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India: Actors of protection

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Executive summary

Updated on 28 June 2023

This CPIN does not specifically cover the state of Jammu and Kashmir.

India is party to most major international instruments on human rights and its constitution and legislature protect civil, political and economic rights. There are a set of laws, including the penal code, to punish criminal behaviour.

Whilst corruption, backlogs and under-resourcing affect the criminal justice system as a whole, the police force and judiciary function effectively, and are generally accessible.

The state is generally willing and able to provide protection. Each case must, however, be considered on its facts.

Where a claim is refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as India is listed as a designated state.

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Assessment

About the assessment

This section considers the evidence relevant to this note – that is information in the [country information](#), refugee/human rights laws and policies, and applicable caselaw – and provides an assessment of whether, **in general**:

- a person is able to obtain protection from the state (or quasi state bodies)

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

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1. Material facts, credibility and other checks/referrals

1.1 Credibility

- 1.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 1.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 1.1.3 In cases where there are doubts surrounding a person's claimed place of origin, decision makers should also consider language analysis testing, where available (see the [Asylum Instruction on Language Analysis](#)).

Official – sensitive: Not for disclosure – Start of section

- 1.1.4 The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: Not for disclosure – End of section

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1.2 Exclusion

- 1.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 1.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).
- 1.2.3 For guidance on exclusion and restricted leave, see the Asylum Instruction on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and the instruction on [Restricted Leave](#).

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The information in this section has been removed as it is restricted for internal Home Office use only.

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2. Protection

- 2.1.1 In general, the state is both willing and able to offer sufficient protection to persons fearing non-state actors. Protection may not be available in conflict areas where armed insurgent or terrorist groups are active. Decision makers must consider each case on its facts, with the onus on the person to demonstrate why they would not be able to seek and obtain state protection.
- 2.1.2 A person's reluctance to seek protection does not necessarily mean that effective protection is not available. It should be noted that protection does not need to lead to eliminating the risk of discrimination and violence.
- 2.1.3 India is party to most major international instruments on human rights and its constitution and legislature protect civil, political and economic rights. The Penal code outlines criminal offences and there is a functioning criminal justice system for the detection, prosecution and punishment of acts constituting persecution or serious harm, which is generally accessible (see [Legal provisions Capacity and effectiveness](#) and [Rule of law and the judiciary](#)).
- 2.1.4 Each of the 28 states and 8 union territories (UTs) have primary responsibility for crime prevention and investigation and maintaining law and order; each state and UT has its own separate police force. In 2009 the Crime and Criminal Tracking Network & Systems (CCTNS) was launched to link police stations and facilitate in the sharing of information related to crimes and criminals. In 2021 it was reported that it had been implemented in all police stations across the country (see [Overview and structure](#) and [Surveillance and tracking systems](#)).
- 2.1.5 Police effectiveness and conduct varies from state to state, although there have been improvements in police numbers in recent years, it is undermined by inadequate training and equipment, limited resources, and corruption. Police investigation can be obstructed by some police officers refusing to register victim's complaints, insufficient training, outdated forensic and cyber infrastructure. Underprivileged groups are affected by limited enforcement of protective laws (see [Capabilities of the security forces](#)).
- 2.1.6 The law prohibits arbitrary arrest and detention, however, incidents of both were reported in 2022, although there is no data on the number of times these occurred. Human rights abuses including rape, torture, and deaths in custody are reported to be widespread and conducted with impunity. Excessive force by security forces in areas of conflict are also reported, including extra-judicial killings, rape, torture, arbitrary detention, kidnappings and destruction of homes (see Capabilities of the security forces – [Human rights abuses](#)).
- 2.1.7 There are legal remedies for severe police misconduct and corruption, although some victims may be reluctant to report police violations. Whilst

there are cases awaiting consideration by the National Human Rights Commission statistics show that cases are being considered and resolved with 4640 cases against the police and judiciary under consideration in May 2022 and 4,127 cases under consideration in March 2023. Central and state governments have investigated complaints and punished some violations committed by security forces but a shortage of trained police officers, and an overburdened system has resulted in cases not being effectively prosecuted and low numbers of convictions (see Capabilities of the security forces – [Avenues of redress](#))

- 2.1.8 Whilst there is, in general a functioning independent judicial system, including public trials, presumption of innocence and free legal counsel, corruption within the judiciary is reportedly prevalent. The effectiveness of the judiciary is also limited by understaffing, causing severe delays to adjudication and a backlog of cases, particularly affecting marginalised, poor and vulnerable groups. In 2022 the backlog of pending cases in the court system was over 40 million with nearly 70% of those being criminal cases, resulting in prisoners spending long periods on remand. During 2022 more than 70% of the prison population was in pre-trial detention (see [Rule of law and the judiciary](#) and [Pre-trial detention](#)).
- 2.1.9 For further information on effective protection for minority groups see the Country Policy Information Notes on [India: Religious minorities and scheduled castes and tribes](#), [India: Sexual orientation and gender identity and expression](#) and [India: Women fearing gender-based violence](#).
- 2.1.10 For further guidance on assessing state protection, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).

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3. Certification

- 3.1.1 Where a claim is refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as India is listed as a designated state.
- 3.1.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

Country information

About the country information

This contains publicly available or disclosable country of origin information (COI) which has been gathered, collated and analysed in line with the [research methodology](#). It provides the evidence base for the assessment.

The structure and content of this section follow a [terms of reference](#) which sets out the general and specific topics relevant to the scope of this note.

Decision makers must use relevant country information as the evidential basis for decisions.

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4. Legal provisions

4.1 Constitution

4.1.1 The [Constitution of India](#) sets out provisions to protect basic rights and regulate aspects of the state¹.

4.1.2 The UN 'Common core document forming part of the reports of States parties -India' published in March 2022 noted that:

'The Constitution of India provides and protects the fundamental rights to equality, right to life and liberty, right against exploitation, right to freedom of religion, cultural and educational rights and right to Constitutional Remedies and thus incorporates the philosophy of Bill of Rights in Part III. These are inviolable rights of the people enforceable against the State. Any legislation found to be in violation of or abridging any of these rights may be declared unconstitutional by the Supreme Court or the High Courts. However, these rights are not absolute but are subjected to certain reasonable restrictions.'²

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4.2 Legislation

4.2.1 The prevailing law on crime prevention and punishment is embodied in two principal statutes: the [Indian Penal Code of 1860](#) (IPC) which provides details of the various criminal laws in force and the penalties for committing criminal offences³ and the [Code of Criminal Procedure of 1973](#) which sets out procedure on administration of the law⁴.

4.2.2 The [Indian Evidence Act of 1872](#) governs the admissibility of evidence in the Indian courts of law⁵.

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4.3 International human rights treaties

¹ [Constitution of India](#)

² UN, '[Common core document forming part of the reports of states parties -India](#)', 2 March 2022

³ [Indian Penal Code](#) (Act No.45 of Year 1860)

⁴ [Code of Criminal Procedure of 1973](#)

⁵ [Indian Evidence Act of 1872](#)

4.3.1 India has ratified 6 of the 9 core international human rights instruments^{6,7}.

International human rights instrument	Ratification/ Accession
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	1968
International Covenant on Civil and Political Rights (CCPR)	1979
International Covenant on Economic, Social and Cultural Rights (CESCR)	1979
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	1993
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1997 (signed only)
Convention on the Rights of the Child (CRC)	1992
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)	–
International Convention for the Protection of All Persons from Enforced Disappearance (CED)	2007 (signed only)
Convention on the Rights of Persons with Disabilities (CRPD)	2007

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5. State apparatus

5.1 Overview and structure

5.1.1 The United States Department of State (USSD) annual report on human rights in India (USSD report 2022) outlined:

‘The constitution gives the country’s 28 states and eight union territories a high degree of autonomy and primary responsibility for law and order...

‘...The states and union territories have primary responsibility for maintaining law and order, with policy oversight from the central government. Police are within state jurisdiction. The Ministry of Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and national law enforcement agencies, and provides training for senior officials from state police forces.’⁸

5.1.2 Common Cause, a non-governmental society based in India⁹ in partnership with Lokniti, a research programme with the Centre for the Study of

⁶ OHCHR, ‘[UN Treaty body database: Ratification status by country](#): India’, no date

⁷ OHCHR, ‘[Status of ratification interactive dashboard](#)’, no date

⁸ USSD, ‘[2022 Country Report on Human Rights Practices: India](#)’, 20 March 2023

⁹ Common Cause, ‘[About us](#)’, nd

Developing Societies (CSDS)¹⁰, published 'The Status of Policing in India Report' in 2019, (SPIR 2019) and is based upon official data, surveys of approximately 12,000 police personnel, as well as interviews of 10,595 family members of police personnel across 21 states in India¹¹. The report noted that, generally:

'In India, the investigation of cases of crimes is normally conducted by investigating officers (IOs) of the ranks of ASI to Inspectors, although in some States, Head Constables are also authorised to be IOs in cases of petty crimes. Further, legal provisions have made it mandatory for women police officers to conduct investigations of all cases of crimes against children, and they are required, as far as practicable, to be present at the time of recording of the statement of the victims in cases of crimes against women.'¹²

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5.2 Indian Police Service (IPS)

- 5.2.1 The Department for Foreign Affairs and Trade (DFAT) 2020 country information report on India (DFAT report 2020) provided a general overview of state agencies in India: 'Article 312 of the constitution establishes a centralised [Indian Police Service] IPS. The IPS is organised into state cadres to provide senior-level leadership to state police forces and to centralised forces. The [Ministry of Home Affairs] MHA is responsible for IPS officers and policy decisions, including structure, training, allocation, confirmation, pay, allowances and disciplinary matters. State and central governments review IPS budget allocations every five years...' ¹³
- 5.2.2 The same report also noted 'The MHA... oversees centralised police organisations, including the Central Bureau of Intelligence, Bureau of Research and Development, NCRB, National Investigation Agency, Training Academies and the National Disaster Response Force. These agencies may share information with their state counterparts.'¹⁴

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5.3 State police forces

- 5.3.1 World Atlas noted that: 'India is home to the second largest number of police officers in the world. The total number of police officers was estimated to be about 1.59 million in 2017.'¹⁵
- 5.3.2 The 2020 DFAT report noted that: '...States are responsible for preventing, detecting, registering and investigating crime and prosecuting criminals. The individual Indian State police services... comprise both state-based personnel and national personnel drawn from the central government...' ¹⁶
- 5.3.3 The same report noted: '...The central government provides financial assistance to the state governments under the Scheme of Modernization of

¹⁰ CSDS, '[Lokniti](#)', nd

¹¹ Common Cause and Lokniti-CSDS, '[Status of Policing in India 2019](#)', page 13, 27 August 2019

¹² Common Cause and Lokniti-CSDS, '[Status of Policing in India 2019](#)' (page 35), 27 August 2019

¹³ DFAT, '[Country information report: India](#)', para 5.5, 10 December 2020

¹⁴ DFAT, '[Country information report: India](#)', para 5.1, 10 December 2020

¹⁵ World Atlas '[List of Countries By Number of Police Officers](#)', undated

¹⁶ DFAT, '[Country information report: India](#)', para 5.1, 10 December 2020

State Police Forces for weaponry, communication, equipment, mobility, training and other infrastructure. In practice, funds under this scheme are not fully utilised across states.¹⁷

5.3.4 The US Overseas Security Advisory Council (OSAC), India Country Security Report' published in October 2022 noted that:

'The states and union territories have the primary responsibility for maintaining law and order, with policy oversight from the central government. Police are under state jurisdiction. ...Civilian authorities maintain effective control over the security forces, though members of the security forces have committed some human rights abuses.

'...The ratio of police officers to citizens in New Delhi is approximately 141:100,000, well below the worldwide average of 350:100,000. With the population well over 21 million and a density of over 29,000 people per square mile, policing is a difficult task. While the numbers of reported incidents increase every year, many more go unreported.'¹⁸

5.3.5 In April 2023 Tata Trusts published their annual India Justice report (IJR 2022) in partnership with DAKSH, Commonwealth Human Rights Initiative, Common Cause, Centre for Social Justice, Vidhi Centre for Legal Policy and TISS-Prayas. The report noted that:

'Over the past decade the total sanctioned strength of police across the country increased from 22.84 to 26.89 lakh (an increase of 18 per cent) [lakh is a unit in Indian numbering system equal to 100,000¹⁹] while actual police numbers grew from 17.23 lakh to 20.94 lakh (an increase of 22 per cent).

'...As of January 2022, there was one police person available (with civil and district armed police taken together) to serve 831 people nationwide. This is a slight improvement from 858 in January 2020. In 11 states and UTs [Union Territory],¹⁹ including Andhra Pradesh and Uttar Pradesh, the police-to-population ratio decreased... Punjab with one for every 500 people has the best ratio while Bihar's ratio—worsening by 146—brought the ratio to one police personnel for every 1,695 people.'²⁰

'...Constitutional equality mandates all states to reserve caste quotas. The aspiration behind the standard is to repair the gulf in representation of consistently underrepresented groups in all spheres—with governments leading the way. As of January 2022, Scheduled Castes make up 15.99 per cent of the total working police strength (against 16 per cent share in population), Scheduled Tribes 11.77 per cent, 'Other Backward Classes' 30.79 per cent and women 11.75 per cent. Data on representation of various religious groups remains unavailable since 2014.'²¹

5.3.6 More detailed data on the numbers of police can be found on the [Press Information Bureau](#) release.

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¹⁷ DFAT, '[Country information report: India](#)', para 5.1, 10 December 2020

¹⁸ OSAC, '[India Country Security Report](#)', 18 October 2022

¹⁹ Dictionary.com '[Lakh Definition & Meaning](#)', undated

²⁰ Tata Trusts, '[India Justice Report 2022](#)' (page 34 & 37), April 2023

²¹ Tata Trusts, '[India Justice Report 2022](#)' (page 34 & 37), April 2023

5.4 Intelligence agencies

- 5.4.1 An education web portal²² launched by Jagran Prakashan Limited (JPL), a media and communication conglomerate based in India²³, listed a number of intelligence agencies in India:

‘... The National Investigation Agency (NIA) is India's premier agency to counter terrorism under the aegis of the Ministry of Home Affairs (MHA). The agency investigates terror-related crimes in the country without any special permission from the states. It further probes attacks targeting [sic] Indian interests abroad.

‘...The Serious Fraud Investigation Office (SFIO) is a statutory corporate fraud investigating agency in India. It is under the aegis of the Ministry of Corporate Affairs and conducts multi-disciplinary investigations of major corporate frauds.

‘...The National Crime Record Bureau (NCRB), under the aegis of the Ministry of Home Affairs (MHA), deals in collecting and analysing crime data as per the IPC and SLL. It functions as a repository of information on crime and criminals to help assist the investigators in linking crime to the perpetrators.

‘... India's premier investigating agency, the Central Bureau of Investigation (CBI), operates under the jurisdiction of the Ministry of Personnel, Public Grievances and Pensions... It is India's designated single point of contact for liaison with Interpol.

‘... Intelligence Bureau (IB) is the domestic internal security and counter-intelligence agency of India. The agency is under the aegis of the Ministry of Home Affairs (MHA).’²⁴

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5.5 Armed forces

- 5.5.1 The DFAT report 2020 noted that:

‘The Indian Armed Forces consist of four professional uniformed services: the Indian Army, Indian Navy, Indian Air Force and Indian Coast Guard. The Government of India is responsible for India's defence and its armed forces. The supreme command of the Indian Armed Forces is vested in the President and responsibility for national defence rests with Cabinet. The Ministry of Defence is responsible for the national defence policy framework.’²⁵

- 5.5.2 The same report further expanded upon branches of security in place to support the armed services in India:

‘Several centralised paramilitary forces support the Indian Armed Forces and are under the administrative control of the MHA. These include: the Assam Rifles (which conducts counter insurgency operations in the northeast and safeguards security of the Indo-China and Indo-Myanmar borders); the

²² Jagran Josh Education Web Portal, ‘[About us](#)’, undated

²³ JPL, ‘[Group profile](#)’, undated

²⁴ Jagran Josh Education Web Portal, ‘[List of Intelligence Agencies in India](#)’, undated

²⁵ DFAT, ‘[Country information report: India](#)’ (para 5.2), 10 December 2020

Border Security Force (which guards India's land borders and is responsible for preventing transnational crime); the Central Industrial Security Force (which provides security to critical infrastructure, natural resources and public assets, including airports, ports and the Delhi Metro); the Indo-Tibetan Border Police Force (which undertakes border-guarding duties from Karakoram Pass in Ladakh to Jachep La in Arunachal Pradesh, and operates border outposts in the Western, Middle and Eastern sectors of the Indo-China border including Ladakh, Himachal Pradesh and Uttarakhand, and Sikkim); the National Security Guard (which has responsibility for anti-terrorist activities); and Sashastra Seema Bal (SSB) (which is responsible for Indo-Bhutan and Indo-Nepal border control, and is the lead intelligence agency on those borders). SSB also works across international borders in Uttarakhand, Uttar Pradesh, West Bengal, Sikkim, Assam and Arunachal Pradesh. SSB performs internal security duties in J&K.²⁶

- 5.5.3 The CIA World Factbook notes that while information varies there are 'approximately 1.45 million active personnel (estimated 1.25 million Army; 65,000 Navy; 140,000 Air Force; 12,000 Coast Guard) (2022)'. The same source also notes that military expenditure accounts for approximately 2.1% of the GDP²⁷.

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6. Arrest and detention

6.1 Legal rights

- 6.1.1 According to the Bertelsmann Institute's (BTI) India Country Report 2022:

'De jure, civil rights are guaranteed in India. A major exception is areas where emergency laws are in force. The Armed Forces (Special Powers) Act allows Indian security forces to search the homes of and arrest suspects without a warrant, to shoot suspects on sight, and to destroy buildings believed to house militants or weapons. The act has been the object of much controversy in India given the background of abuses by the security forces. The act remains in force in Jammu and Kashmir, as well as in Assam, Nagaland, Manipur and parts of Arunachal Pradesh.'²⁸ (see also [Human rights abuses](#)).

- 6.1.2 In considering arrest procedures, the USSD report 2022 noted that:

'In cases other than those involving security risks, terrorism, or insurgency, police may detain an individual without charge for up to 30 days, but an arrested person must be brought before a judge within 24 hours of arrest...

'Arrestment of detainees must occur within 24 hours unless authorities hold the suspect under a preventive detention law. The law allows police to summon individuals for questioning, but it does not grant police prearrest investigative detention authority. There were several incidents in which authorities allegedly detained suspects beyond legal limits. By law

²⁶ DFAT, '[Country information report: India](#)' (para 5.3) 10 December 2020

²⁷ CIA, '[World Fact Book- India](#)', last updated 16 May 2023

²⁸ Bertelsmann, '[BTI 2022 Country Report – India](#)', 24 February 2022

authorities must allow family member access to detainees, but this law was not always observed.’²⁹

6.1.3 The same report stated:

‘The law requires every arrested person to be produced before a judicial magistrate within 24 hours of arrest. Other than in Jammu and Kashmir, the National Security Act allows police to detain persons considered security risks without charge or trial for as long as one year. The law allows family members and lawyers to visit national security detainees and requires authorities to inform a detainee of the grounds for detention within five days, or 10 to 15 days in exceptional circumstances...

‘The law dictates that authorities must promptly inform persons detained on criminal charges of the charges against them and of their right to legal counsel. By law a magistrate may authorize the detention of an accused person for a period of no more than 90 days prior to filing charges. Under standard criminal procedure, authorities must release the accused on bail after 90 days if charges are not filed.

‘...The law also permits authorities to hold a detainee in judicial custody without charge for up to 180 days (including the 30 days in police custody). The Unlawful Activities Prevention Act (UAPA), which gives authorities the ability to detain persons for up to 180 days without charge in cases related to insurgency or terrorism, makes no bail provisions for foreign nationals, and it allows courts to deny bail in the case of detained citizens. The UAPA can be applied if the prosecution can produce evidence of the possession of firearms or explosives or the presence of fingerprints at a crime scene, regardless of whether authorities demonstrate criminal intent...

‘... Under the Armed Forces Special Powers Act (AFSPA), the central government may designate a state or union territory as a “disturbed area,” authorizing security forces in the state to use deadly force to “maintain law and order” and to arrest any person “against whom reasonable suspicion exists” without informing the detainee of the grounds for arrest. The law also provides security forces immunity from civilian prosecution for acts committed in regions under the AFSPA...

‘The designation as a disturbed area under the AFSPA remained in effect in Nagaland, parts of Arunachal Pradesh, Manipur, and Assam, and a version of the law was in effect in Jammu and Kashmir. On March 31 [2022], the government reduced the number of areas considered “disturbed” in parts of the Northeast Indian states of Nagaland, Manipur, and Assam after coordination and consultation with those states, who requested a reduction in the jurisdiction of AFSPA.

‘The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits authorities to detain persons without charge or judicial review for up to two years without visitation from family members.’³⁰

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²⁹ USSD, [‘2022 Country Report on Human Rights Practices: India’](#) (page 7 & 8), 20 March 2023

³⁰ USSD, [‘2022 Country Report on Human Rights Practices: India’](#) (page 8 & 9), 20 March 2023

6.2 Crime rates

- 6.2.1 The Crime in India Statistics report for 2021 published by the National Crime Records Bureau (NCRB) stated that in the States/Union Territories there was in 2021:

‘A Total of 60,96,310 cognizable crimes comprising 36,63,360 Indian Penal Code (IPC) crimes and 24,32,950 Special & Local Laws (SLL) crimes were registered... It shows a decline of 5,04,975 (7.6%) in registration of cases over 2020 (66,01,285 cases). Crime rate registered per lakh population has declined from 487.8 in 2020 to 445.9 in 2021...

‘A total of 58,09,380 persons were arrested under IPC & SLL cases combined, as follows; A total of 34,92,436 persons were arrested under 36,63,360 cases of IPC crimes. A total of 44,18,024 persons were charge-sheeted [charged with an offence/offences]... A total of 23,17,005 persons were arrested under 24,32,950 cases of SLL crimes. A total of 27,91,827 persons were charge-sheeted.’³¹

- 6.2.2 The same source also recorded the crime statistics in 2021 in relation to the 19 Metropolitan cities (Ahmedabad, Bengaluru, Chennai, Coimbatore, Delhi, Ghaziabad, Hyderabad, Indore, Jaipur, Kanpur, Kochi, Kolkata, Kozhikode, Lucknow, Mumbai, Nagpur, Patna, Pune and Surat), who have a population of more than 2 million each. The report noted that:

‘A total of 9,52,273 cognizable crimes comprising 6,30,937 Indian Penal Code (IPC) crimes and 3,21,336 Special & Local Laws (SLL) crimes were registered in 19 metropolitan cities during 2021, showing an increase of 3.1% over 2020 (9,24,016 cases)...

‘A total of 8,58,433 persons were arrested...as follows: A total of 5,15,926 persons were arrested under 6,30,937 IPC crimes. A total of 4,56,700 persons were charge-sheeted...ii A total [of] 3,42,507 persons were arrested under 3,21,336 SLL crimes. A total of 3,06,453 persons were charge-sheeted’³²

For more detail on crime rates, arrests and types of offences see the [NCRB report](#).

See also [Conviction rates](#)

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6.3 First Information Reports (FIRs)

- 6.3.1 A First Information Report (FIR) is a written document prepared by the police when they receive information about the alleged commission of a cognizable [identifiable] offence. FIRs are generally submitted, either orally or in writing, by the victim of a cognizable offence or by someone on their behalf ³³. More information on FIRs can be found in the information sheet titled [‘First Information Report and you’](#) produced by the Commonwealth Human Rights Initiative³⁴. FIRs can also be submitted online and details of the FIR portals

³¹ National Crime Records Bureau [‘Crime in India 2021’](#), (vol 1) 2022

³² National Crime Records Bureau [‘Crime in India 2021’](#), (vol1) 2022

³³ NCSC, [‘How to file a Police FIR/complaint online How to file a Police FIR/complaint online’](#), undated

³⁴ CHRI, [‘First Information Report and you’](#), undated

can be found on the National Commission for Scheduled Castes (NCSC) page on [‘How to file a Police FIR/complaint online’](#).

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6.4 State treatment of women, LGBTI persons and minority groups

6.4.1 For information on state treatment of and protections afforded to women, LGBTI persons and minority groups, see:

- [Country policy and information note: Women fearing gender-based violence](#)
- [Country policy and information note: Religious minorities and Scheduled Castes and Tribes](#)
- [Country policy and information note: Sexual orientation and gender identity and expression.](#)

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7. Capabilities of the security forces

7.1 Surveillance and tracking systems

7.1.1 In 2009 the Cabinet Committee on Economic Affairs (CCEA) approved the Crime and Criminal Tracking Network & Systems (CCTNS) scheme. According to the National Crime Records Bureau: ‘CCTNS aims at creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing through adopting of principle of e-Governance and creation of a nationwide networking infrastructure for evolution of IT-enabled-state-of-the-art tracking system around “Investigation of crime and detection of criminals”.’³⁵

7.1.2 The Economic Times noted in 2014 that: ‘... the project aims to connect more than 15,000 police stations and nearly 6,000 higher offices in 28 states and seven union territories in the country to facilitate sharing of information related to crime and criminals that is updated immediately after collection on a centrally connected platform.’³⁶

7.1.3 In 2021 the Economic Times reported that CCTNS system had been implemented in all 16,347 police stations across the country³⁷.

7.1.4 The DFAT report 2020 noted ‘DFAT understands if a person of interest is being sought by another state, the states would work together in securing the arrest of that person. There is no state extradition requirement. DFAT understands state police do not have sophisticated online databases to track offenders; such work would be done manually. In general, there is a good degree of cooperation between state police services.’³⁸

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³⁵ NCRB, [‘Crime and Criminal Tracking Network & Systems \(CCTNS\)’](#), undated

³⁶ The Economic Times, [‘NCRB to connect police stations and crime data ...’](#), 4 November 2014

³⁷ The Economic Times, [‘All 16,347 police stations have CCTNS, says Amit...’](#), 21 December 2021

³⁸ DFAT, [‘Country information report: India’](#) (para 5.11) 10 December 2020

7.2 Capacity and effectiveness

7.2.1 Regarding capacity and resource of the police, the SPIR 2019 noted:

‘The police in India works at 77 percent of its sanctioned strength, or just 3/4th of its required capacity... Across the 22 States, 70 police stations do not have to [sic] wireless devices, 214 police stations do not have access to telephones, and 24 police stations have access to neither wireless nor telephones... On an average, the police stations in India have six computers per police station, but States like Assam and Bihar have an average of less than one computer per police station... About 240 police stations across the 22 States have no access to vehicles.’³⁹

7.2.2 Considering policing resources, the SPIR 2019 noted that:

‘Forty-six percent personnel have frequently experienced situations where they needed a government vehicle but it was not available. Further, 41 percent personnel have frequently been in situations where they could not reach a crime scene on time because of lack of staff.

‘The extent of availability of digital and technological infrastructure is also poor. Eight percent personnel said that functional computers are never available at their police stations, 17 percent said that the CCTNS facility is never available and 42 percent said that forensic technology is never available at the police station

‘Thirty-one percent respondents from West Bengal and 28 percent respondents from Assam said that a functional computer was never available at their police station/work place.

‘... Almost one in three civil police personnel never received training on forensic technology’⁴⁰

7.2.3 Specifically considering police training, the SPIR 2019 found that:

‘The data reveals that the level of training imparted to personnel is poor across all States. On an average, just 6.4 percent of the total actual police strength... [was] given in-service training in... 2012-2016... and the percentage has been constantly decreasing over the years. Haryana and Tamil Nadu have the highest in-service training percentages, with about one in five personnel from both States being provided in-service training. Gujarat has the poorest average of in-service training, with an average of less than one percent of its personnel having received such training in the last five years.’⁴¹

7.2.4 The BTI 2022 report noted that: ‘In general, underprivileged groups are particularly affected by the limited enforcement of protection laws and by the extremely slow working of the judicial system. De facto, disadvantaged social groups do not enjoy equal access to justice.’⁴²

7.2.5 The US OSAC, India Country Security Report noted, in relation to security agencies, that: ‘Many victims do not go to the police for fear of persecution

³⁹ Common Cause and Lokniti-CSDS, ‘[Status of Policing in India 2019](#)’ (page 17) 27 August 2019

⁴⁰ Common Cause and Lokniti-CSDS, ‘[Status of Policing in India 2019](#)’ (page 63) 27 August 2019

⁴¹ Common Cause and Lokniti-CSDS, ‘[Status of Policing in India 2019](#)’, (page 22) 27 August 2019

⁴² Bertelsmann, ‘[BTI 2022 Country Report – India](#)’, 24 February 2022

and harassment. ... These practices, and a lack of basic equipment and formalized training for patrol officers, have corroded public confidence, and there is no certainty of punishment for criminals.⁴³

- 7.2.6 The same OSAC report went on to note that ‘...The Mumbai police do an effective job managing large-scale protests and are responsive to security requests...The Kolkata Police Department and local police throughout northeast India are professional. Police typically are limited in their ability to respond to emergencies due to the lack of transportation, training, equipment, and communications systems. It may take several years for a case to be heard in court.’⁴⁴
- 7.2.7 The same report further noted that Hyderabad City Police ‘...do an effective job of managing large-scale protests and are responsive to security requests. However, overall police assistance is slow compared to western standards... Once a suspect is under arrest, the time for a case to be heard in court is often several years.’⁴⁵
- 7.2.8 Freedom House noted in their Freedom in the World report 2023 that: ‘Due process rights are not consistently upheld. Citizens face substantial obstacles in the pursuit of justice, including demands for bribes and difficulty getting the police to file a First Information Report, which is necessary to trigger an investigation of an alleged crime.’⁴⁶
- 7.2.9 The IJR 2022 noted that: ‘The per capita spend on police grew nearly threefold from Rs. 445 to Rs. 1,151 [approximately £4.00 to £ 11.00⁴⁷]. Despite considerable improvements in money and manpower, policing across the country continues to be impeded...
‘...Police station locations are dictated by population, crime profile, topography, and many other considerations including finance and human resource availability. Between 2012 and 2022, the number of police stations increased by 23 per cent. Nationwide, 17,535 police stations serve a population of 1.37 billion and an area of 3,287,469 sq km. This averages roughly to one police station for 78,344 people and coverage of 187 sq km. Overall, even though 60 per cent of India’s population continues to live in rural areas, area-wise policing machinery is far more concentrated in urban areas. On average, a rural police station covers an area of 337.4 sq km—this translates as 16.7 times the area covered by the urban ones (20.2 sq km).’⁴⁸

See also [First Information Reports \(FIRs\)](#)

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7.3 Corruption

- 7.3.1 Transparency International, a Non-Governmental Organisation based in Germany, ranked India 85th out of 180 countries in its 2022 Corruption

⁴³ OSAC, ‘[India Country Security Report](#)’, 18 October 2022

⁴⁴ OSAC, ‘[India Country Security Report](#)’, 18 October 2022

⁴⁵ OSAC, ‘[India Country Security Report](#)’, 18 October 2022

⁴⁶ Freedom House, ‘[India: Freedom in the World 2023 Country Report](#)’, 2023

⁴⁷ Xe.com ‘[1 INR to GBP - Indian Rupees to British Pounds Exchange Rate](#)’, 18 April 2023

⁴⁸ Tata Trusts, ‘[India Justice Report 2022](#)’ (page 34 & 42), April 2023

Perception Index⁴⁹ (where number 1 is the least corrupt country assessed and 180 is the most corrupt). The ranks are determined by perceived levels of public sector corruption from 13 different data sources from 12 different institutions and capture perceptions of corruption within the past two years⁵⁰. The ranking on the Corruption perception Index for India has worsened over the past 5 years with them being ranked 78th in 2018, 80th in 2019, 86th in 2020 and 85th in 2021 and 2022⁵¹.

7.3.2 According to the Bertelsmann Institute in 2022:

‘The rule of law in India has been massively undermined by political corruption. Officeholders who engage in corruption often slip through political, legal or procedural loopholes and are not effectively persecuted.

‘Corruption continues to be prevalent particularly in sectors such as the police, the judiciary, in public services and in public procurement. Corruption is prevalent at all levels and continues to affect citizens in many of their interactions with institutions.

‘A massive anti-corruption movement that started in 2011 has generated an entirely new awareness among the population, which for the first time openly challenges the widespread culture of corruption and has led to increasingly adverse publicity for politicians involved in corruption cases. Prime Minister Modi [has] made the fight against corruption and “black money” one of the key topics on his populist agenda... [A] national anticorruption authority, called ‘Lokpal’ was formed in March 2019.’⁵²

7.3.3 The US OSAC, India Country Security Report noted, in relation to security agencies, noted that:

‘Despite government efforts to address abuses, a lack of accountability for official misconduct persists at all levels of government, contributing to widespread impunity. Investigations and prosecutions of individual misconduct cases took place, but lax enforcement, a shortage of trained police officers, and an overburdened and under-resourced court system contribute to a low number of convictions.

‘...There is a common perception that the police are corrupt and cannot be trusted. In some cases, police officers are involved in crime or are bribed to turn a blind eye.

‘...The law provides criminal penalties for corruption by officials at all levels of government. There have been reports of officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the past year.’⁵³

7.3.4 In relation to anti-corruption action, although not specifically mentioning law enforcement, The National Crime Records Bureau (NCRB) Crime in India 2021 report noted: ‘A total of 3,745 cases have been registered in 2021 by State Anti-Corruption Bureaux (ACBs) as compared to 3,123 cases in 2020,

⁴⁹ Transparency International, ‘[Corruption Perceptions Index 2022](#)’, undated

⁵⁰ Transparency International, ‘[Corruption Perception report 2022](#)’ (page 15), undated

⁵¹ Transparency International, ‘[Corruption Perceptions Index](#)’, undated

⁵² Bertelsmann, ‘[BTI 2022 Country Report – India](#)’, 24 February 2022

⁵³ OSAC, ‘[India Country Security Report](#)’, 18 October 2022

showing an increase of 19.9% Out 3,745 Cases, majority, i.e., 67.6% were Trap Cases (2,532) followed by 13.6 % of Criminal Misconduct (511 Cases). A total of 4,420 persons were arrested, 482 persons were convicted, and departmental action was taken against 303 persons.’⁵⁴

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7.4 Human rights abuses

7.4.1 An August 2021 article by The Guardian noted:

‘In an extraordinary rebuke over police brutality, India’s chief justice ... ‘Nuthalapati Ramana said that rather than being the safest places, “the threat to human rights and bodily integrity are the highest in police stations”.

“Custodial torture and other police atrocities are problems which still prevail in our society,” he told the National Legal Services Authority in a speech on Sunday in Delhi. He added that the poor bore the brunt of police brutality, but “going by recent reports, even the privileged are not spared third-degree treatment”.

“One of the causes of police misconduct, he said, was that when brought in for questioning or arrested most Indians had no lawyer to represent them, leaving them at the mercy of corrupt officers.’

“...To many Indians the chief justice’s words will not be a revelation. The slogan of Delhi police, “For you, with you, always”, is often rephrased as “never for you, never with you and never will be for you” by residents who have come to associate police stations with fear and abuse.

‘The government said last week that 348 people died and 1,189 were tortured in police custody over the last three years.

‘Ramana urged the National Legal Services Authority, which is meant to ensure free legal advice is provided to the poor and marginalised, to do more to make the public and police aware of their rights.

‘... Ramana “sharply and unambiguously” underlining [sic] that the police continue to use violence and torture is “extremely significant”, according to the lawyer and human rights activist Vrinda Grover.

‘She said the key to stopping these violations, in addition to providing a lawyer, was to prosecute and punish guilty police officers, which she said currently did not happen as the government refused to sanction criminal prosecution of the police.

“Accountability through the judicial process and punishment of offending policemen alone will create a deterrent and make police stations a refuge for victims rather than sites of custodial violence,” she said.

7.4.2 The BTI 2022 report noted that: ‘Instances of extrajudicial killings, custodial deaths, including torture and rape during custody, have also been reported.’⁵⁵

7.4.3 Published in January 2023, the Human Rights Watch (HRW) annual report on the human rights situation in India in 2022 noted that ‘Allegations of

⁵⁴ National Crime Records Bureau ‘[Crime in India 2021](#)’, (Vol 1) 2022

⁵⁵ Bertelsmann, ‘[BTI 2022 Country Report – India](#)’, 24 February 2022

torture and extrajudicial killings persisted, with the National Human Rights Commission registering 147 deaths in police custody, 1,882 deaths in judicial custody, and 119 alleged extrajudicial killings in the first nine months in 2022.⁵⁶

- 7.4.4 The US OSAC, India Country Security Report noted that: ‘While the law prohibits arbitrary arrest and detention, incidents of both have occurred during the past year. Police have used special security laws to postpone judicial reviews of arrests.’⁵⁷
- 7.4.5 Freedom House noted in their Freedom in the World Report for 2023 that: ‘Torture, abuse, and rape by law enforcement and security officials have been reported. A bill intended to prevent torture remains pending. ... Security forces battling regional insurgencies continue to be implicated in extrajudicial killings, rape, torture, kidnappings, and destruction of homes. While the criminal procedure code requires that the government approve the prosecution of security personnel, approval is rarely granted, leading to impunity.’⁵⁸
- 7.4.6 The USSD report 2022 noted that:
- ‘The law prohibits torture and other abuses, but there were credible reports that government officials employed them. The law does not permit authorities to admit coerced confessions into evidence, but some nongovernmental organizations (NGOs) reported authorities used torture to coerce confessions.
- ‘According to human rights NGOs, police used torture, other mistreatment, and arbitrary detention to obtain forced or false confessions. In some cases, police reportedly held suspects without registering their arrests and denied detainees sufficient food and water.
- ‘... The law prohibits arbitrary arrest or detention, however, police reportedly continued to arrest persons arbitrarily. There were reports of police detaining individuals for custodial interrogation without identifying themselves or providing arrest warrants.’⁵⁹

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section updated: 21 June 2023

8. Rule of law and the judiciary

8.1 Organisation

- 8.1.1 Vaish Associates Advocates article ‘Hierarchy of Courts in India’ published in June 2022 noted that:
- ‘The Supreme Court has original, appellate and advisory jurisdiction. Its exclusive original jurisdiction includes any dispute between the Centre and State(s) or between States as well as matters concerning enforcement of fundamental rights of individuals...

⁵⁶ HRW, ‘[World Report 2023 – India](#)’, 12 January 2023

⁵⁷ OSAC, ‘[India Country Security Report](#)’, 18 October 2022

⁵⁸ Freedom House, ‘[India: Freedom in the World 2023 Country Report](#)’, 2023

⁵⁹ USSD, ‘[2022 Country Report on Human Rights Practices: India](#)’ (page 7 & 8), 20 March 2023

‘High Courts have jurisdiction over the States in which they are located. There are at present, 25 High Courts in India. However, few of the High Courts have jurisdiction over more than one State or Union Territories: ... High Courts can exercise only writ and appellate jurisdiction, but a few High Courts have original jurisdiction and can try suits. High Court decisions are binding on all the lower courts of the State over which it has jurisdiction.

‘District Courts in India take care of judicial matters at the District level. Headed by a judge, these courts are administratively and judicially controlled by the High Courts of the respective States to which the District belongs. The District Courts are subordinate to their respective High Courts. All appeals in civil matters from the District Courts lie to the High Court of the State...

‘In some states, there are some lower courts (below the district courts) called Munsif’s courts and small causes courts. These courts only have original jurisdiction and can try suits up to a small amount.

‘...An interesting feature of the Indian legal system is the existence of voluntary agencies called Lok Adalats (Peoples’ Courts). These forums resolve disputes through methods like Conciliation and Negotiations and are governed by the Legal Services Authorities Act, 1987. Every award of Lok Adalats shall be deemed to be a decree of a civil court and shall be binding on the parties to the dispute.’⁶⁰

- 8.1.2 The CIA world Facebook noted that the highest court is the Supreme Court which consists of 28 judges, including the chief justice. Justices were appointed by the president and serve until they are 65. The subordinate courts are the High Courts; District Courts and Labour Court⁶¹. The same source went on to note that: ‘in mid-2011, India’s Cabinet approved the "National Mission for Justice Delivery and Legal Reform" to eliminate judicial corruption and reduce the backlog of cases.’⁶²

- 8.1.3 The Ministry of Law and Justice noted on 21 July 2021 that:

‘Twenty virtual courts have been set up in 16 States/UTs viz. Delhi (2), Haryana, Tamil Nadu, Karnataka, Kerala (2), Maharashtra (2), Assam, Chhattisgarh, Jammu & Kashmir (2), Uttar Pradesh, Odisha, Meghalaya, Himachal Pradesh, Madhya Pradesh, Tripura and West Bengal to try traffic offences. As on 03.03.2022, these courts have handled more than 1.69 crore cases and realized more than Rs. 271.48 crore in fines.

Video conferencing emerged as the mainstay of the courts during the Covid lockdown period as physical hearings and normal court proceedings in the congregational mode were not possible. Since Covid lockdown started, the District courts heard 1,28,76,549 cases while the High Court heard 63,76,561 cases (totalling 1.92 crore) till 30.04.2022 using video conferencing. The Supreme Court had 2,61,338 hearings since the lockdown period up to 13.06.2022.’⁶³

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⁶⁰ Lexology, ‘[Hierarchy of Courts in India](#)’, 27 June 2022

⁶¹ CIA, ‘[World Fact Book- India](#)’, Last updated 16 May 2023

⁶² CIA, ‘[World Fact Book- India](#)’, Last updated 16 May 2023

⁶³ Ministry of Law and Justice, ‘[National Mission for Justice Delivery & Legal Reforms](#)’, 21 July 2021

8.2 Fair trial

8.2.1 The USSD report 2022 noted that:

‘The law provides for the right to a fair and public trial, except in proceedings that involve official secrets or state security, and the judiciary generally enforced that right.

‘Defendants enjoy the presumption of innocence, except as described under UAPA conditions, and may choose their counsel. The constitution specifies the state should provide free legal counsel to defendants who cannot afford it to ensure that opportunities for securing justice are not denied to any citizen, but circumstances often limited access to competent counsel. An overburdened justice system resulted in lengthy delays in court cases, with disposition sometimes taking more than a decade.

‘Defendants have the right to confront accusers and present their own witnesses and evidence, but defendants sometimes did not exercise this right due to lack of proper legal representation.’⁶⁴

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8.3 Independence

8.3.1 According to the 2022 BTI report for India:

‘... the traditionally independent Supreme Court repeatedly bowed to the will of the Hindu-nationalist government on a range of issues, from free speech to the right of access for women to the Sabarimala Temple in Kerala to the fate of the religious site of Ayodhya.

‘... The Indian judiciary is institutionally differentiated and largely independent from the legislative and executive branches. Yet, during the review period, the Supreme Court repeatedly ruled in favor of the BJP-led government or refused to take a clear stand in a number of cases closely related to the government’s Hindu-nationalist agenda.’⁶⁵

8.3.2 The USSD report 2022 noted that: ‘The law provides for an independent judiciary and the government generally respected judicial independence and impartiality.’⁶⁶

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8.4 Conviction rates

8.4.1 The National Crime Records Bureau Crime in India 2021 report noted in the States and Union Territories (UT under the Indian Penal Code (IPC) 8,85,842 persons were convicted, 7,30,778 persons were acquitted and 1,12,009 persons were discharged. Of those charged under Special and Local Laws (SLL) 13,28,465 persons were convicted, 3,16,578 persons were acquitted and 54,694 persons were discharged⁶⁷.

8.4.2 The same source, with reference to the 19 Metropolitan cities (Ahmedabad, Bengaluru, Chennai, Coimbatore, Delhi, Ghaziabad, Hyderabad, Indore,

⁶⁴ USSD, [‘2022 Country Report on Human Rights Practices: India’](#) (page 12), 20 March 2023

⁶⁵ Bertelsmann, [‘BTI 2022 Country Report – India’](#), 24 February 2022

⁶⁶ USSD, [‘2022 Country Report on Human Rights Practices: India’](#) (page 11), 20 March 2023

⁶⁷ National Crime Records Bureau [‘Crime in India 2021’](#), 2022

Jaipur, Kanpur, Kochi, Kolkata, Kozhikode, Lucknow, Mumbai, Nagpur, Patna, Pune and Surat), who have a population of more than 2 million each, under IPC crimes 92,630 persons were convicted, 71,679 persons were acquitted and 16,976 persons were discharged. For SLL crimes a total of 95,304 persons were convicted, 60,713 persons were acquitted and 3,524 persons were discharged⁶⁸.

For more detail on convictions, acquittals and types of offences see the [NCRB report](#).

See also [Crime rates](#)

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8.5 Effectiveness

- 8.5.1 The World Justice Project Rule of Law (WJP ROL) Index 2022 measures adherence to the rule of law. According to the website the index: ‘...relies on surveys of more than 150,000 households and 3,600 legal practitioners and experts to measure how the rule of law is experienced and perceived worldwide.’⁶⁹ The WJP ROL Index 2022 ranks India 77 out of 140 countries for adherence to the rule of law (where 1 is good and 140 is bad). In terms of criminal justice, India stands at 89th position where effectiveness of the criminal investigation system, timely and effective adjudication, effectiveness of the correctional system and impartiality of the criminal system were the weakest factors⁷⁰.
- 8.5.2 According to the Bertelsmann Institute: ‘The Indian judiciary’s main problem is its limited functional operability, which is mainly due to understaffing. This has led to massive delays in the hearing of cases. The COVID-19 crisis further worsened the existing backlog of 30 million court cases. Around two-thirds of India’s prisoners are awaiting trial.’⁷¹
- 8.5.3 The US OSAC, India Country Security Report noted, in relation to security agencies, that: ‘... Even those who witness crimes avoid getting involved in a judicial process that is painfully slow, inconvenient, and ineffective.’⁷²
- 8.5.4 The USSD report 2022 noted that: ‘...the judicial system experienced delays, capacity problems, and corruption at lower levels. The judicial system remained seriously overburdened and lacked modern case management systems, often leading to delaying or denying justice. According to the Ministry of Law and Justice, there were 381 judicial vacancies out of 1,108 positions on the 25 high courts as of July [2022].’⁷³
- 8.5.5 The IJR noted:
- ‘Ways of accessing and delivering justice through technology, connectivity, computerisation, digitisation are being strongly relied on to make up for shortfalls in physical infrastructure and personnel, and these efforts have gained pace as never before. There is also a steady rise in online access to

⁶⁸ National Crime Records Bureau ‘[Crime in India 2021](#)’, 2022

⁶⁹ World Justice Project ‘[What is the Rule of Law?](#)’, undated

⁷⁰ World Justice Project, ‘[WJP Rule of Law Index](#)’, 2022

⁷¹ Bertelsmann, ‘[BTI 2022 Country Report – India](#)’, 24 February 2022

⁷² OSAC, ‘[India Country Security Report](#)’, 18 October 2022

⁷³ USSD, ‘[2022 Country Report on Human Rights Practices: India](#)’ (page 11), 20 March 2023

information and services through a variety of citizen centric portals, including e-payments and e-sewa kendras. Courts have adopted new technologies via video conferencing facilities, electronic summons and tracking apps like National Service and Tracking of Electronic Processes (NSTEP).⁷⁴

‘... At the end of 2022, the overall ability of courts to deliver justice remained impeded for want of capacity. On average, across states, judicial vacancies at the high court level stood at 29.8 per cent and high court staff vacancies at 25.6 per cent. In the district courts, 21.7 per cent of judicial positions were not filled. Between 2020 and 2022, the number of pending cases rose from 4.1 to 4.9 crore [a crore denotes 10 million⁷⁵], of which 69 per cent were criminal cases. In district courts, on average, the case clearance rate slowed by 3.6 percentage points—and measured against the sanctioned number of judges, court halls were short by 14.7 per cent. On the upside, the per capita expenditure on the judiciary improved slightly, high courts improved average case clearance rates by 6.1 percentage points and diversity and inclusiveness showed a welcome if slow uptick.’⁷⁶

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8.6 Avenues of redress

8.6.1 The IJR 2022 noted that:

‘Governments across the country, whether at the Centre or in the states, are bound to promote and protect human rights.

‘... To ensure the effective realisation of human rights, in 1993 India set up its first dedicated human rights institution, the National Human Rights Commission (NHRC) under the Protection of Human Rights Act (PHRA), 1993. Since then, 25 State Human Rights Commissions (SHRCs) have been established along the lines of the NHRC.

‘As quasi-judicial bodies, human rights commissions are tasked with scrutinising complaints they receive from individuals, their representatives, third parties, non-governmental organisations or any other representative body. They also have the power to initiate inquiries into suspected human rights violations on their own volition and are mandated to visit any jail, hospital, juvenile or welfare home run by the government and make recommendations for improvement in living conditions; review safeguards provided under the Constitution for the protection of human rights and recommend measures for their implementation.

‘...Each year, thousands of victims approach human rights commissions. In 2020-21 alone complaints across all SHRCs stood at 1,02,608. Eight SHRCs disposed of less than 60 per cent of complaints received, 16 with Meghalaya (28 per cent) clearing the least, followed by Maharashtra (29 per cent), Rajasthan (30 per cent) and Odisha (48 per cent). Bihar (99 per cent) and Chhattisgarh (94 per cent) cleared almost all the cases they received. Cumulative arrears at the end of 2020-21 stood at 33,312.’⁷⁷

⁷⁴ Tata Trusts, ‘[India Justice Report 2022](#)’ (page 6), April 2023

⁷⁵ Dictionary.com [Crore Definition & Meaning](#), undated

⁷⁶ Tata Trusts, ‘[India Justice Report 2022](#)’ (page 6 & 88), April 2023

⁷⁷ Tata Trusts, ‘[India Justice Report 2022](#)’ (pages 132 & 135), April 2023

- 8.6.2 The NHRC [National Human Rights Commission] noted on their website that as of 8 May 2023 there were 4142 cases pending which concerned matters of police and judicial custodial deaths and deaths in police encounters⁷⁸. In May 2022 there were 4640 cases⁷⁹.

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8.7 Legal aid

- 8.7.1 The Supreme Court of India noted that:

‘If a person belongs to the poor section of the society having annual income of less than Rs. 5,00,000/- or belongs to Scheduled Caste or Scheduled Tribe, a victim of natural calamity, is a woman or a child or a mentally ill or otherwise disabled person or an industrial workman, or is in custody including custody in protective home, he/she is entitled to get free legal aid from the Supreme Court Legal Aid Committee. The aid so granted by the Committee includes cost of preparation of the matter and all applications connected therewith, in addition to providing an Advocate for preparing and arguing the case....

‘Persons belonging to middle income group i.e. with income above Rs. 60,000/- but under Rs. 7,50,000/- per annum are eligible to get legal aid from the Supreme Court Middle Income Group Society, on nominal payments.’⁸⁰

- 8.7.2 The 2020 DFAT report stated that:

‘Article 39A of the constitution mandates that equal justice and free legal aid are rights of every Indian citizen. While 80 per cent of the population is eligible to access legal aid, the per capita spend was approximately AUD1.50 (approximately £0.80⁸¹) in 2018. Local sources told DFAT access to quality legal advice and competent state-appointed representation was poor. Daksh’s Access to Justice study reported that, in over 35 per cent of cases, the court-appointed lawyer either did not explain to clients their rights and solutions, or clients did not understand them.’⁸²

- 8.7.3 An August 2021 article by The Guardian noted: ‘The law provides for free legal representation to people who cannot afford to hire a lawyer, but many poor Indians are unaware of this right. “The lack of effective legal representation at police stations is a huge detriment to arrested or detained persons. The decisions taken in these early hours will later determine the ability of the accused to defend himself,” Ramana [India’s chief justice] said.’⁸³

- 8.7.4 The IJR 2022 noted that:

‘One of the core priorities of the legal aid system is victim compensation schemes that provide financial support to victims or dependents who have suffered loss or injury as a result of a crime and who require rehabilitation. Despite comprehensive guidelines, the implementation of various victim

⁷⁸ NHRC, [‘Human Rights Cases Statistics’](#), 8 May 2023

⁷⁹ NHRC, [‘Human Rights Cases Statistics’](#), 7 June 2022

⁸⁰ Supreme Court of India, [‘Jurisdiction’](#), undated

⁸¹ XE.com [‘1.5 AUD to GBP - Australian Dollars to British Pounds Exchange Rate’](#), 17 April 2023

⁸² DFAT, [‘Country information report: India’](#) (para 5.16), 10 December 2020

⁸³ The Guardian, [‘India’s police stations are human rights threat, says chief justice’](#), 10 August 2021

compensation schemes remains sub-par. Between 2016–17 and 2021–22, State Legal Aid Service Authorities altogether received 97,037 applications seeking compensation. Of these, they disposed of only 64,333 (66 per cent) applications across all states.’⁸⁴

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section updated: 21 June 2023

9. Detention and prison conditions

9.1 Pre-trial detention

9.1.1 The US OSAC, India Country Security Report noted, in relation to security agencies, that: ‘...Pretrial detention was arbitrary and lengthy, sometimes exceeding the duration of the sentence given to those convicted...’⁸⁵

9.1.2 The USSD 2022 report noted that: ‘...Authorities often held pretrial detainees with convicted prisoners.... NCRB data reported 427,165 prisoners were awaiting trial at the end of 2021, totaling 77 percent of the country’s prison population. Media reported the high numbers of pretrial detainees contributed to prison overcrowding.’⁸⁶

9.1.3 The IJR 2022 stated that:

‘Only 22 per cent of the prison population are convicts while 77 per cent are ‘undertrials’ or people awaiting the completion of investigation or trial. The number of undertrials is the highest it’s been since 2010, having nearly doubled from 2.4 lakh in 2010 to 4.3 lakh in 2021: an increase of 78 per cent. With the exception of Andaman & Nicobar Islands, Arunachal Pradesh, Mizoram, Tripura, and Madhya Pradesh, the undertrial population of all states and Union Territories exceeds 60 per cent.

‘Between 2017 and 2021, all states/UTs, with the exception of Arunachal Pradesh, Meghalaya, Nagaland and Puducherry, showed an increase in undertrial population. Among the 18 large and mid-sized states, Punjab recorded the highest increase, at 3.75 percentage points, while among the seven small states, Goa showed the highest increase of 5.23 percentage points.

‘... PSI [Prison Statistics India], 2021 shows that nationally, 88,725 (20.8 per cent) undertrials spent 1 to 3 years in prison. In ten states/ UTs more than 25 per cent had been detained for 1 to 3 years.

‘... At the end of 2021, a large number (11,490) of prisoners across the country had been incarcerated for more than 5 years, considerably higher than 7,128 in 2020 and 5,011 in 2019. However, of the total undertrials released during the year, 96.7 per cent left prison within one year, either on bail or on acquittal/ discharge, or got converted into convicts on completion of trial.’⁸⁷

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⁸⁴ Tata Trusts, ‘[India Justice Report 2022](#)’ (page 121), April 2023

⁸⁵ OSAC, ‘[India Country Security Report](#)’, 18 October 2022

⁸⁶ USSD, ‘[2022 Country Report on Human Rights Practices: India](#)’ (page 6 & 11), 20 March 2023

⁸⁷ Tata Trusts, ‘[India Justice Report 2022](#)’ (page 68), April 2023

9.2 Detention facilities

9.2.1 The 2020 DFAT report stated that:

‘Prisons are governed by the federal Prisons Act (1984). The MHA is responsible for Indian prisons, while administration rests with state governments and union territories. Conditions vary from prison to prison although, in general, facilities in central prisons are better than those of district prisons. India’s prisons are operating beyond capacity. Poorly trained correctional staff operate on average between 30 to 40 per cent of their sanctioned strength. According to local sources, overcrowding leads to unsatisfactory living conditions, with dilapidated structures, lack of space, poor ventilation, and poor sanitation and hygiene.’⁸⁸

9.2.2 Freedom House noted in their Freedom in the world Report for 2023 that:

‘Abuses by prison staff against people in custody, particularly those belonging to marginalized groups, are common. In July 2022, the Home Affairs Ministry reported that 4,484 people died in judicial or police custody in 2020 and 2021.’⁸⁹

9.2.3 The USSD 2022 report noted that:

‘There were reports that police beatings of prisoners resulted in custodial deaths. There were reports of abuse in prisons by guards and inmates, as well as reports of rape of detainees by police.

‘... Prisons were often severely overcrowded. According to the PSI [Prison Statistics of India] 2021 report, there were 1,319 prisons in the country with a total authorized capacity of 425,609 persons. The actual incarcerated population was 554,034. Persons awaiting trial accounted for approximately 77 percent of the prison population.

‘...According to the India Justice Report, as of December 2021, 19 of 36 states and union territories had overcrowding ranging from 185 percent to 100 percent of capacity.’⁹⁰

9.2.4 The IJR 2022 noted that: ‘Of the 1,314 prisons 391 are overcrowded by more than 50 per cent. Facilities for mandated educational improvement, vocational training and assistance in rehabilitation remain rudimentary. After a short hiatus of efforts at rapid decongestion during the pandemic, prisons have been allowed to get overfull again —mostly with undertrials.

‘...Overcrowding went up from 120 per cent to 130 per cent. At 77 per cent, more undertrial prisoners make up the inmate population than ever before—on average spending more time incarcerated than ever before.’⁹¹

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9.3 Death penalty

9.3.1 India retains the death penalty⁹².

⁸⁸ DFAT, ‘[Country information report: India](#)’ (para 5.17) 10 December 2020

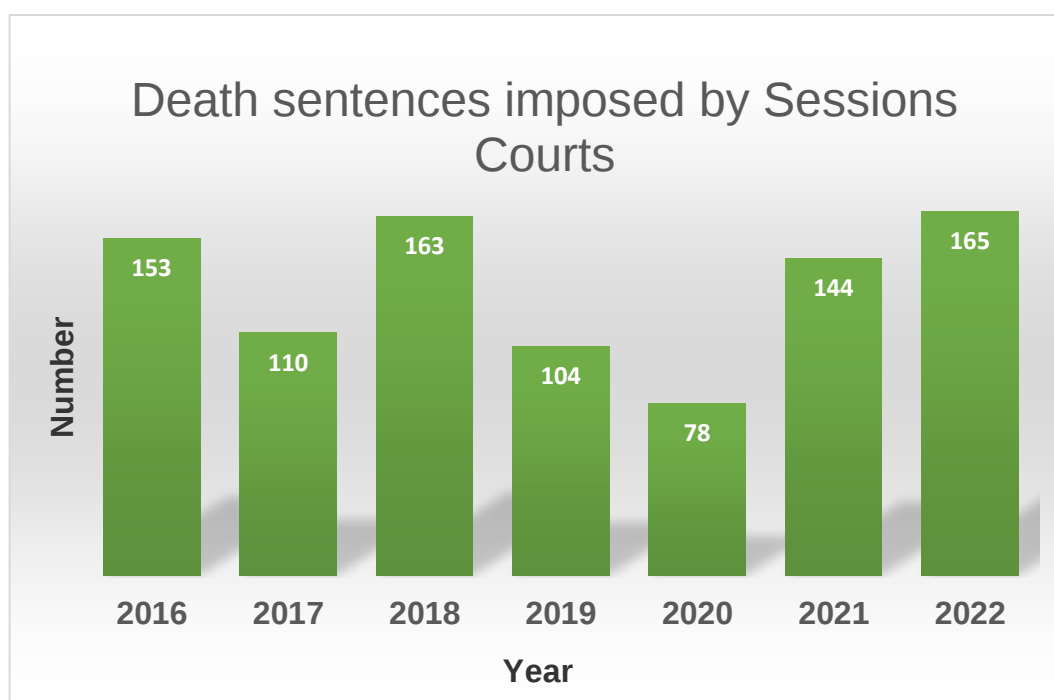
⁸⁹ Freedom House, ‘[India: Freedom in the World 2023 Country Report](#)’, 2023

⁹⁰ USSD, ‘[2022 Country Report on Human Rights Practices: India](#)’ (page 6), 20 March 2023

⁹¹ Tata Trusts, ‘[India Justice Report 2022](#)’ (page 6 & 7), April 2023

⁹² Amnesty International, ‘[Death Sentences and Executions 2020](#)’ (page 58), 21 April 2021

- 9.3.2 In 2022 165 people were sentenced to death. According to Project39A's annual report for 2022, this is the highest number of death penalty sentences given in a year for over 2 decades⁹³.
- 9.3.3 Project39A, in their annual report for 2020 noted the execution of 4 men on 20th March 2020 for the gangrape and murder of a woman in Delhi in December 2012. Prior to this, the last recorded execution was of 1 person in 2015⁹⁴. There were no executions carried out under the death penalty in 2021 or 2022^{95 96}.
- 9.3.4 The following table shows the number of death sentences imposed by Sessions Courts (District Courts) from 2016-2022. This information is taken from Annual Reports produced by Project39A⁹⁷.



- 9.3.5 Murder simpliciter[non-accidental] accounted for 57 of the death penalty sentences in 2022. Murder involving sexual offences accounted for 47 and 39 death penalty sentences were for terror offences, 38 of those were the result of a single bomb blast case⁹⁸.
- 9.3.6 According to Project39A Annual report for 2022: 'At the end of 2022, 539 prisoners were on death row, the highest number of prisoners on death row since the first Annual Statistics Report published in 2016.'⁹⁹

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⁹³ Project 39A, '[Annual Statistics 2022](#)', January 2023

⁹⁴ Project 39A, '[Annual Statistics 2020](#)' 2021

⁹⁵ Amnesty, '[Death sentences and executions 2021](#)' (page 26), May 2022

⁹⁶ Amnesty, '[Death sentences and executions 2022](#)' (page 21), May 2023

⁹⁷ Project 39A, '[Annual Statistics 2022](#) Report, January 2023

⁹⁸ Project 39A, '[Annual Statistics 2022](#)', January 2023

⁹⁹ Project 39A, '[Annual Statistics 2022](#)', January 2023

Research methodology

The country of origin information (COI) in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual](#), 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

All the COI included in the note was published or made publicly available on or before the 'cut-off' date(s). Any event taking place or report/article published after these date(s) is not included.

Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources

Wherever possible, multiple sourcing is used and the COI compared and contrasted to ensure that it is accurate and balanced, and provides a comprehensive and up-to-date picture of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote.

Full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

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Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of the issues relevant to the scope of this note and forms the basis for the [country information section](#).

The Home Office uses some standardised ToR, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Legal framework
 - Constitution
 - Penal code/criminal code
 - laws, policies or programmes applicable to protection
- State apparatus
 - Overview and structure (resourcing pay, equipment, training)
 - Centralised Indian Police Service (IPS)
 - State police force
 - Intelligence agencies
 - Armed forces
- Capabilities of the security forces
 - Surveillance and tracking systems
 - Capacity and effectiveness
 - Corruption
 - Human rights abuses
- Arrest and detention
 - Legal rights
 - First Information Reports (FIRs)
 - State treatment of women, LGBTI persons and minority groups
 - Rule of law and the judiciary
 - Avenues of redress
- Criminal justice system
 - Prison conditions
 - Death penalty

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Version control and feedback

Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **28 June 2023**

Official – sensitive: Not for disclosure – Start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: Not for disclosure – End of section

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Changes from last version of this note

Updated country information.

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Feedback to the Home Office

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the Country Policy and Information Team.

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Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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