

INDIA ASSESSMENT

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Country Information and Policy Unit

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1. SCOPE OF DOCUMENT

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a variety of sources.

1.2 The assessment has been prepared for background purposes for those involved in

the asylum determination process. The information it contains is not exhaustive, nor is it intended to catalogue all human rights violations. It concentrates on the issues most commonly raised in asylum claims made in the United Kingdom.

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 It is intended to revise the assessment on a 6-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom.

1.5 An electronic copy of the assessment has been made available to the following organisations:

Amnesty International UK

Immigration Advisory Service

Immigration Appellate Authority

Immigration Law Practitioners' Association

Joint Council for the Welfare of Immigrants

JUSTICE

Medical Foundation for the care of Victims of Torture

Refugee Council

Refugee Legal Centre

UN High Commissioner for Refugees

2. GEOGRAPHY AND ECONOMY

2.1 India forms a natural sub-continent with the Himalayas to the north. The Arabian Sea and the Bay of Bengal, which are sections of the Indian Ocean, lie to the west and east respectively. India's neighbours are China (Tibet), Bhutan and Nepal to the north, Pakistan to the north-west, and Burma to the north-east. To the east, almost surrounded by India, is Bangladesh. Near India's southern tip, across the Palk Strait, is Sri Lanka. India covers an area of 3,287,623 square kilometres (1,269,219 square miles). [1]

2.2 India's capital is New Delhi. The population of India is 1 billion. [10(48)]

2.3 The official language of India is Hindi written in the Devanagari script and spoken by some 30% of the population as a first language. Since 1965 English has been recognised as an "associated language". In addition there are 18 main and regional languages recognised for adoption as official state languages. There are another 24 languages, 720 dialects and 23 tribal languages. [1]

2.4 Among the main languages are Bengali (8.2%), Marathi (7.7%), Urdu (5.2%),

Gujarati (4.7%), Bihari (3.8%), Oriya (3.6%), Telugu (3.5%), Tamil (3.2%) and Punjabi (3.0%). Other languages include Assamese, Kannada, Rajasthani and Kashmiri. Bihari and Rajasthani are variants of Hindi. [1]

2.5 More than 180 million people in India regard Hindi as their mother tongue. Another 300 million use it as a second language. There is controversy about the status of Punjabi, which can be considered as a dialect of Hindi, or as an independent language. A 1997 survey found that 66% of all Indians can speak Hindi, and 77% of Indians regard Hindi as "one language across the nation". [31]

2.6 India has emerged as a major economic power after several decades during which its economy was virtually closed. In the late 1980s and 1990s, India began to open up to the outside world, encouraging economic reform and foreign investment. The country now has a burgeoning middle class and has made great strides in fields like information technology - exporting its talented professionals abroad. But the vast mass of the rural population remains illiterate and impoverished. Poverty and illiteracy have limited the reach of the media and ownership of radio and television equipment. India also boasts one of the world's biggest film industries, based in the huge commercial metropolis of Bombay. The average annual income is equivalent to 460 US Dollars

2.7 India's main exports are: Agricultural products, textile goods, gems and jewellery, software services and technology, engineering goods, chemicals, leather products. The monetary unit is the Indian Rupee, which is made up of 100 paise.

3. HISTORY

3.1 Please see the Chronology of Events in Annex A. For further listing please refer to the Europa World Yearbook [1]

4. STATE STRUCTURES

Constitution

4.1 India is a federal republic, with legislative power vested in a bicameral parliament [2] Parliament is constituted of a President and two Houses. The upper house, the Rajya Sabha (Council of States) has 245 members, most of whom are indirectly elected by the State Assemblies for 6 years (one third retiring every 2 years), the remainder being nominated by the President for 6 years. The Lower House, the Lok Sabha (House of the People) has 543 elected members, serving for 5 years. Two members of the Lok Sabha may be nominated by the President to represent the Anglo-Indian community, while the 543 members are directly elected by universal adult suffrage in single member constituencies. [1]

4.2 The Rajya Sabha and the Lok Sabha can sit at the same time as one another, but this is rare. Joint sessions of the Indian Parliament have only been held in 1961, 1978 and, most recently, in 2002 to debate the Prevention of Terrorism Ordinance (POTO). [10(48)]

4.3 The President is a constitutional Head of State, elected for 5 years by an electoral college comprising elected members of both Houses of Parliament and the state

legislatures. The President exercises executive power on the advice of the Council of Ministers, which is responsible to Parliament. The President appoints the Prime Minister and, on the latter's recommendation, other Ministers. [1]

4.4 India has 28 states (29 if the capital region of Delhi is included) [33g] with constitutionally defined powers of government. The states vary greatly in size, population and development. Each state has a Governor appointed by the President for 5 years, a legislature elected for 5 years, and a Council of Ministers headed by a chief minister. Each state has its own legislative, executive and judicial machinery, corresponding to that of the Indian Union. In the event of the failure of constitutional government in a state, the Union can impose President's Rule. There are also 6 Union Territories and the National Capital Territory of Delhi, administered by Lieutenant Governors or Administrators, all of whom are appointed by the President. The Territories of Delhi and Pondicherry also have elected chief ministers and state assemblies. [1]

4.5 The 28 states are: Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Manipur, Maharashtra, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal, and West Bengal. [1] & [33g]

4.6 The Territories are: Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Delhi, Lakshadweep, and Pondicherry. [1]

Political System

4.7 The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. 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. 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. [2]

4.8 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. 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. [2]

4.9 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. The Constitution provides for the right to form associations, and the

Government generally respected this right in practice.

Party Positions in the Indian Parliament

4.10 The results of the September/October 1999 general election [24a] (with the party positions in the Lok Sabha after the February/March 1998 elections in brackets) are:

Bharatiya Janata Party*182 (181)
 Congress (I)111 (141)
 Communist Party of India (Marxist) 32 (32)
 Telugu Desam Party*29 (12)
 Samajwadi Party25 (18)
 Janata Dal United*20 (6)
 Shiv Sena*15 (6)
 Bahujan Samaj Party14 (5)
 Dravida Munnetra Kazhagam*12 (5)
 Biju Janata Dal*10 (9)
 All India Anna Dravida Munnetra Kazhagam10 (18)
 All India Trinamool Congress*8
 Nationalist Congress Party7
 Nationalist Congress Party7 (17)
 Independents5 (6)
 Indian National Lok Dal*5 (4)
 Communist Party of India5
 Jammu and Kashmir National Conference4 (9)
 Marumalarchi Dravida Munnetra Kazhagam*4 (3)
 Revolutionary Socialist Party4 (3)
 All India Forward Bloc 3 (5)
 Muslim League Kerala State Committee 2 (2)
 Shiromani Akali Dal*2 (8)
 Rashtriya Lok Dal2
 Akhil Bhartiya Tantrik Congress2
 Janata Dal Secular1
 Samajwadi Janata Party (Rashtriya)1
 Manipur State Congress Party1 (1)
 Himachal Vikas Congress1
 Kerala Congress1
 Kerala Congress (M)1 (1)
 Sikkim Democratic Front1 (1)
 Communist Party of India (Marxist-Leninist)(Liberation)1
 Bharipa Bahujan Mahasangha1
 Peasants and Workers Party of India1 (1)
 All India Majlis-E-Ittehadul Muslimmen1 (1)
 MGR Anna DM Kazhagam1
 Shiromani Akali Dal (Simranjit Singh Mann)1

* indicates parties which supported the BJP led Government.

4.11 The Bharatiya Janata Dal and its allies (the 24 party National Democratic Alliance) won 296 seats; Congress and its allies 134 seats, and the others accounted for 107 seats. [11a]

Atal Behari Vajpayee, the leader of the BJP, was sworn in as Prime Minister on 13 October 1999 at the head of a BJP led government. [33a]

4.12 As at 8 November 1999 the party position in the Rajya Sabha (Upper House of the Indian Parliament) [24b] was as follows:

Congress (I) 58
 Bharatiya Janata Party 45
 Communist Party of India (Marxist) 16
 Independents 15
 Telugu Desam 10
 Janata Dal 9
 Rashtriya Janata Dal 8
 Nominated Members 8
 Samajwadi Party 7
 Dravida Munnetra Kazhagam 7
 All India Anna Dravida Munnetra Kazhagam (I) 5
 Shiv Sena 5
 Shiromani Akali Dal 5
 Bahujan Smaj Party 4
 Biju Janata Dal 3
 Tamil Maanila Congress (Moopanar) 3
 Muslim League 2
 Jammu and Kashmir National Conference 2
 Asom Gana Parishad 2
 Forward Bloc 2
 All India Anna Dravida Munnetra Kazhagam (II) 1
 Sikkim Sangram Parishad 1
 Revolutionary Socialist Party 1
 Kerala Congress 1
 Maharashtra Vikas Aghadi 1
 Haryana Vikas Party 1
 Himachal Vikas Congress 1
 Jharkhand Mukti Morcha 1
 Indian National Lok Dal 1
 Autonomous State Demand Committee 1

Judiciary

4.13 The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice. 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. [2]

4.14 When legal procedures function normally, they generally assure a fair trial, but the process is often drawn out and inaccessible to the poor. 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. [2]

4.15 Free legal services are available for everyone whose total income is less than 6,000 rupees. Legal Aid is available for fees incurred in legal proceedings, representations by a legal practitioner, obtaining certified copies of legal documents, and preparation of appeal papers. [6a]

4.16 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. [2]

4.17 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.

4.18 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.

4.19 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 the 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. Defendants are allowed to question witnesses against them, present their own witnesses and evidence, and have access to government evidence held against them.

4.20 Under the Prevention of Terrorism Ordinance (POTO), preventive detention could have been authorised for up to 180 days [2]

4.21 However, POTO has now been replaced by the Prevention of Terrorism Act, which contains new provisions. The Country Information and Policy Unit (CIPU) of the Home Office in the UK will provide a Bulletin to update the position, once it is known.

Internal Security

Security legislation

4.22 The Government has 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.

4.23 The National Security Act (NSA) 1980 permits the detention of persons considered to be security risks; police anywhere in the country (except for 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 1 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. The Jammu and Kashmir Public Safety Act (PSA) 1978 covers corresponding procedures for that state.

4.24 The Armed Forces (Special Powers) Act 1958 was enacted at a time when India was faced with the activities of insurgents in the border areas on the eastern frontier of the country. The Act's provisions only come into effect when the State Governor declares the area to be "disturbed". The Act lists the situations in which the special powers may be exercised: dispersal of unlawful assembly, preventing people from carrying weapons, destruction of arms dumps, search and seizure and the arrest of those suspected of committing a cognizable offence. The Act also provides for the arrested person to be handed over to the nearest police station. [21] According to the US State Department report on Human Rights Practices for the year 2001, 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.

4.25 The NHRC played a significant role in calls for the abolition of the Terrorist and Disruptive Practices (Prevention) Act (TADA) and expressed the view that the Armed Forces (Special Powers) Act is unconstitutional. [12d] However, the Armed Forces Special Powers Act and the Disturbed Areas Act 1976 remained in effect during the year 2001, in Jammu & Kashmir, Nagaland, Manipur, Assam, and parts of Tripura.

4.26 TADA which lapsed in 1995 (reportedly following the most extensive abuse), [2] prohibited not only "terrorist acts" but also "disruptive activities" which questioned or threatened the sovereignty and territorial integrity of India. [21]

4.27 Although TADA had lapsed, according to the NHRC's 1996-97 report, 1,502 persons previously arrested under the Act continued to be held as of January 1, 1997. A small number of arrests under TADA have continued for crimes allegedly committed before the law lapsed. Human rights sources estimate that about 1,000 persons still remain in custody under TADA or related charges.

4.28 In 1997 the Government asserted that every TADA case would be reviewed; however, few persons have been released as a result of the review.

Abuses by the Security Forces

4.29 In 1996 India's total armed forces numbered 1,145,000: of these, 980,000 constituted the army, 55,000 the navy, and 110,000 the air force. The paramilitary Border Security Force numbered 185,000. Military service is voluntary, although the Constitution states that every citizen has a fundamental duty to perform national service if called upon to do so. The armed forces have traditionally not been involved in domestic politics, and have never instigated a coup. [21] The qualifying age for military service is 17. [35]

4.30 Each state controls its own police forces through its own home ministry. The Union Home Ministry co-ordinates the activities of the all-India bodies. These include the Central Bureau of Investigation (CBI) (the main law enforcement body in India), the Central Detective Training School, the Central Forensic Laboratory, the Central Fingerprint Laboratory, and the National Police Academy in Mount Abu, Rajasthan, where the Indian police service is trained. It also has jurisdiction over the Central

Reserve Police Force (CRPF), the Railway Protection Force and the Border Security Force. [21]

4.31 According to the UN Human Rights Committee, the police and other security forces do not always respect the rule of law and court orders for habeas corpus are not always complied with, particularly in disturbed areas. There are incidents of custodial deaths, rape and torture and special powers of detention remain widespread. [6c]

Prisons and Prison Conditions

4.32 The Prison Act 1984 remains unamended. Prisons are severely overcrowded, and the provision of food and medical care frequently is inadequate. Delhi's Tihar jail, with a designed capacity of 3,300 persons, houses 9,000 prisoners. Tihar is notorious for the mistreatment of prisoners, with 1 of every 11 custodial deaths occurring there. In June 2000, the country's first women's correctional facility was opened in the Tihar complex. [2]

4.33 With the exception of an agreement with the International Committee of the Red Cross (ICRC) for visits to detention facilities in Jammu & Kashmir, the Government does not allow NGOs to monitor prison conditions.

4.34 However 15 states and union territories have authorised the NHRC to conduct surprise check-ups on jails. There is growing public awareness of the problem of custodial abuse. The NHRC has identified torture and deaths in detention as one of its priority concerns. 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. A large proportion of the 1,114 deaths in judicial custody (out of a prison population of approximately 246,000) were from natural causes, in some cases aggravated by poor conditions. [2a]

4.35 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. [2] In 1999 the Supreme Court of India ordered an investigation into the case of a prisoner who had been awaiting trial for 37 years in West Bengal. Ajay Ghosh had been in custody since 1962, when he was arrested and charged with murdering his brother. Throughout this period, Mr Ghosh was denied a trial on the grounds that he was mentally unsound. The Supreme Court later ordered his transfer to an old-age home. [32c] & [32d]

Medical Services

4.36 In a letter dated 7 June 2001, the British High Commission in New Delhi outlined the standards of medical facilities in India. In the larger cities, particularly the state capitals, there are hospitals offering care in a wide range of medical specialities. These include: general medicine and surgery, obstetrics and gynaecology, paediatrics, neurology, gastroenterology, cardiology, cardiothoracic surgery, neurosurgery, dental surgery, dermatology, ENT surgery, endocrinology, renal and liver transplant, orthopaedic surgery, nephrology, nuclear medicine, oncology, ophthalmology, plastic surgery, psychiatry, respiratory medicine, rheumatology and urology. Outside these cities medical care can be more variable, but most districts are served by referral hospitals. [40a]

4.37 Most care is provided within the private sector. Private health care costs are less than in the UK, but vary according to the type of ward and tests needed. The private hospitals are expected to offer free treatment to a proportion of poor patients. [40a]

4.38 There is good availability of medications and many are cheaper than in the UK. Some are imported from abroad but there are many firms now producing drugs under licence in India. The standard of nursing and social care is not as high as in the UK, but with support from family these can be overcome. There are very few medical problems for which suitable care cannot be found in India. [40a]

4.39 In June 2001 Karnataka Minister for Food and Civil Supplies D.B. Inamdar declared open an 80-bed well-equipped hospital "Adhar" run by an association of local medical practitioners in Belgaum. Adhar would specially cater to the needs of the economically weaker sections of society. It was hoped that doctors elsewhere in the country would emulate the Adhar experiment and help the poor and needy in society. [9s]

Nationality Law

4.40 Indian citizenship is based upon the Citizenship Act of 1955. Despite the variety of states, peoples and languages in India, the law recognises only Indian citizenship. Though the law of India does recognise citizenship through birth in country, unless the citizenship is actively applied for, the Indian government does not consider the child a citizen of India. [41]

4.41 Children born abroad must be registered at the Indian Consulate. The child of an Indian mother and a foreign father is considered an Indian citizen if the mother and child continue to live in India and the father does not give the child his country's citizenship. [41]

4.42 Indian citizenship may be acquired by naturalisation if the person has resided in India for five years and they have renounced any previous citizenship. Dual citizenship is not recognised. [41]

4.43 Voluntary renunciation of Indian citizenship is permitted by law. The following are grounds for involuntary loss of Indian citizenship: the person voluntarily acquires a foreign citizenship; naturalised citizenship was acquired through false statements; a naturalised citizen commits acts against the state of India before the end of the five-year grace period. [41]

5. HUMAN RIGHTS

5A. HUMAN RIGHTS ISSUES

Overview

5.1 Numerous serious problems exist in many significant Human Rights areas. Significant human rights abuses include 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. [2] Other reasons include poverty, disparities in the distribution of wealth, persistence of traditional practices and customs particularly affecting women, discrimination against underprivileged classes and castes, and ethnic, cultural and religious tensions. [6c]

5.2 Human rights abuses include:

- Extrajudicial killings, including faked encounter killings
- deaths of suspects in police custody throughout the country
- excessive use of force by security forces combating active insurgencies in Jammu & 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 female infanticide
- discrimination against persons with disabilities
- serious discrimination and violence against indigenous peoples and scheduled castes and tribes
- widespread intercaste and communal violence
- religiously-motivated violence against Christians and Muslims
- widespread exploitation of indentured, bonded, and child labour
- and trafficking in women and children.

5.3 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 kidnapping and extortion in Jammu and Kashmir and the northeastern states.

5.4 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;
- the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura.

5.5 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. There has been no clear decrease in the number of killings, despite negotiated ceasefires between the Government and some insurgent forces, and between some tribal groups.

5.6 There have been clashes between the police and the Naxalite revolutionaries of the People's War Group - a Maoist-Leninist organisation formed in 1980, that has been waging an armed struggle for the creation of a communist state consisting of parts of Andhra-Pradesh, Maharashtra, Orissa and Madhya Pradesh. Nearly 400 people were killed in Andhra Pradesh in clashes between the police and the Naxalites during 1999, including 31 policemen and 200 Naxalite activists, and more than 5,000 have died in violence between Naxalites and police since 1985. [32h]

5.7 In Bihar, armed Naxalite groups have reportedly taken control of many villages across the state. Deaths from Naxalite activities during 1997 reportedly amounted to 100 villagers, 192 Naxalites and 5 policemen. Moreover, upper caste private armies and lower caste armed groups are engaged in a bitter struggle in which both groups have committed massacres with impunity on a monthly basis. [21] Ranvir Sena, a private militia controlled by high caste landlords in Bihar, was responsible for murdering at least 58 people on 1 December 1997. [26] Ranvir Sena were again blamed for the killing of 34 lower-caste Hindus on 16 June 2000. The massacre, in Miapur, Bihar, appeared to be a revenge attack for the killing of 12 upper-caste Hindus a few days earlier. [32q] Bihar is widely regarded as India's most lawless state. During state parliamentary elections there in February 2000, violent clashes and paramilitary raids caused 45 deaths. [33b]

5.8 Rebel groups intensified their activities in Tripura during 1999. The outlawed All-Tripura Tiger Force massacred at least 18 Bengali migrants and abducted 5 others from a market on 14 November 1999. Tripura's ethnic rebel groups claim they are upset with the ceaseless influx of Bengali migrants, from what is now Bangladesh, which has reduced the indigenous people of the state into a minority since 1949. [32i] In the worst single incident in the conflict, rebels from the National Liberation Front of Tripura (NLFT) killed 18 Bengalis and wounded 40 others in an attack on 21 May 2000. The previous day, Bengali militants had killed 9 tribal people. [32r]

5.9 Nearly 100 Hindi-speaking people were killed in a six week period during November and December 2000 in Assam. The Chief Minister accused the United Liberation Front of Assam (ULFA) of being responsible, an allegation denied by the group. Assam witnessed the massacres of Bengali settlers during the 1980s and 1990s. [38d]

5.10 The United Nations Human Rights Committee noted the existence of a broad range of democratic institutions and a comprehensive constitutional framework for the protection of human rights.

5.11 It referred to the work of the National Human Rights Commission (NHRC) the establishment of human rights commissions in a number of states; the establishment of the National Commission for Scheduled Castes and Scheduled Tribes; the National Commission for Women and the National Commission for Minorities. [6c]

5.12 In July 1997 Amnesty International submitted a report to the Human Rights Committee to supplement and update Amnesty's concerns in relation to India. Amnesty International drew attention to its concerns, which covered the following areas: the shortcomings of India's implementation of safeguards to prevent human rights violations; the absence of adequate mechanisms to ensure full redress for all victims of human rights violations; the continuing state of impunity for the majority of perpetrators of human rights violations, particularly in areas of armed conflict; the existence of special legislation which grants security forces wide powers to arrest and detain, and escape prosecution for violations; legislation which provides for preventive detention which has been used to detain people not only in areas of armed conflict but also against those defending human rights; the vulnerability of economically and socially disadvantaged groups in India, to human rights violations and their problems in obtaining redress. [3c]

5.13 In a report dated 26 April 2000, Amnesty International highlighted their concerns about a range of abuses against the actual human rights defenders themselves. Amnesty acknowledged that steps have been taken by the Indian Government over a number of years to support the work of human rights defence, for example through the establishment of statutory human rights institutions and the ratification of international

human rights treaties, and acknowledged the support that government agencies have given to sectors of social activism through government funded programmes and government-NGO co-operation. However, Amnesty International were concerned that much of the state's actions in defence of human rights was at a rhetorical level and sporadic in their implementation, and believed that there was an urgent need for the state to take active steps to ensure the protection of activities in defence of human rights. [3j] In the wake of two killings of human rights defenders in the space of four months that were linked to police, Amnesty International, in a news release dated 19 February 2001, called on the state government of Andhra Pradesh to take immediate action. They asked that the attacks be impartially investigated and human rights defenders protected. [3k] For their part, the government of Andhra Pradesh had announced in November 2000 that it intended to set up an independent body to deal with complaints against the police, headed by a High Court judge. [38g]

5.14 Citizens generally enjoy freedom of movement within the country except in certain border areas where, for security reasons, special permits are required. Under the Passports Act, 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. Citizens may emigrate without restriction.

5.15 Regarding application for a passport, a very thorough check is made by the local police to investigate an individual's status, including whether there was a case pending against him or her. However, sources indicate that it would not be impossible for a wanted person to obtain a passport on payment of a bribe, as throughout India it was very easy to obtain false documents. This applied to passports, birth certificates, certificates regarding education and career, marriage certificates and ID cards, arrest orders and so called FIRs (First Information Reports). It was also reported that it was possible to obtain false letters from lawyers. [37]

5.16 The Immigration Service, which comes under the Ministry of the Interior, is responsible for checking those leaving the country. The problem of wanted persons leaving India with false or genuine passports on payment of a bribe is being addressed, as the authorities have launched a massive campaign against corrupt officials, particularly in the international airports. [37]

The National Human Rights Commission (NHRC)

5.17 The Protection of Human Rights Act 1993 established a National Human Rights Commission (NHRC) in October 1993. The Commission monitors and investigates human rights violations, advises the Government on human rights issues, and works to further human rights awareness. The existence and functioning of the NHRC has had the effect of raising the profile of a range of human rights issues in India, including custodial violence, prison conditions, working conditions, child labour, basic health, human rights education and the training of police and security forces. [3d]

5.18 The NHRC has also played a role in international and regional fora, including the UN Commission on Human Rights and the Asia-Pacific Forum of National Human Rights Commissions. [3d]

5.19 The NHRC is also empowered to study treaties and other international instruments on human rights and recommend measures for their effective implementation. The

NHRC has suggested that the Protection of Human Rights Act should be amended to incorporate International Covenants. [3c]

5.20 Section 19 of the Protection of Human Rights Act limits the mandate of the NHRC and specifies that it is not empowered to investigate allegations of human rights violations by the armed forces. Whenever human rights violations by members of the armed or paramilitary forces are reported to the NHRC, its mandate restricts its action to seeking a report from the central Government. There are no powers of investigation. After receiving the report, the NHRC can either not proceed with the case if it is satisfied with the report, or make recommendations. The Government is required to inform the Commission of the action taken on its recommendations within 3 months. The effect of this restriction is that the NHRC is reliant on the Government's version of events or the version of events as given by the alleged perpetrator. [3d]

5.21 In several high profile cases, the NHRC has disregarded this limitation in its mandate and intervened in incidents of human rights violations by security forces, for example in Jammu and Kashmir in the case of the killing of lawyer Jalil Andrabi in March 1996 and the killing of civilians by security forces in Bijbehara in October 1993. Amnesty International considered that this approach did not ensure consistent investigation of human rights violations and that it was consequently inadequate. [3c]

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

5.23 The NHRC is allowed, having given notice, to visit jails and detention centres under the control of State Governments. Amnesty International is concerned that this gives the State Governments an opportunity to improve conditions before a visit. It is also concerned that the NHRC is not allowed to investigate conditions in institutions under the control of the central Government such as interrogation centres run by the armed forces. [3d]

5.24 While the NHRC is conducting enquiries, it has the powers of a civil court, including summoning attendance of witnesses, compelling the provision of information and referring cases of contempt to a magistrate. However the NHRC, and individuals undertaking investigations on its behalf, do not have these powers in the course of activities beyond the conduct of enquiries, including when undertaking investigations. There have been occasions when the NHRC's work has been hampered by delays in receiving reports from state authorities. Some states, particularly Jammu and Kashmir, have failed to submit reports about deaths in custody within 24 hours, in accordance with NHRC directives. [3d]

5.25 During 1996-7, the NHRC received 20,514 complaints, more than double the figure for the previous year. The increase was attributed to the spread of awareness of human rights. Cases from Uttar Pradesh and Bihar together accounted for 54% of the total. During that year criminal prosecutions were launched against 167 people, including 144 police officers, and a total of 10,848 cases were disposed of. [10q]

5.26 One of the NHRC's first actions was to request that it be informed of death or rape

in police custody within 24 hours of occurrence, and while it has not succeeded in implementing this directive in states such as Jammu and Kashmir, the NHRC has become an important monitor of the extent of custodial violence. [3c] The NHRC has recommended that army and paramilitary forces should also follow the same procedure and report any death or rape in custody to the NHRC within 24 hours. The Indian Government rejected this, saying that the existing procedures laid down in the Protection of Human Rights Act 1993 were sufficient. [10r]

5.27 The NHRC has been active in recommending the granting of compensation in many cases in which it has found prima facie evidence of human rights violations, and it has actively pursued the granting of compensation with the authorities to ensure that victims or their relatives are provided with prompt financial redress. [3d]

5.28 The NHRC has recommended changes to existing legislation to ensure that human rights are protected, as part of its mandate to review safeguards provided under the Indian Constitution or legislation. The NHRC played a significant role in calls for the abolition of the Terrorist and Disruptive Activities (Prevention) Act (TADA) and, in a submission to the Supreme Court, expressed the view that the Armed Forces (Special Powers) Act is unconstitutional.

5.29 The Human Rights Act requests each state to establish a state Human Rights Commission, but not all states have done so. Commissions exist in 11 states: Assam, Manipur, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala, and Rajasthan. Karnataka, Goa, and Andhra Pradesh have yet to appoint State Human Rights Commissions. Gujarat has not officially established a state commission. Uttar Pradesh, the state with the largest number of human rights complaints to the NHRC, has stated its intention to set up a state human rights commission but has not yet done so. [2]

5B HUMAN RIGHTS - SPECIFIC GROUPS

WOMEN

5.30 According to the March 1991 census, out of a population of 846 million, 407 million are female and 439 million are male. [1] There are differences between the lives of rural women (some 75% of the total) and urban women. Literacy rates vary across the country, and the caste system as well as economic circumstances have an impact on the position of women. Scheduled caste women face double discrimination because of their gender and caste. Poverty has a disproportionate effect on women. [4e]

5.31 Women generally occupy a lower social status than men as a result of Hindu tradition. There is a preference for male children, and parents often give nutritional and health care priority to boys. There is also the practice of aborting female foetuses and female infanticide, of which there are reportedly 10,000 cases a year. [4e]

5.32 Marriage is considered a social necessity for women of all religions and regions in India. Most marriages are still arranged. In the south, intra-village or intra-family marriages are encouraged in order to strengthen family networks, while in the north, marriage is encouraged outside the community to expand the family network. As a result women in the north have little contact with their natal families. The system whereby a daughter leaves her home to live with her husband's family is characterised by the subordination of the bride to men and older women, and the bride is expected to be

submissive. [4e]

5.33 The Child Marriage Restraint (Amendment) Act 1976 makes 18 the minimum age of marriage for women, but enforcement is uneven. Child marriages are said to be common, particularly in rural areas. [4e]

5.34 The personal status laws of the religious communities govern matters such as marriage, divorce and property. The Hindu Marriage Act 1955 gives the parties the right to dissolve the marriage according to their custom. Under the Indian Divorce Act 1869, a Christian woman may petition the court for divorce on one or more of several grounds, including bigamy and rape. [4e] 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. [2] The Dissolution of Muslim Marriages Act 1939 permits a woman to apply to the courts on her own for a divorce decree. The divorce law applying to secular marriages is included in the Special Marriage Act 1954 and provides for divorce by mutual consent as well as by petition to the court. [4e]

5.35 Despite these legal provisions, divorce is socially unacceptable for women. A divorced woman may be ostracised by her community and even her family. Divorce may not be an option for many women because of their economic dependence on their husbands. [4e]

Right to hold property & land

5.36 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. [2]

5.37 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. [2]

Violence against Women

5.38 Violence against women has increased in recent years. Wife beating is a problem which cuts across all castes, classes, religions and education levels. [4e] A report published in 1999 in the Journal of the American Medical Association found that 46% of husbands interviewed abused their wives either physically or sexually. The data came from more than 6,000 men who were interviewed over a period of two years in Uttar Pradesh. [32a]

5.39 There is also domestic violence in the context of dowry disputes. 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. Although most dowry deaths involve lower and middle-class families, the phenomenon crosses both caste and religious lines. Under the Penal Code, courts 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. While the legislation introduced by the government is seen as a serious effort to end dowry deaths, lack of adequate enforcement is a major problem. [4e]. According to human rights monitors, in practice police do not follow procedures consistently. [2]

5.40 Research suggests that a significant percentage of kerosene attacks also are due to domestic violence. [2]

5.41 Women are vulnerable to attack and rape while in custody. However, the U.S. Department of State Report on Human Rights in 2001 states that limits placed on the arrest, search, and police custody of women appear effectively to limit the frequency of rape in custody, although it admits that this does occur on occasion. [2] Amnesty International has expressed concern about the lack of official determination to bring the perpetrators of custodial crimes to justice. [4e]

5.42 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.

5.43 The law prohibits discrimination in the workplace, but enforcement is inadequate. In both rural and urban areas, women are paid less than men for doing the same job. Employers in the organised sector often ignore the minimum wage laws. Women are increasingly reliant on employment in the unorganised sector, where wages are lower, and where they are outside the reach of legislation designed to protect them from unsafe working conditions. Family-run businesses and cottage industries, in which most of the workers are women and children, are exempt from much of the labour standards legislation. [4e]

5.44 India has ratified a number of international conventions, including the Convention on the Political Rights of Women and the Convention on the Elimination of All Forms of Discrimination against Women. One reservation was made in respect of the latter convention, in that the Indian Government declared that it would not interfere in the personal affairs of any community without that community's initiative or consent. This has been interpreted as reluctance on the part of the Government to change the religion-specific personal laws that discriminate against women in areas such as marriage, divorce and inheritance. [4e]

5.45 The Indian Constitution provides that all persons are equal before the law and shall have equal protection of the law. Women who are subject to violence have recourse through the civil and criminal courts. A civil suit for injunctive relief can be undertaken under the Civil Procedure Code and the Special Relief Act. In criminal law a victim of violence can seek redress under several sections of the Penal Code. [4e]

5.46 However many factors make the courts a difficult recourse for women. They often lack economic, geographic and even political access to the legal system. Those who are illiterate, poor, unaware of their legal rights and unaccustomed to dealing with public institutions have particular difficulties. There are reports that women are often subject to the negative attitudes of the male-dominated judiciary. Women face social pressures not to pursue cases, which may not be heard for years due to court backlogs. [4e]

5.47 There is also the question of the attitude of the police to women who complain of abuse or crimes committed against them. Police are reluctant to intervene in family disputes. Crimes may be ignored if the perpetrators are influential. The police are perceived as being insensitive, and women are often afraid to report crimes. [4e]

5.48 It is reported that one women's organisation, Sakshi, has provided gender sensitisation training to police officers. [4e]

5.49 The percentage of women in government and politics does not correspond to their percentage of the population, although no legal impediments hinder their participation in the political process. A large proportion of women participate 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 70 women among the 790 Members of Parliament, including the Deputy Chairperson of the upper house, and there are 8 women in the 74-member Cabinet. The 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 political life at the grassroots level. Debate continues over the Women's Reservation Bill, first introduced in Parliament in late 1998. The Government spoke of passing this legislation in the November parliamentary session; however, debate continued by the end of 2001. [2]

5.50 Despite their low numbers, women have been highly visible participants in Indian politics, although they are frequently not representative of women as a whole. Often they are from the "elite" and their political position derives from male relatives also involved in politics. [4e]

5.51 In addition to the National Commission for Women, thousands of grassroots organizations work for social justice and the economic advancement of women. The national Government usually supports these efforts, despite strong resistance from traditionally privileged groups. [2]

CHILDREN

5.52 India has ratified the Convention on the Rights of the Child. A National Policy for Children has been designed by the Government for the welfare of children and is implemented by the Ministry of Welfare. The Juvenile Justice Act lays down a scheme for the care and protection of neglected and delinquent children. [6a]

5.53 The Constitution prohibits all forced or compulsory labour by adults and children. However, children are often sent to work because their parents cannot afford to feed them, or in order to pay off a debt incurred by a parent or relative, and the child has no choice in the matter. [2]

5.54 In occupations and processes in which child labour 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. [2]

5.55 According to the US State Department report on Human Rights Practices for the year 2001, the BJP-led, national Government coalition has continued its plan to eliminate child labour 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. [2]

5.56 Family run businesses and cottage industries, in which children work, are exempt from much of the labour standards legislation. The contractual system allows many industries to evade the requirements of the Factories Act, Minimum Wages Act and Child

Labour Act. Participation in home-based industries is higher for girls than for boys. [4e]

5.57 The US State Department report on Human Rights Practices for the year 2001 says that 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 compulsory labour. [2]

5.58 The working conditions of domestic servants and children in other workplaces also often amount to compulsory labour. [2] On 26 July 2000, the National Human Rights Commission announced that India's Government had banned its employees from employing children under the age of 14 as servants. [33e]

5.59 Under the Bonded Labour System (Abolition) Act, 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. The US State Dept report on Human Rights for 2001 says that the Bonded Labour System (Abolition) Act generally has been ineffective, due to inadequate resources and to societal acceptance of bonded or forced labour. [2]

5.60 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 from education, but 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, only 76.2 percent of all children 11 to 13 years are attending school. [2]

5.61 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 labourers, work as domestic servants, or otherwise are employed. [2]

5.62 Child welfare organizations estimate that there are 500,000 street children nationwide living in abject poverty. Child prostitution occurs in the cities. [2] There are approximately 100,000 prostitutes in Mumbai (Bombay) alone, many of whom are minors held in captivity in brothels.[4e] There are an estimated 575,00 child prostitutes nationwide [2]

5.63 The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in northern India. The Act raised the age requirement for marriage for girls to 15 from 18 years, but it is not enforced. According to one report, 50 percent of girls in Bihar, Rajasthan, Uttar Pradesh, and Madhya Pradesh are married by age 16. NCRB statistics show that only 56 cases were registered under the Child Marriage Restraint (Amendment) Act during 1999. [2]

PUNJAB AND THE SIKHS

Sikh religion and historical background

5.64 Sikhs form a religious and cultural community of some 16 million, less than 2% of the Indian population. Some 80% of Sikhs live in Punjab [4a] where they form the

majority (about two thirds) of the inhabitants. **[6b]** The Sikh religion was founded by Guru Nanak (1469-1539), a high caste Hindu who denounced social and state oppression. He took monotheism from Islam, but rejected Ramadan, polygamy and pilgrimages to Mecca. He also rejected Hindu polytheism, the caste system and sati (sacrificing a widow on her husband's funeral pyre). Nine gurus succeeded Nanak. The Sikh commandments include certain prohibitions, notably against alcohol and tobacco. For men the Sikh religion requires observance of the "5 Ks": Kes (uncut hair and beard); Kacch (breeches); Kirpan (a double edged sword); Kangh (a steel comb); and Kara (an iron bangle). **[4a]**

5.65 New religious ideologies early in the 20th century caused tensions in the Sikh religion. The Akali Dal (Army of the Immortals), a political-religious movement founded in 1920, preached a return to the roots of the Sikh religion. The Akali Dal became the political party which would articulate Sikh claims and lead the independence movement. **[4a]**

5.66 Following the partition of India in 1947, the Sikhs were concentrated in India in east Punjab. Sikh leaders demanded a Punjabi language majority state which would have included most Sikhs. Fearing that a Punjabi state might lead to a separatist Sikh movement, the Government opposed the demand. **[22]** In 1966 a compromise was reached, when two new states of Punjab and Haryana were created. Punjabi became the official language of Punjab, and Chandigarh became the shared capital of the two states. However the agreement did not resolve the Sikh question. **[4a]**

5.67 In 1977, Sant Jarnail Singh Bhindranwale, an obscure but charismatic religious leader, made his appearance. He preached strict fundamentalism and armed struggle for national liberation. His speeches inflamed both young students and small farmers dissatisfied with their economic lot. **[4a]**

5.68 Tensions between Sikhs and New Delhi heightened during the 1980s, as the government did not respond to Sikh grievances. Over the years that followed, Punjab was faced with escalating confrontations and increased terrorist incidents. Akali Dal only achieved limited concessions from the government and Sikh separatists prepared for battle. In the Golden Temple enclosure 10,000 Sikhs took an oath to lay down their lives if necessary in the struggle. Renewed confrontations in October 1983 resulted in Punjab being placed under central government authority. **[4a]**

5.69 The violence continued and hundreds of Sikhs were detained in the first part of 1984. Followers of Jarnail Singh Bhindranwale established a terrorist stronghold inside the Golden Temple. The Prime Minister, Indira Gandhi, then initiated Operation Blue Star which took place on 5-6 June 1984. The Golden Temple was shelled and besieged by the army to dislodge the terrorists. The fighting continued for five days. Bhindranwale was killed and there was serious damage to sacred buildings. **[22]**

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

5.71 The intervention had disastrous consequences for the Sikh community and the whole country. Sikh-Hindu communalism was aggravated, Sikh extremism was reinforced, and political assassinations increased. **[4a]**

5.72 On 31 October 1984 Indira Gandhi was assassinated in New Delhi by two Sikh bodyguards. In the days that followed, anti-Sikh rioting paralysed New Delhi, ultimately claiming at least 2,000 lives; unofficial estimates were higher. Sikhs were also attacked in other cities in northern India. [22]

5.73 A peace agreement was concluded between the Indian Government and moderate Akali Dal Sikhs led by Harchand Singh Longowal in July 1985, which granted many of the Sikh community's longstanding demands. However the extremists regarded Longowal as a traitor to the Sikh cause and he was assassinated in August 1985. Moreover the promised reforms did not take place. [22]

5.74 In 1987 the state government was dismissed and Punjab was placed under President's Rule. Extremists spread terror throughout Punjab and the Indian government mounted a campaign of anti-terrorist measures designed to restore the situation in Punjab to normal. In May 1988 the Punjab police and Indian paramilitary forces launched Operation Black Thunder against armed extremists who had again created a fortified stronghold within the Golden Temple. At least 40 extremists and several police officers were killed during the battle. [1], [22] & [4a]

5.75 President's Rule was finally brought to an end following elections in February 1992, which were won by Congress (I). However the elections were boycotted by the leading factions of Akali Dal and attracted an extremely low turnout (only about 22% of the electorate). Beant Singh of the Congress (I) was sworn in as Chief Minister, but his government lacked any real credibility. Despite the continuing violence between the separatists and the security forces, the large turnout in the municipal elections in September 1992, the first in 13 years, afforded some hope that normality was returning to Punjab. The local council elections in January 1993, the first for 10 years, also attracted a large turnout. [1]

5.76 On 31 August 1995 Beant Singh was killed by a car bomb which exploded close to his car outside the Punjab Secretariat in Chandigarh. 15 security men and aides were also killed. Babbar Khalsa claimed responsibility and three suspects were later arrested. [10c]

5.77 Political representatives informed the UN Special Rapporteur on Religious Intolerance during his visit to India in December 1996 that Sikhs were the victims of a policy of intolerance and discrimination based on religion pursued by the authorities. This policy of religious repression reached a climax in June 1984 with the storming of the Golden Temple in Amritsar, and was followed by reprisals against Sikhs throughout India, but particularly in Delhi, after the murder of Indira Gandhi on 31 October 1984 by her Sikh bodyguards. It was alleged that Sikhs were being subjected to State terrorism which found expression in the desecration of holy places, murders, extra-judicial executions and forced disappearances of Sikhs. [6b] The individuals who expressed these views to the Special Rapporteur stated that this policy had become less violent but was still being pursued by indirect means, such as the continued presence of Indian security forces at the Golden Temple. [6b] The Special Rapporteur was informed by other sources, including non-governmental and religious organisations, that the situation of conflict which existed in Punjab had no religious basis, rather it was purely political. The authorities were combating the development of a militant Sikh terrorist movement campaigning for a separate and autonomous Sikh state. The terrorists used religion to secure the support of Sikhs for a political cause. Certain Sikh political parties had exploited that situation for their own ends in the hope of obtaining advantages and concessions from the authorities and of increasing their influence among the Sikh

population by creating confusion between religious and political matters. [6b]

5.78 According to these sources, the purpose of Operation Blue Star (the storming of the Golden Temple) undertaken in June 1984 had been to expel armed Sikh extremists from the sanctuary. There had been no intention of attacking the religious identity of Sikhs. The continued presence of security forces at the Golden Temple was necessary to remain vigilant against any attempt at destabilisation. Access to the place of worship had not been hindered. [6b]

5.79 These sources concluded that there was no religious problem, Sikhs enjoyed all their constitutional rights in the field of religion, including freedom of belief, freedom to practice their religion and freedom to proselytise. [6b]

5.80 The UN Special Rapporteur's own conclusions based on the information he had received, and as set out in his report of February 1997 was that the situation of Sikhs in the religious field is satisfactory. There were difficulties in the political field (foreign interference and terrorism) and economic field (in particular with regard to the sharing of water supplies). The Special Rapporteur noted information that there was discrimination in certain sectors of public administration, for example fewer Sikhs in the police force and no Sikhs in personal bodyguard units. Malfunctions in the administration of justice were described but they were connected with the anti-terrorist campaign rather than the Sikh beliefs of the accused. [6b]

5.81. The Documentation, Information and Research Branch (DIRB) of the Canadian Immigration and Refugee Board interviewed four specialists on the situation in Punjab in January 1997. The panel broadly agreed that Sikh militancy in Punjab had been virtually eliminated. Militant organisations had been shut down, reduced in size or seriously weakened. Nevertheless the Sikh search for some sort of political supremacy in the region remained a powerful ideology, and although the militants' ability to assert themselves had been suspended, future Sikh militant action could not be discounted. [4f]

5.82. State Assembly elections were held on 7 February 1997 and the alliance of Shiromani Akali Dal and the Bharatiya Janata Party swept to power, routing the ruling Congress party. The number of seats won by the parties was:

Shiromani Akali Dal (Badal) 75
BJP 18
Congress (I) 14
Communist Party of India 2
Bahujan Samaj Party 1
Akali Dal (Mann) 1
Independents 6

[1]

5.83. On 12 February 1997 Prakash Singh Badal was sworn in as Chief Minister. He has served as Chief Minister twice before, in 1970 and 1977. [10d]

5.84. The Indian Constitution guarantees Indian citizens the right to move freely throughout the territory of India, and to settle and reside in any part of the country. These rights are subject to restrictions as imposed by law in the interests of the general public. Punjabi Sikhs are able to relocate to another part of India and Sikhs outside Punjab are feeling more secure now than at any other time since the 1984 riots. Sikhs are a mobile community and as a result, there are Sikh communities all over India. [4i]

5.85. ~~1.5 million~~ million Sikhs live in India outside Punjab. Sikh communities are found in most Indian cities and in virtually all states. At the time of the 1981 census some 8% of Delhi's population was Sikh. They are generally urban and prosperous and they control important trades and occupy a prominent position within the central and regional administration. [4c] Most Sikhs, particularly the better educated and urban Sikhs, have some knowledge of English and/or Hindi. Punjabi Sikhs would have no more problem enrolling their children in school or obtaining employment than any other Indian relocating to a new area. [4i]

5.86. The increase of Sikh militancy outside Punjab during the period of insurgency led to instances of harassment of moderate Sikhs by extremists and to greater police surveillance of the Sikh community. There were also instances of communal violence, usually during periods of chaos and unrest that follow attacks by Sikh militants on Hindu targets. Some 2,150 Sikhs were killed in Delhi during the 1984 anti-Sikh riots that followed Indira Gandhi's assassination, and 50-60,000 fled the city. [4c]

5.87. However, at present there are no checks of any kind on a newcomer to any part of India arriving from another part of India, even if the person is a Punjabi Sikh. Local police forces have neither the resources nor the language abilities to perform background checks on people arriving from other parts of India. There is no system of registration of citizens, and often people have no identity cards, which in any event can be easily forged. [4i]

5.88. Sources disagree whether the Punjab police would pursue an individual they wanted to another part of India: some say it is unlikely, unless the individual had a very high profile or the Punjab police secured the involvement of the Central Bureau of Investigation or the Central Reserve Police Force. There have been instances where the Punjab police have acted on their own, for example where they pursued and killed, in May 1993 and June 1994, former residents of Punjab who had relocated to West Bengal and Nepal. [4i] The Director of the South Asia Human Rights Documentation Centre believed that a high-profile person would not be able to move elsewhere in India without being traced, but that this would be possible for low-profile people. Sources from foreign diplomatic missions in India considered that there was no reason to believe that someone who has or has had problems in Punjab would not be able to reside elsewhere in India. Reference was made to the fact that the authorities in Delhi are not informed about those wanted in Punjab. [37]

5.89. Other sources indicate that the Punjab police would be likely to pursue someone they wanted outside the state. People at risk would include militants or perceived militants and their families and close supporters. "History sheeters" i.e. those with a record of previous arrests and detentions and "habitual offenders" - those who are rounded up whenever anything untoward happens - might also be at risk. Lists of habitual offenders are apparently distributed across India via the police computer system. [4i]

Militant violence in Punjab

5.90. Virtually all of the militant groups in Punjab pursued their campaign for a separate state of Khalistan through acts of violence directed not only at members of the police and security forces but also specifically at Hindu and Sikh civilians. [22]

5.91. Most of the militant groups in Punjab traced their origins to Sant Jarnail Singh Bhindranwale. After the storming of the Golden Temple the number of militant groups

operating in Punjab grew. Some authorities claimed there were no more than 1,700 armed militants, while many journalists believed there may have been five times that number. [22]

5.92. The militants were organised into at least seven major groups and all theoretically operated under the authority of one of the Panthic Committees which functioned as decision making bodies and issued instructions. The main militant organisations were: the Khalistan Commando Force (Paramjit Singh Panjwar faction); Khalistan Commando Force (Zaffarwal); Khalistan Commando Force (Rajasthani group); Babbar Khalsa; Khalistan Liberation Force (Budhisingwala); Bhindranwale Tiger Force of Khalistan (Sangha); Bhindranwale Tiger Force (Manochahal); All India Sikh Student Federation (Manjit); All India Sikh Student Federation (Mehta Chawla); and the Sikh Student Federation (Bittu). [22]

5.93. In addition to this there were perhaps dozens of other groups, some representing splinter factions, as well as loosely organised armed gangs. [22]

5.94. After they first emerged in the early 1980s the militants assassinated civil servants, politicians, journalists, businessmen, other prominent individuals and ordinary Hindu and Sikh civilians. There were also indiscriminate attacks apparently designed to cause extensive civilian casualties, in some cases firing automatic weapons into residential and commercial areas, derailing trains, and exploding bombs in markets, restaurants and other civilian areas. Some of these attacks occurred outside Punjab in neighbouring states and in New Delhi. [22]

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

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

Current situation of militants

5.97. The hard core militants have either been physically wiped out or are no longer in India. There were no reports in 1997 and 1998 of Sikh militants forcing the local population to provide them with assistance. There is no obvious support for the militants and the people of Punjab want peace. A few remaining Sikh militant leaders are now based in Pakistan and their activities appear to be ineffectual. [4g] Two militant organisations retain a capacity for activism, namely the Babbar Khalsa under the leadership of Wadawa Singh and the Khalistan Commando Force led by Paramjit Singh Panjwar. They are believed to retain bases in Pakistan and to have an international circle of support. [19b]

5.98. The Danish Immigration Service consulted various individuals, authorities and organisations regarding the security situation during their fact-finding mission to Punjab in March and April 2000. According to the UNHCR in Delhi, the security situation in Punjab is now under control, but as the UNHCR does not have a presence in Punjab they could not comment on the situation in detail. Three foreign diplomatic missions in India agreed that the situation in Punjab had considerably improved and that the conflict between various groups had calmed down. Acts of violence in Punjab were becoming less common, and were now at a low level. Two of the missions reported that incidents do occasionally occur, such as explosions caused by bombs on buses and trains, but that such incidents occur in the rest of India, and not exclusively to Punjab. Officials of the Committee for Co-ordination on Disappearances in Punjab (CCDP) considered that Punjab was now peaceful and that there were no problems with militant groups and no political problems either. The News Bureau Chief for the Daily Ajit remarked that police actions were rare. [37]

5.99. The Danish Immigration Service interviewed a Punjab police official who stated that there were still 300 militants on the police wanted list, but that these people were living abroad. A foreign Embassy consulted, reported that several people who had previously been militants and who had served their sentences for terrorist activities now lived a normal life in Punjab. [37]

5.100. When asked for their views on the occurrence of disappearances, by the Danish Immigration Service on their fact-finding mission of March - April 2000, two members of the Committee observed that extrajudicial executions no longer took place in Punjab. This was not because of a change in the attitude of the police but because there was no terrorism left in Punjab. [37]

5.101. The Danish Immigration Service in the report of their fact-finding mission to Punjab in 2000, spoke to Chief Minister Prakash Singh Badal, who underlined that there were now no security problems in Punjab. He stated that the major problem was unemployment in rural districts and the lack of a food processing industry, but that he could not see any other basic problems in modern day Punjab. Badal also underlined that co-operation between the State government and central Government was good. [37]

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

5.103. Amnesty International detected a pattern to the arrests, detentions, torture and disappearances which they reported. They concluded that Sikhs were often arrested on mere suspicion that they were linked to armed secessionist groups. Family members of suspects were arbitrarily detained and tortured in order to extract information about the suspect's whereabouts or activities. Amnesty International said that women had been arrested and tortured simply to deter them from giving food and shelter to Sikh militants. They described torture in police custody as routine and there were persistent allegations that political prisoners died in custody as a result of torture. [3a] The Medical Foundation for the Care of Victims of Torture cite that evidence exists that the police make random

arrests of innocent young Sikhs purely to extract large bribes for their release from parents or village elders, and that this corruption reaches right to the top of the police hierarchy. [30] Former Advocate-General G.S. Grewal pointed out that nowadays, cases concerning human rights abuse were different from before in that now the abuse was individual and had specific reasons. Sikhs were not subjected to torture just because they were Sikhs or because of the general political situation. One diplomatic mission also commented that the situation was not perfect but that Sikhs in general were not being persecuted. The problems were of a different nature than before, and were often due to problems in local society, e.g. disputes over land, etc. [37]

5.104. Amnesty International also reported that hundreds of members or sympathisers of armed Sikh groups were allegedly captured, sometimes tortured, and then extra-judicially executed, the killings attributed by the police to armed "encounters". Amnesty stated that the police repeatedly frustrated attempts to bring those accused of human rights violations to justice. Legal safeguards for the protection of human rights do not apply to those arrested under special legislation relating to national security. [3a]

5.105. Most detainees in Punjab were arrested under the Terrorist and Disruptive Activities (Prevention) Act (TADA), which allowed detention for up to one year without charge for investigation into broadly defined offences. Prisoners held under the Act could be tried in camera [i.e. in private] and the burden of proof was shifted onto the accused to prove his or her innocence. Amnesty International reported that TADA had been interpreted to include actions entirely unrelated to violent political offences, and that trials conducted under TADA fell far short of international standards for fair trial. [3a]

See also Security legislation: paragraphs 5.28 - 5.2.11

5.106. In a later report, Amnesty International expressed concern at a series of incidents in which Punjab police illegally transgressed their operational jurisdiction, travelling to other Indian states to carry out under-cover operations which resulted in serious human rights violations. [3b]

5.107. In the aftermath of the violence, many relatives of victims came forward to pursue redress in the courts through the filing of petitions in cases of disappearance and other human rights violations. However in attempting to pursue redress through the courts, many families have faced direct harassment from the police and long delays in the judicial process. Human rights defenders in Punjab continue to be at risk of harassment for their activities. [3g]

5.108. In 1995 the Human Rights Wing of the Shiromani Akali Dal published the findings of research it had conducted into illegal cremations by the police. The organisation produced records from cremation grounds in Amritsar district, showing how several hundred "unclaimed" bodies had been cremated by the police. In several cases it claimed to have evidence to show that the bodies were those of individuals who had disappeared following arrest by the police and alleged that its findings suggested that the Punjab police had illegally cremated the bodies of many of those who had disappeared and who had subsequently been extra-judicially executed. [3g]

Methods of ill treatment

5.109. The Medical Foundation for the Care of Victims of Torture examined 95 male Sikhs between 1991 and 1999, of whom all but eight were educated to at least secondary school level, and roughly half came from farming families and worked on the farm after finishing their education or had farming related jobs. The majority had

belonged to an organisation such as the All India Sikh Student Federation. Most had been arrested on many occasions, usually for a short time ranging from 1 to 10 days, but the total time in custody ranged from 2 days to 8 months. Most were held by the police in the village police station, and a large majority were never charged with any offence. Some of the Sikhs in the study stated that in addition to their detentions, they had been arrested, questioned and threatened many times, but not detained. [30]

5.110. All of the Sikhs examined by the Medical Foundation as part of the study claimed they had been severely ill treated, usually worse in the first few days of detention. The methods of ill treatment included being beaten unconscious; being beaten with truncheons, fists, boots, lathis (bamboo canes), leather belts with metal buckles, pattas (leather straps with wooden handles), rifle butts, metal rods or a metal chain, and branches torn from a thorn bush. They were beaten on various parts of the body, but principally on the back, the legs or the buttocks. Beatings over the head and on the soles of the feet were also prevalent. Many had been suspended by the wrists, ankles or hair and beaten; some had had their wrists tied behind their back and then were suspended, causing injuries to the shoulder joints. Electric shocks were given. [30]

5.111. Another torture method consisted of forcing the hips strongly apart, often to 180 degrees, repeatedly or continuously. A thick wooden roller or a ghotna (a pestle 4 feet long and 4 inches in diameter used for grinding corn) was often rolled down the calves or thighs with one or more of the heaviest policemen standing on it. [30]

5.112. Much of this abuse took place during interrogation sessions, but beatings also occurred randomly at other times, including late at night when the policemen were drunk. [30]

5.113. As well as physical abuse, many suffered psychological abuse such as threats of further punishment, death or harm to their families, mock executions and extreme humiliation. [30]

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

Prosecution of security force personnel

5.115. Hundreds of police and security officials were not held accountable for serious human rights abuses. However, steps were taken against a few such violators. The Central Bureau of Investigation (CBI) claims to be pursuing actively charges against dozens of police officials implicated in the "mass cremations" cases wherein police in Amritsar, Patti, and Tarn Taran district secretly disposed of bodies of suspected militants. [2]

5.116. However in September 1998 the Supreme Court ruled that the NHRC's probe into the alleged mass cremation of 2,000 bodies by the Punjab police in 1994-5 could not be barred by the one-year time limit. The Supreme Court ruled that the jurisdiction exercised by the NHRC in these matters is of a special nature not covered by the enactment of law and thus acts sui generis. [12d]

5.117. The Times of India in September 1997 reported Union Home Ministry figures that 123 police officials were facing trial for taking alleged illegal steps against terrorists, while 2,555 petitions had been filed against Punjab police officers by individuals and human rights organisations. The same article referred to a protest by Punjab police which said

that police officers who had played a key role in containing terrorism in Punjab were now being harassed and hounded for alleged excesses and human rights violations. The protest gained momentum following the suicide of the former Tarn Taran SSP Ajit Singh, who the police claim was driven to this step because of a "witch hunt". [13a]

5.118. India Today reported that police officers in Punjab felt abandoned by the government and frustration was mounting in the force as more than 2,000 officers were being brought to account for the extra-judicial methods that were employed in fighting terrorism. In 1995, 585 petitions were filed in different courts. The number had doubled by June 1997, by which time the Punjab police were facing 85 CBI and 91 judicial probes. 30 policemen were in jail, around 100 were out on bail and 140 were facing prosecution. [11f]

The current situation in Punjab

5.119. Shortly after the 1992 elections, newspapers and magazines began to report that the situation in Punjab was improving. An indication of this was the vastly increased turnout at the local elections, in spite of terrorist threats. India Today in three articles, reported agriculture and industry were returning to normal production levels. Punjabi-based business groups as well as multi-nationals were returning to the state; expansion plans were being drawn up and exports were improving. Indeed projects intended for other states had been relocated to Punjab. Hindu migrants were returning to the state and reclaiming their farms and factories. Social and cultural functions were again being held. [11e]

5.120. The South East Asia Straits Times reported that Punjab had returned to the path of peace and prosperity once more. Police roadblocks and the constant military presence had gone. Businesses had re-established themselves and prosperity and affluence were clearly evident. [18]

5.121. The Supreme Court was seen as clearly attempting to address the failure of the judiciary up until the mid 1990s to deal with human rights violations. Judicial protection in Punjab had improved and many people were using the judicial system. People who are not high profile militant suspects are not at risk in Punjab. They have much less to fear from the police and now have better access to judicial recourse if they are treated improperly. [4f]

5.122. According to Ravi Nair in early 2000, a case involving a human rights violation will usually be reported at the local police station. The police will undertake an investigation and on that basis will decide whether a case should be brought. If no case is brought, the individual may bring a civil suit to the lower (district) court. Ravi Nair added that the case often stops there as the court does not always proceed with the case; however, he remarked that nowadays it was easier to have a case heard in the courts than previously. Ravi Nair is Director of the South Asia Human Rights Documentation Centre. [37]

5.123. On 12 December 1996 the Supreme Court gave an order requesting the NHRC to examine the allegations contained in two petitions filed in the Court. These alleged a pattern of human rights violations in Punjab and linked these to research, which found evidence of illegal cremations by Punjab police. However there has still been no comprehensive or consistent investigation into the allegations of human rights violations contained in the petitions. After a protracted debate about the role the NHRC should play in carrying out the Supreme Court's order, the NHRC issued an order in January 1999 which focused solely on the allegations of illegal cremations by police in one district of Punjab and would restrict the NHRC's role to awarding monetary compensation to only

those families who can prove that their relatives were illegally cremated by police in that district between 1984 and 1994. [3g]

5.124. The original petitioners in the Supreme Court case are going back to the Court to ask that it clarify its original order or give further directions to the NHRC. [3g]

5.125. Amnesty International called on the Chair of the NHRC to review its order of January 1999, because the Supreme Court's order provided the NHRC with a unique opportunity to investigate a suspected pattern of grave human rights violations by the state and to ensure redress to hundreds of victims. Looking exclusively at only those cases where there is proof of illegal cremation by the police would exclude a vast number of human rights violations which have been reported from the state and which were referred to in the original petitions. Amnesty International were further concerned that the NHRC appeared to have restricted its role to that of awarding monetary compensation to relatives of victims of human rights violations. While compensation is part of redress, Amnesty International believes that all the components of redress set out in Article 2 of the International Covenant on Civil and Political Rights should be applied i.e. restitution, compensation, rehabilitation, and guarantees of non-repetition. [3g]

Punjab State Human Rights Commission

5.126. The Punjab State Human Rights Commission started work in July 1997 under the chairmanship of Justice V K Khanna, a former Chief Justice of the north east states. The Commission received 90 complaints of human rights violations in 1997, and 583 up to August 1998. 170 cases had been dealt with. The Commission has intervened in a number of cases of police excesses, torture and custodial deaths, and the Punjab Government has been forced to pay compensation. The Commission has started to inspect jails, with prior notice being given to the State Government, but the Commission wants the power to make unannounced visits. [12a]

The Committee for Co-ordination on Disappearances in Punjab (CCDP)

5.127. This Committee came into existence in November 1997, when a variety of human rights organisations and political groups came together. Its purpose was to develop a voluntary mechanism to collect and collate information on disappearances in Punjab; to evolve a workable system of state accountability; and to lobby for India to change its domestic laws to conform to UN instruments on torture, enforced disappearances and accountability. The Committee was set up following the demand of Indian human rights groups that the independent and thorough investigation into complaints of disappearances in Punjab be allowed to proceed unhampered. [20]

5.128. The Committee first met in December 1997, when it called on the Punjab State Government to constitute a Truth Commission to investigate all reports of human rights violations in the State. The Committee also decided to form a Peoples' Commission to undertake the enquiries as the Punjab Government declined to do so. [20]

5.129. In August 1998, the 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 2001. [2]

The People's Commission on Human Rights

5.130. The (unofficial) People's Commission on Human Rights met in Chandigarh on 8-10 August 1998. It comprised Justice D S Tiwatia, former Chief Justice of the Calcutta High Court, Justice H Suresh, retired judge of the Maharashtra High Court, and Justice Jaspal Singh, former judge of the Delhi High Court. [12a] The Commission was set up as an independent tribunal to examine complaints of illegal abductions, custodial torture, enforced disappearance, summary execution and illegal cremation. [20] The Commission has no legal jurisdiction, but it gave people who had suffered human rights abuses at the hands of the police the opportunity to air their grievances. Nearly 70 police officers who were implicated in cases of disappearances were identified for issue of notices to file their replies or appear in person before the Commission. [12c]

KASHMIR

Historical Background

5.131. The former Himalayan principality of Kashmir has been disputed by India and Pakistan since independence in 1947. It has been the cause of two of the three wars between India and Pakistan. India controls the state of Jammu and Kashmir, which constitutes two thirds of the region and is the only Muslim majority state in India. Pakistan rules the remainder, Azad Kashmir. [9c]

5.132. On Partition in 1947, Kashmir with its largely Muslim population was expected to go to Pakistan. The Hindu ruler wanted Kashmir to stay independent but faced a revolt in the west and the threat of invasion by Pathan tribesmen from Pakistan. In October 1947 the Maharajah signed an instrument of accession to India in return for military aid and the territory became a battlefield in fighting between India and Pakistan. A cease-fire came into effect in 1949. [9c] A UN Military Observer Group (UNMOGIP) has been in place monitoring the ceasefire line (that was agreed between India and Pakistan in July 1949) ever since (redefined as the "Line of Control" after the 1971 war). [7d] Two further wars in 1965 and 1971 left positions virtually unchanged but convinced neither side to drop its claim to the whole of the territory. [9c]

5.133. The area to the east of the Line of Control (Ladakh, the Kashmir Valley and most of Jammu) constitutes the Indian state of Jammu and Kashmir. Muslims form about 95% of the population of the Kashmir Valley, while Hindus are in the majority in Jammu (about 65%). [7d]

5.134 The status of Kashmir remains highly sensitive for both India and Pakistan; many of the Kashmir Valley's population are unreconciled to being included in India but are divided as to whether they would prefer independence or to join Pakistan. Under the peace agreement signed at Simla in July 1972, both sides agreed "to settle their differences by peaceful means through bilateral negotiations or by other peaceful means mutually agreed on between them", and they committed themselves to a final settlement of the problem. The Indians have since held that, by this agreement, Pakistan is precluded from invoking the United Nations resolutions in an effort to resolve problems with India. Pakistan does not accept this interpretation and regularly calls for a peaceful settlement "on the basis of the UN resolutions and in the spirit of the Simla Agreement". [7d]

5.136 Tensions escalated in October 1993 following the siege of the Muslim shrine of Hazratbal in Srinagar by the Indian security forces which continued until August 1994, sparking protests, strikes and hunger strikes. [4d] A further wave of anger swept through the Kashmir Valley following the Indian Army operation in Charar-e-Sharief in May 1995, as a result of which 20 militants and 2 soldiers were killed and a fire engulfed more than half the town, including the shrine. [11g]

5.137 Parliamentary elections were held in Kashmir in May 1996 after six years of fighting. The National Conference boycotted the elections, in which Congress (I) won 4 of the 6 seats. [8i], [8j] & [10g]. Parliamentary elections were also held in 1998 in which the National Conference won 3 seats, the BJP 2 seats and Congress (I) 1 seat. The All Parties Hurriyat Conference called for a boycott of the poll. Polling was peaceful, although there were six incidents, apparently minor, when militant groups attempted to disrupt the voting by throwing grenades and exploding land mines. The Hindustan Times reported that some 30% to 40% of voters turned out. [9e], [14a] & [14b] see source [11a] for the results of the 1999 parliamentary elections in Jammu and Kashmir

5.139 The election results were: [1]

Impact of the 2007–2008 Financial Crisis on the U.S. Economy

CPI (M) 1
Independents 2
Others 3

5.140 On 9 October 1996 Farooq Abdullah, chairman of the National Conference was sworn in as Chief Minister of Jammu and Kashmir. The All Parties Hurriyat (Freedom) Conference vowed to continue the fight against the government. [8p]

5.141 Under the new state government, the state police was restructured, strengthened from 38,000 to 50,000 men and prepared for a counter-insurgency role. The Special Operations Group (SOG), earlier known as the Special Task Force, was given more and better communications and transport facilities, training by security agencies and a supplement of some 12,000 Special Police Officers (SPOs) and local people, including many renegades with good local knowledge and links in the population. [3f]

5.142 Police security operations against the militants became proactive, particularly after the BJP Government came to power in 1998. The new government expressed a will to adopt a proactive approach to what were described as "infiltrators and Pakistani and Afghan mercenaries" carrying out the armed struggle in Jammu and Kashmir. Security forces were called upon to initiate operations against members of armed opposition groups rather than react to attacks initiated by them. [3f]

5.143 In July 2000, the Indian cabinet rejected a demand for greater autonomy in the state. The proposal would have seen Jammu and Kashmir return to its pre-1953 status, when it had its own constitution, flag and prime minister, and had control over all its affairs with the exception of finance, defence and communications. The autonomy resolution had been hotly debated in the Kashmir assembly, leading to strong criticism from India's main political parties. Home Minister L.K.Advani admitted that a major factor in the decision was concern that other states too would start to demand the same rights. [32v]

5.144 On 24 July 2000, the leading Kashmiri militant group, Hizbul Mujahedin announced a unilateral ceasefire and said it was willing to enter into negotiations with the Indian authorities, stating that the ceasefire would last 3 months. [32x] The announcement sparked a wave of attacks by Muslim separatist militants opposed to the ceasefire. Over a period of 2 days starting 1 August 2000: 34 people died and 46 were injured in an exchange of fire between militants and Indian security forces at Pahalgam (30 of the dead were pilgrims en route to a Hindu cave shrine); 19 Hindu labourers were massacred at a brick kiln in Mir Bazar, and a further 7 others were killed in a separate attack in a nearby village; at least 22 Hindus were shot dead in the Doda region; in Baramullah a former militant and six members of his family were also shot dead. [32y]

5.145 On 8 August 2000, Hizbul Mujahedin called off the ceasefire after India refused to enter three-way peace talks with the Kashmiri leadership and Pakistan. India and Pakistan blamed each other for the breakdown. [32z] Hizbul Mujahedin immediately recommenced attacks in Kashmir and two days after the end of the ceasefire, set off 2 powerful bombs in Srinagar, killing 14 soldiers and journalists and wounding 25 others. Then on 13 August 2000, a string of landmine explosions and gun battles left 22 dead and 52 wounded. [33f]

5.146 In November 2000 the Indian government announced a unilateral ceasefire barring Indian forces from offensive operations against Muslim separatists in Kashmir. The announcement coincided with the start of the Muslim holy month of Ramadan. Extensions of the ceasefire were made a month at a time, before a three month

extension to the end of May 2001. Militant groups rejected the ceasefire and extensions as merely a propaganda stunt. [38f] The ceasefire was ended on 24 May 2001 after it was said to have demoralised the security forces without producing any real lessening of violence. Some 1,200 had died in the conflict since November 2000. The same day as the announcement of the ceasefire, Atal Behari Vajpayee issued an invitation to Pakistan's Chief Executive General Pervez Musharraf to visit India to engage in a "productive dialogue" to build "trust and confidence" between the two sides. Vajpayee referred to a "composite dialogue" addressing "all outstanding issues", but specifically including the separatist conflict in Jammu and Kashmir. In Musharraf's acceptance of the invitation on 29 May 2001, the Pakistan leader emphasised that the Kashmir dispute was the "root cause of tension" between the two countries but signalled that he was also willing to discuss other outstanding issues. [5g]

5.147 The talks, held in July 2001, failed to reach an agreement over Kashmir. Neither side was willing to budge over how to describe the Kashmir dispute and the militants waging the 12-year-old civil war. Abdul Sattar, the Pakistani Foreign Minister, said the talks remained inconclusive but did not fail. Mr. Sattar said in Islamabad: "The two leaders laid a valuable foundation to reach a fuller agreement at a later stage". [15d]

Militant/Political Groups

5.148 The Jammu and Kashmir Liberation Front was one of the main militant groups operating in Kashmir, but by 1993 it had lost its military ascendancy to the Hizbul Mujahedin, although politically it claimed to have retained the support of the majority of the people. In 1994 the JKLF leader, Yasin Malik, renounced the armed struggle and made an offer of political negotiations. This non-violent approach caused a rift with Amanullah Khan, who had continued to operate as chairman of the JKLF in absentia from Rawalpindi and Muzaffarabad. [29]

5.149 The main militant groups currently active in the Kashmir valley are the Hizbul Mujahedin, Harkat-ul-Ansar [29] (which has split into the Harkat-ul-Mujahideen and Harkat-ul-Jihad-e-Islami) and Lashkar-I-Toiba. [23]

5.150. A recently emerged group is Jaish-e-Mohammad (Army of Mohammad), formed by the Islamic cleric, Maulana Masood Azhar. [32w]

5.151. The war of words between India and Pakistan in the aftermath of the December 1999 hijacking of an Indian airliner by Kashmiri separatists escalated in January 2000 when Home Affairs Minister L.K. Advani claimed that the interrogation of four accomplices arrested in Bombay had revealed the identities of the hijackers, who were all Pakistani.

Mr Advani claimed that the hijacking had been organised by Pakistan's Inter-Services Intelligence agency (ISI) and Harkat-ul-Mujahideen. [5f]

5.152. Maulana Masood Azhar was one of those released from an Indian jail in December 1999, in exchange for hostages on the hijacked airliner. [32w]

5.153. In January 2002 four armed men attacked the US Government's information centre near the American Consulate in Calcutta, killing 5 policemen. 16 other guards were injured, 3 critically. The guards were all from the Calcutta police or private security agency, Group Four. The spokesman for the US consulate, Rex Mozzer told BBC World Service that there was no warning for the attacks. Mr Mozzer said there had been demonstrations outside the centre, but not for several weeks and they had all been peaceful. But India's Joint Commissioner of Police Suresh Roy told AP newsagency

there had been intelligence reports of a possible strike against US establishments ahead of India's Republic Day. [10(46)] [10(47)]

5.154. Two groups telephoned claiming responsibility, Harkat-ul Jihad-ul Islami (HUGI) and Asif Raza Commandos. [10(47)]

5.155. Aftab Ansari - also known as Farhan Malik, who allegedly has links to HUGI and the Pakistani Inter-Services Intelligence (ISI), was among those who had claimed responsibility. The attack took place while both the US State Department Coordinator for Counterterrorism and the Head of the FBI were in Delhi. [10(47)]

5.156. Farhan Malik - was deported with an alleged accomplice, Raju Sharma, from the United Arab Emirates where they were based. Mr Sharma was taken to Gujarat in connection with a kidnap investigation. Both Mr Ansari and Mr Sharma are Indian nationals, but a senior Indian police official said Mr Ansari was carrying a Pakistani passport. [10(47)]

5.157. The CBI said that Ansari had admitted setting up a countrywide network for illegal activities. [10(47)]

5.158. Police in Jharkand reported that one of two men killed in a gun battle with them, confessed to involvement in the Calcutta raid, and that both dead men were Pakistanis and members of Lashkar-e-Toiba. [10(47)]

5.159. Also active is the All Party Hurriyat Conference (APHC), formed in September 1993. This is an umbrella group of over 30 trade unions, political and religious organisations working together to separate from India. It has led strikes and protests in Jammu and Kashmir. [4d] In a news release issued on 1 December 1999, Amnesty International expressed grave concern about the continued detention of 25 members of APHC under the Jammu and Kashmir Public Safety Act. [3h] Three of the leaders were released in April 2000 with no reason given for the move. [32k]

5.160. India accuses Pakistan of arming and training the militants, while Pakistan says it provides only diplomatic support. [9c]

Recent militant violence

5.161. On 12 November 1999 a bomb exploded on a passenger train in northern India, killing 14 people and injuring 56 others. The blast occurred near the town of Pathankot in Punjab. No one claimed responsibility for the blast aboard the Puja Express, which was en route from Kashmir's winter capital of Jammu to New Delhi, but police believed militants were responsible. [33b]

5.162. On 3 January 2000 a land mine ripped through a crowded vegetable market near Srinagar killing 17 people, including four security personnel. 31 were injured, many seriously [15b]

5.163. On 20 March 2000, unidentified gunmen killed 36 Sikhs in the village of Chadisinghpooora. The identity of the perpetrators was uncertain as contradictory accounts were reported from Jammu and Kashmir. The Director General of Police believed it to be the work of Muslim rebels, and the Indian government blamed the attack on the Hizbul Mujahedin and Lashkar-I-Toiba. A spokesperson of the All Parties Hurriyat Conference claimed that it had been carried out by the state security agencies in order to discredit the separatist movement. No attacks on members of the Sikh community in

Kashmir had previously been reported. [3i] Chief Minister Farooq Abdullah admitted his government had failed in anticipating the risk that the Sikhs face from militants active in the state. He said he would revamp the state's security system to provide adequate protection for all minority communities in Kashmir. [32g] Abdullah later announced a judicial inquiry into the massacre, which would also investigate the killing of five alleged militants a few days after the atrocity, who local people believed were innocent civilians who had been singled out as scapegoats. In a separate inquiry Abdullah announced that most of the deaths in the massacre at Pahalgam (see paragraph 5.7.14) were caused by excessive retaliatory firing by members of the Central Reserve Police Force, a paramilitary corps. The Indian authorities had blamed Islamic militants. Investigating the incident where 9 people died on 3 April 2000 during a protest march in the town of Brakpora, former Supreme Court judge Justice Pandian blamed paramilitaries and police. He recommended seven officers involved be put on trial for murder. [34c]

5.164. In May 2000, Minister of Power Ghulam Hasan Bhatt was killed in a landmine explosion, claimed by Hizbul Mujahedin. It was the first time a serving minister had been killed since the start of the armed uprising. [32u]

5.165. On 16 January 2001 the militant group Lashkar-I-Toiba tried to storm the airport in Srinagar. In the ensuing gun battle with Indian security forces, 11 were killed and a dozen injured. [34b]

5.166. On 3 February 2001, a further attack was carried out on the Sikh community in Kashmir. On this occasion, six Sikhs were killed in the provincial capital Srinagar. No group claimed responsibility for the killings. One person was subsequently killed in clashes between police and Sikh protestors. [38e]

5.167. On 1 October 2001, a suicide attacker detonated a government jeep loaded with explosives outside the Kashmir State Assembly building, while at least two other militants wearing police uniforms entered the complex and took over one of the buildings there. Police said the remaining militants were killed after a gun battle lasting several hours. 38 people were killed in the attack. The Jaish-e-Mohammad militant group initially said it carried out the attack, naming the suicide bomber as a Pakistani national. However, it subsequently withdrew the claim. [38j]

Firing across the Line of Control

5.168. An additional factor in the situation is the relations between India and Pakistan. The armies of the two countries face each other across the Line of Control and there are frequent reports of artillery exchanges. Pakistan accuses the Indian army of shelling villages in Azad Kashmir and India accuses the Pakistani forces of targeting Indian army positions to help Kashmiri rebels to cross the Line. [4d]

5.169. An outbreak of firing between Indian and Pakistani troops started on 25 June 1998 and continued for a week. The Poonch and Kupwara districts were particularly affected with fatalities, injuries and damage to villages caused by Pakistani mortar bombs and artillery fire. [9i]

5.170. Shelling across the Line of Control intensified towards the end of July 1998, with an Indian Army colonel being killed near the Line in Baramulla District on 18 July 1998. [10n] It is reported that there were 350 incidents of cross border firing in Kashmir between January and June 1998. [9h]

5.171. In the aftermath of India's nuclear tests in May 1998, an upsurge in shelling and

shooting by Indian and Pakistani troops stationed along the Line of Control in Kashmir left over 100 civilians dead. Although India maintained that the exchanges represented a "seasonal" phenomenon, observers in Kashmir reported that the shelling was the heaviest in recent years. [26]

5.172. A serious escalation of the conflict in Kashmir occurred in May 1999 in response to the largest infiltration of Islamic militants into Jammu and Kashmir in recent years. India attacked the guerrilla positions with jet fighters and helicopter gunships. After frequent skirmishes along the Line of Control earlier in the month, a prolonged battle developed after insurgents, under cover of artillery fire from Pakistan, had launched a rocket attack on 9 May 1999 on an Indian ammunition dump near the town of Kargil in northern Kashmir. Pursuing the attackers, Indian troops discovered at least 600 well-armed militants had occupied bunkers on a ridge overlooking the town. [5d]

5.173. It had been reported that the infiltrators' force had been trained in camps in Azad Kashmir by Pakistan's Inter-Services Intelligence Agency (ISI). Pakistan denied that it had any control over the militants, and denied Indian allegations that some of Pakistan's own troops were fighting alongside them. [5d]

5.174. By 11 July 1999 Pakistan had agreed on a plan, under US pressure, for the infiltrators to withdraw from Jammu and Kashmir. [8b]. On 17 July 1999 India announced that it believed that most of the infiltrators had withdrawn from the Indian side of the Line of Control. [8c]

Human Rights Concerns in Kashmir: Summary

5.175. Human rights violations, including arbitrary arrests, torture leading to hundreds of deaths in custody, and extra-judicial executions perpetrated by state police and armed and paramilitary forces, soared in the early 1990s. Armed opposition groups were reported to have taken hundreds of civilians hostage and to have tortured and killed hundreds of unarmed civilians. [3f]

5.176. Reliable figures of the number of deaths in Jammu and Kashmir as a result of the conflict are impossible to obtain. According to official reports and figures obtained in September 1998, 19,866 people had died in Jammu and Kashmir since January 1990. This includes 9,123 members of armed opposition groups; 6,673 victims of armed opposition groups; 2,477 civilians killed by Indian security forces and 1,593 security personnel. These figures do not reflect the number of victims who were deliberately or arbitrarily killed or died as the result of torture inflicted in the custody of state agents. Observers consider that there are some 350-400 such deaths each year. [3f]

5.177. The US State Department report on Human Rights Practices for the year 2001, focuses on Kashmir and sets out concerns relating to human rights abuses by the security forces, which include torture and disappearances; a disrupted judicial system which faces threats from militants; and judicial tolerance of the Government's heavy handed counterinsurgency tactics. Security forces offered bounties for wanted militants brought in dead or alive. According to the Ministry of Home Affairs, in 1999 in Jammu and Kashmir, security forces killed 1082 militants, captured 744, and 109 surrendered to authorities. Kashmiri separatist groups maintain that many such "encounters" are faked and that suspected militants offering no resistance are summarily executed. Human rights groups allege that this is particularly true in the case of security force "encounters" with non-Kashmiri militants who have crossed into Jammu and Kashmir illegally. [2a]

5.178. 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 were staged, and that those insurgents who were reported dead were killed after being detained by security forces. The number of persons killed and injured in militant violence in the northeastern states is significant but is lower than the numbers killed in similar violence in Kashmir. These problems are acute in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counterinsurgency tactics [2]

5.179. 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, persons killed in disputed encounters 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. [2]

5.180. In early 2000 the Jammu and Kashmir authorities confirmed that 56 Indian army officers were severely reprimanded for human rights violations, out of nearly 1,000 complaints made against them in 1999. [32e]

Disappearances

5.181. There were also disappearances, most of which occurred between 1983 and 1995. They were attributable to the police authorities, the army and paramilitary groups acting in conjunction with, or with the acquiescence of, the armed forces. In Kashmir numerous people are said to have disappeared after "shoot outs" with security forces. [6d] Abduction and hostage taking of unarmed civilians has also been used by armed opposition groups to seek to free arrested associates or to frighten or harass the population. Amnesty International report that the victims of disappearance belong to all ages, including children and juveniles, and all professions and most appear to be ordinary civilians who have no connections with armed opposition groups operating in Jammu and Kashmir. [3f]

5.182. The fate of the victim remains unknown in many cases. Investigations into cases of disappearances are rarely carried out and when they are, they are usually conducted by police or army officials rather than by an independent body. Police often fail to register detentions or file arrest warrants, and they are then able to deny holding a detainee. [6d]

5.183. Amnesty International reported that during 1998 there were fewer disappearances in Jammu and Kashmir than in previous years, but many of the early cases remain unresolved. Amnesty also reported that no effective measures have been taken to end disappearances and to investigate the fate of hundreds of people who have disappeared, including the more than 100 cases submitted by Amnesty in its 1993 report. [3f]

Special Security Laws

5.184. Several laws in operation in Jammu and Kashmir facilitate human rights violations and the impunity with which they are perpetrated by inadequately safeguarding the rights of those under arrest and detention. Cases are filed against individuals under the Terrorism and Disruptive Activities Act (TADA) for offences allegedly committed before the Act lapsed in 1995. In January 1997 the Supreme Court expressed concern about the continuing detention of people under TADA, and its misuse to detain those who should be charged under the ordinary criminal law. [3f]

5.185. The Armed Forces (Special Powers) Act 1958 was introduced in Jammu and Kashmir in 1990 and gives the armed and paramilitary forces sweeping powers which facilitate arbitrary arrest and detention and extrajudicial executions and reinforce the impunity of offenders acting under it. The Jammu and Kashmir Disturbed Areas Act 1992 gives similar powers to the police in areas declared to be disturbed. The United Nations Human Rights Committee in its July 1997 report expressed its concern at the continued reliance on special powers in areas declared to be disturbed, and at serious human rights violations committed by security and armed forces acting under the Armed Forces (Special Powers) Act and other laws such as the Public Safety Act and the National Security Act. [3f]

5.186. The special laws require the Union Government to give sanction for prosecution of military and other central forces and the state government to give sanction for prosecution of police acting under such legislation - this is withheld as a matter of course. The United Nations Human Rights Committee reported that this requirement contributes to a climate of impunity and deprives people of the remedies to which they may be entitled. Amnesty International is concerned that the Government of India has shielded offenders in the security forces from international scrutiny. Amnesty has submitted cases of alleged disappearances, calling for impartial investigations, but the Government has denied that the violations have occurred and insisted that effective remedies are in place for everyone who wishes to seek redress. [3f]

5.187. Legal and constitutional safeguards, including the right to be brought before a magistrate within 24 hours of arrest and to consult a lawyer of one's choice, are not available to those held under preventive detention legislation such as the Jammu and Kashmir Public Safety Act 1978 which is regarded as preventive detention legislation. [2] and [3f]

Police and Security Force Impunity

5.188. Amnesty International reported in 1999, that lawyers and activists in Jammu and Kashmir had repeatedly asserted that there is systematic disregard of the right to file a complaint with the police and that local police had been instructed to refuse to register complaints without first obtaining permission from higher authorities. [3f]

5.189. 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. Despite this record of abuse, only a few hundred members of the security forces have been prosecuted and punished since 1990 for human rights violations or other crimes. [2] Army admissions of human rights violations have usually been followed by assertions that abuses have been investigated and perpetrators brought to justice. The numbers given vary which makes it difficult to obtain an accurate numerical account. Few of the statements given by the army contain details about the nature of the allegations or the offences, the nature, composition and terms of reference of the inquiries, the identity of the offenders and the punishments awarded. [3f]

5.190. Amnesty International is aware of cases where the security forces have not only defied the courts but have also actively threatened, harassed or intimidated relatives of disappeared persons and other victims of human rights violations to stop them from seeking redress. [3f]

5.191. In the past, scrutiny by the NHRC and international human rights organizations,

when permitted, 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. [2]

5.192. In October 2000 the Indian army sentenced one of its officers (whose rank was captain) to 7 years imprisonment for raping a young girl in a village in the Doda district. The case marked a rare departure for the army, both in terms of making the case public and in taking such severe action. [38a]

Detention

5.193. The Ministry of Home Affairs reported that 744 suspected militants were arrested in 1999 and 109 persons surrendered. [2a]

5.194. Killings of security force members by militants in Jammu and Kashmir increased for the fourth year in a row. According to official statistics, 515 police and security force personnel were killed in the state during the year. The Ministry of Home Affairs reported that 397 security force members were killed in the state in 2000.

State Human Rights Commission

5.195. The Jammu and Kashmir Protection of Human Rights Act 1997 established a state Human Rights Commission and human rights courts. The Commission is empowered to enquire into any complaint of a violation of human rights presented to it by a victim or any person on his/her behalf. It can also intervene in any proceeding involving any allegation or violation of human rights pending before a court with the approval of the court. [10k]

5.196. The Commission may also visit any jail or detention centre. It can also review human rights legislation and recommend measures for its effective implementation. [10k]

5.197. Amnesty International is concerned about the restrictions placed on the functioning of the Jammu and Kashmir Human Rights Commission and its effectiveness in carrying out its mandate. Amnesty has called for a review of the state legislation establishing the Commission to ensure that its powers are at least on par with those of the National Human Rights Commission in the rest of India and that it has the resources and powers to carry out its mandate fully. [3d]

FREEDOM OF RELIGION

Introduction

5.198 The preamble to the Indian Constitution proclaims India's commitment to democracy and secularism and guarantees all citizens freedom of religion and belief as well as the right to practise religion freely. [6b]

5.199 The Penal Code prohibits and punishes any violation of tolerance and non-discrimination based on religion or belief:

- promoting enmity between different groups on grounds of religion (Section 135A);

- injuring or defiling a place of worship with intent to insult the religion of any class (Section 295);
- deliberate and malicious acts intended to outrage the religious feeling of any class by insulting its religion (Section 295A);
- disturbing religious assembly (Section 296);
- uttering words with deliberate intent to wound religious feelings (Section 298) [6b]

5.200 Under the Representation of the People Act 1951, it is an offence for a candidate to call upon someone to vote or to abstain from voting by playing on his religion, or using religious symbols as a means of promoting that candidate's election prospects. [6b]

5.201 According to 1999 government statistics (based on the 1991 national census), the following table gives the population percentages of the main religious groups: [36]

- Hindus 82.4%
- Muslims 12.7% (90% Sunni and 10% Shiite)
- Christians 2.3%
- Sikhs 2.0%
- Buddhists 0.7%
- Jains 0.4%
- Others (including Parsis, Jews and Baha'is) 0.4%

5.202 The United Nations Special Rapporteur on Religious Intolerance concluded that the situation in India relating to tolerance and non-discrimination based on religion is generally satisfactory. The country's commitment to democracy, sound democratic institutions, legislative and government measures, and the secular nature of the state all contributed to religious tolerance in India. [6b] In their Annual Report on International Religious Freedom, published 5 September 2000, the U.S. Department of State concluded that despite some incidents of violence during the period covered by the report, relations between various religious groups generally are amicable among the substantial majority of citizens. [36]

Buddhists and Zoroastrians

5.203 Buddhist and Zoroastrian minorities are able to practise their religion freely, possess adequate numbers of places of worship and religious publications, and refrain from proselytising among other communities. Buddhists and Zoroastrians are said to be fully integrated into society. [6b]

5.204 Unidentified gunmen killed three Buddhist monks in the Ladakh region of Indian-administered Kashmir in July 2000. [32n]

Muslims

5.205 Muslims constitute India's largest minority as well as the second largest Muslim community in the world after Indonesia, and before that of Pakistan. [6b]

5.206 The Indian authorities do not restrict the religious activities of Muslims. Muslims have freedom of religious practice and freedom to organise their services according to their codes, religious teachings and customs. [6b] Muslims do not benefit from special reservations in education and employment. They are reportedly under-represented in the civil service, the military and institutions of higher education. [21]

5.207 In Jammu and Kashmir, the only state in India where Muslims are in the majority [21], the religious situation is seriously affected by the armed conflict between the Indian army and the militant extremists. There have been several incidents of attacks on mosques in Jammu and Kashmir including the destruction of the Charar-e-Sharief sanctuary on 11 May 1995. [6b]

See also Kashmir: Section 5.7

5.208 Muslims in India have their own educational establishments, including the madrasa religious schools responsible for disseminating the teachings of Islam. Muslims possess a large number of places of worship as well as the Waqf Board, which is responsible for the management of property belonging to religious communities and charitable institutions. [6b]

5.209 Several mosques have been destroyed in India, most notably the Babri Masjid in Ayodhya on 6 December 1992. [6b]

See also Destruction of Ayodhya Mosque

Hindu-Muslim Inter-communal violence

5.210 Various parts of India have suffered inter-communal violence between Hindus and Muslims, in particular the state of Gujarat, where such violence pre-dates Indian independence. The state's population of 4.8 million is 60% Hindu and 40% Muslim. Rival religious celebrations have often sparked off conflict, with elements on both sides trying to provoke one another. One flash point has been the Hindu Rath Yatra (Unity) procession, held each July. Tension in the state has also been fuelled by wider developments in Hindu-Muslim relations, in particular since 1986 by the Ayodhya controversy. [7a]

5.211 The antagonism has been exacerbated by non-religious considerations. Muslims have accused Hindu organisations, such as the Rashtriya Swayam Sevaksangh (RSS), the Vishwa Hindu Parishad (VHP) and Shiv Sena, of deliberately seeking to drive them out of the cities, where many Muslims are textile workers, craftsmen and shopkeepers, so that Hindus can take over their jobs and businesses. Hindu leaders have rejected the charge. Muslims have also alleged that the predominantly Hindu local police make little effort to protect their community during riots. [7a]

5.212 At the end of December 1998, 5 people were killed and 50 wounded in Karnataka, and 3 were killed in religious clashes in Amod in Gujarat. [9f] In June 2000, a bomb exploded in a mosque in Guntur, Andhra Pradesh, wounding two people and prompting mob attacks that injured five others. [33d] Then on 11 July 2000 it was reported that 10 people died in Malpura, Rajasthan after clashes between Hindu and Muslim groups. The riots were sparked by the fatal stabbing of a Hindu man who was facing charges relating to several killings that occurred in Malpura after the destruction of the Ayodhya mosque. [32i]

Christians

5.213 Christians constitute the second largest minority in India, after Muslims. The Indian authorities do not interfere with their internal religious activities, which may be conducted freely. Christians are well integrated into Indian society. [6b]

5.214 Public schools provide secular education. Minorities can establish their own schools; these include schools providing a general education but in addition offering religious instruction to Christian pupils, and also religious establishments such as seminaries. [6b]

5.215 There is constitutional freedom to produce and disseminate religious publications, including the Bible. [6b]

5.216 Christians have an adequate number of places of worship, although there have been isolated cases of obstacles to the construction of places of worship. This is attributed to slow administrative procedures, affecting all communities. [6b]

5.217 There is an active lobby of converts belonging to scheduled castes who are protesting against the withdrawal of State measures benefiting untouchables (reservation of positions in the public education system, reserved jobs in State enterprises) when they convert from Hinduism. This practice was seen as an obstacle to conversion. [6b]

5.218 Catholics in the central and northern states of India have reported that since the BJP came to power, there has been an increase in the number of attacks against convents, schools and Catholic missions, especially in Gujarat, Maharashtra, Madhya Pradesh and Uttar Pradesh. [21]

5.219 During one week in September 1998, 3 convents were attacked by armed men in Madhya Pradesh, Uttar Pradesh and near Calcutta, resulting in the rape or physical injury of nuns. [21]

5.220 The United Christian Forum for Human Rights (UCFHR) in India stated that it had recorded nearly 120 cases of rape, Bible burning, assault and other forms of violence against Christians during 1998. This compared to 40 cases recorded between 1964 and 1996. [9g] Most of these incidents have occurred in Gujarat. It is said that those extremist groups which have been terrorising Christians have been emboldened by the BJP's coming to power at the head of a coalition government. The BJP also forms the state government of Gujarat. [9]

5.221 Concerns have been expressed that these attacks have been carried out directly by, or in connivance with, right wing Hindu groups with links to the ruling Bharatiya Janata Party, including the VHP and Bajrang Dal. These groups have spoken out strongly against the alleged forcible conversion of tribal people and others by Christian missionaries, justified attacks on Christians and their property and advocated their expulsion from India. [3e] In November 1999, groups loosely allied to the BJP demanding an end to conversion, preceded a visit to India by the Pope by a month of protests. Less than a week after the Pope's visit, Christians were attacked in Delhi, reportedly by members of the World Hindu Council (Vishwa Hindu Parishad). [34a]

5.222 Much of the violence against Christians has centred around deprived areas of India where Christian missionaries have traditionally carried out development activities with tribal and dalit communities, organising health and educational services. [3e]

5.223 Some of the worst violence occurred in the Dangs district of Gujarat, where Hindu mobs went on the rampage for several weeks starting on Christmas Day 1998. The attackers burnt churches and missionary schools, and injured priests and nuns. Christians blame Hindu activists for the violence. The VHP denied instigating such violence, but it criticised evangelists who it said were forcing Hindus to convert. The VHP

regarded these conversions as an assault on the Hindu religion and culture. Christians dismissed these accusations, saying that they were administering charity to the area's poor. [9l] & [9m]

5.224 The Prime Minister, A B Vajpayee, who visited the Dangs area, stated that the Government would not tolerate any further attacks on the Christian minority. The Union Home Ministry sent a team of officials to investigate the attacks. Security forces were deployed in the affected areas to guard missionaries and churches. [9m] Further violence took place on the day the Gujarat Chief Minister rejected an interim report by the National Commission for Minorities on the situation in the state as "biased and one-sided". The report found that attacks on Christians and their property had been carried out with the connivance of Hindu groups and was critical of the Gujarat government's role in failing to protect minorities. [3e]

5.225 Anti-Christian violence spread to other areas of India. In Kerala, Hindu activists were arrested on 26 January 1999 after an attack on Christian students; and 2 pastors were seriously injured in an attack by RSS activists in early February 1999, also in Kerala. [9n] In Orissa an Australian missionary, Graham Staines, and his 2 sons were burnt alive in their jeep in late January 1999. The police blamed activists of the Bajrang Dal for the murder, but the VHP vice-president denied that the VHP or the Bajrang Dal were involved. [9p] The Indian Government ordered a judicial inquiry into the incident to be conducted by a sitting Supreme Court judge. [10a]

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

5.227 On 1 December 1999, Junior Home Minister I.D.Swami said an investigative report into the murder of Graham Staines had found that Staines did not try to convert villagers. [33c]

5.228 Dara Singh was finally arrested on 31 January 2000 in a village in Orissa. [32j]

5.229 In October 2000 a 13 year-old boy was sent to a juvenile detention centre for 14 years for his role in the murder of Staines. Sudarshan Hansda was tried separately because of his age. His was the first conviction in the case; as at that date, the trial of Dara Singh was continuing. [32f]

5.230 Violence against Christians continued during 2000. In May 2000, a bomb blast in a crowded congregation in Machlipatnam, Andhra Pradesh, left 30 people injured. Three further explosions occurred on 8 June 2000, in the states of Andhra Pradesh and Karnataka, injuring 4 people. [32s] Prime Minister Atal Behari Vajpayee spoke out strongly about these incidents. He called on state governments to "firmly and impartially investigate all incidents of violence against Christians in India", and commenting on the

spate of attacks he called them an "aberration and an exception to the general texture of peaceful and cordial relations between the various communities". [32t]

SCHEDULED CASTES AND TRIBES

Paras 5.9.1 to 5.9.8

5.231 India'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 sub-caste. The Constitution gives the President authority to identify historically disadvantaged castes, Dalits and tribals (members of indigenous groups historically outside the caste system) which are entitled to affirmative action in employment and other benefits. These are known as "scheduled" tribes and castes. [2a] They include India's aboriginal inhabitants, or Adivasis, who comprise nearly 200 ethnic and culturally distinct peoples who speak more than 100 languages. They are represented in Parliament but as theirs is usually a minority vote, legislation favourable to their interests can be impeded by vested interests. [21]

5.232 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 lists new offences against disadvantaged people and provides stiffer penalties for offenders. [2a]

5.233 The National Commission for Scheduled Castes and Tribes was established in March 1992. It serves to ensure observance of the measures taken to promote the educational and economic interests of these groups. These include reservation of seats in public services, administration, Parliament and State legislatures, and the setting up of advisory councils and separate departments for the welfare of vulnerable groups. The Commission has the powers of a civil court in investigating violations of rights guaranteed to Scheduled Castes and Tribes. Affirmative measures are also being taken for disadvantaged groups belonging to Other Socially and Educationally Backward Classes (OBCs). [6a]

5.234 Since independence, India has pursued a policy of affirmative action quotas for Scheduled Castes and Tribes in educational institutions, public employment and political representation. Nevertheless violence against, and stigmatisation of, Scheduled Castes and Tribes remains rampant and there are an estimated 10,000 to 15,000 acts of violence against them every year. [21]

5.235 Other Backward Castes are a series of castes above the Scheduled Castes, but below the upper castes and constitute some 50-70% of the population. [21]

5.236 The practice of untouchability (the belief that contact with members of the Untouchable group would defile members of a higher caste [21] was in theory outlawed by the Constitution and the 1955 Civil Rights Act, but it remains an important aspect of life. [2a]

5.237 Dalits (formerly called untouchables or harijans) are a Scheduled Caste occupying the lowest layer of the Hindu caste system and form some 16% of the Indian population. Dalits are poor and exploited economically, with 90% of them living in rural areas, the overwhelming majority being marginal farmers or landless labourers. [21]

5.238 In August 2000, India's ruling Bharatiya Janata Party chose for the first time a

lower caste member to be the party's new president. Banguru Laxman, junior Minister for Railways, was the first member of the Dalit community to head a major party. [32p] Laxman resigned as president of the BJP in March 2001 over a bribery scandal that implicated several senior political figures and bureaucrats. An Indian website accused Laxman of taking money in connection with supposed defence deals. [38c]

HOMOSEXUALS

5.239. Homosexuality as such is not illegal in India. Section 377 of the Indian Penal Code (1860) proscribes "unnatural offences", which are defined as penetrative intercourse "against the order of nature" with man, woman or animal. Certain practices might therefore be deemed illegal in India. However the scope of the definition has not been much tested in the courts and cases under section 377 are rare. [7f]

5.240. The issue of homosexuality is still sensitive in India and is not openly debated to the extent that it is in the West. It is however much more openly discussed than it was a few years ago and society is tending to become more tolerant. There are a number of NGOs, properly registered, in different parts of India which exist to promote the welfare of homosexual men and women. [7f] Homosexual relationships are not unheard of in India, but they generally exist in the country's larger cities where people can be more open about their sexuality. [38h]

5.241. Open homosexuality is not accepted. There are organised gay and lesbian groups in New Delhi, Mumbai and Calcutta and gay magazines are published. [25]

5.242. In May 2001, it was reported that a lesbian couple had married in a Hindu ceremony, believed to be one of the first gay weddings in the country. The marriage still needs the approval of the local registrar to be legalised. Gay rights campaigners however, welcomed the news. [38h]

TREATMENT OF RETURNED ASYLUM SEEKERS

5.243. UNHCR observed that judging by their general information on Indian nationals who returned after having their asylum applications abroad rejected, returnees did not have problems if they returned with valid travel documents and if their departure had taken place with valid travel documents. Those who had not complied with Indian laws on leaving and arriving in India might be prosecuted. Refused Indian asylum seekers who returned to India with temporary travel documents could enter without any problems as such, but if they arrived after their passport had expired then they would be questioned about the reasons for this. These arrivals were questioned briefly and could then leave the airport. [37]

5.244. UNHCR also remarked that in cases where the Indian authorities became aware that the person returning had been refused asylum, it was likely that the immigration authorities would detain the person briefly for questioning and then release the individual, unless suspicion was aroused by the returnee's behaviour or the individual was being sought by the Indian security services. Those in the latter group would be thoroughly questioned and if they were wanted, would be handed over to the security force in question. According to information available to the UNHCR, such questioning in international airports had not led to the use of violence. [37]

5.245. It would not be seen as an offence to have sought asylum in another country unless the person in question had connections with a terrorist group or a separatist movement and could be connected with activities which might damage India's sovereignty, integrity or security, or activities which might have a harmful effect on India's relations with other countries. For Indian asylum seekers who were already wanted by the Indian authorities for earlier offences such as alleged involvement in a terrorist group, arrival in India would certainly lead to prosecution wherever the Indian citizen landed or went afterwards. [37]

5.246. 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 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. [2]

ANNEX A

CHRONOLOGY

BBC News Online: 26 February 2002, 15:45 GMT

1858: India comes under direct rule of the British crown after failed Indian mutiny.

1885: Indian National Congress founded as forum for emerging nationalist feeling.

1920-22: Nationalist figurehead "the Mahatma" Gandhi launches anti-British civil disobedience campaign.

1942-43: Congress launches "Quit India" movement.

1947: End of British rule and partition of sub-continent into mainly Hindu India and Muslim-majority state of Pakistan.

1947-48: Hundreds of thousands die in widespread communal bloodshed after partition. "Mahatma" Gandhi assassinated by Hindu extremist. War with Pakistan over disputed territory of Kashmir.

1951-52: Congress Party wins first general elections under leadership of Jawaharlal Nehru.

1962: India loses brief border war with China.

1964: Death of Jawaharlal Nehru.

1965: Second war with Pakistan over Kashmir.

1966: Nehru's daughter Indira Gandhi becomes prime minister.

1971: Third war with Pakistan over creation of Bangladesh, formerly East Pakistan. Twenty-year treaty of friendship signed with Soviet Union.

1974: India explodes first nuclear device in underground test.

1975 :Indira Gandhi declares state of emergency after being found guilty of electoral malpractice.

1975-1977: Nearly 1,000 political opponents imprisoned and programme of compulsory birth control introduced.

1977: Indira Gandhi's Congress Party loses general elections.

1980: Indira Gandhi returns to power heading Congress (Indira) a splinter group of the Congress party.

1984: Troops storm the Golden Temple at Amritsar (the most holy shrine of the Sikhs) to flush out Sikh militants pressing for self-rule.

1984: Indira Gandhi assassinated by Sikh bodyguards, following which her son, Rajiv, takes over.

1987: India deploys troops for a "peacekeeping operation" in Sri Lanka's ethnic conflict.

1990: Falling public support leads to Congress defeat in general election. Indian troops withdrawn from Sri Lanka. Muslim separatist groups begin campaign of violence in Kashmir.

1991: Rajiv Gandhi assassinated by suicide bomber sympathetic to Sri Lanka's Tamil Tigers.

1992: Hindu extremists demolish mosque in Ayodhya, triggering widespread Hindu-Muslim violence.

1996: Congress suffers its worst-ever electoral defeat as Hindu nationalist BJP emerges as largest single party.

1998: BJP forms coalition government under Prime Minister Atal Behari Vajpayee. India carries out nuclear tests, leading to widespread international condemnation.

1999 May: Tension in Kashmir leads to brief war with Pakistan-backed forces.

2000 May: India marks birth of its billionth citizen.

2001 Jan: Massive earthquakes hit western state of Gujarat, leaving at least 30,000 dead.

2001 April: Sixteen Indian and three Bangladeshi soldiers killed in their worst border clashes.

2001 July: Vajpayee meets Pakistani President Pervez Musharraf in the first summit between India and Pakistan in more than two years. The meeting ends without a breakthrough or even a joint statement because of differences over Kashmir.

Vajpayee's BJP party declines his offer to resign over a number of political scandals and the apparent failure of his talks with Pakistani President Musharraf.

2001 Sep : US lifts sanctions which it imposed against India and Pakistan after they staged nuclear tests in 1998. The move is seen as a reward for their support for the US anti-terror campaign.

2001 Oct : India fires on Pakistani military posts in the heaviest firing along the dividing line of control in Kashmir for almost a year.

2001 Dec : Suicide squad attacks parliament in New Delhi, killing several police. The five gunmen die in the assault.

India imposes sanctions against Pakistan, to force it to take action against two Kashmir militant groups blamed for the suicide attack on parliament. Pakistan retaliates with similar sanctions.

India and Pakistan mass troops on common border amid mounting fears of a looming war.

2002 Jan : India successfully test-fires a nuclear-capable ballistic missile - the Agni - off its eastern coast.

ANNEX B

POLITICAL ORGANISATIONS Source: [1] & [7k]

ALL INDIA ANNA DRAVIDA MUNNETRA KAZHAGAM (All India Anna Dravidian Progressive Association)

A Tamil Nadu party, with its headquarters in Chennai (Madras). Founded in 1972 as a breakaway group from the DMK. It went into the 1998 national elections in alliance with the BJP and joined the BJP-led government afterwards. However its withdrawal of support in April 1999 led to the collapse of the government and another national election in which it is once again allied with Congress (I). Leader: Jayaram Jayalalitha, party secretary general.

ALL INDIA FORWARD BLOC

Founded 1940 and has socialist aims, including nationalisation of major industries, land reform and redistribution. A minor Marxist-Leninist ally of CPI-M in West Bengal.

ASOM GANA PARISHAD (AGP) (Assam People's Council)

Founded 1985. Draws support from the All Assam Gana Sangram Parishad and the All Assam Students' Union. Leader: Prafulla Kumar Mohanta (Chief Minister of Assam).

BAHUJAN SAMAJ PARTY (Majority Society Party - [This translation is misleading as Bahujan is also another synonym for backward castes])

Formed in 1980 as the champion of scheduled castes and is strong in Uttar Pradesh,

where it briefly formed the government in alliance with the BJP in 1996. Led by Kanshi Ram and Ms Mayawati.

BHARATIYA JANATA PARTY (Indian People's Party)

A Hindu nationalist party formed in 1980, which made steady advances in North India during the 1990s. Supports economic self-reliance, uniform civil code and cultural nationalism. Also supports exercising the option to induct nuclear weapons.

Rules the states of Gujarat, Uttar Pradesh, and Himachal Pradesh, and is the minority partner in the coalition governments of Punjab and Maharashtra. Lost power in Delhi and Rajasthan in the State elections of November 1998.

Leading personalities: A B Vajpayee (Prime Minister), L K Advani (Home Minister), Murli Manohar Joshi (Human Resource Development Minister) and Jaswant Singh (Foreign Minister).

BIJU JANATA DAL

Made up of almost the entire Janata Dal unit of Orissa, who formed the BJD because of neglect by the Janata Dal national leadership. Main government party in Orissa. An ally of the BJP. Led by Naveen Patnaik (Chief Minister of Orissa).

COMMUNIST PARTY OF INDIA (CPI)

Founded 1925 and advocates the establishment of a socialist society led by the working class, and ultimately of a communist society. Support in West Bengal, Bihar and Kerala.

General-Secretary: Ardhendu Bhushan Bardhan.

COMMUNIST PARTY OF INDIA - MARXIST (CPI-M)

Formed in 1964 as a pro-Beijing breakaway group from the CPI. Declared its independence of Beijing in 1968. In power in West Bengal since 1977, and also in Kerala. Support also in Tripura. In October 2000, the Election Commission demoted CPI-M's status from that of a national party to a state party. General-Secretary: Harkishan Singh Surjeet. Main leaders: Jyoti Basu (Chief Minister of West Bengal since 1977), Somnath Chatterjee (Parliamentary leader).

CONGRESS (I)

Party of Indian independence, then of government for 45 of the following 50 years under Nehru, his daughter Indira Gandhi and grandson Rajiv Gandhi. Ridden with corruption scandals, leadership squabbles and crumbling organisation. Had support throughout India, but suffered massive losses in the North and partially in the West in 1998 and lost the confidence of traditional voters such as Muslims and scheduled castes. Sonia Gandhi, widow of Rajiv Gandhi, took over as president of Congress (I) in April 1998, and under her leadership the party made significant gains in the 1998 State elections to take over the government of Delhi and Rajasthan and retain control of Madhya Pradesh. But it registered its worst ever performance in the Lok Sabha elections on September/October 1999 when it won just 111 seats. However, in October 2000, the party made significant gains in BJP-ruled Gujarat.

DRAVIDA MUNNETRA KAZHAGAM (DMK)

Founded in 1949, was dismissed from state government of Tamil Nadu in 1991, but restored with a huge majority in 1996. Supports greater federalism; resents northern domination. Exclusive to Tamil Nadu and supported primarily by locally dominant backward castes. Member of National Democratic Alliance so agreed to moderate its stand on Sri Lanka's Tamil problem. Led by Muthuvel Karunanidhi (Chief Minister of Tamil Nadu).

INDIAN UNION MUSLIM LEAGUE

Concerned with the interests of the Muslims of Kerala.

JAMMU AND KASHMIR NATIONAL CONFERENCE (JKNC)

Headquarters in Srinagar. Formerly All Jammu and Kashmir National Conference. Founded 1931, renamed 1939, reactivated 1975. A state-based party campaigning for internal autonomy and responsible self-government. Accepts accession to the Indian Union. Leader: Dr Farooq Abdullah, Chief Minister of Jammu and Kashmir.

JANATA DAL (UNITED)

Led by Sharad Yadav. Formed on the eve of the 1999 Lok Sabha election due to a split in the Janata Dal over whether to ally with the BJP in the National Democratic Alliance. The JD(U) favoured the alliance. Strong support base in Bihar.

JANATA DAL (SECULAR)

See above. A smaller section of the Janata Dal did not agree with an alliance with the BJP and formed the Janata Dal (Secular). Led by former Prime Minister, H.D. Deve Gowda.

KERALA CONGRESS (M)

Concerned with the interests of the Christians of Kerala.

MAJLIS-E-ITTEHADUL MUSLIMEEN (MIM)

Muslim communal party of Hyderabad.

NATIONALIST CONGRESS PARTY

Formed in 1999 by Sharad Pawar, a senior Congress (I) leader from Maharashtra, and others expelled from Congress (I) for being unwilling to accept Sonia Gandhi, a non-Indian born citizen, as Congress' candidate for Prime Minister. Formed coalition government with Congress (I) after state elections in Maharashtra.

RASHTRIYA JANATA DAL

Formed in 1997 by a breakaway group of former Janata Dal MPs from Bihar. Pro Yadav casteist party. Supported by the backward Yadav caste and Muslims of Bihar. Led by Laloo Prasad Yadav.

REVOLUTIONARY SOCIALIST PARTY

Minor Marxist-Leninist party allied with CPI-M, and supported in West Bengal.

SAMAJWADI PARTY

Emerged from V P Singh's Janata Dal as an aggressive champion of specific backward castes and Muslims. Supports reservations for jobs and education. Support confined to Uttar Pradesh. Led by Mulayam Singh Yadav.

SAMAJWADI JANATA PARTY

The one-man party of Chandra Shekhar, a former Prime Minister.

SAMATA PARTY

A breakaway from V P Singh's Janata Dal over the corrupt ways of former Bihar Chief Minister, Laloo Prasad Yadav. Supported by backward castes mainly in Bihar and also in Uttar Pradesh.

SHIROMANI AKALI DAL

A moderate Sikh party controlled by the dominant Jat Sikh farming community of Punjab. Supports greater federalism and is a strong ally of the BJP. Main leader: Prakash Singh Badal, Chief Minister of Punjab.

SHIV SENA

Founded in 1966 and based in Mumbai (Bombay). It is a pro-Maratha and pro-Hindu party. Party President: Balashaheb "Bal" Thackeray.

TAMIL MAANILA CONGRESS (TMC)

Broke away from Congress (I) in 1996 in protest against Rao's decision to fight elections with the AIADMK. Policies not otherwise distinct from Congress (I). Confined to Tamil Nadu.

TELUGU DESAM PARTY (NAIDU) (Telugu Nation)

HQ in Hyderabad. Founded in 1982 by Telugu film star N T Rama Rao, who died in 1996. Based in Andhra Pradesh, and is supported by locally dominant middle castes. Led by Chandrababu Naidu, Chief Minister of Andhra Pradesh.

TRINAMOOL CONGRESS

Breakaway group of the Congress (I) in West Bengal. Part of the BJP-led NDA government. Led by: Mamata Banerjee.

OTHER ORGANISATIONS

Rashtriya Swayamsevak Sangh (RSS) (National Union of Selfless Servers)

Founded in 1925 by Keshan Baliram Hedgewar, the RSS is a widespread fundamentalist

Hindu organisation which was banned in 1992 because of the violence following the December 1992 destruction of the Ayodhya mosque. The ban was suspended on 18 May 1993 by the Allahabad High Court and lifted on 4 June 1993 by the Unlawful Activities Tribunal. The organisation was temporarily banned twice previously, in 1948 and 1975. There are an estimated 4.5 million members, and the national headquarters are in Nagpur, Maharashtra. At present the RSS is said to exert considerable pressure on the BJP government to which it is said to be closely connected. In general, it aims to roll back recent reforms and modernising processes such as trade liberalisation, urbanisation and imported technologies. [21] & [38b]

All India Sikh Student Federation

The AISSF was founded in 1944. Its founder president was Sardar Swarup Singh. It was the first body to pass a resolution seeking the formation of a separate Sikh homeland. Its other objectives were to promote and propagate Sikhism amongst the college-going Sikh students. While the AISSF sought a separate Sikh homeland, it did not fight for it until militancy erupted under Bhindranwale in 1981. From then onwards, a number of AISSF members joined the ranks of the militants. The organisation was banned between 19 March 1984 and 11 April 1985 [4b] & [7b]

Dam Dami Taksal

Dam Dami Taksal is one of the most distinguished Sikh seminaries in India. It is located in a new gurdwara in a village in Gurdaspur District, some 25 miles from Amritsar.

The fundamentalist militant preacher Jarnail Singh Bhindranwale, who was ultimately killed in Operation Blue Star, was born of a peasant family closely associated with the Taksal; he was sent there to train as a preacher, and became head priest of the Taksal in 1971. [7c]

Bhindranwale championed Sikh orthodoxy, and in particular insisted that Sikhs should bear weapons. He initially focused his attentions on the Nirankari Sikhs, whom the priests of the Golden Temple had declared enemies of the Sikh panth in 1973 because contrary to orthodox teaching they worshipped a living guru. There were increasingly violent clashes between orthodox Sikhs and Nirankaris from 1978 onwards. As far as can be established, Dam Dami Taksal has never itself advocated an armed struggle for an independent Sikh state. It has almost certainly never had any direct link with terrorist organisations, though its orthodox teaching may have inspired those who took up the gun. Nowadays it is a purely religious institution. [7c]

Gurdaspur District also contains a building that was built to be a mosque 400 years ago, by by a Sikh Guru called Hargovind Singh. The mosque building had been maintained by Sikhs after the Muslims from Gurdaspur District migrated to Pakistan during partition in 1947. The Sikhs used the building to house one of their holy books. The book was called the Guru Granth Sahib. The building was handed back to Muslims in March 2002, and the Sikh holy book was shifted to an adjoining building. "The performance of Muslim religious prayers in the mosque after 55 years would be recorded in history as an event when Sikhs showed so much magnanimity towards Muslims" said Dr Mohammed Rizwanul Haque of the Punjab Waqf Board.

BANNED ORGANISATIONS IN INDIA Source: [28]

This list sets out the banned organisations both India-wide and in individual states.

Banned by the Union Government (Note: Jammu and Kashmir Liberation Front ban order has now lapsed)

- United Liberation Front of Assam
- Bodo Security Force/ National Democratic Front of Boroland
- National Socialist Council of Nagaland
- People's Liberation Army
- People's Revolutionary Party of Kangleipak
- Kangleipak Communist Party and the Red Army
- United National Liberation Front
- Kanglei Yaol Kanba Lup
- All Tripura Tiger Force
- National Liberation Front of Tripura
- Liberation Tigers of Tamil Eelam

Banned by Jammu and Kashmir State Government

- Hizbul Mujahedin
- Harkat-ul Ansar (renamed Harkat-ul-Mujahideen) [9r]

Banned by Andhra Pradesh State Government

- People's War Group
- Radical Youth League
- Ryot Coolie Sangh
- Singarani Karmika Samakhya (SIKASA)
- Viplava Karmika Samakhya (VIKASA)
- Radical Student's Union
- All India Revolutionary Students Federation

Banned by Bihar State Government

- Mazdoor Kisan Sangram Samiti
- Maoist Communist Centre
- Lal Khandi
- Sunlight Sena
- Lal Sena
- Lorik Sena
- Bhumi Sena
- Hara Sena
- Kuer Sena
- Brahmarshi Sena
- Savarna Liberation Front
- Ranvir Kisan Maha Sangh
- Jan Suraksha Sahgharsh Manch

Banned by Tamil Nadu State Government [10s]

- Al-Ummah
- Jehad Committee

ORGANISATIONS PROSCRIBED IN THE UNITED KINGDOM UNDER THE TERRORISM ACT Source: [15c]

International Sikh Youth Federation
Babbar Khalsa
Harakat Mujaihideen (or Harkat-ul-Mujahideen)
Jaish e Mohammed (or Jaish-e-Mohammad)
Lashkar e Tayyaba (or Lashkar-I-Toiba)

ANNEX C

PROMINENT PEOPLE - PAST AND PRESENT

FAROOQ ABDULLAH

Chairman of the National Conference, was sworn in as Chief Minister of Jammu and Kashmir in October 1996 following the party's win in the state elections.

LAL KRISHNA ADVANI

Home Minister in the Bharatiya Janata Party-led coalition government which took office in March 1998 and a former president of the BJP.

PRAKASH SINGH BADAL

Leader of Shiromani Akali Dal. Became Chief Minister of Punjab in February 1997 following the Akali Dal-BJP election victory.

JARNAIL SINGH BHINDRANWALE

A Sikh religious leader who first appeared in 1977. He preached strict fundamentalism and an armed struggle for national liberation. He was arrested following the killing of Lal Jagat Narain, editor of a pro-Hindu newspaper, in 1981. He was released immediately, but his prestige increased among young Sikhs. Sikh unrest escalated and 10,000 Sikhs barricaded themselves in the Golden Temple in Amritsar. Operation Blue Star was initiated by then Prime Minister, Indira Gandhi, and the temple was besieged and shelled by the army. Thousands were killed, among them Bhindranwale.

INDIRA GANDHI

Daughter of India's first Prime Minister, Jawaharlal Nehru. She became Prime Minister in 1966 leading the Congress government and held office until she was defeated in the 1977 general election. She resumed office in 1980. She was assassinated in October 1984 by Sikh members of her personal guard in retaliation for the Indian Army's storming of the Golden Temple in Amritsar earlier that year.

RAJIV GANDHI

Son of Indira. He entered politics after the death of his brother Sanjay in an air crash in

1980. He was elected to his brother's constituency in 1981 and became a General Secretary of Congress (I) in 1983. He was sworn in as Prime Minister in October 1984 immediately after his mother's assassination. He led the Congress party to a decisive election victory in December 1984, but was defeated in the next elections in November 1989. On 21 May 1991 after the first day of voting in the general election, Rajiv Gandhi was assassinated by members of the Sri Lankan Tamil separatist group, the Liberation Tigers of Tamil Eelam (LTTE), while campaigning in Tamil Nadu.

SONIA GANDHI

Italian born widow of Rajiv. She refused to become involved in politics after her husband's assassination, but was a leading figure in the Congress (I)'s 1998 general election campaign and was credited with being responsible for the party's better than expected tally of seats. She became president of Congress (I) in March 1998. She attempted, but failed, to form a Congress led government following the collapse of the BJP led government in April 1999.

In February 2000, Jayalalitha was found guilty of corruption and sentenced to a year in prison. This was then suspended on appeal, but the threat of jail resurfaced in October 2000 when she was held to be guilty in two corruption cases.

KOCHERIL RAMAN NARAYANAN

Elected President of India in July 1997, the first Dalit President. Served as Vice-President 1992-97.

BEANT SINGH

Took office as Chief Minister of Punjab following the state elections of February 1992. His government pursued a counter-insurgency policy which saw normality return to Punjab. He was assassinated in August 1995 in a car bomb explosion. Babbar Khalsa claimed responsibility.

ATAL BEHARI VAJPAYEE

Prime Minister of India. The Bharatiya Janata Party emerged as the largest party in the Lok Sabha after the 1998 general election and he was appointed Prime Minister on 15 March 1998. His coalition government lost a vote of confidence in April 1999 and the government resigned. Vajpayee was re-elected to office at the head of a BJP-led coalition in the general election held in September/October 1999.

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- 10(38) Storm over India bribes scandal: 14 March 2001
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