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India

The ruling alliance led by the Congress Party returned to power after elections in 2009. In its first term in office the Congress-led coalition made only modest progress on rights. It has not yet addressed some of India's most pressing needs, including better training and reform of its police force; providing health, education, and food security to millions still struggling for subsistence despite the country's economic growth; ending discrimination against Dalits, tribal groups, and religious minorities; and protecting the rights of women and children.

A spate of indiscriminate bombings in various Indian cities, culminating in the seaborne-based attack in Mumbai in November 2008, which killed at least 171, and injured over 300 people, led to continued tensions with Pakistan. While the Mumbai attack was attributed to the Pakistan-based Lashkar-e-Taiba, earlier deadly bombings were blamed on Muslim and Hindu extremist groups. Under intense public pressure, the government amended the Unlawful Activities (Prevention) Act, reinstating harsh provisions from previous counterterrorism laws that had either been allowed to lapse or been repealed.

Maoist insurgents known as Naxalites broadened their attacks in 2009, resulting in increased deployment of paramilitary and police forces. Although government officials announced a "zero tolerance" policy for human rights violations during security operations against the Maoists, separatist militants, and other armed groups in various parts of the country, cases of custodial killings, torture, and arbitrary arrests continued.

These abuses occur in part because of failure by the government to properly train or modernize its police force. Police officers face dismal working conditions and recruitment lags far behind increasing duties, creating an overstretched force that is likely to take shortcuts to gain convictions. Embittered and overworked, the police regard themselves as enforcers of the law—but not beholden to it.

The government's failure to protect minorities and other vulnerable groups engenders justified grievances and contributes to militant activity around the country. At senior levels of government there is growing acceptance that Maoists are attracting supporters in part because of the state's long failure to address basic socioeconomic needs; the continued

arbitrary displacement of families to make way for government-backed infrastructure, mining, and factory projects; and discrimination based on caste or ethnicity.

Justice and Accountability

India points to its independent judiciary, vibrant media, and active civil society as evidence that it is a thriving, rights-respecting democracy. Yet fundamental, structural problems remain including, most glaringly, widespread impunity for human rights violations. The government routinely fails to hold security forces accountable for abuses.

2009 marked the 25th anniversary of mass killings of Sikhs to avenge the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards in 1984. A 10-year security operation against Sikh militants, who were responsible for numerous human rights abuses, resulted in the arbitrary detention, enforced disappearance, and extra-judicial killing of thousands of young Sikh men for suspected affiliation with separatist groups. Many victims, witnesses, and alleged perpetrators have died in the long, fruitless wait for accountability.

In Jammu and Kashmir and in the state of Manipur and elsewhere in the northeast, many citizens have lost confidence in the state's willingness to hold perpetrators of human rights violations accountable. Kashmiris protested on the streets after the death of two women in Shopian in May, refusing to believe a police investigation would be fair. An ongoing inquiry by the Central Bureau of Investigation has calmed tempers, but the protests were symptomatic of the government's failure to address impunity. In July an unarmed 27-year-old in Manipur was shot and killed by police in a crowded market place, a killing captured by a photo-journalist. Despite widespread outrage, the Manipur chief minister initially praised the police for shooting a "militant." Only after weeks of protests did the state government order a judicial inquiry.

Laws such as article 197 of the Criminal Procedure Code and the Armed Forces Special Powers Act provide legal protection for members of the security forces who violate human rights. The problem of *de jure* impunity is likely to be exacerbated by December 2008 amendments to the Unlawful Activities (Prevention) Act, which expand the already vague definition of terrorism, authorize search and seizure with few safeguards, and double periods of pre-charge detention to 180 days, 30 of which may be in police custody. The use of draconian laws such as the Maharashtra Control of Organised Crime Act, which allows confessions to police to be used as evidence despite it being evident that they are coerced, is a cause for serious concern, as are efforts by other states such as Gujarat to enact similar legislation.

While India claims that its National Human Rights Commission ensures the protection of rights, the commission often defends government behavior, lacks sufficient resources to conduct its own investigations, and is not empowered to investigate violations by the army. State human rights commissions are even more poorly equipped and vulnerable to political pressure.

Conduct of Security Forces

Militants in many parts of the country have been responsible for large numbers of killings. Nearly 2,000 people, including over 500 civilians and 350 security personnel, were killed by militants in 2009, while over 1,000 civilians and nearly 400 security personnel were killed in 2008. At the same time nearly 2,000 alleged terrorists have been killed since January 2008.

The Indian government and militants in various parts of the country are locked in a vicious cycle of violence. Cases of arbitrary arrest, torture and forced confessions by Indian security forces are common. The use of "fake encounters"—in which people are taken into custody and shot, with officials falsely claiming that the deaths occurred during an armed exchange—are a continuing cause of serious concern. Police torture is also common, including in counterterror operations. Some Indian Mujahidin suspects, blamed for a series of indiscriminate bombings in Bangalore, Ahmedabad, Jaipur, and Delhi in 2008, have claimed that they were tortured and forced to make false confessions, as have Hindu militants arrested for bombings in Malegaon, Maharashtra.

Violence against Minorities

Following attacks on Christians in Orissa in 2008, mob attacks on churches and other Christian institutions, apparently instigated by Hindu extremist groups, occurred in several states. While some of the alleged perpetrators of the Orissa attacks have been arrested, there has been little success in containing Hindu extremists.

Women's and Girls' Rights

The rights of women are often neglected. A 2005 UN study estimated that two-thirds of married women in India suffer domestic violence. Female infanticide and sex-selective abortions are the primary causes of skewed sex ratios and reflect the unequal share of resources made available to women and girls in areas such as access to education, food, and medical aid.

In part because of healthcare system failures, tens of thousands of Indian women and girls die each year in childbirth and pregnancy. More suffer preventable injuries, serious infections, and disabilities. Recent data show that more than a fourth of maternal deaths worldwide take place in India. The country's maternal mortality ratio is many times that of Russia, China, and Brazil, and a girl who reaches reproductive age in India is 100 times more likely to die from such causes than a girl in the developed world.

Access to Education, and Child Soldiers

Millions of children in India have abysmal educational opportunities. While the constitution provides for free and compulsory primary education, actual delivery remains patchy. High numbers of students are out of school for reasons that include poverty (with millions of children still employed in hazardous and other "worst forms" of labor), gender discrimination, early marriage, poor quality of teachers and curriculum, and lack of basic facilities. Many are further affected by internal conflicts. For instance, the education of tens of thousands of children has been disrupted by the Maoist conflict, with the Maoists bombing remote government schools and government security forces occupying and using schools as long-term outposts.

The Maoists admit that it is standard practice to recruit 16 and 17-year-old children in their forces; they have used children as young as 12 in some armed operations.

Sexual Orientation and Gender Identity

In a positive development, the Delhi High Court in July ruled that section 377 of the Indian Penal Code can no longer be used to treat consensual homosexual conduct between adults as a criminal offense. While the ruling was challenged in the Supreme Court by a few groups and individuals, the Indian government decided not to oppose the verdict.

International Role

India has failed to adequately use its considerable influence to address human rights problems in other countries or to be a human rights promoter at the United Nations. India has played a negative role at the UN Human Rights Council, siding with a bloc that opposes strong action to address violations. As India's regional and global influence grows, it needs to modernize its foreign policy to reflect its status as the world's largest democracy.

In the past India was a strong opponent of apartheid in South Africa, supported the democratic opposition in Burma, and backed groups demanding democracy in Nepal and

Bangladesh. But officials now often use the language of “non-interference in the internal affairs” of other countries to defend their inaction. In part, this reflects India’s growing strategic concerns about China’s role in the region, which has strongly invested in Burma and Pakistan and is expanding its influence in Nepal, Bangladesh, and Sri Lanka.

India claims that it needs good relations with its neighbors to counter threats to national security by groups operating across borders. It wants Bangladesh, Burma, and Pakistan to arrest and prosecute separatists. In particular, it wants the international community to pressure Pakistan to end tacit protection of groups blamed for attacks like the one in Mumbai in November 2008.

Key International Actors

India’s rapidly growing economy and increasing importance as a trading partner has meant that its domestic human rights record rarely elicits serious international scrutiny, including from the US, the country with the greatest external influence.

After a visit to India in March 2009, UN High Commissioner for Human Rights Navanethem Pillay called upon the government to bridge the gap in implementing “national laws and policies that promote and protect human rights and seek to support the most vulnerable.” She also sought repeal of laws such as the Armed Forces Special Powers Act “that breach contemporary international human rights standards” and encouraged India to welcome the visits of UN special rapporteurs. India is yet to act on those recommendations. India has also not responded to international recommendations that it more effectively combat caste- and religion-based discrimination.

India has been repeatedly urged to play a greater role in advancing human rights and protecting civilians in Burma and Sri Lanka. While India claims that it privately raises such subjects with the governments concerned, Indian officials say little publicly and do not play a leadership role in protecting rights.