ACHR, the number of such incidents had declined in recent years in Jammu and Kashmir.” [2c] (Section 1a)

13.06 As cited in the same report “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)

13.07 The USSD 2006 Country Report continued:

“According to the Home Ministry, the International Committee of the Red Cross (ICRC) visited 61 detention centers and more than 9,000 detainees during 2005, 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)

13.08 It was reported in Keesings Record of World Events for June 2003, on 23 June 2003, that Jammu and Kashmir Minister of State for parliamentary affairs Abdul Tehman Veeri had told the State Assembly that there had been 144 alleged custodial killings by local police and Indian security forces since the beginning of the separatist insurgency in the northern state in 1989. This was the first time that the state authorities had acknowledged the problem of deaths in custody. [5e] It was reported by the BBC on 9 August 2004 that India and Pakistan had carried out a rare exchange of prisoners of war. Such transfers are unusual particularly because both sides had earlier denied holding prisoners of war. [32dk]

13.09 As reported by BBC News on 19 July 2005:

“A tribal man in the eastern Indian state of Orissa had to wait nine years to be released from prison even though he had been acquitted. Pratap Naik was convicted of murder in 1989 by a local court but was acquitted by the state’s High Court in 1994. He was released only in 2003. No reason has been given for the delay. His lawyer filed for compensation of one million rupees (\$23,000) to the Supreme Court. Judges dismissed the claim, referring it to a lower court.

“The Supreme Court judges said previous rulings on the case were not incorrect but they were persuaded by lawyers that this was a ‘gross’ case. They ordered the high court to re-look at the case and not be influenced by the dismissal in the Supreme Court. Mr Naik, who has reportedly gone insane, was convicted in December 1989 of causing the death of a person by throwing a stone but was acquitted in October 1994. Courts in India are known for taking years to deliver justice. In many cases, even after acquittal, releases can be withheld by jail authorities for months or even years without adequate reason.” [32bc]

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14. DEATH PENALTY

- 14.01 As stated in Article 21 of the Constitution of India “No person may be deprived of their life or personal freedom except in cases established by law.” [24c] Accessed on 30 May 2007, Hands off Cain, the Italian NGO which campaigns for an end to the death penalty worldwide, noted that “Death-qualifiable offences are conspiracy against the Indian Government; desertion or attempted desertion; murder or attempted murder; inducement to suicide of a minor or a mentally-retarded person. The death penalty is not mandatory for these crimes...The death penalty is also applicable under military statutes.” [67]
- 14.02 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) [3f]
- 14.03 Amnesty International’s 2007 Report on India stated “At least 40 people were sentenced to death in 2006; no executions took place. Comprehensive information on the number of people on death row was not available.” [3a] On 31 October 2006, The Times of India reported that there were 400 people waiting on death row. [13e] According to the National Crimes Record Bureau, there were at least 1140 people on death row in 2003. (Hands off Cain, accessed 30 May 2007) [67]
- 14.04 The BBC reported on 14 August 2004 that India carried out its first execution since 1995 after the President, Abdul Kalam, rejected a plea for clemency from a man convicted for raping and murdering a 14-year-old schoolgirl in 1990. [32cy] In a press release dated 13 August 2004, the Asian Human Rights Commission condemned the Supreme Court for its decision to uphold the death sentence. [57a]
- 14.05 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]
- 14.06 Hands off Cain, accessed 30 May 2007, cited a number of news reports dated from January to May 2007, where the death penalty had been awarded to people convicted of violent crimes. At least two of the death sentences mentioned were issued by military tribunals. [67]

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15. POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

15.01 As reported by the Freedom House Freedom in the World India 2007 report:

“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 regularity. Under the supervision of the vigilant Election Commission of India (ECI), recent elections have generally been free and fair. The last elections, held in spring 2004, saw a decline in levels of election-related violence, but some vote fraud and other minor irregularities occurred in Bihar despite the introduction of electronic voting machines throughout the country. The February 2005 state elections held in Bihar and Jharkhand were marred by more widespread violence, but a rerun November Bihar election was relatively free of violence and irregularities, as were elections held in Kerala and West Bengal in the spring of 2006. Badly maintained voter lists and the intimidation of voters in some areas continue to be matters of concern.

“A wide range of political parties operate freely, and there are no restrictions on peaceful political activism. However, despite the vibrancy of the Indian political system, effective and accountable rule continues to be undermined by political infighting, pervasive criminality in politics, decrepit state institutions, and widespread corruption...” [43b]

FREEDOM OF ASSOCIATION AND ASSEMBLY

15.02 As noted in the USSD 2006 Country Report:

“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)

15.03 As cited in the Freedom House Survey report for 2003, Section 144 of the Criminal Procedure Code empowers state-level authorities to declare a state of emergency, restrict free assembly, and impose curfews. [43a]

15.04 The USSD Country Report of 2006 noted that:

“The law provides for the right of association, 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 overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial labourers. 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)

- 15.05 An article entitled "Human Rights Feature" by the Voice of the Asia-Pacific Human Rights Network, a joint initiative of SAHRDC and HRDC, dated 24 June 2005, stated that:

"While the right to strike is not explicitly included in the list of fundamental rights specified in the Constitution of India, Article 19 enumerates the right to freedom of speech and expression, to assemble peaceably without arms, and to form associations or unions (Art 19(1)(a)-(c)). The right to strike is thus a corollary of these expressly stated rights.

"The Industrial Disputes Act 1947 (IDA) and the Trade Unions Act 1926 (TUA) are the primary pieces of central legislation regulating this right in India. The IDA establishes the conditions regarding notice and arbitration that must be complied with before industrial action is undertaken (Sections 22, 23), and the circumstances in which such actions may be deemed illegal (Section 24). The IDA by virtue of its regulation of the legality of a strike, thus explicitly recognises that strikes exist as a legitimate means of negotiation, including for government employees (Section 22)." The article states that, "While these provisions effectively grant workers and unions the right to legal strike, the recognition of this right in India, has been inconsistent." [50] (p2)

- 15.06 BBC News reported on 24 February 2004 that "More than a million government employees took part in a one-day strike in India", affecting many government banks, offices and state-owned firms. "Unions called the walk-out in protest at the Supreme Court's ban on the right of government employees to strike because of the disruption caused." [32cr]
- 15.07 BBC News reported on 26 July 2005 that protesters fought running battles with police for two days as clashes flared when workers from Honda Motorcycle and Scooter India protested at the firing of colleagues. Many were injured during the fighting and further trouble erupted outside the hospital following reports that the injured were not being treated. The National Human Rights Commission demanded detectives from the CBI investigate the incident. [32bq]

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

- 15.08 As noted in the USSD Country Report of 2006 "Separatist guerrillas and terrorists in Kashmir, the northeast, and the Naxalite belt committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents also engaged in widespread torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion." [2c] (Introduction)

- 15.09 As reported by BBC News on 6 November 2004 "About 40 different rebel groups exist in the north-east of India, with many believed to use bases in neighbouring countries." [32x]
- 15.10 As cited in a BBC News article dated 2 October 2004:
- "At least 48 people have died in a series of attacks across the states of Nagaland and Assam in north-east India. Two bombs exploded in the main commercial center of Dimapur town in Nagaland and one at a train station and another at a local market. At least 28 people were killed and more than 100 injured in the morning blasts. Hours later, rebels from the Bodo tribe sprayed shoppers with bullets in the neighbouring state of Assam, killing at least 20 people, police said. They suspect the rebels – the National Democratic Front of Bodoland (NDFB) – may have been behind the Nagaland attacks too. There are many separatist rebel groups in north-east India... There has been an insurgency in Nagaland since 1956, but for the last seven years the state's major separatist group, the National Socialist Council of Nagaland (NSCN), has been negotiating with the Indian government, and its fighters are observing a cease-fire with the government's security forces. Both factions of the NSCN have condemned the explosions." [32a]
- 15.11 As noted by BBC News on 31 July 2005, separatist rebels in north-east India extended a ceasefire with the Government but expressed concern at the progress of the peace talks:
- "Rebels of the National Socialist Council of Nagaland (NSCN) extended the ceasefire by six months instead of the usual 12. A spokesman said they were no closer to a deal than when the talks began in 1997. The Naga rebellion – India's oldest ethnic conflict – spanned 40 years before the negotiations started. They have been campaigning for a separate homeland for the Naga tribe in the north-eastern states of Nagaland, Assam, Arunachal Pradesh and Manipur. "But the demand has been fiercely opposed by the states, Manipur in particular." [32b]
- 15.12 As reported by BBC News on 6 November 2004 "The Indian army says it is conducting a major operation against rebel bases in the north-east of the country. Burma has sealed its border to prevent militants crossing into its territory from the Indian state of Manipur, where the offensive is focused. The north-east of India is home to many groups who often cross back and forth into neighbouring countries." [32x]

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Naxalites/Maoists

- 15.13 As noted by rediff.com, dated 2 October 2003 "The Naxalites or Naxals, is a loose term to define groups waging a violent struggle on behalf of landless labourers and tribal people against landlords and others." The Naxalites claim that they are fighting a class war to free oppressed members of Indian society from exploitation. The Naxalites are Maoists with links to the Communist Party of India (Marxist-Leninist). [81a] (p1) Rediff.com stated that the Naxalites groups operate across a broad swathe of India:

“The Naxalites operate mostly in the rural and Adivasi areas, often out of the continuous jungles in these regions. Their operations are most prominent in (from North to South) Jharkhand, Chhattisgarh, Madhya Pradesh, eastern Maharashtra, the Telengana (northwestern) region of Andhra Pradesh, and western Orissa. The People’s War is active mainly in Andhra Pradesh, western Orissa and eastern Maharashtra while the Maoist Communist Centre is active in Bihar, Jharkhand and northern Chhattisgarh.” [81a] (p2)

- 15.14 An estimated 749 people have been killed in the ten Naxal-affected states, during 2006, including 135 security forces, 285 civilians and 329 alleged Naxalites. Human rights violations have reportedly been committed by security forces, Salwa Judum activists, and Naxalites during the Naxal conflict. (Asian Centre for Human Rights (ACHR), Naxal Conflict in 2006) [18a] As noted in the USSD 2006 Country Report “According to Andhra Pradesh police, the number of civilian killings committed by Maoists decreased to 42 during the year, compared with 211 in 2005. The police combing operations resulted in encounter killings of 110 Maoists during the year, compared with 124 in 2005.” [2c] (Section 1g)
- 15.15 The USSD 2006 Report also stated that:
- “According to human rights activists and journalists, during the year a few Naxalites (Maoist guerillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) 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)
- 15.16 At least 55 security force members were killed by Maoist rebels in Dantewada, Chhattisgarh state. The attack was described as one of the worst in a decade of insurgency. Of those killed, 39 were members of the civil militia called Salwa Judum, that is supported by the state government to fight the Naxalites. The security forces were attacked at the security post in Bijapur, just before dawn on the 15 March 2007. (BBC News, 16 March 2007) [32aq]
- 15.17 As noted by the BBC News report of 17 January 2005 “Left-wing rebels in the southern Indian state of Andhra Pradesh have announced that they are breaking off peace talks with the state government.” This was in protest against police killings of their members and the rebels accused the Government of failing to honour a cease-fire which took effect last summer:
- “Peace prevailed in the state for almost eight months following a ceasefire by the two sides in June. The state government also lifted an 11 year ban on the CPIML People’s War Group in July. Until October last year (2004), the rebels were known as the People’s War Group. But at that time they announced a merger with the Maoist Communist Centre to become the CIP (Maoist). The rebels have been fighting since 1980 for the creation of a communist state comprising tribal areas in the states of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh.” [32cm]

- 15.18 On 17 August 2005, BBC News reported that “The Indian state of Andhra Pradesh has imposed a ban on the rebel Communist Party of India (Maoist) group and what it says are six front organisations. The ban comes two days after suspected Maoist rebels shot dead 10 people, including a ruling party legislator.” The state government empowered the Chief Minister to impose the ban and the federal government in Delhi gave approval. The rebel groups were banned between 1992-2004 but the ban was lifted last year in a bid to engage in peace talks which subsequently ended in failure in January 2005. [32cl]
- 15.19 As reported by BBC News on 19 August 2005, police arrested five writers said to be supporters of the newly banned Communist Party of India (Maoist). The head of the Revolutionary Writers Association (Virasam) and a poet were amongst those arrested. The Government banned the writers’ association which it accuses of having links to the rebels. Varavara Rao denied the link. [32cw]
- 15.20 BBC News reported on 5 September 2005 that Maoist groups have been banned in the state of Chhattisgarh following a landmine blast killing 24 policemen in September 2005. Under the order the government will be able to confiscate property of individuals and organisations seen to be supporting terrorist activities, and provisions will be in place for the sentencing of between one and seven-year jail terms. The order requires final approval from the President. There are thought to be 10,000 Maoist rebels in India. [32af]

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Tripura

- 15.21 As reported in a BBC News report dated 15 November 1999, separatist rebels intensified their activities in Tripura during 1999. Tripura’s ethnic rebel groups are opposed to the influx of Bengali migrants, from what is now Bangladesh, which has made the indigenous people of the State a minority since 1949. [32br]
- 15.22 The Asian Centre for Human Rights noted in their 2007 India Human Rights Report that “Ruled by Communist Party of India (Marxist), Tripura continued to witness serious human rights violations perpetrated both by the security forces and the armed opposition groups, namely National Liberation Front of Tripura (NLFT) and All Tripura Tiger Force (ATTF). About 202 alleged members and associates of the ATTF and NLFT were killed in the counter-insurgency operation during the last five years while about 170 security personnel were also killed during the same time.” [18d] (Tripura)
- 15.23 As noted in a BBC News report, dated 15 April 2004, a faction of the National Liberation Front of Tripura (NLFT) declared a ceasefire with the Indian security forces. “The leader of the NLFT faction, Nayanbashi Jamatia, said his group had taken the decision to suspend military action following several rounds of talks with the Indian government.” [32do] In a further report from the BBC on 6 May 2004, it was reported that:

“In what is seen as a further break-up of the state’s once strongest rebel group, the National Liberation Front of Tripura (NLFT), the group’s former general secretary, Mantu Koloi, said more surrenders were expected from the

NLFT ranks. This leaves only a small number of fighters with the NLFT Chairman Biswamohan Debbarma, who, the surrendered rebels say, is in a small camp in the remote Chittagong Hill Tracts of Bangladesh.” [32dn]

- 15.24 The Foreign Office travel report, updated 16 March 2007, advised against travel to Manipur and Tripura, stating that: “There is a risk from insurgent groups, mainly in rural areas of these and other states in the east and north east (particularly Manipur and Tripura). Although foreigners have not been the deliberate targets of violence, attacks can be indiscriminate. Kidnapping, banditry and insurgency are rife.” [7e]

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Assam

- 15.25 The Asian Centre for Human Rights (ACHR) India Human Rights Report 2007 noted on Assam that:

“Ruled by the Indian National Congress party, the peace process with United Liberation Front of Asom (ULFA) ended in despair in 2006. The unilateral cessation of hostilities by the Centre in August 2006 and the subsequent reciprocation of the peace overture by the ULFA raised hopes for permanent peace in the State. The People's Consultative Group, the interlocutor for the peace process with the ULFA, pulled out after three rounds of talks. However, the ceasefire with the National Democratic Front of Bodoland (NDFB) continued. According to the Ministry of Home Affairs, a total of 242 persons including 164 civilians, 32 security forces and 46 alleged cadres of armed opposition groups (AOGs) were killed in 413 insurgency-related incidents in Asom [Assam] during 2006...” [18b] (Assam)

- 15.26 The FCO Travel Advice report to India, updated 16 March 2007, stated that:

“Between 5-7 January 2007 over 60 people were shot and killed in a number of attacks on local workers in the extreme north east of Assam. During 2006, there has been an increase in the number of bombings across the north eastern state of Assam, including in the state capital, Guwahati. On 23 November 2006 a bomb exploded in a crowded area at the Guwahati train station in Assam. At least three people were killed and several people were seriously injured. On 5 November 2006 twelve people were killed and 15 injured in two separate explosions in Guwahati. On 14 August 2006 a bomb attack in Assam killed four people. On 9 June 2006 an explosion in Guwahati's central Machkhowa market killed at least four people. On 8 June 2006 one person was killed and 30 others injured in four separate explosions in the areas of Nowgaon, Golakganj, Dhubri and Mongoldoi.” [7e]

- 15.27 Following a spate of recent attacks which left over 60 people from the Hindi-speaking population dead, the Indian Army is conducting one of its biggest offences against the United Liberation Front of Assam (Ulfa). More troops have been brought in to join the 10,000 soldiers already engaged in counter-insurgency operations, in attempt to neutralise the group. (NDTV, 15 January 2007) [78e]
- 15.28 More than 30 people have been killed during the last six days, in rebel attacks in India's Assam state. Twenty-six of those killed were of the Hindi-speaking

community. The recent attacks occurred in the hill district of Karbi Anglong. (BBC News, 13 August 2007) [32r]

- 15.29 As reported by BBC News on 22 October 2005, an estimated 30,000 people have been displaced by clashes between rival tribes in Assam, according to government officials. Since September 2005, some 90 people are estimated to have died in fighting between the Karbi and Dimasa tribes. Assam police hold militia groups representing both groups responsible. Most of the dead are elderly, women or children. Army presence has been increased in Karbi Anglong but reports of sporadic violence continued. [32s]

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Manipur

- 15.30 As reported in the USSD 2006 Country Report:

“In December 2005 the People’s Liberation Army (PLA) killed Manipur Inspector General of Police (Intelligence) T. Thangthum, along with a constable, in an ambush in Manipur’s Bushnupur District. Heavily armed insurgents in a truck overtook the police officer’s vehicle in the Oinam Bazaar area and fired indiscriminately, killing the two on the spot. On August 16, five civilians, including two children, were killed and 50 others injured when suspected terrorists threw a powerful grenade in a temple in Imphal during a Hindu festival. On August 20, the Zomi Revolutionary Army killed two civilians and injured four when the cadres opened fire on a crowded church, targeting a patrol party of Assam Rifles in Churachandpur District.” [2c] (Section 1g)

- 15.31 The ACHR India Human Rights Report 2007 stated:

“Manipur witnessed serious human rights violations during 2006. The spate of bandhs and blockades continued, as did the cycle of violence. Although in April 2006, Union Minister of State for Defence, MM Pallam Raju stated that the army had been maintaining a ‘zero tolerance policy’ on human rights violations in Manipur, the armed forces carried out arbitrary arrest, torture and extrajudicial killings with impunity under the garb of fighting ‘insurgency’...The armed opposition groups (AOGs) were also responsible for gross violations of international humanitarian laws, including killing, kidnapping, torture and extortion.” [18c] (Manipur)

- 15.32 A BBC report dated 10 August 2005 stated that Naga protesters in Manipur torched over 40 Government buildings when violence erupted after rumours police manhandled Naga tribespeople in their attempt to break the roadblock. “Nagas are angry at state government opposition to the proposed integration of Naga majority areas in Manipur with neighbouring Nagaland state.” It was also reported that at least three soldiers died in an attack on their convoy south-east of the capital Imphal. “Manipur police said violent protests by Nagas had taken place in four districts dominated by the tribe...The Nagas, who are Christians, are outnumbered in Manipur by the Meiteis and want to be part of a greater Nagaland.” They were reportedly angry that 18 June had been declared “state integration day” in Manipur. “On that day in 2001 Manipur’s legislative assembly was set alight in protest at moves to break up the state and integrate Naga-dominated districts with Nagaland.” [32co]

- 15.33 BBC news reported on 20 September 2005 that at least nine soldiers and six rebels were killed in two separate ambushes during a spate of violence in Manipur. Six rebels were killed in factional fighting between two groups who claim to represent the Zomi tribe in southern Manipur. The MPLF, which is an umbrella organisation of three leading separatist groups in Manipur, claimed responsibility for the attack. More than ten armed insurgent groups actively operate in Manipur. Most of these groups represent the state's majority Hindu Meitei people. Others represent tribes like the Nagas, Kukis and Zomis. Manipur became an Indian state in 1972; however, unrest has simmered ever since over the remote state's relationship with the central government. [32y]

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16. FREEDOM OF SPEECH AND MEDIA

16.01 As noted in the USSD 2006 Country Report:

“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)

16.02 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)

16.03 Reporters Without Borders Annual Report 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]

16.04 BBC Country Profile, dated 8 December 2007, stated “India's press is lively. Driven by a growing middle class, newspaper circulation has risen and new titles compete with established dailies.” [32av]

16.05 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 than 38 million Indians were online by 2006.” [32av]

16.06 The BBC News Country Profile also noted that only public All India Radio (AIR) is permitted to broadcast news on the radio. [32av]

16.07 Reporters Without Borders Worldwide Press Freedom Index for 2006, which reflects the degree of freedom that journalists and news organisations have, ranked India at 105 out of 168 countries. Some journalists were harassed for reprinting the “Mohammed cartoons”. [42c]

- 16.08 The USSD 2006 Country Report noted “A government censorship board reviewed films before licensing them for distribution, censoring material deemed offensive to public morals or communal sentiment.” [2c] (Section 2a)

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TREATMENT OF JOURNALISTS

- 16.09 In their 2007 Annual Report, Reporters Without Borders stated “The intrepidity of Indian journalists often leads to reprisals. At least 65 were assaulted or received death threats from police officers, criminals, company heads or political militants during the year [2006].” [42a]
- 16.10 As noted in the USSD Country Report of 2006:
- “The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir, which allowed a district magistrate to prohibit the publication of material likely to incite violence; however, newspapers in Srinagar reported in detail on alleged human rights abuses by the government and regularly published separatist Kashmiri groups’ press releases...
- “The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses.” [2c] (Section 2a)
- 16.11 Reporters Without Borders Annual Report 2007 noted that a security order was endorsed by the authorities in the east-central Indian state of Chhattisgarh, allowing imprisonment from one to three years, for journalists meeting Maoist rebels. The report stated “A score of reporters were assaulted or threatened with death by police officers or members of local militia supposed to counter the Maoist influence. At least two correspondents on the daily *Hind Sat* were forced to give up their work for fear of reprisals.” [42a]
- 16.12 A Committee to Protect Journalists News Alert 2006 called on the authorities in Assam to investigate the death of Prahlad Goala, allegedly murdered on 6 January 2006 after writing a series of articles on corruption in a daily newspaper, linking local forestry service officials to timber smuggling. Local journalists, organisations and civic groups held a protest on 10 January calling for a full investigation into his death. [46b]
- 16.13 In a news article by Reporters Without Borders, published on 14 February 2006, it was reported there had been a wave of violence against Indian media by separatists and armed religious groups in the week of 6 February. The Kangleipak Communist Party claimed responsibility for the attempted murder of the bureau chief for the regional daily *Polnapham* in Imphal, Manipur state on 9 February. The same day, six members of the Javed Mir faction of the Jammu and Kashmir Liberation Front ransacked offices of the regional daily *Greater Kashmir* after the paper declined to publish one of their statements. Three staff were injured and equipment stolen. *Greater Kashmir*, a top-selling newspaper, received threats the same morning and security guards were placed outside. Militants from the Hindu extremist Shiv Sena party raided offices of a national television channel in Mumbai on 8 February and four people were arrested in connection with the attack. [42d]

- 16.14 Reporters Without Borders reported on 13 June 2006 that a journalist was ambushed whilst travelling on a motorbike and stoned resulting in his death in a rural area of Maharashtra state on 8 June. Journalists linked his death to articles he wrote in the Marathi-language daily *Tarun Bharat*. Local police opened an investigation. [42b]
- 16.15 The Committee to Protect Journalists (CPJ) reported on 12 June 2006 that an assassination attempt on a correspondent in Kashmir working for *The Hindu* newspaper was foiled when the gun jammed. The police were investigating. Islamic separatist groups in Kashmir are frequently accused of attacks on journalists but sometimes Indian-backed groups are responsible. Many attacks remain unsolved and the motives unknown. [46a]
- 16.16 BBC News reported on 20 July 2005:
- “Police in India’s Uttar Pradesh state have arrested a publisher for a sketch of the Prophet Mohammad in a book. They said the drawing was likely to cause outrage among the Muslim community as images of the Prophet are considered blasphemy in Islam. The publisher, Anit Agrawal, was arrested in the city of Merrut, 80km (50 miles) east of Delhi...A court remanded Mr Agrawal in custody...for 14 days....Authorities took action after a complaint by local Muslims who said their feelings had been hurt by the book. They said the sketch was against their religion which bans idol worship.” [32dc]
- 16.17 BBC News reported on 19 August 2005 that police arrested five writers in Andhra Pradesh, believed to be supporters of the newly banned Communist Party of India (Maoist). “The head of the Revolutionary Writers Association (Virasam), Kalyan Rao, and the poet, Varavara Rao, were among those arrested.” The Government banned the writers association, which the Government claims has links to the rebels. The Government re-imposed a ban on the Maoist party amid continuing violence, along with six other front-line organisations. The poet had previously helped organise peace talks between the rebels and the state Government but these broke down in January 2005. [32cw]

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17. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

17.01 As reported in the US State Department Country Report 2006:

“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. Under the ruling, these organizations need government approval before seeking aid from abroad...In 2005 the central government banned 355 NGOs for misuse of funds. Unlike in previous years, ACHR did not allege harassment by local authorities or surprise visits from security forces. However, in November, the Executive Director of the SAHRDC, Ravi Nair, reported being harassed by Special Branch Officials. International human rights organizations were restricted, and foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes.” [2c] (Section 4)

17.02 The same source noted:

“In August the government amended the PHRA [Protection of Human Rights Act, 1993] to strengthen the NHRC [National Human Rights Commission] in response to criticism by independent NGOs and the NHRC. The amended bill removed the requirement of prior notification and approval for visits to state-managed prisons. In August, the Ministry of Home Affairs stated that the NHRC had visited prisons in Chhattisgarh and Karnataka to assess conditions and possible abuses. However, the NHRC and NGOs said that the amendment did not address several concerns and instead contained regressive provisions. For example, 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 need to guarantee the NHRC's financial independence should be included and that the NHRC's mandate should be expanded to include investigation of cases of human rights violations over one year old.” [2c] (Section 4)

17.03 Amnesty International (AI), in its 2005 annual report (covering events in 2004), noted that “In numerous states, human rights defenders were harassed.” The report states that in many parts of the country human rights defenders were also attacked. [3d]

17.04 The same report stated:

“On 21 August [2004] at least 13 members of the Association for Protection of Democratic Rights (APDR) were attacked in Greater Kolkata, West Bengal, allegedly by supporters of the ruling political party. A group of up to 60 people attacked a peaceful meeting, kicking and beating the participants. Although the police station was less than 50m away, the police reportedly failed to assist or protect the APDR members until the attackers dispersed several

hours later. Several of the victims required hospital treatment for serious injuries.” [3d] (p3)

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18. CORRUPTION

- 18.01 The USSD 2006 Country Report stated “Corruption was endemic in the executive and legislative branches of government. Transparency International (TI) determined that corruption was ‘all pervasive’.” [2c] (Section 3)
- 18.02 Freedom House stated in its 2006 India Annual report “Despite the vibrancy of the Indian political system, effective and accountable rule continues to be undermined by political in-fighting, pervasive criminality in politics, decrepit state institutions, and widespread corruption.” [43b]
- 18.03 In its 2006 Corruption Perceptions Index (CPI), Transparency International ranked India 70th in the world corruption ranking, out of 163 countries, giving a CPI score of 3.3. (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). [82]
- 18.04 An Asia Media article, dated 31 August 2006, stated that the Right to Information (RTI) Act gives Indian citizens the power to question officials on virtually anything, excluding issues of national security, cabinet papers and information protected by the courts. “For a nominal fee, officials have to deliver reports on the progress of applications for voter’s ID card, water and electricity connections.” It is thought to be proving to be a very effective tool in fighting corruption. [80]
- 18.05 In its In-depth country guide for India, One World.net, undated, stated:
- “For a country with such democratic credentials, India’s ranking in the annual Corruption Perceptions Index published by Transparency International is disappointingly low. The Congress Party and the foreign minister, Natwar Singh, were both named as beneficiaries of improper payments in the Volcker Report on the Iraq oil-for-food scandal. And the country was humiliated by the exposure of 11 MPs caught in the act of accepting cash bribes, apparently to plant suitable questions in parliament.” [79]
- 18.06 BBC News reported on 6 December 2006 that the Indian Supreme Court has made it easier to prosecute politicians accused of corruption. The article noted that “In a landmark ruling, the court said prosecutors did not need prior permission to begin proceedings against politicians facing corruption charges”. Previously, the Parliament speaker or a state governor had to give their agreement to charge an MP or state legislator with corruption. However, prior permission is still required where a politician is accused of other crimes. [32dd]
- 18.07 As noted by the Immigration and Refugee Board (IRB) of Canada on 14 December 2005, various sources consulted such as media articles, non-governmental organization publications and academic literature describe widespread, growing, all-pervasive and endemic corruption. It noted that corruption is commonplace and routinely tolerated. [4i]
- 18.08 The same source stated that an American lawyer who published several articles on the Indian legal system reported in 2003 that corruption and bribery of politicians occurs. In 2005 he stated that petty corruption was particularly rampant in the civil service. Another interviewee agreed and also noted that

corruption exists in the police, government and judiciary. A Supreme Court judge heading an anti-corruption team commented, "In India corruption is rampant among bureaucrats, politicians and businessmen Politicians as well as business men make use of bureaucrats to gain benefits ... without bureaucrats they ... cannot do anything." [4i]

- 18.09 The IRB further noted that non-governmental organizations and human rights activists indicated that police corruption was pervasive in 2003 and 2004:

"A 30 September 2005 report on the police in India by the Asian Human Rights Commission stated that 'there is ample evidence of increasing illegal behaviour by the police in India'." The report continued "The majority of complaints received by the [National Human Rights Commission] are against police officials, and corruption is one of the four principal categories of complaint. The results of a study on petty corruption done by Transparency International and the Delhi Centre for Media Studies, which involved a sample of 14, 405 respondents in 20 Indian states and covered 151 cities and 306 villages, revealed that 80 per cent of respondents had paid a bribe to the police, although the study did not outline the circumstances of the bribes (TI 30 June 2005a, 8). The study concluded that of the eleven public services examined, the police was the most corrupt.

"Several media reports detail the alleged involvement of police officials in corrupt actions, such as land deals, 'fake stamp cases'," in which officials allegedly sold imitation state stamps and papers and carried out 'fake embossing [and] franking', as well as demanding and accepting bribes..." [4i]

- 18.10 The IRB continued that there were some reports of corrupt practices of the judiciary and within the civil service. In 2004 and 2005 the prime minister and the chief minister of Jammu and Kashmir stated their commitment to overcome corruption. The Right to Information Act 2005 gives citizens the right to information under the control of government authorities excluding Jammu and Kashmir; however the following agencies are immune under the Act: Intelligence Bureau, Research and Analysis Wing, Enforcement Directorate, Narcotics Control Bureau, Border Security Forces, Central Reserve Police Force, Assam Rifles, Central Industrial Security Force and the National Security Guards." [4i]

- 18.11 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]

- 18.12 As stated on the Government of India Central Vigilance Commission website “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]
- 18.13 The Central Bureau of Investigation (CBI) is an independent investigating police agency for major crimes having interstate and international ramifications. One of the divisions is the anti-corruption division, responsible for collecting information on corruption and carrying out inquiries and investigations into complaints about bribery and corruption, and also taking action to prevent corruption. (Immigration and Refugee Board of Canada, 14 December 2005) [4i]
- 18.14 A district police constable was arrested by the State Vigilance Bureau in September 2006 on allegations of involvement in a case of cheating and corruption following a complaint against three policemen by a local resident. (The Times of India Online, 8 September 2006) [13a]

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19. FREEDOM OF RELIGION

INTRODUCTION

- 19.01 The country is a secular state with no official religion. As noted in the 1997 report of the Special Rapporteur on religious intolerance, the preamble to the Indian Constitution proclaims India's commitment to democracy and secularism and guarantees all citizens freedom of religion and belief as well as the right to practise religion freely. [6b] (p3)
- 19.02 As reported in the US Department of State International Religious Freedom Report 2007 (USIRF), India "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)
- 19.03 The same 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)
- 19.04 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)
- 19.05 The Special Rapporteur's 1997 report noted that the Penal Code prohibits and punishes any violation of tolerance and non-discrimination based on religion or belief: promoting enmity between different groups on grounds of religion (Section 135A); injuring or defiling a place of worship with intent to insult the religion of any class (Section 295); deliberate and malicious acts intended to outrage the religious feeling of any class by insulting its religion (Section 295A); disturbing religious assembly (Section 296); and uttering words with deliberate intent to wound religious feelings (Section 298). [6b] (p4)

19.06 The Special Rapporteur's 1997 report stated that under the Representation of the People Act 1951, it is an offence for a candidate to call upon someone to vote or to abstain from voting by playing on his religion, or using religious symbols as a means of promoting that candidate's election prospects. [6b] (p5)

19.07 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

19.08 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]

19.09 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

- 19.10 As noted in the Library of Congress Federal Research Division Country Profile India 2004 report:

"Religiously oriented violence has occurred, principally among Hindus and Muslims and most notably in Ayodhya (in Uttar Pradesh) and urban areas of Gujarat and Maharashtra. While less common than separatist violence, these conflicts prompt greater popular debates on Indian history, society, and politics; there are allegations that national and state-level politicians with the Bharatiya Janata Party (BJP) have facilitated such conflicts." [87]

- 19.11 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**)

- 19.12 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)

19.13 The USSD 2006 Country Report stated that:

“Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, educational institutions administered by minority religions were allowed 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 would no longer technically be a Dalit, although such caste distinctions informally existed in both religions.” [2c] (Section 2c)

19.14 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. . . Tensions between religious groups, while rare, continued during the year. Attacks on religious minorities occurred in several states, which brought into question the state governments’ ability to prevent sectarian and religious violence or prosecute those responsible.” [2c] (Section 2c)

19.15 The Annual Report of The United States Commission on International Religious Freedom, May 2007, 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...” [72] (p242) The same report further noted “[that] the current Congress-led government continued its efforts to redress a number of aspects of the Hindu nationalist agenda of the previous [BJP] government. . . [and] has also continued to act decisively to prevent communal violence in situations where it has erupted in the past.” [72] (p243)

- 19.16 The UPA 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) [2b] (Section II. Improvements and Positive Developments in Respect for Religious Freedom)
- 19.17 The USIRF 2007 Report noted that during the previous reporting period:
- “...the UPA introduced legislation to give New Delhi the power to intervene in states in which the Government refuses to take strong measures to end communal outbreaks. The UPA 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

- 19.18 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.

“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)

- 19.19 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)

19.20 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)

19.21 The 2006 USSD Country Report noted:

“On May 28, 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.” [2c] (Section 5)

19.22 As reported by the USIRF 2007 Report “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) Scheduled caste status is a system of “positive discrimination” that sets aside a minimum number of government (central, provincial and local) jobs for lower-caste groups. (UN Human Development Report, 2004) [71] (p70-71)

19.23 The USIRF 2007 Report 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)

- 19.24 BBC News reported on 20 September 2006 that the BJP Gujarat Government passed an amendment in the law relating to religious conversions which has angered Christians and Muslims. The amendment classifies Buddhism and Jainism as branches of the Hindu religion. Supporters of the amendment say it will protect low-caste Hindus who they say are vulnerable to exploitation and pressure to convert. This amendment would mean that Buddhists and Jains will not require official permission to change religion. Estimates put Christians at less than 0.5 per cent of Gujarat's population as opposed to 85 per cent Hindus. Muslims in Gujarat constitute around 14 per cent of the population. [32d]
- 19.25 Christian Solidarity Worldwide (CSW) reported on 16 February 2006 that, during a mass rally in the Dangs district of Gujarat state, speakers called for a nationwide anti-conversion law. Estimates by organisers claim some 300,000 Hindu activists and fundamentalists gathered for the 'reawakening' event. The festival was organised to encourage re-conversion to Hinduism. About 185,000 people, mainly tribals, live in the area. [17e]

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MUSLIMS

- 19.26 A 1997 report of the Special Rapporteur states that "Muslims constitute India's largest minority as well as the second largest Muslim community in the world after Indonesia, and before that of Pakistan." [6b] (p7) As reported in a BBC News item dated 9 February 2005, "Of the 145 million Muslims in India, about 20 million are Shias." [32by] 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)
- 19.27 The Special Rapporteur's 1997 report noted that the Indian authorities do not restrict the religious activities of Muslims, who have freedom of religious practice and freedom to organise their services according to their codes, religious teachings and customs. [6b] (p7)
- 19.28 The Special Rapporteur noted that Muslims in India have their own educational establishments, including the madrasa religious schools responsible for disseminating the teachings of Islam. Muslims possess a large number of places of worship as well as the Waqf Board, which is responsible for the management of property belonging to religious communities and charitable institutions. [6b] (p8) The USIRF 2007 Report stated that "Most Islamic madrassahs did not accept government aid, alleging that it would subject them to stringent security clearance requirements." [2b] (Section II. Legal/Policy Framework)
- 19.29 The same report also noted:

“The West Bengal Government administers most undergraduate and post-graduate sections of madrassahs in the state and the state's Public Service Commission hires madrassah teachers and regulates their curriculum. Approximately 25 percent of the 400,000 students attending madrassahs in West Bengal and 15 percent of their 10,000 teachers are non-Muslims.” [2b] (Section II. Legal/Policy Framework)

- 19.30 The USIRF 2007 Report further noted “On July 21, 2006, the Kerala High Court ruled that taking an official oath in the name of Allah is constitutionally valid. Observing that Allah is synonymous with God, the High Court dismissed a writ petition challenging the constitutional validity of the oath taken by 11 Muslim members of the Kerala Legislative Assembly who had used the name of Allah.” [2b] (Section II. Legal/Policy Framework)

- 19.31 The same source continued:

“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)

- 19.32 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. [32by]

- 19.33 As reported further by the same source “The newly formed All India Shia Personal Law Board has 69 members compared to 204 members in the AIMPLB.... Earlier this month, a group of women formed the All India Muslim Women's Personal Law Board alleging that the religion's top body of [sic] had been ignoring the rights of Muslim women.” It was founded with 35 members. [32by]
- 19.34 The 1997 report of the Special Rapporteur noted that in Jammu and Kashmir [where Muslims form the majority], the religious situation is seriously affected by the armed conflict between the Indian army and the militant extremists. Several mosques have been destroyed in India, including the Babri Masjid in Ayodhya on 6 December 1992 and the Charar-e-Sharief sanctuary in Jammu

and Kashmir on 11 May 1995. The UN Rapporteur stated that according to official and non-governmental observers, the destruction of the Babri Masjid was an aberration, which could not be interpreted as evidence of an official policy of religious intolerance directed against Muslims. [6b] (p9)

- 19.35 BBC News reported on 17 June 2005 the Government in the southern state of Andhra Pradesh was to reserve five per cent of jobs in education and government for the Muslim minority. The decision was made in light of the findings of a special commission. Hardline Hindus had opposed the policy when it was floated in 2004 and the commission was set up following a recommendation by the court hearing their objections. (The article noted "Muslims make up about 10% of the 78m population in Andhra Pradesh.") The matter moved to the State Governor who would issue an order which will go to the state assembly before becoming law:

"Under the policy, children of people earning more than 250,000 rupees (\$5,700) a year will not be eligible for a reserved job. Neither will children of top government officials. The government says the law will be enforced this year. A number of other states in India have a percentage of Muslim-reserved jobs." [32ds]

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Ayodhya Mosque

- 19.36 Keesings Record of World Events, December 1992, noted the BJP and its allies had called repeatedly for the mosque at Ayodhya (built in the sixteenth century by the Mughal emperor Babar) to be replaced by a temple honouring the Hindu deity, Lord Ram. [5a] (p1) Europa World Online noted that in October 1990 the then BJP leader, Lal Krishna Advani, led a procession of Hindu devotees to Ayodhya to begin the construction of a Hindu temple on the site of a disused ancient mosque. Paramilitary troops were sent to Ayodhya, and thousands of Hindu activists were arrested in an attempt to prevent a Muslim-Hindu confrontation. After storming and slightly damaging the mosque, Hindu extremists laid siege to it for several days. [1] (p34. Recent History)
- 19.37 Keesings Record of World Events for December 1992 noted that on 6 December 1992 around 100,000 Hindu kar sevaks (construction volunteers) responded to a call by the BJP and other Hindu organisations, including the Rashtriya Swayamsevak Sangh (RSS) and the Vishwa Hindu Parishad (VHP) – World Hindu Council – to resume construction work on the temple at Ayodhya. A small mob of Hindu zealots stormed past guards and razed the mosque to the ground. Within hours of the mosque's destruction, Ayodhya was gripped by fighting between Hindus and Muslims. By the following day there were reports of numerous deaths and arson attacks on Hindu and Muslim shrines across India despite strict security arrangements in most States. The worst affected cities were Bhopal, Bombay, Calcutta, Delhi, Jaipur, Kanpur and Surat. Southern States were also affected. [5a]
- 19.38 As noted in Europa World Online, the Indian Government strongly condemned the desecration and demolition of the holy building and pledged to rebuild it. The leaders of the BJP, including LK Advani and the party's President, Dr Murli Manohar Joshi, and the leaders of the VHP were arrested; the BJP Chief

Minister of Uttar Pradesh resigned, the State legislature was dissolved; and Uttar Pradesh was placed under President's Rule. The security forces took full control of Ayodhya, including the disputed complex, meeting with little resistance. [1] (p5. Recent History)

- 19.39 As reported by Reuters in 1997, it was not until September 1997 that a court indicted 49 people on criminal charges over the demolition of the mosque. Among them were Lal Krishna Advani, then BJP President; Murli Manohar Joshi, former BJP President; and Bal Thackeray, the leader of Shiv Sena. The charges included rioting, creating hatred between two religious communities, defiling a place of worship and causing grievous hurt by threatening and damaging the life and safety of others. The BJP leaders claimed they were innocent and that the party was not responsible for destroying the mosque. [8b]
- 19.40 As reported by BBC News on 6 July 2005 "An Indian high court has ordered opposition leader LK Advani to stand trial for his role in the demolition of a mosque that sparked religious riots. The court in Allahabad in northern Uttar Pradesh state overturned a lower court ruling in 2003 that the former deputy premier had no case to answer. Mr Advani is accused of inciting Hindu fanatics to attack the Babri mosque in Ayodhya in 1992." [32az]
- 19.41 BBC News reported on 15 July 2005 that police arrested two suspected militants in Indian-administered Kashmir whom they allege helped the attackers of the disputed religious site at Ayodhya. "One gunman blew himself up and four others were killed after a two-hour battle with police in an attack on the Ayodhya holy complex..." A senior police officer stated there was a suspected link between the attacks and armed militants fighting Indian rule in Kashmir. "In a related development, police in the northern state of Uttar Pradesh, said the attack was carried out by the Lashdar-e-Toiba militant group." Widespread protests by Hindu nationalist groups across India followed the attack, blaming Islamic groups supported by Pakistan. Pakistan denied any role in the raid and India said the raid should not affect peace talks but warned that such incidents if repeated could impact on talks. [32 gv]
- 19.42 The BBC reported in an earlier article dated 6 July 2005, Hindu nationalists held angry protests, a day after an attack on the bitterly disputed religious site. Police fired water cannons to disperse about 1,000 activists in Delhi. "Six people were injured in Hindu-Muslim clashes in the eastern city of Ranchi." Police were on high alert across India to prevent religious unrest. No group claimed responsibility for the attack on the Ayodhya holy complex. [32as]

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GUJARAT RIOTS 2002

Godhra Train Incident

- 19.43 Keesings Record of World Events, February 2002, reported that on 27 February 2002, a campaign of sectarian violence was triggered in Godhra, Gujarat by an attack on a train carrying Hindu activists. At least 58 passengers were burnt to death and 43 injured. The fatalities included 26 women and 14 children. The Hindus were returning from a visit to the disputed religious

shrine at Ayodhya. News of the massacre sparked a number of retaliatory attacks by Hindus the same day, swelling the following day to a wave of violence in towns and cities across the State. In the State capital, Ahmedabad, crowds looted and burned Muslim-owned shops, hotels, restaurants, and petrol stations. In one incident, 38 Muslims were said to have burnt to death when a mob isolated and burnt down 6 bungalows. [5j] Keesings reported in 2002 that by 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. [5k]

- 19.44 Keesings News Digest for April 2002 reported that during April 2002, the sporadic violence spread through Gujarat State to Kutch in the west, which had been previously untouched. An estimated 100,000 Muslims were in relief camps having been driven from their homes. [5h]
- 19.45 BBC News reported on 17 January 2005 that a Government inquiry said that the Godhra train attack in 2002 was started by accident. The report noted "Evidence suggests the fire began inside the train, not that it was fire-bombed, an investigating judge decided. Most accounts from the time and since said a Muslim mob threw petrol bombs at the train, starting the blaze. The incident set off days of rioting in Gujarat state in which at least 1,000 people, most of them Muslims, died. Justice UC Banerjee stated that "The possibility of an inflammable liquid having been used is completely ruled out." Since the train fire, more than 100 Muslims had been arrested by state police in connection with the incident and approximately 75 of them remained on remand awaiting trial. No-one had been convicted over the fire. Gujarat's state authorities said that Muslims torched the train but doubts had persisted about how the fire began. The judge had criticised the railway authorities for not conducting a thorough inquiry and said they had 'pre-judged' the incident. The investigation was set up by the Congress party-led government following its election victory. Gujarat's inspector-general of police has challenged the findings of the inquiry along with the BJP. [32bf] This information is also confirmed in an article in *The Hindu* on 18 January 2005, in which it is reported that the Justice UC Banerjee Committee said the fire on 27 February 2002 was purely "accidental." [60d]
- 19.46 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)
- 19.47 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)
- 19.48 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]

- 19.49 As reported by rediff.com on 25 October 2005, a fast track court judge in a Vadodara court acquitted 108 people for lack of evidence in connection with a post-Godhra communal riots case concerning the killing of two people from a minority community. "The court indicted Gujarat police for failing to prevent the incident." [81d] A further rediff news article dated 14 December 2005 reported that a fast-track court in Godhra sentenced 11 people to life imprisonment for killing 11 minority community members in Panchmahal district of Gujarat. Eighteen others were acquitted for lack of evidence. [81e]

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Best Bakery Case

- 19.50 As noted in a BBC News report of 12 September 2003, India's Supreme Court launched a scathing attack on the authorities in the state of Gujarat over their handling of a riot in 2002 in which 12 Muslims were burned to death in a bakery by a Hindu mob (now known as the Best Bakery case). Twenty-one Hindus were acquitted of killing the Muslims in a controversial ruling in June 2002 after many of the prosecution witnesses withdrew their evidence. The incident came during rioting in Gujarat in which more than 1,000 people, most of them Muslims, were killed. [32bm] A BBC News report for 19 September 2003 reported that Gujarat's State Government later agreed to seek a re-trial of the 21 Hindus acquitted following criticism from the Supreme Court. [32bn]
- 19.51 BBC News reported on 22 January 2004 that federal police arrested 12 people on charges of murder and gang rape during the 2002 Gujarat riots. They face charges in connection with an attack on a Muslim group by a Hindu mob in March 2002. [32cs] The BBC reported on 12 February 2004 that India's Central Bureau of Investigation submitted a report to the Supreme Court on an alleged gang rape and murder of Muslims during the 2002 Gujarat riots. It is alleged that 3 women were raped and 14 Muslims killed in the incident. The CBI was asked to follow up the case as a result of India's National Human Rights Commission's support of a key eyewitness. Thirteen people have been arrested by the CBI including a policeman for allegedly tampering with evidence. The case is due before the Supreme Court with more than ten Gujarat riot cases currently before the Supreme Court. [32ct]
- 19.52 The Human Rights Watch Annual Report for 2005 stated:
- "The Gujarat government's failure to bring to justice those responsible for massive communitarian riots in the state, in which thousands of Muslims were killed and left homeless, continues to be a source of tension throughout the entire country. However, the Supreme Court and the National Human Rights Commission have taken several positive steps to secure justice for the victims of the riots." [26e]
- 19.53 As reported in the Keesings May 2005 News Digest, it was revealed by the Minister of State for Home Affairs on 11 May, in a written reply to a question in the Rajya Sabha, according to official figures 1,044 people died in the 2002 sectarian riots in Gujarat that followed the deaths of 58 people in the burning

of a train carrying Hindu pilgrims at Godhra. "The total included 790 Muslims and 254 Hindus. A further 223 people were said to be missing and about 2,500 were injured in the violence. Some human rights groups had claimed that up to 2,000 people had been killed in the riots." [5f]

- 19.54 The same source continued "Compensation had been paid by the Gujarat state government to the families of those killed and injured, and a total of Rs2.4 billion had been paid out in relief and rehabilitation." [5f]
- 19.55 BBC News reported on 25 October 2005 that more than 100 people were acquitted over the killing of two Muslims during the violence of 2002 in Gujarat. The two victims had returned to collect belongings from one of their homes accompanied by policemen in March 2002 and were killed by a mob. One hundred and thirteen people were accused of the attack and 108 were arrested in connection with it. [32cq]

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Other Incidents

- 19.56 The USIRF 2007 Report noted that:

"In May 2006 despite Muslim community protests, the Vadodara City Government demolished a 300-year-old shrine in Gujarat. While dispersing a mob of Muslim protestors, the Gujarat police killed two Muslims. The mob set four shops on fire in retaliation. Three Hindus were also stabbed to death in the mob violence and a group of Hindus set one Muslim man on fire. The Home Ministry deployed paramilitary forces and the army to assist local security personnel. The media reported that 6 persons were killed and 42 injured, 16 as a result of police fire. The NCM urged the State Government to ascertain if police firing was unavoidable and if the decision to destroy the shrine was justified. During the reporting period, the Gujarat Government did not take any steps to restore the shrine." [2b] (Section II. Abuses of Religious Freedom)

- 19.57 As reported by BBC News on 18 February 2005, a Shia march was dispersed in Kashmir when police in Srinagar used batons and teargas to break up a Shia mourning procession. Several mourners were arrested as they marched in a part of the city where processions have been banned since 1988. The mourners were dispersed for security reasons and two alternative routes were provided for processions away from densely populated areas. [32cj]
- 19.58 A BBC News report dated 21 February 2005 stated that a curfew was imposed in a part of the northern Indian city of Lucknow following sectarian violence. Three people died and several were hurt when Shia and Sunni Muslims clashed at a Shia mourning procession in the Husainabad area according to police. "The curfew was imposed to prevent further escalation of tension in the area. "Lucknow has a history of clashes between Shias and Sunnis over the mourning processions." Officials said that rival groups threw stones, shot at each other and set vehicles and shops alight following a dispute over the route of a Shia Muharam festival procession. [32ck]
- 19.59 *The Guardian* reported on 7 November 2005 that a group of Hindus attacked a Muslim village in northern India, setting fire to homes and killing three people

after rumours spread that cows had been slaughtered for Islamic Eid-al-Fitr celebrations marking the end of Ramadam. Hindus from neighbouring areas attacked Mehndipu village, Uttar Pradesh. However no cows were found to have been slaughtered following a police investigation. [40d]

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CHRISTIANS

- 19.60 As noted in a report on religious intolerance by the Special Rapporteur in 1997, Christians constitute the second largest minority in India, after Muslims. The Indian authorities do not interfere with their internal religious activities, which may be conducted freely. Christians are well integrated into Indian society. [6b] (p10&12)
- 19.61 As stated in a Reuters news article dated 13 June 2005 “Christians account for about two percent of India’s more than one billion people.” [8a] 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)
- 19.62 On 29 December 2007, Human Rights Watch reported on the violence that had erupted, between Hindus and Christians in Orissa state, during the run up to Christmas 2007. The report noted:
- “Violence first broke out on December 24 [2007] during an altercation between Hindus and Christians over Christmas celebrations in Orissa’s Kandhamal district. A group of Christians then attacked the vehicle of a local leader of a right-wing Hindu organization. In retaliation, Hindu mobs burned down at least 19 churches, and attacked church officials. Christians then began to attack Hindu properties. A number of villagers have fled their homes to escape the violence. The state government failed to act quickly, leaving vulnerable groups at risk, which enabled the violence to escalate over the last four days. The exact death toll in these clashes is still unknown, though the media have reported the deaths of at least eight people.” [26i]
- 19.63 A report published in May 2007 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.” [72] (p244)
- 19.64 The United Nations noted in their Human Development Report, 2004, that “In South Asia organised violent attacks on Christian Churches and missions have increased. India, despite its long secular tradition, has experienced considerable communal violence, with rising intensity: 36.2% of casualties due to communal violence since 1954 occurred in 1990–2002.” [71] (p74)
- 19.65 A BBC News item dated 26 September 2004 reported “Police in the southern Indian state of Kerala have detained 15 people following two attacks on nuns and priests of the Missionaries of Charity.” It was reported that three priests and six nuns were attacked in separate incidences on the outskirts of

Kozhikode. A representative of Indian Christians blamed the attacks on members of right-wing political parties, the Rashtriya Swayasevak Sangh (RSS) and Bharatiya Janata Party (BJP). The attackers accused the nuns of converting Dalit Hindus. [32am] Reuters reported on 13 June 2005 “Angry Hindu youths beat three American missionaries and tried to kidnap one as they held a bible studies class in Bombay...About 30 or 40 men attacked the three, part of a group of eight, on Saturday night because they thought the missionaries were trying to convert Hindus in the Indian financial capital.” [8a]

- 19.66 The Bombay Catholic Sabha President said that while these kind of attacks were rare in Bombay, the police should take serious action against those responsible to send a clear message that religious intolerance will not be accepted in India. “Christians are often accused of ‘forcibly’ converting poor and uneducated low-caste Hindus by bribing them with money and gifts, a charge missionaries deny. Some states have outlawed forcible conversions.” (Reuters, 13 June 2005) [8a]
- 19.67 BBC News reported on 28 January 2006 that 25 Christians were beaten up in Bhopal. This was the first incident of this nature in this city. A witness saw 35 people carrying sticks and iron rods fleeing a house where Christians were praying, leaving a child and a priest with serious injuries. Christians had been under pressure in the state of Madhya Pradesh from right-wing Hindus although one such leader denied any involvement in the attack. It was alleged that Christians in the area were offering incentives to the poor and illiterate to convert. [32b]
- 19.68 Christian Solidarity Worldwide (CSW) reported on 2 February 2006, that three separate attacks on Christians in Madhya Pradesh occurred within 4 days, resulting in a number of people needing hospital treatment. In the first attack, police were said to have assaulted two tribal church leaders who were threatened with “serious consequences” if they continued their activities. The following day Hindu extremists beat three church leaders who were then arrested for allegedly attempting to forcibly convert 23 tribal people, (literature was confiscated by the police). The most violent attack allegedly occurred in Bhopal on 28 January when about 30 people threw stones at a building during a Christian meeting and anti-Christian slogans were shouted. Organisers were accused of forcibly converting and attacking ten participants with sticks. Sources in India hold the Bajrang Dal (the militant wing of the Hindu fundamentalist Rashtriya Swayeamsevak Sangh – RSS) responsible for the last attack. [17a]
- 19.69 CSW, in an article dated 5 June 2006, condemned the gang rape of two Christian women in Nadia village, Khargone district, Madhya Pradesh and attempts to force Christians in the same village to renounce their faith. On 28 May five Hindu men gang-raped two women and attacked their husbands when they intervened. A neighbouring village council had previously attempted to force one of the victim’s husbands to renounce his faith, warning him to leave the village. According to a report by Compass Direct, the head of the Sirvil village council told villagers they could rape the Christian women in the village. Police were investigating the case although no arrests have been made as yet. [17b]
- 19.70 CSW further reported, on 13 June 2006, that a lay preacher Prem Kumar was murdered in Andhra Pradesh, making him the fourth church leader murdered

in the state in just over a year. CSW claim the murder to be the latest in a campaign of attacks against Christians in Andhra Pradesh by Hindu extremist groups. [17c]

19.71 As noted in the USIRF 2007 Report:

“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)

19.72 A BBC News report dated 26 March 2003 reported that in March 2003, a bill to stop forced religious conversions was introduced in Gujarat. The Freedom of Religion Bill was modelled on similar legislation introduced in December 2002 in Tamil Nadu, and legislation already on the statute books of Madhya Pradesh and Orissa. Under the terms of the bill, a conversion must be assessed by officials and prior permission given by the District Magistrate to be lawful. [32at] A further BBC News report dated 6 June 2003 reported the laws forbid any religious conversions carried out under “force, fraud or allurement”. [32aw]

19.73 Christian Solidarity Worldwide (CSW) reported on 7 August 2006:

“The Chhattisgarh State Assembly has enhanced their anti-conversion legislation to require religious converts to give one month notification in advance of conversion. Madhya Pradesh State Government passed an identical amendment to their anti-conversion law the previous week. The new legislation stipulates that potential religious converts must seek permission from a district magistrate thirty days before a conversion ‘ceremony’. The bill also indicates that the penalty for those perceived to be involved in conversion by force or allurement is a three-year jail term and a fine of Rs.20,000 (approximately £225)...However the amendment still needs to be ratified by the state governor and Christian groups are petitioning against this ratification.” [17d]

See also section 19.18 [Religious conversions](#)

19.74 The Special Rapporteur’s report of 1997 noted that the public schools provide secular education. Minorities can establish their own schools; these include schools providing a general education but in addition offering religious instruction to Christian pupils. Also, religious establishments such as seminaries provide religious instruction. [6b] (p11)

19.75 As noted in a report by the Special Rapporteur in 1997, there is constitutional freedom to produce and disseminate religious publications, including the Bible. [6b] (p12)

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SIKHS AND THE PUNJAB

Sikh Religion and Historical Background

- 19.76 The 2001 Census estimated that Sikhs constitute 1.9 per cent of the population. (CIA World Factbook, updated 13 December 2007) [35]
- 19.77 As noted in a background paper published in 1990 by the Immigration and Refugee Board of Canada, the Sikh religion was founded by Guru Nanak (1469-1539), a high caste Hindu who denounced social and State oppression. He took monotheism from Islam, but rejected Ramadan, polygamy and pilgrimages to Mecca. He also rejected Hindu polytheism, the caste system and sati (sacrificing a widow on her husband's funeral pyre). Nine gurus succeeded Nanak. The Sikh commandments include certain prohibitions, notably against alcohol and tobacco. For men the Sikh religion requires observance of the "5 Ks": Kes (uncut hair and beard); Kacch (breeches); Kirpan (a double-edged sword); Kangha (a steel comb); and Kara (an iron bangle). [4a] (p7-8)
- 19.78 As noted in the same paper, 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)
- 19.79 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

- 19.80 The South Asia Terrorism Portal (SATP), accessed 19 June 2007, named 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 (BTFK)
 Khalistan Liberation Army (KLA)
 Khalistan Liberation Front (KLF)
 Khalistan Armed Force (KAF)

Dashmesh Regiment
Khalistan Liberation Organisation (KLO)
Khalistan National Army (KNA) [44a]

19.81 No Sikh related terrorist incidents were recorded in SATPs India Assessment of 2007, covering events in 2006. [44b] SATPs South Asia Intelligence Review, in their Weekly Assessments and Briefings of 13 June 2005 entitled "Punjab: Another 'module' implodes", noted "[that] there has been a continuous pattern of arrests and seizures of arms and explosives, indicating unrelenting efforts to resuscitate the terror, stifled, on each occasion, by the complete absence of public support, and the immensely improved intelligence capabilities of the Punjab Police." [44c]

19.82 BBC News reported on 20 June 2005 that:

"Police in the Indian state of Punjab say they have 'neutralised' Sikh separatist militants who had recently become active in the state. The state's police chief said an operation to counter the militants was launched following two cinema bomb attacks in Delhi... He said there had been an attempt to revive Sikh militancy in Punjab. But he said the revival was 'checked' by timely police action which led to the arrests of about 24 people... He ruled out the possibility of a full-scale resumption of Sikh militancy in Punjab, although there had been a 'concerted effort' to reactivate Sikh separatist groups such as the Babbar Khalsa." [32cx]

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Human Rights Concerns in Punjab

19.83 The Asian Centre for Human Rights (ACHR) reported in their Indian Human Rights Report 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. [18e] (Punjab)

19.84 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." [18e] (Punjab)

19.85 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)." [86] (p2)

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Prosecution of Security Force Personnel

19.86 The US State Department Country Report of 2006 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 CBI claimed to be pursuing charges against dozens of police officials implicated in the 1980s for hundreds of deaths and secret cremations. The NGO ENSAAF estimated that security forces extrajudicially 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." [2c] (Section 1b)

19.87 Amnesty International's Report 2007 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. In response to 2,097 reported cases of human rights violations during this period, the NHRC ordered Punjab state to provide compensation in 1,051 cases concerning people who died in police custody and appointed a commissioner to decide on compensation for 814 additional cases. CBI findings on these deaths in custody were not made public and the NHRC did not actively pursue with the judiciary the outstanding issues of impunity." [3a] (Impunity)

19.88 As noted in the USSD 2006 Country Report:

"The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several prominent Congress party leaders for complicity in the violence and implicated law enforcement personnel in the deaths, accusing them of refusing to perform their duty to maintain law and order. The government set up two committees to disburse financial compensation promised by Prime Minister Singh to the victims' families." [2c] (Section 1b)

19.89 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." [18e] (Punjab)

- 19.90 As reported by BBC News on 18 November 2005, six policemen in Punjab had been convicted of abducting and killing a leading human rights activist, Jaswant Singh Khaira. He was abducted from his home in Amritsar in September 1995 after exposing alleged widespread rights abuses and extrajudicial killings by the police of Sikh separatists in the 1990s. Two policemen received life sentences, and four others five years each. The men were convicted despite their being no trace of Khaira. The verdict was of significance because it was seen as the first acknowledgement that the Indian state had turned a blind eye to violations committed in the name of combating separatists. [32cu]

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Punjab State Human Rights Commission

- 19.91 The Punjab State Human Rights Commission started work in July 1997 to enquire into complaints of human rights violations.[12a]
- 19.92 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.” [18e] (Punjab)

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

- 19.93 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)
- 19.94 As noted in USSD 2006 Country Report “At year’s end, the CCDP, a Punjab-based human rights organization, had not received an NHRC response to its report documenting 672 disappearance cases from the 1980s to the mid 1990s. [2c] (Section 4)

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Internal Relocation for Sikhs

- 19.95 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]
- 19.96 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]
- 19.97 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]
- 19.98 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]

- 19.99 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)
- 19.100 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)." [86] (p1)
- 19.101 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]
- 19.102 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]
- 19.103 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]

- 19.104 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]

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BUDDHISTS AND ZOROASTRIANS

- 19.105 According to a report by the Special Rapporteur on religious intolerance, 1997, Buddhist and Zoroastrian minorities are able to practise their religion freely, possess adequate numbers of places of worship and religious publications, and refrain from proselytising among other communities. Buddhists and Zoroastrians are said to be fully integrated into society. [6b] (p6)
- 19.106 As noted in a BBC News article dated 19 July 2005 “Zoroastrian Iranians came to India 12 centuries ago to avoid Islamic persecution. They settled in the western state of Gujarat. Today the majority of the 69,000-strong community lives in Mumbai in the neighbouring state of Maharashtra. They speak Gujarati but many of their religious rituals are preserved.” [32bu]

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20. ETHNIC GROUPS

- 20.01 As noted in the 2004 report of the Library of Congress Federal Research Division India country profile:

“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).” [87]

- 20.02 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**)

- 20.03 Freedom House in its Annual Report for India 2007 stated:

“The constitution bars discrimination based on caste, and laws set aside 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 adequately represented in national and local government, and in 2004, Manmohan Singh, a Sikh, became India’s first prime minister from a minority group. However, members of the lower castes, as well as religious and ethnic minorities, continue to face routine unofficial discrimination and violence. The worst abuse is experienced by the 160 million dalits, who are often denied access to land or other public amenities, abused by landlords and police, and forced to work in miserable conditions. In January 2005, Human Rights Watch urged the Indian government to ensure that victims of the December 2004 tsunami that struck coastal Tamil Nadu receive equal access to rehabilitation and compensation after reports surfaced that dalit communities were being discriminated against.” [43b]

20.04 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. In July 2005, ethnic Assamese began a drive to evict hundreds of Muslims from some districts in northern Assam, claiming that they were in fact migrants from Bangladesh. Other forms of discrimination against Muslims are sometimes excused in the context of ongoing tensions with Pakistan as well as the global campaign against terrorism. Although India hosts several hundred thousand refugees from various neighboring states, it has no national refugee law, and the treatment of displaced persons varies widely, according to Refugees International.” [43b]

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DALITS

20.05 The 2006 USSD Country Report noted that

“The 1955 Civil Rights Act made the practice of untouchability, which discriminated against Dalits and others defined as scheduled castes, a punishable offense; however, such discrimination remained ubiquitous, stratifying almost every segment of society. Many members of lower castes were relegated to the most menial of jobs and had little social mobility. The widespread belief that Dalits and low caste Hindus, Muslims, Christians, and Sikhs were inferior compounded the discrimination they faced. Human rights groups asserted that the government was not committed to ending caste-based discrimination, pointing at its failure to fill over 50,000 vacant positions specifically reserved for Dalits.” [2c] (Section 5)

20.06 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 fulfilment 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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21. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

- 21.01 Foreign and Commonwealth Office correspondence dated 1996, noted that homosexuality as such is not illegal in India. Section 377 of the Indian Penal Code (1860) proscribes “unnatural offences”, which are defined as penetrative intercourse “against the order of nature” with man, woman or animal. Certain practices might therefore be deemed illegal in India. However the scope of the definition has not been much tested in the courts and cases under section 377 are rare. [7b] According to a report for the Swedish Embassy by a Delhi law firm in 1997, “It is punishable with ten years’ imprisonment and a fine; however no-one so far, is known to have been awarded a ten year sentence for having been found guilty of this offence. The maximum punishment reported is two years.” [48] (p2) Arvind Narrain of the Alternative Law Forum, in an article entitled “Homosexuality in India, Where Tradition Still Rules”, published 8 June 2003, is quoted as saying, “Section 377 is used to criminalise and prosecute homosexuals. It actually legitimises the abuse of homosexuals.” [75] (p1)

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GOVERNMENT ATTITUDES

- 21.02 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.” [4k]
- 21.03 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)’.” [4k]
- 21.04 As reported in an article on the International Gay and Lesbian Human Rights Commission (IGLHRC) website, dated 31 January 2005:
- “According to IGLHRC, India is one of 79 countries that maintain laws directed at or used to outlaw sex between people of the same sex... India’s law, Indian Penal code Section 377, criminalizes ‘voluntary carnal intercourse against the order of nature’. Although it bans these acts committed by anyone, the law is commonly used to target, harass and punish sexual minorities. In a 2001 report, ‘Human Rights violations against Sexual Minorities in India’, the People’s Union for Civil Liberties - Karnataka documented widespread police harassment, abuse and extortion against LGBT people and other sexual

minorities in India... The report also documents in detail the impact of local media and popular psychology instilling fear and creating a hostile climate for LGBT people.” [92]

21.05 As noted in the same report:

“A recent attempt by Indian advocates to challenge the constitutionality of Section 377 was rejected by the Delhi High Court on September 2, 2004. The Court claimed that the deletion of Section 377 from the Indian Penal Code would ‘open flood gates of delinquent behaviour and be misconstrued as providing unbridled license to such behaviour’. An affidavit submitted by the government in support of the law claimed that Section 377 was necessary ‘to provide a healthy environment in the society by criminalizing unnatural sexual activities’.” [92]

21.06 Human Rights Watch (HRW) reported in an article published on 24 June 2005 entitled ‘Hang our Heads in Shame’ “In January 2005, Lucknow police arrested four men on charges of operating a ‘gay racket’ on the Internet, as well as of engaging in ‘unnatural’ sex. Undercover agents, posing as gay men on an Internet website, entrapped one man, then forced him to call others and arrange a meeting where they were arrested.” Charges are still pending. [50]

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SOCIAL AND ECONOMIC RIGHTS

21.07 As reported in the US State Department Country Report 2006:

“Section 377 of the Penal Code 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)

21.08 As reported in a BBC News article dated 29 May 2001, homosexual relationships are not unheard of in India, but they generally exist in the country’s larger cities where people can be more open about their sexuality. [32ae] The Indian Network for Sexual Minorities (INFOSEM), accessed 16 January 2007, listed 26 organisations throughout India offering counselling and support to sexual minorities in the country. [74]

21.09 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. [32h] In July 2005, two women belonging to scheduled tribes in Jharkand announced that they were ‘married’, defying both law and tradition, despite same sex marriages not being recognised in India. (USSD 2006 Country Report) [2c] (Section 5)

- 21.10 As reported in a BBC News article dated 29 May 2001, in May 2001, it was reported that a lesbian couple had married in a Hindu ceremony, believed to be one of the first gay weddings in the country. The marriage still needed the approval of the local registrar to be legalised. The registry office refused to grant approval because Indian law does not recognise gay marriages. Gay rights campaigners, however, welcomed the news. [32ae]
- 21.11 India's gay community has begun to assert itself in recent years. According to a BBC News report dated 29 June 2003, cities such as Bombay and Bangalore have become centres for gay culture. [32bd] The BBC reported on 19 June 2003 that there are regular gay parties in bars and pubs. There are other gay clubs in cities such as Delhi and Bangalore. [32be] It was reported by the BBC on 29 June 2003 that up to 100 people marched in a gay rights parade in Calcutta. [32bd]

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SOCIETAL ILL-TREATMENT OR DISCRIMINATION

- 21.12 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. [81c]
- 21.13 *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. [13c]
- 21.14 As reported by BBC News on 6 June 2005 "Throughout South Asia, homosexuality has been a taboo subject. There are signs in some areas that gay people are now becoming more open – but that is not always the case." In Kanpur a lesbian couple attempted suicide because their parents had forced them to marry men. "Several organisations have now demanded that the law be amended to allow same-sex marriages. Legal experts say the government should consider the recent advice of the Supreme Court to re-examine the issue of same-sex marriages." [32z]
- 21.15 As reported in a BBC News article dated 4 September 2003, India's eunuchs (Hijra) are demanding the right to be treated with tolerance and respect. It is estimated there are between 500,000 and one million hijras living in India. Because of growing societal prejudice, many hijras are unable to find work in

their communities and therefore have had to resort to begging and prostitution to survive. It is reported that hijras face routine harassment and abuse by police and the wider community. [32dp]

21.16 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.” [32bz]

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22. DISABILITY

22.01 As reported in the US State Department Country Report 2006:

“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 have almost no provisions for wheelchair access.” [2c] (Section 5)

22.02 The same source noted:

“The PDA requires that 3 percent of public sector jobs be reserved for people with physical, hearing, and visual disabilities. It also provides a list of jobs for people with these disabilities. In 2004 there were 1,075 jobs for persons with disabilities in the private sector and 1,900 in the public sector. More than 40,000 persons with disabilities held government jobs. The PDA provides benefits to private companies at which people with disabilities constitute more than 5 percent of the workforce. The government only recently began implementing these benefits, and private sector employment of people with disabilities remained low.

22.03 The report continued:

“The National Commission for Persons with Disabilities (NCPD) had the responsibility to recommend to the government specific programs to eliminate inequalities in status, facilities, and opportunities for disabled persons, to review the status and condition of institutions delivering services, and to submit annual reports with recommendations. In February 2005, the government constituted a new NCPD headed by a former governor, Sunder Singh Bhandari. In April 2005 the Rajasthan High Court directed the State government to promote the establishment of special schools for disabled children in both the public and private sectors; however, few teachers were trained to meet the special needs of disabled children. Also, the National Center for the Promotion of Employment for Disabled People stated in September 2005 that there was a shortage of educational institutions for the disabled and that the admissions process was marked by harassment.” [2c] (Section 5)

22.04 As same report further noted:

“In July 2005, disabled rights NGOs reported that persons with disabilities were not able to obtain duty free imports of artificial limbs, crutches, wheelchairs, walking frames, and other medical needs. During the year the government reduced the fees for duties on imports of devices used by disabled persons. NGOs also claimed that no effort was made to make railway compartments and platforms accessible to the disabled...The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates

a 3 percent reservation in all educational institutions for persons with disabilities; however, statistics showed that only about 1 per cent of the students had disabilities. The Times Insight Group reported in September 2005 that most colleges and universities were unaware of the law.” [2c] (Section 5)

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23. WOMEN

- 23.01 For more detailed information on the situation of women in India, the report of the Home Office Fact Finding Mission to India in July 2004, published in December 2004, should also be consulted. [45]

OVERVIEW

- 23.02 A July 2007 estimate, as cited in the CIA World Factbook updated 13 December 2007, noted that out of a population of nearly 1,130 million, approximately 547 million are female and 582 million are male. [35]

- 23.03 As noted in the 2001 Census, 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]

- 23.04 India ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 9 July 1993. [6h] (CEDAW States Parties) As stated in Article 1 of the Convention:

“For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” [6d] (CEDAW Article 1)

- 23.05 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)

- 23.06 As stated in the Constitution of India, 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]

- 23.07 The Department of Women and Child Development noted in their National Policy for the Empowerment of Women 2001 “[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.” [73a] In their concluding comments of their 37th session, CEDAW commended the Indian Government on its National Policy for the Empowerment of Women, which it stated, among other things, commits to ensure that all marriages are registered by 2010. [6f]
- 23.08 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)
- 23.09 In 2003 the Government of Assam Planning and Development Department issued a Human Development report for the state of Assam. In a chapter entitled ‘Women: Striving in an Unequal World’, the report stated:
- “Despite their contribution, they [women] continue to be severely disadvantaged, and even discriminated against. In most fields of professional endeavour, women have had to struggle to reach the top, in the process of combating indifference, occasionally even obstruction and hostility. At the other end of the economic scale, women are deprived access to basic services, and relegated to subservient yet physically demanding roles. In this context the position of women in Assam is no different from that of women in other regions of the country. In fact, in some respects women in Assam are even more disadvantaged.” [88] (p106)
- 23.10 In 2003 the Government of Tamil Nadu issued a report on Human Development in Tamil Nadu which included a chapter entitled ‘Gender’. The report stated that the performance of Tamil Nadu in a number of areas including female literacy, infant mortality rates, life expectancy and fertility rates shows that the status of women is higher in Tamil Nadu than in other states with the exception of Kerala. However the report acknowledges that their position has remained unchanged or even worsened as far as the declining sex ratio is concerned. [51a] (p93)
- 23.11 As reported by *The Guardian* newspaper, dated 3 February 2006, the All India Muslim Personal Law Board, which claims to represent the nation’s 140 million Muslims, issued an edict stating Muslim women should not work with men or shop in areas where they could mix with strangers of the opposite sex. Women were also criticised for wearing Western clothes deemed to be too revealing. The comments angered Muslim liberals. “The board, which is made up of leading clerics from all over India, carries considerable weight. Almost every mosque in the country takes its advice.” [40e]

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LEGAL RIGHTS

- 23.12 As reported in the USSD Country Report 2006 “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)
- 23.13 Freedom House Freedom in the World Report on India for 2007 noted that “Muslim personal status laws as well as traditional Hindu practices discriminate against women in terms of inheritance and property rights, as well as adoption.” [43b] 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.” [65a] (p48)
- 23.14 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]
- 23.15 As noted in Amnesty International’s report in May 2001 “The battle against fear and discrimination”:
- “Attempts by women to seek justice through the criminal justice system are regularly forestalled...Unless supported by male relatives or a strong social group, women victims of crime are at a severe disadvantage within the criminal justice system. Threats and harassment by perpetrators and their communities and social pressures which exist within families and communities force them towards compromise or withdrawal rather than pursuing justice. Gender biases which exist within institutions of redress are often exacerbated by ingrained caste and other biases against members of disadvantaged communities.” [3e] (The practice of justice for marginalised women)
- 23.16 The Home Office 2004 Fact-Finding Mission report “Women in India”, noted that many laws exist for the protection of women’s rights but implementation and enforcement appeared to pose the biggest barrier with cultural reasons cited as one of the problems surrounding implementation. [45]

See Section 23.58 Domestic Violence for information on Protection of Women from Domestic Violence Bill, 2005.

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POLITICAL RIGHTS

Women in Politics

- 23.17 As cited in the USSD Country Report 2006 “There were 72 women in the 783-seat legislature, and 10 in the 34-member cabinet of ministers. 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 (panchayats).” [2c] (Section 3)
- 23.18 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)
- 23.19 India was ranked 109 out of 189 countries for the percentage of women in its lower house of Parliament (Lok Sabha). The ranking was based on the percentage of women in the Lower or single House, but does not take into consideration the Upper House (Rajya Sabha). (Inter-Parliamentary Union (IPU), 28 February 2007) [56]
- 23.20 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]
- 23.21 In May 2007, the Bahujan Samaj Party (BSP), led by Mayawati Kumari, a low-caste Dalit woman, won the assembly elections in the northern state of Uttar Pradesh, in a landslide victory. Ms Mayawati had been in office with the previous coalition government, but this time, with 202 out of 403 seats, the BSP will form its own government. (BBC News, 11 May 2007 [32ag]
- 23.22 A BBC News report, dated 8 December 2003, further stated that while India had seen a number of women leaders, they had not overseen any remarkable change in the status of women in Indian society. The article noted “The two main national parties, the BJP and Congress, have always advocated strong support for reserving a third of seats for women in national and state parliaments. But these attempts have failed and the national parliament percentage for women stands at only 17. The federal cabinet has less than 10% women.” [32cg]
- 23.23 A report issued by the Government of Tamil Nadu in 2003 noted that despite the differences in participation in voting between men and women in Tamil Nadu being small, gender difference in achieving positions of power through elections was higher, with the percentage of female members of parliament being consistently lower than eight per cent. [51a] (p103)

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Women in the Workplace

23.24 The USSD 2006 Country Report:

"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 and NGO-supported microcredit programs for women 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)

23.25 As noted in the same report:

"Sexual harassment was common, with a vast majority of cases unreported to authorities. Hazards faced by women in the workforce included physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In June 2004 a joint report released by the NCW [National Commission for Women] and the national press institute found that most women experienced gender discrimination at their workplaces. Attempts by women to report harassment resulted in further problems or dismissal.

"In 2004 the Supreme Court determined that a victim of sexual harassment had a right to compensation based on the findings of an internal departmental report or investigation. In January the Supreme Court expressed concern over the non-implementation of a prior judgment relating to sexual harassment at the workplace and instructed all state Chief Secretaries to inform the high court whether they had set up committees to handle complaints, pursuant to its mandate that all state departments and institutions with over 50 employees must have committees to deal with sexual harassment issues." [2c] (Section 5)

23.26 As reported by BBC news on 27 July 2005:

"India's Supreme Court has upheld the conviction for sexual harassment of a policeman who became a national hero. 'Super cop' KPS Gill must pay more than \$4,500 compensation to a female civil servant who said he slapped her bottom while drunk at a 1988 cocktail party. The Supreme Court ruled a three-month prison term for Gill. Gill, now retired, denied the charges. He shot to prominence as Punjab police chief in the early 1990s when he led efforts to crush Sikh militancy.

"Gill was head of Punjab police when he molested a senior female bureaucrat and was convicted ten years later of 'outraging her modesty'. In 1988 the Sessions court in Punjab sentenced him to three months in prison which was later commuted to a year on probation by the state high court, which ordered him to pay compensation to his victim plus a fine. 'Upholding the conviction, two Supreme Court judges...ordered that the officer pay the compensation as

well as \$500 in legal expenses.’ The Supreme Court also ordered him not to drink in public. The judges did not deem a custodial sentence necessary as he had already served probation.” [32ac]

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GENDER IMBALANCE

23.27 As reported in the USSD Country Report 2006:

“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 in the state reveal the sex of fetuses. Both female infanticide and selective feticide targeting females occurred during the year as the traditional preference for male children continued. The government did not enforce effectively the law prohibiting termination of a pregnancy for sexual preference. However, in 2001 authorities for the first time arrested a doctor in Haryana was arrested [sic] for performing a pre-natal sex determination test. On March 28, a court sentenced the physician to two years in jail and a fine of \$111 (Rs 4,900). In February the London based Lancet estimated that 10 million female babies may have been aborted in the country in the past 20 years...

“In August two mass graves of female fetuses were discovered in Patiala, Punjab. The court arrested Pritam Singh and his wife Amarjit Kaur for allegedly performing illegal abortions in Sahib Hospital. They were sent to judicial custody. The Punjab government ordered a crackdown on all private maternity homes, a large number of which were suspected of conducting illegal abortions...

“The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported low male/female ratios. Nationally, there are only 927 girls per 1,000 boys. In 14 districts of Haryana and Punjab there are fewer than 800 girls per 1000 boys...” [2c] (Section 5)

23.28 A report by *The Guardian*, dated 28 February 2007, noted that “Although ministers in India have woken up to ‘a national crisis’, 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...” [40e]

23.29 The 2006 USSD Country Report 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 acknowledged that an education campaign is needed to change the social preference for boy children, and launched a ‘Save the Girl Child’ campaign designed to highlight the achievements of young girls.

“Proving that such campaigns can be successful, authorities from the village of Lakhanpal in central Punjab ran a program to end female feticide, and, as a result, more girls were subsequently born there than boys. 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)

- 23.30 As stated in an answer to a starred question in the Rajya Sabha dated 18 March 2005, the Minister of health and family welfare noted that:

“The Government is continuously working towards ending the practice of pre-birth elimination of females. A comprehensive Act known as Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PC & PNDT Act) is being implemented in the country...The violators of the Act are punishable with imprisonment upto [sic] 5 years and fine up to Rs. 5 lakhs, along with cancellation of registration licence...this sends a signal to the society at large, and females in particular, that gender-based discrimination shall not be tolerated.” [27a]

- 23.31 BBC News reported on 18 August 2006:

“The government in India’s Punjab state is investigating the possible involvement of state officials in setting up illegal clinics and ultrasound centres accused of female foeticide. Last week, a surprise raid by police and health officials in the town of Patran in Patiala district unearthed a 10-metre (30-foot) well - located behind a private clinic - which contained the remains of at least 50 female fetuses. The discovery provoked the largest ever campaign against female foeticide across the state’s 23 districts. Punjab has the lowest sex ratio in the country and there are 776 girls for every 1,000 boys in the state up to the age of six years. All district and local officials have been instructed by the government to carry out regular surprise checks on clinics and centres offering ultrasound testing...The owners of Sahib Hospital in Patran were arrested. They have been charged on various counts under laws prohibiting pre-natal sex-determination tests and termination of pregnancy, where the unborn child is known to be a girl...The raids are specifically targeting smaller clinics, many located in nondescript, small townships and settlements, like Sahib Hospital. ‘I have directed my men to seal all unauthorised hospitals and diagnostic centres,’ the civil surgeon responsible for health services in the district, Virender Singh Mohi, said. ‘Regular, monthly raids are being made mandatory so that we can remain on top of things.’ And even though the raids - conducted across Punjab and a few locations in the neighbouring state of Haryana - have so far failed to yield any results, officials are firm on carrying the campaign forward.” [32a]

- 23.32 The report continued:

“Acting on information given by a midwife...police and health officials excavated a second deep well on the premises of Sahib Hospital...workers recovered what appeared to be numerous skeletal remains of babies and several pieces of blood-soaked cloth...Darshan Kumar Singla, a local journalist in Patran, says ‘although everyone is aware this is illegal, most people do not think anything about aborting a female child and trying again for a boy. Female foeticide is rampant in all the small towns here. Most nursing homes do such work at night and everybody - the police, the health authorities and the civil administration - knows this is happening.

“People in Punjab have traditionally shown a preference for sons, which experts say is driven by both an intensely patriarchal mindset and the system of dowry. Adult men here substantially outnumber women. Experts say this sharply skewed trend is highly dangerous.” [32q]

23.33 *The Guardian* reported on 12 June 2006:

“A man wanting a son reportedly forced his wife into 10 abortions in 23 years.” The woman who has four daughters said that her husband arranged an ultrasound test to determine the child’s sex, each time she was pregnant. She filed a complaint after her husband remarried and had a son. A court ordered his detention on charges of harassment and forcing abortions. Police are investigating the doctors who carried out the tests and abortions.” [40c]

23.34 BBC News reported on 15 May 2006:

“Police in the Indian state of Rajasthan have launched an investigation into 21 doctors who are alleged to have been involved in aborting female fetuses. The move came as women’s groups marched in the state capital, Jaipur, in protest over the issue...The state health minister said those found guilty of such practices would be severely punished...Police have now filed cases under the Pre-Natal Diagnostic Techniques Act (PNDT), which makes selective abortions illegal, against 21 doctors from government-run and private hospitals. Under Indian law, ultrasound tests on a pregnant woman to determine the gender of the foetus are illegal...According to the last census, Rajasthan has 922 females per 1,000 males. However, some districts have an even more dismal sex ratio. Women’s groups say the government has failed to implement the PNDT Act and the female population is in decline. In a rare case in March, a doctor in Haryana state and his assistant were sentenced to two years in jail for revealing the sex of a female foetus and then agreeing to abort it. According to one report, 10 million female fetuses may have been aborted in India over the past 20 years.” [32ax]

23.35 As reported in a BBC report dated 24 August 2004 in connection with a man in Rajasthan threatening to kill his third daughter born after the failure of an operation to sterilise his wife “Female infanticide is rife in Rajasthan, where the birth of a daughter is considered a curse, while the birth of a son is celebrated. The state has a gender imbalance, with just 922 females for every 1,000 males.” [32dt] A report issued by the Government of Assam in 2003 stated that “The SR [sex ratio] in Assam according to the 2001 Census, is 932 females per 1000 males, marginally below the national SR of 933 females per 1000 males. For Assam as well as for India there has been an improvement in the SR (from 923 to 932 for Assam and from 927 to 933 for India). However these figures are based on a comparison with the 1991 census, and are marginally more adverse than the 1981 census for India which showed a figure of 934 females per 1,000 males.” [88] (p112)

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MARRIAGE AND DIVORCE

- 23.36 As noted in a World Bank document, 'Terror as a Bargaining Instrument: A Case study of Dowry violence in rural India', May 2000 "In India marriage is almost never a matter of choice for women, but is driven almost entirely by social norms and parental preferences." [70b] (p1)
- 23.37 The report commissioned by the Office of the United Nations Resident Coordinator in India in 2001 entitled 'Women in India How Free? How Equal?' noted that:
- "Legally the minimum age for marriage in India is 18 for women and 21 for men, but this law is honoured more in the breach. Close to 60% of women in rural India were married before the age of 18, when they were still adolescents – and this is in a sample of women in the age group of 20-24 years, not the 'older generation' where this may have been the norm. The fact that the legal provisions for compulsory registration of births and marriages are seldom enforced, allows the prohibition against child marriage to be flouted with impunity." [6e] (p62)
- 23.38 A Human Rights Brief entitled 'Women in India', dated October 1995 and prepared by the Immigration and Refugee Board (IRB) of Canada, stated that the personal status laws of the religious communities govern matters such as marriage, divorce and property. The Hindu Marriage Act 1955 gives the parties the right to dissolve the marriage according to their custom. Under the Indian Divorce Act 1969, a Christian woman may petition the court for divorce on one or more of several grounds, including bigamy and rape. [4e] (p9) In a news item dated 4 August 2004, the BBC reported that following several cases where Indian men had divorced their wives by mail, over the phone and via text messages, the All India Muslim Personal Law Board had taken the matter up at a recent meeting. Although the board did not have the authority to ban the practice there was a consensus among the board that it was a sin and should be discouraged. An awareness campaign was started. [32b] As noted in the IRBs Women in India report, October 1995, the divorce law applying to secular marriages was included in the Special Marriage Act 1954, providing for divorce by mutual consent as well as by petition to the court. [4e] (p9)
- 23.39 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)
- 23.40 As reported in the USSD Country Report 2006:
- "In 2004 the government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they resided during the marriage or where the marriage took place; however, the amendment permits women to file where they currently reside...On November 26, the All India Shi'a Personal Law Board unanimously approved a

model nikahnama (marriage contract) that provided women the same rights as men for divorce.” [2c] (Section 5)

- 23.41 The USSD 2006 Country Report noted that “In August 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)

- 23.42 The same report further noted:

“Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Muslim women are subject to the Muslim Personal Law (Shariat) Application Act of 1937. Under this law, the Shariat superceded ‘custom or usage to the contrary’ for all property, except agricultural land, on the basis of personal law for Muslims. 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

- 23.43 As reported by the BBC on 16 July 2003, dowries and the problems associated with them have meant that many Indian families are desperate to avoid having girls. Legislation against sex determination tests was passed nearly a decade ago, but the practice is still widespread. The Pre-natal Diagnostics Techniques (Regulation and Prevention of Misuse) Act 1994 (amended 2002) bans sex determination tests. [32bb]

- 23.44 The USSD 2006 Country Report noted:

“[that] Providing or a taking dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes remained a serious problem. In a typical dispute, the groom’s family harassed a new wife for not providing a sufficient dowry. This harassment sometimes ended in the woman’s death, which the family often tried to portray as a suicide or accident. In 2005 the NCRB [National Crime Records Bureau] reported 6,787 incidents of dowry deaths in the country.

“In June a court in Varanasi, Uttar Pradesh, sentenced seven persons, including the husband, father-in-law and mother-in-law of Kiran, to life in prison after they were found guilty of burning her to death for failing to provide dowry in December 2004.

“In July a Chennai court sentenced a man to seven years in prison for complicity in his wife’s suicide. After Selvaguru married Jayageetha in 2002, he demanded a dowry of approximately \$4,444 (Rs 196,000) and a motorbike from her parents. Jayageetha committed suicide in May 2005.

“On August 4, Malati Malakar's husband and in-laws poured kerosene on her and burned her to death in Baruipur, West Bengal. Malati's father attempted to lodge a complaint against his son-in-law, but according to AHRC, Malati's husband remained at large and his parents were not charged.” [2c] (Section 5)

- 23.45 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. [32ah]
- 23.46 The USSD Country Report observed:
- “Under the law, courts must presume the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first seven years of marriage – provided that harassment was proven. In such cases, police procedures required that an officer of the rank of deputy superintendent or above investigate and that a team of two or more doctors perform the postmortem procedures; however, in practice police did not follow these procedures consistently.” [2c] (Section 5)
- 23.47 As reported by the BBC News service on 1 June 2000, conviction for causing an ‘unnatural death’ because the wife's family failed to provide a sufficient dowry, may result in prison sentences of up to 14 years. [32I]
- 23.48 As noted in a BBC News article dated 16 July 2003, this type of murder is often referred to as “bride burning” in India. Payment and acceptance of a dowry has been illegal in India for 40 years but is still widely practised. Dowry Prohibition Act 1961 (amended in 1984 and 1986) bans paying and receiving dowries. [32bb] As reported by the BBC on 16 July 2003, in 2003, Nisha Sharma, a prospective bride from Noida just outside Delhi had her groom arrested after he demanded a dowry. The groom and his mother were arrested under the rarely enforced 1961 Anti-Dowry Act. Both were awaiting trial. [32bb] A BBC News item dated 8 October 2003, noted that Nisha Sharma became an instant celebrity as politicians and non-government organisations honoured her for her boldness in calling the police. [32cb]
- 23.49 As reported in a BBC news article dated 29 September 2004 “The new English textbook for the sixth standard – age 11 to 12 – in schools run by the government of the Indian capital, Delhi, includes a chapter on Nisha Sharma.” The State Council of Education Research and Training who prepared the book stated that the story was included to draw children's attention to social problems. Nisha Sharma became a role model after calling off her wedding because her fiancé asked her parents for more dowry money. [32an]
- 23.50 As recorded in the USSD 2006 Country Report “Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer (CDPO), although it was unclear how effective they 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) As noted in a BBC News report dated 28 November 2003 “Thousands of people in the southern Indian city of Bangalore have

staged a march and rally against the system of dowry.” The Karnataka State Women’s commission (KSWC) organised the rally. The report noted that the women were joined by many men. [32cd]

- 23.51 It was reported by the BBC in an article dated 14 November 2003 that India’s illegal dowry system was still thriving, leaving women vulnerable to abuse. The Crime Women Cell is a women’s crime unit in south Delhi set up to protect women in a male dominated society:

“The police unit has been given new powers to arrest and detain suspects... Despite the corruption and bureaucracy, hundreds are convicted of dowry crime every year...Crimes against women have soared in the last 10 years with many more being committed than are recorded, these are serious crimes. The head of the Crime Women Cell stated that dowry was the main problem, with increasing numbers of women going to the unit.” [32ch]

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SOCIAL AND ECONOMIC RIGHTS

Gender Discrimination

- 23.52 Amnesty International’s report, ‘The battle against fear and discrimination’, of May 2001, observed that gender discrimination is a problem within many communities. Caste and land rights impact on political, social and economic relationships. In Uttar Pradesh political parties representing dalit and lower-caste communities have played a role in empowering some of these groups in some areas. [3e] (**Violence and discrimination: dalit, adivasi and other marginalized groups of women**) Despite many positive developments in securing women’s human rights, patriarchy continues to be embedded in the social system in many parts of India. [3e] (**The context of violence against women in Uttar Pradesh and Rajasthan**)
- 23.53 As cited in Human Rights Watch Annual Report 2005 “Despite several legal provisions for gender equality, women still struggle to realize equal rights to property, marriage, divorce, and protection under the law.” [26e]
- 23.54 OneWorld.net in the In depth country guide for India, updated quarterly, accessed 29 September 2006, 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.” [79]

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VIOLENCE AGAINST WOMEN

Domestic violence

23.55 As noted in the USSD 2006 Country Report:

“Domestic violence remained a common and serious problem. According to a 2004 National Commission for Women Survey, 60 to 80 percent of women were abused in some way by their spouses, 42 percent were beaten physically, and 22 percent were expelled from their homes for at least a day. According to the National Crime Records Bureau, a crime against women is committed every three minutes in the country. According to Majlis, a women’s NGO based in Mumbai that provided legal protection and guidance to women in distress, many women were forced to remain in abusive relationships because of social and parental pressure and to protect their children. According to a survey conducted during the year by the International Institute for Population Studies, 56 percent of women believed wife beating was justified in certain circumstances.” [2c] (Section 5)

23.56 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) Amnesty International’s 2007 Report echoed these concerns and stated that the Act had not been fully implemented by states. [3a] (Violence against women)

23.57 The Domestic Violence Act 2005 came into effect on 26 October 2006 and includes protection against “actual abuse or the threat of abuse whether physical, sexual, emotional or economic”, at the hands of the husband or live-in partner or his relatives. Punishment could range from up to a year in jail, and/or a fine of up to 20,000 rupees (\$450). (BBC News, 26 October 2006) [32e]

23.58 Freedom House Freedom in the World 2007 report on 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.” [43b]

23.59 The report commissioned by the Office of the United Nations Resident Coordinator in India in 2001 entitled “Women in India How Free? How Equal?” notes that all women, regardless of age, class, caste and community are vulnerable to domestic violence and further notes that marriage, a joint family, education, economic security and social status do not provide any real protection. [6e] (p73)

23.60 As reported in the Human Rights Watch Annual Report 2005, “Domestic violence includes dowry-related abuses and ‘bride-burning’.” [26e]

23.61 AI noted in “The battle against fear and discrimination” report that violence within the home is widespread in both Uttar Pradesh and Rajasthan and affects women throughout society. It is apparent in wealthy urban households and the poorest rural households, cutting across all religious, class and caste boundaries. Offences include beating, slapping, kicking, rape and even murder, often by burning. [3e] (The context of violence against women in Uttar Pradesh and Rajasthan)

23.62 In a report issued in 2003 by the Government of Assam it was noted that:

“All over the country women face harassment and violence at the work place and at home. To a degree, this is also true of Assam where women increasingly need to cope with aggression, especially domestic violence. According to National Health Survey-2 (NFHS-2), 16 percent of women in the State have experienced violence since the age of 15. Although lower than the national average of 21 percent, this is still a matter of concern. Rural illiterate women, according to the survey are most likely to have experienced violence in some form. Of married women, 14 per-cent have been mistreated by their husband. The fact of a ‘culture of silence’ surrounds the issue of domestic violence makes data collection very difficult. These figures could well be under-estimates.” [88] (p132-133)

23.63 A Human Development report issued by the Government of Tamil Nadu in 2003 stated, on the issue of gender-based violence:

“There are several causes of violence against women. The perception that women are their husband’s property is strong in Tamil Nadu. Suspicion of infidelity, infertility (of the couple), alcoholism, dowry and instigation by in-laws are some of the immediate causes of violence against women, signalling the deep-rooted patriarchal values that underlie the same. The result is that wife beating is considered normal, even by women themselves.” [51a] (p101)

23.64 The 2001 UN report noted on the issue of the law protecting women from violence, that the laws themselves constitute the greatest barrier against injustice for women. The report stated that:

- “The definition of rape excludes all forms of sexual assault other than penetrative intercourse
- The age of consent is defined as fifteen years, contradicting the definition of an adult woman as one above 18 years of age.
- Marital rape is not considered an offence unless the wife is less than 12 years, even though marriage with a minor is itself a crime.
- Women who cannot show physical proof of having resisted the act, in the form of injuries, are generally assumed to have consented to it.” [6e] (p75)

23.65 However the 2001 UN report concluded:

“Following the declaration of 2001 as the ‘Year of Women’s Empowerment’, the Government of India has announced that more stringent legislation will be enacted to combat violence against women. The proposed Bill will give women victims of violence the rights to protection, relief and custody of their children. The common perception of domestic violence as a ‘private’ issue is also changing. According to a survey conducted by the Times of India in Bangalore, where 250 women and men were interviewed, 81% considered

domestic violence to be a serious problem and defined it as verbal and physical abuse, sexual harassment and mental torture. The overwhelming majority of respondents felt that legal action was justified in cases of domestic violence.” [6e] (p77)

- 23.66 BBC News reported on 24 August 2005 that “A recent survey by the International Institute for Population Studies showed 56% of Indian women believed wife beating to be justified in certain circumstances. The reasons varied from going out without the husband’s permission to cooking a bad meal. Domestic abuse is often denied by the victims themselves.” [32ab]

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Sati

- 23.67 The banned Hindu practice of Sati, where a widow burns to death on her husband’s funeral pyre, is believed to have originated 700 years ago as an ancient Hindu act of devotion. Sati translates as “faithful wife”. In 1987 a young woman jumped onto her husband’s funeral pyre witnessed by thousands, leading to a national outcry resulting in the Government banning the glorification of sati, punishable with a maximum sentence of seven years imprisonment and a fine of up to 30,000 rupees (\$650). (BBC News, 21 September 2006) [32bt]
- 23.68 Police arrested four sons of an old woman thought to be in her 90s who they believe committed suicide by jumping on her husband’s funeral pyre in the state of Madhya Pradesh. It was alleged that the mother was taken to the funeral pyre, lit by her son, in her bridal gear. Other reports state that she expressed her desire to self-immolate and was actively encouraged by her sons and some villagers. She was thought to have been from an upper-caste Hindu Rajput community where sati is reported to have continued despite the ban. This was the second incident within a month to take place in the state, in the socially deprived Bundelkhand region of Madhya Pradesh. The first widow was saved by her family. (BBC News, 21 September 2006) [32bt]

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Societal Violence

- 23.69 As noted in the USSD Country Report of 2006:
- “Rape and other violent attacks against women continued to be a serious problem...Although the government prosecuted rape cases during the year, only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, perpetuating a climate of impunity. Nonetheless, in April a Mumbai police officer convicted of raping a minor girl was sentenced to 12 years in prison, and a fast track court in Rajasthan sentenced a man to seven years in prison for raping a German tourist.” [2c] (Section 5)
- 23.70 The same report stated “Upper caste gangs at times used mass rape to intimidate lower castes, and there were reports of gang rape as punishment for alleged adultery or as a means of coercion or revenge in rural property

disputes. The number of reported rape cases and the extent of prosecution varied from state to state.” [2c] (Section 5)

See also section 23.81 Rape

- 23.71 As noted in an Amnesty International report 2003: “India, Break the cycle of impunity and torture in Punjab”: “There has been an overall increase in crimes against women recorded in Punjab in the post militancy period, particularly in the context of matrimonial disputes, in response, the police in Punjab have created ‘women cells’ at district level to deal specifically with offences against women. However, these units reportedly lack staffing and other resources such as means of transport.” [3b] (p24)
- 23.72 Amnesty International stated in “The battle against fear and discrimination” report, “Crimes against Women Cells have also been criticised for not responding appropriately or effectively to cases of violence against women although the majority of crimes referred to these cells relate to violence within the family.” [3e] (Registering a complaint)
- 22.73 As reported in the Human Rights Watch Annual Report 2005, “Gender-based violence, including domestic violence, sexual harassment, sexual assault, and trafficking into forced labor and forced prostitution remain serious and pervasive problems in India.” [26e]
- 23.74 The Freedom House Freedom in the World Kashmir (India) 2007 report noted that “As in other parts of India, women face some societal discrimination as well as domestic violence and other forms of abuse. 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. [43c]
- 23.75 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]
- 23.76 As noted in Amnesty International’s Regional Overview 2004 for Asia and the Pacific: “In Jammu and Kashmir, a paramilitary unit, the Rashtriya Rifles, was reported to be responsible for a series of sexual assaults on women. In Manipur, northeast India, the alleged sexual assault and killing in custody of a young woman, Thangjam Manorama, sparked calls for the repeal of security legislation that had facilitated human rights abuses for decades.” [3g]
- 23.77 Amnesty International reported in their 2005 report for events covering 2004 “Impunity continued for most perpetrators of widespread rape and killing in

Gujarat in 2002. During the communal violence Muslim women were specifically targeted and several hundred women and girls were threatened, raped and killed; some were burned alive.” [3i]

- 23.78 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]

- 23.79 As noted in the report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled: “Women in India How Free? How Equal?”:

“The India constitution guarantees to all Indians the right to bodily integrity, personal safety and security. The last ten years have seen a much greater sensitivity within the police and justice systems to the issue of violence against women, and sustained campaigning by women’s groups has led to stringent legislation to protect women from bodily harm. Yet the violence against women appears to be a ‘high growth sector’...The rise in reported crimes has occasionally been interpreted as a positive development, showing that more and more women are ‘breaking the silence’ and an increasingly gender-sensitive police force is recording their complaints with sympathy and efficiency. However the picture becomes disturbing when these statistics are seen side by side with the decrease in the number of convictions and the increasing number of pending cases in the courts.” [6e] (p71)

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Rape

- 23.80 The USSD Country Report of 2006 recorded:

“[that] The NCRB [National Crime Records Bureau] reported that the number of rapes had increased from 14,809 in 2004 to 15,847 in 2005, while reported molestations had increased from 31,716 to 33,169. According to the NCRB, two rapes took place every hour, one in five victims was a child, and 19 out of 20

of those arrested for rape went unpunished. According to the NCRB, victims knew their rapists in 15,619 cases. As of June 248 cases of rapes were reported and registered in New Delhi, resulting the the arrest of 330 men in New Delhi and the closure of 232 cases.” [2c] (Section 5)

- 23.81 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 prohibits 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)
- 23.82 In June 2005 Imrana Bibi was raped by her father-in-law, Ali Mohammed. Following the incident, local community and religious leaders ruled that she should separate from her husband and move in with Mohammed. However, on 19 October 2006, the lower court in Muzaffarnagar sentenced Mohammed to 10 years in prison and to compensate Imrana with approximately Rs7,600 (\$173). On a separate charge of criminal intimidation, he was sentenced to three years in prison and fined Rs2,900 (\$65). (USSD 2006 Country Report) [2c] (Section 5)
- 23.83 AI reported in “The battle against fear and discrimination” that many women victims in India do not report a complaint to the police because they fear it will be dismissed or they will suffer further abuse. Activists told AI in Uttar Pradesh and Rajasthan in December 2000 that the majority of cases were not reported for fear of reprisals and bringing dishonour. Most women will only visit a police station if accompanied by a male relative. As a means of encouraging women to register complaints to the police, Mahila thanas (women’s police) stations were established in many states. [3e] (Registering a complaint)
- 23.84 As noted in an Amnesty International report of 2003, “India, Break the cycle of impunity and torture in Punjab” “Women are particularly vulnerable to police abuse. Rape and other forms of sexual harassment are reported to be frequent forms of torture in police custody. Their humiliation is often greater as they are often tortured solely as a means of putting pressure on their husbands and families.” [3b] (p16)
- 23.85 It is noted in USSD 2006 Country Report:
- “The rape of persons in custody was part of the 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’ sense of 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)
- 23.86 As noted in a Penal Reform International report 2003, counselling units are now being operated by PRAJA in women’s prisons across Andhra Pradesh. They counsel women and in addition provide legal and social awareness training. This was one of the recommendations in the PRAJA/PRI report on a mental health and care project for women and children imprisoned in Andhra Pradesh, published in October 2001. The report convinced the State’s Prisons

Department of the need for counselling units and resource centres in women's prisons. [53] (p4)

- 23.87 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) [33b]
- 23.88 As reported in a BBC News article, dated 19 December 2003, Delhi is to set up special courts to hear rape cases that will be prosecuted and judged by women. "The city's police argue that courts dedicated to crimes against women can deliver justice faster. There were over 300 cases of rape filed last year in Delhi. Women's rights activists say the social stigma attached to victims prevents many coming forward with complaints." Even fewer take their alleged attackers to court "The new move will add to the three current special courts in the capital in which women judges deal with sexual harassment and dowry related offences...The minimum punishment for rape is seven years and a section of society is now demanding the death penalty for rapists." [32ce]
- 23.89 As reported in the Human Rights Watch Annual Report 2005:
- "Activists continue to campaign for reform of rape laws to protect women and children from all forms of sexual violence. The pervasive understanding of 'rape' is that it occurs only when a stranger uses force on a woman. A marital exemption protects men from being prosecuted for raping their wives. Marital rape is not recognized or penalized unless the wife is under the age of fifteen or if she lives separately from her husband." [26e]
- 23.90 As reported in a BBC article dated 23 June 2005:
- "An Indian court has sentenced five men to life imprisonment and imposed 23 year jail terms to seven others after a mass rape four years ago. The men were found guilty of raping 15 women in a remote village in the western state of Maharashtra. Two others were acquitted. The court said the men jailed for life should not be granted bail and should remain in prison until they die. In India, life imprisonment is generally equivalent to 14 years." BBC correspondents say the defendants were said to be members of a feared gang of bandits:
- "Some of the 52 witnesses who gave evidence said that the raped villagers endured a four hour ordeal, and throughout that time their village was plundered. The victims were aged between 26 and 70, and in some cases were repeatedly raped. Women's rights groups claim that hundreds of rapes go unreported in India for fear of social discrimination. Correspondents say that latest government figures show there were more than 16,000 rapes in India in 2002." [32ar]
- 23.91 BBC News stated on 20 October 2005 that two policemen were arrested accused of rape. The two separate incidents occurred within 24 hours of each other. A constable allegedly raped a rag-picker near the airport at Mumbai and in another incident in the centre of the city another constable was arrested for

allegedly raping a former dance bar worker prior to the bar's closure. Both constables were suspended from duty and await trial in police custody. [32v]

- 23.92 BBC News reported on 2 August 2006 that a court in Bihar sentenced a man to seven years imprisonment for rape after just a two day hearing with the trial beginning on 25 July and the verdict reached on 27 July. The accused allegedly raped a minor in December 2005. Following the rape the girl complained to the police who sent her for a medical examination and once the rape was confirmed the police pressed charges in court in April. The two-day rape trial is part of a strategy to curb crime in the state so that justice is dispensed quickly and a message sent to criminals. [32ci]

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Organisations Offering Assistance to Women

- 23.93 The South Asian Women's Network (SAWNET) listed several organisations dealing with women's issues. [25a] As noted in FCO correspondence dated November 2003, in 2001, the Government of India drafted The National Policy for Women after consultation with NGOs, gender experts and sociologists. This policy recognises the constraints women face in the social, economic and political spheres. The Tenth Plan is committed to implementing this policy. [7h]

- 23.94 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)

- 23.95 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. [3e] (Conclusion) 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)**

- 23.96 As noted in the Amnesty International "The battle against fear and discrimination" report:

"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)**

- 23.97 As reported by Amnesty International (AI):

"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)**

- 23.98 The Centre for Social Research (an NGO for women in India) website lists non-governmental organisations involved in combating violence in Delhi and it states that the organisation can be contacted for help or counselling. Crime Against Women cells throughout Delhi are listed, as are a number of shelter homes and counsellors. **[54] (p1-3)**

- 23.99 SAWNET (South Asian Women's Network), an NGO, in a domestic violence report, lists various organisations available to women who suffer domestic violence. Delhi based Sakshi helps 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] runs a pro bono legal aid cell for domestic violence cases and is associated with law reforms in connection with domestic violence. **[25b] (p1-2)**

- 23.100 A BBC News report, dated 22 July 2005, gives an overview of the work of a women's organisation called Sewa.

"Sewa is India's first and largest union in the informal, unprotected sector – 93% of India's workforce is in this sector – and claims to have 700,000 members across seven states. The organisation runs 60 rural and urban literacy classes for girls and women across Gujarat. It has taught illiterate women to operate video cameras and to film their working lives, trained

grassroots activists to go out and offer help to women with their most pressing problems – from small loans, to minimum wages, access to water, health insurance, work skills, and childcare. It has taught rural barefoot doctors.”

[Members of Sewa describe themselves as a women’s movement, a development movement and a cooperative movement] Sewa early on realised the poorest women had no access to finance so they set up their own bank, enabling women who saved regularly, even if only a few rupees per week, to get a loan. They set up health insurance and provided basic health training:

“Sewa has a long track record in promoting cooperatives...Sewa also worked in the camps for Hindus and Muslims displaced by the communal riots in Gujarat in 2002 violence, and is committed to supporting some of the orphans through to adulthood...They continue to fight for women’s rights, from grassroots to international level, but they are also in business, from the home worker to global exports.” [32bv]

23.101 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**)

23.102 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)

23.103 As noted in the USSD 2006 Country Report “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.” [2c] (**Section 5**)

23.104 As cited in a Ministry of Home Affairs answer to an unstarred question (no.3005) in the Lok Sabha for 22 March 2005:

“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]

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WOMEN'S HEALTH

Ante and post natal care

23.105 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." [13f]

23.106 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." [13f]

23.107 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." [13f]

- 23.108 On 5 June 2007, the Center for Reproductive Rights reported on the death of a pregnant woman who was refused assistance during childbirth after doctors at a public hospital discovered she was HIV-positive. The report noted that the 30-year-old woman, Gita Bai, was evicted from M.Y Hospital in Madhya Pradesh whilst in labour, when doctors learned of her HIV status. As a result, Ms Bai gave birth in a vehicle outside the hospital. On trying to gain re-entry into the hospital with her new baby, Ms Bai was refused. She was finally admitted two days later but denied crucial follow-up care and died of sepsis and excessive bleeding. [65b] (Center Cites Rights Violations in Death of HIV-Positive Woman Following Childbirth)

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Mental health services

- 23.109 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 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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24. CHILDREN

BASIC INFORMATION

- 24.01 As noted in a UN report dated July 1996, a National Policy for Children has been designed by the Government for the welfare of children and is implemented by the Ministry of Welfare. The Juvenile Justice Act lays down a scheme for the care and protection of neglected and delinquent children. India has ratified the Convention on the Rights of the Child. [6a] (p37)
- 24.02 As reported in the USSD 2006 Country Report: "The government was responsive to some incidents of violence against children. In September 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. In August the 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." [2c] (Section 5)
- 24.03 The same source noted "[that] According to UNICEF, in 2004 the country contained half the one million children worldwide who entered the sex trade." [2c] (Section 5)
- 24.04 As cited in the same report "The law prohibits child abuse; however, there were societal patterns of abuse of children, and the government did not release comprehensive statistics." [2c] (Section 5)
- 24.05 As noted in the USSD 2003 Country Report "The Union Ministry of Social Justice and Empowerment set up a 24-hour 'child help line' phone-in service for children in distress in 14 cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation." [2a] (Section 5. Children)

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CHILD MARRIAGE

- 24.06 As reported in the USSD 2006 Country Report:
- "The law 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 March the Supreme Court upheld the legality of marriages of 15-and 16-year-old girls as long as they appear before a judge to state they married of their own free will. On December 19, the government passed a bill strengthening the 2004 Prevention of Child Marriage Bill and declaring existing child marriages null and void. In addition, the new bill requires guardians of minor boys to pay 'maintenance' to minor girls until they can legally marry; it penalizes priests who perform child marriage rituals with fines or jail time, and assigns child marriage prevention officers to rural districts to prevent such marriages. According to the Health Ministry's Country Report on Population and Development, published during in 2005, half of all women were married by the age of 15...In April 2005 the NCW launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Program), a nationwide awareness program

against child marriages with particular focus on the states of Bihar, Rajasthan, Chattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh.” [2c] (Section 5)

- 24.07 The Ministry of Women and Child Development, accessed 9 January 2008, announced that the Prohibition of Child Marriage Act 2006 came into force on 1 November 2007. [73b] 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.” [94]
- 24.08 As reported in a BBC News item dated 11 May 2005, it was claimed that a woman was attacked for trying to stop child marriages in Madhya Pradesh. Authorities launched an inquiry. The practice of child marriages is illegal but some rural children are still forcibly married. Akha Teej is an auspicious Hindu day traditionally used in some rural areas as the date for child marriages. The Chief Minister Babulal Gaur, said of the practice, ‘It is not possible to stop it. Have we been able to end alcoholism or untouchability? If Gandhi could not succeed in this, how can Babulal Gaur?’ Child marriages in India are illegal for girls under 18 and boys under 21 and authorities in many areas have taken steps to prevent marriages on Akha Teej. There has been a large public awareness campaign in Rajasthan. Indian television reported the number of child marriages to be down this year [2005] following tough police measures. (Parents, owners of the premises and the priest conducting the ceremony can all be arrested). [32aa]
- 24.09 As reported in the 2006 USSD Country Report “Child marriage was the norm among certain scheduled castes and tribal communities in the Krishnagiri district of Tamil Nadu. Brides were typically between the ages of 8 and 12 years of age, while the groom was generally much older...The NFHS reported that 45 percent of women (18-24) and 32 percent of men (18-29) marry before the legal age of 18 years and 21 years, respectively.” [2c] (Section 5)
- 24.10 A girl who was married to a four-year-old boy when she was just nine had the marriage annulled by a family court in Ahmedabad. The girl, now a graduate, refused to join her husband, who still attends school, and was able to persuade the court to move against the marriage. The court accepted her plea and the marriage was annulled. (NDTV, 7 February 2007) [78d]
- 24.11 BBC News reported on 14 February 2006 that The Supreme Court has given the federal and state governments three months to enact legislation making it compulsory to register all marriages. Under proposed changes proof of a traditional religious marriage ceremony would no longer be sufficient. The proposed law would help ensure a minimum age for marriage, ensure consent of both parties, deter bigamy and polygamy and deter the trading of young girls under the guise of marriage. It would also help women claim alimony after divorce or separation. Details of the new law are yet to be finalised. Gujarat, Maharashtra, Karnataka and Himachal Pradesh already have these laws but according to the NCW (National Commission for Women) are in need of strengthening. Currently the majority of marriages are not registered because

ceremonies are performed according to religious rites. Divorce petitions have accepted religious ceremonies as legal. [32ao]

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CHILD LABOUR

24.12 As noted in the USSD 2006 Country Report:

“The Government participated in the ILO’s International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children were removed from work and received education and stipends through IPEC programs since they began in 1992. The NHRC [National Human Rights Commission], continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO rescued 33 children who had been sold into slave labor during in [sic] 2005.” [2c] (Section 6d)

24.13 The report further stated that:

“The Government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the work place; however, NHRC officials admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, and that children were particularly vulnerable to exploitation.” [2c] (Section 6d)

24.14 The USSD report of 2006 also noted “There is no overall minimum age for child labor. However, work by children under 14 years of age is prohibited in factories, mines and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m and 7 p.m, with one day’s rest weekly.” [2c] (Section 6d)

24.15 A new law banning children under the age of 14 from working as domestic servants or on food stalls has come into force in India. The law also prevents children from working in teashops, restaurants, spas, hotels, resorts and other recreational centres. People found breaking the law could face up to two years in prison. However, child rights activists remained sceptical about the effectiveness of the ban. (BBC News, 10 October 2006) [32c]

24.16 The USSD 2006 Country 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 penalties for employers of children in hazardous industries to be \$430 (Rs 19,000) 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 (Rs 4,805) 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)

24.17 As recorded in the Human Rights Watch Annual Report 2005, “India has the largest number of working children in the world, millions of whom work in the worst forms of child labor, including bonded labor.” [26e] (p3)

24.18 As noted in the USSD 2006 Country Report “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 the child workers from rural areas. NGOs claimed there were up to 115 million working children.” [2c] (Section 6d)

24.19 The same report noted that the working conditions for children often amounted to bonded labour:

“Children were often sent away to work because their parents could not afford to feed them or in order to pay off a debt incurred by a parent or relative. Human rights organizations estimated that there were as many as 300,000 children working in the carpet industry, many under conditions that amounted to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents’ consent.” [2c] (Section 6d)

24.20 As reported by BBC News on 1 June 2005, police in Mumbai say they freed nearly 450 child labourers in a series of raids. Forty-two people were arrested on suspicion of recruiting the children, who according to the police appeared malnourished. The children, aged between five and 14, had been brought to work in small workshops in Mumbai making leather goods, clothes and jewellery. Employing children under the age of 14 is illegal in India, but according to child welfare groups the practice is widespread. [32df]

24.21 Aid workers claimed some children who were rescued from illegal working in Delhi were refusing to leave their jobs to return home. Indian authorities rescued almost 500 children aged between five and 14 years in one of the biggest raids in Delhi in November 2005. The raids were carried out by the labour department and the Delhi police. In south Delhi a temporary shelter was set up by an NGO for the rescued children, accommodating some 60 boys in a large hall. There were nine similar shelters within the complex. The children were to be kept for a week, when they would be produced in court then arrangements made for their return home. Some allegedly tried to escape from the shelter, wishing to return to work. It was reported that most children had nothing to return to as their parents were unable to provide for them. (BBC News, 22 November 2005) [32p]

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DEVADASIS

24.22 The USIRF 2007 Report noted that:

“Despite government measures, the practice of dedicating Devadasis reportedly continued in several southern states, including Andhra Pradesh and

Karnataka. Devadasis are young, generally prepubescent girls who are dedicated to a Hindu deity or temple as "servants of god." They may not marry, must live apart from their families, and are required to provide sexual services to priests and others. Reportedly, many Devadasis eventually are sold to urban brothels. The Devadasi tradition is linked, to some degree, to both trafficking and the spread of HIV/AIDS. Since Devadasis are by custom required to be sexually available to higher caste men, it reportedly is difficult for them to obtain justice from the legal system if they are raped. Estimates of Devadasis in the country varied; in Karnataka, media sources reported as few as 23,000 and as many as 100,000. The Department of Women and Child Welfare, Government of Karnataka, estimates 15-20,000 Devadasis in the state." [2b] (Section III. Societal Abuses and Discrimination)

EDUCATION

24.23 As reported in the USSD Country Report of 2006:

"The constitution provides for free, compulsory education for children between the ages of six and 14 years of age. However, the government did not enforce this provision...Government schools were underfunded and understaffed. Schools that received large amounts of money under Sarva Shiksha Abighyan (SSA), a centrally sponsored scheme for universal elementary education, were often stymied by state governments that did not have the capacity to use these funds. For example, in August 2005 it was reported by media that a government school in Sara Village, Bihar, had only two teachers for 180 students. The national pupil to teacher ratio at the elementary level was one teacher for every 36 students, with the average for Bihar being the poorest at one teacher for every 65 students. Human rights groups asserted that teachers in government schools often did not show up for work or left their jobs early in the day. Government teachers often were not paid on time or in full, were not given adequate training and worked under very poor conditions. Corruption and misappropriation of educational funds was commonplace. However, government efforts intensified in recent years following the launch of several programs, including the District Primary Education Program in 1992, the Minimum Levels of Learning (MLL) initiative and, more recently, the Sarva Shiksha Abhivan (or the National Program for Universal Elementary Education)." [2c] (Section 5)

24.24 The same source noted that "Abuse of children in both public and private educational institutions was a problem. Although banned, schoolteachers often used corporal punishment on their students."

24.25 The Library of Congress Country Profile for India, December 2004 report noted:

"In most states and union territories, primary school covers grade levels (called 'standards') 1 to 8 and secondary education, standards 9 and 10; all states have senior secondary education for standards 11 and 12. As of 1997, most states and union territories had no compulsory level of education. Twelve states and union territories legally require completion of either the fifth- or eighth-grade level, yet drop-out rates are high even in compulsory stages. The majority of states and union territories have free education up to the seventh-grade level, and the majority of primary schools are government funded and managed. However, less than half of secondary schools are government

funded and managed. Indeed, 34 percent of secondary institutions are government funded but privately managed, and 25 percent are privately managed without government funding.” [87]

- 24.26 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 2006 Country Report) [2c] (Section 5)

[See also section 24.30 Health Issues](#)

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CHILD CARE

- 24.27 The majority of orphanages throughout India are run by charities and religious organisations making it difficult to determine the exact numbers. Orphanage.org, accessed 1 December 2006, lists 76 orphanages throughout India. [9] *The Hindu* published a report on 7 March 2004 regarding the regulation of orphanages in Tamil Nadu. The report noted that: “More than a year after the State Government made it mandatory for all institutions for the reception, care, protection and welfare of destitute women and children to be registered under the Orphanages and Charitable Homes Act, 1960, only 566 of them have been recognised.” [60c]
- 24.28 As noted in *The Hindu* on 28 February 2005, according to the law only Hindus are allowed to adopt. Guardianship ends at the age of 18 for girls and 21 years for boys. Legally the relationship finishes once the child is an adult. [60e]
- 24.29 As reported by BBC News on 3 March 2005: “Around 200 children were orphaned and many more lost one parent when December’s tsunami struck the district of Nagappattinam in Tamil Nadu state, the worst-affected region in India. The local administration has handled scores of queries from individuals and organisations wanting to adopt the children. But fears of human trafficking have made the government tread with caution. The emphasis now is on rehabilitating these children in the local communities.” [32cc]

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HEALTH ISSUES

- 24.30 India is planning to launch a massive programme to contain the spread of polio, according to the Government. “A highly infectious disease, polio usually attacks children under five...” Polio remains a threat in India. According to the Health Minister a large number of children were missed during last year’s immunisation programme but the number of cases has been on the decline since May. Campaigns are under way to inform and educate the public that the vaccine can save children’s lives. (BBC News, 21 September 2006) [32bk]
- 24.31 A report by Human Rights Watch, entitled “Future Forsaken: Abuses Against Children Affected by HIV/AIDS in India”, July 2004, indicated that the epidemic is being fuelled by widespread abuses against children who are affected by HIV/AIDS. It called upon the Government to ensure that HIV-infected children

are protected from abuse. According to the report released on 29 July 2004, many doctors refuse to treat or even touch HIV-positive children:

“Some schools expel or segregate children because they or their parents are HIV-positive. Many orphanages and other residential institutions reject HIV-positive children or deny that they house them. Children from families affected by AIDS may be denied an education, pushed onto the street, forced into the worst forms of child labor, or otherwise exploited, all of which puts them at greater risk of contracting HIV.

“Some experts calculate that more than 1 million children under the age of 15 have lost one or both parents to HIV/AIDS.” [26c] (p1)

- 24.32 A four-year-old boy who was thrown out of his nursery school in Alwal, near the southern city of Hyderabad, following protests by other parents because of his HIV-positive status. In a similar incident in December 2006, five HIV-positive children were asked to leave their school in the state of Kerala, following protests from parents. According to Indian government figures, nearly 8,000 children have been infected with the HIV virus in 2006, a quarter of whom are in the southern state of Andhra Pradesh, of which Hyderabad is the capital. (BBC News, 12 December 2006) [32i]
- 24.33 The USSD 2006 Country Report noted “In July doctors at Meerut Medical College, Uttar Pradesh tied a 15-year-old HIV positive boy to his bed to prevent him from falling or pulling his IV cord. The boy was in the same ward as patients suffering from tuberculosis and fevers – all of which could be passed to the boy. By the end of the year, the boy was paralyzed and could not speak because a lesion in his brain paralyzed the right side of his body.” [2c] (Section 5)

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Children born of inter-caste marriages

- 24.34 As reported in an Immigration and Refugee Board of Canada response, dated 9 January 2006 “Children born of inter-caste marriages are legitimate. Government practices of categorizing children of inter-caste marriages vary, but the tendency ‘would be to consider children to be the caste of their father, or to have the status of the lower of the two castes in the marriage’.” [4f]

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25. TRAFFICKING

25.01 As noted in the USSD Trafficking report for 2007:

“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 fourth consecutive year for its failure to show increasing efforts to tackle India’s large and multidimensional problem. India’s anti-trafficking laws, policies, and programs focused largely on trafficking for sexual exploitation and the Indian government did not recognize the country’s huge population of bonded laborers, which NGOs estimate to range from 20 million to 65 million laborers, as a significant problem.” [2d] (Country narrative. India Tier 2 Watch List)

25.02 As recorded in the USSD 2006 Country Report:

“The ITPA [Immoral Traffic Prevention Act] prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. The ITPA toughened penalties for trafficking in children, particularly focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage victims...According to the NCRB, there were 6,131 human trafficking cases in 2005...The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor...Internal trafficking of women and children was widespread. . . The NCW [National Commission for Women] reported that organized crime played a significant role in the country’s sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape.” [2c] (Section 5)

25.03 As stated in the same report:

“Although arrests and prosecutions under the ITPA increased slightly, 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 because they claimed to have more success with getting convictions...NGOs alleged that corruption at enforcement level helped perpetuate trafficking...The Ministry of Women and Child Development (MWCD) improved delivery of support services through greater coordination with its state counterparts and civil society organizations...” [2c] (Section 5)

25.04 The USSD 2007 Trafficking report noted

“Efforts throughout India to investigate and punish trafficking crimes during the past year were uneven and largely inadequate. The government reported only 27 convictions for trafficking offences throughout the entire country for 2006. While the government took measures to increase law enforcement against sex trafficking and forced child labor, efforts to combat bonded labor and trafficking-related corruption remained inadequate.” [2d] (Country narratives. India: Prosecution)

25.05 The USSD 2006 Country Report 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 re-victimized rather than assisted by such raids. Several NGOs had significant successes, however, in working with police to target brothels with children.” [2c] (Section 5)

- 25.06 Non-governmental organisations in India estimate that there are “hundreds” of children in Goa being abused by foreign paedophiles. Claims that children are trafficked into Goa as sex workers were also made by NGOs. However, Goan Minister for Social Welfare, Subhash Shirodkar, denied there was a problem. (BBC News, 8 January 2007) [32ap]

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26. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

- 26.01 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. [62a] (p1)
- 26.02 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 are hospitals offering care in a wide range of medical specialities. These include: 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 can be more variable, but most districts are served by referral hospitals. [7g]
- 26.03 As noted in the USSD 2006 Country Report "The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas." [2c] (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]
- 26.04 As noted on the US Department of State, Bureau of Consular Affairs, Consular Information Sheet for India, dated 9 August 2007, with regard to medical facilities, "Adequate to excellent medical care is available in the major population centers, but is usually very limited or unavailable in rural areas." [93] (Medical Facilities & Health Information)
- 26.05 As reported in an Immigration and Refugee Board of Canada response, dated 18 January 2006, access to health care depends on income.
- "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]
- 26.06 One World.net commented in their In Depth Country Guides, accessed on 29 September 2006:
- "India lives with many unenviable health statistics; the highest TB prevalence in the world, the second highest number of people suffering from AIDS, over 1.5 million deaths of children each year before their first birthday, and almost 500 million people lacking the recommended calorific daily intake." [79]

“A snapshot position such as this however fails to do justice to the very considerable progress that has been made in recent years in India nor to the balance of opinion that the health MDGs will be achieved. For example, the curse of leprosy is now officially eliminated. Concerns focus more on disparities in the provision of healthcare across the country. Some urban private institutions have the capacity to attract ‘health tourists’ for surgery at low prices, while government-run hospitals are scraping for funds and facilities. Rural healthcare is very basic in remote areas.” [79]

- 26.07 As reported in an article featured on the Indian Army in Kashmir [sic] website accessed on 1 March 2005:

“The Armed Forces, with the assistance of the State Administration, has been regularly holding Medical Camps in the remote and inaccessible areas to bring health care to the doorstep of the Kashmiri people. Free Medical, Gynaecological, Surgical, Eye and dental checkups and advice and medicines are being distributed in these camps. Immunization Camps for the children are also being conducted as part of the nation wide campaign to eradicate various diseases. In addition people are being educated on health care, hygiene and sanitation...In addition to these camps, a number of Health Centers, equipped with modern equipment and medical facilities have been established for the rural people.” [69]

- 26.08 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]

- 26.09 A BBC report dated 29 September 2003 noted that:

“Experts believe India is poised to become a major health care destination for international patients, offering quality medical service at low cost.... The other attraction is that there is no waiting period for major medical procedures. The Healthcare Mission highlighted India’s medical facilities and skills especially in the areas of Cardiology, Oncology, Minimal Invasive Surgery and Joint Replacement.” [32ca]

- 26.10 As reported by the BBC on 10 February 2004, a Medical Tourism Council (MTC) was launched in Maharashtra by the state’s business sector and private health-care providers, aiming to make India a prime destination for medical tourists. The MTC plans to also work with state-run systems, such as the NHS. [32cv]

- 26.11 As stated in a BBC report of 6 August 2004 “As India becomes a preferred destination for cheap and good quality medical treatment, foreign governments are tying up with hospitals to send their patients who cannot be treated at home. The Tanzanian government, for example, has tied up with three private Indian hospitals to sponsor and send their patients for operations and treatment.” [32dg]

- 26.12 As reported in an article in *Times of India* Online dated 16 February 2005, “A reversal of medical tourism now has Americans making a beeline for India,

seeking treatment.” It used to be the other way around but with the state-of-the-art medical procedures, equipment and facilities now available in India, patients from countries like Canada and Britain are flocking to Indian hospitals. Americans have started going to India for procedures which are either not available in their own country or too expensive. The Apollo group is one of Asia’s largest private healthcare providers who treated 43,000 foreign patients over the last three and a half years in India. [13d]

26.13 As reported by BBC News on 21 November 2004, “A nationwide polio vaccination campaign has started in India as part of a World Health Organization initiative to eradicate the virus around the world.” [32b]

26.14 As noted by Keesings in March 2005:

“The Lok Sabha on March 22 approved a controversial bill preventing Indian companies from producing cheap generic versions of patented medical drugs, introduced to comply with World Trade Organisation (WTO) rules. Leftist parties in the UPA coalition supported the bill after the government accepted some amendments softening its terms, but the BJP walked out of the debate in protests against a ‘sell-out’ to global drugs companies. The UN, the World Health Organisation (WHO), and many non-governmental organisations (NGOs) appealed to India not to deprive the world of affordable medicines.” [5d]

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

26.15 UNAIDS, supporting India’s National AIDS Control Organisation (NACO), reported on revised estimates that showed a lower prevalence of HIV in India than was previously thought. Using improved data and enhanced methodology, some 2.5 million people were shown to be living with HIV in 2006. [15c] UNAIDS estimated that approximately 5.7 million people in India were living with HIV in 2005. (2006 AIDS Epidemic Update – Asia) [15a] The National AIDS Control Organisation (NACO), run by India’s Ministry of Health and Family Welfare, estimated that 5.2 million people were infected with the HIV virus in 2005. [41a]

26.16 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 have 13 centres, Karnataka has 11, Andhra Pradesh has ten and Kerala has four centres. The number of people receiving ART was 40,000. (*The Hindu*, 29 September 2006) [60g] UNAIDS India country profile, accessed 31 May 2007, noted that 55,000 people received ART in 2006. [15b] NACO provided a list of sexually transmitted infection (STI) clinics in states across India. [41b]

26.17 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]

- 26.18 In its country profile for India, updated 2 September 2005, the Department for International Development noted "DFID has developed a £123 million programme to support the National AIDS Control Organisation (NACO). DFID also provides a package of technical support to NACO for HIV and AIDS which includes a Sexual Research Health Centre, condom promotion strategies in the focus states and mass media campaigns on HIV and AIDS issues." [76]
- 26.19 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." [70a]
- 26.20 With regard to people living with HIV/AIDS, the 2006 USSD Country Report noted "[that] there was significant societal discrimination against people with the disease." [2c] (Section 5)

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CANCER TREATMENT

- 26.21 As reported on 23 November 2005 on the NDTV.com website:
- "A new anti-cancer drug is showing promise. According to reports, three million people suffer from cancer in India and though there are treatments available, most of them come with a hefty price tag. But the new drug can bring down the cost of cancer treatment by more than half. The molecule, two deoxy glucose, is to be used in combination with radiotherapy. The drug has been jointly developed by two DRDO laboratories - Institute of Nuclear Medicine and Allied Sciences and the Defence Research Development Establishment. 'This drug will cut the number of radiotherapy sittings from five times a week to once a week, hence cutting the cost of the treatment,' says Dr B S Dwarakanath, lead researcher, INMAS. What is significant about the drug is that it can be given to patients suffering from cancer at any stage. The only requirement is the presence of glucose in the tumor cells, which is present in high levels in more than 80 per cent of cancer cells...The drug has completed the first two phases of trials successfully, proving it is safe and effective. The molecule has been transferred to the [sic] Dr Reddy's lab, which will conduct the third phase of clinical trials in nine centres across the country." [78a]
- 26.22 In an article dated 10 February 2006, by NDTV, it was reported:
- "New technology for the detection and treatment of gastrointestinal cancers is now available in India. Called Narrow Band Imaging, the scan, which is a far more sophisticated endoscopy, probes the tumour and if still small, also removes it. Quick and effective...The technology uses a high-powered scan to

treat gastrointestinal tumours quicker and more effectively...What makes these high-powered probes special is their ability to detect cancer early, since doctors can see whether a stomachache [sic] may be linked to a malignancy in its early stages. Gastrointestinal cancers are the second most common form of cancer in the country. With these technological advancements, thousands of lives can be saved and many more improved.” [78b]

- 26.23 As reported by BBC News on 22 December 2004 “Health workers in Indian-administered Kashmir have launched an awareness and screening campaign to try to prevent cancer amid a severe lack of facilities. There are very few units where the condition can be treated.” None of the hospitals in the region has a separate unit for surgical oncology. Patients from SMHS hospital, the oldest and second biggest in Srinagar, go to the Sher-e-Kashmir Institute of Medical Sciences or to Delhi or other places for radiotherapy and have to spend a lot of money. “The Sher-e-Kashmir in Srinagar has one radiotherapy unit for a population of at least 5.5 million people.” The Indian Government has promised funds for a state-of-the-art regional cancer centre with capacity for 120 patients but it was reported that this will take years. [32bx]
- 26.24 The same report stated that “Despite the Sher-e-Kashmir’s limited facilities, it has still treated an increasing number of sufferers – up from 1,325 cancer patients in 2000 to more than 2,000 in the first 10 months of this year alone.” A group of 50 doctors have set up the Kashmir Cancer Society (KCS) and plan to build a cancer hospital in the Kashmir valley but have no land for the project as yet. “The KCS has organised camps in remote villages where people do not have access to endoscopy – the internal viewing of patients.” Four thousand endoscopies have been conducted so far. The KCS has also conducted awareness campaigns in villages, schools and colleges and educated people that cancer is preventable, and as a result women are coming in earlier for treatment. [32bx]
- 26.25 As noted by NDTV.com there are various cancer support groups operating in India; one such group, called Cancer Sahyog, based in New Delhi, provides emotional support to those living with cancer and drugs to needy patients. (website accessed 12 October 2006) [78c]

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KIDNEY DIALYSIS

- 26.26 There are at least 159 dialysis centres located throughout India. (Global Dialysis, accessed 14 June 2007) [29]
- 26.27 An article in Express Healthcare Management, India’s newspaper for the healthcare industry, dated 16 – 23 April 2005, noted that Hemo Dialysis (HD), where blood is cleansed outside the body, is the dominant therapy option used in India, as opposed to Peritoneal Dialysis (PD), a home dialysis therapy using the patient’s own abdominal cavity as a dialyser. However, PD has significantly reduced in cost over the last three years and more patients and doctors are opting to use this type of therapy. [23]

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MENTAL HEALTH

26.28 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. [62a] (p1-2)

26.29 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.” [62a] (p1-2)

26.30 As noted in the same report:

“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).” [62a] (p1-2)

26.31 As indicated in the same WHO source, the Government spends 5.1 per cent of its 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 is [sic] available in some designated districts. In addition, various non-governmental organizations provide different types of services ranging from telephone hotlines to residential rehabilitative services.” [62a] (p1-2)

26.32 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.” [62a] (p2-3)

- 26.33 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.” [62a] (p4-5)
- 26.34 In an undated directory, accessed on 6 August 2007, Indian Psychiatry, an online mental health resource for India, listed over 35 psychiatrists based in a number of different states across India. [38]
- 26.35 As noted in the USSD Country Report of 2006:
- “Mental health care was a problem. Hospitals were overcrowded and served primarily as dumping grounds for 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 year’s end, no action was taken on the 2001 NHRC recommendation to remove all persons with mental illness from jails. In March 2005 the NHRC issued guidelines to jails lodging mentally challenged persons stipulating the need for open lawns, daily physical and mental activities, and strict rules limiting the use of force to self-defense and attempted escape.” [2c] (Section 5)
- 26.36 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
 - SodiumValproate
 - Amitriptyline
 - Chlorpromazine
 - Diazepam
 - Fluphenazine
 - Haloperidol
 - Lithium
 - Carbidopa
 - Levodopa
- [62a] (p4-5)

See also section 23.106 Womens Health: Mental health services

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27. HUMANITARIAN ISSUES

27.01 As reported by the BBC in an article dated 14 July 2006, despite the Indian government promise of £444m of aid to debt-ridden farmers, more than 600 have committed suicide in the Vidarbha region of Maharashtra state since June 2005. However, activists say that the aid has yet to reach the farmers in need of immediate assistance. The report noted “[that] farmers are forced to borrow money from money-lenders to buy seeds and then are thrown into crisis after crops fail because of drought.” [32ak]

27.02 As cited in a BBC News article dated 15 November 2004:

“India has launched a massive food-for-work programme aimed at tackling hunger in poor rural areas. Poor farmers will earn the equivalent of five kilograms of grain for each day’s work – mostly paid in food but including a small cash sum... Premier Manmohan Singh said the 20bn rupee (\$445m) scheme was a ‘first step to eradicating rural unemployment’. The federal government will provide states with the food and funding.”

Mr Singh launched the scheme in the village of Aloor in Andhra Pradesh which has suffered hundreds of suicides by farmers devastated by drought. “The scheme will target 150 poverty-stricken districts nationwide... Although there is no figure for the number of people the government hopes to help with the new scheme, it does pledge to provide 100 days’ work for each person from each rural family.” [32bg]

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INDIAN OCEAN TSUNAMI – 26 DECEMBER 2004

27.03 As reported by Global Education, “On the morning of Sunday 26 December (2004) a severe earthquake in the ocean off the coast of northern Sumatra caused tsunamis (tidal waves) that devastated communities in neighbouring countries and other countries in the Indian Ocean.” The earthquake measured 9.0 on the Richter scale. [63] As reported by the World Health Organization (WHO), with regard to India, “The tsunamis hit the coast of the states of Tamil Nadu, Andhra Pradesh, Orissa, Kerala and Pondicherry on the mainland.” Additionally, “The Andaman and Nicobar islands were particularly affected.” [62b]

27.04 The WHO further reported in its India weekly Tsunami situation report for 24 February 2005 (updated on 25 February 2005) that the tsunami caused extensive damage in the states of Tamil Nadu, Andhra Pradesh and Kerala and the Union Territories of Andaman and Nicobar Islands and Pondicherry. “It affected nearly 2,260 km of the coastline besides the entire areas of Nicobar Islands. Tidal waves as high as 3 to 10 meters penetrated inland ranging from 300m to 3km.” Andaman and Nicobar Islands situated in the Bay of Bengal were hit particularly badly. [62c]

27.05 The report continued “The Government of India, in association with the affected states/Uts, mounted massive relief and rescue operations on the mainland and in the Andaman and Nicobar group of islands. According to the latest estimates, 157,393 dwelling units in 897 villages were damaged. A total of 638,297 persons

were evacuated, and the total affected population was reported to be about 3.6 million.” [62c]

27.06 As noted by the same report:

“The administrations of the state governments/Uts are implementing rehabilitation measures for the affected populations by providing temporary shelters for all those who lost their houses and living quarters... All schools in the affected districts of Andhra Pradesh have reopened.” It was also reported that most of the schools in the affected areas of Tamil Nadu, Kerala and Pondicherry had re-opened. The Andaman and Nicobar administration evacuated people from smaller islands to bigger islands where relief operations were concentrated. The number of deaths reported as at 25 February 2005 stood at 10,872 with 5,746 people reported as missing in Andaman and Nicobar Islands and feared dead. There were 647,556 displaced persons and 41 districts were affected in total. No outbreak of communicable diseases was reported by any of the government agencies involved in the rescue and relief operations but there have been sporadic cases of acute respiratory infection and acute diarrhoeal disease in both affected and non-affected areas of Tamil Nadu. No reports of epidemics were received and the Ministry of Health and Family Welfare monitored the situation. [62c]

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EARTHQUAKE – OCTOBER 2005

27.07 An earthquake killed more than 1,000 people in Indian-administered Kashmir. Its epicentre was in Pakistani-administered Kashmir. (BBC Timeline, updated 3 October 2007) [32a]

DISASTER MANAGEMENT

27.08 As reported in “Tsunami – A Report to the Nation”, dated 3 June 2005, Prime Minister Manmohan Singh said:

“As a part of long term strategy for Disaster Management, the Bill on Central Law on Disaster Management has been introduced in the Parliament on 11th May, 2005. The Bill provides that the States/UTs would be an integral part of the Disaster Management system in the country. Pending the enactment of the law, it is proposed to set up a National Disaster Management Authority (NDMA) through an executive order. The Central Law once enacted will help in strengthening the institutional arrangements for effective Disaster Management besides accountability and responsibility for the assigned task to different authorities at National, State and District level.” [55]

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28. FREEDOM OF MOVEMENT

- 28.01 As recorded in the USSD 2006 Country Report “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) The Danish Immigration Service fact-finding mission to Punjab, March to April 2000, stated that various diplomatic missions, several human rights lawyers and a former Advocate-General told the Danish Immigration Service on their fact-finding mission of 2000 that there were no restrictions on movement from one State to another. Furthermore, there were no rules that one should register in connection with a move from one State to another. [37] (p48)
- 28.02 The USSD 2006 Country Report 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)
- 28.03 As cited in the Danish Immigration Service Report on fact-finding mission to Punjab, March to April 2000, regarding application for a passport, a very thorough check is made by the local police to investigate an individual’s status, including whether there was a case pending against him or her. However, sources indicate that it would not be impossible for a wanted person to obtain a passport on payment of a bribe, as throughout India it was very easy to obtain false documents. This applied to passports, birth certificates, certificates regarding education and career, marriage certificates and ID cards, arrest orders and so-called FIRs (First Information Reports). It was also reported that it was possible to obtain false letters from lawyers. [37] (p50-52)
- 28.04 The same report noted “The Immigration Service, which comes under the Ministry of the Interior, is responsible for checking those leaving the country.” [37] (p51)

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29. INTERNALLY DISPLACED PEOPLE (IDPs)

- 29.01 As recorded by the Internal Displacement Monitoring Centre (IDMC) on 9 February 2006:

“The number of people known to be internally displaced by conflict in India exceeds 600,000. Insurgency and retaliatory operations by security forces are a major factor of displacement. Civilians have fled fighting and have sometimes been directly targeted by militant groups in Kashmir, the North-East and in several states of central India. A majority of the internally displaced people (IDPs) have not been able to return for several years, either due to protracted conflicts or unresolved issues related to land and property. One example is India’s largest group of internally displaced, the Kashmiri Pandits who have been fleeing the Kashmir Valley since 1989 due to persecution, killings and massacres. Thousands more have languished in relief camps in Assam since the early 1990s, while an undetermined number remain displaced after the communal violence that erupted in Gujarat in 2002.

“During 2005 several tens of thousands more people were reported displaced in north-eastern and central parts of India. Worst affected were Assam and Manipur states in the North-East due to ethnic fighting and government security operations. Fighting between leftist extremist groups – commonly called Naxalites – and government security forces is also reported to have led to displacement in several of the central Indian states.” [34]

- 29.02 The IDMC 2006 report continued:

“Available reports indicate that more than 21 million people are internally displaced due to development projects in India. Although they only make up eight percent of the total population, more than 50 per cent of the displaced are tribal peoples...Floods and other natural disasters also displace millions every year. The Indian Ocean tsunami, which hit southern India in December 2004...An estimated 2.7 million people were affected by the disaster and some 650,000 were displaced (World Bank, 3 May 2005; IFRC, 23 March 2005). Indian-controlled Kashmir was also badly affected by the South Asia earthquake in October 2005, which made thousands of people homeless.” [34]

- 29.03 The same report noted:

“India’s largest situation of internal displacement stems from the conflict in the north-western state of Jammu and Kashmir...More than 90 per cent of the Hindu population in the Kashmir Valley, the Kashmiri Pandits, remain internally displaced as a result of this armed conflict. Estimates of the number of displaced vary. The government estimates that 250,000 fled the Valley during the 1990s, while Pandit groups believe at least 350,000 people were displaced. Today, around 100,000 live in the capital New Delhi and some 240,000 in the city of Jammu...Protection of the remaining Pandit population has been far from adequate, leading to further displacement during 2004 when 160 of the estimated 700 Pandit families remaining in the Kashmir Valley fled an upsurge of violence and killings ...Despite threats from separatist militant groups against any attempt to return the Kashmiri Pandits, the state government of Jammu and Kashmir for its part maintains that it is moving

forward with return plans and that 1,600 families have signalled in writing that they want to return to the valley..." [34]

29.04 The IDMC 2006 report further noted:

"Another long-lasting situation of internal displacement exists along the Line of Control separating Indian- and Pakistani-controlled Kashmir. Since the end of the 1990s, clashes between Indian and Pakistani forces and attacks by separatist militant groups led to several waves of displacement from villages along the Line of Control. The ceasefire has substantially improved the security situation, but more than 12,000 (some say 30,000) people, are still displaced on the Indian side because their villages have not been rehabilitated or their fields are mined. Administrative delays have also hindered their return. While the state government applied for support from the federal government almost four years ago, a relief package was not approved until August 2005... Only 20 per cent of the funds had been disbursed as of January 2006. Returnees have also faced difficulties as they were reportedly not provided with cash assistance to repair the houses as promised. The earthquake that struck Kashmir in October 2005 has delayed the rehabilitation further..." [34]

29.05 The IDMC report also stated:

"In Assam, ethnic clashes over territorial issues, insurgency against the Indian government for separate homelands and communal violence among the Assamese against 'foreigners', mostly immigrants from Bangladesh, have led to widespread displacement. The largest displacement situation in the state stems from the fighting between Bodos and Santhals which erupted in the early 1990s and displaced an estimated 250,000 persons. As of December 2005, around 110,000 people remained in relief camps in Assam's Kokrajhar and Gossaigaon sub-divisions – a decrease of 40,000 people since 2003. However, the displaced have not been able to return to their former villages as they remain occupied, mainly by Bodo communities...In Manipur, counter-insurgency operations by the Indian army against local militia groups hiding along the border with Burma (Myanmar), as well as ethnic clashes, have resulted in the displacement of at least 6,000 people from the Hmar and Paite ethnic groups...In northern Tripura, it is estimated that more than 100,000 people are internally displaced due to ethnic fighting and attacks by insurgent groups. "No estimate of the number of people displaced as a result of the insurgency in central India is available..." [34]

29.06 In Gujarat a local organisation estimated 61,000 are still internally displaced and in need of assistance. (IDMC, 9 February 2006) [34]

RELIEF CAMPS

29.07 As stated by the Internal Displacement Monitoring Centre (IDMC) in its report of 9 February 2006:

"A large number of the displaced from the Kashmir Valley have been housed by relatives or in relief camps in Jammu or Delhi. Hindu schools for the displaced children have been constructed and medical care provided, although the displaced population says it is not enough to cover their needs. The remaining displaced population from villages along the Line of Control

continue to live in tents, some of them in poor conditions. The camps lack drinking water and health care facilities. In some camps, children have to attend outdoor schools...

"In Gujarat, there are reports of immense trauma among children and women who witnessed atrocities or were victims of the 2002 riots...Also, the displaced Muslim population faces acute poverty as their livelihoods were largely destroyed during the riots. Continued discrimination has left most of them unemployed, with female-headed households being particularly vulnerable...

"The relief camps for internally displaced in the North-East are reportedly in a deplorable condition. Camps for the newly displaced in Assam and Manipur are said to lack adequate shelter, food, health care, education and protection ...This pattern has been confirmed by earlier reports which have documented that displaced throughout the North-East face severe hardship. Many of the displaced live in public buildings and makeshift shelters, with little health care and no access to formal education. In Assam, acute food shortages and lack of health care have been reported in camps housing Santhal internally displaced...In Tripura, children in a relief camp for displaced in Chhawmanu were reported to have died due to the consumption of poisonous berries and contaminated water. The state government says it has no money to provide relief to the displaced population. The Bru displaced in Tripura do not have adequate food rations and suffer from lack of drinking water, sanitation and health-care. Furthermore, thousands of those displaced by local insurgent groups in the state are reported to have received no relief at all, and are camping alongside roads in makeshift houses seven years after having been displaced..." [34]

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30. FOREIGN REFUGEES

- 30.01 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) [26h]
- 30.02 The U.S. Committee for Refugees and Immigrants (USCRI) World Refugee Survey 2007 reported that:
- "India treated refugees differently depending on their nationality. It generally granted Tibetans and Sri Lankan Tamils protection. Nepalis could enter India freely and those with documentation enjoyed most of the rights of Indian citizens under the 1950 Peace and Friendship treaty between the two countries. Other refugees had to travel to New Delhi to reach UNHCR, which had no presence at the borders, and which some refugees reported to be neither fair nor prompt in its status determinations.
- "India requested that UNHCR not register any Bhutanese asylum seekers as refugees, because a 1949 agreement between India and Bhutan (updated in February 2007) granted them legal residence and most rights on par with Indian nationals. Their Government, however, had expelled them and would not issue documents attesting to their Bhutanese citizenship. Nearly 16,500 refugees arrived in Tamil Nadu from Sri Lanka during the year." [12a]
- 30.03 The same source noted that of all nationalities, Burmese refugees enjoyed the fewest rights in India, especially the ethnic Chin, who were often unable to obtain police protection when they were victims of crime. [12a]
- 30.04 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 2006 USSD Country Report for Bhutan stated "Approximately 15,000 additional ethnic-Nepalese Bhutanese fled Nepal to India, but UNHCR did not accord them refugee status." [2c]
- 30.05 A student was killed when Indian border security forces fired on unarmed Bhutanese refugees who were trying to return to Bhutan from their refugee camps in Nepal. For the third day running, over 8,000 refugees waited on the Mechi Bridge, connecting Nepal to India, demanding Indian security forces to allow them through to continue their "Long March" back to Bhutan where they were evicted from 16 years ago. A number of refugees were arrested by Indian police as refugee leaders invited India for talks regarding repatriation to Bhutan. (*The Times of India*, 30 May 2007) [13b]
- 30.06 *The Telegraph* (India) reported on 7 June 2007 that the Bengal government were concerned over the Bhutanese refugee's efforts to enter Indian territory in their quest to reach Bhutan. Chief Secretary of Bengal state said that the

assembly of refugees was unlawful and that "Peace and tranquillity was at stake". [19a]

- 30.07 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 counsellor of the High Commission of India, in Ottawa, explained that it is possible for a non-Indian citizen who resides in India illegally to access primary, secondary or tertiary education, accommodation and employment (High Commission of India 15 Oct. 2004). The counsellor added that since in India there is no system such as that of the Social Insurance Number card in Canada, non-government employment is possible because such employers tend not to 'conduct the appropriate verifications'. Employment by the government of a non-Indian citizen living illegally in India, however, is not possible, because the government does verify one's legal status to work. In respect of business activities, the counsellor stated that an individual with an illegal status in India can be engaged in and conduct 'small-time' business in India. However, the individual could not, for example, be an accountant or lawyer, and have his own business in this regard.

"Additional and/or corroborating information on whether it is possible for an Afghan citizen who lives illegally in India to access primary, secondary or tertiary education, accommodation, employment and engage in business activities, could not be found among the sources consulted by the Research Directorate. However, in respect of refugees, a 2000 report by the UNHCR provides relevant information." [4h]

- 30.08 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'.

"During the 1980s and 1990s, Afghans could access hospitals, education and employment, and could even establish a small business despite the fact that they had 'no legal entitlement to do so'. In respect of employment and small business activities, 'the authorities usually turned a blind eye'...However, between 1998 and 2000, the situation of Afghan refugees in India had begun to change. This change was triggered by a new government which was 'less tolerant of foreigners in general and Afghans in particular than previous administrations' and by an increase in public hostility towards Afghans which was 'fuelled by the alleged involvement of Afghans in the Kashmir conflict and the hijacking of an Indian aircraft'. The changes included a more rigorous application of the 1946 Foreigners Act, which resulted in the inability of new Afghan refugees to acquire residence permits, while Afghan refugees who arrived in India earlier than 2000 were required to present a valid national passport and pay a fee in order to renew their permits. Afghans were generally unable or unwilling to make the fee payment and/or to obtain a passport from the Afghan embassy after paying another fee. In the case of Afghans who were residing in New Delhi, most were left without valid residence documents, and therefore, became illegal immigrants 'liable to detention and deportation'." [4h]

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31. CITIZENSHIP AND NATIONALITY

- 31.01 As noted on the Government of India, Ministry of Home Affairs website, accessed on 2 May 2007:

“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.” [39b]

- 31.02 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). [39b]

- 31.03 As stated on the Ministry of Home Affairs website, accessed on 6 September 2006, 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]

- 31.04 As reported by BBC News on 13 January 2005, more than 100 Pakistanis renounced their nationality and took oaths to become Indian citizens at a ceremony in the western Indian state of Rajasthan. “The event was part of a special drive to give Indian citizenship to more than 5,000 Pakistani nationals who migrated to the state over the past few decades.” [32cn]

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ENTRY/EXIT PROCEDURES

- 31.05 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) [6g]
- 31.06 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]
- 31.07 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]

- 31.08 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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32. EMPLOYMENT RIGHTS

32.01 As reported by BBC News on 27 June 2005 “The body of legislation that shapes the industrial and labour environment in India is huge.” Examples of these are: Minimum Wages Act 1948; Trade Unions Act 1926; Contract Labour Act 1970; Weekly Holidays Act 1947; Beedi and Cigar Workers Act 1966. The article cites them as forming a “Crisscrossing network of chaotic, strangulating, overlapping and often-contradictory laws” in need of an overhaul. “The single most important labour law is arguably the Industrial Disputes Act (IDA) 1947.” This law guides the recruitment and dismissal of employees. [32bs]

32.02 The US Department of State (USSD) Report on Human Rights Practices 2006 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 minimum 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. Some industries, such as the apparel and footwear industries, did not adhere to prescribed minimum wage.” [2c] (Section 6e)

32.03 As reported in the same USSD report “Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days’ notice prior to striking. Some states had laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.” [2c] (Section 6b)

32.04 The USSD 2006 report 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. The legislation distinguishes between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.” [2c] (Section 6b)

32.05 The USSD Country Report of 2006 further noted “[that] In August 2004 the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.” [2c] (Section 6b)

32.06 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)

32.07 As noted in a BBC News article dated 12 November 2004 “Political parties and trade unions in India’s eastern state of West Bengal say they will disobey a court order declaring strikes illegal.” They announced three strikes in West Bengal despite a Supreme Court order imposing a ban on the right of government employees to strike because of the disruption caused. The report stated:

“The state government has said it will honour a recent Calcutta High Court ruling that government employees absent from work on strike days will lose a

day's wages...The Supreme Court ruled last year (2003) that 'no political party or organisation can claim a right to paralyse the economic and industrial activities of a state or the nation or inconvenience citizens.' The ruling related to cases arising from a major strike in India's southern state of Tamil Nadu, as a result of which the state government sacked 176,000 employees. Most of the employees were reinstated after a Supreme Court intervention but only after providing a written apology and pledging not to take part in strikes in the future." [32aj]

32.08 As noted in the USSD 2006 Country Report:

"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)

32.09 As cited in the same report:

"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 to up to three years in prison, but prosecutions were rare. Enforcement of this statute, which is 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. . . According to an ILO report in 2005, an overwhelming majority of bonded laborers belonged to the scheduled castes and scheduled tribes." [2c] (Section 6c)

See also [Section 24.11 Children 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 Dehli, 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 3 October 2007) [32a]

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Annex B Political Organisations

(Sources: [1] [5h] [7f] [32dh] [32de] 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. [32dh]

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. [32dh] 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. [32dh]

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. [66]

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] [66]

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. [66]

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. [32m]

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. [32di]

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. [66]

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. [32dh] [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. [32di] 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. [32di] 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. [32dh] 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." [32dh]

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. [32dh]

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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. [44d]

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. [44d]

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) [77a]

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 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. [77a]

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." [77a]

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 Dimasa National Security Force (DNSF) after the organization surrendered in 1995...The group seeks to establish political autonomy for its tribe, the Dimasa, 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." [77a]

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." [77a]

Islamic Defense Force

The group is currently inactive. [77a]

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." [77a]

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." [77a]

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." [77a]

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. [77a]

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." [77a]

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..." [77a]

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. [77a]

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. [77a]

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." [77a]

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. [77a]

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." [77a]

Ukrainian Reactionary Force

No longer active in India. [77a]

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)." [77a]

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." [77a]

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." [77a]

al-Faran

Presumed inactive. [77a]

al-Hadid

Non-active since 1994. [77a]

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." [77a]

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." [77a]

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." [77a]

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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. [68]

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. [68]

International Sikh Youth Federation (ISYF)

ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India. [68]

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. [68]

Lashkar e Tayyaba (LT)

LT seeks independence for Kashmir and the creation of an Islamic state using violent means. [68]

[68] (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. [32dr] 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. [32dv]

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 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. [32da] [2f] (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. [32ai]

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. [66]

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. [32f] 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
HRW	Human Rights Watch
IAG	Illegal Armed Group
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
NA	Northern Alliance
NATO	North Atlantic Treaty Organization
NGO	Non Governmental Organization
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
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
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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