

07 MRS. 2001

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## India

### Country Reports on Human Rights Practices -2000 Released by the Bureau of Democracy, Human Rights, and Labor February 2001



India is a longstanding parliamentary democracy with a bicameral parliament. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) led a 17-party coalition, took office in October 1999 and heads the Government. President K.R. Narayanan, who was elected by an electoral college consisting of Members of Parliament and members of state assemblies, is Head of State and also has special emergency powers. The judiciary is independent.

Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support through the use of paramilitary forces throughout the country. The Union Ministry for Home Affairs controls most of the paramilitary forces, the internal intelligence bureaus, and the nationwide police service; it provides training for senior police officers for the state-organized police forces. The armed forces are under civilian control. Security forces committed numerous significant human rights abuses, particularly in Jammu and Kashmir and in the northeastern states.

The country is in transition from a government-controlled economy to one that largely is market oriented. The private sector is predominant in agriculture, most nonfinancial services, consumer goods manufacturing, and some heavy industry. Economic liberalization and structural reforms begun in 1991 continue, although momentum has slowed. The country's economic problems are compounded by population growth of 1.7 percent annually with a current population of more than 1 billion. Income distribution remained very unequal, with the top 20 percent of the population receiving 39.3 percent of national income and the bottom 20 percent receiving 9.2 percent. Twenty percent of the urban population and 30 percent of the rural population live below the poverty level.

The Government generally respected the human rights of its citizens in some areas; however, numerous serious problems remain, despite extensive constitutional and statutory safeguards. Significant human rights abuses included: Extrajudicial killings, including faked encounter killings, deaths of suspects in police custody throughout the country, and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several northeastern states; torture and rape by police and other agents of the Government; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the northeast; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention; prolonged detention while undergoing trial; occasional limits on freedom of the press and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence against women; legal and societal discrimination against women; female bondage and forced prostitution; child prostitution and infanticide; discrimination against the disabled; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; societal violence against Christians and Muslims; widespread exploitation of indentured, bonded, and child labor; and trafficking in women and children.

Many of these abuses are generated by a traditionally hierarchical social structure, deeply rooted tensions among the country's many ethnic and religious communities, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. These problems are acute in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counterinsurgency tactics, the refusal of security forces to obey court orders, and terrorist threats have disrupted the judicial system. The number of insurgency-related killings in Jammu and Kashmir and the northeast by regular security forces increased from the previous year. In the northeast there was no clear decrease in the number of killings, despite negotiated ceasefires between the Government and some insurgent forces, and between some tribal groups.

The concerted campaign of execution-style killings of civilians by Kashmiri militant groups, begun in 1998, continued, and included several killings of political leaders and party workers. Separatist militants were responsible for numerous, serious abuses, including killing of armed forces personnel, police, government officials, and civilians; torture; rape; and brutality. Separatist militants also were responsible for kidnaping and extortion in Jammu and Kashmir and the northeastern states.

In July one of the largest Kashmiri militant groups announced a unilateral ceasefire in Jammu and Kashmir and offered to open a dialog with the Government. The Government responded by instructing its military forces to reciprocate the ceasefire, accepting the offer of dialog, and beginning talks. The ceasefire and talks ended abruptly in August when the militants demanded the start of tripartite talks between themselves, the Government of India, and the Government of Pakistan. During the same period, Pakistan-backed militants

opposed to the ceasefire attacked and killed more than 100 civilians, many of them Hindu religious pilgrims, at several locations in Jammu and Kashmir. On November 26, the Government instituted its own unilateral suspension of offensive action for the Muslim holy month of Ramadan in Jammu and Kashmir and offered to initiate dialog with militant groups that wished to come forward for talks. The Government extended the ceasefire on December 20, and it remained in force at year's end. The Government also continued to pursue a dialog with Kashmiri militant groups, but no formal talks had begun by year's end.

## RESPECT FOR HUMAN RIGHTS

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

#### a. Political and Other Extrajudicial Killings

Extrajudicial killings by government forces (including deaths in custody and faked encounter killings) continued to occur frequently in the state of Jammu and Kashmir and several northeastern states, where separatist insurgencies continued. Security forces offered bounties for wanted militants brought in dead or alive.

Official government figures indicate that security forces killed 1,520 militants in encounters in Jammu and Kashmir as of September, compared with 1,082 militants killed by about the same time in 1999 (Kashmir has been at the center of a territorial dispute between India and Pakistan since the two nations gained their independence in 1947; both claim Kashmir). Kashmiri separatist groups maintain that many such "encounters" are faked and that suspected militants offering no resistance are executed summarily by security forces. Statements by senior police and army officials confirm that the security forces are under instructions to kill foreign militants, rather than attempt to capture them alive. Human rights groups allege that this particularly is true in the case of security force encounters with non-Kashmiri militants who cross into Jammu and Kashmir illegally. According to press reports and anecdotal accounts, those persons killed typically were detained by security forces, and their bodies, bearing multiple bullet wounds and often marks of torture, were returned to relatives or otherwise were discovered shortly afterwards. For example, on the night of April 29, police took into custody Said Hafeez Mehraj, an alleged militant, at a public telephone booth in Srinagar; the police delivered Mehraj's body to his family the following day. Family members allege that the police killed Mehraj while in police custody. However, the police claim that they took Mehraj to Rajouri Kedar in downtown Srinagar so that he could help them uncover an arms cache, and that militants fired on the police party, killing Mehraj. On August 16, authorities reported that security forces killed two members of the Hizbul Mujahideen militant group during a raid on a "safe house" used by the group in Walurhama-Magam, Kupwara district. Authorities claim that the two men, Nazir Ahmad Wani and Muhammad Sadiq Mir, began shooting at the forces and that troops killed them while firing back. However, the Hizbul Mujahideen claims that the two men surrendered, and alleges that the security forces later killed them while in custody.

Nongovernmental organizations (NGO's) active in Jammu and Kashmir claimed that in January, Mohammad Tahir Shah of Kapipora was killed soon after being taken into custody by security forces, which earlier had killed Shah's two sons, alleging that they were members of a militant organization. Shah was buried in Tral town. His relatives were not permitted to recover the body for burial in Kapipora, according to an NGO. Another NGO reported that on March 29, security forces killed Gulab Muhammad Chechl in an encounter in Beerwah. Authorities claim that he was a foreign militant and that security forces killed him during a gunfight. However, his relatives say that Chechl was a beggar native to Beerwah. The National Human Rights Commission (NHRC), a government-appointed and financed investigative body (see Section 4), directed that all alleged encounter deaths be investigated immediately by an independent agency; however, members of the security forces rarely are held accountable for these killings. The NHRC itself may inquire into alleged security force abuses in Jammu and Kashmir, but does not have the statutory power to investigate such allegations if it is not satisfied with the responses to its inquiries. Authorities generally have not reported encounter deaths that occur in Jammu and Kashmir to the NHRC. Human rights groups allege that during the year security forces killed a number of captured non-Kashmiri militants in Jammu and Kashmir. During conflicts with armed militants, security forces allegedly respond indiscriminately to gunfire.

According to official figures, in Jammu and Kashmir security forces killed 1,520 militants during the year; 762 civilians and 397 members of the security forces were killed during the same period. According to the Ministry of Home Affairs, in 1999 in Jammu and Kashmir security forces killed 1,082 militants, captured 744, and 109 surrendered to authorities. During the same period, 821 civilians and 356 security force members were killed in insurgency-related incidents in the state, according to the Home Ministry. Home Ministry figures state that in 1999, 584 civilians, 439 militants, and 205 security force members were killed in insurgencies in the northeastern states. The Home Ministry reported that in 1998, 881 civilians, 374 militants, and 182 security force members were killed in the northeastern states.

The security forces also killed civilians during military counterinsurgency operations. For example, on March 25, security forces shot and killed 5 men in Pathribal village, south of Srinagar, alleging that these men were responsible for the March 20 massacre of 35 Sikh civilians in Chattisinghpura village (see Section 5); however, the victims' family members claim that all of the men were innocent civilians whom the police killed, burned, and buried. A Home Ministry spokesman, announcing an investigation into the killings of the five men, later admitted that Jammu and Kashmir police may have "overreacted" in shooting the civilians. On April 3, the Special Operations Group (SOG) of the Kashmir police and the Central Reserve police force fired into a group of several hundred unarmed Muslim protesters in Brakpora, Anantnag district, killing 8 persons and injuring at least 15 others. The demonstrators were protesting the March 25 Pathribal village killings. On April 18, the Jammu and Kashmir government opened a judicial inquiry, under the leadership of retired Supreme Court Justice S.R. Pandian, to investigate the Anantnag incident. On October 31, Jammu and Kashmir's Chief Minister reported that the Home Ministry's Central Reserve Police Force (CRPF) and the SOG of the Jammu and Kashmir police force were guilty of using excessive force during the April 3 Brakpora incident. While some members of the police special task force were indicted in connection with the Brakpora killings, trials had not

begun by year's end.

Human rights activists in Jammu and Kashmir allege that members of the Border Security Force shot and killed Ashraf Bazaz and his wife in Srinagar. Security forces allegedly killed the couple, who was traveling in a taxi through Malka Chowk in the capital of Kashmir, after stopping them for questioning. The authorities maintain that the couple was killed in crossfire between the Border Security Force and a group of militants. On August 9, security forces reportedly opened fire on a group of protesters in the town of Rajori near the Jammu border with Pakistan, killing 1 person and injuring 15 others; allegedly, the shooting occurred because the protesters tried to stop an army convoy.

Accountability remains a serious problem in Jammu and Kashmir. Security forces have committed thousands of serious human rights violations over the course of the conflict, including extrajudicial killings, disappearances, and torture (see Sections 1.b. and 1.c.). Despite this record of abuse, between January 1990 and September 1998, only 295 security force members were prosecuted and punished for any of these crimes, and no compensation was paid to the victims or their families, according to the Union Home Ministry. During the same period, 113 security force members were punished for human rights abuses in the northeastern states. Punishments ranged from reduction in rank to imprisonment for up to 10 years. According to Amnesty International, the army stated in January that it had investigated 822 of the 955 complaints of human rights violations that it received in 1999 and found that only 24 were of substance.

In the past, scrutiny by the NHRC and international human rights organizations, when permitted (see Section 4), and the persistence of individual magistrates, resulted in somewhat greater accountability for abuses committed by security force members in Jammu and Kashmir; however, in July 1998, the Government rejected the NHRC's recommendations to bring the army and paramilitary forces under closer scrutiny by allowing the NHRC to investigate complaints of their excesses. The majority of complaints during the year involved individual cases; while there have been complaints of individual houses being destroyed, there were no reports of entire villages being burned by armed forces or of mass killings, as in past years. The NHRC continues to receive complaints alleging human rights violations by the security forces, especially from Jammu and Kashmir and the northeastern states.

There were many allegations that military and paramilitary forces in the northeast engage in abduction, torture, rape, arbitrary detention, and the extrajudicial execution of militants (see Sections 1.b., 1.c., 1.d., and 1.g.). The Armed Forces Special Powers Act of 1958 and the Disturbed Areas Act of 1976 remained in effect in several states in which active secessionist movements exist, namely, in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, which, according to human rights groups, allow security forces to operate with virtual impunity in areas under the act. The Armed Forces Special Powers Act of 1958 provides search and arrest powers without warrants (see Section 1.d.).

Human rights monitors allege that, as in Jammu and Kashmir, government reports of deaths during "encounters" between insurgent groups and security forces in northeastern states actually are staged, and that those insurgents who were reported dead were killed after being detained by security forces. More than 30 encounters occurred between security forces and militant groups in Tripura alone during the first 9 months of the year. In March Assam chief minister Prafulla Kumar Mahanta told the press that 1,439 persons had been killed during the state's conflict; of these, 430 were security force members. There were at least 60 insurgency-related killings in Assam between January and June, according to an informal estimate from press reports. For example, on April 7, army personnel killed six suspected United Liberation Front of Assam (ULFA) militants in an encounter in the Manasdiga Forest, Bongaigaon district. The People's Union for Civil Liberties (PUCI) credibly reported that army troops killed 12 members of the National Socialist Council of Nagalim (Isak-Muivah) (NSCN-IM) in an encounter on July 11 along the Assam-Manipur border close to the Jiri River at Bolapunj in Assam's northern Cachar district. There were no army casualties in the encounter. The district administration in Meghalaya ordered an investigation of an August 24 police shooting in which two Khasi student union leaders were killed. The two students allegedly were members of the Hynniewtrep National Liberation Council (HNLC) and were suspected of having killed three nontribal laborers in Meghalaya in 1999. The South Asia Human Rights Documentation Center (SAHRDC) credibly reported that on September 10, members of the 17th Battalion of the Assam Rifles, led by Major Rawal, took Khundrakpam Tomcha, Surjit Chongthamcha, Ito Tongbram, and Robin Thokchom into custody in the home of Naorem Dwijamani at Chingamthak, Thokchom Leikai, Imphal, Manipur; authorities detained Dwijamani later the same day. It is believed that the Assam Rifles took the five persons to their headquarters in Kangla. On September 12, police found a bullet-riddled body, which subsequently was identified as that of Khundrakpam Tomcha, on a bank of the Imphal River near Singjamei, Thokchom Leikai, Imphal. On September 12, the Assam Rifles stated that security forces had killed Khundrakpam Tomcha in crossfire between security forces and insurgents during an operation against insurgents on September 11. However, witnesses allege that the body also bore marks of torture. On September 13, the 17th Battalion Assam Rifles released to police Naorem Dwijamani and Robin Thokchom into police custody. According to press reports, Thokchom had been tortured (see Section 1.c.). Dwijamani subsequently was released on bail, but as of November, Thokchom remained in the central Imphal jail, facing charges under the National Security Act (NSA).

Since 1980 clashes between police members and Naxalite Maoist Revolutionaries of the Peoples' War Group (PWG) have occurred in northwestern Andhra Pradesh. During the late 1990's, hundreds of policemen and suspected Naxalites were killed, according to press reports and human rights organizations. According to police, 101 PWG Naxalites were killed in armed "encounters" during the first 8 months of the year. Twenty years of guerrilla-style conflict have led to serious human rights abuses committed by both sides. Human rights groups allege that "encounters" often are faked by the police to cover up the torture and subsequent killing of Naxalite suspects, sympathizers, or informers. According to police, the PWG killed 31 police officers and 80 civilians, including the former home minister of the state, from January 1 to December 14. In PWG-dominated areas, villagers complain of regular harassment and arbitrary detention by police (see Section 1.d.). Police officials rarely, if ever, are held accountable for human rights abuses.

The state government offers a financial package to surrendered PWG militants, a program that has prompted hundreds of Naxalites to leave the movement in recent years. According to human rights activists and journalists, a few surrendered militants have been allowed to retain their weapons and now are working for the police as anti-PWG hitmen, residing in police camps and barracks. On November 23, four assailants killed a human rights lawyer and former PWG militant Purusuotham in Hyderabad. Police arrested four suspects a few days later, two of whom were identified as ex-PWG militants. The two persons confessed to the killing at a press conference that was quickly organized by the police. Police attributed the killing to feuds dating back to the victim's time spent in the PWG.

An "encounter" death occurred in Tamil Nadu on January 10, when police shot and killed a Naxalite, Ravindran, in Dharmapuri district. Police claimed that they opened fire after Ravindran and three other Naxalites ambushed a police patrol. A fact-finding team of human rights NGO's, citing inconsistencies in the police reports and the testimony of another Naxalite who was taken into custody during the same incident, alleged that Ravindran was arrested on January 7, tortured, and later executed (see Section 1.c.). On July 20, Andhra Pradesh police killed seven Naxalites in Karimnagar district. According to police, the Naxalites began firing at police officers who were surrounding a safehouse used by the extremists, and the seven were killed in the ensuing return of fire by police. However, human rights NGO's allege that police deliberately set fire to the house before the outbreak of gunfire and then fired bullets into the structure for several hours, killing the Naxalites. On October 30, police surprised an armed group of seven female Naxalites in Gadampalli, Andhra Pradesh. Police opened fire while the women were bathing in a stream, killing all seven. No policemen were injured or killed in the encounter. On November 2, police officers killed Jadhav Subash, a former Naxalite, in Dantepalli village, Andhra Pradesh. According to human rights lawyers who interviewed village eyewitnesses, a squad of policemen dragged Subash from a village tea shop and then shot and killed him.

As evidence that "encounters" often are faked by police, human rights groups cite the refusal of police officials to turn over the bodies of suspects killed in "encounters." The bodies often are cremated before families can view them. The NHRC is investigating about 285 reported cases of so-called "fake encounter deaths" allegedly committed by the Andhra Pradesh police in connection with anti-Naxalite operations. In its 1996-97 report, the NHRC stated that the evidence on record did not reveal any prior police attempt to arrest the persons before they were killed. The report observed that in none of these encounters did police personnel receive any injury. The Commission further observed that "no attempt whatsoever" was made to ascertain the identity of the police officers who fired the weapons, and that no attempt was made to investigate the circumstances under which the police opened fire. "As this appeared to be the pattern of the procedure followed by the police," the report concluded, "the Commission felt it necessary to conclude that the procedure followed by them was opposed to law." According to the Andhra Pradesh Civil Liberties Committee, the NHRC has evidence of police culpability in several cases of "encounter deaths" involving suspected Naxalites. However, such cases have not been adjudicated in the courts or otherwise have not been acted on by the state government. For example, of six cases referred by the Andhra Pradesh Civil Liberties Committee to the NHRC in 1994, evidence of police culpability was found in five. In 1994 the NHRC directed the state government to investigate the cases; however, the state never has taken any action. The state government's failure to act expeditiously in these cases has discouraged local human rights groups from filing additional "encounter death" cases with the NHRC.

The Disturbed Areas Act has been in force in a number of districts in Andhra Pradesh for over 3 years. Human rights groups allege that security forces have been able to operate with virtual impunity in parts of Andhra Pradesh under the act. They further allege that Andhra Pradesh police officers train and provide weapons to an armed vigilante group known as the "Green Tigers," whose mission is to combat Naxalite groups in the state. Little is known about the size, composition, or activities of this group.

Police also used excessive force indiscriminately against demonstrators, killing many citizens. For example, according to Amnesty International, on January 31, police killed two "Dalit" (formerly "untouchable") men in Jethuke village, Bhatinda district, Punjab, when they opened fire on hundreds of persons demonstrating over high bus fares and the detention of four leaders of the Bharatiya Kisan Union (Indian Farmers Union), who were representing villagers in negotiations with the district administration regarding the issue (see Section 2.b.). On May 8, in Dibrugarh, Assam, police killed two persons when they opened fire on the funeral procession of a businessman and his son—who allegedly were killed by surrendered ULFA militants working at police behest. On May 10, police fired 23 rounds of bullets into a mob of Karbi People's Front (KPF) supporters in Jalpaiguri, West Bengal, killing 1 person and injuring 5 others. During the year, a government commission completed its investigation of the drowning deaths of 17 persons in Tirunelveli, Tamil Nadu. The deaths occurred in July 1999, when thousands of demonstrators ran into a river to escape police beatings. The demonstrators were demanding government intervention in a labor dispute at a local coffee estate and the release of 652 estate workers imprisoned after a previous demonstration. Human rights groups in Tamil Nadu criticized the commission's findings, claiming that the commission exonerated senior police officials, and implied that the demonstrators themselves were responsible for the drownings. No charges in connection with the drownings had been brought against any police official by year's end.

On April 4, police in Mau district, Uttar Pradesh, confronted a group of 20 to 25 women staging a sitdown strike to demand the removal of a liquor-vending stall from their village, according to PUCL. After failing to persuade the women to disperse, police charged the group with bamboo poles. When this failed to move the women, the police opened fire on the unarmed protesters, killing one of them. On December 18, police in Keshori village, Gondia district, Maharashtra, fired on a crowd of persons, killing 5 persons and injuring 31 others. The villagers asserted that the police firing followed an altercation that arose when villagers objected to some drunken policemen sexually harassing a village woman. Police initially claimed that they had fired in self-defense. The entire police contingent later was transferred to another district. On December 31, police in Rayagada district, Orissa, fired on villagers protesting the attempt of a multinational company to set up an aluminum plant in the predominantly tribal area; three persons were killed.

Throughout the country, numerous accused criminals continue to be killed in encounters with police. For example, the Institute of Objective Study in its "Human Rights Today" bulletin of winter 1999-2000 reported that on January 14, police in Meerut, Uttar Pradesh, shot and killed 20-year-old Meerut College student Smita Bhaduri. Three police officers—Inspector A.K. Kaushik, Constables Surendra, and Bhagwan Sahay of Daurala police station—were told that "gangsters were prowling" Sewayya village on the outskirts of Meerut. After arriving at the village, the three officers shot at an automobile, believing it to be the gangsters' vehicle, killing Bhaduri. The officers allegedly reported that Bhaduri was killed by "crossfire" during an "encounter" with gang members.

According to the Government, 542 civilians and 96 police officers died in gunfire exchanges involving police in 1998.

Security forces also held persons in incommunicado detention; on occasion, as in the 1996 case of human rights monitor Jaill Andrabi, such missing persons later were found dead (see Sections 1.b. and 4). As of December 1997, 55 cases of disappearance and custodial death still were pending against Border Security Force personnel in Jammu and Kashmir (see Sections 1.b. and 1.c.).

While extrajudicial killings continued in areas affected by separatist insurgencies, the press and judiciary also continued to give attention to deaths in police custody. According to the NHRC, 1,114 persons died in prisons between April 1998 and March 1999, many from natural causes that in some cases aggravated by poor prison conditions (see Section 1.c.). Human rights groups allege that many deaths in prisons are due to torture. There were numerous examples of prison deaths due to torture throughout the year (see Section 1.c.).

The NHRC has focused on torture and deaths in custody by directing district magistrates to report all deaths in police and judicial custody and stating that failure to do so would be interpreted as an attempted coverup. Magistrates appear to be complying with this directive. However, the NHRC has no authority to investigate directly abuses by the security forces, and security forces therefore are not required to—and do not—report custodial deaths in Jammu and Kashmir or the northeastern states. In August the NHRC ordered an investigation into the death in police custody of Rajan Singh in September 1995 in Agra district jail. Police stated that Singh, who was being transported to court for trial in a police truck, died of injuries sustained when he jumped from the vehicle in an effort to escape. The autopsy revealed that Singh had undergone shock and hemorrhaging prior to his death. The NHRC found that the postmortem results were inconsistent with the police explanation of the death and believed that the claim of Singh's attempted escape from custody was fabricated and that a more likely explanation was that Singh "could have been subjected to severe beating in the police vehicle." The NHRC ordered Uttar Pradesh state to pay \$10,990 (500,000 rupees) in compensation to Singh's next of kin and recommended disciplinary action against the police officers involved in the incident. Also in August, the NHRC directed the Karnataka government to pay compensation of \$4,395 (200,000 rupees) to the family of Thimmaiah, who died in the Mulbagal police station, Kolar district, Karnataka. The police maintain that Thimmaiah hanged himself in his cell; however, the postmortem and inquest reports forwarded by the Karnataka government do not substantiate this claim. The Commission concluded that the death "had been caused by police," and ordered the government of Karnataka to bring charges against the police officers involved in the incident.

According to the PUCL, on February 17, Nathan died in police custody in Chennai. Police assert that they arrested Nathan on February 16 on suspicion of theft and that he confessed to that crime in court the same day. They further maintain that Nathan complained of diarrhea and vomiting the following morning; he later was taken to a nearby hospital and declared dead. However, the PUCL alleges that Nathan actually was arrested on February 10, 6 days before the recorded arrest, and that police tortured him to death in an effort to recover stolen money. The Tamil Nadu government initiated an official inquiry into the death and suspended six police personnel, including an inspector, after the incident. Amnesty International and Human Rights Watch (HRW) reported that on April 20, police in Gujarat beat to death Colonel Pratap Save, an activist with the Kinara Bachao Samiti (Save the Coast Committee), which was protesting the construction of a port in Gujarat. Members of the State Reserve Police allegedly arrested 46 demonstrators, including Save, following the protest, and beat 6 of them at a local police station (see Section 1.c.). Save suffered a brain hemorrhage and died at a hospital in Mumbai. All of the other protesters were released on bail within 48 hours. The Karnataka branch of the PUCL alleged that police in Moodabidri town, Mangalore district, Karnataka, were responsible for the custodial death of Sudath Kumar Jain, a 40-year-old local film projectionist. The human rights group alleges that police took Jain from his home for questioning shortly after midnight on May 30. Two hours later, his relatives were informed that he had been admitted to a hospital; his relatives found Jain unconscious and bleeding from his mouth. Jain was transferred to a second hospital late that morning where he died 3 hours later. The PUCL concluded that police had tortured Jain to death (see Section 1.c.). After the investigation results, the superintendent of police, South Kanara district, filed a criminal case against the arresting officer.

Human rights groups allege that police in Adilabad district, Andhra Pradesh tortured and then hanged Chandraiah, an unarmed suspected Naxalite, on June 10. Angry villagers forced one of the police officials to confess to the hanging. Based on his confession, human rights activists filed a formal complaint with the NHRC. The NHRC has directed the Andhra Pradesh government to investigate. The PUCL reported that Krishna Pada Seal, his wife, and his son were imprisoned in Sakchi Jail, Jamshedpur, Bihar on July 25. According to the PUCL, prison officials tortured them, allegedly because they intended to extort money from the family (see Section 1.c.). Seal and his family were granted bail on August 4, following the intercession of the PUCL. On his release, Seal could not walk, and died as he was being carried to a waiting car. According to credible reports, on August 3, Lalrinchana, a 25-year-old Chin refugee, died from torture in the Mizoram Aizawl central prison. Reportedly, village defense persons first arrested and tortured Lalrinchana, and then turned him over to the Mizoram police (see Section 2.d.). In August the Karnataka High Court convicted eight police officers who served in Nanjangud Police Station in Karnataka in 1996 for fabricating official records following a custodial death. The Karnataka police oversaw the entire investigation and presentation of evidence.

In its 2000 annual report, Amnesty International expressed concern about the torture death of 21-year-old Devinder Singh. On September 18, 1999, police beat Devinder Singh, Sapinder Singh, and Karnail Singh (three Sikh brothers), in a police courtyard in Punjab, apparently to exact a confession from them that they possessed an assault rifle. Allegedly, police pulled their legs open 180 degrees, applied gasoline to their genitals, and beat them badly. Devinder Singh died as result of his injuries. A police subinspector subsequently was charged with Devinder Singh's murder.

An army major was arrested in 1998 for the 1996 killing of human rights monitor Jallil Andrabi. The case still was being heard at year's end, but human rights workers alleged that the central Government and Jammu and Kashmir state both were attempting to subvert the judicial process by withholding evidence, and that there were no court actions during the year. There were no developments in the 1996 killing of human rights monitor Parag Kumar Das, who allegedly was killed by a militant who previously had surrendered and was supported by the Government (see Section 4).

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir. Countermilitants are former separatist militants who have surrendered to government forces, but who have retained their weapons and paramilitary organization. Government agencies fund, exchange intelligence with, and direct operations of countermilitants as part of the counterinsurgency effort. Countermilitants are known to search persons at roadblocks (see Section 2.d.) and guard extensive areas of the Kashmir Valley from attacks by militants. The Government, through its sponsoring and condoning of extrajudicial countermilitant activities, is responsible for killings, abductions, and other abuses committed by these militant groups. Perhaps as many as 3,000 individuals continue to operate in Jammu and Kashmir, particularly in the countryside, outside major towns. The Hizbul Mujahideen, a Kashmiri militant group, stated in June 1998 that progovernment countermilitants had killed 350 of its members. According to Pakistani newspaper accounts, Indian security forces had killed 438 Pakistani members of insurgent groups in Jammu and Kashmir during 1999. Of this number, 200 were members of the Lashkar-e-Tayyaba, 123 were members of the Al-Badr Mujahideen, 69 were members of the Harkat-ul-Mujahideen, and 46 were members of the Hizbul Mujahideen. However, these numbers have not been confirmed, and only include the four largest militant groups in the state. The Government stated that security forces had killed 1,520 militants in the state during the year, compared with 1,082 in 1999. The Government recruited countermilitants into the Special Operations Group of the Jammu and Kashmir police and into the Border Security Force.

Militant groups in Jammu and Kashmir increasingly targeted members of the security forces and civilians during the year. In January militants allegedly killed two soldiers in Jammu and Kashmir; the soldiers retaliated with arson. On February 28, militants killed five Hindu truck drivers on the Srinagar-Jammu Highway (see Section 5). According to HRW, in February militants allegedly shot and killed three police officers in the busy market area of Lal Chowk, Srinagar; security forces retaliated by beating nearby civilians with sticks and rifle butts and by burning cars in Srinagar (see Section 1.c.). On March 20, militants massacred 35 Sikh inhabitants of Chatsinghpura town, Anantnag district, Jammu and Kashmir, in what appeared to be a well-planned attack. The militants, dressed in military uniforms, separated unnamed male members of the Sikh families from women and children, gathered the men in a school complex a short distance from their homes, and summarily executed them. It was the first known attack on the Sikh minority in Jammu and Kashmir by militants, and it appeared intended to drive other members of that community from the Muslim-majority state (see Section 5).

On March 24, militants invaded a Muslim family's home and killed five family members in Kot Budhan village, Udhampur district. The militants stormed into the house in the early morning, beat family members, and then shot them at point-blank range; three other family members, including a child, were wounded in the attack. According to HRW, on April 17, gunmen entered the homes of several Hindu families in Kot Dara village, near Rajouri. They fired on the unarmed civilians, killing six persons and injuring six others (see Section 5). On August 1 and 2, militants launched 8 separate and coordinated attacks in Jammu and Kashmir, killing approximately 99 persons. In one of the attacks, at Pahalgam, armed militants descended on a camp of Hindu religious pilgrims making the annual pilgrimage to Anamat, in the northern part of the state. The militants fired automatic weapons at the pilgrims' tents, the unarmed civilians in the camp, their local porters and guides, and nearby army personnel, killing 32 persons, primarily unarmed civilians. Similar attacks throughout the night of August 1 to 2 appeared to have been intended to halt the nascent effort of the Hizbul Mujahideen militant group and the Government to observe a ceasefire and initiate a dialog. An army-headed commission investigated the August 1 Pahalgam massacre and reported on October 31, that the Home Ministry's Central Reserve Police Force and the SOG of the Jammu and Kashmir police force used excessive force; however, there were no charges brought in connection with this use of excessive force. On August 17, militants from Harkat-ul-Jehade Islami reportedly killed six Hindu villagers and seriously wounded seven in the Rajouri district in Jammu (see Section 5). According to HRW, on August 18, militants killed three elderly men and a teenage boy, and wounded two other persons when they fired automatic weapons at civilians in Ind village, Udhampur (see Section 5). On September 12, Lashkar-e-Tayyaba and Jamaat-ul-Mujahideen militants wearing army uniforms entered an army camp at Beerwa, Budgam district, and fired automatic weapons at the sleeping soldiers; 11 soldiers were killed. Two of the attackers were killed in the ensuing gun battle. In early December, militants killed two members of a policeman's family and wounded two others when they barged into a house in the border district of Poonch and opened fire. Militants also carried out attacks on security forces that killed numerous persons (see Section 1.g.). On December 22, six militants with concealed weapons entered Delhi's Red Fort, an historic monument that also houses an army unit, during a regularly scheduled sound and light show for the public. The militants opened fire on the crowd, killing a soldier and two civilians. The Lashkar-e-Tayyaba militant group later claimed responsibility for the attack. On December 26, city police raided a Delhi apartment and shot and killed Abu Shamal, whom they claimed to be Lashkar-e-Tayyaba militant involved in the Red Fort attack.

Killings of security force members by militants in Jammu and Kashmir increased for the third year in a row. According to official statistics, 397 security force personnel were killed in the state during the year. The Ministry of Home Affairs reported that 356 security force members were killed in the state in 1999 and that 232

members died in Jammu and Kashmir in 1998.

Insurgency and increased ethnic violence took a heavy toll in the northeastern states. Extensive, complex patterns of violence continued in many of the seven northeastern states. The main insurgent groups in the northeast include two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security force in Assam; and the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura. The proclaimed objective of many of these groups is to secede from the country, creating new, independent nations. Their stated grievances against the Government range from charges of neglect and indifference to the widespread poverty of the region, to allegations of active discrimination against the tribal and nontribal people of the region by the central Government (see Section 5). The oldest of these conflicts, involving the Nagas, dates back to the country's independence in 1947. On August 1, 1997, a ceasefire between the Government and the Isak-Muivah faction of the NSCN (NSCN-IM) entered into effect. The ceasefire was extended in January until July 31, 2001. In April another Naga insurgent group, the National Socialist Council of Nagaland-Khaplang (NSCN-K), announced a formal ceasefire. Security forces were not operating against either of the two NSCN factions and both generally were observing the ceasefire with security forces. However, in April week-long fighting between the 2 NSCN factions left over 45 persons dead, and 4,500 persons were forced to flee 15 villages in Mon district (see Section 2.d.). Negotiations to widen the area of application of the ceasefire were handicapped when NSCN(I-M) leader Thuingaleng Muivah was arrested in Thailand on January 19 for travelling on a forged South Korean passport. On August 25, a joint group of Thai and Indian citizens appealed to the central Government to secure the release of the NSCN(IM) leader in the interest of Naga peace talks. He was released on bail in September.

Elsewhere in the northeast, Bodo-Santhal ethnic clashes, which began in April 1998, continued throughout the year. More than 87,000 persons live under poor conditions in relief camps in Assam's Kokrajhar, Gosaigaon, and adjoining districts as a result of the ongoing violence between Bodos and Santhals. The killings of ULFA leaders' family members during the year renewed concerns about the situation in Assam.

Militant groups in Manipur, Tripura, and Assam continued to attack civilians.

In Tripura on January 3, the NLFT killed three persons, including Ravi Kumar Devbarma, a Communist Party of India (Marxist)CPI(M)-leader, in Kashichandrapara. Prior to the April 30 to May 3 elections for the Tripura tribal autonomous district council, ultras (militants) threatened to harm seriously persons who voted in favor of any candidate not belonging to the Indigenous People's Front of Tripura (IPFT). During the period before the election, more than 1,500 nontribal families from 3 villages were left homeless as tribals backed by militants intensified their offensive to cleanse autonomous district council areas of Bengalis. On April 14, the NLFT killed four nontribal villagers in Ramdulapara, north Tripura. Reportedly, the NLFT was retaliating for a United Bengali Liberation Force (UBLF) attack nearby on March 8 in which a villager was killed and six tribals were injured seriously. On April 15, the NLFT killed at least 12 villagers in Khas Kalyanpur, West Tripura. On May 4, NLFT militants shot three family members of Kishore Debbarma, an NLFT deserter. On May 15, NLFT militants killed four persons and abducted three others in west and south Tripura (see Section 1.b.). CPM sources allege that all of the victims were CPM supporters and that the NLFT was punishing them for voting for the CPM in the council polls. On May 19, NLFT insurgents killed seven nontribals—including CPM workers' family members—and set fire to several houses in south and west Tripura. On May 20, at least 8 persons were killed and more than 20 others were injured in Kalyanpur, west Tripura. On May 21, 15 persons were killed in Teliamura and Kalyanpur in attacks on tribals by non-tribals. NLFT insurgents killed 40 villagers in west Tripura on May 21, including 19 nontribals who were massacred at a relief camp in Kalyanpur. On May 22, NLFT insurgents killed three nontribals in Gandachhara. On May 25, NLFT members raided the house of a CPM leader in west Tripura, and burned alive his 8-year-old son. On May 26, ATTF rebels killed a tribal person and kidnaped four others (see Section 1.b.). On May 28, the NLFT shot and killed two farmers in Raiabari. On June 6, ATTF ultra's hacked a person to death in Warengtubari. On June 13, two persons, including a paramilitary officer, were killed in an ethnic clash in Telaimura, in which a Bengali mob, angered at a killing by tribals, turned violent. On June 23, NLFT militants kidnaped and killed a person in Anandapur village. On June 26, four persons were injured in ethnic clashes between tribals and Bengalis in Teliamura. On July 9, NLFT militants shot and killed Dharendra Roy, a CPM leader at Salema. On July 14, tribals set fire to more than 150 houses, injured 3 persons, and kidnaped another in Teliamura. On July 22, rebels of the Bru National Liberation Front (BNLF), a group of Reang tribals, shot 12 NLFT activists at Saikarbari. On July 25, tribal rebels killed Roman Catholic priest Victor Crasta near Bongsul village. The same day UBLF activists set 25 houses on fire in west Tripura. On August 17, militants killed a villager at Panisagar and abducted three persons from Manu (see Section 1.b.). On August 26, NLFT insurgents killed one tribal youth in Sidhal, a fisherman at Jarulbachai, and a plantation worker in Narendrapur Tea Estate. On August 27, Bengalis in Tripura State Rifles uniforms hacked to death three tribal women in Durga Charan Para village. NLFT ultra's killed a priest as he was exiting a Kali temple in Jirania on August 27 (see Section 5). On November 19, NLFT members killed six Bengali settlers, including two children, in the remote Barahaldi area of Tripura; a few hours later, Bengali settlers killed seven tribals in retaliation.

In Assam, on April 9, United People's Democratic Solidarity (UPDS) militants lined up 11 non-Karbi laborers in the Dhansari Reserve Forest in Karbi Anglong district, and shot at them. (The UPDS is a Karbi radical group fighting for greater autonomy for the Karbis, and Karbis are tribal peoples native to Karbi-Anglong district.) On April 19, UPDS militants killed 11 Nepalis at East and West Umplapher villages. On April 24, UPDS militants killed six Bihari laborers in Akhoiputua as part of their ethnic cleansing drive in Karbi Anglong district. In April alone, the Karbis killed 29 persons. In an ambush near Hafong, Dima Halam Daoga (DHD), militants killed an executive magistrate and five others on May 18. On June 3, ULFA militants at Srijangram in Bongaigaon killed two Assam policemen. On June 20, two CRPF personnel and a top People's United Liberation Front (PULF) leader were killed in an encounter at Motinagar. On June 25, surrendered ULFA leader Tarun Phukan was found dead; it is believed that ULFA activists killed him at Sivsagar. On July 16, UPDS activists in Karbi Anglong district shot 10 nontribals, mostly women and children. On July 18, migrant Biharis killed six Karbi villagers in Karbi Anglong. On July 26, DHD militants opened fire in a marketplace at Herangajao, killing two

traders and injuring six others. C. August 20, suspected National Democratic Front of Bodoland (NDFB) militants killed Bodo Sahitya Sabha President Bineswar Brahma in Guwahati. On August 21, at Bijnr, NDFB rebels killed eight persons including a Peoples Democratic Front Legislator, Mohini Basumatary. On August 22, Bodo militants killed a former All Assam Students Union Leader. On August 27, a man affiliated with the People's United Liberation Front (PULF) killed a 7-year-old Muslim boy in Cachar for unknown reasons, generating protests from Muslim organizations such as Nadwadoot Tamir and the Cachar Koumi Madrassa Students' Association. On December 7, in Sadiya, Assam, more than 20 ULFA militants killed 28 persons after intercepting 3 trucks carrying non-Assamese, mainly Nepali settlers, from a nearby market.

On June 10, unidentified militants killed noted playwright and social worker Arambam Somorendra at Khurai Salanthong. On June 28, unknown assailants killed 10 passengers in a car on the Imphal-Jiri stretch of National Highway 53. On July 30, unidentified militants killed four security personnel and injured many others in an ambush near Mao, bordering Nagaland. In mid-November suspected militants of the People's Liberation Army of Manipur shot and killed five army personnel in the Mutukhong area of east Imphal district.

Many members of the Hmar Revolutionary Force (HRF) in Mizoram accepted the state government's offer of amnesty in return for surrendering their arms. On June 6, 16 HRF members relinquished arms before state Home Minister Tawluiia. They received \$215 (10,000 rupees) each for rehabilitation. In Assam more than 2,000 extremists surrendered their arms during the year. A new Assam government package for insurgents attempted to rehabilitate rural and urban ultras separately, through various economic development and training programs. On February 6, "organizing secretaries" of the ULFA Khairul Hussain and Phukan Ali and "medical-in-charge" Tajuddin Ahmed surrendered to the army in lower Assam. On March 21, 22 ULFA members surrendered before Sonitpur district administration in Tezpur. On April 4, 532 Assam militants (436 ULFA members, 77 Karbi National Volunteers, and 19 National Democratic Front of Bodoland) surrendered at Rang Ghar. On April 18, 48 ULFA and NDFB militants surrendered before village elders in lower Assam's Darrang district. On May 2, 75 militants (54 ULFA, 12 Rabha National Security Force, 8 Muslim United Liberation Tigers of Assam, and 1 Koch Rajbangshi) surrendered in Goalpara before the district administration. On May 30, 25 ULFA militants relinquished arms before the army at Bongaigaon.

The kidnaping of NGO environmental monitor Sanjay Ghosh in 1997 and his death at the hands of his ULFA captors continued to attract wide public criticism. In August 1997, ULFA confirmed that Ghosh died in captivity after being "arrested and tried." ULFA still has not produced Ghosh's body. In June 1999, the CBI filed murder charges in connection with the case against ULFA leader Paresw Arua and 10 other ULFA members. During the year, surrendered ULFA militant Lohit Deuri told the police that ULFA has kept one of the killers of development worker Sanjoy Ghosh in "solitary confinement" since 1999. The alleged killer, Khirod Gohain, is serving a "sentence" for indiscipline.

Naxalite Maoist revolutionaries of the PWG killed dozens of persons, declaring them "class enemies" or police informers. On September 3, three PWG members shot and killed a former Naxalite, Krishnan, in Nizamabad district, Andhra Pradesh. Krishnan had surrendered to police earlier. The militants left a note accusing him of being a police informant. On May 30, PWG Naxalites shot one person and blew up a government guesthouse in a village in Andhra Pradesh. In areas under their control, Naxalites dispense summary justice in "People's Courts," which in some cases condemn to death suspected police informers, village headmen, and others deemed to be "class enemies" or "caste oppressors" (landlords); the Naxalites also extort money from these groups, as well as businesses. Naxalite violence has plagued Andhra Pradesh since the early 1980's, and has claimed more than 500 civilian and police victims since 1996 alone (see Sections 1.g. and 5).

In November 1997, an independent commission of inquiry established by Parliament in 1991 to investigate the May 21, 1991 assassination of former Prime Minister Rajiv Gandhi tabled an interim report of its findings in the Lok Sabha (lower house of Parliament). The report blamed the Liberation Tigers of Tamil Eelam (LTTE) as clearly responsible for the assassination but was inconclusive on the question of whether the LTTE had received assistance in carrying out the murder. It criticized the then-government for its alleged failure to provide comprehensive security for the former Prime Minister. On January 28, 1998, a designated lower court in Chennai sentenced to death all 26 persons accused in the assassination. The CBI originally charged 41 persons in the case; 12 since have died, and 3 have evaded capture (including LTTE leader Velupillai Prabhakaran). Many of those sentenced, who include both Indian and Sri Lankan nationals, allegedly were involved only peripherally in the assassination plot, but the court upheld the CBI contention that all of them were aware that they were conspiring in a common cause. Having heard an appeal of the convictions, the Supreme Court in May 1999, acquitted 19 of the 26 accused persons and upheld the convictions of 7 persons (see Section 1.e.). It sustained the death sentence in the case of four of the convicted persons and changed the sentence of three others to life imprisonment.

Nearly 50 persons were killed in election-related violence throughout the country in September and October (see Sections 1.g. and 4).

Religiously and ethnically motivated violence caused numerous deaths (see Section 5).

Mob lynchings of tribal people occur in many states (see Section 5).

#### b. Disappearance

According to human rights groups, unacknowledged, incommunicado detention of suspected militants continued in Jammu and Kashmir; however, the Government has not released any recent figures.

The Ministry of Home Affairs reported that 744 suspected militants were arrested in 1999 and 109 persons



surrendered. In comparison, according to the Jammu and Kashmir police, 1,228 suspected militants were arrested in 1998 and 187 persons surrendered. Human rights organizations allege that the decline in the number of militants arrested from 1998 to 1999 is consistent with reports that security forces are killing many militants captured in "encounters" (see Section 1.a.); that pattern continued during the year. Of those arrested and who surrendered in 1998, 529 persons were released after preliminary questioning, 457 persons were charged under special security laws, and the remaining persons were released at a later stage of judicial review. In addition the Jammu and Kashmir police stated that in 1998 it held 514 persons under the Public Safety Act (PSA). According to an Amnesty International report that was released during the year, there are between 700 and 800 unsolved disappearances in Kashmir since 1990. The Home Ministry reported that security forces in the northeastern states arrested 1,413 suspected militants in 1999; an additional 1,080 militants surrendered during that year. In comparison 1,485 suspected militants were arrested and 267 persons surrendered in 1998. The Government was unable to provide complete statistics for the number of persons held under special security laws in the northeastern states, but acknowledged that 43 persons were in detention under the National Security Act as of December 31, 1998. Although the Government allowed the Terrorist and Disruptive Practices (Prevention) Act (TADA) to lapse in 1995, human rights organization credibly reported that more than 1,000 persons remained in detention awaiting prosecution under the law. Several thousand others are held in short-term (1 day to 6 months duration) confinement in transit and interrogation centers.

Human rights groups maintain that several hundred more persons are held by the military and paramilitary forces in long-term unacknowledged detention in interrogation centers and transit camps in Jammu and Kashmir and in the northeastern states that nominally are intended for only short-term confinement. Human rights groups fear that many of these unacknowledged prisoners are subject to torture and extrajudicial killing (see Sections 1.a. and 1.c.). According to one NGO, there were 1,300 writs of habeas corpus pending in the Jammu and Kashmir High Court in 1999. In August Amnesty International reported that the fates of up to 1,000 persons reported missing in Jammu and Kashmir since 1990 remain unexplained by authorities. The U.N. Special Rapporteur on Torture reported in 1997 that more than 15,000 habeas corpus petitions have been filed in the country since 1990, "but that in the vast majority of these cases the authorities had not responded to the petitions." In 1999 the Working Group on Enforced or Involuntary Disappearances of the U.N. Commission on Human Rights (UNCHR) transmitted 33 newly reported cases of disappearance to the Government, 14 of which reportedly occurred in 1998. The Government submitted information on eight cases of disappearance to the working group in 1999.

HRW reported that M. Akbar Tantray, an imam of a mosque in Rafiaband, Jammu and Kashmir, was reported missing on February 8. Shortly after his January 30 arrest by an army unit, unit officials told family members that Tantray was not in their custody. In February the NHRC issued a notice to the Union Defense Secretary requiring him to report on the whereabouts of Abdul Rasheed Wani of Bemina, Jammu and Kashmir. According to family members, an army patrol arrested Wani near the Srinagar fruit market on July 7, 1997 and he has not been seen since. In August Amnesty International appealed to the Government to investigate the growing number of disappearances in Jammu and Kashmir. The organization estimated that as many as 1,000 persons had "disappeared" in the state since 1990. In September the NHRC issued a notice to the Chief Secretary and Director General of Police in Jammu and Kashmir and the Secretaries of the Union Home and Defense Ministries requiring them to report on missing persons in the state within 8 weeks; however, there was no public information regarding the authorities complied with the directive.

In one prominent case in Jammu and Kashmir, the Government responded to the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions in 1997, states that human rights monitor Jalil Andrabi was not arrested by security forces, as alleged by human rights groups, but was abducted by "unidentified armed persons." Andrabi last was seen alive in the presence of countermilitants and members of the security forces on March 8, 1996, in Srinagar. Despite the Government's statement, the army in February 1996 identified to a Srinagar court a major with a temporary commission as the individual primarily responsible for Andrabi's death. Security forces allegedly dumped Andrabi's body into the Jhelum River. His case also is the subject of an inquiry by the NHRC. In 1998 an army major was arrested for the killing of Andrabi. There was no progress in the case by year's end, and the accused major no longer is in detention (see Sections 1.a. and 4). In April 1998, the Government stated that it would investigate the fate of eight persons who reportedly disappeared in Jammu and Kashmir during 1997: Fayaz Ahmad Beigh, Fayaz Ahmad Khan, Abdula Rashid Wahid, Mohammed Ashraf Dar, Mohammed Afzal Shah, Nisar Ahmad Wani, Manzoor Ahmad Dar, and Bilal Ahmad Sheikh. In September 1998, the Government accounted for only one of the eight persons, claiming that Fayaz Ahmad Beigh had escaped from police custody on September 9, 1997, and was believed to have crossed the line of control into Pakistan. By year's end, no new information was available on any of these cases. As of December 1997, 55 cases of disappearance and custodial death still were pending against Border Security Force personnel in Jammu and Kashmir (see Sections 1.a. and 1.c.).

The Government maintains that screening committees administered by the state governments provide information about detainees to their families. However, other sources indicate that families are able to confirm the detention of their relatives only by bribing prison guards. For example, in May the People's Union for Civil Liberties (PUCL) published an appeal by Sunita Majumdar, the mother of Partha Majumdar, who was taken from his home by police in District 24 Parganas, West Bengal, in September 1997, and has not been seen since. Police have provided no information in the case despite a request from the State Human Rights Commission. Partha Majumdar was a witness to an alleged police shooting that left one person dead. In May the State Human Rights Commission recommended that a criminal investigation be initiated against police involved in the incident; however, it is not known whether the requested criminal investigation was initiated. A program of prison visits by the International Committee of the Red Cross (ICRC), which began in October 1995, is designed in part to help assure communications between detainees and their families. During the year, the ICRC visited approximately 1,000 detainees in about 20 places of detention. All acknowledged detention centers in Jammu and Kashmir and Kashmiri detainees elsewhere in the country were visited. However, the ICRC is not authorized to visit interrogation centers or transit centers, nor does it have access to regular detention centers in the northeastern states (see Sections 1.c. and 4).

In Punjab the pattern of disappearances prevalent in the early 1990's appears to have ended. Hundreds of police and security officials were not held accountable for serious human rights abuses committed during the counterinsurgency of 1984-94. However, steps were taken against a few such violators. The CBI claims to be pursuing actively charges against dozens of police officials implicated in the "mass cremations" case. Police in the Tam Taran district secretly disposed of bodies of suspected militants believed to have been abducted and extrajudicially executed, cremating them without the knowledge or consent of their families. The CBI in its report to the Supreme Court in December 1996 stated that Punjab police secretly had cremated over 2,000 bodies in Tam Taran; of these, 585 bodies had been identified fully, 274 had been identified partially, and 1,238 were unidentified. Most reportedly were killed by Border Security Force personnel while they were attempting to enter the country from Pakistan, were unidentified victims of accidents or suicide, or died in clashes between militant factions. However, 424 persons apparently were militants killed in the interior of the district, 291 of whom subsequently were identified. These numbers demonstrate the extent of the violence during those years and, given the pattern of police abuses prevalent during the period, credibly include many persons killed in extrajudicial executions. The NHRC is seeking to obtain compensation for the families of those victims whose remains were identified, but the Government has challenged the NHRC's jurisdiction in the cases. In September 1998, the Supreme Court upheld the right of the NHRC to investigate the cases. In August 1998, the Committee for the Coordination on Disappearances in Punjab (CCDP) member and former Supreme Court Justice Kuldip Singh presented the Chief Minister of Punjab with a list of approximately 3,000 persons who either were missing or had died in encounters with security forces during the period of unrest in Punjab. Former Justice Singh also announced that the CCDP would form a three-member commission to investigate the mass cremations. The Commission received little cooperation from state government authorities and made little progress during the year (see Section 4).

Amnesty International in its April report on human rights defenders in the country expressed concern that Punjab police officials continued to obstruct the judicial inquiry into the death of human rights monitor Jaswant Singh Khaira, hindering efforts to probe the Tam Taran cremations. Khaira was investigating the cremation of unidentified bodies by Tam Taran police. Several witnesses observed Punjab police officials arrest Khaira outside his Amritsar home in September 1995. Police officials subsequently denied that they had arrested Khaira, and he has not been seen since. In July 1996, following its investigation, the CBI identified nine Punjab police officials as responsible for Khaira's abduction and recommended their prosecution. One of the suspects subsequently died, reportedly by suicide; none of the others were charged by year's end. One human rights organization credibly alleged that police intimidated a witness in the case in August, threatening to kill him if he testified against them. These events prompted extended public debate over the accountability of Punjab police for abuses committed while suppressing a violent insurgency. According to human rights monitors in Punjab, approximately 100 police officials either were facing charges, were prosecuted, or were under investigation for human rights abuses at year's end.

There are credible reports that police throughout the country often do not file required arrest reports. As a result, there are hundreds of unsolved disappearances in which relatives claim that an individual was taken into police custody and never heard from again. Police usually deny these claims, countering that there are no records of arrest. In Manipur 14-year-old Yumlembam Sanamacha of Thoubal district has been missing since soldiers arrested him in February 1998. The army reportedly detained him because of his alleged links with insurgent groups. The All-Manipur Students' Union petitioned the Guwahati High Court for Sanamacha's release. The Court ordered the army to produce the boy, but it failed to do so and his whereabouts remain unknown. On May 5, 1999, police in Siliguri, West Bengal, arrested 14-year-old Pinter Yadav and his 9-year-old cousin. According to local human rights monitors, the boys were beaten and, when Pinter began to vomit blood, he was taken to a local police station. He has not been seen since, and efforts by family members to petition police for information were unsuccessful.

Militants in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, seek the release of detained comrades, and extort funds. Sometimes kidnaped persons later were killed (see Sections 1.a. and 1.g.). According to government figures, there were 634 kidnappings in the northeastern states during 1999. There were no significant new developments in the case of the 1995 kidnappings of American, British, German, and Norwegian nationals, despite police cooperation with foreign diplomats.

On April 15, the BNLFF abducted two officials of the Mizoram Public Health Engineering Department. The rebels released the captives on May 16, after the intervention of three local church leaders. On April 19, members of the Reang ethnic minority abducted a teacher in Aizawi, Mizoram. On May 13, NLFT guerrillas abducted two tea garden staff from Kailashahar. On May 14, NLFT militants injured three persons and abducted three others in Udaypur (see Section 1.c.). Also on May 14, tribal guerrillas abducted three persons and set a number of houses on fire in Radhakishorpur and Kanchanpur, Tripura. On May 15, NLFT militants killed four persons and abducted three others in west and south Tripura (see Section 1.a.). CPM sources allege that all of the victims were CPM supporters, and that the NLFT was punishing them for voting for the CPM in the council elections. On May 17, the NLFT shot two villagers whom they had kidnaped from Manu on February 28. On May 23, NSCN(K) supporters abducted seven persons in Borduria village, Tirap district, Arunachal Pradesh. On May 26, ATTF killed a tribal person and kidnaped four other persons (see Section 1.a.). On May 31, an NLFT militant abducted CPM worker Ajit Debbarna from Jampuijala, West Tripura. On June 6, in the Andaman Islands, Tamil immigrants from Sri Lanka abducted and took hostage Manoranjan Bhakta, a former Congress Party Member of Parliament, for more than 24 hours on Katchal Island. On June 14, the Manipur based Hmar People's Conference (HPC) released the two engineers and four technicians of the Northeastern Electric Power Corporation (NEEPCO) who were abducted on March 31 from Mizoram. On June 22, NLFT rebels kidnaped a tribal family in Khowai. On June 29, tribal militants abducted seven nontribals in Melaghar, Gandacherra and Brahmacherra. On July 3, North Tripura tribal guerrillas kidnaped a nontribal youth; in retaliation a mob killed an elderly tribal woman and burned down a number of houses. Also on July 3, NLFT militants abducted the manager of Golakpur Tea estate in north Tripura. On July 4, tribal militants in Dhaiai, Tripura, kidnaped a health department official. On July 14, tribals set fire to more than 150 houses, injured 3 persons, and

kidnaped another in Teliamura. On July 23, NLFT militants kidnaped four tribals from a Garo colony in South Tripura. On August 16, nine Tripura villagers were kidnaped in Brahmachhara Udaypur subdivision. On August 17, militants abducted three persons from Manu and killed a villager at Panisagar (see Section 1.a.).

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

The law prohibits torture, and confessions extracted by force generally are inadmissible in court; however, torture is common throughout the country, and authorities often use torture during interrogations. In other instances, they torture detainees to extort money and sometimes as summary punishment.

In 1997 the U.N. Special Rapporteur on Torture reported that the security forces systematically torture persons in Jammu and Kashmir in order to coerce them to confess to militant activity, to reveal information about suspected militants, or to inflict punishment for suspected support or sympathy with militants. Information is not made public regarding instances of action taken against security force personnel in Jammu and Kashmir for acts of torture.

In May the NHRC ordered the government of Jammu and Kashmir to pay \$4,395 (200,000 rupees) to the family of Ghulam Rasool, following its investigation into Rasool's 1996 death while in police custody in Kathua, Jammu and Kashmir. Police arrested Rasool in Kathua on October 31, 1996. He was found dead in his cell the following day. The autopsy showed that the cause of death was cardiorespiratory arrest arising from the dislocation of the spine. It also showed that Rasool had suffered injuries to his scalp, face, back, left eye, and both arms and legs. The NHRC concluded that police had tortured Rasool to death. It further directed the Jammu and Kashmir government to initiate legal proceedings against the police officials responsible. Human rights monitors maintain that there is a similar pattern of security force abuses in the northeastern states. On July 28, members of the Assam Rifles arrested Khuraijam Pranam of Bishenpur, Manipur and allegedly tortured him for 2 days before turning him over to local police. Pranam survived and underwent treatment in Imphal Hospital. On August 18, the Guwahati High Court directed the Manipur government to ensure that Pranam was not harmed in the hospital, and to allow family members to visit him. Police abuses against indigenous people include torture (see Section 5).

The U.N. Special Rapporteur on Torture noted in 1997 that methods of torture included beating, rape, crushing the leg muscles with a wooden roller, burning with heated objects, and electric shocks. Because many alleged torture victims die in custody, and others are afraid to speak out, there are few firsthand accounts, although marks of torture often have been found on the bodies of deceased detainees. The U.N. Special Rapporteurs on Torture and on Extrajudicial Killings renewed their requests to visit the country during the year, but the Government did not permit them to do so (see Section 4).

The prevalence of torture by police in detention facilities throughout the country is supported by the number of cases of deaths in police custody (see Section 1.a.). Delhi's Tihar jail is notorious for the mistreatment of prisoners, with 1 of every 11 custodial deaths occurring there. Police and jailers typically assault new prisoners for money and personal articles. In addition police commonly torture detainees during custodial interrogation. Although police officers are subject to prosecution for such offenses under Section 302 of the Penal Code, the Government often fails to hold them accountable. On April 20, police in Gujarat allegedly beat to death Colonel Pratap Save in a local police station (see Section 1.a.). The PUCL reported that police tortured to death Sudath Kumar in Moodabidri police station, Karnataka, on May 30 to 31 (see Section 1.a.). Human rights groups allege that police in Andhra Pradesh tortured and then hanged an unarmed suspected Naxalite, Chandralah, on June 10 (see Section 1.a.). On August 4, Krishna Pada Seal died, just after he and his family were released from prison; according to the PUCL, prison officials tortured them during detention (see Section 1.a.). The PUCL alleged that police in Mangalore district, Karnataka, were responsible for the August 29 custodial death of Sudath Kumar Jain, a 40-year-old local film projectionist who died in a hospital after sustaining injuries (see Section 1.a.). During the year, Amnesty International expressed concern about the September 1999 torture death of 21-year-old Devinder Singh (see Section 1.a.).

The U.N. Special Rapporteur on Torture stated in 1997 that, in Jammu and Kashmir, torture victims or their relatives reportedly have had difficulty in filing complaints because local police were issued instructions not to open a case without permission from higher authorities. In addition the Armed Forces (Jammu and Kashmir) Special Powers Act provides that unless approval is obtained from the central Government, no "prosecution, suit, or other legal proceeding shall be instituted...against any person in respect of anything done or purported to be done in exercise of the powers of the act." This provision allows the security forces to act with virtual impunity.

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

The rape of persons in custody is part of the broader pattern of custodial abuse. Limits placed on the arrest, search, and police custody of women appear effectively to limit the frequency of rape in custody, although it does occur on occasion. According to HRW, in February in Tamil Nadu, 12 women were detained illegally, tortured, and repeatedly sexually assaulted in custody, because of their ties to a suspected robber who had himself died in police custody. In addition to the 12 women, police detained and beat the young sons of suspected robbers, according to a local human rights organization. The same organization reported that the victims declined to press charges against the police. On September 3, Captain Ravinder Singh Twatir of the 12th Battalion, Rashtriya Rifles, was sentenced to 7 years of rigorous imprisonment and dismissed from the army for raping a girl in Naugam village, Doda district, Jammu and Kashmir on February 14. As of September no action had been taken against an alleged accomplice in the rape, special police officer Bharat Bhusan. The NHRC received a report of only one case of custodial rape between April 1997 and March 1998. The 24-hour

reporting requirement applies to custodial rape as well as custodial death. However, the requirement does not apply to rape by policemen outside police stations. NGO's claim that rape by police, including custodial rape, is more common than NHRC figures indicate. Although evidence is lacking, a higher incidence of abuse appears credible, given other evidence of abusive behavior by police and the likelihood that many rapes go unreported due to a sense of shame and a fear of retribution among victims.

Human rights monitors allege that on July 19, central reserve police force personnel raped a tribal housewife in Lamdam village, Manipur. They allege that the rape was committed in retaliation for an attack carried out on a CRPF patrol by People's Liberation Army militants the previous day (see Section 1.g.).

There is a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among noncombatants in insurgency-affected areas (see Section 1.g.), but it is not included in NHRC statistics because it involves military forces.

From April 1998 to March 1999, the NHRC received 1,297 complaints of custodial death (1,114 in judicial custody and 183 in police custody), no cases of custodial rape, and 2,252 complaints of other police abuses. By year's end, the NHRC had not released the statistics of its actions against police during this time period. However, from April 1997 to March 1998, the NHRC received 1,012 complaints of custodial death (819 in judicial custody and 193 in police custody), 1 case of custodial rape, and 1,413 complaints of other police excesses. As a result of NHRC action during this earlier period, criminal prosecutions were brought against 43 persons; departmental action was taken against 60 officers, 51 of whom were placed under suspension; and monetary compensation in amounts ranging from \$1,100 (50,000 rupees) to \$2,100 (100,000 rupees) were recommended for payment in 20 cases.

According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Sections 5, 6.c., and 6.f.).

Police corruption undermines efforts to combat trafficking in women and children (see Section 6.f.).

Security forces killed and injured numerous militant group members, many in so-called encounter deaths, particularly in Jammu and Kashmir and the northeastern states (see Section 1.a.).

Militant groups sometimes used automatic weapons, hand grenades, bombs, landmines, and other weapons in political violence in Jammu and Kashmir and the northeastern states; numerous security forces and civilians were killed and injured.

Religiously motivated violence led to a number of deaths and injuries as well as damage to property (see Sections 1.a., 1.g., and 5).

Some militant groups in the northeast have used rape as a tactic to terrorize the populace; however, no cases are known to have been reported during the year.

Prison conditions are very poor. Prisons are severely overcrowded, and the provision of food and medical care frequently is inadequate.

Prisons operate above capacity because of thousands of prisoners awaiting hearings (see Section 1.d.). For example, in Bihar 80 percent of prisoners are unconvicted remand prisoners awaiting completion of their trials. Delhi's Tihar jail, with a designed capacity of 3,300 persons, houses 9,000 prisoners. Birsa Munda jail in Ranchi, Bihar, designed to hold 364 persons, houses more than 1,800 male and female prisoners. In May the PUCL visited Sakchi jail, Jamshedpur, Bihar, following complaints of abuse of prisoners. The human rights activists found that the prison, designed to hold 200 prisoners, housed 786 persons, of whom only 55 had been convicted; the rest were at various stages of the judicial process. Amnesty International reported that overcrowding in Arthur jail, Mumbai, led to rioting on June 19. Designed to hold 50 prisoners, Arthur jail has 180 inmates. Prison guards reportedly attacked inmates with razors and wooden poles to quell rioting that erupted following a fight between two prisoners. Forty inmates were injured in the incident. An August 3 report from Aizawl, Mizoram, stated that its central jail, designed to house 500 prisoners, had 848 inmates. The NHRC reported in February on its November 1999 visits to jails in Guwahati and Shillong. In Guwahati the commission found 780 inmates in a district jail designed to hold 507 (see Section 1.d.). In Shillong the commission found 374 inmates in the central jail, which was designed to hold 150 persons. One of the inmates was a 10- or 11-year-old girl awaiting trial. The Government prepared a national prison manual during the year to facilitate reform. It also continued to provide financial aid to the states. However, the Prison Act of 1894 remains unamended. According to the SAHRDC, in the poorest states, such as Bihar, where 265 police stations have no lock-up facilities, the lack of prisons led police to shackle prisoners to trees. An NHRC investigatory team visiting Meerut jail in Uttar Pradesh in 1998 found about 3,000 inmates in a facility designed to hold 650 persons. As a result of this and other jail visits, the NHRC hired a consultant to draft the prison reform bill to be submitted to the Government. The draft bill, meant to be enacted by the national Parliament, encountered opposition from state governments asserting that prison management is the responsibility of the states. No new initiatives were taken on the bill during the year. The 1,114 deaths in judicial custody in 1998-99, occurring in a prison population of approximately 246,000 persons, many of whom are held for years, include a large proportion of deaths from natural causes that, in some cases were aggravated by poor prison conditions (see Section 1.a.). A study conducted by the NHRC in 1997-98 found that tuberculosis was the cause of death in 76 percent of deaths in judicial custody. Deaths in police custody, which typically occur within hours or days of initial detention, more clearly imply violent abuse and torture. The NHRC has no authority to investigate abuses by security forces directly, and security forces in Jammu and Kashmir and the northeastern states are not required to report custodial deaths to the Commission.

With the exception of an agreement with the ICRC for visits to detention facilities in Jammu and Kashmir, the Government does not allow NGO's to monitor prison conditions (see Section 4). However, 15 states and union territories have authorized the NHRC to conduct surprise check-ups on jails. Although custodial abuse is deeply rooted in police practices, increased press reporting and parliamentary questioning provide evidence of growing public awareness of the problem. The NHRC has identified torture and deaths in detention as one of its priority concerns. In 1998 it created a "Special Rapporteur and Chief Coordinator of Custodial Justice" to help implement its directive to state prison authorities to ensure that medical check-ups are performed on all inmates. In June the country's first women's correctional facility was opened in the Tihar complex in New Delhi.

#### d. Arbitrary Arrest, Detention, or Exile

During the early 1980's, the Government implemented a variety of special security laws intended to help law enforcement authorities fight separatist insurgencies, and there were credible reports of widespread arbitrary arrest and detention under these laws during the year.

Although the law that had been subject to the most extensive abuse, the TADA, lapsed in May 1995, 1,502 persons previously arrested under the act continued to be held as of January 1, 1997, in a number of states, according to the NHRC's 1996-97 report. Human rights sources estimate that about 1,000 persons remained in custody under TADA or related charges at year's end. A small number of arrests under the TADA continued for crimes allegedly committed before the law lapsed. In 1997 the Government asserted that every TADA case would be reviewed. However, few persons have been released as a result of the review. Criminal cases are proceeding against most of those persons still held under the TADA, with more than 3,000 charged under other laws in addition to the TADA. In 1996 the Supreme Court eased bail guidelines for persons accused under TADA, taking into account the large backlog of cases in special TADA courts. In March 1999, the state minister for home affairs told the Jammu and Kashmir state assembly that 16,620 persons had been detained under the TADA in the state since 1990; of these, 1,640 were brought to trial and 10 were convicted. TADA courts use abridged procedures. For example, defense counsel is not permitted to see witnesses for the prosecution, who are kept behind screens while testifying in court. Also, confessions extracted under duress are admissible as evidence. The special task force established by the state police forces of Karnataka and Tamil Nadu to capture a bandit hiding in forests in the border area between the 2 states had arrested some 121 persons under the TADA prior to the law's lapse; 51 of these persons were in custody at year's end.

During the year, the Government sent a draft Prevention of Terrorism Bill, 2000 to the Law Commission of India for review and possible introduction in Parliament. The bill is similar to the TADA, in that it would permit summary trials and the hearing of testimony exacted under duress. It also would allow witnesses to testify in camera, without having to disclose their identities to the defense at any stage of the proceedings. In addition it would compel journalists to disclose to authorities any information regarding terrorist groups or actions, or face charges of terrorism against them. Finally, the bill would require the law to be reviewed every 5 years, instead of every 2, which was the case with TADA. In August the NHRC issued an opinion stating that the new Prevention of Terrorism Bill was not necessary. Commenting on these and other provisions of the bill, the NHRC wrote: "These provisions would seriously affect human rights guaranteed under the Constitution and violate basic principles of criminal jurisprudence as internationally understood." Similar bills are pending in the Madhya Pradesh and Andhra Pradesh state assemblies. If enacted they would provide for special courts to try offenses, place the burden of proof at the bail stage on the accused, make confessions to a police officer of the rank of superintendent of police admissible as evidence, extend the period of remand from 15 to 60 days, and set mandatory sentences for terrorism-related offenses. The Maharashtra state assembly enacted TADA-like legislation in November 1999. On September 6, the Mumbai Sessions Court issued the first conviction under the act, the Organized Crime (Control) Act. The court sentenced three alleged gang members to death on charges of conspiracy to murder former Mumbai mayor Milind Vaidya. The three persons have appealed their convictions to the Mumbai High Court. As of year's end, their case had not been heard.

The Constitution permits preventive detention laws in the event of threats to public order and national security. Under Article 22 of the Constitution, an individual may be detained—without charge or trial—for up to 3 months, and detainees are denied their rights or compensation for unlawful arrest or detention. In addition to providing for limits on the length of detention, the preventive detention laws provide for judicial review. Several laws of this type remain in effect.

The National Security Act (NSA) of 1980 permits the detention of persons considered to be security risks; police anywhere in the country (except Jammu and Kashmir) may detain suspects under NSA provisions. Under these provisions the authorities may detain a suspect without charge or trial for as long as a year on loosely defined security grounds. The state government must confirm the detention order, which is reviewed by an advisory board of three High Court judges within 7 weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). According to the Government, 1,163 persons were being held under the NSA at the end of 1997. The NSA does not define "security risk." Human rights groups allege that preventive detention may be ordered and extended under the act purely on the opinion of the detaining authority and after advisory board review. Any court may not overturn such a decision.

The Jammu and Kashmir Public Safety Act (PSA) of 1978 covers corresponding procedures for that state. Over half of the detainees in Jammu and Kashmir are held under the PSA. Jammu and Kashmir police reported that 514 persons were being held under the PSA as of December 1998. In September and November 1999 alone, the Jammu and Kashmir police arrested 25 members of the Kashmiri separatist All Parties Hurriyat Conference (APHC). The arrests followed a series of terrorist attacks in the state for which members of this group allegedly were responsible (see Sections 1.a., 1.g., and 4). On April 4, the Government released 3 of the 25 persons; in May it released 11 more of the APHC detainees and attempted to initiate a dialog with the APHC. By year's end, all of the remaining APHC detainees were released; no charges were brought against

any of them. In December 1999, Shabir Shah, president of the Jammu and Kashmir Democratic Freedom Party, was released. At the time of Shah's release, Amnesty International expressed concern about the 25 arrested leaders of the APHC and explicitly suggested that the charges were politically motivated.

The Constitution provides that detainees have the right to be informed of the grounds for their arrest, to be represented by counsel, and, unless held under a preventive detention law, to appear before a magistrate within 24 hours of arrest. At this initial appearance, the accused either must be remanded for further investigation or released. The Supreme Court has upheld these provisions. The accused must be informed of their right to bail at the time of arrest and may, unless held on a nonbailable offense, apply for bail at any time. The police must file charges within 60 to 90 days of arrest; if they fail to do so, court approval of a bail application becomes mandatory.

In November 1997, the Supreme Court upheld the constitutional validity of the Armed Forces Special Powers Act (AFSPA) of 1958. In a representation made to the NHRC, the SAHRDC asserted that the act's powers were "too vast and sweeping and pose a grave threat to the fundamental rights and liberties of the citizenry of the (disturbed) areas covered by the act." The SAHRDC asserted that the powers granted to authorities under Section 3 of the act to declare any area to be a "disturbed area," and thus subject to the other provisions of the act, were too broad. Moreover, the SAHRDC noted that Section 4(a) of the act empowers any commissioned officer, warrant officer, noncommissioned officer, or any other person of equivalent rank in the armed forces to fire upon and otherwise use force, even to the point of death, if he believes that it is necessary for the maintenance of law and order. Further, Section 6 of the act states that "no prosecution, suit or other legal proceedings shall be instituted, except with the previous sanction of the central Government against any person in respect of anything done or purported to be done in exercise of powers" conferred by the act.

The court system is extremely overloaded, resulting in the detention of numerous persons awaiting trial for periods longer than they would receive if convicted. Prisoners may be held for months or even years before obtaining a trial date. According to a reply to a parliamentary question in July 1994, more than 111,000 criminal cases were pending in the Allahabad High Court, the most serious case backlog in the country, of which nearly 29,000 cases had been pending for 5 to 8 years. A statement to Parliament in July 1996 indicated that criminal and civil cases pending before the country's high courts numbered nearly 2.9 million in 1995, roughly the same as in 1994, but an increase from 2.65 million in 1993. According to the Union Home Ministry, the total number of civil and criminal cases pending for 3 or more years in all courts throughout the country was 5,116,895 on December 31, 1998. In its most recent report, the NHRC reported that nearly 80 percent of all prisoners held between April 1996 and March 1997, were so-called "under-trials," i.e., unconvicted remand prisoners awaiting the start or conclusion of their trials. In its 1997-98 report, the NHRC stated that it "remains deeply disturbed by the presence of a large number of under trial prisoners in different jails in the country." In March 1999, the chairman of the NHRC said that 60 percent of all police arrests were "unnecessary and unjustifiable," and that the incarceration of those wrongly arrested accounted for 43 percent of the total annual expenditure on prisons. The NHRC reported in February on its November 1999 visits to jails in Guwahati (see Section 1.c.). The Commission found that 90 percent of the 780 inmates were unconvicted prisoners awaiting completion of trial. On February 27, the NHRC directed the Orissa government to pay \$1,000 (50,000 rupees) as interim relief to a 16-year-old boy who was victim of illegal detention and torture by police at Kandhamal. Accused of theft, the boy was sent to a regular prison to await trial, rather than a juvenile home. In March the NHRC reported that it had directed the West Bengal government to pay \$1,000 (50,000 rupees) in compensation to the court guardian of a 12-year-old girl who was in the custody of the West Bengal police for nearly a decade because she was the sole witness to her parents' murder. On July 9, Bihar police registered a case against then-Bihar Minister of State for Cooperatives Lalit Yadav, his cousin, and four others for alleged illegal detention and torture of a truck driver and cleaner at the minister's residence. The complaint alleges that Yadav kept the two men in wrongful confinement for a month, beat them, and tortured them. The two men's toenails allegedly were pulled out and they were forced to drink urine. Yadav was dismissed from his state government post and from his political party membership.

On November 28, the Government announced that it was allocating \$108.15 million (5.03 billion rupees) to state governments for the creation of 1,734 additional courts during 2000-2005, in order to hear more cases and reduce the number of remand prisoners.

In June 1997, Rongthong Kunley Dorji, a Bhutanese dissident, was placed in judicial custody pending review of an extradition request from the Government of Bhutan on charges that included political offenses as well as financial malfeasance. On June 12, 1998, Dorji was released on bail following the New Delhi High Court's decision to deny a government appeal and let stand a lower court's order to grant bail in the case. Dorji still awaits conclusion of his extradition hearing.

The Government does not use forced exile.

#### e. Denial of Fair Public Trial

There is an independent judiciary with strong constitutional safeguards. Under a Supreme Court ruling, the Chief Justice, in consultation with his colleagues, has a decisive voice in selecting judicial candidates. The President appoints judges, and they may serve up to the age of 62 on the state high courts and up to the age of 65 on the Supreme Court.

Courts of first resort exist at the subdistrict and district levels. More serious cases and appeals are heard in state-level high courts and by the national-level Supreme Court, which also rules on constitutional questions. State governments appoint subdistrict and district judicial magistrates. High court judges are appointed on the recommendation of the federal law ministry, with the advice of the Supreme Court, the High Court Chief Justice, and the chief minister of the State, usually from among district judges or lawyers practicing before the same

courts. Supreme Court judges are appointed similarly from among High Court judges. The Chief Justice is selected on the basis of seniority.

When legal procedures function normally, they generally assure a fair trial, but the process often is drawn out and inaccessible to poor persons. Defendants have the right to choose counsel from attorneys who are fully independent of the Government. There are effective channels for appeal at most levels of the judicial system, and the State provides free legal counsel to the indigent.

The Criminal Procedure Code provides for an open trial in most cases, but it allows exceptions in proceedings involving official secrets, trials in which statements prejudicial to the safety of the state might be made, or under provisions of special security legislation. Sentences must be announced in public.

Muslim personal status law governs many noncriminal matters involving Muslims, including family law, inheritance, and divorce. The Government does not interfere in the personal status laws of the minority communities, with the result that personal status laws that discriminate against women are upheld.

In Jammu and Kashmir, the judicial system barely functions due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed antimilitant actions; and because of the frequent refusal by security forces to obey court orders. Courts in Jammu and Kashmir are reluctant to hear cases involving terrorist crimes, and fail to act expeditiously on habeas corpus cases, if they act at all. There were a few convictions of alleged terrorists in the Jammu High Court during the year. Many more accused militants have been in pretrial detention for years. On April 1, the Jammu and Kashmir Home Minister submitted a written statement to the state assembly acknowledging that 115 foreign militants (primarily from Pakistan, but reportedly also from Afghanistan and Tajikistan) jailed in the state and elsewhere had not been tried, despite the fact that many of them had been imprisoned for 10 years (see Section 1.d.).

Criminal gangs in all four southern states have been known to attack rivals and scare off complainants and witnesses from court premises, denying free access to justice. In some cases, accused persons have been attacked while being escorted by police to the courts.

The U.N. Special Rapporteur on the Independence of the Judiciary requested to visit the country during the year, but the Government did not grant the Rapporteur permission to do so.

There were no reports of political prisoners.

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

The police must obtain warrants for searches and seizures. In a criminal investigation, the police may conduct searches without warrants to avoid undue delay, but they must justify the searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

The government Enforcement Directorate (ED), which is mandated to investigate foreign exchange and currency violations, searches, interrogates, and arrests thousands of business and management professionals annually, often without search warrants. However, the ED ultimately convicts very few persons. In 1997 only 28 persons out of thousands arrested were convicted, according to the Times of India.

The Indian Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in case of public emergency or "in the interest of the public safety or tranquility." Every state government has used these powers, as has the central Government.

In early January, soldiers set fire to 47 shops in an open market in Pattan Town, northern Kashmir Valley, in retaliation for a nearby ambush in which militants killed 2 soldiers. The army used gasoline to spread the blaze and shot at fire trucks that arrived on the scene. Human rights activists were unaware of any effort to hold security force members accountable for the rampage in Pattan Town; government information on action against suspects was unavailable.

#### g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Government forces continue to commit numerous serious violations of humanitarian law in the disputed state of Jammu and Kashmir. Between 350,000 and 450,000 army and paramilitary forces are deployed in Jammu and Kashmir. The Muslim majority population in the Kashmir valley suffers from the repressive tactics of the security forces. Under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, both passed in July 1990, security force personnel have extraordinary powers, including authority to shoot suspected lawbreakers and those persons disturbing the peace, and to destroy structures suspected of harboring militants or arms.

The Union Home Ministry was unable to estimate how many civilians were killed in crossfire by security forces in Jammu and Kashmir during the year. It reported that 84 such deaths occurred in Jammu and Kashmir in 1996-1997. The security forces continue to abduct and kill suspected militants; the security forces have not accepted accountability for these abuses. Many commanders' inclination to distance their units from such practices has led to reduced participation in them and a transfer of some of these abuses to government-

supported countermilitants.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see Section 1.d.) security forces abduct and sometimes use civilians as human shields in night patrolling and searching for landmines; the abuses so far have occurred mostly in the Kupwara and Doda districts. Because of Doda's inaccessibility, the abuses there allegedly have been underreported greatly.

The spring and summer 1999 incursion of Pakistan-backed armed forces into territory on the Indian side of the line of control near Kargil in the state of Jammu and Kashmir resulted in an increased counterinsurgency campaign, accompanied by repressive offensive measures. According to a credible government source, as of early December 1999 over 450 militants had been killed since the Kargil conflict began. That trend continued, with official sources reporting that security forces had killed 1,062 militants during the first 9 months of the year. In September 1999, then-chief of army staff Gen. Ved Malik said that security forces were killing 150 to 160 militants every month in Jammu and Kashmir.

Kashmiri militant groups also committed serious abuses.

Militants carried out several execution-style mass murders of Hindu (Pandit), Sikh, and Buddhist villagers in Jammu and Kashmir (see Sections 1.a. and 5). On March 20, suspected militants killed 35 Sikhs in Chatsinghpura village, Anantnag district (see Sections 1.a. and 5). On April 26, militants invaded a home in Golgam village and killed four members of a Hindu family. On July 30, militants hurled a hand grenade into a jeep carrying Hindu religious pilgrims near Gulmarg, killing one person and injuring five others (see Section 5).

In addition to political killings, kidnappings, and rapes of politicians and civilians (see Sections 1.a., 1.b., and 1.c.), insurgents engaged in extortion and carried out acts of random terror that killed hundreds of Kashmiris. Many of the militants are not citizens but Afghani, Pakistani, and other nationals. Since the 1990's, the militants have made liberal use of time-delayed explosives, landmines, hand grenades, and snipers. Militants previously had restricted landmine use to army convoys traveling outside of major cities, but during the year they began using command detonated landmines in Srinagar city. There was a significant upsurge in militant violence against security forces, and a tendency to use heavy weapons such as hand grenades and rockets. Militants killed and injured numerous security personnel and destroyed a great deal of security force property; many civilians also were killed. On January 3, a bomb explosion in a Srinagar market killed 16 persons, including 3 security force members. On February 10, militants planted a bomb on a Calcutta-bound train. The bomb exploded near Vijaypur, Jammu district, killing two persons and injuring four others. On March 27, militants hurled hand grenades at a police patrol in Bandipora town, killing 3 civilians and injuring 11 others. On April 12, militants exploded a powerful car bomb in Rawalpura on the outskirts of Srinagar as an army convoy was passing by; one civilian was injured in the blast. On April 19, a 15-year-old boy recruited by militants died in an explosion when he attempted to drive an explosives-laden car into army headquarters, Badamiybagh Cantonment, Srinagar; four soldiers and three civilians were injured in the attack. Also on April 19, in Baramulla, 2 students, aged 17 and 11, were killed and 20 passersby were injured when militants hurled a hand grenade at a security force vehicle convoy and missed; the hand grenade exploded in a market in Sopore town. On April 22, a group of militants attacked an army post in Punch district, killing two soldiers. On April 26, militants detonated a homemade bomb in Gharanarial, Jammu, killing five Border Security Force members. On April 29, an 18-year-old student was killed and four police personnel were injured when militants detonated an explosive device in Sher Bagh, Anantnag district. On May 10, four soldiers were killed when their vehicle hit a landmine planted by militants at Nihalpura village, Baramulla district. On May 15, Ghulam Hasan Bhatt, Minister of Power, Jammu and Kashmir state, his driver, two body guards and radioman were killed when militants detonated a landmine under their passing vehicle. On May 16, one soldier was killed and two others were injured when militants fired rockets at an army camp in Sudru village, Banihal. Sixteen persons were killed, including 11 militants, 3 civilians, and a soldier, when militants armed with rockets and hand grenades attacked an army camp at Khundroo, Anantnag on June 1. On August 10, in Srinagar, a car bomb explosion set by militants killed 10 persons and injured approximately 30 others. The car bomb explosion occurred just minutes after police and journalists had rushed to, and civilians had vacated, the site of a hand grenade attack. On August 21, a landmine blast in Kupwara district killed three security force personnel, including a senior-level brigadier. On August 24, a landmine injured five security force personnel when a vehicle drove over it in Puthkhai, northern Kashmir. On September 23, two bomb explosions killed seven civilians in Sangalsan village, Udhampur. On October 8, three Border Security Force members were injured when their bus struck a landmine planted by militants near Khooni Nala village. On October 20, two soldiers were killed in Udhampur district when militants detonated an improvised explosive device that they had strapped to a mule and sent into the army camp. On November 28, shortly after the beginning of the Government's unilateral ceasefire for the holy month of Ramadan, a landmine blew up an army truck, killing 3 soldiers and wounding 12 others; Hizbul Mujaheddin claimed responsibility. On December 5, a landmine explosion in the Adipora area of Baramulla district injured three soldiers.

Extremist and terrorist activities in the northeast claimed many lives. In addition to ambushes, terrorists increasingly resorted to destroying bridges, and the laying time bombs on roads, on railway tracks, and in trains. On February 27, Assam Minister for Public Works and Forests Nagen Sharma and four others were killed when suspected ULFA militants detonated an explosive device as the minister's vehicle passed a near Nij-Bahjani, Naibari district. On March 5, suspected ULFA militants attempted to kill a second Assam minister, Hiranya Konwar. They detonated an improvised explosive device as the minister's car neared Rongali Doegarh, Sivasagar district; no persons were injured in the attack. On May 20, 5 persons were killed and 11 others were injured when militants threw a hand grenade into a passing jeep at Manikerbasti, west Tripura. Also on May 20, UBLF militants lobbed bombs at a passenger jeep from north Maharanipur in Khowal, killing 5 tribals and injuring 11 others. On May 21, 15 persons were killed when suspected NLFT militants threw hand grenades at Bengali villagers in Baghber village, Tripura. The militants then attacked villagers with machetes and set fire to 60 homes in the village. On October 23, suspected ULFA militants killed 15 persons and wounded 8 others in 2 separate attacks. The first occurred in the Kakogam Market, Tinsukia district, where militants fired automatic guns at civilians, killing 11 persons. The second attack occurred at Naoholia, Dibrugarh district where militants indiscriminately fired at civilians, killing four persons and injured five others.



On February 12, a Naxalite mine blast killed 21 persons in Bihar (see Section 5). On March 7, Naxalites killed Andhra Pradesh minister for local government A. Madhava Reddy in a landmine explosion near Hyderabad. Reddy was returning from a political rally. As home minister in the state from 1994-95, Reddy had overseen anti-Naxalite operations. In a letter to the PUCL, G.N. Saibaba, general secretary of the All India People's Resistance Forum; Varavara Rao, executive member of the Revolutionary Writers Association; and Gadar, general secretary of the All India League for Revolutionary Culture alleged that police had summarily executed three unarmed members of CPI(M) on February 1. The three writers alleged that police detained the three victims—Kumar, Sujanta and Venkanna—in Musmi village, Warangal district. The PUCL alleges that police killed five women in an April 27 encounter in the Chandragiri Hills, Warangal district, Andhra Pradesh. According to the human rights organization, police surrounded the women and lobbed hand grenades at them, killing them.

During the year, police arrested numerous persons suspected of involvement in previous terrorist attacks and brought charges against some suspects. Charges also were brought against persons accused of involvement with human suicide bomb attacks to advance Sikh separatism, as well as against dozens of captured separatist insurgents in Jammu and Kashmir for bombings, killings, and acts of sabotage.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, there are some limitations. A vigorous and growing press reflects a wide variety of political, social, and economic beliefs. Newspapers and magazines regularly publish investigative reports and allegations of government wrongdoing, and the press generally promotes human rights and criticizes perceived government lapses.

Under the Official Secrets Act, the Government may restrict publication of sensitive stories; however, while the Government at times interprets this power broadly to suppress criticism of its policies, the Government nonetheless introduced a right to information bill in the 2000 Monsoon Session of Parliament. However, during the year the bill lapsed; it must be reintroduced if Parliament is to take any further action on it. The 1971 Newspapers Incitements to Offenses Act remains in effect in Jammu and Kashmir. Under the act, a district magistrate may prohibit the press from publishing material resulting in incitement to murder or any act of violence. As punishment the act stipulates that the authorities may seize newspapers and printing presses. Despite these restrictions, newspapers in Srinagar, the capital of Jammu and Kashmir, report in detail on alleged human rights abuses by the Government, and regularly publish press releases of militant Kashmiri groups. The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with militant leaders and filed reports on government abuses.

In Assam the state government has attempted to impede criticism by filing a number of criminal defamation charges against journalists.

In October 1998, the Manipur government announced curbs on the publication of insurgency-related news. The publication of insurgents' press releases, public invitations to slain militants' funerals, and calls to boycott Republic Day and Independence Day functions were prohibited. Penalties for violating the prohibition included arrest and criminal prosecution of newspaper owners and editors, and cancellation of newspapers' registration. These restrictions continued during the year.

The Press Council of India is a statutory body of journalists, publishers, academics, and politicians, with a chairman appointed by the Government. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish articles or details that might incite caste or communal violence. The Council publicly criticizes newspapers or journalists it believes have broken the code of conduct, but its findings, while noted by the press community, carry no legal weight.

At the state level, regional political parties have the ability to control regional media. In some instances, allegations of violence against journalists have been made against state governments. According to Reporters Without Borders, on July 6, a magistrate in Sibsagar town, Assam, beat Parag Saikia, a journalist of the daily newspaper Aji. The magistrate reportedly had summoned the journalist for publishing a July 1 article about the local authorities' alleged involvement in corruption. The journalist later was admitted to the hospital with various injuries. Between July and August, in the state of Andhra Pradesh, state police obstructed or attacked journalists and photographers in at least 10 different cities as they attempted to report on civil disturbances resulting from protests over power tariff hikes. The Andhra Pradesh Journalists' Union claims that the state chief minister of Andhra Pradesh played a role in the dismissal of the editor of the Telugu daily newspaper Andhra Prabha. The editor reportedly was fired for publishing stories critical of the state government's power policy.

Nonviolent pressure on journalists comes from official sources as well: the editor of the vernacular daily newspaper Naharolgi Thoudang was arrested on charges of indulging in antinational activities. He was released after a court ruled that the allegation was baseless. In Assam a similar incident occurred as police intercepted the editor of the largest circulating Assamese daily in April, accusing him of having participated in a function organized by a militant organization. In April the Assam Human Rights Commission requested the police to report on the detention of Asomiya Pratidin editor Haider Hussain for visiting an ULFA camp in Bhutan; police detained Hussain in the first week of March. The Commission cited the constitutional guarantee of

freedom of expression; Hussain was released several days later. Some newspapers receive more than \$1.29 million (60 million rupees) annually in advertising revenue from the state government. The threat of losing this revenue contributes to self-censorship by smaller media outlets, which heavily rely on government advertising.

In Calcutta the Communist Party of India (Marxist) (CPI(M)) often threatens journalists; however, as the power of the party diminishes, journalists find it easier to criticize the government. At least nine journalists were injured while attempting to give a deputation to the director of information. The alleged assailants were state information officers, government employees owing allegiance to the Marxist government. In July alleged members of the CPI(M) severely beat a team of three reporters and a cameraman of ETV, a new vernacular cable television channel. Another reporter was injured severely in state finance minister Asim Dasgupta's constituency during municipal elections (see Section 3). On numerous occasions, CPI(M) supporters beat reporters of another Bengali cable channel, Khas Khobor. Earlier in the year, CPI(M) officially requested its supporters to boycott the channel. The matter was resolved when a former CPI(M) activist replaced the editor.

In the northeast part of the country, violence against journalists has become a problem and results in significant self-censorship. On August 20, two unknown assailants shot and killed Thounaojam Brajamani Singh, the editor of the Manipur News, a daily newspaper published in Manipur. According to Reporters Without Borders, two men on a motorcycle followed Singh after he left the newspaper office. They overtook Singh and shot him in the head at point-blank range; Singh was the only employee whom they targeted. Singh had received anonymous death threats on August 15. No one had claimed responsibility for the murder, and police investigations were ongoing by year's end. On August 26, militants bombed a newspaper office owned by an NGO at Konung Lampak, Manipur. Altogether, at least seven journalists have been killed in Assam over the past decade. There was no further information on the 1996 killing of journalist and human rights activist Parag Das in Assam (see Sections 1.a. and 4).

On July 31, V. Selvaraj, a journalist with the biweekly *Nakkeeran*, was shot and killed in Perambalur, Tamil Nadu. Thirteen persons were charged in connection with Selvaraj's killing. A motive for the killing has not been established; however, local police maintain that there was personal enmity between Selvaraj and his 13 assailants. The trial had not begun by year's end.

Intimidation by militant groups also causes significant self-censorship. According to the Committee to Protect Journalists, in January English-language newspapers throughout Gujarat received written notice from the Bajrang Dal, a radical Hindu nationalist group, threatening them with dire consequences if they continued to publish exaggerated reports of anti-Christian violence (see Sections 2.c. and 5). In 1999 Kashmiri militant groups threatened journalists and editors and even imposed temporary bans on some publications that were critical of their activities.

The Government maintains a list of banned books that may not be imported or sold in the country; some—like Salman Rushdie's *"Satanic Verses"*—because they contain material government censors have deemed inflammatory.

On February 16, customs agents at the Calcutta airport blocked the distribution of 3,000 issues of *Time* magazine because they contained a 1-page interview with the brother of Mohandas Gandhi's assassin, which they deemed would be defamatory and derogatory to national prestige.

Television no longer is a government monopoly, but this is due more to technological changes than to government policy. Private satellite television is distributed widely by cable or dish in middle-class neighborhoods throughout the country. These channels have been providing substantial competition for Doordarshan (DDTV), the national broadcaster, in both presentation and credibility because DDTV frequently is accused of manipulating the news for the benefit of the Government; however, cable operators are not free of criticism. In some parts of the country, to varying degrees, satellite channel owners use their medium to promote the platforms of the political parties that they support.

In late summer the Government proposed measures to control objectionable content on satellite channels—specifically, tobacco and alcohol advertisements—that would hold cable distributors liable under civil law. As a result, cable operators in New Delhi and some other areas held a 3-day blackout during the Olympic Games to demonstrate the gravity of their concern. The Government since has clarified its position, stating that the (often foreign) satellite broadcasters, rather than the domestic cable operators, fall within the scope of the regulation.

AM radio broadcasting remains a government monopoly. Private FM radio station ownership was legalized during the year, but licenses only authorize entertainment and educational content. Licenses do not permit independent news broadcasting.

A government censorship board reviews films before licensing them for distribution. The board censors material deemed offensive to public morals or communal sentiment. During the year, Hindu fundamentalist groups resorted to violence and disrupted the shooting of *"Water,"* a film involving the exploitation of widows, as they claimed it offended Hindu sentiments. A 1999 film by the same producer/director and cast, *"Fire,"* which dealt with lesbianism and which had been cleared by the censor board, was not allowed to be screened in most states; only Madhya Pradesh and West Bengal took proactive steps to allow the film to be shown. At times offended Hindu mobs, led by members of the Shiv Sena, a Hindu fundamentalist political party, provoked violence at movie theaters that were able to show the film. The fact that the lead actress of both films was a Muslim exacerbated tensions. Producers of video newsmagazines that appear on national television are required to submit their programs to Doordarshan, the government television channel, which occasionally has censored stories that portrayed the Government in an unfavorable light. This has led to self-censorship among producers so that DDTV rarely has to exercise its power of censorship.

The Government does not limit access to the Internet.

Arundhati Roy's book "The Greater Common Good," which discusses the socio-environmental costs of the Sardar Sarovar dam, was serialized in magazines in the country during the year. In 1999 political parties in favor of the Narmada project burned copies of the book and successfully threatened bookstores in Gujarat to remove it from their shelves.

Citizens enjoy academic freedom, and students and faculty espouse a wide range of views. In addition to about 10 national universities and 256 state universities, states are empowered to accredit locally run private institutions.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. The authorities sometimes require permits and notification prior to holding parades or demonstrations, but local governments ordinarily respect the right to protest peacefully, except in Jammu and Kashmir, where separatist parties routinely are denied permits for public gatherings. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

Srinagar and other parts of Jammu and Kashmir occasionally came under curfew, but more often were affected by strikes called by militants.

On March 27, Calcutta police beat primary school teachers participating in a peaceful procession to the legislative assembly, after holding a meeting on demands they had made of the state government. On August 13 and 14, police killed 2 persons and injured 3 others after they fired on a crowd of 1,500 Muslims in Agra. The crowd had gathered to protest efforts by majority Hindus to prevent them from using a plot of land close to a Hindu temple. The minority community wanted to use the land, which was under the supervision of Muslim religious authorities, as a graveyard. Police allege that the protesters turned violent, throwing bombs and bottles filled with acid at police. The police maintain that they fired at the crowd with live ammunition only after efforts to quell the disturbance with tear gas and rubber bullets had failed. Some of the protesters told reporters that the police actions were unprovoked (see Sections 1.a. and 1.g.).

According to Amnesty International, in August the Gujarat government detained approximately 600 persons who were planning to attend a hearing on the Narmada dam (see Section 2.d.). The police charged the protestors with disturbing the peace and released them shortly after their arrests.

The Constitution provides for the right to form associations, and the Government generally respected this right in practice.

In 1999 the Government introduced and enforced a new requirement that NGO's secure the prior approval of the Ministry of Home Affairs before organizing international conferences. Human rights groups contend that the new requirement provides the Government with substantial political control of the work of NGO's, abridging of their freedom of assembly and association.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice; however, it sometimes does not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit that freedom. India is a secular state in which all faiths generally enjoy freedom of worship; government policy does not favor any religious group. However, tension between Muslims and Hindus, and to an increasing extent between Hindus and Christians, continues to pose a challenge to the secular foundation of the State (see Section 5). In addition governments at state and local levels only partially respect religious freedom.

Although the law provides for religious freedom, enforcement of the law has been poor, particularly at the state and local levels, where the failure to deal adequately with intragroup and intergroup conflict and with local disturbances has abridged the right to religious freedom. In particular, some Hindu extremist groups continued to attack Christians during the year. In many cases, the Government response was inadequate, consisting largely of statements criticizing the violence against Christians, with few efforts to hold accountable those persons responsible or to prevent such incidents from occurring (see Section 5). Throughout the year, the Government generally described the violence and attacks as a series of isolated local phenomena, in some states calling for a national debate on conversions, which Hindus had advocated being banned.

The Government is led by a coalition called the National Democratic Alliance, which has pledged to respect India's traditions of secular government and religious tolerance. However, the leading party in the coalition is the Bharatiya Janata Party (BJP), a Hindu nationalist political party with links to Hindu extremist groups that have been implicated in violent acts against Christians and Muslims. The BJP also leads state governments in Gujarat, Himachal Pradesh, and Uttar Pradesh. Many BJP leaders and party workers are members of the Rashtriya Swayamsewak Sangh (RSS) and share some of its ideology. However, the BJP is an independent political party and the degree of RSS influence over its policy making is not clear. The RSS espouses a return to Hindu values and cultural norms. Members of the BJP, the RSS, and other affiliated organizations were implicated in incidents of violence and discrimination against Christians and Muslims. The BJP and RSS officially express respect and tolerance for other religions; however, the RSS in particular opposes conversions

from Hinduism and believes that all citizens should adhere to Hindu cultural values. The BJP officially agrees that the caste system should be eliminated, but many of its members are ambivalent about this. Most BJP leaders also are RSS members. The BJP's traditional cultural agenda includes calls for construction of a new Hindu temple to replace an ancient Hindu temple that was believed to have stood on the site of a mosque in Ayodhya that a Hindu mob destroyed in 1992; for the repeal of Article 370 of the Constitution, which grants special rights to the state of Jammu and Kashmir, the country's only Muslim majority state; and for the enactment of a uniform civil code that would apply to members of all religions. In mid-October, the RSS held a 3-day rally in Agra, which more than 75,000 Hindus reportedly attended. Speaking at the rally, RSS chief K.S. Sudarshan sparked controversy when he called for banning foreign churches and creating a national Christian Church based on the Chinese model. Sudarshan reportedly also encouraged Christian citizens to free themselves from the strong influence of foreign countries by setting up Indian nationalistic churches. Of particular concern for minority groups was Home Minister L.K. Advani's highly publicized participation at the Agra rally and vocal support of the RSS on his return to New Delhi. All of these proposals are opposed strongly by some minority religious groups. The BJP-led national Government took no steps to implement these controversial measures and has promised that it would not do so during its tenure.

Human rights groups and others have suggested that the response by authorities in these states to acts of violence against religious minorities by Hindu extremist groups has been ineffective, at least in part because of the links between these groups and the BJP, and have noted that the ineffective investigation and prosecution of such incidents may encourage violent actions by extremist groups. Some Christian groups also claim that BJP officials at state and local levels have become increasingly uncooperative. The Government also has been criticized for not attempting to restrain the country's radical Hindu groups.

The degree to which the BJP's nationalist Hindu agenda is felt throughout the country with respect to religious minorities varies depending on the region. In some states, governments took pains to reaffirm their commitment to secularism. In others, mainly in the south, religious groups allege that since the BJP's rise to power in the national Government, some government bureaucrats have begun to enforce laws selectively to the detriment of religious minorities. The situation in the east varied. For example, the Orissa government in November 1999 notified churches that religious conversions could not occur without notification of the local police and district magistrate. The Orissa Freedom of Religion Act of 1967 contains a provision requiring a monthly government report on the number of conversions, but this provision previously had not been enforced. After a conversion has been reported to the District Magistrate, the report is forwarded to the authorities and a local police officer conducts an inquiry. The police officer may recommend in favor of or against such intended conversion, often as the sole arbitrator on the individual's right to freedom of religion; if conversion is judged to have occurred without permission or with coercion, the authorities may take penal action. In Tripura there were reports of attacks on non-Christians by Christians.

No registration is required for religions. Legally mandated benefits are assigned to certain groups, including some groups defined by their religion.

There are many religions and a large variety of denominations, groups, and subgroups in the country, but Hinduism is the dominant religion. According to 1999 statistics (based on the 1991 census), Hindus constitute 82.4 percent of the population, Muslims 12.7 percent, Christians 2.3 percent, Sikhs 2.0 percent, Buddhists 0.7 percent, Jains 0.4 percent, and others, including Parsis, Jews, and Baha'is, 0.4 percent.

The Religious Institutions (Prevention of Misuse) Act makes it a criminal offense to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The state of Uttar Pradesh passed the Religious Buildings and Places Act during the state assembly budget session of March-May. The act requires a state government-endorsed permit before construction of any religious building may commence in the state. During the year, West Bengal's government implemented 15-year-old legislation that requires any person desiring to construct a place of worship to seek permission from the district magistrate; any person intending to convert a personal place of worship to one for the community must obtain the district magistrate's permission.

The current legal system accommodates minority religions' personal status laws; there are different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example, Muslim personal status law governs many noncriminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminate against women. Under Islamic law, a Muslim husband may divorce his wife spontaneously and unilaterally; there is no such provision for women. Islamic law also allows a man to have up to four wives but prohibits polyandry. Under the Indian Divorce Act of 1869, a Christian woman may demand divorce only in cases of spousal abuse and certain categories of adultery; for a Christian man, adultery alone is sufficient. In May 1997, the Mumbai High Court recognized abuse alone as sufficient grounds for a Christian woman to obtain a divorce.

The Government was reviewing the legislation on marriage and drafted the "Christian Marriage Bill" during the year. The bill would replace the Indian Divorce Act of 1869, which is widely criticized as biased against women. If enacted it would place limitations on interfaith marriages and specify penalties, such as 10 years' imprisonment, for clergymen who contravene its provisions. The current form of the bill states that no marriage in which one party is a non-Christian may be celebrated in a church. The bill was not introduced during the most recent Parliament session in March-May due to the strong objections and reservations of the Christian community.

There is no national law that bars proselytizing by Christian citizens. Foreign missionaries generally may renew their visas, but since the mid-1980's the Government has refused to admit new resident foreign missionaries. New arrivals currently enter as tourists on short-term visas. During the year, as in the past, state officials

refused to issue permits for foreign Christian missionaries, as well as other persons, to enter some northeastern states, on the grounds of political instability in the region. This restriction is not levied specifically against Christians. Many foreigners, including diplomats, are refused permits to the country's northeastern states on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA), which restricts funding from abroad and, therefore, the ability of certain groups to finance their activities. The Government is empowered to ban a religious organization if it has violated the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition. There is no ban on professing or proselytizing religious beliefs; however, speaking publicly against other beliefs is considered dangerous to public order, and is prohibited.

A January decision by the Gujarat state government to revoke the ban on the participation of government employees in Rashtriya Swayamsewak Sangh activities was criticized widely by those who felt that this would lead to the spread of RSS influence within the government services, as was the wellpublicized participation of the state's chief minister at an RSS rally that month. In March the government of Gujarat convinced a BJP legislator to withdraw a bill that sought to regulate Christian missionary activity within the state; the bill was written to prohibit "forced" or "induced" conversions—a crime that would have been punishable by a fine and up to 3 years in prison. In May the Gujarat government withdrew permission for state government workers to engage in RSS activities. Despite these steps by the state and national governments to address communal concerns, many in the minority communities continued to express unease about BJP rule.

In August 1999, a bill was introduced in Gujarat that would allow harsh punishment for anyone in the state found guilty of converting someone to another religion through the use of force, provision of material benefits, or fraud. Human rights groups feared that if passed the bill—called the Gujarat Freedom of Religion Bill, 1999—could be used to restrict the fundamental right to choose one's religion. However, the Gujarat state assembly took no action on the Freedom of Religion Bill, allowing it to lapse. It must be reintroduced to be further considered.

Violent attacks against Christians by Hindus, which began in late 1998, continued during the year. Attacks on religious minorities no longer appear to be confined to Gujarat and Orissa. There were several attacks by Hindu groups against Christian institutions in Uttar Pradesh in April (see Section 5). These incidents were the first signs of Hindu-Christian violence in Uttar Pradesh in over 6 years. The Government dispatched the National Commission for Minorities (NCM) to investigate the attacks in the north, but the NCM's findings that the attacks were not "communal in nature" sparked widespread criticism in the minority community (see Section 5). There is strong evidence that the NCM report misrepresented the victims in its claim that the victims themselves are satisfied entirely that there was no religious motivation behind the violence. Victims of the incidents claim that the local police were not responsive either before or during the attacks. The BJP government in Uttar Pradesh initiated an investigation by intelligence agencies into the June 21 custodial killing of a witness, Vijay Ekka (see Sections 1.a. and 5); the government also announced plans to set up a judicial inquiry by a sitting judge from the state High Court. The Mathura superintendent of police was transferred because of the Ekka killing; however, no further information was uncovered and no other persons were held accountable by year's end.

On June 26, the National Human Rights Commission ordered states affected by Hindu-Christian violence to provide written reports detailing the violence against Christians and the actions taken by state governments. No reports were made public by year's end, and according to human rights activists, states had not submitted them.

On occasion, Hindu-Muslim violence led to killings and a cycle of retaliation. In some instances, local police and government officials abetted the violence, and at times security forces were responsible for abuses. Police sometimes assisted the Hindu fundamentalists in perpetrating violent acts (see Section 5). Following riots in Ahmedabad, Gujarat from August 5 to 7, some police officers allegedly forced some Muslim residents to sing the Sanskrit anthem to prove that they were not "anti-national" (see Section 5). Government officials allegedly also subjected Christian-affiliated foreign relief organizations to arbitrary roadblocks; many of these organizations are not engaged in religious activities (see Section 4). In a few instances, state governments investigated and sometimes arrested suspects in cases of anti-Christian violence. For example, after an Australian missionary was murdered in Orissa (see Section 5), several suspects were arrested. In another instance, the governments of Karnataka and Andhra Pradesh investigated a series of 6 church bombings in June and July (see Section 5); the investigations led to the arrest of 45 persons and concluded that members of the Deendar Anjuman, a Muslim group, carried out the bombings. In general government response has been poor with respect to such incidents.

On July 14, the Maharashtra government announced its intention to prosecute Bal Thackeray, leader of the rightwing Hindu organization Shiv Sena, for his role in inciting the Mumbai 1992-1993 riots in which over 700 persons, the vast majority of whom were Muslim, were killed (see Section 5). On July 25, amid rioting by Shiv Sena supporters, Thackeray was arrested; a few hours later a judge ruled that the statute of limitations relating to the incitement charges had expired, and Thackeray was released.

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

Citizens enjoy freedom of movement within the country except in certain border areas where, for security reasons, special permits are required. Under the Passports Act of 1967, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government uses this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and members of the violent separatist movement in Jammu and Kashmir. On April 9, the Government prevented four members of a Kashmir human rights organization from traveling to the 56th U.N. Commission on Human Rights (UNCHR) meeting in Geneva (see Section 4). Abdul Majid Bandy, Mohammad Tufail, Mohannad Amin Bhat and Abdul Rashid Lone, had valid passports and

letters of accreditation as members of a U.N.-recognized NGO, but authorities prevented them from boarding their flight.

Vehicle checkpoints, at which Border Security Forces routinely search and question occupants, are a common feature throughout most of Jammu and Kashmir. It also is common for police to block entry and exit points in preparation for gathering young males for police lineups. These searches tend to focus on troubled areas, as opposed to the mass searches that were common in the past. According to a credible source, such search operations seldom yield any results.

In September the PUCL reported that Bangalore police arrested 30 persons peacefully demanding access to public information on construction of the Bangalore-Mysore information corridor. The Karnataka government has proposed acquiring more than 20,000 acres of land in 168 villages. Those arrested were concerned about the status of farmland and homes in the village resulting from the continued planned government construction of an expressway between the two cities.

On October 18, the Supreme Court ruled that construction of the Sardar Sarovar Dam on the Narmada River in Gujarat could begin immediately, reaching a height of 90 meters, and could proceed in stages thereafter up to a finished height of 138 meters. The ruling stipulated that those displaced by the dam would be compensated. However, many human rights advocates and NGO's continued to allege that the construction of the dam would displace 40,000 families without adequately compensating those who are resettled (see Section 2.b.). (Opposition to the Narmada project was greatest during the early 1990's, resulting in prolonged financial and legal delays.)

Citizens may emigrate without restriction.

Since 1990 more than 235,000 Bangladeshis have been deported, many from Maharashtra and West Bengal. The occasional deportation of Bangladeshis judged to have entered the country illegally continued during the year, but there was no repetition of the systematic roundup of Bangladeshis for mass deportation that was conducted by the Maharashtra government in 1998. The Government estimates that there are 10 million Bangladeshis living illegally in the country. On August 28, the Supreme Court gave the central Government until January 2001 to repeal the Illegal Migrants Determination by Tribunal (IMDT) Act of 1985. The court ruled that the law, which is largely aimed at illegal Bangladeshi immigrants, is being applied only in Assam, and therefore is discriminatory. Bodo-Santhal ethnic clashes, which began in April 1998, continued throughout the year. More than 87,000 persons live under poor conditions in relief camps in Assam's Kokrajhar, Gosaigaon, and adjoining districts as a result of the ongoing violence between Bodos and Santals.

The spring and summer 1999 incursion of Pakistan-backed armed forces into territory on the Indian side of the line of control around Kargil in the state of Jammu and Kashmir and the Indian military campaign to repel the intrusion forced as many 50,000 residents of Jammu and Kashmir from their homes, a number of whom took refuge on the Pakistani side of the line of control. Many had their homes destroyed. Since that conflict, artillery shelling of the region by Pakistan has kept many of the internally displaced persons from returning and driven others from their homes. On October 12, Jammu and Kashmir home minister Mustaq Ahmad Lone told the State Assembly that 43,510 persons remained displaced (see Sections 1.a., 1.c., and 1.g.).

In a number of northern states, most notably Orissa, Bihar, and West Bengal, hundreds of thousands of persons were displaced temporarily due to severe flooding and cyclonic storms during the monsoon season.

The law does not contain provisions for processing refugees or asylum seekers in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, nor is there a clear national policy for the treatment of refugees. The Office of the U.N. High Commissioner for Refugees (UNHCR) has no formal status, but the Government permits the UNHCR to assist certain groups of refugees (notably Afghans, Iranians, Somalis, Burmese, and Sudanese). The U.N. High Commissioner for Refugees, Sadako Ogata, visited the country in May (see Section 4).

The Government has not permitted the UNHCR to assist other refugee groups, including Sri Lankan Tamils, to whose camps in Tamil Nadu the Government continued to bar access by the UNHCR and NGO's (see Section 4). The Government provides first asylum to some refugees, most notably in recent years to Tibetan and Sri Lankan Tamil refugees. However, this policy is applied inconsistently. For example, the insistence of some border authorities on the presentation of passport and visas by those claiming refugee status occasionally has resulted in individuals or groups being refused admittance. This has occurred in recent years in cases involving Chin and Rakhine refugees from Burma, and Afghans who entered the country through Pakistan. Refugees are not required to make claims in other countries. Cramped and unhygienic conditions reportedly exist in some of the camps for Sri Lankan Tamils in Tamil Nadu.

The Government recognizes certain groups, including Chakmas from Bangladesh, Tamils from Sri Lanka, and Tibetans as refugees and provides them with assistance in refugee camps or in resettlement areas. According to UNHCR and government statistics, there were approximately 98,000 Tibetans, approximately 64,989 Sri Lankan Tamils in 131 camps, and perhaps as many as 80,000 Sri Lankan Tamils outside of the camps living in the country at year's end. The refugees in the camps are permitted to work, and the state and central governments pay to educate refugee children and provide limited welfare benefits. Many Chakmas from Bangladesh have been repatriated voluntarily, including all of the estimated 56,000 persons who had been residing in Tripura. Some 80,000 Chakma permanent residents remain in Arunachal Pradesh and Mizoram; the Supreme Court has upheld their right to citizenship. However, the Supreme Court's order to extend citizenship to this group still had not been enforced by year's end. The UNHCR reported that 13,390 Afghans, 747 Burmese, 139 Iranians, 105 Somalis, 50 Sudanese, and 56 others, including Iraqis and Ethiopians, were receiving assistance from the UNHCR in the country as of August 31. Although the Government formally does

not recognize these persons as refugees, it does not deport them. Instead, they received renewable residence permits or their status was ignored. Increasingly during the year, some of these groups—Afghans, Iraqis, and Iranians in particular—were not granted renewal of their residence permits by the authorities on the grounds that they were not in possession of valid national passports. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports, and therefore were unable to regularize their status in the country.

The Tamil Nadu government provides educational facilities to Sri Lankan Tamil refugee children, and the central Government provides some assistance and channels assistance from NGO and church groups. The central Government generally has denied NGO's and the UNHCR direct access to the camps. NGO's report refugee complaints about deteriorated housing, poor sanitation, delayed dole payments, and inadequate medical care in the Tamil refugee camps. The NHRC has intervened to uphold the right of several Sri Lankan Tamils detained in so-called "special camps" to remain in the country. The Government uses these camps to hold suspected members of the LTTE terrorist organization. Human rights groups allege that inmates of the special camps sometimes are subjected to physical abuse and that their confinement to the camps amounts to imprisonment without trial. They allege that several of those acquitted by the Supreme Court in May 1999 of involvement in the assassination of former Prime Minister Rajiv Gandhi (see Section 1.a.) remain confined in these special camps. Some 1,399 new refugees arrived from Sri Lanka during the first 9 months of the year. Human rights groups allege that the Government did not permit 30 to 40 families, whom alien smugglers left stranded on sand bars in the shallow Palk Strait, to enter the country; however, during the year some 180 persons similarly marooned were permitted to enter.

Ethnic Chins are among the nonrecognized refugees in the northeastern states, particularly Mizoram. Chins and Chakma refugees have been targeted by student-led demonstrations protesting their presence in Mizoram. During the year, tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly resulted in the detention, interrogation, and expulsion of some persons associated with the CNF to Burma, where they credibly feared persecution. Human rights monitors allege that about 1,000 Chin refugees had been arrested in Mizoram and some 200 had been repatriated forcibly to Burma between July and September. According to one NGO, on August 3, a 25-year-old Chin refugee died in the Aizawl central police station, Mizoram (see Section 1.a.). An estimated 40,000 to 50,000 Chins live and work illegally in Mizoram.

Mizoram human rights groups estimate that some 41,000 Reangs, a tribal group from Mizoram that has been displaced due to a sectarian conflict, presently are being sheltered in 6 camps in North Tripura; conditions in such camps are poor and the Tripura government has asked the central Government to allot funds for their care. Reang leaders in the camps say that their community would return to Mizoram if they were granted an autonomous district council, allotted a set number of seats in the Mizoram Assembly, and granted financial assistance for resettlement. The Mizoram government rejected these demands and maintained that only 16,000 of the refugees had a valid claim to reside in the state. On August 7, following his meeting with Tripura chief minister Manik Sarkar, Union Home Minister L.K. Advani announced that an initial group of Reang refugees would be resettled in Tripura by October 31, and that repatriation of the entire group would be completed by year's end. However, while an NHRC staff member also visited Tripura to inquire into the situation of the Reangs, by year's end nothing had been done to repatriate them.

### Section 3 Respect For Political Rights: The Right Of Citizens To Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. State governments are elected at regular intervals except in states under President's Rule.

On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a state's constitutional machinery. The Supreme Court in May 1995 upheld the Government's authority to suspend fundamental rights during an emergency.

Some 50 persons were killed in election-related violence in state assembly polling in Gujarat, Bihar, and Manipur (see Section 1.a.), and there were localized allegations of voter fraud.

During the February 12 Bihar State Assembly election, extremists of the Maoist Coordination Center (MCC) and the PWG killed 21 persons, including 12 members of the security forces and 2 election officials. The extremist groups had warned voters to remain at home during the polls, or face attack. Seventeen more persons were killed in the second phase of voting in the state on February 22. On September 17 in Ahmedabad, Gujarat, police killed 6 persons and injured 15 others when they fired on a crowd of about 2,000 persons (see Section 1.a.). The crowd had rampaged through a Muslim-minority section of the city after reports that ballot boxes had been tampered with in the city's municipal corporation elections. In West Bengal, clashes between supporters of the Trinamul Congress Party and the CPI(M) left 71 persons dead in the first 9 months of the year (see Section 1.g.). Voting irregularities in the West Bengal election—such as fraud, delaying tactics, and intimidation—were reported widely.

Women are underrepresented in government and politics, although no legal impediments hinder their participation in the political process. A large proportion of women participates in voting throughout the country (with turnout rates slightly lower than those of men), and numerous women are represented in all major parties in the national and state legislatures. There are 66 women among the 790 Members of Parliament, including the Deputy Speaker of the upper house, and there are 8 women in the 74-member Cabinet. The 1993 passage

of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, which has brought more than 1 million women into the political life at the grassroots level. In September debate over the Women's Reservation Bill, which was designed to reserve one-third of parliamentary seats for women, subsided when the Government failed to introduce the bill during the monsoon session of Parliament. The bill was introduced but not debated in the winter session of Parliament. The Women's Reservation Bill first was introduced in late 1998.

The Constitution reserves seats in Parliament and state legislatures for "scheduled tribes" and "scheduled castes" in proportion to their population (see Section 5). Indigenous people actively participate in national and local politics, but their impact depends on their numerical strength. In the northeastern states, indigenous people are a large proportion of the population and consequently exercise a dominant influence in the political process. In comparison, in Maharashtra and Gujarat, tribal people are a small minority and have been unsuccessful in blocking projects that they oppose.

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

Independent human rights organizations operate throughout most of the country, investigating abuses and publishing their findings; however, in some states and in a few circumstances, human rights groups face some restrictions. Human rights monitors in Jammu and Kashmir have been unable to move around the state to document human rights violations due to fear of retribution by security forces and countermilitants. Since 1992 several individuals closely involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, have been attacked and in some cases killed. International human rights monitors have had difficulty in obtaining visas to visit the country for investigation purposes. For example, during the year the authorities continued to deny HRW and Amnesty International permission to visit Jammu and Kashmir; however, some foreign diplomats gained improved access to some prisons in Jammu and Kashmir. The Government also continued to deny the U.N. Special Rapporteurs on Torture and Extrajudicial Killings permission to visit the country, despite their repeated requests. Moreover, the police and security forces have arrested and harassed human rights monitors. In May U.N. High Commissioner for Refugees Sadako Ogata was allowed to visit the country (see Section 2.d.).

In September 1999, the Ministry of Home Affairs sent a notice to several prominent NGO's asking them to justify their status as nonpolitical organizations under the Foreign Contribution (Regulation) Act. According to HRW, the notice effectively was a threat to cut off foreign funding. The NGO's, many of which worked on women's rights, communal violence, and Dalit and tribal issues, publicly had criticized the policies of the BJP-led government and the antisecular activities of the Sangh Parivar, a collective of rightwing Hindu organizations of which the BJP is a member.

On May 24, an agent of the intelligence bureau visited and questioned the director of the South Asia Human Rights Documentation Center (SAHRDC) about his travel earlier in the month to Geneva to participate in the meeting of the U.N. Human Rights Commission. In 1998 the Andhra Pradesh government issued a directive to faculty members of state universities not to associate with the Andhra Pradesh Civil Liberties Union (APCLC), a well-respected human rights organization. Following protests by faculty organizations, the directive was rescinded.

On April 9, the Government prevented four members of a Kashmir human rights organization from traveling to the 56th annual meeting of the UNCHR in Geneva (see Section 2.d.).

According to HRW, on April 20, a mob of local residents and politicians raided the Almora and Jageswar offices of an NGO working primarily on women's health and empowerment in Uttar Pradesh. The attack allegedly was in response to a pamphlet that the NGO had published in 1999 on HIV transmission, which contained purportedly sexually offensive material. Police and protestors assaulted staff and trainees, and a number of persons were detained for a short period.

According to Amnesty, the chief judicial magistrate in Srinagar released on bail Ghulam Mohiuddin Najar, a political activist and teacher; however, immediately upon release, members of the Special Operations Group, a unit of the state police, shot and killed him at the court gate. According to Amnesty International, in February security forces in Jammu and Kashmir pointed guns at journalists who were attempting to investigate the killing of Najar.

Amnesty International reported the November killing of human rights defender T. Puroshottam in Hyderabad, Andhra Pradesh. A group of unidentified men wielding knives attacked Puroshottam, the Joint Secretary of the Andhra Pradesh Civil Liberties Committee, in a local shop. Puroshottam was involved in numerous investigations of alleged human rights violations by the police including torture and extrajudicial executions, had been attacked previously, and had received persistent threatening telephone calls. There has been no independent investigation into Puroshottam's killing.

There was no definitive resolution in the case of abducted and murdered Kashmir human rights monitor Jaiil Andrabi. Human rights workers allege that the state is attempting to subvert the judicial process by withholding evidence (see Sections 1.a. and 1.b.). In Assam the investigation into the 1996 murder of human rights monitor and journalist Parag Das has yielded no definitive information on the identity of his killer. The assailant allegedly was a militant who previously had surrendered and was supported by the Government (see Sections 1.a. and 2.a.).

Several Christian-affiliated (in many cases, non-evangelical) international relief agencies stated that, during the



year, their work in delivering services to the poor became considerably more difficult due to threats, increased bureaucratic obstacles, and, in some cases, physical attacks on their field workers by Hindu extremists (see Sections 2.c. and 5).

The Government appointed a National Human Rights Commission in 1993 with powers to investigate and recommend policy changes, punishment, and compensation in cases of police abuse. In addition the NHRC is directed to contribute to the establishment, growth, and functioning of human rights NGO's. The Government appoints the members and finances the operations of the NHRC. The NHRC is seriously understaffed and prohibited by statute from directly investigating allegations of abuse involving army and paramilitary forces.

From April 1, 1998 to March 31, 1999 (the most recent reporting year), the NHRC received 40,724 new complaints of human rights violations. The Commission had 13,512 cases awaiting consideration at the beginning of the reporting period. Of the 54,236 cases before it in the 1998-99 year, the Commission reviewed 53,711, leaving 525 awaiting review at the end of the year. Of the 53,711 cases considered during the year, 32,172 were dismissed; 10,718 were transmitted to other governmental authorities for disposition; 3,395 were concluded, and 7,426 were pending. In the previous 12-month period (April 1997 to March 1998), the Commission received 36,791 complaints. The increased number of complaints in the most recent reporting year is believed to be the result of the Commission's increased visibility.

The NHRC has sought to encourage a culture respectful of human rights by fostering human rights education in schools and universities, by offering assistance and encouragement to human rights NGO's, by supporting training programs for the police, military forces, and paramilitary forces, and by making recommendations to the central and state governments. During the year, the NHRC carried out, with the assistance of NGO's, a human rights training program for state police that included stress counseling. The NHRC also has influenced the legislative process, particularly by issuing a formal opinion that a new Prevention of Terrorism Act is not needed, and by proposing Prison Reform Legislation. State Human Rights Commissions exist in Assam, Manipur, Himachal Pradesh, Madhya Pradesh, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala, and Rajasthan; Uttar Pradesh took legal steps to establish a commission but has yet to appoint members. In addition special courts to hear human rights cases have been established in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh. The courts in Uttar Pradesh are not functioning, despite a September 1999 court order that they be reactivated. The NHRC also encouraged the establishment of human rights cells in police headquarters in the states.

The NHRC also was involved in programs to eliminate child labor (see Section 6.c.).

The state human rights commission established in Jammu and Kashmir by an act of the state legislature, in 1997, has no power to investigate independently alleged human rights violations committed by security force members. Credible human rights monitors say that the Jammu and Kashmir Commission has not yet demonstrated effective, independent protection of human rights in the state.

A People's Commission that was established in 1998 by retired Supreme Court Justice Kuldip Singh to highlight the fate of more than 2,000 persons who "disappeared" during the period of political unrest in Punjab (see Section 1.b.) continued to receive little cooperation from state government authorities.

The prison visits program in Jammu and Kashmir by the ICRC, initiated in October 1995, continued during the year (see Section 1.c.). ICRC representatives also continued training police and Border Security Force personnel in international humanitarian law.

The Government continued to refuse repeated UNHCR requests for access to the Sri Lankan Tamil refugee camps in Tamil Nadu (see Section 2.d.).

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The traditional caste system as well as differences of ethnicity, religion, and language deeply divide society. Despite laws designed to prevent discrimination, other legislation as well as social and cultural practices have a profound discriminatory impact. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes are frequent in Uttar Pradesh, Bihar, and Tamil Nadu.

#### Women

Domestic violence is common and a serious problem. According to a 1996 survey in Uttar Pradesh, 30 percent of married men acknowledged physically abusing their wives. In a survey of 10,000 women released during the year, more than half of the women said that violence was a normal part of married life. The Health Ministry released a different survey during the year that indicated that, of 90,000 women surveyed, more than half acknowledge being battered. Dowry disputes also are a serious problem. In the typical dowry dispute, a groom's family members harass a new wife whom they believe has not provided a sufficient dowry. This harassment sometimes ends in the woman's death, which family members often try to portray as a suicide or kitchen accident; recent research suggests that a significant percentage of kerosene attacks also are due to domestic violence. Although most "dowry deaths" involve lower and middle-class families, the phenomenon crosses both caste and religious lines. According to National Crime Records Bureau (NCRB) statistics, 6,917 dowry deaths occurred in the country in 1998, including 2,229 dowry deaths in Uttar Pradesh, 1,039 in Bihar, 598 in Madhya Pradesh, 500 in Andhra Pradesh, 420 in Maharashtra, 200 in Karnataka, 176 in Tamil Nadu, and 21 in Kerala.

Under a 1986 amendment to the Penal Code, the court must presume that the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first 7 years of marriage—provided that harassment is proven. In such cases, police procedures require that an officer of deputy superintendent rank or above conduct the investigation and that a team of two or more doctors perform the postmortem procedures. According to human rights monitors, in practice police do not follow these procedures consistently.

The issue of rape has received greater political and social attention than in earlier years. In July the NHRC directed the Andhra Pradesh government to pay \$1,100 (50,000 rupees) in compensation to each of four Dalit women who were raped in Godavari district. The NHRC overturned a state ruling that had denied the women monetary compensation because the victims and their attackers were members of low caste and tribal communities. The press consistently reports that such violence against women is increasing, although local women's organizations claim that there simply has been increased reporting. Only 10 percent of rape cases are fully adjudicated by the courts, and police typically fail to arrest rapists, thus fostering a climate of impunity. In May the Central Bureau of Investigation initiated an inquiry into the alleged gang rape of three women by police officials in Pilibhit district, Uttar Pradesh in August 1998. According to a complaint filed by a witness, three officers of the Madho Tanda police station in Pilibhit district entered the victims' home late on the night of August 16-17 and raped the three women. On May 30, a court in Jalpaiguri, West Bengal sentenced Kashinath Tripathy and Bhuson Barua to life imprisonment for the 1982 rape of a girl in Jalpaiguri.

In September in Kulkul village, Orissa, a group of villagers hacked to death a 60-year-old tribal woman, Namsi Ho, allegedly for practicing witchcraft. Police arrested four persons in connection with the killing. On October 16 and November 19, in Ganjam district, Orissa, villagers accused Kumari Behera, of sorcery, and tortured and branded her with hot iron rods. Five persons were arrested in connection with the assaults.

According to NCRB statistics, in 1998 there were 15,031 reported rapes, 16,381 abductions of women, 6,917 dowry deaths, 41,318 reported cases of torture of women, 31,046 cases of molestation, and 8,123 cases of sexual harassment. The NCRB recorded 131,338 crimes against women in 1998, compared with 121,265 in 1997. In 1997, 678 cases of gang rape were recorded. Gang rapes often are committed as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes and feuds. On February 1, the Committee on the Elimination of Discrimination Against Women (CEDAW) of the U.N. Commission on Human Rights (UNCHR) expressed concern that "there is a high incidence of gender-based violence against women, which takes even more extreme forms because of customary practices such as dowry, sati (the burning alive of widows on their husbands' funeral pyre) and the Devadasi system (the practice of dedicating or marrying young, prepubescent girls to a Hindu deity or temple as servants of God. Devadasis, who generally are Dalits, may not marry. They are taken from their families and are required to provide sexual services to priests and high caste Hindus. Reportedly, many eventually are sold to urban brothels" (see Sections 6.c. and 6.f.). The committee further stated that "discrimination against women who belong to particular castes or ethnic or religious groups also is manifest in extreme forms of physical and sexual violence and harassment."

Higher female mortality at all age levels, including female infanticide and sex selective termination of pregnancies, accounts for an increase in the ratio of males to females to 107.9 males per 100 females in 1991, from 104.7 males per 100 females in 1981, and from 102.9 males per 100 females at the turn of the century. In some districts of Tamil Nadu, female infanticide occurs despite government and NGO programs intended to counter the practice. In July the district collector of Dharmapuri, Tamil Nadu, formed a team to investigate the murder of a girl in Paramrapatti village. The team exhumed the buried body and arrested the girl's father and another accomplice. In August the maimed body of a newborn girl was found under a bridge in Tirunelveli, Tamil Nadu. Police believe that the child's mother abandoned her in the public place hoping that someone would take her in. On February 1, CEDAW expressed concern that "India has not yet established a comprehensive and compulsory system of registration of births and marriages. The Committee notes that inability to prove those important events by documentation prevents effective implementation of laws that protect girls from sexual exploitation and trafficking, child labor and forced or early marriage."

Numerous laws exist to protect women's rights, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However, the Government often is unable to enforce these laws, especially in rural areas in which traditions are deeply rooted. According to press reports, the rate of acquittal in dowry death cases is high, and because of court backlogs it takes 6 to 7 years on average to rule on such cases. On February 1, CEDAW noted that "there is an urgent need to introduce comprehensive [legislative] reform to promote equality and the human rights of women."

Prostitution is widespread, with an estimated 2.3 million prostitutes in the country, some 575,000 of whom are children. Many indigenous tribal women are forced into sexual exploitation (see Section 6.c.). In Assam's Chars River islands, some women work as prostitutes in exchange for as little as \$0.23 (10 rupees). In 1998 prostitutes began to demand legal rights, licenses, and reemployment training, especially in Mumbai and New Delhi.

In 1997 Karnataka's government made sexual harassment a criminal offense.

The country is a significant source, transit point, and destination for many thousands of trafficked women (see Section 6.f.).

Literacy rates for women are significantly lower than rates for men; the 2000 U.N. Development Program (UNDP) Report for India found that 38 percent of women were literate, compared with 66 percent of men.

The law prohibits discrimination in the workplace, but enforcement is inadequate. In both rural and urban areas, women get lower wages than men for doing the same job. Women experience economic discrimination in access to employment and credit. This acts as an impediment to women owning a business, and the promotion of women to managerial positions within businesses often is slower than that of males. State governments have supported micro-credit programs for women that have begun to have an impact in many rural districts.

The personal status laws of the religious communities discriminate against women. Under the Indian Divorce Act of 1869, a Christian woman may demand divorce only in the case of spousal abuse and in the case of certain categories of adultery; for a Christian man, adultery alone is sufficient. In 1997 the Mumbai High Court recognized abuse alone as sufficient grounds for a Christian woman to obtain a divorce. Under Islamic law, a Muslim husband may divorce his wife spontaneously and unilaterally; there is no such provision for women. Islamic law also allows polygyny (under which a man may have up to four wives) but prohibits polyandry (under which a woman may have multiple husbands). On February 1, CEDAW noted that "steps have not been taken to reform the personal laws of different religious and ethnic groups, in consultation with them, so as to conform with the Convention. The Committee is concerned that the Government's policy of non-intervention perpetuates sexual stereotypes, son preference and discrimination against women."

The Hindu Succession Act provides equal inheritance rights for Hindu women, but married daughters seldom are given a share in parental property. Islamic law recognizes a woman's right of inheritance but specifies that a daughter's share only should be one-half that of a son.

Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accord women little control over land use, retention, or sale. However, several exceptions exist, as in Ladakh and Meghalaya, where women may have several husbands and control the family inheritance.

Thousands of grassroots organizations work for social justice and the economic advancement of women, in addition to the National Commission for Women. The Government usually supports these efforts, despite strong resistance from traditionally privileged groups.

#### Children

The Government does not provide compulsory, free, and universal primary education, and only approximately 59 percent of children between the ages of 5 and 14 attend school. Of a primary school-age population of approximately 203 million, about 120 million children attend school. No significant sectors or groups actively are excluded, but the economic reality is that children of wealthier families are more likely to attend school than those of poor families. According to a UNDP study conducted in 1993, the dropout rate from primary school was 34 percent. A significant gender gap exists in school attendance, particularly at the secondary level. According to UNICEF, 59 percent of boys and 38 percent of girls were enrolled in secondary school.

The central Government spends approximately 5.9 percent of its overall budget on education. The state governments also spend part of their budgets on education, but no comprehensive figure of combined federal-state expenditure is available. A 1993 study commissioned by the UNDP estimated that about 3.7 percent of the country's gross national product is devoted to education. On February 23, the Committee on the Rights of the Child of the UNHRC expressed concern "at the prevailing poor situation in the state party with respect to education, which is characterized by a general lack of infrastructure, facilities and equipment, insufficient numbers of qualified teachers and a drastic shortage of text books and other relevant learning materials. There is serious concern regarding the striking disparities in terms of access to education, attendance at primary and secondary levels and drop-out rates between: different states, rural and urban areas, boys and girls, the affluent and the poor, and children belonging to scheduled castes and tribes."

Child welfare organizations estimate that there are 500,000 street children nationwide living in abject poverty.

A coalition of about 50 NGO's conducted a detailed survey in the Calcutta municipal area and identified 145,000 children who were not attending school. Not all of them were street children. The NGO's received UNICEF assistance in training teachers to conduct transitional education for a target group of 45,000 5- to 9-year-old children. The course work is intended to allow these children to enter mainstream schooling. UNICEF has contributed \$94,000 (4.4 million rupees) for this activity; the West Bengal government has provided technical advice; the central Government contributed nothing to the project. By year's end, 300 teachers had received training and 235 centers are functioning. About 5,875 children are attending transitional education sessions at these centers.

Child prostitution occurs in the cities, and there are an estimated 575,00 child prostitutes nationwide. Trafficking in children for the purpose of forced prostitution is a problem (see Sections 6.c. and 6.f.). On February 23, the U.N. Committee on the Rights of the Child of the UNCHR expressed concern "about the sexual abuse and exploitation of children, especially those belonging to the lower castes and from poor urban and rural areas, in the contexts of: Religious and traditional culture; child domestic workers; children living and/or working on the streets; communal violence and ethnic conflict; abuse by security forces in areas of conflict, such as Jammu and Kashmir and the northeastern states; and trafficking and commercial exploitation, especially girls from neighboring countries, particularly Nepal. It is also concerned about the lack of adequate measures to combat this phenomenon and the lack of adequate rehabilitation measures."

According to an International Labor Organization (ILO) estimate, 15 percent of the country's estimated 2.3 million prostitutes are children.

A working group on child prostitution set up by the NHRC includes representatives from the National Commission for Women, the Department of Women and Child Development, NGO's, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

Runaway children, especially in larger cities, are at high risk for sexually transmitted diseases and HIV. They often work 18- to 20-hour days, frequently in hazardous conditions (see Section 6.c.), and suffer sexual and mental abuse. In addition schoolteachers often beat children.

The Union Ministry of Social Justice and Empowerment has set up a 24-hour "child help line" phone-in service for children in distress in nine cities. Run by NGO's with government funding, the child help line assists street children, orphans, destitutes, runaway children, and children suffering abuse and exploitation. During one 6-month period, the help lines received 25,000 calls, including 2,190 seeking medical assistance for children, 1,056 seeking shelter, 138 reporting missing children, and 125 reporting physical or sexual abuse of children.

As part of its ongoing effort, the NHRC seeks to examine conditions in juvenile homes and recommend improvements. In 1999 the Commission issued directions to all state governments to report within 24 hours any instance of death or rape in such institutions. The Commission reported that it had undertaken this initiative following receipt of reports of a young boy's death in such a home in Delhi in 1996. In March 1999, NHRC member Justice V.S. Malimath said that cases of abuse and torture of children confined to juvenile homes had been reported. In some cases, the Commission had acted to transfer oversight of homes to private voluntary organizations "after the (state) government failed to provide a healthy environment to children in these homes." In its FEBRUARY 23 concluding observations regarding the country, the U.N. Committee on the Rights of the Child of the UNCHR expressed concern about "numerous reports of routine ill-treatment, corporal punishment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children living and/or working on the streets by law enforcement officials." The Committee also expressed concern "at the overcrowded and unsanitary conditions of detention of children, including detention with adults; lack of application and enforcement of existing juvenile justice legislation; lack of training for professionals, including the judiciary, lawyers and law enforcement officers, in relation to the Convention (On the Rights of the Child), other existing international standards and the 1986 Juvenile Justice Act; and the lack of measures and enforcement thereof to prosecute officials who violate these provisions."

The Child Marriage Restraint (Amendment) Act of 1929, as amended in 1978, prohibits child marriage, a traditional practice in the northern part of the country. The act raised the age requirement for marriage for girls to 15 from 18 years; but the Government does not enforce it. According to one report, 50 percent of girls in Bihar, Rajasthan, Uttar Pradesh, and Madhya Pradesh are married by age 18. NCRB statistics show that only 56 cases were registered under the Child Marriage Restraint (Amendment) Act during 1998. The NHRC, in consultation with the National Commission for Women and the Department of Women and Child Development, recommended in 1997 that a new draft "Marriage Bill" be enacted to strengthen the prohibitions of the 1929 act; however, the bill had not yet been introduced in Parliament by year's end. The NHRC in its 1998-1997 report, criticized the Government for rejecting this suggestion, a response that the Commission concluded amounted, "essentially, to a total disinclination to strengthen or alter the law, in any respect, or indeed to see to its better implementation in any manner."

The traditional preference for male children continues. Although a law passed in 1994 prohibits the use of amniocentesis and sonogram tests for sex determination, the Government does not enforce the law. The tests are misused widely for sex determination, and termination of a disproportionate number of pregnancies with female fetuses occurs. In the 12 years since the southern state of Maharashtra passed a law banning the use of such tests for sex determination, the state government only filed charges against one doctor, who he was acquitted. Human rights groups estimate that at least 10,000 cases of female infanticide occur yearly, primarily in poor rural areas. Parts of Tamil Nadu (Dharmapuri, Salem, and Madurai districts) still have high rates of female infanticide. According to statistics compiled by the Dharmapuri office of the Directorate of Health Services, 1,260 female infants were killed in the district in 1997. Police have not investigated these cases. In 1998 the Tamil Nadu Human Rights Commission suggested that a separate mandatory police investigation into the death of every female infant become mandatory, but there is no legislation that requires such action and none has been taken. In addition parents often give priority in health care and nutrition to male infants. Women's rights groups point out that the burden of providing girls with an adequate dowry is one factor that makes daughters less desirable. Although abetting or taking dowry theoretically is illegal under the Dowry Prohibition Act of 1961, it still is practiced widely.

Bonded and unbonded child labor continues to be a serious problem throughout the country (see Sections 6.c. and 6.d.).

#### People with Disabilities

According to regional NGO's, there are over 90 million disabled persons in the country. Neither law or regulations require accessibility for the disabled. With the adoption of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act in 1995, a nascent disabled rights movement slowly is raising public awareness of the rights of the disabled. Although the act provides equal rights to all persons with disabilities, most disabled-related organizations admit that its practical effects so far have been minimal, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government. To a large degree, physical impediments still limit mobility, legislation prevents equality, and societal discrimination maintains the status quo of the disabled.

The Disabled Division of the Ministry of Welfare had a budget provision of more than \$38 million (1.65 billion rupees) for the 1998-99 fiscal year for a number of organizations and committees at the national, regional, and

local levels. The Ministry delivers rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan commits the Government to putting a rehabilitation center in each of more than 400 districts, but services still are concentrated in urban areas. Moreover, the impact of government programs has been limited. Significant funding is provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. Each entity provides specific services or training, including producing aids and prosthetics, promoting disabled-oriented economic development activities, offering training to health-care professionals and vocational instructors concerning disabled-related issues, and providing comprehensive rehabilitation services to the rural disabled.

Additional mini-grants are offered to NGO's that coordinate programs for the disabled to facilitate their physical, social, and psychological rehabilitation and integration into mainstream society. During 1998-99, \$3 million (130.5 million rupees) was available. However, only half of this amount was allocated due to funding restrictions placed on each providing organization and the small number of them that exist.

Two significant programs to benefit the disabled are the National Project to Integrate Mentally Retarded in Family and Community and the National Institute for the Multiple Disabilities. The first project, launched in six states in 1998, primarily focuses on children from the economically weaker sectors and promotes awareness concerning the mentally disabled, their problems, and their rights. The second is the Ministry of Welfare, which provides rehabilitation services to the disabled and is fostering greater awareness among communities throughout the country. As a result of the passage of the Persons with Disabilities Act, there now is a Disabilities Commissioner who oversees implementation of the act and its protections for the disabled.

According to the Persons with Disability Act, 3 percent of positions in official offices and state-owned enterprises must be reserved for persons with visual, hearing, or orthopedic disabilities. The Government provides special railway fares, education allowances, scholarships, customs exemptions, budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled. However, implementation of these entitlements is not comprehensive. Although the Government has taken significant steps toward improving the plight of the disabled, its involvement has been insufficient. The majority of responsibility for caring for disabled persons still lies with family members and voluntary groups.

The NHRC continues to receive complaints relating to harassment, intolerance, and discrimination against the disabled. It currently is gathering information on these cases and forwarding assessments to concerned NGO's and government entities. However, this process is slow, and its effects so far have been minimal.

The NHRC continued its efforts to improve conditions in mental hospitals and enhance awareness of the rights of those with mental disabilities during the year. In 1997 it commissioned an assessment of conditions at mental hospitals throughout the country, to be conducted by the National Institute of Mental Health and Neuroscience. The assessment, whose results the NHRC released in July 1999, found that conditions in mental institutions were unsatisfactory and in need of reform. The rights of the mentally ill and mentally disabled are provided for in the Constitution and the Mental Health Act of 1987. However, the NHRC noted that despite these protections, conditions in many mental hospitals are unsatisfactory. They continue to embody old concepts of mental health care and essentially function as custodial rather than therapeutic institutions. Overcrowded and serving as "dumping grounds" for desperate relatives, some mental hospitals lack even basic amenities and have poor medical facilities. In August 1999, the NHRC reported that it had assumed the management of mental hospitals in Ranchi, Bihar, Agra, Uttar Pradesh, and Gwalior, Madhya Pradesh, at the direction of the Supreme Court. In February NHRC Chairman Justice J.S. Verma asked chief ministers of all the states and administrators of all the union territories "to issue clear directions to the inspector generals of prisons to ensure that mentally ill persons are not kept in jail under any circumstances." However, there was little follow-up to the NHRC direction.

#### Indigenous People

The Innerline Regulations enacted by the British in 1873 still provide the basis for safeguarding tribal rights in most of the northeastern border states. They are in effect in Arunachal Pradesh, Nagaland, Manipur, and Mizoram, but not in Tripura, in which the tribal population has been reduced to 30 percent of the total population due to increased Bengali migration since partition. These regulations prohibit any person, including citizens from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders are allowed to own land in the tribal areas without approval from tribal authorities.

The 1991 census, the last conducted, showed that 8.08 percent of citizens belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal People (ICITP), 80 percent of the tribal population live below the poverty level. In May 1998, the NHRC established a panel to investigate the condition of the country's 20 million denotified tribal people, who in 1871 the British colonial government labeled as belonging to "criminal tribes". During the year, the panel prepared a report for the NHRC on their condition and advised the NHRC in other ways. Denotified tribal peoples are tribal people The colonial act listing these tribes was repealed in 1951, but the stigma remains and many of these tribal people still are discriminated against actively. On February 15, the NHRC recommended that the "Habitual Offenders Act," aimed at the denotified and nomadic tribes, be repealed. According to the ICITP, more than 40,000 tribal women, mainly from Orissa and Bihar, have been forced into situations of economic and sexual exploitation (see Sections 6.c. and 6.f.); many come from tribes that were driven off the land by national park schemes. Special courts to hear complaints of atrocities committed against tribal people were to have been established under the protection of Civil Rights Act of 1976, but this never was accomplished.

Despite constitutional safeguards, the rights of indigenous groups in the eastern parts of the country often are

ignored. Indigenous people suffer discrimination and harassment, have been deprived wrongly of their land, and have been subject to torture and to arbitrary arrest. There has been encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally have removed forest and mineral products. Moreover, persons from other backgrounds often usurp places reserved for members of tribes and lower castes in national education institutions. Mob lynchings, arson, and police atrocities against tribal people occur in many states (see Section 1.c.). For example, on January 31, local landowners attacked the tribal village of Ghutewadi, Ahmednagar district, Maharashtra, killing a 60-year-old tribal woman and injuring 10 other women and a child. On July 4, a mob killed a 90-year-old tribal woman and set 16 houses on fire following the abduction of a nontribal youth from Futotip village in North Tripura. On August 17, a mob attacked Jatindra Kumr Jamatya, a tribal activist and member of the ruling CPI(M) in Nagrai, South Tripura.

In the Andaman Islands in 1999, the local government implemented a policy of permitting development of the Jawara tribal area, which threatens the indigenous group's way of life. The construction of a road through the forest that is inhabited by this group and the encroachment of Indian settlers have impacted negatively this indigenous group's cultural vitality, economic self-sufficiency, and physical and mental health. These integrative policies have been motivated partly by humanitarian concerns, although interest in commercial exploitation of virgin forests that are inhabited by tribal people is another strong factor behind these policies. A manifestation of this negative trend was a destructive outbreak of measles that affected about 30 persons among the Jawara tribal people, which was reported in the press in September 1999.

Such violations led to numerous tribal movements demanding the protection of land and property rights. The Jharkhand Movement in Bihar and Orissa, and the Bodo Movement in Assam, reflect deep economic and social grievances among indigenous people. In the Jharkhand area, tribal people complain that they have been relegated to unskilled mining jobs, have lost their forests to industrial construction, and have been displaced by development projects. During the year, the Government introduced and Parliament passed legislation creating new, largely tribal-populated states from the Jharkhand area of Bihar and the Chhatisgarh region of Madhya Pradesh. The Chhatisgarh State came into existence on November 1 and the Jharkhand State came into existence on November 15.

There also is some local autonomy in the northeast. In Meghalaya tribal chiefs still wield influence in certain villages. The Nagaland government controls the rights to certain mineral resources, and autonomous district councils in Tripura, Assam, and Meghalaya control matters such as education, rural development, and forestry in cooperation with the state governors.

#### Religious Minorities

The potential for renewed Hindu-Muslim violence remains considerable and both sides committed human rights abuses during the year. Hindus and Muslims continue to feud over the construction of mosques several centuries ago on three sites where Hindus believe that temples stood previously. In 1998 the Sri Krishna Commission, established by the Government to inquire into the cause of Hindu-Muslim riots in Mumbai in December 1992 and January 1993, released its report (see Section 2.c.). The riots, which followed the destruction of an historic mosque in Ayodhya in December 1992, left more than 1,000 persons, mostly Muslims, dead. Maharashtra's BJP-Shiv Sena ruling coalition rejected the report, which laid responsibility for much of the violence on leaders from both parties. That government fell and was replaced by a Congress Party-led government, which submitted an affidavit to the Supreme Court in August promising to implement the Commission's recommendations. The same government established a special task force to implement the recommendations of the Sri Krishna Commission report. The recommendations included prosecuting the 31 police officials and several Shiv Sena, BJP, and Congress Party politicians found to have abetted the anti-Muslim rioting in Mumbai in 1993.

On January 30, Muslim and Hindu crowds in Bangalore clashed and threw stones at each other after an idol was desecrated in a Hindu temple. Two persons were injured in Hindu-Muslim clashes in Ahmedabad, Gujarat, from August 5 to 7. Human rights groups allege that following the riots, the state reserve police officers forced some Muslim residents of the city to sing the Sanskrit anthem "Vande Mataram" to prove that they were not "anti-national" (see Section 2.c.). On August 31, several hundred angry Hindus pelted Muslim houses with stones and tried to set fire to several homes after a Muslim eloped with a Hindu in a town in Vadodara district, Gujarat. On September 12, Muslim-Hindu violence in Nanded, a city 300 miles southeast of Mumbai, left approximately 60 persons injured. The attacks occurred during the annual Ganesh festival when a procession of Hindus passed by a mosque. According to some reports, Muslims in the mosque threw stones at Hindu worshippers whom they claim offended the mosque by making too much noise. The Maharashtra government ordered a judicial inquiry. On October 16, a gang entered Tahira village, Siwan district, Bihar, and murdered five members of a Muslim family. Police suspect unknown persons in nearby Mohajirpur village committed the killings in retaliation for the killings of Hindu villagers a few days earlier. On December 3, a group of men in Tirunelveli, Tamil Nadu, attacked and killed a Muslim preacher with crude bombs and sickles. No one was convicted in connection with the August 26, 1999 mob mutilation and burning to death of a Muslim cattle trader in Padiabada village, Orissa; about 400 persons witnessed the killing.

Attacks by Muslim militants seeking to end Indian rule in Jammu and Kashmir, and continuing political violence, has driven almost 95 percent of Hindus in the Kashmir valley (Pandits) to seek refuge in camps in Jammu, with relatives in New Delhi, or elsewhere, during the last few years. Throughout the year, militants carried out several execution-style mass killings of Hindu villagers and violently targeted Pandits, and in one instance the Sikh minority, in Jammu and Kashmir (see Sections 1.a. and 1.g.). On February 28, militants killed five truck drivers on the Srinagar-Jammu highway. The militants systematically halted commercial trucks traveling along the route and questioned the unarmed drivers and cleaners on board. Those persons identified as Hindus were taken out of the trucks and shot. On March 20, 17 unidentified gunmen in army uniforms killed 35 Sikh men in Chati Singhpura (near Anantang in south Kashmir). The incident was the largest single massacre of civilians

during the past 11 years of militancy, and at year's end, the only mass killing in Kashmir to have involved the Sikh community. According to various reports, militants separated unarmed male members of the Sikh families from women and children, gathered the men a short distance from their homes, and killed them with automatic weapon fire. It was the first known attack on the Sikh minority in Jammu and Kashmir (see Section 1.a.). On March 25, security forces shot and killed five men, alleging that they had been responsible for the March 20 massacre. According to HRW, on April 17, gunmen entered the homes of several Hindu families in Kot Dara village, near Rajouri. They fired on unarmed civilians, killing six persons and injuring six others. On July 13, militants killed three Buddhist monks in Rangdum, Kargil district. On July 30, militants hurled a grenade into a jeep carrying Hindu religious pilgrims near Gulmarg, killing one person and injuring five others. On August 1 to 2, militants entered a camp of Hindus making the annual pilgrimage to Anamath in the northern part of the state and fired automatic weapons at tents, the unarmed civilians in the camp, the pilgrims' local porters and guides, and army personnel nearby. A total of 32 persons were killed in the attack, all of them unarmed civilians. Similar attacks occurred throughout the night of August 1 to 2, killing some 100 persons in various places in Jammu and Kashmir (see Section 1.a.). On August 17, militants reportedly killed six Hindu villagers and seriously wounded seven others in Jammu (see Section 1.a.). On August 18, militants entered a Hindu village in the Koteswara area near Rajouri and indiscriminately fired at villagers, killing four persons and injuring six others. On August 18, militants killed three elderly men and a teenage boy, and wounded two other persons when they fired automatic guns at civilians in Ind village, Udhampur. On August 20, a person shot and injured a Hindu telephone kiosk operator in Qazi Gund, near Anantnag. Also on August 20, militants entered the Hindu village of Indeh, Udhampur district and killed four members of a Hindu family (see Sections 1.a. and 2.c.).

According to the Ministry of Home Affairs, about 51,000 Pandit families fled their homes in Jammu and Kashmir due to the violence. Of these, 4,674 families are living in refugee camps in Jammu, 235 families are in camps in Delhi, and 18 families are in Chandigarh. The rest still are displaced, but are living on the economy in Jammu and Delhi. The Pandit community criticizes bleak physical, educational, and economic conditions in the camps and fears that a negotiated solution giving greater autonomy to the Muslim majority might threaten its own survival in Jammu and Kashmir as a culturally and historically distinctive group. On August 18, the Jammu and Kashmir government adopted a proposal designed to facilitate the return of Pandits to the Kashmir valley and rehabilitation of the Pandits. However, various Pandit groups criticized the proposal for failing to address the political aspirations of Pandits, failing to provide economic guarantees, failing to provide adequate security for returning Pandits, and creating special economic zones that would aggravate communal tensions. The proposal abandoned during the year. The NHRC released a 39-page report in June 1999, in response to a petition from Hindu Pandits alleging that genocide had been committed against them. The NHRC found that the crimes against the Pandits "fall short of the ultimate crime: Genocide," but stated that compensation to the community had been inadequate. As a result, the Government's monthly subsistence payment to Pandit families was increased.

There were numerous attacks against Christian communities and Christian missionaries during the year. In August the SAHRDC stated that there had been 57 such attacks during the first 7 months of the year. The SAHRDC stated the attacks had taken three forms: Attacks on priests and nuns; attacks on evangelists and disruption of prayer meetings; and attacks on churches, hospitals, and other charitable institutions. Attacks occurred in Tamil Nadu, Goa, Punjab, Karnataka, Andhra Pradesh, Gujarat, Haryana, Orissa, West Bengal, Bihar, Maharashtra, Madhya Pradesh, and Uttar Pradesh. There were a series of incidents in Uttar Pradesh in April. On April 6, an angry mob, demanding a decrease in school fees and an increase in the number of passing students, harassed the principal of Sacred Heart school in Mathura. The principal disputed an allegation that the harassment was because of school fees, saying that she was harassed and chased by a group of young men (not parents of students) who also asked her questions about the religious texts read at the school. On April 10, Father Joseph Dabre, principal of St. Dominic's school in Mathura, was beaten by six young men who went to the school on the pretext of inquiring about admissions. On April 11, in Kosi Kalan near Mathura, 8 to 10 assailants attacked Father K.K. Thomas at St. Theresa's school when he rushed to the assistance of a servant girl and 3 nuns whom the assailants were attacking. Thomas was injured seriously; his attackers had not been found by year's end.

Prime Minister A.B. Vajpayee asked Uttar Pradesh Chief Minister Ram Prakash Gupta for a detailed report on the incidents in the Mathura area. State officials also ordered police to monitor closely churches, missionary centers, and other places of worship after the attacks near Mathura. On April 26, the NCM visited the sites of the attacks at Sacred Heart school, St. Dominic's school, and St. Theresa's school, and issued a report on April 27. The report, which claimed that the Sacred Heart case had "no communal tinge," and that the Kosi Kalan case was a "case of robbery and nothing else," was criticized widely by the minority community. Several members of the Lok Sabha openly questioned the report's validity, and there is strong evidence that the NCM report misrepresented the victims in its claims that they themselves are entirely satisfied that there was no religious motivation behind the violence. Victims of the incidents claim that the local police were not responsive either before or during the attacks. These attacks on Christians in Uttar Pradesh were the first in the state in 6 years.

Following the violence in April in the vicinity of Mathura, on May 5, six missionaries who were distributing Bibles and other literature in Vivekanandnagar, Ahmedabad, were injured severely. Some evangelists and some Bajrang Dal activists attacked each other in this Vivekanandnagar when the Bajrang Dal activists forbade distribution of Christian literature. Both groups filed police complaints alleging that the other group attacked them. A Hindu bystander who attempted to intervene had his finger cut off, according to newspaper reports. On May 22, 30 persons were injured when a powerful bomb exploded during a Christian meeting at Machilipatnam in the southern state of Andhra Pradesh. The central Government and the state governments of Andhra Pradesh and Karnataka maintain that the bombings were carried out by a Muslim extremist organization, Deendar Anjuman. Following investigation by the Central Bureau of Investigation, on October 21, police in Karnataka arrested 31 persons in connection with the bombings in that state, including 4 persons who reportedly were Pakistani nationals (see Section 2.a.). The governments later made more arrests, and by year's end, they had filed charges of conspiracy, violating the Explosives Act, and fomenting religious hatred against approximately 45 suspects in Karnataka and Andhra Pradesh. On June 7, a Catholic priest, Brother George Kuzhikandum, was killed on the campus of Brother Polius Memorial School near Mathura. On June 21,

Vijay Ekka, the prime witness to the June 17 killing of Brother George, died in police custody (see Sections 1.a. and 2.c.). In June in northern Punjab state, the Rev. Ashish Prabash Masih, age 23, reportedly was murdered and his body burned. Although police ruled out any communal undertones, the Punjab Christian Association stated that the murder was part of a concerted campaign against its community by Hindu nationalists. In April three nuns said that they were run down deliberately by a motor scooter in the northern state of Haryana on their way to a midnight Easter Mass. One of the nuns was injured seriously. The Christian Forum stated that the attack was the fifth on nuns and priests in Haryana in the year, but both the NCM and the Catholic Bishop's conference stated that the incident could have been an accident. On May 9 in Maharashtra, approximately 150 suspected activists of the Bajrang Dal and the Vishwa Hindu Parishad (World Hindu Council, or VHP) attacked the 45th Annual Convention of the Evangelical Alliance Christian Church and the Nashik District Church Council, set fire to three vehicles, and ransacked a bus carrying religious literature. Four persons were hospitalized. Rural police said that they arrested 33 persons, all of whom belonged to Bajrang Dal or VHP. Although political leaders from Maharashtra's ruling party criticized the attack, the Minister of State for Dairy Development joined a group of BJP, RSS, and VHP activists who traveled to meet and congratulate the accused when they were released from prison on bail. On May 12, in Indore, Madhya Pradesh, assailants threw stones and attempted to set fire to one church, while vandalizing two other churches.

On January 23, 1999, Australian missionary Graham Staines and his two young sons were killed. The three were asleep in their car in Manoharpur, Keonjhar district, Orissa, when a mob shouting Hindu slogans set fire to their car. Police arrested 51 suspects in connection with the crime and sought others. Dara Singh was arrested on January 31 and charged with the murders of Staines and his two young sons (see Section 2.c.); he also was charged with the murders of another Christian and a Muslim. Singh remained in custody and the charges against him and 14 others still were pending at year's end. On September 30, a special court in Bhubaneswar, Orissa, convicted a 13-year-old boy of complicity in the killing of Staines and his two sons. He was sentenced to 14 years' imprisonment. The Wadhwa Commission established to investigate the Staines murder presented its findings in August 1999. The report concluded that Dara Singh masterminded the killing and effectively exonerated the Hindu organizations and political parties that had been accused of complicity. The National Commission for Minorities, other human rights groups, and some Christian groups criticized the Commission's findings as a coverup. The National Commission for Minorities' separate inquiry found evidence suggesting that the Bajrang Dal was involved in the Staines murders. On June 2, a Hindu priest reportedly "reconverted" 72 tribal Christians in the same village in which Graham Staines and his sons were killed.

The burning of churches continued during the year. For example, on May 12, a hut used as a prayer cottage by Christians in Katiguda village was burned by what the local police referred to as "anti-socials." Also on May 12, in Indore, Madhya Pradesh, assailants threw stones, attempted to set fire to one church, and vandalized two other churches. On May 16, a cottage in Dharakote village that was used as a place of congregation for local Christians was set on fire. Armed police officers were deployed to the area, but by year's end no arrests had been made. On June 8, bombs exploded in four churches in Andhra Pradesh, Karnataka, and Goa. The blasts occurred in a Baptist Church in Ongole, Andhra Pradesh; a Catholic church in Tadepalligudem, Andhra Pradesh; a Catholic church in Wadi, Karnataka; and a church in Vasco, Goa. The bombs reportedly blew out windows and damaged pews; three persons in Ongole and two in Wadi received minor injuries. During the last week of June, a mosque in Gunter, Andhra Pradesh was bombed. None of the localities had a history of serious communal tensions before the blasts. In Karnataka police patrols reportedly were increased at all places of worship, and a special investigative unit was formed to investigate the bombings. By June 20, nine persons reportedly were arrested in connection with the blasts in Andhra Pradesh, including a leading member of a Shi'a Muslim organization (see Section 2.c.). A bomb exploded in the early hours of July 7 at a Lutheran church in Hubli, northern Karnataka, causing minor damage. On the evening of July 8, across town, a bomb exploded at Saint Peter and Paul Church, breaking windows; there were no injuries.

Since 1998 there has been increased harassment of Christian aid workers. Many report having been hampered in their work through threats, bureaucratic obstacles, and, in some cases, physical attacks on their workers. Several Christian relief organizations have reported difficulty in obtaining visa renewal for foreign relief workers (see Sections 2.d. and 4).

The NHRC expressed its concern at the upsurge of violence against Christians in the first 6 months of the year, demanding that the Government announce the steps that it was taking to protect the Christian community. Speaking in Parliament August 18 on the series of church bombings, Home Minister L.K. Advani said that "the Center, in consultation with the affected states, will take stern action against those found guilty of instigating attacks against Christians."

Members of militant Hindu organizations (including members of the Hindu Jagran Manch, the Vishwa Hindu Parishad, and the Bajrang Dal) reportedly are concerned about Christian efforts to convert Hindus. They claim that missionaries are forcing or inducing Hindus to convert to Christianity, including economically disadvantaged Dalits and tribals. In some cases, Hindus allegedly have reconverted, at times by force, tribals and Dalits belonging to other religions. However, many tribals follow traditional religious practices, and many Christian tribals were not Hindu prior to becoming Christian, although they often are considered Hindu by the Government and others. In September 1999, Vishwa Hindu Parishad working president Ashok Singhal called for enactment of a law banning forced conversions. Missionaries have been operating schools and medical clinics for many years in tribal areas, including the Dangs district in Gujarat. Tribals, such as those attacked in the Dangs district in 1998, and Dalits are outside of the caste system and occupy the very lowest position in the social hierarchy. However, they have made socioeconomic gains as a result of the missionary schools and other institutions, which have increased literacy among the lowest castes, among other achievements.

Other incidents affecting religious minorities during the year occurred in Tripura, at which Christian militants imposed bans on Hindu and Muslim festivals, and in Assam, in which Hindu concern over the continued influx of illegal Muslim immigrants from Bangladesh has grown over the past year (see Section 2.d.). On April 17, the secretary of the Noapara Baptist Church in Tripura was arrested with explosives in his possession. He allegedly was intending to take them to the NLFT.



The practice of dedicating or marrying young, prepubescent girls to a Hindu deity or temple as "servants of God" (also known as Devadasis), is reported by HRW to continue in several southern states, including Andhra Pradesh and Karnataka. Devadasis, who generally are Dalits, may not marry. They are taken from their families and are required to provide sexual services to priests and high caste Hindus (see Section 6.c.). Reportedly, many eventually are sold to urban brothels. In 1992 the Karnataka state passed the Karnataka Devadasi (Prohibition) Act and called for the rehabilitation of Devadasis, but this law suffers from a lack of enforcement and criminalizes the actions of Devadasis. Since Devadasis are by custom required to be sexually available to higher caste men, it reportedly is difficult for them to obtain justice from the legal system if they are raped.

#### National/Racial/Ethnic Minorities

The country's caste system has strong historic ties to Hinduism. It delineates clear social strata, assigning highly structured religious, cultural, and social roles to each caste and subcaste. Members of each caste—and frequently each subcaste—are expected to fulfill a specific set of duties (known as dharma) in order to secure elevation to a higher caste through rebirth. Dalits (formerly called untouchables) are viewed by many Hindus as separate from or "below" the caste system; nonetheless, they too are expected to follow their dharma if they hope to achieve caste in a future life. Despite longstanding efforts to eliminate the discriminatory aspects of caste, the practice remains widespread.

The practice of untouchability ("untouchables"—now called Dalits—along with tribals occupy the lowest strata of the caste system) was outlawed in theory by the Constitution and the 1955 Civil Rights Act, but it remains an important aspect of life. "Untouchability" refers to the social restrictions imposed on persons because of their birth into certain Hindu castes. Dalits are considered unclean by higher caste Hindus and thus traditionally are relegated to separate villages or neighborhoods and to low paying and often undesirable occupations (such as scavenging, street sweeping, and removing human waste and dead animals). Many rural Dalits work as agricultural laborers for higher caste landowners. By custom Dalits may be required to perform tasks for upper caste Hindus without remuneration. The majority of bonded laborers are Dalits (see Section 6.c.). Dalits are among the poorest of citizens, generally do not own land, and often are illiterate. They face significant discrimination despite the laws that exist to protect them, and often are prohibited from using the same wells and from attending the same temples as higher caste Hindus, and from marrying persons from higher castes. In addition they face segregation in housing, in land ownership, on roads, and on buses. Dalits tend to be malnourished, lack access to health care, work in poor conditions (see Section 6.e.), and face continuing and severe social ostracism. In contrast the highest caste, the Brahmin, with 3.5 percent of the population, holds 78 percent of the judicial positions and about 50 percent of parliamentary seats. NGO's report that crimes committed by higher caste Hindus against Dalits often go unpunished, either because the authorities do not prosecute vigorously such cases or because the crimes are unreported by the victims, who fear retaliation. In recent years, groups—including some that use violence—have organized to protect Dalit rights.

The Constitution gives the President the authority to identify historically disadvantaged castes, Dalits, and "tribals" (members of indigenous groups historically outside the caste system). These "scheduled" castes, Dalits, and tribes are entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they are designed to benefit is a subject of active debate. According to the 1991 census, scheduled castes, including Dalits, made up 16 percent and scheduled tribes 8 percent of the country's 1991 population of 848 million. Christians historically have rejected the concept of caste. However, because many Christians descended from low caste Hindu families, many continue to suffer the same social and economic limitations that low caste Hindus do, particularly in rural areas. Low caste Hindus who convert to Christianity lose their eligibility for affirmative action programs. Those who become Buddhists or Sikhs do not. In some states, government jobs are reserved for Muslims of low caste descent.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 lists new offenses against disadvantaged persons and provides stiffer penalties for offenders. However, this act has had only a modest effect in curbing abuse. The NCRB reported that 25,638 crimes against scheduled castes and 4,276 crimes against scheduled tribes were recorded in 1998. This compares with 27,944 crimes against scheduled castes and 4,644 crimes against scheduled tribes recorded by the NCRB in 1997. However, human rights NGO's allege that caste violence actually is on the increase.

Intercaste violence claims hundreds of lives annually; it was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh. According to HRW, on April 25, upper caste Rajputs shot and killed four Dalits and seriously injured three others in Rohtas district, Bihar. Subsequently, Rajputs burned down the entire Dalit village, leaving all 25 families homeless, reportedly in retaliation for an earlier attack. On March 12, a mob of upper caste men entered Kambalapalli village, Karnataka, where they reportedly believed that the killer of an upper caste person had taken refuge. The mob surrounded and set fire to one of the homes in the predominantly Dalit village; seven members of a Dalit family were killed in the blaze. On May 12, a group of men entered Lakhisarai village, Bihar, and indiscriminately shot at villagers, killing 11 persons, including 10 low-caste laborers. Police suspected that a criminal gang was responsible for the killings. On May 17, upper caste youths stripped two lower caste women and paraded them naked through their village of Rasoolabad, Kanpur district, Uttar Pradesh. The women's alleged crime was to have allowed an upper caste woman to spend one night in their home. On June 3, approximately 50 armed men suspected of belonging to an upper caste private army, the Ranvir Sena, killed 5 low-caste persons, including a woman and a child, in Rajebigha village, Bihar. The killings reportedly were perpetrated because the assailants suspected that the villagers had voted against a candidate favored by the upper caste community in February state assembly elections in Bihar (see Section 3). Police occasionally have arrested Ranvir Sena members after similar incidents in Bihar. However, generally members of the Ranvir Sena who are arrested were released on bail shortly thereafter, and none were convicted during the year in connection with attacks on low-caste

villagers. According to HRW, police make little effort to prevent such killings, despite the fact that the Ranvir Sena often publicly announces its intentions days before each attack; allegedly, police also fail to provide protection for villagers in the aftermath of such attacks. On October 22, the NHRC directed the Tamil Nadu government to pay about \$10,990 (500,000 rupees) to 36 Dalit women and children. The Commission found police wrongly attacked and beat the women and children after entering their Ogaiur village, Perambalur district, on November 30, 1998. The NHRC further found that police illegally detained the victims for 18 days. In issuing the order, NHRC chairman justice J.S. Verma wrote, "the present case is an instance of lawlessness on the part of the police even in discharging their duties."

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides for the right of association. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons make up the country's active work force. Some 30 million of these workers are employed in the formal sector. The rest are overwhelmingly agricultural workers and, to a lesser extent, urban nonindustrial laborers. While some trade unions represent agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members are part of the 30 million member formal sector. Of these 13 to 15 million unionized workers, some 80 percent are members of unions affiliated with one of the 5 major trade union centrals. All major trade union centrals are affiliated to a greater or lesser extent with particular political parties. Central unions have stressed their independence and in some cases are attempting to sever previously tight party control.

Trade unions often exercise the right to strike, but public sector unions are required to give at least 14 days notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes and requires conciliation or arbitration in specified "essential" industries. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. However, the essential services never have been defined in law. The act thus is subject to varying interpretations from state to state. The Maharashtra government passed a law in February 1999 banning strikes in essential services, including transport services, milk supply services, the electricity department, and hospitals. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions. This prohibition is observed in practice.

The Kerala High Court declared in July 1997 that all general strikes (bandhs) were illegal and all organizers of protests would be liable for losses caused by shutdowns. Later in the year, the Supreme Court upheld the verdict drawing attention to the difference between a complete closedown of all activities (bandh), and a general strike (hartal). While it is likely that the ruling was introduced in relation to political strikes, unions stated that it remained a potential threat to their activities. Other court rulings during 1997 also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes.

According to Ministry of Labor statistics, as of June there had been 127 strikes and lockouts throughout the country during the year, involving 39,265 workers. In all, 63,000 "person-days" were lost due to strikes and 900,000 "person-days" were lost due to lockouts during this period. For example, in February over 100,000 workers of a colliery in Andhra Pradesh went on a 13-day strike demanding better wages and other benefits. The company later agreed to some of the workers' demands. In addition, during the year approximately 80,000 workers went on strike for about 2 weeks in Uttar Pradesh to protest the government's plans to reorganize the state electricity board along corporate lines. The government succeeded in reorganizing the electricity board along corporate lines despite the workers' protest.

When abuses, such as intimidation or suppression of legitimate trade union activities, are perpetrated against nationally organized or other large-scale unions or unionized workers, the authorities generally respond by prosecuting and punishing those persons responsible. Unaffiliated unions are not able, in all instances, to secure for themselves the protections and rights provided by law.

In June the Government announced its intention to modify the Trade Union Act. The Government convened the Indian Labor Conference, which brought together government and trade union representatives to discuss modification of the Trade Union Act, but the conference took no substantive action on the act and it remained unchanged at year's end.

Unions are free to affiliate with international trade union organizations. The Indian National Trade Union Congress and the Hind Mazdoor Sabha are affiliated with the International Confederation of Free Trade Unions (ICFTU), while the All India Trade Union Congress is affiliated with the World Federation of Trade Unions.

### b. The Right to Organize and Bargain Collectively

The right to bargain collectively has existed for decades. The Trade Union Act prohibits discrimination against union members and organizers, and employers are penalized if they discriminate against employees engaged in union activities.

Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defend worker interests in this process. Although a

system of specialized labor courts adjudicates labor disputes, there are long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine them.

In practice legal protections of worker rights are effective only for the 30 million workers in the organized industrial sector, out of a total work force of more than 400 million persons. Outside the modern industrial sector, laws are difficult to enforce. Union membership is rare in the informal sector, and collective bargaining does not exist.

There are seven Export Processing Zones (EPZ's). Entry into the EPZ's ordinarily is limited to employees. Such entry restrictions apply to union organizers. All companies bus their workers directly to and from the factory. While workers in the EPZ's have the right to organize and to bargain collectively, union activity is rare. In addition unions have not pursued vigorously efforts to organize private-sector employees anywhere in the years since EPZ's were established. There have been efforts to organize workers in the EPZ's and unions have complained that such attempts were suppressed in Kerala and Gujarat. The fact that organizers are barred from EPZ's and workers are bused to EPZ's helps prevent unions from forming. Women constitute the majority of the work force in the EPZ's. The ICFTU reports that overtime is compulsory in the EPZ's, that workers often are employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers fear that complaints about substandard working conditions would result in their being fired. In March 1999, the Union Ministry of Commerce announced its intention to convert all EPZ's into free trade zones and eliminate government interference in their functioning. Because of trade unions' and the Union Ministry of Labor's opposition to this change, the Government did not implement the plan. In June the Government announced its intention to establish special economic zones patterned on the Chinese model, and on November 1, four out of seven existing EPZ's were converted without significant opposition. These zones are not exempt from labor legislation.

### c. Prohibition of Forced or Compulsory Labor

Both the Constitution and specific statutes prohibit forced or compulsory labor, and bonded labor, as a form of compulsory labor, also is prohibited by statute; however, such practices are widespread. The Bonded Labor System (Abolition) Act of 1976 prohibits all bonded labor, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions are rare. Enforcement of this statute, which is the responsibility of state and local governments, varies from state to state and generally has not been effective, due to inadequate resources and to societal acceptance of bonded or forced labor. Labor inspectors at the state and local level have overwhelming case loads, and in many cases, do not receive adequate support or protection to challenge employers, who often have direct access to government officials. On the occasions when inspectors refer violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently result in acquittals. NGO's estimate that there are 5 to 40 million bonded laborers in the country, including a large number of children (see Section 6.d.). According to HRW, the majority of bonded laborers are Dalits (see Section 5), and bondage is passed from one generation to the next.

A Supreme Court decision defined forced labor as work at less than the minimum wage, which usually is set by the state governments. Under this definition, which differs from that of the ILO, forced labor is widespread, especially in rural areas.

Bonded labor, the result of a private contractual relationship whereby a worker incurs or inherits debts to a contractor and then must work off the debt plus interest, is illegal but widespread. The Government estimates that between enactment of the Bonded Labor (Abolition) Act in 1976 and March 1999, 280,340 bonded workers were released from their obligations. Other sources maintain that those released constituted only one-twentieth of the total number of bonded laborers. State governments provide a sum of money to workers freed from bondage for their rehabilitation. In response to the 1997 Supreme Court decision requesting the NHRC to oversee implementation of the Bonded Labor System (Abolition) Act, the NHRC formed a high-level "Central Action Group," which reviews compliance routinely. The NHRC also appointed a special rapporteur to work in Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu and report on compliance. In addition the NHRC briefed state governments on their responsibilities and instituted a system for receiving regular reports from the states. The NHRC also assessed the bonded labor problem, identifying districts in which it especially is acute. It identified and evaluated NGO's working in these areas, and conducted training in bonded labor law enforcement for district officials in the acutely affected areas. In November 1996, the Supreme Court directed each state to undertake a survey of bonded laborers. The surveys were carried out and identified 28,918 bonded laborers throughout the country. In February 1997, the Supreme Court required state governments to file detailed affidavits on the status of bonded laborers. Some press reports indicate that Tamil Nadu alone has an estimated 25,800 bonded laborers, in response to which the state government began implementing and continues to work on rehabilitation plans. In 1999 alone, it allocated \$1.25 million (54.4 million rupees) for these plans. According to Union Ministry of Labor Statistics, from 1976 to March 31, the Tamil Nadu government identified and released 63,894 bonded laborers. Government officials worked to release other bonded laborers in many of the country's states. In West Bengal, organized traffic in illegal Bangladeshi immigrants is a source of bonded labor (see Section 6.f.).

The working conditions of domestic servants and children in the workplace often amount to bonded labor. Children sent from their homes to work because their parents cannot afford to feed them, or in order to pay off a debt incurred by a parent or relative, have no choice in the matter. There are no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimate that there may be as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claim that they are unable to stop this practice because the children are working with their parents' consent. In addition there is a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried

stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries expose children to particularly hazardous work conditions (see Section 6.d.). In its first attempt to address the issue of domestic child labor, during the year the Government issued a notification prohibiting government employees from hiring children as domestic help. Those employers who failed to abide by the law would be subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment), but also to disciplinary action at the place of work.

In 1998 an HRW team headed by the Karnataka state labor commissioner conducted surprise inspections on silk twining factories in and around the town of Magadi. The team found 53 child workers under the age of 14 years working in the plants, forbidden to talk to each other, and beaten for slow work. The labor commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories. In response UNICEF has started a non-formal education program for the estimated 3,000 bonded child laborers working in the industry. By year's end, about 260 children had been enrolled. In addition UNICEF began a micro-credit program for the parents of these children to create income-generating opportunities as an alternative to child labor.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of forced prostitution are widespread problems (see Section 6.f.). According to press reports, prison officials have used prisoners as domestic servants and sold female prisoners to brothels (see Section 1.c.). Devadasis, prepubescent girls given to a Hindu deity or temple as "servants of God," are taken from their families and required to provide sexual services to priests and high caste Hindus. Reportedly, many eventually are sold to urban brothels (see Sections 5 and 6.f.).

In Punjab persons routinely are sold in an organized trade in weekend bazaars for the purposes of forced domestic labor and forced sexual service. In 1998 one person was arrested in connection with this human trade. He later was released on bail.

In December 1999, domestic media reported that child laborers were being sold in an organized ring at the annual Sonapur cattle fair in Bihar. According to these reports, children of impoverished families in surrounding districts are brought to the fair and sold. One reporter talked to a buyer, a shopkeeper, who paid \$21 (900 rupees) for a 12-year-old child. Persons sometimes are sold into virtual slavery (see Sections 5 and 6.f.).

NGO's such as the Bonded Labor Liberation Front worked to release bonded laborers throughout the year.

#### d. Status of Child Labor Practices and Minimum Age for Employment

Article 24 of the Constitution and the Child Labor (Prohibition and Regulation) Act of 1986 are the principal protections against the exploitation of children in the workplace. Provisions for the protection of children in the workplace also are made in the Beedi and Cigar Workers (Condition of Employment) Act of 1966, the Factories Act of 1948, the Mines Act of 1952, the Motor Transport Workers Act of 1961, the Plantations Labor Act of 1951, and the Minimum Wages Act of 1948. The Government prohibits forced and bonded labor by children, but does not enforce this prohibition effectively (see Section 6.c.).

The enforcement of child labor laws is the responsibility of the state governments. Enforcement is inadequate, especially in the informal sector in which most children who work are employed. The continuing prevalence of child labor is attributed to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, and ineffective state and federal government enforcement of existing laws.

Work by children under 14 years of age is barred completely in "hazardous industries," which include passenger, goods, and mail transport by railway; carpet weaving; cinder picking; cleaning of ash pits; cement manufacturing; building and construction; cloth printing; dyeing and weaving; manufacturing of matches, explosives, and fireworks; catering within railway premises or port limits; beedi (cigarette) making; mica cutting and splitting; abattoirs; wool cleaning; printing; cashew and cashew nut descaling and processing; and soldering processes in electronics industries. In January 1999, the Government added 6 occupations and 33 processes to the list of occupations and processes in which children are barred from working by the 1986 Child Labor (Prohibition and Regulation) Act. The additions brought the totals to 13 occupations and 51 processes in which children are prohibited from working under the act.

In addition to industries that utilize forced or indentured child labor (see Section 6.c.), there is evidence that child labor is used in the following industries: Hand-knotted carpets; gemstone polishing; leather goods; and sporting goods.

In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly.

The BJP-led coalition Government continued its predecessors' plan to eliminate child labor from hazardous industries and eventually from all industries, but it did not repeat the previous government's pledge to accomplish the former by 2000 and the second by 2010. This program, for which approximately \$56.69 million (2.64 billion rupees) has been budgeted since 1992, includes the enhanced enforcement of child labor laws, income supplements for families, subsidized school lunches in areas which child labor is concentrated, and a public awareness campaign. The Government continued efforts initiated in 1987 to enhance enforcement of the Child Labor (Prohibition and Regulation) Act of 1986 and other laws prohibiting and regulating child labor. In 1988 the Government started the National Child Labor Project (NCLP) to release children from hazardous work places and provide them with transitional schooling leading to mainstreaming in regular schools, and other

forms of assistance. In addition government programs assist working children in rural development, women and child development, health, and adult jobcreation programs. The NCLP targeted 12 districts in which child labor was prevalent at its inception in 1988. The NCLP has grown to cover 91 districts in 10 states. From April 1999 To January 31, 145,725 children participated in the NCLP. Since its inception, the program is estimated to have helped more than 500,000 children leave work and start school. During their participation in the NCLP, the children's families are given a small stipend—usually \$2.15 to \$4.30 (100 to 200 rupees) per month. Nevertheless, government efforts to eliminate child labor have affected only a small fraction of children in the workplace. A 1996 Supreme Court decision raised penalties for employers of children in hazardous industries to \$430 (20,000 rupees) and established a welfare fund for formerly employed children. According to the South Asian Coalition on Child Servitude (SACCS), authorities are pursuing some 6,000 cases against employers. The Supreme Court ruling also has helped make local government officials more aware of the prohibitions against child labor in hazardous industries. This in some cases, has helped improve cooperation between local officials and NGO's like SACCS that are removing children from hazardous workplaces. One recent example of such cooperation occurred on December 29, in Bhadohi district, Uttar Pradesh, in which SACCS and local law enforcement officials released 11 child laborers from work on looms for the production of hand-knotted carpets and initiated legal proceedings against the employer. During the year, SACCS helped release about 135 child laborers in Bhadohi district alone. According to the Tamil Nadu Labor Department, 155 child laborers were freed from illegal workplaces between April and October 1999, out of the 10,118 child laborers identified in 2 surveys carried out in the state in 1997. State labor officials acknowledged that many more child laborers exist in the state.

Estimates of the number of child laborers range widely. The Government census of 1991 puts the number of child workers at 11.28 million. The ILO estimates the number at 44 million, while NGO's state that the figure is 55 million. Interpolation of census figures by the National Labor Institute indicates that of a total of 203 million children between the ages of 5 and 14, 116 million are in school, 12.6 million are in full-time employment, and the status of 74 million is unknown. Most, if not all, of the 87 million children not in school do housework, work on family farms, work alongside their parents as paid agricultural laborers, work as domestic servants, or otherwise are employed. A Supreme Court-ordered survey of child labor throughout the country was completed during 1997 and documented the existence of some 126,665 wage-earning child laborers. When this figure was challenged as patently low, the states conducted a second survey, in which an additional 428,305 child laborers in hazardous industries were found. However, even the combined total of the two surveys understates the true dimension of the problem.

According to the ILO, labor inspectors conducted 13,257 inspections in 1997-98, finding 958 violations of the Child Labor Prohibition Act, prosecuting 676 of these cases, and obtaining 29 convictions. Those convicted of violating the Child Labor (Prohibition and Regulation) Act are fined \$460 (20,000 rupees) for each child employed. The Government is required to find employment for an adult member of the child's family or pay \$108 (5,000 rupees) to the family instead. According to the Government, in 1996-97, labor inspectors conducted 35,888 inspections, over twice as many as the following year. Between 1993 and the end of 1997, the Government released about 8,000 children from illegal workplaces and brought charges against approximately 4,000 employers. In the hand-knotted carpet producing area of Uttar Pradesh, the NHRC and NGO's have worked with the state government to establish a task force for the elimination of child labor. SACCS reported freeing some 135 child laborers in the hand-knotted carpet industry during the year from Bhadohi district in Uttar Pradesh alone.

Employers in some industries also have taken steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that receives funding from the Ministry of Textiles, has a membership of 2,500 exporters who have subscribed to a code of conduct barring them from purchasing hand-knotted carpets known to have been produced with child labor. The CEPC conducts inspections to insure compliance, and allows members to use voluntarily a government-originated label to signify adherence to the code of conduct. Rugmark, which is a private initiative, operates a similar voluntary label scheme. Rugmark has 228 exporter members who buy carpets from the 28,118 looms registered with Rugmark. However, the CEPC states that even with the program it is impossible to ensure that a carpet has been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducts the inspections, which cover only 10 percent of registered looms. The inspectors have difficulty locating unregistered looms. The Government also cooperates with UNICEF, UNESCO, the UNDP, and the ILO in its efforts to eliminate child labor. Since 1992 it has participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 90,000 children were removed from work and received education and stipends through IPEC programs since the start of its program in 1992.

NGO's also have helped to free children from the work force. For example, since 1999 SACCS has freed over 34,000 children from the work force; it also operates an education and training center for children in New Delhi. From 1999 through year's end, SACCS freed 541 child laborers throughout the country through raids with law enforcement authorities on illegal workplaces. SACCS's intervention with parents resulted in the release of an additional 2,758 children, and its referral of cases to law enforcement agencies resulted in the release of 3,994 more child laborers over the same period. In many cases, charges were brought against the employers under the 1986 Child Labor (Prohibition and Regulation) Act.

The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases.

Primary school education is not compulsory, free, and universal (see Section 5).

e. Acceptable Conditions of Work

The directive principles of the Constitution declare that "the State shall endeavor to secure...to all workers...a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities." Laws set minimum wages, hours of work, and safety and health standards. Laws governing minimum wages and hours of work generally are observed in industries subject to the Factories Act but largely are unenforced elsewhere and do not ensure acceptable conditions of work for the 90 percent of the work force not subject to the Factories Act.

Minimum wages vary according to the state and to the sector of industry. Such wages provide only a minimal standard of living for a worker and are inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act receive much more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but do not enforce it effectively. Some industries, such as the apparel and footwear industries, do not have a prescribed minimum wage in any of the states in which such industries operate.

The Factories Act establishes an 8-hour workday, a 48-hour workweek, and various standards for working conditions. These standards generally are enforced and accepted in the modern industrial sector, but tend not to be observed in older and less economically robust industries. State governments are responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors and the inspectors' limited training and susceptibility to bribery result in lax enforcement.

The enforcement of safety and health standards also is poor. Although occupational safety and health measures vary widely, in general state and central government resources for inspection and enforcement of standards are adequate. However, as awareness grows, the courts have begun to take work-related illnesses more seriously.

Industrial accidents continued to occur frequently due to improper enforcement. Chemical industries are the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines and opencast mines are to be bulldozed and reforested. These rules are obeyed seldom, if ever. According to the Coal Ministry, between 1995 to 1999, 1,201 persons were killed in registered mines and oil fields, 822 (68 percent) of whom died in coal mines, mostly underground; approximately 3,000 persons were injured in mining accidents. Illegal mining is rampant. For example, Oswal Fertilizer Ltd.'s (OFL) new Diamonium Phosphate fertilizer plant at Paradip, Orissa, began operations in May. Eleven workers died during the plant's construction; an additional 6 persons were killed and 51 others were injured in a series of accidents at the plant from May to September. None of the workers was using safety equipment. Seven criminal cases have been brought against OFL in connection with the accidents.

Safety conditions tend to be better in the EPZ's.

The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

#### f. Trafficking in Persons

The country is a significant source, transit point, and destination for numerous trafficked persons, primarily for the purpose of forced prostitution and forced labor.

The country's legal code generally is technically adequate for dealing with the problems of trafficking, violence against women, and prostitution. The Prevention of Immoral Trafficking Act (PITA) of 1986 superseded and strengthened the All-India Suppression of Immoral Traffic Act (SITA). The PITA sought to toughen penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. The PITA requires police to use only female police officers to interrogate girls rescued from brothels. The PITA also requires the State to provide protection and rehabilitation for these rescued girls. In addition the PITA grants a form of quasi-tolerance of prostitution, as prostitution, per se, is not a crime under the PITA, which criminalizes only solicitation or practice in or near a public place. Some NGO's note that this ambiguity, which is intended to protect trafficking victims, has been exploited to protect the sex industry. Due to the selective implementation of the PITA, the "rescue" of sex workers from brothels often leads to their revictimization. On June 25, 14 underage rescued sex workers fled the government shelter in Mumbai, citing poor conditions and "inhuman treatment." On August 31, the Mumbai High Court instructed the Maharashtra government to improve conditions in its rescue homes.

The country's prostitution and trafficking laws fail to impose on the clients and organizers of the sex trade the same penalties imposed on prostitutes found soliciting or practicing their trade in or near (200 meters) public places. Using the PITA's provisions against soliciting or practicing, police regularly may arrest sex workers, extort money from them, evict them, and take their children from them. The client by comparison largely is immune from any law enforcement threat, as he has committed a crime only if he is engaged in sex with a sex worker in a public place or is having sex with a girl under the age of 16 years (statutory rape). Similarly, although the intention of the 1986 PITA was to focus enforcement efforts against the traffickers, pimps, and border operators, the opposite currently is the reality; a Calcutta NGO reports that an average of about 80 to 90 percent of the arrests made under the PITA in West Bengal state in the 1990's are of female sex workers. Police implementation of the PITA similarly is inadequate throughout the country; only a small fraction of arrests made under the PITA involve the trafficker. Implementation of the PITA's provisions for protection and rehabilitation of women and children who are rescued from the sex trade is extremely poor. NGO's familiar with the legal history of prostitution and trafficking laws regard the failure of the judiciary to recognize this inequity in the law's practice as a continuing "blind spot." Over the last several years, arrests and prosecutions under the

PITA have remained relatively static, while all indicators suggest a growing level of trafficking into and within the country.

NGO's allege that ignorance of trafficking, a lack of political resolve to tackle it, and corruption at the enforcement level perpetuate the problem. Although the police are charged with enforcing the country's laws on prostitution and trafficking in women and children, NGO's, observers, and sex workers uniformly view police actions as part of the problem. Sex workers in Mumbai and Calcutta claim that harassment, extortion, and occasional arrests on soliciting charges usually characterize police intervention. The police seldom are seen as a positive force that addresses the violence of pimps and traffickers while protecting underage girls from bonded sex labor. A commonly held view among sex workers and NGO's is that local police and politicians responsible for the red light areas receive bribes from organized crime networks to protect the lucrative sex trade.

Over 1 million girls and women are believed to be forced into the sex industry within the country at any given time. Women's rights organizations and NGO's estimate that more than 12,000 and perhaps as many as 50,000 women and children are trafficked into the country annually from neighboring states for the sex trade. According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes are children. The traffic is controlled largely by organized crime.

There is a growing pattern of trafficking in child prostitutes from Nepal. According to one estimate, 5,000 to 7,000 children, mostly between the ages of 10 and 18, are drawn or forced into this traffic annually. Girls as young as 7 years of age are trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas of India to the major prostitution centers of Mumbai, Calcutta, and Delhi. Currently there are about 100,000 to 200,000 women and girls working in brothels in Mumbai and 40,000 to 100,000 in Calcutta. In Mumbai an estimated 90 percent of sex workers began when they were under 18 years of age; half are from Nepal. A similar profile is believed to exist among female sex workers in Calcutta, although the vast majority of women who are trafficked there come from Bangladesh, as opposed to Nepal. NGO's in the region estimate that about 6,000 to 10,000 girls are trafficked annually from Nepal to Indian brothels, and that a similar number are trafficked from Bangladesh.

Within the country, women from economically depressed areas often move into the cities seeking greater economic opportunities, and once there are victimized by traffickers who force or coerce them into the sex trade. However, in some cases family members sell young girls into the sex trade. For example, according to a local NGO researcher, in one village in Uttar Pradesh, girls 1 to 2 years of age are purchased from their parents and adopted by persons who train them for the sex trade through the use of pornographic materials, and sell them into the sex trade when they are 7 to 12 years old.

Many indigenous tribal women are forced into sexual exploitation. According to the Indian Center for Indigenous and Tribal Peoples (ICITP), more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many come from tribes that were driven off their land by national park schemes. In Punjab persons of both sexes are sold in an organized trade in weekend bazaars, ostensibly as farm labor; many instead are purchased for the purposes of forced sexual service. In 1998 one person was arrested in connection with the trade. He was released later on bail.

The number of women being trafficked out of the country to other countries is comparatively low. In July authorities cooperated with U.S. investigators seeking evidence in the prosecution of Lakreddy Bali Reddy, a U.S. citizen of Indian birth, who was indicted for trafficking minor girls for sexual exploitation from a rural area of Andhra Pradesh to the U.S. Reddy allegedly paid the airfares and expenses of 350 to 400 young men and women aged approximately 13 to 18 years, mostly from low castes, and obtained their passports and visas—ostensibly to work as specialty cooks or laborers in his restaurants or apartment business. However, upon arrival in the U.S., the girls reportedly were put to work in a prostitution ring. Some of the girls claimed that Reddy had sex with them in India after their parents sold them; at least one victim was 12 years old.

In a study published in 1996, the National Commission for Women reported that organized crime plays a significant role in the country's sex trafficking trade, and that women and children who are trafficked frequently are subjected to extortion, beatings, and rape. How women are trafficked varies widely: some are abducted forcibly or drugged, while others are made false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contribute to the trafficking problem, although organized crime is a common element in all trafficking incidents, as is police corruption and collusion.

Trafficking of persons within and into the country for forced labor also is a significant problem. In December 1999, the media reported that an organized ring was selling children from surrounding areas for labor at the annual Sonepur cattle fair in Bihar. There was a report that a 12-year-old child was purchased for \$21 (900 rupees). In July a Mangalore, Karnataka-based NGO reported that tribal children were being auctioned in the Dakshina-Kanara district of the state primarily for use as domestic servants. The Karnataka Department of Social Welfare initiated an investigation, which it completed during the year (see Sections 5 and 6.c.). It found that the children were not being auctioned, but that better-off families in the district were employing many of them as domestic servants. The Department of Social Welfare suggested that more efficient implementation of ongoing development programs for tribal people in the district offered the best remedy for the child labor problem.

In West Bengal, the organized traffic in illegal Bangladeshi immigrants is a source of bonded labor. In June police in Krishnagar, West Bengal detained 8 Bangladeshi women and 14 children transiting the district by bus. Agents allegedly smuggled the group from Jessore, Bangladesh across the border at Bongaon by offering them employment in Mumbai. Calcutta is a convenient transit point for traffickers who send Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and West Asia. Persons sometimes are sold into virtual slavery.

Many boys, some of whom are as young as age 4, are trafficked to West Asia or the Persian Gulf States (especially the United Arab Emirates) and end up as riders in camel races. Some such boys end up as beggars in Saudi Arabia during the hajj. It is estimated that there are anywhere from 100 to over 1,000 underage South Asian camel jockeys (from Pakistan, India, and Bangladesh) currently working in the United Arab Emirates alone. Criminal gangs procure most of the youths. The majority of such children work with the knowledge of their parents, who receive as much as \$200 (9,300 rupees) for their child's labor, although a significant minority simply are kidnaped. The gangs bringing the jockeys earn approximately \$150 (6,975 rupees) per month from the labor of each child. The usual procedure used for bringing the children to the Gulf States is to have their names added to the passport of a Bangladeshi or Indian woman who already has a visa for the Gulf; the children fraudulently are claimed to be her children. Girls and women trafficked to the Persian Gulf States end up either as domestic workers or sex workers.

NGO's and others allege that when police take action against brothels suspected of enslaving minors, the resulting police raids often are planned poorly and seldom are coordinated with NGO's or government social agencies. Therefore, the police action often worsens the situation of the girls and women indebted to traffickers and brothel owners. Girls rescued from brothels are treated as criminals and often are abused sexually by their police rescuers or by the staff of government remand centers, where they are housed temporarily before being brought back to the brothels as a result of the bribes paid by brothel operators, or legally released into the custody of traffickers and madams posing as relatives. In these cases, the debt owed by the girls to the brothel operators and traffickers further increases as the costs of bribing or legally obtaining release of the girls is added to their labor debt. NGO's invariably indicate the 1996 police roundup of 476 sex workers in Mumbai as an illustration of the consequences of forced sweep rescues. Police in Mumbai carried out no such sweeps during the year.

As was the case in the 1996 raids, NGO's claim that they seldom are given advance notice of police raids on brothels and therefore are not able to lend valuable assistance in identifying and interviewing underage victims. Moreover police do not seek advice or assistance from NGO's in planning law enforcement action to protect the victims during raids. Although over 400 girls and women were arrested in the 1996 raids, few pimps or brothel managers were arrested, and none were prosecuted to conviction. The NGO's found themselves caught off guard by the large-scale police action and were ill-prepared to cope with a sudden huge demand for shelter for the rescued sex workers. As a result, many of the girls were sent to government centers known for their harsh conditions and considered by many to be in a worse state than the brothels. Ultimately, some of the girls died in state detention and many returned to the sex trade voluntarily, given their lack of options. Success stories from the 1996 raids were rare.

Some NGO's know about trafficking conditions in the brothel areas such as Kamathipura, including identification of traffickers and locations of girls being held captive by brothel owners. However, because of the lingering effects of the 1996 raids, most of these NGO's are reluctant to trust the police with this information. Cooperation among NGO's in sharing information and assessing out the magnitude and scope of the trafficking problem in Mumbai has not been significant to date, although it continues to improve. Some Mumbai NGO's have worked aggressively to sensitize, train, and create awareness of trafficking among local authorities. The case of the NGO Prerana, which has been working closely with government officials, is a good example. During the year, a Prerana pilot program trained employees of a large Maharashtra government enterprise to identify and assist trafficking victims during their daily bus commute; Prerana also has enlisted the assistance of state police, who help train the workers. Conversely, other NGO's working to rescue women and girls from forced sexual work report that complaint-based police rescues are quite effective. Unlike the sweep type rescues such as the one carried out in Kamathipura in 1996, these are focused attempts to rescue a small number of women and girls using specific information about the victim's location, names and appearance, often supplied by NGO's; police responses in such cases frequently have resulted in the rescue of the women and girls involved.

Similar efforts to improve NGO coordination are being made in Calcutta, where some 10 NGO's meet monthly as part of the "Action Against Trafficking and Sexual Exploitation of Children" forum. Every 3 months the group attempts to meet with its Bangladeshi and Nepalese counterparts. Calcutta NGO's such as Sanlaap also are seeking to build stronger working relationships with local police. As a result of this coordination, Sanlaap has built stronger working relationships with police and other law enforcement officials in Calcutta. It has organized and sponsored meetings between representatives of the sex workers and police to discuss such issues as violence against women and trafficking. The seminars have helped sensitize police to the fact that many of the sex workers are the victims of organized traffickers. Sanlaap invariably is the first organization Calcutta police turn to when they have rescued a trafficked sex worker. The NGO has been allowed to place a counselor at the West Bengal Remand Home for Women, where rescued trafficking victims are housed. It also has been permitted to place counselors in police stations within Calcutta's red light district and has convinced the courts to release young trafficking victims into its custody, instead of sending them to the remand home.

There are roughly 80 NGO's in 10 states around the country working for the emancipation and rehabilitation of women and children trafficked into the sex trade.

A group on child prostitution established by the NHRC includes representatives from the National Commission for Women, the Department of Women and Child Development, NGO's, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

[End.]



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