



1999 Country Reports on Human Rights Practices
Released by the Bureau of Democracy, Human Rights, and Labor
U.S. Department of State, February 25, 2000



INDIA

India is a longstanding parliamentary democracy with a bicameral parliament. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) led a 13-party coalition, took office in March 1998 and heads the Government. The Government lost a parliamentary vote of confidence on April 17, and new parliamentary elections were held in September and early October after the President dissolved the lower house of Parliament in April. President K.R. Narayanan, who was elected by an electoral college consisting of Members of Parliament and members of state assemblies, is Head of State and also has special emergency powers. The judiciary is independent.

Although the 25 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support through the use of paramilitary forces throughout the country. The Union Ministry for Home Affairs controls most of the paramilitary forces, the internal intelligence bureaus, and the nationwide police service; it provides training for senior police officers for the state-organized police forces. The armed forces are under civilian control. Security forces committed significant human rights abuses, particularly in Jammu and Kashmir and in the northeastern states.

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

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

Many of these abuses are generated by intense social tensions, violent secessionist movements, and the authorities' attempts to repress them, and deficient police methods and training. These problems are acute in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed antimilitant tactics, the refusal of security forces to obey court orders, and terrorist threats have disrupted the judicial system. The number of

insurgency-related killings and acts of torture in Jammu and Kashmir and the northeast by regular security forces showed no clear improvement from the previous year; this also was true in the northeast, despite negotiated cease-fires in the northeast between the Government and insurgent forces and between some tribal groups. Security forces summarily killed suspected militants and civilians; with few exceptions, they acted with impunity.

The concerted campaign of execution-style killings of civilians by Kashmiri militant groups, begun in 1998, continued and included several killings of political leaders and party workers. Separatist militants were responsible for numerous, serious abuses, including extrajudicial executions of members of the armed forces and civilians and other political killings, torture, and brutality. Separatist militants also were responsible for kidnapping and extortion in Jammu and Kashmir and northeast India.

The spring and summer incursion of Pakistan-backed armed forces into territory on the Indian side of the line of control around Kargil in the state of Jammu and Kashmir and the Indian military campaign to repel the intrusion resulted in a large number of casualties among combatants on both sides, as well as some civilian deaths and the internal displacement of as many as 50,000 persons.

Nearly 100 persons were killed in election-related violence throughout the country in September and October.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

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

The Minister of Home Affairs for Jammu and Kashmir said that security forces had killed 762 militants in the state as of October. (Kashmir has been at the center of a territorial dispute between India and Pakistan since the two nations gained their independence in 1947; both claim Kashmir.) Kashmiri separatist groups maintain that many such "encounters" are faked and that suspected militants offering no resistance are summarily executed. 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 is particularly true in the case of security force encounters with non-Kashmiri militants who cross into Jammu and Kashmir illegally. Although credible evidence to corroborate cases and quantify trends is lacking, most observers believe that the number of killings attributed to regular Indian forces showed no decrease from the previous year. According to press reports and anecdotal accounts, those persons killed typically were detained by security forces, and their bodies, bearing multiple bullet wounds and often marks of torture, were returned to relatives or were otherwise discovered the same day or a few days later. For example, on May 15 a patrol of the Rashtriya Rifles (a regular army unit specially trained to and assigned to counterinsurgency duty) took two brothers, Abdul Qayoom and Nazir Ahmed into custody in Handwara, Jammu and Kashmir. A few days later, the bodies of the two men were returned to family members, who were told that they were killed while trying to escape.

NGO's active in Jammu and Kashmir reported that on April 1, Fayaz Ahmed Bhatt of Anantnag was killed following his arrest by security forces and that his body was returned to family members by police in Nishat. The National Human Rights Commission (NHRC), a government-appointed and financed investigative body (see Section 4), directed that all deaths in encounters immediately be investigated by an independent

agency, but members of the security forces rarely are held accountable for these killings. The NHRC itself may inquire into alleged human rights abuses by security forces in Jammu and Kashmir, but does not have the statutory power to investigate such allegations if it is not satisfied with the responses to its inquiries. Authorities generally have not reported encounter deaths that occur in Jammu and Kashmir to the NHRC. Human rights groups alleged that security forces summarily executed a number of captured non-Kashmiri militants in Jammu and Kashmir. During conflicts with armed militants, security forces allegedly respond indiscriminately to a burst of gunfire.

Soldiers also killed civilians during military counterinsurgency operations. For example, on August 4, 1998, suspected government-sponsored counter-militants entered Saalan village, Poonch district, and summarily executed 19 relatives of a suspected Harkat-ul-Ansar militant, including 14 children and 2 women. During the year, portions of the Jammu and Kashmir human rights commission report on this incident became public; the commission held the army and government-supported militants responsible. Human rights activists in Jammu and Kashmir alleged that members of the Rashtriya Rifles shot and killed Hajra Begum in Fatehpura village, near Baramullah town. Reportedly, the soldiers went to Begum's home late at night and attempted to rape one of Begum's daughters. When Begum resisted, the soldiers shot and killed her and wounded her brother, Bashir Ahmad Rather.

According to an army spokesman, in Jammu and Kashmir security forces killed 10,727 militants during the 1990's. In November Jammu and Kashmir governor Girish Chander Saxena said that from 1989-99 militants killed 8,000 civilians and 2,000 security force members, and that another 2,600 civilians died in crossfire between security forces and militant groups. Government figures reveal that 867 civilians, 232 members of the security forces, and 999 militants were killed in Jammu and Kashmir in 1998. According to the Government, in 1998 632 civilians, 126 security forces members, and 270 militants were killed in the northeastern states, and the Government reported 811 total killings in the northeast during the year.

Impunity has been and 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, between January 1990 and September 1998, only 295 members of the security forces were prosecuted and punished for any of these crimes, and no compensation was paid to the victims or their families, according to the Union Home Ministry. During the same period, 113 members of the security forces were punished for human rights abuses in the northeastern states. Punishments ranged from reduction in rank to imprisonment for up to 10 years. According to the NHRC's most recent report, released in 1998, 259 complaints of alleged human rights violations by the Border Security Force were registered between January 1990 and March 1997. During the same period, only 31 investigations into allegations of human rights abuses by members of the army were completed, resulting in the conviction and sentencing of 81 armed forces personnel, including 29 officers.

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 members of the security forces 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. According to a credible Kashmir-based NGO, the killing of civilians by security forces increased during the year but did not reach the levels of the mid-1990's. The majority of complaints were about individual cases; there were no reports of entire villages being burned by armed forces or of mass killings. The NHRC continues to receive complaints alleging human rights violations by the security forces, especially from Jammu and Kashmir and the northeastern states. The vast majority of violations by security forces continue to go uninvestigated and unpunished.

There were many allegations that military and paramilitary forces in the northeast engage

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

Human rights monitors allege that, as in Jammu and Kashmir, government reports of deaths during "encounters" between insurgent groups and security forces in northeastern states actually are staged, and that those insurgents who were reported dead were killed after being detained by security forces. More than 25 encounters occurred between security forces and militant groups during the first 7 months of the year, leaving 34 militants and 48 members of the security forces dead in the northeastern states, according to a compilation of newspaper accounts. For example, in a shootout on February 23 in Jankhang, Nagaon district, army Major Murli Gangadhar and "Pratap," the area commander of the Kabri National Volunteers militant group were shot and killed. In Guwahati district, police shot and killed a National Democratic Front of Bodoland leader at Bhetapara on March 3. On May 17, the army shot and killed a United Liberation Front of Assam (ULFA) leader in Darrang district. On August 5, police killed a ULFA militant, Babul Ingty, alias Putul Teron, who was wanted in connection with more than 25 cases of murder, kidnapping, and extortion. In Tripura during the first 8 months of the year, there were at least 9 encounters between security forces and various militant groups resulting in the deaths of 55 militants and 24 members of the security forces, according to a compilation of newspaper articles. On March 3, the army killed five militants in Chandel district. On March 28, the security forces killed an ULFA militant in Tinsukia district. In Manipur security forces shot a Manipur People's Army (MPA) militant and injured two persons in an encounter near the Manipur-Assam border. On April 12, five suspected People's Liberation Army (PLA) terrorists were killed in an encounter with the army in Bishenpur district.

In a positive development, in July the Supreme Court directed the central Government to explain why it had not acceded to the request of the NHRC to release records pertaining to the October 1993 killing of some 60 civilians by security forces in Bijbehara town, Anantnag district; however, the Government did not respond.

Since 1980 clashes between police and Naxalite Maoist revolutionaries of the Peoples' War Group (PWG) have occurred in northwestern Andhra Pradesh. Over the past few years, hundreds of policemen and suspected Naxalites have been killed, according to press reports and human rights organizations. According to local human rights groups, 135 persons were killed in police "encounters" in the first 6 months of the year. Nineteen years of guerrilla-style conflict have led to serious human rights abuses by both sides. Human rights groups allege that "encounters" often are faked by the police to cover up the torture and subsequent murder of Naxalite suspects, sympathizers, or informers. For example, in May police took into custody three leaders of a radical students union who were suspected of having links with the PWG. According to human rights groups, the police tortured and killed two of the students, abandoning their bodies in a forest. The third student later was released, although he too underwent torture (see Section 1.c.). In another incident cited by human rights groups, police arrested, tortured, then killed four of six farmers in a village in Adilabad district in April (see Section 1.c.). Their bodies were found in a forest 150 miles away from the village, and the incident was reported as an "encounter death." After the villagers protested, the police produced the other two farmers in court as "suspected extremists." The PWG alleged that police killed three of their members, Adi Reddy, Santosh Reddy, and Seelam Naresh, in a "faked encounter" in Koyyuru forest, Karnataka, on December 2, and that another PWG member helped frame them. As further evidence that "encounters" often are faked by police, human rights groups also cite the refusal of police officials to hand over the corpses of suspects killed in "encounters," which often are cremated before families can view the bodies. Villagers in PWG-dominated areas complain of regular harassment and arbitrary detention by police. Police officials rarely if

ever are held accountable for human rights abuses. In 1998 the Andhra Pradesh Civil Liberties Committee, a local NGO, documented more than 100 encounter killings by police in which no perpetrators were prosecuted. The NHRC is investigating some 285 reported cases of so-called "fake encounter deaths" allegedly committed by the Andhra police in connection with anti-Naxalite operations. In its 1996-97 report, the NHRC stated that the evidence on record did not reveal that any prior attempt was made by the police to arrest the deceased persons. The report observed that in none of these encounters did police personnel receive any injury, while one or more persons from the other side died. The Commission further observed that "no attempt whatsoever" was made to ascertain the identity of the police officers who fired the weapons that caused the deaths and that no attempt was made to investigate the circumstances under which the police opened fire. "As this appeared to be the pattern of the procedure followed by the police," the report concluded, "the Commission felt it necessary to conclude that the procedure followed by them was opposed to law." According to the Andhra Pradesh Civil Liberties Committee, the NHRC has evidence of police culpability in several cases of "encounter deaths" involving suspected Naxalites. However, such cases have not been adjudicated in the courts or have otherwise not been acted on by the state government. For example, of six cases referred by the Andhra Pradesh Civil Liberties Committee to the NHRC in 1994, evidence of police culpability was found in five. The NHRC directed the state government to investigate the cases; however, action apparently never was taken by the state. The state government's failure to act expeditiously in these cases has discouraged local human rights groups from filing additional "encounter death" cases with the NHRC.

The Disturbed Areas Act has been in force in a number of districts in Andhra Pradesh for over 2 years. Human rights groups allege that security forces have been able to operate with virtual impunity in parts of Andhra Pradesh under the act. They further allege that Andhra Pradesh police officers train and provide weapons to an armed vigilante group known as the "Green Tigers," whose mission is to combat Naxalite groups in the state. Little is known about the size, composition, or activities of this group.

Police also used excessive force indiscriminately against demonstrators, killing many citizens. For example, in Tirunelveli, Tamil Nadu 17 persons drowned in a river in July when thousands of demonstrators ran to escape a police beating. The demonstrators were demanding government intervention in a labor dispute at a local coffee estate and the release of 652 estate workers imprisoned after a previous demonstration (see Section 2.b.). The police reportedly began to throw rocks at demonstrators, beat them with batons, fired weapons in the air, and chased the demonstrators into a nearby river. The police reportedly followed demonstrators into the river and hit some of them with batons. They also allegedly beat persons attempting to rescue drowning demonstrators. Leaders of the demonstration alleged that the autopsies of the victims were flawed, but the state government rejected their demand for a second post mortem. The state has ordered an investigation into the incident to be conducted by a retired Supreme Court judge. By year's end, no progress had been made.

On July 17, police killed two persons at Chhapra and one at Darbhanga in Bihar after a scheduled entrance exam for the army was postponed, resulting in a riot. More than 30 persons, including a senior army officer and a police subinspector, were injured. In February in Murshidabad district, West Bengal, the Border Security Force shot and killed two villagers and injured another when a group of villagers tried to smuggle cattle into Bangladesh.

Throughout the country, numerous accused criminals continue to be killed in encounters with police. For example, the People's Union for Civil Liberties (PUCL) in Bihar alleged that police shot and killed Lallu Singh and Bharat Singh, two unarmed men who had surrendered to them at Dadpur, Dhagwanpur district, on June 22, 1998. Police contend that the two persons were planning to commit a "serious crime," and that they were armed and resisting arrest. However, witnesses to the killings told the PUCL that the two had surrendered, offered no resistance, and were shot at point-blank range.

According to the Government, 462 civilians and 106 police officers died in exchanges of

gunfire involving police in 1997. In January the NHRC directed the government of Uttar Pradesh to pay an interim compensation of \$11,500 (500,250 rupees) each to the families of three young men killed due to indiscriminate firing by police on the Banaras Hindu University campus. Two of the victims were students and the third a former student when the shootings occurred in February 1997.

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

While extrajudicial killings continued in areas buffeted by separatist insurgencies, the press and judiciary also continued to give attention to deaths in police custody. According to the Government, 817 persons died in prisons between January 1 and September 30, 1998, many from natural causes, in some cases aggravated by poor prison conditions (see Section 1.c.). Human rights groups allege that many deaths in prisons are due to torture.

The NHRC has focused on torture and deaths in custody by directing district magistrates to report all deaths in police and judicial custody and stating that failure to do so would be interpreted as an attempted coverup. Magistrates appear to be complying with this directive. However, the NHRC has no authority to investigate directly abuses by the security forces, and security forces therefore are not required to--and do not--report custodial deaths in Jammu and Kashmir or the northeast. In 1998 the NHRC ordered the Central Bureau of Investigation (CBI) (the central government agency charged with investigation of serious crimes), to investigate the torture death of Delhi leather merchant Hari Shankar Pal, who was arrested along with five other persons and beaten by Hauz Kazi police on December 8, 1997. After 2 days of abuse, police took Pal to the city's Ram Manohar Lohia hospital, where he was pronounced dead upon arrival. The results of the May 1998 CBI investigation were not made public; the station house officer of the Hauz Kazi police station was transferred to another duty. In September the NHRC directed the government of Punjab to pay compensation to the family of Mela Singh, Mansa district, Punjab, who died in the Lehragaga police station on December 2, 1994. In a complaint to the NHRC, the victim's wife alleged that the police had detained her husband illegally for 4 days and that he died in police custody due to torture. According to credible NGO's, on August 16, police allegedly tortured Lakhbir Singh Lakha to death in police custody at a police post in Chohla Sahib in Tarn Taran district, Punjab. On September 18, Devinder Singh, a young Sikh, died in police custody at the Ropar police station in Punjab. Devinder Singh was arrested with his two brothers; all three persons allegedly were tortured (see Section 1.c.). As of year's end, no one had been held accountable.

On June 2, the NHRC demanded a response from Delhi police to a complaint that it received alleging that Raziuddin died April 30 of torture injuries inflicted in Tihar jail following his arrest by the crime branch of the Delhi police. The NHRC also received a complaint alleging that police in Jehanabad village, near Pilibit, Uttar Pradesh, beat to death 20-year-old Dilshad on May 23, hours after arresting him. An autopsy was conducted, but instead of returning the body to family members, the complaint alleged that police had the body cremated on May 24, without the consent of the family. In Haryana six police officers were suspended and charged with culpable homicide and wrongful confinement in connection with the death in custody on August 15 of Mohinder Singh, a 45-year-old employee of the Haryana state electricity board. Alipur police arrested Singh the same day. His body was brought to nearby Hindu Rao hospital a few hours later, allegedly bearing marks of torture. In Gujarat the NHRC demanded information from authorities regarding the June 25 death of Ganga Nepali, an inmate of Sabarmati jail. According to the report of a three-member committee established by the West Bengal government's prisons department, there were 46 custodial deaths in the state in 1995-96, 44 in 1996-97, and 66 in 1997-98. On March 19, for example, the charred body of Pappu Ahmed was found in the Howrah jail toilet. Jail authorities claim that Ahmed was a drug addict and had committed suicide. The West Bengal Human Rights Commission ordered an investigation, questioning how he got matches and kerosene, and

the suicide motive. In May Jagadeesan, a 14-year-old student who was arrested for causing damage to public property in Sivaganga district, Tamil Nadu, died from torture injuries inflicted by police. The Tamil Nadu government ordered an investigation, and the policemen involved were suspended from active duty.

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

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued as a significant pattern in Jammu and Kashmir. Countermilitants are former separatist militants who surrendered to government forces but have retained their arms and paramilitary organization. Government agencies fund, exchange intelligence with, and direct operations of countermilitants as part of the counterinsurgency effort. Countermilitants are known to search persons at roadblocks (see Section 2.d.) and guard extensive areas of the Kashmir valley from attacks by militants. The Government, through its sponsoring and condoning of extrajudicial countermilitant activities is responsible for killings, abductions, and other abuses committed by these militant groups. Perhaps as many as 3,000 individuals continue to operate in Jammu and Kashmir, particularly in the countryside, outside major towns. The Hizbul Mujahideen, a Kashmiri militant group, told the press in June 1998 that progovernment countermilitants had killed 350 of its members. According to the Lashkar-I-Toiba, another militant group, security forces killed 21 members during the year in Jammu and Kashmir; however, this number has not been confirmed, and comes from one of only many groups in the state. Precise numbers are unavailable. The Government recruited countermilitants into the Special Operations Group of the Jammu and Kashmir police and into the Border Security Force (BSF).

Militant groups in Jammu and Kashmir increasingly targeted members of the security forces and civilians during the year. On April 29, five militants forcibly entered the home of Ahad Ganai, in Kreshipora, Kupwara district, rounded up the residents, and shot them with automatic weapons, killing eight family members, including children. On July 13, militants attacked a BSF residential compound in Baramulla district, killing three BSF troops; two militants also died in the exchange. On August 10, militants attacked a BSF position in Rajouri district, killing one BSF soldier and injuring two others. On August 11, militants killed three BSF soldiers and injured three others in Rajouri district. Militants also carried out attacks on security forces and civilians that killed numerous persons (see Section 1.g.).

The police, BSF, and army each reported that during the year they had the highest number of casualties of any year during the past decade of militancy. The BSF reported that during the year militants killed over 35 persons, including 5 officers. The police forces reported that, as of September, 61 policemen had been killed. Army statistics indicated that during the year over 200 soldiers were killed in counter-insurgency violence in Jammu and Kashmir. The year's total number of security force deaths (over 300 according to the Home Minister) indicates a nearly 50 percent increase above prior years.

During the period of increased militant attacks against the security forces, there was a parallel decline in massacres of unarmed civilians in Jammu and Kashmir; however, incidents of mass killings of civilians still occurred. Between May and July, Muslim militants carried out four mass killings of Hindu villagers in Jammu and Kashmir. On July 20, approximately 20 militants entered two houses in the Doda district of Jammu region, and opened fire with automatic weapons, killing over 15 Hindu persons, including 3 women and 7 children; one woman was 75 years old. The militants, identified by a survivor as belonging to Hizbul-Mujahideen, specifically were targeting five men in the houses who were members of their local village defense committee (VDC). In 1998 the state police created dozens of VDC's throughout Jammu as a means of arming Kashmiri

Hindus (Pandits) against attacks by Muslim militants (see Section 5).

Insurgency and increased ethnic violence took a heavy toll in the northeast. Extensive, complex patterns of violence continued in many of the seven northeastern states. The main insurgent groups in the northeast include two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security force in Assam; and the ATTF and the NLFT in Tripura. The proclaimed objective of many of these groups is to secede from the country, creating new, independent nations. Their stated grievances against the Government range from charges of neglect and indifference to the endemic poverty of the region, to allegations of active discrimination against the tribal and nontribal people of the region by the central Government (see Section 5). The oldest of these conflicts, involving the Nagas, dates back to the country's independence in 1947. On August 1, 1997, a cease-fire between the Government and the Isak-Muivah faction of the NSCN (NCSN-IM) entered into effect and largely has been observed by the Government and all insurgent groups in the state. During the latter part of the year, the cease-fire was extended through July 31, 2000. In May underground Naga leaders Isak Chisi Swu and Thuingaleng Muivah, chairman and general secretary respectively of the NSCM-IM, visited Nagaland for the first time in 33 years. The Government asked the NSCM-IM to define the geographical boundary of "Nagalim" to enable it to extend the cease-fire zone to these areas. On August 18, the NSCM-IM killed Dally Mungro, general secretary of the Khaplang faction of the NSCN, along with two of his associates.

The Kuki and Paite ethnic tribes also entered into a cease-fire in March 1998, which was signed in the presence of Manipur's chief minister. Both sides observed the cease-fire, and in October 1998 a peace accord between them was signed. In 1997 violence between the Kuki and Paite communities led to hundreds of deaths and the burning of many homes. Elsewhere in the northeast, the upsurge in Bodo-Santhal ethnic clashes, which began in April 1998, continued throughout the year. More than 260,000 persons live under poor conditions in relief camps in Assam's Kokrajhar, Gosaigaon, and adjoining districts as a result of the ongoing violence between Bodos and Santhals. The killings of ULFA leaders' family members during the year renewed concerns about the situation in Assam. There also were encounters between security forces and the NSCN-Khaplang faction throughout the year.

In Tripura kidnappings committed by militant groups operating in the state continued to be a problem. For example on March 19 a Communist Party (Marxist) leader was kidnapped and killed by the National Liberation Front of Tripura militants. Even after ransom is paid for captives, many are killed. According to a compilation of newspaper accounts compiled during the first 8 months of the year, more than 193 persons were killed in insurgency-related violence in Assam; 184 in Tripura; 88 in Manipur; 7 in Mizoram; 5 in Nagaland; and 4 in Meghalaya. On March 7, ULFA militants shot and killed a local Congress Party leader in Assam. On March 26, ULFA militants killed the Assam state agriculture minister's brother and injured the health minister's brother. On March 29, ULFA militants shot and killed the nephew of the public health engineering minister in north Lakhimpur district. On the same day, an armed group of Communist Party of India (Marxist-Leninist Liberation) members shot and killed three members of a rival faction in retaliation for the earlier murder of some of their members. On May 19, in south Tripura district, NLFT insurgents hacked to death Halendra Tripura, a tribal Communist Party of India (Marxist) (CPM) leader, and his brother-in-law, Ananda Mohan Roaja, a senior tribal leader and a member of the Tripura state legislative assembly. On June 17, suspected monitors of the Congress and the Tripura Upajati Juba Samity killed CPM member Sukhlal Debnath in Mohanpur, Sadar subdivision. On July 14, suspected NLFT militants killed Amar Pal, a CPM leader, and abducted his nephew in Dhanlekha village in south Tripura (see Section 1.b.). In August militants belonging to the Isak-Muivah faction of the NSCN-IM and Mizoram's tribal Hmar People's Conference (HPC) killed at least one person during a spree of abductions (see Section 1.b.). Three militant attacks occurred in November, killing numerous persons; these attacks made use of some unconventional weapons, and in some cases targeted civilians (see Sections 1.g. and 5).

The kidnaping of NGO environmental monitor Sanjay Ghosh in 1997 and his death at the hands of his ULFA captors continued to attract wide public criticism. On August 6, 1997, ULFA confirmed that Ghosh died in captivity after being "arrested and tried." ULFA still has not produced Ghosh's body. In June the CBI filed murder charges in connection with the case against ULFA leader Paresb Arua and 10 other ULFA members. Groups representing several ethnic tribal peoples in Assam, including the Santhals, Mundas, Oraons, Gonds, Savars, Bhils, Koyas, Kharias, Lohars, and Parjas, allege that they have been the target of systematic violence at the hands of the National Democratic Front for Bodoland. In Assam surrendered members of the ULFA (Sulfa's) were labeled as traitors and targeted for murder by ULFA members. On March 6, ULFA members fired a rocket-propelled grenade at a Guwahati apartment building housing several Sulfa's; there were minor injuries. In retaliation for this and other attacks, the relatives of ULFA members allegedly have been targeted. For example, on March 6, just hours after the apartment building rocketing, unidentified gunmen attacked three houses in Guwahati belonging to the relatives of ULFA members, killing six persons and injuring a 50-year-old woman.

Naxalite Maoist revolutionaries of the PWG killed dozens of persons, declaring them "class enemies" or police informers. On March 3, a group of about 60 armed Naxalites entered Bhimpura village, Bihar, forcibly entered 25 homes, and murdered 5 persons, including 3 members of a family. In areas under their control, Naxalites dispense summary justice in "People's Courts," which in some cases condemn to death suspected police informers, village headmen, and others deemed to be "class enemies" or "caste oppressors" (landlords); the Naxalites also extort money from these groups, as well as businesses. On February 10, the Naxalite PWG killed seven lower caste villagers in Bihar (see Section 5). On September 4, Naxalite members shot and killed the superintendent of police in Hyderabad. On September 15, 10 to 15 Naxalite insurgents in Sirpur, Andhra Pradesh shot and killed Paliwai Purushottam Rao, a member of the Andhra Pradesh legislative assembly, as well as 3 bodyguards. On December 15, Naxalite extremists belonging to the PWG hacked to death Madhya Pradesh state minister Likharam Kaware, a three-term Congress Member of Legislative Assembly (MLA), as he slept at his ancestral home in Sonepuri. According to media reports, the PWG left a note at the murder scene stating that the killing was in retaliation for police action against group members carried out in Andhra Pradesh on December 1, in which four extremists were killed. This is the first known instance in which PWG extremists targeted a high-level government official. The PWG also use land mines to kill police (see Section 1.g.), and insurgents use bombs to kill government officials, police, and civilians. Naxalite violence has plagued Andhra Pradesh since the early 1980's, and has claimed more than 500 civilian and police victims since 1996 alone.

In November 1997, an independent commission of inquiry established by Parliament in 1991 to investigate the May 21, 1991 assassination of former prime minister Rajiv Gandhi tabled an interim report of its findings in the Lok Sabha (Lower House of Parliament). The report pointed to the Liberation Tigers of Tamil Eelam (LTTE) as clearly responsible for the assassination but was inconclusive on the question of whether the LTTE had received assistance in carrying out the murder. It criticized the then-government for an alleged failure to provide comprehensive security for the former Prime Minister. On January 28, 1998, a designated lower court in Chennai sentenced to death all 26 persons accused in the assassination. The CBI originally charged 41 persons in the case; 12 since have died, and 3 have evaded capture (including LTTE leader Velupillai Prabakaran). Many of those sentenced, who include both Indian and Sri Lankan nationals, allegedly played a peripheral role in the assassination plot, but the court upheld the CBI contention that all of them were aware that they were conspiring in a common cause. Having heard an appeal of the convictions, the Supreme Court on May 11 acquitted 19 of the 26 accused persons and upheld the convictions of 7 persons (see Section 1.d.). It sustained the death sentence in the case of four of the convicted persons and changed the sentence of three others to life imprisonment.

The incursion of Pakistan-backed armed forces into territory on the Indian side of the line of control around Kargil and the Indian military campaign to repel the intrusion resulted in

a large number of casualties on both sides, including civilians (see Section 1.g.).

Nearly 100 persons were killed in election-related violence throughout the country in September and October (see Sections 1.g. and 4).

Religiously and ethnically motivated violence led to large numbers of deaths (see Section 5).

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

In April security officials reported that 6 Bangladeshis and three Indians were killed and that over 60 persons were wounded in a border exchange of mortar rounds and gunfire along the West Bengal-Bangladesh border. There are about one or two such incidents reported annually.

b. Disappearance

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

The Jammu and Kashmir police acknowledged that 1,228 suspected militants were arrested during 1998 and that an additional 187 surrendered. Of this number, 529 persons were released after preliminary questioning, 457 persons were charged under special security laws, and the remaining persons were released at a later stage of judicial review. In addition the Jammu and Kashmir police stated that in 1998 it held 514 persons under the Public Safety Act (PSA). The Jammu and Kashmir Minister of Home Affairs said that 552 militants were arrested and 62 persons surrendered during the first 9 months of the year. According to an Amnesty International report that was released during the year, there are over 800 unsolved disappearances in Kashmir since 1990. The Government was unable to provide complete statistics for the number of persons held under special security laws in the northeast, but acknowledged that 43 persons were in detention under the National Security Act as of December 31, 1998. Although the Government allowed the Terrorist and Disruptive Practices (Prevention) Act (TADA) to lapse in 1995, one credible human rights organization stated that more than 1,000 persons remained in detention awaiting prosecution under the law. Several thousand others are held in short-term confinement in transit and interrogation centers.

Human rights groups maintain that several hundred more persons are held by the military and paramilitary forces in long-term unacknowledged detention in interrogation centers and transit camps in Jammu and Kashmir and in the northeast that nominally are intended for only short-term confinement. Human rights groups fear that many of these unacknowledged prisoners are subject to torture and extrajudicial killing (see Sections 1.a. and 1.c.). According to one credible NGO, there were 1,300 writs of habeas corpus pending in the Jammu and Kashmir High Court at midyear. In March Amnesty International reported that the fates of between 700 and 800 persons reported missing in Jammu and Kashmir since 1990 remain unexplained by authorities. The U.N. Special Rapporteur on Torture reported in 1997 that more than 15,000 habeas corpus petitions have been filed in India since 1990, "but that in the vast majority of these cases the authorities had not responded to the petitions." During the year, the Working Group on Enforced or Involuntary Disappearances of the U.N. Commission on Human Rights transmitted 33 newly reported cases of disappearance to the Government, 14 of which reportedly occurred in 1998. The Government submitted information on eight cases of disappearance to the Working Group during the year. In one prominent case in Jammu and Kashmir, the Government responded to the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions in 1997 and stated that human rights monitor Jalil Andrabi was not arrested by security forces, as alleged by human rights groups, but that he was abducted by "unidentified armed persons." Andrabi was last seen alive in the presence of countermilitants and members of the security forces on March 8, 1996, in Srinagar.

Despite the Government's statement, the army in February 1996 identified to a Srinagar court a major with a temporary commission as the individual primarily responsible for Andrabi's death. Allegedly security forces dumped Andrabi's body into the Jhelum River. His case also is the subject of an inquiry by the NHRC. In 1998 an army major was arrested for the killing of Andrabi. There was no progress in the case by year's end (see Sections 1.a. and 4). In April 1998, the Government stated that it would investigate the fate of eight persons who reportedly disappeared in Jammu and Kashmir during 1997: Fayaz Ahmad Beigh, Fayaz Ahmad Khan, Abdula Rashid Wahid, Mohammed Ashraf Dar, Mohammed Afzal Shah, Nisar Ahmad Wani, Manzoor Ahmad Dar, and Bilal Ahmad Sheikh. By September 1998, the Government could account for only one of the eight, claiming that Fayaz Ahmad Beigh escaped police custody on September 9, 1997, and was believed to have crossed the line of control into Pakistan. By year's end, no new information was available. As of December 1997, 55 cases of disappearance and custodial death still were pending against Border Security Force personnel in Jammu and Kashmir (see Sections 1.a. and 1.c.).

The Government maintains that screening committees administered by the state governments provide information about detainees to their families. However, other sources indicate that families are able to confirm the detention of their relatives only by bribing prison guards. For example witnesses report that uniformed security forces arrested Muhammad Ashraf Mir, Bilal Ahmad Mir, Munir Ahmad Mir, and Gulzar Ahmad Wani on Residency Road, Kashmir valley, on May 4 and took them to an unknown location. Authorities did not provide any information about the arrests, despite repeated requests from family members. A program of prison visits by the International Committee of the Red Cross (ICRC), which began in October 1995, is designed in part to help assure communications between detainees and their families. During the year, the ICRC visited approximately 1,000 detainees in 20 places of detention. All acknowledged detention centers in Jammu and Kashmir and Kashmiri detainees elsewhere in the country were visited. However, the ICRC is not authorized to visit interrogation centers or transit centers, nor does it have access to regular detention centers in the northeast (see Sections 1.c. and 4).

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

In August Amnesty International called on the Government to explain the disappearances and prosecute those responsible. It expressed concern that police in Punjab might be obstructing the judicial inquiry into the death of human rights monitor Jaswant Singh Khalra. Khalra was investigating the cremation of unidentified bodies by Tarn Taran police. Several witnesses observed Punjab police officials arrest Khalra outside his Amritsar home on September 6, 1995. Police officials subsequently denied that they had arrested Khalra, and he has not been seen since. On July 30, 1996, following its investigation, the CBI identified nine Punjab police officials as responsible for Khalra's abduction and recommended their prosecution. One of the suspects subsequently died, reportedly by suicide; none of the others were charged by year's end. In July 1998, Punjab police arrested Jaspal Singh Dhillon, another member of the CCDP who was active in the Tarn Taran investigation, on suspicion of conspiring to free several convicted Sikh separatists from a Chandigarh jail. He was released on bail on May 27. These events prompted extended public debate over the accountability of Punjab police for excesses while suppressing a violent insurgency. According to human rights monitors in Punjab, approximately 100 police officials were either facing charges, were prosecuted, or were under investigation for human rights abuses at year's end. Early in the year, the Punjab High Court, acting on a petition by the Punjab police, ordered the suspension of public hearings conducted by the People's Commission of Enquiry; at year's end, they had not resumed.

There are credible reports that police throughout the country often do not file required arrest reports. As a result, there are hundreds of unsolved disappearances in which relatives claim that an individual was taken into police custody and never heard from again. Police usually deny these claims, countering that there are no records of arrest. In Manipur 14-year-old Yumlembam Sanamacha of Thoubal district has been missing since his arrest by soldiers on February 12, 1998. The army reportedly detained him because of his alleged links with insurgent groups. The All-Manipur Students' Union petitioned the Guwahati High Court for Sanamacha's release. The Court ordered the army to produce the boy, but it failed to do so and his whereabouts remain unknown. On May 5, police in Siliguri, West Bengal, arrested 14-year-old Pinter Yadav and his 9-year-old cousin. According to local human rights monitors, the boys were beaten, and when Pinter began to vomit blood he was taken to a local police station. He has not been seen since, and efforts by family members to petition police for information were unsuccessful.

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

On July 14, suspected NLFT militants killed Amar Pal, a CPM leader, and abducted his nephew in Dhanlekha village in south Tripura (see Section 1.a.). On July 31, a Jalpaiguri tea garden owner was kidnapped in Assam. On August 3, a group of eight rebels reportedly belonging to the Isac-Muivah faction of NSCN-IM and Mizoram's tribal Hmar People's Conference (HPC) kidnapped Goutam Roy and Hitesh Puri, both senior tea executives. On August 4, a gang of five militants, suspected of being members of NSCN-IM and the Assam-based Muslim United Liberation Tigers (MULT), kidnapped Debojyoti Sharma, another tea executive and demanded ransom, to fund their activities. The kidnap victims later were released. In August militants belonging to the Isac-Muivah faction of the NSCN-IM and Mizoram's tribal Hmar People's Conference (HPC) killed at least one person during a spree of abductions (see Section 1.a.).

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

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

sometimes as summary punishment.

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

On April 14, 1996, Mohammad Iqbal was arrested by soldiers of the Rashtriya Rifles and taken to Chhatru Camp, near Kishtwar, Jammu and Kashmir. His body, bearing marks of torture, was discovered in the nearby Chhatru river soon thereafter; no one has been charged in the case. According to local human rights organizations, on November 3, 1995, Banihal police station officers arrested Ayaz Ahmad Wani of Bankoot village, Banihal, and tortured him there and in the jail at Ramban for 5 days. On November 8, 1995, police brought the youth to a hospital in Ramban with marks indicating torture on his arms, hands, face, and genitals. He was transferred to the government medical college in Jammu, where he died of his injuries on November 9, 1995. An autopsy revealed that he had suffered injuries to his kidneys, heart, and stomach and that his wrists and feet were broken. The father of the victim filed a complaint with the NHRC, and on July 18, 1998, the case was referred to police for investigation. There was no further progress in the case by year's end. Human rights monitors maintain that there is a similar pattern of abuse by security forces in the northeast. Police atrocities against indigenous people include torture (see Section 5).

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

The prevalence of torture by police in detention facilities throughout the country is borne out by the number of cases of deaths in police custody (see Section 1.a.). Delhi's Tihar jail is notorious for the mistreatment of prisoners, with 1 of every 11 custodial deaths occurring there. Police and jailers typically assault new prisoners for money and personal articles. In addition police commonly torture detainees during custodial interrogation. Although police officers are subject to prosecution for such offenses under Section 302 of the Penal Code, the Government often fails to hold them accountable. Two kidnapping suspects allege that police tortured them while in detention in a Calcutta prison in November; the Home Minister denied that the boys were subjected to anything other than routine interrogation. The family of one of them asked the NHRC to investigate the allegation; at year's end, it still was under investigation. According to human rights groups, in May the Andhra Pradesh police tortured three students who were suspected of having links with the PWG; two persons died (see Section 1.a.). In another incident, police tortured six farmers in a village in Adilabad district in April (see Section 1.a.). According to human rights NGO's, on September 18, police beat Devinder Singh, Sapinder Singh, and Karnail Singh, three Sikh brothers, in a police courtyard in Punjab, apparently to extort a confession from them that they possessed an assault rifle. Allegedly, their legs were pulled open to 180 degrees, gasoline was applied to their genitals, and they were beaten badly. Devinder Singh allegedly died as result of his injuries (see Section 1.a.).

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

The U.N. Special Rapporteur on Torture stated in 1997 that, in Jammu and Kashmir, torture victims or their relatives reportedly have had difficulty in filing complaints because local police were issued instructions not to open a case without permission from

higher authorities. In addition the Armed Forces (Jammu and Kashmir) Special Powers Act provides that unless approval is obtained from the central Government, no "prosecution, suit, or other legal proceeding shall be instituted...against any person in respect of anything done or purported to be done in exercise of the powers of the act. This provision reportedly allows the security forces to act with virtual impunity.

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

The rape of persons in custody is part of the broader pattern of custodial abuse. Limits placed on the arrest, search, and police custody of women appear effectively to limit the frequency of rape in custody, although it does occur on occasion. The NHRC received reports of only three cases of custodial rape between April 1, 1996, and March 31, 1997. The 24-hour reporting requirement applies to custodial rape as well as custodial death. However, the requirement does not apply to rape by policemen outside police stations. NGO's claim that rape by police, including custodial rape, is more common than NHRC figures indicate. Although evidence is lacking, a larger number appears credible, in light of other evidence of abusive behavior by police and the likelihood that many rapes go unreported due to a sense of shame and a fear of retribution. In Gujarat a police constable in Vadodara is facing charges in connection with the rape of a woman while in custody. There is a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among noncombatants in insurgency-affected areas (see Section 1.g.), but is not included in NHRC statistics because it involves military forces.

Human rights monitors allege that army personnel summoned a woman and her four daughters from Mangota village, Doda district, Jammu and Kashmir, to a nearby camp on March 15, where the women were held captive for 4 days and repeatedly raped. The victims filed a complaint with Doda police naming Charanjit Sharma, the officer in charge of the camp, as one of their assailants (see Section 1.g.).

In addition to the 888 complaints of custodial death (700 in judicial custody and 188 in police custody) and 3 cases of custodial rape received by the NHRC between April 1, 1996, and March 31, 1997, 1,643 complaints of other police excesses were filed with the NHRC. As a result of NHRC action during this period, criminal prosecutions were brought against 144 police officials and 23 civilians and monetary compensation in amounts ranging from \$1,250 (54,375 rupees) to \$3,750 (163,125 rupees) were recommended for payment in 55 cases. In its annual report for the period, the NHRC remarked that over half of the more than 20,000 complaints that it received "relate to the conduct of the police."

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

During the year Human Rights Watch published a report that asserted that the Maharashtra government was complicit with the Dabhol Power Corporation (a joint venture of the Enron Corporation, General Electric, and Bechtel) in numerous human rights abuses. According to HRW, the Maharashtra government also engaged in a systematic pattern of suppression of freedom of expression and peaceful assembly coupled with arbitrary detentions, excessive use of force, and threats.

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

Some militants groups in the northeast use rape as a tactic to terrorize the populace (see Section 5).

Prison conditions are poor. Prisons are severely overcrowded, and the provision of food

and medical care is frequently inadequate. Prisons operate above capacity, because of thousands of prisoners awaiting hearings. For example, in West Bengal, Sheikh Feku, an alleged thief, was released from jail in mid-June after having been in jail for 3 years awaiting trial. Overcrowding in jails also is severe. Delhi's Tihar jail, with a designed capacity of 3,300 persons, houses 9,000 prisoners. The inspector general of prisons for Karnataka said in June that Mysore jail, designed to hold 350 inmates, holds 850 persons, and that Bangalore jail, built for 700 persons, holds 2,500 inmates. According to the inspector general of prisons, water supply and sanitation systems in both facilities are in disrepair and medical facilities are nonexistent, with the result that prisoners must be taken to government medical institutions for health checks. The states are waiting for a national jail manual to facilitate reform; however, aside from providing financial aid to the states, the central Government has not initiated any standard reforms. The Prison Act of 1894 remains unamended. According to the South Asia Human Rights Documentation Center, in the poorest states, such as Bihar, where 265 police stations have no lock-up facilities, the lack of prisons led police to shackle prisoners to trees. An NHRC investigatory team visiting Meerut jail in Uttar Pradesh in 1998 found some 3,000 inmates in a facility designed to hold 650 persons. As a result of this and other jail visits, the NHRC hired a consultant to draft the prison reform bill to be submitted to the Government. The bill, meant to be enacted by the national Parliament, encountered opposition from state governments on the basis that prison management is the responsibility of the states. The 700 deaths in judicial custody in 1998, occurring in a prison population of approximately 155,000, many of whom are held for years, include a large proportion of deaths from natural causes, in some cases aggravated by poor conditions in prisons (see Section I.a.). Deaths in police custody, which typically occur within hours or days of initial detention, more clearly imply violent abuse. The NHRC has no authority to investigate abuses by security forces directly, and security forces in Jammu and Kashmir and the northeast are not required to report custodial deaths to the Commission.

With the exception of an agreement with the ICRC for visits to detention facilities in Jammu and Kashmir, the Government does not allow NGO's to monitor prison conditions (see Section 4). However, 15 states and union territories have authorized the NHRC to conduct surprise check-ups on jails. Although custodial abuse is deeply rooted in police practices, increased press reporting and parliamentary questioning provide evidence of growing public awareness of the problem. The NHRC has identified torture and deaths in detention as one of its priority concerns. In 1998 it created a "Special Rapporteur and Chief Coordinator of Custodial Justice" to help implement its directive to state prison authorities to ensure that medical check-ups are performed on all inmates. The Commission noted that there is an alarmingly high incidence of tuberculosis among inmates and that, according to one study, this was the cause of 79 percent of deaths in judicial custody.

d. Arbitrary Arrest, Detention, or Exile

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

Although the law that had been subject to the most extensive abuse, the TADA, lapsed in May 1995, 1,502 persons previously arrested under the act continued to be held as of January 1, 1997, in a number of states, according to the NHRC's most recent report. A small number of arrests under the TADA continued for crimes allegedly committed before the law lapsed. In 1997 the Government asserted that all the TADA cases would be reviewed. However, few persons have been released as a result of the review. Criminal cases are proceeding against most of those still held under the TADA, with more than 3,000 charged under other laws in addition to the TADA. In 1996 the Supreme Court eased bail guidelines for persons accused under TADA, taking into account the large backlog of cases in special TADA courts. On March 23, the state minister for home affairs told the Jammu and Kashmir state assembly that 16,620 persons had been detained under the TADA in the state since 1990; of these, 1,640 were brought to trial, and 10 were

convicted. TADA courts use abridged procedures. For example, defense counsel is not permitted to see witnesses for the prosecution, who are kept behind screens while testifying in court. Also, confessions extracted under duress are admissible as evidence.

On May 10, the Tamil Nadu government withdrew the "Prevention of Terrorist Activities Act," which attempted to resurrect provisions of the lapsed TADA. Passed by the Tamil Nadu state assembly in May 1998 following a series of terrorist bombings in Coimbatore, the bill was never signed into law. Similar bills are pending in the Madhya Pradesh and Andhra Pradesh state assemblies. If enacted they would provide for special courts to try offenses, place the burden of proof at the bail stage on the accused, make confessions to a police officer of the rank of superintendent of police admissible as evidence, extend the period of remand from 15 to 60 days, and set mandatory sentences for terrorism-related offenses.

The 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. An accused person must be informed of his right to bail at the time of arrest and may, unless he is 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.

The Constitution permits preventive detention laws in the event of threats to public order and national security. These laws provide for limits on the length of detention and for judicial review. Several laws of this type remain in effect.

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

The Jammu and Kashmir Public Safety Act (PSA) of 1978 covers corresponding procedures for that state. Over half of the detainees in Jammu and Kashmir are held under the PSA. Jammu and Kashmir police reported that 514 persons were being held under the PSA as of December 31, 1998. In September and November alone, the Jammu and Kashmir police arrested 25 members of the Kashmiri separatist All Parties Hurriyat Conference (APHC). These arrests followed a series of terrorist attacks in the state for which members of this group allegedly were responsible (see Sections 1.a., 1.g., and 4). On October 8, Chief Minister Farooq Abdullah told a public audience that because Hurriyat leaders had planted land mines, buried hand grenades, and used violence to sabotage the polls, "We are going to be very harsh and I am sending them to the places where they will see no hope." Hurriyat leaders were sent to Jodhpur jail for 3 years. Although prison officials denied the APHC members legal counsel on October 13, they subsequently granted access on October 27. On November 15, legal counsel filed a writ petition in the Kashmir High Court that challenged the constitutionality and reasonableness of the PSA. The petition also questioned the legality of the decision to shift the APHC leaders out of the state. In late October Governor Girjesh Saxena told a foreign delegation that the state government had sufficient grounds to detain the leaders, but lacked enough evidence to convict them. The NHRC was asked to take action on the case. In December Shabir Shah, president of the Jammu and Kashmir Democratic

Freedom Party, was released. At the time of Shah's release, Amnesty International issued a statement that expressed concern about the 25 arrested leaders of the APHC and explicitly suggested that the charges were politically motivated.

On November 27, 1997, the Supreme Court upheld the constitutional validity of the Armed Forces Special Powers Act (AFSPA) of 1958. In a representation made to the NHRC, the South Asia Human Rights Documentation Center (SAHRDC) asserted that the act's powers were "too vast and sweeping and pose a grave threat to the fundamental rights and liberties of the citizenry of the (disturbed) areas covered by the act." The SAHRDC asserted that the powers granted to authorities under section 3 of the act to declare any area to be a "disturbed area," and thus subject to the other provisions of the act, were too wide. Moreover, the SAHRDC noted that section 4(a) of the act empowers any commissioned officer, warrant officer, noncommissioned officer, or any other person of equivalent rank in the armed forces to fire upon and otherwise use force, "even to the point of death, if he believes that it is necessary for the maintenance of law and order. Further, section 6 of the act states that "no prosecution, suit or other legal proceedings shall be instituted," except with the previous sanction of the central Government "against any person in respect of anything done or purported to be done in exercise of powers" conferred by the act.

The court system is extremely overloaded, resulting in the detention of numerous persons awaiting trial for periods longer than they would receive if convicted. Prisoners may be held for months or even years before obtaining a trial date. According to a reply to a parliamentary question in July 1994, more than 111,000 criminal cases were pending in the Allahabad High Court, the most serious case backlog in the country, of which nearly 29,000 cases had been pending for 5 to 8 years. A statement to Parliament in July 1996 indicated that criminal and civil cases pending before the country's high courts numbered nearly 2.9 million in 1995, roughly the same as in 1994 but an increase from 2.65 million in 1993. According to the Union Home Ministry, the total number of civil and criminal cases pending for 3 or more years in all courts throughout the country was 5,116,895 on December 31, 1998. In its most recent report, the NHRC reported that nearly 80 percent of all prisoners held between April 1996, and March 1997, were so-called "under-trials," i.e., unconvicted remand prisoners awaiting the start or conclusion of their trials. In March the chairman of the NHRC stated that 60 percent of all police arrests were "unnecessary and unjustifiable," and that the incarceration of those wrongly arrested accounted for 43 percent of the total annual expenditure on prisons. For example, the chairman stated that only 10 to 15 percent of inmates in Delhi's Tihar jail are convicts; the rest are remand prisoners awaiting trial. The NHRC conducted a campaign to release remand prisoners awaiting trial for bailable offenses, but who are unable to afford bail. Through its efforts during the year, 200 such prisoners were released from Delhi's Tihar jail, 100 from jails in Punjab, and 319 from jails in Tamil Nadu.

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

The Government does not use forced exile.

e. Denial of Fair Public Trial

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

Courts of first resort exist at the subdistrict and district levels. More serious cases and

appeals are heard in state-level high courts and by the national-level supreme court, which also rules on constitutional questions. State governments appoint subdistrict and district judicial magistrates. High court judges are appointed on the recommendation of the federal law ministry, with the advice of the Supreme Court, the High Court Chief Justice, and the chief minister of the State, usually from among district judges or lawyers practicing before the same courts. Supreme Court judges are appointed similarly from among High Court judges. The Chief Justice is selected on the basis of seniority.

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

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

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

In Jammu and Kashmir, the judicial system barely functions due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed antimilitant actions; and because of the frequent refusal by security forces to obey court orders. Courts there are reluctant to hear cases involving terrorist crimes and fail to act expeditiously on habeas corpus cases, if they act at all. Similar to 1998, there were a few convictions of alleged terrorists in the Jammu high court during the year. Many more accused militants have been in pretrial detention for years (see Section 1.d.).

Criminal gangs in all four southern states have been known to attack rivals and scare off complainants and witnesses from court premises, denying free access to justice. In some cases, accused persons have been attacked while being escorted by police to the courts. In July an accused person was killed in Kerala in an explosion triggered as he passed by with a police escort.

There were no reports of political prisoners.

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

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

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

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

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

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

Civilian deaths caused by security forces appeared to diminish for the sixth consecutive year in Jammu and Kashmir, although final statistics for 1999 were not available at year's end. This decrease apparently is due to press scrutiny and public criticism of abuses in previous years, the increased training of military and paramilitary forces in humanitarian law, and a greater respect by commanders for the rule of law. The improvement has taken the form of increased discipline and care in avoiding collateral civilian injuries and deaths (i.e., deaths in crossfire). The Union Home Ministry was unable to report how many such deaths occurred during the year but reported that 84 such deaths occurred in Jammu and Kashmir in 1996-1997. The security forces have not ceased to abduct and extrajudicially execute suspected militants, nor have they accepted accountability for these abuses. However, many commanders' inclination to distance their units from such practices has led to reduced participation in them and a transfer of some of such actions to government-supported countermilitants.

According to Kashmiri human rights groups and press reports, on May 9 the police in Srinagar retaliated for the murder of one of their colleagues by attacking civilians in the crowded residential and commercial area of the city where the original incident occurred. Police allegedly cordoned off the area and beat residents, including members of a wedding party. Human rights groups state that members of the Rashtriya Rifles entered the village of Chak Doodipora, Handwara district, Jammu and Kashmir, on April 18 during a search operation. The soldiers allegedly beat some 2 dozen residents, including women and children, leaving 12 of them seriously injured. On May 12, a group of suspected countermilitants invaded the home of a 40-year-old Kupwara college lecturer, murdering him, his wife, his sister-in-law, and his 3-year-old daughter. According to credible reports, in addition to harassment during searches and arbitrary arrests (see Section 1.d.) security forces abduct and sometimes use civilians as human shields in night patrolling and searching for land mines; the abuses so far have occurred mostly in the Kupwara and Doda districts. Because of Doda's inaccessibility, the abuses there allegedly have been underreported greatly.

The spring and summer incursion of Pakistan-backed armed forces into territory on the Indian side of the line of control around Kargil in the state of Jammu and Kashmir and the Indian military campaign to repel the intrusion left 524 Indian soldiers dead and 1,363 wounded, according to December 1 statistics by Defense Minister George Fernandes. Earlier Government figures stated that 696 Pakistani soldiers were killed. A senior Pakistani police official estimated that approximately 40 civilians were killed on the Pakistani side of the line of control. However, additional official Pakistani Government statistics regarding the conflict were not available at year's end. There was some use of torture during the conflict. On June 10, the Pakistan army returned the bodies of six Indian soldiers, which bore evidence of severe torture; however, the ICRC declined an invitation to conduct an autopsy. The fighting also caused some civilian deaths and the internal displacement of as many as 50,000 neighboring residents (see Section 2.d.).

The Kargil conflict resulted in an increased counterinsurgency campaign, often with repressive offensive measures. According to a credible government source, as of early December over 450 militants were killed since the Kargil conflict began. Another credible government source said that offensive operations after the Kargil affair yielded 12 to 17 dead militants per day--that the army and paramilitary Rashtriya Rifles were carrying out major bombing operations with heavy weapons in both the northern and southern Kashmir

valley.

On September 24, seven persons were killed when police in Surat opened fire on a crowd that insisted on changing the parade route of a religious idol through the town. Reportedly, police, fearing an outbreak of communal violence, prevented the Hindu gathering from parading through a Muslim neighborhood past a prominent mosque. When the use of tear gas failed to quell the increasingly restive crowd, police resorted to firing weapons, according to press accounts. State authorities ordered an inquiry into the shooting (see Section 5).

Kashmiri militant groups also committed serious abuses. In addition to political killings, kidnappings, and rapes of politicians and civilians (see Sections 1.a., 1.b., and 1.c.), insurgents engaged in extortion and carried out acts of random terror that killed hundreds of Kashmiris. Many of the militants are not Indian citizens, but are Afghani, Pakistani, and other nationalities. Over the last decade, they have made liberal use of time-delayed explosives, land mines, grenades, and snipers. In the fall there was a significant upsurge in militant violence towards security forces, and a tendency to use heavy weapons such as grenades and rockets. Militants killed and injured numerous security personnel and destroyed a great deal of security force property. On July 24, militants fired rockets at a Central Reserve Police Force (CRPF) picket in Doda district, killing one CRPF policeman. On August 6, militants fired rockets at a Rashtriya Rifles camp in Kupwara district; five army troops and six militants were killed, and three soldiers were wounded in the exchange. On August 7, militants ambushed the convoy of a Rashtriya Rifles colonel in Kupwara district, killing four soldiers; in four separate rocket attacks against police and Rashtriya Rifles positions in Kupwara, Chadora, Poonch, and Rajouri districts, militants killed two BSF members and injured seven persons. On August 13, a rocket attack on a Rashtriya Rifles checkpoint in Badgam district killed two soldiers and two militants. On August 14, in six separate but coordinated rocket and small arms attacks on Rashtriya Rifles positions in Kupwara district, militants killed eight army personnel and injured 15 persons. On August 12, two marine commandos were killed near Bandipur, Baramula district, Jammu and Kashmir, when militants detonated a roadside bomb as the marines' vehicle passed. On September 29, a grenade attack on the Civil Secretariat in Srinagar killed one policeman and one civilian. On October 28, two coordinated rocket-propelled grenade attacks against the civil secretariat and a Border Security Post in Srinagar killed 4 persons and injured 20 others. On November 9, militants killed six persons during a grenade attack on an army position in Gandherbal. In addition militants made numerous other attacks and killed and injured many other persons.

On November 11, a bomb blast aboard a Jammu-Delhi train killed 14 persons and injured 12 others; no group claimed responsibility.

During the period of increased attacks against security forces (see Section 1.a.), there was a parallel decline in massacres of unarmed civilians; nevertheless, such attacks continued. Militants carried out several execution-style mass murders of Hindu (Pandit) villagers in Jammu and Kashmir (see Section 5). On February 20, Kashmiri militants killed 20 villagers, including 6 women, 1 girl, and several members of a wedding party, in 3 coordinated attacks on villages in Udhampur and Rajouri districts of the Jammu region (see Section 1.a.). The army stated that the Pakistan-based Lashkar-e-Toiba militant group was responsible for the killings, although the army killed the only two militants identified in the case. Between June 28 and July 1, militants killed 36 civilians in Jammu and Kashmir. On June 28, 15 Muslims of 2 families, including 7 children and 3 women, were shot and killed by militants in Poonch district. On June 29, unidentified assailants shot and killed 12 male Hindu laborers in a village near Anantnag in the Kashmir valley; the workers were separated from their wives and children before being summarily executed. On July 1, nine members of two Hindu families, including three women and a child, were murdered by militants in Poonch district, near the site of the June 28 killings. On July 20, some 20 militants entered 2 houses in Doda district and opened fire with automatic weapons, killing over 15 Hindu persons (see Sections 1.a. and 5).

Also on July 20, in the Poonch district of Jammu region, militants killed four members of

a government road engineering group who are believed to have been migrant Hindu laborers from Bihar. Most officials cited militant anger at the BJP Government over the Pakistani withdrawal from Kargil as the principal reason for the attacks.

Extremist and terrorist activities in the northeast claimed many lives. In addition to ambushes, terrorists increasingly resorted to destroying bridges, laying time bombs on roads and railway tracks, and in one instance, detonating a bomb in a busy railway station. On April 27, five persons, including three Border Security Force personnel, were killed when the ULFA blew up their vehicle in Barpeta district, Assam. On June 22, a bomb exploded in the new Jaijpur railway station in Siliguri, West Bengal, killing 9 persons and seriously injuring 65 others; those persons responsible for the bombing were not identified. Six policemen and a home guard were killed on June 29 when suspected Bodo Liberation Tigers Force (BLTF) militants blew up two police cars using a remote-controlled device. On April 15, Naxalite militants ambushed the vehicle of a Congress Party politician, Sripada Rao, in Karimnagar, Andhra Pradesh, killing him on the spot. As part of a series of Naxalite political killings (see Section 1.a.), on September 13, a bomb attack killed five policemen at a police station in Papannapet, Andhra Pradesh.

Nearly 100 persons were killed in election-related violence throughout the country in September and October (see Section 3). On September 7, in the Anantnag district of Kashmir, Ghulam Hyder Noorani, a BJP parliamentary candidate, was killed by a remote-detonated land mine, along with two bodyguards. On September 9, militants threw a hand grenade into a jeep, injuring 11 BJP activists and 2 policemen. Numerous Hurriyat leaders, who were suspected of the attacks, later were arrested (see Section 1.d.). Militant groups in the northeast states of Assam, Tripura, and Manipur, killed persons prior to the election and fired on polling places and security forces deployed for the voting. Approximately 15 civilians and 14 security force members were killed in the northeast as a result of election violence. In Tripura the NLFT also used land mines, and the NFLT shot and killed numerous civilians (see Section 5). Violence also marred the elections in Bihar. On September 18, in the first phase of polling for the Lok Sabha elections in Bihar, extremists from the Maoist Communist Center and the People's War, set up land mines in four of the constituencies on routes leading to polling booths. In Palamau a land mine blew up a truck carrying police personnel. Near Barhi, Hazaribagh, nine persons were killed in two bomb incidents (see Sections 1.a. and 3). During the year, police arrested numerous persons suspected of involvement in previous terrorist attacks. Charges also were brought against persons accused of involvement with human suicide bomb attacks to advance Sikh separatism, as well against dozens of captured separatist insurgents in Jammu and Kashmir for bombings, killings, and acts of sabotage.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, there are some limitations. A vigorous 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 champions human rights and criticizes perceived government lapses. Under the Official Secrets Act, the Government may restrict publication of sensitive stories; however, the Government sometimes interprets this broadly to suppress criticism of its policies. Human rights monitors state that government pressure caused one national English-language daily to suppress some stories and to transfer a reporter in 1998. The 1971 Newspapers Incitements to Offenses Act remains in effect in Jammu and Kashmir. Under the act, a district magistrate may prohibit the press from publishing material resulting in "incitement to murder" or "any act of violence." As punishment the act stipulates that the authorities may seize newspapers and printing presses. Despite these restrictions, newspapers in Srinagar regularly publish militant press releases attacking the Government and report in detail on alleged human rights abuses. The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with militant leaders and filed reports on

government abuses. For a week in June, during the confrontation between Indian forces and Pakistan-backed forces in the Kargil region of Jammu and Kashmir (see Section 1.g.), journalists were barred from traveling to the immediate area of the fighting. However, the Government allowed the acts of violence that occurred in Jammu and Kashmir during the September and October elections (see Sections 1.g. and 4) to receive wide coverage. In contrast, during the 1996 and 1998 elections, the state government banned the publication of any material aimed at intimidating the electorate.

In May the NHRC directed the Punjab police to submit a report on a complaint filed by journalist and author Harinder Singh alleging that police tortured him. Singh is the author of a novel called "Vanity Incarnate," which is controversial in Punjab because of its portrayal of Sikh gurus. In his complaint, Singh alleged that after receiving several death threats he went to police seeking protection. Shortly thereafter, police allegedly took Singh from his residence, assaulted him, and subjected him to electric shocks. According to the complaint, police held Singh for 20 weeks during which time he continuously was tortured. After being released on bail on April 21, Singh filed a complaint against police in the Punjab and Haryana High Court. Also in Punjab, the NHRC in July 1998 called for a CBI investigation into the 1992 abduction of journalist Avtar Singh Mander, who has not been seen since his disappearance in Jalandhar. Witnesses allege that police officials picked up Mander, a charge the police deny. A May 1994 investigation by Punjab state authorities found that Mander had not been taken into custody, and no further effort was made by authorities to trace his whereabouts.

In Assam the state government has attempted to impede criticism by filing a number of "criminal defamation" charges against journalists. Police beat Prakash Mahanta, a reporter for the Assamese-language daily Natoon Samoy, at his home, then arrested and detained him at Nagaon state police station in 1998. Press freedom campaigners allege that Mahanta's "crime" was to write an article detailing alleged campaign irregularities by the wife of Assam chief minister Prafulla Kumar Mahanta. According to news reports, the chief minister denied the charge and said that Prakash Mahanta had been involved in "anti-national" activities. According to human rights activists, Mahanta was released and never convicted. In the beginning of the year, the editor of the Assamese daily Assam Pratidin was arrested and charged.

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

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

National television and radio, which are government monopolies, frequently are accused of having a strong pro-Government bias. However, international satellite television is widely distributed in middle class neighborhoods by cable and gradually is eroding the Government's monopoly on television.

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

A government censorship board reviews films before licensing them for distribution. The

board deletes material deemed offensive to public morals or communal sentiment. Producers of video news magazines also must submit their products to the board, which occasionally censors stories that portray the Government in an unfavorable light. The board's rulings may be appealed and overturned. In March the Maharashtra government censored the film "Fire," charging that its depiction of a lesbian relationship offended morals. The decision came after members of the Hindu fundamentalist Shiv Sena political party ransacked the theater in which the film was being shown. The film was not censored in any other state; Shiv Sainiks similarly ransacked a theater showing the film in Delhi.

Intimidation by militant groups results in a good deal of self-censorship. Kashmiri militant groups threatened journalists and editors and even imposed temporary bans on some publications that were critical of their activities. In August militants just outside Srinagar fired on a television camera crew. Kashmiri militants attempted to halt cable television broadcasts in the Kashmir valley during the year, claiming that they contained "un-Islamic" programming. In a concerted year-long campaign, militants of the Harkat-ul-Ansar terrorist group threatened and targeted cable operators in Kashmir with violence. For example, on December 1 suspected HUA militants hurled a grenade at a cable operator's shop in Srinagar, injuring three persons. Earlier in the year, militants fired at a cable operator in Bemina, injuring two persons, and bombed a cable shop in Zakura, injuring three persons.

In July political parties in favor of the building of the Sardar Sarovar dam across the Narmada river burned copies of the book "The Greater Common Good," by novelist Arundhati Roy, which discusses the socio-environmental costs of the Narmada project (see Section 2.d.). Facing threats from the youth wings of the BJP and the Congress party, bookstores in Ahmedabad, Gujarat, also began to remove the book from their shelves.

Citizens enjoy complete academic freedom, and students and faculty espouse a wide range of views. In addition to 10 national universities and about 160 state universities, states are empowered to accredit locally run private institutions.

b. Freedom of Peaceful Assembly and Association

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

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

On June 11, police killed 4 fishworkers and injured 13 others when they opened fire on an anti-shrimp culture protest organized by the NGO Chilika Matsyajibi Mahasangh in Orissa.

In July 17 persons drowned in a river in Tirunelveli, Tamil Nadu when thousands of demonstrators ran to escape a police beating. The demonstrators were demanding government intervention in a labor dispute at a local tea estate and the release of 652 estate workers who had been imprisoned after a previous demonstration (see Section 1.a.).

Beginning at midyear, the Government implemented a new requirement that NGO's secure the prior approval of the Ministry of Home Affairs before organizing international conferences. Human rights groups contend that the new requirement provides the Government with substantial political control of the work of NGO's and is an abridgement of their freedom of assembly and association. In July three foreign nationals were denied visas to attend an annual conference on building civil society; the conference was

sponsored by a foreign university and held in Bangalore. The organizers decided to disregard the ban and hold it anyway. On the eve of the event, the Australian chair of the IALC was detained briefly, but the conference nevertheless was held and the police did not detain anyone else.

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

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. India is a secular state in which all faiths generally enjoy freedom of worship; Government policy does not favor any religious group. However, tension between Muslims and Hindus, and to a lesser extent between Hindus and Christians, continues to pose a challenge to the secular foundation of the State (see Section 5). In addition governments at state and local levels only partially respect religious freedom.

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

There are many religions and a large variety of denominations, groups, and subgroups in the country, but Hinduism is the dominant religion. According to 1998 government statistics, Hindus constitute 82.4 percent of the population, Muslims 12.7 percent, Christians 2.3 percent, Sikhs 2.0 percent, Buddhists 0.7 percent, Jains 0.4 percent, and others, including Parsis, Jews, and Baha'is, 0.4 percent.

The Religious Institutions (Prevention of Misuse) Act makes it an offense to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crimes.

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

No national law bars proselytizing by Indian Christians. Foreign missionaries generally can renew their visas, but since the mid-1960's the Government has refused to admit new resident foreign missionaries. New arrivals currently enter as tourists on short-term visas. During the year, as in the past, state officials refused to issue permits for foreign Christian missionaries to enter some northeastern states. In March several declared missionaries reported that the Government had instituted a policy of not renewing missionaries' visas. Renewal had been routine until the institution of this new policy. The policy is being applied unevenly, as at least one Christian missionary succeeded in obtaining an extension as late as the fall of 1998. Missionaries and religious organizations must comply with the Foreign Contribution Regulation Act (FCRA), which restricts funding from abroad and, therefore, the ability of certain groups to finance their activities. The Government is empowered to ban a religious organization if it has violated the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition. There is no ban on professing or propagating religious beliefs, but speaking publicly against other beliefs is considered dangerous to public order, and is prohibited.

In September the Union Home Ministry, after declining to extend his visa, ordered a 57-year-old American priest to leave the country. Father Anthony Raymond Ceresko, a teacher at a seminary in Bangalore, entered the country in 1991 and had been able to renew his residence permit every year since until this year. Ceresko left the country on September 17.

In early February, following a series of attacks on Christians, the office of the director general of police in Gujarat reportedly sent a circular instructing district officials to collect information about Christians, including the number of missionaries, their funding sources, and the "tricks" they used to convert persons. After public criticism of the census, the government of Gujarat stated that it was being conducted to assist in the protection of Christians and later expanded it to cover Hindus as well. However, Christians obtained a court order barring the census. On March 2, the government of Gujarat withdrew the effort. However, in December the United Christian Forum for Human Rights and its convener, John Dayal, expressed concern to the press about a "survey" of Christian institutions and missionaries allegedly being conducted by the Delhi police. Dayal said that police had been asking the principals of Christian schools, the heads of Christian-affiliated hospitals, and individuals about their background and funding sources. Those persons questioned reportedly were asked to fill out a form ordinarily reserved to take the written statements of suspected criminals. The Forum complained that "such surveys tend to intimidate the sisters, priests, and individuals."

While the law is meant to protect religious freedom, enforcement of the law has been poor, particularly at the state and local levels, where the failure to deal adequately with intragroup and intergroup conflict and with local disturbances has abridged the right to religious freedom. In particular, Hindu extremist groups continued to attack Christians. In many cases, the government response was inadequate, consisting largely of statements criticizing the violence against Christians but with few efforts to hold accountable those persons responsible or to prevent such incidents from occurring (see Section 5). Throughout the year, the Government generally described the violence and attacks as a series of isolated local phenomena, in some states calling for a national debate on conversions, which Hindus had advocated being banned. On February 19, Muslim imams and Members of Parliament joined Christian leaders to rally against the Prime Minister's call for a debate on conversions and to criticize the BJP's slow response to attacks against Christians. In August a bill was introduced in Gujarat that would allow harsh punishment to be meted out to anyone in the state found guilty of converting someone to another religion through use of force, provision on material benefits, or fraud. Human rights groups fear that if passed the bill--called the Gujarat Freedom of Religion Bill, 1999--could be used to restrict the fundamental right to choose one's religion. At year's end, the bill was still up for legislative review.

In 1998 and early 1999 there was an unusual and serious outbreak of societal violence against Christians, apparently sparked by rumors of "forced conversions" of Hindus to Christianity (see Section 5). The Government reacted with statements criticizing the violence against Christians, but efforts to prevent such incidents from occurring and to prosecute those responsible at the state and local levels were inadequate. In early 1999, the Government described the violence as a series of isolated local phenomena. The Prime Minister on January 4 pledged not to tolerate any further violence against Christians. In early January, the state government of Gujarat increased police protection for Christians in the Dangs district, but stated that the press had blown the recent incidents of violence against Christians out of proportion. On January 10, Prime Minister Vajpayee visited the Dangs district in Gujarat. However, the positive effect of this gesture was mitigated by the presence in his entourage of Hindu Jagaran Manch president Janubhai Pawar, who had been arrested in connection with violence against Christians that occurred on December 25, 1998. While in Gujarat, Vajpayee called for a national debate on conversions, which some Hindu groups had requested be banned. During the same month, Home Minister L.K. Advani called for a thorough study to determine by how much the Christian population in the Dangs area had grown in the last 10 years and what factors had led to violence and anger over alleged "forced conversions." On January 26, President

Narayanan made a televised plea for religious tolerance. On January 30, the anniversary of the death of Mahatma Gandhi, Prime Minister Vajpayee criticized the recent attacks, called for religious tolerance, and announced that he would start a fast to protest the recent violence against Christians and against low caste Hindus by higher caste Hindus in Bihar. Also on January 30, Madan Lal Khurana, Minister of Public Affairs and Tourism, who had been critical of the Government's handling of the recent attacks, resigned. He claimed that he had been silenced when he tried to criticize Hindu militants who made anti-Christian statements. In early 1999 the district superintendent of police and the district collector were transferred out of the Dangs district, and the governor of Gujarat was shifted to another state.

On occasion, Hindu-Muslim violence led to killings and a cycle of retaliation. In some instances, local police and government officials abetted the violence, and at times security forces were responsible for abuses. Police on occasion accompanied Hindu fundamentalists who were responsible for violence (see Section 5). Government officials allegedly also place bureaucratic roadblocks in front of Christian-affiliated foreign relief organizations, many of which are not engaged in religious activities (see Section 4). In a few instances, state governments investigated and sometimes arrested suspects in cases of anti-Christian violence. For example, after an Australian missionary was murdered in Orissa (see Section 5), several suspects were arrested. In another instance, the Tamil Nadu government ordered the police to investigate a series of church burnings (see Section 5); however, no one had been arrested at year's end. In general government response has been poor with respect to such incidences.

In August the central Home Ministry banned the Biennial Meeting of the International Anglican Liturgical Consultation (IALC) in Kottayam, Kerala.

On January 7, the National Commission for Minorities (NCM), a quasigovernmental body established in 1992 to protect the rights of religious minorities, sent a team to Gujarat to depose witnesses and evaluate the Government's response to the recent violence against Christians. The government of Gujarat reportedly tried to stall the efforts of the team. The NCM released a report on January 31, which was critical of the Government's response to the occurrences, stating that "the communal situation in Gujarat is serious and of alarming dimensions and there is a pressing need to take extraordinary steps to prevent it from flaring up further and spreading to other parts of the country." The NCM urged the central Government to invoke Article 355 of the Constitution, which would empower the central Government to "give direction" to a state government to ensure compliance with federal laws, on the grounds that the government of Gujarat had failed to take adequate measures to check the violence against minorities. The recommendation was not accepted. On January 13, the NCM chairman, Professor Tahir Mahmood, said that the NCM had recommended that Hindus be declared minorities in 5 states--Jammu and Kashmir, Punjab, Meghalaya, Mizoram, and Nagaland, and in the Lakshadweep Union Territory; this would help the NCM to recognize the problems of Hindus in those states.

The BJP is one of a number of offshoots of the Rashtriya Swayamsewak Sangh (RSS), an organization that espouses a return to Hindu values and cultural norms. Members of the BJP, the RSS, and other affiliated organizations were implicated in incidents of violence and discrimination against Christians and Muslims. The BJP and RSS express respect and tolerance for other religions, but the RSS in particular opposes conversions from Hinduism and believes that all Indians should adhere to Hindu cultural values. The BJP officially agrees that the caste system should be eliminated, but many of its members are ambivalent about this. Most BJP leaders are also RSS members. The BJP's longstanding cultural agenda includes calls for construction of a new Hindu temple to replace an ancient Hindu temple that was believed to have stood on the site of a mosque in Ayodhya that was destroyed by a Hindu mob in 1992; for the repeal of Article 370 of the Constitution, which grants special rights to the state of Jammu and Kashmir, India's only Muslim majority state; and for the enactment of a uniform civil code that would apply to members of all religions. All of these proposals are opposed strongly by some minority religious groups. However, the BJP-led national Government took no steps to implement these measures and has promised that it would not do so during its tenure in the Parliament.

While at the national level the BJP has downplayed its Hindu nationalist agenda, some Christian groups have noted the coincidence of its coming to power and an increase in complaints of discrimination against minority religious communities. These groups also claim that BJP officials at state and local levels have become increasingly uncooperative.

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

Citizens enjoy freedom of movement within the country except in certain border areas where, for security reasons, special permits are required. Under the Passports Act of 1967, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government uses this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and the violent separatist movement in Jammu and Kashmir. On September 23, the Government prevented Mirwais Unmar Farooq and Maulana Mohammad Abbas Ansari, two members of the All Parties Hurriyat Conference, a Kashmiri separatist group, from leaving the country to attend a meeting of the Organization of Islamic Conference. On May 11, the Union Home Ministry accepted the recommendation of the NHRC and permitted another member of the APHC to travel abroad for medical treatment.

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

On June 18, the NHRC received a complaint alleging that more than 4,700 families that were forced to leave their homes in Karwar, north Kerala, due to planned construction of the navy's Sea Bird Naval Base were compensated inadequately for their homes.

Human Rights Watch alleged that the Maharashtra government colluded with the Dabhol Power Corporation to suppress peaceful protests over the forcible eviction of 2,000 persons from their homes (see Section 1.c.).

In February the Supreme Court lifted its stay on the construction of the Narmada dam in Madhya Pradesh after the Gujarat government promised displaced families greater compensation (among other improvements). However, many human rights advocates and NGO's continued to allege that the construction of the dam would displace 40,000 families without adequately compensating those who are resettled (see Section 2.b.). (Opposition to the Narmada project was greatest during the early 1990's, resulting in prolonged financial and legal stalls.)

Citizens may emigrate without restriction.

Since 1990, more than 235,000 Bangladeshis have been deported, many from Maharashtra and West Bengal. The occasional deportation of Bangladeshis judged to have entered the country illegally continued during the year, but there was no repetition of the systematic roundup of Bangladeshis for mass deportation that was conducted by the government of Maharashtra in 1998. The Government estimates that there are 10 million Bangladeshis living illegally in the country.

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

The Government recognizes certain groups, including Chakmas from Bangladesh, Tamils from Sri Lanka, and Tibetans, as refugees and provides them with assistance in refugee camps or in resettlement areas. According to UNHCR and government statistics, there were approximately 98,000 Tibetans, approximately 70,337 Sri Lankan Tamils in 131 camps, and perhaps as many as 80,000 Sri Lankan Tamils outside of the camps living in the country at year's end. The refugees in the camps are not permitted to work. Many Chakmas from Bangladesh have been repatriated voluntarily, including all of the estimated 56,000 persons who had been residing in Tripura. Some 80,000 Chakma permanent residents remain in Arunachal Pradesh and Mizoram; their right to citizenship has been upheld by the Supreme Court. However, the Supreme Court's order to extend citizenship to this group was not implemented by year's end. The UNHCR reports that 14,962 Afghans, 664 Burmese, 189 Iranians, 173 Somalis, 81 Sudanese, and 60 others, including Iraqis and Ethiopians, were receiving assistance from the UNHCR in the country as of August 31. Although the Government formally does not recognize these persons as refugees, it does not deport them. Instead, they received renewable residence permits or their status was ignored. Increasingly during the year, some of these groups--Afghans, Iraqis, and Iranians in particular--were not granted renewal of their residence permits by the authorities on the grounds that they were not in possession of valid national passports. Due to financial and refugee-related reasons, many refugees were unable or unwilling to obtain or renew their national passports and were, therefore, unable to regularize their status in India.

The government of Tamil Nadu provides educational facilities to Sri Lankan Tamil refugee children, and the central Government provides some assistance and channels assistance from NGO and church groups. The central Government has, for the most part, denied NGO's and the UNHCR direct access to the camps. NGO's report refugee complaints about deteriorated housing, poor sanitation, delayed dole payments, and inadequate medical care in the Tamil refugee camps. The NHRC has intervened to uphold the right of several Sri Lankan Tamils detained in so-called "special camps" to remain in the country. The Government uses these camps to hold suspected members of the LTTE terrorist organization. Human rights groups allege that inmates of the special camps sometimes are subjected to physical abuse and that their confinement to the camps amounts to imprisonment without trial. They allege that several of those acquitted by the Supreme Court on May 11 of involvement in the assassination of former Prime Minister Rajiv Gandhi (see Section 1.a.) remain confined in these special camps.

More than 260,000 Santhals are displaced due to ongoing Bodo-Santhal violence, and live under poor conditions in relief camps in Assam's Kokrajhar, Gosaigaon, and adjoining districts (see Section 1.a.).

Ethnic Chins are among the nonrecognized refugees in the northeastern states, particularly Mizoram. Chins and Chakma refugees have been targeted by student-led demonstrations protesting their presence in Mizoram. Recent tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly have resulted in the detention, interrogation, and expulsion of some persons associated with the CNF. Human rights monitors allege that a unit of the Assam Rifles of the Indian army raided a Chin refugee camp in Mizoram in July, killing six suspected members of the CNF and

destroying the camp. In Manipur the Manipur Underground attempted to impose a \$3 (130.5 rupees) "tax" on all non-Manipuris above the age of 12 as the price for continued permission for them to live in the state. The National Liberation Front of Tripura is imposing a similar tax in Tripura. On March 13, a tribal woman was beaten by fellow tribals in Udaipur subdivision, Tripura, because she lived in a "Bengali locality" (see Section 1.c.). (Tribals reportedly feel threatened by the influx of Bengali-speaking persons from West Bengal and Bangladesh, and believed to have regarded her residence as a betrayal of her people.)

Mizoram human rights groups estimate that some 37,000 Reangs, a tribal group from Mizoram, which has been displaced due to a sectarian conflict, presently are being sheltered in four camps in North Tripura; conditions in their camps are poor and the Tripura government has asked the central Government to allot funds for their care. In August the Mizoram government announced its willingness to take back the displaced Reangs.

The spring and summer incursion of Pakistan-backed armed forces into territory on the Indian side of the line of control around Kargil in the state of Jammu and Kashmir and the Indian military campaign to repel the intrusion forced as many as 50,000 residents of Jammu and Kashmir from their homes, a number of whom took refuge on the Pakistani side of the line of control. Many had their homes destroyed and remained displaced at year's end (see Sections 1.a., 1.c., and 1.g.).

On December 21, the Assam government offered a good will "safe passage" for 11 days to militant groups so that they could visit their families without fearing arrest; 173 militants mostly belonging to ULFA accepted the offer. The only strings attached were that the militants could not carry weapons and that they should inform the police about their intentions to visit their families.

There were no reports during the year of the forced return of persons to countries where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

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

On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a state's constitutional machinery. The Supreme Court in May 1995 upheld the Government's authority to suspend fundamental rights during an emergency. President Narayan dissolved the lower house of Parliament on April 17 after the BJP-led government lost a vote of confidence in the Lok Sabha. Elections were held in September and October. Some 374 million voters, or 62.04 percent of the electorate, cast ballots. The new Government, a coalition of 13 political parties in the BJP-led National Democratic Alliance government, was sworn into office under Prime Minister Vajpayee on October 13.

More than 100 persons were killed in election-related violence in various parts of the country, predominantly in Kashmir, Tripura, Assam, Maharashtra, Andhra Pradesh, and Bihar (see Section 1.g.), and there were localized allegations of voter fraud. Human rights groups reported that security forces in some parts of Jammu and Kashmir compelled residents to vote and that at least three persons who refused were killed. The worst

violence occurred during the third phase of voting on September 18; rioting on that day left 29 dead in Bihar, including 14 policemen, a magistrate and 11 polling officials.

In Jammu and Kashmir, militants committed numerous abuses--many against civilians--to disrupt voting. On August 29, the Pakistan-based Al Badr militant group stated that it sent militants into Kashmir with the explicit aim of disrupting the elections. The night before the vote, militants reportedly visited several villages warning persons not to vote. It is believed that the principal reason for the low turnout (about 14 percent of the electorate) in Kashmir was the militant threat of violence. In southern Bihar, extremist leftists of the Maoist Communist Conference (MMC) and the People's War Group (PWG) threatened to amputate the hands of persons who voted or to kill them; during the polling-phases, they killed numerous persons (see Section 1.g.).

No legal impediments hinder participation by women in the political process; however, they are underrepresented in government and politics. A large proportion of women participates in voting throughout the country, and numerous women represent all major parties in the national and state legislatures. There are 67 women among the 790 Members of Parliament, including the Deputy Speaker of the Upper House, and there are 6 women in the 69-member Cabinet. The 1993 passage of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, and this has, in fact, brought more than 1 million women into the political arena at the grassroots level. In July 1998 debate over the Women's Reservation Bill, which was designed to reserve one-third of parliamentary seats for women, subsided when the bill's formal introduction was prevented due to opposition from members of both the governing and the opposition parties. The Women's Reservation Bill was introduced in parliamentary sessions in November and December 1998, despite strong opposition, but it was not enacted by year's end.

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

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

Independent human rights organizations operate throughout most of the country, investigating abuses and publishing their findings; however, in some states and in a few circumstances, human rights groups face some restrictions. Human rights monitors in Jammu and Kashmir have been unable to move around the state to document human rights violations due to fear of retribution by security forces and countermilitants. Since 1992 several individuals closely involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, have been attacked and in some cases killed. International human rights monitors have had difficulty in obtaining visas to visit the country for investigation purposes. For example, during the year the authorities continued to deny Human Rights Watch and Amnesty International permission to visit Jammu and Kashmir; however, some foreign diplomats gained improved access to some prisons in Jammu and Kashmir. The Government also continued to deny the U.N. Special Rapporteurs on Torture and Extrajudicial Killings permission to visit the country, despite their repeated requests. Moreover, the police and security forces have targeted human rights monitors for arrest and harassment. However, in February U.N. High Commissioner for Human Rights Mary Robinson was allowed to visit the country. She met with the Prime Minister, Home Minister, and External Affairs Minister.

On September 27, the Ministry of Home Affairs sent a notice to several prominent NGO's asking them to justify their status as nonpolitical organizations under the Foreign Contribution (Regulation) Act. According to Human Rights Watch, the notice effectively

was a threat to cut off foreign funding. The NGO's, many of which worked on women's rights, communal violence, and Dalit and tribal issues, publicly had criticized the policies of the BJP-led Government and the anti-secular activities of the Sangh Parivar, a collective of rightwing Hindu organizations of which the BJP is a member.

Several Christian-affiliated (in many cases, non-evangelical) international relief agencies stated that, during the year, their work in delivering services to the poor became considerably more difficult due to threats, increased bureaucratic obstacles, and, in some cases, physical attacks on their field workers by Hindu extremists (see Sections 2.c. and 5).

According to Amnesty International, on January 8, the Orissa government served a show-cause notice on an NGO that works with tribal communities in the Rayagada and Koraput districts of the state; allegedly, in December 1998 a similar letter was written to another NGO in the region. The notices threatened the organizations with the withdrawal of official registration and funding on the basis of reports that they had been involved in criminal activities and had incited tribal people to violence in an attempt to prevent the establishment of industrial projects in the district. Allegedly, two more NGO's later were threatened with withdrawal of funding. There is widespread opposition to the construction of bauxite mines and aluminum processing plants in the area where the NGO's are working.

No definitive resolution of the case of abducted and murdered Kashmir human rights monitor Jilil Andrabi was reached. Human rights workers alleged that the State was attempting to subvert the judicial process by withholding evidence (see Sections 1.a. and 1.b.). In Assam the investigation into the 1996 murder of human rights monitor and journalist Parag Das has yielded no definitive information on the identity of his killer. The assailant was allegedly a militant who previously had surrendered and was supported by the Government (see Section 1.a.). On June 8, 1998, special operations group personnel of the Jammu and Kashmir police arrested Ali Mohammad Sheikh, a researcher for a local human rights organization, in Dalgate, Srinagar. Sheikh initially was held at the Khanabal, Anantnag special operations group camp and family members were denied permission to see him. Also in June 1998, the government of Andhra Pradesh issued a directive to faculty members of state universities not to associate with the Andhra Pradesh Civil Liberties Committee (APCLC), a well-respected human rights organization. The state government provided no explanation as to why it had taken this action. By year's end, there had been no enforcement of the directive, but it had not been rescinded. On June 8, an agent of the intelligence wing of the New Delhi police visited and questioned the director of the South Asia Human Rights Documentation Center about his appeal for intervention to secure the release of a Kashmiri human rights monitor and political dissident arrested a few days earlier.

The NHRC and the Manipur state Human Rights Commission both expressed concern for the safety of Wahengbam Joykumar Singh, a human rights monitor from Manipur, according to Amnesty International. On June 28, Joykumar Singh visited the camp of the Assam Rifles, an army unit, to recover his identity card taken from him by soldiers of this unit the previous day. A unit captain allegedly warned Joykumar Singh that he would be killed unless he withdrew two complaints of human rights violations he had filed against members of the unit; Joykumar Singh reportedly went into hiding shortly thereafter and remained in hiding at year's end. On April 16, Y. Mani, Vice President of the All Manipur United Clubs Organization (AMUCO) was taken into custody by a unit of the Rashtriya Rifles, beaten and threatened with death, according to Amnesty International. Just prior to the arrest, the AMUCO had issued a public complaint about human rights violations by security forces in Manipur. Mani was handed over to the superintendent of police in Bishenpur district, Manipur, and released on April 17, after the intervention of the state governor. Delhi High Court requested the Ministry of External Affairs to respond to a complaint by human rights monitor and Islamic scholar Iqbal Ahmad Ansari that he had been denied renewal of his passport and consequently was unable to attend the Parliament of the World's Religions in South Africa. Ansari alleged that he applied for passport renewal in August in the regional passport office in Bareilly, Uttar Pradesh in anticipation

of the December 1-8 Parliament in Cape Town, but that the office took no action on his application despite his repeated requests.

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

Between April 1996, and March 1997 (the most recent reporting year), the NHRC received 20,514 new complaints of human rights violations. At the end of that period, 4,010 complaints awaited consideration. Of the 16,823 cases considered during the year, 8,048 were dismissed; 2,272 were transmitted to other governmental authorities for disposition; 528 were concluded, and 5,975 were pending. In the preceding 12-month period (April 1995 through March 1996), the Commission received 10,195 complaints. The increased number of complaints in the most recent reporting year is believed to be the result of the Commission's increased visibility. That trend continued, and the Commission estimated that it had received more than 70,000 complaints during its 1997-98 reporting year. By the end of the year, the report for that year still had not been published.

The NHRC has sought to encourage a culture supportive of human rights by fostering human rights education in schools and universities, by offering support and encouragement to human rights NGO's, by supporting training programs for the police, military forces, and paramilitary forces, and by making recommendations to the central and the state governments. During the year, the NHRC carried out, with the assistance of NGO's, a human rights training program for state police that include stress counseling. The NHRC also has influenced the legislative process (particularly in advocating abolition of the TADA, and by proposing prison reform legislation. State human rights commissions exist in Assam, Manipur, Himachal Pradesh, Madhya Pradesh, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala, and Rajasthan; Uttar Pradesh took legal steps to establish a commission but has yet to appoint members. In addition special courts to hear human rights cases have been established in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh. The courts in Uttar Pradesh are not functioning, and in September, the state high court ordered that they be activated; despite the order, by year's end they were not. The NHRC also encouraged the establishment of human rights cells in police headquarters in the states.

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

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

A People's Commission that was established in 1998 by retired Supreme Court Justice Kuldeep Singh to highlight the fate of more than 2,000 persons who "disappeared" during the period of political unrest in Punjab received little cooperation from state government authorities.

The prison visits program in Jammu and Kashmir by the International Committee of the Red Cross, initiated in October 1995, continued during the year (see Section 1.c.). ICRC representatives also continued training police and border security force personnel in international humanitarian law.

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

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

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

Women

Domestic violence is common. According to a 1996 survey in Uttar Pradesh, 30 percent of married men acknowledged physically abusing their wives. Dowry disputes also are a serious problem. In the typical dowry dispute, a groom's family members harass a new wife whom they believe has not provided a sufficient dowry. This harassment sometimes ends in the woman's death, which family members often try to portray as a suicide or kitchen accident. Although most "dowry deaths" involve lower and middle-class families, the phenomenon crosses both caste and religious lines. According to National Crime Records Bureau (NCRB) statistics, 6,006 dowry deaths occurred in the country in 1997, including 1,786 dowry deaths in Uttar Pradesh, 761 in Bihar, 550 in Madhya Pradesh, 520 in Andhra Pradesh, 420 in Maharashtra, 195 in Karnataka, 153 in Tamil Nadu, and 25 in Kerala.

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

The issue of rape has received greater political and social attention. In Orissa in January, the victim of a 1997 rape in which the state advocate general Indrajit Roy was charged, was gang raped in apparent retaliation for her pursuit of charges against Roy. Roy was forced to resign in August 1998, nearly a year after attempted rape charges were filed against him. The victim originally had gone to him seeking assistance in a dowry case against her husband. The media was very critical of the state government's handling of the case, and the gang rape was cited as one of the reasons that Orissa Chief Minister J.B. Patnaik subsequently was forced to resign on February 7. After the gang rape, the NHRC directed the state's chief of police to provide police protection to the victim and to submit a full report on the incident to the Commission. The press consistently reports that such violence-against women is increasing, although local women's organizations claim that there simply has been increased reporting. Only 10 percent of rape cases make it through the courts, and police typically fail to arrest rapists. The NHRC criticized the conduct of an investigation into a well-publicized kidnapping and rape case in Rajasthan that occurred during the year. Acting on an anonymous complaint, the NHRC and local police rescued a 24-year-old woman who had been held in the Jaipur home of Manohar Lal Sharma for 2 to 3 years and repeatedly raped; six persons were charged. Police in Jaipur earlier had reported that they had been unable to locate the woman and that those persons whom are now accused could not have been involved because they were from "respectable families," according to press reports. On October 3, Delhi police constable Deepak Dubey was dismissed from service, arrested, and charged with raping a sex worker in the Kamla Market police station. On December 13, Pappan Singh, Kanji, an Padam Singh, three brothers from Geejgar village, Dausa district, Rajasthan, allegedly broke into a low caste "Dalit" home in the village, raped a 16-year-old woman, then poured kerosene on her and set her on fire, causing her to die. Two of the suspects were arrested and charged with murder and rape; the third, Padam Singh, was being sought at year's end.

The Union Home Ministry reported that there were 15,452 cases of rape reported in 1998.

According to NCRB statistics for 1997, there were 15,330 rapes reported that year, 15,617 abductions of women, 6,006 dowry deaths, 36,592 reported cases of torture of women, 30,764 cases of molestation, and 5,796 cases of sexual harassment. The NCRB recorded a total of 121,265 crimes against women in 1997, up from the 1996 total of 115,723. Also in 1997, 678 cases of gang rape were recorded. Gang rapes often are committed as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes and feuds.

Numerous laws exist to protect the rights of women, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However, the Government often is unable to enforce these laws, especially in rural areas where traditions are deeply rooted. According to press reports, the rate of acquittal in dowry death cases is high, and because of court backlogs it takes 6 to 7 years on average to dispose of such cases.

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

Prostitution is widespread, with an estimated 2.3 million prostitutes in the country, some 575,000 of whom are children. Many indigenous tribal women are forced into sexual exploitation. In Assam's Chars River islands, some women work as prostitutes in exchange for as little as \$0.23 (10 rupees). In 1998 prostitutes began to demand legal rights, licenses, and reemployment training, especially in Mumbai and New Delhi. In 1997 Karnataka's government made sexual harassment a criminal offense.

Higher female mortality at all age levels, including female infanticide and sex selective termination of pregnancies, accounts for an increase in the ratio of males to females to 107.9 males per 100 females in 1991, from 104.7 males per 100 females in 1981, and from 102.9 males per 100 females at the turn of the century.

Literacy rates for women are significantly lower than rates for men; one recent study found that 38 percent of women were literate, compared with 66 percent of men.

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

The personal status laws of the religious communities discriminate against women. Under the Indian Divorce Act of 1869, a Christian woman may demand divorce only in the case of spousal abuse and in the case of certain categories of adultery; for a Christian man, adultery alone is sufficient. In 1997 the Mumbai High Court recognized abuse alone as sufficient grounds for a Christian woman to obtain a divorce. Under Islamic law, a Muslim husband may divorce his wife spontaneously and unilaterally; there is no such provision for women. Islamic law also allows a man to have up to four wives but prohibits polyandry.

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 should be only one-half that of a son.

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

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

Children

The Government does not provide compulsory, free, and universal primary education, and only approximately 59 percent of children between the ages of 5 and 14 attend school. Of a primary school-age population of approximately 203 million, about 120 million children attend school. No significant sectors or groups actively are excluded, but the economic reality is that children of wealthier families are more likely to attend school than those of poor families. According to a United Nations Development Program (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 the U.N. Children's Fund (UNICEF), 59 percent of boys and 38 percent of girls were enrolled in secondary school. Upon taking office in March 1998, the BJP-led Government pledged to "implement the constitutional provision (Article 45) of making primary education free and compulsory," promising to increase gradually "government and non-government" spending on education to 6 percent of gross domestic product. The Government further pledged to present a "national charter for children," to "take measures to eliminate child labor," and to ensure that "no child remains illiterate, hungry, or lacks medical care." Budgetary allocations for this work were not forthcoming, and by the time the Government fell in April, little had been done to fulfill these pledges. The current BJP-led Government reiterated its earlier pledge, but little was done to fulfill it.

The actual percentage of the Union budget spent on education is approximately 5.9 percent. The state governments also spend on education, but no comprehensive figure of combined federal-state expenditure is available. A 1993 study commissioned by the UNDP estimated that India as a whole devoted about 3.7 percent of gross national product to education.

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

Child prostitution occurs in the cities, and there are an estimated 575,00 child prostitutes nationwide. Trafficking in children for the purpose of forced prostitution is a problem (see Section 6.f.).

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

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

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

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

or sexual abuse of children.

In its most recent annual report, the NHRC detailed its efforts to examine conditions in juvenile homes and to recommend improvements. The Commission also issued directions to all state governments to report within 24 hours any instance of death or rape in such institutions. The Commission reported that it had taken this initiative following receipt of reports of a young boy's death in such a home in Delhi in 1996. Speaking in March, NHRC member Justice V.S. Malimath said that cases of abuse and torture of children confined to juvenile homes had been reported. In some cases, the Commission had acted to transfer oversight of homes to private voluntary organizations "after the (state) government failed to provide a healthy environment to children in these homes."

The Child Marriage Restraint (Amendment) Act of 1929, as amended in 1978, prohibits child marriage, a traditional practice in northern India. The act raised the age requirement for marriage for girls to 18 from 15 years, but the Government does not enforce it effectively. According to one report, 50 percent of girls in Bihar, Rajasthan, Uttar Pradesh, and Madhya Pradesh are married at or before age 16. The Union Home Ministry reported that just 21 cases were registered under the Child Marriage Restraint (Amendment) Act during 1998. The NHRC, in consultation with the National Commission for Women and the Department of Women and Child Development, recommended that a new draft "marriage bill" be enacted to strengthen the prohibitions of the 1929 act. The NHRC, in its 1996-1997 report, criticized the then-government for rejecting this suggestion, a response that the Commission concluded amounted, "essentially, to a total disinclination to strengthen or alter the law, in any respect, or indeed to see to its better implementation in any manner."

The traditional preference for male children continues. Although a law passed in 1994 prohibits the use of amniocentesis and sonogram tests for sex determination, the tests are widely misused for this purpose, and termination of a disproportionate number of pregnancies with female fetuses occurs. In the 11 years since the southern state of Maharashtra passed a law banning the use of such tests for sex determination, the state government has filed charges against one doctor; he was acquitted. Human rights groups estimate that at least 10,000 cases of female infanticide occur yearly, primarily in poor rural areas. Parts of Tamil Nadu (Dharmapuri, Salem, and Madurai districts) still have high rates of female infanticide. According to statistics compiled by the Dharmapuri office of the Directorate of Health Services, 1,260 female infants were killed in the district in 1997. Police have not investigated these cases. In 1998 the Tamil Nadu Human Rights Commission suggested that a separate mandatory police investigation into the death of every female infant become mandatory, but there is no legislation that requires such action. In addition parents often give priority in health care and nutrition to male infants. Women's rights groups point out that the burden of providing girls with an adequate dowry is one factor that makes daughters less desirable. Although abetting or taking dowry is theoretically illegal under the Dowry Prohibition Act of 1961, it still is practiced widely.

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

People with Disabilities

According to regional NGO's, there are over 90 million disabled persons in the country. There is no legislation or otherwise mandated provision of accessibility for the disabled. With the adoption of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act in 1995, a nascent disabled rights movement slowly is raising awareness and empowering the disabled. Although the act extends independence, freedom, and equal rights to all persons with disabilities, most disabled-related organizations admit that its practical effects have been minimal so far, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government. To a large degree, physical impediments still limit mobility, legislation prevents equality, and societal discrimination maintains the status quo of the

disabled.

The Disabled Division of the Ministry of Welfare had a budget provision of more than \$38 million (1.65 million rupees) for the 1998-99 fiscal year for a number of organizations and committees at the national, regional, and local levels. The Ministry delivers rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan commits the Government to putting a rehabilitation center in each of more than 400 districts, but services still are concentrated in urban areas. However, the impact of government programs so far has been limited. Significant funding is provided to a handful of government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. Each program/entity provides specific services or training which include producing aids and prosthetics, promoting disabled-oriented economic development activities, offering training to health-care professionals and vocational instructors concerning disabled-related issues, and providing comprehensive rehabilitation services to the rural disabled.

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

Two significant programs to benefit the disabled are the National Project to Integrate Mentally Retarded in Family and Community and the National Institute for the Multiple Disabilities. The first project, launched in six states in 1998, primarily focuses on children from the economically weaker sections and promotes awareness concerning the mentally disabled, their problems, and their rights. The second, currently being proposed by the Ministry of Welfare, is to provide rehabilitation services to persons with multiple disabilities as well as develop courses and materials to foster greater awareness among communities throughout the country.

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

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

The NHRC continued its efforts to improve conditions in mental hospitals and enhance awareness of the rights of those with mental disabilities during the year. In 1997 it commissioned an assessment of conditions at mental hospitals throughout the country, to be conducted by the National Institute of Mental Health and Neuroscience. The rights of the mentally ill and mentally disabled are provided for in the Constitution and the Mental Health Act of 1987. However, the NHRC noted that despite these protections, conditions in many mental hospitals are far from satisfactory. They continue to embody old concepts of mental health care and essentially function as custodial rather than therapeutic institutions. Overcrowded and serving as "dumping grounds" by desperate relatives, some mental hospitals lack even basic amenities and have poor medical facilities. In August the NHRC reported that it had assumed the management of mental hospitals in Ranchi, Bihar, Agra, Uttar Pradesh, and Gwalior, Madhya Pradesh, at the direction of the Supreme Court.

Indigenous People

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

Despite constitutional safeguards, the rights of indigenous groups in eastern India often are ignored. Indigenous people suffer discrimination and harassment, have been deprived wrongly of their land, and have been subject to torture and to arbitrary arrest. There has been encroachment on tribal land in almost every state of eastern India, including by illegal Bangladeshi immigrants, and by businesses that illegally have removed forest and mineral products. Moreover, persons from other backgrounds often usurp places reserved for members of tribes and lower castes in national education institutions. Mob lynchings, arson, and police atrocities against tribal people occur in many states.

In the Andaman Islands, the local government implemented a policy during the year of permitting development of the Jawara tribal area that threatens indigenous group's way of life. The construction of a road through the forest that is inhabited by this group and the encroachment of Indian settlers have impacted negatively indigenous group's cultural vitality, economic self-sufficiency, and physical and mental health. These integrative policies have been driven in part by humanitarian motives, but interest in commercially exploiting virgin forests inhabited by tribal people is another strong factor. The most recent manifestation of this negative trend was a destructive outbreak of measles among the Jawara tribal people, reported in the press in September.

Such violations led to numerous tribal movements demanding the protection of land and property rights. The Jharkhand Movement in Bihar and Orissa, and the Bodo Movement in Assam, reflect deep economic and social grievances among indigenous people. In the Jharkhand area, tribal people complain that they have been relegated to unskilled mining jobs, have lost their forests to industrial construction, and have been displaced by development projects. The Government has considered the creation of an independent Jharkhand state, but the affected state governments oppose the idea.

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

The 1991 census, the last conducted, showed that 8.08 percent of citizens belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal People (ICITP), 80 percent of the tribal population live below the poverty line. In May 1998, the NHRC established a panel to investigate the condition of the country's 20 million denotified tribal people. These are tribal people who, in 1871, were labeled by the British colonial government as belonging to "criminal tribes." The Colonial Act listing these tribes was repealed in 1951, but the stigma remains and many of these tribal people still are discriminated against actively. According to the ICITP, more than 40,000 tribal women, mainly from Orissa and Bihar, have been forced into economic and sexual exploitation (see Section 6.f.); many come from tribes driven off the land by national park schemes. Special courts to hear complaints of atrocities committed against tribal people were to have been established under the protection of Civil Rights Act of 1976, but this has not been done.

Religious Minorities

The potential for renewed Hindu-Muslim violence remains considerable. Hindus and Muslims continue to feud over the construction of mosques several centuries ago on three sites where Hindus believe that temples stood previously. In 1998 the Sri Krishna Commission, established by the Government to inquire into the cause of Hindu-Muslim riots in Mumbai in December 1992 and January 1993, released its report. The riots, which followed the destruction of a historic mosque in Ayodhya in December 1992, left more than 1,000 persons, mostly Muslims, dead. Maharashtra's BJP-Shiv Sena ruling coalition rejected the report, which laid responsibility for much of the violence on leaders from both parties; several Muslim organizations have asked the Supreme Court to reverse this rejection, but at year's end, the Supreme Court had not reached a decision. In September and October, new state assembly elections were held in Maharashtra and the incumbent BJP-Shiv Sena government was replaced by a coalition led by the Indian National Congress and the Nationalist Congress Party. The new Maharashtra government has pledged to take action on the Sri Krishna report. On July 20, violence erupted between Hindus and Muslims in Ahmedabad, Gujarat, claiming one life. The violence began when a band of Hindu youths set fire to Muslim shops and vehicles after encountering some Muslim youths teasing a mentally disabled woman in the Muslim-dominated old city. Police responded by declaring an area-wide curfew, thereby bringing the rioting under control; however, there was renewed communal violence on July 22, when the curfew was lifted. On August 26, a mob of approximately 15 persons, possibly led by Hindu extremist Dara Singh, mutilated and burned to death a Muslim cattle trader in Padiabeda village, Orissa. According to press reports, men with bows and arrows and axes attacked the cattle trader. Both his hands were severed, and he was thrown into his shop, which had been set ablaze. Some 400 persons witnessed the killing, and 3 suspects were arrested in connection with the killing; however, there were no convictions.

Attacks by Muslim militants seeking to end Indian rule in Jammu and Kashmir, and continued political violence, drove most Hindus in the Kashmir Valley (Pandits) to seek refuge in camps in Jammu, with relatives in New Delhi, or elsewhere. Throughout the year, militants carried out several execution-style mass killings of Hindu villagers and violently targeted Pandits in Jammu and Kashmir (see Sections 1.a. and 1.g.). During the year, there were at least three separate attacks on Pandit villages in Jammu and Kashmir in which some 41 persons were killed. For example, on July 1, Muslim militants are believed to have killed nine members of two Hindu families, including three women and a child, in Poonch district, Jammu and Kashmir. The Pandit community criticizes bleak conditions in the camps and fears that a negotiated solution giving greater autonomy to the Muslim majority might threaten its own survival in Jammu and Kashmir as a culturally and historically distinctive group. The NHRC released a 39-page judgement in June, in response to a petition from Hindu Pandits alleging that genocide had been committed against them. The NHRC found that the crimes against the Pandits "fall short of the ultimate crime: genocide," but stated that compensation to the community had been inadequate.

There was a sharp increase in the number of attacks against Christian communities and Christian missionaries during the year. On December 1, Home Minister L.K. Advani told Parliament that there had been 31 attacks on churches during the year, with 15 occurring in Gujarat, 7 in Tamil Nadu, 5 in Kerala, 2 in Orissa, and one each in Haryana and Madhya Pradesh. He said that 89 persons had been arrested in connection with these attacks and those from previous years. There were approximately incidents during the year, primarily of mob violence that took the form of destruction of churches and religious property and violent attacks on Christian pilgrims and leaders, occurring in all parts of the country. The press reported the following incidents: On January 11, two Christian prayer halls were set on fire and damaged in the Dangs district of Gujarat. On January 27, 12 Christian villagers forcibly were "reconverted" to Hinduism under threat of the loss of the right to use the local well and the destruction of their homes. The "reconversion" was carried out by youths working with Swami Ashim Anand, a Hindu man active in "reconverting" tribal people in the area. However, the villagers stated that prior to

becoming Christians, they had not been Hindu.

On January 23, Australian missionary Graham Staines and his two young sons were killed. The three were asleep in their car in Manoharpur, Keonjhar district, Orissa, when a mob shouting Hindu slogans set fire to their car. Villagers who tried to help Staines and his sons reportedly were beaten. Staines and his sons were in the village to attend an annual bible camp. Staines had worked in the country for many years and ran a hospital and clinic for lepers in Orissa. Police arrested 51 suspects in connection with the crime and sought others, including Dara Singh, who allegedly organized the attack and is a supporter of the Bajrang Dal. However, most of those arrested were released due to insufficient evidence. Some of the suspects reportedly were members or supporters of the Bajrang Dal. On January 30, Home Minister L.K. Advani stated that the Bajrang Dal was not involved in the Staines killings. However, soon after the incident, the Government ordered a judicial inquiry into the killings. Supreme Court Justice D.P. Wadhwa was appointed to head the Commission of Inquiry. The Commission was criticized for not moving as aggressively as many had hoped; the head of the Commission criticized the central Government for failing to provide adequate resources to conduct the investigation. Hearings were held from March 30 to April 17 in Bhubhaneshwar, Orissa. The report of the Commission of Inquiry was submitted to the Government on June 21, and was made public on August 5. The Wadhwa Commission report found no evidence of involvement of the Bajrang Dal or any other "politico-religious organization." It found that the Staines murders were perpetrated under the direction of Rabindra Kumar Pal, alias Dara Singh, a wanted criminal and Hindu extremist. The report nevertheless documented Dara Singh's support for the Bajrang Dal. The National Commission for Minorities and other human rights monitors disputed the Wadhwa Commission finding. The National Commission for Minorities's own, separate inquiry found evidence suggesting that the Bajrang Dal was involved in the murders. Villagers questioned by the commission reportedly stated that the killers cheered "long live the Bajrang Dal" shortly before the attack took place.

On March 16, clashes between Hindu and Christian tribal people in the village of Ranalai, southern Orissa broke out, which resulted in injuries to more than 12 persons and the burning of 157 Christian homes. The dispute began in February when a Christian cross that had been etched into a hillside 20 years earlier was converted into a Hindu Trishul (trident symbol). Local Christians painted over the trident and repainted the cross. Despite local efforts to mediate the dispute, violence broke out on March 16. By March 17, 26 persons from both communities had been arrested for their alleged involvement in the incident. Bharat Paik, head of the local BJP, reportedly claimed that the Christians burned their own homes. On September 2, Father Arul Doss, a 35-year-old Roman Catholic priest, was murdered in a night raid by Hindu extremists on a church in Jambani village in Orissa's Mayurbhanj district. Doss was pulled from the church, shot with arrows, and beaten to death by his assailants. The mob also severely beat Doss's associate and vandalized the one-room church, before setting it on fire. In a public statement the same day, Prime Minister Vajpayee strongly criticized Father Doss's murder and called for its perpetrators to be brought to justice. On September 20 in Chapra, Bihar, two young men attacked a Roman Catholic nun; they reportedly questioned her about the number of conversions she and her sister nuns had made at Jalalpur convent. The men stripped the nun, forced her to drink urine, and attempted to rape her. Bihar Police Chief K.A. Jacob visited the scene of the crime 3 days later, and the state government established a three-member committee to investigate the crime. Christian organizations under the leadership of the Archbishop of New Delhi held a sit-in on September 26 to protest the humiliation of the nun.

Tamil Nadu was the scene of multiple church burnings between September 30 and November 12. During this 6-week period, nine thatched-roof buildings used for worship services by the Church of South India (a member of the Anglican Communion), the Syrian Catholic Church, and various Pentecostal denominations were burnt down; no one was killed. The incidents involved the destruction of churches on September 30, in Melkrishnapudur, Kanyakumari (Church of South India); October 4, in Kuzhithurai, Kanyakumari (Syrian Catholic Church); October 31, in Mogappair, Chennai (Church of South India); November 5, in Kodambakkam, Chennai (Seventh Day Adventist Church);

November 7, in Thirumangalam, Chennai (International Evangelist Church); November 7, in Tirumalai, Tiruchi (Denomination Unknown); November 7, in Reddiarpatti, Tirunelveli (Pentecostal Mission); November 9, in Santhome, Chennai (Denomination Unknown), and November 12, in Vellore, North Tamil Nadu (Methodist). (It is possible that the November 7 and 9 incidents were started by the widespread use of firecrackers during the Hindu festival of Deepavali.)

On November 11, a mob of about 40 persons attacked a Christian gathering outside a church in the Khyala area of Delhi, in the first such incident in the capital. At least 12 persons were injured in the attack, when the mob descended on an open-air bible reading session, allegedly tearing pamphlets and damaging two bibles. A police spokesman said the mob "may have had some BJP activists" and four persons that are suspected of instigating the attacks were being sought.

Since 1998 Christian aid workers have been harassed increasingly. Many report having been hampered in their work due to threats, bureaucratic obstacles, and, in some cases, physical attacks on their workers. Several Christian relief organizations have reported difficulty in getting visas renewed for foreign relief workers (see Sections 2.d. and 4).

Members of militant Hindu organizations (including members of the Hindu Jagran Manch, the Vishwa Hindu Parishad, and the Bajrang Dal) reportedly are concerned about Christians' efforts to convert Hindus. They claimed that Hindus, including economically disadvantaged Dalits and tribals, were being forced or induced to convert by Christian missionaries. On September 6, Vishwa Hindu Parishad working president Ashok Singhal called for enactment of a law banning forced conversions. Missionaries have been operating schools and medical clinics for many years in tribal areas, including in the Dangs district in Gujarat. Tribals, such as those attacked in the Dangs district in 1998, and Dalits are outside of the caste system and occupy the very lowest position in the social hierarchy. However, they have made socioeconomic gains as a result of the missionary schools and other institutions, which, among other things, have increased literacy among the lowest castes.

On January 5, a new Hindu militant group, the Hindu Dharma Raksha Samiti, held its second convention in Peth, Maharashtra. Among other demands issued by its leaders was an ultimatum to missionaries to close their offices in tribal districts in certain parts of Gujarat and Maharashtra by March 31, or be held responsible for any ensuing conflicts. On February 21, the Bajrang Dal held a convocation in Mumbai, which approximately 20,000 persons attended. At the convocation, antiminority rhetoric reportedly was common, and numerous resolutions were passed, which, if ever acted upon, would restrict freedom of religion and increase communal tensions. Among the resolutions passed were ones that called for a ban on conversion from Hinduism and a ban on using loudspeakers at mosques for the call to prayer.

On January 29 leading Muslim religious leaders and politicians joined Christian leaders at a protest held in New Delhi against the Government's response to violence against Christians. The multifaith group Religions for Social Justice was established in New Delhi in January following the Staines murders to help promote inter-religious understanding.

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

National/Racial/Ethnic Minorities

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

The Constitution gives the President the authority to specify historically disadvantaged castes, Dalits, and "tribals" (members of indigenous groups historically outside the caste system). These "scheduled" castes, Dalits, and tribes are entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they are designed to benefit is presently a subject of active debate. According to the 1991 census, scheduled castes, including Dalits, made up 16 percent and scheduled tribes 8 percent of the country's 1991 population of 846 million. Christians historically have rejected the concept of caste. However, because many Christians descended from low caste Hindu families, many continue to suffer the same social and economic limitations that low caste Hindus do, particularly in rural areas. Low caste Hindus who convert to Christianity lose their eligibility for affirmative action programs. Those who become Buddhists or Sikhs do not. In some states, government jobs are reserved for Muslims of low caste descent.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 specifies new offenses against disadvantaged persons and provides stiffer penalties for offenders. However, this act has had only a modest effect in curbing abuse. The Union Home Ministry reported that 14,413 crimes against scheduled castes and 2,413 crimes against scheduled tribes were recorded in 1998. This represents a significant decrease from the 20,312 crimes against scheduled castes and 3,193 crimes against scheduled tribes recorded in 1997. However, human rights NGO's allege that caste violence is actually on the increase.

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

Intercaste violence claims hundreds of lives each year; it was particularly pronounced in Uttar Pradesh, Bihar, and Tamil Nadu states. On January 26, approximately 100 upper caste members of the Ranvir Sena, a private army, killed 24 Dalits in Shankarbigha, Jehanabad district, Bihar. President Narayanan criticized the attack and called on state

authorities to intervene to halt the intercaste violence. On February 10, the Ranvir Sena killed 12 persons in the lower caste village of Narayanpur, Bihar, including 4 women and a 12-year-old girl. On February 14, leftist militants reportedly killed seven upper caste Hindus; on March 2, 5 more upper caste Hindus were killed in Bhimpura village, Jehanabad District, Bihar. On March 18, militants of the Maoist Communist Center in Senari village, Bihar, killed at least 35 upper caste villagers who were asleep. On April 21, about 100 members of the Ranvir Sena killed 12 Dalit and other lower caste villagers in Sendani subdivision, Gaya district, Bihar. Police responded quickly to the incident and may have prevented further violence. By late April, 47 persons had been arrested in connection with the April 21 killings. However, in general, the members of the Ranvir Sena who were arrested were released on bail shortly thereafter, and none were convicted in connection with attacks on low caste villagers. According to Human Rights Watch, police made little effort to prevent the killings, despite the fact that the Ranvir Sena often publicly announced its intentions days before each attack; allegedly, police also failed to provide protection for villagers in the aftermath of such attacks. According to Human Rights Watch, on June 19 a gang of upper-caste Hindus looted and destroyed the houses in a Dalit settlement in Kodankipatti, Madurai district, after Dalits there had demanded a share in the common property of the village. On February 12, President Narayanan dismissed the government of Bihar on the recommendation of the Federal Cabinet, due to concerns about lawlessness in the state. However, on March 8, the dismissal was reversed, and the Bihar government was reinstated.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association. Workers may establish and join unions of their own choosing without prior authorization. More than 397.2 million persons constitute the country's active work force. Some 30 million of these workers are employed in the formal sector. The rest are overwhelmingly agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represent agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members are part of the 30 million member formal sector. Of these 13 to 15 million unionized workers, some 80 percent are members of unions affiliated with one of the 5 major trade union centrals. All major trade centrals are affiliated to a greater or lesser extent with particular political parties. Central unions recently have stressed their independence and in some cases are attempting to sever previously tight party control.

Trade unions often exercise the right to strike, but public sector unions are required to give at least 16 days notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give prior strike notice.

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

When abuses, such as intimidation or suppression of legitimate trade union activities, are perpetrated against nationally organized or other large-scale unions or unionized workers, the authorities generally respond by prosecuting and punishing those responsible. Unaffiliated unions of low caste or tribal workers are not able, in all instances, to secure for themselves the protections and rights provided by law. However, six men were convicted in 1998 on charges related to the 1991 killing of tribal union leader Shankar Guha Niyogi. The gunman was sentenced to death, while industrialist Chandrakant Shah and four others received life sentences. On appeal, the Madhya Pradesh High Court

released four of the six men, including Shah. After much deliberation, the government decided not to appeal the High Court judgment to the Supreme Court.

According to Ministry of Labor statistics, during the first 9 months of the year there were 601 strikes and lockouts throughout the country, involving 400,000 workers. In all, 3.9 million "person-days" were lost due to strikes and 4 million "person-days" were lost due to lockouts during this period. For example, in January over 800,000 Bihar government employees, including teachers, went on strike demanding wages on a par with those paid by the central Government and raising the retirement age. The strike ended on May 7, with the Bihar government conceding to worker demands. In May over 10,000 temporary contract workers in West Bengal belonging to the Center of India Trade Unions affiliated with the Communist Party of India-Marxist (CPM) went on strike demanding permanent jobs for themselves as well as jobs for those displaced by Haldia Petrochemicals Ltd. and other local persons. In October truck operators went on strike over a 35 percent hike in diesel prices.

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

In January the Government announced plans to establish a national commission on labor to review and reform labor laws. The planning commission was set up in and reportedly is preparing a comprehensive labor code to replace current central and state labor laws.

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

b. The Right to Organize and Bargain Collectively

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

Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defend worker interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there are long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine them.

In practice legal protections of worker rights are effective only for the 30 million workers in the organized industrial sector, out of a total work force of more than 397.2 million persons. Outside the modern industrial sector, laws are difficult to enforce. Union membership is rare in the informal sector, and collective bargaining does not exist.

There are seven export processing zones (EPZ's). Entry into the EPZ's ordinarily is limited to employees. Such entry restrictions apply to union organizers. Each company buses its workers directly to and from the factory door. While workers in the EPZ's have the right to organize and to bargain collectively, union activity is rare. In addition unions have not pursued vigorously efforts to organize private-sector employees anywhere in the years since EPZ's were established. There been efforts to organize workers in the EPZ's and unions have complained that these attempts were suppressed in Kerala and Gujarat. The

fact that organizers are barred from EPZ's and workers are bused to EPZ's helps prevent unions from forming. Women constitute the bulk of the work force in the EPZ's. The International Confederation of Free Trade Unions reports that overtime is compulsory in the EPZ's, that workers often are employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers fear that complaints about substandard working conditions would result in their being fired. In March the Union Ministry of Commerce announced its intention to convert all EPZ's into free trade zones and eliminate government interference in their functioning. Trade unions fear that this would lead to a curb in worker rights in these zones and have asked the Government not to implement the plan; by year's end, the plan had not been implemented.

c. Prohibition of Forced or Compulsory Labor

Both the Constitution and specific statute prohibit forced or compulsory labor, and Bonded labor, as a form of compulsory labor, also is prohibited by statute; however, such practices are widespread. The Bonded Labor System (Abolition) Act of 1976 prohibits all bonded labor, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions are rare. Enforcement of this statute, which is the responsibility of state governments, varies from state to state and has not been effective due to the lack of adequate resources for enforcement and, to some extent, to societal acceptance. Some NGO's estimate that the number of bonded laborers is 5 million persons; however, in a report released during the year, Human Rights Watch estimated that 40 million persons, including 15 million children, are bonded laborers (see Section 6.d.). The report notes that the majority of bonded laborers are Dalits (see Section 5), and that bondage is passed from one generation to the next.

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

Bonded labor, the result of a private contractual relationship whereby a worker incurs or inherits debts to a contractor and then must work off the debt plus interest, is illegal but widespread. The Government estimates that between enactment of the Bonded Labor (Abolition) Act in 1976 and March 1993, 251,424 bonded workers were released from their obligations. Other sources maintain that those released constituted only one-twentieth of the total number of bonded laborers. State governments are responsible for enforcing the act. In February 1997, the Supreme Court required state governments to file detailed affidavits on the status of bonded labor. Some press reports indicate that Tamil Nadu alone has an estimated 25,800 bonded laborers, in response to which the state government is working on rehabilitation plans. It has allocated \$1.25 million (54.4 million rupees) for these plans. Following the state government responses, the Supreme Court directed each state to undertake a survey of bonded laborers. In West Bengal, organized traffic in illegal Bangladeshi immigrants is a source of bonded labor (see Section 6.f.). Calcutta police arrested five members of such a gang on May 19 and detained 52 Bangladeshis who had entered the country illegally, including 19 children. In June the Union Ministry of Labor directed state government officials in Bihar to ensure that freed bonded laborers do not revert to bondage; 74 low caste laborers were released from bondage by the state labor department during the year. Some 900 laborers were released from bondage in Arunachal Pradesh, in conformity with a Supreme Court order.

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

indentured child labor: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks and beedis (hand-rolled cigarettes).

In October 1998, a Human Rights Watch team headed by the Karnataka state labor commissioner conducted surprise inspections on silk twining factories in and around the town of Magadi. The team found 53 child workers under the age of 14 years working in the plants. The inspections revealed children locked in plants, forbidden to talk to each other, and beaten for slow work. The labor commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories.

Female bondage, forced prostitution, and the trafficking of women and children for the purpose of forced prostitution are widespread problems (see Section 6.f.). According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Section 1.c.).

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

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

In July a spokesman for the South Asian Coalition on Child Servitude (SACCS), a Delhi-based NGO, told the press that SACCS had freed 35 bonded laborers from carpet and sari looms in Varanasi and Allahabad to pay off loans incurred by family members. SACCS filed a complaint against the employers with the NHRC.

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

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

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

Work by children under 14 years of age is barred completely in "hazardous industries," which include passenger, goods, and mail transport by railway; carpet weaving; cinder picking, cleaning of ash pits; cement manufacturing; building and construction; cloth printing; dyeing and weaving; manufacturing of matches, explosives, and fireworks; catering within railway premises or port limits; beedi (cigarette) making; mica cutting and splitting; abattoirs; wool cleaning; printing; cashew and cashew nut descaling and processing; and soldering processes in electronics industries. In 1998 the Government increased the number of industries and occupations in which child labor is prohibited from 18 to 54.

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

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

Primary school education is not compulsory, free, and universal.

The BJP-led coalition Government continued its predecessors' comprehensive plan to eliminate child labor from hazardous industries and eventually from all industries, but it did not repeat the previous government's pledge to accomplish the first by 2000 and the second by 2010. This program, for which approximately \$260 million (11.3 billion rupees) was budgeted, includes the enhanced enforcement of child labor laws, income supplements for families, subsidized school lunches in areas where child labor is concentrated, and a public awareness campaign.

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

According to the ILO, labor inspectors conducted 13,257 inspections in 1997-98, finding 958 violations of the Child Labor Prohibition Act, prosecuting 676 of these cases, and obtaining 29 convictions. According to the Government, from 1996-97, labor inspectors conducted 35,886 inspections, over twice as many as the following year. Between 1993 and the end of 1997, the government released about 8,000 children from illegal workplaces and brought charges against approximately 4,000 employers. Since promulgation of the 1987 National Child Labor Policy, the Government has established 77 "rehabilitation" centers for the education and care of children removed from illegal workplaces throughout the country. Some 200,000 to 250,000 children have received care and schooling at these facilities, during which time their families have received a small stipend--usually \$2.35 to \$4.70 (100 to 200 rupees) monthly, at an estimated cost to the Government of approximately \$17.68 million (750 million rupees) per year. According to the Union Labor Minister, the Government spent \$63 million (2.7 billion rupees) on these programs in 1998-99. In the hand-knotted carpet producing area of Uttar Pradesh, the NHRC and NGO's have worked with the state government to establish a task force for the elimination of child labor.

Employers in some industries also have taken steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that receives funding from the Ministry of Textiles, has a membership of 2,500 exporters who have subscribed to a code of conduct barring them from purchasing hand-knotted carpets known to have been produced with child labor. The CEPC conducts inspections to insure compliance, and allows members to use voluntarily a government-originated label to signify adherence to the code of conduct. Rugmark, which is a private initiative, operates a similar voluntary label scheme. However, the CEPC states that even with the program it is impossible to ensure that a carpet has been produced without child labor, given the

difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducts the inspections, which cover only 10 percent of registered looms. The inspectors have difficulty locating registered looms. The Government also cooperates with UNICEF, UNESCO, the UNDP, and the ILO in its efforts to eliminate child labor. Since 1992 it has participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 90,000 children were removed from work and received education and stipends through IPEC programs. NGO's also have helped to free children from the work force. The South Asia Coalition on Child Servitude (SACCS) has freed over 34,000 children from the work force, and operates an education and training center for children in New Delhi. Since November 1997, the SACCS and the NHRC have freed 200 children and brought charges against several employers in eastern Uttar Pradesh.

The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. A 1996 Supreme Court decision imposed a penalty of about \$570 (20,000 rupees) on an employer who violated constitutional and statutory prohibitions on the use of child labor in hazardous industries and ordered the creation of a child labor rehabilitation fund out of which parents and guardians would receive an income supplement payment on condition that the children removed from employment attend school.

The Government continued previous governments' efforts initiated in 1994 to pass more effective laws banning child labor and to enhance the enforcement of existing laws. The Government's program to eliminate child labor is aimed at progressively withdrawing children from the workplace in hazardous industries and placing them in schools through initiatives in education, rural development, women and child development, health, and labor programs. Government efforts to eliminate child labor have touched only a small fraction of children in the workplace. A 1996 Supreme Court decision raised penalties for employers of children in hazardous industries and established a welfare fund for formerly employed children.

e. Acceptable Conditions of Work

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

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

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

The enforcement of safety and health standards also is poor. Although occupational safety

and health measures vary widely, in general neither state nor central government resources for inspection and enforcement of standards are adequate. However, the courts have begun to take work-related illnesses more seriously.

Industrial accidents continued to occur frequently due to lack of proper enforcement. Chemical industries are the most prone to accidents. In April 1998, at least 5 persons were killed and 15 others were injured when a mixing tank exploded in a chemical factory near Mumbai. In June five children and an adult were killed in West Bengal while mining coal illegally. According to the Director General of Mines' Safety rules, mining companies must seal the mouths of abandoned underground mines; and open-cast mines are to be bulldozed and reforested. These rules are seldom--if ever--followed. Illegal mining is rampant.

Safety conditions tend to be better in the EPZ's. The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

Trafficking in Persons

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

Women's rights organizations and NGO's estimate that more than 12,000 and perhaps as many as 50,000 women and children are trafficked into the country annually from neighboring states for the sex trade. According to an International Labor Organization estimate, 15 percent of the country's estimated 2.3 million prostitutes are children. The traffic is controlled largely by organized crime. Corruption at the enforcement level and a lack of government resolve to combat the problem tend to perpetuate it.

There is a growing pattern of trafficking in child prostitutes from Nepal. According to one estimate, 5,000 to 7,000 children, mostly between the ages of 10 and 18, are drawn into this traffic annually. Girls as young as 7 years of age are trafficked from economically-depressed neighborhoods in Nepal, Bangladesh, and rural areas of the country to the major prostitution centers of Mumbai, Calcutta, and Delhi. Currently there are some 100,000 to 200,000 women and girls working in brothels in Mumbai and some 40-100,000 in Calcutta. In Mumbai an estimated 90 percent of sex workers started when they were under 18 years of age; half are from Nepal. A similar profile is believed to exist in Calcutta, though Bangladesh is substituted for Nepal as a key source of underprivileged women trafficked. NGO's in the region estimate that some 6,000 to 10,000 girls are trafficked annually from Nepal to Indian brothels and a similar number are trafficked from Bangladesh.

Within the country, women from economically depressed areas move into the sex trade in the cities.

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

The number of women being trafficked out of India to other countries is comparatively small.

In a study published in 1996, the National Commission for Women reported that organized crime plays a major role in the sex trafficking trade in the country and that women and children who are trafficked frequently are subjected to extortion, beatings, and

rape.

Trafficking of persons from within and into the country for forced labor also is a significant problem. In December the media reported that an organized ring was selling children from surrounding areas for labor at the annual Sonepur cattle fair in Bihar. There was a report that a 12-year-old child was purchased for \$21 (900 rupees) (see Section 6.c.).

In West Bengal, the organized traffic in illegal Bangladeshi immigrants is a source of bonded labor. Calcutta police arrested five members of one gang on May 19 and detained 52 Bangladeshis who entered the country illegally, including 19 children. Calcutta is a convenient transit point for traffickers who send Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and West Asia. Persons sometimes are sold into virtual slavery. Many boys, some of whom are as young as age four, end up as riders in camel races in West Asia and the Gulf States, especially to the United Arab Emirates, or begging during the Haj. Girls and women end up either as domestic workers or sex workers.

The country's legal code generally is technically adequate for dealing with the problems of trafficking, violence against women, and prostitution. The Prevention of Immoral Trafficking Act (PITA) of 1986 superseded and strengthened the All-India Suppression of Immoral Traffic Act (SITA). The PITA sought to toughen penalties for trafficking in children, particularly focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. The PITA requires police to use only female police officers to interrogate girls rescued from brothels. The PITA also requires the State to provide protection and rehabilitation for these rescued girls. The PITA grants a form of quasi-toleration for prostitution, as prostitution, per se, is not a crime, only solicitation or practice in or near a public place. Some NGO's note that this ambiguity, which is intended to protect the victims of trafficking, has been exploited to protect the sex industry.

However, the country's prostitution and trafficking laws fail to impose on the clients and organizers of the sex trade the same penalties imposed on prostitutes found soliciting or practicing their trade in or near (200 meters) public places. Using the PITA's provisions against soliciting or practicing, police regularly can arrest sex workers, extort money from them, evict them, and take away their children. The client, on the other hand, largely is immune from any law enforcement threat as he only has committed a crime if he is engaged in sex with a sex worker in a public place or is having sex with a girl under the age of 16 years (statutory rape). Similarly, although the intention of the 1986 PITA was to focus enforcement efforts against the traffickers, pimps, and border operators, the opposite currently is the reality; a Calcutta NGO reports that an average of some 80 to 90 percent of the arrests made under the PITA in West Bengal state in the 1990's are of female sex workers. Implementation of the PITA's provisions for protection and rehabilitation of these women and children brought out of the sex trade is seriously lacking. NGO's familiar with the legal history of prostitution and trafficking laws see the failure of the judiciary to recognize this inequity in the law's practice as a "blind spot," which continues.

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

NGO's and others allege that when police take action against brothels suspected of enslaving minors, the resulting police raids often are planned poorly and seldom are coordinated with NGO's or government social agencies. Therefore, the police action often worsens the plight of the girls and women indebted to traffickers and brothel owners. Girls

"rescued" from brothels are treated as criminals and often are abused sexually by their police "rescuers" or by the staff of government remand centers where they are housed temporarily before being brought back to the brothels as a result of the bribes paid by brothel operators, or legally released into the custody of traffickers and madams posing as relatives. In these cases, the debt owned by the girls to the brothel operators and traffickers increases further as the costs of bribing or legally obtaining release of the girls is added on to their bond of labor. NGO's invariably point to the 1996 police roundup of 476 sex workers in Mumbai when explaining their dim view of forced "sweep" rescues.

As was the case in the 1996 raids, NGO's complain that they seldom are given advance notice of police raids on brothels and therefore are not able to lend valuable assistance in identifying and interviewing underage victims. Nor are the NGO's canvassed by the police for advice or assistance in planning law enforcement action to protect the victims during raids; although over 400 girls and women were arrested in the 1996 raids, few pimps or brothel managers were picked up and none were prosecuted to conviction. The NGO's found themselves caught off guard by the large-scale police action and were ill-prepared to cope with a sudden huge demand for shelter for these rescued sex workers. As a result, many of the girls were sent to government centers known for their harsh conditions--considered by many to be in a worse state than the brothels. In the end, some of the girls died in state detention and many returned to the sex trade voluntarily, given their lack of options; success stories from this raid were rare.

Some NGO's possess knowledge of trafficking conditions in the brothel areas such as Kamathipura, including identification of traffickers and locations of girls being held captive by brothel owners. However, with the lingering effects of the 1996 raid, most of these NGO's are reluctant to trust the police with this information. Cooperation among NGO's in sharing information and mapping out the magnitude and scope of the trafficking problem in Mumbai has not been significant to date, but appears to be improving. NGO's working to rescue women and girls from forced sexual work report that "complaint-based" police rescues are quite effective. Unlike the "sweep" type rescues such as the one carried out in Kamathipura in 1996, these are focused attempts to rescue a small number of women and girls using specific information about the victim's location, names and appearance, often supplied by NGO's; police responses in such cases frequently has resulted in the rescue of the women and girls involved.

Similar efforts to improve NGO coordination are being made in Calcutta, where some 10 NGO's meet monthly as part of the "Action Against Trafficking and Sexual Exploitation of Children" forum. Every 3 months the group attempts to meet with counterparts from Bangladesh and Nepal. Calcutta NGO's such as Sanlaap also are seeking to build stronger working relationships with local police.

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

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

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