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World Report 2015 - India

India elected a new government in May 2014 led by Narendra Modi of the Hindu right Bharatiya Janata Party (BJP) as prime minister. After 10 years in opposition, the BJP won a decisive mandate with a significant majority in parliament. The BJP promised to revive growth, end corruption, and pursue development projects.

Modi has stressed protection of women from violence and other abuses, and access to healthcare and sanitation. He has urged members of parliament to establish model villages with better infrastructure and modern sanitation facilities in rural areas, and, in his first public speech, called for a decade-long moratorium on communal divisions and discrimination.

The new government has expressed a commitment to freedom of speech but has not ended state censorship or taken decisive action against ultranationalist and other religious militant groups that respond to views they do not like with threats of violence. In 2014, authorities tightened restrictions on nongovernmental organizations (NGOs). One reason for this has been that civil society groups have been highly critical of big development projects that they say will have a negative impact on the environment, and on the health and livelihoods of affected populations.

While Modi took office with a reputation for having overseen economic growth and improved governance as chief minister of Gujarat, his inability to protect Gujarati Muslims during religious riots in 2002 and promptly prosecute perpetrators continues to cause concern. Some inflammatory remarks by BJP politicians have added to a sense of insecurity among religious minorities.

Caste-based discrimination and neglect of tribal communities is also a continuing problem in India, as is sexual abuse and other violence against women and children. The awarding of the 2014 Nobel Peace Prize to activist Kailash Satyarthi spotlighted the fact that millions of children in India are still engaged in the worst forms of labor. Lack of accountability for security forces and public officials responsible for abuses perpetuates impunity and leads to further abuses. Police reforms are urgently needed to make the force rights-respecting and accountable.

Treatment of Minorities

Incidents of violence against religious minorities spiked in 2013 in the run-up to national elections; according to government sources 133 people were killed and 2,269 injured in 823 incidents.

More than a year after communal violence killed over 60 people, mostly Muslims, and displaced tens of thousands in Muzaffarnagar and Shamli districts of Uttar Pradesh state, both the central and the state governments had not provided proper relief or justice. The BJP even chose Sanjeev Balyan, charged with inciting violence during the riots, as their candidate in parliamentary elections and appointed him as a minister, intensifying Muslim insecurities. The state government forcibly closed down relief camps and failed to act on allegations that lack of adequate relief services caused the death of over 30 children in the camps.

In June 2014, an ultranationalist Hindu group organized violent protests in the western city of Pune against a social media post derogatory to some Hindu historical and political figures. Some members of the group, assuming that the anonymous post was the work of Muslims, arbitrarily beat and killed Mohsin Shaikh—who had no links to post—but was easily identified as Muslim because of his prayer cap.

Dalits (so-called Untouchables) and tribal groups continued to face discrimination and violence. The difficulties the Dalit community has in obtaining justice were highlighted by recent court verdicts in four cases in Bihar and one in Andhra Pradesh states. In each of the cases, the courts overturned convictions in high-profile incidents that took place between 1991 and 2000 involving killings of Dalits due to lack of evidence, highlighting the failure of prosecutorial authorities.

Despite numerous initiatives and laws prohibiting “manual scavenging”—the cleaning by hand of human waste by members of communities considered low-caste—the practice persists. Those who try to leave such work face retribution, including threats of violence or displacement. In March 2014, the Supreme Court held that India’s constitution requires state intervention to end the practice.

Impunity

Members of India’s security forces continue to enjoy impunity for serious human rights violations.

In a rare case in November 2014, the army reported that a military court had sentenced five soldiers, including two officers, to life in prison for a 2010 extrajudicial execution of three innocent villagers. The army ordered a military trial after using the draconian Armed Forces Special Powers Act (AFSPA) to block prosecution by civilian courts.

The army also chose a military trial for the alleged March 2000 extrajudicial killing of five civilians in Pathribal in northern Jammu and Kashmir state. However, in January, the army court of inquiry dismissed charges against five officers. AFSPA, which has been in force for decades in Jammu and Kashmir and India’s northeastern states, has provided effective immunity to members of the armed forces for killings of civilians and other serious human rights violations. Numerous independent commissions in India have recommended repealing or amending the law but the government has failed to do so in the face of stiff opposition from the army.

Proposed police reforms have also languished even as police continue to commit human rights violations with impunity. These include arbitrary arrest and detention, torture, and extrajudicial killings. In several states, police are poorly trained and face huge caseloads.

Two separate reports—one by a think tank and another by three senior police officials—found a deficit of trust between Muslim communities and the police. Muslims perceive the police to be communal, biased, and insensitive in part because of the misconduct of some police personnel, especially during communal tensions.

Women’s Rights

In November 2014, more than a dozen women died and many others were critically ill after undergoing sterilization procedures in the central Indian state of Chhattisgarh. This led to an outcry against target-driven approaches to family planning programs.

Legal reforms were introduced in response to the 2012 Delhi gang-rape and murder, but at time of writing the Indian government had yet to introduce monitoring and reporting mechanisms to track their implementation. Reports of rape—including of Dalit women, individuals with disabilities, and children—continued to make national news in 2014, leading to protests.

In early 2014, the government introduced guidelines for the medical treatment and examination of women and children who report rape, but failed to allocate resources necessary for their implementation. At time of writing only two states had adopted the guidelines.

Maternal mortality rates have declined in India but remain a concern because of weak referral systems and poor access to medical assistance in many parts of the country.

Children’s Rights

By awarding its peace prize to Kailash Satyarthi, the Nobel committee drew attention to the continuing employment of children in the worst of labor. The Right to Education Act and government schemes have resulted in near-universal enrollment of children in early grades. But millions of children, particularly from vulnerable Dalit, tribal, and Muslim communities, facing discrimination, inadequate support in government schools, and pressures to earn money, soon drop out and start working.

In August 2014, the government introduced amendments to the Juvenile Justice Act that, if adopted, would subject 16-18 year olds to prosecution in adult courts when charged with serious crimes such as rape and murder. Child rights activists and the National Commission for Protection of Child Rights strongly opposed the amendments.

In June 2014, the United Nations Committee on the Rights of the Child identified several areas in which the Indian government had failed to ensure protection of children from discrimination, harmful practices, sexual abuse, and child labor. It also raised concerns about Maoist militants recruiting children and attacking schools, and about government armed forces occupying schools in Maoist-affected areas despite Supreme Court rulings prohibiting the practice.

Protection of LGBT Rights

The rights of Lesbian, Gay, Bisexual, and Transgender (LGBT) people suffered a setback in December 2013 when the Supreme Court reversed a landmark 2009 Delhi High Court decision striking down a colonial-era law criminalizing adult consensual same-sex relations. At time of writing, a petition to review the decision was pending before the Supreme Court.

In April 2014, the Supreme Court recognized transgender individuals as a third gender and asked the government to treat them as a minority eligible for quotas in jobs and education.

Palliative Care

In February 2014, India's parliament amended the country's drug laws to allow for better access to pain medicines including morphine. The crucial amendments to the Narcotic Drugs and Psychotropic Substances Act eliminated archaic rules that obligated hospitals and pharmacies to obtain four or five licenses, each from a different government agency, every time they wanted to purchase strong pain medicines. More than 7 million people in India require palliative care every year and the new revisions to the law will help spare them the indignity of suffering needlessly from severe pain.

Rights of Persons with Disabilities

Mental health and support services are severely lacking in India. Fewer than 20 percent of the people who need mental health care have access to treatment. Due to stigma and the shortage of government community-based services, families find it difficult to cope and often end up abandoning or forcibly institutionalizing relatives with intellectual or psychosocial disabilities.

Restrictions on Free Speech

Vaguely worded laws that criminalize free speech continue to be misused. Police in various states have filed charges under the Indian Penal Code or the Information Technology Act for online comments critical of important political figures, including the prime minister. In one instance, five young men were questioned by the police for sharing anti-Modi comments over the phone. The police also targeted student magazines in two instances for critical comments on some political figures, including Modi.

Despite commitments to protect freedom of speech, the government has not taken decisive action against militant groups that threaten and attack people over views they do not like. In the face of weak government responses and threats of lawsuits from Hindu ultranationalist groups, a few publishers withdrew or cancelled books being prepared for publication.

Civil Society and Freedom of Association

Authorities have tightened restrictions on civil society organizations. Officials use the Foreign Contribution Regulation Act (FCRA), which tracks grants from foreign donors, to harass organizations that question or criticize government policies, to stymie their activities, and to cut off funds from abroad.

The impact on Indian civil society has been severe. When the Indian Home Ministry conducts an investigation pursuant to the FCRA, it often freezes the accounts of the NGO being investigated, cutting its source of funding, and forcing it to stop its activities. Such tactics have a wider chilling effect on the work of other groups.

In 2014, the Modi government asked the country's central bank to seek prior permission before moving foreign funds into Greenpeace India's accounts, intensifying concerns that the government would be less tolerant of organizations that questioned the government's development and infrastructure projects.

Death Penalty

While there were no executions in 2014, death sentences continued to be handed down. This was despite a Supreme Court decision in November 2012 stating that the "rarest of rare" case standard had not been applied uniformly over the years and needed review.

In a landmark judgment in January 2014, India's Supreme Court commuted the death sentences of 15 prisoners. It ruled that death penalty can be commuted where the defendants are mentally ill or where there are inexplicable government delays in deciding mercy pleas. It also set forth guidelines to safeguard the rights of prisoners on death row and their families.

Foreign Policy

The new government intensified engagement with world leaders to promote trade and investment and revive the Indian economy. Modi invited to his inauguration all neighboring heads of state, including Pakistan's, signifying his commitment to build stronger ties in the region.

Despite repeated militant attacks on Indian assets, including a May 2014 attack on the consulate in Herat, India continued to provide significant assistance to reconstruction efforts in Afghanistan and some training for Afghan security personnel. It has also provided assistance for reconstruction efforts in Sri Lanka.

Both the prior prime minister, Manmohan Singh, and now Modi's government have been reticent on many regional and global human rights issues where their voice could make a difference. The Modi government has focused on foreign policy to revive trade and investment, and called for international cooperation to counter terrorism threats and money laundering. However, it has not made any significant announcements suggesting greater commitment to protecting human rights even in countries like Bangladesh, Nepal, Sri Lanka, or Burma where it has considerable influence. It has abstained on key UN resolutions, including on North Korea in November 2014.

After supporting two resolutions at the UN Human Rights Council on Sri Lanka in 2012 and 2013, in March 2014 India abstained on a resolution requesting the Office of the High Commissioner for Human Rights to investigate serious violations during the conflict between the Sri Lankan government and the Liberation Tigers of Tamil Eelam that ended in May 2009. India said that Sri Lanka should instead be supported in addressing these concerns through wholly domestic efforts.

Human rights did not feature very strongly in public statements when Indian leaders met with counterparts from the United States, Australia, China, and Japan, although they agreed to cooperate on regional issues.

Although it has not ratified the UN refugee conventions, India continued to accept refugees from Tibet, Burma, and, in recent years, Afghanistan.

However, India failed to publicly condemn efforts by Australia to return Sri Lanka refugees without properly evaluating the risk of torture. Nor did India speak up to call for the protection of ethnic Rohingya Muslims in Burma.

Key International Actors

The US, United Kingdom, Japan, China, and Australia, among others, saw the election of Modi as an opportunity to strengthen trade ties with India. With the focus on investment and trade, and given longstanding Indian sensitivity to perceived intervention in its domestic affairs, these countries maintained a low-key approach to human rights, choosing to ignore concerns about protection of religious minorities.

India's record on children's rights and women's rights were reviewed in 2014 by the UN Committee on the Rights of the Child and the UN Committee on the Elimination of Discrimination against Women. Both committees raised concerns about India's failure to implement relevant laws and policies and ensure non-discrimination.

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