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Amnesty International

India

Covering events from January - December 2004

Perpetrators of human rights violations continued to enjoy impunity in many cases. Gujarat state authorities failed to bring to justice those responsible for widespread violence in 2002. Security legislation was used to facilitate arbitrary arrests, torture and other grave human rights violations, often against political opponents and marginalized groups. In the north-eastern state of Manipur, local groups opposed human rights violations under the Armed Forces Special Powers Act and called for its repeal. In numerous states, human rights defenders were harassed. The new United Progressive Alliance (UPA) government made a number of promises that, if implemented, could improve human rights. Socially and economically marginalized groups, such as *dalits*, *adivasis*, women and religious minorities, continued to face discrimination at the hands of the police and the criminal justice system.

Background

Relations between India and Pakistan improved during the year with talks and a series of confidence-building steps taking place. In July the government of Andhra Pradesh revoked an eight-year ban on the Maoist (naxalite) People's War Group (PWG) and six associated organizations. In October the first ever peace talks were held between state officials and PWG representatives. In other areas of low intensity conflict, including in Assam and Manipur, tensions intensified.

In May the ruling National Democratic Alliance, led by the Bharatiya Janata Party (BJP), suffered a surprise defeat in national elections which brought the UPA coalition government, led by the Congress Party, to office. Manmohan Singh was appointed Prime Minister after party leader Sonia Gandhi declined the post.

The BJP retained power in several states and the party returned to a more overtly Hindu nationalist agenda.

More than 15,000 people were killed or remained missing, and over 112,000 were displaced by the 26 December tsunami that caused extensive damage to coastal districts of Andhra Pradesh, Kerala and Tamil Nadu states and two Union Territories – the Andaman and Nicobar Islands, and Pondicherry. National and local relief efforts began immediately.

Violence against women

Despite the efforts of women's rights advocates to address the widespread problem of violence in the home, India still lacked comprehensive legislation addressing domestic violence.

The government failed to submit overdue periodic reports to the UN Committee on the Elimination of Discrimination against Women.

Impunity continued for most perpetrators of widespread rape and killing in Gujarat in 2002. During the communal violence Muslim women were specifically targeted and several hundred women and girls were threatened, raped and killed; some were burned alive (see Gujarat below).



India

Republic of India

Head of state: A.P.J. Abdul Kalam

Head of government: Manmohan Singh (replaced Atal Bihari Vajpayee in May)

Death penalty: retentionist

International Criminal Court: not signed

UN Women's Convention: ratified with reservations

Optional Protocol to UN Women's Convention: not signed

Take action!

[Bhopal: UCC/Dow Chemical must face justice](#)

Further information

[Clouds of injustice: Bhopal disaster 20 years on](#)
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[Open letter on human rights defenders attacked in West Bengal](#)
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[India: Punjab – Twenty years on impunity continues](#)
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Impunity

Members of the security forces continued to enjoy virtual impunity for human rights violations.

In April women members of the Association of the Parents of Disappeared Persons were beaten by police when they demonstrated in Srinagar against continuing impunity for those responsible for “disappearances” in the state of Jammu and Kashmir. While the state admitted in 2003 that 3,744 persons had “disappeared” since insurgency began in 1989, human rights activists believed the true figure to be over 8,000. No one had been convicted by the end of 2004.

In Punjab the vast majority of police officers responsible for serious human rights violations during the period of militancy in the mid-1990s continued to evade justice, despite the recommendations of several judicial inquiries and commissions. In response to 2,097 reported cases of human rights violations, the National Human Rights Commission had ordered the state of Punjab to provide compensation in 109 cases concerning people who were in police custody prior to their death. The culture of impunity developed during that period continued to prevail and reports of abuses including torture and ill-treatment persisted.

Gujarat

In August the Supreme Court issued a key decision in connection with communal violence in Gujarat state in 2002. The violence followed a fire on a train in which 59 Hindus died in February 2002; right-wing Hindu groups blamed the fire on local Muslims. In the ensuing violence more than 2,000 people, mostly Muslims, were killed. The Court directed that more than 2,000 complaints closed by the police and some 200 cases which had ended in acquittals be reviewed.

- Bilqis Yakoob Rasool was five months pregnant when she was gang-raped and saw her three-year-old daughter killed by a mob in March 2002. She reported the rape and the killing of 14 relatives to the police. In January 2003 the police closed the case on the grounds that those responsible could not be found. A subsequent investigation by the Central Bureau of Investigation (CBI) found evidence of a police cover-up. In April, 12 people were arrested for rape and murder. In addition, six police officers were charged with involvement in the cover-up and two doctors were accused of distorting post-mortem investigations. In August the Supreme Court directed that the case be tried outside Gujarat. The trial was ongoing at the end of 2004.
- Several relatives of Zahira Sheikh died when the Best Bakery in Vadodara was burned down in March 2002. The case against 21 people accused of starting the fire collapsed in June 2003 when Zahira Sheikh and several witnesses withdrew their statements after receiving death threats. In April 2004 the Supreme Court ordered that the case be retried in Maharashtra state. The Court identified serious failings in the criminal justice system, but also accused the Gujarat government of ignoring the violence and protecting the perpetrators. The ruling was welcomed by the human rights community as a landmark judgment. In November, Zahira Sheikh again withdrew her statement. A petition was filed requesting a CBI investigation into this development.

Applications to transfer several other cases to courts outside Gujarat were pending at the end of 2004.

The new government made a commitment to enact a model comprehensive law to deal with communal violence.

Abuses by opposition groups

There were reports of abuses – including torture, attacks and killings of civilians – by armed groups in a number of states in the north-east as well as Andhra Pradesh, Bihar, Jharkhand, and West Bengal.

In Jammu and Kashmir, members of opposition groups were responsible for targeted killings of civilians. Victims included relatives of state officials and people suspected of working for the government. The use of explosives led to indiscriminate killings of civilians.

- In April, Asiya Jeelani, a human rights activist, and her driver were killed when her car carrying a team of election monitors hit an explosive device apparently laid by opposition groups opposed to the elections. Another team member, Khurram Parvez, lost his leg in the incident.

Security legislation

In September the government fulfilled its election pledge to repeal the Prevention of Terrorism Act (POTA) which it said had been “grossly misused” and which had led to widespread human rights violations. The cases of all those held under the act were to be reviewed within a year.

However, there were concerns over amendments to the Unlawful Activities (Prevention) Act, which included

provisions similar to those in the POTA. There were also concerns that the definition of "terrorist acts" in the bill remained vague and open to broad interpretation. Several states indicated that they would introduce legislation containing provisions similar to those in the POTA.

The 1958 Armed Forces Special Powers Act (AFSPA) remained in force in "disturbed areas" including large parts of the north-east. A number of provisions of the AFSPA breached international standards. For example, the Act empowered the security forces to arrest people without a warrant and to shoot to kill in circumstances where their lives were not in danger. It also granted members of the armed forces immunity from prosecution for acts carried out under its jurisdiction.

- On 11 July, Thangjam Manorama (also known as Henthoi) died after being arrested under the AFSPA by members of the Assam Rifles in Greater Imphal, Manipur. Her body was found later the same day a few kilometres from her home; it reportedly showed signs of torture and multiple gunshot wounds. There were reports that she had been raped. Her death was followed by protests by community and women's groups which the security forces tried to suppress by detaining participants and firing on demonstrators, injuring scores of people. A judicial inquiry was ongoing at the end of the year.

The lapsed Terrorist and Disruptive Activities Act continued to be used by some state authorities to detain and harass human rights defenders and political opponents.

Death penalty

At least 23 people were sentenced to death and one person was executed. No comprehensive information on the number of people under sentence of death was available, but there was continuing concern that some prisoners had spent prolonged periods on death row, which could amount to cruel, inhuman or degrading punishment.

- Dhananjay Chatterjee was executed by hanging in August after spending 13 years in prison. He had been convicted of rape and murder in 1990. His was the first known execution in India since 1997.

Human rights defenders

Human rights defenders in many parts of the country were harassed and attacked.

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

Economic, social and cultural rights

Despite positive economic gains in recent years, approximately 300 million people remained in poverty.

In October a spokesperson from the Global Fund to Fight AIDS, TB and Malaria stated that AIDS/HIV infection rates were rising and that India possibly had the world's largest number of people living with HIV.

Bhopal 20 years on

Twenty years after the Union Carbide Corporation's (UCC) pesticide plant in Bhopal leaked toxic gases, the plant site had still not been cleared up and toxic wastes continued to pollute the environment and groundwater. More than 7,000 people died within days of the 1984 leak and 15,000 more died in the following years as a result of the toxins, while tens of thousands more were living with chronic and debilitating illnesses. Survivors continued to be denied adequate compensation, medical help and rehabilitation. No one had been held responsible for the leak. UCC and Dow Chemicals (which took over UCC in 2001) had publicly stated that they had no responsibility for the leak or its consequences. UCC refused to appear before a court in Bhopal and the Indian government agreed to a final settlement in 1989 which was inadequate and was not paid out entirely. In mid-2004 the Supreme Court ordered that the remaining compensation money for victims of the gas leak be paid out. AI joined with other campaigners and survivors to call for an immediate clean-up of the pollutants, site and the affected surroundings, a full remedy for the victims, and to demand that those responsible be brought to justice.

AI country visits

AI delegates attended the World Social Forum in Mumbai in January to discuss issues including arms control, corporate accountability and violence against women.

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