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India

India, widely hailed as the world's largest democracy, has a vibrant press and civil society, but also suffers from a number of chronic human rights problems. A critical issue is impunity: officials and members of the security services who abuse their power are rarely if ever brought to justice for torture, arbitrary detentions and extrajudicial killings in places like Jammu and Kashmir, the insurgency-affected states in the North East, and in areas where there is an extremist Maoist movement by groups known as Naxalites. Legally sanctioned impunity, such as in the Armed Forces Special Powers Act and the Criminal Procedure Code, also plays a role in India's failure to effectively stem caste or inter-communal conflict.

Armed groups have been responsible for attacks as well. A series of explosions on Mumbai's rush hour commuter trains in July 2006 that killed 183 and severely injured hundreds were attributed by the Indian government to Islamic groups. Both the Naxalites and the insurgent groups in the North East have been blamed for many attacks on civilian targets

Other leading human rights concerns in India include the failure to implement policies that protect the rights of children, religious minorities, those living with HIV/AIDS or those belonging to vulnerable communities such as tribal groups, Dalits and other 'backward' castes.

Rights of Dalits and Indigenous Tribal Groups

Local authorities regularly fail to implement laws set up to end discrimination against and protect Dalits and members of tribal groups. The laws even provide administrative measures for enforcement including Special Courts and the appointment of Special Public Prosecutors. These courts have enormous powers, including the power to remove potential offenders from some areas, and to

confiscate property. Public officials who do not perform their duties can be punished with a jail term extending up to a year. But these powers are rarely used.

Abuses against Dalits include harassment, mutilations and killings by members of other castes. For instance, in January 2006 Bant Singh, a Dalit man who had led a campaign to protect the rights of agricultural workers, was so brutally assaulted by members of the feudal upper caste that his limbs had to be amputated.

Indigenous peoples, known as Scheduled Tribes or Adivasis, have suffered from high rates of displacement due to economic and infrastructure development programs. The proposed Scheduled Tribes (Recognition of Forest Rights) Bill, which is designed to protect the rights of those who had been occupying forest land, is still to be enacted.

Naxalites

Prime Minister Manmohan Singh described the Naxalite movement, which has spread to 13 states, as the single biggest threat to internal security. Initially, Naxalites found widespread support among the poor, particularly tribal groups and Dalits, who feel left out by India's modernization process and surging economic growth. But increasingly these same groups have suffered at the hand of the Naxalites because of illegal taxes, demands for food and shelter that put them at risk of retaliation by security forces, abduction and killing of "class enemies" and others opponents, and the hampering of the delivery of development aid to the isolated countryside, which adversely affects the lives of the people that the Naxalites claim to represent.

As the government clamps down on the Naxalite groups, these already vulnerable communities have been caught between two sets of guns. National and state governments have overreacted with force and legal measures. In Chattisgarh state, which witnessed the most Maoist violence in 2006, the state government adopted a vague and overly broad law that allows for detention of up to three years for "unlawful activities." The term is so loosely defined in the law that it threatens fundamental freedoms set out by the Indian constitution and international human rights law, and could severely restrict the peaceful activities of individuals and civil society organizations.

Impunity of Security Forces

In a report “Everybody Lives in Fear,” released on the human rights situation in Jammu and Kashmir, Human Rights Watch noted that Indian security forces, including the military, paramilitary forces, and the police, routinely abuse human rights with impunity. The Indian federal government rarely prosecutes army and paramilitary troops in a credible and transparent manner. The result has been an increase in serious violations by security forces throughout the country.

Laws such as the Public Safety Act (Jammu and Kashmir), the Disturbed Areas Act, the Armed Forces (Special Powers) Act have spawned abuses in various parts of the country. Section 197 of the Criminal Code of Procedure provides security forces virtual immunity for crimes committed in the course of duty.

A report of the committee headed by Justice B.P. Jeevan Reddy to review the Armed Forces (Special Powers) Act has recommended that this law be repealed because it is “too sketchy, too bald and quite inadequate in several particulars.” The government has yet to act upon this recommendation.

Kashmir Conflict

The Kashmir insurgency, which began in 1989, has displaced tens of thousands of people, claimed over 50,000 lives. Human rights abuses and impunity have been a cause and fuel for the conflict.

Accountability remains a serious problem. Despite Prime Minister’s Manmohan Singh’s claim that there would be ‘zero tolerance’ for human rights violations, troops continued to be responsible for arbitrary detention, torture and extrajudicial executions. Militants have been responsible for indiscriminate bombings and grenade attacks, targeted killings, torture, and attacks upon religious and ethnic minorities. Abuses are continuing, despite talks between India, Pakistan and some separatist groups and the election of a state government in Jammu and Kashmir in 2002 with an avowed human rights agenda.

Indian security forces claim they are fighting to protect Kashmiris from militants and Islamic extremists, while militants claim they are fighting for Kashmiri independence

and to defend Muslim Kashmiris from a murderous Indian army. In reality, both sides have committed widespread and numerous human rights abuses and violations of international humanitarian law (the laws of war), creating among the civilian population a pervasive climate of fear, distrust, and sadness. Years of impunity for serious abuses have led to a vicious cycle of continuing violence. The Indian government has effectively given its forces free rein, while Pakistan and armed militant groups have never taken any action against militants who carry out atrocities.

Legacy of Communal Violence

The Indian government has failed to contain violent religious extremism and to prosecute most of those who instigate or participate in religious violence. Such failures only reinforce communal resentments. Investigations into attacks by armed groups, particularly after the Mumbai bomb explosions, invariably lead to widespread interrogation, detention and torture of Muslims by police, causing further alienation.

There has still been no accountability for the deaths of more than 2,000 Muslims in the western state of Gujarat during communal violence that erupted after a train carrying Hindu pilgrims in 2002 caught fire, killing 59 passengers. There continue to be delays in the investigation and prosecution of these cases. For instance, in April 2006, 52 accused in a riot case in Panchmahal district were acquitted for lack of sufficient evidence, once again leading to accusations of a failure of proper police investigation.

Meanwhile, in a number of cities in Gujarat, communal hate has led to internal displacement along religious lines, while Muslim businesses have been boycotted by Hindus. The National Commission of Minorities said in October that 5,703 riot-affected Muslim families were yet to be properly compensated and rehabilitated, with chairman Hamid Ansari describing this as an “abdication of Constitutional responsibility on the part of the state government with reference to victims of the 2002 riots who are living in barely human conditions.”

In February 2005, a Commission headed by Justice G.T. Nanavati to probe the 1984 anti-Sikh riot submitted its report to the government. Although some senior Congress

leaders blamed for their part in organizing the anti-Sikh pogrom resigned their posts in the government, those responsible for planning and instigating the riots are yet to be prosecuted.

Christians have come under attack as Hindu fundamentalist groups continue their campaign to force them to convert to Hinduism. At the same time, several states governed by the right-wing Bharatiya Janata Party has banned, forced, or coerced conversions in an effort to end the influence of the church and missionaries in rural, underdeveloped areas.

Failure to Implement Children's Rights

Despite a scheme launched two years ago to provide universal education, millions of children in India still have no access to education and work long hours in the worst forms of child labor. India accounts for a significant proportion of the world's out-of-school children. This is because many Indian children work, cannot afford school fees, do not have access to education, or belong to deprived communities such as Dalit or other marginalized castes, tribal groups or minority religions, particularly Islam. In October 2006, the government proscribed the employment of children as domestic servants or in tea stalls and restaurants; while this is a good step, previous experience has shown that without proper implementation and adequate rehabilitation of child workers, such laws are of very limited utility. The government has also announced plans to establish a national commission for children that activists hope will prove effective in protecting their rights.

Rights of Those Living with HIV/AIDS

The government estimates that in 2005, 5.7 million people in India were living with HIV/AIDS. People living with AIDS, as well as those whose marginalized status puts them at highest risk—sex workers, injection drug users, and men who have sex with men—face widespread stigmatization and discrimination, including denial of employment, access to education and healthcare. A promised law that would ban discrimination against people living with HIV has not been enacted, sodomy laws have not been repealed, and the government has not taken appropriate steps to address abuses against children affected by AIDS. Although numbers of people on

anti-retroviral treatment went up to 40,000 as of September 2006, India still fell far short of the 100,000 people a government minister had promised to put on treatment in 2002.

Key International Actors

Viewed increasingly as a strong economic and trade partner, the international community is generally unwilling to challenge India to address its human rights concerns. Ties between the United States and India have strengthened through increasing trade, joint military exercises and Washington's efforts to provide India with assistance to develop its nuclear energy program. This has left the United States, the most influential external actor, much less willing to confront India on rights issues.

India receives significant aid from multilateral donors such as the World Bank and the Asian Development Bank, but accepts bilateral assistance from only a few countries. Increasingly, India is providing aid to some smaller countries.

India has not used its increasing influence with smaller neighbors like Burma and Maldives, achieved through significant amounts of financial and military aid, to call publicly for better compliance with human rights standards. India is supplying military hardware to Burma in return for the military junta's cooperation in flushing out separatist groups that cross the border for sanctuary. After the Indian government announced its intention of supplying two British-built maritime surveillance aircraft to Burma, the UK declared it would be unable to provide spare parts and maintenance support.

In 2006 India played a significant part in encouraging Nepal's King Gyanendra to end his illegal rule and restore democracy. In Sri Lanka, India has been engaged in discussions with the government to put an end to the recent violence and restore a 2002 ceasefire between government troops and the Liberation Tigers of Tamil Eelam.