

India

Despite an overarching commitment to respecting citizens' freedom to express their views, peacefully protest, and form their own organizations, the Indian government lacks the will and capacity to implement many laws and policies designed to ensure the protection of rights. There is a pattern of denial of justice and impunity, whether it is in cases of human rights violations by security forces, or the failure to protect women, children, and marginalized groups such as Dalits, tribal groups, and religious minorities. The failure to properly investigate and prosecute those responsible leads to continuing abuses.

While India claims that its national and state human rights commissions ensure protection of human rights, these commissions are not fully independent—their members and chair are appointed by the government—they lack sufficient resources to conduct their own investigations, and they are not empowered to investigate violations by the army.

Violence continues in secessionist conflicts in northern Jammu and Kashmir and in Manipur, low intensity insurgencies in other parts of the northeast, and the Maoist conflict in several states of central India. In efforts to contain the armed groups, Indian security forces are responsible for extrajudicial killings, arbitrary detention, due process violations, and ill-treatment in custody. Laws such as the Armed Forces (Special Powers) Act sanction impunity.

Armed groups are responsible for human rights abuses against civilians including the use of explosive devices and landmines, forced recruitment including of children, threats, extortion, and killings. Bomb blasts in Guwahati, Ahmedabad, Jaipur, Delhi, and other Indian cities in 2008 claimed hundreds of lives. Police attributed most of these attacks to Muslim extremists.

Protests in Jammu and Kashmir

While the level of violence has decreased, failure to investigate human rights violations transparently and prosecute those responsible remains a strong reason for public anger. Kashmiris believe that many of the thousands “disappeared” over the last two decades were dumped into unmarked graves. The government has ignored calls for an independent investigation by human rights groups to determine the fate of the victims.

Widespread protests erupted in Jammu and Kashmir after a state government decision in May 2008 to transfer forest land to a Hindu trust to build temporary shelters during an annual Hindu pilgrimage called “Amarnath Yatra.” Several people were killed and many injured in the protests, and the issue fueled religious tension. Security forces used tear gas and opened fire using live ammunition as well as rubber bullets to control protesters who set fires, damaged government property, hurled stones, and in some cases attacked policemen.

Separatist groups announced a boycott of state assembly elections in late 2008 and called for demonstrations.

Violence in Manipur and Other Northeastern States

Violence has continued in the northeast, particularly in Manipur, where over 300 people, including nearly a hundred civilians, were killed in the armed conflict in 2008. Caught between the armed groups and security forces, civilians also remain victims of human rights abuses.

A series of bomb attacks in Guwahati and other cities in Assam on October 30, 2008, killed 84 people and injured hundreds. Police believe the bombings may have been acts of revenge for earlier attacks on Bangladeshi Muslim settlers by local tribes in which nearly 50 people were killed.

In Manipur, security forces have been responsible for extrajudicial killings and torture. The impunity and free rein given to government forces has led to a culture where many soldiers and police officers appear to believe it is easier to kill suspects than gather evidence to secure convictions.

Despite the large deployment of government forces, armed groups claiming to protect the rights of the various ethnic communities in Manipur have succeeded in imposing their will on many communities. Manipuris are forced to build alliances with one group to ensure protection from the rest. Armed groups are responsible for extortion, killings, forced recruitment—including of children—and imposition of moral diktats, often by force.

Naxalite Conflict

Maoist armed groups, also called Naxalites, continue to carry out bombings, abductions, beatings, and killings in several Indian states including Chhattisgarh. Security forces have responded with arbitrary detention, torture, and extrajudicial killings of suspected Naxalites or their alleged supporters.

The Naxalites claim to be fighting for the rights of the marginalized tribal groups, Dalits, and the poor, but have been responsible for forced recruitment and severe punishment of those who refuse to submit to demands for cash, shelter, and protection.

In Chhattisgarh, government security forces and state-government-backed vigilantes called the Salwa Judum are responsible for attacking, killing, and forcibly displacing tens of thousands of people in armed operations against Maoist rebels. The Naxalite rebels retaliate in a brutal manner, abducting, assaulting, and killing civilians perceived to be Salwa Judum supporters. The government has chosen to view those who do not join the Salwa Judum as Naxalite supporters.

All parties to the Chhattisgarh conflict have used children in armed operations. The Naxalites admit that it is standard practice to recruit children age 16 and above in their forces; they have used children as young as 12 in some armed operations. The Salwa Judum have included children in their violent attacks against villages as part of their anti-Naxalite campaign. The Chhattisgarh state police admit that in the past they recruited children under age 18 as special police officers, but claim they did so due to the absence of age documentation and that all children have now been removed from the ranks. Human Rights Watch investigators in Chhattisgarh found

that underage special police officers continue to serve with the police and are used in counter-Naxalite combing operations.

Impunity

While law enforcement is needed to end the violence perpetrated by militants, India continues to provide extraordinary powers to its troops and grants them immunity from prosecution when they abuse those powers and commit human rights violations.

The Armed Forces (Special Powers) Act was enacted on August 18, 1958, as a short-term measure to allow deployment of the army in the northeast. The law has remained in force in various parts of the country for five decades. It provides the armed forces with sweeping powers to shoot to kill, arrest, and search in violation of international human rights law. The law has led to widespread human rights abuses and protects troops from prosecution for such crimes.

Protection of Vulnerable Communities

The government has failed to protect vulnerable communities including Dalits, tribal groups, and religious minorities.

Since August 2008, supporters of the Hindu militant groups Vishwa Hindu Parishad and Bajrang Dal in Orissa have attacked Christians, many of them tribal minorities or Dalits. The militants have burned churches, beat priests and nuns, and destroyed property. Several policemen were suspended for dereliction of duty after a nun alleged that she was raped. At this writing, at least 40 persons had died in the violence, with scores injured and thousands internally displaced.

Failure to secure justice for the 2002 Gujarat riots—in which more than 2,000 Muslims were killed following an attack on a train carrying Hindu pilgrims—has fueled anger amongst Muslims. Police continue to arbitrarily round up and detain Muslims nationwide after bomb blasts; many have alleged they were tortured during interrogation and forced into signing false confessions. Muslims also face

discrimination in access to housing and jobs and the Indian government does little to protect them.

Despite a scheme launched four years ago to provide universal education, millions of children in India still have no access to education and work long hours, many as bonded laborers. Many children continue to be trafficked for marriage, sex work, or employment. Others languish in substandard orphanages or detention centers.

A case is still pending before the Supreme Court seeks to strike down Section 377 of the Indian Penal Code—a British colonial provision—so as to decriminalize consensual homosexual conduct between adults. While some officials, including the health minister, support repealing the law, others have vigorously defended it. In October 2008, police in Bangalore arrested five *hijras*—transgender women—and then detained 37 human rights defenders and activists who came to assist them, beating and sexually abusing some of them.

According to the National AIDS Control Organization, more than 2.5 million people are living with HIV. Four southern states (Andhra Pradesh, Maharashtra, Tamil Nadu, and Karnataka) account for nearly two-thirds of those infected. Although antiretroviral therapy is supposed to be freely available at public health facilities, there are significant regional disparities in implementation of the policy.

Children and adults living with HIV/AIDS, as well as those whose marginalized status puts them at highest risk—internal migrants, sex workers, injection drug users, men who have sex with men, and transgender populations—face widespread stigmatization and discrimination, including denial of employment, access to education, orphan care, and healthcare.

Human Rights Defenders

The trial of Dr. Binayak Sen, a physician and human rights activist with the People's Union for Civil Liberties (PUCI), began in May 2008 in Chhattisgarh. Sen was detained in May 2007 under the Chhattisgarh Special Public Security Act and accused of having links to the Naxalites. In May 2008 police arrested filmmaker and PUCI member Ajay TG under the same act for alleged links to unlawful Maoist

organizations. He was granted bail in August after the government failed to file charges within the mandatory 90 days stipulated in the act.

Key International Actors

As a strong emerging economy, India has built crucial trade links with the European Union and United States. After signing a deal with the US to secure nuclear supplies for civilian use, in 2008 India won a waiver from the 45-nation Nuclear Suppliers Group to lift restrictions on nuclear commerce. The restrictions were imposed after India carried out its first nuclear test in 1974.

In 2008 several key international partners were disappointed by India's refusal to take a strong public position against ongoing human rights violations in Burma and Sri Lanka. In response to the renewed crackdown on dissent in Burma, New Delhi stopped the supply of lethal weapons to the Burmese military but otherwise offered only a tepid response, saying it believed in private engagement with the Burmese regime.

India initially refused to join the international community in demanding better human rights protections during the ongoing war in Sri Lanka. In September 2008 India finally expressed concern amid unconfirmed reports that civilians were increasingly being caught in the middle of the fighting, at risk from both government forces and the Liberation Tigers of Tamil Eelam. In November India agreed to ship relief materials for distribution by the International Committee for the Red Cross.

India has routinely ignored recommendations from UN human rights bodies including, UN committees on the elimination of racial discrimination and discrimination against women. India is a member of the UN Human Rights Council (HRC) and in 2008 came up for Universal Periodic Review by the HRC, agreeing to several recommendations including that it sign and ratify UN treaties banning torture and enforced disappearances.