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Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

COUNTRY OF ORIGIN INFORMATION REPORT

INDIA

OCTOBER 2006

RDS-IND
COUNTRY OF ORIGIN INFORMATION SERVICE

Contents

This Country of Origin Information Report contains the most up-to-date publicly available information as at 30 October 2006. Older source material has been included where it contains relevant information not available in more recent documents.

Annexes

This Country of Origin Information Report contains the most up-to-date publicly available information as at 30 October 2006. Older source material has been included where it contains relevant information not available in more recent documents.

Preface

i This Country of Origin Information Report (COI Report) has been produced by Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 30 September 2006. The 'latest news' section contains further brief information on events and reports accessed from 1 October 2006 to 27 October 2006.

ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.

vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

ix COI Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.

x In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

Country of Origin Information Service
Home Office
Apollo House
36 Wellesley Road
Croydon CR9 3RR
United Kingdom

Email: cois@homeoffice.gsi.gov.uk
Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

xi The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk.

xii It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments

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

Advisory Panel on Country Information
PO Box 1539
Croydon CR9 3WR
United Kingdom

Email: apci@homeoffice.gsi.gov.uk
Website: www.apci.org.uk

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Latest News

EVENTS IN INDIA, 1 OCTOBER 2006 TO 27 OCTOBER 2006

26 October — Landmark new law on domestic violence comes into effect in India, protecting women from domestic violence and banning harassment by dowry demands, giving magistrates sweeping powers to issue protection orders where needed.
BBC News: 26 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/6086334.stm
Date accessed 26 October 2006

19 October — A man facing execution for his part in an attack on the Indian Parliament in 2001 wants clemency.
BBC News: Delhi raid plotter wants clemency, 19 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/6064968.stm
Date accessed 19 October 2006

17 October — Delhi High Court ordered the re-trial of Santosh Singh, previously acquitted in 1999 of the rape and murder of a law student. The case was put on fast-track; a guilty verdict was reached after 12 days of hearings.
BBC News: Justice delayed, but not denied, 17 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/6059426.stm
Date accessed 18 October 2006

16 October — Clemency bid for Kashmiri man facing execution; riots followed court ruling over the attack on parliament.
Guardian Unlimited: 'You want to hang him? Go ahead; India will be in flames.'
http://www.guardian.co.uk/india/story/0,,1923420,00.html?gusrc=rss&feed=12
Date accessed 19 October 2006

13 October — Massive arms cache found in Calcutta by Indian Army.
BBC News: Massive arms cache found in India, 13 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/6046588.stm
Date accessed 19 October 2006

11 October — Indian human rights lawyer and founder of the Association of Parents of Disappeared Persons prevented from leaving his country to receive an international prize in France.
OMCT Programme human right defenders, India: Mr Parvez Imroz prevented from leaving his country to receive an international prize in France.
http://www.omct.org/base.cfm?page=article&num=6300&consol=close&kwrd=OMCT&grp=Press&cfid=1976892&cftoken=93070603
Date accessed 19 October 2006

10 October — The CBI launches a formal inquiry against a former defence minister, in a corruption case.
BBC News: India probe names former minister 10 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/6032188.stm
Date accessed 19 October 2006

Seven men retracted their confessions, regarding the Mumbai bombings.
BBC News: Bomb suspects retract confessions, 10 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/6037055.stm

Date accessed 19 October 2006

A new law banned children under 14 from working on food stalls or as domestic servants.
BBC News: India tightens child labour laws
http://news.bbc.co.uk/1/hi/world/south_asia/6034335.stm
Date accessed 19 October 2006

5 October

Two militants killed in Kashmir.
BBC News: Troops end Srinagar hotel siege, 5 October 2006
http://news.bbc.co.uk/1/hi/world/south_asia/5405234.stm
Date accessed 19 October 2006

4 October

Update on the Naxal conflict in India; killings down, armament up.
ACHR Weekly Review 135/06, 4 October 2006
http://www.achrweb.org/Review/2006/135-06.htm
Date accessed 19 October 2006

Activists stage a 12-hour stoppage in Karnataka over a regional border dispute, resulting in the closure of offices, schools and government sites.
BBC News: 4 October 2006
http://news.bbc.co.uk/1/hi/business/5406270.stm
Date accessed 19 October 2006

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REPORTS ON INDIA PUBLISHED OR ACCESSED SINCE 1 OCTOBER 2006

Foreign and Commonwealth Office
Human Rights annual report 2006, published 12 October 2006
http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1159199103169
Date accessed 19 October 2006

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Background Information

GEOGRAPHY

1.01 Europa World Regional Surveys of the World, South Asia 2005, documents that the Republic of India is one of the largest countries in the world, with an area of 3,287,263 sq km including the whole of Jammu and Kashmir, which is divided between India and Pakistan. **[1] (p152)** As stated in the CIA World Factbook, updated on 11 May 2004, India's neighbours are Bangladesh, Bhutan, Burma, China, Nepal, and Pakistan. **[35] (p2)** As noted by Europa 2005, on the north west India bounds Pakistan and borders Myanmar (Burma) on the north east, and Bangladesh to the east. "India's great southern peninsula stretches down into the tropical waters of the Indian Ocean, here its boundaries extend to Andaman and Nicobar Islands, in the Bay of Bengal, and the Lakshadweep archipelago, in the Arabian sea." **[1] (p152)**

1.02 As noted in the US State Department Background Note for India, reviewed in December 2005, the population of India (2004 estimate) is 1.1 billion, of which the urban population accounts for 27.8 per cent. Although India occupies only 2.4 per cent of the world's land area, it supports over 15 per cent of the world's population. The population growth rate is 1.4 per cent per annum. The capital is New Delhi (pop.12.8 million, 2001 census). Other major cities are Mumbai, formerly Bombay (16.4 million); Kolkata, formerly Calcutta (13.2 million); Chennai, formerly Madras (6.4 million); Bangalore (5.7 million); Hyderabad (5.5 million); Ahmedabad (5 million) and Pune (4 million). **[2f] (People)** According to the BBC timeline for India, the country marked the birth of its billionth citizen in May 2000. **[32bf]**

1.03 As noted in the CIA World Factbook, the national language is Hindi, and the first language of 30 per cent of the population. Since 1965 English has been recognised as an "associate language" but is the most important language for national, political, and commercial communication. **[35] (p4)** As reflected in the Foreign & Commonwealth Office (FCO) report updated 8 October 2005: "The official language is Hindi written in the Devanagari script… In addition there are 18 main and regional languages recognised for adoption as official state languages. There are another 24 languages, 720 dialects and 23 tribal languages. Among the main languages are Bengali (8.2%), Marathi (7.7%), Urdu (5.2%), Gujarati (4.7%), Bihari (3.8%), Oriya (3.6%), Telugu (3.5%), Tamil (3.2%) and Punjabi (3.0%). Other languages include Assamese, Kannada, Rajasthani and Kashmiri. Bihari and Rajasthani are variants of Hindi." **[7i] (p2)** According to the Ethnologue Report for India, reviewed in November 2003, there are an estimated 850 languages in daily use. **[31]**

1.04 As stated in the Library of Congress Federal Research Division, Country Profile India 2004:

> "The total number of languages and dialects varies by source and counting method, and many Indians speak more than one language. The Indian census lists 114 languages (22 of which are spoken by one million or more persons) that are further categorized into 216 dialects or 'mother tongues' spoken by 10,000 or more speakers. An estimated 850 languages are in daily use, and the Indian Government claims there are more than 1,600 dialects." **[112]**

"Hindi is the official language and the most commonly spoken, but not all dialects are mutually comprehensible. English also has official status and is widely used in business and politics, although knowledge of English varies widely from fluency to knowledge of just a few words. The teaching of Hindi and English is compulsory in most states and union territories. Twenty-two languages are legally recognized by the constitution for various political, educational, and other purposes: Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithali, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu, and Urdu. Numerous other languages are recognized by individual states but not officially recognized by the central government, and linguistic issues related to education, employment, and politics are sometimes politically contentious. Indeed, some state borders are based on linguistic lines. The most commonly spoken languages are Hindi (40.2 percent of the population), Bengali (8.3 percent), Telugu (7.9 percent), Marathi (7.5 percent), and Tamil (6.3 percent)." **[112]**

1.05 Estimates for 2000 recorded in the CIA World Factbook, updated 10 January 2006, stated that the biggest ethnic group in India is the Indo Aryans (72 per cent), followed by the Dravidians (25 per cent), Mongoloid and others (3 per cent). (81.3 per cent) are Hindu, (12 per cent) Muslim, (2.3 per cent), Christian, (1.9 per cent) Sikh. Other religious groups include Buddhist, Jain and Parsi (2.5 per cent). **[35] (p4)**

See Section 20.01 – Ethnic Groups

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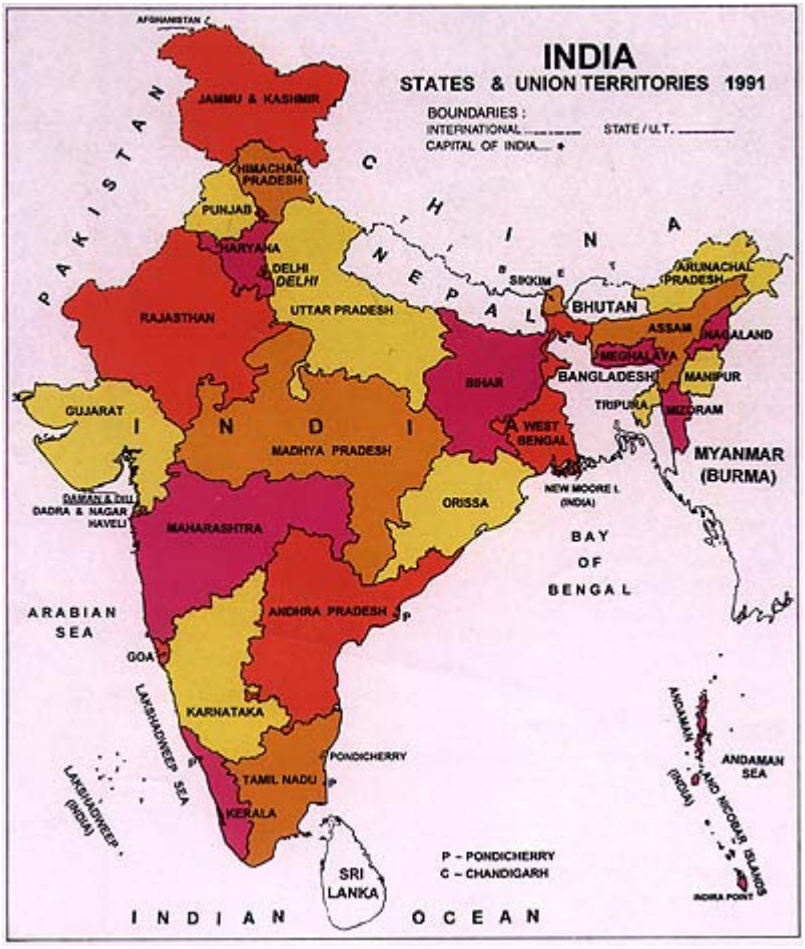
MAP

1. 06
SOUTH ASIA

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

1.07



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

© Government of India, 1996

Government of India: India - States and Union Territories 1991

Languages and minority religion map:
http://www.lib.utexas.edu/maps/middle_east_and_asia/india_lang_1973.jpg

Religions of India Map:
http://www.lib.utexas.edu/maps/middle_east_and_asia/india_religions87.jpg

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ECONOMY

2.01 As noted in the US State Department Background Note for India, reviewed in December 2005:

"It has the world's 12th largest economy, and the third largest in Asia behind Japan and China, with total GDP of around $691 billion. Services, industry and agriculture account for 50.8%, 27.2% and 22.0% of GDP respectively. Nearly two-thirds of the population depends on agriculture for their livelihood. About 25% of the population lives below the poverty line, but a large and growing middle class of 320-340 million has disposable income for consumer goods." **[2f] (Economy)**

2.02 As reported by the same source:

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

2.03 As noted in Europa Regional Surveys of the World, South Asia, 2005, "The economy grew by 8.2% in the fiscal year 2003/2004, making India one of the fastest growing economies in the World." **[1] (p184)** BBC News reported in an article, dated 28 February 2005, that the Finance Minister Palaniappan Chidambaram said India's economy grew 6.9 per cent in 2004. **[32fk]**

2.04 As noted in the Economic Intelligence Unit Country Report for India, 2004-5:

"Congress has also been challenged by its Left Front partners over the proposed liberalisation of foreign investment, highlighting the strains between the two groups. The budget released in July focuses attention on agricultural development and the provision of employment and social services to the poor, who are widely thought to have supported Congress in the recent election. Economic growth will moderate to 6.1% (at factor cost) in fiscal year 2004/05 (April-March), down from an exceptional 8.3% in 2003/04, owing to a likely contraction in the agricultural sector and hence less robust growth in personal incomes." **[16] (Overview)**

2.05 As noted in the Economic Intelligence Unit Country Report for India, 2004-5, the average unemployment rate in 2003 was 9.5 per cent. The consumer price inflation at the end of 2003 was 3.7 per cent. **[16] (p6)** As reported in Amnesty International's 2005 Annual Report: "Despite positive economic gains in recent years, approximately 300 million people remained in poverty." **[3n] (p3)**

2.06 XE.com states that the approximate rate of exchange on 16 August 2006 was £1 = 88.49 Indian rupees. **[36]**

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HISTORY

1991 TO PRESENT

Congress (I) and Economic Reform

3.01 As noted in the US State Department Background Note for India, December 2005: "On May 27, 1991, while campaigning in Tamil Nadu on behalf of Congress (I), Rajiv Gandhi was assassinated, apparently by Tamil extremists from Sri Lanka…" In the elections, Congress (I) returned to power at the head of a coalition under the leadership of PV Narasimha Rao. This Congress-led Government served a full five-year term and opened India's economy to global trade and investment. **[2f] (Government)**

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Emergence of BJP

3.02 As noted by Europa 2005 and the BBC timeline, the results of the general elections held in May 1996 gave no party or group an overall majority. The Hindu nationalist Bharatiya Janata Party (BJP) emerged as the largest party but still well short of a majority, even with allies. **[1] (p164) [32bf]** As reflected in the US State Department Background Note for India, December 2005:

"Under Prime Minister Atal Behari Vajpayee, the subsequent BJP coalition lasted only 13 days. With all political parties wishing to avoid another round of elections, a 14-party coalition led by the Janata Dal formed a government known as the United Front, under the former Chief Minister of Karnataka, H.D. Deve Gowda. His government collapsed after less than a year, when the Congress Party withdrew his support in March 1997. Inder Kumar Gujral replaced Deve Gowda as the consensus choice for Prime Minister at the head of a 16-party United Front coalition." **[2f] (History)**

3.03 As stated in the same source:

"In November 1997, the Congress Party again withdrew support from the United Front. In new elections in February 1998, the BJP won the largest number of seats in Parliament –182– but fell far short of a majority. On March 20, 1998, the President inaugurated a BJP-led coalition government with Vajpayee again serving as Prime Minister." **[2f] (History)**

Tension with Pakistan

3.04 As noted in the US State Department Background Note for India, December 2005:

"On May 11 and 13, 1998, this government conducted a series of underground nuclear tests, forcing U.S. President Clinton to impose economic sanctions on India pursuant to the 1994 Nuclear Proliferation Prevention Act." **[2f] (History)**

3.05 The BBC timeline indicates that in February 1999, Prime Minister Vajpayee made a historic bus trip to Pakistan to meet Premier Nawaz Sharif and to sign the bilateral Lahore peace declaration. However, tension in Kashmir led to a brief war with Pakistan-backed forces around Kargil in Indian-held Kashmir.

[32bf] As noted in the US State Department Background Note for India, December 2005:

"In April 1999, the BJP-led coalition government fell apart, leading to fresh elections in September. The National Democratic Alliance – a new coalition led by the BJP – gained a majority to form the government with Vajpayee as Prime Minister in October 1999." **[2f] (History)**

3.06 As recorded in the BBC timeline, in July 2001, Vajpayee met Pakistani President Pervez Musharraf in the first summit between the two neighbours in more than two years. The meeting ended without a breakthrough or even a joint statement because of differences over Kashmir. In May 2002 Pakistan test-fired three medium-range surface-to-surface Ghauri missiles, capable of carrying nuclear warheads. This intensified the tension between the leaders. **[32bf]**

3.07 As reported by the BBC in a news report of 11 November 2004, Prime Minister Manmohan Singh announced that India would reduce its troop deployment in the disputed territory of Kashmir that winter. "Mr Singh said the move reflected 'an improvement in the security situation' there…" Pakistan welcomed the move as a "step in the right direction." **[32fc]**

3.08 As reported by the BBC on 10 December 2004, police fired tear-gas and baton-charged demonstrators protesting against Indian rule in Kashmir:

"More than 500 people marched on World Human Rights Day in Srinagar, summer capital of Indian-administered Kashmir. More than 200 protesters, representing a faction of the main separatist All Party Hurriyat Conference (APHC), were taken into custody. A further 60 were held earlier during a march against alleged human rights violations by Indian forces…Prominent leaders of the APHC Geelani faction, Sheikh Aziz, Ghulam Nabi Sumjhi and Nayeem Khan, were among those taken into custody. The Chairman of Geelani faction, Syed Ali Shah Geelani, and head of the Democratic Freedom Party, Shabir Shah, were kept under house arrest from Friday morning." **[32ff]**

3.09 As stated in the Economist Intelligence Unit Country Report for India, January 2005:

"India's relations with Pakistan, its long-standing rival, improved during 2004. Negotiations on a number of disagreements are taking place, and although the talks have not delivered solutions on major issues, they have resolved some minor ones. Continuing disagreement over a highly symbolic proposed bus service linking Srinagar in Indian-administered Kashmir to Muzaffarabad in Pakistani-administered Kashmir led to an adjournment of talks in early December (2004)…" **[91] (p1)**

3.10 BBC News reported on 22 March 2005:

"Pakistan has released more than 500 Indian detainees who were allowed to walk home across the Wagah Border west of the Indian Punjab city of Amritsar. The prisoners – mostly fishermen – were freed by order of President Pervez Musharraf as a 'goodwill gesture', a local Pakistani official said. Indian officials say it is one of the largest prisoner transfers to be arranged between

the two countries. The releases follow numerous measures by both countries to improve relations." **[32ih]**

3.11 As reported by Keesings News Digest April 2005, the first bus service connecting the Indian and Pakistani zones of the divided state of Jammu and Kashmir since 1947 was successfully inaugurated on 7 April. "A bus from Srinagar, the summer capital of Indian controlled Kashmir, took 19 people across the Line of Control (LoC), the de facto border, to Muzaffarabad, capital of Pakistan controlled (Azad) Kashmir, for family reunions… Prime Minister Manmohan Singh on April 13 opened the first phase of a railway to connect Jammu and Kashmir to the rest of India's railway network." **[5aa]**

3.12 As reported by BBC news on 5 April 2005, a bomb blast on the route of the bus service in Kashmir, two days before the opening of the service, wounded at least seven people. Shortly after the blast, four Kashmir militant groups renewed their warning not to use the bus service. Militants see the bus service as a climb-down by Pakistan in allowing the service which undermines their campaign against Indian rule, although they insist they are not opposed to divided families reuniting. **[32gf]**

3.13 It was reported by BBC News on 2 June 2005, a group of top Kashmiri separatist leaders made a landmark visit as a representative group across the LoC into Pakistani-administered territory, the first time India had allowed Kashmiri separatist leaders to travel from territory it administers to Pakistan. The visit was opposed by hardliners and militant groups. The separatists were set to hold talks with Pakistani officials as well as local Kashmiri representatives. Chairman of the JKLF, Yasin Malik said, "In 1989 I crossed the LoC to bring the gun, today I'm on a peace mission." **[32gl]**

3.14 In a BBC news article dated 30 May 2005, it was noted that tourists are returning to Indian-administered Kashmir having previously stayed away due to the conflict, encouraged by reports of peace and improved relations between India and Pakistan. The authorities claim the tourism industry began improving last year. However foreign tourists are still keeping away. **[32]**

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Religious Strife

3.15 As recorded in the US State Department Background Note for India, December 2005: "The Kargil conflict in 1999 and an attack by terrorists on the Indian Parliament in December 2001 led to increased tensions with Pakistan." **[2f] (History)**

3.16 As recorded in the BBC timeline (updated 22 September 2004), in 1992 Hindu extremists demolished a mosque in Ayodhya, triggering widespread Hindu-Muslim violence and communal riots throughout India. **[32bf]** As noted in Europa 2005, on 6 December 1992 the mosque at Ayodhya was demolished:

"It was clear that neither the central Government nor the state government had been able to take the necessary swift action that might have averted the demolition, but whether this reflected incompetence or deliberate intent is unclear. Whatever the position adopted by the party leaders the demolition of

the mosque was clearly regarded as a great victory by many of the BJP's supporters. One consequence was an outbreak of rioting in many cities in which hundreds of lives (the majority Muslim) were lost." **[1] (p162)**

3.17 As recorded in the US State Department Background Note for India, December 2005:

"Hindu nationalists supportive of the BJP agitated to build a temple on a disputed site in Ayodhya, destroying a 17th century mosque there in December 1992, and sparking widespread religious riots in which thousands, mostly Muslims, were killed. In February 2002, a mob of Muslims attacked a train carrying Hindu volunteers returning from Ayodhya to the state of Gujarat, and 57 were burnt alive. Over 900 people were killed and 100,000 left homeless in the resulting anti-Muslim riots throughout the state. This led to accusations that the state government had not done enough to contain the riots, or arrest and prosecute the rioters." **[2f] (History)**

3.18 BBC News reported on 21 May 2004 that the Supreme Court had ordered a retrial of the riot case in which 12 Muslims were burned to death by a Hindu mob in Gujarat in 2002. It ruled that the new trial must take place in neighbouring Maharashtra state and called for a fresh investigation. **[32cp]**

3.19 Nine people were convicted in India's Best Bakery case, which many saw as a landmark judgement. The system was accused of failing Muslims in Gujarat following the rioting. Serious questions were raised about the justice system, where cases had been registered against unnamed persons with few arrests and no mass-scale resignations of senior officials. Initially some 2,000 cases were closed for lack of evidence. As reported by BBC News on 24 February 2006, "The Best Bakery case is only one of more than one thousand that are still to be heard." **[32j]**

For more information on the Gujarat riots and the retrial please refer to Section 19.01/Freedom of religion/Muslims

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

"From independence (1947) until 1989, the left-of-center Indian National Congress and its factions dominated national politics. In the 1990s, the center-right Bharatiya Janata Party (BJP) and the centrist Janata Dal emerged as influential political parties, although Congress returned to power in May 2004 with Manmohan Singh as prime minister. There are numerous national and state parties. Among the best known and most prominent are: Akali Dal, All-India Anna DMK (AIADMK), Asom Gana Parishad, Bahujan Samaj Party (BSP), Bharatiya Janata Party (BJP), Communist Party of India (CPI), Communist Party of India-Marxist (CPI-M), Dravida Munnetra Kazhagam (DMK), Indian National Congress, Rashtriya Janata Dal (RJD), Samajwadi Party, Samata Party, Shiv Sena, and Telugu Desam." **[112]**

"Since the late 1960s, minority parties in Parliament have often been majority parties in state legislatures. Since 1989, single political parties have generally failed to win a parliamentary majority. As a result, parliament is often run by coalitions of political parties. It is believed that the emergence of multiparty governments is caused by voters' frustration with political corruption and the fragmentation of electorate support among the growing number of political

parties that represent specific parochial or local interests. Thus, those parties have strong support only in particular states. Furthermore, lower castes and other social groups have become more involved in politics as both voters and politicians…" **[112]**

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General Elections 2004

3.21 As reported by BBC News on 1 March 2004, and CNN on 20 April 2004, early elections were called by Prime Minister Atal Behari Vajpayee and voting held over four days starting on 20 April and ending on 10 May. Ballots were cast on electronic voting machines for the first time with 675 million eligible to vote. **[32ay] [33e]** The CNN report and a further BBC report of 29 April 2004 announced that India's autonomous election commission had ordered an inquiry into complaints of widespread vote-rigging and other irregularities in Bihar. Violence and ballot box theft required reballoting in some areas. **[32dj][33e]**

3.22 As recorded in the India Today May 2004 issue, in an unexpected turnaround, the Congress-led front emerged victorious, securing 217 seats with its allies: RJD, NCP, DMK, PMK, MDMK, TRS, JMM, LNJSP, JKPDP. The BJP and allies (Shiv Sena, JD(U), SAD, BJD, Trinamool, ADMK, TDP) secured 185 seats, and others 136 seats. **[11g] (p3-10)** As noted in the FCO website, reviewed 8 October 2005, the surprise result saw the former BJP-led coalition government resign. **[7i] (p2)**

3.23 The BBC reported on 18 May 2004 that Sonia Gandhi, the leader of the Congress Party, had declined the Prime Ministership. **[32dl]** As reported by BBC timeline for India, The May 2004 issue of India Today and the CRS Report for Congress, Manmohan Singh, a former Finance Minister, was sworn in as Prime Minister on 22 May 2004, becoming India's first-ever non-Hindu Prime Minister. He leads a coalition Government, called the United Progressive Alliance. **[32bf] [64] (p2) [7i] (p2)** As cited in the US State Department Background Note for India, December 2005, Party President Sonia Gandhi was re-elected by the Party National Executive in May 2005. **[2f] (Political Conditions)** A BBC report of 1 June 2004 reported that the BJP, the main opposition party, elected L.K. Advani, the former Deputy Prime Minister, as its new leader. **[32dr]**

3.24 As noted in the CRS Report for Congress, 12 July 2004, Prime Minister Singh has said that development will be a central priority of the UPA Government with reforms aimed at reducing poverty and increasing employment. The foreign policy focus will be on India's immediate neighbours. "The UPA has indicated that it will make the 1972 Simla Agreement between India and Pakistan the basis of its relationship with Islamabad even as it will abide by all subsequent accords." The two countries vowed to bolster defence and trade ties, while moving forward to resolve outstanding territorial disputes. **[64] (p10-11)**

For further information please see Annex C Summary of election results and Political make-up of government.

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State Assembly Elections

3.25 As reported in Keesings Record of World Events for October 2004:

"The position of the Congress (I) – led UPA government was strengthened in October by the results of two state assembly elections. In the election on October 16 (2004) in the major industrial western state of Maharashtra the ruling alliance of Congress and the Nationalist Congress Party (NCP) unexpectedly retained power by winning 141 seats in the 288-seat assembly, against a total of 117 seats for the opposition alliance of the BJP and the local right-wing Shiv Sena party. The elections also saw a shift of power within the governing alliance, as Congress (I), with 69 seats (against 75 in 1999) was overtaken by the NCP with 71 (58 in 1999). (The alliance's last seat was won by the Republican Party of India – Athavale.)" **[5u]**

3.26 The same source reported that elections of 11 October 2004 in Arunachal Pradesh Congress (I) secured a majority with 34 seats in the 60 seat assembly, followed by independents with 13 seats, the BJP with 9, the NCP with 2, and Arunachal Congress with two. Congress legislators unanimously elected Gegong Apang to his seventh term as Chief Minister on 14 October 2004. **[5u]**

3.27 As reported by Keesings News Digest for February 2005: "State assembly elections held in Bihar, Haryana, and Jharkhand in February were the first electoral tests since the United Progressive Alliance (UPA) government was brought to power in May 2004 and as such delivered a mixed verdict for the Congress (I) party and its allies." **[5x]**

3.28 As reported by the BBC on 15 February 2005, "More than half the eligible voters turned out in the second round of provincial elections in the northern Indian states of Bihar and Jharkhand…There were reports of some incidents of violence in Bihar and police say at least 17 people were injured…voting has been spread over three phases in the two states on account of the security situation. Earlier this month (February) voting also took place in the northern state of Haryana." **[32ep]**

3.29 As cited in a BBC news item dated 23 February 2005, with regard to the voting in the east Indian states of Bihar and Jharkhand for the provincial elections, "The Elections Commission said two people were killed in separate incidents during the voting, but the poll was largely peaceful. The elections were held in more than 130 constituencies in both of the states." **[32ga]**

3.30 As reported by the BBC on 28 February 2005:

"India's Congress Party has won a landslide victory in elections in the northern state of Haryana but suffered a setback in two other states. Congress and its allies suffered setbacks in the politically crucial state of Bihar and in Jharkhand. Both states threw up hung assemblies… The outcome in the three states is unlikely to affect the governing Congress-led coalition nationally… At least 30 people were killed in poll violence in the two states, blamed mainly on Maoist rebels who had vowed to disrupt the elections." **[32ez]**

3.31 The same source continues:

"Congress took 67 seats in the 90-member assembly in Haryana, while the incumbent Indian National Lok Dal (INLD) got just nine, election Commission officials said. The result in Haryana means that Congress is back in power in the state for the first time in nine years, unseating the INLD and its allies in the right-wing Hindu nationalist Bharatiya Janata Party (BJP)." [One of Congress's main allies, the regional Rashtriya Janata Dal (RJD) lost its majority in Bihar.] "In the adjoining state of Jharkhand, Congress appeared to have failed in its effort to oust the BJP winning just 26 of the 81 seats with 36 going to the BJP." **[32ez]**

3.32 As reported in Keesings Record of World Events, May 2005:

"On the recommendation of Prime Minister Manmohan Singh, President A.P.J Abdul Kalam on May 22 signed a proclamation to dissolve the legislative assembly of the eastern state of Bihar, only three months after the latest elections in the state. Singh said that the Cabinet's decision was taken on the basis of a report by state governor Buta Singh that no party or alliance of parties was able to form a government. It was alleged that legislators from smaller parties were being paid large sums of money to join the opposition National Democratic Alliance (NDA)." **[5ab]**

3.33 BBC News reported on 19 June 2005:

"There were clashes between police and political activists during municipal elections in Calcutta and an adjoining township. "Police used baton-charges to control the clashes between rival supporters, some of whom used swords, bombs and revolvers to attack each other. Police said around 15 violent incidents left at least 70 people injured, among them several senior political leaders." Some members of the ruling leftist coalition in West Bengal, were among those hurt in the clashes. **[32ie]**

By-elections

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

Indian Ocean Tsunami – 26 December 2004

3.35 As reported on the Government of Tamil Nadu website on 10 January 2005, a very severe earthquake measuring a magnitude of 8.9 on the Richter scale struck northern Sumatra, Indonesia. "The earthquake was felt widely along the east coast of India." **[97]**

3.36 As reported by the World Health Organization in a weekly tsunami situation report as at 24 February 2004:

"The tsunami caused extensive damage in the states of Tamil Nadu, Andhra Pradesh and Kerala and the Union Territories (UT) of Andaman and Nicobar Islands and Pondicherry on 26 December 2004. It affected nearly 2,260 km of the coastline besides the entire areas of Nicobar Islands. Tidal waves as high as 3 to 10 metres penetrated inland ranging from 300 m to 3 km. Andaman & Nicobar Islands in the Bay of Bengal were particularly badly affected by the earthquake under the sea, which caused the tsunami." **[62b]**

3.37 The same report continues, "The Government of India, in association with the affected states/UTs mounted massive relief and rescue operations on the mainland and in the Andaman and Nicobar group of Islands." **[62b]**

3.38 As reported in Amnesty International's 2005 report for events occurring in 2004, "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." **[3n] (p1)**

3.39 The Foreign Office Travel Advice Report for 2005 states that: "Services such as water, power and communications have largely returned to normal in the coastal areas of Tamil Nadu, Andhra Pradesh and the Andaman and Nicobar Islands, affected by the 26 December 2004 tsunami." **[7k]**

3.40 As reported in Keesings News Digest for February 2005, in his 2005-06 budget presentation to the Lok Sahba, Finance Minister Palaniappan Chidambaram pledged a total of R102.16 billion for long-term rehabilitation and reconstruction for victims of the Indian Ocean tsunami with R36.45 billion for short-term relief operations. **[5y]**

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RECENT DEVELOPMENTS

BOMB BLASTS

4.01 On 29 October 2005 bomb blasts in Delhi killed 62 people; a little-known Kashmiri group claimed responsibility. (BBC Timeline) **[32bf]**

4.02 On 7 March 2006, 14 people were killed by bomb blasts in the city of Varanasi, a Hindu pilgrimage city. (BBC Timeline) **[32bf]**

4.03 On 11 July 2006 eight bombs exploded on the suburban rail network in Mumbai at seven locations killing up to 200 people and wounding 700. Hours earlier suspected Islamic militants killed seven people in a series of grenade attacks in Srinagar. (CBC News In Depth: Kashmir: Last updated 13 July 2006) **[121a]** BBC News reported on 30 September 2006, that India accused Pakistan's intelligence agency of being behind the Mumbai train blasts and said they were carried out by Lashkar-e-Toiba. Pakistan rejected the allegation. **[32jd]**

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CONSTITUTION

5.01 As cited on the Government of India website, accessed on 4 October 2002, the Indian Constitution was passed on 26 November 1949. The Preamble to the Constitution resolved to constitute India into a:

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

5.02 The fundamental rights section of the Constitution of India, accessed on 25 September 2004, indicates that the rights of the citizen include the:

- Right to Equality: Equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, equality of opportunity in matters of public employment and abolition of untouchability and titles
- Right to Freedom: Freedom of speech and expression, protection of life and personal liberty, protection against arrest and detention
- Right against Exploitation: Prohibition of human trafficking, forced labour and child labour
- Right to Freedom of Religion
- Cultural and Educational Rights: protection of interests of minorities
- Right to Constitutional Remedies **[61]**

5.03 As stated by Europa 2005, the Constitution is flexible in character, and a simple process of amendment has been adopted. **[1] (p193)**

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POLITICAL SYSTEM

6.01 As noted in the Foreign and Commonwealth Office [FCO] India report reviewed 8 October 2005: "The Indian constitution provides a system of parliamentary and cabinet government both at the centre and in the states." **[7i]**

6.02 As stated in Library of Congress Federal Research Division, India Profile 2004:

"India is a democratic republic with a system of government legally based on the often-amended 1950 constitution. The central government is also known as the union government, and its structure is much like the British parliamentary system, with distinct, but interrelated executive, legislative, and judicial branches. State governments are structured much like the central government, and district governments exist in a variety of forms. The Indian parliament is a bicameral legislature composed of a lower house (the Lok Sabha or House of the People), with 543 popularly elected members and 2 members appointed by the president, and an upper house (the Rajya Sabha or Council of States), with 12 appointed members and 233 members elected by state and union territory assemblies. Lok Sabha members serve five-year terms, and Rajya Sabha members serve six-year terms, with one-third of members up for election every two years. The legislature passes laws on constitutionally specified matters, such as central government finances and constitutional amendments. The two houses have the same powers, but the Rajya Sabha's power in the legislative process is subordinate to the Lok Sabha." **[112]**

6.03 The same report continues:

"India has both a prime minister and a president. Members of parliament and state legislative assemblies elect the president, currently A.P.J. Abdul Kalam, who was elected in 2002. Prime ministers are leaders of the majority party in parliament but are formally appointed by the president. In 2004 Manmohan Singh became prime minister when his Indian National Congress party defeated the Bharatiya Janata Party led by Singh's predecessor as prime minister, Atal Bihari Vajpayee. Over time, political power has become increasingly concentrated in the prime minister and Council of Ministers (cabinet), although they are responsible to the parliament. The president's duties are mostly ceremonial, although the president formally approves the prime minister and also approves the Council of Ministers based on the prime minister's advice. Furthermore, all bills require presidential approval before becoming law. The vice president is ex officio chairperson of the Rajya Sabha and acts in place of the president when the president is unable to perform his or her duties." **[112]**

6.04 As cited in the US State Department Report 2005 (published in 2006):

"The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The government changed hands following free and fair national parliamentary elections in April and May 2004 in which approximately 675 million citizens participated. Parliament sits for 5 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." **[2b] (Section3)**

6.05 Europa Regional Surveys of the World 2005 notes that:

"The Parliament of the Union consists of the President and two Houses: the Rajya Sabha (Council of States) and the Lok Sabha (House of the People.) The Rajya Sabha consists of 245 members, of whom a number are nominated by the President. One third of its members retire every 2 years… The Lok Sabha has 543 members, elected by adult franchise; not more than 13 represent the Union Territories and National Capital Territory. Two members are nominated by the President to represent the Anglo-Indian community." **[1] (p192)**

6.06 Europa Regional Surveys of the World 2005 indicates that: "The President is the head of the Union, exercising all executive powers on the advice of the Council of Ministers, responsible to Parliament. He is elected by an electoral college consisting of elected members of both Houses of Parliament and the Legislatures of the States. The President holds office for a term of five years and is eligible for re-election." **[1] (192)**

6.07 As noted by The Foreign and Commonwealth Office [FCO] in its report on India updated on 8 October 2005, the current president of the Indian Parliament is A P J Abdul Kalam, elected as the constitutional head of the executive and the two houses (Lok Sabha – the lower house – 'House of the people' and Rajya Sabha – the upper house - "Council of states") for a term of five years. **[7i]**

6.08 Europa further notes that, "The Union of India comprises 28 states, six Union Territories and one National Capital Territory. There are provisions for the formation and admission of new states." **[1] (p192)** As noted in the USSD report of 2003: "On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a state's constitutional machinery." **[2h] (p20)**

6.09 As indicated in Europa 2005, the 28 states are: Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal, and West Bengal. **[1] (p186)**

6.10 The Territories are: Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Delhi, Lakshadweep, and Pondicherry. **[1] (p186)**

6.11 As noted in US State Department Report for 2005: "Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support." **[2c] (Introduction)**

6.12 As noted in the Library of Congress Federal Research Division Country Profile 2004:

"State boundaries are often based on language or other social characteristics, and union territories tend to be geographically smaller and less populous than states. States and union territories contain 601 districts that are further subdivided into townships containing from 200 to 600 villages. The union government exercises greater control over union territories than over states, but the division of power between the union and state governments can appear blurred and even chaotic at times. Relationships between some state governments and the union government have been contentious, particularly when state governments are run by political parties that oppose the governing party or coalition in parliament. The tremendous variations in economic and social development among states suggest that state governments can have a greater influence on their populations than the union government. However, the union government still exercises considerable influence on states through numerous financial resources and its authority to assume control of states during times of emergency (called President's Rule), which the union government has done nearly 100 times since 1947." **[112]**

6.13 The same report continues:

"Union territories have a council of ministers, a legislature, and a high court, but they are largely governed by the central or union government through a lieutenant governor or chief commissioner appointed by the prime minister. The structure of state governments largely mirrors that of the union government, with each state having a legislative assembly, chief minister, and high court. State government policies are largely implemented through state-level agencies, but union government agencies are also prevalent at local levels. District and local governments are generally weak, although some states have attempted to establish traditional village councils (panchayats) to address local matters." **[112]**

6.14 "State legislatures are usually unicameral with a legislative assembly composed of members elected for five-year terms. Bicameral state legislatures also have a legislative council that is largely advisory in its capacities, with members directly elected, indirectly elected, or nominated. States' chief ministers are the leaders of majority parties in state legislatures, and just as the prime minister is accountable to parliament, chief ministers are answerable to state legislatures. However, the popularity and party support of some chief ministers enable them to have some autonomy from their state legislature and a degree of influence that rivals that of the union government. States also have governors that are appointed by the president and accountable to the dominant political party in parliament. Although the position is largely honorific, governors do have important powers such as formal approval of chief ministers and their cabinets as well as the authority to recommend that the union government take control of a state government during times of emergency (President's Rule)." **[112]**

6.15 As reflected by Europa in 2005: "The Panchayat Raj Scheme is designed to decentralize the powers of the Union and State Governments. It is based on the Panchayat (Village Council) and the Gram Sabha (Village Parliament) and envisages the gradual transference of local government from state to local authority." **[1] (p193)**

6.16 As noted in the US State Department Post Report for India dated 1 July 2004, national political parties include the *Congress* (I) *Party, Bharatiya Janata Party* (BJP), *Janata Party* (United), *Communist Party of India* (CPI), and *Communist Party of India-Marxist* (CPM). In addition, there are several important regionally based political parties, including *Telugu Desam, All India Anna Dravida Munetra Kazhagam (AIDMK), Dravida Munetra Kazhagam (DMK), Akali Dal,* and *Samajwadi Janata Dal.* **[2e] (p6)**

6.17 As reported on the Foreign and Commonwealth Office [FCO] website, reviewed on 8 October 2005:

"The Bharatiya Janata Party (BJP) and the Congress Party are the two main forces in the current Indian political scene, but neither can command a clear Parliamentary majority. The balance of power is held by a loose collection of regional and other parties… Elections were held throughout India in April and May 2004. The Congress Party and allies emerged with 219 seats, the BJP and allies with 186 seats, and others with 131 seats [136 in India Today]. The surprise result saw the former BJP-led coalition government resign. Manmohan Singh, a former finance minister, is the new Prime Minister. He leads a coalition government, called the United Progressive Alliance." **[7i]**

ELECTORAL SYSTEM

6.18 As noted in the Library of Congress Country Profile 2004:

"The Election Commission is the independent government body that supervises parliamentary and state elections, which are massive and sometimes marred by violence. Elections for state assemblies and the Lok Sabha are held every five years unless called earlier, such as through a no-confidence vote of the government by the Lok Sabha. Indeed, elections are often held before the five-year limits because governments have often had difficulty staying in power for the full five-year term. In the 2004 general elections, there were more than 687,000 polling stations and 671.5 million voters. Since 1952, there have been 14 general elections, with voter turnout ranging from 55 to 64 percent of eligible voters. The legal voting age is 18. National and state legislative elections are similar to the British House of Commons and United States House of Representatives, in which members gain office by winning a plurality of votes in their local constituency. There are 543 parliamentary constituencies. The number of constituencies for state legislatures ranges from 32 to 403, with a total of 4,120 state constituencies nationwide." **[112]**

A.P.J. Abdul Kalam is the current President, (BBC News) **[32bf]**

Please see Annexes B, C and E for more information

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Human Rights

INTRODUCTION

7.01 The Library of Congress Federal Research Division Country Profile: India 2004 states:

"Although human rights problems exist in India, the country is generally not regarded as among the world's serious human rights violators. Human rights problems appear to be acute in areas and periods of communal violence, and security forces, insurgents, and various ethnic-based groups have all been accused of human rights violations in Jammu and Kashmir, Gujarat, Maharashtra, Uttar Pradesh, and various northeastern states. Furthermore, Hindu organizations have been accused of attacking religious minorities—particularly Muslims and Christians—and of receiving deferential treatment and even outright support from some political parties. Both international human rights organizations and India's National Human Rights Commission have questioned the impartiality of police and judicial authorities in various locales. On the other hand, human rights groups have praised India's September 2004 repeal of the 2002 Prevention of Terrorism Act, which both the newly elected government and international organizations criticized as enabling human rights abuses by security forces. **[112]**

7.02 As cited in US State Department Report of 2005 (USSD):

"India is a longstanding multiparty, federal, parliamentary democracy with a bicameral parliament…The government generally respected the rights of its citizens; however, numerous serious problems remained. Government officials used special antiterrorism legislation to justify the excessive use of force while combating active insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto legal impunity, although there were reports of 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 lack of firm 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. Social acceptance of caste-based discrimination remained omnipresent, and for many, validated human rights violations against persons belonging to lower castes. The additional following human rights problems were reported:

- extrajudicial killings and killings of persons in custody
- torture and rape by police and security forces
- poor prison conditions, lengthy pretrial detention without charge, and prolonged detention while undergoing trial
- occasional limits on press freedom and freedom of movement
- harassment and arrest of human rights monitors
- corruption at all levels of government
- legal and societal discrimination against women
- forced prostitution, child prostitution, and female infanticide and feticide

- trafficking in women and children
- discrimination against persons with disabilities
- discrimination and violence against indigenous people and scheduled castes and tribes
- violence based on caste or religion
- exploitation of indentured, bonded, and child labor." **[2c] (Introduction)**

7.03 The same report continues: "Separatist guerrillas and terrorists in Kashmir and the northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents also engaged in widespread torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion." **[2c] (Introduction)**

7.04 Human Rights Watch, in its Country Summary of January 2006, states:

"The Congress Party-led coalition government elected in 2004 took some important positive steps with respect to human rights in 2005. A committee was established to review the Armed Forces Special Powers Act. The Prime Minister apologised for the 1984 anti-Sikh riots. The government pledged to ensure an end to human rights abuses by troops in Indian-administered Kashmir and an apology was made by the Indian army for its actions in July which resulted in the death of three boys mistaken for militants. The right to information, land rights and minimum employment guarantees may be strengthened following new legislation; however, some problems persisted." **[26i]**

7.05 The FCO note, in its annual report on India updated 8 October 2005, stated:

"…India has signed and ratified all of the major international treaties and covenants on human rights except the convention against torture, which it has signed only. There has been progress in a number of areas but implementation varies from state to state and awareness of human rights issues is inconsistent. As a result, the rights of women, children, minorities, scheduled castes and scheduled tribes often suffer. The socially and economically disadvantaged sections are particularly vulnerable." **[7i]**

7.06 BBC News reported on 3 November 2005 that a report ordered by India's Human Rights Commission alleges police in Tamil Nadu and Karnataka states committed serious abuses during the search for an outlaw, Veerappan, who was shot dead in October 2004. The report refers to police treatment of villagers during this search. It is also alleged that many were wrongfully imprisoned. Details of the report were prematurely leaked. Police in the two states denied any wrongdoing. **[32in]**

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SECURITY FORCES

POLICE

8.01 Information sourced from the Federation of American Scientists (FAS) website on 19 August 2004 indicates that the police are a civil authority controlled by the Union Ministry of Home Affairs and subordinate to the Executive, represented in the Union Government by the Prime Minister and in the States by the Chief Minister, and their respective Councils of Ministers. The 25 state governments have primary responsibility for maintaining law and order. Each State has its own force headed by a Director-General of Police (DGP) and a number of Additional Directors-General or Inspectors-General of Police (IGP) who look after various portfolios. **[58]**

8.02 The Library of Congress Federal Research Division Country Profile: India 2004 report notes:

"As of October 2002, there were 1,015,416 police officers in India for a national average of 1 police officer per 125 persons. Police are under the control of state governments, and, with central government permission, states are allowed to create police reserve battalions; all 13 reserve police battalions are in insurgent-prone northeastern states. State police are often assisted by—and some say depend upon—paramilitaries and the armed forces for the maintenance of internal security. An August 2000 government report on police reforms suggested that the Indian police should improve their relations with civilians, place a higher priority on crime prevention, and obtain improved infrastructure. The previous review of the nation's police was conducted in the late 1970s, and its recommendations are as yet unimplemented." **[112]**

8.03 As noted in the FAS website, India's intelligence agencies include the Central Bureau of Investigation (CBI), the premier investigation agency of India responsible for a wide variety of criminal and national security matters; the Intelligence Bureau (IB), India's domestic intelligence agency, which is particularly tasked with intelligence collection in border areas; and the Research and Analysis Wing (RAW), India's external intelligence agency, particularly active in Pakistan. **[58]**

Arbitrary Arrest and Detention

8.04 A response compiled by the Canadian Immigration Board dated 12 January 2006 noted: "Although the Indian Constitution prohibits arbitrary arrest, such practice occurred in 2002, 2003, and 2004…Amnesty International documented the 'preventive arrest' of political opponents in Jammu and Kashmir, Andhra Pradesh, Arunachal Pradesh, Karnataka and New Delhi Union Territory, as well as the arbitrary arrest of indigenous peoples and the activists working with them in 2003." **[4p]**

8.05 An urgent appeal dated 3 March 2006 by the Asian Human Rights Commission stated:

"The Asian Human Rights Commission (AHRC) has received information from its local partner, the Peoples' Vigilance Committee for Human Rights (PVCHR), regarding human rights violations in Varanasi, India, at the hands of

local police officers who act with complete impunity. In this latest incident Santosh Kumar Singh was forcibly and arbitrarily detained and later shot-dead by the police, who have labeled the killing a death by an 'encounter'." **[57b]**

Torture

8.06 USSD 2005 report notes: "The law prohibits torture and generally did not allow for confessions extracted by force to be admissible in court; however, authorities often used torture during interrogations to extort money and as summary punishment." **[2c]**

8.07 As reported by the Amnesty International Annual report of 2006: "Politically motivated violence slightly decreased but torture, deaths in custody and 'disappearances' continued to be reported. At least 38 people were reported to have died in custody." **[3q]**

8.08 The USSD 2005 report further notes:

"The ACHR alleged that deaths in custody were a severe problem and that police regularly used torture. Because many alleged torture victims died in custody, and other victims were afraid to speak out, there were few firsthand accounts. Marks of torture, however, were often found on the bodies of deceased detainees. The prevalence of torture by police in detention facilities throughout the country was reflected in the number of deaths in police custody. Police and jailers typically assaulted new prisoners for money 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." **[2c]**

"In February the Jalandhar district police tortured and killed a dalit youth when he refused to confess to theft. In May in Tamil Nadu, police arrested Mariappan, a person belonging to a lower caste, for stealing valuables from the house where he was employed. Mariappan told media that police inflicted serious injuries on him while he was in their custody." **[2c]**

8.09 The same USSD 2005 report noted that:

"During the year deaths in custody were common, especially for alleged insurgents. From 2002–2003, the Home Ministry reported that custodial deaths increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases." **[2c] (Section 1a)**

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Extra-Judicial Killings

8.10 As reported in the USSD 2005 report:

"There were reports of deaths in custody resulting from alleged torture and other abuses. For example, in June in West Bengal, a human rights nongovernmental organization (NGO) reported that Sunil Roy was detained for allegedly being a pickpocket and was later found dead in the police station. While police claimed he had hanged himself with his belt, the NGO claimed that, per regulations, belts were required to be removed prior to incarceration, and that Roy had other injury marks on his body." **[2c]**

"During the year deaths in custody were common, especially for alleged insurgents. From 2002-03, the Home Ministry reported that custodial deaths increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases." **[2c]**

"There were credible reports that police throughout the country often failed to file legally required arrest reports, resulting in hundreds of unsolved 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." **[2c]**

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ARMED FORCES

8.11 As reflected in the US Background Note for India, December 2005: "The supreme command of the Indian armed forces is vested in the President of India. The policy concerning India's defense, and the armed forces as a whole, is formulated and confirmed by the Union Cabinet. The Cabinet, headed by the Prime Minister, consists of ministers, one of whom holds the portfolio of defense and is known as the Defence Minister." **[2f] (Defence)**

8.12 As cited in the CIA World Factbook, updated 11 May 2004, the military consists of the army, navy, air force, Coast Guard, various security or paramilitary forces (including Border Security Force, Assam Rifles, National Security Guards, Indo-Tibetan Border Police, Special Frontier Force, Central Reserve Police Force, Central Industrial Security Force, Railway Protection Force and Defence Security Corps). **[35] (p12)**

8.13 As reflected in the US Background Note for India, December 2005:

"The Indian Army numbers over 1.1 million strong and fields 34 divisions. Its primary task is to safeguard the territorial integrity of the country against external threats. The Army has been heavily committed in the recent past to counterterrorism operations in Jammu and Kashmir, as well as in the Northeast… The Indian Navy is by far the most capable navy in the region. They currently operate one aircraft carrier with two on order, 14 submarines, and 15 major surface combatants… The Indian Air Force is in the process of becoming a viable 21st century western-style force through modernization and new tactics." **[2f] (Defense)**

8.14 As reflected in the US Background Note for India, December 2005: "The supreme command of the Indian armed forces is vested in the President of India. The policy concerning India's defense, and the armed forces as a whole, is formulated and confirmed by the Union Cabinet. The Cabinet,

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8.15 As cited in the CIA World Factbook, updated 11 May 2004, the military consists of the army, navy, air force, Coast Guard, various security or paramilitary forces (including Border Security Force, Assam Rifles, National Security Guards, Indo-Tibetan Border Police, Special Frontier Force, Central Reserve Police Force, Central Industrial Security Force, Railway Protection Force and Defence Security Corps). **[35] (p12)**

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Arbitrary Arrest and Detention

8.17 The Freedom House Kashmir Annual report 2006 states:

"The government frequently disregards judicial orders quashing detentions, and security forces refuse to obey court orders. Many judicial abuses are facilitated by the 1978 Public Safety Act and other broadly drawn laws that allow authorities to detain persons for up to two years without charge or trial. Although detentions under the security laws are nonrenewable, authorities frequently re-arrest suspects on new charges and impose new detentions; Amnesty International's 2005 report noted that approximately 600 people remain held in preventive detention under such legislation. The new state government promised in November 2002 to review cases of detainees being held without trial and to release those against whom there were no charges. Although a screening committee met several times in 2003, and several political prisoners were released, progress in implementing this commitment remains slow." **[43c]**

8.18 The same report continues:

"In a positive step, the draconian 2002 Prevention of Terrorism Act, which gave authorities wide powers of interrogation and detention while expanding the definitions of punishable crimes and prescribing severe punishments for a broad range of criminal acts, was repealed by the new central government in September 2004. However, two other broadly written laws-the Armed Forces Special Powers Act and the Disturbed Areas Act-allow Indian forces to search homes and arrest suspects without a warrant, shoot suspects on sight, and destroy homes or buildings believed to house militants or arms. Moreover, the Special Powers Act requires New Delhi to approve any prosecution of Indian forces. While the state human rights commission examines some human

rights complaints (it has received hundreds of complaints since its inception, mostly regarding prisoner release, custodial deaths, and alleged security force harassment), it is hampered by woefully inadequate resources and infrastructure. In addition, it cannot directly investigate abuses by the army or other federal security forces or take action against those found guilty of violations. Efforts to bring soldiers to justice have been rare. However, after coming to power, the new state government did undertake several initiatives to improve accountability. In June 2003, it announced that 118 security force personnel had been punished for having committed rights violations." **[43c]**

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Torture

8.19 As reported in the USSD 2005 report, published 2006: "Countrywide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgency." **[2c] (Respect for Human Rights section I)**

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

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Extra-Judicial Killings

8.21 As reported in the USSD report for 2004:

"On July 11, Manorama Devi, an alleged member of the People's Liberation Army (PLA) in the northeastern state of Manipur, died while in the custody of the Assam Rifles, a paramilitary unit in the state. Officials initially denied that Devi was killed, tortured, or raped, but the postmortem found that she died of multiple gunshot wounds, was bleeding from the vagina, and had a perforated liver and gall bladder, among other injuries, and forensic tests detected semen stains on her clothes. The case prompted demonstrations and riots, and led to a serious deterioration of the security situation in Manipur. The National Commission for Women (NCW) publicized the case, and the Army ordered an investigation; however, by year's end, culpability for her death had not been established." **[2j] (Section 1a)**

8.22 The USSD 2005 report noted:

"At year's end no action was taken on the Manorama Devi rape/custodial death case from July 2004. The Upendra Commission, formed in November 2004 to investigate the Devi case, submitted its report to the state government. The inquiry was concluded without the DNA fingerprints and blood samples of the Assam Rifles personnel on duty the night of the incident, and the contents of the report were not made public. On June 23, the state high court directed the Manipur government to send the report to the Union

Home Ministry for the Center's action and to make the report public. On August 31, the Manipur government appealed the New Delhi High Court's decision. The appeal was pending at year's end." **[2c] (Section 1a) (Respect for Human Rights)**

8.23 Freedom House Kashmir Report 2006 states:

"In a continuing cycle of violence, several thousand militants, security force personnel, and civilians are killed each year. Approximately 500,000 Indian security forces based in Kashmir, including soldiers, federal paramilitary troops, and the police, carry out arbitrary arrests and detentions, torture, 'disappearances', and custodial killings of suspected militants and alleged civilian sympathizers. From 3,000 to 8,000 people are estimated to have disappeared during the course of the insurgency. As part of the counterinsurgency effort, the government has organized and armed pro-government militias composed of former militants. Members of these groups act with impunity and have reportedly carried out a wide range of human rights abuses against pro-Pakistani militants, as well as civilians. Local activists report that human rights violations continue to occur at levels similar to those of previous years." **[43c]**

OTHER GOVERNMENT FORCES

Paramilitary Forces

8.24 With regard to Paramilitary Forces the Library of Congress Federal Research Division Country Profile 2004 notes:

"Police are under the control of state governments, and the central government can assist states by providing central paramilitary forces as deemed necessary, particularly to guard coasts, borders, and sensitive military areas and to aid local police forces against insurgencies. There is also a great deal of interest in improving paramilitary training, hardware, and domestic intelligence, as paramilitary forces are often outdone by insurgents in both combat and the use of sophisticated hardware and weapons. There are 1,089,700 active paramilitary personnel (including police) and 1,027,000 voluntary reserves. The Ministry of Home Affairs controls the Central Reserve Police Force (CRPF; 167,400 active); Assam Rifles (52,500); Border Security Force (BSF; 174,000); Indo-Tibetan Border Police (ITBP; 32,400); and National Security Guard, which is composed of elements of the armed forces, CRPF, and BSF (NSG; 7,400). Other paramilitary forces include the Central Industrial Security Force (95,000), Special Protection Group (3,000), Special Frontier Force (9,000), Defence Security Corps (31,000), Railway Protection Forces (70,000), and Coast Guard (more than 8,000 with 34 patrol craft). Voluntary forces include the Home Guard (574,000) and Civil Defence (453,000). Voluntary forces typically have little military training and are used for civil disturbances and relief work." **[112]**

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

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AVENUES OF COMPLAINT

8.26 The National Human Rights Commission was set up by the Government of India under the Human Rights Act 1993 to provide for the constitution of a National Human Rights Commission: "State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto." The National Human Rights Commission can inquire suo motu or on a petition presented to it by a victim or any person on his behalf, into complaints of human rights violations or abetment or negligence in the prevention of such violation. The Commission has the powers of a civil court trying a suit under the Code of Civil Procedure in the course of inquiry. When dealing with complaints of violation of human rights by members of the armed forces, the Commission may seek a report from the central Government and on receipt of this report it may decide to proceed with the case and make its recommendations to that Government. The central Government must report on the action taken within three months or further time as the Commission suggests. The Commission must publish its report along with the recommendation and actions taken and a copy shall be provided to the petitioner or representative. State Human Rights Commissions exist. (National Human Rights Commission, Government of India Website, accessed 15 October 2006) **[47d]**

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

8.28 The USSD 2005 states that:

"The main domestic human rights organization was the government-appointed NHRC [National Human Rights Commission]. The NHRC 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, if a report was submitted, state governments rarely carried out its 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."

8.29 The NHRC was able to investigate cases against the military; however, it could only recommend compensation for victims of abuse, and NHRC recommendations were not binding. Many states had their own human rights commissions, and the NHRC only has jurisdiction if a state commission fails to

investigate. Human rights groups alleged that state human rights commissions were more likely than the NHRC to be influenced by local politics and less likely to offer fair judgements." **[2c] (Section 4)**

8.30 The report continues:

"The 1993 Protection of Human Rights Act recommended that each state establish a human rights commission. As of October, Commissions existed in Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal. The Jammu and Kashmir state legislature established a state human rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces." **[2c] (Section 4)**

"The NHHRC was active duringear [sic], highlighting human rights abuses throughout the country, and recommending compensation for victims of human rights abuses. For example, in July the NHRC recommended that the Haryana government conduct an independent investigation into police assaults on agitating workers at the Honda Motorcycle and Scooters India factory in Gurgaon. No action has been taken by year's end." **[2c] (Section 4)**

8.31 "According to Home Ministry statistics, the NHRC received 241,368 complaints and closed 186,433 cases. During the year, the Supreme Court at NHRC request ordered the retrial of 10 riot cases from Gujarat, in which the high court acquitted the accused." **[2c] (Section 4)**

8.32 As cited in a Human Rights Watch letter to the EU dated 8 November 2004, with regard to monitoring mechanisms, HRW identified the NHRC as having emerged as one of the best such institutions and as a powerful means of protecting human rights. "However its capacity is limited because it is only allowed funding through government and is severely short-staffed. In addition, the Commission is not allowed to investigate abuses committed by the armed forces." **[26g] (p2)**

8.33 Amnesty International, in a submission to the Human Rights Committee in July 1997, noted that: "In several high profile cases, the NHRC has disregarded this limitation in its mandate and intervened in incidents of human rights violations by security forces, for example in Jammu and Kashmir in the case of the killing of lawyer Jalil Andrabi in March 1996 and the killing of civilians by security forces in Bijbehara in October 1993." **[3c] (p79)**

8.34 As noted in Amnesty International's India Submission to the Advisory Committee 1998, Section 36(2) of the Protection of Human Rights Act limits the NHRC to investigating allegations of abuses only up to a year after the alleged abuse took place. This has been overlooked in certain cases, but other cases over a year old have been disregarded. Amnesty International considers this problematic, as many victims approach the NHRC as a last resort, after using other mechanisms such as the courts. Lack of resources is often an obstacle to filing a complaint within the time frame required. A human rights violation may not come to light until over a year after the original incident or a rape victim may have compelling reasons not to come forward immediately. **[3d] (p15-16)**

8.35 However, as reported in a news article in *The Tribune*, in September 1998, the Supreme Court ruled that the NHRC's probe into the alleged mass cremation of 2,000 bodies by the Punjab police in 1994-5 could not be barred by the one-year time limit. The Supreme Court ruled that the jurisdiction exercised by the NHRC in these matters is of a special nature not covered by the enactment of law and thus acts sui generis (a case of its own kind). **[12c]**

8.36 As cited by Indian news agency PTI on 8 July 1998, one of the NHRC's first actions was to request that it be informed of death or rape in police custody within 24 hours of occurrence, and while it had not succeeded in implementing this directive in states such as Jammu and Kashmir, the NHRC has become an important monitor of the extent of custodial violence. **[10c]** As reported by the Indian news agency on 8 July 1998, the NHRC has recommended that army and paramilitary forces should also follow the same procedure and report any death or rape in custody to the NHRC within 24 hours. The Indian Government rejected this, saying that the existing procedures laid down in the Protection of Human Rights Act 1993 were sufficient. **[10c]**

8.37 Amnesty International noted in a 1998 submission that, while the NHRC is conducting enquiries, it has the powers of a civil court, including summoning attendance of witnesses, compelling the provision of information and referring cases of contempt to a magistrate. There have been occasions when the NHRC's work has been hampered by delays in receiving reports from State authorities. **[3d] (p8)**

8.38 Amnesty International, in the same submission, noted: "The NHRC has been active in recommending the granting of compensation in many cases in which it has found prima facie evidence of human rights violations… and it has actively pursued the granting of compensation with the authorities to ensure that victims or their relatives are provided with prompt financial redress." **[3d] (p10)**

8.39 Amnesty International's submission to the Advisory Committee 1998 states that the NHRC has recommended changes to existing legislation to ensure that human rights are protected, as part of its mandate to review safeguards provided under the Indian Constitution or legislation. The NHRC played a significant role in calls for the abolition of the Terrorist and Disruptive Activities (Prevention) Act (TADA), which was allowed to lapse in 1995. The NHRC, in a submission to the Supreme Court, has expressed the view that the Armed Forces (Special Powers) Act is unconstitutional. The NHRC played a key role in encouraging the Indian Government to ratify the Convention against Torture. Nevertheless, Amnesty International believes that the NHRC should adopt a more systematic and consistent approach in reviewing existing or proposed legislation. **[3d] (p20-21)**

8.40 As cited by the USSD report for 2005: "Tamil Nadu and Andhra Pradesh have special courts to hear human rights cases. The Uttar Pradesh government continued to defy a court order to reactivate its special human rights court." **[2c] (Section 4)**

8.41 According to the National Human Rights Commission website, accessed May 2004, State Human Rights Commissions exist in: Assam, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur,

Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Chhattisgarh. **[47c]**

8.42 As noted by Human Rights Watch in their country summary of January 2006, a commission headed by Justice G T Nanavati investigating the 1984 anti-Sikh riots submitted its report to the government in February and the report was presented to parliament in August. Prime Minister Manmohan Singh apologised for the 1984 riots. Implicated senior Congress leaders resigned. Previously in November 2004 the National Human Rights Commission found the state of Punjab "accountable and vicariously responsible" for its failure to protect lives, ordering compensation of 250,000 rupees for each victim of summary execution of which there were in excess of 100. Thousands of cases are still to be investigated. **[26i]**

See Section 19.159 for more information on Nanavati Commission

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MILITARY SERVICE

9.01 As recorded in the Child Soldiers Global Report 2004: "The 1950 constitution says that 'It shall be the duty of every citizen of India…to defend the country and render national service when called upon to do so' (Article 51A). According to the 1972 National Service Act, certain people may be called to perform national service but no minimum age is specified. However, there is currently no conscription in India." **[89]**

9.02 As noted by the Library of Congress Federal Research Division in its 2004 country profile for India:

"The minimum age of service is 16, and the mandatory age for retirement for officers varies from 48 to 60 depending on rank. The military has expressed concern about its increasing age profile and a shortage of officers. Formal military service is completely on a volunteer basis, and India does not have—and never has had—conscription. However, a 2004 public opinion poll suggests that the Indian public is in favor of conscription." **[112]**

9.03 Information provided by the Indian Government indicates that:

"Persons who are recruited at the age of 16 years undergo basic military training for up to two and a half years from the date of enrolment and are then inducted into regular service." In its report to the Committee on the Rights of the Child, India claimed that "children are not inducted into the armed forces and hence do not take a direct part in hostilities." During the 1998 session of the UN Working Group negotiating the Optional Protocol, the representative of India reported that: "discussion was going on within the Government about the possibility of raising the age limit for voluntary recruitment from 16…"

9.04 India also has a Territorial Army (TA) – a voluntary part-time civilian force consisting of departmental and non-departmental units raised from among the employees of government departments and the public sector. The TA is reportedly used in support of the armed forces in areas of insurgency. **[67]**

9.05 As noted in War Resisters International 1998, there is no known legal provision for conscientious objection. **[21]**

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ABUSES BY NON-GOVERNMENT ARMED FORCES

10.01 As cited in the Indian Ministry of Home Affairs website [undated], a total of 32 terrorist organisations were listed in the Schedule to the Prevention of Terrorism Ordinance (POTO). These were: Babbar Khalsa International, Khalistan Commando Force; Khalistan Zindabad Force; International Sikh Youth Federation; Lashkar-e-Taiba/Pasban-e-Ahle Hadis; Jaish-e-Mohamed/Tahrik-e-Furqan; Harkat-ul-Mujahideen/Harkat-ul-Ansar/Karkat-ul-Jehad-e-Islami; Hizb-ul-Mujahideen/Hizb-Ulmujahideen Pir Panjal Regime; Al-Umar-Mujahideen; Jammu and Kashmir Islamic Front; United Liberation Front of Assam (ULFA); National Democratic Front of Bodoland (NDFB); People's Liberation Army (PLA); United National Liberation Front (UNLF); People's Revolutionary Party of Kangleipak (PREPAK); Kangleipak Communist Party (KCP); Kanglei Yaol Kanba Lup (KYKL); Manipur People's Liberation Front (MPLF); All Tripura Tiger Force; National Liberation Front of Tripura; Liberation Tigers of Tamil Eelam (LTTE); Students Islamic Movement of India; Deendar Anjuman; Communist Party of India (Marxist-Leninist), People's War and all its formations and front organisations; Maoist Communist Centre and all its formations and front organisations; Al Badr; Jamiat-ul-Mujahidden; Al-Qaida; Dukhtaran-e-Millat (DEM); Tamil Nadu Liberation Army (TNLA); Tamil National Retrieval Troops (TRNT); and Akhil Bharat Nepali Ekta Samaj (ABNES). **[39a] (p28-29)**

For further information please see Section 17.01: Human rights institutions, organisations, activists.

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

10.03 A BBC News report of 16 July 2004 indicated that the United Liberation Front of Assam (ULFA) was targeting oil and gas installations to prevent the exploitation of Assam's natural resources by the federal Government. **[32da]**

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

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

10.06 As reported by BBC News on 2 October 2004, at least 100 people were injured, many seriously, and police reported 15 fatalities when two bombs exploded in the main commercial centre of India's north-eastern state of Nagaland. One explosion went off at the railway station, the other at the Hong Kong market. It was not clear which of the many separatist rebel groups was responsible for the explosion. **[32fo]**

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TORTURE

10.07 The Amnesty International Human Rights Report for 2006 stated:

"There were reports of abuses – including torture, attacks and killings of civilians – by armed groups in Jammu and Kashmir, the north-east and several central and eastern states where left-wing armed groups were becoming increasingly active. In November, during elections in Bihar, Maoists (naxalites) attacked the Jehanabad prison. More than 340 prisoners, including key Maoist leaders, were freed. Eight prisoners belonging to a private army of dominant landed castes, Ranvir Sena, were killed and 20 others kidnapped." **[3q]** As noted by the USSD 2005 report: "During the year killings and abductions of suspected and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir, although the number of such instances has declined substantially since the 1990s." **[2c] (Section 1a)**

10.08 As reported by Freedom House in the India Annual Report 2006: "In India's seven northeastern states, more than 40 insurgent groups, who seek either greater autonomy or complete independence for their ethnic or tribal groups, sporadically attack security forces and engage in intertribal violence. The rebel groups have also been implicated in numerous bombings, killings, abductions, and rapes of civilians." **[43d]**

10.09 The Freedom House Kashmir Annual Report for 2006 notes:

"Armed with increasingly sophisticated and powerful weapons, and relying to a greater degree on the deployment of suicide squads, militant groups backed by Pakistan continue to kill pro-India politicians, public employees, suspected informers, members of rival factions, soldiers, and civilians. Militants also engage in kidnapping, rape, extortion, and other forms of terror. Violence targeted against Kashmiri Hindus is part of a pattern since 1990 that has forced several hundred thousand Hindus to flee the region; many continue to reside in refugee camps near Jammu. Until a ceasefire was declared in November 2003, shelling by Indian and Pakistani troops along the LOC killed numerous civilians during the year, displaced thousands more, and disrupted schools and the local economy." **[43c]**

"Female civilians continue to be subjected to harassment, intimidation, and violent attack, including rape and murder, at the hands of both the security forces and militant groups. In recent years, women have also been targeted by Islamist groups. In 2001, the Lashkar-e-Jabbar group issued an ultimatum that all Muslim women wear the burqa (a head-to-toe covering); members of the group threw acid at and sprayed paint on several women who refused to comply with the directive…" **[43c]**

10.10 As reported by MIPT terrorism Knowledge Base in its 2005 Pattern of Global Terrorism India: 2005 Overview:

"Kashmiri terrorist groups made numerous attacks on elected Indian and Kashmiri politicians, targeted civilians in public areas, and attacked security

forces. Hundreds of non-combatants were killed, most of whom were Kashmiri Muslims. Indian experts asserted that the April attack on the bus depot for Srinagar-Muzaffarabad bus was designed to inhibit growing Kashmiri enthusiasm for normalization of ties between Indian-and Pakistani-controlled Kashmir. The designated FTOs LT and Jaish-e-Mohammad (JEM) claimed responsibility for many of these attacks. Some of these groups are believed to maintain ties to al-Qaida. Nevertheless, civilian fatalities from terrorism in Jammu and Kashmir continued a five-year decline in the first nine months of 2005. The Indian Government and military credit improved tactics and a fence that runs along the Line of Control (separating the Indian and Pakistani sides of Kashmir) for having significantly reduced the number of terrorists who cross into Indian Kashmir, thus resulting in a lower number of attacks and fatalities in Jammu and Kashmir. After the October 8 earthquake in Pakistan that reportedly killed many Kashmir-based terrorists, however, the terrorists launched a series of high-profile attacks across the degraded frontier defenses in an effort to prove their continued relevance. Indian experts believe that the car bombs, grenade attacks, daytime assassinations, and assassination attempts on Kashmiri political leaders, including current and former state ministers, were designed to signal that the terrorist groups retained the ability to conduct "spectacular" operations despite their reported losses." **[120]**

10.11 The report continues:

"Naxalite (Maoist agrarian peasant movement) terrorism, which covers a broad region of eastern, central, and southern India, is growing in sophistication and lethality and may pose a significant long-term challenge. The Naxalites launched two mass attacks in the second half of 2005, destroying buildings, capturing weapons, and killing several local policemen in an attack on an Uttar Pradesh village. They also attacked the Jehanabad Prison in Bihar, killing two persons, freeing more than 300 inmates, and abducting about 30 inmates who were members of an anti-Naxalite group." **[120]**

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JUDICIARY

ORGANISATION

11.01 As stated in the US State Department Report of 2005:

> "The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the Court of Appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, and they may serve until the age of 62 on state high courts and until the age of 65 on the Supreme Court." **[2c] (Section 1e)**

11.02 As reported in the Library of Congress Federal Research Division Country Profile for India 2004:

> "The legal system is derived from English common law and based on the 1950 constitution. Judges decide cases, and there is no trial by jury. Defendants can choose counsel independent of the government, and the government provides free legal counsel for defendants unable to afford such. The judiciary enforces the right to fair trial, and there are effective channels for appeal, but the judicial system is so overburdened with a case backlog that some courts barely function. In non-criminal matters, the government does not interfere with the personal status laws of Muslims and other communities on matters dealing with family law, inheritance, divorce, and discrimination against women." **[112]**

11.03 The same report continues:

> "The Supreme Court is the top legal entity, and it is composed of a chief justice appointed by the president and 25 associate judges also appointed by the president in consultation with the chief justice. The Supreme Court has numerous legal powers, such as appellate jurisdiction over all civil and criminal proceedings, with the potential of influencing interpretation of the constitution. The parliament and Supreme Court have maintained a contentious relationship on issues related to judicial review and parliamentary sovereignty. Below the Supreme Court are high courts, followed by a hierarchy of subordinate courts, and some states also have panchayat (village-level) courts that decide civil and criminal matters. Some high courts serve more than one state, and all are independent of state legislatures and executives." **[112]**

11.04 As indicated by Europa in 2005: "The Supreme Court has advisory jurisdiction in respect of questions which may be referred to it by the President for opinion. The Supreme Court is also empowered to hear appeals against a sentence of death passed by a State High Court in reversal of an order of acquittal by a lower court and in a case in which a High Court has granted a certificate of fitness." **[1] (p199)**

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High Court

11.05 As stated on the Supreme Court of India website, accessed on 14 September 2006:

"The High Court stands at the head of a State's judicial administration. There are 18 High Courts in the country, three having jurisdiction over more than one State. Among the Union Territories Delhi alone has a High Court of its own. Other six [sic] Union Territories come under the jurisdiction of different State High Courts. Each High Court comprises of a Chief Justice and such other Judges as the President may, from time to time, appoint…They hold office until the age of 62 years and are removable in the same manner as a Judge of the Supreme Court. To be eligible for appointment as a Judge one must be a citizen of India and have held a judicial office in India for ten years or must have practised as an Advocate of a High Court or two or more such Courts in succession for a similar period." **[116]**

"Each High Court has power to issue to any person within its jurisdiction directions, orders, or writs including writs which are in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of Fundamental Rights and for any other purpose… Each High Court has powers of superintendence over all Courts within its jurisdiction…" **[116]**

11.06 As noted by Europa 2005:

"The High Courts are the Courts of Appeal from the lower courts, and their decisions are final except in cases where appeal lies to the Supreme Court. Lower criminal courts are the courts of Session which are competent to try all persons committed for trial and inflict any punishment authorised by the law. The President and the local government concerned exercise the prerogative of mercy." **[1] (p199)**

Fast Track Courts

11.07 The US State Department Report of 2005 noted:

"According to the Home Ministry, as of March [2005] there were 1,700 fast track courts in the country. 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 the trials were shorter." **[2c] (Section 1e)**

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

Lok Adalats

11.09 The Supreme Court of India website, accessed on 14 September 2006, notes:

"Lok Adalats which are voluntary agencies are monitored by the State Legal Aid and Advice Boards. They have proved to be a successful alternative forum for resolving of [sic] disputes through the conciliatory method." **[116]**

"The Legal Services Authorities Act, 1987 provides statutory status to the legal aid movement and it also provides for setting up of Legal Services Authorities at the Central, State and District levels. These authorities will have their own funds. Further, Lok Adalats which are at present informal agencies will acquire statutory status. Every award of Lok Adalats shall be deemed to be a decree of a civil court or order of a Tribunal and shall be final and binding on the parties to the dispute. It also provides that in respect of cases decided at a Lok Adalat, the court fee paid by the parties will be refunded." **[116]**

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INDEPENDENCE

11.10 As stated in the US State Department report of 2005: "The law provides for an independent judiciary, and the government generally respected this provision in practice: however serious problems remained. In Jammu and Kashmir, members of the judiciary were subject to threats and intimidation by insurgents and terrorists." **[2c] (Introduction)**

11.11 The report continued: "Unlike in previous years, court was regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of the government's anti-insurgent actions and because of the frequent refusal by security forces to obey court orders." (USSD 2005) **[2c] (Section 1e)**

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FAIR TRIAL

11.12 The Library of Congress Federal Research Division Country Profile 2004 states: "The judiciary is regarded as slow and cumbersome but is also widely respected and often takes an activist role in protecting citizens' rights." **[112]**

11.13 As noted by the USSD report for 2005: "Unlike in previous years, court was regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of the government's anti-insurgent actions and because of the frequent refusal by security forces to obey court orders." **[2c] (Section 1e)**

11.14 The same report continued: "As a result of severe overloading of the courts, thousands of persons awaiting trial spent longer in prison than the maximum sentences for the crimes for which they were charged. In July 2004 the Ministry of Law and Justice reported that there were 29,622 cases pending before the Supreme Court, and 3,269,224 before the state high courts. The NHRC reported in 2004 that 75 percent of the country's inmates, some 217,659 persons, were in pretrial detention. Human rights groups claimed that

because of the extensive case backlog and rampant corruption the judicial system no longer met its constitutional mandate." **[2c] (Section 1e)**

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

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

11.16 As reported by News 24.com on 13 February 2006, a 70-year-old man was set free on bail after spending 38 years in prison without charge and seemingly forgotten. The man was arrested in 1968 on suspicion of killing his sister-in-law but failed to face trial because the authorities lost his records. It is claimed that the poor and powerless are often overlooked in India's vast and disorganised justice system. **[107]**

11.17 As cited in the US State Department report for 2005:

"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." **[2c] (Section 1e)**

11.18 "In 23 March 2005 correspondence, an official at the High Commission of Canada in India indicated that, generally, court proceedings and hearings in India, criminal or civil, are not held in camera, that the date and place of hearings are generally not confidential and that police officers are likely to have access to this information." (Country of Origin Research – Response to Information Requests 31 March 2005) **[4l]**

11.19 An article in *The Hindu,* dated 14 January 2003, reported that the Legal Services Authorities Act was promulgated in 1987 and amended in 2002 when national and state legal services authorities were created to provide free and competent legal services to the weaker sections of society. It means that persons covered by the Act are entitled to legal advice, legal representation and legal adjudication free of cost. Despite this laudable objective, some of the

provisions of the Act have attracted criticism from lawyers who claim that it seeks to reduce justice dispensation to an informal and casual process. The reason for the backlogs is the abysmal infrastructure, enormous delays in filling up vacancies, low entry level barriers into the legal profession and the appallingly low judge-to-population ratio in India. **[60a]**

11.20 The US State Department Report 2005 continues: "The government does not interfere in the personal status laws of minority communities, including those laws that discriminate against women. There are separate laws for Muslims and Hindus on a number of issues. Muslim personal status law governs family law, inheritance, and divorce." **[2c] (Section 1e)**

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Provision of Legal Aid

11.21 As stated in an article entitled "Supreme Court of India", accessed on 14 September 2006:

"If a person belongs to the poor section of the society having annual income of less than Rs. 18,000/- or belongs to Scheduled Caste or Scheduled Tribe, a victim of natural calamity, is a woman or a child or a mentally ill or otherwise disabled person or an industrial workman, or is in custody including custody in protective home, he/she is entitled to get free legal aid from the Supreme Court Legal Aid Committee. The aid so granted by the Committee includes cost of preparation of the matter and all applications connected therewith, in addition to providing an Advocate for preparing and arguing the case. Any person desirous of availing legal service through the Committee has to make an application to the Secretary and hand over all necessary documents concerning his case to it. The Committee after ascertaining the eligibility of the person provides necessary legal aid to him/her." **[116]**

"Persons belonging to middle income group i.e. with income above Rs. 18,000/- but under Rs. 1,20,000/- per annum are eligible to get legal aid from the Supreme Court Middle Income Group Society, on nominal payments." **[116]**

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PENAL CODE

11.22 The Indian Penal Code of 1860 is applicable to the whole of India except the state of Jammu and Kashmir. (The Indian Penal Code Act No.45 of Year 1860) **[24f]**

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

"The prevailing law on crime prevention and punishment is embodied in two principal statutes: the Indian Penal Code and the Code of Criminal Procedure of 1973. These laws take precedence over any state legislation, and the states cannot alter or amend them. Separate legislation enacted by both the states and the central government also has established criminal liability for acts such as smuggling, illegal use of arms and ammunition, and corruption. All legislation, however, remains subordinate to the constitution." **[113]**

"The Indian Penal Code came into force in 1862; as amended, it continued in force in 1993. Based on British criminal law, the code defines basic crimes and punishments, applies to resident foreigners and citizens alike, and recognizes offenses committed abroad by Indian nationals." **[113]**

11.24 The report continues:

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

simple imprisonment, rigorous imprisonment with hard labor, life imprisonment, and death. An individual can be imprisoned for failure to pay fines, and up to three months' solitary confinement can occur during rare rigorous imprisonment sentences." **[113]**

CODE OF CRIMINAL PROCEDURE

11.25 Country Data.com state in an article entitled "A Country Study" in the section The Criminal Justice System, dated September 1995:

"The machinery for prevention and punishment through the criminal court system rests on the Code of Criminal Procedure of 1973, which came into force on April 1, 1974, replacing a code dating from 1898. The code includes provisions to expedite the judicial process, increase efficiency, prevent abuses, and provide legal relief to the poor. The basic framework of the criminal justice system, however, was left unchanged. **[113]**

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

11.27 The Code of Criminal Procedure Act 1973 extends to the whole of India except Jammu and Kashmir. (Code of Criminal Procedure Act – India lawInfo.comm) **[114]**

11.28 In correspondence written in October 2005 to the Canadian Research Directorate, a New Delhi-based lawyer and the senior director of the Punjab state-based international human rights organisation, Voices for Freedom Asia (VFF), wrote that offences in India are categorised as "cognizable" and "non-cognizable"; "cognizable" refers to a more serious offence:

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

11.29 The same report states that all warrants of arrest issued by a Court under this code shall be in writing and signed by the presiding officer of the Court and should bear the court seal. **[4p]**

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ARREST AND DETENTION – LEGAL RIGHTS

12.01 As stated in the US State Department Report for 2005:

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

12.02 As stated in the same report, "The law provides arrested persons the right to be released on bail, and prompt access to a lawyer 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.500) and $4,500 (Rs.200 thousand)." **[2c] (Section 1d Arrest & Detention)**

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

12.04 As reported by the Canadian Immigration and Refugee Board (REFINFO) on 27 March 2003:

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

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Armed Forces Special Powers Act (AFSPA)

12.05 As stated in the USSD report for 2005:

"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 of arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA… 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." **[2c] (Section 1d)**

12.06 BBC News reported on 5 August 2004 that thousands of protesters in Manipur campaigned to demand the withdrawal of the Act after a Manipuri woman was found raped and shot by the security forces. However the security forces said they needed the special powers to fight separatists. **[32dc]** Manipuris claim the law is frequently misused by the troops. **[32fx]** Amnesty International made a public statement on 11 August 2004 and called for a review of the Act.

"In areas declared as 'disturbed' – such as in the north-east region – Amnesty International is concerned that the AFSPA:

- facilitates grave human rights violations,
- empowers the security forces to arrest and enter property without warrant,
- gives the security forces powers to use excessive force, including to shoot to kill without members of the security force lives being at imminent risk,
- facilitates impunity because no person can start legal action against any member of the armed forces for anything done under the Act without permission of the Central Government,
- by certain of its provisions violates articles of the International Covenant on Civil and Political Rights (ICCPR)…" **[3j]**

12.07 As reported in Keesings News Digest November 2004, on 2 November 2004 Prime Minister Manmohan Singh pledged that the Government would review the unpopular Armed Forces Special Powers Act (AFSPA) in force in Manipur and Assam. **[5v]**

12.08 As reported in the US State Department report for 2005: "The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remained in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura, where active secessionist movements existed. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants. Human rights groups alleged that security forces operated with virtual impunity in areas under the act." **[2c] (Section 1a)**

12.09 The report continues:

"The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country – except for Jammu and Kashmir – without charge or trial for as long as one year on loosely defined security reasons. State governments must confirm the detention order, which is reviewed by an advisory board of three high court judges within seven weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). According to press accounts, 32 persons were detained under the NSA in 2004." **[2c] (Section 1d)**

12.10 As cited in the same US State Department report:

"In September 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). Nonetheless, SAHRDC [South Asian Human Rights Documentation Centre] reported that more than 1,000 persons remained in detention awaiting prosecution under lapsed special terrorism legislation, and that cases opened

under POTA and [the] Terrorism and Disruptive Activities Act (TADA) continued through the judicial system. On November 8, the Supreme Court acquitted two men, Daljit Singh Bittoo and Gursharan Singh Gama, previously sentenced to life imprisonment under TADA in June 2004. The defense argued successfully that the deputy superintendent of police had a personal vendetta against the two men and used TADA to imprison them." **[2c] (Section 1d)**

12.11 The USSD report for 2003 indicated that in March 2002 the Prevention of Terrorism Ordinance (POTO) was enacted into law and changed to the Prevention of Terrorism Act (POTA).

12.12 The USSD report for 2005 states:

"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."

12.13 The report continues:

"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 20, but at year's end, numerous cases remained unreviewed. This clause 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 1-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. In June the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who instead should be charged under the regular law."

"UAPA and POTA continued to be used to hold people in jail for extended periods prior to the filing of formal charges. Human rights groups reported that the revised UAPA contained important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court." **[2c] (Section 1d)**

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

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

12.15 A Human Rights Watch report dated 22 September 2004, "India, POTA Repeal, A Step Forward for Human Rights", states that:

"The Indian government's decision to repeal the controversial Prevention of Terrorism Act (POTA) is a major step forward for civil liberties in India, Human Rights Watch said today….POTA was enacted soon after the September 11, 2001 attacks on the United States and the adoption of a United Nations Security Council resolution against terrorism. The legislation allowed security agencies to hold suspects for up to 180 days without filing charges. In practice, the law was often used against marginalized communities such as Dalits (so-called 'untouchables'), indigenous groups, Muslims, and the political opposition." **[26f] (p1)**

12.16 The report continues:

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

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PRISON CONDITIONS

13.01 As reported by *The Hindu* on 20 April 2004, according to the Prison Statistics Report 2000, prisons in India are still governed by the century-old Prisons Act 1894 and the Prisoners Act 1900. **[60b]** According to the International Centre for Prison Studies, Prison Brief for India, the State Governments and Union Territories are responsible for the prison administration. At mid-2003, there were 1,119 prisons including juvenile camps. The total prison population, including pre-trial detainees and remand prisoners, at mid-2003 was 313, 635. Official capacity was 229,713 and the occupancy level, 136.5%. **[63]**

13.02 The same report indicated that the Centre undertook a project on Human Rights and Prison Management in India in collaboration with the Indian Bureau of Police Research and Development, the National Human Rights Commission [NHRC], the Penal Reform and Justice Association of India and the British Council. The project was funded by the UK Foreign & Commonwealth Office:

"The aim of the project was to raise awareness of human rights amongst prison officials, and to improve prison management systems with special reference to promoting good practice and gender sensitivity in jail management. Training has been used as a tool for change initiatives in jail management." **[63]**

13.03 As stated in the US State Department report for 2005:

"Prison conditions were harsh and life-threatening, and did not meet international standards. Prisons were severely overcrowded, and food and medical care inadequate. For example, the Mumbai-based Criminal Justice Initiative reported that there were 3,000 inmates in Bombay Central Jail, which has an actual capacity of 80. Human rights organizations reported that 60 to 75 percent of all detainees were in jail awaiting trial, drastically contributing to overcrowding. They also asserted that approximately 65 percent of those detained were found innocent. Due to persistent inefficiencies in the judicial system, there were numerous instances in which detainees spent more time in jail under pretrial detention than they would have if found guilty and sentenced to the longest possible term." **[2c] (Section 1c) (Prison and Detention Center Conditions)**

13.04 The same report continues:

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

13.05 The USSD report 2005 notes that:

"During the year custodial deaths at the hands of police continued…In June 2004 the Delhi High Court found several police officers guilty in the custodial death of an auto-rickshaw driver and fined them each approximately $11

thousand (Rs.530 thousand)." **[2c] (Section 1a)** "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…" **[2c] (Section 1a)**

13.06 The USSD 2005 report states that:

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

13.07 The USSD for 2005 also notted that:

"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 and/or marks of torture. The South Asian Human Rights Documentation Center (SAHRDC) reported that the total number of such custodial deaths decreased slightly during the year, most likely due to the overall decline in infiltrations, as well as a new emphasis by the government on reducing human rights violations. Custodial deaths however, remained a serious problem." **[2c] (Section 1a)**

13.08 As cited in the same report: "By law juveniles must be detained in rehabilitative facilities; although at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners." **[2c] (Section 1c)**

13.09 The 2005 USSD report further stated:

"According to the Home Ministry's 2004 annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. During the year the ICRC visited 28 places of detention in Jammu and Kashmir and found that 1,356 persons were detained – 524 of them newly registered. The ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states. During the year, the ICRC stated that it continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir." **[2c] (Section 1c)**

13.10 As noted in the USSD report for 2005: "In a report issued in January 2004, the UN Special Rapporteur on Torture commented that torture and detentions continued in the country, especially in Jammu and Kashmir, and noted the Government's continued refusal to extend him an invitation to conduct investigations." **[2c] (Section 1c)**

13.11 It was reported in Keesings Record of World Events for June 2003, on 23 June 2003, that Jammu and Kashmir Minister of State for parliamentary affairs Abdul Tehman Veeri had told the State Assembly that there had been 144 alleged custodial killings by local police and Indian security forces since the

beginning of the separatist insurgency in the northern state in 1989. This was the first time that the state authorities had acknowledged the problem of deaths in custody. **[5q]** It was reported by the BBC on 9 August 2004 that India and Pakistan had carried out a rare exchange of prisoners of war. Such transfers are unusual particularly because both sides had earlier denied holding prisoners of war. **[32dk]**

13.12 As reported by *The Hindu* on 1 March 2005, Pakistan President Pervez Musharraf, ordered the release of 200 Indian civilians from his country's jails. "In an impromptu decision, Musharraf ordered the release of prisoners during an hour-long meeting with Indian Left Front leaders Harkishen Singh Surjeet and A B Bardhan, here." **[60f]**

13.13 As reported by BBC News on 19 July 2005:

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

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

13.14 Guardian Unlimited reported on 14 February 2006 that, a 70-year-old man was freed on bail after spending nearly four decades in prison without charge, after his plight was highlighted by local newspapers. He was released after 38 years without charge. Jagivan Ram Yadav was arrested in 1968 accused of murdering his sister-in-law, but he never faced trial because his records were lost. He became lost in India's vast justice system. A Supreme Court judge ordered his bail on a personal bond. **[42f]**

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DEATH PENALTY

14.01 A BBC report of 18 December 2002 noted that India is one of a number of countries around the world which still upholds capital punishment, although it is rarely used. Under Indian law the death penalty can be imposed for murder, gang robbery with murder, abetting the suicide of a child or insane person, waging war against the government, abetting mutiny by a member of the armed forces and, in recent years, for terrorist acts. A 1983 Supreme Court ruling, however, stated that the death penalty should be imposed only in the "rarest of rare cases". **[32cx]**

14.02 As noted by the BBC on 22 September 2003, is reserved for the most serious crimes. Defendants have the right to appeal all the way to the Supreme Court and can then ask for a presidential pardon. **[32bp]**

14.03 A press release by the Asian Human Rights Commission dated 13 August 2004, titled "AHRC condemns Indian top court's decision as 'devoid of merit'," noted that the Constitution of India upholds the right to life except according to procedure established by law. **[57a]** A report on the Guardian Unlimited website dated 5 August 2004, entitled "Girl's killer to hang in India", indicated that only about 40 people have been executed in the past 30 years. There are more than a dozen convicts on death row across the country and an appeal to the president is the final step for prisoners condemned to death. **[40a]**

14.04 As reported by Keesings in January 2004, the Supreme Court suspended the death sentences imposed on 19 January, on two men convicted of planning the December 2001 attack on the Indian Parliament. **[5e]** However, it was later reported by BBC News on 4 August 2004 that: "India's Supreme Court has upheld the death sentence for a man convicted of an attack on the country's parliament in 2001. Mohammad Afzal receives the death penalty for 'waging war against the nation' and his role in the attack. But the death sentence of a second man, Shaukat Hussain, has been reduced to 10 years' rigorous imprisonment." **[32gk]**

14.05 The BBC reported on 14 August 2004 that India carried out its first execution since 1995 after the President, Abdul Kalam, rejected a plea for clemency from a man convicted for raping and murdering a 14-year-old schoolgirl in 1990. **[32cy]** In a press release dated 13 August 2004, the Asian Human Rights Commission condemned the Supreme Court for its decision to uphold the death sentence. **[57a]**

14.06 As noted in Amnesty International's April 2005 report, "The Death Penalty Worldwide: developments in 2004": "In other Indian cases, death sentences have been commuted to life imprisonment on grounds of prolonged detention." **[3o]**

14.07 Amnesty International's Annual Report for 2006 notes:

"At least 77 people were sentenced to death during the year; no executions took place. No comprehensive information on the number of people under sentence of death in each state was available. President Kalam and the newly-appointed Chief Justice to the Supreme Court expressed themselves in general against the death penalty. The President sought from the Indian

parliament a comprehensive policy to deal with clemency petitions from those under sentence of death." **[3q] (Death Penalty)**

14.08 As reported by Amnesty International's report, "Death Penalty Developments in 2005":

"The President of India…used his prerogative under Article 72 of the Constitution to request the government, for the second time, to pardon around 50 prisoners who have been sentenced to death. His earlier recommendation for clemency in these cases had been returned by the Home Ministry stating the cases were not fit for a Presidential pardon."

"In October, President Kalam publicly called for the death penalty to be discussed in Parliament and a comprehensive policy of reform to be drawn up. The newly-appointed Chief Justice of India, Justice Y.K. Saberwal, also expressed his support for abolition of the death penalty, publicly telling reporters that as a citizen of the country, he was in favour of abolishing the death penalty and that as Chief Justice he would apply it only 'in the rarest of rare cases'..." **[3p]**

14.09 BBC News reported on 27 April 2005:

"A court in India has sentenced to death seven men convicted of attacking the American cultural centre in Calcutta in January 2002. Those convicted include Aftab Ahmed Ansari, who the judge said had planned the attack in which five policemen were killed and nearly 20 others injured. Two other men were acquitted for lack of evidence…The verdict came after 300 court hearings involving 123 prosecution witnesses and three defence witnesses over the past three years." **[32ig]**

14.10 A BBC News report dated 4 August 2005 stated: "The death sentences handed down to Afzal and Hussain at the trial in December 2002 were the first under India's tough new Prevention of Terrorism Act which has since been scrapped. The Supreme Court was the last chance for Afzal and Hussain to seek to have their sentences overturned…Afzal can now appeal for clemency..." **[32ho]**

14.11 BBC News reported on 9 March 2005:

"A court in India has handed down the death penalty to two people convicted of the rape and murder of an eight-year-old girl. The crime was committed in the north-eastern city of Guwahati more than two years ago… The death penalty is usually reserved for particularly heinous crimes or in politically sensitive cases. However, this is the third time in a year the country's courts have handed down the death penalty to people convicted of rape and murder…Last week, a court in Calcutta handed down the death penalty to three people who were convicted of murdering a trader." **[32gz]**

14.12 Amnesty International reported in their 2005 report covering events of 2004 that:

"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. Dhananjoy 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." **[3n] (p3)**

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POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

15.01 As reported by the Freedom House Kashmir report for 2006:

"The APHC, an umbrella group of 23 secessionist political parties, is allowed to operate, although its leaders are frequently subjected to preventive arrest, and its requests for permits for public gatherings are routinely denied. Until 2005, the Indian government had also denied permission for APHC leaders to travel to Pakistan. Politically motivated strikes, protest marches, and antigovernment demonstrations take place on a regular basis, although some are forcibly broken up by the authorities." **[43c]**

FREEDOM OF ASSOCIATION AND ASSEMBLY

15.02 As noted in the US Department of State report for 2005 (USSD):

"The law provides for freedom of assembly and association, and the government generally respected this right in practice. The authorities normally required permits and notification prior to holding parades or demonstrations, and local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where the local government sometimes denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code." **[2c] (Section 2b) (Freedom of Assembly)**

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

15.04 The USSD Report for 2005 notes that:

"The law provides for the right of association, and the government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorisation. More than 400 million persons made up the country's active work force and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial labourers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million unionised workers, some 80 percent of the unionised workers were members of unions affiliated with 1 of the 5 major trade union centrals." **[2c] (Section 6a)**

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

"While the right to strike is not explicitly included in the list of fundamental rights specified in the Constitution of India, Article 19 enumerates the right to freedom of speech and expression, to assemble peaceably without arms, and

to form associations or unions (Art 19(1)(a)-(c)). The right to strike is thus a corollary of these expressly stated rights."

"The Industrial Disputes Act 1947 (IDA) and the Trade Unions Act 1926 (TUA) are the primary pieces of central legislation regulating this right in India. The IDA establishes the conditions regarding notice and arbitration that must be complied with before industrial action is undertaken (Sections 22, 23), and the circumstances in which such actions may be deemed illegal (Section 24). The IDA by virtue of its regulation of the legality of a strike, thus explicitly recognises that strikes exist as a legitimate means of negotiation, including for government employees (Section 22)." The article states that, "While these provisions effectively grant workers and unions the right to legal strike, the recognition of this right in India, has been inconsistent." **[103] (p2)**

15.06 BBC News reported on 24 February 2004 that "More than a million government employees took part in a one-day strike in India", affecting many government banks, offices and state-owned firms. "Unions called the walk-out in protest at the Supreme Court's ban on the right of government employees to strike because of the disruption caused." **[32cr]**

15.07 BBC News reported on 26 July 2005 that protesters fought running battles with police for two days as clashes flared when workers form Honda Motorcycle and Scooter India protested at the firing of colleagues. Many were injured during the fighting and further trouble erupted outside the hospital following reports that the injured were not being treated. The National Human Rights Commission demanded detectives from the CBI investigate the incident. **[32hv]**

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

15.08 As noted in the US Department of State report for 2005 (USSD):

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

15.09 The same report continues: "During the year, there were numerous instances of abuse by insurgent and terrorist groups in both Jammu and Kashmir and the northeastern states." **[2c] (Section 1a)**

15.10 As noted in the same USSD report:

"The Home Ministry reported that security forces killed 927 insurgents and terrorists during the year. The ministry also reported that insurgent and terrorist attacks in Jammu and Kashmir declined in 2004 with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members, and 976 insurgents killed. Security forces often used staged encounter killings to cover up the murders of captured non-Kashmiri insurgents and terrorists from Pakistan or other countries, often after torturing

them. Human rights groups accused security forces of targeting suspected terrorists, militants and their suspected supporters. There were no widely accepted data on the magnitude of extrajudicial killings in Jammu and Kashmir, with estimates or reports depending on the political orientation of the source. In 2003 the Jammu and Kashmir state human rights commission received 15 complaints relating to custodial deaths and 27 complaints relating to disappearances. Human rights organizations sought to clarify these cases by submitting numerous requests to Jammu and Kashmir authorities, but they received inadequate and unsatisfactory responses." **[2c] (Section 1a)**

15.11 As reported by BBC News on 6 November 2004: "About 40 different rebel groups exist in the north-east of India, with many believed to use bases in neighbouring countries." **[32fv]**

15.12 As cited in a BBC News article dated 2 October 2004:

"At least 48 people have died in a series of attacks across the states of Nagaland and Assam in north-east India. Two bombs exploded in the main commercial center of Dimapur town in Nagaland and one at a train station and another at a local market. At least 28 people were killed and more than 100 injured in the morning blasts. Hours later, rebels from the Bodo tribe sprayed shoppers with bullets in the neighbouring state of Assam, killing at least 20 people, police said. They suspect the rebels – the National Democratic Front of Bodoland (NDFB) – may have been behind the Nagaland attacks too. There are many separatist rebel groups in north-east India…There has been an insurgency in Nagaland since 1956, but for the last seven years the state's major separatist group, the National Socialist Council of Nagaland (NSCN), has been negotiating with the Indian government, and its fighters are observing a cease-fire with the government's security forces. Both factions of the NSCN have condemned the explosions." **[32ge]**

15.13 As noted by BBC News on 31 July 2005, separatist rebels in north-east India extended a ceasefire with the Government but expressed concern at the progress of the peace talks: "Rebels of the National Socialist Council of Nagaland (NSCN) extended the ceasefire by six months instead of the usual 12. A spokesman said they were no closer to a deal than when the talks began in 1997. The Naga rebellion – India's oldest ethnic conflict – spanned 40 years before the negotiations started."

They have been campaigning for a separate homeland for the Naga tribe in the north-eastern states of Nagaland, Assam, Arunachal Pradesh and Manipur. "But the demand has been fiercely opposed by the states, Manipur in particular." **[32go]**

15.14 As reported by BBC News on 6 November 2004:

"The Indian army says it is conducting a major operation against rebel bases in the north-east of the country. Burma has sealed its border to prevent militants crossing into its territory from the Indian state of Manipur, where the offensive is focused. The north-east of India is home to many groups who often cross back and forth into neighbouring countries." **[32fv]**

Naxalites

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

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

15.16 According to rediff.com (dated 2 October 2003), "At village levels, the Naxalites' terror tactics have spawned local armies to provide protection to the landlords and others. The most infamous of these is the Ranvir Sena in Bihar and Jharkhand, formed by Bhumihar caste landlords, which kill tribals, Dalits and landless labourers either in retaliation or to enforce their domination." **[81a] (p3)**

15.17 According to *India Daily*, dated 1 July 2004: "Since 1980 clashes between police and Naxalite Maoist revolutionaries have taken place in north-western Andhra Pradesh. In areas under their control, Naxalites dispense summary justice in 'people's courts' which in some cases condemn to death suspected police informers, village headmen, and others deemed to be 'class enemies' or 'caste oppressors'."…

15.18 The Naxalites extort money from business firms, railway services in one area had to be cancelled for months due to PWG destruction of stations, track and signalling equipment…"Over the past few years, hundreds of policemen and suspected Naxalites have been killed, according to press reports and human rights organisations." **[82]** As noted in a BBC News report, dated 1 December 1999, more than 5,000 people have died in violence between Naxalites and police since 1985. **[32d]** A BBC News report dated 23 July 2002 stated that in July 2002 the PWG set off a landmine explosion in Andhra Pradesh, killing 4 policemen and seriously injuring 30 others. The attack followed the breakdown of peace talks between the PWG and State Government which had continued for two months, making little headway. The State secretary of the PWG also announced the withdrawal of a unilateral cease-fire saying that the Government and the police had failed to reciprocate. **[32ah]**

15.19 As noted in the USSD 2005 report: "The killing of civilians by Naxalites (Maoist insurgents) in Andhra Pradesh increased dramatically during the year. According to Andhra Pradesh police, Naxalites killed 123 civilians including political leaders, and 16 policemen between January and July. Police killed 84 Naxalites during the same period." **[2c] (Section 1g)**

15.20 As noted in the same USSD 2005 report:

"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, retained 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. Several hundred PWG militants surrendered during the year." **[2c] (Section 1a)**

15.21 BBC News reported on 15 October 2004 that the first day of historic talks between the southern Indian state of Andhra Pradesh and a Maoist rebel group took place in Hyderabad. The state's Interior Minister met a People's War Group delegation (PWG). **[32ft]**

15.22 As noted in Keesings News Digest for November 2004, according to the Indian news agency PTI, on 20 November 17 policemen were killed in an ambush by approximately 150 suspected Maoist Naxalite rebels in Chandauli district of Uttar Pradesh. **[5v]**

15.23 As reported in the same source, on 29 November 2004 an offensive in Manipur started by the army in October, employing some 6,000 troops, resulted in the destruction of some 100 separatist rebel camps including the headquarters of the People's Liberation Army (PLA). Most of the camps appeared to have been abandoned by the rebels. An army spokesman claimed on 9 November 2004 that 20 rebels were killed and 59 captured for the deaths of 2 soldiers. **[5v]**

15.24 As noted by the BBC News report of 17 January 2005, "Left-wing rebels in the southern Indian state of Andhra Pradesh have announced that they are breaking off peace talks with the state government." This was in protest against police killings of their members and the rebels accused the Government of failing to honour a cease-fire which took effect last summer:

"Peace prevailed in the state for almost eight months following a ceasefire by the two sides in June. The state government also lifted an 11 year ban on the CPIML People's War Group in July. Until October last year (2004), the rebels were known as the People's War Group. But at that time they announced a merger with the Maoist Communist Centre to become the CIP (Maoist). The rebels have been fighting since 1980 for the creation of a communist state comprising tribal areas in the states of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh." **[32er]**

15.25 As noted in another BBC News report dated 8 October 2004, two key Indian Maoist groups decided to merge into a single party: "The People's War Group (PWG) and the Maoist Communist Centre (MCC), which are active in a number of states, will form a new party, the leader said… The PWG has considerable influence in Andhra Pradesh, Chhatisgarh, Jharkhand, Orissa, Madhya Pradesh and Bihar, while the MCC is strongest in Bihar… Both groups have pockets of influence in West Bengal." **[32fu]**

15.26 As further reported by the BBC on 20 January 2005, the Maoists announced their withdrawal from the peace negotiations following a series of encounters with police. The rebels were pulling out of the peace process due to "combing operations by the Greyhounds". The Greyhounds are an elite police force set

up to fight the insurgents who carry out search operations in Maoist areas. **[32es]**

15.27 As reported in a BBC News article dated 20 January 2005, police in Andhra Pradesh claimed to have killed three more Maoist guerrillas. The violence took place as a state-wide strike called by Maoist groups evoked only a partial response. This incident followed a series of clashes between police and Maoists in which 15 rebels and 6 other people, including a policeman and 2 politicians, were killed. It was reported that police recovered weapons and hand grenades after the last encounter with Maoists belonging to the Communist Party of India-Marxist Leninist (CPI-ML) coalition. **[32fs]**

15.28 As reported by BBC News on 9 April 2005, according to police suspected Maoist rebels shot dead a leading Congress party politician in Andhra Pradesh. District committee secretary Ramdev Reddy is the most senior figure killed since the breakdown of peace talks in the state at the beginning of the year. About 130 people have died in violence since January. **[32gm]** BBC News reported on 15 August 2005 that suspected Maoist rebels shot dead 10 people including a ruling party legislator, Narsi Reddy, in Andhra Pradesh. The Congress party legislator was returning from a function when the group was attacked by four suspected rebels, who riddled the car with bullets, killing most on the spot and injuring eight others during the raid in Makhtal, 80 miles south of Hyderabad: "Violence in Andhra Pradesh has intensified since the peace process between Maoist rebels and the state government broke down in January. More than 250 people have been killed since then." **[32gr]**

15.29 A BBC News article dated 24 June 2005 stated that at least 21 people were killed in a fierce gun battle between Maoist rebels and police in Bihar where the dead included 16 rebels, 2 police officers and 2 civilians. The overnight fighting ensued when about 100 rebels attacked a police station and two state-run banks in a village in East Champaran. Police say the rebels belong to the Maoist Communist Centre operating in five Indian states and are also believed to be closely linked to Maoist rebels in Nepal. **[32hd]**

15.30 On 9 July 2005 BBC News reported that police in Andhra Pradesh reportedly killed four suspected Maoist guerrillas. The rebels belonging to two groups were killed in separate clashes in Warangal and West Godavari district. It was thought the rebels belonged to the Communist Party of India-Marxist Leninist Praja Pratighatna and Jana Shakti groups and were killed in clashes after busting some of their hideouts. **[32ir]**

15.31 As reported by BBC News on 12 August 2005:

"Suspected Maoist rebels in the eastern Indian state of Bihar have attacked a police station killing two policemen. Four other officers were wounded in the attack late on Thursday…Maoist groups, claiming to represent the interests of poor peasants and landless labourers, often target police stations in Bihar…Maoist groups in Bihar are thought to have links with Maoist rebels operating in neighbouring Nepal…India has an open border with Nepal and the rebels are thought to move in and out of both countries." **[32gs]**

15.32 On 17 August 2005, BBC News reported that: "The Indian state of Andhra Pradesh has imposed a ban on the rebel Communist Party of India (Maoist) group and what it says are six front organisations. The ban comes two days

after suspected Maoist rebels shot dead 10 people, including a ruling party legislator." The state government empowered the Chief Minister to impose the ban and the federal government in Delhi gave approval. The rebel groups were banned between 1992-2004 but the ban was lifted last year in a bid to engage in peace talks which subsequently ended in failure in January 2005. **[32gt]**

15.33 As reported by BBC News on 19 August 2005, police arrested five writers said to be supporters of the newly banned Communist Party of India (Maoist). The head of the Revolutionary Writers Association (Virasam) and a poet were amongst those arrested. The Government banned the writers' association which it accuses of having links to the rebels. Varavara Rao denied the link. **[32gu]**

15.34 BBC News reported on 5 September 2005 that Maoist groups have been banned in the state of Chattisgarh following a landmine blast killing 24 policemen in September 2005. Under the order the government will be able to confiscate property of individuals and organisations seen to be supporting terrorist activities, and provisions will be in place for the sentencing of between one and seven-year jail terms. The order requires final approval from the President. There are thought to be 10,000 Maoist rebels in India. **[32ik]**

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Tripura

15.35 As reported in a BBC News report dated 15 November 1999, separatist rebels intensified their activities in Tripura during 1999. Tripura's ethnic rebel groups are opposed to the influx of Bengali migrants, from what is now Bangladesh, which has made the indigenous people of the State a minority since 1949. **[32a]**

15.36 A BBC News report of 7 July 2003 stated that on 6 May 2003 the police reported that separatist rebels killed 22 Bengali villagers in indiscriminate firing in Tripura:

"In a separate raid carried out later on a village market at Moharcherra, 10 more Bengali villagers were killed…Tripura's Chief Minister, Manik Sarkar alleged that the rebels who carried out the attack came from one of their bases just across the border in Bangladesh where he says several hideouts of the Tripura rebel groups exist… It is not known which of Tripura's several rebel ethnic groups were responsible for the massacre." **[32br]**

15.37 According to a BBC News report, dated 15 April 2004, a faction of the National Liberation Front of Tripura (NLFT) declared a ceasefire with the Indian security forces. "The leader of the NLFT faction, Nayanbashi Jamatia, said his group had taken the decision to suspend military action following several rounds of talks with the Indian government." **[32ei]** In a further report from the BBC on 6 May 2004, it was reported that:

"In what is seen as a further break-up of the state's once strongest rebel group, the National Liberation Front of Tripura (NLFT), the group's former general secretary, Mantu Koloi, said more surrenders were expected from the NLFT ranks. This leaves only a small number of fighters with the NLFT

Chairman Biswamohan Debbarma, who, the surrendered rebels say, is in a small camp in the remote Chittagong Hill Tracts of Bangladesh." **[32ej]**

15.38 According to a BBC News report, dated 17 May 2004, Indian security forces patrolling a remote area bordering the Chittagong Hill Tracts in Bangladesh were attacked by Tripura rebel separatists; at least six soldiers were killed in the attack. The BBC reported that most factions of the rebel group are now involved in peace talks with the Indian Government, but some 200 fighters loyal to the chairman have not joined the ceasefire. **[32ek]** On 14 June 2004, BBC News reported that, according to the local police, at least 24 people had been kidnapped and were being held by separatist rebels in or near the north-eastern Indian state of Tripura. In response to the kidnapping, it was reported that a large contingent of police and paramilitary forces were patrolling a key road in Tripura's northern district where the incident took place…The BBC reported that NLFT chairman, Biswamohan Debbarma, is upset over the desertion of hundreds of guerrillas from his faction of the NLFT and it was believed that he was responsible for the kidnapping. **[32el]** Tripura police chief, G.M. Srivastava, believed to be the architect of the earlier surrenders **[32ej]**, said he expects more rebels to surrender soon. **[32el]**

15.39 The Foreign Office travel report for 2005 advised against travel to Manipur and Tripura, stating that: "There is a risk from insurgent groups, mainly in rural areas of these and other states in the east and north east (particularly Manipur and Tripura). Although foreigners have not been the deliberate targets of violence, attacks can be indiscriminate. Kidnapping, banditry and insurgency are rife." **[7k]**

Assam

15.40 The BBC reported in a news article dated 10 December 2004:

"A leading rebel organisation in the north-east Indian state of Assam has rejected an offer of peace talks with the Indian Government. The powerful United Liberation Front of Assam, (Ulfa) says it could not accept the offer because of a demand that the group give up violence… India's north-east is home to more than 200 ethnic and tribal communities and more than 20 rebel groups fighting for greater degrees of independence or tribal rights. Ulfa is one of the most powerful groups in the region and has been fighting Indian security forces for more than two decades."

It is reported that Ulfa would like the question of Assamese sovereignty discussed but this is unacceptable to Delhi. **[32fg]**

15.41 The Foreign Office Travel Advice report for 2005 states that:

"A series of bomb attacks in the north eastern states of Assam and Nagaland over the weekend of 2/3 October 2004, marked an increase in the severity of terrorist incidents. Attacks were carried out in public places including railway stations and local shops. In August 2004, an Independence Day function in Assam was bombed killing 22 people, mainly children. Further bombings, including in the capital area of Guwahati, took place on 9 March 2005." **[7k]**

15.42 As reported by BBC News on 28 May 2005, India's Government invited the leading north-eastern separatist group, the United Liberation Front of Assam,

to participate in talks. "The rebel group has so far refused to join talks because of disagreements with Delhi over the sovereignty issue." So far there had been no official reaction from the ULFA. "Most rebel groups in Assam, including the National Democratic Front of Bodoland (NDFB) have started negotiations with Delhi." **[32hi]**

15.43 As noted by the BBC on 9 August 2005, "The top separatist group in India's Assam state says it was behind attacks on pipelines…But the United Liberation Front of Assam denied it killed four people in a bombing of a marketplace near state capital Guwahati." Police blamed Ulfa for the bus stop bombing. **[32gw]**

15.44 As noted in a BBC News item dated 26 August 2005:

"The Indian army says it has launched an operation against the top separatist group in the north eastern Assam state. At least five rebels belonging to the United Liberation Front of Assam (Ulfa) have died in the fighting so far, the army said. The operation was launched after the rebels refused to begin talks with the Indian Government…They said a senior Ulfa leader Ritu Bora had been killed in the fighting along with four other rebels…Earlier this month, the army launched an operation in the area to flush out the rebels from Assam's Joypur and Arunachal Pradesh's Changlang areas…Analysts say efforts to open a dialogue between the Indian government and Ulfa have almost fallen through after Delhi refused to release 10 senior rebel leaders." **[32it]**

15.45 As noted by BBC News on 9 October 2005, the army was called in to restore order following ethnic riots in Assam where at least 14 villagers were killed during clashes between rival ethnic groups. The majority of the dead were from the Karbi tribe who are in opposition to the Dimasa tribe and both are among many ethnic groups battling for control of territory. Officials claim more than 9,000 people have been displaced by the violence thus far. **[32iv]**

15.46 BBC News reported on 5 December 2005 that the army in Assam has been authorised to shoot on sight in a bid to prevent more violence in troubled Karbi Anglong district. In recent weeks there were 125 fatalities in clashes between 2 rival tribal guerrilla groups. Anyone other than security personnel, wearing a military uniform and carrying weapons will be shot on sight. **[32gc]**

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

Manipur

15.48 As reported in the USSD 2005 report:

"Insurgent groups in the Northeast continued to attack civilians. In April a group based in Manipur, called the People's Revolutionary Party of Kangleipak, executed the parents of two of its members who had surrendered, and seriously wounded the mother of a third. On August 7, ULFA insurgents

detonated a bomb at a bus station in Boko, Assam, killing four persons and wounding three others. The insurgents also attacked oil pipelines in the districts of Sibsagar, Dibrugarh and Tinsukia. In September eight people were killed and several wounded when Kuki Revolutionary Army rebels fired on villagers in Karbi Anglong district, Assam." (as noted by USSD in its 2005 annual report) **[2c]**

15.49 As reported by BBC News on 1 June 2005, according to police three people were killed in two separate attacks in the north-east Indian state of Manipur when unidentified gunmen shot at three traders late on Tuesday night; two of them died with the third in a serious condition. Separately, another man was shot and killed in the state's southern district of Churachandpur. Police did not know the motive for the attack but suspected separatists' involvement. **[32if]**

15.50 BBC News reported on 10 August 2005 that organisations representing Naga tribesmen lifted a month-long blockade of a national highway in the north-eastern state of Manipur. "They were demanding that some parts of Manipur be integrated into the neighbouring state of Nagaland. The federal Government has rejected the idea saying it is opposed by Manipur's political parties." They lifted the blockade because of hardship caused to people, according to a Naga spokesman, threatening to resume the blockade at any time unless the state and federal Governments met their demands. The Indian Government ordered an airlift of essential commodities to Manipur from neighbouring Assam. Earlier attempts to break the blockade by the Manipur police were thwarted when Nagas retaliated by burning down scores of Government offices in four districts of Manipur where Nagas are prevalent. **[32 hk]**

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

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

In addition refer to Section 10.01 on Kashmiri militant groups

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FREEDOM OF SPEECH AND MEDIA

16.01 As noted in the USSD 2005 report:

"The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; with some limitations… Under the Official Secrets Act, the government may restrict publication of sensitive stories or suppress criticism of its policies, but no cases of government suppression were reported during the year… A vigorous press reflected a wide variety of political, social, and economic beliefs. Independent newspapers and magazines regularly published and television channels broadcast investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticised perceived government lapses." **[2c] (Section 2a)**

"Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned. The law does not permit privately owned radio stations to broadcast news, leaving only government controlled radio stations free to report news over the radio." **[2c] (Section 2a)**

16.02 "With the exception of radio, foreign media was, for the most part, allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing serious competition for Doordarshan, the government-owned television network. While government television was frequently accused of manipulating the news in the government's favour; some privately-owned satellite channels often promoted the platforms of political parties their owners supported." (USSD 2005) **[2c] (Section 2a)**

16.03 As noted in the same report:

"AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licences only authorized entertainment and educational content. In June the government formally cleared the domestic publication of foreign newspapers and periodicals…although imported copies of such periodicals had been freely available for years. However, local editions of foreign press were still prohibited: country-specific editions were required to be published by a local company to comply with foreign direct investment regulations…" **[2c] (Section 2a)**

16.04 Reporters Without Borders 2005 report notes: "With more than 40,000 titles, India boasts the world's largest press, but the authorities are not welcoming to foreign press groups…" **[42d]** The BBC Country Profile February 2006 states: "India's press is lively. Driven by a growing middle class, newspaper circulation has risen and new titles compete with established dailies." **[32av]**

16.05 As stated in the Reporters Without Borders Annual Report for 2003, "The diversity of news is undeniable. India has more newspapers than any other country and the number of readers has increased by 17 million since 1999." **[42a] (p1)**

16.06 As reported in the Reporters Without Borders Annual Report for 2005:

"The Congress Party's return to power has already had positive consequences for press freedom. It abolished a controversial anti-terrorist law and extremist

Hindus hostile to the press did not enjoy the same degree of impunity as in previous years. However brutal attacks against journalists persisted, on the orders of criminal gangs, political militants and some local authorities. One reporter was murdered for his investigations." **[42d]** The report continues, "However in some provinces, criminal gangs, political militants, religious and armed groups continue to harass the press." **[42d]**

16.07 The BBC Country Profile for India, updated on 4 February 2006, reports: "Broadcasting in India has flourished since state TV's monopoly was broken in 1992. The array of channels is still growing… Internet use has soared; more than 38 million Indians were online by 2006." **[32av]**

16.08 According to the BBC News Country Profile, dated 4 February 2006, only public All India Radio (AIR) is permitted to broadcast news on the radio. **[32av]**

16.09 As reported by Reporters Without Borders Annual Report for 2003, the Government opened up the print media to foreign investment in 2002 by allowing up to 26 per cent to be internationally owned, ending a situation under which all newspapers and magazines had to be owned by Indians. A law on access to information was adopted for the first time on 4 December 2002. It aimed to end the secrecy cloaking government activity but significantly exempted information about defence, national security and many aspects of foreign policy. Nonetheless, the files of other ministries which had until then been inaccessible could now be made available to journalists. **[42a] (p1)**

16.10 Reporters Without Borders Third Annual Worldwide Press Freedom Index, 2004, states India figures in the bottom half of the index despite having a "free and lively independent media, since killings and physical attacks on journalists, along with outdated laws, still prevent a full flowering of the press". **[42c]** The report continues, "Violence against the media in India rarely comes from the authorities but from political activists and in Kashmir from armed groups." **[42c]**

16.11 The USSD 2005 report notes: "A government censorship board reviewed films before licensing them for distribution. Censoring material deemed offensive to public morals or communal sentiment." **[2c] (Section 2a)**

16.12 As reported by the Committee for the Protection of Journalists in their India report covering events of 2004:

"For the second year in a row, the Central Board for Film Certification, India's powerful censorship board, tried to ban a documentary film about the 2002 sectarian riots in the western state of Gujarat. Later in 2004, the board reversed its ruling and allowed the release of the film, 'Final Solution.'…In 2003, the board banned 'Aakrosh' (Cry of Anguish), a Hindu-language film about Gujarat that contained interviews with survivors and witnesses, because it was 'negative'." **[104a]**

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TREATMENT OF JOURNALISTS

16.13 As reported by the Library of Congress Federal Research Division, Country Profile 2004: "Indian media routinely address controversial issues, such as political corruption and discrimination against women, sexual minorities, indigenous peoples, and 'untouchables'. However, the government has been accused of harassing and jailing journalists who investigate topics such as corruption and the situation in Kashmir." **[112]**

16.14 As noted in the US State Department Report for 2005:

"The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the publication of material likely to incite murder or any act of violence; however, newspapers in Srinagar reported in detail on alleged human rights abuses by the government and regularly published separatist Kashmiri groups' press releases." **[2c] (Section 2a)**

"The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses. In October 2004 the Government permitted the first delegation, in more than 50 years, of Pakistani journalists to visit Jammu and Kashmir. The correspondents, on a trip sponsored by the South Asia Free Media Association, had access to the entire spectrum of government and separatist opinion." **[2c] (Section 2a)**

16.15 According to Reporters Without Borders' Annual Report 2004, the federal authorities were responsible for harassing a number of staff at the news website "Tehelka.com" after the website published details of Government corruption. There were further reports of journalists being subject to harassment from national and regional politicians and harassment and obstruction from police. **[42b] (p2-6)**

16.16 According to Reporters Without Borders' Annual Report 2005:

"Journalists are regularly threatened by security forces and armed separatist groups in Manipur State in the north-east and in August the government banned the local television channel ISTV 'in the public interest'. The authorities were apparently unhappy that a news programme in the local Metei language was such a big success. The channel later won a court appeal against the ban." **[42d]**

16.17 As noted in the same report:

"No journalists were murdered in 2004 in Kashmir in the north-east but at least five were wounded, in a grenade attack mounted by a radical separatist group against the daily Greater Kashmir. Elsewhere there is still a high level of separatist and security forces threat against journalists. The year was marked by a historic visit, the first for more than 50 years, of a group of Pakistani reporters to the province disputed by India and Pakistan." Reporters Without Borders reports that in 2004 1 journalist was killed, 23 were physically attacked, and 13 media were censored or ransacked. **[42d]**

16.18 BBC News reported on 20 July 2005:

"Police in India's Uttar Pradesh state have arrested a publisher for a sketch of the Prophet Mohammad in a book. They said the drawing was likely to cause outrage among the Muslim community as images of the Prophet are considered blasphemy in Islam. The publisher, Anit Agrawal, was arrested in the city of Merrut, 80km (50 miles) east of Delhi…A court remanded Mr Agrawal in custody…for 14 days….Authorities took action after a complaint by local Muslims who said their feelings had been hurt by the book. They said the sketch was against their religion which bans idol worship." **[32he]**

16.19 As reported by the Committee for the Protection of Journalists in their India report covering events of 2004:

"The Indian media played an active role in the spring elections, according to local journalists, providing strong campaign coverage and monitoring for irregularities in the vast electoral process…The election results were in some respects positive for the press. Jayaram Jayalalitha, chief minister of the southern state of Tamil Nadu known for her intolerance of media criticism, suffered a massive defeat when her party failed to win a single seat in the general election. Days later, she axed several controversial proposals and withdrew the estimated 125 criminal defamation lawsuits her government had pending against local and national news outlets, including 20 criminal cases against *The Hindu* alone." **[104a]**

"Journalists covering war-ravaged Kashmir were targeted or caught in the crossfire between Indian government forces and Islamic militants throughout 2004, especially during the elections." **[104a]**

16.20 BBC News reported on 19 August 2005 that police arrested five writers in Andhra Pradesh, believed to be supporters of the newly banned Communist Party of India (Maoist). "The head of the Revolutionary Writers Association (Virasam), Kalyan Rao, and the poet, Varavara Rao, were among those arrested." The Government banned the writers association, which the Government claims has links to the rebels. The Government re-imposed a ban on the Maoist party amid continuing violence, along with six other front-line organisations. The poet had previously helped organise peace talks between the rebels and the state Government but these broke down in January 2005. **[32gu]**

16.21 A Committee for the Protection of Journalists News Alert 2006 called on the authorities in Assam to investigate the death of Prahlad Goala, allegedly murdered on 6 January 2006 after writing a series of articles on corruption in a daily newspaper, linking local forestry service officials to timber smuggling. Local journalists, organisations and civic groups held a protest on 10 January calling for a full investigation into his death. **[104b]**

16.22 In a news article by Reporters Without Borders, published on 14 February 2006, it was reported there had been a wave of violence against Indian media by separatists and armed religious groups in the week of 6 February. The Kangleipak Communist Party claimed responsibility for the attempted murder of the bureau chief for the regional daily *Polnapham* in Imphal, Manipur state on 9 February. The same day, six members of the Javed Mir faction of the Jammu and Kashmir Liberation Front ransacked offices of the regional daily *Greater Kashmir* after the paper declined to publish one of their statements. Three staff were injured and equipment stolen. *Greater Kashmir*, a top-selling

newspaper, received threats the same morning and security guards were placed outside. Militants from the Hindu extremist Shiv Sena party raided offices of a national television channel in Mumbai on 8 February and four people were arrested in connection with the attack. **[42e]**

16.23 Reporters Without Borders reported on 13 June 2006 that a journalist was ambushed whilst travelling on a motorbike and stoned resulting in his death in a rural area of Maharashtra state on 8 June. Journalists linked his death to articles he wrote in the Marathi-language daily *Tarun Bharat*. Local police opened an investigation. **[42f]**

16.24 The Committee for the Protection of Journalists (CPJ) reported on 12 June 2006 that an assassination attempt on a correspondent in Kashmir working for *The Hindu* newspaper was foiled when the gun jammed. The police were investigating. Islamic separatist groups in Kashmir are frequently accused of attacks on journalists but sometimes Indian-backed groups are responsible. Many attacks remain unsolved and the motives unknown. **[104c]**

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HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

17.01 As reported in the US State Department report covering 2005:

"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. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities…The government banned 355 NGOs during the year for misuse of funds. In April 2004 ACHR alleged harassment by local authorities, including denial of government services and numerous intimidating visits from the security forces. Other human rights activists and NGOs also complained of surprise visits and other harassment by police and government officials. Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, were attacked in past years and in some cases killed." **[2c]**

17.02 No such cases were reported during the year, although one monitor was killed during the 2004 polls by an improvised explosive device. The report continues:

"International human rights organizations were restricted. Foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes. For example, in 2004, the government did not respond when AI's secretary general, Irene Khan Zubeida, applied for a visa. This was her third attempt, following unsuccessful visa applications in 2002 and 2003. AI claimed that the repeated visa denials may be linked to its demand for a retrial of the Best Bakery case and its report critical of state actions during the 2002 Gujarat riots." **[2c] (Section 4)**

17.03 According to a Freedom House survey report of 2003, "Human rights organisations generally operated freely throughout 2002." However, Amnesty International's 2002 annual report noted that the harassment of human rights defenders by state officials and other actors, including beating, shooting, and the use of excessive force by police, remained a concern. An Amnesty International team hoping to assess the situation in Gujarat was denied visas by the Indian Government in July [2002]…A report issued by Human Rights Watch documented numerous cases of police harassment of HIV/AIDS outreach workers in several states:

"The work of rights activists could also be hindered by a Home Ministry order issued in July 2001 that requires organisations to obtain clearance before holding conferences or workshops if the subject matter is political, semi-political, communal or religious in nature or is related to human rights." **[43a] (p4)**

17.04 Amnesty International (AI), in its 2005 annual report (covering events in 2004), noted that: "In numerous states, human rights defenders were harassed." The report states that in many parts of the country human rights defenders were also attacked.

17.05 The same report stated:

"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." **[3n] (p3)**

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CORRUPTION

18.01 The USSD 2005 Report published on 8 March 2006 states: "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." **[2c]**

18.02 Freedom House stated in its 2006 India Annual report: "Despite the vibrancy of the Indian political system, effective and accountable rule continues to be undermined by political in-fighting, pervasive criminality in politics, decrepit state institutions, and widespread corruption." **[43d]**

18.03 Transparency International, in its 2005 Transparency International Corruption Perceptions Index 2005 report and an Asia Media article dated 31 August 2006, ranked India 88th in the world corruption ranking, out of 159 countries, and India has consistently been ranked as one of the worst countries for corrupt practices. The Asia Media article states that the Right to Information (RTI) Act gives Indian citizens the power to question officials on virtually anything, excluding issues of national security, cabinet papers and information protected by the courts. "For a nominal fee, officials have to deliver reports on the progress of applications for voter's ID card, water and electricity connections." It is thought to be proving to be a very effective tool in fighting corruption. **[115] [117]**

18.04 According to One World.net in its In-depth country guide for India:

"For a country with such democratic credentials, India's ranking in the annual Corruption Perceptions Index published by Transparency International is disappointingly low. The Congress Party and the foreign minister, Natwar Singh, were both named as beneficiaries of improper payments in the Volcker Report on the Iraq oil-for-food scandal. And the country was humiliated by the exposure of 11 MPs caught in the act of accepting cash bribes, apparently to plant suitable questions in parliament."

"Another formidable test of implementing new legislation will be posed by the radical Right to Information Act which promises access to details of public sector information within 30 days of request. If India's famed bureaucracy can really be decoded in this way, the Act promises to transform the transparency and accountability of public services." **[118]**

18.05 As noted by the Canadian IRB on 14 December 2005, various sources consulted such as media articles, non-governmental organization publications and academic literature describe widespread, growing, all-pervasive and endemic corruption. It notes that corruption is commonplace and routinely tolerated. **[4o]**

18.06 The same report stated that an American lawyer who published several articles on the Indian legal system reported in 2003 that corruption and bribery of politicians occurs. In 2005 he stated that petty corruption was particularly rampant in the civil service. Another interviewee agreed and also noted that corruption exists in the police, government and judiciary. A Supreme Court judge heading an anti-corruption team commented, "In India corruption is rampant among bureaucrats, politicians and businessmen …. Politicians as

well as business men make use of bureaucrats to gain benefits … without bureaucrats they … cannot do anything." **[4o]**

18.07 The same report stated that non-governmental organizations and human rights activists indicated that police corruption was pervasive in 2003 and 2004:

"A 30 September 2005 report on the police in India by the Asian Human Rights Commission stated that 'there is ample evidence of increasing illegal behaviour by the police in India'." The report continued, "The majority of complaints received by the [National Human Rights Commission] are against police officials, and corruption is one of the four principal categories of complaint. The results of a study on petty corruption done by Transparency International and the Delhi Centre for Media Studies, which involved a sample of 14, 405 respondents in 20 Indian states and covered 151 cities and 306 villages, revealed that 80 per cent of respondents had paid a bribe to the police, although the study did not outline the circumstances of the bribes (TI 30 June 2005a, 8). The study concluded that of the eleven public services examined, the police was the most corrupt." **[4o]**

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

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

18.09 The Central Vigilance Commission (CVC) Act came into force on 11 September 2003. It governs the CVC which is an independent office within the Government designated to receive complaints alleging corruption or misuse of office by civil servants and recommend investigation where appropriate. In addition the 1988 Prevention of Corruption Act, aimed at the activities of civil servants, applies to all states except for Jammu and Kashmir and includes Indian citizens abroad. Offences under this act include accepting "gratification" for official acts (other than legal entitlement), influencing a public servant and exercising personal influence with a public servant. Offences under this act are punishable with imprisonment between six months to five years. Depending on the circumstances a public servant may be found to have committed criminal misconduct under this act and may incur a fine and imprisonment from one to seven years. **[4o]**

18.10 As stated on the Government of India Central Vigilance website: "The Government of India has authorized the Central Vigilance Commission as the 'Designated Agency' to receive written complaints for disclosure on any

allegation of corruption or misuse of office and recommend appropriate action."

18.11 The Central Bureau of Investigation (CBI) is an independent investigating police agency for major crimes having interstate and international ramifications. One of the divisions is the anti-corruption division, responsible for collecting information on corruption and carrying out inquiries and investigations into complaints about bribery and corruption, and also taking action to prevent corruption. **[4o]**

18.12 A district police constable was arrested by the State Vigilance Bureau in September 2006 on allegations of involvement in a case of cheating and corruption following a complaint against three policemen by a local resident. (The Times of India Online, 8 September 2006) **[13i]**

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FREEDOM OF RELIGION

INTRODUCTION

19.01 The country is a secular state with no official religion. As noted in the 1997 report of the Special Rapporteur on religious intolerance, the preamble to the Indian Constitution proclaims India's commitment to democracy and secularism and guarantees all citizens freedom of religion and belief as well as the right to practise religion freely. **[6b] (p3)**

19.02 As reported in the US Department of State International Religious Freedom report 2006 (USIRF): "The Constitution provides for freedom of religion, and the National Government generally respected this right in practice; however, some state and local governments restricted this freedom…The country is a secular state with no official religion." **[2b] (Section I. Status of Religious Freedom)**

19.03 The same report continued:

"While the National Government took positive steps in key areas to improve religious freedom, the status of religious freedom generally remained the same during the period covered by this report. The United Progressive Alliance (UPA) continued to implement an inclusive and secular platform based on respect for the country's traditions of secular government and religious tolerance, and the rights of religious minorities. Terrorists attempted to provoke religious conflict by attacking Hindu Temples in Ayodhya and Varanasi. The Government reacted in a swift manner to rein in Hindu extremists, prevent revenge attacks and reprisal, and assure the Muslim community of its safety. The Government also quelled religious violence in Vadodara, Gujarat, after protests over the demolition of a Muslim shrine threatened to spark Hindu-Muslim violence. The National Human Rights Commission (NHRC) continued monitoring ongoing legal battles surrounding the 2002 Gujarat riots. " **[2b] (Section II. Status of Religious Freedom)**

19.04 As noted in the US Department of State report on International Religious Freedom, 2006: "A number of federal and state laws regulate religious life in the country. These include the Foreign Contribution Regulation Act (FCRA) of 1976, several state anti-conversion laws, the Unlawful Activities Prevention Act of 1967, the Religious Institutions (Prevention of Misuse) Act of 1988, India's Foreigners Act of 1946, and the Indian Divorce Act of 1869."

"The Government may ban religious organizations that provoke intercommunity friction, have been involved in terrorism or sedition, or have violated the FCRA, which restricts the disbursement of foreign funds to missionaries and religious organizations, both foreign and local. Some organizations complained that the FCRA prevented them from properly financing humanitarian and educational activities." **[2b] (Section II, Restrictions on Religious Freedom)**

19.05 The Special Rapporteur's 1997 report notes that the Penal Code prohibits and punishes any violation of tolerance and non-discrimination based on religion or belief: promoting enmity between different groups on grounds of religion (Section 135A); injuring or defiling a place of worship with intent to insult the religion of any class (Section 295); deliberate and malicious acts intended to outrage the religious feeling of any class by insulting its religion (Section

295A); disturbing religious assembly (Section 296); and uttering words with deliberate intent to wound religious feelings (Section 298). **[6b] (p4)**

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

19.07 The USIRF report for 2006 states:

"According to the 2001 Government census, Hindus constituted 80.5 percent of the population, Muslims 13.4 percent, Christians 2.3 percent, Sikhs 1.8 percent, and others, including Buddhists, Jains, Parsis (Zoroastrians), Jews, and Baha'is, 1.1 percent. Slightly more than 90 percent of Muslims were Sunni; the rest were Shi'a. Buddhists included followers of the Mahayana and Hinayana schools, and there were both Roman Catholic and Protestant Christians. Tribal groups (members of indigenous groups historically outside the caste system), which in government statistics generally were included among Hindus, often practiced traditional indigenous religions (animism). Hindus and Muslims were spread throughout the country, although large Muslim populations were found in the states of Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, Karnataka, and Kerala, and Muslims were the majority in Jammu and Kashmir. Christians were concentrated in the northeast, as well as in the southern states of Kerala, Tamil Nadu, and Goa. Three small northeastern states (Nagaland, Mizoram, and Meghalaya) had large Christian majorities. Sikhs were a majority in the state of Punjab." **[2b] (Section I, Religious Demography)**

INTER-RELIGIOUS MARRIAGES

19.08 As noted in a Canadian IRB response dated 9 January 2006: "According to several sources, inter-religious and inter-caste marriages are legal in India and are governed by the Special Marriage Act 1954." Marriage between couples across caste and religious lines may be sanctified under the Special Marriage Act 1954 subject to certain conditions at the time of the marriage. **[4r]**

19.09 The same source continues: "…Inter-religious marriages are more common between students and among professionals in urban areas, and are less likely in rural areas." The professor consulted commented that marriages between Sikhs and Hindus are 'not uncommon' in the state of Punjab because of prominent numbers of Hindus. It was his opinion that: …The general societal attitude toward inter-religious married couples in India is 'not favourable'. In correspondence to the Research Directorate, an India-based lawyer agreed that society in general disapproves of inter-religious marriages but added that the treatment of married couples with different religious backgrounds depends on their location and social levels, and an associate professor of social and cultural anthropology added that 'social attitudes often [cause people to] ostracize and discriminate against such unions'. A July 2004 news article stated that society is 'deeply opposed' to inter-religious marriages, and highlighted that such attitudes are prevalent in Gujarat, where relations between Muslims and Hindus became 'polarized' after Hindu-instigated violence against Muslims in 2002, in which 2,000 people, mainly of Muslim faith, died. The news article also highlighted parents' opposition to inter-religious marriage." **[4r]**

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RELIGIOUS TENSION

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

"Religiously oriented violence has occurred, principally among Hindus and Muslims and most notably in Ayodyha (in Uttar Pradesh) and urban areas of Gujarat and Maharashtra. While less common than separatist violence, these conflicts prompt greater popular debates on Indian history, society, and politics; there are allegations that national and state-level politicians with the Bharatiya Janata Party (BJP) have facilitated such conflicts." **[112]**

19.11 In the USIRF report for 2006 the US State Department concluded that despite the incidents of violence and discrimination during the period covered by the report, relations between various religious groups were generally amicable among the substantial majority of citizens:

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

19.12 The same report continues:

"The Home Ministry reported that during 2005, the communal situation in the country, by and large, remained under control during the current year. No major communal incident was reported from any part of the country, except the one incident at Mau town in Uttar Pradesh on October 14, 2005, involving a confrontation over the holding of a procession and the use of loudspeakers by Hindus during the Bharat Milap programme, which claimed ten lives. The situation was, however, brought under control." **[2b] (Societal Abuses and Discrimination)**

19.13 In its Human Development Report, 2004, the United Nations Development Programme noted that, when reviewing levels of communal violence in India over the past 50 years, the period 1990-2002 accounts for over 36 per cent of all recorded violence. **[71] (p74)** The report further notes that, regarding religious difference, "Recent communal violence raises serious concerns for the prospect for social harmony and threatens to undermine the country's earlier achievements." **[71] (p48)**

19.14 As noted in the USIRF report for 2006: "The NHRC and the National Commission for Minorities (NCM) are governmental bodies created to investigate allegations of discrimination and make recommendations for redress to the relevant local or national government authorities. Although

NHRC recommendations do not have the force of law, central and local authorities generally follow them." **[2b] (Section II: Status of Religious Freedom)**

19.15 The USSD 2005 report stated that, "Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, educational institutions administered by minority religions were allowed to reserve seats for their co-religionists even when they received government funding. Benefits accorded Dalits (formerly known as 'untouchables') were revoked once they converted to Christianity or Islam, but not Buddhism. Or Sikhism, ostensibly because once a dalit converted to Christianity or Islam, he would no longer technically be a dalit, although such caste distinctions informally existed in both religions." **[2c] (Section c)**

19.16 The same report noted that:

"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 harbour 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 may commence." **[2c] (Section 2c)**

19.17 As reported in the same report:

"During the year there were no significant changes in the status of religious freedom, and problems remained in some areas. Attacks against religious minorities persisted. No new anticonversion laws were enacted during the year. Hindutva, the politicized inculcation of Hindu religious and cultural norms to the exclusion of others, remained a subject of national debate and influenced some governmental policies and societal attitudes." **[2c] (Section 2c)**

19.18 The same report continues: "Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities occurred in several states, which brought into question the government's ability to prevent sectarian and religious violence or prosecute those responsible for it. 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." **[2c] (Section 2c) (Societal Abuses and Discrimination)**

19.19 As noted in the Annual Report of The United States Commission on International Religious Freedom, May 2005:

"Significant developments affecting freedom of religion or belief have taken place in India in the past year…Under the previous BJP leadership, the Commission found the Indian government's response to increasing violence against religious minorities in the state of Gujarat and elsewhere to be inadequate. In addition, several senior BJP government leaders had publicly allied themselves with, or refused to disassociate themselves from, extremist Hindu organizations that were implicated in that religious violence. In response, in 2002-2003, the Commission recommended that India be designated a 'country of particular concern,' or CPC." **[2i] (p126-129)**

"Following the May 2004 parliamentary elections, however, the new prime minister, Manmohan Singh, promptly stated that the Congress-led government would reject any kind of religious intolerance and vowed to return the country to its pluralistic traditions. As a result of the dramatic changes taking place in India since the 2004 elections, the Commission no longer recommends that India be designated a CPC." **[2i] (p126-129)**

"…India has a democratically elected government, is governed essentially by the rule of law, and has a tradition of secular governance that dates back to the country's independence. India has a judiciary that is independent, albeit slow-moving and frequently unresponsive, that can work to hold the perpetrators of religious violence responsible; contains a vibrant civil society with many vigorous, independent non-governmental human rights organizations that have investigated and published extensive reports on the rise of religiously-motivated violence; and is home to a free press that has widely reported on and strongly criticized the situation on the ground in India and the growing threats under the BJP government to a religiously plural society." **[2i] (p126-129)**

"Despite these democratic traditions, religious minorities in India have been the victims of violent attacks, including killings, in what is called 'communal violence.' In the late 1990s, there was a marked increase in violent attacks against members of religious minorities, particularly Muslims and Christians, throughout India, including killings, torture, rape, and destruction of property. Those responsible for communal violence were rarely held responsible for their actions. This violence against religious minorities coincided with the rise in political influence of groups associated with the Sangh Parivar, a collection of Hindu extremist nationalist organizations that view non-Hindus as foreign to India and aggressively press for national governmental policies to promote 'Hindutva,' or the 'Hinduization' of culture. The ascent to power in 1998 of the Sangh Parivar's political wing, the BJP, helped to foster a climate in which violence against religious minorities was not systematically punished. Although it was not directly responsible for instigating the violence against religious minorities, it was clear that the BJP-led government did not do all in its power to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility against these minority groups." **[2i] (p126-129)**

19.20 The same report continues:

"In addition to the steps taken by the Supreme Court, the defeat of the BJP in the May 2004 parliamentary elections and the actions taken by the new government have resulted in a marked improvement in conditions for freedom of religion or belief in India. In contrast to the 'culture of impunity' in place under the previous BJP-led government, in July 2004, Prime Minister Manmohan Singh was quoted in the Indian press as saying that 'under my government the violence against Christians of recent years will be a thing of the past.' Prime Minister Singh reportedly stated that among the priorities of his government would be 'promoting social harmony and rejecting every kind of fundamentalism.' The new government also pledged to take immediate steps to reverse the 'communalization' of education that had occurred under the BJP government; one of the Congress-led government's first actions was to appoint a committee of historians to remove the 'distortions and communally-biased portions' of the textbooks introduced in 2002 promoting the Sangh Parivar's Hindutva views. Another positive step was the rapid

repeal of the Prevention of Terrorism Act, which many had charged was unfairly targeting Muslims… Despite the improved situation, concerns about religious freedom in India remain…" **[2i] (India section)**

19.21 The USSD International Religious Freedom Report for 2006 notes:

"While the National Government took positive steps in key areas to improve religious freedom, the status of religious freedom generally remained the same during the period covered by this report. The United Progressive Alliance (UPA) continued to implement an inclusive and secular platform based on respect for the country's traditions of secular government and religious tolerance, and the rights of religious minorities. Terrorists attempted to provoke religious conflict by attacking Hindu Temples in Ayodhya and Varanasi. The Government reacted in a swift manner to rein in Hindu extremists, prevent revenge attacks and reprisal, and assure the Muslim community of its safety. The Government also quelled religious violence in Vadodara, Gujarat, after protests over the demolition of a Muslim shrine threatened to spark Hindu-Muslim violence. The National Human Rights Commission (NHRC) continued monitoring ongoing legal battles surrounding the 2002 Gujarat riots." **[2b] (Introduction)**

19.22 The same report noted that the UPA Government continued in its efforts to improve religious tolerance and promoted religious harmony. The National Human Rights Commission and the National Commission for Minorities continued to promote freedom of religion and focused on human rights problems in their annual reports, encouraging judicial resolution where possible. **[2b] (Improvements and Positive Developments in Respect for Religious Freedom)**

19.23 The UPA Government introduced legislation giving New Delhi the power to intervene where state governments fail to take measures to end communal outbreaks. The UPA also sought to increase the powers of the Human Rights Commission to investigate abuse cases. (USIRF report 2006) **[2b] (Improvements and Positive Developments in Respect for Religious Freedom)**

RELIGIOUS CONVERSIONS

19.24 It was reported in the USIRF 2006 annual report:

"Four states have laws in place banning forced religious conversion. Three other states have inactive laws or bills that await accompanying regulations before they can be enforced. Some NGOs claimed state governments used these laws to restrict voluntary conversions and to harass religious minorities. The issue of conversion, especially to Christianity, was highly contentious in the country. Hindu nationalist organizations frequently alleged that Christian missionaries lured Hindus, particularly from lower castes, with offers of free education and healthcare and equated such actions with forced conversions. Christians denied this, responding that low-caste Hindus convert of their own free will and that efforts by Hindu groups to 're-convert' these new Christians to Hinduism were themselves coercive. Arrests under these laws occurred during the reporting period in several states. All arrested were Christians. The Christian community contended that the anti-conversion laws were applied in a discriminatory manner and only enforced when a person converted from Hinduism to another religion." **[2b] (Restrictions on Religious Freedom)**

19.25 As reported in the USIRF for 2006:

"The states of Arunchal Pradesh, Chattisgarh, Madhya Pradesh, and Orissa have laws against forcible conversions. Gujarat and Tamil Nadu have inactive anti-conversion laws or bills awaiting accompanying regulations needed for enforcement. In 2006, the Rajasthan state assembly passed a law against forcible conversion, which is pending approval by the governor and cabinet. However, the National Government can intervene to prevent states from taking action if it determines that such moves pose a threat to national integrity and communal harmony or violate the spirit of the constitution." **[2b] (Restrictions on Religious Freedom)**

"The Orissa Freedom of Religion Act of 1967 requires the state government to submit a monthly report specifying the number of conversions that have taken place in the state. It also requires that potential converts inform the district magistrate of pending conversions and that local police officers conduct an inquiry to determine whether a proposed conversion is legitimate and submit a report to state authorities. There were no reports of district magistrates denying permission for conversions or of convictions under OFRA during the period covered by this report." **[2b] (Restrictions on Religious Freedom)**

19.26 The same report continues:

"Under current provisions in Chattisgarh and Madhya Pradesh, a conversion offense is punishable with imprisonment for a maximum of two years, and a maximum fine of $220 (10 thousand INR)…The Gujarat anti-conversion law prohibits conversion by force or allurement; however, the law had not been implemented by the end of the period covered in this report." **[2b] (Restrictions on Religious Freedom)**

"On March 26, 2006, the Rajasthan State Assembly passed an anti-conversion bill, which continued to await approval by the state governor and ratification by the state cabinet. At the end of the reporting period, the bill could not be implemented since the governor had sent the bill to the president of the country for comment. The proposed law prohibits 'conversion from one religion to another by the use of force or allurement or by other fraudulent means,'and defines allurement as 'any gift or gratification, either cash or kind'." **[2b] (Restrictions on Religious Freedom)**

"Reportedly, there were approximately twenty arrests in Madhya Pradesh under the state's anti-conversion law during the reporting period. There were no convictions and all those arrested were released on bail. There were no available official figures for other states; however, reports from faith-based NGOs and the media indicated that there were four arrests in Andra Pradesh, fourteen in Chhattisgarh, twenty-eight in Madhya Pradesh, two in Orissa, and one in Uttar Pradesh during the period covered by this report." **[2b] (Restrictions on Religious Freedom)**

19.27 As stated in the USIRF report 2006:

"There is no national law barring a citizen or foreigner from professing or propagating religious beliefs; however, speaking publicly against other beliefs is deemed dangerous to public order and is prohibited by the country's

Foreigners Act. This act strictly prohibits visitors on tourist visas from religious preaching without permission from the Ministry of Home Affairs. The Government forbids foreign missionaries of any faith from entering the country without prior clearance, and expels those who perform missionary work without the correct visa. Long-established foreign missionaries generally can renew their visas, but the Government has not admitted new resident foreign missionaries since the mid-1960s." **[2b] (Abuses of Religious Freedom)**

19.28 The Freedom House Centre for Religious Freedom report (in Hinduism and Terror, published 1 June 2004) noted that Hindus, particularly lower-caste groups such as Dalits (untouchables), who convert to another religion, are likely to face, in practice, legal discrimination. **[43b] (p3)** As reported by the USIRF 2006 Report, "Benefits accorded dalits were revoked once they converted to Christianity or Islam but not to Buddhism or Sikhism." **[2b] (Section II. Status of Religious Freedom)** Scheduled caste status is a system of "positive discrimination" that sets aside a minimum number of government (central, provincial and local) jobs for lower-caste groups. **[71] (p70-71)**

19.29 BBC News reported on 20 September 2006 that the BJP Gujarat Government passed an amendment in the law relating to religious conversions which has angered Christians and Muslims. The amendment classifies Buddhism and Jainism as branches of the Hindu religion. Supporters of the amendment say it will protect low-caste Hindus who they say are vulnerable to exploitation and pressure to convert. This amendment would mean that Buddhists and Jains will not require official permission to change religion. Estimates put Christians at less than 0.5 per cent of Gujarat's population as opposed to 85 per cent Hindus. Muslims in Gujarat constitute around 14 per cent of the population. **[32je]**

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MUSLIMS

19.30 A 1997 report of the Special Rapporteur states that "Muslims constitute India's largest minority as well as the second largest Muslim community in the world after Indonesia, and before that of Pakistan." **[6b] (p7)** As reported in a BBC News item dated 9 February 2005, "Of the 145 million Muslims in India, about 20 million are Shias." **[32ew]** The USIRF 2006 report noted that Muslims were spread throughout the country although large Muslim populations were located in the states of Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, Karnataka and Kerala. Muslims formed the majority in Jammu and Kashmir. **[2b] (Introduction)**

19.31 The Special Rapporteur's 1997 report noted that the Indian authorities do not restrict the religious activities of Muslims, who have freedom of religious practice and freedom to organise their services according to their codes, religious teachings and customs. **[6b] (p7)**

19.32 The Special Rapporteur noted that Muslims in India have their own educational establishments, including the madrasa religious schools responsible for disseminating the teachings of Islam. Muslims possess a large number of places of worship as well as the Waqf Board, which is responsible for the management of property belonging to religious communities and charitable institutions. **[6b] (p8)** The USIRF 2006 states that, "Most Islamic

madrassahs did not accept government aid, alleging that it would subject them to stringent security clearance requirements." **[2b] (Section II. Status of Religious Freedom)**

19.33 The same report continues:

"In 2003, the West Bengal Government brought the undergraduate and post-graduate sections of madrassahs under the higher education department of the state while promising to extend college status to the Calcutta Madrassah. The Government also decreed that the state's Public Service Commission would hire madrassah teachers and introduced new subjects like economics, computer science, and political science into their curriculum." **[2b] (Section II. Status of Religious Freedom)**

19.34 As stated in the USIRF report for 2006: "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 non-criminal matters, including family law and inheritance." **[2b] (Section II. Status of Religious Freedom)**

"On May 2, 2005, in response to concerns about the improper use of the triple talaq (the ability of a husband to divorce his wife by repeating, "I divorce thee" three times), 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." **[2b] (Section II. Status of Religious Freedom)**

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

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

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

19.36 As reported further by the same source: "The newly formed All India Shia Personal Law Board has 69 members compared to 204 members in the AIMPLB…. Earlier this month, a group of women formed the All India Muslim Women's Personal Law Board alleging that the religion's top body of [sic] had been ignoring the rights of Muslim women." It was founded with 35 members. **[32ew]**

19.37 The United Nations Background Paper 1998 states that Jammu and Kashmir are the only State in India where Muslims are in the majority. **[6e] (p7)** The 1997 report of the Special Rapporteur notes that here, the religious situation is seriously affected by the armed conflict between the Indian army and the militant extremists. Several mosques have been destroyed in India, including the Babri Masjid in Ayodhya on 6 December 1992 and the Charar-e-Sharief sanctuary in Jammu and Kashmir on 11 May 1995. The UN Rapporteur stated that according to official and non-governmental observers, the destruction of the Babri Masjid was an aberration, which could not be interpreted as evidence of an official policy of religious intolerance directed against Muslims. **[6b] (p9)**

19.38 The BBC reported on 17 April 2003 that a Muslim woman had been elected as the mayor of Ahmedabad, Gujarat, becoming the first Muslim mayor of Ahmedabad. **[32au]**

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

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

19.40 As reported in the USIRF report for 2006:

"On January 4, 2006, the supreme court upheld an earlier high court decision to provide a five percent quota for Muslims in education and government jobs in Andra Pradesh. The new 'reservations' increased the number of reserved jobs and positions in educational institutions to 51 percent and excluded Muslims who had already benefited from 'reservations' or who were successful in their own right. Previously, the state had added Muslims to its list of backward classes, which included castes and classes not included in the constitution that, while not subject to systematic caste discrimination, have less social mobility and economic advantages than other castes. This category included former untouchables who converted from Hinduism to other religions, nomads, and tribes people." **[2b] (Section II. Status of Religious Freedom)**

19.41 As noted by BBC News on 20 July 2005, police imposed a curfew in the district of Dhar in Madhya Pradesh state following Hindu-Muslim clashes leaving two people dead and three injured. According to the police a row between two families led to the killing of a Hindu man. A Hindu mob attacked a group of Muslims, killing one of them. "The area has seen trouble before, with clashes over a disputed religious monument claimed by Hindus and Muslims." **[32hb]**

19.42 As cited in correspondence from the Foreign and Commonwealth Office in 1992, various parts of India have suffered inter-communal violence between Hindus and Muslims. In the State of Gujarat, such violence predates Indian independence and has worsened in recent years. The antagonism has also been exacerbated by non-religious considerations. **[7a]**

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Ayodhya Mosque

19.43 Keesings Record of World Events, December 1992, notes the BJP and its allies had called repeatedly for the mosque at Ayodhya (built in the sixteenth century by the Mughal emperor Babar) to be replaced by a temple honouring the Hindu deity, Lord Ram. **[5a] (p1)** According to Europa World Year Book in 1990 the then BJP leader, Lal Krishna Advani, led a procession of Hindu devotees to the town to begin construction of a Hindu temple. Paramilitary troops were sent to Ayodhya and thousands of Hindu activists were arrested in an attempt to prevent a Muslim-Hindu confrontation. However, following repeated clashes between police and crowds, Hindu extremists stormed and slightly damaged the mosque and laid siege to it for several days. V. P. Singh, the Prime Minster of India at the time of the incident, accused Advani of deliberately inciting inter-communal hatred. **[1a] (p1649)**

19.44 Keesings Record of World Events for December 1992 notes that on 6 December 1992 around 100,000 Hindu kar sevaks (construction volunteers) responded to a call by the BJP and other Hindu organisations, including the Rashtriya Swayamsevak Sangh (RSS) and the Vishwa Hindu Parishad (VHP) – World Hindu Council – to resume construction work on the temple at Ayodhya. A small mob of Hindu zealots stormed past guards and razed the mosque to the ground. Within hours of the mosque's destruction, Ayodhya was gripped by fighting between Hindus and Muslims. By the following day there were reports of numerous deaths and arson attacks on Hindu and Muslim shrines across India despite strict security arrangements in most States. The worst affected cities were Bhopal, Bombay, Calcutta, Delhi, Jaipur, Kanpur and Surat. Southern States were also affected. **[5a]**

19.45 As noted in Europa, the Indian Government strongly condemned the desecration and demolition of the holy building and pledged to rebuild it. The leaders of the BJP, including LK Advani and the party's President, Dr Murli Manohar Joshi, and the leaders of the VHP were arrested; the BJP Chief Minister of Uttar Pradesh resigned, the State legislature was dissolved; and Uttar Pradesh was placed under President's Rule. On 8 December 1992, the security forces took full control of Ayodhya, including the disputed complex, meeting with little resistance. **[1a]**

19.46 As noted in an unstarred question to the Rajya Sabha, a few days later the Government banned five communal organisations, three Hindu and two Muslim, under the Unlawful Activities (Prevention) Act 1967 **[27a]** on the grounds that they promoted disharmony among different religious communities, as stated by Europa World Year Book. **[1a]** As noted in an unstarred question to the Rajya Sabha the banned organisations were: VHP, RSS, Bajrang Dal, Islamic Sevak Sengh (ISS) and Jamaat-I-Islami Hind. **[27a]**

The ban on these groups has since been lifted, as noted in the statement in reply to the Lok Sabha unstarred question. **[28a]**

19.47 As reported by Reuters in 1997, it was not until September 1997 that a court indicted 49 people on criminal charges over the demolition of the mosque. Among them were Lal Krishna Advani, then BJP President; Murli Manohar Joshi, former BJP President; and Bal Thackeray, the leader of Shiv Sena. The charges included rioting, creating hatred between two religious communities, defiling a place of worship and causing grievous hurt by threatening and damaging the life and safety of others. The BJP leaders claimed they were innocent and that the party was not responsible for destroying the mosque. **[8b]** According to a BBC news article dated 19 September 2003, in September 2003 a court in India ruled that Deputy Prime Minister L.K. Advani would not be tried in relation to the 1992 destruction of the mosque at Ayodhya. However the court recommended that seven other leading Hindus should be charged with inciting Hindu mobs to destroy the Babri mosque. **[32bl]**

19.48 As reported by BBC News on 6 July 2005: "An Indian high court has ordered opposition leader LK Advani to stand trial for his role in the demolition of a mosque that sparked religious riots. The court in Allahabad in northern Uttar Pradesh state overturned a lower court ruling in 2003 that the former deputy premier had no case to answer. Mr Advani is accused of inciting Hindu fanatics to attack the Babri mosque in Ayodhya in 1992." **[32ia]**

19.49 As reported by Guardian Unlimited on 29 July 2005: India's former deputy prime minister Lal Krishna Advani was charged on 28 July 2005 with rioting and inciting Hindu mobs to demolish a 16th century mosque 13 years ago, an act which triggered the worst religious riots in decades. "More than 3,000 people were killed in the ensuing riots, most of them Muslims." Since then the temple town in north India has been tied with the rise of Hindu extremism. **[40c]**

19.50 The article continues:

"A special court in northern India said Mr Advani, along with seven other rightwing Hindu leaders, had made 'provocative speeches' to crowds that had massed on the site in Ayodhya…Mr Advani had been acquitted by judges of similar charges in September 2003. But this month the high court in Uttar Pradesh overturned that ruling and asked the lower court to try him again. If convicted, Mr Advani, who is now the leader of the opposition and president of the Bharatiya Janata party, could be sentenced to up to 10 years in prison." **[40c]**

19.51 According to the same source, independent analysts have questioned the impartiality of the investigation given the manner in which charges have been dropped and reinstated in the last 24 months. **[40c]**

19.52 BBC News reported on 15 July 2005 that police arrested two suspected militants in Indian-administered Kashmir whom they allege helped the attackers of the disputed religious site at Ayodhya. "One gunman blew himself up and four others were killed after a two-hour battle with police in an attack on the Ayodhya holy complex…" A senior police officer stated there was a suspected link between the attacks and armed militants fighting Indian rule in Kashmir. "In a related development, police in the northern state of Uttar Pradesh, said the attack was carried out by the Lashdar-e-Toiba militant group." Widespread protests by

Hindu nationalist groups across India followed the attack, blaming Islamic groups supported by Pakistan. Pakistan denied any role in the raid and India said the raid should not affect peace talks but warned that such incidents if repeated could impact on talks. **[32 gv]**

19.53 The BBC reported in an earlier article dated 6 July 2005, Hindu nationalists held angry protests, a day after an attack on the bitterly disputed religious site. Police fired water cannons to disperse about 1,000 activists in Delhi. "Six people were injured in Hindu-Muslim clashes in the eastern city of Ranchi." Police were on high alert across India to prevent religious unrest. No group claimed responsibility for the attack on the Ayodhya holy complex. **[32ib]**

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GUJARAT RIOTS 2002

Godhra Train Incident

19.54 Keesings Record of World Events, February 2002, reported that on 27 February 2002, a campaign of sectarian violence was triggered in Godhra, Gujarat by an attack on a train carrying Hindu activists. At least 58 passengers were burnt to death and 43 injured. The fatalities included 26 women and 14 children. The Hindus were returning from a visit to the disputed religious shrine at Ayodhya. News of the massacre sparked a number of retaliatory attacks by Hindus the same day, swelling the following day to a wave of violence in towns and cities across the State. In the State capital, Ahmedabad, crowds looted and burned Muslim-owned shops, hotels, restaurants, and petrol stations. In one incident, 38 Muslims were said to have burnt to death when a mob isolated and burnt down 6 bungalows. **[5j]** Keesings reported in 2002 that by 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. **[5k]**

19.55 Keesings News Digest for April 2002 reported that during April 2002, the sporadic violence spread through Gujarat State to Kutch in the west, which had been previously untouched. An estimated 100,000 Muslims were in relief camps having been driven from their homes. **[5l]**

19.56 The US State Department Report for 2002 (USSD) notes that, in its final report on Gujarat, released on 1 June 2002, the NHRC [National Human Rights Commission] accused the state Government of "a complicity that was tacit if not explicit." The USSD 2002 stated: "The report concluded: 'there is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the state government to control the persistent violation of rights of life, liberty, equality, and dignity of the people of the state.' The report recommended a CBI [Central Bureau of Investigation] inquiry into the communal riots, which the state government subsequently refused to allow." **[2d] (p20)**

19.57 BBC News reported on 17 January 2005 that a Government inquiry said that the Godhra train attack in 2002 was started by accident:

"Evidence suggests the fire began inside the train, not that it was fire-bombed, an investigating judge decided. Most accounts from the time and since said a

Muslim mob threw petrol bombs at the train, starting the blaze. The incident set off days of rioting in Gujarat state in which at least 1,000 people, most of them Muslims, died."

Justice UC Banerjee stated that: "The possibility of an inflammable liquid having been used is completely ruled out." Since the train fire, more than 100 Muslims had been arrested by state police in connection with the incident and approximately 75 of them remained on remand awaiting trial. No-one had been convicted over the fire. Gujarat's state authorities said that Muslims torched the train but doubts had persisted about how the fire began. The judge had criticised the railway authorities for not conducting a thorough inquiry and said they had 'pre-judged' the incident. The investigation was set up by the Congress party-led government following its election victory. Gujarat's inspector-general of police has challenged the findings of the inquiry along with the BJP. **[32fz]** This information is also confirmed in an article in *The Hindu* on 18 January 2005, in which it is reported that the Justice UC Banerjee Committee said the fire on 27 February 2002 was purely "accidental." **[60k]**

19.58 The USIRF 2006 report noted that:

"In 2005, the Government of Gujarat established 'fast track' courts to overcome delays and ensure access to justice for riot victims, resulting in some convictions. On October 24, 2005, five persons were sentenced to life imprisonment for the murder of a Muslim youth in Halol and for the murder of eleven Muslims in the Panchmahal district of Gujarat during the riot period. Others were sentenced to three years' imprisonment and ordered to pay a fine of $11 (500 INR) each. A local court acquitted 107 of 113 persons arrested for killing 2 Muslims in the post-Godhra riots and, in February 2006, a local court indicted 39 police officers for riot-related conduct." **[2b] (Abuses of Religious Freedom)**

19.59 The same report continues:

"In February 2006, in response to a supreme court inquiry, the state government ordered the reopening of 1,242 of 2,108 cases that the Government had dropped because it could not substantiate the charges. The Gujarat police pledged to reinvestigate 1,600 cases. The total number of cases registered in connection with the Gujarat violence was 4,256." **[2b] (Abuses of Religious Freedom)**

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

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Bilqis Yakoob Rasool

19.61 Amnesty International's report: "India: Justice, the victim – Gujarat state fails to protect women from violence" provides details of the attack on a Muslim woman, Bilqis Yakoob Rasool and her family in March 2002:

"In Randhikpur village, Limkheda taluka (sub-district), Dahod district, violence against the Muslim community began on the night of 28 February 2002 with the looting and burning of Muslim owned shops. On 1 March, a mob burned houses, livestock and crops owned by Muslims and the local mosque. Muslim residents sought assistance from the police but received none. Nineteen-year-old Bilqis Yakoob Rasool, then five months pregnant, fled the village on 28 February with her three-year-old daughter and her family. On 3 March 2002 they were caught by right-wing Hindus from their own and neighbouring villages. All eight women were raped or gang raped and were hacked to death along with male relatives. Bilqis's daughter was killed in front of her. Bilqis lost consciousness and was left for dead. On regaining consciousness she found herself naked and injured, surrounded by the 14 dead bodies of her relatives. The two surviving children had run away. On 4 March she was taken to Limkheda police station where she lodged a complaint. She stated she was raped but the First Information Report (FIR) recorded that some 500 hundred unknown attackers had killed several people after raping 2 women but had spared Bilqis on account of her pregnancy. On reaching Godhra relief camp Bilqis filed a further FIR stating her rape and naming the rapist. A police inquest was conducted on 5 March and they recovered seven bodies. The other family members were recorded as missing. A medical examination conducted on 7 March established that Bilqis had been physically and sexually assaulted and injured. **[98] (9.Appendix-9.1 Bilqis Yakoob Rasool)**

19.62 The same report records that the police acted on the first FIR claiming that the Code of Criminal Procedure did not allow for the filing of numerous complaints. She clarified that she had reported the rape but the police had disbelieved the names of the attackers she gave, claiming them to be "respectable persons in the village" and that were she to go to hospital for an examination she would be administered a poisonous injection. The National Human Rights Commission (NHRC) took up her case and arranged legal aid for her and appointed a former Solicitor General and a former Supreme Court Bar Association secretary to assist her. Her petition to the Supreme Court requested the magistrate's order closing her case to be set aside, and a request for the Central Bureau of Investigation (CBI) to investigate the case afresh was admitted. On 8 September 2003 the Supreme Court issued notice to the Government of Gujarat and the Dahod police to respond to Bilqis's allegations whereupon she was harassed by the police. Despite a direction from the Supreme Court on 25 September 2003 to keep away from Bilqis, the harassment continued. In fear of their lives and safety, Bilqis and her husband left Gujarat with the help of social service organisations. A status report submitted by the CBI to the Supreme Court in March 2004 listed details of a police cover-up. On 19 April 2004, the CBI filed criminal charges against 20 people for the rape of Bilqis, the murder of her relatives and criminal conspiracy in obstructing the course of justice. On 6 August 2004, the Supreme Court directed that the case be transferred to Bombay High Court for trial and the trial began on 2 September 2004. Bilqis and her family were reportedly moved to a secure location to avoid any unlawful pressure being brought on her. **[98] (9.Appendix-9.1 Bilqis Yakoob Rasool)**

Best Bakery Case

19.63 As noted in a BBC News report of 12 September 2003, India's Supreme Court launched a scathing attack on the authorities in the state of Gujarat over their handling of a riot in 2002 in which 12 Muslims were burned to death in a bakery by a Hindu mob (now known as the Best Bakery case). Twenty-one Hindus were acquitted of killing the Muslims in a controversial ruling in June 2002 after many of the prosecution witnesses withdrew their evidence. The incident came during rioting in Gujarat in which more than 1,000 people, most of them Muslims, were killed. **[32bm]** A BBC News report for 19 September 2003 reported that Gujarat's State Government later agreed to seek a re-trial of the 21 Hindus acquitted following criticism from the Supreme Court. **[32bn]** The United States Commission on International Religious Freedom, in its May 2004 annual report, noted that:

"Finally, in April 2004, in what was described as an indictment of Modi's Gujarat government, the Supreme Court overturned the acquittal of the 21 accused in the bakery store case and ordered a new trial of those indicted. India's highest court ordered a transfer of the trial to neighbouring Maharashtra state and directed both state governments to provide protection to witnesses and victims, appoint a new public prosecutor, and institute new police investigations into the case." **[72] (p2)**

19.64 As noted in a BBC article of 4 November 2004:

"A court in the Indian city of Mumbai (Bombay) has issued a summons against a key witness in what is known as the Best Bakery trial. Zahira Sheikh is the main witness to an attack in Gujarat two years ago, when a Hindu mob set the bakery on fire, killing 12 Muslims. She has been summonsed after failing to appear in court at the scheduled time." She claimed that human rights workers had used threats to force her to make false statements to the Supreme Court. She and her brother failed to attend a fast-track court in Mumbai to give evidence. The human rights organisation Citizens for Justice and Peace strongly deny the allegations. It is reported to be unclear why she backtracked on an earlier statement made to the Supreme Court. An earlier trial collapsed in Gujarat when Sheikh and other witnesses withdrew statements made to the police saying they did not recognise the accused. Sheikh admitted lying in court during those proceedings. She also stated that she had not testified against the accused due to threats received from local politicians and police. On the collapse of the case the 21 accused walked free. India's human rights bodies demanded the case be retried. **[32fh]**

19.65 As reported by Keesings in November 2004:

"The key witness in the so-called Best Bakery Case, Zahira Sheikh, failed to attend court in Bombay (Mumbai) on Nov 4, the day she was due to testify, having the day before retracted her earlier witness statement. The case was a retrial ordered by the Supreme Court of 21 Hindu defendants accused of murdering 14 people who died when a Muslim bakery burnt down in the city of Vadodara (formerly Baroda) on March 1, 2002, during anti-Muslim riots in western Gujarat state. The original trial collapsed in June 2003 and Sheikh and other witnesses subsequently claimed that they had been pressurised into retracting their evidence identifying those responsible for arson of the bakery. On the basis of its severe criticisms of the police, judiciary, and civil authorities in Gujarat, the Supreme Court had ordered that the retrial be held in

neighbouring Maharashtra state. Now Sheikh claimed that Teesta Setalvad of the group Citizens for Justice and Peace (CJP) had 'kidnapped' her and 'compelled' her to make false statements of identification." **[5v]**

19.66 The same report further states that her brothers did testify on 18-19 November 2004 but also retracted their witness statements, saying that it had been too smoky during the attack at the bakery for them to identify any of the defendants. However on 16 November 2004, Zahira's sister-in-law identified 11 of the defendants as being amongst the mob who attacked the bakery and also testified that her sister-in-law had been bribed to change her testimony. **[5v]**

18.67 Rediff.com reported that a Supreme Court-appointed committee indicted Zahira Sheikh as a 'self-confessed liar' falling to 'inducements' by 'certain persons' to give 'inconsistent' statements during the trial. The matter was posted for further hearing on 24 October.

19.68 Rediff.com reported on 29 March 2006 that a sessions court sentenced Zaheera Sheikh to one year's imprisonment in a Mumbai jail and a Rs 50 000 fine as per the Supreme Court order for her contempt of court. **[81f]**

19.69 BBC News reported on 22 January 2004 that federal police arrested 12 people on charges or murder and gang rape during the 2002 Gujarat riots. They face charges in connection with an attack on a Muslim group by a Hindu mob in March 2002. **[32cs]** The BBC reported on 12 February 2004 that India's Central Bureau of Investigation submitted a report to the Supreme Court on an alleged gang rape and murder of Muslims during the 2002 Gujarat riots. It is alleged that 3 women were raped and 14 Muslims killed in the incident. The CBI was asked to follow up the case as a result of India's National Human Rights Commission's support of a key eyewitness. Thirteen people have been arrested by the CBI including a policeman for allegedly tampering with evidence. The case is due before the Supreme Court with more than ten Gujarat riot cases currently before the Supreme Court. **[32ct]**

19.70 The Human Rights Watch Annual Report for 2005 stated:

"The Gujarat government's failure to bring to justice those responsible for massive communitarian riots in the state, in which thousands of Muslims were killed and left homeless, continues to be a source of tension throughout the entire country. However, the Supreme Court and the National Human Rights Commission have taken several positive steps to secure justice for the victims of the riots." **[26e]**

19.71 As reported in the Keesings May 2005 News Digest, it was revealed by the Minister of State for Home Affairs on 11 May, in a written reply to a question in the Rajya Sabha, according to official figures 1,044 people died in the 2002 sectarian riots in Gujarat that followed the deaths of 58 people in the burning of a train carrying Hindu pilgrims at Godhra. "The total included 790 Muslims and 254 Hindus. A further 223 people were said to be missing and about 2,500 were injured in the violence. Some human rights groups had claimed that up to 2,000 people had been killed in the riots." **[5ab]**

19.72 The same source continues, "Compensation had been paid by the Gujarat state government to the families of those killed and injured, and a total of Rs2.4 billion had been paid out in relief and rehabilitation." **[5ab]**

19.73 BBC News reported on 25 October 2005 that more than 100 people were acquitted over the killing of two Muslims during the violence of 2002 in Gujarat. The two victims had returned to collect belongings from one of their homes accompanied by policemen in March 2002 and were killed by a mob. One hundred and thirteen people were accused of the attack and 108 were arrested in connection with it. **[32eo]**

Other Incidents

19.74 According to BBC News dated 27 August 2004, at least 19 people were reported wounded after attackers threw explosives into mosques as Friday prayers were held. There were two bomb blasts, one in the town of Jalna and the other in the nearby town of Parbhani. Both towns are about 500km from Mumbai (Bombay). **[32k]**

19.75 As reported by BBC News on 18 February 2005, a Shia march was dispersed in Kashmir when police in Srinagar used batons and teargas to break up a Shia mourning procession. Several mourners were arrested as they marched in a part of the city where processions have been banned since 1988. The mourners were dispersed for security reasons and two alternative routes were provided for processions away from densely populated areas. **[32eu]**

19.76 A BBC News report dated 21 February 2005 stated that a curfew was imposed in a part of the northern Indian city of Lucknow following sectarian violence. Three people died and several were hurt when Shia and Sunni Muslims clashed at a Shia mourning procession in the Husainabad area according to police." The curfew was imposed to prevent further escalation of tension in the area. "Lucknow has a history of clashes between Shias and Sunnis over the mourning processions." Officials said that rival groups threw stones, shot at each other and set vehicles and shops alight following a dispute over the route of a Shia Muharam festival procession. **[32et]**

19.77 *The Guardian* reported on 7 November 2005 that a group of Hindus attacked a Muslim village in northern India, setting fire to homes and killing three people after rumours spread that cows had been slaughtered for Islamic Eid-al-Fitr celebrations marking the end of Ramadam. Hindus from neighbouring areas attacked Mehndipu village, Uttar Pradesh. However no cows were found to have been slaughtered following a police investigation. **[40d]**

19.78 CSW.org reported on 16 February 2006 that, during a mass rally in the Dangs district of Gujarat state, speakers called for a nationwide anti-conversion law. Estimates by organisers claim some 300,000 Hindu activists and fundamentalists gathered for the 'reawakening' event. The festival was organised to encourage re-conversion to Hinduism. About 185,000 people, mainly tribals, live in the area. **[108]**

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CHRISTIANS

19.79 According to a report on religious intolerance by the Special Rapporteur in 1997, Christians constitute the second largest minority in India, after Muslims. The Indian authorities do not interfere with their internal religious activities, which may be conducted freely. Christians are well integrated into Indian society. **[6b] (p10&12)**

19.80 According to a Reuters news article dated 13 June 2005, "Christians account for about two percent of India's more than one billion people." **[8j]** The USIRF 2006 report notes that: "Christians constitute 2.3 percent of the population and were concentrated in the northeast in addition to the southern states of Kerala, Tamil Nadu and Goa. The northeastern states with large Christian majorities are Nagaland, Mizoram and Meghalaya." **[2b] (Religious Demography)**

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

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

19.83 Freedom House/Centre for Religious Freedom, in a report entitled "Hinduism and Terror" published June 2004, noted that "BJP lawmakers have also attempted to restrict minority religious groups' [mainly Christian groups] international contacts and to reduce their rights to build places of worship." **[43b] (p3)**

19.84 As noted in the US State Department Report 2005 (USSD):

> "There is no national law that bars a citizen or foreigner from professing or propagating his or her religious beliefs… 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." **[2c] (Section 2c)**

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

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

> "The Chhattisgarh State Assembly has enhanced their anti-conversion legislation to require religious converts to give one month notification in advance of conversion. Madhya Pradesh State Government passed an identical amendment to their anti-conversion law the previous week. The new legislation stipulates that potential religious converts must seek permission

from a district magistrate thirty days before a conversion 'ceremony'. The bill also indicates that the penalty for those perceived to be involved in conversion by force or allurement is a three-year jail term and a fine of Rs.20,000 (approximately £225)…However the amendment still needs to be ratified by the state governor and Christian groups are petitioning against this ratification." **[17d]**

19.87 According to a report published in May 2004 by the United States Commission on International Religious Freedom: "Since 1998, there have been hundreds of attacks on Christian leaders, worshippers, and churches throughout India. These attacks have included killings, torture, rape and harassment of church staff, destruction of church property, and disruption of church events." **[72] (p2)**

19.88 Reuters reported in 1999 that, in Orissa, an Australian missionary, Graham Staines, and his two sons were burnt alive in their jeep in late January 1999. **[8d]** The Indian news agency PTI reported in February 1999 that the Indian Government ordered a judicial inquiry into the incident to be conducted by a sitting Supreme Court judge. **[10d]**

19.89 A Reuters report dated 8 June 1999, the Wadhwa Commission, which investigated the murder of Graham Staines and his sons, presented its report on 6 August 1999. The report concluded that Dara Singh, a Hindu fundamentalist, was responsible for leading and inciting a crowd into the murder of Staines and his sons and that there was no evidence that any authority or organisation was involved. **[8g]** A press release of 12 August 1999 by Christian Solidarity Worldwide noted that the President of the All India Christian Council, Dr Joseph D'Souza, and the National Convenor of the United Christian Forum for Human Rights, John Dayal, expressed disappointment in the Commission's findings. They deplored the State authorities and central Government for their failure to provide the Commission with all the facts about the violence against the Christian community in India. They stated that the Commission had not been given a free hand to investigate and the Government had rejected demands that the terms of reference of the Commission be expanded to examine the totality of anti-Christian violence which culminated in the murder of Graham Staines. **[17]**

19.90 As reported in a BBC News report dated 1 February 2000 Dara Singh was finally arrested on 31 January 2000 in a village in Orissa. **[32g]**

19.91 A BBC News report dated 2 October 2000 reported that in October 2000 a 13-year-old boy was sent to a juvenile detention centre for 14 years for his role in the murder of Staines. Sudarshan Hansda was tried separately because of his age. His was the first conviction in the case. **[32w]** BBC News reported on the same day that on 15 September 2003 Dara Singh and twelve others were convicted at a special court in the eastern state of Orissa and another acquitted due to lack of evidence. **[32by]** According to a BBC News report on 22 September 2003 the ringleader received the death sentence and twelve others received life imprisonment for burning Graham Staines and his two sons alive. The death sentence is used rarely in India and is reserved for the most serious crimes. Defendants have the right to appeal all the way to the Supreme Court and can then ask for a presidential pardon. **[32bp]**

19.92 A CNN News report dated 2 December 1999 stated that on 1 December 1999, Junior Home Minister I.D.Swami said an investigative report into the murder of

Graham Staines had found that Staines did not try to convert villagers. **[33b]** As reported by BBC News on 26 January 2005, "Gladys Staines, the widow of a murdered Australian missionary, was given the Padma Shri award for social work." She was one of 96 people honoured to mark the 56th Republic Day celebrations with top civilian honours. Mrs Staines stayed on in India after the death of her sons to oversee the completion of a hospital for leprosy in Orissa but then returned to Australia following its opening. The hospital was named after her husband. "In 2003, a court sentenced one man to death and 12 others to life imprisonment over the killings." **[32fy]**

19.93 A further BBC News article dated 16 August 2005 states that: "The man convicted of killing Australian missionary Graham Staines and his two sons in India has appealed against his conviction to the Supreme Court. Dara Singh's sentence had previously been commuted from the death penalty to life in jail. He argues his presence at the murder site was presumed." **[32is]**

19.94 According to a report published in May 2004 by the United States Commission on International Religious Freedom: "In January 2003, armed members of a Hindu extremist group attacked an American missionary and seven others with swords: two activists from Rashtriya Swayamsevek Sangh (RSS), a part of the Sangh Parivar, were later arrested in the state where the attack took place." **[72] (p2)**

19.95 Freedom House/Centre for Religious Freedom, in a report entitled "Hinduism and Terror" published June 2004, noted that: "India's Home Ministry (internal security) and its National Commission for Minorities officially list over a hundred religiously motivated attacks against Christians per year, but the real number is certainly higher, as Indian journalists estimate that only some ten percent of incidents are ever reported." **[43b] (p4)**

19.96 Freedom House/Centre for Religious Freedom considered that there had been an increase in the number of attacks on Christians in the past ten years. **[43b] (p1)** The United Nations noted in their Human Development Report, 2004, that:

"In South Asia organised violent attacks on Christian Churches and missions have increased. India, despite its long secular tradition, has experienced considerable communal violence, with rising intensity: 36.2% of casualties due to communal violence since 1954 occurred in 1990–2002." **[71] (p74)**

19.97 A BBC News item dated 26 September 2004 reported: "Police in the southern Indian state of Kerala have detained 15 people following two attacks on nuns and priests of the Missionaries of Charity." It was reported that three priests and six nuns were attacked in separate incidences on the outskirts of Kozhikode. A representative of Indian Christians blamed the attacks on members of right-wing political parties, the Rashtriya Swayasevak Sangh (RSS) and Bharatiya Janata Party (BJP). The attackers accused the nuns of converting Dalit Hindus. **[32fn]**

19.98 Reuters reported on 13 June 2005:

"Angry Hindu youths beat three American missionaries and tried to kidnap one as they held a bible studies class in Bombay…About 30 or 40 men attacked

the three, part of a group of eight, on Saturday night because they thought the missionaries were trying to convert Hindus in the Indian financial capital."

19.99 The Bombay Catholic Sabha President said that while these kind of attacks were rare in Bombay, the police should take serious action against those responsible to send a clear message that religious intolerance will not be accepted in India. "Christians are often accused of 'forcibly' converting poor and uneducated low-caste Hindus by bribing them with money and gifts, a charge missionaries deny. Some states have outlawed forcible conversions." **[8j]**

19.100 As noted in the Annual Report of The United States Commission on International Religious Freedom, May 2005:

"Despite the improved situation, concerns about religious freedom in India remain. Attacks on Christian churches and individuals, largely perpetrated by members of Hindu extremist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus. In December 2004, two church leaders were attacked in the state of Rajasthan, allegedly by members of a Sangh Parivar-affiliated organization; in January 2005, militants reportedly set fire to a newly opened Catholic school in the northeastern state of Asam; and in March 2005, also in Rajasthan, a Christian worship service was interrupted by Hindu extremists and eight church workers were beaten. In some instances, police provided protection from the attackers; in other cases, the police reportedly failed to intervene. Members of the Jehovah's Witnesses also continue to be assaulted. In addition, several Indian states, including Orissa, Gujarat, Madhya Pradesh, and Chhattisgarh (formerly part of Madhya Pradesh), still have laws against 'forced' or 'induced' religious conversions, which require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or 'inducement' to convert another. However, reports of persons having been arrested under these laws are extremely rare. Significantly, the government of Tamil Nadu rescinded its law against forced conversions after the May 2004 elections." **[2i] (South Asia)**

19.101 BBC News reported on 28 January 2006 that 25 Christians were beaten up in Bhopal. This was the first incident of this nature in this city. A witness saw 35 people carrying sticks and iron rods fleeing a house where Christians were praying, leaving a child and a priest with serious injuries. Christians had been under pressure in the state of Madhya Pradesh from right–wing Hindus although one such leader denied any involvement in the attack. It was alleged that Christians in the area were offering incentives to the poor and illiterate to convert. **[32fe]**

19.102 CSW.org reported on 2 February 2006, that three separate attacks on Christians in Madhya Pradesh occurred within 4 days, resulting in a number of people needing hospital treatment. In the first attack, police were said to have assaulted two tribal church leaders who were threatened with "serious consequences" if they continued their activities. The following day Hindu extremists beat three church leaders who were then arrested for allegedly attempting to forcibly convert 23 tribal people, (literature was confiscated by the police). The most violent attack allegedly occurred in Bhopal on 28 January when about 30 people threw stones at a building during a Christian meeting and anti-Christian slogans were shouted. Organisers were accused of

forcibly converting and attacking ten participants with sticks. Sources in India hold the Bajrang Dal (the militant wing of the Hindu fundamentalist Rashtriya Swayeamsevak Sangh – RSS) responsible for the last attack. **[17a]**

19.103 Christian Solidarity Worldwide (CSW), in an article dated 5 June 2006, condemned the gang rape of two Christian women in Nadia village, Khargone district, Madhya Pradesh and attempts to force Christians in the same village to renounce their faith. On 28 May five Hindu men gang-raped two women and attacked their husbands when they intervened. A neighbouring village council had previously attempted to force one of the victim's husbands to renounce his faith, warning him to leave the village. According to a report by Compass Direct, the head of the Sirvil village council told villagers they could rape the Christian women in the village. Police were investigating the case although no arrests have been made as yet. **[17b]**

19.104 Christian Solidarity Worldwide (CSW) reported on 13 June 2006 that a lay preacher Prem Kumar was murdered in Andhra Pradesh, making him the fourth church leader murdered in the state in just over a year. CSW claim the murder to be the latest in a campaign of attacks against Christians in Andhra Pradesh by Hindu extremist groups. **[17c]**

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SIKHS AND THE PUNJAB

Sikh Religion and Historical Background

19.105 As stated in the US Department of State International Religious Freedom Report 2005 (USIRF), according to the latest Government estimates (2001) Sikhs constitute 1.8 per cent of the population. **[2b] (p2)**

19.106 As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada, the Sikh religion was founded by Guru Nanak (1469-1539), a high caste Hindu who denounced social and State oppression. He took monotheism from Islam, but rejected Ramadan, polygamy and pilgrimages to Mecca. He also rejected Hindu polytheism, the caste system and sati (sacrificing a widow on her husband's funeral pyre). Nine gurus succeeded Nanak. The Sikh commandments include certain prohibitions, notably against alcohol and tobacco. For men the Sikh religion requires observance of the "5 Ks": Kes (uncut hair and beard); Kacch (breeches); Kirpan (a double-edged sword); Kangha (a steel comb); and Kara (an iron bangle). **[4a] (p7-8)**

19.107 As noted in the same paper, new religious ideologies early in the twentieth century caused tensions in the Sikh religion. "The Akali Dal (Army of the Immortals), a political-religious movement founded in 1920, preached a return to the roots of the Sikh religion." The Akali Dal became the political party that would articulate Sikh claims and lead the independence movement. **[4a] (p9)**

19.108 According to an Asia Watch report for August 1991, following the partition of India in 1947, the Sikhs were concentrated in India in east Punjab. Sikh leaders demanded a Punjabi language majority State that would have included most Sikhs. Fearing that a Punjabi State might lead to a separatist

Sikh movement, the Government opposed the demand. **[22] (p12-13)** As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada, "In 1966 a compromise was reached, when two new States of Punjab and Haryana were created. Punjabi became the official language of Punjab, and Chandigarh became the shared capital of the two States. However the agreement did not resolve the Sikh question." **[4a] (p10)**

19.109 The IRB background paper of 1990 reported that tensions between Sikhs and New Delhi heightened during the 1980s, as the Government did not respond to Sikh grievances. Over the years that followed, Punjab was faced with escalating confrontations and increased terrorist incidents. Akali Dal only achieved limited concessions from the Government and Sikh separatists prepared for battle. Renewed confrontations in October 1983 resulted in Punjab being placed under central Government authority. **[4a] (p12-13)**

19.110 According to a 2003 Amnesty International report: "India: Break the cycle of impunity and torture in Punjab":

"The militancy period began in the early 1980s when a movement within the Sikh community, in Punjab, turned to violence to achieve an independent state of the Sikhs, which they would call Khalistan. Some sections of the ruling Congress party, whose support base included urban Hindu traders, fomented this radicalization in order to weaken their main parliamentary opposition in the state, the Akali Dal party, which represented the Sikh peasantry with a more moderate agenda. In 1982 the Akali Dal launched a civil disobedience campaign against a decision to divert a river vital to Sikh farmers in the state. A number of Sikh organizations were banned and several leaders of militant groups took shelter in the Golden Temple in Amritsar." **[51] (p4)**

19.111 As noted in the Amnesty International report on the Punjab in 2003: "The radicalisation of the movement for Khalistan was met with arrests under a series of national security laws that were introduced during the 1980s to meet the terrorist threat in Punjab but were enforced also in other parts of India and maintained for several years after the end of the militancy period in Punjab." **[51] (p4)**

19.112 As reported by an Asia Watch report entitled "Punjab in Crisis" (published August 1991) the violence continued and hundreds of Sikhs were detained in the first part of 1984. Followers of Jarnail Singh Bhindranwale established a terrorist stronghold inside the Golden Temple in Amritsar. The Prime Minister, Indira Gandhi, then initiated Operation Blue Star which took place on 4-6 June 1984. The Golden Temple was shelled and besieged by the army to dislodge the terrorists. The fighting continued for five days. Bhindranwale was killed and there was serious damage to sacred buildings. **[22] (p18)**

19.113 The Asia Watch report stated that official figures put the casualties at 493 "civilians/terrorists" killed and 86 wounded; and 83 troops killed and 249 wounded. Later in the year, official sources put the total number killed at about 1,000. Unofficial sources estimated that the civilian casualties alone were much higher. There were apparently more than 3,000 people in the temple when Operation Blue Star began, among them 950 pilgrims, 380 priests and other temple employees and their families, 1,700 Akali Dal supporters, 500 followers of Bhindranwale and 150 members of other armed groups. **[22] (p18)**

19.114 According to a Canadian IRB issue paper dated 1990, the intervention had disastrous consequences for the Sikh community and the whole country. Sikh-Hindu communalism was aggravated, Sikh extremism was reinforced, and political assassinations increased. **[4a] (p15)**

19.115 As noted in an Asia Watch report published in August 1991, on 31 October 1984 Indira Gandhi was assassinated in New Delhi by two Sikh bodyguards. In the days that followed, anti-Sikh rioting paralysed New Delhi, ultimately claiming at least 2,000 lives; unofficial estimates were higher. Sikhs were also attacked in other cities in northern India. **[22] (p19)**

19.116 Asia Watch, in the "Punjab in Crisis" report, noted that a peace agreement was concluded between the Indian Government and moderate Akali Dal Sikhs led by Harchand Singh Longowal in July 1985, which granted many of the Sikh community's longstanding demands. However the extremists regarded Longowal as a traitor to the Sikh cause and he was assassinated in August 1985. Moreover the promised reforms did not take place. **[22] (p22)**

19.117 As recorded in the Europa World Year Book, 1998, in 1987 the State Government was dismissed and Punjab was placed under President's Rule. Despite the resumption of discussions between the Government and the moderate Sikh leaders, the violence continued. **[1a]**

19.118 It was reported in the Europa World Year Book 1998, that President's Rule was finally brought to an end following elections in February 1992, which were won by Congress (I). However the elections were boycotted by the leading factions of Akali Dal and attracted an extremely low turnout (only about 22% of the electorate). Beant Singh of the Congress (I) was sworn in as Chief Minister, but his Government lacked any real credibility. Despite the continuing violence between the separatists and the security forces, the large turnout in the municipal elections in September 1992, the first in 13 years, afforded some hope that normality was returning to Punjab. The local council elections in January 1993, the first for ten years, also attracted a large turnout. **[1a]**

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

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Militant Violence in Punjab

19.120 According to an Asia Watch report, "Punjab in Crisis", virtually all of the militant groups in Punjab pursued their campaign for a separate State of

Khalistan through acts of violence directed not only at members of the police and security forces but also specifically at Hindu and Sikh civilians. After they first emerged in the early 1980s the militants assassinated civil servants, politicians, journalists, businessmen, other prominent individuals and ordinary Hindu and Sikh civilians. There were also indiscriminate attacks apparently designed to cause extensive civilian casualties, in some cases firing automatic weapons into residential and commercial areas, derailing trains, and exploding bombs in markets, restaurants and other civilian areas. Some of these attacks occurred outside Punjab in neighbouring States and in New Delhi. **[22] (p170)**

19.121 The Asia Watch report states that most of the militant groups in Punjab traced their origins to Sant Jarnail Singh Bhindranwale. After the storming of the Golden Temple the number of militant groups operating in Punjab grew. The militants were organised into at least seven major groups and all theoretically operated under the authority of one of the Panthic Committees which functioned as decision making bodies and issued instructions. The main militant organisations were: the Khalistan Commando Force (Paramjit Singh Panjwar faction); Khalistan Commando Force (Zaffarwal); Khalistan Commando Force (Rajasthani group); Babbar Khalsa; Khalistan Liberation Force (Budhisingwala); Bhindranwale Tiger Force of Khalistan (Sangha); Bhindranwale Tiger Force (Manochahal); All India Sikh Student Federation (Manjit); All India Sikh Student Federation (Mehta Chawla); and the Sikh Student Federation (Bittu). **[22] (p170, 172-173)**

19.122 Asia Watch reported in its "Punjab in Crisis" report that motives for the attacks varied:

"Moderate Sikh political leaders were assassinated for opposing the militants. Other leaders were killed as a result of militant group rivalries. A number of militant groups tried to impose a Sikh fundamentalist ideology, issuing directives that stipulated appropriate conduct for Sikhs and prohibiting the sale of tobacco and alcohol. Failure to obey these orders meant punishment, including death. In late 1990 and early 1991 militant groups issued 'codes of conduct' for journalists which also carried a death penalty for those who dared to disobey. Sikhs belonging to minority sects, which advocated practices perceived as heretical by orthodox Sikhs, were also murdered." **[22] (p175)**

Attacks on civilians were claimed as acts of retaliation for Government violence. Other killings appeared to represent executions of suspected collaborators or informers. Militants also kidnapped civilians for extortion, frequently murdering their victims when their demands were not met. Threats were made to the minority Hindu population in an effort to drive them out of Punjab. As a result thousands of Hindus fled the State. **[22] (p175)**

19.123 According to a Canadian IRB report dated 8 July 1998, the Sikh militant movement is no longer active in Punjab. The hardcore militants have either been physically wiped out or are no longer in India. There is no obvious support for the militants. **[4h]** According to an expert report written by Cynthia Keppley Mahmood in 1998, two militant organisations retain a capacity for activism, namely the Babbar Khalsa under the leadership of Wadawa Singh and the Khalistan Commando Force led by Paramjit Singh Panjwar. They are believed to retain bases in Pakistan and to have an international circle of support. **[19a]**

19.124 The Documentation, Information and Research Branch (DIRB) of the Canadian Immigration and Refugee Board interviewed four specialists on the situation in Punjab in January 1997. "The panel broadly agreed that Sikh militancy in Punjab had been virtually eliminated… Militant organisations had been shut down, reduced in size, key leaders arrested, gone underground or had abandoned the movement, and those supporters who remained have struggled to maintain funding and morale". **[4f] (p3-4)**

Other indications were apparent of a weakened Sikh militancy. Nevertheless the Sikh search for some sort of political supremacy in the region remained a powerful ideology, and although the militants' ability to assert themselves had been suspended, future Sikh militant action could not be discounted. **[4f] (p3-4)**

19.125 As cited in a statement dated May 1998 by Dr Cynthia Keppley Mahmood of the University of Maine, "Overt support for the militants has slipped dramatically, but the grievances that prompted the Khalistan movement are still there." **[19b] (p2)**

18.126 According to Satp.org in its Punjab Assessment – 2002, "In the year 2002, till May 30, five persons were killed and 39 others injured in terrorism related violence in the Punjab. During this period, a total of four terrorists were arrested and another surrendered." In the previous year (2001), only one terrorist related fatality was reported. **[85] (p1)**

19.127 As noted in Keesings Record of World Events for May 2005:

"Bombs exploded in two cinemas in New Delhi on May 22, killing at least one person and injuring about 50. Both cinemas were showing a controversial Bollywood film that had been condemned by Sikh groups as offensive in content and style to the Sikh religion. Its title, Jo Bole So Nihal, was said to be an expression spoken only in Sikh temples or by Sikh warriors in battle. The Shiromani Gurudwara Prabandhak committee (SGPC), a key Sikh body which controlled all historic Sikh shrines, had already successfully campaigned for the film to be withdrawn from cinemas in the north-western states of Punjab and Haryana. Following the bombs in Delhi the majority of cinemas across the country stopped screening the film, except for those in the western city of Bombay (Mumbai)." **[5ab]**

"However, no group claimed responsibility for the explosions and the police were unsure whether they were attacks by Sikh militants or an opportunist exploit by the extremist Islamic group Lashkar-i-Toiba (LiT), a major militant organisation fighting Indian rule in the northern state of Jammu and Kashmir. Sikh militancy has been largely dormant since the end of the long insurgency in the state of Punjab in the 1980s and early 1990s." **[5ab]**

19.128 A further BBC report of 8 June 2005 stated that the police had arrested a top Sikh militant, Jagtar Singh Hawara, and two others in connection with the Delhi cinema bombs, Hawara is accused of killing Punjab chief minister Beant Singh in 1995 and escaped from prison in 2004. Hawara is accused of leading the outlawed militant Sikh separatist organisation Babbar Khalsa International. **[32gy]**

19.129 BBC News reported on 20 June 2005 that:

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

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Human Rights Concerns in Punjab

19.130 Various human rights organisations have strongly criticised the Punjab police for their misuse of power during the 1980s and early 1990s. Amnesty International reported in a 1991 report entitled "Human Rights Violations in Punjab" "Use and Abuse of the law" that "those who were arrested were…detained for months or years without trial under provisions of special legislation suspending normal legal safeguards…", and reports of torture during interrogation were said to be common. "The arrest and detention of some detainees remained unacknowledged for weeks or months. Amnesty had received reports that many people simply 'disappeared', with the security forces refusing to admit that they had ever been arrested. It was feared that many of them had been killed in custody." **[3a] (p2)**

19.131 According to Amnesty International's 2003 report: "India, Break the cycle of impunity and torture in Punjab", "Torture and custodial violence continue to be regularly reported in Punjab, despite the end of the militancy period." AI states that torture continued in police custody and that the majority of the armed opposition groups were inactive in Punjab today. AI had received no reports of acts of torture perpetrated by their members after the end of the militancy period. The report notes that: "most of the members of these groups in the state were arrested or killed by security forces in counter insurgency operations in the early 1990s." **[51] (p2)**

19.132 Amnesty International's January 2003 report on the Punjab stated that:

"The 1980 National Security Act (NSA) amended in 1984 because of 'the extremist and terrorist elements in the disturbed areas of Punjab and Chandigarh', provided powers to preventively detain people suspected of activities 'prejudicial to the defence of India, the relations of India with foreign powers or the security of India' for up to two years in Punjab and up to one year in the rest of India. The Terrorist Affected Areas (special Courts) Act followed the NSA in 1984. The Terrorist and Disruptive Activities (Prevention) Act, in force from 1985 to 1995, subsequently provided the police in Punjab with sweeping powers of arrest and detention. These laws left the heaviest legacies of the militancy period on policing methods in the state and the rest of the country. They explicitly freed the police from accountability to the criminal justice system for actions undertaken in 'good faith', allowing officers to believe themselves beyond the reach of law." **[51] (p4-5)**

19.133 Amnesty International reported in 2003 in the Punjab report that:

"Human rights violations by the police during the decade of militancy were widespread. Indiscriminate and arbitrary arrests continued in this period, setting a pattern that continued until the mid-1990s. Civilians were often arrested solely for being related to or living in the same village as members of armed opposition groups. Unofficial blacklists were circulated to all police stations and persons on this list were liable to be rearrested during militant activity in the area. Arrests often occurred when a quick solution for a case was needed or simply to fulfil an arrest quota. Arrest procedures were frequently not followed and the arrest was often not recorded in the daily log of the police station, thus remaining completely unofficial and leaving detainees vulnerable to further abuses. Detainees were frequently moved from one police station to another, or to unofficial interrogation centers, making it difficult for their families and lawyers to trace them. Torture was widespread and used both as a substitute for investigation and as punishment. The police routinely disregarded court orders to bring detainees before a court, and judges were threatened to deter them from taking action against the police. When detainees died in police custody, the police organized the post-mortems and the cremations before any independent investigation could be carried out into the cause of death. Undercover agents were also unofficially recruited: these were often former members of armed opposition groups offered not to be killed or tortured in exchange for their collaboration with the police. They were reportedly used to infiltrate militant groups, to kill militants or to discredit them with violent actions in their names. Disappearances and the killing of members of armed opposition groups and their supporters by the police in real or staged 'encounters' were frequent. They were tolerated by the police authorities and government as part of a policy to eliminate armed opposition groups." **[51] (p5)**

19.134 Amnesty International reported in the 2003 report on the Punjab:

"In January 1995 the human rights wing of the Shiromani Akali Dal party alleged that it had evidence showing that, during the period of militancy, Punjab Police had carried out secret cremations of hundreds of 'unclaimed' bodies in the crematoria of Amritsar district. Some of the bodies were allegedly those of people who had disappeared and been extrajudicially executed in police custody." **[51] (p9)**

19.135 According to Amnesty International's (AI) 2003 report, "In April 1995 the Committee for Information and Initiative on Punjab (CIIP), a non-governmental human rights organization based in New Delhi, successfully petitioned the Supreme Court for an investigation of these allegations." The Supreme Court instructed the CBI to carry out investigations into the allegations and on analysis of the evidence available in three crematoria in Amritsar, found that police had illegally cremated 2,097 bodies. In December 1996 the Supreme Court ordered the National Human Rights Commission (NHRC) to examine the CBI's findings. In January 1999 the NHRC stated that it would limit its investigations to the cremations of 2,097 bodies investigated by the CBI in Amritsar district and invited claims for monetary compensation from victims' families. In fact, at the time that AI's report was published, only 18 cases had been forwarded for consideration. In those 18 cases, the NHRC was content with the State of Punjab's position; in that, it would not accept any liability, but compensation would be considered in the 18 cases without examination of the correctness of the claims or going into the merits of the matter. The NHRC further considered that, "For this conclusion, it does not matter whether the

custody was lawful or unlawful, or the exercise of power of control over the person was justified or not; and it is not necessary even to identify the individual officer or officers responsible/concerned." AI reported that in January 2001, all 18 claimants to whom compensation had been offered complained that the NHRC had failed in its original intent of conducting a thorough investigation and demanded that justice be done or that the proceedings should cease. In February 2001 the NHRC ordered that investigations should be reopened in all 2,097 cases. **[51] (p6-7)**

19.136 Amnesty International stated in their 1991 Punjab report:

"Most detainees in Punjab were arrested under the Terrorist and Disruptive Activities (Prevention) Act (TADA) [which lapsed in 1995], which allowed detention for up to one year without charge for investigation into broadly defined offences. Prisoners held under the Act could be tried in camera [i.e. in private] and the burden of proof was shifted onto the accused to prove his or her innocence." **[3a] (Introduction-p2)**

19.137 Amnesty International noted in an August 1999 report: "India: a Vital Opportunity to End Impunity in Punjab": "In the aftermath of the violence, many relatives of victims came forward to pursue redress in the courts through the filing of petitions in cases of 'disappearance' and other human rights violations… However in attempting to pursue redress through the courts, many families have faced direct harassment from the police and long delays in the judicial process." **[3g] (p2)**

19.138 As cited in a statement dated May 1998 by Dr. Cynthia Keppley Mahmood of the University of Maine, "Conditions in Punjab have greatly improved since the worst days of the early 1990s", and "it is no longer accurate to say that any Sikh is at risk of persecution simply because of his or her religion". **[19b] (p2)**

19.139 The US Citizenship and Immigration Services, in a response to a query, (updated on 16 May 2003), noted that:

"Several observers suggest, though, that while Punjab police may be serious about pursuing Sikhs anywhere in India whom they view as hard-core militants, in practice only a handful of militants are likely to be targeted for such long-arm law enforcement. While noting that Sikhs who are on police lists for past involvement with armed groups could be at risk even if not presently active, the Indian human rights attorney said in his May 2003 e-mail to the RIC that, '[t]he number of persons who figure in such lists is really very small and I do not think the police and intelligence agencies have in the last years been adding many names' (Indian human rights lawyer 4 May 2003). A South Asia expert at the U.S. State Department's Bureau of Intelligence and Research said that it is unlikely that Punjab police are currently pursuing many Sikhs for alleged militant activities given that the insurgency there was crushed in the early 1990s (U.S. DOS INR 25 Apr 2003)." **[86] (p2)**

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Methods of ill treatment

19.140 The Medical Foundation for the Care of Victims of Torture, 1999, examined 95 male Sikhs between 1991 and 1999, of whom all but eight were educated to at least secondary school level, and roughly half came from farming families and worked on the farm after finishing their education or had farming related jobs. The majority had belonged to an organisation such as the All India Sikh Student Federation. Most had been arrested on many occasions, usually for a short time ranging from one to ten days, but the total time in custody ranged from two days to eight months. Most were held by the police in the village police station, and a large majority were never charged with any offence. Some of the Sikhs in the study stated that in addition to their detentions, they had been arrested, questioned and threatened many times, but not detained overnight. **[30] (p11-14)**

19.141 All of the Sikhs examined by the Medical Foundation as part of the study, as cited in the 1999 Care of Victims of Torture report, reported that they had been severely ill-treated, usually worse in the first few days of detention. The methods of ill treatment included being beaten unconscious; being beaten with truncheons, fists, boots, lathis (bamboo canes), leather belts with metal buckles, pattas (leather straps with wooden handles), rifle butts, metal rods or a metal chain, and branches torn from a thorn bush. They were beaten on various parts of the body, but principally on the back, the legs or the buttocks. Beatings over the head and on the soles of the feet were also prevalent. Many had been suspended by the wrists, ankles or hair, and beaten; some had had their wrists tied behind their back and then were suspended, causing injuries to the shoulder joints. Eleven men had their arms twisted behind the back and 22 had their hands trodden on or hammered. Ten were thrown against a wall or on the floor repeatedly. Electric shocks were given, the infliction of burns and the removal of fingernails. Another torture method consisted of forcing the hips strongly apart, often to 180 degrees, repeatedly or continuously. A thick wooden roller or a ghotna (a pestle four feet long and four inches in diameter used for grinding corn) was often rolled down the calves or thighs with one or more of the heaviest policemen standing on it. **[30] (p14-15)**

19.142 As noted in the 1999 Medical Foundation Report, much of this abuse took place during interrogation sessions, but beatings also occurred randomly at other times, including late at night when the policemen were drunk. As well as physical abuse, many suffered psychological abuse such as threats of further punishment, death or harm to their families, mock executions and extreme humiliation. **[30] (p15-16)**

19.143 The Medical Foundation report of 1999 found that most of the Sikhs in their study were released without charge after representations by the village elders, a politician or lawyer, but on many occasions only after the payment of a large bribe. **[30] (p17)**

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PROSECUTION OF SECURITY FORCE PERSONNEL

19.144 The US State Department Report for 2005 (USSD) noted that:

"The Government failed to hold hundreds of police and security officials accountable for serious human rights abuses committed during the counterinsurgency of 1984–94, despite the presence of a special investigatory commission. In March prosecution lawyer and human rights activist Brinjinder Singh Sodhi claimed that he was threatened by a police officer accused in the disappearance case of human rights activist Jaswant Singh Kalara. Kalara, who claimed the government was responsible for over two thousand extrajudicial killings of Sikhs during its counterinsurgency campaign, was kidnapped in 1995, and his body was never found. On November 18, 10 years after the crime, 2 police officers, Jaspal Singh and Amarjit Singh, were found guilty of murdering Kalara and destroying evidence related to the case, and they were sentenced to life imprisonment. The courts found four other officers guilty of kidnapping with the intent to murder and sentenced them to seven years imprisonment. No action was taken against the police official who had threatened Sodhi." **[2c] (Section 1b)**

19.145 As noted in the same report:

"During the year the Central Bureau of Investigation (CBI) claimed to be pursuing charges against dozens of police officials implicated in the 1980s hundreds of murders and secret cremations. NGOs and Human Rights activists alleged that police in Amritsar, Majitha, and Tarn Taran districts secretly disposed of approximately two thousand bodies of suspected Sikh insurgents they had murdered. Security forces abducted, extrajudicially executed, and cremated the alleged insurgents without the knowledge or consent of their families during the height of Sikh insurgency in Punjab." **[2c] (Section 1b)**

"The NHRC continued to investigate 2,097 cases of illegal murder/cremation that occurred between 1984 and the early 1990s. The NHRC asked families whose members had disappeared to come forward and provide evidence. The NHRC has not released its findings, and no significant progress was made in bringing to justice those responsible for the killings. Families of victims petitioned the NHRC for redress, and a small percentage received a response in July 2004. In July the NHRC directed the CBI to give the Punjab government access to documents regarding the illegal murder and cremation of 64 persons by the Punjab police during the insurgency." **[2c] (Section 1b)**

19.146 *The Times of India* in September 1997 reporting Union Home Ministry figures stated that 123 police officials were facing trial for taking alleged illegal steps against terrorists, while 2,555 petitions had been filed against Punjab police officers by individuals and human rights organisations. The same article referred to a protest by Punjab police which said that police officers who had played a key role in containing terrorism in Punjab were now being harassed and hounded for alleged excesses and human rights violations. The protest gained momentum following the suicide of the former Tarn Taran SSP Ajit Singh, who the police claim was driven to this step because of a "witch hunt". **[13f]**

19.147 *India Today,* June 1997, reported that police officers in Punjab felt abandoned by the Government and frustration was mounting in the force as more than 2,000 officers were being brought to account for the extra-judicial methods that were employed in fighting terrorism. In 1995, 585 petitions were filed in different courts. The number had doubled by June 1997, by which time the

Punjab police were facing 85 CBI and 91 judicial probes. 30 policemen were in jail, around 100 were out on bail and 140 were facing prosecution. **[11a]**

19.148 According to the Documentation, Information and Research Branch (DIRB) after interviewing four specialists in 1997, the panel agreed that "The central Government had been attempting to rein in the Punjab police, who during the insurgency were responsible for large numbers of extrajudicial executions and disappearances." Investigations into allegations of human rights abuses "have sent a strong signal that the climate of impunity for the Punjab police is ending…even though that climate has been deeply ingrained over many years and will take a long time to change"… Reference is also made to the extensive human rights training for the police in India, which is seen as an example of the general trend in India towards recognising and addressing systemic problems with the police. One of the panel members "acknowledged that occasional violations might still take place, he predicted that the likelihood of future disappearances at the hands of the Punjab police is very low." **[4f] (p6-7)**

19.149 As reported by Amnesty International in the 2005 report for events occurring in 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." **[3n] (p2)**

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

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PUNJAB STATE HUMAN RIGHTS COMMISSION

19.151 According to the *Chandigarh Tribune* dated August 1998, the Punjab State Human Rights Commission started work in July 1997 under the chairmanship of Justice V.K. Khanna, a former Chief Justice of the north-east States. The Commission had intervened in a number of cases of police excesses, torture and custodial deaths, and the Punjab Government has been forced to pay compensation. The Commission had started to inspect jails, with prior notice being given to the State Government, but the Commission wanted the power to make unannounced visits. **[12a]**

19.152 According to an article published on "Human Rights in India" (last updated on 23 January 2004), the Punjab State Human Rights Commission (PSHRC) receives between 200 and 300 complaints per day. It is reported that the powers of the PSHRC are severely limited, in that it can only examine cases that fall within the one-year statute of limitations. **[73]**

19.153 Keesings News Digest for November 2004 noted that police in the northern state of Punjab had agreed to pay compensation of Rs 250,000 to 109 families of people who had died in police custody following operations against Sikh separatists in the 1980s and early 1990s. By order of the National Human Rights Commission (NHRC), following an investigation into cremations carried out by the police and undertaken by the CBI at the behest of the Supreme Court. **[5v]**

19.154 As noted by BBC News on 11 November 2004:

> "Police in the Indian state of Punjab have agreed to pay compensation to the families of people who died in police custody in the 1980s and early 1990s. The victims were arrested in police operations against Sikh separatists in the Punjab. A Police spokesman in the state capital, Chandigarh, said compensation of 250,000 rupees ($5,500) would be disbursed to 109 families. The move was ordered by India's National Human Rights Commission. The NHRC's order was issued in response to what has come to be referred as the Cremations Cases. This refers to dozens of people cremated by Punjab police in the city of Amritsar who the police had declared to be 'unidentified bodies'." **[32fa]**

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THE COMMITTEE FOR CO-ORDINATION ON DISAPPEARANCES IN PUNJAB (CCDP)

19.155 As noted in a report on Current Human Rights Efforts dated 1 October 1998, the Committee was established in November 1997, when a variety of human rights organisations and political groups came together. Its purpose was to develop a voluntary mechanism to collect and collate information on disappearances in Punjab; to evolve a workable system of State accountability; and to lobby for India to change its domestic laws to conform to UN instruments on torture, enforced disappearances and accountability. The Committee was set up following the demand of Indian human rights groups that the independent and thorough investigation into complaints of disappearances in Punjab be allowed to proceed unhampered. **[20] (p13)**

19.156 When asked for their views on the occurrence of disappearances by the Danish Immigration Service on their fact-finding mission of March-April 2000, two members of the Committee observed that extrajudicial executions no longer took place in Punjab. However, a third member of the committee interviewed by the Danish mission did not believe that disappearances and extrajudicial executions had stopped. Therefore, "there was general agreement between the sources [we] asked that disappearances and extrajudicial executions almost never occur, or only in very small numbers. This applies to both ordinary criminals and political activists." This conclusion

was found not to be because of a change in the attitude of the police but because there was no terrorism left in Punjab. **[37] (p42)**

19.157 As noted in USSD 2005 report:

"At year's end, the CCDP, a Punjab-based human rights organization, had not received an NHRC response to its report documenting 672 disappearance cases. The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several prominent Congress party leaders for complicity in the violence. The report highlighted law enforcement culpability in the deaths due to a deliberate lack of action and noted that only one policeman was convicted for committing atrocities during the riots, in which three thousand Sikhs were killed. Union minister Jagdish Tytler and Member of Parliament Sajjan Kumar were indicted in the report. Tytler resigned from parliament and Kumar resigned from the Delhi Rural Development Board after the report's release, but at year's end no formal punishment resulted from the report. The government set up two committees to provide compensation, promised by Prime Minister Singh to the victims' families." **[2c] (Section 3) (Government Corruption and Transparency)**

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THE PEOPLE'S COMMISSION ON HUMAN RIGHTS

19 .158 According to Amnesty International's report: "India – Break the cycle of impunity and torture in Punjab", January 2003, in April 1998 the CCDP announced its intention to set up a three-person People's Commission on Human Rights Violations in Punjab, headed by a former Chief Justice of the Calcutta High Court. "The first hearing of the People's Commission was therefore held from 8-10 August 1998." However further hearings were cancelled because in 1999 the Punjab and Haryana High Court set limits on the work of the People's Commission claiming that it set up a parallel judicial system. Subsequently in May 2000 the People's Commission was wound up following the Supreme Court upholding the High Court judgement that the CCDP was establishing a parallel judicial system. **[51] (p13)**

NANAVATI COMMISSION

19.159 As reported in Keesings News Digest, February 2005, on 9 February a commission headed by retired judge G.T. Nanavati submitted a report to the Government on its inquiry into the causes and course of anti-Sikh riots following the assassination of Prime Minister Indira Gandhi by her two Sikh bodyguards in 1984 resulting in the deaths of some 3,000 Sikhs. The commission was established in May 2000 by the former National Democratic Alliance Government. Nanavati did not disclose details of the report stating that it was the responsibility of the Government to make the report public. **[5y]**

19.160 A BBC News article dated 8 August 2005 stated that:

"An Indian Government inquiry into the anti-Sikh riots in 1984 has said that some Congress party leaders incited mobs to attack Sikhs. It found 'credible evidence' against a current Congress minister, Jagdish Tytler, who denies any wrongdoing…This inquiry is the latest of nine that have looked into the riots. It

was begun in 2000 amid dissatisfaction, particularly among Sikhs, with previous investigations…The 339-page inquiry report by former Supreme Court judge, GT Nanavati, was tabled in parliament…"

Other Congress politicians were implicated and further investigations were recommended against certain people. **[32gw]**

19.161 As cited by BBC News on 10 August 2005:

"An Indian cabinet minister has submitted his resignation after being implicated in anti-Sikh riots in 1984. Jagdish Tytler aims to clear his name after an inquiry said he probably had a role in organising attacks on Sikhs. Earlier, premier Manmohan Singh said those named in the report would be investigated. The oppositions called for Congress members to be prosecuted…Mr Singh acknowledged that many of the victims were still to receive justice 21 years after the violence. 'The search for truth has to continue. The [recent enquiry] is just the latest attempt,' he said." **[32hs]**

19 .162 As noted in the USSD 2005 report:

"The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several prominent Congress party leaders for complicity in the violence. The report highlighted law enforcement culpability in the deaths due to a deliberate lack of action and noted that only one policeman was convicted for committing atrocities during the riots, in which three thousand Sikhs were killed. Union minister Jagdish Tytler and Member of Parliament Sajjan Kumar were indicted in the report. Tytler resigned from parliament and Kumar resigned from the Delhi Rural Development Board after the report's release, but at year's end no formal punishment resulted from the report. The government set up two committees to provide compensation, promised by Prime Minster Singh to the victims' families." **[2c] (Section 4)**

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THE CURRENT SITUATION IN PUNJAB

19 .163 As noted by Amnesty International in its report: "India – Break the cycle of impunity and torture in Punjab", January 2003, the majority of the armed opposition groups are currently inactive in Punjab and AI have received no reports of acts of torture perpetrated by their members after the end of the militancy period which was the mid-1990s. "Similarly, the issue of impunity for abuses committed by these groups during the militancy period is marginal, as most of their members in the state were arrested or killed by security forces in counter insurgency operations in the early 1990s." However Amnesty International raised concerns about the continuation of abuses committed by the police in the Punjab. **[51] (p1)** This opinion was confirmed by the USSD 2004 report, which noted that: "In Punjab the pattern of disappearances prevalent in the early 1990s ended, however, during the year, the Government failed to hold accountable hundreds of police and security officials for serious human rights abuses committed during the counterinsurgency of 1984–94, despite the presence of a special investigatory commission." **[2c] (Section 1b)**

19 .164 As cited in the joint Danish Immigration Service/Danish Refugee Council fact-finding report of April 2000:

> "According to Ravi Nair, Director of the South Asia Human Rights Documentation Centre, a case involving a human rights violation will usually be reported at the local police station. The police will undertake an investigation and on that basis will decide whether a case should be brought. If no case is brought, the individual may bring a civil suit to the lower (district) court. Nair added that the case often stops there, as the court does not always proceed with the case."
>
> However, he remarked that it was easier to have a case heard in the courts than previously. **[37] (p30)**

19.165 The Danish Immigration Service consulted various individuals, authorities and organisations regarding the security situation during their fact-finding mission to Punjab in March and April 2000. According to the UNHCR in Delhi, the security situation in Punjab is now under control, but as the UNHCR does not have a presence in Punjab they could not comment on the situation in detail. Three foreign diplomatic missions in India agreed that the situation in Punjab had considerably improved and that the conflict between various groups had calmed down. Acts of violence in Punjab were becoming less common, and were now at a low level. Two of the missions reported that incidents do occasionally occur, such as explosions caused by bombs on buses and trains, but that such incidents occur in the rest of India, and not exclusively to Punjab. Officials of the Committee for Co-ordination on Disappearances in Punjab (CCDP) considered that Punjab was now peaceful and that there were no problems with militant groups and no political problems either. A Foreign Embassy consultant, reported that several people who had previously been militants and who had served their sentences for terrorist activities now lived a normal life in Punjab. **[37] (p19)**

19.166 As noted in its fact-finding report of 2000, the Danish Immigration Service also spoke to Chief Minister Prakash Singh Badal, who underlined that there were now no security problems in Punjab. Badal underlined that co-operation between the State Government and central Government was good. Former Advocate-General G.S. Grewal pointed out that cases concerning human rights abuse were different from before in that now the abuse was individual and had specific reasons. Sikhs were not subjected to torture just because they were Sikhs or because of the general political situation. One diplomatic mission also commented that the situation was not perfect but that Sikhs in general were not being persecuted. The problems were of a different nature than before, and were often due to problems in local society, e.g. disputes over land, etc. **[37] (p13, 34 and 39)**

19.167 According to Satp.org in its Punjab Assessment – 2002:

> "The Indian State of Punjab remains largely free from terrorist violence for the ninth consecutive year after the terrorist secessionist movement for Khalistan was comprehensively defeated in 1993. However, there remain a handful of terrorist groups, mainly sponsored by Pakistan and by some non-resident Indian Sikh groups based in the West, who continue to propagate the ideology of Khalistan." **[85] (p1)**

19.168 As reported by Amnesty International (AI) in its report, "India – Break the cycle of impunity and torture in Punjab", January 2003: "Since 1995 there have been no reports of killings of human rights defenders in Punjab, although AI believes that human rights defenders are still subject to constant surveillance and have been subjected to harassment, threats and violent attacks by the police in attempts to intimidate and silence them." **[51] (p17)**

19.169 The same 2003 AI report states that there has been an overall increase in crimes against women recorded in Punjab in the post-militancy period, particularly with regard to matrimonial disputes. In response the police created "women cells" at district level to specifically deal with offences against women. However it is reported that these units lack staffing and other resources. **[51] (p24)**

19.170 AI stated in its 2003 report that the Supreme Court issued 11 directives known as the "DK Basu guidelines" to be followed in all cases of arrest or detention as preventive measures against torture in custody in addition to the safeguards in the Code of Criminal Procedure. The Director General of Police in Punjab has reportedly instructed the police force that these guidelines should be observed – in accordance with the Supreme Court's request to all DGPs. However they have not been incorporated into the Punjab Police Rules 1935 under which the police act or in any other police manual. AI believes that the "guidelines" are routinely ignored in most police stations. **[51] (p18)**

19.171 Amnesty International notes in the Punjab 2003 report that the failure to implement the legal safeguards for detainees cannot be solely attributed to a lack of will of individual police officers but in part is linked to difficult working conditions in which most police operate in Punjab. The police authorities or the Punjab Human Rights Commission have initiated or ordered internal inquiries or taken disciplinary action against offending police officers involved in unlawful practices. However, officers due for suspension have often remained on active duty at the same police station in which that offence was committed. Because police disciplinary action is conducted internally, it is often difficult for the judiciary and civil society to monitor their implementation, as was the view of Amnesty International. **[51] (p19)**

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INTERNAL RELOCATION FOR SIKHS

19.172 As noted in an IRB report dated January 2006, the Indian Constitution allows for freedom of movement of citizens. A human right activist stated that "theoretically, Sikhs can, like others, move and relocate themselves in any part of India that does not come under excluded or restricted zones like some parts in the northeast of India." **[4p]**

19.173 A further IRB response paper dated 18 January 2006, after consulting various sources, records that:

"Although the majority of Sikhs in India reside in Punjab state…there are many Sikh communities in India located outside of Punjab state… In correspondence to the Research Directorate, a specialist in Indian affairs reported that Sikhs are located in every state in India, and in 579 districts out

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

19.174 The IRB report continues: "Citizens are not required to register their faith in India. Several oral sources consulted for this response commented that Sikhs are able to practise their religion without restriction in every state of India. The central Indian government recognizes Sikhs as one of five religious minority groups and as such, Sikhs are provided access to 'various Constitutional guarantees' for the protection of the rights of religious minorities." **[4o]**

Sikhs hold prominent positions in India, Manmohan Singh is India's first non-Hindu Prime Minister. (Canadian IRB 18 January 2006) **[4o]**

19.175 According to an IRB response dated 18 January 2006, there are no checks on a newcomer to any part of India arriving from another part of India, even if the person is a Punjabi Sikh. Local police forces have neither the resources nor the language abilities to perform background checks on people arriving from other parts of India. There is no system of registration of citizens, and often people have no identity cards, which in any event can be easily forged. **[4o]**

"Sikhs relocating from Punjab state to other parts of India do not have to register with the police in their area of relocation, unless they are on parole…" (Canadian IRB response dated 18 January 2006) **[4o]**

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

19.177 The US Citizenship and Immigration Services, in a response to a query (updated on 22 September 2003), noted that:

"Observers generally agree that Punjab police will try to catch a wanted suspect no matter where he has relocated in India. Several say, however, that the list of wanted militants has been winnowed [whittled] down to 'high-profile' individuals. By contrast, other Punjab experts have said in recent years that any Sikh who has been implicated in political militancy would be at risk anywhere in India. Beyond this dispute over who is actually at risk, there is little doubt that Punjab police will pursue a wanted suspect. 'Punjab police and other police and intelligence agencies in India do pursue those militants, wherever they are located, who figure in their lists of those who were engaged in separatist political activities and belonged to armed opposition groups in the past,' a prominent Indian human rights lawyer said in an e-mail message to the Resource Information Center (RIC) (Indian human rights lawyer 4 May 2003)." **[86] (p1)**

19.178 The Canadian IRB indicated in a response paper dated 18 January 2006 that: "A professor of Asian studies, commented that in pursuing a wanted individual, it is unlikely that the central Indian authorities will attempt to locate the person in another state, and this is the case with Sikhs…such pursuits have more to do with the profile of the individual than with the faith the individual subscribes to." A human rights activist consulted said he was not aware of any police sweeps or searches of Sikhs in India on the basis of their religion. **[4o]**

19.179 The Canadian IRB indicated in a response paper dated 18 January 2006 that,: Punjabi, which is the Sikh language, closely resembles Hindi and is also spoken by Hindus and Muslims living in Punjab state. Opinion differs as to whether Sikhs would be understood in all other states as they would understand Hindi, Urdu or English; however others argue that Sikhs would only be understood in certain areas and if the individual only spoke Punjabi then they would only be understood in northern and eastern parts of India, so would have to learn the local language. **[4o]**

19.180 Sikhs would have unlimited access to housing in localities outside Punjab state to whatever extent they could afford it, as the main factor limiting access to housing is financial rather than religion, according to two sources consulted by the Canadian IRB in their response dated 18 January 2006. The report continues to state that Muslims experience the greatest discrimination in housing, not Sikhs, and although there may be isolated instances of discrimination against Sikhs in terms of housing, it is by no means a common occurrence. Citizens may buy agricultural land only in their state of residence except for Punjab state, where agricultural land may be purchased by Indian citizens living in any Indian state. It was thought by one source that the application of this law was mainly used against Sikhs and other religious minorities. (Canadian IRB, 18 January 2006) **[4o]**

19.181 The same source noted that upon relocation Sikhs would have indiscriminate access to employment dependent on their skill level. There may be isolated instances where an individual feels discriminated against because of a tendency by some firms to employ locally born and educated people. Sikhs would also have indiscriminate access to health care in states outside of Punjab although access depends largely on their financial situation and their proximity to an urban location. It was also agreed by two sources that Sikhs would have access to education outside of Punjab and again poverty is the main obstacle to education and proximity to an urban area affects the availability of education. **[4o]**

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BUDDHISTS AND ZOROASTRIANS

19.182 According to a report by the Special Rapporteur on religious intolerance, 1997, Buddhist and Zoroastrian minorities are able to practise their religion freely, possess adequate numbers of places of worship and religious publications, and refrain from proselytising among other communities. Buddhists and Zoroastrians are said to be fully integrated into society. **[6b] (p6)**

19.183 As noted in a BBC News article dated 19 July 2005, "Zoroastrian Iranians came to India 12 centuries ago to avoid Islamic persecution. They settled in the western state of Gujarat. Today the majority of the 69,000-strong community lives in Mumbai in the neighbouring state of Maharashtra. They speak Gujarati but many of their religious rituals are preserved." **[32gp]**

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ETHNIC GROUPS

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

"The exact number of ethnic groups depends on source and method of counting, and scholars estimate that only the continent of Africa exceeds the linguistic, cultural, and genetic diversity of India. Seventy-two percent of the population is Indo-Aryan, 25 percent Dravidian, and 3 percent Mongoloid and other. Each of these groups can be further subdivided into various—and changing—combinations of language, religion, and, very often, caste. The Hindu caste system is technically illegal but widely practiced (generally more in rural areas) and comprises four major categories (varnas) that are found India-wide but are often subdivided into hundreds of sub-categories (jatis), many of which are often found only in specific areas. Similar hereditary and occupational social hierarchies exist within Sikh and Muslim communities but are generally far less pervasive and institutionalized. About 16 percent of the total population is 'untouchable' (Scheduled Castes is the more formal, legal term; Dalit is the term preferred by 'untouchables' and roughly translates to downtrodden); around 8 percent of the population belongs to one of 461 indigenous groups (often called Scheduled Tribes for legal purposes, although the term adivasi is commonly used)." **[112]**

20.02 Freedom House in its Annual Report for India 2006 stated:

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

20.03 The same report continues:

"Tension between different ethnic groups over land, jobs, or resources occasionally flares into violent confrontation, and sporadic Hindu-Muslim violence remains a concern. In July 2005, ethnic Assamese began a drive to evict hundreds of Muslims from some districts in northern Assam, claiming that they were in fact migrants from Bangladesh. Other forms of discrimination against Muslims are sometimes excused in the context of ongoing tensions with Pakistan as well as the global campaign against terrorism. Although India hosts several hundred thousand refugees from various neighboring states, it has no national refugee law, and the treatment of displaced persons varies widely, according to Refugees International." **[43d]**

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

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

21.02 As reported in the US State Department report covering 2005:

"Section 377 of the Penal Code punishes acts of sodomy, buggery and bestiality; however, the law is commonly used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups stated that gay and lesbian rights were not considered as legitimate human rights in the country…Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation are fired from their jobs. Homosexuals also faced physical attacks, rape and blackmail…In January 2004 a Mumbai High Court ruled that HIV-positive persons could not be fired on the basis of their medical status." **[2c] (Section 5)**

21.03 As reported by the Canadian IRB in an information response dated 13 May 2004:

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

21.04 In a Canadian Information response regarding the situation of homosexuals in India, dated 13 May 2004, it was noted that:

"…According to the government of India, Section 377 is rarely applied except when child abuse or rape is alleged... the Indian higher courts have heard only 30 cases relating to Section 377 between 1860 and 1992 and that the majority of defendants were prosecuted for 'non-consensual acts of sodomy (including sexual assault of minors')." **[4n]**

21.05 As reported in an article on the International Gay and Lesbian Human Rights Commission (IGLHRC) website, dated 31 January 2005:

"According to IGLHRC, India is one of 79 countries that maintain laws directed at or used to outlaw sex between people of the same sex… India's law, Indian Penal code Section 377, criminalizes 'voluntary carnal intercourse against the order of nature'. Although it bans these acts committed by anyone, the law is commonly used to target, harass and punish sexual minorities. In a 2001 report, 'Human Rights violations against Sexual Minorities in India', the People's Union for Civil Liberties - Karnataka documented widespread police harassment, abuse and extortion against LGBT people and other sexual minorities in India… The report also documents in detail the impact of local media and popular psychology instilling fear and creating a hostile climate for LGBT people." **[92]**

21.06 As noted in the same report:

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

21.07 According to a BBC News article dated 29 May 2001, homosexual relationships are not unheard of in India, but they generally exist in the country's larger cities where people can be more open about their sexuality. **[32ae]** According to the People's Union for Civil Liberties – Karnataka (February 2001), a number of cities and larger towns, such as Delhi, Mumbai, Calcutta, Bangalore, Hyderabad, Pune, Chennai, Patna, Lucknow, Akola, Trichi and Gulbarga, had a number of resources for gays, lesbians and transgender communities that include – help-lines, publications/newsletters, health resources, social spaces and drop-in centres. **[74] (p8)**

21.08 As reported in a BBC News article dated 29 May 2001, in May 2001, it was reported that a lesbian couple had married in a Hindu ceremony, believed to be one of the first gay weddings in the country. The marriage still needed the approval of the local registrar to be legalised. The registry office refused to grant approval because Indian law does not recognise gay marriages. Gay rights campaigners, however, welcomed the news. **[32ae]**

21.09 India's gay community has begun to assert itself in recent years. According to a BBC News report dated 29 June 2003, cities such as Bombay and Bangalore have become centres for gay culture. **[32bd]** The BBC reported on 19 June 2003 that there are regular gay parties in bars and pubs. There are other gay clubs in cities such as Delhi and Bangalore. **[32be]** It was reported by the BBC on 29 June 2003 that up to 100 people marched in a gay rights parade in Calcutta. **[32bd]**

21.10 As reported by BBC News on 6 June 2005, "Throughout South Asia, homosexuality has been a taboo subject. There are signs in some areas that gay people are now becoming more open – but that is not always the case." In Kanpur a lesbian couple attempted suicide because their parents had forced them to marry men. "Several organisations have now demanded that the law

be amended to allow same-sex marriages. Legal experts say the government should consider the recent advice of the Supreme Court to re-examine the issue of same-sex marriages." **[32gh]**

21.11 Human Rights Watch (HRW) reported in an article published on 24 June 2005 entitled Hang our Heads in Shame: "In January 2005, Lucknow police arrested four men on charges of operating a 'gay racket' on the Internet, as well as of engaging in 'unnatural' sex. Undercover agents, posing as gay men on an Internet website, entrapped one man, then forced him to call others and arrange a meeting where they were arrested." Charges are still pending. **[103]**

21.12 As reported on IBNLive homosexuals in Chennai have formed the first gay club to be officially registered. The group's aim is to alleviate social stigma attached to homosexuality and to help the gay community in cases of injustice and to speak out against the "ambiguous" Section 377 of the Indian Penal Code. The group is called The Men Community Development Society. The report notes that the gay movement in India has been active but at a discreet and subtle level as homosexuality as a phenomenon is frowned upon by Indian society. **[110]** Rediff.com reported on 16 March 2006 that The Men Community Development Society formed by the anti-AIDS non-governmental organisation Indian Community Welfare Organisation to address violations of homosexuals' human rights is a milestone in Chennai. **[81f]**

21.13 *The Times of India* reported on 31 March 2006 that the order of a magistrate's court in a small town Halol ruled that the lesbian couple could live together wherever they wished and they did not have to return to their families. The two had eloped from Halol town and were forced to return when one set of parents filed a kidnapping complaint which was rejected by the court, the first time such a case had been heard in India. It is thought that the case will set a precedent that Section 377 is not applicable to lesbians. **[13h]**

21.14 A report dated 18 April 2005 by the Canadian IRB in response to a question raised about the treatment of homosexuals in India stated:

"With respect to available resources and support for homosexuals in India, the PUCL states that 'there are organizations, helplines, publications/newsletters, health resources, social spaces and drop-in centers in most of the major cities in India [and even in some] smaller cities and towns'; however, despite the presence of such organizations, the PUCL adds that there is a 'lack of resources, personnel, government support and extreme societal/state discrimination' and even the most established organizations reach only a small number of sexual minorities (Feb. 2001, 8)."

"Additional resources include GayLawNet, which provides the names of eight organizations and law firms that serve gay/lesbian clients in India (1 Aug. 2003) and the Website of the non-profit South Asian Lesbian Gay Association, based in New York city, which provides links to 19 Indian-based organizations serving gays, lesbians and bisexuals…" **[4n]**

21.15 As reported in a BBC News report dated 4 September 2003, India's eunuchs (Hijra) are demanding the right to be treated with tolerance and respect. **[32eh]** According to the BBC News report of 4 September 2003, it is estimated that there are between 500,000 and one million hijras living in India. Because of growing societal prejudice, many hijras are unable to find work in their

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

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

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

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DISABILITY

22.01 As reported in the US State Department report 2005:

"The Persons with Disabilities Act provides equal rights to all persons with disabilities; however, advocacy organizations acknowledged that its practical effects were minimal, in part due to a clause that makes the implementation of programs dependent on the 'economic capacity' of the Government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and in access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, and public spaces throughout the country have almost no provisions for wheelchair access." **[2c] (Section 4)**

The report notes: "In February the country's civil services introduced a quota for the employment of 20 persons with disabilities per year." **[2c] (Persons with Disabilities)**

22.02 The same report continues:

"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 put a rehabilitation center in each of 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 Persons with Disability Act, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities." **[2c] (Section 4)**

22.03 As stated in the same source:

"The Government provided special railway fares, education allowances, scholarships, customs exemptions, rehabilitative training and budgetary funds from the Ministry of Rural Development to assist the disabled; however, implementation of these entitlements was not comprehensive." **[2c] (Section 4)**

22.04 The report continues:

"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, the Government constituted a new NCPD headed by a former Governor, Sunder Singh Bhandari. In April, 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 that there was a

shortage of educational institutions for the disabled and that the admissions process was marked by harassment." **[2c] (Section 4)**

22.05 As reported in the US State Department report 2005:

"In July, 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. They also claimed that no effort was made to make railway compartments, platforms, and railways accessible to the disabled, and noted that less than 1 percent of the disabled were employed…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 that most colleges and universities did not know about this law." **[2c] (Section 4)**

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WOMEN

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

OVERVIEW

23.01 According to the July 2002 estimates as cited in the CIA World Factbook 2002, out of a population of 1,045 million, 506 million are female and 539 million are male. **[35] (p3)** As reported in the US Department of State report 2001, higher female mortality at all age levels, including female infanticide and sex selective termination of pregnancies, accounts for the higher ratio of males to females. **[2a] (Section 5)**

23.02 A report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled "Women in India How Free? How Equal?" (the 2001 UN report) states that "Only 54% of Indian women are literate as compared to 76% men." **[50] (p8)** The report continues:

"At the time of the 1991 Census, only 39% of Indian women could read and write. According to the Census of India 2001, female literacy rates have gone up to 54%. In 1951, India's female literacy rate for the entire population over 5 years of age, was barely 9%. In the past 50 years, therefore, it has increased six-fold. Despite this progress, close to 190 million Indian women lack the basic capability to read and write. Female literacy levels vary dramatically between states. The Census of India 2001 results are sobering – only Kerala and Mizoram have even approached universal female literacy. In Orissa, Rajasthan, Uttar Pradesh, Arunchal Pradesh, Jharkhand, Madhya Pradesh, Andhra Pradesh and Bihar almost 50% of women do not know how to read and write." **[50] (p43)**

23.03 The 2001 UN report notes that:

"The Constitution of India guarantees to all Indian women

- Equality before the law. Article 14
- No discrimination by the State on the grounds only of religion, race, caste, sex, place of birth or any of these. Article 15 (1)
- Special provisions to be made by the State in favour of women and children. Article 15 (3)
- Equality of opportunity for all citizens in matters relating to employment of appointment to any office under the State. Article 16
- State policy to be directed to securing for men and women equally the right to an adequate means of livelihood. Article 39(a)
- Equal pay for equal work for both men and women. Article 39 (d)
- Provisions to be made by the State for securing just and humane conditions of work and for maternity relief. Article 42
- To promote harmony and to renounce practices derogatory to the dignity of women. Article 52 (a)." **[50] (p11)**

22.04 The 2001 UN report concludes that there is evidence of huge gaps between constitutional guarantees and the daily realities of women's lives. The report

notes that all women are not equal; women belonging to the privileged and dominant classes and castes enjoy many more freedoms and opportunities than women from the subordinate and less privileged groups. Inequality in India affects men: Dalits and Adivasis, members of subordinate castes and communities, landless people, disabled people, and many other groups. However the report concludes women have a position at the bottom of the pile in each of these groups. **[50] (p79)**

23.05 Amnesty International, in its 2005 annual report, covering events in 2004, noted:

"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." **[3k] (Women)**

23.06 In 2003 the Government of Assam Planning and Development Department issued a Human Development report for the state of Assam. In a chapter entitled "Women: Striving in an Unequal World", the report states:

"Despite their contribution, they [women] continue to be severely disadvantaged, and even discriminated against. In most fields of professional endeavour, women have had to struggle to reach the top, in the process of combating indifference, occasionally even obstruction and hostility. At the other end of the economic scale, women are deprived access to basic services, and relegated to subservient yet physically demanding roles. In this context the position of women in Assam is no different from that of women in other regions of the country. In fact, in some respects women in Assam are even more disadvantaged." **[88] (p106)**

23.07 In 2003 the Government of Tamil Nadu issued a report on Human Development in Tamil Nadu which included a chapter entitled "Gender". The report states that the performance of Tamil Nadu in a number of areas including female literacy, infant mortality rates, life expectancy and fertility rates shows that the status of women is higher in Tamil Nadu than in other states with the exception of Kerala. However the report acknowledges that their position has remained unchanged or even worsened as far as the declining sex ratio is concerned. **[18] (p93)**

23.08 The 2001 UN report states that:

"India has led the world in ratifying UN Conventions and international covenants like the convention of the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action…The last few years have seen dramatic increases in the space available for women in Indian society – a consequence of affirmative policies and programmes by the government and initiatives by NGOs and other civil society groups. Most of all,

these changes are the result of years of determined advocacy, campaigning and action for change by women themselves." **[50] (p13)**

23.09 However, the report continues: "But gaps still remain. While some women are emerging as strong and confident individuals, in control of their own lives and capable of raising their voices to demand their rights, others face a very different reality, prompting the question: 'Is the glass half full or half empty?'" **[50] (p13)**

23.10 As reported by *The Guardian* newspaper, dated 3 February 2006, the All India Muslim Personal Law Board, which claims to represent the nation's 140 million Muslims, issued an edict stating Muslim women should not work with men or shop in areas where they could mix with strangers of the opposite sex. Women were also criticised for wearing Western clothes deemed to be too revealing. The comments angered Muslim liberals. "The board, which is made up of leading clerics from all over India, carries considerable weight. Almost every mosque in the country takes its advice." **[40e]**

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LEGAL RIGHTS

23.11 As noted in the 2002 AI report entitled "India: The battle against fear and discrimination":

"The central government and state government have taken several steps to protect woman [sic] through enactment of legislation and to prosecute those who perpetrate violence against them. The Indian Penal Code (IPC) has been amended several times in relation to crimes against women largely as a result of campaigns against violence led by the women's movement in the country." **[3e] (p13)**

23.12 As reported in the US State Department Report 2005 (USSD) published on 8 March 2006: "Numerous laws exist to protect women's rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the sati Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However the government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted." **[2c] (Section 4)**

23.13 The same report continues: "The government took a number of steps to assist the female crime victims. These included establishing telephone help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue." **[2c] (Section 4)**

23.14 As noted in the 2001 UN report:

"In response to years of sustained legal activism by the women's movement, the Supreme Court has begun to apply equality principles to address issues of violence against women. Apart from the landmark ruling on sexual harassment in the workplace in 1997, judgements have also begun to apply international conventions like CEDAW and the Convention on Human Rights. Following the declaration of 2001 as the 'Year of Women's Empowerment', the Government

of India has announced that more stringent civil legislation will be enacted to combat violence against women. The proposed bill will give women victims the rights to protection, relief and custody of their children." **[50] (p76-77)**

23.15 According to Amnesty International's report in May 2001 "The battle against fear and discrimination":

"Attempts by women to seek justice through the criminal justice system are regularly forestalled…Unless supported by male relatives or a strong social group, women victims of crime are at a severe disadvantage within the criminal justice system. Threats and harassment by perpetrators and their communities and social pressures which exist within families and communities force them towards compromise or withdrawal rather than pursuing justice. Gender biases which exist within institutions of redress are often exacerbated by ingrained caste and other biases against members of disadvantaged communities." **[3e] (p16-17)**

23.16 The Home Office Fact-Finding Mission report, "Women in India", 2004 notes many laws exist for the protection of women's rights but implementation and enforcement appeared to pose the biggest barrier with cultural reasons cited as one of the problems surrounding implementation. **[105]**

23.17 According to Amnesty International's 2005 report covering events of 2004: "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." **[3n] (p1)**

23.18 As reported in *The Hindu* on 25 August 2005, "The Protection of Women from Domestic Violence Bill, 2005 – which seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members of relatives – was unanimously passed by the Lok Sabha on Wednesday." It was commented that the situation of women was what it was not due to absence of adequate laws, but poor implementation. **[60l] (p12)**

See Section on domestic violence for more information on the Bill.

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POLITICAL RIGHTS

Women in Politics

23.19 As cited in the US State Department Report 2005 (USSD) published on 8 March 2005: "There were 69 women in the 783-seat legislature, and 7 women in the Cabinet of Ministers. Numerous women were represented in all major parties in the national and state legislatures. Constitutional amendments passed in 1992 reserved 33 percent of seats for women in elected village council (panchayats)." **[2c] (Section 3)**

23.20 *India Today* reported in July 1998 that there had been a prolonged debate over the reservation of parliamentary and State assembly seats for women. In

recent years Indian governments had pledged to introduce legislation which would guarantee that at least 33% of MPs would be women. **[11b]** As reported by the BBC on 7 March 2003, a Bill had twice been introduced into Parliament, but had yet to be passed. By March 2003, a consensus had still not been reached among political parties discussing the issue. **[32aq]**

23.21 According to Keesings Record of World Events for May 2003, the Women's Reservation Bill, which sought to reserve one third of seats in the Lok Sabha for women, was again effectively stalled on 6 May 2003 after male legislators opposed to it, engineered a disruption in the Lok Sabha. The speaker of the house adjourned the discussion of the bill, effectively ensuring its deferral. Although the BJP and the main opposition Congress (I) were united in support of the bill some parties in the ruling National Democratic Alliance and other opposition parties were determined to thwart its progress. Only 10 percent of MPs were women as at 2003. **[5p]**

23.22 As reported in a BBC News article dated 20 November 2003, women were on the rise in Indian elections:

"High profile female candidates were fighting pitched battles in at least 3 of the four states in key state elections in December 2003. Delhi had 77 female candidates, an increase from 58 in the last elections, Congress party fielded 40 women candidates in Madhya Pradesh. The total number of women candidates was less than 10% of the total contestants. A study conducted by the Delhi based Centre for Social Research showed the winning percentage of women candidates to be much higher than their male counterparts. The study was based on an analysis of the last five general elections since 1972. Analysts say a slow but definite change is emerging in people's perception of women politicians." **[32cf]**

23.23 A BBC News report dated 8 December 2003 further stated that while India had seen a number of women leaders, they had not overseen any remarkable change in the status of women in Indian society:

"The two main national parties, the BJP and Congress, have always advocated strong support for reserving a third of seats for women in national and state parliaments. But these attempts have failed and the national parliament percentage for women stands at only 17. The federal cabinet has less than 10% women." **[32cg]**

23.24 A report issued by the Government of Tamil Nadu in 2003 noted that despite the differences in participation in voting between men and women in Tamil Nadu being small, gender difference in achieving positions of power through elections was higher, with the percentage of female members of parliament being consistently lower than eight per cent. **[18] (p103)**

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Women in the Workplace

23.25 The US State Department Report for 2005 (USSD) published on 8 March 2006 notes that:

"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 women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported microcredit programs for women 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." **[2c] (Section 4)**

23.26 As noted in the same report 2005:

"Sexual harassment was common, with a vast majority of cases unreported to authorities. A 2003 study by a senior Professor at the Madras Institute of Development Studies chronicled the hazards faced by some women in the workforce. Among these were physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In June 2004 a joint report released by the NCW [National Commission for Women] and the national press institute found that most women experienced gender discrimination at their workplaces. Attempts by women to report harassment resulted in further problems or dismissal…" **[2c] (Section 4)**

The same report notes that: "In April 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 of the case." **[2c] (Section 4)**

23.27 As reported by BBC news on 27 July 2005:

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

Gill was head of Punjab police when he molested a senior female bureaucrat and was convicted ten years later of "outraging her modesty". In 1988 the Sessions court in Punjab sentenced him to three months in prison which was later commuted to a year on probation by the state high court, which ordered him to pay compensation to his victim plus a fine. "Upholding the conviction, two Supreme Court judges…ordered that the officer pay the compensation as well as $500 in legal expenses." The Supreme Court also ordered him not to drink in public. The judges did not deem a custodial sentence necessary as he had already served probation. **[32il]**

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GENDER IMBALANCE

23.28 As reported in the US State Department Report 2005 (USSD) published on 18 March 2006:

"Although the law prohibits and the government conducted programs to limit the use of amniocentesis and sonogram tests for sex determination, NGOs in the area reported that some family planning centers in the state reveal the sex of fetuses. Both female infanticide and selective feticide targeting female babies 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. In May the health minister stated to parliament that there were no feticide-related convictions in the past eight years." **[2c] (Section 4)**

"Parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that 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 male/female ratios, with Punjab reporting the lowest statewide totals in the country: 793 females to 1000 males. **[2c] (Section 4)**

23.29 As stated in the US Department of State report 2003, published on 25 February 2004, "In Tamil Nadu, three persons were sentenced to life imprisonment for killing a newborn girl. Tamil Nadu implemented a 'cradle scheme' in 1992 whereby unwanted infants could be left outside the Social Welfare Department." **[2h] (p29)**

23.30 The independent report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled "Women in India How Free? How Equal?" noted that:

"Given the enormous progress India has made in health care and nutrition for its women and children one would expect a steady increase in the number of women in the population. It is shocking that the reverse has happened. The female to male ratio has become worse, not better, in the last 100 years. The adverse male to female ratio can be explained only by the fact that women in India are still second class citizens. It is proof that, at every stage in their lives beginning from before birth, women are deprived of their rights and entitlements, and discriminated against in a variety of ways." **[50] (p12-13)**

23.31 As reported in a BBC report dated 24 August 2004 in connection with a man in Rajasthan threatening to kill his third daughter born after the failure of an operation to sterilise his wife, "Female infanticide is rife in Rajasthan, where the birth of a daughter is considered a curse, while the birth of a son is celebrated. The state has a gender imbalance, with just 922 females for every 1,000 males." **[32ee]** A report issued by the Government of Assam in 2003 states that, "The SR [sex ratio] in Assam according to the 2001 Census, is 932 females per 1000 males, marginally below the national SR of 933 females per 1000 males. For Assam as well as for India there has been an improvement in the SR (from 923 to 932 for Assam and from 927 to 933 for India)."

However these figures are based on a comparison with the 1991 census, and are marginally more adverse than the 1981 census for India which showed a figure of 934 females per 1,000 males. **[88] (p112)**

23.32 As reported by BBC News on 22 January 2005:

> "In some parts of India there are so few women that men are having to look away from home to secure a bride. In the worst affected state of the Punjab there are fewer than eight girls to ten boys. Experts blame the outlawed practice of female foeticide (aborting female babies) for the skewed male/female ratio and say that almost a million girl foetuses have been killed because culture and tradition state that boy babies are preferable. In India, girls can be viewed as a burden, not least because many still believe a family must provide a dowry for their daughter's marriage – even though this practice is now illegal. There is also widespread belief that the family is continued through the male line and an interpretation of Hinduism that says the father's last rites must be carried out by his son."

To raise awareness and to try to change opinion, the international charity Plan and the Indian Government with financial backing from the Edward Greene charity are to produce a soap opera in the hope that this will reach a wider audience and start the process of change. "Dr Saarda Jain, from the Indian Medical Association, based in New Delhi, said that although the practice of female foeticide was banned in practice that it was still flourishing in certain areas." He commented that although it is condemned as a crime it is still being carried out. According to the article there is great cause for concern about the female/male ratio in India which is dropping rapidly. "In 1991 there were 945 female to 1,000 males, but by 2001 that was just 927… It is a very male dominated society." Dr Saarda Jain stated that the statute is not making much difference where even the educated and elite are involved in female foeticide. **[32fw]**

23.33 According to an answer to a starred question in the Rajya Sabha dated 18 March 2005, the Minister of health and family welfare stated that, "The Government is continuously working towards ending the practice of pre-birth elimination of females. A comprehensive Act known as Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PC & PNDT Act) is being implemented in the country…The violaters of the Act are punishable with imprisonment upto [sic] 5 years and fine up to Rs. 5 lakhs, along with cancellation of registration licence…this sends a signal to the society at large, and females in particular, that gender-based discrimination shall not be tolerated." **[27e]**

23.34 Guardian Unlimited reported on 12 June 2006: "A man wanting a son reportedly forced his wife into 10 abortions in 23 years." The woman who has four daughters said that her husband arranged an ultrasound test to determine the child's sex, each time she was pregnant. She filed a complaint after her husband remarried and had a son. A court ordered his detention on charges of harassment and forcing abortions. Police are investigating the doctors who carried out the tests and abortions. **[40h]**

23.35 BBC News reported on 15 May 2006:

> "Police in the Indian state of Rajasthan have launched an investigation into 21 doctors who are alleged to have been involved in aborting female foetuses. The move came as women's groups marched in the state capital, Jaipur, in protest over the issue…The state health minister said those found guilty of

such practices would be severely punished…Police have now filed cases under the Pre-Natal Diagnostic Techniques Act (PNDT), which makes selective abortions illegal, against 21 doctors from government-run and private hospitals. Under Indian law, ultrasound tests on a pregnant woman to determine the gender of the foetus are illegal…According to the last census, Rajasthan has 922 females per 1,000 males. However, some districts have an even more dismal sex ratio. Women's groups say the government has failed to implement the PNDT Act and the female population is in decline. In a rare case in March, a doctor in Haryana state and his assistant were sentenced to two years in jail for revealing the sex of a female foetus and then agreeing to abort it. According to one report, 10 million female foetuses may have been aborted in India over the past 20 years." **[32ax]**

23.36 BBC News reported on 18 August 2006:

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

23.37 The report continues:

"Acting on information given by a midwife…police and health officials excavated a second deep well on the premises of Sahib Hospital... workers recovered what appeared to be numerous skeletal remains of babies and several pieces of blood-soaked cloth…Darshan Kumar Singla, a local journalist in Patran, says 'although everyone is aware this is illegal, most people do not think anything about aborting a female child and trying again for a boy. Female foeticide is rampant in all the small towns here. Most nursing homes do such work at night and everybody - the police, the health authorities and the civil administration - knows this is happening.' **[32q]**

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

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MARRIAGE

23.38 According to a World Bank document, "Terror as a Bargaining Instrument: A Case study of Dowry violence in rural India, 2002: "In India marriage is almost never a matter of choice for women, but is driven almost entirely by social norms and parental preferences." **[55] (p1)**

23.39 The report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled "Women in India How Free? How Equal?" notes that:

> "Legally the minimum age for marriage in India is 18 for women and 21 for men, but this law is honoured more in the breach. Close to 60% of women in rural India were married before the age of 18, when they were still adolescents – and this is in a sample of women in the age group of 20-24 years, not the 'older generation' where this may have been the norm. The fact that the legal provisions for compulsory registration of births and marriages are seldom enforced, allows the prohibition against child marriage to be flouted with impunity." **[50] (p62)**

23.40 According to the UNHCR Human Rights report for 1995, the personal status laws of the religious communities govern matters such as marriage, divorce and property. The Hindu Marriage Act 1955 gives the parties the right to dissolve the marriage according to their custom. Under the Indian Divorce Act 1969, a Christian woman may petition the court for divorce on one or more of several grounds, including bigamy and rape. **[4e] (p9)** The BBC, in a news item dated 4 August 2004, reported that following several cases where Indian men had divorced their wives by mail, over the phone and via text messages, the All India Muslim Personal Law Board had taken the matter up at a recent meeting. Although the board did not have the authority to ban the practice there was a consensus among the board that it was a sin and should be discouraged. An awareness campaign was started. **[32b]** According to the UNHCR Human Rights report for 1995, the divorce law applying to secular marriages was included in the Special Marriage Act 1954, providing for divorce by mutual consent as well as by petition to the court. **[4e] (p9)**

23.41 The USSD 2003 report notes that: "The Government continued to review legislation on marriage; it passed the Indian Divorce (Amendment) Act during 2001; the act widely had been criticized as biased against women. The Act placed limitations on interfaith marriages and specified penalties, such as 10 years' imprisonment, for clergymen who contravened its provisions." **[2h] (Section 5: Women)**

23.42 As reported in the USIRF report 2006: "The Indian Divorce Act of 2001 limits inheritance, alimony payments, and property ownership of persons from interfaith marriages and prohibits their use of churches to celebrate marriage ceremonies in which one party is a non-Christian. Clergymen who contravene its provisions could face up to ten years' imprisonment. However, the act does not bar interfaith marriages in other places of worship." **[2b] (Religious Demography)**

23.43 As reported in the US Department of State Report 2005: "In February (2004), the government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they resided during the marriage or where the marriage took place; however, the amendment permits women to file where they currently reside. At year's end, there were no changes to the triple talaq provisions, which allowed Muslim men to divorce their wives simply by saying 'talaq' three times." **[2c] (Section 4)**

23.44 However as reported in the USIRF Report 2006, released on 15 September 2006:

"On May 2, 2005, in response to concerns about the improper use of the triple talaq (the ability of a husband to divorce his wife by repeating, 'I divorce thee' three times), 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." **[2b] (Section II. Status of Religious Freedom)**

"In April 2006, the supreme court overruled a fatwa (decree) issued by local clerics which demanded that, against their will, a couple live separately after an inebriated husband gave talaq to his wife. The Jamiat ul Ulema (religious leaders) threatened to excommunicate the couple if they remained together, and criticized the supreme court for hurting Muslim religious sentiments after it intervened in the case. The AIMPLB asserted that fatwas are only opinions and therefore are not binding on any person in an attempt to convince the supreme court that a legal prohibition against the issuance of fatwas was not necessary." **[2b] (Section II. Status of Religious Freedom)**

"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 non-criminal matters, including family law and inheritance." **[2b] (Section II. Status of Religious Freedom)**

23.45 The USSD 2005 report notes that: "In August parliament amended the Hindu Succession Act, which 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." **[2a] (Section 5. Women)**

23.46 As noted in the USSD 2005 report: "Many tribal land systems, notably in Bihar, denied tribal women the right to own land. 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 controlled family property and enjoyed full inheritance rights." **[2c] (Section 4)**

23.47 A BBC News report dated 24 June 2003 notes that in Meghalaya, women ran family businesses, dominated the households and took all key family

decisions. However according to a Meghalaya based NGO, North East Network, patriarchal values were gaining ground. Domestic violence against women in Meghalaya was increasing. The number of cases of rape and sexual abuse against women has also been rising. **[32ba]**

23.48 It was reported on 16 September 2003 by the BBC that India faced a key marriage ruling after a landmark ruling in the Calcutta High Court. An Indian man planned to appeal after the court ruled that he had no right to force his wife to live with his family. Two judges ruled that his wife should live with him but separately from her in-laws:

"When her husband refused to move out she sued him in a lower court, with the request that he be legally compelled to stay with her. When the lower court turned down her request, she took the case to the High Court…They ruled that a wife had the right to live separately with her husband, and could refuse to live with his parents and relatives. Legal experts say this judgement could have a huge impact on conjugal relations in India's male-dominated society and if not overturned by the Supreme Court, could be used as case-law." **[32bw]**

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CHILD MARRIAGE

23.49 As reported in a BBC News item dated 11 May 2005, it was claimed that a woman was attacked for trying to stop child marriages in Madhya Pradesh. Authorities launched an inquiry. The practice of child marriages is illegal but some rural children are still forcibly married. Akha Teej is an auspicious Hindu day traditionally used in some rural areas as the date for child marriages. The Chief Minister Babualal Gaur, said of the practice, 'It is not possible to stop it. Have we been able to end alcoholism or untouchability? If Gandhi could not succeed in this, how can Babulal Gaur?' Child marriages in India are illegal for girls under 18 and boys under 21 and authorities in many areas have taken steps to prevent marriages on Akha Teej. There has been a large public awareness campaign in Rajasthan. Indian television reported the number of child marriages to be down this year [2005] following tough police measures. (Parents, owners of the premises and the priest conducting the ceremony can all be arrested). **[32im]**

23.50 "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. According to the 1999 national Family Health Survey, 64.3 percent of women in Andhra Pradesh, 46.3 percent in Karnataka, 24.9 percent in Tamil Nadu, and 17 percent in Kerala were married before the age of 18." As reported in the 2005 USSD report. **[2c] (Section 5)**

23.51 BBC News reported on 14 February 2006 that The Supreme Court has given the federal and state governments three months to enact legislation making it compulsory to register all marriages. Under proposed changes proof of a traditional religious marriage ceremony would no longer be sufficient. The proposed law would help ensure a minimum age for marriage, ensure consent of both parties, deter bigamy and polygamy and deter the trading of young

girls under the guise of marriage. It would also help women claim alimony after divorce or separation. Details of the new law are yet to be finalised. Gujarat, Maharashtra, Karnataka and Himachal Pradesh already have these laws but according to the NCW (National Commission for Women) are in need of strengthening. Currently the majority of marriages are not registered because ceremonies are performed according to religious rites. Divorce petitions have accepted religious ceremonies as legal. **[32ao]**

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DOMESTIC VIOLENCE

23.52 As noted in the US State Department Report 2005 (USSD) published on 8 March 2006:

"Domestic violence was common and a 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 women's group Majlis, many women were forced to remain in abusive relationships because of social and parental pressure and to protect their children. According to a survey conducted during the year by the International Institute for Population Studies, 56 percent of women believed wife beating was justified in certain circumstances." **[2c] (Section 5)**

23.53 The report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled "Women in India How Free? How Equal?" notes that all women, regardless of age, class, caste and community are vulnerable to domestic violence and further notes that marriage, a joint family, education, economic security and social status do not provide any real protection. **[50] (p73)**

23.54 As reported in the Human Rights Watch Annual Report 2005, "Domestic violence includes dowry-related abuses and 'bride-burning'." **[26e]**

23.55 AI noted in "The Battle against fear and discrimination" report that violence within the home is widespread in both Uttar Pradesh and Rajasthan and affects women throughout society. It is apparent in both wealthy urban households and the poorest rural households, cutting across all religious, class and caste boundaries. Offences include beating, slapping, kicking, rape and even murder, often by burning. **[3l] (p5-6)**

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

"All over the country women face harassment and violence at the work place and at home. To a degree, this is also true of Assam where women increasingly need to cope with aggression, especially domestic violence. According to National Health Survey-2 (NFHS-2), 16 percent of women in the State have experienced violence since the age of 15. Although lower than the national average of 21 percent, this is still a matter of concern. Rural illiterate women, according to the survey are most likely to have experienced violence in some form. Of married women, 14 per-cent have been mistreated by their husband. The fact of a 'culture of silence' surrounds the issue of domestic

violence makes data collection very difficult. These figures could well be under-estimates." **[88] (p132-133)**

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

"There are several causes of violence against women. The perception that women are their husband's property is strong in Tamil Nadu. Suspicion of infidelity, infertility (of the couple), alcoholism, dowry and instigation by in-laws are some of the immediate causes of violence against women, signalling the deep-rooted patriarchal values that underlie the same. The result is that wife beating is considered normal, even by women themselves." **[18] (p101)**

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

- "The definition of rape excludes all forms of sexual assault other than penetrative intercourse
- The age of consent is defined as fifteen years, contradicting the definition of an adult woman as one above 18 years of age.
- Marital rape is not considered an offence unless the wife is less than 12 years, even though marriage with a minor is itself a crime.
- Women who cannot show physical proof of having resisted the act, in the form of injuries, are generally assumed to have consented to it." **[50] (p75)**

23.59 However the 2001 UN report concludes:

"Following the declaration of 2001 as the 'Year of Women's Empowerment', the Government of India has announced that more stringent legislation will be enacted to combat violence against women. The proposed Bill will give women victims of violence the rights to protection, relief and custody of their children. The common perception of domestic violence as a 'private' issue is also changing. According to a survey conducted by the Times of India in Bangalore, where 250 women and men were interviewed, 81% considered domestic violence to be a serious problem and defined it as verbal and physical abuse, sexual harassment and mental torture. The overwhelming majority of respondents felt that legal action was justified in cases of domestic violence." **[50] (p77)**

23.60 Rediff.com reported on 22 August 2005 that a landmark bill which seeks to deter all forms of domestic violence against women by providing for punishment up to a one year jail term was introduced into the Lok Sabha. The Protection of Women from Domestic Violence Bill, 2005, defines the expression 'domestic violence' to include actual abuse or threat of abuse: physical, sexual, verbal, emotional or economic violence. **[81b]**

23.61 The report continues:

"Harassment like unlawful dowry demands would also be covered under this definition. A magistrate can pass protection orders in favour of the aggrieved person. Breach of protection order by the respondent shall be an offence and shall be punishable with imprisonment, which may extend to one year or fine, which may extend to Rs 20,000 or with both. The magistrate can prevent the

respondent from entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from domestic violence." **[81b]**

23.62 As reported by BBC News on 24 August 2005, the lower house of parliament has passed a bill seeking to protect women from domestic violence. The bill is expected to become law in the next few days following approval from the upper house. The bill seeks to ban harassment from dowry demands and will give sweeping powers to magistrates to issue protection orders. The report states: "Every 6 hours in India a young married woman is burned alive, beaten to death or driven to commit suicide…According to a recent study, at least 45% of Indian women are slapped, kicked or beaten by their husbands, many of them on a continual basis…Women's activists have welcomed the bill, although many say it is not perfect."

23.63 They advocate that a change in mindsets is needed in preventing domestic abuse and that a bill alone will not help. "A recent survey by the International Institute for Population Studies showed 56% of Indian women believed wife beating to be justified in certain circumstances. The reasons varied from going out without the husband's permission to cooking a bad meal. Domestic abuse is often denied by the victims themselves." **[32hj]** As further reported in *The Hindu* on 25 August 2005, "The Protection of Women from Domestic Violence Bill, 2005 – which seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members or relatives – was unanimously passed by the Lok Sabha…" **[60l]**

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DOWRY

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

23.65 As noted in the US State Department Report 2005 (USSD) published on 8 March 2005:

"Providing or taking dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes remained a serious problem. In a typical dowry 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 2004 the government registered 6,250 dowry death cases under the Dowry Prohibition Act, in which husbands or in-laws murdered women for not providing sufficient dowry. In September the Delhi Commission for Women reported 677 cases of abuse against women from January to July, of which 92 percent were dowry related and 22 percent a result of harassment by in-laws. In 2004 Delhi police's crime against women cell recorded 7,987 dowry-related cases. Of these, police counselled 1,853

families to a compromise, filed criminal charges in another 1,200 cases, and in five thousand cases the victim did not pursue the matter. In 2004 there were 122 dowry-related deaths in Delhi. In March the West Tripura sessions court sentenced three persons to five years' rigorous imprisonment for abetting the suicide of a woman by torturing her for dowry in 2003." **[2c] (Section 5)**

"The media often reported cases of dowry murder. On August 19, 19-year-old Charanpreet Kaur was set on fire and killed by her father-in-law because her parents could not meet her in-laws' ever-increasing demands for dowry. Kaur made a statement to police before she died, and her husband and in-laws were arrested. At year's end, all accused were in New Delhi's central jail awaiting formal murder charges." (USSD 2005) **[2c] (Section 5)**

23.66 The same report continues:

"The Tamil Nadu government reported an increase in cases filed under the Dowry Prohibition Act from 175 in 2003 to 294 cases in 2004. In 2004 the government won convictions in 32 cases of dowry harassment, including 8 involving murder. Lawyers confirmed that wife-battering cut across all religions, caste, and educational levels. Convictions potentially took several years. For example, during the year the Chennai high court convicted two accused persons of a dowry death case initially filed in 1995." **[2c] (Section 5)**

23.67 As reported in the US Department of State report 2005:

"Under the law, courts must presume the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first 7 years of marriage – provided that harassment was proven. In such cases, police procedures required that an officer of the rank of deputy superintendent or above investigate and that a team of two or more doctors perform the postmortem procedures; however, in practice police did not follow these procedures consistently." **[2c] (Section 4)**

23.68 As reported by the BBC News service on 1 June 2000, if convicted, prison sentences can stretch to 14 years. **[32l]**

23.69 As noted in a BBC News article dated 16 July 2003, this type of murder is often referred to as "bride burning" in India. Payment and acceptance of a dowry has been illegal in India for 40 years but is still widely practised. Dowry Prohibition Act 1961 (amended in 1984 and 1986) bans paying and receiving dowries. **[32bb]** As reported by the BBC on 16 July 2003, in 2003, Nisha Sharma, a prospective bride from Noida just outside Delhi had her groom arrested after he demanded a dowry. The groom and his mother were arrested under the rarely enforced 1961 Anti-Dowry Act. Both were awaiting trial. **[32bb]** According to a BBC news item dated 8 October 2003, Nisha Sharma became an instant celebrity as politicians and non-government organisations honoured her for her boldness in calling the police. [32cb] According to the US State Department report 2004, in the case of Nisha Sharma, the potential groom was detained for 14 days while formal charges were filed for violating the country's laws against dowries. The case received considerable publicity and the story has been included in the school curriculum in Delhi to teach children the problems of the dowry system. **[2c] (Section 4)**

23.70 As reported in a BBC news article dated 29 September 2004, "The new English textbook for the sixth standard – age 11 to 12 – in schools run by the government of the Indian capital, Delhi, includes a chapter on Nisha Sharma." The State Council of Education Research and Training who prepared the book stated that the story was included to draw children's attention to social problems. Nisha Sharma became a role model after calling off her wedding because her fiance asked her parents for more dowry money. **[32fj]**

23.71 As recorded in the USSD report of 2005: "Usually at a disadvantage in dowry disputes, women have begun to speak out against dowry demands. In February a woman from Bhiwani, Haryana, refused to join her husband after her marriage ceremony because of a dowry demand by her in-laws. The local panchayat stood by the woman's decision." **[2c] (Section 5)** According to a BBC News report dated 28 November 2003, "Thousands of people in the southern Indian city of Bangalore have staged a march and rally against the system of dowry." The Karnataka State Women's commission (KSWC) organised the rally. Apparently the women were joined by many men. **[32cd]**

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

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

23.73 As noted in a BBC News article dated 30 September 2004, a triple suicide attempt was made by three sisters afraid any dowry demands for their potential marriage would financially cripple their father. The sisters were from a village in Calcutta. The three drank pesticides whereupon the youngest died and her two sisters survived but were in hospital. One of the sisters said that her mother had a brain disease and her father had struggled for months to get sufficient money together for dowries. In their suicide note the girls said they wanted to save the family from continuing struggles for dowry money which had led to bitter arguments. The father denied the situation was that bad but admitted that on occasion marriages have broken down because he could not find a dowry. "He said the dowry system – while technically illegal – is a way of life… If you have a daughter, you have to give a dowry, if you have a son, you will receive one when you are married. It is the way of our society." The article further states that although the dowry system is officially illegal in India, it is common outside the main cities. A doctor at the hospital where the girls were admitted stated that a survey was carried out some months earlier whereby it was found that 35–40 people attempted suicide in that area every month. He said that extreme poverty was the principle cause of suicides linked to dowries. **[32gb]**

23.74 As noted in a reply to an unstarred question regarding the increasing number of false dowry cases in the Rajya Sabha, dated 16 March 2005, "As per statistics compiled by the National Crime Records Bureau, the number of dowry death, which were declared false due to mistake of fact or of law during

2002 was 396 in comparison to 400 in 2001. The number of such cases further came down to 312 in 2003." The number of cases of dowry deaths reported during 2001-2003 was 6,851 in 2001, 6,822 in 2002 and 6,208 in 2003. **[28d]**

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SOCIAL AND ECONOMIC RIGHTS

Gender Discrimination

23.75 AI further report that gender discrimination is a problem within many communities. Caste and land rights impact on political, social and economic relationships. In Uttar Pradesh political parties representing dalit and lower-caste communities have played a role in empowering some of these groups in some areas. **[3e] (p6)** Despite many positive developments in securing women's human rights, patriarchy continues to be embedded in the social system in many parts of India. **[3e] (p5)**

23.76 As cited in Human Rights Watch Annual Report 2005, "Despite several legal provisions for gender equality, women still struggle to realize equal rights to property, marriage, divorce, and protection under the law." **[26e]**

23.77 OneWorld.net in the In depth country guide for India, updated quarterly, accessed 29 September 2006, notes:

"Of the many awesome human statistics for India, none is more disconcerting than the gender ratio of only 927 girls for every 1,000 boys under age 6, the most imbalanced in the world and declining further each year. The horrific inference of infanticide has cultural and economic considerations at its root, coupled with failure to enforce legislation. Gender discrimination pervades Indian society, from the extreme practice of honour killings to resistance in parliament to quotas for female representation. The government is however attempting to improve the status of women both in the draft 11th five year plan and by passing legislation such as the Hindu Succession (Amendment) Bill, 2004, giving daughters and sons equal rights to property. The Domestic Violence Act passed in 2005 also represents the culmination of years of campaigning by women's groups." **[118]**

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VIOLENCE AGAINST WOMEN

Societal Violence

23.78 As noted in the US State Department Report for 2005 (USSD) published on 8 March 2006:

"The press reported that violence against women was increasing, although some local women's organizations attributed the apparent increase to greater reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, fostering a climate of impunity.

Upper caste gangs often used mass rapes as an intimidation tactic against lower castes, and often gang raped as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state." **[2c] (Section 4)**

23.79 As noted in an Amnesty International report 2003: "India, Break the cycle of impunity and torture in Punjab": "There has been an overall increase in crimes against women recorded in Punjab in the post militancy period, particularly in the context of matrimonial disputes, in response, the police in Punjab have created 'women cells' at district level to deal specifically with offences against women. However, these units reportedly lack staffing and other resources such as means of transport." **[51] (p24)**

23.80 Amnesty International stated in "The battle against fear and discrimination" report, "Crimes against Women Cells have also been criticised for not responding appropriately or effectively to cases of violence against women although the majority of crimes referred to these cells relate to violence within the family." **[3e] (p18)**

22.81 As reported in the Human Rights Watch Annual Report 2005, "Gender-based violence, including domestic violence, sexual harassment, sexual assault, and trafficking into forced labor and forced prostitution remain serious and pervasive problems in India." **[26e]**

23.82 In a Rajya Sabha, unstarred question dated 3 August 2005, the Minister of State in the Minister of Home Affairs stated the Government of National Capital Territory of Delhi has started "Project Raksha" to impart self-defence training to female physical education teachers in the first instance who in turn will teach female students self-defence techniques. "It is up to the concerned State Governments to introduce such schemes. However, the Government of India will be happy to share the details of the initiative taken up in Delhi with other States." **[27b]**

23.83 It was stated in a news article, "The Asian Age", New Delhi, dated 28 August 2005, "In a move to curb rising crime against women, Delhi police is recruiting 1,000 more women personnel. The recruitment process has already begun and women police personnel will be trained and deployed within the next 18 months." Currently in the Delhi police, out of 60,000 personnel, 3,000 are women. The current drive is geared towards comprising ten per cent of women in the police force. Kanwaljit Deol, joint commissioner of police, said it would be easier for the department to curb crimes against women once the women brigade was in the field. The article states, "Last year Delhi witnessed 551 rapes, whereas in the first 7 months of this year the number has crossed 400." She stated that Delhi police force was also introducing a new system of Women Beat Constables in certain areas, aimed at combating crime against women, in particular molestations and 'eve-teasing' (a term used to denote harassment of women). **[101]**

23.84 As noted in Amnesty International's Regional Overview 2004 for Asia and the Pacific: "In Jammu and Kashmir, a paramilitary unit, the Rashtriya Rifles, was reported to be responsible for a series of sexual assaults on women. In Manipur, northeast India, the alleged sexual assault and killing in custody of a

young woman, Thangjam Manorama, sparked calls for the repeal of security legislation that had facilitated human rights abuses for decades." **[3m]**

23.85 Amnesty International reported in their 2005 report for events covering 2004:

"Impunity continued for most perpetrators of widespread rape and killing in Gujarat in 2002. During the communal violence Muslim women were specifically targeted and several hundred women and girls were threatened, raped and killed; some were burned alive." **[3n]**

23.86 As stated in a reply by the Minister of State in the Ministry of Home Affairs to an unstarred question in the Lok Sabha for 1 March 2005, the Government of India has been advising the State Governments, from time to time, to take the necessary measures for the prevention of crime against women and other vulnerable sections of society.

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

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

23.87 According to the report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled: "Women in India How Free? How Equal?":

"The India constitution guarantees to all Indians the right to bodily integrity, personal safety and security. The last ten years have seen a much greater sensitivity within the police and justice systems to the issue of violence against women, and sustained campaigning by women's groups has led to stringent legislation to protect women from bodily harm. Yet the violence against women appears to be a 'high growth sector'…The rise in reported crimes has occasionally been interpreted as a positive development, showing that more and more women are 'breaking the silence' and an increasingly gender-sensitive police force is recording their complaints with sympathy and efficiency. However the picture becomes disturbing when these statistics are seen side by side with the decrease in the number of convictions and the increasing number of pending cases in the courts." **[50] (p71)**

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SATI

23.88 The banned Hindu practice of Sati, where a widow burns to death on her husband's funeral pyre, is believed to have originated 700 years ago as an ancient Hindu act of devotion. Sati translates as "faithful wife". In 1987 a young woman jumped onto her husband's funeral pyre witnessed by thousands, leading to a national outcry resulting in the Government banning the glorification of sati, punishable with a maximum sentence of seven years imprisonment and a fine of up to 30,000 rupees ($650). (BBC News, 21 September 2006) **[32fb]**

23.89 BBC News reported on 21 September 2006 that police arrested four sons of an old woman thought to be in her 90s who they believe committed suicide by jumping on her husband's funeral pyre in the state of Madhya Pradesh. It was alleged that the mother was taken to the funeral pyre, lit by her son, in her bridal gear. Other reports state that she expressed her desire to self-immolate and was actively encouraged by her sons and some villagers. She was thought to have been from an upper-caste Hindu Rajput community where sati is reported to have continued despite the ban. This was the second incident within a month to take place in the state, in the socially deprived Bundelkhand region of Madhya Pradesh. The first widow was saved by her family. **[32fb]**

Rape

23.90 The US Department of State report for 2005 records that the Home Ministry reported that in Delhi during 2004 there were 490 instances of rape and 489 sexual molestations of women. **[2c] (Section 5)** "Rape and other violent attacks against women continued to be a serious problem. According to the National Crime Records Bureau (NCRB), in 2004 authorities arrested 133,865 persons for violent attacks against women and there were 12,558 convictions. The NCRB reported 1,157 cases of rape against dalit women in 2004 and 523 cases of rape against the scheduled castes in the first six months of the year. Human rights groups claimed that these numbers were much lower than the actual totals." **[2c] (Section 5)**

The same report notes that the Government prosecuted some rape cases during 2004 but was unable to effectively enforce rape laws. "In January two years after the gang rape of a student from the Maulana Azad Medical College in Delhi, an additional sessions court gave life sentences to the two accused." **[2c] (Section 5)**

23.91 The 2005 USSD report notes that in June a Muslim woman was raped by her father-in-law in Uttar Pradesh. Following the incident, local community and religious leaders ruled she must separate from her husband and move in with her rapist. They also determined she should treat her former husband as her son, now being married to her father-in-law. The All India Muslim Personal Law Board, responsible for overseeing Muslim family law issues, refused to overturn this decision. Numerous women's organisations protested. However, the chief minister of Uttar Pradesh supported the edict, stating the board's verdict must have been deeply considered. However, in July, police arrested the father-in-law, charging him with rape, and he remained in custody at year's end. **[2c] (Section 5)**

23.92 Six tribal women were raped whilst working in a brick kiln in February 2004 in Lucknow. Initially police refused to lodge a complaint, alleging the three victims had not been raped. Following the intervention of higher authorities, police filed charges and two suspects were arrested as reported in the 2005 USSD report.

In March a 21 year old woman was stripped and tortured and made to sit on a donkey whilst paraded around Chandupur village in Uttar Pradesh after she was accused of killing a small child by a local mystic. Despite police intervention, no arrests were made. **[2c] (Section 5)**

23.93 AI reported in "The Battle against Fear and discrimination" that many women victims in India do not report a complaint to the police because they fear it will be dismissed or they will suffer further abuse. Activists told AI in Uttar Pradesh and Rajasthan in December 2000 that the majority of cases were not reported for fear of reprisals and bringing dishonour. Most women will only visit a police station if accompanied by a male relative. As a means of encouraging women to register complaints to the police, Mahila thanas (women's police) stations were established in many states. **[3e] (p17-18)**

23.94 According to an Amnesty International report of 2003, "India, Break the cycle of impunity and torture in Punjab": "Women are particularly vulnerable to police abuse. Rape and other forms of sexual harassment are reported to be frequent forms of torture in police custody. Their humiliation is often greater as they are often tortured solely as a means of putting pressure on their husbands and families." **[51] (p16)**

23.95 It is noted in USSD 2005 report, published in March 2006, that:

"The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape was more common than the NHRC [National Human Rights Commission] figures indicated. A higher incidence of abuse appeared credible, given, other evidence of abusive behaviour by police and the likelihood that many rapes were unreported due to the victims sense of shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared effectively to limit the frequency of rape in custody. There were no recent NHRC data on the extent of this problem." **[2c] (Section 1c)**

23.96 As noted in a Penal Reform International report 2003, counselling units are now being operated by PRAJA in women's prisons across Andhra Pradesh. They counsel women and in addition provide legal and social awareness training. This was one of the recommendations in the PRAJA/PRI report on a mental health and care project for women and children imprisoned in Andhra Pradesh, published in October 2001. The report convinced the State's Prisons Department of the need for counselling units and resource centres in women's prisons. **[53] (p4)**

23.97 According to a BBC News article dated 19 December 2003 Delhi is to set up special courts to hear rape cases that will be prosecuted and judged by women. "The city's police argue that courts dedicated to crimes against women can deliver justice faster. There were over 300 cases or rape filed last year in Delhi. Women's rights activists say the social stigma attached to victims prevents many coming forward with complaints." Even fewer take their alleged attackers to court:

"The new move will add to the three current special courts in the capital in which women judges deal with sexual harassment and dowry related offences…The minimum punishment for rape is seven years and a section of society is now demanding the death penalty for rapists." **[32ce]**

23.98 As reported in the Human Rights Watch Annual Report 2005:

"Activists continue to campaign for reform of rape laws to protect women and children from all forms of sexual violence. The pervasive understanding of 'rape' is that it occurs only when a stranger uses force on a woman. A marital exemption protects men from being prosecuted for raping their wives. Marital rape is not recognized or penalized unless the wife is under the age of fifteen or if she lives separately from her husband." **[26e]**

23.99 As reported in a BBC article dated 23 June 2005:

"An Indian court has sentenced five men to life imprisonment and imposed 23 year jail terms to seven others after a mass rape four years ago. The men were found guilty of raping 15 women in a remote village in the western state of Maharashtra. Two others were acquitted. The court said the men jailed for life should not be granted bail and should remain in prison until they die. In India, life imprisonment is generally equivalent to 14 years."

BBC correspondents say the defendants were said to be members of a feared gang of bandits:

"Some of the 52 witnesses who gave evidence said that the raped villagers endured a four hour ordeal, and throughout that time their village was plundered. The victims were aged between 26 and 70, and in some cases were repeatedly raped. Women's rights groups claim that hundreds of rapes go unreported in India for fear of social discrimination. Correspondents say that latest government figures show there were more than 16,000 rapes in India in 2002." **[32ic]**

23.100 BBC News reported on 15 June 2005:

"An Indian woman who was allegedly raped by her father-in-law is now being ordered by a Muslim council of community elders to marry him. The council says under Islamic law the rape has nullified her marriage, according to media reports. But a top Muslim body in India has rejected the argument saying it is not valid under Sharia (Islamic) law. It says the council was not authorised to give such a verdict and added that the alleged rapist should be punished. Reports say the 28-year-old woman was raped when she was alone at home in Charthawal, in the northern Indian state of Uttar Pradesh. When the incident came to the notice of the council, it ordered that she marry her father-in-law and change her relationship with her husband to that between a mother and son. It also ordered her to leave her home and stay away for seven months and 10 days to become 'pure'. A senior police officer, Amrinder Singh Senger, told the BBC that police have now filed a case against the woman's father-in-law. India's National Commission of Women has also asked for a report from the government in the state of Uttar Pradesh, where the incident took place. 'We have requested the government to take action against the guilty and also pay compensation to the victim,' NCW president Girija Vyas told the BBC. A representative of a top Muslim body in India, the All India Muslim Personal Law Board, said the case should be dealt with under Islamic law. 'Under the Sharia law, whatever happened with the victim is wrong and if her father-in-law has raped her, he should be sentenced to death,' the representative, Zafarab Geelani, said." **[32id]**

23.101 BBC News reported on 9 March 2005:

> "A court in India has handed down the death penalty to two people convicted of the rape and murder of an eight-year-old girl. The crime was committed in the north-eastern city of Guwahati more than two years ago…This is the third time in a year the country's courts have handed down the death penalty to people convicted of rape and murder." **[32ii]**

23.102 BBC News stated on 20 October 2005 that two policemen were arrested, accused of rape. The two separate incidents occurred within 24 hours of each other. A constable allegedly raped a rag-picker near the airport at Mumbai and in another incident in the centre of the city another constable was arrested for allegedly raping a former dance bar worker prior to the bar's closure. Both constables were suspended from duty and await trial in police custody. **[32ix]**

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

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Organisations Offering Assistance to Women

23.104 As noted in the US State Department report of 2001: "There are thousands of grassroots organisations working for social justice and economic advancement of women, in addition to the National Commission for Women. The Government usually supports these efforts, despite strong resistance from traditionally privileged groups." **[2a] (Section 5. Women)**

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

23.106 According to the UN-commissioned report for 2001, "Women in India, how free, how equal?":

> "Indian women have far greater visibility and voice than they did fifty years ago – they have entered into and created impacts in every sphere of public activity. There are many strong and vibrant movements around issues of importance not only to their own lives, but also to the country as a whole. Movements in India – for the right to control and manage natural resources, the right to information, the right to participation in decisions and development – have set

the parameters of global debates on these issues. Millions of women are part of these struggles and movements. Tangible proof of the relevance and effectiveness of Indian women's movements, is the fact that the issue of women's rights is today a central tenet of political and development discourse in India. Affirmative actions for women's political participation, the implementation of major poverty alleviation programmes through women's groups, the review of laws and regulations to ensure women's equality – all demonstrate this recognition at the political level and at the level of policy. Nevertheless there is no denying the facts documented in this report – evidence of the huge gaps between constitutional guarantees and the daily realities of women's lives." **[50] (p79)**

23.107 As reported in the US State Department Report 2003 (USSD) published on 25 February 2004, the Government addressed women's concerns primarily through the National Commission for Women, but NGOs were also influential. **[2h] (Section 5. Women)**

23.108 Amnesty International, in its "Battle against fear and discrimination" report, welcomed the Policy on Empowerment of Women as a symbol of the Government's commitment to empower women and to bestow rights with equality. However AI criticised the "contradictory character" of the Indian State. **[3e] (p30)** Amnesty delegates recognised good administrative policies and practices when they visited Uttar Pradesh and Rajasthan. They saw the idea behind the Zilla Mahila Sahayata Samitis (District Women's Support Committees) in Rajasthan as a positive step. However, they levied some criticism. In Rajasthan regular meetings are held between members of the women's movement and the Home Commissioner and additional Director General of Police. This was seen as an extremely effective mechanism for ensuring that action was taken in several individual cases; however, it was dependent on a measure of goodwill being established between the women's movement and organs of government. AI commented that this was absent in many states. **[3e] (p31)**

23.109 As stated in the National Commission for Women website: Legal Awareness Programme, accessed April 2004: "The National Commission for Women regularly extends financial support to NGOs and educational institutions to conduct Legal Awareness Programmes to enable women and girls to know their legal rights and to understand the procedure and method of access to the legal systems." Fifty-five Legal Awareness Programmes had been conducted. **[47b]**

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

"Outside the formal criminal justice system, women in India can turn to other bodies for support and redress. There are a large number of active non-governmental and voluntary organizations which provide legal support to women. However, given their localised nature, the lack of resources available and the vulnerability of such initiatives to pressure from families, police, community or state, these initiatives cannot wholly address the scale of the problem in a country the size of India." **[3e] (p29)**

23.111 According to Amnesty International (AI):

"Women activists in India have played a crucial role in highlighting the problems faced by women. Delegates saw clear evidence of this in Rajasthan and Uttar Pradesh where alliances of women's organisations come together regularly in protest of incidents of violence and pressure the authorities to take action against the perpetrators. Many victims would be alone without redress for justice, without such pressure… Many of the positive initiatives of the state have been taken as a result of the forceful arguments of the women's movement in India." **[3e] (p6)**

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

23.113 SAWNET (South Asian Women's Network), an NGO, in a domestic violence report, lists various organisations available to women who suffer domestic violence. Delhi based Sakshi helps as violence intervention for women and children with their work on sexual harassment, sexual assault, child sexual abuse and domestic violence and with a focus on equality education for judges, implementation of the 1997 Supreme Court Sexual Harassment Guidelines, outreach and education. The Women's Rights Initiative [based in New Delhi] runs a pro bono legal aid cell for domestic violence cases and is associated with law reforms in connection with domestic violence. **[25b] (p1-2)**

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

"Sewa is India's first and largest union in the informal, unprotected sector – 93% of India's workforce is in this sector – and claims to have 700,000 members across seven states. The organisation runs 60 rural and urban literacy classes for girls and women across Gujarat. It has taught illiterate women to operate video cameras and to film their working lives, trained grassroots activists to go out and offer help to women with their most pressing problems – from small loans, to minimum wages, access to water, health insurance, work skills, and childcare. It has taught rural barefoot doctors."

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

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

23.115 As reported by Amnesty International in a report on women in Andhra Pradesh and Rajasthan, many states have set up Mahila thanas (women's police stations) to encourage women to register their complaints with the police. However, the majority of these are in large cities, thus denying access to the

most marginalised women in rural areas and there are few of them even in large cities. Rajasthan had nine and was planning to establish a further three as at December 2000. **[3e] (p18)**

23.116 According to an article in *The Times of India* dated 15 May 2003, a two-day training programme was organised for the Mahila Samajik Suraksha Samiti (MSSS) at the Pune rural police headquarters in May 2003. The first MSSS was formed in 1986 in Mumbai. The main aim of the MSSS is to address such issues related to women and children as domestic violence and sexual harassment. "MSSS also helps distressed women seek rehabilitation, education, legal help and social acceptability." The main focus of appointing rural women as MSSS representatives in various rural areas was to develop a good rapport with rural women and it was reported that "These women will act as immediate mediators between the police force and women from rural areas." It was also hoped that it would help improve law and order and curb crimes against women. **[13a]**

23.117 An article published in *The Times of India* dated 21 July 2004 reported that the Delhi Commission for Women had proposed that a scheme be introduced in the forthcoming budget so that the city's destitute women could be given Rs 500 per month. The Chairman of the Commission indicated that the women were often deserted and had gone through horrific experiences of physical and mental torture and although there has been no study on the numbers of destitute women in Delhi she believed the number to be quite large. **[13e]**

23.118 A report issued by the Government of Tamil Nadu in 2003 on Human Development in Tamil Nadu noted that institutional structures including all-women police stations, free legal aid boards, family counselling centres and the State Commission for Women had been established. In addition, several NGOs were working to prevent atrocities against women. The report further stated:

"Recognising that the attitude of the police is one of the barriers to institutional redress, the State Commission for Women has initiated gender sensitization of Tamil Nadu Police functionaries and legal literacy programmes for teachers with the support of NGOs." **[18] (p111)**

23.119 As noted in the USSD report covering 2005: "The government took a number of steps to assist female crime victims. These include establishing telephone help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue." **[2c] (Section 4)**

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

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

- Establishment of a Crime Against Women Cell;

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

23.121 An article in *The Asian Age*, New Delhi, dated 28 August 2005, states that in New Delhi:

"In a move to curb rising crime against women, Delhi police is recruiting 1,000 more women personnel. The recruitment process has already begun and women police will be trained and deployed within the next 18 months…The current drive is a step in the direction of having 10 percent women in the police force…Last year Delhi witnessed 551 rapes, whereas in the first seven months of this year the number has crossed 400. The Delhi police is also beginning next week, a new system of Women Beat Constables in certain areas. The system, aimed at combating crime against women particularly molestation and eve teasing…" **[106]**

23.122 The USSD report for 2005 states that:

"In July 2004 the National Commission for Women (NCW) directed all mental hospitals to check the legitimacy of insanity certificates after receiving reports of husbands falsely committing their wives to obtain divorces. The NCW issued the edict after authorities accused a resident psychiatrist at the Agra Mental Asylum of issuing false insanity certificates for this purpose. On July 23, the Agra police arrested the doctor, who remained in judicial custody at year's end." **[2c]**

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CHILDREN

BASIC INFORMATION

24.01 According to a UN report dated July 1996, a National Policy for Children has been designed by the Government for the welfare of children and is implemented by the Ministry of Welfare. The Juvenile Justice Act lays down a scheme for the care and protection of neglected and delinquent children. India has ratified the Convention on the Rights of the Child. **[6a] (p37)**

24.02 As reported in the USSD 2005 report: "The government was responsive to some incidents of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months." **[2c] (Section 6d)**

24.03 As noted in the USSD report covering 2005:

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

24.04 The report further states that:

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

24.05 The USSD report for 2005 states that: "There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in factories, mines and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m and 7 p.m, with 1 day's rest weekly." **[2c] (Section 6d)**

24.06 The USSD report covering 2005 noted that:

"The government assisted working children through the National/Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates penalties for employers of children in hazardous industries to be $430 (Rs. 20 thousand) 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 five thousand) to the family…Employers in some industries took steps to combat child labor…According to the South Asian Coalition on Child Servitude, authorities were pursuing over six thousand cases against employers. NGOs noted that requiring the government to pay the family of a child laborer or finding the adult family member a job could be a disincentive to investigating crimes." **[2c] (Section 6d)**

24.07 As noted in the USSD 2005 report:

"In 2000, the Government issued a notification prohibiting government employees from hiring children as domestic help; however, this did not prevent nongovernment employees from employing children as domestic help, and many children were employed as domestic help throughout the country… 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 also to disciplinary action at the workplace." **[2c] (Section 6d)**

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

24.09 According to a Human Rights Watch (HRW) press release dated 23 January 2003, Human Rights Watch first investigated bonded child labour in India in 1996. Since then, the Supreme Court made rehabilitation of child workers a legal requirement, and India's National Human Rights Commission has successfully pressured some local governments to act. However, HRW considered that the Indian Government was failing to protect the rights of hundreds of thousands of children and that there was evidence that the Government was starting to backtrack on earlier commitments. **[26b]**

24.10 As noted in the USSD report covering 2005:

"Estimates of the number of child laborers varied widely. According to the Ministry of Labor and Employment census, there were 12.7 million child laborers in the country. The government reported that Delhi had 41,899 child laborers. Through the Child Labor (Prohibition & Regulation) Act, 1986, the government convicted 1,799 offending employers in 2001–02, 325 in 2002–03 and 3,910 in 2003–2004.The ILO estimated the number at 44 million. However, NGOs asserted the number of child laborers is 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." **[2c] (Section 6d)**

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

"Children were often sent away to work because their parents could not afford to feed them or in order to pay off a debt incurred by a parent or relative. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were

unable to stop this practice because the children were working with their parents' consent." **[2c] (Section 6d)**

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

24.13 As reported in the USSD report covering 2005: "According to UNICEF, in 2004 the country contained half the one million children worldwide who entered the sex trade." **[2c] (Section 5)**

24.14 As cited in the same report, "The law prohibits child abuse; however, there were societal patterns of abuse of children, and the Government did not release comprehensive statistics." **[2c] (Section 5)**

24.15 The same report notes: "The buying and selling of female children was a common practice in rural Tamil Nadu." For example, police arrested a 55–year –old man who sold an 18–month–child to a woman in September. **[2c] (Section 5)**

24.16 The same report continues, "The Government was responsive to some claims of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months." **[2c] (Section 5)**

24.17 As noted in the USSD report covering 2003: "The Union Ministry of Social Justice and Empowerment set up a 24-hour 'child help line' phone-in service for children in distress in 14 cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation." **[2h] (Section 5. Children)**

24.18 As reported in the USSD report covering 2005: "The law prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18; however, according to the Health Ministry's Country Report on Population and Development, published during the year, half of all women were married by the age of 15…In April the NCW launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Program), a nationwide awareness program against child marriages with particular focus on the states of Bihar, Rajasthan, Chattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh." **[2c] (Section 5)**

24.19 Aid workers claimed some children who were rescued from illegal working in Delhi were refusing to leave their jobs to return home. Indian authorities rescued almost 500 children aged between five and 14 years in one of the biggest raids in Delhi in November 2005. The raids were carried out by the labour department and the Delhi police. In south Delhi a temporary shelter was set up by an NGO for the rescued children, accommodating some 60 boys in a large hall. There were nine similar shelters within the complex. The children were to be kept for a week, when they would be produced in court

then arrangements made for their return home. Some allegedly tried to escape from the shelter, wishing to return to work. It was reported that most children had nothing to return to as their parents were unable to provide for them. **[32iz]**

24.20 As reported in the US State Department report for 2005 (USSD):

"The government has not demonstrated a commitment to children's rights and welfare and does not provide compulsory, free, and universal primary education. According to the Government's statistics from 2003, 165 million of the 203 million children between the ages 6–14 attended school. The upper house of Parliament failed to take any action on the constitutional amendment passed by the lower house of Parliament in 2002 that provided free and compulsory education to all children aged 6 to 14. In contrast to the government's figures, UNICEF reported that approximately 120 million of the country's 203 million school-aged children attended primary school, a net primary school enrolment/attendance rate of 77 percent. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001. The government initiated a plan to provide free schooling for girls from single-child families. The program would also provide a $45 (Rs.2,005) per month stipend for university studies. Under the scheme, families with only two girls will get a 50 percent reduction in primary education fees." **[2c] (Section 5)**

24.21 According to a UN report dated June 1996, a National Policy for Children has been designed by the Government for the welfare of children and is implemented by the Ministry of Welfare. The Juvenile Justice Act lays down a scheme for the care and protection of neglected and delinquent children. India has ratified the Convention on the Rights of the Child. **[6a] (p37)**

24.22 As reported in the USSD 2005 report: "The government was responsive to some incidents of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months." **[2c] (Section 6d)**

24.23 As noted in the same report:

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

The report further states that:

"The Government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the work place; however,

NHRC officials admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the commission was focusing on the adequacy of existing legislation." **[2c] (Section 6d)**

24.24 The USSD report for 2005 states that: "There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in factories, mines and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m and 7 p.m, with 1 day's rest weekly." **[2c] (Section 6d)**

24.25 The same report noted that:

"The government assisted working children through the National/Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates penalties for employers of children in hazardous industries to be $430 (Rs. 20 thousand) 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 five thousand) to the family…Employers in some industries took steps to combat child labor…According to the South Asian Coalition on Child Servitude, authorities were pursuing over six thousand cases against employers. NGOs noted that requiring the government to pay the family of a child laborer or finding the adult family member a job could be a disincentive to investigating crimes." **[2c] (Section 6d)**

24.26 As noted in the USSD 2005 report:

"In 2000, the Government issued a notification prohibiting government employees from hiring children as domestic help; however, this did not prevent nongovernment employees from employing children as domestic help, and many children were employed as domestic help throughout the country… 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 also to disciplinary action at the workplace." **[2c] (Section 6d)**

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24.28 According to a Human Rights Watch (HRW) press release dated 23 January 2003, Human Rights Watch first investigated bonded child labour in India in 1996. Since then, the Supreme Court made rehabilitation of child workers a legal requirement, and India's National Human Rights Commission has successfully pressured some local governments to act. However, HRW considered that the Indian Government was failing to protect the rights of hundreds of thousands of children and that there was evidence that the Government was starting to backtrack on earlier commitments. **[26b]**

26.29 As noted in the USSD report covering 2005:

"Estimates of the number of child laborers varied widely. According to the Ministry of Labor and Employment census, there were 12.7 million child laborers in the country. The government reported that Delhi had 41,899 child laborers. Through the Child Labor (Prohibition & Regulation) Act, 1986, the government convicted 1,799 offending employers in 2001–02, 325 in 2002–03 and 3,910 in 2003–2004.The ILO estimated the number at 44 million. However, NGOs asserted the number of child laborers is 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." **[2c] (Section 6d)**

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"Children were often sent away to work because their parents could not afford to feed them or in order to pay off a debt incurred by a parent or relative. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent." **[2c] (Section 6d)**

Employing children under the age of 14 is illegal in India, but according to child welfare groups the practice is widespread. (BBC News) **[32hh]**

24.30 As reported in the USSD report covering 2005: "According to UNICEF, in 2004 the country contained half the one million children worldwide who entered the sex trade." **[2c] (Section 5)**

24.31 As cited in the same report, "The law prohibits child abuse; however, there were societal patterns of abuse of children, and the Government did not release comprehensive statistics." **[2c] (Section 5)**

24.32 The same report notes: "The buying and selling of female children was a common practice in rural Tamil Nadu." For example, police arrested a 55–year –old man who sold an 18–month–child to a woman in September. **[2c] (Section 5)**

24.33 The same report continues, "The Government was responsive to some claims of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months." **[2c] (Section 5)**

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"The law prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18; however, according to the Health Ministry's Country Report on Population and Development, published during the year, half of all women were married by the age of 15…In April the NCW launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Program), a nationwide awareness program against child marriages with particular focus on the states of Bihar, Rajasthan, Chattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh." **[2c] (Section 5)**

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

23.37 Guardian Unlimited reported on 3 August 2006 that:

"The Indian government is to ban the employment of children under 14 in hotels, restaurants and teashops and as domestic servants. According to government figures there are nearly 13 million child workers in India. A Labour Ministry committee said it had recommended the ban because child workers, particularly in the food industry, were often subjected to physical violence, mental trauma and sexual abuse." Children in these industries were more vulnerable and violators of the ban could face up to two years imprisonment, a fine or both. **[40g]**

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EDUCATION

24.38 As reported in the US State Department report for 2005 (USSD):

"The government has not demonstrated a commitment to children's rights and welfare and does not provide compulsory, free, and universal primary education. According to the Government's statistics from 2003, 165 million of the 203 million children between the ages 6–14 attended school. The upper house of Parliament failed to take any action on the constitutional amendment passed by the lower house of Parliament in 2002 that provided free and compulsory education to all children aged 6 to 14. In contrast to the government's figures, UNICEF reported that approximately 120 million of the country's 203 million school-aged children attended primary school, a net primary school enrolment/attendance rate of 77 percent. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001. The government initiated a plan to provide free schooling for girls from single-child families. The program would also provide a $45 (Rs.2,005) per month stipend for university studies. Under the scheme,

families with only two girls will get a 50 percent reduction in primary education fees." **[2c] (Section 5)**

24.39 The Library of Congress Country Profile for India, December 2004 report notes:

"In most states and union territories, primary school covers grade levels (called 'standards') 1 to 8 and secondary education, standards 9 and 10; all states have senior secondary education for standards 11 and 12. As of 1997, most states and union territories had no compulsory level of education. Twelve states and union territories legally require completion of either the fifth- or eighth-grade level, yet drop-out rates are high even in compulsory stages. The majority of states and union territories have free education up to the seventh-grade level, and the majority of primary schools are government funded and managed. However, less than half of secondary schools are government funded and managed. Indeed, 34 percent of secondary institutions are government funded but privately managed, and 25 percent are privately managed without government funding." **[112]**

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CHILD CARE

24.40 According to its website the Ministry of Social Justice provides assistance to State Governments for the establishment and maintenance of a range of children's homes. There are at present 280 "observation homes", 251 "juvenile homes", 36 "special homes" and 46 "after care institutions" in the country. (A Programme For Juvenile Justice) **[14]**

24.41 The majority of orphanages throughout India are run by charities and religious organisations making it difficult to determine the exact numbers. Orphanage.org, accessed 15 December 2004, lists 62 orphanages throughout India. **[89] (p3-4)** However, the site only lists orphanages with a direct link to a web site. *The Hindu* published a report on 7 March 2004 regarding the regulation of orphanages in Tamil Nadu. The report noted that: "More than a year after the State Government made it mandatory for all institutions for the reception, care, protection and welfare of destitute women and children to be registered under the Orphanages and Charitable Homes Act, 1960, only 566 of them have been recognised." **[60c]**

24.42 As noted in *The Hindu* on 28 February 2005, according to the law only Hindus are allowed to adopt. Guardianship ends at the age of 18 for girls and 21 years for boys. Legally the relationship finishes once the child is an adult. **[60e]**

24.43 As reported by BBC News on 3 March 2005: "Around 200 children were orphaned and many more lost one parent when December's tsunami struck the district of Nagappattinam in Tamil Nadu state, the worst-affected region in India. The local administration has handled scores of queries from individuals and organisations wanting to adopt the children. But fears of human trafficking have made the government tread with caution. The emphasis now is on rehabilitating these children in the local communities." **[32hn]**

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HEALTH ISSUES

24.44 India is planning to launch a massive programme to contain the spread of polio, according to the Government. "A highly infectious disease, polio usually attacks children under five…" Polio remains a threat in India. According to the Health Minister a large number of children were missed during last year's immunisation programme but the number of cases has been on the decline since May. Campaigns are under way to inform and educate the public that the vaccine can save children's lives. (BBC News, 21 September 2006) **[32bk]**

24.45 A 209-page report by Human Rights Watch, entitled "Future Forsaken: Abuses Against Children Affected by HIV/AIDS in India", July 2004, indicated that the epidemic is being fuelled by widespread abuses against children who are affected by HIV/AIDS. It called upon the Government to ensure that HIV-infected children are protected from abuse. According to the report released on 29 July 2004, many doctors refuse to treat or even touch HIV-positive children:

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

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

Children Born of Inter-caste Marriages

24.46 As reported in a Canadian IRB response dated 9 January 2006: "Children born of inter-caste marriages are legitimate. Government practices of categorizing children of inter-caste marriages vary, but the tendency 'would be to consider children to be the caste of their father, or to have the status of the lower of the two castes in the marriage'." **[4r]**

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TRAFFICKING

25.01 As noted in the USSD Trafficking report for 2006:

"The Government of India does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. India is placed on Tier 2 Watch List for the third consecutive year due to its failure to show evidence of increasing efforts to address trafficking in persons. India lacks a national law enforcement response to any form of trafficking, but took some preliminary measures to create a central law enforcement unit to do so." **[2g] (Country narrative. India Tier 2 Watchlist)**

25.02 As recorded in the US State Department report covering 2005 (USSD):

"The Immoral Traffic Prevention Act (ITPA) prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. Some law enforcement officials participated in and facilitated trafficking in persons… The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor…More than 2.3 million girls and women were believed to be working in the sex industry, and experts believed that more than 200,000 persons were trafficked into, within, or through the country annually…The NCW (National Commission for Women) reported that organized crime played a significant role in the country's sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape." **[2c] (Section 5)**

25.03 As stated in the same report 2005:

"Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade improved. The government significantly increased police training and modestly improved inter-state coordination of antitrafficking efforts, cooperated with NGOs, supported awareness campaigns, and increased the number of shelter facilities available to rescued trafficking victims. 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. The Department of Women and Child Development (DWCD) 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." **[2c] (Section 5)**

25.04 The USSD Trafficking report 2006 notes:

"The Government of India over the last year sustained modest efforts to punish trafficking crimes; however, there were no significant improvements…In the last year [2005], the Government of India took steps to implement a nationwide police training program on trafficking. The Bureau of Police Research and Development began preparing a national anti-trafficking training module for investigative officers, and it conducted seven training workshops around the country in 2005. This nascent training program, aimed to sensitize law enforcement officers to trafficking for sexual or labor exploitation, will assist state and national level law enforcement authorities in

preventing corruption and improving their capacity to combat trafficking." **[2g] (Country narratives. India: Prosecution)**

25.05 The USSD 2005 report continued:

"In March the home minister of Maharashtra ordered the closure of all dance bars operating in the state, many of which served as prostitution and trafficking outlets…However, the government's implementation of this order without a rehabilitation plan caused displacement of women, forcing many to enter direct prostitution in Mumbai, Dlehi, Goa, and other major trafficking destinations." **[2c] (Section 5)**

"Over the last several years, arrests and prosecutions under the ITPA increased slightly. All indications suggested a growing level of trafficking into and within the country." **[2c] (Section 5)**

25.06 The USSD 2004 report states:

"The Government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral anti-trafficking agreements. Training and informational meetings took place under the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) and South Asian Association for Regional Cooperation… In February, the NHRC held a 2-day program for judges, law enforcement, and government officials on trafficking, and in August, the NHRC (National Human Rights Commission) released a study on the trafficking of women, recommending the creation of a national anti-trafficking agency. According to NGOs, there were significant improvements in investigations and arrests of traffickers in Mumbai, New Delhi, Chennai, Hyderabad, and Calcutta. There were roughly 80 NGOs in 10 states working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC included representatives from the NCW, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions." **[2j] (Section 5)**

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MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

26.01 As indicated in the World Health Organization's (WHO) Project Atlas Country Profile for India, 2005, the proportion of health budget to GDP is 5.1 per cent (WHO, 2000). The life expectancy at birth is 60.1 years for males and 62 years for females. **[62] (p1)**

26.02 In a letter dated 7 June 2001, the British High Commission in New Delhi outlined the standards of medical facilities in India. In the larger cities, particularly the State capitals, there are hospitals offering care in a wide range of medical specialities. These include: general medicine and surgery, obstetrics and gynaecology, paediatrics, neurology, gastro-enterology, cardiology, cardiothoracic surgery, neurosurgery, dental surgery, dermatology, ENT surgery, endocrinology, renal and liver transplant, orthopaedic surgery, nephrology, nuclear medicine, oncology, ophthalmology, plastic surgery, psychiatry, respiratory medicine, rheumatology and urology. Outside these cities medical care can be more variable, but most districts are served by referral hospitals. **[7g]**

26.03 As noted in the US State Department report for 2005: "The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas." **[2c] (Section 5)** But most care is provided within the private sector. Private health care costs are less than in the UK, but vary according to the type of ward and tests needed. The private hospitals are expected to offer free treatment to a proportion of poor patients, according to FCO correspondence dated June 2001. **[7g]**

26.04 As noted on the US Department of State, Bureau of Consular Affairs, Consular Information Sheet for India, dated 22 February 2005, with regard to medical facilities, "Adequate to excellent medical care is available in the major population centers, but is usually very limited or unavailable in rural areas." **[93] (Medical Facilities & Health Information)**

26.05 As reported in a Canadian IRB response dated 18 January 2006, access to health care depends on income.

> "All health care is privately accessed. One can attend a government hospital for free medical consultation and surgical procedures but the waiting times are long and attention in many places inadequate. In almost every government hospital patients have to pay for the cost of drugs, surgical dressings, and provide food to family members in hospital. As a result, those who can afford it obtain private health care….The primary obstacle to obtaining good health care is lack of income and the remoteness of many rural communities from good hospital facilities. (Specialist on Indian Affairs 23 Nov. 2005)." **[4q]**

26.06 One World.net commented in their In Depth Country Guides, accessed on 29 September 2006:

> "India lives with many unenviable health statistics; the highest TB prevalence in the world, the second highest number of people suffering from AIDS, over 1.5 million deaths of children each year before their first birthday, and almost 500 million people lacking the recommended calorific daily intake." **[118]**

"A snapshot position such as this however fails to do justice to the very considerable progress that has been made in recent years in India nor to the balance of opinion that the health MDGs will be achieved. For example, the curse of leprosy is now officially eliminated. Concerns focus more on disparities in the provision of healthcare across the country. Some urban private institutions have the capacity to attract 'health tourists' for surgery at low prices, while government-run hospitals are scraping for funds and facilities. Rural healthcare is very basic in remote areas." **[118]**

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

"The Armed Forces, with the assistance of the State Administration, has been regularly holding Medical Camps in the remote and inaccessible areas to bring health care to the doorstep of the Kashmiri people. Free Medical, Gynaecological, Surgical, Eye and dental checkups and advice and medicines are being distributed in these camps. Immunization Camps for the children are also being conducted as part of the nation wide campaign to eradicate various diseases. In addition people are being educated on health care, hygiene and sanitation…In addition to these camps, a number of Health Centers, equipped with modern equipment and medical facilities have been established for the rural people." **[94]**

26.08 The FCO advice of June 2001 indicated that there is good availability of medications and many are cheaper than in the UK. Some are imported from abroad but there are many firms now producing drugs under licence in India. The standard of nursing and social care is not as high as in the UK, but with support from family this can be overcome. There are very few medical problems for which suitable care cannot be found in India. **[7g]**

26.09 A BBC report dated 29 September 2003 noted that:

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

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

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

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

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

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

26.14 As noted by Keesings in March 2005:

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

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

26.15 As reflected in the report of a World Bank Study released in 2004 on HIV/AIDS Treatment and Prevention in India, India is burdened with a larger HIV/AIDS epidemic than any other country in the world. More than 4 million Indian adults are infected with HIV according to official Government estimates and the actual number of people with HIV may be as high as 6.5 million. **[70] (p1)** The highest prevalence rates are in Andhra Pradesh, Karnataka, Maharashtra, Manipur, Nagaland and Tamil Nadu. **[70] (Executive Summary xvi)** The WHO estimates that HIV/AIDS caused 2 per cent of all deaths and 6 per cent of deaths due to infectious disease in India in 1998 and by 2033 it will account for 17 per cent of all deaths and 40 per cent of deaths due to infectious diseases. **[70] (Executive Summary xvi-xvii)**

26.16 As noted in Human Rights Watch in the World Report 2005, "The government estimates that 5.1 million people in India are living with HIV/AIDS, though many experts suggest the number is much higher." **[26e] (Rights of those living with HIV/AIDS)** Human Rights Watch World Report 2005 note that, "India faces a burgeoning HIV/AIDS problem, as people with HIV and their families face government and social discrimination." **[26e]**

26.17 A BBC News report of 20 April 2005 stated that:

"The Indian government has dismissed a claim by an Aids expert that the country now has the most HIV-positive people in the world. The claim was made by Richard Feachem of the Global Fund to Fight Aids. He says figures showing India having fewer cases than South Africa are wrong. The Delhi

government says there are 5.1 million cases in India. However, independent experts say the number of people infected in India could be anywhere between 2.5 million and 8.5 million – because of the lack of reliable data here in relation to the HIV pandemic. India's government-controlled National Aids Control Organisation (Naco) chief SY Qureshi told the BBC that Mr Feachem's claim was 'nonsense'. 'Our [Aids] surveillance systems are certified by the World Health Organisation, UN agency UNAids and the Indian Council of Medical Research [ICMR]. We stand by our figure of 5.1 million [infections],' Mr Qureshi said….'Indian and international groups working to prevent HIV/Aids have questioned the official figure'." **[32hw]**

26.18 As reported by One World.net in its In depth Country Guide for India (updated Quarterly), accessed 29 September 2006):

"The MDG target for HIV/AIDS presents a rather different challenge. Data on the virus in India is unreliable, especially in the poorer regions of the Northeast where drug-related transmission is commonplace. The UNAIDS/WHO epidemic update for 2005 reports that, in South India, the high infection rate amongst sex workers is spreading the virus to women in rural areas. India experiences relatively low prevalence but there is concern that the authorities do not have a firm grasp on the management of the considerable risks. And the government has prevaricated over provision of subsidised anti-retroviral treatment, despite being a major exporter to other developing countries." **[118]**

26.19 DFID stated in its July 2004 report, "Taking Action – The UK's strategy for tackling HIV and AIDS in the developing world":

"DFID has provided £123 million to support India's National AIDS Control Programme. This funds targeted interventions with high-risk groups, technical assistance at national and state level, innovative media work through the BBC World Service Trust and support to UNAIDS. Since the original DFID support was designed, the epidemic in India has moved on and treatment has been introduced. We have agreed with the government of India to review support for the remaining three years of the programme. Issues under active consideration include treatment and care and advocacy." **[99] (Chapter 5)**

26.20 As reported in a BBC report of 14 July 2004:

"India is looking at ways to contain the spread of the Aids epidemic – but many of its citizens don't want to talk about the issue. The world's second most populous country has one of the highest infection rates – and more than five million HIV/Aids cases. To counteract the spread of the virus, the government recently launched its biggest anti-Aids initiative to date. But efforts are hampered by the fact that most Indians still find sex and AIDS taboo subjects…The new Indian government has identified AIDS as one of its priorities." **[32fl]**

26.21 As reported in a World Bank Study released in 2004 on HIV/AIDS Treatment and Prevention in India:

"The government of India has made a commitment to design and implement HIV protection and control activities in all states. Phase I of the prevention effort began in 1992, supported by a World Bank credit of $84 million….

"Phase II of the National AIDS Control Programme (NACP) began in 1999, supported by a World Bank credit of $191 million plus Indian government funding of $14 million…. Substantially decentralized, the program is being implemented in 35 states and union territories.

"In 2002 the government finalised and released the National AIDS Control Policy and the National Blood Policy…. The objective of the national policy is to prevent the epidemic from spreading farther and to reduce its impact on infected people and the general population. The policy envisages zero new infections by 2007…." **[70] (p17-18)**

26.22 As indicated in the World Bank report, the Indian antiretroviral drugs are now available from generic manufacturers in India for less than a $1 a day. Access to these drugs remains limited partly because even this modest cost is high for Indians. **[70] (Executive Summary xiv)** In the Global Health Facts.org report, (2005), it was reported that 8,756 people received ARV treatment in India, from programmes supported by the Global Fund as of 1 December 2005. **[123]**

26.23 As cited in an excerpt, dated 13 August 2004, by the World Bank Group on the treatment and Prevention of AIDS in India: "As the Government of India takes stock of its first four months of distributing free antiretroviral medications for HIV/AIDS, the World Bank has released a study of various public funding options for the months and years ahead, designed to help the government maximize the positive impact of the drugs on the growing epidemic." **[70a]**

26.24 As reported in an article in *The Hindu* dated 1 December 2003, the then Union Health Minister said that anti-retroviral drugs would be made available free to HIV/AIDS patients in Tamil Nadu, Andhra Pradesh, Karnataka, Maharashtra, Manipur and Nagaland from 1 April 2004. The supply would initially be to three categories of patients: children of parents living with HIV, women having the infection, and men who have full-blown AIDS, and would be provided through Government hospitals and antenatal clinics. "The programme would be extended to other parts of the country." The six states were chosen because they had the highest rate of prevalence of the disease and because they had the right infrastructure. **[60l]**

26.25 Information sourced from the website of the Bill & Melinda Gates Foundation indicates that Avahan ("call to action"), the $200 million grant-making initiative of the Foundation that supports programmes to prevent the spread of HIV in India, announced $47 million in new grants on 16 March 2004. **[44]**

26.26 A BBC report of 16 July 2004 noted that Sonia Gandhi, the leader of the ruling Congress Party vowed that India would do more to fight AIDS in an address to a conference in Bangkok. She said India had developed cheaper drugs, made blood supplies safer and had increased spending on HIV/AIDS but efforts were hampered because the subject was taboo among the people. **[32dn]**

26.27 As recorded in a Human Rights Watch letter to the European Union dated 8 November 2004, "Legislation is currently being drafted to end discrimination against those affected by HIV/AIDS, but unless properly implemented, people affected with HIV/AIDS will continue to be denied jobs, shelter, medical attention and access to education." HRW called on the EU to support the Indian Government's efforts to end the stigma and discrimination against

people living with HIV/AIDS in India through age-appropriate awareness and education campaigns. **[26g]**

26.28 BBC News reported on 7 February 2005 that as stated by the Country's Health Minister, India had begun its first human trials of an AIDS vaccine.

"The tests in the western city of Pune will involve 30 HIV-free volunteers between 18 and 45 of both sexes…Indian officials said the first phase of the Pune trials would last between one and two years but added that a successful vaccine might still be eight to 10 years away." According to SY Qureshi of India's National Aids Control Organisation, there are 68 new cases of HIV every hour. **[32hx]**

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CANCER TREATMENT

26.29 As reported on 23 November 2005 on the NDTV.com website:

"A new anti-cancer drug is showing promise. According to reports, three million people suffer from cancer in India and though there are treatments available, most of them come with a hefty price tag. But the new drug can bring down the cost of cancer treatment by more than half. The molecule, two deoxy glucose, is to be used in combination with radiotherapy. The drug has been jointly developed by two DRDO laboratories - Institute of Nuclear Medicine and Allied Sciences and the Defence Research Development Establishment. 'This drug will cut the number of radiotherapy sittings from five times a week to once a week, hence cutting the cost of the treatment,' says Dr B S Dwarakanath, lead researcher, INMAS. What is significant about the drug is that it can be given to patients suffering from cancer at any stage. The only requirement is the presence of glucose in the tumor cells, which is present in high levels in more than 80 per cent of cancer cells…The drug has completed the first two phases of trials successfully, proving it is safe and effective. The molecule has been transferred to the [sic] Dr Reddy's lab, which will conduct the third phase of clinical trials in nine centres across the country." **[119a]**

26.30 In an article dated 10 February 2006 by the same source as above it was reported:

"New technology for the detection and treatment of gastrointestinal cancers is now available in India. Called Narrow Band Imaging, the scan, which is a far more sophisticated endoscopy, probes the tumour and if still small, also removes it. Quick and effective…The technology uses a high-powered scan to treat gastrointestinal tumours quicker and more effectively…What makes these high-powered probes special is their ability to detect cancer early, since doctors can see whether a stomachache [sic] may be linked to a malignancy in its early stages. Gastrointestinal cancers are the second most common form of cancer in the country. With these technological advancements, thousands of lives can be saved and many more improved." **[119b]**

26.31 As reported by BBC News on 22 December 2004: "Health workers in Indian-administered Kashmir have launched an awareness and screening campaign to try to prevent cancer amid a severe lack of facilities. There are very few

units where the condition can be treated." None of the hospitals in the region have a separate unit for surgical oncology. Patients from SMHS hospital, the oldest and second biggest in Srinagar, go to the Sher-e-Kashmir Institute of Medical Sciences or to Delhi or other places for radiotherapy and have to spend a lot of money. "The Sher-e-Kashmir in Srinagar has one radiotherapy unit for a population of at least 5.5 million people." The Indian Government has promised funds for a state-of-the-art regional cancer centre with capacity for 120 patients but it was reported that this will take years. **[32ey]**

26.32 The same report states that, "Despite the Sher-e-Kashmir's limited facilities, it has still treated an increasing number of sufferers – up from 1,325 cancer patients in 2000 to more than 2,000 in the first 10 months of this year alone." A group of 50 doctors have set up the Kashmir Cancer Society (KCS) and plan to build a cancer hospital in the Kashmir valley but have no land for the project as yet. "The KCS has organised camps in remote villages where people do not have access to endoscopy – the internal viewing of patients." Four thousand endoscopies have been conducted so far. The KCS has also conducted awareness campaigns in villages, schools and colleges and educated people that cancer is preventable, and as a result women are coming in earlier for treatment. **[32ey]**

26.33 According to NDTV.com there are various cancer support groups operating in India; one such group, called Cancer Sahyog, based in New Delhi, provides emotional support to those living with cancer and drugs to needy patients. (website accessed 12 October 2006) **[119c]**

KIDNEY DIALYSIS

26.34 As recorded on the Doctor NDTV.com website, updated in 2004: "India has the largest number of diabetics in the world and the number is predicted to double in the next 25 years."

26.35 A further article on the same website dated 19 November 2005 states: "Kerala, which boasts of public health indicators comparable to developed countries, is facing a huge challenge because of growing incidence of diabetes in the state. Some estimates say close to Rs 5,000 crores are spent each year to treat diabetic patients in the state, whose annual budget is just a little higher at Rs 5,600 crores." **[19d]**

MENTAL HEALTH

26.36 As noted in the WHO Project Atlas Country Profile for India, 2005, the national mental health programme was reviewed in 1995 by the Central Council, which led to the launch of the District Mental Health Programme: "(it covers 24 districts currently, with plans for expansion to 100 districts in the near future and all districts by 2020)." Pilot projects were undertaken looking at the feasibility of extending mental health services to the community and primary care levels. **[62] (p1-2)**

26.37 The same report continued: "A large, mostly indigenous, pharmaceutical industry ensures that most psychotropic drugs are available often at a fraction of their cost in high-income countries." **[62] (p1-2)**

26.38 As further noted in the same report: "The Mental Health Act of 1987 simplified admission and discharge procedures, provided for separate facilities for children and drug abusers and promoted human rights of the mentally ill. In 2002, it was implemented in 25 out of 30 states and Union territories from which information was available. Other acts relevant to the mental health field are: the Juvenile Justice Act, the Persons with Disabilities Act and the Narcotic Drugs and Psychotropic Substances Act (amended in 2001)." **[62] (p1-2)**

26.39 As indicated in the same WHO source, the Government spends 5.1 per cent of its budget on mental health. Financing for health services is provided both by the states and the centre:

"Government funding for health services are provided both by the states and the centre. Services provided at Government health centres are free. Certain industrial/governmental organizations provide health care schemes for their employees. In the 10th Five Year Plan estimates, mental health constitutes 2.05% of the total plan outlay for health. The country has disability benefits for persons with mental disorders. Details about disability benefits for mental health are not available. Disability benefits have become available recently and in a limited way." **[62] (p1-2)**

"Mental health care in primary care is available in 22 districts out of about 600 districts. It will be extended to over 100 districts in the next few years." Regular training of primary care professionals in the field of mental health is present. Community care facilities in mental health are present. "Mental health facilities in community care is [sic] available in some designated districts. In addition, various non-governmental organizations provide different types of services ranging from telephone hotlines to residential rehabilitative services." **[62] (p1-2)**

26.40 The same report continues:

"There are 200 mental health workers of other types. One third of mental health beds are in one state (Maharashtra) and several states have no mental hospitals. Some mental hospitals have more than 1,000 beds and several still have a large proportion of long-stay patients. During the past two decades, many mental hospitals have been reformed through the intervention of the voluntary organizations (e.g. Action Aid India), media, National Human Rights Commission and judiciary (courts), and yet a survey in 2002 showed that about a quarter had shortages in terms of drugs/treatment modalities and three quarters in terms of staff. The current emphasis is on general health psychiatry units that support voluntary admissions and encourage family members to stay with the patient. Some beds are allocated to treatment of drug abuse and for child psychiatry. Very few mental health professionals are based in rural areas. Most states allow public sector psychiatrists to have private clinics… Psychologists do not have prescription privileges, and there is no formal system of licensing clinical psychologists." **[62] (p2-3)**

26.41 The WHO report continues:

"NGOs are involved in advocacy, promotion, prevention, treatment and rehabilitation. NGOs are involved in counselling, suicide prevention, training of lay counsellors and provision of rehabilitation programmes through day care, sheltered workshops, halfway homes, hostels for recovering patients and long-

term care facilities. Parents and other family members of mentally ill persons have recently come together to form self-help groups." **[62] (p4-5)**

26.42 As noted in the US State Department report for 2005:

"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 the NHRC determined that insufficient attention was paid to issues of the [sic] mental illness and called for better enforcement of national laws. At year's end, no action was taken in the 2001 NHRC recommendation to remove all persons with mental illness from jails. In March the NHRC issued guidelines to jails lodging mentally challenged persons stipulating the need for open lawns, daily physical and mental activities, and strict rules limiting the use of force to self-defense and attempted escape." **[2c] (Section 4)**

26.43 The WHO Atlas Project 2005 states that the following therapeutic drugs are generally available at the primary health care level of the country, though not routinely distributed by the government at the primary health care level except for some designated districts where a special programme is operational. **[62] (p4-5)**

- Carbamazepine
- Phenobarbital
- Phenytoinsodium
- SodiumValproate
- Amitriptyline
- Chlorpromazine
- Diazepam
- Fluphenazine
- Haloperidol
- Lithium
- Carbidopa
- Levodopa
  [62] (p4-5)

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HUMANITARIAN ISSUES

27.01 As reported by the BBC in an article dated 21 May 2004, Congress chief minister of Andhra Pradesh state issued a fresh plea for debt-ridden farmers not to commit suicide. Nearly 3,000 farmers in the state have committed suicide over the past six years. A relief package was announced which will cover families of all the farmers who have taken their own lives since 1999:

"A total of 50,000 rupees ($1,100) will be provided for the one-time settlement of debts and another 100,000 rupees will be given for the economic rehabilitation of the family… Mr Reddy has already announced the free supply of electricity to small farmers and poor families..." **[32fp]**

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

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

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

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INDIAN OCEAN TSUNAMI – 26 DECEMBER 2004

27.03 As reported by Global Education, "On the morning of Sunday 26 December (2004) a severe earthquake in the ocean off the coast of northern Sumatra caused tsunamis (tidal waves) that devastated communities in neighbouring countries and other countries in the Indian Ocean." The earthquake measured 9.0 on the Richter scale. **[95]** As reported by the World Health Organization (WHO), with regard to India, "The tsunamis hit the coast of the states of Tamil Nadu, Andhra Pradesh, Orissa, Kerala and Pondicherry on the mainland." Additionally, "The Andaman and Nicobar islands were particularly affected." **[62a]**

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

27.05 The report continues: "The Government of India, in association with the affected states/Uts, mounted massive relief and rescue operations on the mainland and in the Andaman and Nicobar group of islands. According to the latest estimates, 157,393 dwelling units in 897 villages were damaged. A total of 638,297 persons were evacuated, and the total affected population was reported to be about 3.6 million." **[62b]**

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

27.07 The Foreign Office Travel Advice Report 2005 states that: "Services such as water, power and communications have largely returned to normal in the coastal areas of Tamil Nadu, Andhra Pradesh and the Andaman and Nicobar Islands, affected by the 26 December 2004 tsunami." **[7k]**

HEAVY SNOW AND AVALANCHES

27.08 As cited in Keesings News Digest for February 2005, Jammu and Kashmir experienced the heaviest snowfalls for 40 years. Extreme cold and resultant avalanches killed at least 278 people. Prime Minister Manmohan Singh guaranteed the continued co-operation of the military and Union agencies with the state government in the rehabilitation of those affected by the severe weather conditions. The state Governor said the rescue and relief operation included the biggest airlift exercise in the state since 1947. **[5y]**

MONSOON

27.09 It was reported by BBC News on 1 August 2005 that Indian authorities said the heavy monsoon rains in Mumbai and surrounding areas disrupted the lives of more than 20 million people. A third of the city was reportedly completely paralysed. The Indian Prime Minister offered federal assistance to Maharashtra state and ordered the army to help families hit by the floods. The rainfall was the heaviest recorded in India's history. About 200 medical teams left Mumbai for affected towns and villages in the state and 30,000 health workers were deployed. **[32gi]**

27.10 A further BBC article dated 3 August 2005 stated that: "The flood-hit Indian city of Mumbai (Bombay) has returned to near normality for the first time in 10 days... Schools and offices are functioning normally, while air and rail services

have resumed. But outside Mumbai, at least 60,000 villagers are still living in temporary camps because their homes are flooded." **[32gj]**

EARTHQUAKE – 2005

27.11 "An earthquake with its epicentre in Pakistani-administered Kashmir killed more than 1,000 people in Indian-administered Kashmir." (BBC Timeline) **[32bf]**

DISASTER MANAGEMENT

27.12 As reported in "Tsunami – A Report to the Nation", dated 3 June 2005, Prime Minister Manhoman Singh said:

"As a part of long term strategy for Disaster Management, the Bill on Central Law on Disaster Management has been introduced in the Parliament on 11th May, 2005. The Bill provides that the States/UTs would be an integral part of the Disaster Management system in the country. Pending the enactment of the law, it is proposed to set up a National Disaster Management Authority (NDMA) through an executive order. The Central Law once enacted will help in strengthening the institutional arrangements for effective Disaster Management besides accountability and responsibility for the assigned task to different authorities at National, State and District level." **[100]**

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FREEDOM OF MOVEMENT

28.01 As recorded in the US Department of State report for 2005 (USSD), "The law provides for freedom of movement, and the government generally respected this in practice; however, in certain border areas the government required special permits." **[2c] (Section 2d)** The Danish Immigration Service fact-finding report 2000 states that various diplomatic missions, several human rights lawyers and a former Advocate-General told the Danish Immigration Service on their fact-finding mission of 2000 that there were no restrictions on movement from one State to another. Furthermore, there were no rules that one should register in connection with a move from one State to another. **[37] (p48)**

28.02 According to the USSD report covering 2005, "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." The Government used this provision to prohibit the foreign travel by some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir…Unlike in previous years, there were no reports of the government using the issuance of passports or travel documents to restrict travel of separatist leaders in Jammy and Kashmir." **[2c] (Section 2d)**

28.03 As cited in the Danish Immigration Service fact-finding report 2000, regarding application for a passport, a very thorough check is made by the local police to investigate an individual's status, including whether there was a case pending against him or her. However, sources indicate that it would not be impossible for a wanted person to obtain a passport on payment of a bribe, as throughout India it was very easy to obtain false documents. This applied to passports, birth certificates, certificates regarding education and career, marriage certificates and ID cards, arrest orders and so-called FIRs (First Information Reports). It was also reported that it was possible to obtain false letters from lawyers. **[37] (p50-52)**

28.04 As reported in the Danish Immigration Service fact-finding report 2000, "The Immigration Service, which comes under the Ministry of the Interior, is responsible for checking those leaving the country." **[37] (p51)**

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INTERNALLY DISPLACED PEOPLE (IDPS)

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

"The number of people known to be internally displaced by conflict in India exceeds 600,000. Insurgency and retaliatory operations by security forces are a major factor of displacement. Civilians have fled fighting and have sometimes been directly targeted by militant groups in Kashmir, the North-East and in several states of central India. A majority of the internally displaced people (IDPs) have not been able to return for several years, either due to protracted conflicts or unresolved issues related to land and property. One example is India's largest group of internally displaced, the Kashmiri Pandits who have been fleeing the Kashmir Valley since 1989 due to persecution, killings and massacres. Thousands more have languished in relief camps in Assam since the early 1990s, while an undetermined number remain displaced after the communal violence that erupted in Gujarat in 2002." **[122]**

"During 2005 several tens of thousands more people were reported displaced in north-eastern and central parts of India. Worst affected were Assam and Manipur states in the North-East due to ethnic fighting and government security operations. Fighting between leftist extremist groups – commonly called Naxalites – and government security forces is also reported to have led to displacement in several of the central Indian states." **[122]**

29.02 The IDMC 2006 report continues:

"Available reports indicate that more than 21 million people are internally displaced due to development projects in India. Although they only make up eight percent of the total population, more than 50 per cent of the displaced are tribal peoples…Floods and other natural disasters also displace millions every year. The Indian Ocean tsunami, which hit southern India in December 2004…An estimated 2.7 million people were affected by the disaster and some 650,000 were displaced (World Bank, 3 May 2005; IFRC, 23 March 2005). Indian-controlled Kashmir was also badly affected by the South Asia earthquake in October 2005, which made thousands of people homeless." **[122]**

29.03 The same report continues:

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

forward with return plans and that 1,600 families have signalled in writing that they want to return to the valley..." **[122]**

29.04 The IDMC 2006 report further notes:

"Another long-lasting situation of internal displacement exists along the Line of Control separating Indian- and Pakistani-controlled Kashmir. Since the end of the 1990s, clashes between Indian and Pakistani forces and attacks by separatist militant groups led to several waves of displacement from villages along the Line of Control. The ceasefire has substantially improved the security situation, but more than 12,000 (some say 30,000) people, are still displaced on the Indian side because their villages have not been rehabilitated or their fields are mined. Administrative delays have also hindered their return. While the state government applied for support from the federal government almost four years ago, a relief package was not approved until August 2005… Only 20 per cent of the funds had been disbursed as of January 2006. Returnees have also faced difficulties as they were reportedly not provided with cash assistance to repair the houses as promised. The earthquake that struck Kashmir in October 2005 has delayed the rehabilitation further…" **[122]**

29.05 The Internal Displacement Monitoring Centre in its 2006 report further states:

"In Assam, ethnic clashes over territorial issues, insurgency against the Indian government for separate homelands and communal violence among the Assamese against 'foreigners', mostly immigrants from Bangladesh, have led to widespread displacement. The largest displacement situation in the state stems from the fighting between Bodos and Santhals which erupted in the early 1990s and displaced an estimated 250,000 persons. As of December 2005, around 110,000 people remained in relief camps in Assam's Kokrajhar and Gossaigaon sub-divisions – a decrease of 40,000 people since 2003. However, the displaced have not been able to return to their former villages as they remain occupied, mainly by Bodo communities…In Manipur, counter-insurgency operations by the Indian army against local militia groups hiding along the border with Burma (Myanmar), as well as ethnic clashes, have resulted in the displacement of at least 6,000 people from the Hmar and Paite ethnic groups…In northern Tripura, it is estimated that more than 100,000 people are internally displaced due to ethnic fighting and attacks by insurgent groups." **[122]**

"No estimate of the number of people displaced as a result of the insurgency in central India is available…" **[122]**

In Gujarat a local organisation estimated 61,000 are still internally displaced and in need of assistance. (Internal Displacement Monitoring Centre (IDMC), 9 February 2006) **[122]**

RELIEF CAMPS

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

"A large number of the displaced from the Kashmir Valley have been housed by relatives or in relief camps in Jammu or Delhi. Hindu schools for the

displaced children have been constructed and medical care provided, although the displaced population says it is not enough to cover their needs. The remaining displaced population from villages along the Line of Control continue to live in tents, some of them in poor conditions. The camps lack drinking water and health care facilities. In some camps, children have to attend outdoor schools... "**[122]**

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

"The relief camps for internally displaced in the North-East are reportedly in a deplorable condition. Camps for the newly displaced in Assam and Manipur are said to lack adequate shelter, food, health care, education and protection …This pattern has been confirmed by earlier reports which have documented that displaced throughout the North-East face severe hardship. Many of the displaced live in public buildings and makeshift shelters, with little health care and no access to formal education. In Assam, acute food shortages and lack of health care have been reported in camps housing Santhal internally displaced...In Tripura, children in a relief camp for displaced in Chhawmanu were reported to have died due to the consumption of poisonous berries and contaminated water. The state government says it has no money to provide relief to the displaced population. The Bru displaced in Tripura do not have adequate food rations and suffer from lack of drinking water, sanitation and health-care. Furthermore, thousands of those displaced by local insurgent groups in the state are reported to have received no relief at all, and are camping alongside roads in makeshift houses seven years after having been displaced..." **[122]**

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FOREIGN REFUGEES

30.01 The Canadian Immigration and Refugee Board issued a response to a question on 20 October 2004 (website accessed on 3 October 2006) which indicated that Afghan citizens who have not registered with the UNHCR remain in India illegally:

"The counsellor of the High Commission of India, in Ottawa, explained that it is possible for a non-Indian citizen who resides in India illegally to access primary, secondary or tertiary education, accommodation and employment (High Commission of India 15 Oct. 2004). The counsellor added that since in India there is no system such as that of the Social Insurance Number card in Canada, non-government employment is possible because such employers tend not to 'conduct the appropriate verifications'. Employment by the government of a non-Indian citizen living illegally in India, however, is not possible, because the government does verify one's legal status to work. In respect of business activities, the counsellor stated that an individual with an illegal status in India can be engaged in and conduct 'small-time' business in India. However, the individual could not, for example, be an accountant or lawyer, and have his own business in this regard." **[4m]**

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

The report noted that although India was not a signatory to the 1951 Convention Relating to the Status of Refugees nor did it have any domestic refugee legislation, between 1980 and 2000, 'Afghan asylum seekers [were] freely admitted to India and allowed to remain in the country once recognized as refugees by UNHCR'. Further, Afghan asylum seekers were given 'annually renewable residence permits'. **[4m]**

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

CITIZENSHIP AND NATIONALITY

31.01 As noted by the Defense Security Service website, updated on 29 September 2004, Indian citizenship is based upon the Citizenship Act of 1955: "Despite the variety of states, peoples and languages in India, the law recognises only Indian citizenship…Though the law of India does recognise citizenship through birth in country, unless the citizenship is actively applied for, the Indian Government does not consider the child a citizen of India." **[38]**

31.02 The same website continues: "Children born abroad must be registered at the Indian Consulate… The child of an Indian mother and a foreign father is considered an Indian citizen if the mother and child continue to live in India and the father does not give the child his country's citizenship." **[38]**

31.03 As noted on the Government of India, Ministry of Home Affairs website, accessed on 28 September 2004: "A person born in India on or after 26th January 1950 but before 1st July 1987 is a citizen of India by birth irrespective of the nationality of his parents. A person born in India on or after 1st July 1987, is considered as a citizen of India only if either of his parents is a citizen of India at the time of his birth." **[39b]**

31.04 As stated in the same source "A person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India at the time of his birth. A person born outside India on or after 10th December 1992, is considered as a citizen of India if either of his parents is a citizen of India at the time of his birth." **[39b]**

31.05 The Government of India website, accessed on 28 September 2004, indicates that Indian citizenship may be acquired by naturalisation by a foreigner if the person has resided in India for 10 years (continuously for the 12 months preceding the date of application and for 9 years in the aggregate in the 12 years preceding the 12 months). **[39b]** The Defense Security Service website notes that the applicant would need to have renounced previous citizenship. **[38]**

31.06 As cited in the Defense Security Service website, updated on 29 September 2004: "Voluntary renunciation of Indian citizenship is permitted by law…The following are grounds for involuntary loss of Indian citizenship: the person voluntarily acquires a foreign citizenship; naturalised citizenship was acquired through false statements; a naturalised citizen commits acts against the State of India before the end of the five-year grace period." **[38]**

31.07 As noted on the website of the Embassy of India, Washington DC, accessed on 25 September 2004, the Indian Parliament passed a Bill on 22 December 2003 to grant dual citizenship to people of Indian origin overseas belonging to 16 specified countries. The Bill received the President's assent on 7 January 2004. Among other things, the Bill, which amends the Citizenship Act 1955, would simplify the procedure to reacquire Indian citizenship by the offspring of Indian citizens and former Indian citizens. **[56]** As noted in a report in *The Times of India* dated 30 August 2004, people of Indian origin (PIO) would have to pay to secure Indian overseas citizenship. "A PIO would enjoy all rights of an Indian citizen, except the right to employment in government service and exercising franchise or holding a constitutional post." The PIO would not be required to have a visa while visiting India and could also buy property. The

new PIO scheme would be called Citizenship (Third Amendment) Rules, 2004. The facility has been extended to people of Indian origin living in Australia, Canada, Finland, France, Greece, Ireland, Israel, Italy, the Netherlands, New Zealand, Portugal, Republic of Cyprus, Sweden, Switzerland, UK and the US. **[13b]**

31.08 According to an internet article cited on Immihelp.com accessed on 18 March 2005, the scheme of granting 'Overseas Indian Citizenship (OIC)' under the Citizenship (Amendment) Act, 2003 was put on hold till further notice." **[96]** However according to an answer to an unstarred question in the Rajya Sabha dated 28 July 2005, subject to eligibility and to certain conditions and restrictions the Government had decided to amend the Citizenship Act 1955 to grant dual citizenship to persons of India Origin (PIOs) and under this amendment PIOs would be eligible to become citizens of India. Spouses of PIO card holders can apply for a PIO card enjoying the same benefits as PIOs. **[27f]**

31.09 As stated on the Ministry of Home Affairs website, accessed on 6 September 2006, with regard to overseas citizenship of India (OCI) which is according to the website is not yet operational:

"The Constitution of India does not allow holding Indian citizenship and citizenship of a foreign country simultaneously. Based on the recommendation of the High Level committee on Indian Diaspora, the Government of India decided to grant Overseas Citizenship of India (OCI) commonly known as 'dual citizenship'. Persons of Indian Origin (PIOs) of certain category as has been specified in the Brochure who migrated from India and acquired citizenship of a foreign country other than Pakistan and Bangladesh, are eligible for grant of OCI as long as their home countries allow dual citizenship in some form or the other under their local laws." **[24e]**

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

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

(ii) Exemption from reporting to Police authorities for any length of stay in India; and

(iii) Parity with NRIs in financial, economic and educational fields except in the acquisition of agricultural or plantation properties. Any further benefits to OCIs will be notified by the Ministry of Overseas Indian Affairs (MOIA) under section 7B(1) of the Citizenship Act, 1955.

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

31.10 As reported by BBC News on 13 January 2005, more than 100 Pakistanis renounced their nationality and took oaths to become Indian citizens at a ceremony in the western Indian state of Rajasthan. "The event was part of a

special drive to give Indian citizenship to more than 5,000 Pakistani nationals who migrated to the state over the past few decades." **[32eq]**

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EMPLOYMENT RIGHTS

32.01 As reported by BBC News on 27 June 2005, "The body of legislation that shapes the industrial and labour environment in India is huge." Examples of these are: Minimum Wages Act 1948; Trade Unions Act 1926; Contract Labour Act 1970; Weekly Holidays Act 942; Beedi and Cigar Workers Act 1966. The article cites them as forming a "Crisscrossing network of chaotic, strangulating, overlapping and often-contradictory laws" in need of an overhaul. "The single most important labour law is arguably the Industrial Disputes Act (IDA) 1947." This law guides the recruitment and dismissal of employees. **[32hu]**

32.02 As noted in the US Department of State report for 2005 (USSD):

"State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries. 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. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated." **[2c] (Section 6e)**

32.03 As reported in the same USSD report:

"Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states had laws requiring workers in certain nonpublic sector industries to give notice of a planned strike." **[2c] (Section 6a)**

32.04 The same report states that:

"The law provides for the right to organize and bargain collectively. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties were unable to 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…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 never have 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." **[2c] (Section 6a)**

32.05 According to the USSD for 2005: "In August the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced." **[2c] (Section 6a)**

32.06 The USSD 2005 report states that, "The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalised if they discriminated against employees engaged in union activities." **[2c] (Section 6a)**

32.07 As noted in a BBC News article dated 12 November 2004, "Political parties and trade unions in India's eastern state of West Bengal say they will disobey a court order declaring strikes illegal." They announced three strikes in West Bengal despite a Supreme Court order imposing a ban on the right of government employees to strike because of the disruption caused. **[32fq]**

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

32.08 As reported in Keesings News Digest for March 2005: "Nearly a million bank workers took part on March 22 in a one-day strike in protests against government plans to merge 27 state-owned banks, which union leaders said would result in the closure of 22,000 branches. It was thought that the strike was also supported by many workers in the private banks." **[5z]**

32.09 As reported in the USSD report covering 2005:

"The law prohibits discrimination in the workplace, however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to their owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported micro credit programs for women that 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." **[2c] (p27)**

32.10 As cited in the same report:

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

Enforcement of this statute, which is the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children. According to an ILO report published during the year, an overwhelming majoritiy [sic] of bonded laborers belonged to the scheduled castes and scheduled tribes." **[2c] (Section 6c)**

32.11 In February 2006, India launched its largest ever rural jobs scheme, aimed to lift approximately 60 million families out of poverty. (BBC Timeline) **[32]**

See also Section 23.01 on children for employment rights

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Annex A Chronology of Major Events

(Sources: **[1]** & **[4b]** & **[32bf]** unless otherwise stated)

1947 **15 August:** India gains independence as a Dominion within the Commonwealth, with Lord Mountbatten as Governor-General and Jawaharlal Nehru as Prime Minister.

1950 **26 January:** India becomes a Republic.

1962 Border dispute with China escalates into brief military conflict.

1964 Death of Nehru. Succeeded as Prime Minister by Lal Bahadur Shastri.

1965 Second war with Pakistan over Kashmir.

1966 Death of Shastri. Nehru's daughter, Indira Gandhi, becomes Prime Minister.

1971 Third war with Pakistan over Kashmir. The Indian Army occupies East Pakistan, which India recognises as Bangladesh.

1972 Mrs Gandhi and President Bhutto of Pakistan meet in Simla and agree that their respective forces should respect the ceasefire line in Kashmir.

1975 Mrs Gandhi declares a State of Emergency after she is accused of election fraud.

1977 General election: the Janata Party wins and Morarji Desai becomes Prime Minister.

1978 Indira Gandhi becomes leader of a new breakaway political group, the Congress (I).

1979 Resignation of Desai's Government. Charan Singh becomes Prime Minister at the head of a Lok Dal and Congress coalition, which collapses 24 days later.

1980 General election: Congress (I) wins and Mrs Gandhi becomes Prime Minister.

1982 Giani Zail Singh is elected Indian President, the first Sikh to hold the position.

1983 **October:** Following unrest in Punjab, the State is brought under President's Rule.

1984 **19 March:** The All India Sikh Student Federation (AISSF) is banned. Jarnail Singh Bhindranwale establishes a terrorist stronghold inside the Golden Temple in Amritsar. In June, Operation Blue Star is launched as the army storm the temple.
31 October: Indira Gandhi is assassinated by two of her Sikh bodyguards. Anti-Sikh riots break out. Indira's son, Rajiv Gandhi, is appointed Prime Minister.
December: Congress (I) wins the general election with an overwhelming victory.

1985 **11 April:** The ban on the AISSF is lifted.

September: The Akali Dal win elections to the Punjab State Assembly and President's Rule is lifted.

1987 The Congress Government encounters political setbacks including defeats in State elections, an open dispute between the Prime Minister and the President, and accusations of corruption and financial irregularities against senior Congress figures, including the Bofors affair.
11 May: The Punjab State Assembly is suspended and President's Rule is imposed.
October: Formation of the Jan Morcha by V.P. Singh and other Congress (I) dissidents.

1988 **May:** Operation Black Thunder - Punjab police and Indian paramilitary forces besiege the Golden Temple in Amritsar.
Formation of Janata Dal to oppose Congress at forthcoming elections.

1989 **November:** General election in which Congress loses its majority. V.P. Singh is appointed Prime Minister of a National Front coalition with the support of the BJP.

1990 **October:** The BJP withdraws support for the Government, following the arrest of the BJP leader Lal Krishna Advani as he led a procession of Hindus to Ayodhya in Uttar Pradesh to begin the construction of a temple on the site of an ancient mosque. Clashes occur between police and crowds, and Hindu extremists storm and damage the mosque.
November: Chandra Shekhar forms his own dissident faction called the Janata Dal (S). The Government loses a vote of confidence in Parliament and V.P. Singh resigns. Chandra Shekhar, is appointed Prime Minister at the head of a minority Government with Congress (I) support.

1991 **March:** Chandra Shekhar resigns as Prime Minister
May: General election held, but on 21 May, after the first day's polling, Rajiv Gandhi is assassinated by members of the Sri Lankan militant group, the Liberation Tigers of Tamil Eelam (LTTE). Congress emerges as the largest party and forms a Government with P.V. Narasimha Rao as Prime Minister.

1992 **February:** State Assembly elections in Punjab are won by Congress (I), but there is a low turnout of the electorate. President's Rule is lifted. Municipal elections are held in September with a greatly increased turnout. The Congress candidate, Dr Shankar Dayal Sharma is elected President of India.
6 December: Demolition of the Babri Masjid, the ancient mosque in Ayodhya, Uttar Pradesh, by Hindu mobs. This sparks off widespread communal violence throughout India with Mumbai (Bombay) one of the worst affected areas. BJP leaders are arrested, the Uttar Pradesh Chief Minister resigns and the State is placed under President's Rule, as are three other States also under BJP control. Five communal organisations are also banned.

1993 **January:** Resurgence of communal violence in Mumbai and in Ahmedabad in Gujarat.
February: Thousands of BJP activists are arrested throughout India to prevent a mass rally taking place in New Delhi.
March: Bomb explosions in Mumbai.

1995 **31 August:** Assassination of the Chief Minister of Punjab, Beant Singh. Harchan Singh Brar is appointed Chief Minister.

1996 Accusations of corruption come to the fore with leading politicians allegedly receiving bribes from the industrialist Surendra Jain (Hawala scandal).
April/May: General election. No party gains an overall majority, but the BJP emerges as the largest party. On 15 May, Atal Behari Vajpayee of the BJP forms a Government, but resigns on 28 May. On 1 June H.D. Deve Gowda is appointed Prime Minister at the head of the United Front coalition of 13 parties, supported by Congress (I).

1997 **30 March:** Congress (I) withdraws support for the United Front Government. The crisis is resolved by the resignation of the Prime Minister, Deve Gowda, and the appointment of the External Affairs Minister, Inder Kumar Gujral, as Prime Minister on 21 April.
July: K.R. Narayanan is elected President of India, the country's first President from an "untouchable" caste.
November: Congress (I) demands the withdrawal of the DMK from the Government, following allegations of its involvement in the assassination of Rajiv Gandhi. The Government refuses, and Congress withdraws its support.
4 December: Parliament is dissolved. Gujral heads a caretaker Government until the general election is held.

1998 **February/March:** General election. No party wins a majority, but the BJP emerges as the largest party and Atal Behari Vajpayee forms a Government in coalition with 17 other parties. The Government wins a confidence vote on 28 March. **[5b]**
May: Tension rises between India and Pakistan as India conducts five underground nuclear tests, and Pakistan conducts six tests. **[5c]**
November: The BJP suffers defeats in the State elections in Delhi and Rajasthan, and fails to dislodge Congress (I) from control of Madhya Pradesh.
December: Escalation of violence against the Christian minority in Gujarat.

1999 **April:** The AIADMK withdraws support from the Government coalition, which resigns after losing a vote of confidence in the Lok Sabha. The President dissolves Parliament and calls an election.
May-July: A serious escalation of the conflict with Pakistan in Kashmir occurs in response to the largest infiltration of Islamic guerrillas into the State in recent years. On 11 July India and Pakistan had agreed on a plan for the infiltrators to withdraw. **[5d] [8e]**
September/October: General election. BJP re-elected under Vajpayee. **[33a]**

2000 **March:** 36 Sikhs are killed by unidentified gunmen in Chadisinghpoora, the first such attack on the Sikh community in Kashmir. **[3h]**
July-August: Militant group Hizbul Mujaheddin announces a unilateral cease-fire in Kashmir **[32r]** but calls it off after India refuses to enter three-way peace talks with the Kashmiri leadership and Pakistan. **[32u]** Violence ensues during **[32t]** and immediately after the cease-fire. **[33d]**
November: The Indian Government announces a unilateral ceasefire barring Indian forces from offensive operations against Muslim separatists in Kashmir. Extensions of the ceasefire are made a month at a time, before a three-month extension to the end of May 2001. Militant groups reject the ceasefire. **[32ab]**

2001 **May:** The cease-fire in Kashmir announced in November 2000 by the Government is ended as some 1,200 people had died during its period of operation. **[5g]**
July: Talks between India and Pakistan fail after the two countries fail to reach an agreement over Kashmir. **[15]**
13 December: A terrorist attack on the federal Parliament in New Delhi leaves 14 dead and 16 wounded. The attack precipitates a crisis with Pakistan which threatens to erupt into war over the disputed Kashmir region. **[5j]**

2002 **13-21 February:** Elections to four State assemblies (Manipur, Punjab, Uttaranchal and Uttar Pradesh) result in heavy losses for the BJP. **[5j]**
27 February: At least 58 passengers are burnt to death and 43 injured when a train carrying Hindu activists is attacked in Godhra, Gujarat. A wave of communal violence is triggered across the State. **[5j]** By 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. **[5k]**
26 March: The Prevention of Terrorism Ordinance (POTO) is passed into law. **[5k]** Having been promulgated in October 2001, the POTO replaces the TADA. **[5h]**
21 May: Moderate Kashmiri separatist leader Abdul Ghani Lone is shot dead. **[5m]**
May-June: India and Pakistan move closer to outright war over the deteriorating situation in Kashmir. Up to a million troops face each other across both the Line of Control and the international frontier between the two countries. The situation worsens when, on 14 May 2002, 34 people are killed in a militant attack on an army base in Kashmir, the dead including 8 women and 11 children from army families. Tensions are lowered somewhat in June 2002, largely as a result of international pressure. **[5m] [5n]**
July: Dr A.P.J. Abdul Kalam, a Muslim, is sworn in as India's twelfth President. **[32ai]**
October: Voting concludes in Kashmir State elections. The ruling National Conference party fails to win a majority. **[32ak]** Mufti Mohammad Sayeed is sworn in as Chief Minister to head a coalition of his PDP and the Congress Party for three years, before a Congress leader takes over for a second three-year period. **[32am]**
December: The BJP wins State elections in Gujarat. **[32an]**

2003 In 2003 both India and Pakistan continue testing missiles. **[32bg]**
March: Twenty-four Hindu villagers are murdered in Kashmir. **[32bg]**
April: Prime Minister Vajpayee to hold talks with Pakistan. **[32bg]**
Mr Vajpayee makes a surprise speech calling for an end to more than 18 months of simmering tensions with Pakistan, prompted by an attack on the Indian Parliament, as reported by the BBC on 6 January 2004. **[32cj]** Atal Behari Vajpayee offers the "hand of friendship" to Pakistan in a landmark address in Indian-administered Kashmir. **[32fm]**
May: India announces the resumption of a bus service between Delhi and Lahore, described by Pakistan as a "positive gesture". Both sides resume diplomatic links and Delhi states it will release Pakistani prisoners following a similar move by Islamabad. **[32fm]**
June: India and China reach de facto agreement over the status of Tibet and Sikkim in a landmark cross-border trade agreement. **[32bf]**
The state assembly in Gujarat passes a Freedom of Religion Bill introduced by the BJP Government, ostensibly designed to prevent forced religious conversions. **[5o]**

25 August: Blast at Zaveri Bazaar. 34 killed and 112 injured. Blast in a taxi parked near the Gateway of India. 18 killed, 37 injured. **[11e]**
Four people were arrested and charged in connection with the twin bomb attacks in Mumbai. India has blamed the attacks on an outlawed Islamic militant group – Lashkar-e-Toiba in the Pakistani-controlled part of the disputed region of Kashmir. **[32bi]** Four Muslims are charged under the anti-terrorism laws. **[41b]**
For the first time in history, Indians and Pakistanis hold joint independence day celebrations in a further sign of the thaw in relations. **[32fm]**
September: There is a sudden upsurge in separatist violence across the state. Indian troops claim to have foiled at least 18 infiltration bids by militants in September alone. **[32bu]**
The Line of Control witnesses increased exchanges of fire between the armies of India and Pakistan. **[32bu]**
1 September: Blast near key Kashmir tunnel kills a bomb disposal expert and injures two security force members. **[32bj]**
Indian police claim to have shot dead the mastermind behind the twin bomb blasts in Mumbai that killed 53 people and wounded more than 150 on 25 August 2003. Five people have been detained in connection with the bombings. **[45] [32bz]**
October: India unveils a series of measures aimed at improving relations with Pakistan and forging progress in the Kashmir dispute. **[32fm]**
13 November: At least 50 train passengers are injured in attacks by armed mobs in Bihar. Youths were protesting over alleged discrimination against Biharis who had tried for jobs with Indian railways in neighbouring Assam, as reported by BBC News on 13 November 2003. **[32cl]**
November: 12 Hindus are given life prison sentences in Gujarat state for killing Muslims in religious riots last year, as reported by the BBC on 21 November 2003. **[32cq]**
25-26 November: A ceasefire comes into effect at midnight on 25-26 November between the armies of India and Pakistan on the LoC in Kashmir. The ceasefire is reportedly fully implemented by both sides, as noted by Keesings. **[5r]**
5 December: India's Hindu-nationalist BJP celebrates sweeping election wins in three states held by the Congress party, as reported by BBC News on 5 December 2003. **[32ck]** Keesings News Digest for December 2003 reports that the BJP secured administrations in Rajasthan, Madhya Pradesh and Chattisgarh, giving rise to speculation that Prime Minister Vajpayee would bring forward the date of the general elections due in October 2004. **[5s]**
7 December: Ayodhya anniversary sparks riots as reported by BBC News 7 December 2003. At least 3 people are killed and more than 20 injured in clashes between Muslims and Hindus in Hyderabad when trouble erupts on the eleventh anniversary of the razing of the Babri mosque in Ayodhya. **[32cn]**
India and Pakistan agree to resume direct air links from 1 January following a two-year ban. **[32fm]**

2004 **1 January:** Direct air links are resumed between India and Pakistan after a gap of more than two years. **[Keesings]**
5 January: The leaders of Pakistan and India meet for the first time in two years, promising to restore normal relations, as reported by Guardian Unlimited. **[40b]**
6 January: Pakistan and India agree to discuss the Kashmir issue in historic talks due to start in February. It comes a day after President Musharraf hosts

talks with India's Atal Behari Vajpayee, reported by BBC on 6 January 2004. **[32cj]**

9 January: At least 15 Muslims are wounded in Indian-administered Kashmir in a grenade attack on a mosque, as reported by the BBC News on 9 January 2004. **[32cm]**

27 January: The Prime Minister conveys to the President on 27 January the recommendation of the Cabinet to dissolve the thirteenth Lok Sabha on 6 February to pave the way for early legislative elections in April. The final parliamentary session begins on 29 January. **[5e]**

18 February: Three days of talks in February in Islamabad start on 16 February with the disputed region of Kashmir top of the agenda. India and Pakistan agree to a 'roadmap' for peace that will begin with high-level talks in May or June. **[30co]**

March: Around 30,000 cricket fans watch India beat Pakistan in the historic first contest of their first tour of Pakistan since 1989. **[32fm]**

12 April: The Supreme Court orders a retrial of a riot case in which 12 Muslims were burned to death by a Hindu mob 2 years ago in Gujarat. It rules that the new trial must take place in neighbouring Maharashtra state and calls for a fresh investigation. **[32cp]**

19–29 April: The BJP campaign slogan is "India Shining". **[32dt]** Polling is held in five phases: April 20-May 10. Electronic voting machines are used for the first time. **[33e] [32ay]** India's autonomous election commission orders an inquiry into complaints of widespread vote-rigging and other irregularities in Bihar. **[32dj]** Violence and ballot box theft requires reballoting in some areas. **[33e]** Surprise victory for the Congress Party in general elections. **[32bf]** The Congress Party needs to seek support from smaller parties to form a Government. India's financial markets slump initially and recover. **[32dt]**

18 May: India's Congress Party leader Sonia Gandhi says she will not be the country's next Prime Minister. **[32dl]**

20 May: Pakistan welcomes the pledge made by incoming Prime Minister Manmohan Singh to seek friendly relations. **[32dq]**

22 May: Manmohan Singh is sworn in as Prime Minister. **[32bf]**

27 May: The Congress-led Government says it will scrap the Prevention of Terrorism Act (POTA). **[32cw]**

1-2 June: The BJP, the main opposition party, elects L.K. Advani, the former deputy Prime Minister as its new leader. **[32dr]** The new Parliament is sworn in. **[32dk]**

8 June: Parliament closes for two days after the opposition demands that the new Government sack ministers it deems unfit for office. **[32bf]**

24 June: The first budget of the newly elected United Progressive Alliance is presented and is labelled "please-all". **[32dn]**

June: India and Pakistan renew a ban on nuclear weapons tests and set up a hotline to alert each other to potential nuclear risks. **[32fm]**

23 July: Pakistani President Pervez Musharraf meets India's new Foreign Minister, Natwar Singh, to push forward the peace process. **[32do]**

11 August: India and Pakistan end two days of talks on terrorism and drug trafficking. Pakistan announces it will release 400 prisoners. **[32dp]**

14 August: India carries out first execution in nine years. **[32cy]**

27 August: The World Bank agrees to lend India a maximum of $12bn (£6.6bn) over four years, or $3bn a year. **[32ad]**

30 August: The Indian central bank warns that drought and the high global price of oil may force it to lower its GDP forecasts. **[32ds]**

September: "The two countries' (India & Pakistan) foreign ministers meet in Delhi – the first official meeting at such high level for three years. Both sides

say they have made some progress but there are few results to show for it." **[32fm]**

26 December: A very severe earthquake measuring a magnitude of 8.9 on the Richter scale strikes northern Sumatra, Indonesia. "The earthquake was felt widely along the east coast of India." **[97]** India's south-east coast, especially the state of Tamil Nadu, is the worst affected area on the mainland. More than 8,800 people are confirmed dead in mainland India, 7,968 of them in Tamil Nadu and almost 600 in Pondicherry (see below for data on the Andaman and Nicobar islands). Thousands more are still missing. At least 140,000 Indians, mostly from fishing families, are in relief centres. Repairing the damage is expected to cost about $1.2bn – but India is in fact providing aid to other countries hit by the tsunami, including medical workers, supplies and cash. **[32ex]**

Andaman & Nicobar Islands

Salt water, which washed over the islands, contaminates many sources of fresh water and destroys large areas of arable land. Most of the islands' jetties are also destroyed.

At least 1,894 of the islands' 400,000 people are confirmed dead and more than 5,500 are missing – 4,500 from Katchall island alone. India refuses assistance from international aid agencies because of the presence of a military base on one island and indigenous tribes on some others. The military builds extra landing fields on the islands to help with relief. About 12,000 people are moved to relief camps on larger islands. **[32ex]**

2005 **7 April:** "Bus services, the first in 60 years, operate between Srinagar in Indian-controlled Kashmir and Muzaffarabad in Pakistani-administered Kashmir." **[32io]**

July: "India signs a nuclear co-operation deal with the US, heralding a possible lifting of sanctions on Indian access to civilian nuclear technology." **[32io]**

More than 1,000 people are killed in floods and landslides caused by monsoon rains in Mumbai (Bombay) and Maharashtra region. **[32io]**

8 October: An earthquake, with its epicentre in Pakistan-administered Kashmir, kills more than 1,000 people in Indian-administered Kashmir. **[32] [BBC timeline]**

29 October: Triple bomb attacks kill at least 62 people in Delhi; more than 200 people are injured in the attacks. The attacks occur just days before Diwali. A previously little-known group called Inqilabi claims responsibility, which police are trying to verify. This is a very old organisation formed in 1996 which has not been active recently; it is purportedly linked to Lashkar-e-Toiba, one of the leading groups fighting Indian rule in Kashmir. The attacks happen at Paharganj where 16 die near a train station; at Sarojini Nagar where 43 are killed; and in Govindpuri where a bus driver throws a bomb from the vehicle but no-one is killed. The attacks are designed to cause maximum damage in places frequented by people from all religions. **[32ja]**

2006 **February:** India launches its largest-ever rural jobs scheme aimed to lift approximately 60 million families out of poverty. (BBCTimeline) **[32]**

7 March: Fourteen people are killed by bomb blasts in the city of Varanasi, a Hindu pilgrimage city. **[BBCTimeline] [32]**

US and India sign a nuclear agreement during a visit by US President George W Bush. The US gives India access to civilian nuclear technology while India agrees to greater scrutiny for its nuclear programme. **[32]**

May: Suspected Islamic militants kill 35 Hindus in the worst attacks in Indian-administered Kashmir for several months. **[32]**

11 July: More than 180 people are killed in bomb attacks on rush-hour trains in Mumbai. **[32]**

8 September: Explosions outside a mosque in the western town of Malegaon kill at least 31 people. **[32]**

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Annex B Political Organisations

(Sources: **[1a] [5l] [7f] [32dh] [32de]** unless otherwise stated)

Akali Dal also termed as Shiromani Akali Dal
A Sikh party, formed in 1920 and demanding an independent Sikh state. This demand has been dropped since the Punjab peace accord of 1985. Formed an alliance with the BJP in 1997, but lost the Punjab state elections in 2002. Strong performance in the 2004 elections, winning 10 out of 13 seats in Punjab. It is a major player in the northern state of Punjab where it is currently in opposition. **[32dh]** Shiromani Akali Dal (Akali religious party) is a Sikh political party mainly based in Punjab India. Akali Dal in a sense considers itself as a religio-political party and principal representative of Sikhs. "The basic philosophy of Akali Dali is to give political voice to Sikh issues (Panthic cause) and it believes that religion and politics go hand in hand." Akali Dal's history is full of divisions and factions with each faction claiming to be the real Akali Dal:

"As of 2003, the SAD headed by Prakash Singh Badal was the largest faction and the one recognized as having the name SAD by the Election Commission of India. Other factions have included Sarb Hind Shiromani Akali Dal led by Gurcharan Sing Tohra, Shiromani Akali Dal led by Gurcharan Singh Tohra, Shiromani Akali Dal (Simranjit Singh Mann) (also called SAD (Amritsar)), and Shiromani Akali Dal (Panthik) led by Amarinder Singh (which later merged with Congress), Shirmomani Akali Dal Delhi, Shiromani Akali Dal (Democratic), Haryana State Akali Dal and the Shiromani Akali Dal (Longowal)." **[76c]**

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

All India Forward Bloc
Founded in 1940 by Netaji Subhash Chandra Bose and has socialist aims, including nationalisation of major industries, land reform and redistribution. A minor Marxist-Leninist ally of CPI-M in West Bengal. General Secretary: Debabrata Biswas. (900,000 members) **[1] (p196)**

All India Trinamool Congress
Breakaway group of the Congress (I) in West Bengal. Part of the BJP-led NDA Government. Leader: Mamata Banerjee.

Asom Gana Parishad (AGP) (Assam People's Council)
Founded 1985. Draws support from the All Assam Gana Sangram Parishad and the All Assam Students' Union. (President: Keshab Mahanta.) Advocates the unity of India in diversity and a united Assam. President: Mr Brindaban Goswami. **[1] (p196) [7l]** The AGP split in 2005. Its Founder is President Prafulla Kumar Mahanta, who was expelled, formed a separate outfit, AGP-Progressive (P). Mr Brindaban Goswami is the President of the original AGP. **[7l]**

Bahujan Samaj Party

Formed in 1980 as the champion of scheduled castes and is strong in Uttar Pradesh, where it briefly formed the Government in alliance with the BJP in 1996. President: Mayawati. The party won 19 seats (5.4% of the vote) in the recent elections. **[66]**

Bharatiya Janata Party (Indian People's Party)
The leading political party of the 24-party National Democratic Alliance (NDA) governing coalition, which has downplayed its Hindutva associations since coming to power in 1998 in order to accommodate secular NDA partners. The BJP was formed in 1980 from the former Bharatiya Jana Sangh, founded in 1951 as the political wing of the extremist Hindu nationalist organisation Rashtriya Swayamsevak Sangh (RSS), responsible for outbreaks of communal violence in which a mosque was destroyed at Ayodhya. The BJP and its allies (NDA) were routed in a surprise defeat in the 2004 elections. The former PM Atal Behari Vajpayee is viewed as the leading moderate while former deputy PM and current BJP parliamentary leader L.K. Advani fronts the hardline faction. **[5l] [66]**

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

Communist Party of India (CPI)
Founded 1925 and advocates the establishment of a socialist society led by the working class, and ultimately of a communist society. Support in West Bengal, Bihar and Kerala. General-Secretary: Ardhendu Bhushan Bardhan. CPI is recognised by the Election Commission of India as a "National Party". On the national level it supports the Indian National Congress-led United Progressive Alliance Government, but without taking part in it. The CPI won 43 seats (5.7% of the vote) in the recent elections. **[66]**

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

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

Indian National Congress (INC)
Party of Indian independence, then of Government for 45 of the following 50 years under Nehru, his daughter Indira Gandhi (Congress I) and grandson Rajiv Gandhi. Had

support throughout India, but suffered massive losses in the North and partially in the West in 1998 and lost the confidence of traditional voters such as Muslims and scheduled castes. Sonia Gandhi, widow of Rajiv Gandhi, took over as President of Congress (I) in April 1998. In December 2003, Congress began actively seeking alliance partners. The 2004 national elections ended governance by the BJP and brought in a new left-leaning coalition Government, the United Progressive Alliance, led by Prime Minister Manmohan Singh after Sonia Gandhi declined the post. The INC with its allies won 217 seats (35.8% of the votes) in the parliamentary election. **[66]**

Indian Union Muslim League
Concerned with the interests of the Muslims of Kerala.

Jammu and Kashmir National Conference (JKNC)
Headquarters in Srinagar. Formerly All Jammu and Kashmir National Conference. Founded 1931, renamed 1939, reactivated 1975. A State-based party campaigning for internal autonomy and responsible self-government. Accepts accession to the Indian Union. President: Omar Abdullah. (1m members) **[1] (p196)**

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

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

Kerala Congress (M)
Concerned with the interests of the Christians of Kerala.

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

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

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

Samajwadi Party (Socialist Party)

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

Mulayam Singh Yadav is the Chief Minister of Uttar Pradesh. **[7l]**

Samajwadi Janata Party
The one-man party of Chandra Shehkar, a former Prime Minister.

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

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

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

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

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

Telugu Desam Party (NAIDU)
Founded in 1982 by Telugu film star N.T. Rama Rao, who died in 1996. Based in Andhra Pradesh, and is supported by locally dominant middle castes. Led by N. Chandrababu Naidu, Chief Minister of Andhra Pradesh. His defeat in the 2004 elections has cast him in the political wilderness. Continues to back the BJP at the federal level. **[32dh]** Telegu Desam Party (Party for Telugu Land) is a regional political party in Andhra Pradesh state. On founding the party Rama Rao wanted an alternative to the ruling Congress Party in the state. He embraced Sanyasa (or reunification) and vowed to dedicate himself to the Telegu people. It was the fourth largest party with 29 members in the 13th Lok Sabha (1999–2004). **[76d]**

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OTHER ORGANISATIONS

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

The AISSF was founded in 1944. Its founder President was Sardar Swarup Singh. It was the first body to pass a resolution seeking the formation of a separate Sikh homeland. Its other objectives were to promote and propagate Sikhism amongst the college-going Sikh students. While the AISSF sought a separate Sikh homeland, it did not fight for it until militancy erupted under Bhindranwale in 1981. From then onwards, a number of AISSF members joined the ranks of the militants. **[7d]** The organisation was banned between 19 March 1984 and 11 April 1985. **[4b]** According to FCO advice in correspondence dated 18 August 2005, to the best of its understanding the AISSF was banned in 1984 and the ban was subsequently lifted in 1985:

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

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

Bajrang Dal
The youth wing of the [VHP]. Banned between December 1992 and June 1993, Bajrang Dal was originally formed in the 1980s to counter "Sikh terrorism", but has since then shifted to militant activism against the Muslim and Christian minorities. **[5l]**

The People's War Group (PWG)
Banned guerrilla organisation. Campaigns to establish Communist state in the tribal areas of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh. Peace talks between the PWG and the Government broke down in July 2003 when the Government decided to renew its ban on the group. **[43a]**

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

Vishwa Hindu Parishad (VHP) (World Council of Hindus)
Led by Ashok Singhal. **[5n]** Right-wing ally of the BJP, concerned explicitly with religious matters, founded in August 1964. The VHP was banned between December 1992 and June 1995 for its role in the destruction of the Babri mosque in Ayodhya. A wealthy organisation, the VHP is partly funded by donations from Hindu communities abroad, especially the USA. The VHP's militant women's wing is known as Durga Vahini. **[5l]** Dr Pravin, also spelt Praveen Togadia, is its international General Secretary. **[7l]**

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OTHER INSURGENT GROUPS

(source used throughout: MIPT Terrorism Knowledge Base) **[120]**

Achik National Volunteer Council (ANVC)

A Garo separatist group based in Meghalaya, formed in December 1995, dedicated to the establishment of an independent state in the Garo Hills of Meghalay as well as in much of Kamrup and Goalpara districts in Assam. "The Indian government treats ANVC as a high-priority terrorist group…The ANVC's activity has diminished, but the group is still organized and has significant resources." **[120a]**

Adivasi Cobra Force (ACF)

Formed in 1996, "Adivasi Cobra Force is a small militant outfit located in Assam... Emerging from ethnic clashes between varied extremist groups and tribal entities, the ACF is essentially a protection outfit for tribal peoples of southern Assam." **[120a]**

Al-Barq

(Al-Buraq, The Lightning) founded in 1978
Base of Operation: India; Kashmir; Pakistan
MIPT notes:
"Al-Barq (the Lightning) is a militant Kashmiri separatist group that conducts operations in Pakistan-administered Kashmir. The group, while not one of the primary militant groups in the region, has played a consistent role in separatist activity in Kashmir for more than 25 years. For much of its history, al-Barq was considered the armed wing of the prominent separatist Jammu and Kashmir People's Conference party. By 2000, however, al-Barq had disassociated itself with the People's Conference, choosing instead to align itself with the Muttahida Jihad Council, an alliance of Kashmiri jihadi organizations."

The group was originally moderate:

"The group has engaged in countless skirmishes with Indian police and garnered international media attention by claiming responsibility for the assassination of the Indian Jammu and Kashmir Law Minister in 2002. The minister was killed, along with six members of his entourage, when a land mine exploded and shots were fired at his motorcade. Three separate groups took credit for the attack; al-Barq claimed to have filmed the assassination but never released the tape…Al-Barq is also known for running effective terrorist training camps in Pakistan-administered Kashmir. These camps and those run by other Kashmiri jihadis have become internationally notorious for training both Kashmiri militants and terrorists for international attacks. The perpetrators of the London bombings are believed to have trained in Pakistani camps similar to those run by al-Barq. Al-Barq militants now operate under the umbrella

Kashmir Freedom Force. The group continues to recruit and train Kashmiri militants and jihadis for other causes."

All Tripura Tiger Force (ATTF)

Aliases: All Tripura Tribal Force (ATTF's original name: 1990-1992). Formed July 1990; has approximately 600 members and is a nationalist/separatist group. It carried out its last attack on 16 October 2005. Base of Operation: Bangladesh; India.

MIPT notes:

"The All Tripura Tiger Force (ATTF) is a terrorist group currently operating in India's Tripura state. Tripura is one of the seven northeastern Indian states, sometimes called the seven sisters, which are home to numerous terrorist entities. Many of these groups are fighting for independence/autonomy from India, as well as increased rights for tribal people. The ATTF, specifically, engages in terrorist attacks for the stated goal of independence for all tribal areas within Tripura. ATTF also proposes the expulsion of all Bengali-speaking immigrants who entered Tripura after 1956. Furthermore, ATTF wants to repeal voting rights for all immigrants, regardless of ethnicity, who entered the state after 1956. These three goals demonstrate the group's principal beliefs, namely that tribal lands in Tripura should be granted independence from India's federal government, and non-tribal people should be removed from the state or at least have reduced rights. The ATTF is one of two primary terrorist entities in Tripura. The second group, the National Liberation Front of Tripura (NLFT), has more insurgent members, is better armed, and is devoutly Christian. ATTF and NLFT are rivals and have confronted each other in armed clashes. Both terrorist organizations are banned by the current Indian government. The ATTF's terrorist activities have included the kidnapping of politicians and attacks on Bengali-speaking people, causing the Indian government to have banned the group since 1997. Current goals: On April 22, 2004, ATTF's leader indicated the possibility for a negotiated end to the ATTF insurgency. Nevertheless, All Tripura Tiger Force remains an active terrorist organization."

Babbar Khalsa International (BKI)

Founded in 1978, this nationalist/separatist group carried out its last attack on 22 May 2006. "Babbar Khalsa is now headed by Wadhawa Singh, who is reportedly hiding in Pakistan with his chief deputy, Mehal Singh. India has requested the extradition of both men. Many Indian officials and commentators accuse Pakistan, particularly its intelligence service (ISI), of encouraging and facilitating BKI terrorist activities. Babbar Khalsa seeks a sovereign state for Sikhs carved out of northern India. Punjab province and surrounding majority Sikh regions will serve as the basis for this state, but BKI does not articulate precise plans for the geographical, political, economic, or religious characteristics of its desired Khalistan."

Birsa Commando Force (BCF)

Bodo Liberation Tigers (BLT)

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

Borok National Council of Tripura (BNCT)

Communist Party of India-Maoist

Formed in September 2004 the group has over 6,500 members and carried out its last attack on 6 September 2006. It is based in India and its alias is Naxalites which is a general name for left-wing extremists:

"The Communist Party of India-Maoist (CPI-Maoist) was formed in September 2004 with the merger of the Maoist Communist Center (MCC) and People's War Group (PWG), the two main left-wing extremist groups in India. Both the MCC and the PWG were militant organizations who had waged a decades-long war against the Indian government with the goals of peasant revolution, abolition of class hierarchies, and expansion of Maoist-controlled 'liberated zones.' These zones were to serve as the foundation of an independent 'Maoist' state. Despite some ideological disputes between the two groups, the CPI-Maoist has seamlessly combined the Maoist philosophy of MCC with the more Marxist-Leninist viewpoint of PWG, with Maoist philosophy prevailing slightly. The CPI-Maoist is by far the most formidable left-wing extremist group in India. As such, the group maintains informal links with many of the smaller organizations such as the Communist Party of India (Marxist-Leninist) Janashakti. More importantly, the CPI-Maoist has facilitated close ties with Nepalese Maoists who have been waging a bloody campaign of their own. In June 2005, Maoists from India and Nepal launched their first joint attack, leaving 21 dead in India's Bihar state. Officials fear that increasing cooperation between these two groups could be disastrous for India's stability…Although the Indian government initiated peace talks with CPI-Maoist in October 2004, the talks ultimately failed, and the group resumed violent action. The CPI-Maoist's current goal is to establish a 'Compact Revolutionary Zone', a zone of control that would extend from the Nepalese border to Andhra Pradesh in the south."

Communist Party of Nepal-Maoist (CPN-M)

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

Dima Halam Daoga (DHD)

Formed in 1996 with less than 400 members:

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

Dukhtaran-e-Millat

Harkat ul-Ansar

Hindu Sena Rashtriya Sangh Party

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

MIPT notes:

"Islami Inqilabi Mahaz (Islamic Revolutionary Group) is a shadowy group of militants thought to be operating in Pakistan, Kashmir, and India. The group first drew notice in 1997 after claiming responsibility for the killing of four American contractors in Pakistan. Islami Inqilabi Mahaz then disappeared for a period of years, only to reemerge in October 2005, when they claimed responsibility for a trio of devastating bombings that killed dozens of people in New Delhi, India…At the current time, it is unclear whether Islami Inqilabi Mahaz was actually responsible for the New Delhi market bombings. It is also unknown whether the group is an independent outfit, or operating as a front for LeT or other militant groups."

Islamic Defense Force
The group is currently inactive.

Jammu and Kashmir Islamic Front
This group is no longer active.

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

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

Kanglei Yawol Kanna Lup (KYKL)
"The KYKL was formed in January 1994 from factions of the United National Liberation Front, Kangleipak Communist Party (KCP), and People's Revolutionary Party of Kangleipak (PREPAK)." It is an ethnic Metei group based in Manipur, India. "The group is well known for its violent vigilantism and decrees aimed at 'rebuilding Manipuri society' by 'cleansing' it of immoral activities. The name of the group means 'Organization to Save the Revolutionary Movement in Manipur'."

Kangleipak Communist Party
"The KCP remains an active terrorist group dedicated to an independent state of Manipur. However, the group is quite small compared to other organizations in the region and is not considered a high-level security threat."

Karbi Longri North Cachar Hills Resistance Force (KNPR)

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

Kuki Liberation Army (KLA)

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

Kuki Revolutionary Army

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

Lashkar-e-Jabbar (LeJ)

Alias: The Army of the Omnipotent Almighty based in India; Kashmir.
MIPT notes:
"LeJ continues to attempt to enforce the Islamic dress code in Kashmir. They also issued an edict mandating that men and women be separated on buses…"

Lashkar-e-Jhangvi (LeJ)

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

Lashkar-e-Taiba (LeT)

Aliases: Army of the Pure, Army of the Righteous, Lashkar-e-Tayyiba (LT), Lashkar-e-Toiba. Based in India; Kashmir; Pakistan.
MIPT notes:
"Lashkar-e-Tayyiba (LeT) is the armed wing of the Pakistan-based religious organization, Markaz-ud-Dawa-wal-Irshad (MDI). MDI is an anti-US missionary organization formed in 1989. The LeT is one of the three largest and best-trained groups fighting in Kashmir against India. In 1994, the LeT became one of the primary

recipients of funds from Inter-Services Intelligence (ISI), Pakistan's external intelligence agency, after the Jamaat-e-Islami and the HM refused to accept new conditions attached to ISI money. The LeT agreed to support Kashmir's merger with Pakistan, to attack the Hindus in the Jammu Division, and to assist in training alienated Muslim youth in the rest of India. Along with the HuA and Al Badr, the LeT is thought to be responsible for a majority of the violence in the State."

Maoist Communist Center (MCC)
This group no longer exists.

Mujahideen al-Mansooran
Not much is known about this group other than that it carried out one attack and no further activity is expected.

National Democratic Front of Bodoland (NDFB)
This is an active terrorist entity, which continues to carry out bombing attacks, kidnappings for ransom and mass murders by firearms:

"…Formed in 1988 under the name Bodo Security Force (BSF or BdSF). The terrorist organization re-named itself the National Democratic Front of Bodoland on November 25, 1994. NDFB is a terrorist organization that aims to separate a portion of land from India with which to create a fully independent country for the Bodo people. The Bodo ethnic group is based in India's Assam region, and therefore NDFB aims to break part of the Assam region off from India."

National Liberation Front of Tripura (NLFT)
"National Liberation Front of Tripura (NLFT) is an active terrorist organization. However, NLFT is constantly in flux and has given rise to several splinter groups. In 2001, NLFT split into two main factions, one led by Nayanbasi Jamatiya and the other by Biswamohan Debbarma."

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

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

People's Liberation Army (PLA)
Base of operation: Bangladesh; Burma (Myanmar); India.
A Meitei militant separatist group located in Manipur. Founded by N. Bisheswar Singh on 25 September, 1978 to attain independence for Manipur. "The PLA claims to be a trans-tribal organization seeking to unite all northeast tribes in a revolutionary front opposing India's occupation of Manipur…The PLA has engaged in a guerrilla insurgent campaign against the Indian government."

People's United Liberation Front (PULF)
An Islamic terrorist group fighting for an independent Islamic state in northeastern India for the region's Muslims, many of them migrants from Bangladesh.

People's War Group (PWG)
Aliases: Naxalites, People's Guerrilla Army (PGA), People's War (PW), The Communist Party of India-Marxist Leninist (People's War) CPI-ML (PW). Based in India the group was a Maoist terrorist organisation active in India for over two decades. PWG is based in Andhra Pradesh, Orissa and Bihar, wanting to create a communist state encompassing all three areas. The Andhra Pradesh branch of the PWG was formed in 1980 by Kondapally Sitaramah.

Revolutionary People's Front (RPF)
Base of operation: Bangladesh; India. The RPF is the political wing of the PLA, a group active in Manipur. Led by President Irengbam Chaoren the group can be seen as a government-in-exile based in Bangladesh.The RPF and the PLA are fighting to free Manipur from Indian colonial occupation.

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

Students Islamic Movement of India (SIMI)
This is a banned Islamic fundamentalist group that advocates Islamic revolution in India. "By all accounts SIMI is anti-Western and anti-Hindu, and openly supports violent 'jihad' in India. SIMI has been linked to many terrorist incidents in India in the past few years." Founded in Uttar Pradesh, on 25 April 1977 by Dr. Mohammad Ahmadullah Siddiqi.

Ukrainian Reactionary Force
No longer active in India.

United Kuki Liberation Front (UKLF)
"The United Kuki Liberation Front (UKLF) is one of several small insurgent groups that are fighting for an ethnic Kuki state within the Indian state of Manipur. The Kuki are one of over 30 tribes in Manipur, where they inhabit the hill-country. Ethnic Kukis also inhabit small areas of Bangladesh and Burma. Little is known about the formation of the UKLF, although sources indicate that in the late 1990s they splintered off from a larger Kuki insurgent group, possibly the Kuki National Army (KNA), or the Kuki National Front (KNF)."

United Liberation Front of Assam (ULFA)
Alias: United Liberation Front of Asom. Based in India. This is a terrorist organisation operating in India's Assam region. "The group was formed on April 7, 1979 and remains active to this date. ULFA was formed with the dual goal of establishing Assam as a separate country, independent of India, while also establishing a socialist government to rule the 'Assam country'."

United National Liberation Front (UNLF)
Base of operation: Bangladesh; Burma (Myanmar); India.
MIPT notes:

"…One of the oldest insurgent groups in India's 'Seven Sisters' region, a troubled area made up of seven small northeastern states with a long history of isolation, and

resistance to Indian federal rule. The UNLF is primarily based in the state of Manipur and its goal is to establish an independent Manipur nation with a socialist government. The UNLF was established in 1964 as a non-violent organization dedicated to Manipuri secession and the implementation of socialist principles. The group evolved out of an older secessionist group, the Manipur Red Guards, whose revolt against federal rule was suppressed in the early 1950s. UNLF is made up of ethnic Meiteis, the largest ethnic group in Manipur, which is one of the most diverse states in India. To that end, the UNLF is as much an ethnic organization as it is a socialist one."

United People's Democratic Solidarity (UPDS)

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

Zomi Revolutionary Army (ZRA)

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

al-Faran

Presumed inactive.

al-Hadid

Non-active since 1994.

al-Madina

Aliases: al-Madina Regiment, al-Madinah, al-Medina. Bases in India; Kashmir; Pakistan.
"Al-Madina is a little-known Kashmiri militant group responsible for several terrorist attacks in Indian-controlled Kashmir."

al-Mansoorain

Base of operation: India; Kashmir; Pakistan. Founded in 2003.
"Al-Mansoorain is a Kashmiri separatist organization conducting attacks on Indian targets within the Kashmir valley. Al-Mansoorain is believed to be one of many fronts for the Pakistan-based Lashkar-e-Taiba (LeT) which have arisen since the U.N. banned LeT. Al-Mansoorain primarily employs suicide-bombing tactics."

al-Qaeda

"Al-Qaeda ('The Base' in English) is a radical Sunni Muslim organization led by Usama bin Laden. In addition to its own members, al-Qaeda's network includes groups operating in as many as 65 countries throughout the world."

al-Zulfikar

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

ORGANISATIONS PROSCRIBED IN THE UNITED KINGDOM UNDER THE TERRORISM ACT 2000 [68]

International Sikh Youth Federation: ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India.

Babbar Khalsa: BK is a Sikh movement that aims to establish an independent Khalistan within the Punjab region of India.

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

Jaish e Mohammed (alternatively Jaish-e-Mohammad): JeM seeks the "liberation" of Kashmir from Indian control as well as the "destruction" of America and India. JeM has a stated objective of unifying the various Kashmiri militant groups.

Lashkar-e-Jhangvi (LeJ): "Aliases: Army of Jhangvi, Lashkar I Jhangvi (LJ) Base of Operation: India; Pakistan" **[120]**

Lashkar e Tayyaba (alternatively Lashkar-i-Toiba): LT seeks independence for Kashmir and the creation of an Islamic state using violent means.

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Annex C – Political make-up of government & summary of election results

Cabinet Ministers/Ministers of State

Name	*Constituency/State*	*Portfolio*
Dr. Manmohan Singh, INC	Assam - Rajya Sabha	**Prime Minister**
Cabinet Ministers		
Pranab Mukherjee, INC	West Bengal, Lok Sabha	Defence
Arjun Singh, INC	Madhya Pradesh, Rajya Sabha	Human Resource Development
Sharad Pawar, NCP	Maharashtra, Lok Sabha	Agriculture, Food & Civil Supplies, Consumer Affairs and Public Distribution
Lalu Prasad Yadav, RJD	Bihar, Lok Sabha	Railways
Shivraj Patil, INC	Maharashtra	Home
Ram Vilas Paswan, UNSP	Bihar, Lok Sabha	Chemicals & Fertilisers, Steel
Ghulam Nabi Azad, INC	Jammu & Kashmir, Rajya Sabha	Parliamentary Affairs, Urban Development
Jaipal Reddy, INC	Andhra Pradesh, Lok Sabha	Information & Broadcasting, Culture
Sis Ram Ola, INC	Rajasthan, Lok Sabha	Labour & Employment
P. Chidambaram, INC	Tamil Nadu, Lok Sabha	Finance
Mahavir Prasad, INC	Uttar Pradesh, Lok Sabha	Small scale, Agro & Rural Industries
P.R. Kyndiah, INC	Meghalaya, Lok Sabha	Tribal Affairs, Development of North East
T.R. Baalu, DMK	Tamil Nadu, Lok Sabha	Road Transport & Highways & Shipping
S. Vaghela, INC	Gujarat, Lok Sabha	Textiles
K. Natwar Singh, INC	Rajasthan, Rajya Sabha	External Affairs
Kamal Nath, INC	Madhya Pradesh, Lok Sabha	Commerce & Industry
H.R. Bhardwaj, INC	Madhya Pradesh, Rajya Sabha	Law & Justice
P.M. Sayeed, INC	Lakshadweep	Power
Raghuvansh Prasad Singh, RJD	Bihar, Lok Sabha	Rural Development
P. R. Dasmunshi, INC	West Bengal, Lok Sabha	Water Resources
Mani Shankar Aiyar, INC	Tamil Nadu, Lok Sabha	Petroleum & Natural Gas, Panchayati Raj
Sunil Dutt, INC	Maharashtra, Lok Sabha	Youth Affairs & Sports
Meira Kumar, INC	Bihar, Lok Sabha	Social Justice & Empowerment
K. Chandra Shekhar Rao, TRS	Andhra Pradesh, Lok Sabha	Without Portfolio
A Raja, DMK	Tamil Nadu, Lok Sabha	Environment & Forests
Shibu Soren, JMM	Jharkhand, Lok Sabha	Coal, Mines & Minerals
Dayanidhi Maran, DMK	Tamil Nadu, Lok Sabha	Communications & Information Technology
Dr. Anbumani Ramdoss, PMK	Tamil Nadu, Lok Sabha	Health & Family Welfare
Ministers of State (Independent Charge)		
Santosh Mohan Dev, INC	Assam, Lok Sabha	Heavy Industries, Public Enterprises
Jagdish Tytler, INC	Delhi, Lok Sabha	Non-Resident Affairs
Oscar Fernandes, INC	Karnataka	Statistics & Programme Implementation
Renuka Choudhury, INC	Andhra Pradesh, Lok Sabha	Tourism
Subodh Kant Sahay, INC	Jharkhand, Lok Sabha	Food Processing
Kapil Sibal, INC	Delhi, Lok Sabha	Science & Technology, Ocean Development
Vilas Muttemwar, INC	Maharashtra, Lok Sabha	Non-Conventional Energy Sources
Praful Patel, NCP	Maharashtra, Rajya Sabha	Civil Aviation
Kumari Selja, INC	Haryana, Lok Sabha	Urban Employment, Poverty Alleviation

Prem Chand Gupta, RJD	Bihar, Rajya Sabha	Company Affairs

Ministers of State		
E. Ahamed, IUML	Kerala, Lok Sabha	External Affairs
Suresh Pachauri, INC	Madhya Pradesh, Rajya Sabha	Personnel, Parliamentary Affairs
B.K. Handique, INC	Assam, Lok Sabha	Defence, Parliamentary Affairs
Panabaka Lakshmi, INC	Andhra Pradesh, Lok Sabha	Health & Family Welfare
Dasari Narayan Rao, INC	Andhra Pradesh, Rajya Sabha	Coal & Mines
Rao Inderjit Singh, INC	Haryana, Lok Sabha	External Affairs
Naranbhai Rathwa, INC	Gujarat, Lok Sabha	Railways
K Rehman Khan, INC	Karnataka, Rajya Sabha	Chemicals & Fertilizers
K.H. Muniyappa, INC	Karnataka, Lok Sabha	Road Transport, Highways
M.V. Rajashekharan, INC	Karnataka, Rajya Sabha	Planning
Kantilal Bhuriya, INC	Madhya Pradesh, Lok Sabha	Agriculture, Food & Civil Supplies, Cons Affairs
Manik Rao Gavit, INC	Maharashtra, Lok Sabha	Home Affairs
S.P. Jaiswal, INC	Uttar Pradesh, Lok Sabha	Home Affairs
Prithviraj Chavan, INC	Maharashtra, Rajya Sabha	Prime Minister's Office
Taslimuddin, RJD	Bihar, Lok Sabha	Agriculture, Food & Civil Supplies, Cons Affairs
Suryakanta Patil, NCP	Maharashtra, Lok Sabha	Rural Development, Parliamentary Affairs
Md. Ali Ashraf Fatmi, RJD	Bihar, Lok Sabha	HRD
R. Velu, PMK	Tamil Nadu, Lok Sabha	Railways
S.S. Palanimanickam, DMK	Tamil Nadu, Lok Sabha	Finance
S. Regupathy, DMK	Tamil Nadu, Lok Sabha	Home Affairs
K. Venkatapathy, DMK	Tamil Nadu, Lok Sabha	Law & Justice
J. Subbulakshmi Jagadeesan, DMK	Tamil Nadu, Lok Sabha	Social Justice & Empowerment
E.V.K.S. Elagovan, INC	Tamil Nadu, Lok Sabha	Commerce & Industry
Kanti Singh, RJD	Bihar, Lok Sabha	HRD
Namo Narayan Meena, INC	Rajasthan, Lok Sabha	Environment & Forests
Jay Prakash Narayan Yadav, RJD	Bihar, Lok Sabha	Water Resources
Akhilesh Prasad Singh, RJD	Bihar, Lok Sabha	Agriculture, Food & Civil Supplies, Consumer Affairs
Shakeel Ahmed, INC	Bihar, Lok Sabha	Communications & IT
A. Narendra	Andhra Pradesh, Lok Sabha	Rural Development

As on 7 June 2004 **[11f] (p22-23)**

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Summary of election results

National summary of votes and seats

Votes and seats are compared with those won in the 1999 election

Party	Votes	%	Change	Seats	Change
All India Forward Bloc	1,367,280	0.3	0.0	3	+1
All India Trinamool Congress	8,047,771	2.1	-0.5	2	-6
Asom Gana Parishad	2,069,610	0.5	-	2	-
Bahujan Samaj Party	20,713,468	5.3	+1.1	19	+5
Bharatiya Janata Party	85,866,593	22.2	-1.5	138	-44
Biju Janata Dal	5,084,428	1.3	+0.1	11	+1
Communist Party of India	5,434,738	1.4	-0.1	10	+6
Communist Party of India (Marxist)	22,061,677	5.7	+0.3	43	+11
Dravida Munnetra Kazhagham	7,064,393	1.8	+0.1	16	+4
Indian National Congress	103,405,272	26.7	-1.6	145	+32
Jammu and Kashmir National Conference	493,067	0.1	0.0	2	-2
Jammu and Kashmir People's Democratic Party	267,457	0.0	-	1	-
Janata Dal (Secular)	5,732,296	1.5	+0.6	3	+2
Janata Dal (United)	9,924,209	2.6	-0.5	8	-11
Jharkhand Mukti Morcha	1,846,843	0.5	-	5	-
Kerala Congress	353,529	0.1	0.0	1	-
Marumalarchi Dravida Munnetra Kazhagam	1,679,870	0.4	0.0	4	-
Mizo National Front	182,864	0.0	-	1	-
Muslim League of Kerala	770,098	0.2	0.0	2	+1
Nagaland People's Front	715,366	0.2	-	1	-
Nationalist Congress Party	6,915,740	1.8	-0.5	9	+1
Pattali MaltItal Katchi	2,169,020	0.5	-0.1	6	+1
Rashtriya Janata Dal	8,613,302	2.2	-0.5	21	+12
Revolutionary Socialist Party	1,717,228	0.4	0.0	3	-
Samajwadi Party	16,645,356	4.3	+0.5	36	+10
Shiromani Akali Dal	3,506,681	0.9	+0.2	8	+6
Shiv Sena	7,056,075	1.8	+0.2	12	-3
Sikkim Democratic Front	153,409	0.0	0.0	1	-
Telugu Desam Party	11,844,811	3.0	-0.6	5	-24
Other parties and independents	45,751,173	11.8	-	25	-
Total	**387,453,223**	-	-	**543**	-

Source: **Election Commission of India**, collated by **http://www.worldhistory.com/wiki/I/Indian-general-elections,-2004.htm [69]**

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Annex D Prominent People: Past and Present

ABDULLAH Farooq
Chairman of the National Conference. Was sworn in as Chief Minister of Jammu and Kashmir in October 1996 following the party's win in the State elections. On 23 June 2002, he handed on the presidency of the National Congress (Conference) party to his son, Omar Abdullah. Farooq Abdullah's family have dominated the Kashmiri political landscape for the best part of the last 50 years. He supported union with India, but pressed for greater autonomy for the state. **[32m]**

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

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

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

JAYALALITHA Dr J
Chief Minister of Tamil Nadu and popular film star-turned-politician, her party, the All India Anna Dravida Munnetra Kazakham (AIADMK) suffered a huge defeat in recent national elections. The AIADMK-BJP alliance could not win even 1 of the 40 seats in Tamil Nadu and Pondicherry and lost heavily to a powerful alliance comprising the regional Dravida Munnetra Kazakham (DMK) party and the Congress party. Jayalalitha is also known as Amma or Puratchi Thallaivi (Revolutionary Leader). Jayalalitha is one of India's most colourful and controversial politicians. She spent two months in jail in 2001 after being convicted for corruption, a ruling which was later overturned. In 2002 she won a massive victory in state elections in Tamil Nadu and made a triumphant return to the post of Chief Minister. **[32dw] [32dx]**

KALAM Abdul Dr APJ

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

MUKHERJEE Pranab
Finance Minister in Indira Gandhi's cabinet after Congress's return to power in 1980, he has been a member of the Rajya Sabha for 24 years. He was appointed Defence Minister in the new cabinet after the 2004 elections. **[65]** He won the Lok Sabha election from Jangipur (West Bengal) in 2004. **[7l]**

PATIL Shivraj
Former Speaker of the lower house, he is responsible for the interior ministry in the new cabinet after the recent elections. **[32ea]**

PAWAR Sharad
A former federal Defence Minister, Mr Pawar has a reputation for being an efficient administrator. A powerful regional politician, he broke away from the Congress party a few years ago, but agreed to ally with it during the recent elections. Mr Pawar is looking after the crucial food and agriculture ministry, one of the areas in which the new Government really hopes to make a difference. **[32ea]**

SINGH Beant
Took office as Chief Minister of Punjab following the State elections of February 1992. His Government pursued a counter-insurgency policy which saw normality return to Punjab. He was assassinated in August 1995 in a car bomb explosion.

SINGH Natwar
Natwar Singh, a former career diplomat who studied history in Cambridge, is a Congress loyalist and became the new External Affairs Minister in 2004. However, he had to resign in 2005 after controversy over the Volcker Report that linked him to Iraq's oil for food programme. **[7l)]** A former ambassador to Pakistan and Junior Minister in Rajiv Gandhi's cabinet he is a prolific writer and has written a book on EM Forster. **[32ea]**

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

VAJPAYEE Atal Behari
Prime Minister of India (1996, 1998-2004). He was a founding member of the Bharatiya Jana Sangh, the Hindu nationalist precursor of the Bharatiya Janata Party (BJP). When the BJP won the largest number of parliamentary seats in 1996, Vajpayee became Prime Minister; failing to form a coalition, he resigned 13 days later. After the 1998 elections gave the BJP a greater representation in Parliament, Vajpayee again became Prime Minister; he was returned to office in 1999. Vajpayee has softened some of the more strident nationalist and anti-Muslim rhetoric of other BJP members and has pressed for the continuation of free-market reforms, the eradication of untouchability, and the rights of women. He also advocates the development of India as a nuclear power; several nuclear tests were conducted in 1998. He has written a number of

books, including collections of his speeches, a work on Indian foreign policy, and poetry. **[66]**

YADAV Lalu Prasad

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

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Annex E List of Abbreviations

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
EBRD	European Bank for Reconstruction and Development
EU	European Union
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organization for Migration
IRB	Immigration and Refugee Board of Canada
MSF	Médecins sans Frontières
NA	Northern Alliance
NATO	North Atlantic Treaty Organization
NGO	Non Governmental Organization
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporteurs sans Frontières
STC	Save The Children
STD	Sexually Transmitted Disease
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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