

India

The Congress Party-led coalition government elected in 2004 took some important positive steps with respect to human rights in 2005. It established a committee to review the Armed Forces Special Powers Act and has received a report for review. For the first time, a prime minister from the Congress Party has apologized for the 1984 anti-Sikh riots. During talks with rebel groups in September, the government promised to ensure an end to human rights abuses by troops deployed in Indian-administered Kashmir. For the first time, the Indian army in Kashmir apologized in July for its actions after troops killed three boys, mistaking them for militants. New legislation may strengthen the right to information, rights over land, and minimum employment guarantees.

Some problems persisted, however, and new problematic issues emerged. Attacks on civilians by militant groups and Indian security forces continued unabated. Not only were such killings reported from Kashmir and the northeast, but a leftist extremist movement known as Naxalites spread through central India, leading to a number of deaths, both in attacks by Naxalite armed groups and retaliatory measures by security forces. The government continued to use legislation that shields security forces from accountability—Indian military, paramilitary, and police forces have engaged in serious human rights abuses in conflict zones and yet there have been no attempts at transparent investigations or prosecutions of those responsible. Police reform was discussed, but torture during interrogation remained the norm. The Gujarat government again failed to investigate and prosecute those responsible for attacks on Muslims during the Gujarat riots of 2002. Despite legislative measures to protect marginalized groups, discrimination based on caste, social, or religious status continues widely in practice, with the failure to implement anti-discrimination policies being especially apparent after the December 2004 tsunami.

Rights of Dalits, Religious Minorities, and Indigenous Tribal Groups

Although caste-based abuses are forbidden under Indian law, and the government has embarked upon consultations to protect the rights of Dalits, other marginalized castes, and vulnerable communities, the government has failed to eradicate prejudice, particularly in rural areas. In a May 2005 report, *After the Deluge*, Human Rights Watch documented numerous instances in which higher-caste communities refused to share post-tsunami emergency relief with Dalits. Ongoing abuses against Dalits include harassment, excessive force by security forces in routine matters, mutilations, and killings by members of other castes for attempting to cross caste barriers. For example, in September 2005, more than fifty Dalit homes were burned down by the upper-caste Jat community in Haryana state.

Increasingly, caste *panchayats*, or caste-based village councils, extrajudicially punish inter-caste marriages with public lynching of couples or their relatives, murder of the bride or the groom, rape, public beatings, and other sanctions. This is particularly common if either bride or bridegroom is a Dalit.

Indigenous peoples, known as Scheduled Tribes or Adivasis, suffer from high rates of displacement. They make up 8 percent of the total population but constitute 55 percent of displaced people. This has had a serious effect on the overall development of these communities, particularly tribal children. The government continues to use the 1894 Land Acquisition Act to displace indigenous peoples from their lands without sufficient compensation. In 2005, the government proposed the Scheduled Tribes (Recognition of Forest Rights) Bill, which is designed to protect the rights of those who had been occupying forest land prior to October 1980. Activists worried that the new law could aggravate tensions between those who will and will not benefit. In addition, the draft fails to clarify access rights to common property resources such as pastures and forests, and it appears to be in conflict with earlier forest and wildlife protection laws.

Tribal groups who have converted to Christianity have been targeted for attack by extremist Hindu organizations. In June 2005, an independent people's tribunal investigating the rise of violent sectarianism in Orissa state was threatened by members of the right-wing Hindu extremist groups Rashtriya Swayamsevak Sangh and the Bajrang Dal.

Legacy of Communal Violence

The Indian government has failed to contain violent religious extremism and to prosecute those who instigate or participate in religious violence. Such failures only reinforce communal resentments.

After they were committed for retrial in another state on Supreme Court orders, hearings in two cases related to the 2002 attacks upon Muslims in the western state of Gujarat are nearing completion. Otherwise, there has still been little accountability for the deaths of more than 2,000 Muslims in Gujarat during the communal violence that erupted after a train carrying Hindu pilgrims caught fire, killing fifty-nine passengers. Human rights activists and lawyers had petitioned for fresh investigations and trials in a number of cases where it was felt that the local courts, prosecutors, and police were hostile to Muslim complainants. There continue to be delays in the investigation and prosecution of these cases. Victims insist that the perpetrators remain at large and threaten witnesses; the police claim that the perpetrators cannot be located.

In October 2005, five people were killed in the town of Mau in Uttar Pradesh in Hindu-Muslim riots. The majority Muslims in the town had objected to the celebration of a Hindu festival.

In February, a commission headed by Justice G.T. Nanavati to probe the 1984 anti-Sikh riots submitted its report to the government, and the report was placed before parliament in August. After initially refusing to take action against Congress leaders named in the report—a decision that led to widespread

protests—Prime Minister Manmohan Singh apologized for the 1984 riots. Senior Congress leaders accused of involvement in organizing the anti-Sikh pogrom resigned from their posts. Separately, in respect of counterterrorism measures adopted by the police in Punjab to contain a separatist movement, the National Human Rights Commission (NHRC) in November 2004 found the state of Punjab “accountable and vicariously responsible” for its failure to protect lives, and ordered compensation of 250,000 rupees (U.S. \$5800) for each of the more than 100 victims of summary execution. Thousands of other cases still remain to be investigated. Many of the families said they did not want the compensation unless those responsible were prosecuted—a step the Punjabi government appears unwilling to take, particularly with respect to assigning individual criminal responsibility.

Impunity of Security Forces

As Human Rights Watch noted in 2004, Indian security forces, including the military, paramilitary forces, and the police, routinely violate human rights with impunity. The Indian federal government rarely prosecutes army and paramilitary troops in a credible and transparent manner. The result has been an increase in serious abuses by security forces throughout the country.

Laws such as the Disturbed Areas Act and the Armed Forces Special Powers Act have spawned abuses in various parts of the country, including many deaths in custody, “disappearances,” and widespread allegations of torture. Section 197 of the Criminal Code of Procedure gives security forces virtual immunity for crimes committed in the course of duty.

Kashmir Conflict

The Kashmir insurgency, which began in 1989, has displaced tens of thousands of people and seen thousands more “disappeared” at the hands of militant and government forces.

In 2005, India and Pakistan continued talks to resolve the Kashmir issue, and both sides also met with some Kashmiri rebel leaders. In April the governments launched a bus service between Indian- and Pakistani-held Kashmir to allow separated families to meet. After a devastating earthquake in October 2005, which killed tens of thousands in Pakistan-administered Kashmir, India sent relief materials and offered other assistance. Five points have been opened up at the Line of Control, the de facto border between India and Pakistan in Kashmir, to send relief materials and allow Kashmiris to meet and assist their relatives affected by the earthquake.

According to the Indian government, there was a marked decline in violence in 2005 because of the peace efforts. India withdrew some troops from Indian-administered Kashmir and promised to continue demilitarization of the valley if the violence is contained. The government released several detainees in 2005 as part of a goodwill effort and as a means of addressing human rights concerns.

Yet some human rights abuses continued and accountability remains a serious problem. Militants killed and injured civilians in indiscriminate bomb attacks and murdered a number of political activists,

particularly those who participated in the 2005 municipal elections. Attacks and threats against moderate Kashmiri leaders, apparently by separatist militants, have hindered the peace process, and if such moderates continue to be murdered for their views, a lasting solution is unlikely to be found.

Troops continue to be responsible for arbitrary detention, torture, and custodial killings. There has been a disturbing rise in extrajudicial executions. Security forces regularly report gun battles where “foreign militants” are killed. But there have been persistent allegations that such incidents are faked and that alleged militants, taken into custody, are routinely executed.

Rights of Children

Despite a scheme launched in 2004 to provide universal education, millions of children in India still have no access to education and work long hours in the worst forms of child labor. Vulnerable communities such as Dalits and tribal groups also have higher illiteracy and drop-out rates, and face significant discrimination in education. Many continue to be forced into becoming soldiers in areas where there are armed conflicts. Others languish in substandard orphanages or detention centers where they endure inhumane conditions and assaults on their dignity. Recent investigations show that hundreds of children, most of them living in remote tribal areas, died in the last few years from causes linked to malnutrition. Children continue to be trafficked for marriage, sex work, or employment. Tens of thousands of children, many of them girls, live on the streets where they are at risk of physical abuse by police, heightened vulnerability to HIV transmission, trafficking, and recruitment into child labor.

Rights of Those Living with HIV/AIDS

The government estimates that in 2004, 5.134 million people in India were living with HIV/AIDS, though many experts suggest that the number is much higher. People living with AIDS, as well as those traditionally at highest risk—sex workers, injection drug users, and men who have sex with men—continue to face widespread stigmatization and discrimination. People with AIDS are denied employment and access to education and healthcare. Hundreds of thousands of children are living with HIV/AIDS. Many more are otherwise seriously affected when they are forced to withdraw from school to care for sick parents, are forced to work to replace their parents’ income, or are orphaned (losing one or both parents to AIDS). India is still framing a promised legislation to end discrimination faced by people with HIV and their families. While the government says it is committed to preventing such abuse, there continue to be reports of hospitals and employers rejecting people living with HIV/AIDS. Despite promises by the then-minister of health in 2002 to provide free anti-retroviral treatment to 100,000 people (prioritizing children), only 7,333 people were enrolled in the government's program as of April 2005.

Attacks on Human Rights Defenders

Although the Congress-led central government has set up a National Advisory Council that includes some human rights defenders and also holds consultations with nongovernmental organizations to frame social welfare policies, human rights defenders in Indian-administered Kashmir and in Gujarat have been threatened. In Kashmir, human rights lawyers and activists have reported threats from both security forces and militants. Through the years of the conflict, several human rights defenders have been attacked, both by security forces and armed groups. Without proper accountability, it is difficult to identify those responsible. Kashmiri human rights groups seldom document abuses by militants because they fear retaliation. In 2005, some Gujarati lawyers and activists pursuing justice in the 2002 riot cases continued to receive anonymous, threatening phone calls.

Key International Actors

As a test of its growing capabilities, India refused offers of help with immediate relief and rescue after the December 2004 tsunami, and, in fact, assisted other affected countries. The Indian government has since received substantial assistance from international donors for the rehabilitation of tsunami survivors.

Ties between the United States and India have strengthened through increasing trade, joint military exercises, training of U.S. troops by Indian counterinsurgency experts, and Washington's 2005 promise to provide India with assistance to develop its nuclear energy program. Prime Minister Singh visited the U.S. in July 2005, and, in a joint statement, both countries said they were "committed to the values of human freedom, democracy and rule of law." Through the new U.S.-India Global Democracy Initiative, both committed to assist countries that seek to build institutions and resources that strengthen the foundations to make democracies credible and effective.

Despite such commitments, India has not used its increasing influence with smaller neighbors—achieved through significant amounts of financial and military aid—to press for better compliance with human rights standards. The notable exception is Nepal—there, its suspension of military assistance and engagement with political parties after the February 2005 coup by the king has been important in promoting the restoration of democracy.