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India

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India is a longstanding and stable multiparty, federal, parliamentary democracy with a bicameral parliament and a population of approximately 1.1 billion. Manmohan Singh was named prime minister following his Congress Party-led coalition's victory in the 2004 general elections, which were considered free and fair, despite scattered episodes of violence. Serious internal conflicts affected the state of Jammu and Kashmir, as well as several states in the northeast. The Naxalite conflict affected Andhra Pradesh, Orissa, Chhattisgarh, Jharkhand, Bihar, Uttar Pradesh, Madhya Pradesh, West Bengal, and eastern Maharashtra. While the civilian authorities generally maintained effective control of the security forces, there were frequent instances in which some elements acted independently of government authority.

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.

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.

In June 2005 the government passed the Right to Information Act (RTI), mandating stringent penalties for failure to provide information or affecting its flow, and requiring agencies to self-reveal sensitive information. The implementation of the act marked a departure from the culture of secrecy that traditionally surrounded the government's rule making.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

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. 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 (see section 1.g.). According to the Jammu and Kashmir Human Rights Commission, it received 1,867 complaints of human rights violations since 2002.

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, the Defense Ministry reported that it was aware of two fake encounter killings that occurred in 2003, and it court martialled the officers involved. However, Human Rights Watch (HRW) could find no instances of a public prosecution leading to a conviction of those alleged to be responsible for fake encounter killings in Jammu and Kashmir. Human rights groups accused security forces of targeting suspected terrorists, insurgents and their suspected supporters. 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.

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.

On August 22, Maharashtra police shot and killed an alleged Pakistani national, Abu Osama, in what appeared to be a staged encounter. Several journalists claimed that the police arranged the encounter and that the person killed was associated with the July 11 perpetrators of the terror attack on Mumbai trains. There were no further developments in this case by year's end.

Human rights groups noted that police officials often refused to turn over bodies in cases of suspected staged encounters. The bodies were often cremated before their families could view them. Most police stations failed to comply with a 2002 Supreme Court order requiring the central government and local authorities to conduct regular checks on police stations to monitor custodial violence.

According to human rights 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.

On January 12, according to press reports, security forces allegedly abducted and killed a youth in the Baramulla District of Jammu and Kashmir. The media reported that the youth was blindfolded and tortured. They subsequently arrested and tortured a second youth and gave him a gun in order to claim he was a terrorist. Jammu and Kashmir police filed a First Information Report (FIR) against the accused soldiers, and at year's end the army opened an investigation.

In January police ordered an inquiry and charged two RR soldiers for torturing and killing a Kashmiri, Fayaz Ahmad Bhat. On January 16, RR troops 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.

In early March police killed two suspected Lashkar-e-Tayyiba (LET) terrorists in Delhi, claiming the two were responsible for the October bomb attack on a Hyderabad police station. The Hyderabad-based Civil Liberties Monitoring Committee reported that the encounter was staged.

Border Security Forces (BSF) operating along the Indo-Bangladesh border killed 17-year-old Musaruddin Molla while he was working in his field. According to the ACHR, to conceal his death, BSF officers allegedly took six cattle from their camp and accused Molla of stealing them. The case was under review at year's end.

There were no developments in the January 2005 killings of five passengers by soldiers on a moving train near Shikohabad railway station near Uttar Pradesh.

There were no developments in the July 2005 killing of three teenage boys by security forces who allegedly mistook them for terrorists in the Kupwara area of Kashmir.

In September 2005 Udayakumar, a citizen from Kerala, died in police custody allegedly due to torture during

interrogation. According to the Confederation of Human Rights Organizations, police picked up Udaykumar for suspicious movements in a nearby park, questioned, beat, and killed him. After preliminary investigations, authorities arrested three police constables and charged two with murder. The Kerala Government announced compensation of \$6,500 (Rs 287,000) to his family (see section 1.c.).

In August 2005 the Central Bureau of Investigation (CBI) recommended the prosecution of four army officers, including Senior Superintendent of Police Farooq Khan, for the killing of five civilians in a staged encounter death in 2000. The Central Administrative Tribunal ruled the related 2003 suspension of Senior Superintendent of Police Khan as illegal and reinstated him. On May 11, the CBI filed charges of murder, abduction with intention to murder, wrongful confinement, criminal conspiracy, and destruction of evidence against the officers. The investigation was ongoing at year's end.

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.

On May 9, the army began the court-martial of Brigadier Suresh Rao for allegedly ordering his subordinates to fake terrorist killings to garner awards, citations, and positive public relations.

From January 2005 through July of the year, the Home Ministry reported 139 deaths in police custody. However, the National Human Rights Commission (NHRC) confirmed 1,730 deaths in police and judicial custody during the same time period.

Although Andhra Pradesh police recorded an 11 percent decrease in custodial deaths in 2005 compared with the previous year, they also had the largest number of deaths in judicial and police custody with a total of 145. In 2004 in Maharashtra, according to media reports, Mumbai police transferred officers linked to encounter killings from the crime branch; as a result, staged encounter killings in Maharashtra reportedly decreased from 94 in 2001 to 13 in 2004. Figures for encounter killings in Maharashtra for 2005 were not available. The Kerala State Human Rights Commission registered 25 cases of custodial deaths from January to June, compared with 39 cases in 2005.

In an attempt to expedite prosecutions, in May 2005 authorities updated a law requiring a coroner to conduct a medical examination within 24 hours of a death in custody. However, by the end of the year, the law had not been implemented. From April 2003 to March of this year, the NHRC awarded \$51,354 (Rs 2.3 million) in compensation for deaths in police and judicial custody.

Human rights activists reiterated during the year that there was uneven compliance with a 1993 NHRC directive requiring district magistrates to report to the commission all deaths in police and judicial custody. In January the Indian Center for Human Rights and Law (ICHL) filed a petition with the Mumbai High Court against custodial deaths, arguing that police were not adhering to NHRC guidelines for custodial deaths. The lawyer representing the government of Maharashtra admitted that the Mumbai and Maharashtra police did not follow the guidelines.

In December 2005 media reported that Shivkumar Jaiswala, an alleged thief, died in custody in Mumbai. On January 2, another alleged thief, Prem Yadav, died in custody in Mumbai. No officers were suspended in connection with these cases, and human rights activists argued that the police response to custodial death appeared to vary according to the social and financial backgrounds of the victims. Media reported that Mumbai police routinely conducted internal inquiries into all custodial deaths, but no police officer was convicted of a crime in connection with the 15 cases reported since 2001. Official inquiries ruled that none of the 15 deaths was caused by torture.

On January 4, media and NGOs reported that Gurmail Singh died in the custody of the Railway Police after being arrested in connection with two bodies found near the Ghaggar railway station near Chandigarh. The Punjab State Human Rights Commission asked for a report on the incident, and a three-member board of doctors conducted the post-mortem, with the report later handed over to the family. The findings were not released at year's end, but the Railway Police denied allegations of torture, claiming instead that Gurmail Singh died naturally.

In March the Maharashtra Criminal Investigation Department (CID) arrested six police officials for the 2004 custodial death of Uday Bhandge, who was detained for stealing gasoline from a private automobile. Police officers held Bhandge and an accomplice at the Aundh Police Station overnight, although the car owner asked the police to reprimand the men and release them. The next morning Bhandge was found dead in his cell. Local residents and Bhandge's family alleged that Bhandge died from beatings received in the station. By year's end, there were no further developments in this case, which remained under investigation.

On April 7, Mumbai police suspended four police officers in the case of Premnath Janardan Rao, an accountant whom

the Mumbai police initially said hanged himself on April 6 while in custody. On April 20, in response to a request by Rao's family, the Mumbai High Court ordered a second post-mortem of Rao's body and a magisterial inquiry; as of October police officials remained under suspension and the inquiry was pending.

In June NGOs and media reported that a 20-year-old male Dalit (formerly known as "untouchables" who fall outside of the caste system), Madan Lal, died while in police custody in Ferozepore, Punjab. Lal was arrested on theft charges and died within two hours of his arrest during interrogation. Authorities suspended two policemen.

In March 2005 the Maharashtra CID arrested four Mumbai police officers and charged them in the 2003 custodial killing of Khwaja Yunus, who was detained in connection with a bombing case. Police officers earlier claimed that Yunus had escaped from custody. In January the CBI filed charges against the police officers, who remained free on bail at year's end. In October the Division Bench of the Mumbai High Court ordered Maharashtra Director-General of Police P.S. Pasricha to transfer 10 police officers connected to the case out of Mumbai. He complied.

In May 2005 Mumbai police arrested two Railway Police Protection Force (RPF) constables for killing railway porter Vijay Singh. After the discovery of Singh's body on the terrace of the Mumbai Central Railway Police Station, police stated there was no record of his arrest, but eye-witnesses reported seeing the two constables taking him into custody. As of year's end, the trial against the two police constables was underway in a Mumbai court.

On April 30, army doctors found the body of Captain Sumit Kohli in Kupwara, Jammu and Kashmir. The army said that suicide was the cause of death, while Kohli's family alleged that he was killed because he was scheduled to testify as a witness against another officer in a 2004 case of an encounter killing. The other officer had been accused of killing four porters in the Kupwara District of Jammu and Kashmir.

After the July 11 serial terrorist bombings on seven Mumbai commuter trains that killed approximately 200 commuters and injured more than 700, the media reported that the Mumbai police reinstated so-called encounter specialists by assigning two such officers to the Anti-Terrorist Squad (ATS) investigating the bombings.

From May to August, newspapers and opposition parties in Kerala reported seven deaths in police custody of persons arrested for misdemeanor offenses. During the same period, another seven individuals drowned in separate incidents, allegedly while being pursued by the Kerala police. In August, following a media outcry, the government of Kerala announced a judicial inquiry into the deaths.

During the year, the Assam Rifles appealed the 2004 Manorama Devi rape and custodial death case to the Guwahati High Court in Assam, arguing that the state had no authority to handle a case involving the army. Manorama's family also appealed to the Guwahati High Court, asking that the findings of the commission and investigation by the Home Ministry in Delhi be made public. All appeals remained pending at year's end.

On September 20, police killed four persons (including a child) and injured 45 when they opened fire in an area of Delhi as demonstrators protested the government move to seal businesses illegally operating in residential areas.

During the year the killing of civilians continued in the course of counterinsurgency and counter-terrorism operations, including those that took place in Jammu and Kashmir (see section 1.g.). Human rights activists stated that accurate numbers were not available due to limited access to the region, but the ACHR alleged that 355 civilians were killed and 373 injured in police firing in 2005. The security forces often claimed that those killed were insurgents or civilians who died in crossfire. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases.

Countermilitants 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 countermilitants as part of the counterinsurgency effort. During the year killings and abductions of suspected pro-government countermilitants continued to be a significant problem in Jammu and Kashmir, although the number of such instances declined substantially from the 1990s.

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see section 3). Separatist guerrillas and terrorists attempted to kill numerous senior politicians, political workers and political activists.

In January insurgents attacked activists of Communist Party of India (Marxist) in Soprian district, Jammu and Kashmir, killing three persons.

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 (see sections 1.b., 1.c., 1.d., and 1.g.). 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.

Unlawful killings due to societal violence, including vigilante action, continued. For example, in January clashes during a protest over the building of a steel plant on tribal land in Jajpur, Orissa resulted in the deaths of twelve members of an indigenous community and one police officer (see section 5).

In March approximately 200 villagers tried, sentenced to death, and publicly beheaded a family of tribals for practicing "black magic" in the Sonitpur district of Assam (see section 5).

In July in Tinsukia district, Assam, local police fired into a crowd and killed eight civilians during protests over the custodial killing of Ajit Mahanta. A military court sentenced an army officer involved in Mahanta's death to one-year forfeiture of service and another to two months' rigorous military imprisonment. The army compensated Mahanta's family \$2,130 (Rs 94,000).

Dalits faced societal discrimination (see section 5).

In 2005 the NCRB reported that there were 26,127 cases against the Scheduled Castes (SCs) and 5,713 cases against the Scheduled Tribes (STs). While the average conviction rate for the crimes against the SCs was 29.8 percent, the average conviction rate for the crimes against the STs was 24.5 percent. About 55.1 percent of the total displaced persons in the country as a result of development projects were tribals although they constituted only 8.2 percent of the total population of the country according to the 2001 census.

b. Disappearance

Although government complicity was not always confirmed, scores of persons disappeared in strife and insurgency-torn areas during the year. According to Association of Parents of Disappeared Persons (APDP) and other NGOs such as ACHR and SAHRDC, the number of newly reported disappearances has decreased compared with the early years of the conflict in Jammu and Kashmir. However, there was still virtually no information about the fate of individuals who disappeared since the beginning of the Jammu and Kashmir insurgency.

In 2003 the Jammu and Kashmir Government stated that 3,931 persons had disappeared in the state since the insurgency began in 1990, compared with an APDP estimate of approximately 8,000 to 10,000. In 2003 the government investigated the APDP list and concluded that 22 "disappeared" persons from a list of 116 had joined insurgent groups or were in Pakistan, while the police had located 43 persons in their homes. Of the rest, the government stated that six were dead, two were in custody with cases registered against them, and investigations were still ongoing in 13 cases. The APDP responded that only 22 had joined the insurgents, that those whom the government claimed were at home were actually still missing, and it demanded details in the cases of the six people whom the government claimed were dead.

In September 2005 ACHR reported that more than 6,000 cases of disappearances remain unresolved in the state. However, according to the director general of police in Jammu and Kashmir, seven persons disappeared in 2003; three persons in 2004; and two persons in 2005-06. According to APDP, 41 persons had disappeared through September. Reports varied widely on the number of disappearances that occurred.

According to former Jammu and Kashmir Deputy Chief Minister Muzaffar Hussain Beig, there were 14 cases of disappearances and 27 cases of custodial deaths in the four years preceding August. In January Manzoor Ahmed Khan disappeared from Kupwara in Jammu and Kashmir. His family registered a case with the police.

In April Ghulam Mohiuddin disappeared from Baramulla in Jammu and Kashmir. Ghulam's family alleged that he was arrested by the army and held in the Joint Interrogation Center in Baramulla. The army released Mohiuddin.

In May Ghulam Nabi Mir disappeared from Pulwama in Jammu and Kashmir. RR officers allegedly raided Mir's residence. The army denied arresting Mir and by the end of the year, he was still missing.

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 (see sections 1.a. and 1.c.).

The government maintained that screening committees administered by the state governments provided information about the unacknowledged detainees to their families. Other sources indicated that families could only confirm the detention of their relatives by bribing prison guards. During the year the screening committees released 140 persons detained under the 1978 Public Safety Act (PSA).

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.

In September Paramjit Kaur Khalra, the widow of human rights activist Jaswant Singh Khalra, filed a legal petition calling for the investigation and prosecution of former police chief Gill for the abduction, illegal detention, torture, and murder of her husband. According to ENSAAF and other human rights organizations, in September 1995 members of the Punjab police operating under Gill's command abducted Khalra for investigating and exposing the "disappearances" and secret cremations of thousands of Sikhs in Punjab by security forces. Gill's subordinates illegally detained and tortured Khalra for nearly two months, before killing him in 1995.

The NHRC continued to investigate 2,097 cases of murder and cremation that occurred between 1984 and the early 1990s. The NHRC asked families whose members had disappeared to provide evidence and ordered compensation to approximately 100 families. The NHRC has not released its findings, and no significant progress was made in bringing to justice those responsible for the killings.

On May 15, the NHRC ordered the Punjab Government to disburse monetary compensation of \$5,700 (Rs 250,000) each to the next of kin of 45 persons whom the state government admitted were in police custody immediately before they were killed and illegally cremated. In August 2005 the Nanavati commission, tasked with conducting a re-inquiry into the anti-Sikh riots of 1984, released its report, citing 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 also set up two committees to disburse financial compensation promised by Prime Minister Singh to the victims' families. The government approved an extra \$158 million (Rs Seven billion) in compensation: \$7,800 (Rs 344,000) for every family member killed and \$2,800 (Rs 124,000) for those injured.

One human rights activist and lawyer from the state of Punjab reported filing 4,000 disappearance cases. However, only 10 to 12 of these cases had been prosecuted. In July 2005 the NHRC directed the CBI to give the Punjab government access to documents regarding the illegal killing and cremation of 64 persons by the Punjab police during the insurgency. On April 3, NHRC Chairman A.S. Anand stated that the Punjab State Government identified 570 persons who had been cremated secretly. On May 15, the NHRC directed Punjab authorities to pay \$5,500 (Rs 243,000) to the survivors of 45 victims.

There were credible reports that police throughout the country often failed to file legally required arrest reports, resulting in hundreds of unresolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, pointing to the lack of an arrest record.

Insurgents in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, obtain the release of detained comrades, and extort funds.

At the end of 2004, the government verified that few kidnappers were arrested or prosecuted. Insurgents and terrorists in Jammu and Kashmir and the northeast killed some victims who had been kidnapped (see sections 1.a. and 1.g.).

On January 17, the Kuki Liberation Army (KLA) kidnapped Dr. Tongkhojang Lunkim, Chairman of Kuki Movement for Human Rights (KMHR) and demanded a ransom of \$200,000 (Rs 8.8 million) in Manipur. The KLA released him on March 18.

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

The law prohibits torture and generally did not allow for confessions extracted by force to be admissible in court; however, authorities often used torture during interrogations to extort money and as summary punishment. There were allegations of confessions derived under torture. In some instances, these confessions were subsequently used as evidentiary support for an execution sentence. The Code of Criminal Procedure (Amendment) Act of 2005 mandated a judicial inquiry into any death or rape of a woman in police custody; however, human rights groups asserted that the new law had not decreased the prevalence of custodial abuse or killings.

The ACHR alleged that custodial deaths was 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 (see section 1.a.). 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.

There were no developments in the February 2005 torture and killing of a Dalit youth by Jalandhar district police or the May 2005 alleged infliction of injuries against Mariappan by police in Tamil Nadu.

There were no developments in the August 2005 beating by assistant commissioner of police Arun Desai of Taj Mohammed in Mumbai.

There were incidents in which police beat journalists (see section 2.a.), demonstrators (see section 2.b.), and Muslim students (see section 2.c.). Police also committed abuses against indigenous people (see section 5).

There were no developments in the January 2005 beating of Roop Narayan Yadav.

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty filing complaints, as local police allegedly were instructed not to open a case without permission from higher authorities. In addition, under the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990, no "prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers of the act," without the approval of the central government. The act gives security forces the authority to shoot suspected lawbreakers and those disturbing the peace, and to destroy structures suspected of harboring violent separatists or containing weapons. Human rights organizations alleged that this provision allowed security forces to act with virtual impunity (see section 1.d.).

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

There were no developments in the February 2005 rape of a minor girl in West Tripura district and subsequent soldier's arrest.

The Ministry of Defense reported that it filed 17 rape cases and 10 murder cases against army personnel from 2003 to 2004. By year's end, one rape case and five murder cases had ended in guilty verdicts. In the remaining cases, the investigations remained ongoing or the charges were proved false.

There were no developments in the January 2005 rape case of 15-year-old Nandeibam Sanjita Devi by two members of the 12th grenadiers.

There were no developments in the February 2005 rape case involving the Assam Rifles constable and the 12-year-old girl in the Karbi Anglong district of Assam since the arrest of the soldier and two women who assisted the rape.

There were no developments in the September 2005 custodial rape of a widow detained on a murder charge by Bihar police.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among noncombatants in insurgency-affected areas (see section 1.g.), but these incidents were not included in NHRC statistics, as the NHRC does not have direct investigative authority over the military.

There were no developments in the January 2005 dismissal from military service of Major Rehman or the January 2005 court martial conviction of a rifleman accused of molesting an elderly woman in Pahalgam.

Unlike in previous years, there were no reports of psychiatrists issuing false insanity certificates for the purpose of

committing wives of divorce-seeking husbands.

In 2004 the government gave the NHRC the authority to recommend interim compensation in cases relating to human rights abuses by the armed forces. Officers of the rank of colonel were designated at the command, corps, division and counter insurgency headquarters to monitor human rights issues. Under the guidelines, the NHRC cannot charge or investigate a member of the armed forces of a human rights abuse without government permission.

Prison and Detention Center Conditions

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. According to the NHRC report, the country's prisons had a population of 324,852 persons and an authorized capacity of 234,462. Overcrowded prisons that exceeded the national average included Delhi (231 percent), Jharkhand (155 percent), and Chhattisgarh (125 percent). Haryana, Uttar Pradesh, Madhya Pradesh, Bihar, Sikkim, Gujarat, Orissa, Tripura and Andaman and Nicobar islands also exceeded the national average.

In December the government took steps to ease overcrowding in the Tihar jail in New Delhi. Steps included construction of new jails; holding special courts to try cases involving petty offenses; compiling a list of under-trial prisoners who were granted bail but could not be released; sending these lists to District and Sessions Judges for consideration of their cases on relaxed surety conditions; providing legal aid by the Legal Aid Advocates; and nominating counsel deputed by the Delhi Legal Services Authority to advise prisoners on moving appropriate applications before the High Court for their early release. As of November 29, there were 11,978 inmates in Tihar Jail with a total sanctioned capacity of 5,200.

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 (see section 1.a.). 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.

In an effort to avert suicides in police jails, Mumbai police installed close circuit televisions (CCTVs) in police lock-ups across the city. As of January nearly 25 percent of the 84 police stations had CCTVs.

There were no developments in the September 2005 Assam Human Rights Commission's request for appropriate action against jail authorities for mistreatment of Mithinga Daimary and Ramu Mech or the August 2005 death of Robin Handique in detention.

While local authorities often attempted to hide custodial killings, the NHRC and the courts investigated those cases brought to their attention and prosecuted some perpetrators. In most cases, the courts awarded monetary compensation of between \$400 (Rs 17,600) and \$2,200 (Rs 97,000) to the next of kin. NGO sources stated that relatives often had to pay bribes to receive the compensation awarded, and in many cases never received it at all.

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.

Some NGOs were allowed to work in prisons, within specific governmental 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.

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 IRC registered 554 new detainees and followed up on 1,240 old detainees. The ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states (see sections 1.c. and 4). In August the government amended the 1993 Protection of Human Rights Act (PHRA), which eliminated the requirement of ascertaining prior notification for prison visits, enabling surprise visits, and empowering the NHRC to form an opinion on the actual conditions inside prisons.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but both occurred during the year.

Role of the Police and Security Apparatus

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.

By the year's end, police had not filed charges against Delhi police inspector Satya Raj, who in November 2005 demanded \$600 (Rs 26,500) from a dead man's family for return of his body.

The NHRC reported that the majority of complaints it received were against police. According to the Ministry of Home Affairs, the NHRC recorded 6,923 cases against the police; 35 against armed forces and 39 against the paramilitary forces for violation of human rights during the year.

In 2005 the government worked with a foreign government and the UN Office on Drugs and Crime (UNODC) on a two-year program to train and sensitize law enforcement officials and prosecutors in the country about victims of human trafficking and bring abusers to justice. Training material developed through this project was used to conduct courses for law enforcement officials in target states and worked on developing standard operating procedures and protocols to be used nationally and in police training academies.

On July 9, the media reported that police failed to act against thousands of Shiv Sena (a regional Hindutva party) members who were damaging buses and property after a statue of their party's founder's wife was found defaced with mud at a park in central Mumbai.

Arrest and Detention

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

The law provides arrested persons the right to be released on bail, and prompt access to a lawyer; however, those arrested under special security legislation 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).

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

In 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). Nonetheless, SAHRDC reported that more than 1,000 persons remained in detention awaiting prosecution under lapsed special terrorism legislation, and that cases opened under POTA and Terrorism and Disruptive Activities Act (TADA) continued through the judicial system.

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 (see section 1.c.).

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 under 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 20, 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. According to the Ministry of Home Affairs, following the repeal of POTA in 2004, three Review Committees reviewed 263 cases involving 1,529 accused persons and determined that there was no prima-facie evidence under POTA against 1,006 of them.

UAPA 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.

In February 2005 the NHRC announced comprehensive guidelines regarding arrest, which included establishing reasonable belief of guilt; avoiding detention if bail is an option; protecting the dignity of those arrested; not allowing public display or parading, and allowing access to a lawyer during interrogation. Police often ignored these guidelines.

In January after an eight-month review by a committee headed by Punjab Chief Secretary Jai Singh Gill, the Punjab Government released three former insurgents arrested for actions during the Khalistan movement in the 1980s. The committee recommended that 19 others remain in jail.

Police routinely resorted to arbitrary and incommunicado detention, denied detainees access to lawyers and medical attention, and used torture or ill treatment to extract confessions (see section 5). Human rights experts claimed that discrimination and custodial torture of those too poor to afford legal assistance was common. During the year the media reported that lower-caste individuals were more likely to be illegally detained than others. Human rights activists maintained that the government increasingly avoided prosecuting security officers involved in illegal conduct, by providing financial compensation to victims' families in lieu of punishment. In some instances victims or their families who distrusted the military judicial system petitioned to have their cases transferred to a civil court. The NHRC has no jurisdiction over any courts, including military courts.

In July Muhammad Saleem from Billawar in Jammu and Kashmir was sentenced to 15 years in prison for possession of binoculars, live AK 47 cartridges, and a wireless set. This was the first conviction under POTA prior to its repeal.

Through December 2005, 217 persons were arrested and remained in custody in Gujarat under POTA in connection with the 2003 killing of former Gujarat chief minister Haren Pandya, the 2003 Akshardham temple bombing, the 2002 Godhra train arson case, and the 2002 Tiffin bomb case. During the year the Tiffin bomb case trial was completed, leading to 12 acquittals and five convictions. In July the Supreme Court appointed a judge from the Delhi Sessions Court to review the evidence of nine major trials (the Godhra trial among them), which had been stayed by the Supreme Court since 2003. By year's end, the judge had not concluded his review. In July a POTA court in Ahmedabad convicted all six accused in the 2002 Akshardham temple terrorist attack, which killed 34 persons. Of the six accused, three were sentenced to death and one to life in prison. By the end of the year, the Godhra trial had not commenced.

Throughout the year authorities in Jammu and Kashmir repeatedly detained Kashmiri separatist leaders for short periods of time ranging from several hours to one day, usually to prevent their participation in demonstrations, funerals, or other public events. For example, on March 10, the police took Jammu and Kashmir Liberation Front (Nanji) convener Javid Ahmad Mir and twelve others into preventative custody for violating a prohibitory order in Srinagar. Press reported that Mir was protesting against human rights violations and fake encounter killings when the authorities arrested him. He was released shortly thereafter. On June 22, Mir was arrested briefly again on June 22 on the same charges.

On March 17, police took extremist Hurriyat Conference member Syed Ali Shah Geelani into preventative custody, along with four others, near Srinagar as he traveled to Baramulla to deliver a speech. Human rights groups asserted that the sole reason for the arrest was to ensure he did not address the assembly. He was arrested again on June 7 and held until June 29 for "inciting communalism". Jammu and Kashmir police arrested Geelani again on October 12 to prevent him from taking part in the funeral of a youth allegedly tortured and killed by Delhi police. The press reported that this was the seventh time during a 45-day period that the government placed restrictions on Geelani.

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 then reviewed by an advisory board of three high court judges within seven weeks of the arrest. NSA detainees were permitted visits by family members and lawyers, and must be informed of the grounds of their detention within five days (10 to 15 days in exceptional circumstances). On January 12, Lucknow authorities arrested a doctor from the King George Medical University in Uttar Pradesh, and charged him with arson and violence. After the state's chief minister, Mulayam Singh Yadav, warned that "trouble-makers" at the university would be punished, authorities charged the doctor on January 19 under the NSA.

Human rights groups alleged that the NSA allowed authorities to order preventive detention at their own behest after only a cursory review by an advisory board and that no court would overturn such a decision.

The PSA, which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to two years. During this time, detainees do not have access to family members or legal counsel. According to the Office of Director General of Jammu and Kashmir Police, 473 persons in 2005 and 420 during the year were arrested under PSA. According to the ACHR, there were 140 foreign nationals in prisons in Jammu and Kashmir under the PSA.

On January 10, authorities released Sayeda Assiya Andrabi, the head of the all-female Dukhtaran-e-Millat, and eight of her associates. They had been arrested in September 2005 for campaigning against adultery, prostitution, and drug addiction. In August the Jammu and Kashmir High Court overturned the detention of seven persons held under the PSA, arrested for alleged involvement in militancy related incidents.

During the year the government released 140 persons held under the PSA.

In March the Chhattisgarh State Government enacted the Special Public Protection Act (SPPA), which HRW deemed "a vague and overly broad law that allows detention of up to three years for unlawful activities." HRW asserted that the law loosely defines what "unlawful activities" entails and threatens the fundamental freedoms and protections set forth in the constitution. The Public Union for Civil Liberties in India filed suit, alleging that the ordinance is "amenable to gross abuse and misuse, arbitrariness and partiality" and "can result in harsh and drastic punishment to innocent persons without hearing or remedy." HRW noted particular concern that the law also criminalizes any support given to Naxalites, regardless of evidence of duress.

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.

In June 2005 a Home Ministry committee reviewed AFSPA and submitted its report and recommendations. On October 8, confirming years of press speculation, the Justice B.P. Jeevan Reddy Review Committee report was publicly released and recommended the repeal of the act and gave the central government power to send forces where required. The Jeevan committee recommended that inquiries be allowed and offending soldiers not punished.

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.

For example, on February 16, media reports indicated that authorities incarcerated Shankar Dayal for 44 years without trial in the Unnao District Jail in Uttar Pradesh. The report said that Dayal had spent 43 years in a mental asylum and his family believed he was dead. Similarly, authorities incarcerated Jaldhar Yadav 20 years in Bihar for "wrongfully restraining a person and causing hurt." Under the law, the maximum sentence for this offense is one year in prison or a fine of \$45 (Rs 1,985) or both. The NHRC requested Assamese authorities to submit reports on five other pretrial prisoners detained at the LGB Regional Institute of Mental Health in Tezpur, Assam.

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.

The country had 1,734 operational fast-track courts, which provided some relief to the backlog and contributed to the growing consensus to increase the number of fast-track courts throughout the country.

e. Denial of Fair Public Trial

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.

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, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

Trial Procedures

The criminal procedure code provides that trials be conducted publicly, except in proceedings involving official secrets,

trials in which statements prejudicial to the safety of the state might be made, or under provisions of special security legislation. 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. 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. NGOs reported that the guidelines were not effective, and many demanded a central law on witness protection. Under these guidelines, witnesses could apply to the Member-Secretary of the Delhi Legal Services Authority (DLSA) for protection. Such recommendations are sent to the Legal cell of the Delhi police, who in turn informs the concerned districts. However, only six recommendations were forwarded to the Delhi police by the DLSA in one year due to lack of police resources. High-profile guilty verdicts involving powerful elites accused of murder, such as Manu Sharma or Santosh Singh, were reached based largely on the testimony of witnesses.

There was continued concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence in 2002 following the burning in Godhra of the S-6 coach of the Sabarmati Express train, in which 59 men, women, and children died. In the days following the train burning, Hindu mobs killed hundreds of Muslims, displaced tens of thousands, and destroyed thousands of dollars worth of property.

In many cases attempts to hold perpetrators of the Gujarat violence accountable were hampered by the manner in which police recorded complaints. Victims related that police refused to register their complaints, recorded the details in such a way as to lead to lesser charges, omitted the names of prominent people involved in attacks, and did not arrest suspects, particularly supporters of the Bharatiya Janata Party (BJP). HRW alleged that instead of helping Muslims in finding their relatives' bodies, the Gujarat police victimized and harassed them. In August 2004 the Supreme Court instructed the Gujarat High Court to appoint a committee of high-level police officials to re-examine the 2,032 closed cases out of a total of 4,252 complaints filed and determine whether any should be reopened. In February Gujarat police informed the Supreme Court that they would reexamine the closure of 1,600 of the 2,032 cases, and reinvestigate some of the cases by filing fresh FIRs. The media reported that officials attempting to conduct a serious investigation into the incidents were promptly removed from the case.

The first of the convictions in post-Godhra riot cases came in 2003, when the Kheda district court sentenced 12 persons to life in prison. In December 2005 a special court in Gujarat sentenced 11 Hindus to life in prison for killing 11 Muslims in the 2002 violence. In other cases that concluded during the year, the accused were acquitted due to a lack of evidence, faulty investigations or because witnesses had been bribed or were afraid to testify. Human rights groups alleged that, with the exception of the high profile cases in which the Supreme Court has taken interest, accused persons were most likely to be acquitted.

In 2002, Hindu assailants burned the Best Bakery in Baroda, killing 14 persons. On February 24, the Mumbai retrial of the Best Bakery case found nine defendants guilty of murder by arson and sentenced them to life imprisonment, while another eight were acquitted. In March the Supreme Court convicted principal witness Zaheera Shaikh, whose family owned the Bakery, of perjury after she repeatedly changed her testimony, according to HRW and AI, due to intimidation by prominent members of the BJP. On March 29, Shaikh was sentenced to one year in prison and was serving the sentence in a Mumbai jail.

Police officials and local authorities allegedly unearthed mass graves from the 2002 Gujarat violence early in the year. It was alleged at the time of the violence that in several cases the police originally tried to bury and conceal evidence. For example in January, in Kalol, Gujarat, the investigating agency CBI arrested six policemen and two doctors for deliberately destroying evidence and thereby shielding the accused in the 2002 Randhikpur massacre.

In addition, some bodies from the Kidiad killings, where over 70 persons were burned alive in March 2005 in two cars at Limbadiya Chowki in Sabarkantha district, were found in the Panam dam. According to police records, a case of eight deaths was reported. Following the 2002 acquittal of all the accused in the Kidiad killings by a judge based in Godhra, the Supreme Court issued a notice in 2003, and the state government fired the two prosecutors involved in the case. An appeal was filed before the State High Court. A senior police official said it was still unclear whether the discovered remains belonged to riot victims or whether an older graveyard had been unearthed. The Gujarat police dismissed the unearthing of the mass grave as an unnecessary publicity campaign by victims' family members.

The other high-profile trial from the 2002 Gujarat violence, the Bilkis Bano gang rape case, was ongoing in a Mumbai court as of year's end (see Section 5).

The Gujarat government claimed that police had re-opened investigations against 5,384 persons in the city of Ahmedabad and 24,683 persons in the state as a whole. However, analysis by the Islamic Relief Committee of Gujarat revealed that only a small number of these investigations actually led to convictions. As of October there were fewer than 10 convictions out of 217 cases concluded in the lower courts of Gujarat. The Gujarat government's legal department advised against appealing most of the acquittals in the remaining cases. As a result, only a handful of cases were appealed to higher courts. All Gujarat-related cases are under investigation in an official inquiry conducted by retired Justices G.T. Nanavati and K.G. Shah. The inquiry included gathering and analysis of 20,940 oral and written testimonies, both individual and collective, from survivors and independent human rights groups, women's

groups, NGOs, academics, and police officials.

HRW reported in 2005 that Hindu extremists threatened and intimidated victims, witnesses, and human rights activists attempting to prosecute those who committed crimes during the 2002 Gujarat riots. It asserted that instead of pursuing the perpetrators of violence, the Gujarat government nurtured a climate of fear. The report alleged that the Gujarat government launched selective tax probes against some Islamic organizations to pressure Muslim witnesses to withdraw murder and arson charges against Hindu nationalists. According to HRW's annual report published in January, "The Gujarat government again failed to investigate and prosecute those responsible for attacks on Muslims during the Gujarat riots of 2002." According to AI's May annual human rights report, "The perpetrators of human rights violations in India continue to enjoy impunity, particularly in Gujarat. The survivors of targeted killings and sexual violence in Gujarat in 2002 continued to be denied justice and reparation." The Gujarat government denied the charge.

On September 5, according to media sources, 12 Kamptapur Liberation Organization (KLO) leaders, six Maoist activists and one United Liberation Front of Asom (ULFA) cadre went on an indefinite hunger strike in the Jalpaiguri Central Jail, West Bengal, after their repeated requests for a speedy trial or bail during trial went unheeded. On September 18, 34 KLO prisoners in the same jail joined the hunger strike after some of their leaders fell seriously ill and were admitted to the hospital. About 300 members of the same groups all over the KLO in West Bengal went on a two-day hunger strike to protest the lack of progress in adjudicating the case.

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.

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 abuses committed as part of the government's anti-insurgent campaign and because of the frequent refusal by security forces to obey court orders.

Due in part to intimidation by insurgents and terrorists, courts in Jammu and Kashmir were often reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases. According to the Ministry of Home Affairs, there were currently 377 persons of unidentified ethnicity and Kashmiris and 136 foreigners in jails.

Political Prisoners and Detainees

While the government maintained that there were no political prisoners, the All Parties Hurriyat Conference (APHC) claimed there were approximately 500 political prisoners in Jammu and Kashmir, and human rights activists based in the state placed the number at 150, although among these were persons whom the government claimed had engaged in violent acts.

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

There were no reports of political detainees during the year, although the government detained hundreds of suspected terrorists, insurgents, and separatists.

Civil Judicial Procedures and Remedies

There are different personal status laws for the various minority religious communities, and the legal system accommodates religion-specific laws in matters of marriage, divorce, adoption, and inheritance. Muslim personal status law governs many noncriminal matters, including family law and inheritance (see section 5).

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

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

The Information Technology Act grants police power under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting "lascivious" material (see section 2.a.). The act also requires Internet cafes to monitor Internet use and inform the authorities of offenses (see section 2.a.).

The Indian Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in cases of public emergency, or "in the interest of the public safety or tranquility." The central government and every state government used these powers during the year.

Although the Telegraph Act gives police the power to tap phones to aid an investigation, they were not allowed to use such evidence in court. The UAPA allows such evidence to be used in terrorist cases, and some human rights activists noted that the new UAPA ordinance confers additional powers on police to use intercepted communications as evidence in terrorism cases. While there were elaborate legal safeguards to prevent police from encroaching on personal privacy, there were no such protections in terrorist cases.

Seven states (Andhra Pradesh, Rajasthan, Orissa, Himachal Pradesh, and Maharashtra) enacted two-child laws for village council members with very low levels of enforcement. The laws provide government jobs and subsidies to those who have no more than two children and sanctions against those who do. National health officials in New Delhi noted that the central government was unable to regulate state decisions on population issues.

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

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

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 (see section 1.d.). 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 to combat the insurgency in the northeast. At year's end, the act remained in force.

Accountability by the Jammu and Kashmir government remained a serious problem. Human rights groups estimated that 30,000 to 35,000 persons died during the two decades of conflict in Jammu and Kashmir. The Jammu and Kashmir governor, Lt. General S.K. Sinha, reported 39,000 deaths during the conflict. Security forces committed thousands of serious human rights violations over the course of the insurgency, including extrajudicial killings, disappearances (see section 1.b.), and torture (see section 1.c.). Killings of security force members by insurgents and terrorists in Jammu and Kashmir declined to 330 during 2005, according to home ministry statistics. As of August 2005, the Jammu and Kashmir police claimed fighting in Kashmir had resulted in the deaths of 167 security forces, 359 civilians, and 622 insurgents. According to the Jammu and Kashmir police, militants killed 385 civilians, security forces killed 554 terrorists, and insurgents killed 177 security forces. According to South Asia Terrorism Portal (SATP), as of December 18, there were 340 civilians, 166 security force personnel, and 592 terrorists killed as a result of terrorist violence.

There were continuing reports of civilians killed in cross fire in Jammu and Kashmir during the year. On February 22, four Kashmiri youth between the ages of eight and 18 were killed in cross fire between insurgents and soldiers in the Kupwara District in Northern Kashmir. The army stated that the killings occurred during a firefight when soldiers responded with rifle fire to an insurgent grenade. The killings sparked several days of antigovernment protests in the area. The Jammu and Kashmir chief minister and the army launched separate inquiries into the matter. On February 26, the army stated it provided \$4,800 (Rs 212,000) compensation to the families of each of the victims. The state government provided \$2,400 (Rs 106,000).

Terrorists and insurgents operating in Rajouri, Poonch, Udhampur, and Doda areas of Jammu and Kashmir repeatedly targeted the minority Pandit (Hindu Brahmin) community, stabbing and killing entire families at a time in numerous incidents throughout the year. For example, in June insurgents killed one man and injured 13 persons, cutting the noses and ears from two victims in the Udhampur District.

Civic elections were held in February 2005 in Jammu and Kashmir. Despite threats and boycott calls, polling was largely peaceful, and the army and police presence was not large. After the declaration of results, terrorists killed two newly elected members and several of their relatives and friends. Several elected counselors resigned following threats from terrorists. Insurgents killed an official in Kulgam, a National Conference counselor in Ikhrajpora, and a People's Democratic Party (PDP) counselor in Beerwah, Budgam district.

Members of the security forces continued to abduct and kill suspected insurgents, and security forces were not held adequately accountable for their actions. Reliable data on such cases were difficult to obtain.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see section 1.d.),

security forces clearing minefields abducted and sometimes used civilians as human shields. Such abuses occurred mostly in the Kupwara and Doda districts.

In September security forces killed three members of a family in the Kokernag area of south Kashmir. In Kupwara, security forces killed a girl and her uncle when they were heading towards a nearby jungle to get firewood. The army issued its regrets and advised the people against venturing out during night hours.

On December 10, a soldier fired upon shopkeeper Manzoor Ahmad Wani at Mirmaidan village in south Kashmir. Wani had failed to immediately expose his arms from under his pheran (long Kashmiri robe) after a soldier asked him to do so. Wani was hospitalized.

On December 17, Rashtriya Rifles troops killed a 62-year-old village headman, Sanaullah Magray. The army said the killing was a case of mistaken identity and that the villager had entered an ambushed area and ignored warnings to stop. The government conducted an investigation, and the army ordered a separate inquiry into the incident.

Unlike in previous years, tension along the Line of Control (LOC) in Kashmir was minimal. The Home Ministry reported no cases of artillery shelling, mortar, or small arms fire across the LOC or on the Siachen glacier.

In February army personnel killed four youths playing cricket in Kupwara district. Massive protests followed the killing, and 15 persons were injured in police firing and use of tear gas. In September the Jammu and Kashmir government asked the district and session court to investigate the incident. On September 19, the army removed the unit's commanding officer, Colonel R.S. Guleria, for what was termed inefficiency and ineptitude. The NHRC asked the Jammu and Kashmir government to provide a detailed report of the killing. The government had not done so by the end of the year.

On May 21, the terrorist group Lashkar-E-Tayyiba (LET) killed seven persons and injured 25 in an attack on a Congress rally in Srinagar.

On May 3, AI reported the killing of at least 35 Hindus and the additional wounding of 10 others in a predominantly Muslim area of Jammu and Kashmir ahead of a meeting between the prime minister and Hurriyat leaders.

On July 8, the Jammu and Kashmir police claimed that rebel group Hizbul Mujahideen detonated a powerful grenade in Kulgam that killed five people, including former National Conference (NC) legislator and state tourism minister Sakina Ittoo, and injured 50 others. The insurgents attacked Ittoo with a grenade as she was leaving a shrine in south Kashmir's Anantnag District.

There were no developments in the November 2005 killings of two village men used as human shields by insurgents in Pattan, Kashmir.

There were no developments in the February 2004 killing of five civilian porters allegedly used as human shields by security forces in Kashmir.

In the northeast, human rights groups observed that violence persisted despite ongoing talks between separatist groups and state government officials and a 2004 government ceasefire. Factional violence between the National Socialist Council of Nagaland Isak-Muivah (NSCN-IM) and the National Socialist Council of Nagaland Khaplang (NSCN-K) continued during the year, resulting in numerous deaths. Between July 2005 and June, government representatives and NSCN-IM leaders met in Amsterdam and agreed to extend the ceasefire.

In August the army operation against the banned ULFA group from Assam was suspended for one month to foster peace in the state. The decision to halt operations met a key demand of the ULFA, which responded to the suspension by announcing a "cessation of hostilities." However operations were re-launched in September as ULFA resumed violence.

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

Southern Chhattisgarh was a center of Naxalite violence, with over 300 insurgent-related casualties from January to August. A counterinsurgency movement among the region's tribal population called "Salwa Judem" began in June 2005 and was supported by the state government. Naxalite retaliations against the movement resulted in violent civil conflict in Dantewara district and a large number of civilian deaths.

On March 2, an estimated 500 Naxalites raided a small village in Dantewara district, killing four with axes and knives and abducting five. During the year there were several reported instances of Naxalites using landmines to target government vehicles and police personnel. Also in March Naxalites destroyed a railroad engine in an attempt to

disrupt iron-ore shipments from the large government-owned Bailadila mines. On June 20, insurgents killed seven persons and injured two others at Chikuarguda village in the Konta region of Dantewara district after the villagers refused to support the Naxalites' planned attack on a camp of internally displaced persons (IDPs) (see section 2.d.). On July 17, Naxalites attacked an IDP camp in Arrabore, killing an estimated 20 to 30 inhabitants, including several infants. An estimated 75 persons were injured.

After the Naxalites shot and killed Congress legislator Chittam Narsi Reddy in Mahbubnagar District, Andhra Pradesh, in August 2005, the state government imposed a ban on the Communist Party of India-Maoist (CPI-M) and seven Naxalite front organizations. After the ban, police arrested Vara Vara Rao, who had acted as the CPI-M emissary in earlier peace talks. Rao belonged to the outlawed People's War Group (PWG), which was a sub-group of CPI-M. Human rights activists claimed that the escalation in violence began in January when police shot and killed three Naxalites in Prakasan district. Reports of encounter killings were highest in Nizamabad District in 2005, where police shot and killed nine Naxalites. In September Naxalite guerrillas killed 10 persons in a midnight attack in the Ranchi area of Jharkhand. According to the SATP, in September 2005, cadres of the CPI-M killed 17 civilians at Belwadari village in the Giridih district, Jharkhand. According to SATP, as of December 11, 263 civilians and 121 security forces were killed in Naxalite-related extremist activities during the year.

The killing of civilians by Naxalites in Andhra Pradesh continued. ACHR estimated that Naxalite violence killed at least 460 persons in the first half of the year, including 90 security personnel, 189 suspected Naxalites, and 181 civilians. 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.

On July 17, armed Naxalites attacked the Errabore Relief Camp in Dantewada district, killing approximately 30 unarmed civilians and injuring hundreds. The attackers abducted more than 45 persons and then reportedly released some hostages and killed six others, including security personnel. According to the police, all six hostages killed were surrendered Naxalites.

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 Bishnupur 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.

On February 5, the army picked up Ajit Mahanta, a resident of Kakopathar, Tinsukia, Assam, on suspicion of having links to the ULFA. The next day his body was found in a gunny bag at Assam Medical College, Dibrugarh. Mahanta's death caused widespread resentment, and on February 10, a mob of 10,000 persons gathered to protest and march to the Lajum police station when police opened fire, killing eight persons. Protesters stoned to death one soldier. The army gave monetary compensation to Mahanta's widow. The Assam government also announced they would compensate the widow and the families of those killed in the shooting. The Defense Ministry convened a court-martial, which found an officer and a rifleman guilty. The findings and sentence remained subject to confirmation by higher army authorities.

Between June 8 and 11, ULFA explosions in Assam killed five and injured 40.

In November three civilians-- including one woman and one child-- were killed and 11 injured when an explosion triggered by suspected ULFA militants at the railway station exploded in Guwahati, Assam.

Through December 18, SATP reported the following deaths as a result of insurgency-related violence: 91 civilians, 37 security forces, and 42 militants killed in Assam; 103 civilians, 37 security forces and 136 militants killed in Manipur; 10 civilians, one security force member, and 80 militants killed in Nagaland; 11 civilians, 19 security forces, and 30 militants killed in Tripura.

On February 28, according to AI, suspected Maoists belonging to the PWG set off a landmine in Dantewada, Chhattisgarh, killing 236 and injuring 30.

On March 3, Maoists disguised as a marriage party attacked a security check point in Jharkand and killed five security officers.

Between March 4 and 5, Maoists killed two Communist Party of India-Marxist (CPM) workers in separate attacks in West Bengal and kidnapped 10 CPM members.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and expression; however, freedom of the press is not explicitly mentioned. The government generally respected these rights in practice. An independent press, 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.

Designed to be a self-regulating mechanism for the press, the Press Council (PCI) is a statutory body of journalists, publishers, academics, and politicians, with a government-appointed chairman, that investigates complaints of irresponsible journalism and sets a code of conduct for publishers nationwide. This code includes a commitment not to publish stories that might incite caste or communal violence. The council publicly criticized newspapers or journalists it believed had broken the code of conduct, especially regarding communal violence or vandalism.

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.

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

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

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

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir, which allows a district magistrate to prohibit 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.

There were some attacks on the media that were apparently intended to harass or inhibit the free expression of opinions. For example, on February 9, members of the Kangleipak Communist Party in Imphal shot and injured Ratan Luwangcha, general secretary of the All Manipur Working Journalists' Union.

On June 10, unknown assailants attacked and killed Arun Narayan Dekate, a rural correspondent with the Marathi daily Tarun Bharat. According to press reports, Dekate had exposed and informed police about an illegal gambling racket headed by alleged gambling boss Dhampal Bhagat. Authorities arrested several suspects in the case.

In June an imam of a mosque in Kolkata (Calcutta) issued a fatwa (religious edict) against exiled Bangladeshi writer Taslima Nasreen, offering a reward of \$1,100 (Rs 48,500) to anyone who smeared black paint on her face and drove her out of the country. The police commissioner reportedly summoned the imam, who denied issuing the fatwa.

In August the Punjab State Human Rights Commission sought an inquiry into the arrest of two journalists, Harjit Singh Kohli and Gurmit Mann, who were investigating the arrest of one girl and three boys in a police constable's residence. Police allegedly filed a falsified FIR against the journalists after they refused to hand over their notes.

There were no developments in the July 2005 harassment and intimidation of South Asia Tribune correspondent Arun Kumar Rajnath or the August 2005 arrest of Indian Express correspondent Gautam Dheer.

There were no developments in the June 2005 harassment of journalists in Meghalaya by police and the Meghalaya government or the August 2005 Tamil Nadu issuance of "breach of privilege" notices against journalists who published two controversial articles.

Violent intimidation of the press by terrorist groups in Jammu and Kashmir caused significant self-censorship, according to journalists based in the state. During the year the threat of losing government revenue contributed to self-censorship by smaller media outlets that relied heavily on state government advertising for their survival.

In February members of a breakaway faction of the Jammu and Kashmir Liberation Front reportedly threatened editors of the newspaper Greater Kashmir for failing to cover adequately a general strike called by the group.

In May the main cable television operator in Kashmir stopped airing programs following threats from separatists. The cable company noted that separatists, thought to be members of a little-known group called the Al-Madina Regiment, complained of the "depraved nature" of the programming. A larger insurgent group, Hizbul Mujahideen, denied that any separatists were involved and accused local officials of orchestrating a shut-down to divert attention from a sex scandal.

The government maintained a list of banned books that may not be imported or sold in the country. Censors claimed that some books, such as Salman Rushdie's *Satanic Verses*, aggravated communal tensions. In March 2004 the Maharashtra state government filed criminal charges against a foreign professor for allegedly slandering Shivaji, a 17th century Marathi warrior, and his mother in his book. The case remained open at year's end, and the Maharashtra state government continued to ban the book. In January the Maharashtra state government banned another book on Shivaji by the same author, published in 2001, for fear it would create communal tension. In September 2005 the Kolkata (Calcutta) High Court removed the April 2004 West Bengal government ban on Bangladeshi author Taslima Nasreen's autobiography, *Dwikhandita*, Amaal Mehebel.

In March and April the government of Rajasthan banned *Haqeeqat* (Reality), a Hindi translation of a controversial anti-Hindu book by Kerala-based evangelist M.G. Mathew, claiming it would incite communal violence, and held Samuel Thomas, president of Emmanuel Ministries International (EMI), a Christian charitable institution, in judicial custody from March 17 to May 2 for distributing the book (see section 2.c). The book *Wo Sharm Se Hindu Kahate Hain Kyon?* (Why Do They Say With Shame They Are Hindus) was banned at the same time as *Haqeeqat*.

A government censorship board reviewed films before licensing them for distribution, censoring material it deemed offensive to public morals or communal sentiment.

Internet Freedom

The Information Technology Act provides for censoring the Internet on public morality grounds, and defines "unauthorized access to certain types of electronic information" as a crime. According to Reporters Without Borders, this law theoretically allowed police to search the homes or offices of Internet users at any time without a warrant, but that claim had not been tested in court. The government retained the right to limit access to the Internet, specifically information deemed detrimental to national security.

On July 13, the Department of Telecommunications asked Internet Service Providers (ISPs) to block several Web sites. The known list of blocked domains included blogspot.com, typepad.com and geocities.com, which terrorists allegedly used. The block was lifted after two days.

Academic Freedom and Cultural Events

The government continued to apply restrictions to the travel and activities of visiting experts and scholars. In 2003 the Ministry of Human Resources Development (HRD) passed academic guidelines requiring all central universities to obtain HRD permission before organizing "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. These guidelines remained in force during the year. In most cases, the HRD ultimately permitted the international academic exchanges to take place after bureaucratic delays. However, in 2005 the Ministry of Home Affairs denied visas to six foreign scholars because the government was "not in favor of undertaking the proposed research project." During the year, the Ministry of Home Affairs denied 21 scholars visas.

b. Freedom of Peaceful Assembly and Association

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

Freedom of Assembly

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

the Criminal Procedure Code.

There were some instances of demonstrations where security forces either claimed harsh tactics were warranted or failed to protect demonstrators from violence.

On January 1, police shot 12 adivasis (tribals) in Kalinga Nagar, Jajpur District, in Orissa. The police shooting occurred when 600 tribals gathered to block the construction of a boundary wall at a Tata Corporation steel plant. When police tried to break up the demonstrations, the tribals attacked the police with arrows and stones, killing one policeman. The police responded by firing tear-gas shells and rubber bullets and opening fire with bullets. In addition to the 13 deaths, 25 people were wounded in the clash. The government of Orissa ordered the suspension of the district administration police chiefs and announced a compensation of \$11,000 (Rs 485,000) for the victims' families.

In March police fired into a crowd of protesting fishermen, killing one and severely injuring several others, at Gangavaram Port in Andhra Pradesh. The fishermen were demanding compensation for restrictions on fishing in the area. In June the government agreed to a compensation plan.

In May the NHRC requested that Mumbai and Delhi Police provide a "factual report" to justify using a lathi, a bamboo stick used for crowd control, against students protesting medical school admittance quotas in New Delhi and elsewhere.

In June police fired on demonstrators who were protesting custodial killings in Pattan town in north Kashmir, killing two and injuring 25, sparking attacks on police stations and highway blockades.

In September two persons reportedly were killed and at least thirty policemen were injured during a traders' protest against the ongoing sealing drive in New Delhi. The chief minister Sheila Dixit, ordered a magisterial inquiry into the incidence of violence.

There were no developments in the May 2005 killing of a nine-year-old girl by police who were attempting to disperse a clash between villagers in Srinagar.

There were no developments in the June 2005 Orissa police shooting, when protesters stormed a police station demonstrating against the delay in the arrest of a molester of minor girl.

There were no developments in the August 2005 killing by police of two people in Bihar who were protesting the removal of a bus stand following the death of a child in a bus accident.

Freedom of Association

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

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

c. Freedom of Religion

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

Some human rights groups alleged that there were ideological ties between the Rashtriya Swayamsevak Sangh (RSS) and the BJP state governments that may have influenced the BJP's response to acts of violence against religious minorities.

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.

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.

The states of Arunachal Pradesh, Chattisgarh, Madhya Pradesh, and Orissa have laws against forcible conversions. Gujarat passed anti-conversion legislation which has never been enacted as the state government has yet to publish the regulations needed for enforcement.

In 2003 Gujarat passed a "Freedom of Religion" Act that provides penalties of up to three years in prison and a fine of \$1,000 (Rs 44,000) for the use of inducement or force for religious conversion. On September 19, the state assembly passed the Gujarat Freedom of Religion (Amendment) Bill. The amendment claimed that Buddhists and Jains were subsets of Hinduism, despite the 1992 National Commission for Minorities Act that identified Buddhism as a separate religion and Supreme Court action in the current year recognizing the sovereign identity of Jains. The amendment states that there would be no government intervention if a person changes from one sect to another (i.e. Shia to Sunni or Protestant to Catholic, or Hindu to Jain.)

In March the Rajasthan government introduced and the state assembly passed legislation banning conversions by "force, allurement, or fraudulent means," but by year's end it was not signed into law after both the state governor and President Abdul Kalam refused to endorse the legislation.

In July the states of Madhya Pradesh and Chhattisgarh enacted changes to existing anti-conversion laws requiring prior permission of district authorities before any conversion takes place. The new amendments also excluded Christians intending to "reconvert" to Hinduism from the prior permission requirement. Chhattisgarh's legislation would protect Hindu "purification rallies," which were large public events where Hindu activists "re-convert" entire villages of Christian tribal people. At year's end, the amendments were not operational.

On May 22, the Tamil Nadu Assembly repealed the Tamil Nadu Prohibition of Forcible Conversion of Religion Act, 2002.

While there were some reported arrests throughout the country, there were no convictions under anticonversion laws during the year.

Reports from faith-based NGOs and the media indicated that there were four arrests in Andhra Pradesh, 14 in Chhattisgarh, 28 in Madhya Pradesh, two in Orissa, and one in Uttar Pradesh between July 2005 and June. In most cases, the people picked up under the conversion laws are released on bail after spending a night in police custody. Faith-based NGOs allege that this is a systematic strategy to discourage Christian prayer meetings.

There is no national law barring a citizen or foreigner from professing or propagating his or her religious beliefs; however, the law prohibits visitors in the country on tourist visas from engaging in religious proselytizing without prior permission from the Ministry of Home Affairs. During the year state officials continued to refuse permits to foreign missionaries to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA) of 1976, which restricts funding from abroad. The government can ban a religious organization that violates the FCRA, provokes intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodates minority religions' personal status laws, and there were different personal laws for different religious communities. Religion-specific laws are paramount in matters of marriage, divorce, adoption, and inheritance. The personal status laws of the religious communities sometimes discriminated against women.

Some laws, such as the repealed POTA, while not specifically written to target a minority group, affected particular ethnic or religious groups. A July 2004 study carried out by the NGO People's Tribunal in 10 states found that 99.9 percent of those arrested under POTA were Muslims.

In response to EMI headquarters' distribution of Haqeeqat, deemed disrespectful of Hindu beliefs, a prominent Hindu leader offered a bounty of \$26,000 (Rs 1.15 million) for the mission archbishop's "head on a plate." According to the media, Hindu activists attacked a school run by EMI and burned an effigy of its founder. In February, the Government of Rajasthan suspended the registration of EMI property and froze its assets. By year's end, EMI's bank account had been re-opened and its registration had been restored (see 2.a.).

In April communal clashes between Hindu and Muslim residents of Aligarh, Uttar Pradesh, which stemmed from the

use of loudspeakers during a religious festival, resulted in two deaths and eight injuries. An NCM investigation determined that the Uttar Pradesh administration initially did not take appropriate steps to prevent the violence. The police launched a judicial inquiry.

From March 2 to 4, groups of Hindus attacked and destroyed Muslim shops and vehicles in two towns in central Goa. The group protested the illegal construction of a mosque by recent Muslim immigrants.

On March 7, three bombs exploded at the Sankat Mochan temple and railway station in Varanasi, killing at least 23 people and injuring several others. The Uttar Pradesh chief minister claimed police killed one alleged attacker, a member of the Lashkar-e-Tayyiba terrorist group.

On May 1, police shot and killed two Muslims during protests over the removal of a Muslim shrine in Vadodara, Gujarat. In the violence that ensued, police injured another 60 persons, mostly Muslims. Unknown assailants stabbed and killed two Hindus. According to the media, the police reportedly dealt heavy handedly with Muslim rioters.

On September 8, two bombs attached to bicycles exploded in Malegaon, Maharashtra, killing 37 people and injuring 125, most of them Muslim worshipers leaving a mosque after Friday prayers. On October 30, authorities arrested a member of the Students Islamic Movement of India (SIMI) for his alleged involvement with the blast.

The Gujarat government paid a total of \$3,400 (Rs 150,000) to the next of kin of each person killed in the 2002 violence and paid approximately \$447,000 (Rs 19.7 million) towards relief and rehabilitation, according to Chief Minister Narendra Modi. NGOs and newspapers criticized the Gujarat government for discriminating between Hindus and Muslims in dispensing compensation. In November the central government announced payment of approximately \$15,909 (Rs 700,000) to each of the families of the Gujarat riots as compensation. By year's end, this had not been implemented.

Societal Abuses and Discrimination

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.

Several human rights and religious freedom NGOs, including the All India Christian Council and the All-India Catholic Union (AICU) expressed concern over growing anti-Christian violence in several states governed by the BJP, some of whom had affiliations with fundamentalist groups associated with the RSS. In November 2005 the AICU reported that there were approximately 200 attacks against Christians throughout the country during the year.

On January 16, Hindu fundamentalists burned the houses of three Christian families of Matiapara village in Jaipur, Rajasthan. The police did not initially accept the FIR filed by the pastor and members of the church. However, the police did accept a FIR from Hindus accusing the pastor of forcible conversion. Both complaints were forwarded to the court. The police allegedly harassed the pastor and his acquaintances. The Orissa State Human Rights Commission conducted an investigation into the incident, which had not been concluded at the year's end.

In March media reported that Hindus set a Christian church on fire at Gunthaput village in the Orissa district of Koraput. The All India Christian Council approached the District Collector for redress.

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

There were no developments in the February 2005 killings of Gilbert Raj or Dilip Dalai.

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

There were no reports during the year of anti-Semitic acts against the country's small Jewish community which constituted 0.76 percent of the total population.

For a more detailed discussion, see the 2006 International [Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

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

Security forces often searched and questioned occupants at vehicle checkpoints, mostly in troubled areas in the Kashmir Valley or after major terrorist attacks. The government also completed construction (except in areas of difficult terrain) of a 330-mile security fence along the LOC in Jammu and Kashmir, causing occasional difficulties for local residents, as it cut through some villages and agricultural lands. The government erected the security fence to stop arms smuggling and infiltration by Pakistani-based terrorists or insurgents. The government attributed a decline in insurgent crossings during the year in part to the fence.

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 foreign travel by some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir.

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

There was no law banning forced exile; however, there were no reports of forced exile during the year.

Internally Displaced Persons (IDPs)

According to the Norwegian Refugee Council, at least 650,000 persons were displaced due to conflicts in Jammu and Kashmir, Gujarat, and the northeast (see sections 1.a., 1.c., and 1.g.). Approximately 300,000 Kashmiri Pandits (Hindu Brahmins), who were forced to flee the Kashmir Valley in the early 1990s after the outbreak of separatist violence, remained in IDP camps in Jammu and New Delhi, some 15 years after the start of the insurgency; they were unable to return to their homes in Jammu and Kashmir because of safety concerns, including the on-going killings of Hindus in the state.

The NHRC reported that the Pandit population in Jammu and Kashmir dropped from 15 percent in 1941 to 0.1 percent during the year. According to the Ministry of Home Affairs Annual Report for 2005, there were 55,476 Kashmiri Pandit migrant families of which 34,088 resided in Jammu, 19,338 in Delhi, and 2,050 in other states. There were 230 migrant families living in 14 camps in Delhi and 5,778 families in 16 camps in Jammu. The government provided monthly cash relief of \$70 (Rs 3,100) and basic dry rations to 14,869 families in Jammu. In Delhi, authorities provided \$75 (Rs 3,300) to 4,100 families.

In October, according to the National Commission for Minorities (NCM), 5,307 Muslim families still lived in "precarious conditions" in 46 makeshift camps across Gujarat following the violence in 2002.

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

An NGO reported that the Assam state government released part of the grants during the year. The government also provided assistance to IDPs and allowed them access to NGO and human rights organizations during the year. There were no reports that the government attacked or forcibly resettled IDPs. There were no reports of government programs specifically designed to facilitate resettlement.

During the year the Chhattisgarh government opened IDP camps in Dantewara district for tribals caught in fighting between Naxalites and activists of a counter-insurgent movement called "Salwa Judum." An estimated 60,000 tribal villagers were encamped in 27 locations. By most accounts, the camps lacked adequate shelter, food, and security (see section 1.g.). There also were allegations of trafficking in persons in the camps (see section 5). Civil society and media alleged there was trafficking in child soldiers by Naxalites and "Salwa Judum" activists. NGOs in Chhattisgarh also criticized the practice of hiring teenage children of police personnel slain in Naxalite attacks as "child police" (the children were not given actual policing duty, but ran errands in police stations). Several such "Bal-police" continued to be employed in police stations in Madhya Pradesh and Chhattisgarh.

Protection of Refugees

The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status

of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees or asylum seekers. In practice, the government provided some protection against refoulement to Tibetans and Sri Lankans. The government provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. According to the Office of the UN High Commissioner for Refugees (UNHCR), at the end of November, there were 11,585 refugees under UNHCR mandate in the country.

UNHCR reported during the year that the government hosted over 300,000 refugees, including 1,803 from Burma, 9,528 from Afghanistan, and 254 others from Bhutan, Nepal, and Chakmas. Since 1960 the government has hosted approximately 110,000 de facto refugees from Tibet. During the year Tibetan leaders in India stated that the government treated them extremely well.

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

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

According to NGOs, conditions in the Sri Lankan refugee camps were generally acceptable, although much of the housing was of poor quality. The UNHCR continued to meet outside the camps with Tamil refugees considering voluntary repatriation. The NGO Organization for Eelam Refugee Rehabilitation (OfEER) had regular access to the camps during the year. According to OfEER, there were 121 refugee camps and one "special camp" which housed suspected members of the Liberation Tigers of Tamil Eelam (LTTE). As of November 2005, only 11 refugees remained in the single camp. Sri Lankans who claimed to fear the escalating violence between LTTE cadres and Sri Lankan security forces in Sri Lanka took refuge in approximately 100 camps in Tamil Nadu. According to the UNHCR, 27 Tamil refugees returned to Sri Lanka during the year. As of August, there were 60,604 Sri Lankan refugees living in 105 refugee camps. By year's end 16,492 additional refugees had arrived. The government provided them with subsidized rice and other essential goods.

Those living in the country not formally recognized as refugees included approximately 80,000 Chakmas and approximately 200,000 Santhals, both from Bangladesh, who remained in Arunachal Pradesh, Mizoram, and Assam. In addition, there were Afghans, Iraqis, and Iranians without valid national passports living in the country. The government either chose not to deport them, issued them renewable residence permits, or ignored their presence. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and could not regularize their status.

UNHCR provided refugee status and assistance to approximately 1,800 Chin from Burma who were living in New Delhi. However, UNHCR did not have access to the larger population of ethnic Chin living in the northeastern states. An estimated 40,000 to 50,000 Chins lived and worked illegally in Mizoram. NGOs estimated that in 2005 10,000 Chins with alleged ties to Burmese insurgent groups were expelled to Burma, where the military government reportedly jailed them. Mizoram human rights groups estimated that approximately 31,000 Reangs, a tribal group from Mizoram displaced by sectarian conflict, remained in six camps in North Tripura. Conditions in these camps were poor, and the Tripura government asked the central government to allot funds for their care. In 2004 Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package. The Mizoram government rejected the demands, maintaining that only 16,000 of the refugees had a valid claim to residence. After several rounds of negotiations, the Mizoram government and Reang-dominated Bru National Liberation Front (BNLF) insurgents signed a peace accord in June. Mizoram also agreed to take back Reangs who had fled to Tripura to escape the conflict.

More than 1,000 Hmar refugees, one of the numerous tribes that belonged to the Chin-Kuku-Mizo tribe, were reportedly displaced in and around Mizoram, some of them from Manipur.

In January 2005 the Supreme Court ordered the Ministry of Home Affairs, the election commission, and the governments of Mizoram and Tripura to resettle approximately 40,000 displaced Reangs and add them to the electoral rolls. No further action had taken place by the end of the year.

The BNLF and Mizoram government agreed on a \$6.3 million (Rs 277.9 million) financial package and paved the way for the return of Reang IDPs in North Tripura. However, the return was yet unimplemented. The return of Bru refugees was not implemented because civil society groups like the Young Mizo Association and the Mizo Students' Union objected with the argument that these Brus were not all originally from Mizoram. No decision was reached at the end of the year.

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

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 based on universal suffrage.

Elections and Political Participation

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. During the year, relatively peaceful elections took place in the states of Assam, Bihar, Kerala, Tamil Nadu, West Bengal and in the Union Territory of Puducherry, although some election-related violence occurred. According to press reports, 14 people were killed and 36 injured in Bihar, and in April insurgents killed one person and injured 32 in Jammu and Kashmir. The press reported that despite the violence, voter turnout was the highest in 16 years and that the polls were generally free and fair. The Tamil Nadu and Kerala elections led to peaceful transitions of power to opposition parties.

There were 72 women in the 783-seat national 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).

The constitution reserves seats in parliament and state legislatures for scheduled tribes and scheduled castes in proportion to their population (see section 5). Indigenous persons actively participated in national and local politics.

Government Corruption and Transparency

Corruption was endemic in the executive and legislative branches of government. Transparency International (TI) determined that corruption was "all-pervasive." According to a June 2005 TI study, the police ranked highest in the corruption index. There was widespread public perception of corruption in the government. In June 2005 Transparency International and Centre for Media Studies issued the India Corruption Study and reported that approximately 62 percent of citizens believed they had experienced corruption firsthand by paying bribes or using a contact to get a job done in public office.

Election campaigns for parliament and state legislature seats were often funded with unreported money, and the government failed to combat the problem. In December 2005 the media highlighted a videotape showing 11 members of parliament accepting bribes. By year's end no one faced legal action related to the bribery.

On August 7, the Justice Pathak Committee indicted former external affairs minister Natwar Singh and his son, Jagat Singh, for their role in influencing and facilitating the procurement of oil contracts in Iraq.

The 2005 Right to Information Act (RTI) mandated stringent penalties for failure to provide information or affecting its flow and required agencies to self-reveal sensitive information. The act's entry into force in October 2005 marked a departure from the culture of secrecy that traditionally surrounded rule making. The appointment of an independent civil servant with close ties to the Congress leadership as RTI Commissioner suggested the UPA government was committed to the full implementation of the law. While the government took extended periods of time to reply to information requests, local community members began using RTI to get information on their personal documentation and city plans.

In July the government launched a national antibribery campaign to raise public awareness of the right to information.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in a few circumstances, groups faced restrictions. Government officials 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. NGOs called the FCRA flawed and extremely restrictive and claimed that the government failed to notify organizations when the requisite paperwork was needed. Some human rights groups contended that FCRA was a means of intimidation and substantial political control by the government over the work of NGOs. NGOs expressed concern that the Home Ministry, which is normally not responsible for

financial matters, was tasked with monitoring the finances of NGOs. The act has a clause that states the NGOs must also secure approval from the government before organizing international conferences, and some NGOs alleged that the government has denied visas to prevent members from holding conferences paid for with foreign funds.

In May the Maharashtra Home Ministry placed 57 NGOs under investigation for allegedly assisting Maoist groups. The police stated the groups and their leaders would be monitored closely. 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. On November 26, Nair was summoned by the intelligence agencies for violating the FCRA, because of his involvement in human rights advocacy. Human rights monitors in Jammu and Kashmir were able to move around the state to document human rights violations, but they were often restrained or harassed by security forces, counterinsurgents, and police.

International human rights organizations were restricted, and foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigative purpose. In August Delhi police raided Pakistani human rights activist Asma Jahangir's hotel room. Jahangir was in the country on a private visit at the invitation of an NGO. Authorities ordered a high-level inquiry, and Prime Minister Singh personally apologized to Jahangir for the incident. In August Manipur police arrested Umakanta Meitei, spokesperson of Apunba Lup, a coalition of 34 human rights organizations in Manipur, for allegedly informing a Manipur separatist group about security force movements.

The main domestic human rights organization was the government-appointed NHRC, 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 rarely carried out NHRC recommendations. Human rights groups such as ACHR 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 judgments.

According to Home Ministry statistics, the NHRC received 28,378 cases of human rights violations against police personnel; 100 against armed forces, and 82 against paramilitary forces in 2005.

The Home Ministry examined several amendments to the 1993 Protection of Human Rights Act proposed by the NHRC in its effort to increase its powers to investigate allegations of human rights violations by the armed forces. In the last three years the NHRC investigated 289 such cases, resulting in action against 59 officials and the punishment of 19 offenders. At year's end no additional information was available.

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.

In August the government amended the PHRA to strengthen the NHRC 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.

In April 2005 the Jammu and Kashmir human rights commission charged the state government, particularly the deputy commissioners, with diluting its authority and brushing aside its recommendations. In August Jammu and Kashmir Deputy Chief Minister Muzaffar Hussain Beig told the state assembly that in the past four years, 14 disappearance cases and 27 custodial death cases were reported to the Jammu and Kashmir state human rights commission.

Tamil Nadu and Andhra Pradesh had special courts to hear human rights cases. The Uttar Pradesh government continued to defy a court order to reactivate its special human rights court.

The NHRC highlighted human rights abuses throughout the country, and recommended compensation for victims of

human rights abuses. In October the NHRC awarded compensation of \$1,054,347 (Rs 46.5 billion) to the next of kin of 194 deceased victims of the 1984-94 insurgencies in various Punjab districts.

As a result of the NHRC's continued efforts to include human rights curricula in schools, the Central Board of Education announced in September it would include human rights subjects in grades 11 and 12. Several universities also introduced human rights courses at the behest of the NHRC.

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 mid 1990s (see section 1.b.).

At year's end the two-member judicial commission created to investigate riot-related violence in Gujarat received an extension to complete its report.

On December 7 and 8 UNHCR High Commissioner Antonio Guterres visited the country. International NGOs such as ICRC had access to most regions, with the exception of the northeast and Naxalite-controlled areas.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, religion, place of birth, or social status, and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous persons, homosexuals, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as ethnic, religious, and language differences, deeply divided the society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, Tamil Nadu, and Karnataka.

Women

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. Ineffective prosecution and societal attitudes made progress against domestic violence difficult. Human rights groups and the press claimed that reported numbers were much lower than the actual totals. According to NCRB statistics, there were reports of 58,121 incidents of cruelty by husbands and relatives against women in 2004. The NCRB reported 155,553 crimes against women in 2005, including 68,810 cases considered domestic violence such as dowry deaths and cruelty by husbands and family.

On October 27, the Protection of Women from Domestic Violence Act of 2006 took effect. Media reported that four cases were booked under the Act in Andhra Pradesh by early November. The new law bans harassment by way of dowry demands and gives sweeping powers to a magistrate to issue protection orders where needed. Punishment ranges from jail terms of up to one year and/or a fine of approximately \$450 (Rs 19,800). Domestic violence, under the new law, includes actual abuse or the threat of abuse whether physical, sexual, emotional, or economic. In late October, Tamil Nadu police arrested a man after receiving a complaint from his wife. On November 15, a city court ordered Hiralal Chauhan to pay maintenance to his estranged wife as temporary relief and directed the police to provide protection to the woman, now living with her parents.

Rape and other violent attacks against women continued to be a serious problem. Under the new Domestic Violence bill passed in October, spousal rape is criminalized. According to the NCRB, there was an instance of domestic violence every nine minutes. According to the National Family Health Survey (NFHS) that was conducted during the year, every third woman dealt with spousal violence. The NCRB 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 in the arrest of 330 men in New Delhi and the closure of 232 cases.

Although the government prosecuted rape cases during the year, only 10 percent were adjudicated fully by the courts, and police typically failed to arrest rapists, perpetuating a climate of impunity. 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 in March.

In May 2005 parliament amended the Code of Criminal Procedure to stipulate mandatory DNA tests in all rape cases. In an effort to protect women from sexual assault by police officers, the bill also prohibits the arrest of women after sunset and before sunrise except in "exceptional circumstances."

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 gang rape cases and the extent of prosecution varied from state to state. According to the NCRB, there were 1,172 rape cases against women lodged in 2005.

On January 16, 18 armed insurgents belonging to the United National Liberation Front (UNLF) and Kanglaipak Communist Party (KCP) raped 25 women between the ages of 15 and 27 in Manipur. The National Women's Commission requested the center and state governments to provide comprehensive rehabilitation packages and continued deployment of security forces in the area. The NHRC requested a report from the state government.

On February 10, Assam Rifles soldiers conducting anti-insurgency operations in Tripura reportedly raped three women, including one who was pregnant. Assam Rifles denied the allegation. Police were investigating at year's end.

On March 5, the Manipur government suspended five policemen who harassed M. Naobi for 10 days while in police custody and transferred all senior officials in the district. M. Naobi allegedly had a romantic affair with a PLA insurgent involved in the killing of four policemen on February 20. The Manipur government ordered a magisterial inquiry.

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.

In July a session court sentenced Constable Charakant Pawar to 15 years prison and fined him \$1,040 (Rs 46,000) for raping a minor girl in 2005 in Mumbai.

In July a fast track court in Rajasthan sentenced Babloo to a fine of \$110 (Rs 4,900) and seven years imprisonment for raping a Japanese woman during the Pushkar fair in April. The court also sentenced Babloo's mother Roshni and brother Raju to three years imprisonment and acquitted two others.

In 2002, in Randhikpur village in Gujarat, a mob mass-raped and killed a woman and 18 members of her extended family. The sole survivor of the massacre was 19-year-old Bilkis Banu, who was raped (and pregnant at the time) and whose two-year-old daughter was killed. Although Banu lodged a complaint with the police and named the rapists and murderers, the Gujarat police closed the case in 2002, claiming "insufficient evidence" and that the mental condition of the witness was "unstable." However, because of the 2004 intervention of the Supreme Court the CBI reinvestigated the case and arrested the alleged culprits. The case was being tried in a Mumbai court (see section 1.e.).

There were no developments in the arrests of suspects after a 2004 rape case in Lucknow involving six tribal women.

There were no developments in the March 2005 case in which a 21-year-old woman was tortured, stripped and paraded through Chandupur village on a donkey.

There were no developments in the September 2005 case in which a woman was allegedly gang raped on the Toofan Express train by seven people, three of whom were Railway Protection Personnel.

On October 19, a court in Muzaffarnagar convicted Imrana Bibi's father-in-law, Ali Mohammed, of raping her in June 2005. The lower court sentenced Mohammed to 10 years in prison and to compensate Imrana with approximately \$173 (Rs 7,600). On a separate charge of criminal intimidation, Mohammed was sentenced to three years prison and fined approximately \$65 (Rs 2,900). The court's decision followed Imrana's rape in June 2005. After the incident, local community and religious leaders had ruled that Imrana must separate from her husband and move in with her father-in-law.

In July upper caste men in Bihar raped four Dalit women at gunpoint as punishment for not voting for a particular candidate in the Panchayat elections. The police filed the case, but arrested the accused after one month. At the end of the year, the National Commission for Women was investigating the incident.

In September four members of a Dalit family were killed in Kherlanji, Maharashtra. The family's women were paraded naked before they were killed. The crime was allegedly committed by members of Kunki Caste (Other Backward Class) for opposing the requisition of their fields to have a road built on it. Due to initial lapses in the police investigation, five policemen were suspended and fired. In December the CBI filed charges of murder, criminal

conspiracy, unlawful assembly with deadly weapons, and outraging the modesty of women against 11 persons. At year's end CBI was investigating charges against 36 persons in detention.

In November two upper caste youth raped a pregnant Dalit woman in front of her three-year-old daughter in Uttar Pradesh. By the end of the year, the case was under investigation.

There were other acts of societal violence and abuses against women. Providing or taking a 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 NCRB 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.

Under the law, courts must presume that 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.

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.

In May 2005 the Supreme Court ordered the creation of a commission to end dowry. In August 2005 parliament passed the Domestic Violence Bill to deal with dowry-related harassment and murder. The bill provides sweeping powers to magistrates to issue protection orders. In October parliament passed the Protection of Women from Domestic Violence Act which recognizes all forms of abuse against women in the home, including physical, sexual, verbal, emotional, or economic abuse. The law empowers women to file a case against a person with whom she is having a domestic relationship in a "shared household" and who has subjected her to domestic violence. The law recognizes the right of women to reside in a shared household with her spouse or partner even while the dispute continues. Women can be provided with alternative accommodations, to be paid for by the spouse or partner. The law provides women with the right to police help, legal aid, shelter homes and access to medical care.

The government banned sati, the practice of burning a widow on the funeral pyre of her husband, in the 1800s, and there were few instances of sati in recent years.

In April the NCW requested the Bihar state government to report on a woman who allegedly committed sati in the Gaya district. Press reports noted that after the sati, villagers erected a monument to her act which attracted a large number of visitors.

In August the NCW requested that the Madhya Pradesh state government report on a woman who allegedly committed sati in Sagar district. Family members denied any knowledge, while villagers confirmed that it was sati. Police were investigating the case, but no criminal case had been registered.

On September 20, a 95-year-old woman threw herself on her 100-year-old husband's funeral pyre in Baniyani village in Madhya Pradesh. Police arrested four of the woman's relatives. A magisterial probe was ordered, but there were no developments by the end of the year.

During the year honor killings continued to be a problem, especially in the northern states of Punjab and Haryana. Human rights organizations estimated that up to 10 percent of all killings in those two states were honor killings; however, the true number may be much higher. In July the Supreme Court condemned honor killings and directed police to take action against anyone harassing couples that married in spite of objections by their caste and religious communities.

In August Delhi police arrested Deep Chand, his son Subhash, Kanti Prasad, and Pramod for the honor killing of Chand's daughter, Kamlesh, because she refused to marry the man her parents had selected. She was repeatedly hit on her face with a stone as an accomplice poured acid over her face. Later, her brother stripped her naked, and the body was left at the railway track in Shaki Nagar. All four assailants confessed during interrogation.

There were no developments in the trial of Jai Singh and his four accomplices for the honor killing of his daughter, Sunita. Singh had been accused of hiring the four to kill his daughter for living separately from her husband.

Dalit women were often singled out for harassment. For example, they were occasionally stripped naked by mobs and paraded in public for offending persons belonging to higher castes.

In August a member of the state legislative assembly in Bihar was arrested and imprisoned for molesting a Dalit woman in February. The woman lodged a complaint with the local court when the police initially refused to take action.

In August seven Dalit women were raped by members of an upper caste in Lakshimpursarai district. The police refused to issue a FIR. The women approached the chief minister of the state, who ordered an inquiry. The NHRC issued notices to the district magistrate and the senior superintendent of police asking them to reply to the victim's complaint.

In September two Dalit women (a mother and daughter) from a single family were allegedly raped and killed along with two young men from the same family in Khairlanji village in eastern Maharashtra, leading to violent Dalit demonstrations throughout the state. The government of Maharashtra arrested the alleged higher-caste culprits, suspended government officials suspected of a cover-up, and also handed over the investigation to the CBI. At the end of the year the investigation was continuing.

During the year there were 20 witch-hunt cases reported in Assam in which informal courts passed death sentences on women labeled witches. Assam Police, in coordination with organizations like the All Bodo Students Union launched project Prahari in 2000 to create public awareness of the problem.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act of 1976, the Immoral Traffic Prevention 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. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, they took an average of six to seven years to conclude. On March 5, the Manipur Legislative Assembly passed the Manipur State Commission for Women bill, which provides for the creation of a commission for women with a chairperson, three members, and a member secretary, along with supporting staff, to investigate complaints and issues related to women.

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.

The government took a number of steps to assist female crime victims, including telephone help lines, short-stay homes, counseling, occupational training, medical aid, and rehabilitation.

While the act of prostitution is not illegal, most activities surrounding prostitution are illegal. The Immoral Trafficking Prevention Act (ITPA) criminalizes the selling, procuring, and exploiting of any person for commercial sex as well as profiting from the prostitution of another individual. Prostitution is not illegal when no third party is involved, it is not done in or near a public place, is not forced, there is no solicitation, or when the prostitute resides alone. Section 8 of the ITPA criminalizes the act of solicitation for prostitution, which has been used in the past to arrest and punish women and girls who were victims of trafficking. According to UNICEF, in 2004 the country contained half of the one million children worldwide who entered the sex trade. Many tribal women were particularly vulnerable and were forced into sexual exploitation (see section 6.c.).

In recent years sex workers began to demand legal rights, licenses, and reemployment training. For example, in June 2004 numerous sex workers in Goa were displaced after authorities demolished their homes. According to the chairperson of the NCW, some of the displaced sex workers refused a government compensation offer, claiming that it had not been accurately described to them.

The country is a significant source, transit point, and destination for many thousands of trafficked women (see section 5).

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 and the national press institute found that most women experienced gender discrimination at their workplaces. Attempts by women to report harassment often 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.

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 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.

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 had resided during the marriage or where the marriage took place; however, the amendment permits women to file where they currently reside.

In May 2005, in response to concerns about the improper use of the triple talaq (which literally means "divorce" in Urdu), the All-India Muslim Personal Law Board (AIMPLB) adopted new talaq guidelines, stating that men should use a reversible single talaq followed by a three-month waiting period known as the iddat. The guidelines also call for the husband to pay compensation to the wife's family in case of divorce, equality in property rights, protection against physical and emotional abuse of wives by their husbands, and assurances that remarried women will be able to maintain contact with their families.

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.

On November 21, deviating from traditional Hindu law, the Supreme Court granted custody of an 11-year-old child to his mother. In doing so, the court ruled that if a woman remarries after divorce, her custody rights over the child born in wedlock would not be affected.

In 2004 the army allowed female military recruits to be examined by female doctors at their request.

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.

Children

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. In practice, children in poor and rural areas often did not attend school. UNICEF and the National Institute of Educational Planning Administration (NIEPA) reported that approximately 60 percent of the 203 million children between the ages of six and 14 were in schools, and net attendance in the primary level was 66 percent of enrollment. As per NIEPA 2005-06 District Information System for Education (DISE) data, 168 to 172 million children were in school.

Data for the overall gender parity enrollment indicates the country made impressive gains in reducing the male-female gap in the gross primary enrollment rate in the last 50 years. The gender gap in gross enrollment rate narrowed between 1950 and 2004, as the gross enrollment rate for girls rose from 25 percent to 87 percent, while it rose from 65 percent to 105 percent for boys. In addition, through the National Program for Education of Girls at Elementary Level (NPEGEL) and the Kasturba Gandhi Balika Vidyalaya (KGBV) the government launched programs to reach out to girls from marginalized social groups where the female rural literacy rate was below the national average and the gender gap in literacy was above the national average.

While boys outnumbered girls, according to the Ministry of Human Resource Development, the enrollment of girls increased by 9 percent at the primary level (from 87 percent in 2002 to 96 percent by 2004). At the middle school level, there was an increase in enrollment from 52 percent in 2002 to approximately 58 percent by 2004. The government's Mahila Samakhya program complemented these new initiatives.

Government schools were underfunded and understaffed. Schools that received large amounts of money under Sarva Shiksha Abhiyan (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).

Under SSA, the government committed to providing financial allocations to the states per the approved district plans prepared after a thorough base line survey identified approximately 194 million out-of-school children between 6-13 years of age. SSA covers all government schools in the country. Under SSA, 40 percent of a total of 34 million as identified beneficiaries in the six to 14 age group remained out of school. The number of out-of-school children has come down from 25 million in 2003 to less than 10 million in 2006.

In July a report entitled "Elementary Education in India" revealed that the schools covered under development fund schemes had increased in 2004, but the utilization of available funds fell to 88.5 percent, primarily in rural areas.

In January a report commissioned by the Human Resource Development Ministry showed that lower caste and Muslim student attendance rates were much lower than those of children of high caste families. The report noted that nationwide 7 percent of children were out of school, although, the attendance rates were much higher or lower in certain locations and among certain caste and religious groups. For example, the report stated that in Delhi, 26 percent of scheduled caste children and 28 percent of Muslims in Bihar were not in school. The report noted also that the dropout rate for girls decreased from 45 percent to 34 percent between 2003 and 2005. The dropout rate for boys also decreased from 37 percent to 30 percent.

The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas.

The law prohibits child abuse; however, there were societal patterns of abuse of children, and the government did not release comprehensive statistics.

Abuse of children in both public and private educational institutions was a problem. Although banned, schoolteachers often used corporal punishment on their students.

There were no further developments in the February 2005 case where a principal of a government school along with three others in northwest Delhi were arrested for raping a 16-year-old student. The Delhi government suspended two of the accused from their posts, but no criminal charges had been filed by year's end.

In August a school teacher in Doda village in Jammu and Kashmir threw acid on several students to punish them. One student suffered 70 percent burns and lost his left eye. The teacher fled, and an inquiry was ordered by the local authorities into the incident.

In December 2005 after money disappeared from school premises, the principal of a primary school in Tamil Nadu forced seven students to prove their innocence by placing their palms over candle flames. The principal was arrested after parents filed complaints.

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.

Children were subjected to abuse during certain religious ceremonies. In April 2005 in the Virudhnagar district of Tamil Nadu, police arrested 80 persons for participating in a ritual during which infants were buried alive to appease a goddess. As a result of the arrest, Tamil Nadu enacted a law to stop this offense, but the practice continued. There was a toll-free telephone helpline for children in distress available in 72 cities. The "Childline" number was available around the clock and could be accessed by either a child or an adult. On receiving a call, immediate assistance, including medical, shelter, restoration, rescue, sponsorship, and counseling, was provided to the child. This initiative was organized by the Childline India Foundation (CIF), an organization that brought together the government, UNICEF, NGOs, academic institutions, corporate sector and concerned individuals.

On November 29, in Bulandshahr, Uttar Pradesh, a court sentenced a woman and her three sons to death for sacrificing an eight-year-old child on February 14.

The sexual abuse of children was seldom mentioned due to societal denial and discomfort. The NGO TULIR (The Center for the Prevention and Healing of Child Sexual Abuse) released a study in March that included interviews from

over 2,200 children up to age 18 in public and private schools in Chennai. According to the study, 42 percent of these children had experienced sexual abuse.

Unlike in previous years, there were no confirmed reports of child ordination. Child rights activists alleged that various religious sects ordained children as young as eight years old and that children were not competent to make such decisions on their own. The high court ruled that it was acceptable for small children to become monks, as the children had the option to return to their families at any time.

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 in 2005, half of all women were married by the age of 15. 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. In August the International Center for Research on Women (ICRW) reported that 57 percent of girls marry before turning 18. However, according to several media sources, 65 percent of girls were married before the age of 18. According to the 2005 report of Office of the Registrar General of India, 240 girls die every day due to pregnancy-related complications in early child marriages.

According to the 2001 census, nearly 300,000 girls under 15 years had given birth to at least one child. ICRW concluded that those married under the age of 18 were twice as likely to be beaten, slapped, or threatened by their husbands compared with women married later; they were also three times more likely to report instances of marital rape. It reported that child brides often showed signs symptomatic of child sexual abuse and post-traumatic stress. Child marriages also limited girls' access to education and increased their health risks, since they had higher mortality rates and exposure to HIV/AIDs than girls married after 18.

In May the press reported that at least 30 children in Rajasthan and 50 in Madhya Pradesh were married during the Askhay Tiritiya festival and that many more child marriages likely went unreported. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities. 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, Chhattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh.

In April 2005 the government reported that it prevented 200 child marriages in the Rajnandgaon district of Chhattisgarh, a district known for mass child marriages in April and May each year. A local NGO, MV Foundation, claimed to have prevented 2,321 child marriages in the state of Andhra Pradesh since 2000.

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. In August, a 75-year-old man married a 17-year-old girl in Purnea district, Bihar.

Trafficking and commercial sexual exploitation of children was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Sex determination tests are illegal in the country under the 1994 Pre-Natal Diagnostic Techniques Act (PNDT). However, NGOs reported that some family planning centers continued to reveal the sex of fetuses. 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 who was arrested 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. The figure was contested by some activists working on this issue as exaggerated. The Observer newspaper reported that pregnant British women of Indian origin who were denied gender based abortions in the United Kingdom traveled to the country to abort female fetuses. According to Parivar Seva Sanstha, an NGO working closely with the Ministry of Health and Family Welfare, there were 5.7 million illegal abortions in the country each year. Per NFHS, nearly 50 percent of women did not receive prenatal care. According to the records of the Delhi government, only 700 of the 1,800 registered ultrasound clinics submitted monthly reports mandated under the PNDT. Easy availability and indiscriminate use of technology further abetted the situation.

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.

Parents often gave priority in health care and nutrition to male infants. The burden of providing girls with an adequate dowry was one factor that made daughters less desirable. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low female/male ratios. Nationally, there are only 927 girls per 1,000 boys. In 14 districts of Haryana and Punjab there are fewer than 800 girls per 1,000 boys. The problem was also acute among some of the wealthiest and best-educated communities.

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.

Trafficking in Persons

The ITPA prohibits trafficking in human beings; however, trafficking in persons remained a significant problem.

The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage victims. Conviction for an offense committed against a child (under age 16) was punishable by imprisonment for seven years to life. In the case of minors (16 to 18 years), the punishment is from seven to 14 years' imprisonment. Other penalties under the act range from minimum terms of imprisonment of one year for brothel keeping, to minimum terms of seven years' to life imprisonment for detaining a person, with or without consent, for prostitution.

Numerous NGOs provided training and conducted informational meetings. 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. The country was a destination for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. Many girls were internally trafficked for the purpose of forced marriages, while other persons were trafficked for bonded labor. Women and girls are lured into commercial sexual exploitation through both deception and expectations of opportunities in other parts of the country. To a lesser extent, the country was a point of origin for women and children trafficked to other countries in Asia, the Middle East, and the West for forced domestic servitude or commercial sexual exploitation. Men were also trafficked to the Arabian Gulf for involuntary servitude in the construction sector. Women from Kerala trafficked into commercial sexual exploitation and abusive domestic employment in the Gulf was also extensive. The country also served as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan.

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

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

A survey by INTUC, the trade union wing of the Congress Party, noted that the trends in trafficking can be determined by monitoring the reports of "missing girls" filed by parents in the northeast states. The report stated that 40 percent of the police officials interviewed were unaware of the growing trade in women and children. The media reported that nearly every third house in the poorest districts of Jharkhand had a child who left home in search of food and work and

may have been a potential victim of trafficking.

Traffickers usually targeted minors and Dalit women. A study prepared by Bhoomika Vihar, an NGO from Bihar, said that out of the 173 identified cases of women who had become victims of the sex trade, 85 percent were minors, and half were Dalits. The report claimed that trafficking, although not often reported, occurred almost everywhere. Pangsa and Dimapur in Nagaland and Moreh in Manipur were the major trans-border transit and demand centers. Women and children from Assam and Bangladesh were trafficked to Moreh and were moved from there to Burma and other Southeast Asian countries. The conflicts in the north-eastern states made women and children highly vulnerable.

Global Organization for Life Development (GOLD), an NGO working in Assam to combat trafficking and HIV/AIDS, said that there was usually an upsurge in trafficking of girls during natural disasters.

There were numerous examples of trafficking and rescues. In March police rescued two Assamese girls forced into commercial sexual exploitation from traffickers at Golokgonj, Dhubri District.

On April 4, Kolkata police rescued five girls between the ages of 13 and 16 with the help of the NGO International Justice Mission (IJM). Kolkata police rescued four girls between the ages of 15 and 17 years with the help of the IJM in May.

In June, 12 girls rescued from various parts of the country were residents of Dhubri district Assam.

On July 24, the All Assam Bodo Students' Union rescued 63 Bodo tribal girls while being smuggled by train in Assam.

On August 1, West Bengal police rescued 12 children between the ages of 12 and 16 years, from Kumarganj in South Dinajpur district from Himachal Pradesh.

On September 12, Maharashtra police in Pune rescued six girls from Bengal. While bringing the girls to Kolkata, the policemen sexually abused them, and only five girls ultimately reached Kolkata. The Maharashtra police claimed that one girl ran away, while an NGO claimed she was thrown from the train. Investigations were underway, and the policemen involved were arrested.

Although arrests and prosecutions under the ITPA increased slightly, the rate of trafficking convictions remained low, and collection of law enforcement data was difficult. Collection was difficult because there is no national system of collecting arrest information under the ITPA, and many police officials preferred to use India Penal Code (IPC) provisions to arrest traffickers because they claimed to have more success in getting convictions. However, since April the Kolkata police and NGOs, such as IJM, obtained convictions in two cases.

Within the country, women from economically depressed areas often moved to cities seeking greater economic opportunities, and once there, were forced by traffickers into prostitution. In many cases, family members sold young girls into prostitution. Extreme poverty, combined with the low social status of women, often resulted in parents handing over their daughters to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

According to the Indian Center for Indigenous and Tribal Peoples, more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation. A Haryana-based NGO revealed widespread trafficking of teenaged girls and young boys from poverty-stricken Assam to wealthier Haryana and Punjab for sexual slavery under the pretext of entering into arranged marriages or employment. There was also significant trafficking for real arranged marriages due to decades of large-scale and increasing female feticide.

Girls and women were trafficked to the Persian Gulf states to work as domestic workers or for commercial sexual exploitation.

Agents recruited mainly men from the southern states of Kerala and Tamil Nadu for work in the Middle East, where many faced conditions of involuntary servitude. Sources reported that most of the victimized men paid the recruiters \$2,000 (Rs 88,200) or more in fees. Once in the Gulf the recruits were forced to work long hours for little pay in conditions different from those described in the original contract to repay their debts.

The NCW 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. Although a few women were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem as well as police corruption and collusion. However, police in Chennai, Mumbai, Kolkata, Andhra Pradesh, and New Delhi also worked actively with NGOs to target traffickers and safeguard victims after their rescue.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the

threat of apprehension by authorities, detention, prosecution, and deportation. Women involved in prostitution in Mumbai and Kolkata claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention.

NGOs alleged that corruption at the enforcement level helped perpetuate trafficking.

NGOs knowledgeable about the trafficking situation frequently identified traffickers and the locations 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.

The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the government to provide protection and rehabilitation for these rescued girls. The vast majority of arrests made under ITPA were for solicitation rather than trafficking or trafficking-related crimes. During the year this pattern changed in Delhi, Bangalore and Mumbai. Most police no longer arrested trafficked women and children for soliciting, and in Tamil Nadu and Andhra Pradesh, such arrests diminished significantly.

The increase in the number of cases under section five of the ITPA in Tamil Nadu in 2005 is indicative of better enforcement against traffickers in that state. Under section five, a trafficker working only on trafficking for sexual exploitation is still considered a criminal offender. For example, 109 cases were booked against traffickers, brothel owners and pimps in 2005 while 148 women victims were rescued. Police reported that the cases were in various stages of investigation.

In recent years sex rackets flourished under the guise of massage therapy and dance bars. Advertisements appeared in the media about the availability of female masseurs. In late July Chennai police investigated four massage parlors and arrested 16 persons. Some rescued women had been trafficked from Kerala. The arrestees released on bail awaited trial.

In July 2005 the Maharashtra State Assembly adopted a bill banning dance bars. Starting from August 2005, the ban was implemented across Maharashtra. However, on April 12, a Maharashtra state high court ruled the ban unconstitutional and gave the state eight weeks to file its case with the Supreme Court. At year's end the case was underway in the Supreme Court. In recent years, traffickers began favoring these bars as a venue in which to engage in trafficking, instead of the more blatant brothel-based model. However, the government's implementation of this order without a rehabilitation plan caused displacement of women, forcing many to enter direct prostitution in Mumbai, Delhi, Goa, and other major trafficking destinations.

Implementation improved for the ITPA's provisions for protection and rehabilitation of women and children rescued from the commercial sexual exploitation. The government significantly increased police training and modestly improved inter-state coordination of anti-trafficking efforts, cooperated with NGOs, supported awareness campaigns, and increased the number of shelter facilities available to rescued trafficking victims. However, NGOs claimed that the conditions of shelters were not always suitable. They also stated that people claiming to be parents would remove girls and reinsert them back into the industry.

The Ministry of Women and Child Development (MWCD) improved delivery of support services through greater coordination with its state counterparts and civil society organizations. Government-run shelters in some localities, specifically Mumbai, expanded significantly under the Swadhar (women's home) scheme. In July the Ministry of Women and Child Development implemented plans for rescuing trafficked victims in consultation with NGOs and state governments. The program included two main features: preventive activities through awareness generation programs, such as peer education, rallies, campaign, posters, booklets, and street plays; and the rescue and rehabilitation of victims of trafficking for commercial sexual exploitation, counseling, legal aid, medical care, repatriation and restoration.

The Home Ministry and the Bureau of Police and Research Development (BPRD) began a law enforcement training program, considered a significant achievement by NGOs, to sensitize police and improve trafficking arrests and convictions.

In November 2005 the Home Ministry organized a significant conference with the United Nations Office of Drugs and Crime (UNODC) to raise awareness of human trafficking and to state, for the first time, their commitment to addressing this issue with resources and manpower. In September the Ministry of Home Affairs established a nodal cell responsible for collecting and analyzing the data related to trafficking from the state governments and union territory administrations; identifying problem areas and analyzing causes for their being source, transit, and destination areas; monitoring action taken to combat the crime; and organizing co-ordination meetings with the Nodal police officers of states and union territories.

Persons with Disabilities

The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights 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 access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, public transportation and public spaces throughout the country had almost no provisions for wheelchair access. According to the 2001 census, there were 22 million persons with disabilities in the country, but NGOs estimated the actual number to be much higher.

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.

The Tamil Nadu government introduced a 3 percent reservation for persons with disabilities in education and employment, and government buildings made arrangements for wheelchair access. However, human rights activists complained that available facilities were not sufficient. Despite the three percent mandated reservation for disabled in government jobs, a report released by the National Center for Promotion of Employment for Disabled People (NCPEDP) revealed that disabled persons held less than 1 percent of government jobs. The report also documented that the government spent less than 90 percent of the funds allocated for disabled programs in the 2005-06 budget.

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.

The Human Resource Development Ministry reported in January that children with mental disabilities had the lowest rate of school attendance out of any group at 53 percent, followed by the speech disabled at 57.5 percent and the hearing disabled at 68 percent.

The disability division of the Ministry of Social Justice and Empowerment delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the government to provide rehabilitation centers to more than 400 districts, but services were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations, such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. With the adoption of the PDA, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities.

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.

In February 2005 the country's civil services introduced an annual quota for the employment of 20 persons with disabilities. In 2005 the Indian Civil Service attempted to recruit and place 12 disabled persons (3 percent). In July 12 qualified candidates were identified, but as of October, only nine of the 12 applicants were placed in the Civil Service.

In June 2005 the central board for secondary education issued guidelines requiring barrier-free education in schools, colleges, libraries, and hostels. It also took steps to provide Braille books to educational institutions.

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.

In August 2005 the government began the first disabled-friendly train service between Bhopal and Nizamuddin (Delhi)

station. The train had an exclusive coach for persons with disabilities and Braille tags for seat and berth numbers in all coaches.

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 percent of the students had disabilities. The Times Insight Group reported in September 2005 that most colleges and universities were unaware of the law. The Ministry of Social Justice and Empowerment offered 500 educational scholarships to persons with disabilities to pursue higher education. However, university enrollment of students with disabilities was still very low, and according to a 2005 NCDEP survey, only 1,574 students with disabilities were enrolled in the 119 universities that responded. The reasons for such low enrollment numbers included inaccessible infrastructure, poor availability of resource materials, nonimplementation of the 3 percent reservation, and attitudinal barriers.

Sarva Shiksha Abhyan (Education for All), another government initiative that focused on educating children with disabilities in integrated settings, identified approximately 1.6 million children with disabilities in 2004. According to the Ministry of Social Justice and Empowerment Country Report, 755,408 children with disabilities enrolled in schools, suggesting an enrollment rate of approximately 46 percent. The percentage of children with disabilities between the ages of five and 18 enrolled in schools was higher in rural areas (47 percent) than in urban areas (44 percent). According to the Central Coordination Committee established under the PDA, approximately 100,000 children with special needs attended approximately 2,500 schools that provided integrated and inclusive education or non-formal education.

In June the Goa Government made it mandatory for all public buildings, transport systems, hospitals and tourist areas to provide easy access to persons with disabilities. Goa was the first state in the country to formulate a policy for the disabled.

In July the Ministry of Social Justice and Empowerment released the Braille version of the Right to Information Act to persons with visual impairment.

In August the Delhi High Court directed the Delhi Development Authority to accord preferential treatment and consider relaxing norms for applicants with disabilities and impairments while allotting plots and houses.

National/Racial/Ethnic Minorities

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.

The law gives the president the authority to identify historically disadvantaged castes, Dalits, and tribal persons (members of indigenous groups historically outside the caste system) for special quotas and benefits. These "scheduled" castes, Dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including Dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes 8 percent (84.3 million). In June 2005 the Andhra Pradesh cabinet approved a 5 percent reservation for Muslims as a disadvantaged minority, in government jobs and educational institutions, raising total reservations in the state to 51 percent of the state government workforce.

In December 2005 parliament passed a constitutional amendment providing reservations to scheduled castes, tribes, and the other backward classes in non-minority, unaided, private educational institutions.

On December 22, parliament passed a bill to make 27 percent reservation mandatory for scheduled castes and backward classes in all educational institutions.

Many rural Dalits worked as agricultural laborers for caste landowners without remuneration. The majority of bonded laborers were Dalits (see section 6.c.). Dalits, among the poorest of citizens, generally did not own land and often were illiterate. They faced significant discrimination despite laws to protect them and often were socially prohibited from using the same wells, attending the same temples, and marrying upper-caste Hindus. In addition, they faced social segregation in housing, land ownership, and public transport. There were episodes of vigilante retribution against Dalits who tried to assert their rights. While rare in urban settings, examples of intolerance occurred regularly in rural areas. Many Dalits were malnourished, lacked access to health care, worked in poor conditions (see section 6.e.), and continued to face social ostracism.

Despite a high court order and judicial directives first issued in 1998, Dalits continued to be excluded from the Kandadevi car festival, a Hindu temple celebration in Tamil Nadu. During the year, the Tamil Nadu government permitted only 26 Dalit families to take part in the festival. NGOs reported that crimes committed by upper caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute such cases or because the crimes were unreported by victims, fearing retaliation.

On April 10, the Supreme Court requested from the central government, all state governments, the NHRC, and the National Commission for Scheduled Casts and Scheduled Tribes information on the creation of offices and appointment of officials to monitor atrocities against Dalits. The request responded to an NGO petition seeking the formation of monitoring cells under the Scheduled Castes and Tribes (Prevention of Atrocities) Act of 1989. The NGO stated that the conviction rate under the act was 1 percent, and a dedicated office was needed to ensure that crimes against Dalits and tribals received adequate attention and speedy justice.

In July the Supreme Court passed a judgment stating that the police and government are obliged to help inter-caste couples and prevent social ostracism. In September, the Ministry of Social Justice and Empowerment directed state governments to increase the incentive for inter-caste marriage by central government to \$1,050 (Rs 46,000). The central government pays 50 percent.

According to an article in the Hindu, in October, upper caste Hindus "punished" 80 Dalit families from Karnataka's Bijapur district with a social and economic boycott for attempting to drink water from the village well. Local landlords removed them from their work as agricultural laborers and barred them from ration shops and flourmills. Upper-caste Hindus then used the well to bathe their cattle, wash clothes, and defecate. The article reported that some of the highest reports of crime against Dalits in the last five years occurred in Bangalore, Gulbarga, and Bellary districts. In these districts, killings varied from 25 cases in 2002 to 40 in 2005, to 27 during the year. The article reported that 56 Dalit women were raped in 2005 and 39 during the year.

On January 3, in the Vaishali district of Bihar, a higher-caste mob burned alive a man, woman, and five of their children after the woman's husband, a Dalit, refused to withdraw a legal case over the theft of a buffalo against a member of the higher caste. The husband suffered severe burns over 90 percent of his body and was admitted to a local hospital. The suspected mob ringleader was arrested and later released on bail. Bihar Chief Minister Nitish Kumar ordered an inquiry into the attack and suspended the local police station chief.

In February a mob beat to death a man and severely injured his wife in Patna, Bihar, because they had married within their Hindu Gotra (clan), which some believed to be incestuous. Led by the father of the woman, the mob stoned and beat the couple to death in front of hundreds of spectators. Her father, Umesh Mishra, admitted to murder and was arrested for leading the mob. Police issued warrants for the others accused in the case.

In December 2005 a woman who had married a man from a lower caste was attacked by her brother. The woman's brother stabbed her numerous times after she refused to follow a local council decision to annul the marriage. The woman survived the assault, but the brother beheaded her two days later as she recuperated in the hospital. At year's end police arrested the brother and an investigation was on-going.

By the end of the year, there were no developments in the December 2005 case in which upper-caste Hindus and a priest beat four Dalit women for entering a temple forbidden to them Keraragard, Orissa. The district collector ordered a probe into the incident. On December 14, a group of Dalits entered the temple following a high court order.

Many Christians were converts from low caste or Dalit backgrounds, and continued to suffer the same social and economic limitations as Hindu Dalits, particularly in rural areas.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and prescribes stiff penalties for offenders; however, this act had only a modest effect in curbing abuse and there were very few convictions. According to a November article in the Hindu, between 2002 and the year's end, the cases reported under POA in the state of Karnataka alone increased significantly. The number of cases of atrocities reported in 2002 was 1,232 and 1,306 in 2005. During the year 1,056 cases had been reported through October. Of the approximately 1,200 to 1,300 cases reported each year in Karnataka over the last five years, there were 24 convictions in 2002 and five in 2005. Human rights NGOs alleged that caste violence was on the increase, and claimed hundreds of lives. Caste violence was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

In February a mob of upper caste youth attacked a group of 30 Dalits for attempting to hold a religious procession through an upper caste neighborhood the previous day. The village headman's call for retribution, broadcast over a loudspeaker at the local temple, resulted in a mob attacking the Dalits with hatchets and sickles. The press reported that the police later arrested 15 Dalits on an assortment of charges, including attempted murder, and initially refused to file charges against the village leader. Instead, the police allegedly asked the community to form a peace committee to reach a settlement. After pressure from political groups, the police arrested the village headman and eight others, all of whom were released on bail.

In June high-caste Hindus stoned a Dalit wedding procession in the Udaipur district of Rajasthan because they objected to the groom riding a horse. The press reported that the Dalits hoped that the groom riding a horse would be a step towards social equality, but upper caste Hindus, believing that Dalits were not allowed on horseback, attacked them. When the Dalits complained about the attack, the upper-caste Hindus refused to sell them basic foodstuffs and had the water supply to their part of the village turned off, forcing them to travel to a nearby town to buy provisions.

Discrimination against Dalits covered the entire spectrum of social, economic, and political activities, from withholding of rights to killings and was not solely practiced by high-caste Hindus. The stratification within the Dalit community also resulted in discrimination by higher-level Dalits against lower-level Dalits. There was also discrimination within the Christian and Muslim community by older, established ancestral Christians and Muslims against more recent Dalit converts.

In November the Sachar Committee headed by Justice Rajinder Sachar released its report, "Social, Economic and Educational Status of Muslim Community in India," prepared at the request of the prime minister. The report provided statistics on the Muslim community after interactions at various levels through the country with the Muslim community. Results showed that the country's Muslims fell behind in many categories, including education, employment, access to credit, and had higher poverty levels and made up a greater proportion of the prison population.

Indigenous People

The Innerline Regulations enacted by the British in 1873 provide the basis for safeguarding tribal rights in most of the northeastern border states, and in practice the regulations were followed. These regulations prohibit any nontribal person, including citizens from other states, to cross an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in tribal areas without approval from tribal authorities.

The 2001 census indicated that 8.2 percent of the population belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal Peoples, 80 percent of the tribal population lived below the poverty level, and more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (see section 5, Trafficking, and section 6.c.). The 1955 Protection of Civil Rights Act prescribed special courts to hear complaints of atrocities committed against tribal people. In February 2004 the Supreme Court decided that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 still applied to crime victims from scheduled tribes and castes, even if they had converted from Hinduism to another religion. The decision was in response to an appeal of a Kerala high court decision, which held that because a rape victim had converted to Christianity she was no longer covered by the act.

Despite constitutional safeguards, the rights of indigenous groups in eastern parts of the country often were ignored. The NCRB reported 5,713 crimes against Scheduled Tribes in 2005. Indigenous peoples suffered discrimination and harassment, were deprived of their land, and subjected to torture and to arbitrary arrest.

By the end of the year, no action had taken place in the December 2005 case where four tribals who had worked for three months in the Kalahandi District of Orissa were severely beaten and locked in a shed while 15 others were forced to stand naked for hours when they asked for their wages.

There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. In July 2004 forest department staff ignored a Supreme Court order and forcefully evacuated a tribal village in the Betul district of Madhya Pradesh. Persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal persons occurred in many states (see section 1.c.).

Numerous tribal movements demanded the protection of tribal land and property rights. The Jharkhand movement in Bihar and the Bodo movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, tribal-majority states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh, and authorities provided local autonomy to some tribal people in the northeast.

There were also instances of violent tribal/nontribal conflict. For example, on January 1, 12 tribals and one police officer were killed after clashing during a protest against the building of a steel plant on tribal land in Jaipur, Orissa. Eight other tribals were injured. The tribals, reportedly upset with the land compensation package, attacked police with bows and arrows after authorities attempted to disburse the mob with tear gas. Police fired into the rioters after a police officer was killed. The government compensated each victim's next of kin with \$2,200 (Rs 97,000).

In March approximately 200 villagers tried, sentenced to death, and publicly beheaded a family of tribals for practicing "black magic" in the Sonitpur district of Assam. The villagers accused the father, a traditional healer, of causing an unspecified disease that killed two villagers and made others sick. After executing him and his four children, the mob

marched to the local police station with the heads and chanted slogans denouncing witchcraft. Police arrested six of the villagers. According to press reports, police records indicate approximately 200 Assamese were killed in the last five years for practicing witchcraft.

Civil rights organizations, working with indigenous people in Kodagu district of Karnataka, accused the state government of actively promoting the establishment of jungle lodges in the Nagarhole National Park at their expense. The groups alleged that 1,600 families have been evicted since 1972, when the government declared forests in the district part of the National Park. The organizations alleged that individuals removed from the park area were settled in locations that lack fresh drinking water, electricity, health care, adequate job opportunities and access to forests. A civil rights organization, Budakattu Krishikara Sangha, approached the state High Court in 2003 seeking an order to direct the state government to provide basic facilities to effected tribals in those areas. During the year the court committee found that only 250 of the 1,738 families had been relocated.

Other Societal Abuses and Discrimination

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. In November 2005 the government declined to change provisions of Section 377 outlawing homosexuality. In a response to a Supreme Court case, the government stated, "public opinion and the current societal context in India does not favor the deletion of the said offense from the statute book." 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 were fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail. Police committed crimes against homosexuals and used the threat of Section 377 to coerce victims into not reporting the incidents. Section 377 allowed police to arrest gays and lesbians virtually at will. However, in July 2005 in Jharkand, two lesbians belonging to the scheduled tribes announced that they were "married" in defiance of both law and tradition, although same sex marriages are not recognized in the country.

In September 2004 the Delhi High Court dismissed a legal challenge to Section 377. Plaintiffs filed the case in 2001 after police arrested four gay and lesbian rights workers at the NAZ Foundation International and National Aids Control Office premises in Lucknow, Uttar Pradesh. Police charged the workers with conspiracy to commit "unnatural sexual acts" and possession of "obscene material," which was reportedly safe-sex educational materials. The workers were detained in unsanitary conditions for 47 days and denied bail twice. The court dismissed the case, ruling that the validity of the law could not be challenged by anyone "not affected by it," as the defendants had not been charged with a sex act prohibited by law. In April 2005 despite the September 2004 challenge of Section 377 by two gay and lesbian NGOs, the NAZ Foundation International, and the National Aids Control Office, the government submitted a petition to the Supreme Court reaffirming the validity of Section 377. In February the Supreme Court ruled that the Delhi High Court should not have dismissed the case because the NGO was not a directly affected party to the case. The Supreme Court referred it to the Delhi High Court, which has not reexamined the case.

In July the National AIDS Control Organization (NACO) filed an affidavit in the Delhi High Court supporting the demand to scrap Section 377 of IPC that declares homosexuality an offense. This affidavit supports the petition filed by the NAZ Foundation. The affidavit was filed after NACO conducted a survey that reported 8 percent of the estimated 2.5 million homosexual population of the country was affected with HIV/AIDS as compared to 1 percent of the general population affected by the disease. A high-profile campaign to overturn Section 377, led by writers Vikram Seth and Amartya Sen, continued at year's end.

Homosexuals were detained in clinics against their will and subjected to treatment aimed at "curing" them of their homosexuality. The NAZ Foundation filed a petition with the NHRC regarding a case in which a man was subjected to shock therapy. The NHRC declined to take the case, as gay and lesbian rights were not under its purview.

In January Lucknow, police allegedly carried out a "sting" operation targeting gay men, which drew widespread condemnation from human rights NGOs. The press reported that police officers posed as gay men on the Internet and, entrapped one man. The officers then forced him to call other gay men, who were also arrested. The National Campaign for Sexual Rights (NCSR) stated that the arrests were illegal and the evidence against the men was fabricated. NCSR argued that the police violated the men's right to privacy and that there was no evidence that they were guilty under Section 377.

In January a man in Mumbai registered a complaint against two constables of the Azad Maidan police station for using "decoys" in a public toilet at a train station to entrap and extort money from gay men. The Azad Maidan police apprehended the two constables and handed them over to the railway police. At year's end, there were no further developments in this case.

Authorities estimated that HIV/AIDS had infected approximately 5.1 million persons, and there was significant societal discrimination against persons with the disease. According to the ILO, 70 percent of persons suffering from HIV/AIDS faced discrimination.

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.

HRW reported that many doctors refused to treat HIV-positive children and that some schools expelled or segregated them because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing.

In September a school for HIV-positive children opened in Karunapuram. HIV-positive children, denied admissions elsewhere, could study in this residential school, in addition to being given medical help and free anti-retroviral medicines.

In January 2004 a Mumbai High Court ruled that HIV-positive persons could not be fired on the basis of their medical status. However, the army removed from service approximately 200 soldiers with AIDS between 2003 and 2005, stating they were unfit for military duty. NACO stated it opposed the practice of discharging soldiers solely because they had AIDS. The army stated that, while the patients received medical care, it could not keep infected soldiers in the service.

The National Council for Applied Economic Research, NACO, and the United Nations Development Program conducted a survey of 2,068 HIV-positive households, 6,224 HIV-negative households, and 2,386 people living with HIV/AIDS patients in July. The survey revealed that 29 percent were refused loans and nearly 30 percent denied promotions. More than 16 percent were forced to resign from their jobs, and 10 percent forced to take voluntary retirement. Additionally, 42 percent felt neglected and isolated, and nearly 29 percent reported being verbally abused by their colleagues.

Section 6 Worker Rights

a. Right of Association

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 were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million, some 80 percent of the unionized workers were members of unions affiliated with one of the five major trade union centrals.

In practice legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities when the victims were members of nationally organized unions. Unaffiliated unions were not able, in any instance, to secure for themselves the protections and rights provided by law. Union membership was rare in the informal sector.

The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

Police arrested over 300 members of the Center for Indian Trade Unions (CITU) on March 21 when they demonstrated in front of the Madras Export Processing Zone demanding settlement of wages to workers who lost jobs following the closure of some units. The members of the Garment and Textile Workers Union formed a human chain in Bangalore in early May. Their demands included limiting the work day, a minimum wage, and a harassment-free work environment.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference and the government protected this right. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. 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.

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.

The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services have never been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this

act. Thus the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Supreme Court upheld a Kerala High Court verdict declaring all general strikes illegal and making organizers of such protests liable for losses caused by the shutdowns, drawing attention to the difference between a complete closedown of all activities and a general strike. While it is likely that the ruling was introduced to discourage political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August 2004 the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.

There are seven export processing zones (EPZs). Entry into the EPZs ordinarily was limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not vigorously pursue efforts to organize private-sector employees in the years since EPZs were established. Most EPZ workers were women. The International Confederation of Free Trade Unions reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their dismissal.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or bonded labor, including by children; however, such practices remained widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to three years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and 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 (see section 6.d.). According to the Institute for Socio-Economic Development (ISED) research on bonded labor in Bihar and Uttar Pradesh, the bondage of agricultural laborers was still the main form of bondage in these two states. According to NGOs, the nonagricultural sectors that had a high incidence of bonded labor were: stone quarries, brick kilns, fishing, forestry, beedi-making (hand-rolled cigarettes), carpet weaving, pottery, and carrying head-loads. According to an ILO report published in 2005, an overwhelming majority of bonded laborers belonged to the scheduled castes and scheduled tribes.

In May 78 children were rescued from embroidery units at Sarai Kale Khan in South Delhi by Bandhu Mukti Morch (BMM), an NGO based in Delhi headed by Swami Agnivesh. According to media reports, all of the children, between the ages of four and eight years, worked 14 to 16 hours each day under inhuman conditions. BMM rescued the children under the Bonded Labor System (Abolition) Act, 1976. The police detained one person. On May 29, the Indian Express reported the owners of the factories and shops, where the children, most of whom were from Bihar were working, were arrested and being prosecuted.

Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic by illegal Bangladeshi immigrants was a source of bonded labor (see section 5). According to the Ministry of Labor and Employment, the government identified and rehabilitated 370 bonded laborers between April 2005 and February. In November 2005 authorities rescued 21 bonded laborers from Tamil Nadu, who had been working in a Bangalore stone quarry since 2002. Tamil Nadu Police worked with Bangalore police and NGOs to rescue the bonded laborers. The district collector where the children/victims were brought provided interim arrangement of food and shelter for the victims.

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

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread (see section 5). Devadasis, defined as prepubescent girls given to a Hindu deity or temple as "servants of gods", were taken from their families and required to provide sexual services to priests and high caste Hindus. Many eventually were sold to urban brothels (see section 5).

d. Prohibition of Child Labor Practices and Minimum Age for Employment

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 workplace; 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. The NHRC focused on the adequacy of existing legislation. There were few prosecutions and convictions under the 1986 Child Labor Act because of poor implementation due to administrative lapses and voids due to the definition of child labor. A child assisting his/her family is exempt from the provisions of the act, and employers in the cottage industries often exploited this void to claim that the children were assisting the family.

There is no overall minimum age for child labor. However, work by children under 14 is prohibited in factories, mines, domestic work, roadside eateries and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for six hours between 8 a.m. and 7 p.m., with one day's rest weekly. In addition to industries that utilized forced or indentured child labor (see section 6.c.), there was evidence that child labor was used in the following industries: hand-knotted carpets, gemstone polishing, leather goods, sari weaving, beadwork, and sporting goods. The government assisted working children through the National Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates a penalty for employers of children in hazardous industries of \$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.

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. The proportion of working children to the child population between the ages of five and 14, declined from 5.4 percent to 5 percent between 1991 and 2001. The government's national sample survey from 2004 estimated the number of working children in the age group of 5 to 14 at 16.4 million. The ILO estimated the number of child workers at 44 million. However, NGOs reported that the number of child laborers was closer to 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, or worked as domestic servants. In April UNICEF reported that an estimated 14 percent of children between the ages of five and 14 were engaged in labor. According to the 2001 census figures, released in August 2005, out of 226 million children aged 5-14, 65.3 million (29 percent) had not attended any educational institutes. The census documented that children worked in the informal sector, often in private homes, with the highest rate (15 percent) in Uttar Pradesh. Unofficial sources claimed that between 25 and 30 million children worked, mainly in the domestic and agricultural sectors.

Through the Child Labor (Prohibition & Regulation) Act, 1986, the government convicted 325 employers in 2002-03; 3,910 in 2003-04; and 1,162 in 2004-05.

A ruling, effective October 10, prohibits labor in domestic work and the hospitality industry for children under the age of 14, although child labor in some other non-hazardous industries is legally permissible. In September the Delhi High Court ordered the central and state governments to develop a plan to eradicate child labor in the capital area.

In Maharashtra, raids on sweatshops to free child laborers continued. According to the Maharashtra Task Force to eliminate child labor from Mumbai, from May 2005 to October, 36 slum habitations were made child labor free. Spurred by government raids, many employers voluntarily repatriated several thousand child laborers from zari factories (embroidering or sewing beads and colored threads to fabric), leather workshops, and restaurants.

In June the government of Bihar announced a ban on employment of children below the age of 14 in shops and other establishments by amending the Bihar Shops and Establishments Act. The Bihar government prosecuted 1,493 employers of child labor and rehabilitated 438 bonded laborers through central government sponsored schemes since 2001.

In August the government of Punjab announced a complete ban on child labor to take effect on October 10. An action plan and directions were sent to all district offices and departments in the state to ensure strict compliance.

Despite a ban, child labor continued in Karnataka. Varying sources estimated the number of child workers to be as high as 150,000. The Ministry of Labor continued efforts to eradicate the practice through regular police raids and work with public schools towards integrating rescued children into the mainstream. On January 6, labor inspectors in Mysore rescued 12 child workers from garages and roadside eateries. Charges were filed against employers and rescued children were handed over to district child welfare committees for rehabilitation.

The Tamil Nadu Labor Department stated the number of child laborers in that state declined from 69,000 in 2003 to an estimated 25,589 in 2005. NGOs said that the government's figures excluded children employed for domestic help, in restaurants, and at roadside eateries.

According to the Andhra Pradesh Department of School Education, there were 423,714 child laborers in 2005. This number included children between the ages of five and 14 not enrolled in schools.

In July the NHRC reported increased employment of children in home establishments in both hazardous and non-hazardous occupations in the state of Uttar Pradesh. NHRC Special Rapporteur Chaman Lal stated that employment of children in brick kilns, stone quarries, and carpet-weaving industries was on the rise. The NHRC expressed displeasure over the failure of the government to punish offenders.

The working conditions of domestic servants and children often amounted to bonded labor. Children were often sent away to work because their parents could not afford to feed them or 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. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions.

According to representatives of Vikasa, a community-based organization in the Magadi silk spinning industry, the number of child workers dropped from 3,000 in 2003 to 1,750 in January 2005. They attributed the drop to competition from silk yarn imported from China and concerted action by the state government against employers of child labor.

In May seven child laborers were killed at a brick kiln in Rauna village of Chandauli district of Uttar Pradesh when a wall of soil collapsed, burying them alive. Police attempted to arrest the owner of the kiln, who remained at large.

At the end of the year, there were no developments in the February 2005 case in West Bengal of a police sub-inspector allegedly torturing an eight-year-old girl he employed after accusing her of stealing cookies. The sub-inspector was not charged.

Those employers who failed to abide by the law were subject to penalties specified in the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and to disciplinary action at the workplace.

Media began to take a role in raising awareness about child labor. A New Delhi Television broadcast in June 2005 reported the extensive prevalence of bonded child labor in illegal iron ore mines located in the northern districts of Karnataka. Child workers interviewed by the news channel alleged they were made to break stones for 10 hours per day to pay off debts contracted by their parents. The Karnataka government had promised action following the report; however, civil rights groups alleged little changed since the report was broadcast.

The continuing prevalence of child labor was attributed to social acceptance of the practice, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families.

Employers in some industries took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets knowingly produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to voluntarily use a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs, it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted inspections, covering only 10 percent of registered looms, and had difficulty locating unregistered looms. The government also cooperated with UNICEF, UNESCO, UNDP, and the ILO in its efforts to eliminate child labor.

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 provided with education and stipends since IPEC programs began in 1992. The NHRC, 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 2005.

d. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an eight-hour workday, a 48-hour workweek, and safe working conditions, which include adequate provisions for rest rooms, canteen, medical facilities, and proper ventilation. There was a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime as mandated by law. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries. Some industries, such as the apparel and footwear, did not adhere to prescribed minimum wage.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal

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

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors, and the inspectors' limited training and susceptibility to bribery, resulted in lax enforcement.

The enforcement of safety and health standards also was poor. Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries had the highest incidence of accidents. According to the director general of mines' safety rules, mining companies must seal the entrances to abandoned underground mines, and opencast mines must be bulldozed and reforested to stop people from entering them in efforts to pilfer or scrape coal and other minerals. However, these rules seldom were obeyed.

Workers in the textile industry suffered from acutely unhealthy working and living conditions in Tirupur, Tamil Nadu. Industrial premises lacked toilets and medical facilities. The town suffered from problems of drainage and industrial pollution such as disposal of effluents and sludge from dyeing units.

Safety conditions were better in the EPZs than in the manufacturing sector outside by the EPZs. The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment. Legal foreign workers were protected under the law; however, illegal foreign workers had no protection. The country's undocumented foreign workers were not extended basic occupational health and safety protections.