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## INDIA

Taken from the Amnesty International Report 2007

Head of state: APJ Abdul Kalam

Head of government: Manmohan Singh

Death penalty: retentionist

International Criminal Court: not ratified

Perpetrators of past human rights violations continued to enjoy impunity. Concerns grew over protection of economic, social and cultural rights of already marginalized communities. Human rights violations were reported in several states where security legislation was used to facilitate arbitrary detention and torture. A new anti-terror law, in place of the repealed Prevention of Terrorism Act (POTA), was being considered in the aftermath of multiple bombings in Mumbai and elsewhere. The Armed Forces Special Powers Act (AFSPA), long criticized for widespread abuses in the north-east, was not repealed. Justice and rehabilitation continued to evade most victims of the 2002 Gujarat communal violence. Human rights legislation was amended undermining the powers of the National Human Rights Commission (NHRC). New laws to prevent violence against women and guarantee rural employment and right to information had not been fully implemented by the end of the year. Socially and economically marginalized groups such as adivasis, dalits, marginal/landless farmers and the urban poor continued to face systemic discrimination and loss of resource base and livelihood because of development projects.

## BACKGROUND

An agreement reached with the USA in March gave India access to strategic nuclear material and equipment for civilian purposes, and signalled closer Indo-US ties.

Hundreds of people were killed in bomb attacks during the year, including 21 in the north Indian city of Varanasi in March, more than 200 in multiple bombings in Mumbai in July, and 37 in Malegaon, Maharashtra state, in September. Concern about such attacks continued to dominate peace talks between India and Pakistan, which made little progress. The two countries agreed to set up an "anti-terror mechanism", the details of which were not spelled out. Little progress was made in continuing dialogue over Kashmir, Nagaland and Assam.

Rising Maoist activity in some states added to security and human rights concerns. Several states, including Orissa and West Bengal, witnessed protests by people whose livelihoods were threatened by ongoing and proposed fast-tracked development projects. High suicide rates by debt-ridden farmers were recorded in some states, including Maharashtra, Andhra Pradesh and Kerala.

Following renewed fighting in Sri Lanka, around 10,000 Tamil refugees fled the island by sea and arrived in Tamil Nadu, already home to over 100,000 refugees; about 50,000 of the refugees were reportedly in camps with inadequate facilities.

## SECURITY LEGISLATION

India continued to play no direct role in the US-led “war on terror”. However, demands for new anti-terror legislation in place of the repealed POTA grew after the bombings in Mumbai and Malegaon.

Following the bomb attacks, hundreds of people, mostly Muslims, were arbitrarily detained for short periods in Maharashtra. Sixteen people were charged under the state Control of Organised Crime Act. Local courts acquitted three of the 16 for lack of evidence.

Implementation of security legislation led to human rights violations in several states. An official panel report acknowledged widespread abuses of the AFSPA in the north-east but drew criticism for ignoring impunity issues and recommending use of the Unlawful Activities Prevention Act. Protests demanded repeal of the AFSPA.

At least 400 people remained in jail under the repealed POTA and several continued to face special trials whose proceedings fail to meet fair trial standards. The few convictions related to serious and high-profile cases. Official committees reviewed a majority of pending cases. However, the review process was questioned, with Gujarat and other states rejecting the committees’ key recommendation to drop POTA charges.

## **JAMMU AND KASHMIR**

Politically motivated violence slightly decreased, but torture, deaths in custody, enforced disappearances and extrajudicial executions continued to be reported. Some six deaths in custody, 38 enforced disappearances including several juveniles, and 22 extrajudicial killings were reported in 2006. Identity-based attacks by Islamist fighters continued.

- In May, 35 Hindus were killed in Doda and Udhampur districts. Government officials accused Lashkar-e-Taiba, a Pakistan-based armed Islamist group, of carrying out the killings to derail the peace process.
- In October, 17-year-old Muhammad Maqbool Dar of Pakherpora died in custody after he was questioned by the Rashtriya Rifles, an army counter-insurgency force. A magistrates’ inquiry and an internal army inquiry were ordered. Impunity for human rights violations by state agents continued, although in a few cases criminal action was initiated after years of delay.
- In April, the Central Bureau of Investigation (CBI) indicted five army officers for the extrajudicial killing of five villagers at Pathribal in March 2000. The officers were charged with fabricating evidence to support their claim that the men were foreign fighters killed in an “encounter” with security forces. The officers had earlier claimed that the men had killed 35 Sikhs at Chittisinghpura four days before the “encounter”. When local villagers protested in Brakpora that the five men were innocent villagers, the army opened fire, killing 10 protesters. An inquiry into the Pathribal incident stalled when it was found that DNA samples had been tampered with.

A new report indicated that some 10,000 people had been victims of enforced disappearance since 1989. The Association of the Parents of Disappeared People reported that the authorities failed to provide information to the families of the victims about their whereabouts. Outstanding concerns over the existing powers of the state Human Rights Commission were heightened in August when its chairperson resigned over the “non-serious” attitude of the state government towards human rights violations.

## **IMPUNITY**

Little progress was made in cases relating to the 1984 anti-Sikh riots in Delhi which followed the assassination of Prime Minister Indira Gandhi by two of her Sikh bodyguards and led to a massacre of nearly 3,000 Sikhs. In 2005 the United

Progressive Alliance (UPA) government promised to reopen the latest of many inquiries following the forced resignations of two leaders of the ruling Congress party, which heads the UPA. A judicial commission had concluded that there was credible evidence of involvement in the attacks against the two leaders who resigned.

In Punjab, a majority of police officers responsible for serious human rights violations during civil unrest between 1984 and 1994 continued to evade justice. In response to 2,097 reported cases of human rights violations during this period, the NHRC ordered Punjab state to provide compensation in 1,051 cases concerning people who died in police custody and appointed a commissioner to decide on compensation for 814 additional cases. CBI findings on these deaths in custody were not made public and the NHRC did not actively pursue with the judiciary the outstanding issues of impunity.

## **2002 GUJARAT VIOLENCE**

Justice continued to evade most victims and survivors of the 2002 violence in Gujarat in which thousands of Muslims were attacked and more than 2,000 were killed. Rehabilitation continued to be slow. Members of the Muslim minority in Gujarat reportedly faced difficulties in accessing housing to rent and public resources. An official panel concluded that over 5,000 displaced families lived in “sub-human” conditions.

There continued to be few successful prosecutions relating to the violence. However, 1,594 cases closed by the state police were reopened on the orders of the Supreme Court and 41 police officials were being prosecuted for their alleged role.

New evidence on the riots emerged, in the form of details of mobile phone calls made between those leading the attacks and politicians belonging to the then ruling Bharatiya Janata Party (BJP), a Hindu nationalist party. The judicial commission appointed in 2002 by Gujarat’s state government to investigate the attacks had not completed its work by the end of the year.

The Gujarat High Court set aside the Union government order appointing another commission to investigate the cause of the 2002 Godhra train fire which killed 59 Hindu pilgrims. The Court said there was no need for a second commission into the fire, which triggered attacks on Muslims and the subsequent violence.

Six key cases relating to killings and sexual assault of Muslim women in which complainants had sought transfer to courts outside Gujarat were still pending before the Supreme Court at the end of the year.

- In March, a Mumbai court sentenced nine people to life imprisonment and acquitted eight others after a retrial in the Best Bakery case, relating to the massacre during the 2002 violence of 14 people in Vadodara city. In 2003, a local court had acquitted all the accused, but the Supreme Court transferred the case to Mumbai. The Mumbai court later convicted Zahira Shaikh, and another female relative of the victims, of perjury after they “turned hostile” and retracted their statements, reportedly under pressure.

The UPA government’s draft bill to prevent communal violence was still pending before parliament. It had been introduced in 2005 following widespread criticism of the BJP-led government for failing to halt the Gujarat violence.

Meanwhile, two other states ruled by the BJP – Rajasthan and Chhattisgarh – passed laws criminalizing religious conversion in certain circumstances, inviting criticism that they were acting against freedom of choice of religion.

## **CHHATTISGARH**

There was rising violence in the Dantewada area between Maoists and members of the anti-Maoist Salwa Judum, a militia widely believed to be sponsored by the Chhattisgarh state government. Civilians were routinely targeted by both

sides and 45,000 adivasis were forced to live in special camps putting them at increased risk of violence. The Chhattisgarh authorities enacted legislation banning media coverage of certain human rights violations.

- On 28 February, suspected Maoists set off a landmine blowing up a truck; 26 people were killed and 30 injured.

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Around 300 million people remained in poverty despite implementation of new legislation guaranteeing minimum annual employment for the rural poor. New legislation on the right to information, seen as a means to empower the poor, was not fully implemented; the Union government and state governments were reluctant to disclose crucial information about their decision-making processes.

Concerns grew over protection of economic, social and cultural rights of already-marginalized communities (including adivasis) amidst fears of unchecked exploitation of their resource base by the government and businesses. Several states witnessed periodic protests against acquisition of land and other resources for mining, irrigation, power and urban infrastructure purposes. Such developments were associated with forced evictions, harassment, arbitrary detentions, excessive police force and denial of access to justice.

- In January, 11 adivasis were killed when police fired into demonstrators protesting against the displacement that would be caused by the proposed Tata Steel project in Orissa.
- In April, police used excessive force against activists staging a protest fast in Delhi against displacement caused by the Narmada dam project; some protesters were detained.
- In July and September/October, activists protesting against the Uttar Pradesh government's decision to acquire farmland for the Reliance gas project faced police harassment and detention.

## **BHOPAL**

Twenty-two years after the Union Carbide Corporation (UCC) pesticide plant in Bhopal leaked toxic gases that devastated countless lives and the environment, survivors continued to struggle for adequate compensation, medical aid and rehabilitation. After a sustained campaign, including a survivors' march from Bhopal to Delhi in April, the government agreed to clean up toxic waste, provide safe drinking water and set up a commission for rehabilitation of the victims. However, there was little progress on the ground on these initiatives by the end of 2006. In August, monsoon rains caused flooding in areas around the UCC plant, raising fears of contamination of groundwater. UCC and Dow Chemicals (which took over UCC in 2001) continued to reiterate that they had no responsibility for the gas leak or its consequences.

## **VIOLENCE AGAINST WOMEN**

Legislation passed in 2005 to ensure comprehensive protection of women from all forms of domestic violence, including dowry deaths, sexual assault and acid attacks, came into effect in October. It was yet to be fully implemented by states. Traditional preference for boys continued to lead to abortions of female fetuses, despite the ban on pre-natal sex determination since 1993. Only a few people were convicted of violating the ban, a fact criticized by the Supreme Court. Protests were staged in Punjab and Rajasthan over the slow pace of investigation into such cases. Many of the abuses suffered by Muslim women in Gujarat in 2002 fell outside the definition of rape in national law. This continued to hamper victims' quest for justice.

Two Supreme Court directives offered advances for victims of rape. The Court directed that lack of medical evidence would no longer be grounds for discounting testimony, and that the identity of victims should remain confidential in court judgments.

## **DEATH PENALTY**

At least 40 people were sentenced to death in 2006; no executions took place. Comprehensive information on the number of people on death row was not available.

Anxiety rose over the fate of clemency petitions after the Supreme Court ruled that it could review executive decisions on such petitions. The ruling followed fierce debate triggered by the clemency petition submitted on behalf of Mohammed Afzal, who was sentenced to death on charges relating to the armed attack on India's parliament in December 2001.

## **OTHER ISSUES**

There were concerns that amendments to the Protection of Human Rights Act, 1993, would weaken the operating framework of the NHRC which already had no mandate to investigate abuses by armed forces and complaints more than a year old. The amendments also allow for transfer of cases from the NHRC to state-level commissions which continued to be starved of resources; 11 of the 28 states had yet to set up such commissions and five of those operating had no chairpersons.

## **AI COUNTRY REPORTS/VISITS**

### **Statements**

- India: Amnesty International condemns multiple bomb attacks in Mumbai (AI Index: ASA 20/017/2006)
- India: Continuing concern over the safety of civilians, including adivasis, caught in escalating conflict in Chhattisgarh (AI Index: ASA 20/018/2006)
- India: Concerns with Protection of Human Rights Act (AI Index: ASA 20/019/2006)
- India: Amnesty International condemns multiple bomb attacks in Malegaon, Maharashtra (AI Index: ASA 20/025/2006)
- India: Continued detention two years after the repeal of POTA (AI Index: ASA 20/026/2006)
- India: The Armed Forces Special Powers Act (AFSPA) Review Committee takes one step forward and two backwards (AI Index: ASA 20/031/2006)

### **Visits**

AI's Secretary General and other delegates visited India in February and met government officials and civil society organizations. AI delegates also met officials and activists in May, July and December.