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2009 Human Rights Reports: India

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
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India is a multiparty, federal, parliamentary democracy with a bicameral parliament and a population of approximately 1.1 billion with an active civil society. It has a federal structure in which the states enjoy a high degree of autonomy, especially on issues of law and order. Manmohan Singh became prime minister for a second term following his Congress Party-led coalition's victory in the April-May general elections, which were considered free and fair, despite scattered instances of violence. Serious internal unrest at times affected the state of Jammu and Kashmir, as well as several states in the Northeast. Although civilian authorities maintained effective control of the security forces, security forces occasionally acted independently of government authority.

The government generally respected the rights of its citizens and made progress in reducing incidents of communal violence, expanding efforts against human trafficking, and reducing the exploitation of indentured, bonded, and child workers but serious problems remained. Major problems included reported extrajudicial killings of persons in custody, disappearances, and torture and rape by police and other security forces. Investigations into individual abuses and legal punishment for perpetrators occurred, but for many abuses, a lack of accountability created an atmosphere of impunity. Poor prison conditions and lengthy detentions were significant problems. Some officials used antiterrorism legislation to justify excessive use of force. Corruption existed at all levels of government and police. While there were no large-scale attacks against minorities during the year, there were reports of delays in obtaining legal redress for past incidents. Some states promulgated laws restricting religious conversion. Violence associated with caste-based discrimination occurred. Domestic violence, child marriage, dowry-related deaths, honor crimes, and female feticide remained serious problems.

Separatist insurgents and terrorists in Kashmir, the Northeast, and the Naxalite (Maoist) belt committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents engaged in widespread torture, rape, beheadings, kidnapping, and extortion. The number of incidents declined compared with the previous year.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were credible reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents. A high rate of extrajudicial killings, in which security forces shot and killed alleged criminals or insurgents in staged encounters, occurred in the Northeast, particularly in the states of Assam and Manipur. Sources also reported encounter killings in Jammu and Kashmir, Maharashtra, and Chhattisgarh. Custodial deaths, in which prisoners were killed or died in police custody, remained a serious problem, and authorities often delayed prosecutions. Despite the National Human Rights Commission (NHRC) recommendations that the Criminal Investigations Department (CID) investigate all police encounter deaths, many states conducted internal reviews only at the discretion of senior officers.

For example, nongovernmental organizations (NGOs) alleged that Chhattisgarh police killed as many as 19 persons on January 8 in Singaram, Dantewara District, Chhattisgarh, in a staged encounter. Police claimed they were involved in a gun battle that resulted in the deaths of 15 Naxalite insurgents and the recovery of large amounts of explosives and weapons; however, reports from local villagers and journalists claimed that the police killed as many as 19 villagers who had no connection to Naxalites. According to these reports, 150 to 170 special police officers rounded up 24 villagers and forced them to put on Naxalite uniforms. Five villagers escaped, but the remaining 19 were shot and killed. Villagers alleged the special police officers raped female victims before killing them. In February the Chhattisgarh High Court directed police to conduct a postmortem examination of the bodies, in response to the petition by human rights groups for a Central Bureau of Investigation (CBI) inquiry into the incident. The case continued in Chhattisgarh High Court at year's end.

On March 17, the NHRC directed the Defense Ministry to pay compensation of rupees 300,000 (\$6,521) to the family of a youth killed in a staged encounter in 2003.

On March 20, the army stated that three soldiers were guilty of killing two civilians on February 22 in Bumai, in Jammu and Kashmir. Authorities initially claimed the victims died in crossfire between militants and security forces. The army ordered disciplinary action against the soldiers.

There were advances in several other notable cases, including the Gujarat High Court's investigation of the killings of at least 95 persons in Naroda Patiya, Gujarat, in 2002. The Supreme Court received the Special Investigation Team (SIT) interim report on the killings on March 2.

Also in March the SIT arrested two highly placed political leaders, Bharatiya Janata Party (BJP) state legislator Maya Kodnani and Vishva Hindu Parishad (VHP) leader Jaydeep Patel, in connection with one of the incidents at Naroda Patiya. Both were released on bail. In October the court filed charges against 62 suspects in relation to the Naroda Patiya incidents, including Maya Kodnani. Their trial, which began on October 27, continued at year's end.

The Supreme Court continued efforts to bring to trial those responsible for 2002 violence following a train burning in Godhra. On April 28, the Supreme Court ordered Gujarat police to register a complaint against Chief Minister Narendra Modi and 60 other high-level officials of the Gujarat government and to investigate their roles in the riots. The court also asked the SIT to review the complaint and to submit a report by December 31. The report had not been submitted at year's end.

On May 1, the Supreme Court ordered the Gujarat High Court to set up fast-track courts in Gujarat to hear several other high-profile cases related to the 2002 Godhra train burning and resulting communal riots. The Supreme Court ordered that witnesses be protected by central police forces rather than Gujarat police and gave the SIT special powers to oversee the prosecutions.

At year's end litigation continued in Gujarat regarding human remains recovered in 2005 and 2006 in Kidiad and near Lunawada, Gujarat. Court-ordered DNA testing identified nine victims of the 2002 violence among the remains. According to government figures, 228 individuals, mainly Muslims, remained missing after the 2002 violence. In February all the missing were assumed dead, and their next of kin were awarded compensation. The official death toll of the 2002 riots increased from 952 to 1,180.

In May, according to Amnesty International (AI), private militia shot and killed Amin Banra, an Adivasi leader, during a protest against forced displacement in Kalinganagar, Orissa. Authorities arrested two persons but failed to investigate reports that the suspects were part of a large private militia.

On May 10, Mumbai police killed alleged criminal Anil Mhatre in an encounter, and on June 19, Maharashtra police killed Vishwanath Munna Katari in an encounter in Nasik. In August the Ministry of Home Affairs (MHA) informed parliament that the NHRC had registered 28 staged encounter cases from January through July.

On May 29, in the Shopian District of Jammu and Kashmir, relatives and police discovered the bodies of two women in a stream. According to media reports, local residents and examining doctors alleged that Indian security forces committed gang rape before killing Neelofar Jan and Asiya Jan, and government officials stated that police involvement in the killings could not be ruled out. On July 15, the High Court ordered the arrest of four police officers on charges of suppressing and destroying evidence in the case. On September 12, the court granted bail to the officers. On September 17, the CBI took charge of the case from the Special Investigation Team, and on September 29, the CBI exhumed and collected samples from the bodies of the two women. On December 14, the CBI submitted its report to the High Court concluding the women died of drowning and ruling out foul play. The report prompted renewed protests and a general strike in the state. The case remained ongoing at year's end.

On July 23, Manipur's Rapid Action Police Force killed Chongkham Sanjit in Imphal, Manipur. Officials initially claimed they shot him after he fired on them, but a local photographer published pictures of the incident that showed police escorting Sanjit calmly into a pharmacy. When the police emerged from the pharmacy, a witness photographed the officers dragging Sanjit's corpse to a waiting truck. Several days after publication of the photographs followed by violent protests, the local government suspended the six police officers involved and ordered a judicial inquiry.

In August Ahmedabad metropolitan magistrate S.P. Tamang ruled that the 2004 killings of Ishrat Jahan and three others were the result of a staged encounter with Gujarat police. On September 8, the government of Gujarat said it would appeal Tamang's ruling. On September 9, the Supreme Court began hearing complaints regarding the encounter killings of Javed Shaikh (Pranesh Pillai) and Ishrat Jahan in 2004.

The Asian Center for Human Rights reported 1,184 persons killed in police custody from April 2001 to March 2009. Maharashtra recorded 192 deaths, Uttar Pradesh 128, and Gujarat 113.

According to the MHA, 127 deaths took place in police custody in 2008-09. Maharashtra recorded 23 deaths, and Uttar Pradesh recorded 24.

In February the Supreme Court again ruled that authorities should prosecute perpetrators of custodial deaths because failure to do so could "lead to destruction of the criminal justice system." The Asian Center for Human Rights (ACHR) noted that the NHRC's guidelines indicating custodial deaths be reported within 24 hours "continue to be flouted" by the police. Furthermore, the armed forces are not required to report custodial deaths to the NHRC, and the NHRC has no jurisdiction over any violations they may commit, leading to concerns that the states underreported custodial deaths.

On January 7, the army ordered a high-level inquiry into the death of Abdur Ahad Reshi, a deaf and mute man in Veer Saran Pahalgam in Kashmir.

On March 7, Jammu and Kashmir police registered a complaint against the Central Reserve Police Force (CRPF) for the killing of Sahbir Ahmad Ahangar in Nowhatta.

On March 20, the army held three soldiers, including a junior commissioned officer, accountable for the February 22 killing of two youths in Bomai, Baramulla, in the Kashmir valley. The army initiated an inquiry and took disciplinary action against the three soldiers from the 22 Rashtriya Rifles.

On March 28, the CRPF admitted that two troopers of the 181st Battalion killed Ghulam Mohi-uddin Malik on March 18. After a magisterial inquiry, the CRPF suspended one assistant commandant and the troopers involved in the incident.

On May 18, the army ordered an inquiry into the alleged custodial death of Manzoor Ahmed Beig by the Special Operations Group in Srinagar, Kashmir valley.

On August 15, the government began a phased pullout of 35 CRPF companies from the Kashmir valley.

On September 13, the government ordered a magisterial inquiry into the alleged custodial death of Noor Hussain in Rajouri, Kashmir valley. The police suspended four personnel.

Unlawful killings due to societal violence, including insurgent attacks and vigilante action, continued. The ACHR 2009 India Human Rights report noted that Naxalites were active in at least 15 states, and casualties among civilians and security forces resulting from Naxalite violence exceeded those resulting from violence by separatist insurgents in Jammu and Kashmir.

For example, in February according to AI, "more than 500 armed Maoists raided the Nayagarh district police armory in Orissa, killing 16 police. In an operation following the raid, the Orissa police shot and killed 20 persons in nearby forests claiming them to be Maoists and their supporters."

On May 5, media outlets reported that Naxalites detonated a landmine in Sirguda village, in Chhattisgarh. On July 13, in Chhattisgarh, Naxalites targeted police and killed police superintendent Vinod Kumar Choubey, along with 36 others.

Although the overall levels of societal and insurgent violence declined in Jammu and Kashmir, there continued to be notable incidents. For example, on August 3, the army killed four suspected guerrillas in a gunfight, and a policeman was shot and killed in an ambush in Kashmir. According to media reports, on August 26, general officer commanding-in-chief of the army's strategic Northern Command, Lieutenant General P C Bharadwaj stated that as of August 9 "...26 infiltration bids have been foiled and 57 terrorists killed" in the Kashmir valley.

b. Disappearance

There were credible reports that police throughout the country failed to file required arrest reports for detained persons, resulting in hundreds of unresolved disappearances. Police usually denied these claims. On May 28, the Association of Parents of Disappeared Persons (APDP) stated that 298 persons had disappeared in custody from Jammu and Kashmir since 2002.

On August 23, the Jammu and Kashmir state government claimed that since 1990, 3,429 persons have been reported missing in the state. The APDP maintained that 10,000 persons remained missing.

The central government stated that state government screening committees provided information about detainees to their families, but credible sources stated that families often needed to bribe prison guards to confirm detention of their relatives.

The government made little progress holding police and security officials accountable for disappearances committed during the Punjab counterinsurgency in 1984-94 and the Delhi anti-Sikh riots of 1984, despite the work of a special investigatory commission. In February 2008 the NHRC criticized the Justice Bhalla Commission for its inability to identify the whereabouts of 657 missing victims.

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

The law prohibits torture and generally does not allow authorities to admit coerced confessions in court; NGOs and citizens alleged that authorities used torture to extort money, as summary punishment and to coerce confessions. In some instances authorities used the confessions as evidentiary support for death sentences.

The ACHR stated the following in its June report *Torture in India 2009*: "Torture in police custody remains a widespread and systematic practice in India. They also noted the lack of an effective system of independent monitoring of all places of detention facilitates torture."

NGOs asserted that custodial torture was common in Tamil Nadu, and credible sources claimed police stations in Punjab, Andhra Pradesh, Haryana, and Chandigarh used torture to obtain desired testimony. The Asian Human Rights Committee claimed police used torture and assault in Kerala and Gujarat as a means of criminal investigation.

NGOs claimed the NHRC underestimated the number of rapes, including custodial rapes, that police committed. Some rapes may have gone unreported due to the victims' feelings of shame and fears of retribution.

On May 29, doctors confirmed that Assiya Jan and her sister-in-law Neelofer had been raped prior to being killed in the Shopian district of Jammu and Kashmir (see section 1.a.), although a subsequent postmortem examination ordered by the CBI in September refuted those findings.

On June 2, a Dalit woman alleged that four Madhya Pradesh police officers gang-raped her while she was in custody in Betul district. The officers claimed the woman was making a false accusation to escape her arrest for harassing her daughter-in-law for dowry. At year's end a government of Madhya Pradesh internal probe committee continued to investigate the allegation.

An investigation continued into the February 2008 case in which two commandos from the Haryana police allegedly raped a woman after pulling her out of a moving rickshaw.

Prison and Detention Center Conditions

Prison conditions continued to be life threatening and did not meet international standards. Prisons were severely overcrowded, and food and medical care were inadequate. In April 2008 the MHA stated that since 2007, 38,366 cases of human rights violations had been registered in prisons throughout the country. According to a 2007 NHRC report, the country's prisons, with an authorized capacity of 234,462, held 358,177 persons. The MHA reported that prisons were at 135.7 percent of capacity. In addition, a reported 69.9 percent of the prison population consisted of persons being tried but not yet convicted. Female prisoners accounted for 3.9 percent of the total prison population, and women and men were typically held in separate facilities. According to National Crime Records Bureau (NCRB) 2007 figures, 12 states held women in prisons built exclusively for them. Neither the NHRC nor the MHA has released new figures.

In November the Ministry of Law and Justice informed parliament that as of June there were 27,120,108 cases pending in subordinate courts; as of September there were 53,221 cases pending in the Supreme Court and 4,018,914 in the high courts.

On January 13, the Mumbai High Court ordered the Maharashtra state government to provide voluntary HIV counseling and testing to 7,000 inmates in the state's four central prisons as part of a campaign to assess HIV prevalence among inmates. In June the Mumbai High Court heard a petition claiming Maharashtra prisons were failing to follow the National AIDS Control Organization's guidelines by not allowing HIV positive prisoners access to antiretroviral therapy. The prisoner filing the petition has since died. The Mumbai High Court directed the Maharashtra health secretary to submit a report on AIDS-related deaths in prison. The report was pending at year's end.

In September 2007 the NHRC notified Uttar Pradesh's director general of police (DGP) that the conditions in Mirzapur prison for female inmates were extremely poor and lacked medical facilities. Authorities held minor girls in prisons instead of in government homes for children, in violation of the law. The NHRC asked the DGP for a detailed report, which was pending at year's end.

The NHRC asked high court chief justices to resolve the problem of overcrowded prisons. In 2006 the government introduced a plea bargain option to reduce the pending time of cases in trial courts and prison overcrowding. In July the Ministry of Law and Justice informed parliament that 1,563 fast track courts were operational in the country. In November the Ministry of Law and Justice informed parliament that fast-track courts had adjudicated 2,594,231 of the 3,208,911 cases that state high courts had transferred to them.

According to the 2006 NHRC report, a large proportion of deaths in prisons resulted from diseases such as tuberculosis and HIV/AIDS, aggravated by poor prison conditions. The NHRC assigned a special rapporteur to ensure that state prison authorities performed medical checkups on all inmates. According to the MHA, in 2008-09 there were a total of 1,528 deaths in prisons, 90 percent of which were due to natural causes.

By law juveniles must be detained in rehabilitative facilities, although at times they were detained in prison, especially in the rural areas. Pretrial detainees were not separated from convicted prisoners.

The NHRC identified torture and deaths in detention as priority concerns for the commission. The government allowed some NGOs to provide assistance to prisoners, within specific guidelines, but their observations of prison conditions often remained confidential due to agreements with the government. Increased press reporting and parliamentary questioning provide evidence of growing public awareness of custodial abuse.

Prison monitoring by independent groups such as the International Committee of the Red Cross (ICRC) was permitted in many regions, including Jammu and Kashmir, Chhattisgarh, Arunachal Pradesh, and Nagaland. For Manipur and Nagaland, special permits were required for visits. According to the Home Ministry, the ICRC has conducted 832 visits since 2005 in 67 detention centers, including all 25 acknowledged detention centers in Jammu and Kashmir and all facilities where Kashmiris were held elsewhere in the country. The ICRC was not authorized to visit interrogation or transit centers in the northeastern states. Amendments in 2006 to the 1933 Protection of Human Rights Act (PHRA) authorized the NHRC to make surprise visits to state prisons.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but both occurred during the year. According to a May 4 report by Human Rights Watch (HRW), "Police officers sometimes make arrests in retaliation for complaints of police abuse, in return for bribes, or due to political considerations or the influence of powerful local figures."

Role of the Police and Security Apparatus

Although the central government provides guidance and support, the 28 states and seven union territories have primary responsibility for maintaining law and order. The MHA controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and it provides training for senior police officers of the state-organized police forces.

Corruption in the police force was pervasive, which several government officials acknowledged, according to a May 4 HRW report on police abuse. Officers at all levels acted with impunity, and officials rarely held them accountable for illegal actions. When a court found an officer guilty of a crime, the punishment often was a transfer. Human rights activists and NGOs reported that citizens often had to pay bribes to receive police services.

According to the MHA's 2008-09 annual report, with information through March, there had been 1,185 reports of human rights violations countrywide against army and central paramilitary personnel. Authorities investigated 1,162 cases; 1,129 were judged false and 33 genuine. The military imposed penalties on 69 individuals and awarded compensation in six cases.

Arrest Procedures and Treatment While in Detention

The law requires officials to inform detainees of the grounds for arrest and of the right to legal counsel. Arraignment of a detainee must occur within 24 hours, unless the suspect is held under a preventive detention law. In practice many suspects were detained without charge, mostly in terrorism-related cases. AI reported: "More than 70 persons were detained without charge, for periods ranging from one week to two months in connection with bomb blasts in several states throughout the year. Reports of torture and other ill-treatment of suspects led to protests from both Muslim and Hindu organizations."

Individuals under arrest also have the right to bail and prompt access to a lawyer; those arrested under special security legislation often received neither. By law authorities must allow family members to have access to detainees. In practice authorities granted access only occasionally.

In 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). The revised UAPA was intended to provide broader protection for human rights. The South Asia Human Rights Documentation Centre (SAHRDC) reported that more than 1,000 persons remained in detention under POTA. In December 2008 Union Minister Kapil Sibal announced that there were 90 to 100 pending POTA cases. SAHRDC did not change those numbers during the year.

As of year's end, approximately 80 Muslims accused of the 2002 Godhra train burning remained in jail in Gujarat under POTA, despite a POTA review committee ruling in 2005 that POTA did not apply to them, an October 2008 ruling by the Indian Supreme Court granting their release, and a Gujarat High Court ruling in February that POTA charges did not apply to the accused. The Supreme Court suspended the trial of the Godhra train-burning suspects until April. A fast-track trial of the suspects began in September and continued at year's end.

Despite the parliament's 2004 repeal of POTA and the introduction of UAPA, state governments held persons without bail for extended periods before filing formal charges. For example, four alleged Naxalite sympathizers (Arun Ferreira, Sridhar Srinivasan, Murli Ashok Reddy, and Vernon Gonsalves) were arrested in Maharashtra under UAPA in 2007. They remained in jail near Mumbai at year's end.

Maharashtra police made "preventive arrests" in the name of curbing public unrest. For example, in July Mumbai police detained two Muslim activists on the eve of a foreign minister's visit to Mumbai; the detention continued for the duration of the visit on the suspicion that they might engage in public protest. In August the activists filed a case in the Mumbai High Court against the government of Maharashtra and against the Mumbai police.

The National Security Act (NSA) allows police to detain persons considered security risks anywhere in the country, except Jammu and Kashmir, without charge or trial for as long as one year. The law stipulates that family members and lawyers can visit NSA detainees and that authorities must inform a detainee of the grounds for detention within five days (10 to 15 days in exceptional circumstances). In practice these rights sometimes were not enforced.

On June 2, police detained five Manipur University students in Imphal under the NSA on charges of connection with militant organizations involved in the killing of a professor. The students remained in custody, and the cases were pending at year's end.

On March 29, BJP member [Varun Gandhi](#) was arrested under the NSA for inciting communal tensions and for engaging in "hate speech." The **BJP, however, claimed the arrest was politically motivated, and** Varun challenged the accusation in court. On May 14, the Supreme Court revoked the NSA charge.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge or judicial review for as long as two years. During this time family members do not have access to detainees, and detainees do not have access to legal counsel. In 2005 the NHRC set guidelines regarding arrest under the PSA that included establishing reasonable belief of guilt, avoiding detention if bail is an option, protecting the dignity of those arrested, prohibiting public display or parading, and allowing access to a lawyer during interrogation. In practice police routinely employed arbitrary detention and denied detainees, particularly the destitute, access to lawyers and medical attention. According to media reports, since 2004 Indian authorities arrested approximately 2,700 Kashmiris under the PSA. On August 28, the state government announced that officials had detained 121 persons under the PSA during the year. On October 20, five persons were released under the PSA, including Hurriyat Conference leader Shabir Shah.

On February 5, the Jammu and Kashmir High Court overturned the detentions of 10 persons arrested under the PSA during Amarnath land transfer agitation in 2008.

On April 18, the Jammu and Kashmir Bar Court Association informed the State Assembly that lawyers had filed 2,223 PSA petitions since 2004.

On May 26, police placed Syed Ali Shah Geelani, chairman of a faction of the separatist Hurriyat Conference, under house arrest. Police invoked the PSA and accused him of leading protests regarding the rape and killing of two Shopian women and an alleged police cover-up of those events (see section 1.a.). On June 7, Geelani was transferred to the Cheshmashah jail. In July the Jammu and Kashmir High Court overturned the PSA charges against Geelani and directed authorities to release him; they did so on September 9.

On August 11, Chief Minister Omar Abdullah told the state legislative assembly that high-level state screening committees review PSA cases and make recommendations to the government regarding release. Based on these recommendations, 21 detainees were released during 2008 and 44 more were released during the year.

In October the Jammu and Kashmir High Court dismissed the PSA detentions of Muhammad Saleem Nunnaji, Shakeel Ahmad Rather, Khursheed A Lone, Mohammad Abbas Parray, Sarfaraz Ahmad, Mohammad Shafi Chopan, Tariq Ahmad Lone, and Javed Ahmad Pathan, all of whom authorities had arrested for protesting during the 2008 Amarnath shrine controversy.

In 2005 the Chhattisgarh state government enacted the Special Public Security Act (SPSA), which permits detention for as long as three years for loosely defined unlawful activities. NGOs criticized the law as overly broad. Human rights groups voiced concerns that the law criminalizes any support given to Naxalites, even support provided under duress.

On May 26, the Indian Supreme Court granted bail to Binayak Sen, a human rights activist from the People's Union of Civil Liberties (PUCL). Police arrested Binayak in 2007 under the Chhattisgarh SPSA for alleged links with Maoists. The trial was underway in a special court in Raipur at year's end.

In 2005 the PUCL filed a petition challenging the SPSA in the Supreme Court, but the court said the law had to be challenged in the state's high court instead. In April the Chhattisgarh High Court accepted the PUCL's petition regarding the SPSA's constitutionality. The petition argued that the act's definition of illegal activities and legal organizations was ambiguous and barred democratic protest and organizations. By year's end the state had not filed its response to the petition.

The Armed Forces Special Powers Act (AFSPA) remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under the AFSPA, the government can declare any state or union territory a "disturbed area," a declaration that allows security forces to fire on any person to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. The law also gives security forces immunity from prosecution for acts committed under the AFSPA.

In August police used the AFSPA to arrest an 11-year-old Manipur girl to force her parents, suspected of helping local armed opposition groups, to surrender to police. According to AI, the police claimed they had taken the girl for medical treatment after she fainted, but they could not explain why they did not take her to a hospital for treatment. The police released the girl after they arrested her parents.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision. In Jammu and Kashmir, insurgents sought to threaten and intimidate members of the judiciary.

The Supreme Court heads the judicial system and has jurisdiction over constitutional matters and the decisions of state high courts, state lower courts, and special tribunals. Lower courts hear criminal and civil cases, and appeals go to state high courts. The president appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

The legal system continued to be overburdened, often delaying justice. On February 13, A.P. Shah, chief justice of Delhi High Court, announced it would take 466 years for the courts to clear the existing backlog of cases. He stated that the backlog resulted from an inadequate number of judges. There were only 32 judges appointed to the High Court instead of the mandated 48. In September 2008 Supreme Court Chief Justice Balakrishnan reported that 610,000 cases were pending in the lower courts, and the Delhi High Court had 330,000 pending cases. Many citizens reported that they offered bribes to move cases through the court system.

On May 1, the Supreme Court ordered the Gujarat High Court to set up fast-track courts in that state to hear several cases associated with the 2002 violence. The Supreme Court ordered that central police forces rather than Gujarat police protect witnesses and gave the SIT special powers to oversee the prosecutions. Trials commenced for two incidents, the Godhra train burning and the Gulberg Society case regarding the killing of Congress Party leader Ehsan Jafri. Both trials continued at year's end.

Trial Procedures

The criminal procedure code provides for public trials, except in proceedings that involve official secrets, trials in which someone might make statements prejudicial to the safety of the state, or under provisions of special security legislation. Defendants enjoy the presumption of innocence and can choose their counsel. Courts must announce sentences publicly and there are effective channels for appeal at most levels of the judicial system. The state provides free legal counsel to indigent defendants, but in practice access to competent counsel often was limited, especially for the poor, and the overburdened justice system usually resulted in major delays in court cases.

The law allows defendants access to relevant government evidence in most civil and criminal cases; the government

reserved the right to withhold information and did so in cases it considered sensitive.

Courts in Jammu and Kashmir often were reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases. According to a study by the South Asia Forum for Human Rights and the Centre for Law and Development, thousands of habeas corpus cases were pending in the courts throughout the Kashmir valley.

Political Prisoners and Detainees

NGOs reported that Jammu and Kashmir held political prisoners, and the government from time to time temporarily detained hundreds of persons characterized as terrorists, insurgents, and separatists. Human rights activists based in the state estimated there were 150 political prisoners. Prisoners arrested under one of the special antiterrorism laws often were not formally charged, nor did their family or other visitors have access to them.

On May 27, police arrested Marimuthu Barathan of the Human Rights Education and Protection Council. Barathan had been working closely with Dalit communities in Tirunelveli, Tamil Nadu. Police accused Barathan of the January 11 killing of a man named Madhan, who had allegedly killed 20 Dalits earlier that day. On June 27, authorities released Barathan from prison on bail. A hearing was pending at year's end.

On August 28, the Jammu and Kashmir state government informed the state legislative assembly that 121 persons had been arrested under the PSA between January and July. In August the All Parties Hurriyat Conference (APHC) released a list of 19 activists arrested as a result of protests of the Shopian incident (see section 1.a.).

In August 2008 police arrested 100 activists, including leaders of the APHC and the Jammu and Kashmir Liberation Front, in connection with the Amarnath shrine controversy and the subsequent protests they led. They were all quickly released, but officials held APHC leaders Shabir Shah and Asiya Andrabi under the PSA. Shah was released on September 12, and Asiya was released and rearrested on September 15 but released later that month.

Civil Judicial Procedures and Remedies

The NHRC is an independent and impartial investigatory and judicial body the government established in 1993 under the provisions of the Protection of Human Rights Act. Its mandate is to address violations of human rights or negligence in the prevention of violations by public servants, intervene in judicial proceedings involving allegations of human rights violations, and review any factors (including acts of terrorism) that infringe on human rights. The NHRC also recommends appropriate remedies for alleged wrongs by offering compensation to the families of individuals killed or harmed extrajudicially by government personnel. The NHRC is not empowered to address allegations leveled against military and paramilitary personnel.

According to the Web portal *NGOs India*, individuals or NGOs can file Public Interest Litigation petitions in any high court or directly in the Supreme Court to seek judicial redress of public injury. These injuries may have been a result of a breach of public duty by a government agent or as a result of a violation of a provision of the constitution. Public interest litigation provides for public participation in judicial review of administrative action by allowing the public to directly seek legal redress.

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

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

The Information Technology Act allows police under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting "lascivious" material.

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

Although the Telegraph Act gives police the power to intercept telephone conversations, that evidence is generally inadmissible in court. The Unlawful Activities Prevention Act allows use of evidence obtained from intercepted communications in terrorist cases.

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

Insurgent groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, in several northeastern states, and in the Naxalite belt in the eastern part of the country.

Killings

Security forces allegedly staged encounter killings to cover up the deaths of captured militants. Human rights groups claimed police refused to turn over bodies in cases of suspected staged encounters. In 2002 the Supreme Court ordered the central government and local authorities to conduct regular checks on police stations to monitor custodial violence, but

government officials often failed to comply with the order.

Although there were significant improvements during the year, human rights groups reported that security forces in Jammu and Kashmir targeted suspected terrorists, insurgents, and their supporters. There was little consensus about the magnitude of extrajudicial killings and custodial deaths.

In January the MHA stated in its most recent annual review that during 2008, terrorist incidents in Jammu and Kashmir had decreased by 39 percent, killings of civilians by 41 percent and of security forces by 31 percent, compared with 2007. The Jammu and Kashmir director general of police, Kuldeep Khoda, stated in December 2008 that the year witnessed a 40 percent decrease in militancy-related incidents compared with 2007.

In November the MHA informed parliament that 268 civilians and security forces and 472 militants died or were killed in Jammu and Kashmir in the first 10 months of the year.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, military and paramilitary forces continued to hold numerous persons. Human rights activists feared that many of these unacknowledged prisoners were tortured and some may have been killed.

Investigations continued throughout the year regarding the November 2008 terrorist attacks in Mumbai that killed 173 persons and injured at least 308. Mohammed Aijmal Amir Kasab, the only terrorist captured alive, disclosed that the attackers belonged to Lashkar-e-Toiba (LeT).

Violence between the government and Naxalite (Maoist) insurgents also continued. On June 12, Naxalites detonated a landmine in the Nawadih area of Jharkhand, killing at least 11 security officers.

On June 20, Naxalites at Tonagapal, Chhattisgarh, set off a mine blast that killed 12 CRPF officers. Maoists also opened fire in an ambush of a police patrol. The police returned fire and killed seven insurgents.

On June 22, the central government declared the Communist Party of India Maoist (Naxalites) a terrorist organization.

On July 8, the MHA released figures indicating that Naxalite violence had caused the deaths of as many as 455 persons (255 civilians and 200 security personnel) in the first half of the year. The states of Chhattisgarh and Jharkhand accounted for 60 percent of insurgent deaths in the country in this period. There were 148 deaths in Chhattisgarh and 122 in Jharkhand. Of the 107 Naxalites killed in the same period, 63 died in Chhattisgarh.

On July 12, Naxalites allegedly killed 30 police personnel in two separate incidents in the Rajnandgaon District of Chhattisgarh.

On September 17, Naxalites fired on members of the CRPF's Combat Battalion for Resolute Action (CoBRA) and the Chhattisgarh Police, killing six officers, including assistant CoBRA commandants Manoranjan Singh and Rakesh Chaurasia.

On September 19, security personnel shot approximately two dozen Naxalites in the Dantewada district of Chhattisgarh. During the exchange the Naxalites killed an assistant CoBRA commandant.

On September 28, security forces killed three alleged LeT terrorists, including two individuals from Pakistan, in an encounter in south Kashmir. A woman also died in the crossfire. The media reported that security forces killed 11 alleged terrorists from September 20 to 25.

On October 7, alleged Naxalites beheaded a civilian at Kurkheda, Jharkhand, a day after Jharkhand police recovered the decapitated body of Police Inspector Francis Enduwar, who had been abducted on September 30.

On October 8, Naxalites shot and killed 17 policemen in a firefight in a forest along the Maharashtra-Chhattisgarh border.

In November the MHA informed parliament that 577 security forces and civilians and 514 militants were killed in the Northeast during the first 10 months of the year.

According to data provided October 12 in the South Asia Terrorism Portal database, 788 persons (261 civilians, 293 security forces personnel, and 234 militants) were killed as a result of violent clashes during the year. At least 74 major incidents of violence involving Naxalites were reported, resulting in the deaths of 366 persons, including 138 civilians, 124 security forces personnel, and 104 Maoists.

Abductions

On July 6, the human rights group Press for Peace demanded the release and safety of two Kashmiri women kidnapped by local Muzaffarabad residents while the women were in police custody. The press reported the abductions occurred in relation to a dowry dispute.

On July 15, Daleep Kumar, the father of a missing 14-year-old boy, filed a complaint against a soldier, Ram Lal of 25 Rajput Regiment, for allegedly abducting the boy from near the Line-of-Control in Rajouri District of Jammu and Kashmir. At year's end the case was under review at the police station in Bhawani.

On August 2, militants abducted and beheaded civilian Ali Saeed near his home in Rajouri District, Kashmir. There were several media reports stating that the militants may have believed that Saeed was working with Kashmiri security forces.

Physical Abuse, Punishment, and Torture

On February 3, members of the regional political party Maharashtra Navnirman Sena (MNS) assaulted and injured 10 persons attending a rally in Mumbai. MNS members continued attacks over the next several days in Mumbai, Pune, and Nasik. Although police did not stop the attacks, they later arrested more than 60 MNS members and ordered a probe into abusive remarks made by MNS chief Raj Thackeray. MNS activists allegedly threatened north Indians in Nasik and Pune, and many laborers fled the state. MNS activists allegedly hit one person with stones; he later died of his injuries. Police charged Thackeray with inciting violence and twice briefly arrested him. On February 22, the Supreme Court condemned Thackeray's inflammatory remarks against north Indians. The investigation of the February incidents continued at year's end.

An investigation continued at year's end into the October 2008 MNS assaults on north Indian candidates who were in Mumbai for an Indian Railways recruitment examination.

Child soldiers

According to a report the Indian National Commission for the Protection of Child Rights released January 23, recruitment of child soldiers by insurgent groups rose in 2008. The report also noted that Naxalites formed a children's division. NGOs alleged that militants often used the children as shields against government security forces. The report also stated that Naxalites were recruiting children in Orissa. The UN conducted investigations into these allegations throughout the year. There were no credible reports of any government security forces using child soldiers during the year.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and expression, but it does not explicitly mention freedom of the press. The government generally respected these rights in practice. Under the 1923 Official Secrets Act, the government may prosecute any person who publishes or communicates information that could be harmful to the state.

The Press Council, a statutory body of journalists, publishers, academics, and politicians with a government-appointed chairman, investigates what it considers irresponsible journalism and sets a code of conduct for publishers. The code includes injunctions against publishing stories that might incite caste or communal violence. The council publicly criticized those it believed had broken the code.

Independent newspapers and magazines regularly published and television channels broadcast investigative reports, including allegations of government wrongdoing, and the media generally promoted human rights and criticized perceived government violations.

Private entities owned most print media and 80 percent of television stations.

With the exception of radio, foreign media generally operated freely. Widely distributed private satellite television provided competition for Doordarshan, the government-owned television network. Although there were allegations that the government network manipulated the news, some privately owned satellite channels promoted the platforms of political parties their owners supported. On September 19, the cabinet authorized foreign news magazines to print local editions of their publications. Previously the government had allowed foreign magazines to print only scientific, technical, and specialty periodicals.

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

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licenses authorized only entertainment and educational content. Officials prohibited local editions of foreign publications, but the government allowed country-specific editions to be published by local companies with no more than a 26 percent foreign partnership.

The authorities generally allowed foreign journalists to travel freely, including in Jammu and Kashmir, where they regularly met with separatist leaders and filed reports on a range of topics, including government abuses. Nonetheless, in May Reporters Without Borders reported that the government had denied a press visa to **Hasnain Kazim**, a German journalist of Indian origin. They stated that Indian diplomats acknowledged to German officials that visa denial was linked to the government's view that his articles were overly critical and biased against the government and therefore illegal.

In Jammu and Kashmir, the Newspapers Incitements to Offenses Act allows a district magistrate to prohibit publication of material likely to incite violence. Newspapers in Srinagar were able to report in detail on alleged human rights abuses by the government, and separatist Kashmiri groups regularly issued press releases. Due to the threat of violence by extremist groups, many journalists self-censored their articles. Some smaller media outlets also self-censored for fear of losing state government advertising revenue. The press in Jammu and Kashmir was vibrant, with more than 30 daily newspapers.

The central government maintained a list of banned books that were not permitted to be imported or sold in the country because they contained material that government censors deemed inflammatory and apt to provoke communal or religious tensions. The Rajasthan government continued to ban the books *Haqeeqat (The Truth)* and *Ve Sharm Se Hindu Kahate Hain Kyon? (Why Do They Say With Shame They Are Hindus?)* because of alleged "blasphemy against Hindu

gods."

On June 5, Jammu and Kashmir Chief Minister Omar Abdullah banned the operation of a local cable channel for allegedly televising inflammatory news leading to violence following the rape and murder of two women in Shopian. On June 6, the state government directed all private news channels to restrict daily news bulletins to 15 minutes. The government lifted the ban and restrictions after a few days.

On August 19, the Gujarat government attempted to ban *Jinnah: India-Partition-Independence* for carrying defamatory language against Sardar Vallabhai Patel due to concerns that the comments would provoke communal clashes. On September 4, the Gujarat High Court struck down the ban, stating it was against fundamental rights and freedom of expression.

Internet Freedom

There were government restrictions on access to the Internet and reports that the government occasionally monitored users of digital media. According to Freedom House, there were approximately 82 million Internet users in the country.

According to Freedom House, the Indian Computer Emergency Response Team created by the government in 2003 to review "requests from a designated pool of government officials to block access to websites" engaged in Internet censorship and filtering.

A 2008 amendment to the Information Technology Act reinforced the government's power to block Internet sites and content, and it criminalized the sending of messages it deemed inflammatory or offensive. Both central and state governments have the power to issue directions for the interception, monitoring, or decryption of computer information.

Academic Freedom and Cultural Events

The government continued to apply restrictions to the travel and activities of a few visiting experts and scholars. Academic guidelines issued by the Ministry of Human Resources Development (MHRD) in 2003 remained in effect and required all central universities to obtain MHRD permission before organizing "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. Although the restrictions remained in force, in most cases the MHRD permitted the international academic exchanges to take place after bureaucratic delays.

b. Freedom of Peaceful Assembly and Association

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

Freedom of Assembly

Authorities normally required permits and notification before parades or demonstrations, and local governments generally 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, authorities used the criminal procedure code to ban public assemblies or impose a curfew.

On June 29, police shot and killed two persons in Baramulla who were protesting a policeman's alleged harassment of a woman.

On June 30, police killed two persons participating in demonstrations following the May rape and killing of two women in Shopian.

On July 3, violent protests erupted in the Kashmir valley over the police shooting of four youths and the disappearance of another man. More than 30 persons were injured in clashes between protestors and security forces. Clashes also erupted in Sopore in response to the same incident. Police and the paramilitary CRPF used tear gas and batons to disperse the protesters.

On September 16, police shot and killed three persons in Bhopal, Madhya Pradesh. The villagers were protesting police failure to trace an individual who had been missing for more than two months.

On October 26, police injured four persons in Jammu and Kashmir who were protesting the killing of a man by soldiers after he allegedly intruded into an army camp. Media reports indicated police used batons and fired teargas shells to disperse the protesters.

Freedom of Association

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

NGOs must secure approval from the MHA before organizing international conferences. Human rights groups contended that this practice provided the government with political control over the work of NGOs and restricted their freedom of assembly and association.

c. Freedom of Religion

The law provides for secular government and the protection of religious freedom, and the central government generally respected these provisions in practice. The country's longstanding democratic system, open society, independent legal institutions, vibrant civil society, and media all continued to provide mechanisms to address violations of religious freedom when they occurred.

According to the Ministry of Minority Affairs' annual report for 2008-09, the National Commission for Minorities received 2,250 total complaints: 1,474 from Muslims, 183 from Christians, 151 from Sikhs, 42 from Buddhists, and the remainder from other small groups.

Some groups interpreted ineffective investigation and prosecution of past attacks on religious minorities, particularly at the state and local levels, as creating an atmosphere of impunity. The country's federal political system accords state governments primary jurisdiction over maintaining law and order, which limited the national government's capacity to deal directly with state-level abuses, including abuses of religious freedom.

The law mandates benefits for certain groups, including some defined by their religion. For example, the government allowed educational institutions administered by minority religions to reserve seats for their coreligionists even when the institutions received government funding. Article 17 of the constitution outlawed untouchability, but members of lower castes remained in a disadvantageous position. A quota system reserved government jobs and places in higher education institutions for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes members belonging to the Hindu, Sikh, and Buddhist religious groups, but not for Christians or Muslims. Christian groups filed a court case demanding that converts to Christianity and Islam enjoy the same access to "reservations" as other SC groups. The Supreme Court was considering the case at year's end.

On June 23, the Ministry of Minority Affairs announced in parliament the prime minister's 15-Point Program for the Welfare of Minorities, which provided reservations for minorities in addition to the SC and ST quotas. Christians and Muslims became eligible for these reservations, and the program allowed special considerations in job recruitment as well as representation on selection committees. The new program provided scholarships and coaching to enable minorities to compete more effectively for opportunities. The Ministry of Minority Affairs monitored the program quarterly.

In November the MHA informed the parliament that 663 cases of communal incidents of violence, including (but not limited to) riots and ethnic strife, had occurred as of September. Uttar Pradesh had the highest number at 126, followed by Maharashtra at 111.

The law criminalizes the use of any religious site for political purposes or the use of temples to harbor persons accused or convicted of crimes. The Religious Buildings and Places Act requires a state government permit before construction of any religious building. NGOs and activists expressed concern that the act would be enforced only for religious buildings of minority religious groups. In September the Supreme Court issued an order disallowing new construction of places of worship in public places.

There are active "anticonversion" laws in five of the 28 states: Gujarat, Orissa, Chhattisgarh, Madhya Pradesh, and Himachal Pradesh; however, there were no reports of convictions under these laws during the year. Arunachal Pradesh has an inactive "anticonversion" law awaiting regulations needed for enforcement.

In 2007 the Andhra Pradesh government enacted a law limiting the "propagation of other religion in places of worship or prayer." The law forbids the distribution of literature of one religion within the vicinity of a designated place of worship of a different religion. There were reports from faith-based media of approximately 17 arrests under state-level "anticonversion" and other restrictive laws in Chhattisgarh, Madhya Pradesh, and Maharashtra during the period July 2008 through June. Of the 17, seven were reports from Chhattisgarh and six from Madhya Pradesh. In most cases police allowed the arrestees to post bail and released them after a night in jail. Faith-based NGOs alleged the arrests were intended to discourage Christian prayer meetings.

There is no national law barring a person from professing or propagating religious beliefs, but the law prohibits international visitors on tourist visas from engaging in religious proselytizing without prior permission from the MHA. Officials granted foreigners permission to travel to some northeastern states on a case-by-case basis due to political instability and security concerns. Missionaries and religious organizations must comply with the Foreign Contribution and Regulation Act (FCRA), which restricts funding from abroad. The government can ban a religious organization that violates the FCRA, provokes intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodates religious minorities by allowing different personal laws for religious communities. Religion-specific laws are paramount in matters of marriage, divorce, adoption, and inheritance. The personal status laws of some religious communities sometimes disadvantaged women within their families and communities.

The law limits inheritance, alimony payments, and property ownership of persons from interfaith marriages and prohibits the use of churches for marriage ceremonies in which one party is a non-Christian. Clergymen who break the law may face as long as 10 years' imprisonment, but the act does not bar interfaith marriages.

On June 4, the government of Gujarat appointed a commission of inquiry to study settlement patterns in Gujarat from independence in 1947 until the present. The commission's mandate was to identify the areas occupied by persons of different religious faiths and their migration patterns and to give recommendations for "stopping the polarization of population in the state." Human rights groups criticized the choice of a judge as the single member of the commission because they alleged he had made several anti-Muslim rulings. The groups also voiced concern that detailed mapping of Hindu and Muslim residential localities could be used for targeting victims in subsequent riots. The government asked the commission to submit its report by January 2011.

The August 2008 killing of a popular Hindu religious leader sparked a wave of retaliatory violence in the remote, sparsely populated tribal area of Kandhamal, Orissa. According to widely accepted government statistics, 40 persons died and 134 were injured. Although most of the victims were Christians, the underlying causes that led to the violence had complex economic, religious, and political roots related to land ownership and government-reserved employment and education benefits. Relief camps that opened in 2008 to shelter the 24,000 persons displaced by the violence were closed during the year, but some NGOs reported that villagers were unable to return to their villages, and others who tried were threatened or asked to abandon their religious beliefs as a condition for return. The state continued to pursue fast-track court cases against the suspected killers of the religious leader. Fast-track proceedings also were underway in relation to the 300 open cases that resulted from the rioting that left 40 dead. In addition, the state also began to address the underlying socioeconomic causes of the violence.

On January 5, a Catholic nun who allegedly was raped during the September 2008 Kandhamal riots identified two of the three individuals who attacked her. On June 23, she identified the last of her attackers. At year's end a fast-track court process continued in the case.

Prosecutions for the Orissa violence continued in a fast-track court, and approximately 60 to 70 convictions and 100 acquittals resulted. On July 26, five persons were convicted and sentenced to six years' imprisonment. On September 7, six persons were convicted and sentenced to four years' imprisonment and fined 2,000 rupees (approximately \$40).

In September 2008 militant Hindu activists attacked Christian churches in and around Mangalore, Karnataka. Three Christians were critically injured and more than a dozen others were assaulted. Mahendra Kumar, the local leader of the Hindu Bajrang Dal organization, claimed responsibility, stating the attacks were in response to "forced conversions" and insults toward Hindu deities. On November 13, a fast-track court acquitted six suspects, bringing the total number of acquittals to 121, with 27 convictions. At year's end, the state-initiated judicial inquiry into the attacks continued, but Christian groups and media sources expressed doubts about its impartiality.

On April 9, more than 500 protesters from Sikh organizations protested outside a New Delhi judicial court that was scheduled to hear arguments in favor of closing the case against Congress Party leader Jagdish Tytler regarding his alleged participation in the 1984 anti-Sikh riots. Later that day Tytler announced his decision to pull out of the Lok Sabha elections. A lawyer representing victims of the 1984 anti-Sikh violence claimed supporters of Tytler had threatened him.

On May 5, riots occurred in Punjab after members of a Sikh sect in Austria killed a preacher from a rival sect who had traveled to Vienna to conduct a special service. Within hours of the incident in Vienna, thousands of protesters in Punjab clashed with police and engaged in vandalism. In Jalandhar police fired on rioting mobs, killing one man and injuring at least four persons.

On June 16, the Punjab government banned a textbook that allegedly contained objectionable remarks against Maharishi Valmiki on the grounds that it might hurt the sentiments of a large section of society. Maharishi Valmiki authored the Hindu epic *Ramayana*.

On June 23, a fast-track court charged 73 persons for murder, attempted murder, criminal conspiracy, rioting, looting, and other violations of the penal code during post-Godhra riots in Sardarpura, Gujarat. During the riots 33 minority community members were killed, and an estimated 8.5 million rupees (approximately \$170,000) worth of property was damaged. Hundreds of other court cases stemming from the 2002 violence in Gujarat remained unsettled.

On August 26, the Delhi High Court sentenced four persons to life imprisonment for their involvement in the 1984 anti-Sikh riots. The court imposed a fine of 21,000 rupees (approximately \$477) on Lal Bahadur, Ram Lal, Virender, and Surinder Pal Singh after finding them guilty of rioting, murder, and conspiracy. NGOs reported that numerous cases related to the riots had not been resolved.

On September 30, a New Delhi city court acquitted Jagdish Singh, Sajjan Singh, and Ishwar Singh, accused of leading a mob that lynched a man during the 1984 anti-Sikh riots.

Societal Abuses and Discrimination

The MHA's 2008-09 annual report stated there were 943 cases of communal violence in 2008 in which 167 persons were killed and 2,354 were injured. These attacks occurred against several different communities, including Christian, Hindu, and Muslim. In 2008 Hindu-Christian communal riots resulted in the deaths of 44 persons and injuries to 82. No further updated figures were available.

Several human rights and religious freedom NGOs continued to express concern about sporadic anti-Christian violence in some states governed by the BJP and claimed some attackers had affiliations with the Hindu extremist group Rashtriya Swayamsevak Sangh.

Muslims in some Hindu-dominated areas continued to experience discrimination and reported poor government response to their concerns, which limited their access to work, residency, and education.

On July 2, rioting in Karnataka between Muslims and Hindus resulted in three deaths after a dead pig was thrown into the compound of a mosque that was under construction. More than a dozen individuals were injured in the clashes.

Hindu organizations frequently alleged that Christian missionaries forced or lured Hindus, particularly those of lower castes, to convert to Christianity. Such allegations fomented anti-Christian violence.

On October 25 in Madhya Pradesh, 11 Hindu extremists assaulted a Protestant clergyman. On the same date, in Karnataka, approximately 50 Hindus stormed an Assembly of God church, disrupting Sunday worship. They beat the clergyman, burned Bibles, and threatened worshippers.

On several occasions, extremist Hindu groups in Karnataka's Dakshina Kannada district attacked young women visiting pubs, as well as Muslim boys found speaking to Hindu girls. On January 25, members of Sri Ram Sene, a right-wing group, beat and molested young women in Amnesia Lounge Bar in Mangalore, ostensibly to protect Indian culture from behavior the activists perceived as inappropriate, such as wearing western clothes, drinking, smoking, and dancing with men.

On February 26, the Hindu daughter of a legislator in Kerala was attacked while she was talking to a male Muslim friend on a bus. Sri Ram Sene activists reportedly proceeded to harass the two and forced them off the bus. The girl was released after the assailants became aware of her identity, but they repeatedly assaulted her Muslim friend. The BJP government termed both attacks as trivial. The media characterized the attacks as "Talibanization," which in turn prompted the central government to reprimand the state government. Media sources alleged that such "morality" vigilantism continued in remote parts of the district.

Most Indian Jews emigrated to Israel in 1948, but there were small, active communities primarily based in Mumbai, with a total estimated population of 1,500 persons. During the November 2008 attacks in Mumbai, terrorists allegedly belonging to LeT attacked the Jewish Chabad-Lubavitch center at the Nariman House as part of coordinated attacks on high-profile civilian targets in the city. The attackers killed six Jewish persons from the United States, Israel, and Mexico before security forces killed the attackers. The attackers also killed Hindus, Muslims, Christians, Sikhs, and Parsis. The trial of the sole surviving alleged gunman in the attacks began in March.

For a more detailed discussion, see the 2009 *International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement, and the government generally respected this in practice, although special permits are required for the northeastern states and parts of Jammu and Kashmir.

Security forces often searched and questioned vehicle occupants at checkpoints, mostly in troubled areas in the Kashmir valley or after major terrorist attacks. The government also completed construction (except in areas of difficult terrain) of a 330-mile security fence along the Line-of-Control in Jammu and Kashmir, causing difficulties as the fence cuts through some villages and agricultural lands. The government attributed a decline in insurgent crossings in part to the fence.

The government legally may deny a passport to any applicant who it believes may engage in activities outside the country "prejudicial to the sovereignty and integrity of the nation." The government prohibited foreign travel by some government critics, especially those advocating a Sikh homeland and members of the separatist movement in Jammu and Kashmir.

Unlike in previous years, there were no reports of the government using the issuance of passports or travel documents to restrict travel of separatist leaders in Jammu and Kashmir. Citizens from Jammu and Kashmir continued to face extended delays, often as long as two years, before the Ministry of External Affairs would issue or renew their passports.

Government officials demanded bribes for applicants from Jammu and Kashmir who required special clearances. The government subjected applicants born in Jammu and Kashmir—even the children of serving military officers born during their parents' deployment in the state—to additional scrutiny, requests for bribes, and police clearances before issuing them passports.

There was no law banning forced exile and no reports of forced exile during the year.

Internally Displaced Persons (IDPs)

According to the Norwegian Refugee Council, regional conflicts in Jammu and Kashmir, Gujarat, and the Northeast displaced at least 650,000 persons. According to the MHA's 2008-09 annual report, there were 55,000 Kashmiri Pandit migrant families, of whom 34,878 resided in Jammu, 19,338 in Delhi and 1,240 in other states. There were 230 migrant families living in 14 camps in Delhi, and 5,778 families in 16 camps in Jammu.

On February 2, local Kashmiri Pandits released a survey on their population in the state. The survey found 2,865 Pandits residing in the state, compared with 19,900 in 1998.

On August 25, the Jammu and Kashmir government announced a package of approximately 16 billion rupees (\$32 million) for the return and rehabilitation of Kashmiri Pandits to the state.

During the year the government issued passports to several separatist leaders from Jammu and Kashmir.

According to the MHA's 2008-09 annual report, the central government began discussions with the state of Mizoram regarding repatriation of 32,500 Reang IDPs living in six relief camps in Tripura to Mizoram.

According to media sources, tensions in six Reang/Bru camps in Kanchanpur resulted from failure to include more than 7,000 children in the distribution of ration cards. A survey conducted by the Asian Indigenous and Tribal Peoples' Network (AITPN) on internally displaced families at Bru found that more than 94 percent of the camp inmates had documents issued by Mizoram authorities to prove their bona fide residence.

AITPN presented its findings to the Supreme Court, but neither the state nor the central government tried to verify the Brus' status. Despite the Tripura government's recommendation, the central government failed to increase the ration card numbers to include 1,514 children, forcing families to share their food allocation. More than 1,000 Hmar, one of many groups who belong to the Chin-Kuku-Mizo tribe, reportedly were displaced in and around Mizoram.

In 2005 the Supreme Court ordered the MHA, the election commission, and the governments of Mizoram and Tripura to resettle approximately 30,000 displaced Reangs and add them to the electoral rolls. By year's end approximately 1,000 Reangs were resettled in Mizoram.

The Bru National Liberation Front and Mizoram government agreed on a financial package of 278 million rupees (approximately \$6.3 million) and paved the way for the resettlement of Reang IDPs encamped in North Tripura.

The violence in Gujarat in 2002 displaced many Muslims from Gujarati villages and cities. According to June estimates from an NGO that carried out a study for the National Commission for Minorities, approximately 5,000 Muslim families had not been able to return to their original homes; instead, they continued to live in 46 camps in precarious conditions across Gujarat.

More than 87,000 persons lived under poor conditions in IDP camps in Assam as a result of violence in the Northeast.

The government provided assistance to IDPs and allowed them access to NGO and human rights organizations. As in previous years, there were no reports that the government attacked or forcibly resettled IDPs. There were no specific government programs designed to facilitate resettlement or return to countries of origin.

IDP camps that opened in Chhattisgarh for displaced tribal persons caught in fighting between Naxalites and the Salwa Judum in 2006 continued to operate. An October 2008 NHRC report identified 23 government relief camps, with an estimated camp population of 40,000 IDPs, down from 27 camps with as many as 60,000 IDPs in 2006. There were no updated estimates of camp populations available.

The camps lacked adequate shelter, food, health care, education, and security. Civil society groups alleged that men, women, and children from the camps were trafficked for labor, sexual exploitation, and child soldiering. Some sources alleged that both Naxalites and Salwa Judum activists armed children, but there was no confirmed evidence. Police acknowledged that some minors may have been armed unintentionally as special police officers but stated that police dismissed minors upon learning their ages.

NGOs alleged that hundreds of Chhattisgarh IDPs settled in forest reserve areas in Andhra Pradesh were denied basic assistance, including food, water, shelter, medical facilities, and sanitation. Little was known about the population or their living conditions. According to HRW, the Andhra Pradesh forest department attempted to evict displaced persons from Kothooru.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. Due to the absence of clear guidelines, refugees are governed under the Foreigners Act 1946, which defines a foreigner as a person who is not a citizen of India and is thus eligible to be deported. The government has established a system for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. This applied especially to Tibetans and Sri Lankans.

According to the Office of the UN High Commissioner for Refugees (UNHCR), during the year there were 11,321 refugees under UNHCR mandate in the country. Since 1960 the government has hosted approximately 110,000 de facto refugees from Tibet. Tibetan leaders in the country stated that the government treated them extremely well. The MHA has spent 180.7 million rupees (approximately \$4.2 million) on Tibetan refugee resettlement.

According to the World Refugee Survey, 456,000 refugees were in the country, including the Dalai Lama, spiritual leader of Tibetan Buddhists. The survey noted that there were 100,000 refugees from Myanmar, 30,000 from Afghanistan, 25,000 from Bhutan, and 25,000 from Nepal residing in the country. According to the MHA's 2008-09 annual report, citing information of the Bureau of His Holiness the Dalai Lama, the population of Tibetan refugees in the country as of February 2008 was 110,095.

The government generally denied NGOs, international humanitarian organizations, and the UNHCR direct access to refugee and IDP camps, particularly in Mizoram, although foreign government access was granted. Although the UNHCR had no formal status, the government permitted its staff access to refugees in urban centers and allowed it to maintain a local office in Tamil Nadu. The government did not formally recognize UNHCR designations of refugee status, although it provided "residential permits" to many Afghans and Burmese. An estimated 1,900 Burmese refugees have lived in New Delhi since 1982. The government considered Tibetans and Sri Lankans in settlements and refugee camps to be refugees and provided assistance, but because it regarded most other groups, especially Bangladeshis, as economic migrants, it did not provide aid to them. In recent years a number of court rulings extended protection to refugees the government formerly considered economic migrants.

As of October approximately 73,000 Sri Lankan refugees from 19,904 families lived in 117 refugee camps throughout Tamil Nadu. There were 26,729 Sri Lankan refugees living outside the camps after completing a registration process with the nearest police station. The central government and the state of Tamil Nadu jointly provided monthly cash payments and food subsidies to the refugees. The refugees were free to move in and out of the camps but had to return to camps for

periodic roll calls. The refugees were subject to surveillance by police. Refugee children generally enrolled in local schools.

According to NGOs, conditions in the Sri Lankan refugee camps in Tamil Nadu were generally acceptable, although much of the housing, as well as water and sanitation facilities, were of poor quality. There were some reports of gender-based violence. The UNHCR continued to meet outside the camps with Tamil refugees considering voluntary repatriation. The NGO Organization for Eelam Refugee Rehabilitation had regular access to the camps, as did some other international NGOs.

There were approximately 65,000 persons who were not formally recognized as refugees living in the country, according to the World Refugee Survey. In addition, Chakmas and approximately 200,000 Santhals, both from Bangladesh, resided in Arunachal Pradesh, Mizoram, and Assam. Afghans, Iraqis, and Iranians without valid national passports were also present in the country. In most cases the government chose not to deport them, issued them renewable residence permits, or ignored their presence. For financial and other reasons, many refugees were unable or unwilling to obtain or renew national passports and could not regularize their status.

According to the U.S. Committee for Refugees and Immigrants (USCRI), the "Citizenship Amendment Act of 2003 defines all noncitizens who entered without visas as illegal migrants, with no exception for refugees or asylum seekers, [but the government] does grant some Tibetans and Sri Lankans asylum under executive policies, based on strategic, political, and humanitarian grounds... India does not formally recognize UNHCR's grants of refugee status under its mandate but typically does not refoule them either and gives residence permits to some Afghans and Myanmarese mandate refugees."

The UNHCR provided refugee status and assistance to approximately 1,800 Chins from Burma living in New Delhi. The UNHCR did not have access to the larger population of ethnic Chins living in the northeastern states. According to USCRI's *World Refugee Survey*, an estimated 100,000 Chins lived and worked illegally in Mizoram. Mizoram human rights groups estimated that approximately 31,000 Reangs, a tribal group from Mizoram displaced by sectarian conflict, remained in six camps in North Tripura. Conditions in these camps were poor, and the Tripura government asked the central government to allot funds for their care.

USCRI also reported a number of cases of abuse of refugees and arbitrary detentions. USCRI noted that "even recognized refugees cannot work legally, although Nepalese and Bhutanese nationals could do so under friendship treaties... [but] the Government rarely punishes employers formally for hiring refugees illegally. Many refugees work in the informal sector or in highly visible occupations such as street vendors, where they are subject to police extortion, nonpayment, and exploitation."

The UNHCR reported that the government collaborated with it to protect and assist approximately 11,000 urban refugees, most of them from Afghanistan and Burma. The UNHCR also reported that the government was developing a national legal framework to ensure protection for refugees and had provided more resettlement opportunities for long-staying refugees. The UNHCR and the government continued to pursue durable solutions for all refugee groups, focusing on resettlement and negotiation of an agreement that provided for local integration through naturalization for Hindu and Sikh refugees from Afghanistan.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The country has a longstanding democratic parliamentary system of government, with representatives elected in multiparty elections. The parliament sits for five years unless it is dissolved earlier for new elections, except under constitutionally defined emergency situations. The country held a five-phase national election in April and May that included 714 million eligible voters. National and local security forces helped to ensure a relatively smooth election, although 65 persons were killed in voting-related violence. The Congress-led United Progress Alliance government, headed by Prime Minister Manmohan Singh, returned to power for a second term in May.

Citizens elected state governments and local municipal or village council governments at regular intervals. During the year free and fair assembly elections were held in Andhra Pradesh, Orissa, Sikkim, Arunachal Pradesh, Maharashtra, and Haryana. During the elections seven civilians were killed in election-related violence.

Political parties could operate without restriction or outside interference. On May 7 in West Bengal, there were reports of political violence. According to media reports, 11 persons were killed as a result of postpolling violence. Communist Party of India-Marxist activists fought with Trinamool Congress supporters using bombs, firearms, and weapons in several Bengali districts. Hundreds of houses were set ablaze or otherwise damaged in Howrah, Burdwan, East Midnapore, and Murshidabad districts. Sporadic politically motivated violence continued through August.

The May general elections were largely peaceful in Jammu and Kashmir. Average turnout of the five-phase elections in the state reached a historic high of 40 percent. There was no significant violence in spite of threats by militant groups and boycott calls by separatists.

On April 24, Abdul Sattar Ganaie, bloc president of the National Conference party, was shot and killed by militants in Baramulla District. Ganaie was the only political leader killed by militants during the election process.

On April 29, the government imposed an undeclared curfew in the Kashmir valley to prevent antipoll protests, and 21 persons were injured when police used tear gas against curfew violators. Many separatist leaders were put under house arrest to prevent their participation.

The elections brought 78 female members to the Lok Sabha (lower house), which can have up to 552 members. Women held many high-level political offices, including President Pratibha Patil, Lok Sabha Speaker Meira Kumar, and Uttar Pradesh Chief Minister Mayawati. Women remained active in politics throughout the country at all levels.

On August 29, the central government approved a proposed amendment to the constitution to increase reservations in elected village councils (panchayats) from 33 percent to 50 percent for women. Parliament approved the amendment, and implementation across states was ongoing at year's end.

The constitution stipulates that to protect historically marginalized groups and to ensure representation in the lower house of parliament, each state must reserve seats for scheduled castes and scheduled tribes in proportion to their population in the state. Only candidates belonging to these groups can contest elections in reserved constituencies. In the 2009 elections, 84 seats for candidates from scheduled castes and 47 seats for scheduled tribes members were reserved, representing 24 percent of the total seats in parliament's lower house.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; in practice officials frequently engaged in corrupt practices with impunity. Both the Election Commission and the Supreme Court upheld mandatory disclosures of criminal and financial records for election candidates. Election campaigns for the parliament and state legislatures often were funded with unreported money, and the government failed to control the practice.

The law does not prevent candidates who are facing criminal charges from running for public office unless they have been convicted. In its 2009 report, the Association for Democratic Reforms (ADR) estimated that one-quarter to one-third of the country's directly elected members of parliament (MPs) faced criminal charges ranging from trespass to murder. The year's election brought a 20 percent increase in the number of MPs who had pending criminal cases as compared with the 2004 elections; the ADR noted that five MPs with serious charges had been voted out of office.

Transparency International (TI) and the India and Center for Media Studies, found that nearly one million households below the poverty line had to pay bribes worth 68.8 million rupees (approximately \$1.5 million) to obtain public services typically provided free of cost, such as police protection, school admission, water supply, and government assistance. Half of the bribes were paid for the benefit of registering for government assistance. In February 2008 a survey the Institute of Development and Communication conducted for the Punjab government's Department of Planning found that 76.5 percent of respondents reported paying bribes to municipal officials to get work done. Furthermore, 94.1 percent of respondents stated that officials had asked them for money before addressing problems with basic amenities such as water, sewage, streetlights, and roads. TI India and the Center for Media Studies did not release updated findings during the year.

According to a survey released in January by Trace International, a not-for-profit association that helps companies to combat bribery, 91 percent of bribe demands came from government officials. Police officers accounted for 30 percent of the bribe demands. *Express India* reported that the survey also indicated that "of the total reported bribe demands at the national level, 13 percent were from the national office of Customs and 9 percent each were from the national offices of Taxation and Water." On February 26, the New Delhi city court sentenced former minister of state for communications Sukh Ram to three years' imprisonment for illegally amassing properties during his government tenure from 1991 to 1996. The former official was also ordered to forfeit 43.5 million rupees (approximately \$926,000) and to pay a fine of 200,000 rupees (\$4,260) fine.

On September 1, a Delhi court sentenced a suspended Delhi municipality engineer to four years' imprisonment for taking a bribe of 25,000 rupees (\$530) for allowing construction of a building in an industrial area in 2003.

In 2006 the government launched a national antibribery campaign to raise public awareness of the right to information. The law mandates stringent penalties for failure to provide information or for restricting the flow of information, and requires agencies to be more flexible in releasing sensitive information. Although the government took extended periods of time to reply to information requests, local community members as well as noncitizens could access the Right to Information Act (RTI) online portal to get information on personal documentation, city plans, and other public records. The government charged 10 rupees (approximately \$0.21) as a fee at the time of the request. Many state governments, including that of Jammu and Kashmir, have right-to-information laws.

The MHA's 2008-09 annual report stated that 20,920 requests were processed under the central RTI in 2007-06, an increase from the 8,311 requests addressed in the previous year. If a request is denied, one can appeal to the Central Information Commission and then to the high court. On August 4, the government announced that a study of the RTI Act found that inadequate planning by public authorities was hindering the supply of information and that there was less awareness in rural areas about the act. The study recommended measures for improving awareness on the right to information, simplifying methods of filing requests, and enhancing accountability.

As of February 26, the Central Information Commission had penalized public information officers in 211 cases and recommended disciplinary action in 21 cases for not following the RTI Act in response to public requests.

Officials arrested several senior government bureaucrats in Tamil Nadu on charges of official corruption. On April 25, the CBI detained regional passport officer Sumathi Ravichandran and her husband, charging them with accepting bribes. Two

travel agents also were implicated in the case for acting as conduits for bribes. The CBI raided the office and homes of former Chennai Port Trust chairman K. Suresh and deputy conservator M.K. Sinha on August 4 and filed cases under the Prevention of Corruption Act, claiming they abused their official position for monetary gain. The cases were pending at year's end.

On July 20, the CBI arrested R. Sekar, protector of emigrants (Chennai), and two other agents on corruption charges, seizing 10 million rupees (\$208,000).

On August 6, the Tamil Nadu Directorate for Vigilance and Anti-corruption (DVAC) arrested M. Ezhilarasi, the director of Medical and Rural Health Services (Employees State Insurance). According to the media, the DVAC had information that drug company representatives planned to give 853,000 rupees (\$17,700) to Ezhilarasi in exchange for a 150 million rupee (\$3.1 million) drug supply contract.

On August 7, DVAC officials raided the homes and offices of the vice chancellor of Coimbatore Anna University, R. Radhakrishnan. According to news reports, the raids stemmed from a petition in the Madras High Court alleging that the vice chancellor amassed wealth far beyond his legitimate sources of income. Charges against Radhakrishnan included accepting bribes to grant affiliation between the university and more than 100 private colleges and for awarding university contracts.

On November 30, police arrested former Jharkhand chief minister Madhu Koda for allegedly possessing assets disproportionate to his income and for alleged money laundering of 50 million rupees (approximately \$1.1 million). Income tax authorities raided dozens of offices and homes nationwide investigating the allegations and ultimately filed corruption cases against Koda and three former state ministers.

The CBI credited its successes to an innovative text-messaging campaign launched in 2008 encouraging the public to report government employees who sought bribes. The CBI sent messages to five million cell phone users, and the public responded with approximately 200 calls and 40 e-mails each day from Tamil Nadu and Pondicherry.

On August 28, the country's chief justice announced that all Supreme Court judges would disclose their assets per a 1997 resolution and make the information available online to the public. Previously, the Supreme Court had argued it was not a public authority and therefore was exempt from the Right to Information Act. On November 3, the chief justice and 20 judges of the Supreme Court made their assets public on the Supreme Court Web site.

On September 17, the Central Vigilance Committee posted on its Web site the names of 123 government officials who were under investigation for alleged corruption.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; in a few circumstances, groups faced restrictions. Government officials assisted some NGO inquiries and actions.

In 2006 the MHA barred 8,673 organizations from seeking foreign funds under the FCRA for failing to provide proper paperwork. NGOs called the FCRA restrictive and claimed the government failed to notify organizations when the requisite paperwork was due. Until December 2007, funds under the FCRA were granted to 475 organizations. During 2008-09, under the FCRA, 1,611 organizations were granted registration and 346 organizations were granted prior permission to receive foreign funds. In July the MHA informed the parliament that 6,653 NGOs received foreign funds of 100,000 rupees (\$20,400) during 2007-08. Forty-one NGOs were prohibited from receiving foreign contribution, 34 NGOs were placed in the prior permission category, and accounts of 11 NGOs were frozen. Thirteen cases were referred to the CBI for FCRA violations.

The main domestic human rights organization was the government-appointed NHRC. Although the NHRC generally acted independently, some human rights groups claimed institutional and legal weaknesses hampered the NHRC. For example, although the NHRC was not required to request and receive approval for visits to state-managed prisons, the NHRC was unable to inquire independently into human rights violations by the armed forces, initiate proceedings for prosecution, or grant interim compensation. NGOs also criticized the NHRC's financial dependence on the government and the failure to investigate abuses more than one year old.

From March 2008 to March 31, the NHRC received 9,090,954 complaints of human rights abuses. The NHRC closed 9,595,258 cases, including those from previous years. The NHRC transferred 5,925 cases to the State Human Rights Commission. It recommended interim relief in 137 cases of custodial deaths, amounting to 19,775,000 rupees (approximately \$396,000). The NHRC did not have the statutory power to investigate allegations and could only request that a state government submit a report, a request that state governments often ignored. Human rights groups claimed the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and failed to investigate cases thoroughly.

Human rights monitors in Jammu and Kashmir were able to document human rights violations, but they were at times restrained or harassed by security forces, counterinsurgents, and police. The Jammu and Kashmir State Human Rights Commission has disposed of 3,775 cases of human rights violations since its creation in 1997. The state human rights commission makes recommendations to the state government, including recommendations on victims' compensation payments.

In July the MHA informed parliament that the NHRC received the greatest number of human violation complaints from three states: Uttar Pradesh (55,214 cases), Delhi (5,616 cases), and Gujarat (3,813 cases).

International human rights organizations faced difficulties obtaining visas for investigations, and occasional official harassment and restrictions limited the public distribution of materials. International humanitarian organizations, such as the ICRC, had access to most regions, with the exception of the Northeast and Naxalite-controlled areas.

Despite the recommendation in the 1993 PHRA to create state human rights commissions, only 17 of the 28 states had established them by year's end.

Human rights groups alleged that state human rights commissions were limited by local politics and less likely to offer fair judgments than the NHRC. For example, the Jammu and Kashmir Commission did not have authority to investigate alleged human rights violations committed by members of paramilitary security forces. The Maharashtra State Human Rights Commission, after receiving a court order, was forced to disclose that it had dismissed without any action 27,000 of the 30,000 complaints it received between July 2000 and July 2007. It heard 39 cases and recommended action against police or government officials in only eight cases.

In October 2008 the Punjab State Human Rights Commission stated that most cases it took up concerned atrocities that Punjab police allegedly committed. According to the commission, 6,000 of 10,000 complaints registered through September pertained to police atrocities. There was no update available at year's end.

The country welcomed a wide array of international NGOs that were registered as trusts, societies, or private limited nonprofit companies. Civil society faced few restrictions in most areas of the country.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, religion, place of birth, or social status, and the government worked with varying degrees of success to enforce these provisions.

Women

The law provides for protection from all forms of abuse against women in the home, including physical, sexual, verbal, emotional, or economic abuse. Domestic violence includes actual abuse or threat of abuse. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman can be provided with alternative accommodations, at the partner's expense. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care. The law banned harassment in the form of dowry demands and empowered magistrates to issue protection orders. The law criminalizes spousal rape. Punishment ranged from jail terms as long as one year, a fine of 19,800 rupees (approximately \$450), or both.

For the year the MHA informed parliament it recorded 109,559 cases of crime against women through August. The southern state of Andhra Pradesh recorded the worst record for crimes against women, with 772 cases of rape, 1,039 cases of kidnapping and abduction, 506 cases of dowry deaths, and 7,033 cases of domestic violence. Uttar Pradesh recorded 14,192 cases of violence, including 1,485 cases of dowry deaths, 1,066 cases of rape, and 3,139 cases of kidnapping. Haryana recorded 3,125 incidents, including 164 cases of dowry deaths and 325 cases of rape. Bihar reported that 59 percent of married women were victims of domestic violence and recorded 4,054 cases in total, including 629 rape cases, 612 dowry deaths, and 886 kidnapping and abduction cases. The NCRB noted that underreporting of these types of crimes against women was likely.

The Gujarat Human Rights Commission reported during the year that there were 16,113 crimes against women in the state in 2008. Of these, there were 359 cases of rape, 1,041 of kidnapping, 857 of molestation, 28 dowry deaths, and 6,093 incidents of physical or mental torture.

In 2005 parliament amended the code of criminal procedure to stipulate mandatory DNA tests in all rape cases. The act also requires a judicial inquiry into any death or rape of a woman in police custody and prohibits the arrest of a woman between sunset and sunrise except in "exceptional circumstances." Human rights groups claimed there was no subsequent decrease in the prevalence of custodial abuse or killings. The law sets criminal penalties for rape, including spousal rape, but the government did not enforce the law effectively. In December the Additional Court of Delhi convicted Ajit Singh Katiyar and sentenced him to 14 years of rigorous imprisonment for the gang rape of a Delhi University student in May 2005.

According to the MHA, there were 414 reported incidents of rape in Delhi from January 1 to November.

According to a survey conducted in six states (Andhra Pradesh, Bihar, Jharkhand, Maharashtra, Rajasthan, and Tamil Nadu) published in February by the International Institute of Population Studies and the Population Council of India, domestic violence remained a significant problem. In Maharashtra 27 percent of women interviewed reported physical abuse. In July NGOs alleged that the government of Madhya Pradesh subjected several hundred women in Shahdol district to an intrusive virginity/pregnancy test. The women, who registered in a low-cost mass-marriage program, were required to take a medical test to prove they were eligible for the government-subsidized wedding ceremony. The government denied the allegation that the test was intended to test for virginity.

Domestic violence remained a significant problem. The highest prevalence was in Delhi, according to a study conducted by the NGO Lawyers Collective and the UN Development Fund for Women. A total of 3,534 cases were reported in Delhi, followed by Kerala with 3,287 cases, and Maharashtra with 2,751 cases, between 2006 and October 2008. The NCRB

reported 43,224 incidents of torture and cruelty against women in matrimonial homes from 2006 through August 2007. The National Family Health Survey also found that 59 percent of married women in the state of Bihar suffered from domestic violence. No further updates were available at year's end.

Bohra Muslims practiced various forms of female genital mutilation (FGM). The Bohra Muslims, a sect with a following of approximately one million worldwide, is headquartered in Mumbai. There is no national law addressing the practice of FGM.

The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also provides extensive powers to magistrates to issue protection orders to address dowry-related harassment and murder. Deaths associated with the nonpayment of dowries rose in the past several years. The number of dowry deaths in 2007 was 8,093, up from 6,767 in 2005. During 2008 Andhra Pradesh police reported a marginal decrease in dowry deaths, noting 538 that year, compared with 596 in 2007. Tamil Nadu recorded 207 such deaths and Karnataka 259.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer, although it was unclear whether these officers were effective. Madhya Pradesh required government employees to produce sworn affidavits by prospective brides, bridegrooms, and fathers of bridegrooms that no dowry was exchanged.

Honor killings continued to be a problem, especially in Punjab and Haryana, where as many as 10 percent of all killings were honor killings. In July 2008 the Association for Advocacy and Legal Initiative, a women's advocacy group, reported that it identified 73 cases of honor killings from Hindi-speaking states in 2007.

For example, according to media reports, on March 23, a 16-year-old girl from Bhojpur was set on fire inside her house. She was admitted to a local hospital, where she later died from her injuries. Two of the four accused men told the police the girl's father asked them "to straighten out his daughter" because she was accepting too many visits from a young man from another tribe.

On July 22, in Haryana, residents of the home village of the wife of Ved Pal Maun attacked him with scythes and farm tools and lynched him for violating caste prohibitions. At year's end no one had been charged in the killing, and the police had not questioned his wife's family, according to media reports.

On October 17, the in-laws of Virender Singh from Haryana killed him for marrying their daughter, who belonged to a different caste. The police arrested four persons, including the girl's father.

On August 17, an additional sessions court in Delhi convicted four of the president's bodyguards for raping a 17-year-old in 2003. Two were sentenced to life imprisonment and fined 9,000 rupees (\$180) each. The other two were given 10 years to life in prison and fined 7,000 rupees (\$140) each.

Although the act of prostitution is not illegal, most activities, such as selling, procuring, and exploiting any person for commercial sex or profiting from the prostitution of another individual, are illegal. Section Eight of the Immoral Trafficking Prevention Act (ITPA), which criminalizes the act of solicitation for prostitution, was occasionally the basis for arresting and punishing women and girls who were victims of trafficking. The country is a significant source, transit point, and destination for trafficked women.

Sexual harassment of women in the workplace included physical and verbal abuse from male supervisors. In 2006 the Supreme Court instructed all state chief secretaries to comply with its mandate that all state departments and institutions with more than 50 employees establish committees to deal with matters of sexual harassment. According to the NCRB, which reports on the entire country, 4,541 cases of sexual harassment were filed in 2006, the latest year for which figures were released. In October 2008 the National Commission for Women reported 153 cases of sexual harassment registered from 2006-08. Sixty cases were registered in Delhi and 77 in Uttar Pradesh.

The government permits health clinics and local health NGOs to operate freely in disseminating information about family planning. There are no restrictions on the right to access contraceptives.

Laws favoring families that have no more than two children remained in place in seven states, but authorities seldom enforced them. The laws provide reservations for government jobs and subsidies to those who have no more than two children and reduced subsidies and access to health care for those who have more than two. National health officials noted that the central government did not have authority to regulate state decisions on population issues.

Maternal health remained poor, with only 34 percent of births attended by skilled help and no follow-up care of mothers and infants. The maternal mortality rate is about 400 per 100,000 births, according to the Federation of Obstetrics and Gynecological Societies of India.

The National AIDS Control Organization (NACO), which formulates and implements programs for the prevention and control of HIV and AIDS, reported that women accounted for about one million of the estimated 2.5 million citizens with HIV/AIDS. Infection rates for women were highest in urban communities, and care was least available in rural areas. There were a number of HIV/AIDS treatment and prevention programs under way across the country, but a 2007 report cosponsored by the United Nations Children's Fund (UNICEF), Horizons, and others indicated that fewer than 50 percent of HIV-positive women had heard of treatment, and NGOs expressed concerns that many affected persons had insufficient access to programs. In its 2006-07 report, NACO noted that traditional gender norms left women especially vulnerable to infection, stating that the government and NGOs had created programs to address the "feminization of the epidemic" and to provide access comparable to that of men.

The law prohibits discrimination in the workplace; in practice employers paid women less than men for the same job, discriminated against women in employment and credit applications, and promoted women less frequently than men.

In March 2008 the All India Muslim Women Personal Law Board released a new marriage law, applicable to both Shias and Sunnis, that makes registration of marriages compulsory and expands the rights of women. For example, the new law prohibits divorce via text message, e-mail, or telephone, and the wife can file for divorce if her husband forces her to have sex with him.

On October 21, villagers branded five Muslim widows in Pattharghatia village, Jharkand, as witches and forced them to eat human excrement. Four persons were arrested, and the victims were under police protection.

Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Shari'a (Islamic law) determines land inheritance for Muslim women. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. Several exceptions existed, such as in Ladakh, Meghalaya, and Himachal Pradesh, where women traditionally controlled family property and enjoyed full inheritance rights.

Female feticide (selective abortion for gender) was an acute problem in Punjab, Haryana, and Rajasthan. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, and parts of Tamil Nadu reported particularly low female/male ratios. Nationally, there were only 927 girls per 1,000 boys, according to the 2001 census. In 14 districts of Haryana and Punjab, there were fewer than 800 girls per 1,000 boys. The low female/male ratio resulting from female feticide caused families in Punjab and Haryana to traffic women and girls from Bihar and other northeastern states to provide wives or to serve as prostitutes in other regions of the country.

Children

The Registration of Birth and Death Act 1969 establishes state governments' procedures for birth registration. According to the National Commission on Population, approximately 55 percent of national births were registered at year's end, and the registration rate varied substantially across states. Any person born in the country on or after January 26, 1950, but before phases of the act took full effect on July 1, 1987 obtained citizenship by birth. A person born in the country on or after July 1, 1987, obtained citizenship if either parent was a citizen at the time of the child's birth. Those born in the country on or after December 3, 2004, were considered citizens only if both of their parents were citizens or if one parent was a citizen and the other was not an illegal migrant at the time of the child's birth. Persons born outside the country on or after December 10, 1992, were considered citizens if either parent was a citizen at the time of birth. From December 3, 2004, onward, persons born outside the country were not considered citizens unless their birth was registered at an Indian consulate within one year of the date of birth. In certain circumstances it was possible to register after one year with the permission of the central government.

The National Commission for Protection of Child Rights Act, 2005, mandates that each state create a state commission. By the end of the year, only Delhi, Goa, Karnataka, Maharashtra, and Sikkim had constituted the commissions.

In the November session of parliament, the Ministry of Women and Child Development informed parliamentarians that NCRB figures showed 20,410 crimes against children in 2007.

The constitution provides free education for children from six to 14 years of age, but the government did not enforce this provision. On July 20, the parliament passed the Right to Free and Compulsory Education for all children ages six to 14.

In November UNICEF marked the 20th anniversary of the Convention on the Rights of the Child and acknowledged measures the country had taken to ensure "survival" of children. UNICEF stated that school attendance had increased from 61 percent to 81 percent among girls between the ages of six and 10.

The law provides for protection against various forms of child abuse. In 2007 the NHRC developed guidelines for handling child rape cases and issued recommendations on missing children. The NHRC recommended that state directors general of police should issue standing instructions to protect children and require that every police station have a special squad or missing persons desk to trace missing children. The central government directed district administrations to inspect periodically locations where children often worked. The NHRC recommended that state police headquarters create a system of mandatory reporting of all incidents of missing children to the National Commission for Protection of Child Rights within 24 hours.

The NHRC recommended that enforcement agencies, in partnership with NGOs and social workers, develop a mechanism for counseling and awareness on child abduction and that the National Crime Research Bureau establish a National Tracking System to help in locating and tracing missing children.

Abuse of children in both public and private educational institutions was a problem. Although corporal punishment is banned, schoolteachers often used it. There was no progress in the 2007 case of Brijesh Prajapati, a sixth-grade student in Farukhabad, Uttar Pradesh, who died after a beating from his teacher, Kishan Singh. Authorities suspended Singh and the school principal; the case was pending at year's end.

On March 8, a fast-track court sentenced six teachers of the Gujarat Patan Government Women's Teacher Training College to life imprisonment for repeatedly gang-raping a Dalit student. After the matter was reported, several other students came forward complaining of sexual harassment from the male teachers. The state government decided to replace all male teachers with female ones.

On April 17, Shanno, a Class II student of MCD Girls Primary School in New Delhi, died after teachers forced her to stand

in the sun for more than one hour the previous day. The municipal commissioner ordered an inquiry and suspended the principal and teacher.

On September 9, a teacher from Chhattisgarh's Koriya District reportedly forced primary school students to strip, dance, and play field games in a wooded area near the school. The children complained that the teacher slapped those who disobeyed. At year's end police had not arrested the teacher, who fled the area when angry parents stormed the school.

The government sponsored a toll-free 24-hour helpline for children in distress in 72 cities. A network of NGOs staffed the "Childline 1098 Service" number, accessible by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counseling.

According to the NCRB, in 2008 there were 24,528 crimes committed by juveniles under the penal code and 3,156 under the Special and Local Laws.

In 2006 the central government passed the Prohibition of Child Marriage Act, strengthening the 1929 Child Marriage Restraint Act and declaring existing child marriages null and void. On September 7, Orissa became one of the last states to implement the act.

Although the law sets the legal age of marriage for women as 18 and for men as 21, in practice this law was not enforced. According to a 2005 Health Ministry report, 50 percent of women were married by the age of 15. The report found that 45 percent of women ages 18 to 24 and 32 percent of men ages 18 to 29 had married before the legal age. According to a 2005 report from the Office of the Registrar General of India, an average of 240 girls died every day due to pregnancy-related complications in early-child marriages. The International Center for Research on Women concluded that those married younger than 18 were twice as likely to experience abuse by their husbands compared with women who married later; they were also three times more likely to report marital rape. The center reported that child brides often showed signs of child sexual abuse and posttraumatic stress. Child marriages limited girls' access to education and increased their health risks, as they had higher mortality rates and exposure to HIV/AIDS than girls married at 18 or older.

According to UNICEF, approximately 1.2 million children were prostituted and enslaved throughout the country. The UNICEF report was based on surveys that identified an approximate total of three million prostitutes in India, 40 percent of whom were minors. In part, this high number of exploited children was attributed to the country's status as a source, transit, and destination country for human trafficking.

Sex determination tests are illegal under the 1994 Prenatal Diagnostic Techniques Act (PNDT). Nevertheless, credible sources stated the problem was widespread and calculated that feticide was a \$116 million industry. Officials claimed the practice was prominent among educated and urban sections of society.

On May 14, Mitu Khurana became the first woman to file a complaint under the PNDT Act, claiming her in-laws had forcibly determined the sex of her unborn twins in 2005.

In June a Gujarat woman filed a complaint against her in-laws, claiming they had forced her to abort five female fetuses in nine years. Police arrested the husband and the in-laws, who at year's end were free on bail pending investigation of the case.

According to the Ministry of Health and Family Welfare, 89 cases of violation of the PNDT were reported during the year. In November the ministry informed parliament that there were 603 cases pending for violation of the PNDT law.

According to the NCRB, authorities registered a total of 73 cases under the PNDT Act in 2008, of which 24 were from Punjab. Authorities arrested 44 persons, charged 37, and convicted 10. Punjab had recorded 294 cases of female feticide since 2006.

There was no update in the 2007 arrest by the Haryana Health Department of unlicensed doctor A.K. Singh for feticide based on gender. Haryana registered 35 cases against doctors illegally conducting sex determination tests in the past two years.

Efforts to combat feticide included a program by the Health and Family Welfare Ministry to target and apprehend those who perform or abet female feticide. The central government also launched a "Save the Girl Child" campaign. The New Delhi municipal government sponsored the Ladli plan, which provided each registered girl child with a gift deposit of 5,000 rupees (approximately \$114) at time of admission to class I, VI, IX, X, and XII. The money accumulates interest until the child reaches the age of 18.

Trafficking in Persons

The country is a source, destination, and transit point for men, women, and children trafficked for the purposes of forced labor and commercial sexual exploitation. Those from the most disadvantaged social economic strata were particularly vulnerable to trafficking. Women and girls were trafficked within the country for the purposes of commercial sexual exploitation and forced marriage. Children also were subjected to forced labor as factory workers, domestic servants, beggars, and agricultural workers. In recent years sex trafficking to medium-sized cities and satellite towns of large cities increased.

The country also was a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation. In addition, there were victims of labor trafficking among the thousands of citizens who migrated to the Middle East, Europe, and the United States for work as domestic servants and low-skilled laborers.

The country prohibits some forms of trafficking for commercial sexual exploitation through the ITPA. Prescribed penalties under the ITPA range from seven years' to life imprisonment. To arrest traffickers, authorities also used sections 366(A) and 372 of the penal code, which prohibit kidnapping and selling minors into prostitution. Penalties prescribed under these provisions are a maximum of 10 years' imprisonment and a fine. In general enforcement of these laws was weak, and convictions of traffickers remained infrequent.

Despite significant efforts to combat trafficking, the country faced several challenges. The constitution gives states primary responsibility for law enforcement, state-level authorities were limited in their abilities to confront interstate and transnational trafficking, corruption among law enforcement officials and overburdened courts impeded effective prosecutions, and widespread poverty continued to provide a source of vulnerable persons.

The Ministry of Women and Child Development remained the central government's coordinator of antitrafficking policies and programs, although its ability to enhance interagency coordination and accelerate antitrafficking efforts across the bureaucracy remained weak. The government continued information and education campaigns against trafficking in persons and child labor. In January the central government approved a nationwide plan to merge educational and poverty alleviation programs to combat child labor.

Government authorities continued to rescue victims of trafficking for commercial sexual exploitation and forced child labor and to sensitize police about human trafficking. Several state governments (Andhra Pradesh, Bihar, Maharashtra, Goa, and West Bengal) made significant efforts in prosecution, protection, and prevention, largely in the area of trafficking for commercial sexual exploitation.

The MHA renewed its efforts to combat human trafficking. On September 5, it issued an advisory to states stressing the importance of tackling this issue. MHA Minister P. Chidambaram launched a human trafficking book at a large public event and labeled human trafficking "a crime against humanity." The MHA also expanded its Anti-Human Trafficking Cell to better coordinate nationwide efforts.

The central government continued to improve coordination among the many bureaucratic agencies that play a role in antitrafficking. The central government earmarked 4 trillion rupees (approximately \$440 million) to establish a computerized tracking and network system for serious crimes such as trafficking and to connect all of the country's 14,000 police stations. The central government allocated 840 million rupees (\$18 million) to create 297 antitrafficking units across the nation to train and sensitize law enforcement officials. According to NGOs, state-level officials who received such training in the past increasingly recognized women in prostitution as potential trafficking victims and did not arrest them for solicitation.

The central government and state governments continued to combat sex trafficking of women and children. In Andhra Pradesh, Bihar, Maharashtra, Goa, and West Bengal, government officials registered hundreds of sex trafficking cases, helped to rescue more than 1,000 victims, and arrested more than 1,000 traffickers. Authorities undertook measures to reduce demand for commercial sex acts, such as the arrests of 856 customers of prostitution in Andhra Pradesh, Maharashtra, Bihar, Goa, and West Bengal. Some of the country's diplomatic missions in destination countries, especially those in the Middle East, provided significant services, including temporary shelters, to nationals who were trafficked.

In October 2007 the Jammu and Kashmir High Court criticized the CBI's "lax and deficient" handling of the 2006 arrest of the former state minister for tourism in Jammu and Kashmir, Pirzada Mohammed Sayeed, and his wife for allegedly trafficking and blackmailing approximately 40 local girls into prostitution. In May 2008 the Jammu and Kashmir state government asked the high court to reconsider the case. The CBI and the High Court Bar Association disagreed, and the case was pending at year's end.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights for persons with disabilities, but a clause that makes implementation of programs dependent on the "economic capacity" of the government significantly weakens the law.

Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and access to health care. There was limited accessibility for persons with disabilities to public buildings and transport. The law did not require spaces and provisions for wheelchairs.

According to a 2007 World Bank report, the country had approximately "40 to 80 million persons with disability. But low literacy, few jobs, and widespread social stigma resulted in the social exclusion of persons with disabilities. Children with disabilities were less likely to be in school, such adults were less likely to be employed, and families with a disabled member were often worse off than average."

The PDA requires that 3 percent of public sector jobs be reserved for persons with physical, hearing, or visual disabilities. Although only 0.44 percent of public sector employees were persons with disabilities, the government allocated funds to NGO partners to develop programming that would increase the number of job reservations for such persons. Private sector employment of persons with disabilities remained low despite PDA benefits to private companies where persons with disabilities constituted more than 5 percent of the workforce. In July 2008 the central government approved an incentive program for private sector employers that covered positions with a monthly wage of 25,000 rupees

(approximately \$568).

The PDA created a Central Coordination Committee, which reported that approximately 100,000 children with special needs attended approximately 2,500 schools that provided integrated and inclusive education or nonformal education. The MHRD reported in 2006 that children with mental disabilities had the lowest rate of school attendance of any other tracked group of children at 53 percent, followed by those with speech disabilities at 57 percent, and those with hearing disabilities at 68 percent.

The law stipulates that 3 percent of all educational places be reserved for persons with disabilities, but the Ministry of Social Justice and Empowerment (MSJE) stated that students with disabilities made up only an estimated 1 percent of all students. The MSJE offered 500 scholarships to persons with disabilities to pursue higher education. University enrollment of students with disabilities remained low for reasons including inaccessible infrastructure, limited availability of resource materials, nonimplementation of the 3 percent reservation, and harassment.

On March 4, the Score Foundation launched www.eyeway.org, the country's first Internet knowledge portal for persons with visual impairments, which provided information on eye conditions, education facilities, services, and job markets.

On May 28, the Delhi High Court noted that 650 New Delhi government schools and 1,800 Municipal Corporation of Delhi schools did not hire any dedicated teachers for the 10,000 students with disabilities. The Delhi High Court directed the state government to develop an action plan to hire teachers and build facilities for students with disabilities.

On September 8, the Central Information Commission launched a Web site accessible to persons with disabilities for lodging complaints and appeals. Users with impaired vision could hear instructions and details on the portal.

In July 2008 the central government pledged to fund programs to provide toilets accessible for persons with disabilities, sloped ramps, lifts with audio systems and Braille buttons, computer rooms usable for persons with disabilities, and one room in each hostel for persons with disabilities in the country's universities.

In 2008 Delhi University organized a special orientation program for students with disabilities, and in July it launched its first special cost-free bus service for students with physical disabilities.

In November the MSJE informed parliament that 483,834 persons with disabilities received benefits from government programs in 2008-09.

The disability division of the MSJE delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the government to provide rehabilitation centers to more than 400 districts, but services were concentrated in urban areas. The impact of government programs was limited due to the concentration of funding provided to a few organizations.

National/Racial/Ethnic Minorities

The law provides that the practice of untouchability, which discriminated against Dalits and members of other scheduled castes (SCs), is a punishable offense. This type of discrimination remained ubiquitous, however.

The law gives the president the authority to identify historically disadvantaged castes, Dalits, and tribal persons (members of indigenous groups historically outside the caste system) for special quotas and benefits. These groups were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. According to the 2001 census, SCs, including Dalits, made up 16 percent (168.6 million) of the population, and STs were 8 percent (84.3 million). In 2006 parliament passed a bill to reserve 27 percent of seats at educational institutions for SCs and members of disadvantaged social classes.

Although the law protects Dalits, in practice they faced significant discrimination in access to services such as health care and education, attending temples, and marriage. Many Dalits were malnourished. Most bonded laborers were Dalits. Dalits who asserted their rights were often attacked, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits often worked without remuneration. Crimes committed by upper-caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute or because victims did not report the crimes for fear of retaliation.

Reports from the UN's Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. For example, on January 9, upper-caste attackers beat a Dalit man, injuring his eyes, because of his relationship with their relative. Police arrested and charged six persons for the assault.

A June study conducted by the Dalit Arthik Adhikar Andolan, an organization committed to the elimination of discrimination based on caste, with support from UNICEF reflected that Dalit children often dropped out of school due to discrimination. The study included 41 primary schools, 36 middle schools, and 17 secondary schools in Uttar Pradesh, Rajasthan, and Maharashtra. The study stated that physical access to the schools was the biggest challenge faced by Dalit children because the schools were located in areas occupied by members of dominant castes. Some school officials did not allow Dalit children to attend morning prayers, and teachers asked Dalit children to sit at the back of the class. Some school officials also forced Dalit children to clean school toilets but did not allow the children to use those facilities.

The MHA's 2008-09 annual report noted 30,031 cases of crime against SC in 2007, compared with 27,070 in 2006. In July the MHA reported to the parliament that 56,245 persons were arrested in 2007 for crimes against SC. On April 30, the

MHA reported that 13,449 persons had been convicted of crimes against persons belonging to the SC and ST, according to NCRB records.

In June 2008 a Dalit girl alleged that she was raped and tortured for more than a year in Jatapar village in Gujarat after her disappearance in 2006. Her alleged abductors released her in June 2008. No arrests had been made in the case by year's end. Also in June 2008, a group of upper-caste men stripped and beat a Dalit woman and her daughter in Ajmer, Rajasthan. Police registered a case against the accused, but they remained at large at year's end.

On February 3, Uttar Pradesh police beat a six-year-old Dalit girl for allegedly stealing 280 rupees (approximately \$5.60). The incident, captured on video, received nationwide attention. Authorities fired the senior subinspector for abusing the child and suspended the station house officer for not intervening on her behalf.

On October 28, Dalits from Chettipulam village, Tamil Nadu, entered the Kamakshi Amman Sametha Ekambareshwarar temple for the first time.

In October, 37 Dalit families in a village in Virudhunagar, Tamil Nadu, questioned their exclusion from the state government's Kalaigarn medical insurance scheme for the poor. Some higher caste individuals beat members of the families, and the 37 families were evicted from the village. Police, instead of helping, issued First Incident Reports against the Dalits.

In December six persons were sentenced to life imprisonment for the 1979 killing of eight Dalits in Lohari village, Uttar Pradesh.

According to the MSJE, there were 24,971 cases of atrocities against Scheduled Castes and Tribes in 2008.

According to credible NGOs, Dalits and other individuals considered lower caste were often accused of witchcraft. In June residents of a Jharkhand village accused Ghuchara Pahan, his son Kisun, and daughter-in-law Mukta of practicing witchcraft and then beat them to death.

Indigenous People

The law provides for safeguarding tribal rights in most of the northeastern states, and authorities generally tried to follow the regulations. The regulations prohibit any nontribal person, including citizens from other states, from crossing an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from protected areas without prior authorization. Tribal authorities must approve the sale of land to nontribal persons. According to the Indian Confederation of Indigenous and Tribal Peoples, 80 percent of the tribal population lived below the poverty level, and more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation. Land encroachment on tribal lands continued in almost every state despite limited efforts by the states to combat it.

Businesses and illegal undocumented Bangladeshi immigrants encroached on tribal lands in almost every eastern state. Numerous tribal movements demanded the protection of tribal land and property rights. The government created tribal-majority states in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh, and authorities provided local autonomy to some tribes in the northeast.

In May 2008 police and members of the Gujar tribe in the state of Rajasthan killed 41 persons in clashes after the Gujjars demanded inclusion in affirmative action quotas and the List of Scheduled Tribes. In 2007, 26 persons were killed in similar clashes. A six-member team from the NHRC visited the state to investigate. In July 2008 the Rajasthan Assembly passed the Reservation Bill for the Gujar tribe. The Gujjars were expected to get a 5 percent reservation in the category of Special Backward Classes. On July 27, the Gujar community started a sit-in involving approximately 4,000 individuals, demanding Scheduled Tribe status for quotas in government jobs.

Since late 2007, thousands of mainly indigenous groups of Scheduled Castes and Tribal protesters in Chengara, Kerala, staged a continuing strike on a private estate demanding land ownership. Discussions with the state government to resolve the situation continued at year's end.

Civil rights organizations working with indigenous persons in Kodagu district of Karnataka accused the state government of actively promoting tourism by infringing on their property rights. The groups alleged that more than 1,600 families had been evicted since 1972. Although the 2006 Scheduled Tribes Act grants indigenous persons certain rights pertaining to lands from which they were evicted, in practice little changed. The government had not determined by year's end which department should implement the new rules, with the practical effect that none of the evicted families could take up permanent residence in their former homes.

Other Societal Abuses and Discrimination

The law punishes acts of sodomy and bestiality and was often used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that employers often fired gays and lesbians who did not hide their orientations. Gays and lesbians also faced physical attacks, rape, and blackmail. Police committed crimes against gays, lesbians, bisexuals, and transgender persons and used the threat of arrest to coerce victims not to report the incidents.

Voices Against 377, a campaign to overturn the colonial-era law section 377 that outlaws homosexual conduct, continued its efforts during the year.

On July 2, the Delhi High Court overturned some provisions in section 377, thus decriminalizing consensual sexual activities between adults. Section 377 continued to apply in cases involving minors and coercive sex. Within one week, three groups petitioned the Supreme Court, challenging the ruling. On July 9, several Islamic, Christian, and Jain leaders issued a joint statement protesting the ruling. On September 16, the Delhi Commission for Protection of Child Rights also questioned the ruling, stating that the judgment would encourage sexual exploitation of children.

On September 17, the cabinet decided not to issue a statement on the propriety of the Delhi High Court judgment, allowing the Supreme Court to make a final decision. The Supreme Court's hearing date for the case was twice postponed and rescheduled to begin December 9. There were no updates at year's end.

On July 14, the MHA stated that the population census required respondents to identify themselves as male or female. On November 13, the Election Commission of India issued a statement allowing eunuchs and transsexuals to indicate their sex as "other" in the electoral rolls.

Lesbian, gay, bisexual, and transsexual groups were active throughout the country, sponsoring events and activities including rallies, gay pride marches, film series, and speeches. Nonetheless, societal discrimination continued on the basis of sexual orientation and identity throughout the country.

Other Societal Violence or Discrimination

According to NACO, the government agency responsible for monitoring HIV/AIDS, there were approximately 2.3 million persons with HIV/AIDS in the country, and according to the International Labor Organization, as many as 70 percent of persons in the country with HIV/AIDS faced discrimination. HRW reported that many doctors refused to treat HIV-positive children and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing.

NACO, with support from the Joint United Nations Program on HIV/AIDS and the World Health Organization, produced revised AIDS estimates showing that as of December, approximately 2.31 million persons were living with the virus and that HIV prevalence among adults was 0.36 percent. In June in Rajkot, Gujarat, two government health functionaries put a label "HIV positive" on a female patient's forehead and paraded her through different wards in a government hospital. The two were found guilty, fined, and suspended from duty for several days.

In July the government of Maharashtra removed 10 HIV-positive children from a Latur district government school after the community refused to send 150 nonpositive children to the same school.

In August 2008 Kerala became the first state to reserve government jobs for HIV-positive candidates.

In August 2008 the state government launched an initiative to provide insurance to persons with HIV/AIDS in Karnataka. The state estimated that 250,000 residents were infected with HIV/AIDS, but only 22,000 were registered with the main HIV/AIDS NGO, the Karnataka Network for Positive People. Of those, 1,028 had opted for the insurance as of October 31. The health insurance would provide 30,000 rupees (approximately \$650) in coverage, including 15,000 rupees (approximately \$325) for hospitalization at the onset of AIDS and 15,000 rupees for further treatment.

In August school officials dismissed an eight-year-old HIV-positive boy from primary government school in Allahabad, Uttar Pradesh.

In September the central government informed the Supreme Court that HIV-positive persons traveling by train would be allowed a 75 percent fare discount.

Section 7 Worker Rights

a. Right of Association

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and in practice the government generally respected this right. Although the country's active work force comprised more than 400 million persons, only 30 million were employed in the formal sector, with the rest as agricultural workers and, to a lesser extent, urban nonindustrial laborers. Some trade unions represented agricultural workers and informal sector workers, but most of the country's estimated 13 to 15 million union members were in the formal sector. An estimated 80 percent of unionized workers were members of unions affiliated with one of five major trade federations.

In practice legal protections of worker rights were effective only for the organized industrial sector, in which authorities generally prosecuted and punished persons responsible for intimidation or suppression of legitimate trade union activities. Unaffiliated unions generally were not able to secure the protections and rights the law provides. The 1926 Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

Trade unions have a limited right to strike, and workers exercised this right. The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires arbitration in specified essential industries; the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and to force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right. The government protects collective bargaining under the law, but public servants have limited organizing and collective bargaining rights. When parties cannot agree on equitable wages, the government may establish boards of union, management, and government representatives to make a determination. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases.

The law provides workers in export processing zones (EPZs) the right to join trade unions and bargain collectively, although EPZ workers often did not exercise their full labor rights. The Trade Union Act designates the EPZs as "public utilities" and requires a 45-day strike notice.

Entry into the EPZs ordinarily was limited to employees, and entry restrictions applied to union organizers. Unions have not vigorously pursued efforts to organize private sector employees since EPZs were established. Most EPZ workers were women. The International Trade Union Confederation reported that overtime was compulsory in the EPZs, workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and workers feared that complaints about substandard working conditions would result in their dismissal.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or bonded labor, but such practices remained widespread. Offenders may be sentenced up to three years in prison, but successful prosecutions were rare. Enforcement and compensation for victims were the responsibility of state and local governments and varied in effectiveness due to inadequate resources and societal acceptance of bonded or forced labor. When inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel sometimes resulted in acquittals simply due to inadequate prosecution, which resulted from lack of preparation time and access to evidence. The Institute for Socio-Economic Development research found that in Bihar and Uttar Pradesh, the main form of bonded labor involved agricultural workers. According to NGOs, nonagricultural sectors that had a high incidence of bonded labor were stone quarries, brick kilns, making beedi (hand-rolled cigarettes), and carpet weaving.

According to the Ministry of Labor and Employment (MOLE), during the period April 2008 to March 2009, officials rescued and rehabilitated 543 bonded laborers from the states of Bihar, Uttar Pradesh, and West Bengal.

Members of Scheduled Castes and Tribes lived and worked under traditional arrangements of servitude in many areas of the country. In Arunachal Pradesh, the Nishi tribe traditionally subjugated Sulungs or Puroiks as customary slaves. Local customs and landlessness made eradication of slavery difficult.

The MOLE partnered with the NHRC and NGOs to investigate allegations of bonded labor. MOLE statistics showed a large decrease in the number of bonded labor cases brought before the courts, although the extent to which this reflected a decrease in bonded labor was unclear.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits forced labor, including bonded labor, but NGOs reported bonded labor remained a serious problem.

There is no overall minimum age for child labor, but the law prohibits work by children under 14 in factories, mines, domestic work, roadside eateries, and hazardous industries. In occupations and processes in which child labor is permitted, children may work only for six hours between 8 a.m. and 7 p.m., with one day's rest weekly. Employers who failed to abide by the law were subject to penalties specified in the Child Labor (Prohibition and Abolition) Act.

The penalty for employers of children in hazardous industries is 20,000 rupees (approximately \$430) per child employed. The fines go into a welfare fund for formerly employed children. The law requires the government to find employment for an adult member of the child's family or pay 5,000 rupees (\$108) to the family. NGOs noted that requiring the government to pay the family of a child laborer or find the adult family member a job could be a disincentive to investigating violations.

The law prohibits child labor, but the prohibition was not effectively enforced, and forced child labor remained a serious problem. Estimates of the number of child laborers varied widely. The government's 2004 national survey estimated the number of working children from ages five to 14 at 16.4 million. NGOs claimed the number of child laborers was closer to 55 million.

According to 2001 census figures, 65.3 million (29 percent) of 226 million children between the ages of five and 14 did not receive any formal education. Most, if not all, of the 87 million children not in school worked in the informal sector, often in private homes, with the highest rate (15 percent) in Uttar Pradesh. Child labor continued due to social acceptance of the practice, ineffective state and federal government enforcement of existing laws, and poverty. Many officials claimed they were unable to stop the practice because the children were working with their parents' consent.

Working conditions sometimes amounted to bonded labor. Some NGOs alleged that children were found working in forced or bonded conditions in gemstone cutting, quarrying, assembling garments, weaving carpets, brick kilns, rice production, silk thread production, and textile embroidery. The government and industry leaders, however, challenged many of these claims and noted their joint efforts to address violations of labor law.

In July 6, Rajasthan Labor Watch stated that child labor was pervasive in the state and that there was weak implementation of the Juvenile Justice (Care and Protection of Children) Act of 2000. The National Sample Survey Organization stated that there were 3.4 million children between ages five and 14 engaged in labor in the state.

During its July session, the MOLE informed parliament that states were providing welfare to 507,450 former child laborers. Also in July the MOLE informed parliament that in 2008-09, it had conducted 2,860 inspections to check child labor. It noted 2,277 violations and pursued two prosecutions, but there were no convictions. During 12 months preceding March 31, the MOLE launched 12,244 prosecutions and obtained 566 convictions.

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

Human rights organizations estimated as many as 300,000 children worked in the carpet industry. The government disputed this claim. The following industries also reportedly used child labor: leather goods, embroidered textiles, sporting goods, brassware, fireworks, footwear, hand-blown glass bangles, handmade locks, hand-dipped matches, hand-quarried stones, hand-spun silk thread, hand-loomed silk cloth, handmade bricks, roadside restaurants, roadside auto repair, illegal mining, rice milling, sorting trash for items to resell or recycle, and beedis. A number of these industries exposed children to hazardous work conditions.

According to UNICEF and others, the number of children involved in the silk spinning industry dropped due to competition from China and concerted action by the state government against employers of child labor. The government of Karnataka, in partnership with UNICEF, monitored child labor and developed programs to enable former child workers to enter the state-sponsored formal education system.

The NHRC stated the enforcement of existing child labor laws was inadequate, in part because the act exempts a child assisting his or her family. Employers in cottage industries often claimed that child laborers were assisting their families.

The country made moderate progress during the year on addressing child labor. The MOLE raised awareness about child labor and coordinated efforts with states through video conferences. The MOLE, through its 250 National Child Labor Projects (NCLP), rehabilitated more than 400,000 children from child labor in part by enrolling the children in NCLP schools.

New Delhi's state government rescued more than 100 children from forced labor during the year. Included in this number was the February rescue of 35 children found enslaved in four small factories making leather products under hazardous and forced conditions without pay. In Jharkhand, police and state officials, in collaboration with an NGO, raided 120 establishments and rescued 208 children from forced or bonded labor.

Throughout the year the NGO Bachpan Bachao Andolan rescued more than 200 bonded child laborers in Delhi. The NGO worked in collaboration with the Delhi government and police. All the rescued children received release certificates under the Bonded Labor Act, which entitled each child to a rehabilitation package of 20,000 rupees (approximately \$420) and priority access to government housing and education.

e. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an eight-hour workday, a 48-hour workweek, and safe working conditions, which include adequate provisions for restrooms, canteens, medical facilities, and ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime. These standards generally were enforced in the modern industrial sector; they were generally not observed in the informal economy, which included nearly 93 percent of the work force.

Minimum wages varied according to the state and to the sector of industry. Such wages were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. State governments set a separate minimum wage for agricultural workers but did not enforce it effectively.

Enforcement of safety and health standards was poor, especially in the informal sector. Industrial accidents occurred frequently. Chemical industries had the highest number of accidents. Workers from Scheduled Castes and Tribes often worked as rag pickers, recycling trash under hazardous and generally deplorable conditions. Workers from these groups also cleaned sewers and drains of human excrement without proper equipment and under extremely unsanitary conditions.

Safety conditions were better in the EPZs than in the manufacturing sector outside the EPZs.

The law does not give workers the right to leave workplaces that endanger health and safety without jeopardizing their continued employment. The country's undocumented foreign workers did not receive basic occupational health and safety protections.