



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

COUNTRY OF ORIGIN INFORMATION REPORT

INDIA

APRIL 2006

RDS-IND

COUNTRY OF ORIGIN INFORMATION SERVICE

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1. Scope of Document

- 1.01 This Country of Origin Information Report (COI Report) has been produced by Country of Origin Information Service, Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to 10 March 2006.
- 1.02 The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- 1.03 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- 1.04 The structure and format of this COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- 1.05 The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- 1.06 As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.
- 1.07 The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent

documents. All sources contain information considered relevant at the time this Report was issued.

- 1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.
- 1.09 COI Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.
- 1.10 In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

- 1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country information material. Information about the Panel's work can be found on its website at www.apci.org.uk.
- 1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be

taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

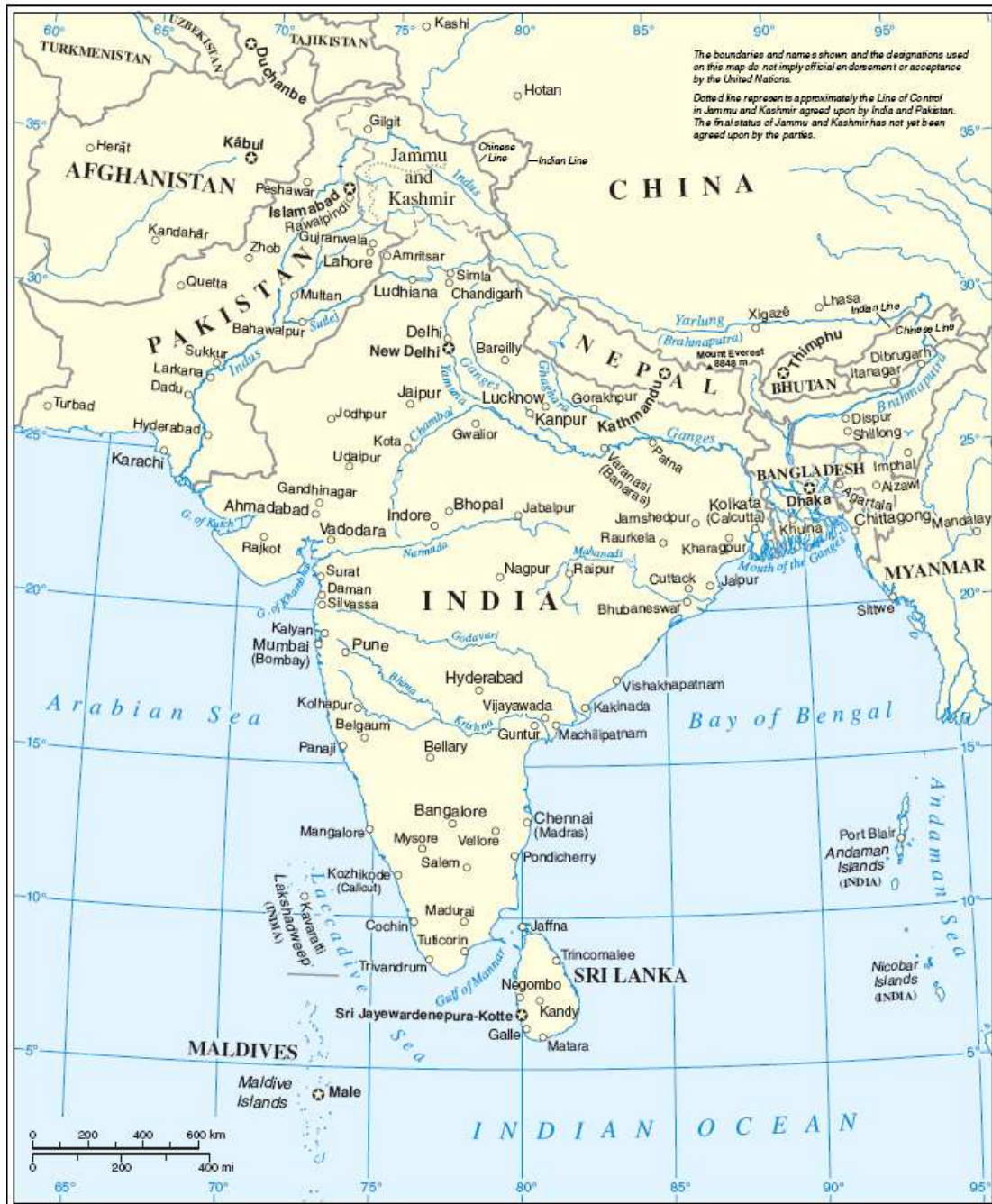
- 2.01 Europa World Regional Surveys of the World, South Asia 2005, documents that the Republic of India is one of the largest countries in the world, with an area of 3,287,263 sq km including the whole of Jammu and Kashmir, which is divided between India and Pakistan. [1] (p152) As stated in the CIA World Factbook, updated on 11 May 2004, India's neighbours are Bangladesh, Bhutan, Burma, China, Nepal, and Pakistan. [35] (p2) As noted by Europa 2005, on the north west India bounds Pakistan and borders Myanmar (Burma) on the north east, and Bangladesh to the east. "India's great southern peninsula stretches down into the tropical waters of the Indian Ocean, here its boundaries extend to Andaman and Nicobar Islands, in the Bay of Bengal, and the Lakshadweep archipelago, in the Arabian sea." [1] (p152)
- 2.02 As noted in the US State Department Background Note for India, reviewed in December 2005, the population of India (2004 estimate) is 1.1 billion, of which the urban population accounts for 27.8 per cent. Although India occupies only 2.4 per cent of the world's land area, it supports over 15 per cent of the world's population. The population growth rate is 1.4 per cent per annum. The capital is New Delhi (pop.12.8 million, 2001 census). Other major cities are Mumbai, formerly Bombay (16.4 million); Kolkata, formerly Calcutta (13.2 million); Chennai, formerly Madras (6.4 million); Bangalore (5.7 million); Hyderabad (5.5 million); Ahmedabad (5 million) and Pune (4 million). [2f] (People) According to the BBC timeline for India, the country marked the birth of its billionth citizen in May 2000. [32bf]
- 2.03 As cited in the CIA World Factbook, the national language is Hindi, and the first language of 30 per cent of the population. Since 1965 English has been recognised as an "associate language" but is the most important language for national, political, and commercial communication. [35] (p4) As reflected in the Foreign & Commonwealth Office (F&CO) report updated 8 October 2005: "The official language is Hindi written in the Devanagari script...In addition there are 18 main and regional languages recognised for adoption as official state languages. There are another 24 languages, 720 dialects and 23 tribal languages. Among the main languages are Bengali (8.2%), Marathi (7.7%), Urdu (5.2%), Gujarati (4.7%), Bihari (3.8%), Oriya (3.6%), Telugu (3.5%), Tamil (3.2%) and Punjabi (3.0%). Other languages include Assamese, Kannada, Rajasthani and Kashmiri. Bihari and Rajasthani are variants of Hindi." [7i] (p2) According to the Ethnologue Report for India, reviewed in November 2003, there are an estimated 850 languages in daily use. [31]
- 2.04 According to estimates for 2000 in the CIA World Factbook, updated 10 January 2006, the biggest ethnic group in India is the Indo Aryans (72 per cent), followed by the Dravidians (25 per cent), Mongoloid and others (3 per cent). (81.3 per cent) are Hindu, (12 per cent) Muslim, (2.3 per cent), Christian, (1.9 per cent) Sikh. Other religious groups include Buddhist, Jain and Parsi (2.5 per cent). [35] (p4)

See Section 6.204 – Ethnic groups

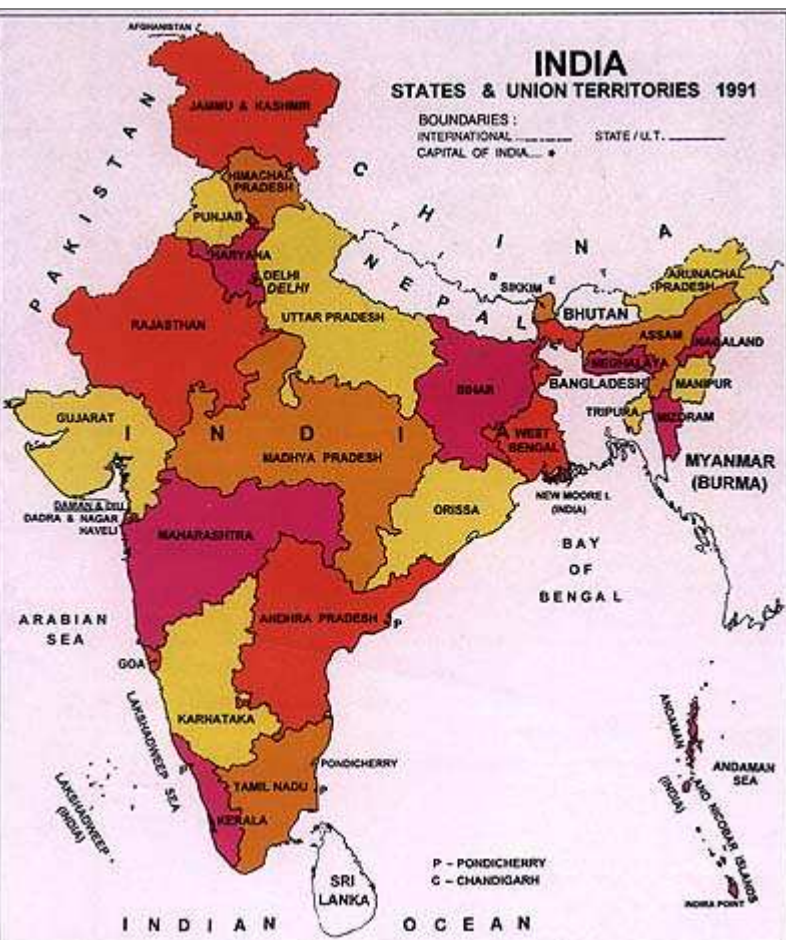
- 2.05 On the following pages are two maps of India:

Maps of India:

SOUTH ASIA



<http://www.un.org/Depts/Cartographic/map/profile/seasia.pdf>



“Based upon the Survey map with the permission of the Surveyor General of India.

The territorial waters of India extend into the sea to a distance of twelve nautical miles measured from the appropriate base line.

The boundary of Meghalaya shown on this map is as interpreted from the North-Eastern Areas (reorganisation) Act, 1971, but has yet to be verified.”

© Government of India, 1996.

[Government of India: India - States & Union Territories 1991](#)

[See Annex B: Maps](#)

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3. Economy

- 3.01 As noted in the US State Department Background Note for India, reviewed in December 2005: "It has the world's 12th largest economy, and the third largest in Asia behind Japan and China, with total GDP of around \$691 billion. Services, industry and agriculture account for 50.8%, 27.2% and 22.0 % of GDP respectively. Nearly two-thirds of the population depends on agriculture for their livelihood. About 25% of the population lives below the poverty line, but a large and growing middle class of 320-340 million has disposable income for consumer goods." [2f] (Economy)
- 3.02 As reported by the same source:
- "India is continuing to move forward with market-oriented economic reforms that began in 1991. Recent reforms include liberalized foreign investment and exchange regimes, industrial decontrol, significant reductions in tariffs and other trade barriers, reform and modernization of the financial sector, significant adjustments in government monetary and fiscal policies and safeguarding intellectual property rights.... However, economic growth is constrained by inadequate infrastructure, a cumbersome bureaucracy, corruption, labor market rigidities, regulatory and foreign investment controls, the 'reservation' of key products for small-scale industries and high fiscal deficits.... The rapidly growing software sector is boosting service exports and modernizing India's economy." [2f] (Economy)
- 3.03 As noted in Europa Regional Surveys of the World, South Asia, 2005, "The economy grew by 8.2% in the fiscal year 2003/2004, making India one of the fastest growing economies in the World." [1] (p184) BBC News reported in an article, dated 28 February 2005, that the Finance Minister Palaniappan Chidambaram said India's economy grew 6.9 per cent in 2004. [32fk]
- 3.04 As noted in the Economic Intelligence Unit Country Report for India, 2004-5:
- "Congress has also been challenged by its Left Front partners over the proposed liberalisation of foreign investment, highlighting the strains between the two groups. The budget released in July focuses attention on agricultural development and the provision of employment and social services to the poor, who are widely thought to have supported Congress in the recent election. Economic growth will moderate to 6.1% (at factor cost) in fiscal year 2004/05 (April-March), down from an exceptional 8.3% in 2003/04, owing to a likely contraction in the agricultural sector and hence less robust growth in personal incomes." [16] (Overview)
- 3.05 A BBC news report of 27 August 2004 noted that the World Bank is to raise its lending to India under a newly drafted four year assistance programme, which starts in 2005. [32ad] A further report of 30 August 2004 indicated that India's central bank, the Reserve Bank of India, has warned that the high price of oil and drought are the two biggest threats to economic growth. [32ds]
- 3.06 As noted in the Economic Intelligence Unit Country Report for India, 2004-5, the average unemployment rate in 2003 was 9.5 per cent. The consumer price inflation at the end of 2003 was 3.7 per cent. [16] (p6) As reported in Amnesty

International's 2005 Annual Report: "Despite positive economic gains in recent years, approximately 300 million people remained in poverty." [3n] (p3)

- 3.07 XE.com state that the approximate rate of exchange on 2 February 2006 was £1 = 78.6181 Indian rupees. [36]

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4. History

For history prior to 1991, please refer to *The Europa Regional Surveys of the World, South Asia, 2005*. [1]

1991 TO PRESENT

CONGRESS (I) AND ECONOMIC REFORM

- 4.01 As noted in the US State Department Background Note for India, December 2005 “On May 27, 1991, while campaigning in Tamil Nadu on behalf of Congress (I), Rajiv Gandhi was assassinated, apparently by Tamil extremists from Sri Lanka...” In the elections, Congress (I) returned to power at the head of a coalition under the leadership of PV Narasimha Rao. This Congress-led Government served a full five-year term and opened India’s economy to global trade and investment. [2f] (Government)

EMERGENCE OF BJP

- 4.02 As noted by Europa 2005 and the BBC timeline, the results of the general elections held in May 1996 gave no party or group an overall majority. The Hindu nationalist Bharatiya Janata Party (BJP) emerged as the largest party but still well short of a majority, even with allies. [1] (p164) [32bf] As reflected in the US State Department Background Note for India, December 2005:

“Under Prime Minister Atal Behari Vajpayee, the subsequent BJP coalition lasted only 13 days. With all political parties wishing to avoid another round of elections, a 14-party coalition led by the Janata Dal formed a government known as the United Front, under the former Chief Minister of Karnataka, H.D. Deve Gowda. His government collapsed after less than a year, when the Congress Party withdrew his support in March 1997. Inder Kumar Gujral replaced Deve Gowda as the consensus choice for Prime Minister at the head of a 16-party United Front coalition.” [2f] (History)

- 4.03 As stated in the same source:

“In November 1997, the Congress Party again withdrew support from the United Front. In new elections in February 1998, the BJP won the largest number of seats in Parliament –182– but fell far short of a majority. On March 20, 1998, the President inaugurated a BJP-led coalition government with Vajpayee again serving as Prime Minister.” [2f] (History)

TENSION WITH PAKISTAN

- 4.04 As noted in the US State Department Background Note for India, December 2005:

“On May 11 and 13, 1998, this government conducted a series of underground nuclear tests, forcing U.S. President Clinton to impose economic sanctions on India pursuant to the 1994 Nuclear Proliferation Prevention Act.” [2f] (History)

- 4.05 The BBC timeline indicates that in February 1999, Prime Minister Vajpayee made a historic bus trip to Pakistan to meet Premier Nawaz Sharif and to sign the bilateral Lahore peace declaration. However, tension in Kashmir led to a brief war with Pakistan-backed forces around Kargil in Indian-held Kashmir. [32bf] As noted in the US State Department Background Note for India, December 2005:
- “In April 1999, the BJP-led coalition government fell apart, leading to fresh elections in September. The National Democratic Alliance – a new coalition led by the BJP – gained a majority to form the government with Vajpayee as Prime Minister in October 1999.” [2f] (History)
- 4.06 As recorded in the BBC timeline, in July 2001, Vajpayee met Pakistani President Pervez Musharraf in the first summit between the two neighbours in more than two years. The meeting ended without a breakthrough or even a joint statement because of differences over Kashmir. In May 2002 Pakistan test-fired three medium-range surface-to-surface Ghauri missiles, capable of carrying nuclear warheads. This intensified the tension between the leaders. [32bf]
- 4.07 As reported in a BBC report of 18 February 2004, three days of talks were held in Islamabad with the disputed region of Kashmir top of the agenda. [32co]
- 4.08 As reported in Human Rights Watch annual report 2005:
- “The Congress government continued its predecessor’s policy of dialogue with Pakistan to resolve outstanding issues of conflict. The two countries’ leaders met in New York in September, where Singh and Musharraf reiterated a commitment to the bilateral dialogue to restore normalcy and a peaceful negotiated settlement in Kashmir.” [26e] As recorded by BBC Timeline: Steps to peace in South Asia, this was the first official meeting of the two countries’ foreign ministers at such a high level for three years. [32fm]
- 4.09 As reported by the BBC in a news report of 11 November 2004, Prime Minister Manmohan Singh announced that India would reduce its troop deployment in the disputed territory of Kashmir that winter. “Mr Singh said the move reflected ‘an improvement in the security situation’ there...Pakistan has welcomed the move as a ‘step in the right direction’.” [32fc]
- 4.10 As reported by the BBC on 10 December 2004, police fired tear-gas and baton-charged demonstrators protesting against Indian rule in Kashmir:
- “More than 500 people marched on World Human Rights Day in Srinagar, summer capital of Indian-administered Kashmir. More than 200 protesters, representing a faction of the main separatist All Party Hurriyat Conference (APHC), were taken into custody. A further 60 were held earlier during a march against alleged human rights violations by Indian forces...Prominent leaders of the APHC Geelani faction, Sheikh Aziz, Ghulam Nabi Sumjhi and Nayeem Khan, were among those taken into custody. The Chairman of Geelani faction, Syed Ali Shah Geelani, and head of the Democratic Freedom Party, Shabir Shah, were kept under house arrest from Friday morning.” [32ff]
- 4.11 As stated in the Economist Intelligence Unit Country Report for India, January 2005:

“India’s relations with Pakistan, its long-standing rival, improved during 2004. Negotiations on a number of disagreements are taking place, and although the talks have not delivered solutions on major issues, they have resolved some minor ones. Continuing disagreement over a highly symbolic proposed bus service linking Srinagar in Indian-administered Kashmir to Muzaffarabad in Pakistani-administered Kashmir led to an adjournment of talks in early December (2004)...” [91] (p1)

4.12 BBC News reported on 22 March 2005:

“Pakistan has released more than 500 Indian detainees who were allowed to walk home across the Wagah Border west of the Indian Punjab city of Amritsar. The prisoners – mostly fishermen – were freed by order of President Pervez Musharraf as a ‘goodwill gesture’, a local Pakistani official said. Indian officials say it is one of the largest prisoner transfers to be arranged between the two countries. The releases follow numerous measures by both countries to improve relations.” [32ih]

4.13 As reported by Keesings News Digest April 2005, the first bus service connecting the Indian and Pakistani zones of the divided state of Jammu and Kashmir since 1947 was successfully inaugurated on 7 April. “A bus from Srinagar, the summer capital of Indian controlled Kashmir, took 19 people across the Line of Control (LoC), the de facto border, to Muzaffarabad, capital of Pakistan controlled (Azad) Kashmir, for family reunions.” [5aa]

The same source reported, “Prime Minister Manmohan Singh on April 13 opened the first phase of a railway to connect Jammu and Kashmir to the rest of India’s railway network.” [5aa]

4.14 As reported by BBC news on 5 April 2005, a bomb blast on the route of the bus service in Kashmir, two days before the opening of the service, wounded at least seven people. Shortly after the blast, four Kashmir militant groups renewed their warning not to use the bus service. Militants see the bus service as a climb-down by Pakistan in allowing the service which undermines their campaign against Indian rule, although they insist they are not opposed to divided families reuniting. [32gf]

4.15 Keesings April 2005 News Digest reported that President Musharraf visited India on 16-18 April ostensibly to watch the final one-day cricket international in New Delhi between India and Pakistan. Attendance at the match was the preliminary to a summit meeting with Prime Minister Singh, following which the two leaders issued a joint statement that included the determination that the peace process was ‘irreversible’ and would not be impeded by ‘terrorism’:

“Although Musharraf emphasised that he could not accept the LoC as a final solution to the dispute, whilst Singh said that redrawing the borders was ‘not possible’, analysts said that a new air of flexibility was apparent in their discussions, without the tacit acceptance of a ‘soft border’ between the two parts of Kashmir.” [5aa]

4.16 It was reported by BBC News on 2 June 2005, a group of top Kashmiri separatist leaders made a landmark visit as a representative group across the LoC into Pakistani-administered territory, this being the first time India has

allowed Kashmiri separatist leaders to travel from territory it administers to Pakistan. The visit was opposed by hardliners and militant groups. The separatists were set to hold talks with Pakistani officials as well as local Kashmiri representatives. Chairman of the JKLF, Yasin Malik said, "In 1989 I crossed the LoC to bring the gun, today I'm on a peace mission." [32gl]

- 4.17 BBC News reported on 5 August 2005 that officials from India and Pakistan began two days of talks aimed at reducing the risk of nuclear conflict. The nuclear talks are scheduled to be followed by other "confidence-building" measures and the dispute of Kashmir. [32fr]
- 4.18 In a BBC news article dated 30 May 2005, it was noted that tourists are returning to Indian-administered Kashmir having previously stayed away due to the conflict, encouraged by reports of peace and improved relations between India and Pakistan. The authorities claim the tourism industry began improving last year. However foreign tourists are still keeping away. [32]

RELIGIOUS STRIFE

- 4.19 As recorded in the US State Department Background Note for India, December 2005: "The Kargil conflict in 1999 and an attack by terrorists on the Indian Parliament in December 2001 led to increased tensions with Pakistan." [2f] (History)

- 4.20 As recorded in the BBC timeline (updated 22 September 2004), in 1992 Hindu extremists demolished a mosque in Ayodhya, triggering widespread Hindu-Muslim violence and communal riots throughout India. [32bf]

- 4.21 As noted in Europa 2005, on 6 December 1992 the mosque at Ayodhya was demolished:

"It was clear that neither the central Government nor the state government had been able to take the necessary swift action that might have averted the demolition, but whether this reflected incompetence or deliberate intent is unclear. Whatever the position adopted by the party leaders the demolition of the mosque was clearly regarded as a great victory by many of the BJP's supporters. One consequence was an outbreak of rioting in many cities in which hundreds of lives (the majority Muslim) were lost." [1] (p162)

- 4.22 As recorded in the US State Department Background Note for India, December 2005:

"Hindu nationalists supportive of the BJP agitated to build a temple on a disputed site in Ayodhya, destroying a 17th century mosque there in December 1992, and sparking widespread religious riots in which thousands, mostly Muslims, were killed. In February 2002, a mob of Muslims attacked a train carrying Hindu volunteers returning from Ayodhya to the state of Gujarat, and 57 were burnt alive. Over 900 people were killed and 100,000 left homeless in the resulting anti-Muslim riots throughout the state. This led to accusations that the state government had not done enough to contain the riots, or arrest and prosecute the rioters." [2f] (History)

BBC News reported on 21 May 2004 that the Supreme Court had ordered a retrial of a riot case in which 12 Muslims were burned to death by a Hindu mob

2 years ago in Gujarat. It ruled that the new trial must take place in neighbouring Maharashtra state and called for a fresh investigation. [32cp]

- 4.23 Nine people were convicted in India's Best Bakery case which many saw as a landmark judgement. The system was accused of failing Muslims in Gujarat following the rioting. Serious questions were raised about the justice system where cases had been registered against unnamed persons with few arrests and no mass scale resignations of senior officials. Initially some 2,000 cases were closed for lack of evidence. As reported by BBC News on 24 February 2006, "The Best Bakery case is only one of more than one thousand that are still to be heard." [32j]

For more information on the Gujarat riots and the retrial please refer to Section 6.51/Freedom of religion/Muslims

- 4.24 A BBC news report dated 25 July 2002 announced that the eminent scientist Dr A.P.J. Abdul Kalam was sworn in as India's twelfth President, replacing K.R. Narayanan. He is the retired architect of India's missile programme. As a Muslim, correspondents felt that this was an important signal at a time when the country was still recovering from the [Hindu-Muslim] Gujarat riots. [32ai]

GENERAL ELECTIONS 2004

- 4.25 As reported by BBC News on 1 March 2004, and CNN on 20 April 2004, early elections were called by Prime Minister Atal Behari Vajpayee and voting held over four days starting on 20 April and ending on 10 May. Ballots were cast on electronic voting machines for the first time with 675 million eligible to vote. [32ay] [33e] A CNN report of 20 April 2004 and a further BBC report of 29 April 2004 announced that India's autonomous election commission had ordered an inquiry into complaints of widespread vote-rigging and other irregularities in Bihar. Violence and ballot box theft required reballoting in some areas. [32dj][33e]
- 4.26 As recorded in the India Today May 2004 issue, in an unexpected turnaround, the Congress-led front emerged victorious, securing 217 seats with its allies: RJD, NCP, DMK, PMK, MDMK, TRS, JMM, LNJSP, JKPDP. The BJP and allies (Shiv Sena, JD(U), SAD, BJD, Trinamool, ADMK, TDP) secured 185 seats, and others 136 seats. [11g] (p3-10) As noted in the FCO website, reviewed 8 October 2005, the surprise result saw the former BJP-led coalition government resign. [7i] (p2)
- 4.27 The BBC reported on 18 May 2004 that Sonia Gandhi, the leader of the Congress Party, had declined the Prime Ministership. [32dl] According to the BBC timeline for India and the CRS Report for Congress, Manmohan Singh, a former Finance Minister, was sworn in as Prime Minister on 22 May 2004, becoming India's first-ever non-Hindu Prime Minister. He leads a coalition Government, called the United Progressive Alliance. [32bf] [64] (p2) [7i] (p2) As cited in the US State Department Background Note for India, December 2005, Party President Sonia Gandhi was re-elected by the Party National Executive in May 2005. [2f] (Political Conditions) A BBC report of 1 June 2004 reported that the BJP, the main opposition party, elected L.K. Advani, the former Deputy Prime Minister, as its new leader. [32dr]

- 4.28 As noted in the CRS Report for Congress, 12 July 2004, Prime Minister Singh has said that development will be a central priority of the UPA Government with reforms aimed at reducing poverty and increasing employment. The foreign policy focus will be on India's immediate neighbours. "The UPA has indicated that it will make the 1972 Simla Agreement between India and Pakistan the basis of its relationship with Islamabad even as it will abide by all subsequent accords." The two countries vowed to bolster defence and trade ties, while moving forward to resolve outstanding territorial disputes. [64] (p10-11)

For further information please see Annex C: Summary of election results and Annex D: Political make-up of government.

STATE ASSEMBLY ELECTIONS

- 4.29 As reported in Keesings Record of World Events for October 2004:
- "The position of the Congress (I) – led UPA government was strengthened in October by the results of two state assembly elections. In the election on October 16 (2004) in the major industrial western state of Maharashtra the ruling alliance of Congress and the Nationalist Congress Party (NCP) unexpectedly retained power by winning 141 seats in the 288-seat assembly, against a total of 117 seats for the opposition alliance of the BJP and the local right-wing Shiv Sena party. The elections also saw a shift of power within the governing alliance, as Congress (I), with 69 seats (against 75 in 1999) was overtaken by the NCP with 71 (58 in 1999). (The alliance's last seat was won by the Republican Party of India – Athavale.)" [5u]
- 4.30 The same source reported that elections of 11 October 2004 in Arunachal Pradesh Congress (I) secured a majority with 34 seats in the 60 seat assembly, followed by independents with 13 seats, the BJP with 9, the NCP with 2, and Arunachal Congress with two. Congress legislators unanimously elected Gegong Apang to his seventh term as Chief Minister on 14 October 2004. [5u]
- 4.31 As reported by Keesings News Digest for February 2005: "State assembly elections held in Bihar, Haryana, and Jharkhand in February were the first electoral tests since the United Progressive Alliance (UPA) government was brought to power in May 2004 and as such delivered a mixed verdict for the Congress (I) party and its allies." [5x]
- 4.32 As reported by the BBC on 15 February 2005, "More than half the eligible voters turned out in the second round of provincial elections in the northern Indian states of Bihar and Jharkhand...There were reports of some incidents of violence in Bihar and police say at least 17 people were injured...voting has been spread over three phases in the two states on account of the security situation. Earlier this month (February) voting also took place in the northern state of Haryana." [32ep]
- 4.33 As cited in a BBC news item dated 23 February 2005, with regard to the voting in the east Indian states of Bihar and Jharkhand for the provincial elections, "The Elections Commission said two people were killed in separate incidents during the voting, but the poll was largely peaceful. The elections were held in more than 130 constituencies in both of the states." [32ga]
- 4.34 As reported by the BBC on 28 February 2005:

“India’s Congress Party has won a landslide victory in elections in the northern state of Haryana but suffered a setback in two other states. Congress and its allies suffered setbacks in the politically crucial state of Bihar and in Jharkhand. Both states threw up hung assemblies... The outcome in the three states is unlikely to affect the governing Congress-led coalition nationally... At least 30 people were killed in poll violence in the two states, blamed mainly on Maoist rebels who had vowed to disrupt the elections.” [32ez]

The same source continues:

“Congress took 67 seats in the 90-member assembly in Haryana, while the incumbent Indian National Lok Dal (INLD) got just nine, election Commission officials said. The result in Haryana means that Congress is back in power in the state for the first time in nine years, unseating the INLD and its allies in the right-wing Hindu nationalist Bharatiya Janata Party (BJP).” [One of Congress’s main allies, the regional Rashtriya Janata Dal (RJD) lost its majority in Bihar.] “In the adjoining state of Jharkhand, Congress appeared to have failed in its effort to oust the BJP winning just 26 of the 81 seats with 36 going to the BJP.” [32ez]

4.35 As reported in Keesings Record of World Events, May 2005:

“On the recommendation of Prime Minister Manmohan Singh, President A.P.J Abdul Kalam on May 22 signed a proclamation to dissolve the legislative assembly of the eastern state of Bihar, only three months after the latest elections in the state. Singh said that the Cabinet’s decision was taken on the basis of a report by state governor Buta Singh that no party or alliance of parties was able to form a government. It was alleged that legislators from smaller parties were being paid large sums of money to join the opposition National Democratic Alliance (NDA).” [5ab]

4.36 BBC News reported on 19 June 2005:

“There were clashes between police and political activists during municipal elections in Calcutta and an adjoining township. “Police used baton-charges to control the clashes between rival supporters, some of whom used swords, bombs and revolvers to attack each other. Police said around 15 violent incidents left at least 70 people injured, among them several senior political leaders.” Some members of the ruling leftist coalition in West Bengal, were among those hurt in the clashes. [32ie]

INDIAN OCEAN TSUNAMI – 26 DECEMBER 2004

4.37 As reported on the Government of Tamil Nadu website on 10 January 2005, a very severe earthquake measuring a magnitude of 8.9 on the Richter scale struck northern Sumatra, Indonesia. “The earthquake was felt widely along the east coast of India.” [97]

4.38 As reported by the World Health Organization in a weekly tsunami situation report as at 24 February 2004:

“The tsunami caused extensive damage in the states of Tamil Nadu, Andhra Pradesh and Kerala and the Union Territories (UT) of Andaman and Nicobar

Islands and Pondicherry on 26 December 2004. It affected nearly 2,260 km of the coastline besides the entire areas of Nicobar Islands. Tidal waves as high as 3 to 10 metres penetrated inland ranging from 300 m to 3 km. Andaman & Nicobar Islands in the Bay of Bengal were particularly badly affected by the earthquake under the sea, which caused the tsunami.” [98]

- 4.39 The same report continues, “The Government of India, in association with the affected states/UTs mounted massive relief and rescue operations on the mainland and in the Andaman and Nicobar group of Islands.” [62b]
- 4.40 As reported in Amnesty International’s 2005 report for events occurring in 2004, “More than 15,000 people were killed or remained missing, and over 112,000 were displaced by the 26 December tsunami that caused extensive damage to coastal districts of Andhra Pradesh, Kerala and Tamil Nadu states and two Union Territories – the Andaman and Nicobar Islands, and Pondicherry. National and local relief efforts began immediately.” [3n] (p1)
- 4.41 The Foreign Office Travel Advice Report for 2005 states that: “Services such as water, power and communications have largely returned to normal in the coastal areas of Tamil Nadu, Andhra Pradesh and the Andaman and Nicobar Islands, affected by the 26 December 2004 tsunami.” [7k]
- 4.42 As reported in Keesings News Digest for February 2005, in his 2005-06 budget presentation to the Lok Sabha, Finance Minister Palaniappan Chidambaram pledged a total of R102.16 billion for long-term rehabilitation and reconstruction for victims of the Indian Ocean tsunami with R36.45 billion for short-term relief operations. [5y]

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HEAVY SNOW AND AVALANCHES

- 4.43 As cited in Keesings News Digest for February 2005, Jammu and Kashmir experienced the heaviest snowfalls for 40 years. Extreme cold and resultant avalanches killed at least 278 people. Prime Minister Manmohan Singh guaranteed the continued co-operation of the military and Union agencies with the state government in the rehabilitation of those affected by the severe weather conditions. The state Governor said the rescue and relief operation included the biggest airlift exercise in the state since 1947. [5y]

MONSOON

- 4.44 It was reported by the BBC news on 1 August 2005 that Indian authorities said the heavy monsoon rains in Mumbai and surrounding areas disrupted the lives of more than 20 million people. A third of the city was reportedly completely paralysed. Indian officials also warned that the death toll could reach 1,000 as rescue workers tried to recover bodies from flooded areas. The Indian Prime Minister offered federal assistance to Maharashtra state and ordered the army to help families hit by the floods. Thousands protested on the streets against alleged slow government response. The rainfall was the heaviest recorded in India’s history. About 200 medical teams left Mumbai for affected towns and villages in the state and 30,000 health workers were deployed. [32gi]

- 4.45 A further BBC article dated 3 August 2005 stated that: "The flood-hit Indian city of Mumbai (Bombay) has returned to near normality for the first time in 10 days that have seen record rainfall. Schools and offices are functioning normally, while air and rail services have resumed. But outside Mumbai, at least 60,000 villagers are still living in temporary camps because their homes are flooded." [32gi]
- 4.46 BBC News reported on 11 August 2005 that sixty-six people died from waterborne diseases in Maharashtra following the floods. Leptospirosis was suspected where outbreaks are known to occur during monsoon season. [32gq]

Earthquake – 2005

- 4.47 "An earthquake with its epicentre in Pakistani-administered Kashmir killed more than 1,000 people in Indian-administered Kashmir." [BBC Timeline]

DISASTER MANAGEMENT

- 4.48 As reported in "Tsunami – A Report to the Nation", dated 3 June 2005, Prime Minister Manmohan Singh said:

"As a part of long term strategy for Disaster Management, the Bill on Central Law on Disaster Management has been introduced in the Parliament on 11th May, 2005. The Bill provides that the States/UTs would be an integral part of the Disaster Management system in the country. Pending the enactment of the law, it is proposed to set up a National Disaster Management Authority (NDMA) through an executive order. The Central Law once enacted will help in strengthening the institutional arrangements for effective Disaster Management besides accountability and responsibility for the assigned task to different authorities at National, State and District level." [100]

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Bomb blasts

- 4.49 On 29 October 2005 bomb blasts in Delhi killed 62 people; a little-known Kashmiri group claimed responsibility. (BBC Timeline)[32bf]
- 4.50 On 7 March 2006 14 people were killed by bomb blasts in the city of Varanasi, a Hindu pilgrimage city. (BBC Timeline)[32bf]

5. State structures

THE CONSTITUTION

5.01 As cited on the Government of India website, accessed on 4 October 2002, the Indian Constitution was passed on 26 November 1949. The Preamble to the Constitution resolved to constitute India into a:

“Sovereign socialist secular democratic republic and to secure to all its citizens:
Justice - social, economic and political;
Liberty of thought, expression, belief, faith and worship;
Equality of status and opportunity
and to promote among them all
Fraternity, assuring the dignity of the individual and the unity and integrity of the nation.” [24c]

5.02 The fundamental rights section of the Constitution of India, accessed on 25 September 2004, indicates that the rights of the citizen include the:

- Right to Equality: Equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, equality of opportunity in matters of public employment and abolition of untouchability and titles
- Right to Freedom: Freedom of speech and expression, protection of life and personal liberty, protection against arrest and detention
- Right against Exploitation: Prohibition of human trafficking, forced labour and child labour
- Right to Freedom of Religion
- Cultural and Educational Rights: protection of interests of minorities
- Right to Constitutional Remedies [61]

5.03 As stated by Europa 2005, the Constitution is flexible in character, and a simple process of amendment has been adopted. [1] (p193)

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CITIZENSHIP AND NATIONALITY

5.04 As noted by the Defence Security Service website, updated on 29 September 2004, Indian citizenship is based upon the Citizenship Act of 1955: “Despite the variety of states, peoples and languages in India, the law recognises only Indian citizenship... Though the law of India does recognise citizenship through birth in country, unless the citizenship is actively applied for, the Indian Government does not consider the child a citizen of India.” [38]

5.05 The same website continues: “Children born abroad must be registered at the Indian Consulate... The child of an Indian mother and a foreign father is considered an Indian citizen if the mother and child continue to live in India and the father does not give the child his country’s citizenship.” [38]

- 5.06 As noted on the Government of India, Ministry of Home Affairs website, accessed on 28 September 2004: "A person born in India on or after 26th January 1950 but before 1st July 1987 is a citizen of India by birth irrespective of the nationality of his parents. A person born in India on or after 1st July 1987, is considered as a citizen of India only if either of his parents is a citizen of India at the time of his birth." [39b]
- 5.07 As stated in the same source "A person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India at the time of his birth. A person born outside India on or after 10th December 1992, is considered as a citizen of India if either of his parents is a citizen of India at the time of his birth." [39b]
- 5.08 The Government of India website, accessed on 28 September 2004, indicates that Indian citizenship may be acquired by naturalisation by a foreigner if the person has resided in India for 10 years (continuously for the 12 months preceding the date of application and for 9 years in the aggregate in the 12 years preceding the 12 months). [39b] The Defence Security Service website notes that the applicant would need to have renounced previous citizenship. [38]
- 5.09 As cited in the Defence Security Service website, updated on 29 September 2004: "Voluntary renunciation of Indian citizenship is permitted by law...The following are grounds for involuntary loss of Indian citizenship: the person voluntarily acquires a foreign citizenship; naturalised citizenship was acquired through false statements; a naturalised citizen commits acts against the State of India before the end of the five-year grace period." [38]
- 5.10 As noted on the website of the Embassy of India, Washington DC, accessed on 25 September 2004, the Indian Parliament passed a Bill on 22 December 2003 to grant dual citizenship to people of Indian origin overseas belonging to 16 specified countries. The Bill received the President's assent on 7 January 2004. Among other things, the Bill, which amends the Citizenship Act 1955, would simplify the procedure to reacquire Indian citizenship by the offspring of Indian citizens and former Indian citizens. [56] As noted in a report in the *Times of India* dated 23 August 2004, people of Indian origin (PIO) would have to pay to secure Indian overseas citizenship. "A PIO would enjoy all rights of an Indian citizen, except the right to employment in government service and exercising franchise or holding a constitutional post." The PIO would not be required to have a visa while visiting India and could also buy property. The new PIO scheme would be called Citizenship (Third Amendment) Rules, 2004. The facility has been extended to people of Indian origin living in Australia, Canada, Finland, France, Greece, Ireland, Israel, Italy, the Netherlands, New Zealand, Portugal, Republic of Cyprus, Sweden, Switzerland, UK and the US. [13b]
- 5.11 According to an internet article cited on Immihelp.com accessed on 18 March 2005, the scheme of granting 'Overseas Indian Citizenship (OIC)' under the Citizenship (Amendment) Act, 2003 was put on hold till further notice." [96] However according to an answer to an unstarred question in the Rajya Sabha dated 28 July 2005, subject to eligibility and to certain conditions and restrictions the Government had decided to amend the Citizenship Act 1955 to grant dual citizenship to persons of India Origin (PIOs) and under this amendment PIOs would be eligible to become citizens of India. Spouses of PIO card holders can apply for a PIO card enjoying the same benefits as PIOs. [27f]

- 5.12 As reported by BBC News on 13 January 2005: more than 100 Pakistanis renounced their nationality and took oaths to become Indian citizens at a ceremony in the western Indian state of Rajasthan. “The event was part of a special drive to give Indian citizenship to more than 5,000 Pakistani nationals who migrated to the state over the past few decades.” [32eq]

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POLITICAL SYSTEM

- 5.13 As noted in The Foreign and Commonwealth Office [FCO] India report reviewed 8 October 2005, “The Indian constitution provides a system of parliamentary and cabinet government both at the centre and in the states.” [7i]

As cited in the US State Department Report 2005 (published in 2006):

“The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The government changed hands following free and fair national parliamentary elections in April and May 2004 in which approximately 675 million citizens participated. Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. Citizens elected state governments at regular intervals except in states under President’s rule.” [2j] (Section3)

- 5.14 Europa Regional Surveys of the World 2005 notes that:

“The Parliament of the Union consists of the President and two Houses: the Rajya Sabha (Council of States) and the Lok Sabha (House of the People.) The Rajya Sabha consists of 245 members, of whom a number are nominated by the President. One third of its members retire every 2 years... The Lok Sabha has 543 members, elected by adult franchise; not more than 13 represent the Union Territories and National Capital Territory. Two members are nominated by the President to represent the Anglo-Indian community.” [1] (p192)

- 5.15 Europa Regional Surveys of the World 2005 indicates that: “The President is the head of the Union, exercising all executive powers on the advice of the Council of Ministers, responsible to Parliament. He is elected by an electoral college consisting of elected members of both Houses of Parliament and the Legislatures of the States. The President holds office for a term of five years and is eligible for re-election.” [1] (192)

- 5.16 As noted by The Foreign and Commonwealth Office [FCO] in their report on India updated on 8 October 2005, the current President of the Indian Parliament is APJ Abdul Kalam, elected as the constitutional head of the executive and the two houses (Lok Sabha – the lower house - “House of the people” and Rajya Sabha – the upper house - “council of states”) for a term of five years. [7i]

- 5.17 Europa further notes that, “The Union of India comprises 28 states, six Union Territories and one National Capital Territory. There are provisions for the

formation and admission of new states.” [1] (p192) As noted in the USSD report of 2003: “On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President’s Rule may be declared in the event of a collapse of a state’s constitutional machinery.” [2g] (p20)

- 5.18 As indicated in Europa 2005, the 28 states are: Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal, and West Bengal. [1] (p186)
- 5.19 The Territories are: Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Delhi, Lakshadweep, and Pondicherry. [1] (p186)
- 5.20 As noted in the US State Department Report 2005, “Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support.” [2c] (Introduction)
- 5.21 As reflected by Europa in 2005: “The Panchayat Raj Scheme is designed to decentralize the powers of the Union and State Governments. It is based on the Panchayat (Village Council) and the Gram Sabha (Village Parliament) and envisages the gradual transference of local government from state to local authority.” [1] (p193)
- 5.22 As noted in the US State Department Post Report for India dated 1 July 2004, national political parties include the Congress (I) Party, Bharatiya Janata Party (BJP), Janata Party (United), Communist Party of India (CPI), and Communist Party of India-Marxist (CPM). In addition, there are several important regionally based political parties, including Telugu Desam, All India Anna Dravida Munetra Kazhagam (AIDMK), Dravida Munetra Kazhagam (DMK), Akali Dal, and Samajwadi Janata Dal. [2e] (p6)
- 5.23 As reported on the Foreign and Commonwealth Office [FCO] website, reviewed on 8 October 2005:

“The Bharatiya Janata Party (BJP) and the Congress Party are the two main forces in the current Indian political scene, but neither can command a clear Parliamentary majority. The balance of power is held by a loose collection of regional and other parties... Elections were held throughout India in April and May 2004. The Congress Party and allies emerged with 219 seats, the BJP and allies with 186 seats, and others with 131 seats [136 in India Today]. The surprise result saw the former BJP-led coalition government resign. Manmohan Singh, a former finance minister, is the new Prime Minister. He leads a coalition government, called the United Progressive Alliance.” [7i]

A.P.J. Abdul Kalam is the current President, (BBC News.) [32bf]

Please see Annexes B, C, D for more information

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JUDICIARY

- 5.24 As stated in the US State Department report of 2005, “The law provides for an independent judiciary, and the government generally respected this provision in practice: however serious problems remained. In Jammu and Kashmir, members of the judiciary were subject to threats and intimidation by insurgents and terrorists.” [2c] (Introduction)
- 5.25 As reflected in the same report:
- “The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the Court of Appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, and they may serve until the age of 62 on state high courts and until the age of 65 on the Supreme Court.” [2c] (section 1e)
- 5.26 The report continues:
- “According to the Home Ministry, as of March there were 1,700 fast track courts in the country. Fast track courts concentrated on a specific type of case, allowing judges to develop expertise in a given area of law. These courts gave preference to cases pending for extended periods and often focused on civil issues. Court fees were generally lower for these courts, since the trials were shorter.” [2c] (Section 1e)
- 5.27 “Unlike in previous years, court was regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of the government’s anti-insurgent actions and because of the frequent refusal by security forces to obey court orders.” (USSD 2005) [2c] (Section 1e)
- 5.28 “As a result of severe overloading of the courts, thousands of persons awaiting trial spent longer in prison than the maximum sentences for the crimes for which they were charged. In July 2004 the Ministry of Law and Justice reported that there were 29,622 cases pending before the Supreme Court, and 3,269,224 before the state high courts. The NHRC reported in 2004 that 75 percent of the country’s inmates, some 217,659 persons, were in pretrial detention. Human rights groups claimed that because of the extensive case backlog and rampant corruption the judicial system no longer met its constitutional mandate.” (USSD 2005) [2c] (Section 1e)
- 5.29 As indicated by Europa in 2005: “The Supreme Court has advisory jurisdiction in respect of questions which may be referred to it by the President for opinion. The Supreme Court is also empowered to hear appeals against a sentence of death passed by a State High Court in reversal of an order of acquittal by a lower court and in a case in which a High Court has granted a certificate of fitness.” [1] (p199)
- 5.30 As noted by the same source: “The High Courts are the Courts of Appeal from the lower courts, and their decisions are final except in cases where appeal lies to the Supreme Court. Lower criminal courts are the courts of Session which are competent to try all persons committed for trial and inflict any punishment

authorised by the law. The President and the local government concerned exercise the prerogative of mercy.” [1] (p199)

- 5.31 In response to an unstarred question (no.2103) by the Minister of State in the Ministry of Law and Justice, Department of Justice in the Rajya Sabha, on 21 March 2005, concerning the number of pending cases in both the High and Supreme Court:

“There are 24 cases pending for more than 20 years in the Supreme Court, 121 cases for more than 10 years and 1204 cases in excess of 5 years...The Government has been periodically monitoring the pendency position in various courts. The steps taken for speedy disposal of pending cases, include timely filling the vacancies of judges, increasing the judge strength, grouping of cases involving common Lok Adalats at regular intervals, encouraging alternative modes of dispute resolution like negotiation, mediation and arbitration and setting up of special tribunals like Central Administrative Tribunals, State Administrative Tribunals, Income Tax Appellate Tribunals, Family Courts, Labour Courts etc.” [27c]

- 5.32 As reported by News 24.com on 13 February 2006, a 70 year old man was set free on bail after spending 38 years in prison without charge and seemingly forgotten. The man was arrested in 1968 on suspicion of killing his sister-in-law but failed to face trial because authorities lost his records. It is claimed that the poor and powerless are often overlooked in India’s vast and disorganised justice system. [107]

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LEGAL RIGHTS/DETENTION

- 5.33 As stated in the US State Department report 2005:

“The law requires that detainees be informed of the grounds for their arrest, represented by legal counsel, and, unless held under a preventive detention law, to be arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge during the year, adding to already overcrowded prisons...”

- 5.34 As stated in the US State Department report 2005, “The law provides arrested persons the right to be released on bail, and prompt access to a lawyer in most cases. Court approval of a bail application is mandatory if police do not file charges within 60 to 90 days of arrest. In most cases, bail was set between \$11 (Rs.500) and \$4,500 (Rs.200 thousand).” [2c] (Section 1d Arrest & Detention)

- 5.35 Information sourced by the Research Directorate, Immigration and Refugee Board, Ottawa, in August 2001, indicates that a police officer or arresting officer should not proceed to arrest unless he has a warrant in his possession, otherwise resistance offered to him would not be punishable. The warrant is the justification of arrest and need not be parted with. The arresting officer’s status must be shown or notified to the person to be arrested. The arrest warrant has to be in writing, must be signed by the Presiding Officer and bear the seal of the

Court. A warrant of arrest remains in force until it is cancelled by the Court which issued it or until it is executed. [4d]

- 5.36 As reported by the Canadian Immigration and Refugee Board (REFINFO) on 27 March 2003:

“The concept of anticipatory bail is mandated under Section 438 of the Indian Criminal Procedure Code. Under its provisions, any person who has reason to believe that they may be arrested ‘on an accusation of having committed a non-bailable offence’ may apply to the High Court or the Court of Session for grant of bail in the event of an arrest. Anticipatory bail is not available in the state of Uttar Pradesh. Unlike a regular bail order that follows a person’s arrest and results in that person’s release from police custody, anticipatory bail is effective at the moment of arrest.” [4j]

- 5.37 As cited in the US State Department report 2005:

“The Criminal Procedure Code provides that trials be conducted publicly, except in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced publicly, and defendants have the right to choose counsel independent of the government. There are effective channels for appeal at most levels of the judicial system and the State provides free legal counsel to indigent defendants. Defendants were allowed access to relevant government-held evidence in most civil and criminal cases; however the government had the right to withhold information and did so in cases it considered sensitive. In 2003 the Delhi High Court issued new witness protection guidelines to reduce the number of witnesses who recanted their testimony under threat from defendants.” [2c] (Section 1e)

- 5.38 An article in *The Hindu*, dated 14 January 2003, reported that the Legal Services Authorities Act was promulgated in 1987 and amended in 2002 when national and state legal services authorities were created to provide free and competent legal services to the weaker sections of society. It means that persons covered by the Act are entitled to legal advice, legal representation and legal adjudication free of cost. Despite this laudable objective, some of the provisions of the Act have attracted criticism from lawyers who claim that it seeks to reduce justice dispensation to an informal and casual process. The reason for the backlogs is the abysmal infrastructure, enormous delays in filling up vacancies, low entry level barriers into the legal profession and the appallingly low judge-to-population ratio in India. [60a]

- 5.39 The US State Department report 2005 notes:

“According to the Home Ministry, as of March there were 1,700 fast track courts in the country. Fast track courts concentrated on a specific type of case, allowing judges to develop expertise in a given area of law. These courts gave preference to cases pending for extended periods and often focused on civil issues. Court fees were generally lower for these courts, since the trials were shorter.” [2c] (Section 1e)

- 5.40 The US State Department report 2005 continues, “The government does not interfere in the personal status laws of minority communities, including those laws that discriminate against women. There are separate laws for Muslims and

Hindus on a number of issues. Muslim personal status law governs family law, inheritance, and divorce.” [2c] (Section 1e)

See Sections on Muslims and Women for further information

5.41 As stated in the same report:

“Under AFSPA, the government can declare any state or union territory a ‘disturbed area’. This allows the security forces to fire on any person in order to ‘maintain law and order’ and to arrest any person ‘against whom reasonable suspicion exists’ without informing the detainee of the grounds of arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA... AFSPA remained in effect in Nagaland, Manipur, Assam and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir.” [2c] (Section 1d)

5.42 BBC News reported on 5 August 2004 that thousands of protesters in Manipur campaigned to demand the withdrawal of the Act after a Manipuri woman was found raped and shot by the security forces. However the latter said they needed the special powers to fight separatists. [32dc] Manipuris claim the law is frequently misused by the troops. [32fx] Amnesty International made a public statement on 11 August 2004 and called for a review of the Act.

“In areas declared as ‘disturbed’ – such as in the north-east region – Amnesty International is concerned that the AFSPA:

- facilitates grave human rights violations,
- empowers the security forces to arrest and enter property without warrant,
- gives the security forces powers to use excessive force, including to shoot to kill without members of the security force lives being at imminent risk,
- facilitates impunity because no person can start legal action against any member of the armed forces for anything done under the Act without permission of the Central Government,
- by certain of its provisions violates articles of the International Covenant on Civil and Political Rights (ICCPR)...” [3j]

5.43 As reported in Keesings News Digest November 2004, on 2 November 2004 Prime Minister Manmohan Singh pledged that the Government would review the unpopular Armed Forces Special Powers Act (AFSPA) in force in Manipur and Assam. [5v]

5.44 As reported in the US State Department report 2005: “The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remained in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura, where active secessionist movements existed. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants. Human rights groups alleged that security forces operated with virtual impunity in areas under the act.” [2c] (Section 1a)

5.45 The report continues:

“The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country - except for Jammu and Kashmir - without charge or trial for as long as one year on loosely defined security

reasons. State governments must confirm the detention order, which is reviewed by an advisory board of three high court judges within seven weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). According to press accounts, 32 persons were detained under the NSA in 2004.” [2c] (Section 1d)

5.46 As cited in the US State Department report 2005:

“In September 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). Nonetheless, SAHRDC reported that more than 1,000 persons remained in detention awaiting prosecution under lapsed special terrorism legislation, and that cases opened under POTA and Terrorism and Disruptive Activities Act (TADA) continued through the judicial system. On November 8, the Supreme Court acquitted two men, Daljit Singh Bittoo and Gursharan Singh Gama, previously sentenced to life imprisonment under TADA in June 2004. The defense argued successfully that the deputy superintendent of police had a personal vendetta against the two men and used TADA to imprison them.” [2c] (Section 1d)

5.47 The USSD report for 2003 indicated that in March 2002 the Prevention of Terrorism Ordinance (POTO) was enacted into law and changed to the Prevention of Terrorism Act (POTA).

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5.48 The USSD report for 2005 states:

“TADA courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extorted under duress were admissible as evidence.”

5.49 The report continues:

“POTA contained a sunset feature, which gave the Central POTA review committee one year to review all existing POTA cases. The Government established three central review committees to review the cases registered under POTA. The committees were required to review all cases registered under POTA by September 20, but at year’s end, numerous cases remained unreviewed. This clause also allowed the government to make new arrests under POTA, despite its repeal, if the arrests were tied to an existing POTA case. The government could issue a new indictment on a case opened five years earlier under POTA, even if the government was never associated with the case. It can also extend the 1-year limit for reviews; however, at year’s end, it had not done so. The law provides that the review committees constituted by the government shall review all cases registered under POTA by September 20. In June the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who instead should be charged under the regular law.”

“UAPA and POTA continued to be used to hold people in jail for extended periods prior to the filing of formal charges. Human rights groups reported that the revised UAPA contained important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court.” [2c] (Section 1d)

5.50 As noted in Keesings record of World Events for December 2004:

“The Rajya Sabha (the upper house of Parliament, the federal legislature) on Dec.9 passed a bill repealing the draconian and controversial Prevention of Terrorism Act (POTA) introduced by the previous Bharatiya Janata Party (BJP)-led government. On the same day, the Rajya Sabha passed substitute legislation, the Unlawful Activities (Prevention) Amendment bill, which Home Minister Shivraj Patil said would continue the fight against terrorism but at the same time protect the innocent.” [5w]

5.51 A Human Rights Watch report dated 22 September 2004 “India, POTA Repeal, A Step Forward for Human Rights”, states that:

“The Indian government’s decision to repeal the controversial Prevention of Terrorism Act (POTA) is a major step forward for civil liberties in India, Human Rights Watch said today....POTA was enacted soon after the September 11, 2001 attacks on the United States and the adoption of a United Nations Security Council resolution against terrorism. The legislation allowed security agencies to hold suspects for up to 180 days without filing charges. In practice, the law was often used against marginalized communities such as Dalits (so-called ‘untouchables’), indigenous groups, Muslims, and the political opposition.” [26f] (p1)

5.52 The report continues:

“India’s move to repeal POTA is an important signal to other countries that counter-terror efforts can be pursued while respecting basic rights... The government has appointed a central review committee to review all cases brought under POTA. This review committee was established in December 2003 in response to widespread criticism of egregious abuses under POTA, but it has not processed many cases. It has been given one year to review all cases. Human Rights Watch also called on the government to address the cases of dozens of individuals arrested under the earlier Terrorist and Disruptive Activities (Prevention) Act (TADA) who are still being held in custody. TADA was widely criticized for its overbroad scope and the abuses it allowed and was allowed to lapse in 1995. Yet unfair trials continue in several cases and many remain in jail.” [26f] (p1)

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DEATH PENALTY

5.53 A BBC report of 18 December 2002 noted that India is one of a number of countries around the world which still upholds capital punishment, although it is rarely used. Under Indian law the death penalty can be imposed for murder, gang robbery with murder, abetting the suicide of a child or insane person, waging war against the government, abetting mutiny by a member of the armed

forces and, in recent years, for terrorist acts. A 1983 Supreme Court ruling, however, stated that the death penalty should be imposed only in the “rarest of rare cases”. [32cx]

- 5.54 As noted by the BBC on 22 September 2003, the death sentence is used rarely in India and is reserved for the most serious crimes. Defendants have the right to appeal all the way to the Supreme Court and can then ask for a presidential pardon. [32bp]
- 5.55 A press release by the Asian Human Rights Commission dated 13 August 2004, titled “AHRC condemns Indian top court’s decision as ‘devoid of merit’”, noted that the Constitution of India upholds the right to life except according to procedure established by law. [57] A report in the Guardian Unlimited newspaper dated 5 August 2004, entitled “Girl’s killer to hang in India”, indicated that Indian courts rarely award the death penalty and only about 40 people have been executed in the past 30 years. There are more than a dozen convicts on death row across the country and an appeal to the president is the final step for prisoners condemned to death. [40a]
- 5.56 The Amnesty International 2005 country report for India (covering events in 2004), noted that: “At least 23 people were sentenced to death and one person was executed. No comprehensive information on the number of people under sentence of death was available.” [3k] (Death penalty)
- 5.57 As reported by Keesings in January 2004, the Supreme Court suspended the death sentences imposed on 19 January, on two men convicted of planning the December 2001 attack on the Indian Parliament. [5e] However, It was later reported by BBC News on 4 August 2004: “India’s supreme Court has upheld the death sentence for a man convicted of an attack on the country’s parliament in 2001. Mohammad Afzal receives the death penalty for ‘waging war against the nation’ and his role in the attack. But the death sentence of a second man, Shaukat Hussain, has been reduced to 10 years’ rigorous imprisonment.” [32gk]
- 5.58 The BBC reported on 14 August 2004 that India carried out its first execution since 1995 after the President, Abdul Kalam, rejected a plea for clemency from a man convicted for raping and murdering a 14-year-old schoolgirl in 1990. [32cy] In a press release dated 13 August 2004, the Asian Human Rights Commission condemned the Supreme Court for its decision to uphold the death sentence. [57]
- 5.59 As noted in Amnesty International’s April 2005 report, “The Death Penalty Worldwide: developments in 2004”: “In other Indian cases, death sentences have been commuted to life imprisonment on grounds of prolonged detention.” [3o]
- 5.60 BBC News reported on 27 April 2005:
- “A court in India has sentenced to death seven men convicted of attacking the American cultural centre in Calcutta in January 2002. Those convicted include Aftab Ahmed Ansari, who the judge said had planned the attack in which five policemen were killed and nearly 20 others injured. Two other men were acquitted for lack of evidence...The verdict came after 300 court hearings involving 123 prosecution witnesses and three defence witnesses over the past three years.” [32ig]

A BBC news report dated 4 August 2005 stated: "The death sentences handed down to Afzal and Hussain at the trial in December 2002 were the first under India's tough new Prevention of Terrorism Act which has since been scrapped. The Supreme Court was the last chance for Afzal and Hussain to seek to have their sentences overturned...Afzal can now appeal for clemency to the Indian president." [32ho]

5.61 BBC News reported on 9 March 2005:

"A court in India has handed down the death penalty to two people convicted of the rape and murder of an eight-year-old girl. The crime was committed in the north-eastern city of Guwahati more than two years ago... The death penalty is usually reserved for particularly heinous crimes or in politically sensitive cases. However, this is the third time in a year the country's courts have handed down the death penalty to people convicted of rape and murder...Last week, a court in Calcutta handed down the death penalty to three people who were convicted of murdering a trader." [32gz]

5.62 Amnesty International reported in their 2005 report covering events of 2004 that:

"At least 23 people were sentenced to death and one person was executed. No comprehensive information on the number of people under sentence of death was available, but there was continuing concern that some prisoners had spent prolonged periods on death row, which could amount to cruel, inhuman or degrading punishment. Dhananjoy Chatterjee was executed by hanging in August after spending 13 years in prison. He had been convicted of rape and murder in 1990. His was the first known execution in India since 1997." [3n] (p3)

5.63 BBC News reported on 31 October 2005 that a man was sentenced to death for his attack on an army barracks at Delhi's Red Fort in December 2000, resulting in the death of three people. Arif, the mastermind behind the attack, was found guilty of waging war against India alongside two men police claim helped him. In addition he was convicted of murder and criminal conspiracy. [32bq]

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INTERNAL SECURITY

MILITARY

5.64 As reflected in the US Background Note for India, December 2005: "The supreme command of the Indian armed forces is vested in the President of India. The policy concerning India's defense, and the armed forces as a whole, is formulated and confirmed by the Union Cabinet. The Cabinet, headed by the Prime Minister, consists of ministers, one of whom holds the portfolio of defense and is known as the Defence Minister." [2f] (Defense)

5.65 As cited in the CIA World Factbook, updated 11 May 2004, the military consists of the army, navy, air force, Coast Guard, various security or paramilitary forces (including Border Security Force, Assam Rifles, National Security Guards, Indo-Tibetan Border Police, Special Frontier Force, Central Reserve Police Force,

Central Industrial Security Force, Railway Protection Force and Defence Security Corps). [35] (p12)

5.66 As reflected in the US Background Note for India, December 2005:

“The Indian Army numbers over 1.1 million strong and fields 34 divisions. Its primary task is to safeguard the territorial integrity of the country against external threats. The Army has been heavily committed in the recent past to counterterrorism operations in Jammu and Kashmir, as well as in the Northeast... The Indian Navy is by far the most capable navy in the region. They currently operate one aircraft carrier with two on order, 14 submarines, and 15 major surface combatants... The Indian Air Force is in the process of becoming a viable 21st century western-style force through modernization and new tactics.” [2f] (Defense)

POLICE AND INTELLIGENCE AGENCIES

5.67 Information sourced from the Federation of American Scientists (FAS) website on 19 August 2004 indicates that the Police are a civil authority controlled by the Union Ministry of Home Affairs and subordinate to the Executive, represented in the Union Government by the Prime Minister and in the States by the Chief Minister, and their respective Councils of Ministers. The 25 state governments have primary responsibility for maintaining law and order. Each State has its own force headed by a Director-General of Police (DGP) and a number of Additional Directors-General or Inspectors-General of Police (IGP) who look after various portfolios. [58]

5.68 As noted in the FAS website, India’s intelligence agencies include the Central Bureau of Investigation (CBI), the premier investigation agency of India responsible for a wide variety of criminal and national security matters; the Intelligence Bureau (IB), India’s domestic intelligence agency, which is particularly tasked with intelligence collection in border areas; and the Research and Analysis Wing (RAW), India’s external intelligence agency, particularly active in Pakistan. [58]

MILITIAS

5.69 As cited in the Indian Ministry of Home Affairs website [undated], a total of 32 terrorist organisations were listed in the Schedule to the Prevention of Terrorism Ordinance (POTO). These were: Babbar Khalsa International, Khalistan Commando Force; Khalistan Zindabad Force; International Sikh Youth Federation; Lashkar-e-Taiba/Pasban-e-Ahle Hadis; Jaish-e-Mohamed/Tahrik-e-Furqan; Harkat-ul-Mujahideen/Harkat-ul-Ansar/Karkat-ul-Jehad-e-Islami; Hizb-ul-Mujahideen/Hizb-Ulmujaahideen Pir Panjal Regime; Al-Umar-Mujahideen; Jammu and Kashmir Islamic Front; United Liberation Front of Assam (ULFA); National Democratic Front of Bodoland (NDFB); People’s Liberation Army (PLA); United National Liberation Front (UNLF); People’s Revolutionary Party of Kangleipak (PREPAK); Kangleipak Communist Party (KCP); Kanglei Yaol Kanba Lup (KYKL); Manipur People’s Liberation Front (MPLF); All Tripura Tiger Force; National Liberation Front of Tripura; Liberation Tigers of Tamil Eelam (LTTE); Students Islamic Movement of India; Deendar Anjuman; Communist Party of India (Marxist-Leninist), People’s War and all its formations and front organisations; Maoist Communist Centre and all its formations and front organisations; Al Badr; Jamiat-ul-Mujahidden; Al-Qaida; Dukhtaran-e-Millat (DEM); Tamil Nadu Liberation Army

(TNLA); Tamil National Retrieval Troops (TRNT); and Akhil Bharat Nepali Ekta Samaj (ABNES). [39a] (p28-29)

5.70

For further information please see Section 6B: Human rights specific groups, Kashmir and the Kashmiris.

5.71 The banned People's War Group, according to a BBC report of 23 June 2004, is an armed peasant movement active in a number of states that advocates revolution in the countryside. The rebels have been fighting for 20 years for a communist state and have been accused of targeting wealthy landlords. [32db]

For further information please see Section 6A: Human rights, Political activists

5.72 A BBC News report of 16 July 2004 indicated that the United Liberation Front of Assam (ULFA) was targeting oil and gas installations to prevent the exploitation of Assam's natural resources by the federal Government. [32da]

5.73 A BBC news report dated 30 July 2004 noted that the Indian government and Naga rebels in the north-east of the country had extended their cease-fire by another year until 31 July 2005. The Naga insurgency is five decades old and talks have continued since 1997. The agreement was reached with the main faction of the National Socialist Council of Nagaland (NSCN). [32cz]

5.74 As reported by BBC News on 2 October 2004, at least 100 people were injured, many seriously, and police reported 15 fatalities when two bombs exploded in the main commercial centre of India's north-eastern state of Nagaland. One explosion went off at the railway station, the other at the Hong Kong market. It was not clear which of the many separatist rebel groups was responsible for the explosion. [32fo]

EXTERNAL SECURITY

5.75 Information sourced from a BBC news report dated 24 May 2004 indicated that, "The Kashmir dispute is at the heart of decades of animosity between India and Pakistan, and two of the three wars between them have been over the region." [32dd] As reflected in a further BBC report of 11 August 2004, India accuses Pakistan of backing Islamic militants in Indian-administered Kashmir while Pakistan denies the charges. At the root of improving security in the region is the disputed area of Kashmir which has long divided the countries. [32df] A BBC report of 5 August 2004 noted that despite the cease-fire, India, like Pakistan, maintains forces on the icy Siachen Glacier high up in the Himalayas in Kashmir. [32de] The BBC reported on 11 August 2004 that India has expressed concern over infiltration across the LoC (Line of Control), the de facto border. Relations between the nuclear armed neighbours have improved since the peace initiatives between the Pakistani President and the Indian Prime Minister in 2003. A number of confidence-building measures were introduced over the year [2004] including a resumption of rail, air and bus links and a strengthening of diplomatic ties. [32df]

For further information please see Section 6B: Human rights specific groups, Kashmir and the Kashmiris.

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PRISONS AND PRISON CONDITIONS

- 5.76 As reported by *The Hindu* on 20 April 2004, according to the Prison Statistics Report 2000, prisons in India are still governed by the century-old Prisons Act 1894 and the Prisoners Act 1900. [60b] According to the International Centre for Prison Studies, Prison Brief for India, the State Governments and Union Territories are responsible for the prison administration. At mid-2003, there were 1,119 prisons including juvenile camps. The total prison population, including pre-trial detainees and remand prisoners, at mid-2003 was 313, 635. Official capacity was 229,713 and the occupancy level, 136.5%. [63]
- 5.77 The same report indicated that the Centre undertook a project on Human Rights and Prison Management in India in collaboration with the Indian Bureau of Police Research and Development, the National Human Rights Commission [NHRC], the Penal Reform and Justice Association of India and the British Council. The project was funded by the UK Foreign & Commonwealth Office:
- “The aim of the project was to raise awareness of human rights amongst prison officials, and to improve prison management systems with special reference to promoting good practice and gender sensitivity in jail management. Training has been used as a tool for change initiatives in jail management.” [63]
- 5.78 As stated in the US State Department report for 2005:
- “Prison conditions were harsh and life-threatening, and did not meet international standards. Prisons were severely overcrowded, and food and medical care inadequate. For example, the Mumbai-based Criminal Justice Initiative reported that there were 3,000 inmates in Bombay Central Jail, which has an actual capacity of 80. Human rights organizations reported that 60 to 75 percent of all detainees were in jail awaiting trial, drastically contributing to overcrowding. They also asserted that approximately 65 percent of those detained were found innocent. Due to persistent inefficiencies in the judicial system, there were numerous instances in which detainees spent more time in jail under pretrial detention than they would have if found guilty and sentenced to the longest possible term.” [2c] (Section 1c)(Prison and Detention Center Conditions)
- 5.79 The same report continues:
- “According to one NHRC report a large proportion of the deaths in judicial custody were from natural causes, in some cases aggravated by poor prison conditions. Tuberculosis caused many deaths, as did HIV/AIDS. The NHRC assigned its Special Rapporteur and Chief Coordinator of custodial justice to ensure that state prison authorities performed medical check-ups on all inmates. By year’s end, only a few examinations had been performed.” [2c] (Section 1a)
- 5.80 The USSD report 2005 notes that:
- “During the year custodial deaths at the hands of police continued...In June 2004 the Delhi High Court found several police officers guilty in the custodial

death of an auto-rickshaw driver and fined them each approximately \$11 thousand (Rs.530 thousand).” [2c] (Section 1a) “While local authorities often attempted to hide custodial killings, the NHRC and the courts investigated those cases brought to their attention and prosecuted some perpetrators. In most cases, the courts awarded monetary compensation...” [2c] (Section 1a)

5.81 The USSD 2005 report states that:

“Some NGOs were allowed to work in prisons, within specific guidelines, but their findings remained largely confidential as a result of agreements made with the government. Although custodial abuse was deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.” [2c] (Section 1c)

5.82 USSD 2005 also reported that:

“According to human rights activists, press reports, and anecdotal accounts, the bodies of persons suspected of terrorism and detained by security forces in Jammu and Kashmir often had bullet wounds and/or marks of torture. The South Asian Human Rights Documentation Center (SAHRDC) reported that the total number of such custodial deaths decreased slightly during the year, most likely due to the overall decline in infiltrations, as well as a new emphasis by the government on reducing human rights violations. Custodial deaths however, remained a serious problem.” [2c] (Section 1a)

5.83 As cited in the same report, “By law juveniles must be detained in rehabilitative facilities; although at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.” [2c] (section 1c)

5.84 The 2005 USSD report further stated:

“According to the Home Ministry’s 2004 annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. During the year the ICRC visited 28 places of detention in Jammu and Kashmir and found that 1,356 persons were detained – 524 of them newly registered. The ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states. During the year, the ICRC stated that it continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir.” [2c] (Section 1c)

5.85 As noted in the USSD report 2005: “In a report issued in January 2004, the UN Special Rapporteur on Torture commented that torture and detentions continued in the country, especially in Jammu and Kashmir, and noted the Government’s continued refusal to extend him an invitation to conduct investigations.” [2c] (Section 1c)

5.86 It was reported in Keesings Record of World Events for June 2003, on 23 June 2003, that Jammu and Kashmir Minister of State for parliamentary affairs Abdul Tehman Veeri had told the State Assembly that there had been 144 alleged

custodial killings by local police and Indian security forces since the beginning of the separatist insurgency in the northern state in 1989. This was the first time that the state authorities had acknowledged the problem of deaths in custody. [5q] It was reported by the BBC on 9 August 2004 that India and Pakistan had carried out a rare exchange of prisoners of war. Such transfers are unusual particularly because both sides had earlier denied holding prisoners of war. [32dk]

5.87 As reported by *The Hindu* on 1 March 2005, Pakistan President Pervez Musharraf, ordered the release of 200 Indian civilians from his country's jails. "In an impromptu decision, Musharraf ordered the release of prisoners during an hour-long meeting with Indian Left Front leaders Harkishen Singh Surjeet and A B Bardhan, here." [60f]

5.88 As reported by BBC News on 19 July 2005:

"A tribal man in the eastern Indian state of Orissa had to wait nine years to be released from prison even though he had been acquitted. Pratap Naik was convicted of murder in 1989 by a local court but was acquitted by the state's High Court in 1994. He was released only in 2003. No reason has been given for the delay. His lawyer filed for compensation of one million rupees (\$23,000) to the Supreme Court. Judges dismissed the claim, referring it to a lower court." The Supreme Court judges said previous rulings on the case were not incorrect but they were persuaded by lawyers that this was a 'gross' case. They ordered the high court to re-look at the case and not be influenced by the dismissal in the Supreme Court. "Mr Naik, who has reportedly gone insane, was convicted in December 1989 of causing the death of a person by throwing a stone but was acquitted in October 1994. Courts in India are known for taking years to deliver justice. In many cases, even after acquittal, releases can be withheld by jail authorities for months or even years without adequate reason." [32hy]

5.89 Guardian Unlimited reported on 14 February 2006 that, a 70 year old man was freed on bail after spending nearly four decades in prison without charge, after his plight was highlighted by local newspapers. He was released after 38 years without charge. Jagivan Ram Yadav was arrested in 1968 accused of murdering his sister-in-law but he never faced trial because his records were lost. He became lost in India's vast justice system. A Supreme Court judge ordered his bail on a personal bond. [42f]

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MILITARY SERVICE

5.90 As recorded in the Child Soldiers Global Report 2004: "The 1950 constitution says that 'It shall be the duty of every citizen of India...to defend the country and render national service when called upon to do so' (Article 51A). According to the 1972 National Service Act, certain people may be called to perform national service but no minimum age is specified. However, there is currently no conscription in India." [89]

5.91 Information provided by the Indian Government indicates that the minimum age of recruitment into the Army is sixteen. "Persons who are recruited at the age of 16 years undergo basic military training for up to two and a half years from the

date of enrolment and are then inducted into regular service.” In its report to the Committee on the Rights of the Child, India claimed that “children are not inducted into the armed forces and hence do not take a direct part in hostilities.” During the 1998 session of the UN Working Group negotiating the Optional Protocol, the representative of India reported that: “discussion was going on within the Government about the possibility of raising the age limit for voluntary recruitment from 16...”

- 5.92 India also has a Territorial Army (TA) – a voluntary part-time civilian force consisting of departmental and non-departmental units raised from among the employees of government departments and the public sector. The TA is reportedly used in support of the armed forces in areas of insurgency. [67]
- 5.93 As noted in War Resisters International 1998, there is no known legal provision for conscientious objection. [21]

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MEDICAL SERVICES

- 5.94 As indicated in the World Health Organisation’s (WHO) Project Atlas Country Profile for India, 2005, the proportion of health budget to GDP is 5.1 per cent (WHO, 2000). The life expectancy at birth is 60.1 years for males and 62 years for females. [62] (p1)
- 5.95 In a letter dated 7 June 2001, the British High Commission in New Delhi outlined the standards of medical facilities in India. In the larger cities, particularly the State capitals, there are hospitals offering care in a wide range of medical specialities. These include: general medicine and surgery, obstetrics and gynaecology, paediatrics, neurology, gastro-enterology, cardiology, cardiothoracic surgery, neurosurgery, dental surgery, dermatology, ENT surgery, endocrinology, renal and liver transplant, orthopaedic surgery, nephrology, nuclear medicine, oncology, ophthalmology, plastic surgery, psychiatry, respiratory medicine, rheumatology and urology. Outside these cities medical care can be more variable, but most districts are served by referral hospitals. [7g]
- 5.96 As noted in the US State Department report 2005, “The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas.” [2c] (Section 5) But most care is provided within the private sector. Private health care costs are less than in the UK, but vary according to the type of ward and tests needed. The private hospitals are expected to offer free treatment to a proportion of poor patients, according to FCO correspondence dated June 2001. [7g]
- 5.97 As noted on the US Department of State, Bureau of Consular Affairs, Consular Information Sheet for India, dated 22 February 2005, with regard to medical facilities, “Adequate to excellent medical care is available in the major population centers, but is usually very limited or unavailable in rural areas.” [93] (Medical Facilities & Health Information)
- 5.98 As reported by BBC News on 22 December 2004, “Health workers in Indian-administered Kashmir have launched an awareness and screening campaign to try to prevent cancer amid a severe lack of facilities. There are very few units where the condition can be treated.” None of the hospitals in the region have a

separate unit for surgical oncology. Patients from SMHS hospital, the oldest and second biggest in Srinagar, go to the Sher-e-Kashmir Institute of Medical Sciences or to Delhi or other places for radiotherapy and have to spend a lot of money. "The Sher-e-Kashmir in Srinagar has one radiotherapy unit for a population of at least 5.5 million people." The Indian Government has promised funds for a state-of-the-art regional cancer centre with capacity for 120 patients but it was reported that this will take years. [32ey]

5.99 The same report states that, "Despite the Sher-e-Kashmir's limited facilities, it has still treated an increasing number of sufferers – up from 1,325 cancer patients in 2000 to more than 2,000 in the first 10 months of this year alone." A group of 50 doctors have set up the Kashmir Cancer Society (KCS) and plan to build a cancer hospital in the Kashmir valley but have no land for the project as yet. "The KCS has organised camps in remote villages where people do not have access to endoscopy – the internal viewing of patients." Four thousand endoscopies have been conducted so far. The KCS has also conducted awareness campaigns in villages, schools and colleges and educated people that cancer is preventable, and as a result women are coming in earlier for treatment. [32ey]

5.100 As reported in an article featured on the Indian Army in Kashmir website accessed on 1 March 2005:

"The Armed Forces, with the assistance of the State Administration, has been regularly holding Medical Camps in the remote and inaccessible areas to bring health care to the doorstep of the Kashmiri people. Free Medical, Gynaecological, Surgical, Eye and dental checkups and advice and medicines are being distributed in these camps. Immunization Camps for the children are also being conducted as part of the nation wide campaign to eradicate various diseases. In addition people are being educated on health care, hygiene and sanitation...In addition to these camps, a number of Health Centers, equipped with modern equipment and medical facilities have been established for the rural people." [94]

5.101 The FCO advice of 2001 indicated that there is good availability of medications and many are cheaper than in the UK. Some are imported from abroad but there are many firms now producing drugs under licence in India. The standard of nursing and social care is not as high as in the UK, but with support from family this can be overcome. There are very few medical problems for which suitable care cannot be found in India. [7g]

5.102 A BBC report dated 29 September 2003 noted that: "Experts believe India is poised to become a major health care destination for international patients, offering quality medical service at low cost.... The other attraction is that there is no waiting period for major medical procedures. The Healthcare Mission highlighted India's medical facilities and skills especially in the areas of Cardiology, Oncology, Minimal Invasive Surgery and Joint Replacement." [32ca]

5.103 As reported by the BBC on 10 February 2004, a Medical Tourism Council (MTC) was launched in Maharashtra by the state's business sector and private health-care providers, aiming to make India a prime destination for medical tourists. The MTC plans to also work with state-run systems, such as the NHS. [32cv]

- 5.104 As stated in a BBC report of 6 August 2004: "As India becomes a preferred destination for cheap and good quality medical treatment, foreign governments are tying up with hospitals to send their patients who cannot be treated at home. The Tanzanian government, for example, has tied up with three private Indian hospitals to sponsor and send their patients for operations and treatment." [32dg]
- 5.105 As reported in an article in *The Times of India* Online dated 16 February 2005, "A reversal of medical tourism now has Americans making a beeline for India, seeking treatment." It used to be the other way around but with the state-of-the-art medical procedures, equipment and facilities now available in India, patients from countries like Canada and Britain are flocking to Indian hospitals. Americans have started going to India for procedures which are either not available in their own country or too expensive. The Apollo group is one of Asia's largest private healthcare providers who treated 43,000 foreign patients over the last three and a half years in India. [13g]
- 5.106 As reported by BBC News on 2 October 2004, "A nationwide polio vaccination campaign has started in India as part of a World Health Organization initiative to eradicate the virus around the world." [32gd]
- 5.107 As noted by Keesings in March 2005:
- "The Lok Sabha on March 22 approved a controversial bill preventing Indian companies from producing cheap generic versions of patented medical drugs, introduced to comply with World Trade Organisation (WTO) rules. Leftist parties in the UPA coalition supported the bill after the government accepted some amendments softening its terms, but the BJP walked out of the debate in protests against a 'sell-out' to global drugs companies. The UN, the World Health Organisation (WHO), and many non-governmental organisations (NGOs) appealed to India not to deprive the world of affordable medicines." [5z]

HIV/AIDS

- 5.108 As reflected in the report of a World Bank Study released in 2004 on HIV/AIDS Treatment and Prevention in India, India is burdened with a larger HIV/AIDS epidemic than any other country in the world. More than 4 million Indian adults are infected with HIV according to official Government estimates and the actual number of people with HIV may be as high as 6.5 million. [70] (p1) The highest prevalence rates are in Andhra Pradesh, Karnataka, Maharashtra, Manipur, Nagaland and Tamil Nadu. [70] (Executive Summary xvi) The WHO estimates that HIV/AIDS caused 2 per cent of all deaths and 6 per cent of deaths due to infectious disease in India in 1998 and by 2033 it will account for 17 per cent of all deaths and 40 per cent of deaths due to infectious diseases. [70] (Executive Summary xvi-xvii)
- 5.109 As noted in Human Rights Watch in the World Report 2005, "The government estimates that 5.1 million people in India are living with HIV/AIDS, though many experts suggest the number is much higher." [26e] (Rights of those living with HIV/AIDS) Human Rights Watch World Report 2005 note that, "India faces a burgeoning HIV/AIDS problem, as people with HIV and their families face government and social discrimination." [26e]
- 5.110 A BBC News report of 20 April 2005 stated that:

“The Indian government has dismissed a claim by an Aids expert that the country now has the most HIV-positive people in the world. The claim was made by Richard Feachem of the Global Fund to Fight Aids. He says figures showing India having fewer cases than South Africa are wrong. The Delhi government says there are 5.1 million cases in India. However, independent experts say the number of people infected in India could be anywhere between 2.5 million and 8.5 million – because of the lack of reliable data here in relation to the HIV pandemic. India’s government-controlled National Aids Control Organisation (Naco) chief SY Qureshi told the BBC that Mr Feachem’s claim was ‘nonsense’. ‘Our [Aids] surveillance systems are certified by the World Health Organisation, UN agency UNAids and the Indian Council of Medical Research [ICMR]. We stand by our figure of 5.1 million [infections],’ Mr Qureshi said....’Indian and international groups working to prevent HIV/Aids have questioned the official figure’.” [32hw]

5.111 DFID state in their July 2004 report, “Taking Action - The UK’s strategy for tackling HIV and AIDS in the developing world”: “DFID has provided £123 million to support India’s National AIDS Control Programme. This funds targeted interventions with high-risk groups, technical assistance at national and state level, innovative media work through the BBC World Service Trust and support to UNAIDS. Since the original DFID support was designed, the epidemic in India has moved on and treatment has been introduced. We have agreed with the government of India to review support for the remaining three years of the programme. Issues under active consideration include treatment and care and advocacy.” [99] (Chapter 5)

5.112 As reported in a BBC report of 14 July 2004:

“India is looking at ways to contain the spread of the Aids epidemic – but many of its citizens don’t want to talk about the issue. The world’s second most populous country has one of the highest infection rates – and more than five million HIV/Aids cases. To counteract the spread of the virus, the government recently launched its biggest anti-Aids initiative to date. But efforts are hampered by the fact that most Indians still find sex and AIDS taboo subjects...The new Indian government has identified AIDS as one of its priorities.” [32f1]

5.113 Amnesty International reported in 2005 in their report covering events in 2004 that a spokesman from the Global Fund to Fight AIDS, TB and Malaria stated that AIDS/HIV infection rates were rising, adding that India possibly had the world’s largest number of people living with HIV. [3n] (p3)

5.114 As reported in a World Bank Study released in 2004 on HIV/AIDS Treatment and Prevention in India:

“The government of India has made a commitment to design and implement HIV protection and control activities in all states. Phase I of the prevention effort began in 1992, supported by a World Bank credit of \$84 million....

“Phase II of the National AIDS Control Programme (NACP) began in 1999, supported by a World Bank credit of \$191 million plus Indian government funding of \$14 million.... Substantially decentralized, the program is being implemented in 35 states and union territories.

“In 2002 the government finalised and released the National AIDS Control Policy and the National Blood Policy.... The objective of the national policy is to prevent the epidemic from spreading farther and to reduce its impact on infected people and the general population. The policy envisages zero new infections by 2007....” [70] (p17-18)

- 5.115 As indicated in the World Bank report, the Indian antiretroviral drugs are now available from generic manufacturers in India for less than a \$1 a day. Access to these drugs remains limited partly because even this modest cost is high for Indians. [70] (Executive Summary xiv)
- 5.116 As cited in an excerpt, dated 13 August 2004, by the World Bank Group on the treatment and Prevention of AIDS in India: “As the Government of India takes stock of its first four months of distributing free antiretroviral medications for HIV/AIDS, the World Bank has released a study of various public funding options for the months and years ahead, designed to help the government maximize the positive impact of the drugs on the growing epidemic.” [70a]
- 5.117 As reported in an article in *The Hindu* dated 1 December 2003, the then Union Health Minister said that anti-retroviral drugs would be made available free to HIV/AIDS patients in Tamil Nadu, Andhra Pradesh, Karnataka, Maharashtra, Manipur and Nagaland from 1 April 2004. The supply would initially be to three categories of patients: children of parents living with HIV, women having the infection, and men who have full-blown AIDS, and would be provided through Government hospitals and antenatal clinics. “The programme would be extended to other parts of the country.” The six states were chosen because they had the highest rate of prevalence of the disease and because they had the right infrastructure. [60]
- 5.118 Information sourced from the website of the Bill & Melinda Gates Foundation indicates that Avahan (“call to action”), the \$200 million grantmaking initiative of the Foundation that supports programmes to prevent the spread of HIV in India, announced \$47 million in new grants on 16 March 2004. [44]
- 5.119 A 209-page report by Human Rights Watch, titled “Future Forsaken: Abuses Against Children Affected by HIV/AIDS in India”, July 2004, indicated that the epidemic is being fuelled by widespread abuses against children who are affected by HIV/AIDS. It called upon the Government to ensure that HIV-infected children are protected from abuse. According to the report released on 29 July 2004, many doctors refuse to treat or even touch HIV-positive children:
- “Some schools expel or segregate children because they or their parents are HIV-positive. Many orphanages and other residential institutions reject HIV-positive children or deny that they house them. Children from families affected by AIDS may be denied an education, pushed onto the street, forced into the worst forms of child labor, or otherwise exploited, all of which puts them at greater risk of contracting HIV.”
- Some experts calculate that more than 1 million children under the age of 15 have lost one or both parents to HIV/AIDS. [26c] (p1)
- 5.120 A BBC report of 16 July 2004 noted that Sonia Gandhi, the leader of the ruling Congress Party vowed that India would do more to fight AIDS in an address to

a conference in Bangkok. She said India had developed cheaper drugs, made blood supplies safer and had increased spending on HIV/AIDS but efforts were hampered because the subject was taboo among the people. [32dn]

5.121 As recorded in a Human Rights Watch letter to the European Union dated 8 November 2004, "Legislation is currently being drafted to end discrimination against those affected by HIV/AIDS, but unless properly implemented, people affected with HIV/AIDS will continue to be denied jobs, shelter, medical attention and access to education." HRW called on the EU to support the Indian Government's efforts to end the stigma and discrimination against people living with HIV/AIDS in India through age-appropriate awareness and education campaigns. [26g]

5.122 BBC News reported on 7 February 2005 that as stated by the Country's Health Minister, India had begun its first human trials of an AIDS vaccine.

"The tests in the western city of Pune will involve 30 HIV-free volunteers between 18 and 45 of both sexes...Indian officials said the first phase of the Pune trials would last between one and two years but added that a successful vaccine might still be eight to 10 years away." According to SY Qureshi of India's National Aids Control Organisation, there are 68 new cases of HIV every hour. [32hx]

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DISABLED PERSONS

5.123 As reported in the US State Department report 2005:

"The Persons with Disabilities Act provides equal rights to all persons with disabilities; however, advocacy organizations acknowledged that its practical effects were minimal, in part due to a clause that makes the implementation of programs dependent on the 'economic capacity' of the Government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and in access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, and public spaces throughout the country have almost no provisions for wheelchair access." [2c] (Section 4)

The report notes: "In February the country's civil services introduced a quota for the employment of 20 persons with disabilities per year." [2c](persons with disabilities)

5.124 The same report continues:

"The Disability Division of the Ministry of Social Justice and Empowerment delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. With the adoption of the Persons with Disability

Act, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities.” [2c] (Section 4)

5.125 As stated in the same source:

“The Government provided special railway fares, education allowances, scholarships, customs exemptions, rehabilitative training and budgetary funds from the Ministry of Rural Development to assist the disabled; however, implementation of these entitlements was not comprehensive.” [2c] (Section 4)

5.126 The report continues:

“The National Commission for Persons with Disabilities (NCPD) had the responsibility to recommend to the Government specific programs to eliminate inequalities in status, facilities, and opportunities for disabled persons, to review the status and condition of institutions delivering services and to submit annual reports with recommendations. In February, the Government constituted a new NCPD headed by a former Governor, Sunder Singh Bhandari. In April, the Rajasthan High Court directed the State Government to promote the establishment of special schools for disabled children in both the public and private sectors; however, few teachers were trained to meet the special needs of disabled children. Also, the National Center for the Promotion of Employment for Disabled People stated in September that there was a shortage of educational institutions for the disabled and that the admissions process was marked by harassment.” [2c] (section 4)

5.127 As reported in the US State Department report 2005:

“In July, disabled rights NGOs reported that persons with disabilities were not able to obtain duty free imports of artificial limbs, crutches, wheelchairs, walking frames, and other medical needs. They also claimed that no effort was made to make railway compartments, platforms, and railways accessible to the disabled, and noted that less than 1 percent of the disabled were employed...The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates a 3 percent reservation in all educational institutions for persons with disabilities; however, statistics showed that only about 1 percent of the students had disabilities. The Times Insight Group reported in September that most colleges and universities did not know about this law.” [2c] (Section 4)

MENTAL HEALTH

5.128 As noted in the WHO Project Atlas Country Profile for India, 2005, the national mental health programme was reviewed in 1995 by the Central Council which led to the launch of the District Mental Health Programme “(it covers 24 districts currently, with plans for expansion to 100 districts in the near future and all districts by 2020).” Pilot projects were undertaken looking at the feasibility of extending mental health services to the community and primary care levels. [62] (p1-2)

5.129 “A large, mostly indigenous, pharmaceutical industry ensures that most psychotropic drugs are available often at a fraction of their cost in high-income countries.” [62] (p1-2)

5.130 "The Mental Health Act of 1987 simplified admission and discharge procedures, provided for separate facilities for children and drug abusers and promoted human rights of the mentally ill. In 2002, it was implemented in 25 out of 30 states and Union territories from which information was available. Other acts relevant to the mental health field are: the Juvenile Justice Act, the Persons with Disabilities Act and the Narcotic Drugs and Psychotropic Substances Act (amended in 2001)." [62] (p1-2)

5.131 As indicated in the same source, the Government spends 5.1% per cent of its budget on mental health. Financing for health services is provided both by the states and the centre:

"Government funding for health services are provided both by the states and the centre. Services provided at Government health centres are free. Certain industrial/governmental organizations provide health care schemes for their employees. In the 10th Five Year Plan estimates, mental health constitutes 2.05% of the total plan outlay for health. The country has disability benefits for persons with mental disorders. Details about disability benefits for mental health are not available. Disability benefits have become available recently and in a limited way." [62] (p1-2)

"Mental health care in primary care is available in 22 districts out of about 600 districts. It will be extended to over 100 districts in the next few years." Regular training of primary care professionals in the field of mental health is present. Community care facilities in mental health is present. "Mental health facilities in community care is available in some designated districts. In addition, various non-governmental organizations provide different types of services ranging from telephone hotlines to residential rehabilitative services." [62] (p1-2)

5.132 The same report continues:

"There are 200 mental health workers of other types. One third of mental health beds are in one state (Maharashtra) and several states have no mental hospitals. Some mental hospitals have more than 1000 beds and several still have a large proportion of long-stay patients. During the past two decades, many mental hospitals have been reformed through the intervention of the voluntary organizations (e.g. Action Aid India), media, National Human Rights Commission and judiciary (courts), and yet a survey in 2002 showed that about a quarter had shortages in terms of drugs/treatment modalities and three quarters in terms of staff. The current emphasis is on general health psychiatry units that support voluntary admissions and encourage family members to stay with the patient. Some beds are allocated to treatment of drug abuse and for child psychiatry. Very few mental health professionals are based in rural areas. Most states allow public sector psychiatrists to have private clinics... Psychologists do not have prescription privileges, and there is no formal system of licensing clinical psychologists." [62] (p2-3)

5.133 "NGOs are involved in advocacy, promotion, prevention, treatment and rehabilitation. NGOs are involved in counselling, suicide prevention, training of lay counsellors and provision of rehabilitation programmes through day care, sheltered workshops, halfway homes, hostels for recovering patients and long-term care facilities. Parents and other family members of mentally ill persons have recently come together to form self-help groups." [62] (p4-5)

5.134 As noted in the US State Department Report for 2005:

“Mental health care was a problem. Hospitals were overcrowded and served primarily as dumping grounds for persons with disabilities. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with inadequate sanitary conditions. In July the NHRC determined that insufficient attention was paid to issues of the [sic] mental illness and called for better enforcement of national laws. At year’s end, no action was taken in the 2001 NHRC recommendation to remove all persons with mental illness from jails. In March the NHRC issued guidelines to jails lodging mentally challenged persons stipulating the need for open lawns, daily physical and mental activities, and strict rules limiting the use of force to self-defense and attempted escape.” [2c]] (Section 4)

5.135 The WHO Atlas Project 2005 states that the following therapeutic drugs are generally available at the primary health care level of the country: though not routinely distributed by the government at the primary health care level except for some designated districts where a special programme is operational. [62] (p4-5)

Carbamazepine
 Phenobarbital
 Phenytoinsodium
 SodiumValproate
 Amitriptyline
 Chlorpromazine
 Diazepam
 Fluphenazine
 Haloperidol
 Lithium
 Carbidopa
 Levodopa
 [62] (p4-5)

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EDUCATIONAL SYSTEM

5.136 As reflected in the US State Department Background Note for India, December 2005, the literacy rate in the country is 65.38 per cent. [2f] (People) According to Europa 2005: “Educational work is being undertaken for the eradication for illiteracy... A National Board for Adult Education has been set up, but the state governments are largely responsible for adult education programmes. The main emphasis is on improving literacy rates, especially in rural areas.” [1] (p232)

5.137 Information sourced from the US State Department report 2005 indicated that:

“The Government has not demonstrated a commitment to children’s rights and welfare and does not provide compulsory, free, and universal primary education, and only approximately 59% of children between the ages of 5 and 14 attend school. According to government’s statistics from 2003, 165 million of

the 203 million children between the ages 6-14 attend school. The upper house of parliament failed to take any action on the constitutional amendment passed by the lower house of parliament in 2002 that provided free and compulsory education to all children aged 6 to 14. In contrast to the government's figures, UNICEF reported that approximately 120 million of the country's 203 million school-aged children attended primary school... A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001. The government initiated a plan to provide free schooling for girls from single-child families...under the scheme, families with only two girls will get a 50 percent reduction in primary education fees." [2c] (Section 5)

Refer to section on women for further information

- 5.138 As stated in Europa 2005: "Under the Constitution, education in India is primarily the responsibility of the individual state governments, although the Central Government has several direct responsibilities, some specified in the Constitution...There are facilities for free primary education (lower and upper stages) in all the states... An amendment to the Constitution, approved in May 2002, ensures free and compulsory education for children from the age of six to 14." [1] (p231)
- 5.139 As reported by the Human Rights Watch World report 2005, "Both literacy and school enrollment rates overall have improved in the last decade, but according to UNESCO, approximately half of students completed grade five. Proportionately fewer girls than boys attend school, and those that do dropout at higher rates. Dalits also have higher illiteracy and drop-out rates and face significant discrimination in education." [26e] (p3, Rights of children)
- 5.140 An article in *The Hindu* dated 22 February 2005 reported that: "Four years after the Government of India adopted the 'mission mode' to universalise elementary education through the Sarva Shiksha Abhiyan (SSA), only 47 of the 100 children enrolled in Class I reach Class VIII." The high dropout rate was attributed to a "lack of adequate facilities, large-scale absenteeism of teachers and inadequate supervision by local authorities". The dropout rate among girls was 53.45 per cent at the elementary level and 33.72 percent at primary level. Among boys, the rate stood at 52.28 per cent at elementary and 35.85 per cent at primary level. [60j]
- 5.141 The UNESCO website, accessed 19 August 2004, details the levels of university education in India. First degrees generally require three years' full-time study leading to Bachelor of Arts, Science and Commerce degrees. Entrance to an Honours course may require a higher pass mark in the higher secondary or pre-university examinations. A Master's Degree in Arts, Science and Commerce generally requires two years of study after a first degree. One and a half-year MPhil programmes are open to those who have completed their second stage postgraduate degree. It is a preparatory programme for doctoral level studies. The Doctor of Science (DSc) and the Doctor of Literature (Dlitt) degrees are awarded by some universities two to three years after the PhD for original contributions. [59]

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6. Human rights

6. A HUMAN RIGHTS ISSUES

OVERVIEW

6.01 As cited in the US State Department Report 2005 (USSD):

“India is a longstanding multiparty, federal, parliamentary democracy with a bicameral parliament...The government generally respected the rights of its citizens; however, numerous serious problems remained. Government officials used special antiterrorism legislation to justify the excessive use of force while combating active insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto legal impunity, although there were reports of investigations into individual abuse cases as well as punishment of some perpetrators by the court system. Corruption was endemic in the government and police forces, and the government made little attempt to combat the problem, except for a few instances highlighted by the media. The lack of firm accountability permeated the government and security forces, creating an atmosphere in which human rights violations often went unpunished. Although the country has numerous laws protecting human rights, enforcement was lax and convictions were rare. Social acceptance of caste-based discrimination remained omnipresent, and for many, validated human rights violations against persons belonging to lower castes. The additional following human rights problems were reported:

- extrajudicial killings and killings of persons in custody
- torture and rape by police and security forces
- poor prison conditions, lengthy pretrial detention without charge, and prolonged detention while undergoing trial
- occasional limits on press freedom and freedom of movement
- harassment and arrest of human rights monitors
- corruption at all levels of government
- legal and societal discrimination against women
- forced prostitution, child prostitution, and female infanticide and feticide
- trafficking in women and children
- discrimination against persons with disabilities
- discrimination and violence against indigenous people and scheduled castes and tribes
- violence based on caste or religion
- exploitation of indentured, bonded, and child labor.” [2c] (Introduction)

6.02 The same report continues: “Separatist guerrillas and terrorists in Kashmir and the northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents also engaged in widespread torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion.” [2c] (Introduction)

6.03 Human Rights Watch in their Country Summary of January 2006 stated: “The Congress Party-led coalition government elected in 2004 took some important positive steps with respect to human rights in 2005.” A committee was

established to review the Armed Forces Special Powers Act. The Prime Minister apologised for the 1984 anti-Sikh riots. The government pledged to ensure an end to human rights abuses by troops in Indian-administered Kashmir and an apology was made by the Indian army for its actions in July which resulted in the death of three boys mistaking them for militants. The right to information, land rights and minimum employment guarantees may be strengthened following new legislation however some problems persisted.” [26i]

6.04 The FCO note in their annual report on India updated 8 October 2005:

“India has a robust parliamentary tradition, an independent judiciary, professional and apolitical armed forces, a vibrant civil society, and free and outspoken media. India has signed and ratified all of the major international treaties and covenants on human rights except the convention against torture, which it has signed only. There has been progress in a number of areas but implementation varies from state to state and awareness of human rights issues is inconsistent. As a result, the rights of women, children, minorities, scheduled castes and scheduled tribes often suffer. The socially and economically disadvantaged sections are particularly vulnerable.” [7i]

6.05 Amnesty International (AI), in its 2005 annual report (covering events in 2004), noted that, “In numerous states, human rights defenders were harassed.” The report states that in many parts of the country human rights defenders were also attacked.

6.06 “On 21 August at least 13 members of the Association for Protection of Democratic Rights (APDR) were attacked in Greater Kolkata, West Bengal, allegedly by supporters of the ruling political party. A group of up to 60 people attacked a peaceful meeting, kicking and beating the participants. Although the police station was less than 50m away, the police reportedly failed to assist or protect the APDR members until the attackers dispersed several hours later. Several of the victims required hospital treatment for serious injuries.” [3k] (Human rights defenders)

6.07 The USSD 2005 states that:

“The main domestic human rights organization was the government-appointed NHRC. The NHRC acted independently of the government, often voicing strong criticism of government institutions and actions. However, some human rights groups claimed the NHRC was hampered by numerous institutional and legal weaknesses, including statutory regulations and operational inefficiencies. The NHRC did not have the statutory power to investigate allegations and could only request that a state government to submit a report. State governments often ignored these requests and, if a report was submitted, state governments rarely carried out its recommendations. Human rights groups such as ACHR claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and did not investigate cases thoroughly.”

6.08 The NHRC was able to investigate cases against the military; however, it could only recommend compensation for victims of abuse, and NHRC recommendations were not binding. Many states had their own human rights commissions, and the NHRC only has jurisdiction if a state commission fails to investigate. Human rights groups alleged that state human rights commissions

were more likely than the NHRC to be influenced by local politics and less likely to offer fair judgements.” [2c] (Section 4)

6.09 The report continues:

“The 1993 Protection of Human Rights Act recommended that each state establish a human rights commission. As of October, Commissions existed in Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal. The Jammu and Kashmir state legislature established a state human rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces.” [2c] (Section 4)

“The NHHRC was active duringear [sic], highlighting human rights abuses throughout the country, and recommending compensation for victims of human rights abuses. For example, in July the NHRC recommended that the Haryana government conduct an independent investigation into police assaults on agitating workers at the Honda Motorcycle and Scooters India factory in Gurgaon. No action has been taken by year’s end.” [2c] (Section 4)

6.10 “According to Home Ministry statistics, the NHRC received 241,368 complaints and closed 186,433 cases. During the year, the Supreme Court at NHRC request ordered the retrial of 10 riot cases from Gujarat, in which the high court acquitted the accused.” [2c] (Section 4)

6.11 As cited in a Human Rights Watch letter to the EU dated 8 November 2004, with regard to monitoring mechanisms, HRW identified the NHRC as having emerged as one of the best such institutions and as a powerful means of protecting human rights. “However its capacity is limited because it is only allowed funding through government and is severely short-staffed. In addition, the Commission is not allowed to investigate abuses committed by the armed forces.” [26g] (p2)

6.12 Amnesty International noted in a 1998 submission that the NHRC is also empowered to study treaties and other international instruments on human rights and recommend measures for their effective implementation. The NHRC has suggested that the Protection of Human Rights Act should be amended to incorporate International Covenants. [3c] (p79)

6.13 Amnesty International, in a submission to the Human Rights Committee in July 1997, noted that: “In several high profile cases, the NHRC has disregarded this limitation in its mandate and intervened in incidents of human rights violations by security forces, for example in Jammu and Kashmir in the case of the killing of lawyer Jalil Andrabi in March 1996 and the killing of civilians by security forces in Bijbehara in October 1993.” [3c] (p79)

6.14 As noted in Amnesty International's India Submission to the Advisory Committee 1998, Section 36(2) of the Protection of Human Rights Act limits the NHRC to investigating allegations of abuses only up to a year after the alleged abuse took place. This has been overlooked in certain cases, but other cases over a year old have been disregarded. Amnesty International considers this problematic, as many victims approach the NHRC as a last resort, after using other mechanisms such as the courts. Lack of resources is often an obstacle to

- filing a complaint within the time frame required. A human rights violation may not come to light until over a year after the original incident or a rape victim may have compelling reasons not to come forward immediately. [3d] (p15-16)
- 6.15 However, as reported in a news article in *The Tribune*, in September 1998, the Supreme Court ruled that the NHRC's probe into the alleged mass cremation of 2,000 bodies by the Punjab police in 1994-5 could not be barred by the one-year time limit. The Supreme Court ruled that the jurisdiction exercised by the NHRC in these matters is of a special nature not covered by the enactment of law and thus acts *sui generis* (a case of its own kind). [12c]
- 6.16 As cited by Indian news agency PTI on 8 July 1998, one of the NHRC's first actions was to request that it be informed of death or rape in police custody within 24 hours of occurrence, and while it had not succeeded in implementing this directive in states such as Jammu and Kashmir, the NHRC has become an important monitor of the extent of custodial violence. [3c] As reported by the Indian news agency on 8 July 1998, the NHRC has recommended that army and paramilitary forces should also follow the same procedure and report any death or rape in custody to the NHRC within 24 hours. The Indian Government rejected this, saying that the existing procedures laid down in the Protection of Human Rights Act 1993 were sufficient. [10c]
- 6.17 Amnesty International noted in a 1998 submission that, while the NHRC is conducting enquiries, it has the powers of a civil court, including summoning attendance of witnesses, compelling the provision of information and referring cases of contempt to a magistrate. There have been occasions when the NHRC's work has been hampered by delays in receiving reports from State authorities. [3d] (p8)
- 6.18 Amnesty International, in a 1998 submission note: "The NHRC has been active in recommending the granting of compensation in many cases in which it has found prima facie evidence of human rights violations... and it has actively pursued the granting of compensation with the authorities to ensure that victims or their relatives are provided with prompt financial redress." [3d] (p10)
- 6.19 Amnesty International's submission to the Advisory Committee 1998 states that the NHRC has recommended changes to existing legislation to ensure that human rights are protected, as part of its mandate to review safeguards provided under the Indian Constitution or legislation. The NHRC played a significant role in calls for the abolition of the Terrorist and Disruptive Activities (Prevention) Act (TADA), which was allowed to lapse in 1995. The NHRC, in a submission to the Supreme Court, has expressed the view that the Armed Forces (Special Powers) Act is unconstitutional. The NHRC played a key role in encouraging the Indian Government to ratify the Convention against Torture. Nevertheless, Amnesty International believes that the NHRC should adopt a more systematic and consistent approach in reviewing existing or proposed legislation. [3d] (p20-21)
- 6.20 As cited by the USSD report 2005 "Tamil Nadu and Andhra Pradesh have special courts to hear human rights cases. The Uttar Pradesh government continued to defy a court order to reactivate its special human rights court." [2c] (Section 4)

- 6.21 According to the National Human Rights Commission website, accessed May 2004, State Human Rights Commissions exist in: Assam, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Chhattisgarh. [47c]
- 6.22 As noted by Human Rights Watch in their country summary of January 2006, a commission headed by Justice G T Nanavati investigating the 1984 anti-Sikh riots submitted its report to the government in February and was presented to parliament in August. Prime Minister Manmohan Singh apologised for the 1984 riots. Implicated senior Congress leaders resigned. Previously in November 2004 the National Human Rights Commission found the state of Punjab “accountable and vicariously responsible” for its failure to protect lives, ordering compensation of 250,000 rupees for each victim of summary execution of which there were in excess of 100. Thousands of cases are still to be investigated. [26i]

See section on Punjab for more information on Nanavati Commission

- 6.23 The USSD 2005 noted that:

“During the year deaths in custody were common, especially for alleged insurgents. From 2002-2003, the Home Ministry reported that custodial deaths increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases.” [2c] (Section 1a)

- 6.24 BBC News reported on 3 November 2005 that a report ordered by India’s Human Rights Commission alleges police in Tamil Nadu and Karnataka states committed serious abuses during the search for an outlaw Veerappan who was shot dead in October 2004. The report refers to police treatment of villagers during this search. It is also alleged that many were wrongfully imprisoned. Details of the report were prematurely leaked. Police in the two states deny any wrongdoing. [32in]

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FREEDOM OF SPEECH AND THE MEDIA

- 6.25 As noted in the USSD 2005 Report:

“The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; with some limitations... Under the Official Secrets Act, the government may restrict publication of sensitive stories or suppress criticism of its policies, but no cases of government suppression were reported during the year... A vigorous press reflected a wide variety of political, social, and economic beliefs. Independent newspapers and magazines regularly published and television channels broadcast investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticised perceived government lapses.” [2c] (Section 2a)

- 6.26 “Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned. The law does not permit privately owned radio stations to broadcast news, leaving only government controlled radio stations free to report news over the radio.” [2c] (Section 2a)

- 6.27 “With the exception of radio, foreign media was, for the most part, allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing serious competition for Doordarshan, the government-owned television network. While government television was frequently accused of manipulating the news in the government’s favour; some privately-owned satellite channels often promoted the platforms of political parties their owners supported.” (USSD 2005) [2c] (Section 2a)
- 6.28 As noted in the same report: “AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licences only authorized entertainment and educational content. In June the government formally cleared the domestic publication of foreign newspapers and periodicals...although imported copies of such periodicals had been freely available for years. However, local editions of foreign press were still prohibited: country-specific editions were required to be published by a local company to comply with foreign direct investment regulations...” [2c] (Section 2a)
- 6.29 As reported in *India Today* dated 19 August 2002, there are over 100 satellite [television] channels, over 5,000 daily publications, 16,000 weekly publications, and more than 6,000 fortnightly publications in various Indian languages. [11d] Reporters Without borders 2005 report notes, “With more than 40,000 titles, India boasts the world’s largest press, but the authorities are not welcoming to foreign press groups...” [42d] The BBC Country Profile February 2006 states, “India’s press is lively. Driven by a growing middle class, newspaper circulation has risen and new titles compete with established dailies.” [32av]
- 6.30 As stated in the Reporters without Borders Annual Report 2003, “The diversity of news is undeniable. India has more newspapers than any other country and the number of readers has increased by 17 million since 1999.” [42a] (p1)
- 6.31 As reported in the Reporters without Borders Annual Report 2005:
 “The Congress Party’s return to power has already had positive consequences for press freedom. It abolished a controversial anti-terrorist law and extremist Hindus hostile to the press did not enjoy the same degree of impunity as in previous years. However brutal attacks against journalists persisted, on the orders of criminal gangs, political militants and some local authorities. One reporter was murdered for his investigations.” [42d] The report continues, “However in some provinces, criminal gangs, political militants, religious and armed groups continue to harass the press.” [42d]
- 6.32 BBC country profile for India, updated 4 February 2006 reports: “Broadcasting in India has flourished since state TV’s monopoly was broken in 1992. The array of channels is still growing... Internet use has soared; more than 38 million Indians were online by 2006.” [32av]
- 6.33 According to a BBC News Country Profile, dated 4 February 2006, only public All India Radio (AIR) is permitted to broadcast news on the radio. [32av]
- 6.34 As reported by Reporters Without Borders Annual Report 2003, the Government opened up the print media to foreign investment in 2002 by allowing up to 26 per cent to be internationally owned, ending a situation under which all newspapers and magazines had to be owned by Indians. A law on access to information was adopted for the first time on 4 December 2002. It

aimed to end the secrecy cloaking government activity but significantly exempted information about defence, national security and many aspects of foreign policy. Nonetheless, the files of other ministries which had until then been inaccessible could now be made available to journalists. [42a] (p1)

- 6.35 Reporters sans frontieres' – Third Annual Worldwide Press Freedom Index, 2004, states India figures in the bottom half of the index despite having a “free and lively independent media, since killings and physical attacks on journalists, along with outdated laws, still prevent a full flowering of the press”. [42c] The report continues, “Violence against the media in India rarely comes from the authorities but from political activists and in Kashmir from armed groups.” [42c]
- 6.36 The USSD 2005 report notes: “A government censorship board reviewed films before licensing them for distribution. Censoring material deemed offensive to public morals or communal sentiment.” [2c] (Section 2a)
- 6.37 As reported by the Committee for the Protection of Journalists in their India report covering events of 2004:

“For the second year in a row, the Central Board for Film Certification, India’s powerful censorship board, tried to ban a documentary film about the 2002 sectarian riots in the western state of Gujarat. Later in 2004, the board reversed its ruling and allowed the release of the film, ‘Final Solution.’...In 2003, the board banned ‘Aakrosh’ (Cry of Anguish), a Hindu-language film about Gujarat that contained interviews with survivors and witnesses, because it was ‘negative’.” [104a]

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TREATMENT OF JOURNALISTS

- 6.38 As noted in the US State Department Report 2005 (USSD):
- “The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the publication of material likely to incite murder or any act of violence; however, newspapers in Srinagar reported in detail on alleged human rights abuses by the government and regularly published separatist Kashmiri groups’ press releases.” [2c] (Section 2a)
- “The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses. In October 2004 the Government permitted the first delegation, in more than 50 years, of Pakistani journalists to visit Jammu and Kashmir. The correspondents, on a trip sponsored by the South Asia Free Media Association, had access to the entire spectrum of government and separatist opinion.” [2c] (Section 2a)
- 6.39 According to Reporters Without Borders Annual Report 2004, the federal authorities were responsible for harassing a number of staff at the news website “Tehelka.com” after the website published details of Government corruption. There were further reports of journalists being subject to harassment from national and regional politicians and harassment and obstruction from police. [42b] (p2-6)

6.40 According to Reporters Without Borders Annual Report 2005:

“Journalists are regularly threatened by security forces and armed separatist groups in Manipur State in the north-east and in August the government banned the local television channel ISTV ‘in the public interest’. The authorities were apparently unhappy that a news programme in the local Meitei language was such a big success. The channel later won a court appeal against the ban.” [42d]

6.41 As noted in the same report:

“No journalists were murdered in 2004 in Kashmir in the north-east but at least five were wounded, in a grenade attack mounted by a radical separatist group against the daily Greater Kashmir. Elsewhere there is still a high level of separatist and security forces threat against journalists. The year was marked by a historic visit, the first for more than 50 years, of a group of Pakistani reporters to the province disputed by India and Pakistan.” Reporters Without Borders reports that in 2004 1 journalist was killed, 23 were physically attacked, 13 media were censored or ransacked. [42d]

6.42 BBC News reported on 20 July 2005:

“Police in India’s Uttar Pradesh state have arrested a publisher for a sketch of the Prophet Mohammad in a book. They said the drawing was likely to cause outrage among the Muslim community as images of the Prophet are considered blasphemy in Islam. The publisher, Anit Agrawal, was arrested in the city of Merrut, 80km (50 miles) east of Delhi...A court remanded Mr Agrawal in custody...for 14 days...Authorities took action after a complaint by local Muslims who said their feelings had been hurt by the book. They said the sketch was against their religion which bans idol worship.” [32he]

6.43 As reported by the Committee for the Protection of Journalists in their India report covering events of 2004:

“The Indian media played an active role in the spring elections, according to local journalists, providing strong campaign coverage and monitoring for irregularities in the vast electoral process...The election results were in some respects positive for the press. Jayaram Jayalalitha, chief minister of the southern state of Tamil Nadu known for her intolerance of media criticism, suffered a massive defeat when her party failed to win a single seat in the general election. Days later, she axed several controversial proposals and withdrew the estimated 125 criminal defamation lawsuits her government had pending against local and national news outlets, including 20 criminal cases against *The Hindu* alone. [104a]

“Journalists covering war-ravaged Kashmir were targeted or caught in the crossfire between Indian government forces and Islamic militants throughout 2004, especially during the elections.” [104a]

6.44 BBC News reported on 19 August 2005 that police arrested five writers in Andhra Pradesh, believed to be supporters of the newly banned Communist Party of India (Maoist). “The head of the Revolutionary Writers Association (Virasam), Kalyan Rao, and the poet, Varavara Rao, were among those

arrested.” The Government banned the writers association which the Government claims has links to the rebels. The Government re-imposed a ban on the Maoist party amid continuing violence along with six other front-line organisations. The poet had previously helped organise peace talks between the rebels and the state Government but these broke down in January. [32gu]

- 6.45 Committee to Protect Journalists News Alert 2006 called on the authorities in Assam to investigate the death of Prahlad Goala, allegedly murdered on 6 January 2006 after writing a series of articles on corruption in a daily newspaper, linking local forestry service officials to timber smuggling. Local journalists, organisations and civic groups held a protest on 10 January calling for a full investigation into his death. [104b]
- 6.46 In a news article by Reporters Without Borders, published 14 February 2006, it was reported there had been a wave of violence against Indian media by separatists and armed religious groups in the week of 6 February. The Kangleipak Communist Party claimed responsibility for the attempted murder of the bureau chief for the regional daily Polnapham in Imphal, Manipur state on 9 February. The same day, six members of the Javed Mir faction of the Jammu and Kashmir Liberation Front ransacked offices of the regional daily Greater Kashmir after the paper declined to publish one of their statements. Three staff were injured and equipment stolen. Greater Kashmir, a top selling newspaper, received threats the same morning and security guards were placed outside. Militants from the Hindu extremist Shiv Sena party raided offices of a national television channel in Mumbai on 8 February and four people were arrested in connection with the attack. [42e]

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FREEDOM OF RELIGION

INTRODUCTION

- 6.47 The country is a secular state with no official religion. As noted in the 1997 report of the Special Rapporteur on religious intolerance, the preamble to the Indian Constitution proclaims India’s commitment to democracy and secularism and guarantees all citizens freedom of religion and belief as well as the right to practise religion freely. [6b] (p3) As reported in the US Department of State International Religious Freedom report 2005 (USIRF), “The Constitution provides for freedom of religion, and the Central government generally respected this right in practice; however, some state and local governments only partially respected this freedom.” [2b] (Section II. Status of Religious Freedom)
- 6.48 The Special Rapporteur’s 1997 report notes that the Penal Code prohibits and punishes any violation of tolerance and non-discrimination based on religion or belief: promoting enmity between different groups on grounds of religion (Section 135A); injuring or defiling a place of worship with intent to insult the religion of any class (Section 295); deliberate and malicious acts intended to outrage the religious feeling of any class by insulting its religion (Section 295A); disturbing religious assembly (Section 296); and uttering words with deliberate intent to wound religious feelings (Section 298). [6b] (p4)
- 6.49 The Special Rapporteur’s 1997 report states that under the Representation of the People Act 1951, it is an offence for a candidate to call upon someone to

vote or to abstain from voting by playing on his religion, or using religious symbols as a means of promoting that candidate's election prospects. [6b] (p5)

6.50 The USIRF 2005 states:

"According to the 2001 government census, Hindus constituted 80.5 percent of the population, Muslims 13.4 percent, Christians 2.3 percent, Sikhs 1.8 percent, and others, including Buddhists, Jains, Parsis (Zoroastrians), Jews, and Bahais, 1.1 percent. Hinduism has many branches, with the most widely followed being Vaishnavism and Shaivism. Slightly more than 90 percent of Muslims are Sunni; the rest are Shi'a. Buddhists include followers of the Mahayana and Hinayana schools, and there are both Catholic and Protestant Christians. Tribal groups (members of indigenous groups historically outside the caste system), which in government statistics generally are included among Hindus, often practice traditional indigenous religions (animism). Hindus and Muslims are spread throughout the country, although large Muslim populations are found in the states of Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, and Kerala, and Muslims are a majority in Jammu and Kashmir. Christian concentrations are found in the northeast, as well as in the southern states of Kerala, Tamil Nadu, and Goa. Three small northeastern states (Nagaland, Mizoram, and Meghalaya) have large Christian majorities. Sikhs are a majority in the state of Punjab." [2b] (Section I, Religious Demography)

6.51 In the USIRF 2005, the US State Department concluded that despite the incidents of violence and discrimination during the period covered by the report, relations between various religious groups are generally amicable among the substantial majority of citizens:

"Efforts at ecumenical understanding brought religious leaders together to defuse religious tensions...Prominent secularists of all religions make public efforts to show respect for other religions by celebrating their holidays and attending social events such as weddings. Institutions such as the army consciously forge loyalties that transcend religion...Muslim groups have protested against the mistreatment of Christians by Hindu extremists. Christian clergy and spokespersons for Christian organizations issued public statements condemning anti-Muslim violence in Gujarat..." [2b] (Improvements and Positive Developments in Respect for Religious Freedom)

6.52 In their Human Development Report, 2004, the United Nations Development Programme noted that, when reviewing levels of communal violence in India over the past 50 years, the period 1990-2002 accounts for over 36 per cent of all recorded violence. [71] (p74) The report further notes that, regarding religious difference, "Recent communal violence raises serious concerns for the prospect for social harmony and threatens to undermine the country's earlier achievements." [71] (p48) In May 2004, the United States Commission on International Religious Freedom published a report that found that:

"In India, the government's response to violence against religious minorities in Gujarat and elsewhere continues to be inadequate. In addition, several government leaders have publicly allied themselves with extremist Hindu organizations that have been implicated in that violence. In 2003, the Commission again recommended that India be designated a 'country of particular concern,' or CPC. To date [United States] State Department has not named India a CPC." [72] (p1)

- 6.53 As noted in the USIRF 2005: “The appointed members of the National Commission for Minorities (NCM) and the National Human Rights Commission (NHRC) are tasked respectively with protecting minority and human rights. These governmental bodies investigate allegations of discrimination and bias and make recommendations for redress to the relevant local or central government authorities. Although they do not have the force of law, NHRC recommendations generally are followed.” [2b] (Section II: Status of Religious Freedom)
- 6.54 As stated in the USIRF 2005: “There are different personal status laws for different minority religious communities, and the legal system accommodates religion-specific laws in matters of marriage, divorce, adoption, and inheritance. Hindus do not benefit from such an arrangement. Muslim personal status law governs many noncriminal matters involving Muslims, including family law and inheritance. The BJP’s political platform advocates that the country drop religion-specific legal codes and replace them with a uniform civil code that would treat all Indian citizens alike. Minority groups oppose such a move. The BJP views the lack of a uniform civil code as discriminatory in that it grants Muslims a status and prerogative others cannot enjoy. Many Muslims oppose the uniform code because they prefer religious-based family law. The Congress and left-wing parties have consistently supported Muslim civil codes so as to not alienate their Muslim supporters.” [2b] (Section II: Status of Religious Freedom)
- 6.55 The USSD 2005 report stated that, “Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, educational institutions administered by minority religions were allowed to reserve seats for their co-religionists even when they received government funding. Benefits accorded Dalits (formerly known as ‘untouchables’) were revoked once they converted to Christianity or Islam, but not Buddhism. Or Sikhism, ostensibly because once a dalit converted to Christianity or Islam, he would no longer technically be a dalit, although such caste distinctions informally existed in both religions.” [2c] (Section c)
- 6.56 The USSD 2005 report noted that:
- “The Religious Institutions (Prevention of Misuse) Act of 1988 criminalizes the use of any religious site for political purposes or the use of temples to harbour persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building may commence.” [2c] (Section 2c)
- 6.57 As reported in the USIRF 2005, “In 2003, the Gujarat legislature passed the Freedom of Religion Act, which requires that those conducting a conversion ceremony seek the permission of the District Collector, and that the police investigate allegations of forced or induced conversions. The act also prescribes greater punishments if the person being improperly converted is a woman, from a scheduled caste, or a “tribal”.” [2b] (Restrictions on Religious Freedom)
- 6.58 A BBC news report dated 26 March 2003 reported that politicians in India’s western state of Gujarat approved the controversial bill ostensibly designed to

stop forced religious conversions. Many opponents fear it could be used to target Christian and Muslim minority communities. The Freedom of Religion bill has been modelled on similar legislation introduced in the state of Tamil Nadu and already on the statute books in the states of Madhya Pradesh and Orissa. The text of the proposed bill is not yet widely available but there are indications that it may be more stringent than existing legislation in other states. Penalties for people convicted of carrying out conversions using allurements or force include up to three years in prison and a fine of 50,000 rupees. Under the terms of the bill, a conversion must be assessed by officials and prior permission given by the District Magistrate to be lawful. Conversions, which are found to be genuine and voluntary, but where prior permission was not secured from the District Magistrate, could also be punished with up to one year in prison and a fine of 1,000 rupees. [32bk]

6.59 6.55 Freedom House - Centre for Religious Freedom (in Hinduism and Terror, published 1 June 2004), noted that Hindus, particularly lower caste groups such as Dalits (untouchables), who convert to another religion, are likely to face, in practice, legal discrimination. [43b] (p3) As reported by Human Rights Watch (in Context of Anti-Christian Violence, published in 1999) "Upon converting to Christianity, Dalits lose all privileges previously assigned to them under their scheduled caste system." [26d] (p1) Scheduled caste status is a system of 'positive discrimination' that sets aside a minimum number of government (central, provincial and local) jobs for lower caste groups. [71] (p70-71)

6.60 As reported by the BBC on 23 February 2005:

"The government in India's western state of Rajasthan says it is to introduce a law banning religious conversion. It follows tension between Hindus and a Christian mission holding its annual convention in Kota, 250 km (155 miles) from the state capital, Jaipur." Hindu activists say the Kota convention is being used for conversion to Christianity. The police used force to disperse Hindu activists trying to enter the premises: "The state has a very small Christian population of 0.11%. State governments in India do have the power to introduce anti-conversion laws. The southern state of Tamil Nadu had similar legislation but it was scrapped amid political controversy and opposition from religious minorities." [32fb]

6.61 As stated in the USIRF 2005: "There were no reports of religious prisoners or detainees." [2b] (Abuses of religious freedom)

6.62 As reported in the USSD 2005 report:

"During the year there were no significant changes in the status of religious freedom, and problems remained in some areas. Attacks against religious minorities persisted. No new anticonversion laws were enacted during the year. Hindutva, the politicized inculcation of Hindu religious and cultural norms to the exclusion of others, remained a subject of national debate and influenced some governmental policies and societal attitudes." [2c] (Section 2c)

6.63 The same report continues, "Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities occurred in several states, which brought into question the government's ability to prevent sectarian and religious violence or prosecute

those responsible for it. Muslims in some Hindu-dominated areas continued to experience intimidation and reported a lack of government protection, resulting in their inability to work, reside, or send their children to schools.” [2c] (Section 2c)(societal Abuses and Discrimination)

- 6.64 As noted in the Annual Report of The United States Commission on International Religious Freedom, May 2005:

“Significant developments affecting freedom of religion or belief have taken place in India in the past year...Under the previous BJP leadership, the Commission found the Indian government’s response to increasing violence against religious minorities in the state of Gujarat and elsewhere to be inadequate. In addition, several senior BJP government leaders had publicly allied themselves with, or refused to disassociate themselves from, extremist Hindu organizations that were implicated in that religious violence. In response, in 2002-2003, the Commission recommended that India be designated a ‘country of particular concern,’ or CPC.” [2i] (p126-129)

“Following the May 2004 parliamentary elections, however, the new prime minister, Manmohan Singh, promptly stated that the Congress-led government would reject any kind of religious intolerance and vowed to return the country to its pluralistic traditions. As a result of the dramatic changes taking place in India since the 2004 elections, the Commission no longer recommends that India be designated a CPC.” [2i] (p126-129)

“Unlike many of the other countries that draw Commission attention, India has a democratically elected government, is governed essentially by the rule of law, and has a tradition of secular governance that dates back to the country’s independence. India has a judiciary that is independent, albeit slow-moving and frequently unresponsive, that can work to hold the perpetrators of religious violence responsible; contains a vibrant civil society with many vigorous, independent non-governmental human rights organizations that have investigated and published extensive reports on the rise of religiously-motivated violence; and is home to a free press that has widely reported on and strongly criticized the situation on the ground in India and the growing threats under the BJP government to a religiously plural society.” [2i] (p126-129)

“Despite these democratic traditions, religious minorities in India have been the victims of violent attacks, including killings, in what is called ‘communal violence.’ In the late 1990s, there was a marked increase in violent attacks against members of religious minorities, particularly Muslims and Christians, throughout India, including killings, torture, rape, and destruction of property. Those responsible for communal violence were rarely held responsible for their actions. This violence against religious minorities coincided with the rise in political influence of groups associated with the Sangh Parivar, a collection of Hindu extremist nationalist organizations that view non-Hindus as foreign to India and aggressively press for national governmental policies to promote ‘Hindutva,’ or the ‘Hinduization’ of culture. The ascent to power in 1998 of the Sangh Parivar’s political wing, the BJP, helped to foster a climate in which violence against religious minorities was not systematically punished. Although it was not directly responsible for instigating the violence against religious minorities, it was clear that the BJP-led government did not do all in its power to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility against these minority groups.” [2i] (p126-129)

6.65 The same report continues:

“In addition to the steps taken by the Supreme Court, the defeat of the BJP in the May 2004 parliamentary elections and the actions taken by the new government have resulted in a marked improvement in conditions for freedom of religion or belief in India. In contrast to the ‘culture of impunity’ in place under the previous BJP-led government, in July 2004, Prime Minister Manmohan Singh was quoted in the Indian press as saying that ‘under my government the violence against Christians of recent years will be a thing of the past.’ Prime Minister Singh reportedly stated that among the priorities of his government would be ‘promoting social harmony and rejecting every kind of fundamentalism.’ The new government also pledged to take immediate steps to reverse the ‘communalization’ of education that had occurred under the BJP government; one of the Congress-led government’s first actions was to appoint a committee of historians to remove the ‘distortions and communally-biased portions’ of the textbooks introduced in 2002 promoting the Sangh Parivar’s Hindutva views. Another positive step was the rapid repeal of the Prevention of Terrorism Act, which many had charged was unfairly targeting Muslims. In addition, several reports have indicated that the central government in 2005 will be proposing a law to halt and criminalize inter-religious violence, a bill that will reportedly include compensation for victims and swifter investigations to identify perpetrators of attacks on places of worship and individuals on account of their religion. Despite the improved situation, concerns about religious freedom in India remain...” [2i] (India section)

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MUSLIMS

- 6.66 A 1997 report of the Special Rapporteur states that “Muslims constitute India’s largest minority as well as the second largest Muslim community in the world after Indonesia, and before that of Pakistan.” [6b] (p7) As reported in a BBC news item dated 9 February 2005, “Of the 145 million Muslims in India, about 20 million are Shias.” [32ew]
- 6.67 The Special Rapporteur’s 1997 report noted that the Indian authorities do not restrict the religious activities of Muslims, who have freedom of religious practice and freedom to organise their services according to their codes, religious teachings and customs. [6b] (p7)
- 6.68 The Special Rapporteur noted that Muslims in India have their own educational establishments, including the madrasa religious schools responsible for disseminating the teachings of Islam. Muslims possess a large number of places of worship as well as the Waqf Board, which is responsible for the management of property belonging to religious communities and charitable institutions. [6b] (p8) According to the United Nations Background Paper 1998, Muslims are reportedly under-represented in the civil service, the military and institutions of higher education. [6e] (p20)
- 6.69 As reported by the BBC in February 2005, Indian Shias recently broke away from the country’s most important Muslim organisation, the All India Muslim Personal Law Board (AIMPLB):

“Under the Indian constitution Muslims have the right to separate laws in matters such as marriage, divorce and inheritance. And it is the AIMPLB that sets out those laws... Shias and Sunnis do not interpret family laws in a similar way. The Shias say they don't believe in the controversial 'triple talaq' or instant divorce – a system wherein a Muslim man can divorce his wife in a matter of minutes. There are also differences in inheritance laws. Among the Sunnis, a man's sister – along with his children – is entitled to a share of inheritance after his death. When a Shia man dies, his property is only inherited by his children. No other family member has any claim.”

According to a Shia priest interviewed, they also have different mosques and burial grounds. [32ew]

- 6.70 As reported further by the same source: “The newly formed All India Shia Personal Law Board has 69 members compared to 204 members in the AIMPLB.... Earlier this month, a group of women formed the All India Muslim Women's Personal Law Board alleging that the religion's top body of [sic] had been ignoring the rights of Muslim women.” It was founded with 35 members. [32ew]
- 6.71 The United Nations Background Paper 1998 states that Jammu and Kashmir are the only State in India where Muslims are in the majority. [6e] (p7) The 1997 report of the Special Rapporteur notes that here, the religious situation is seriously affected by the armed conflict between the Indian army and the militant extremists. Several mosques have been destroyed in India, including the Babri Masjid in Ayodhya on 6 December 1992 and the Charar-e-Sharief sanctuary in Jammu and Kashmir on 11 May 1995. The UN Rapporteur stated that according to official and non-governmental observers, the destruction of the Babri Masjid was an aberration, which could not be interpreted as evidence of an official policy of religious intolerance directed against Muslims. [6b] (p9)
- 6.72 The BBC reported on 17 April 2003 that a Muslim woman had been elected as the mayor of Ahmedabad, Gujarat, becoming the first Muslim mayor of Ahmedabad. [32au]
- 6.73 BBC News reported on 17 June 2005 the Government in the southern state of Andhra Pradesh was to reserve five per cent of jobs in education and government for the Muslim minority. The decision was made in light of the findings of a special commission. Hardline Hindus had opposed the policy when it was floated in 2004 and the commission was set up following a recommendation by the court hearing their objections. (The article notes, “Muslims make up about 10% of the 78m population in Andhra Pradesh.”) The matter moved to the State Governor who would issue an order which will go to the state assembly before becoming law:
- “Under the policy, children of people earning more than 250,000 rupees (\$5,700) a year will not be eligible for a reserved job. Neither will children of top government officials. The government says the law will be enforced this year. A number of other states in India have a percentage of Muslim-reserved jobs.” [32ha] (No information has yet been found regarding implementation of this law.)
- 6.74 As noted by BBC News on 20 July 2005, police imposed a curfew in the district of Dhar in Madhya Pradesh state following Hindu-Muslim clashes leaving two people dead and three injured. According to the police a row between two families led to the killing of a Hindu man. A Hindu mob attacked a group of Muslims, killing one of

them. "The area has seen trouble before, with clashes over a disputed religious monument claimed by Hindus and Muslims." [32hb]

- 6.75 As cited in correspondence from the Foreign and Commonwealth Office in 1992, various parts of India have suffered inter-communal violence between Hindus and Muslims. In the State of Gujarat, such violence predates Indian independence and has worsened in recent years. The antagonism has also been exacerbated by non-religious considerations. [7a]

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AYODHYA MOSQUE

- 6.76 Keesings Record of World Events, December 1992, notes the BJP and its allies had called repeatedly for the mosque at Ayodhya (built in the sixteenth century by the Mughal emperor Babar) to be replaced by a temple honouring the Hindu deity, Lord Ram. [5a] (p1) According to Europa World Year Book in 1990 the then BJP leader, Lal Krishna Advani, led a procession of Hindu devotees to the town to begin construction of a Hindu temple. Paramilitary troops were sent to Ayodhya and thousands of Hindu activists were arrested in an attempt to prevent a Muslim-Hindu confrontation. However, following repeated clashes between police and crowds, Hindu extremists stormed and slightly damaged the mosque and laid siege to it for several days. V. P. Singh, the Prime Minister of India at the time of the incident, accused Advani of deliberately inciting inter-communal hatred. [1a] (p1649)
- 6.77 Keesings Record of World Events for December 1992 notes that on 6 December 1992 around 100,000 Hindu kar sevaks (construction volunteers) responded to a call by the BJP and other Hindu organisations, including the Rashtriya Swayamsevak Sangh (RSS) and the Vishwa Hindu Parishad (VHP) – World Hindu Council – to resume construction work on the temple at Ayodhya. A small mob of Hindu zealots stormed past guards and razed the mosque to the ground. Within hours of the mosque's destruction, Ayodhya was gripped by fighting between Hindus and Muslims. By the following day there were reports of numerous deaths and arson attacks on Hindu and Muslim shrines across India despite strict security arrangements in most States. The worst affected cities were Bhopal, Bombay, Calcutta, Delhi, Jaipur, Kanpur and Surat. Southern States were also affected. [5a]
- 6.78 As noted in Europa, the Indian Government strongly condemned the desecration and demolition of the holy building and pledged to rebuild it. The leaders of the BJP, including LK Advani and the party's President, Dr Murli Manohar Joshi, and the leaders of the VHP were arrested; the BJP Chief Minister of Uttar Pradesh resigned, the State legislature was dissolved; and Uttar Pradesh was placed under President's Rule. On 8 December 1992, the security forces took full control of Ayodhya, including the disputed complex, meeting with little resistance. [1a]
- 6.79 As noted in an unstarred question to the Rajya Sabha, a few days later the Government banned five communal organisations, three Hindu and two Muslim, under the Unlawful Activities (Prevention) Act 1967 [27a] on the grounds that they promoted disharmony among different religious communities, as stated by Europa World Year Book. [1a] As noted in an unstarred question to the Rajya Sabha the banned organisations were: VHP, RSS, Bajrang Dal, Islamic Sevak Sengh (ISS)

and Jamaat-I-Islami Hind. [27a] The ban on these groups has since been lifted, as noted in the statement in reply to the Lok Sabha unstarred question. [28a]

- 6.80 As reported by Reuters in 1997, it was not until September 1997 that a court indicted 49 people on criminal charges over the demolition of the mosque. Among them were Lal Krishna Advani, then BJP President; Murli Manohar Joshi, former BJP President; and Bal Thackeray, the leader of Shiv Sena. The charges included rioting, creating hatred between two religious communities, defiling a place of worship and causing grievous hurt by threatening and damaging the life and safety of others. The BJP leaders claimed they were innocent and that the party was not responsible for destroying the mosque. [8b] According to a BBC news article dated 19 September 2003, in September 2003 a court in India ruled that Deputy Prime Minister L.K. Advani would not be tried in relation to the 1992 destruction of the mosque at Ayodhya. However the court recommended that seven other leading Hindus should be charged with inciting Hindu mobs to destroy the Babri mosque. [32b1]
- 6.81 As reported by BBC News on 6 July 2005: "An Indian high court has ordered opposition leader LK Advani to stand trial for his role in the demolition of a mosque that sparked religious riots. The court in Allahabad in northern Uttar Pradesh state overturned a lower court ruling in 2003 that the former deputy premier had no case to answer. Mr Advani is accused of inciting Hindu fanatics to attack the Babri mosque in Ayodhya in 1992." [32ia]
- 6.82 As reported by Guardian Unlimited on 29 July 2005:

India's former deputy prime minister Lal Krishna Advani was charged on 28 July 2005 with rioting and inciting Hindu mobs to demolish a 16th century mosque 13 years ago, an act which triggered the worst religious riots in decades. "More than 3,000 people were killed in the ensuing riots, most of them Muslims." Since then the temple town in north India has been tied with the rise of Hindu extremism. [40c]

The article continues:

"A special court in northern India said Mr Advani, along with seven other rightwing Hindu leaders, had made 'provocative speeches' to crowds that had massed on the site in Ayodhya...Mr Advani had been acquitted by judges of similar charges in September 2003. But this month the high court in Uttar Pradesh overturned that ruling and asked the lower court to try him again. If convicted, Mr Advani, who is now the leader of the opposition and president of the Bharatiya Janata party, could be sentenced to up to 10 years in prison." [40c]

According to the same source, independent analysts have questioned the impartiality of the investigation given the manner in which charges have been dropped and reinstated in the last 24 months. [40c]

- 6.83 BBC News reported on 15 July 2005 that police arrested two suspected militants in Indian-administered Kashmir whom they allege helped the attackers of the disputed religious site at Ayodhya. "One gunman blew himself up and four others were killed after a two-hour battle with police in an attack on the Ayodhya holy complex..." A senior police officer stated there was a suspected link between the attacks and armed militants fighting Indian rule in Kashmir. "In a related

development, police in the northern state of Uttar Pradesh, said the attack was carried out by the Lashdar-e-Toiba militant group.” Widespread protests by Hindu nationalist groups across India followed the attack, blaming Islamic groups supported by Pakistan. Pakistan denied any role in the raid and India said the raid should not affect peace talks but warned that such incidents if repeated could impact on talks. [32] (gv)

- 6.84 The BBC reported in an earlier article dated 6 July 2005, Hindu nationalists held angry protests, a day after an attack on the bitterly disputed religious site. Police fired water cannons to disperse about 1,000 activists in Delhi. “Six people were injured in Hindu-Muslim clashes in the eastern city of Ranchi.” Police were on high alert across India to prevent religious unrest. No group claimed responsibility for the attack on the Ayodhya holy complex. [32ib]

GUJARAT RIOTS - 2002

Godhra train incident

- 6.85 Keesings Record of World Events, February 2002, reported that on 27 February 2002, a campaign of sectarian violence was triggered in Godhra, Gujarat by an attack on a train carrying Hindu activists. At least 58 passengers were burnt to death and 43 injured. The fatalities included 26 women and 14 children. The Hindus were returning from a visit to the disputed religious shrine at Ayodhya. News of the massacre sparked a number of retaliatory attacks by Hindus the same day, swelling the following day to a wave of violence in towns and cities across the State. In the State capital, Ahmedabad, crowds looted and burned Muslim-owned shops, hotels, restaurants, and petrol stations. In one incident, 38 Muslims were said to have burnt to death when a mob isolated and burnt down 6 bungalows. [5j] Keesings reported in 2002 that by 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. [5k]
- 6.86 Keesings News Digest for April 2002 reported that during April 2002, the sporadic violence spread through Gujarat State to Kutch in the west, which had been previously untouched. An estimated 100,000 Muslims were in relief camps having been driven from their homes. [5l]
- 6.87 The US State Department Report 2002 (USSD) notes that, in its final report on Gujarat, released on June 1 [2002], the NHRC [The National Human Rights Commission] accused the state Government of ‘a complicity that was tacit if not explicit.’ “The report concluded: ‘there is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the state government to control the persistent violation of rights of life, liberty, equality, and dignity of the people of the state.’ The report recommended a CBI [Central Bureau of Investigation] inquiry into the communal riots, which the state government subsequently refused to allow.” [2d] (p20)
- 6.88 BBC News reported on 17 January 2005 that a Government inquiry said that the Godhra train attack in 2002 was started by accident:

“Evidence suggests the fire began inside the train, not that it was fire-bombed, an investigating judge decided. Most accounts from the time and since said a Muslim mob threw petrol bombs at the train, starting the blaze. The incident set off days of rioting in Gujarat state in which at least 1,000 people, most of them Muslims, died.”

Justice UC Banerjee stated that: “The possibility of an inflammable liquid having been used is completely ruled out.” Since the train fire, more than 100 Muslims had been arrested by state police in connection with the incident and approximately 75 of them remained on remand awaiting trial. No-one had been convicted over the fire. Gujarat’s state authorities said that Muslims torched the train but doubts had persisted about how the fire began. The judge had criticised the railway authorities for not conducting a thorough inquiry and said they had ‘pre-judged’ the incident. The investigation was set up by the Congress party-led government following its election victory. Gujarat’s inspector-general of police has challenged the findings of the inquiry along with the BJP. [32fz] This information is also confirmed in an article in *The Hindu* on 18 January 2005, in which it is reported that the Justice UC Banerjee Committee said the fire on 27 February 2002 was purely “accidental.” [60k]

- 6.89 As reported by rediff.com on 25 October 2005, a Fast Track Court Judge in a Vadodara court acquitted 108 people for lack of evidence in connection with a post-Godhra communal riots case concerning the killing of two people from a minority community. “The court indicted Gujarat police for failing to prevent the incident.” [81d] A further rediff news article dated 14 December 2005 reported that a fast-track court in Godhra sentenced 11 people to life imprisonment for killing 11 minority community members in Panchmahal district of Gujarat. Eighteen others were acquitted for lack of evidence. [81e]

Bilqis Yakoob Rasool

- 6.90 Amnesty International's report: “India: Justice, the victim – Gujarat state fails to protect women from violence” provides details of the attack on a Muslim woman bilqis Yakoob Rasool and her family in March 2002:

“In Randhikpur village, Limkheda taluka (sub-district), Dahod district, violence against the Muslim community began on the night of 28 February 2002 with the looting and burning of Muslim owned shops. On 1 March, a mob burned houses, livestock and crops owned by Muslims and the local mosque. Muslim residents sought assistance from the police but received none. Nineteen-year-old Bilqis Yakoob Rasool, then five months pregnant, fled the village on 28 February with her three-year-old daughter and her family. On 3 March 2002 they were caught by right-wing Hindus from their own and neighbouring villages. All eight women were raped or gang raped and were hacked to death along with male relatives. Bilqis’s daughter was killed in front of her. Bilqis lost consciousness and was left for dead. On regaining consciousness she found herself naked and injured, surrounded by the 14 dead bodies of her relatives. The two surviving children had run away. On 4 March she was taken to Limkheda police station where she lodged a complaint. She stated she was raped but the First Information Report (FIR) recorded that some 500 hundred unknown attackers had killed several people after raping 2 women but had spared Bilqis on account of her pregnancy. On reaching Godhra relief camp Bilqis filed a further FIR stating her rape and naming the rapist. A police inquest was conducted on 5 March and they recovered seven bodies. The other family members were recorded as missing. A medical examination conducted on 7 March established that Bilqis had been physically and sexually assaulted and injured. [98] (9.Appendix-9.1 Bilqis Yakoob Rasool)

- 6.91 The same report records that the police acted on the first FIR claiming that the Code of Criminal Procedure did not allow for the filing of numerous complaints. She clarified that she had reported the rape but the police had disbelieved the names of the attackers she gave, claiming them to be “respectable persons in the village” and that were she to go to hospital for an examination she would be administered a poisonous injection. The National Human Rights Commission (NHRC) took up her case and arranged legal aid for her and appointed a former Solicitor General and a former Supreme Court Bar Association secretary to assist her. Her petition to the Supreme Court requested the magistrate’s order closing her case to be set aside, and a request for the Central Bureau of Investigation (CBI) to investigate the case afresh was admitted. On 8 September 2003 the Supreme Court issued notice to the Government of Gujarat and the Dahod police to respond to Bilqis’s allegations whereupon she was harassed by the police. Despite a direction from the Supreme Court on 25 September 2003 to keep away from Bilqis, the harassment continued. In fear of their lives and safety, Bilqis and her husband left Gujarat with the help of social service organisations. A status report submitted by the CBI to the Supreme Court in March 2004 listed details of a police cover-up. On 19 April 2004, the CBI filed criminal charges against 20 people for the rape of Bilqis, the murder of her relatives and criminal conspiracy in obstructing the course of justice. On 6 August 2004, the Supreme Court directed that the case be transferred to Bombay High Court for trial and the trial began on 2 September 2004. Bilqis and her family were reportedly moved to a secure location to avoid any unlawful pressure being brought on her. [98] (9.Appendix-9.1 Bilqis Yakoob Rasool)

Best Bakery Case

- 6.92 As noted in a BBC news report of 12 September 2003, India’s Supreme Court launched a scathing attack on the authorities in the state of Gujarat over their handling of a riot in 2002 in which 12 Muslims were burned to death in a bakery by a Hindu mob (now known as the Best Bakery case). Twenty-one Hindus were acquitted of killing the Muslims in a controversial ruling in June 2002 after many of the prosecution witnesses withdrew their evidence. The incident came during rioting in Gujarat in which more than 1,000 people, most of them Muslims, were killed. [32bm] A BBC news report for 19 September 2003 reported that Gujarat’s State Government later agreed to seek a re-trial of the 21 Hindus acquitted following criticism from the Supreme Court. [32bn] The United States Commission on International Religious Freedom, in its May 2004 annual report, noted that:

“Finally, in April 2004, in what was described as an indictment of Modi’s Gujarat government, the Supreme Court overturned the acquittal of the 21 accused in the bakery store case and ordered a new trial of those indicted. India’s highest court ordered a transfer of the trial to neighbouring Maharashtra state and directed both state governments to provide protection to witnesses and victims, appoint a new public prosecutor, and institute new police investigations into the case.” [72] (p2)

- 6.93 As noted in a BBC article of 4 November 2004:

“A court in the Indian city of Mumbai (Bombay) has issued a summons against a key witness in what is known as the Best Bakery trial. Zahira Sheikh is the main witness to an attack in Gujarat two years ago, when a Hindu mob set the bakery on fire, killing 12 Muslims. She has been summonsed after failing to appear in court at the scheduled time.” She claimed that human rights workers

had used threats to force her to make false statements to the Supreme Court. She and her brother failed to attend a fast-track court in Mumbai to give evidence. The human rights organisation Citizens for Justice and Peace strongly deny the allegations. It is reported to be unclear why she backtracked on an earlier statement made to the Supreme Court. An earlier trial collapsed in Gujarat when Sheikh and other witnesses withdrew statements made to the police saying they did not recognise the accused. Sheikh admitted lying in court during those proceedings. She also stated that she had not testified against the accused due to threats received from local politicians and police. On the collapse of the case the 21 accused walked free. India's human rights bodies demanded the case be retried. [32fh]

6.94 As reported by Keesings in November 2004:

“The key witness in the so-called Best Bakery Case, Zahira Sheikh, failed to attend court in Bombay (Mumbai) on Nov 4, the day she was due to testify, having the day before retracted her earlier witness statement. The case was a retrial ordered by the Supreme Court of 21 Hindu defendants accused of murdering 14 people who died when a Muslim bakery burnt down in the city of Vadodara (formerly Baroda) on March 1, 2002, during anti-Muslim riots in western Gujarat state. The original trial collapsed in June 2003 and Sheikh and other witnesses subsequently claimed that they had been pressurised into retracting their evidence identifying those responsible for arson of the bakery. On the basis of its severe criticisms of the police, judiciary, and civil authorities in Gujarat, the Supreme Court had ordered that the retrial be held in neighbouring Maharashtra state. Now Sheikh claimed that Teesta Setalvad of the group Citizens for Justice and Peace (CJP) had ‘kidnapped’ her and ‘compelled’ her to make false statements of identification.” [5v]

6.95 The same report further states that her brothers did testify on 18-19 November 2004 but also retracted their witness statements, saying that it had been too smoky during the attack at the bakery for them to identify any of the defendants. However on 16 November 2004, Zahira's sister-in-law identified 11 of the defendants as being amongst the mob who attacked the bakery and also testified that her sister-in-law had been bribed to change her testimony. [5v]

6.96 Rediff.com reported that a Supreme Court-appointed committee indicted Zahira Sheikh as a ‘self-confessed liar’ falling to ‘inducements’ by ‘certain persons’ to give ‘inconsistent’ statements during the trial. The matter was posted for further hearing on 24 October.

6.97 Redif.com reported on 29 March 2006 that a sessions court sentenced Zaheera Sheikh to one year's imprisonment in a Mumbai jail and a Rs 50 000 fine as per the Supreme Court order for her contempt of court. [81f]

6.98 BBC News reported on 22 January 2004 that federal police arrested 12 people on charges of murder and gang rape during the 2002 Gujarat riots. They face charges in connection with an attack on a Muslim group by a Hindu mob in March 2002. [32cs] The BBC reported on 12 February 2004 that India's Central Bureau of Investigation submitted a report to the Supreme Court on an alleged gang rape and murder of Muslims during the 2002 Gujarat riots. It is alleged that 3 women were raped and 14 Muslims killed in the incident. The CBI was asked to follow up the case as a result of India's National Human Rights Commission's support of a key eyewitness. Thirteen people have been arrested

by the CBI including a policeman for allegedly tampering with evidence. The case is due before the Supreme Court with more than ten Gujarat riot cases currently before the Supreme Court. [32ct]

- 6.99 BBC News reported on 17 August 2004 that India's Supreme Court ordered Gujarati police to review and re-open 2,000 closed cases relating to Hindu-Muslim rioting of 2002. The BBC reported that "In its order, the Supreme Court called for the establishment of a cell headed by a senior police official to look into the circumstances in which the cases were closed." Witnesses to the rioting have reported that they were threatened and forced to withdraw statements made to the police. Around 4,000 cases were registered, but two years on no-one has been convicted, and around half of the cases have been closed. [32em]
- 6.100 Human Rights Watch Annual Report 2005 stated: "The Gujarat government's failure to bring to justice those responsible for massive communitarian riots in the state, in which thousands of Muslims were killed and left homeless, continues to be a source of tension throughout the entire country. However, the Supreme Court and the National Human Rights Commission have taken several positive steps to secure justice for the victims of the riots." [26e]
- 6.101 As reported in the Keesings May 2005 News Digest, it was revealed by the Minister of State for Home Affairs on 11 May, in a written reply to a question in the Rajya Sabha, according to official figures 1,044 people died in the 2002 sectarian riots in Gujarat that followed the deaths of 58 people in the burning of a train carrying Hindu pilgrims at Godhra. "The total included 790 Muslims and 254 Hindus. A further 223 people were said to be missing and about 2,500 were injured in the violence. Some human rights groups had claimed that up to 2,000 people had been killed in the riots." [5ab]
- 6.102 The same source continues, "Compensation had been paid by the Gujarat state government to the families of those killed and injured, and a total of Rs2.4 billion had been paid out in relief and rehabilitation." [5ab]
- 6.103 BBC News reported on 25 October 2005, more than 100 people were acquitted over the killing of two Muslims during the violence of 2002 in Gujarat. The two victims returned to collect belongings from one of the homes accompanied by policemen in March 2002 and were killed by a mob. One hundred and thirteen people were accused of the attack and 108 were arrested in connection. [32eo]

OTHER INCIDENTS

- 6.104 The BBC reported on 27 September 2002 that on 24 September 2002, two gunmen attacked the Swaminarayan Temple in Gandhinagar, Gujarat. A total of 31 people were killed in the attack. The two gunmen who carried it out were also killed. Hundreds of Muslims in Gujarat again took temporary refuge in camps or in Muslim-majority areas, after officials announced that the temple attackers were Islamic radicals. [32aj]
- 6.105 According to BBC News dated 27 August 2004, at least 19 people were reported wounded after attackers threw explosives into mosques as Friday prayers were held. There were two bomb blasts, one in the town of Jalna and the other in the nearby town of Parbhani. Both towns are about 500km from Mumbai (Bombay). [32k]

- 6.106 As reported by BBC News on 18 February 2005 a Shia march was dispersed in Kashmir when police in Srinagar used batons and teargas to break up a Shia mourning procession. Several mourners were arrested as they marched in a part of the city where processions have been banned since 1988. The mourners were dispersed for security reasons and two alternative routes were provided for processions away from densely populated areas. [32eu]
- 6.107 A BBC news report dated 21 February 2005 stated that a curfew was imposed in a part of the northern Indian city of Lucknow following sectarian violence. Three people died and several were hurt when Shia and Sunni Muslims clashed at a Shia mourning procession in the Husainabad area according to police." The curfew was imposed to prevent further escalation of tension in the area. "Lucknow has a history of clashes between Shias and Sunnis over the mourning processions." Officials said that rival groups threw stones, shot at each other and set vehicles and shops alight following a dispute over the route of a Shia Muharam festival procession. [32et]
- 6.108 The Guardian reported on 7 November 2005, that a group of Hindus attacked a Muslim village in northern India, setting fire to homes and killing three people after rumours spread that cows had been slaughtered for Islamic Eid-al-Fitr celebrations marking the end of Ramadam. Hindus from neighbouring areas attacked Mehndipu village, Uttar Pradesh. However no cows were found to have been slaughtered following a police investigation. [40d]
- 6.109 CSW.org reported on 16 February 2006: During a mass rally in the Dangs district of Gujarat state, speakers called for a nationwide anti-conversion law. Estimates by organisers claim some 300,000 Hindu activists and fundamentalists gathered for the "reawakening" event. The festival was organised to encourage re-conversion to Hinduism. About 185,000 people, mainly tribals live in the area. [108]

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CHRISTIANS

- 6.110 According to a report on religious intolerance by the Special Rapporteur in 1997, Christians constitute the second largest minority in India, after Muslims. The Indian authorities do not interfere with their internal religious activities, which may be conducted freely. Christians are well integrated into Indian society. [6b] (p10&12)
- 6.111 According to a Reuters news article dated 13 June 2005, "Christians account for about two percent of India's more than one billion people." [8j]
- 6.112 The Special Rapporteur's report of 1997 noted that the public schools provide secular education. Minorities can establish their own schools; these include schools providing a general education but in addition offering religious instruction to Christian pupils. Also, religious establishments such as seminaries provide religious instruction. [6b] (p11)
- 6.113 According to a report by the Special Rapporteur in 1997, there is constitutional freedom to produce and disseminate religious publications, including the Bible. [6b] (p12)

- 6.114 Freedom House/Centre for Religious Freedom, in a report entitled “Hinduism and Terror” published June 2004, noted that “BJP lawmakers have also attempted to restrict minority religious groups’ [mainly Christian groups] international contacts and to reduce their rights to build places of worship.” [43b] (p3)
- 6.115 As noted in the US State Department Report 2005 (USSD):
“There is no national law that bars a citizen or foreigner from professing or propagating his or her religious beliefs... During the year, state officials continued to refuse permits to foreign missionaries to enter some northeastern states, on the grounds of political instability in the region.” [2c] (Section 2c)
- 6.116 As noted in the US Department of State report on International Religious Freedom, 2005:
“The Unlawful Activities Prevention Act empowers the Government to ban a religious organization if it has provoked intercommunity friction, has been involved in terrorism or sedition, or has violated the 1976 FCRA, which restricts funding from abroad.” [2b] (Section II, Restrictions on religious freedom)
- 6.117 A BBC news report dated 26 March 2003 reported that in March 2003, a bill to stop forced religious conversions was introduced in Gujarat. The Freedom of Religion Bill was modelled on similar legislation introduced in December 2002 in Tamil Nadu, and legislation already on the statute books of Madhya Pradesh and Orissa. Under the terms of the bill, a conversion must be assessed by officials and prior permission given by the District Magistrate to be lawful. [32at] A further BBC news report dated 6 June 2003 reported the laws forbid any religious conversions carried out under “force, fraud or allurement”. [32aw]
- 6.118 According to a report published in May 2004 by the United States Commission on International Religious Freedom: “Since 1998, there have been hundreds of attacks on Christian leaders, worshippers, and churches throughout India. These attacks have included killings, torture, rape and harassment of church staff, destruction of church property, and disruption of church events.” [72] (p2)
- 6.119 Reuters reported in 1999 that, in Orissa, an Australian missionary, Graham Staines, and his two sons were burnt alive in their jeep in late January 1999. [8d] The Indian news agency PTI reported in February 1999 that the Indian Government ordered a judicial inquiry into the incident to be conducted by a sitting Supreme Court judge. [10d]
- 6.120 A Reuter’s report dated 8 June 1999, the Wadhwa Commission, which investigated the murder of Graham Staines and his sons, presented its report on 6 August 1999. The report concluded that Dara Singh, a Hindu fundamentalist, was responsible for leading and inciting a crowd into the murder of Staines and his sons and that there was no evidence that any authority or organisation was involved. [8g] A press release of 12 August 1999 by Christian Solidarity World-wide noted that the President of the All India Christian Council, Dr Joseph D’Souza, and the National Convenor of the United Christian Forum for Human Rights, John Dayal, expressed disappointment in the Commission’s findings. They deplored the State authorities and central Government for their failure to provide the Commission with all the facts about the violence against the Christian community in India. They stated that the Commission had not

been given a free hand to investigate and the Government had rejected demands that the terms of reference of the Commission be expanded to examine the totality of anti-Christian violence which culminated in the murder of Graham Staines. [17]

- 6.121 As reported in a BBC news report dated 1 February 2000 Dara Singh was finally arrested on 31 January 2000 in a village in Orissa. [32g]
- 6.122 A BBC news report dated 2 October 2000 reported that in October 2000 a 13-year-old boy was sent to a juvenile detention centre for 14 years for his role in the murder of Staines. Sudarshan Hansda was tried separately because of his age. His was the first conviction in the case. [32w] BBC news reported on the same day that on 15 September 2003 Dara Singh and twelve others were convicted at a special court in the eastern state of Orissa and another acquitted due to lack of evidence. [32by] According to a BBC news report on 22 September 2003 the ringleader received the death sentence and twelve others received life imprisonment for burning Graham Staines and his two sons alive. The death sentence is used rarely in India and is reserved for the most serious crimes. Defendants have the right to appeal all the way to the Supreme Court and can then ask for a presidential pardon. [32bp]
- 6.123 A CNN news report dated 2 December 1999 stated that on 1 December 1999, Junior Home Minister I.D.Swami said an investigative report into the murder of Graham Staines had found that Staines did not try to convert villagers. [33b] As reported by BBC News on 26 January 2005, "Gladys Staines, the widow of a murdered Australian missionary, was given the Padma Shri award for social work." She was one of 96 people honoured to mark the 56th Republic Day celebrations with top civilian honours. Mrs Staines stayed on in India after the death of her sons to oversee the completion of a hospital for leprosy in Orissa but then returned to Australia following its opening. The hospital was named after her husband. "In 2003, a court sentenced one man to death and 12 others to life imprisonment over the killings." [32fy]
- 6.124 A further BBC news article dated 16 August 2005 states that: "The man convicted of killing Australian missionary Graham Staines and his two sons in India has appealed against his conviction to the Supreme Court. Dara Singh's sentence had previously been commuted from the death penalty to life in jail. He argues his presence at the murder site was presumed." [32is]
- 6.125 According to a report published in May 2004 by the United States Commission on International Religious Freedom: "In January 2003, armed members of a Hindu extremist group attacked an American missionary and seven others with swords: two activists from Rashtriya Swayamsevak Sangh (RSS), a part of the Sangh Parivar, were later arrested in the state where the attack took place." [72] (p2)
- 6.126 Freedom House/Centre for Religious Freedom, in a report entitled "Hinduism and Terror" published June 2004, noted that: "India's Home Ministry (internal security) and its National Commission for Minorities officially list over a hundred religiously motivated attacks against Christians per year, but the real number is certainly higher, as Indian journalists estimate that only some ten percent of incidents are ever reported." [43b] (p4)

6.127 Freedom House/Centre for Religious Freedom considered that there had been an increase in the number of attacks on Christians in the past ten years. [43b] (p1) The United Nations noted in their Human Development Report, 2004, that:

“In South Asia organised violent attacks on Christian Churches and missions have increased. India, despite its long secular tradition, has experienced considerable communal violence, with rising intensity: 36.2% of casualties due to communal violence since 1954 occurred in 1990 – 2002.” [71] (p74)

6.128 A BBC News item dated 26 September 2004 reported: “Police in the southern Indian state of Kerala have detained 15 people following two attacks on nuns and priests of the Missionaries of Charity.” It was reported that three priests and six nuns were attacked in separate incidences on the outskirts of Kozhikode. A representative of Indian Christians blamed the attacks on members of right-wing political parties, the Rashtriya Swayasevak Sangh (RSS) and Bharatiya Janata Party (BJP). The attackers accused the nuns of converting Dalit Hindus. [32fn]

6.129 Reuters reported on 13 June 2005:

“Angry Hindu youths beat three American missionaries and tried to kidnap one as they held a bible studies class in Bombay...About 30 or 40 men attacked the three, part of a group of eight, on Saturday night because they thought the missionaries were trying to convert Hindus in the Indian financial capital.”

6.130 The Bombay Catholic Sabha President said that while these kind of attacks were rare in Bombay, the police should take serious action against those responsible to send a clear message that religious intolerance will not be accepted in India. “Christians are often accused of ‘forcibly’ converting poor and uneducated low-caste Hindus by bribing them with money and gifts, a charge missionaries deny. Some states have outlawed forcible conversions.” [8]

6.131 As noted in the Annual Report of The United States Commission on International Religious Freedom, May 2005:

“Despite the improved situation, concerns about religious freedom in India remain. Attacks on Christian churches and individuals, largely perpetrated by members of Hindu extremist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus. In December 2004, two church leaders were attacked in the state of Rajasthan, allegedly by members of a Sangh Parivar-affiliated organization; in January 2005, militants reportedly set fire to a newly opened Catholic school in the northeastern state of Assam; and in March 2005, also in Rajasthan, a Christian worship service was interrupted by Hindu extremists and eight church workers were beaten. In some instances, police provided protection from the attackers; in other cases, the police reportedly failed to intervene. Members of the Jehovah’s Witnesses also continue to be assaulted. In addition, several Indian states, including Orissa, Gujarat, Madhya Pradesh, and Chhattisgarh (formerly part of Madhya Pradesh), still have laws against ‘forced’ or ‘induced’ religious conversions, which require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or ‘inducement’ to convert another. However, reports of persons having been arrested under these laws

are extremely rare. Significantly, the government of Tamil Nadu rescinded its law against forced conversions after the May 2004 elections.” [2i] (South Asia)

- 6.132 BBC News reported on 28 January 2006 that twenty-five Christians were beaten up in Bhopal. This is the first incident of this nature in this city. A witness saw 35 people carrying sticks and iron rods fleeing a house where Christians were praying, leaving a child and a priest with serious injuries. Christians had been under pressure in the state of Madhya Pradesh from right wing Hindus although one such leader denied any involvement in the attack. It was alleged that Christians in the area were offering incentives to the poor and illiterate to convert. [32fe]
- 6.133 CSW.org reported on 2 February 2006, that three separate attacks on Christians in Madhya Pradesh occurred within 4 days resulting in a number of people needing hospital treatment. In the first attack, police were said to have assaulted two tribal church leaders who were threatened with “serious consequences” if they continued their activities. The following day Hindu extremists beat three church leaders who were then arrested for allegedly attempting to forcibly convert 23 tribal people, [literature was confiscated by the police]. The most violent attack allegedly occurred in Bhopal on 28 January when about 30 people threw stones at a building during a Christian meeting and anti-Christian slogans were shouted. Organisers were accused of forcibly converting and attacking ten participants with sticks. Sources in India hold the Bajrang Dal (the militant wing of the Hindu fundamentalist Rashtriya Swayamsevak Sangh - RSS) responsible for the last attack. [17a]

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SIKHS AND THE PUNJAB

SIKH RELIGION AND HISTORICAL BACKGROUND

- 6.134 As stated in the US Department of State International Religious Freedom Report 2005 (USIRF), according to the latest Government estimates (2001) Sikhs constitute 1.8 per cent of the population. [2b] (p2)
- 6.135 As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada, the Sikh religion was founded by Guru Nanak (1469-1539), a high caste Hindu who denounced social and State oppression. He took monotheism from Islam, but rejected Ramadan, polygamy and pilgrimages to Mecca. He also rejected Hindu polytheism, the caste system and sati (sacrificing a widow on her husband’s funeral pyre). Nine gurus succeeded Nanak. The Sikh commandments include certain prohibitions, notably against alcohol and tobacco. For men the Sikh religion requires observance of the “5 Ks”: Kes (uncut hair and beard); Kacch (breeches); Kirpan (a double-edged sword); Kangha (a steel comb); and Kara (an iron bangle). [4a] (p7-8)
- 6.136 As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada, new religious ideologies early in the twentieth century caused tensions in the Sikh religion. “The Akali Dal (Army of the Immortals), a political-religious movement founded in 1920, preached a return to the roots of the Sikh religion.” The Akali Dal

became the political party that would articulate Sikh claims and lead the independence movement. [4a] (p9)

- 6.137 According to an Asia Watch report (undated), following the partition of India in 1947, the Sikhs were concentrated in India in east Punjab. Sikh leaders demanded a Punjabi language majority State that would have included most Sikhs. Fearing that a Punjabi State might lead to a separatist Sikh movement, the Government opposed the demand. [22] (p12-13) As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada, "In 1966 a compromise was reached, when two new States of Punjab and Haryana were created. Punjabi became the official language of Punjab, and Chandigarh became the shared capital of the two States. However the agreement did not resolve the Sikh question." [4a] (p10)
- 6.138 The IRB background paper 1990 reported that tensions between Sikhs and New Delhi heightened during the 1980s, as the Government did not respond to Sikh grievances. Over the years that followed, Punjab was faced with escalating confrontations and increased terrorist incidents. Akali Dal only achieved limited concessions from the Government and Sikh separatists prepared for battle. Renewed confrontations in October 1983 resulted in Punjab being placed under central Government authority. [4a] (p12-13)
- 6.139 According to a 2003 Amnesty International report: "India: Break the cycle of impunity and torture in Punjab":
- "The militancy period began in the early 1980s when a movement within the Sikh community, in Punjab, turned to violence to achieve an independent state of the Sikhs, which they would call Khalistan. Some sections of the ruling Congress party, whose support base included urban Hindu traders, fomented this radicalization in order to weaken their main parliamentary opposition in the state, the Akali Dal party, which represented the Sikh peasantry with a more moderate agenda. In 1982 the Akali Dal launched a civil disobedience campaign against a decision to divert a river vital to Sikh farmers in the state. A number of Sikh organizations were banned and several leaders of militant groups took shelter in the Golden Temple in Amritsar." [51] (p4)
- 6.140 As noted in the Amnesty International report on the Punjab 2003: "The radicalisation of the movement for Khalistan was met with arrests under a series of national security laws that were introduced during the 1980s to meet the terrorist threat in Punjab but were enforced also in other parts of India and maintained for several years after the end of the militancy period in Punjab." [51] (p4)
- 6.141 As reported by an Asia Watch report entitled "Punjab in Crisis" (published May 1994) the violence continued and hundreds of Sikhs were detained in the first part of 1984. Followers of Jarnail Singh Bhindranwale established a terrorist stronghold inside the Golden Temple in Amritsar. The Prime Minister, Indira Gandhi, then initiated Operation Blue Star which took place on 4-6 June 1984. The Golden Temple was shelled and besieged by the army to dislodge the terrorists. The fighting continued for five days. Bhindranwale was killed and there was serious damage to sacred buildings. [22] (p18)
- 6.142 The Asia Watch report stated that official figures put the casualties at 493 "civilians/terrorists" killed and 86 wounded; and 83 troops killed and 249

wounded. Later in the year, official sources put the total number killed at about 1,000. Unofficial sources estimated that the civilian casualties alone were much higher. There were apparently more than 3,000 people in the temple when Operation Blue Star began, among them 950 pilgrims, 380 priests and other temple employees and their families, 1,700 Akali Dal supporters, 500 followers of Bhindranwale and 150 members of other armed groups. [22] (p18)

- 6.143 According to a Canadian IRB issue paper dated 1989, the intervention had disastrous consequences for the Sikh community and the whole country. Sikh-Hindu communalism was aggravated, Sikh extremism was reinforced, and political assassinations increased. [4a] (p15)
- 6.144 As noted in an Asia Watch report on 31 October 1984 Indira Gandhi was assassinated in New Delhi by two Sikh bodyguards. In the days that followed, anti-Sikh rioting paralysed New Delhi, ultimately claiming at least 2,000 lives; unofficial estimates were higher. Sikhs were also attacked in other cities in northern India. [22] (p19)
- 6.145 Asia Watch, in the "Punjab in Crisis" report, noted that a peace agreement was concluded between the Indian Government and moderate Akali Dal Sikhs led by Harchand Singh Longowal in July 1985, which granted many of the Sikh community's longstanding demands. However the extremists regarded Longowal as a traitor to the Sikh cause and he was assassinated in August 1985. Moreover the promised reforms did not take place. [22] (p22)
- 6.146 As recorded in the Europa World Year Book, 1998, in 1987 the State Government was dismissed and Punjab was placed under President's Rule. Despite the resumption of discussions between the Government and the moderate Sikh leaders, the violence continued. [1a]
- 6.147 It was reported in the Europa World Year Book 1998, that President's Rule was finally brought to an end following elections in February 1992, which were won by Congress (I). However the elections were boycotted by the leading factions of Akali Dal and attracted an extremely low turnout (only about 22% of the electorate). Beant Singh of the Congress (I) was sworn in as Chief Minister, but his Government lacked any real credibility. Despite the continuing violence between the separatists and the security forces, the large turnout in the municipal elections in September 1992, the first in 13 years, afforded some hope that normality was returning to Punjab. The local council elections in January 1993, the first for 10 years, also attracted a large turnout. [1a]
- 6.148 BBC News reported on 16 March 2005 in an article entitled: "The fading of Sikh militancy", over two decades after the militancy period began in Punjab, the divide between Sikhs and Hindus has been bridged and the antagonism with the Congress party largely disappeared. "The elevation last year of Manmohan Singh as India's first Sikh prime minister was the culmination in the changing relations. 'The alienation between the Sikhs and Congress is a distant memory now. The ground realities are very different now,' according to analyst Mahesh Rangarajan. In the 1999 general elections the Congress led in Punjab over its rivals the Akali Dal. Two years ago, the Congress convincingly won the state elections in Punjab, dislodging the Akali Dal from power. The state continues to have a Congress-led government." [32hg]

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MILITANT VIOLENCE IN PUNJAB

- 6.149 According to an Asia Watch report, "Punjab in Crisis", virtually all of the militant groups in Punjab pursued their campaign for a separate State of Khalistan through acts of violence directed not only at members of the police and security forces but also specifically at Hindu and Sikh civilians. After they first emerged in the early 1980s the militants assassinated civil servants, politicians, journalists, businessmen, other prominent individuals and ordinary Hindu and Sikh civilians. There were also indiscriminate attacks apparently designed to cause extensive civilian casualties, in some cases firing automatic weapons into residential and commercial areas, derailing trains, and exploding bombs in markets, restaurants and other civilian areas. Some of these attacks occurred outside Punjab in neighbouring States and in New Delhi. [22] (p170)
- 6.150 The Asia Watch report states that most of the militant groups in Punjab traced their origins to Sant Jarnail Singh Bhindranwale. After the storming of the Golden Temple the number of militant groups operating in Punjab grew. The militants were organised into at least seven major groups and all theoretically operated under the authority of one of the Panthic Committees which functioned as decision making bodies and issued instructions. The main militant organisations were: the Khalistan Commando Force (Paramjit Singh Panjwar faction); Khalistan Commando Force (Zaffarwal); Khalistan Commando Force (Rajasthani group); Babbar Khalsa; Khalistan Liberation Force (Budhisingwala); Bhindranwale Tiger Force of Khalistan (Sangha); Bhindranwale Tiger Force (Manochahal); All India Sikh Student Federation (Manjit); All India Sikh Student Federation (Mehta Chawla); and the Sikh Student Federation (Bittu). [22] (p170, 172-173)
- 6.151 Asia Watch reported in their "Punjab in Crisis" report that motives for the attacks varied:
- "Moderate Sikh political leaders were assassinated for opposing the militants. Other leaders were killed as a result of militant group rivalries. A number of militant groups tried to impose a Sikh fundamentalist ideology, issuing directives that stipulated appropriate conduct for Sikhs and prohibiting the sale of tobacco and alcohol. Failure to obey these orders meant punishment, including death. In late 1990 and early 1991 militant groups issued 'codes of conduct' for journalists which also carried a death penalty for those who dared to disobey. Sikhs belonging to minority sects, which advocated practices perceived as heretical by orthodox Sikhs, were also murdered." [22] (p175)
- Attacks on civilians were claimed as acts of retaliation for Government violence. Other killings appeared to represent executions of suspected collaborators or informers. Militants also kidnapped civilians for extortion, frequently murdering their victims when their demands were not met. Threats were made to the minority Hindu population in an effort to drive them out of Punjab. As a result thousands of Hindus fled the State. [22] (p175)
- 6.152 According to a Canadian IRB report dated 8 July 1998, the Sikh militant movement is no longer active in Punjab. The hardcore militants have either been physically wiped out or are no longer in India. There is no obvious support for the militants. [4h] According to an expert report written by Cynthia Keppley Mahmood in 1998, two militant organisations retain a capacity for activism,

namely the Babbar Khalsa under the leadership of Wadawa Singh and the Khalistan Commando Force led by Paramjit Singh Panjwar. They are believed to retain bases in Pakistan and to have an international circle of support. [19a]

- 6.153 The Documentation, Information and Research Branch (DIRB) of the Canadian Immigration and Refugee Board interviewed four specialists on the situation in Punjab in January 1997. "The panel broadly agreed that Sikh militancy in Punjab had been virtually eliminated... Militant organisations had been shut down, reduced in size, key leaders arrested, gone underground or had abandoned the movement, and those supporters who remained have struggled to maintain funding and morale". [4f] (p3-4)

Other indications were apparent of a weakened Sikh militancy. Nevertheless the Sikh search for some sort of political supremacy in the region remained a powerful ideology, and although the militants' ability to assert themselves had been suspended, future Sikh militant action could not be discounted. [4f] (p3-4)

- 6.154 As cited in a statement dated May 1998 by Dr Cynthia Keppley Mahmood of the University of Maine, "Overt support for the militants has slipped dramatically, but the grievances that prompted the Khalistan movement are still there." [19b] (p2)

- 6.155 According to Satp.org in its Punjab Assessment – 2002, "In the year 2002, till May 30, five persons were killed and 39 others injured in terrorism related violence in the Punjab. During this period, a total of four terrorists were arrested and another surrendered." In the previous year (2001), only one terrorist related fatality was reported. [85] (p1)

- 6.156 As noted in Keesings Record of World Events for May 2005:

"Bombs exploded in two cinemas in New Delhi on May 22, killing at least one person and injuring about 50. Both cinemas were showing a controversial Bollywood film that had been condemned by Sikh groups as offensive in content and style to the Sikh religion. Its title, Jo Bole So Nihal, was said to be an expression spoken only in Sikh temples or by Sikh warriors in battle. The Shiromani Gurudwara Prabandhak committee (SGPC), a key Sikh body which controlled all historic Sikh shrines, had already successfully campaigned for the film to be withdrawn from cinemas in the north-western states of Punjab and Haryana. Following the bombs in Delhi the majority of cinemas across the country stopped screening the film, except for those in the western city of Bombay (Mumbai)." [5ab]

"However, no group claimed responsibility for the explosions and the police were unsure whether they were attacks by Sikh militants or an opportunist exploit by the extremist Islamic group Lashkar-i-Toiba (LiT), a major militant organisation fighting Indian rule in the northern state of Jammu and Kashmir. Sikh militancy has been largely dormant since the end of the long insurgency in the state of Punjab in the 1980s and early 1990s." [5ab]

- 6.157 A further BBC report of 8 June 2005 stated that the police had arrested a top Sikh militant, Jagtar Singh Hawara, and two others in connection with the Delhi cinema bombs, Hawara is accused of killing Punjab chief minister Beant Singh in 1995 and escaped from prison in 2004. Hawara is accused of leading the

outlawed militant Sikh separatist organisation Babbar Khalsa International. [32gy]

6.158 BBC News reported on 20 June 2005 that:

“Police in the Indian state of Punjab say they have ‘neutralised’ Sikh separatist militants who had recently become active in the state. The state’s police chief said an operation to counter the militants was launched following two cinema bomb attacks in Delhi... He said there had been an attempt to revive Sikh militancy in Punjab. But he said the revival was ‘checked’ by timely police action which led to the arrests of about 24 people...He ruled out the possibility of a full-scale resumption of Sikh militancy in Punjab, although there had been a ‘concerted effort’ to reactivate Sikh separatist groups such as the Babbar Khalsa.” [32hc]

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HUMAN RIGHTS CONCERNS IN PUNJAB

6.159 Various human rights organisations have strongly criticised the Punjab police for their misuse of power during the 1980s and early 1990s. Amnesty International reported in a 1991 report entitled “Human Rights Violations in Punjab”: Use and Abuse of the law that those who were arrested were...detained for months or years without trial under provisions of special legislation suspending normal legal safeguards...”, and reports of torture during interrogation were said to be common: “The arrest and detention of some detainees remained unacknowledged for weeks or months. Amnesty had received reports that many people simply ‘disappeared’, with the security forces refusing to admit that they had ever been arrested. It was feared that many of them had been killed in custody.” [3a] (p2)

6.160 According to Amnesty International’s 2003 report: “India, Break the cycle of impunity in Punjab”, “Torture and custodial violence continue to be regularly reported in Punjab, despite the end of the militancy period.” AI states that torture continued in police custody and that the majority of the armed opposition groups were inactive in Punjab today. AI had received no reports of acts of torture perpetrated by their members after the end of the militancy period. “The report notes that most of the members of these groups in the state were arrested or killed by security forces in counter insurgency operations in the early 1990s.” [51] (p2)

6.161 Amnesty International’s January 2003 report on the Punjab stated that:

“The 1980 National Security Act (NSA) amended in 1984 because of ‘the extremist and terrorist elements in the disturbed areas of Punjab and Chandigarh’, provided powers to preventively detain people suspected of activities ‘prejudicial to the defence of India, the relations of India with foreign powers or the security of India’ for up to two years in Punjab and up to one year in the rest of India. The Terrorist Affected Areas (special Courts) Act followed the NSA in 1984. The Terrorist and Disruptive Activities (Prevention) Act, in force from 1985 to 1995, subsequently provided the police in Punjab with sweeping powers of arrest and detention. These laws left the heaviest legacies of the militancy period on policing methods in the state and the rest of the country. They explicitly freed the police from accountability to the criminal

justice system for actions undertaken in 'good faith', allowing officers to believe themselves beyond the reach of law." [51] (p4-5)

6.162 Amnesty International reported in 2003 in the Punjab report that:

"Human rights violations by the police during the decade of militancy were widespread. Indiscriminate and arbitrary arrests continued in this period, setting a pattern that continued until the mid-1990s. Civilians were often arrested solely for being related to or living in the same village as members of armed opposition groups. Unofficial blacklists were circulated to all police stations and persons on this list were liable to be rearrested during militant activity in the area. Arrests often occurred when a quick solution for a case was needed or simply to fulfil an arrest quota. Arrest procedures were frequently not followed and the arrest was often not recorded in the daily log of the police station, thus remaining completely unofficial and leaving detainees vulnerable to further abuses. Detainees were frequently moved from one police station to another, or to unofficial interrogation centers, making it difficult for their families and lawyers to trace them. Torture was widespread and used both as a substitute for investigation and as punishment. The police routinely disregarded court orders to bring detainees before a court, and judges were threatened to deter them from taking action against the police. When detainees died in police custody, the police organized the post-mortems and the cremations before any independent investigation could be carried out into the cause of death. Undercover agents were also unofficially recruited: these were often former members of armed opposition groups offered not to be killed or tortured in exchange for their collaboration with the police. They were reportedly used to infiltrate militant groups, to kill militants or to discredit them with violent actions in their names. Disappearances and the killing of members of armed opposition groups and their supporters by the police in real or staged 'encounters' were frequent. They were tolerated by the police authorities and government as part of a policy to eliminate armed opposition groups." [51] (p5)

6.163 Amnesty International reported in the 2003 report on the Punjab:

"In January 1995 the human rights wing of the Shiromani Akali Dal party alleged that it had evidence showing that, during the period of militancy, Punjab Police had carried out secret cremations of hundreds of 'unclaimed' bodies in the crematoria of Amritsar district. Some of the bodies were allegedly those of people who had disappeared and been extrajudicially executed in police custody." [51] (p9)

6.164 According to Amnesty International's (AI) 2003 report, "In April 1995 the Committee for Information and Initiative on Punjab (CIIP), a non-governmental human rights organization based in New Delhi, successfully petitioned the Supreme Court for an investigation of these allegations." The Supreme Court instructed the CBI to carry out investigations into the allegations and on analysis of the evidence available in three crematoria in Amritsar, found that police had illegally cremated 2,097 bodies. In December 1996 the Supreme Court ordered the National Human Rights Commission (NHRC) to examine the CBI's findings. In January 1999 the NHRC stated that it would limit its investigations to the cremations of 2,097 bodies investigated by the CBI in Amritsar district and invited claims for monetary compensation from victims' families. In fact, at the time that AI's report was published, only 18 cases had been forwarded for consideration. In those 18 cases, the NHRC was content with the State of Punjab's position; in that,

it would not accept any liability, but compensation would be considered in the 18 cases without examination of the correctness of the claims or going into the merits of the matter. The NHRC further considered that, "For this conclusion, it does not matter whether the custody was lawful or unlawful, or the exercise of power of control over the person was justified or not; and it is not necessary even to identify the individual officer or officers responsible/concerned." AI reported that in January 2001, all 18 claimants to whom compensation had been offered complained that the NHRC had failed in its original intent of conducting a thorough investigation and demanded that justice be done or that the proceedings should cease. In February 2001 the NHRC ordered that investigations should be reopened in all 2,097 cases. [51] (p6-7)

6.165 Amnesty International stated in their 1991 Punjab report:

"Most detainees in Punjab were arrested under the Terrorist and Disruptive Activities (Prevention) Act (TADA) [which lapsed in 1995], which allowed detention for up to one year without charge for investigation into broadly defined offences. Prisoners held under the Act could be tried in camera [i.e. in private] and the burden of proof was shifted onto the accused to prove his or her innocence." [3a] (Introduction-p2)

6.166 Amnesty International noted in an August 1999 report: "India: a Vital Opportunity to End Impunity in Punjab": "In the aftermath of the violence, many relatives of victims came forward to pursue redress in the courts through the filing of petitions in cases of 'disappearance' and other human rights violations... However in attempting to pursue redress through the courts, many families have faced direct harassment from the police and long delays in the judicial process." [3g] (p2)

6.167 As cited in a statement dated May 1998 by Dr. Cynthia Keppley Mahmood of the University of Maine, "Conditions in Punjab have greatly improved since the worst days of the early 1990s", and "it is no longer accurate to say that any Sikh is at risk of persecution simply because of his or her religion". [19b] (p2)

6.168 The US Citizenship and Immigration Services, in a response to a query, (last updated on 22 September 2003), noted that:

"Several observers suggest, though, that while Punjab police may be serious about pursuing Sikhs anywhere in India whom they view as hard-core militants, in practice only a handful of militants are likely to be targeted for such long-arm law enforcement. While noting that Sikhs who are on police lists for past involvement with armed groups could be at risk even if not presently active, the Indian human rights attorney said in his May 2003 e-mail to the RIC that, '[t]he number of persons who figure in such lists is really very small and I do not think the police and intelligence agencies have in the last years been adding many names' (Indian human rights lawyer 4 May 2003). A South Asia expert at the U.S. State Department's Bureau of Intelligence and Research said that it is unlikely that Punjab police are currently pursuing many Sikhs for alleged militant activities given that the insurgency there was crushed in the early 1990s (U.S. DOS INR 25 Apr 2003)." [86] (p2)

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METHODS OF ILL TREATMENT

- 6.169 The Medical Foundation for the Care of Victims of Torture, 1999, examined 95 male Sikhs between 1991 and 1999, of whom all but eight were educated to at least secondary school level, and roughly half came from farming families and worked on the farm after finishing their education or had farming related jobs. The majority had belonged to an organisation such as the All India Sikh Student Federation. Most had been arrested on many occasions, usually for a short time ranging from one to ten days, but the total time in custody ranged from two days to eight months. Most were held by the police in the village police station, and a large majority were never charged with any offence. Some of the Sikhs in the study stated that in addition to their detentions, they had been arrested, questioned and threatened many times, but not detained overnight. [30] (p11-14)
- 6.170 All of the Sikhs examined by the Medical Foundation as part of the study, as cited in the 1999 Care of Victims of Torture report, reported that they had been severely ill-treated, usually worse in the first few days of detention. The methods of ill treatment included being beaten unconscious; being beaten with truncheons, fists, boots, lathis (bamboo canes), leather belts with metal buckles, pattas (leather straps with wooden handles), rifle butts, metal rods or a metal chain, and branches torn from a thorn bush. They were beaten on various parts of the body, but principally on the back, the legs or the buttocks. Beatings over the head and on the soles of the feet were also prevalent. Many had been suspended by the wrists, ankles or hair, and beaten; some had had their wrists tied behind their back and then were suspended, causing injuries to the shoulder joints. Eleven men had their arms twisted behind the back and 22 had their hands trodden on or hammered. Ten were thrown against a wall or on the floor repeatedly. Electric shocks were given, the infliction of burns and the removal of fingernails. Another torture method consisted of forcing the hips strongly apart, often to 180 degrees, repeatedly or continuously. A thick wooden roller or a ghotna (a pestle four feet long and four inches in diameter used for grinding corn) was often rolled down the calves or thighs with one or more of the heaviest policemen standing on it. [30] (p14-15)
- 6.171 As noted in the 1999 Medical Foundation Report, much of this abuse took place during interrogation sessions, but beatings also occurred randomly at other times, including late at night when the policemen were drunk. As well as physical abuse, many suffered psychological abuse such as threats of further punishment, death or harm to their families, mock executions and extreme humiliation. [30] (p15-16)
- 6.172 The Medical Foundation report of 1999 found that most of the Sikhs in their study were released without charge after representations by the village elders, a politician or lawyer, but on many occasions only after the payment of a large bribe. [30] (p17)

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PROSECUTION OF SECURITY FORCE PERSONNEL

- 6.173 The US State Department Report 2005 (USSD) noted that:

“The Government failed to hold hundreds of police and security officials accountable for serious human rights abuses committed during the counterinsurgency of 1984-94, despite the presence of a special investigatory commission. In March prosecution lawyer and human rights activist Brinjinder

Singh Sodhi claimed that he was threatened by a police officer accused in the disappearance case of human rights activist Jaswant Singh Kalara. Kalara, who claimed the government was responsible for over two thousand extrajudicial killings of Sikhs during its counterinsurgency campaign, was kidnapped in 1995, and his body was never found. On November 18, 10 years after the crime, 2 police officers, Jaspal Singh and Amarjit Singh, were found guilty of murdering Kalara and destroying evidence related to the case, and they were sentenced to life imprisonment. The courts found four other officers guilty of kidnapping with the intent to murder and sentenced them to seven years imprisonment. No action was taken against the police official who had threatened Sodhi.” [2c] (Section 1b)

6.174 As noted in the same report:

“During the year the Central Bureau of Investigation (CBI) claimed to be pursuing charges against dozens of police officials implicated in the 1980s hundreds of murders and secret cremations. NGOs and Human Rights activists alleged that police in Amritsar, Majitha, and Tarn Taran districts secretly disposed of approximately two thousand bodies of suspected Sikh insurgents they had murdered. Security forces abducted, extrajudicially executed, and cremated the alleged insurgents without the knowledge or consent of their families during the height of Sikh insurgency in Punjab.” [2c] (Section 1b)

6.175 “The NHRC continued to investigate 2,097 cases of illegal murder/cremation that occurred between 1984 and the early 1990s. The NHRC asked families whose members had disappeared to come forward and provide evidence. The NHRC has not released its findings, and no significant progress was made in bringing to justice those responsible for the killings. Families of victims petitioned the NHRC for redress, and a small percentage received a response in July 2004.” In July the NHRC directed the CBI to give the Punjab government access to documents regarding the illegal murder and cremation of 64 persons by the Punjab police during the insurgency.” [2c] (Section 1b)

6.176 The *Times of India* in September 1997 reporting Union Home Ministry figures stated that 123 police officials were facing trial for taking alleged illegal steps against terrorists, while 2,555 petitions had been filed against Punjab police officers by individuals and human rights organisations. The same article referred to a protest by Punjab police which said that police officers who had played a key role in containing terrorism in Punjab were now being harassed and hounded for alleged excesses and human rights violations. The protest gained momentum following the suicide of the former Tarn Taran SSP Ajit Singh, who the police claim was driven to this step because of a “witch hunt”. [13f]

6.177 *India Today*, June 1997, reported that police officers in Punjab felt abandoned by the Government and frustration was mounting in the force as more than 2,000 officers were being brought to account for the extra-judicial methods that were employed in fighting terrorism. In 1995, 585 petitions were filed in different courts. The number had doubled by June 1997, by which time the Punjab police were facing 85 CBI and 91 judicial probes. 30 policemen were in jail, around 100 were out on bail and 140 were facing prosecution. [11a]

6.178 According to the Documentation, Information and Research Branch (DIRB) after interviewing four specialists in 1997, the panel agreed that “The central Government had been attempting to rein in the Punjab police, who during the

insurgency were responsible for large numbers of extrajudicial executions and disappearances.” Investigations into allegations of human rights abuses “have sent a strong signal that the climate of impunity for the Punjab police is ending...even though that climate has been deeply ingrained over many years and will take a long time to change”... Reference is also made to the extensive human rights training for the police in India, which is seen as an example of the general trend in India towards recognising and addressing systemic problems with the police. One of the panel members “acknowledged that occasional violations might still take place, he predicted that the likelihood of future disappearances at the hands of the Punjab police is very low.” [4f] (p6-7)

- 6.179 As reported by Amnesty International in the 2005 report for events occurring in 2004:

“In Punjab the vast majority of police officers responsible for serious human rights violations during the period of militancy in the mid-1990s continued to evade justice, despite the recommendations of several judicial inquiries and commissions. In response to 2,097 reported cases of human rights violations, the National Human Rights Commission had ordered the state of Punjab to provide compensation in 109 cases concerning people who were in police custody prior to their death. The culture of impunity developed during that period continued to prevail and reports of abuses including torture and ill-treatment persisted.” [3n] (p2)

- 6.180 As reported by BBC News on 18 November 2005, six policemen in Punjab had been convicted of abducting and killing a leading human rights activist, Jaswant Singh Khalra. He was abducted from his home in Amritsar in September 1995 after exposing alleged widespread rights abuses and extrajudicial killings by the police of Sikh separatists in the 1990s. Two policemen received life sentences and four others – five years each. The men were convicted despite their being no trace of Khalra. The verdict was of significance because it was seen as the first acknowledgement that the Indian state had turned a blind eye to violations committed in the name of combating separatists. [32] (cu)

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PUNJAB STATE HUMAN RIGHTS COMMISSION

- 6.181 According to the *Punjab Tribune* dated August 1998, the Punjab State Human Rights Commission started work in July 1997 under the chairmanship of Justice V.K. Khanna, a former Chief Justice of the north-east States. The Commission had intervened in a number of cases of police excesses, torture and custodial deaths, and the Punjab Government has been forced to pay compensation. The Commission had started to inspect jails, with prior notice being given to the State Government, but the Commission wanted the power to make unannounced visits. [12a]
- 6.182 According to an article published on “Human Rights in India” (last updated on 23 January 2004), the Punjab State Human Rights Commission (PSHRC) receives between 200 and 300 complaints per day. It is reported that the powers of the PSHRC are severely limited, in that it can only examine cases that fall within the one-year statute of limitations. [73]

6.183 Keesings News Digest for November 2004 noted that police in the northern state of Punjab had agreed to pay compensation of Rs 250,000 to 109 families of people who had died in police custody following operations against Sikh separatists in the 1980s and early 1990s. By order of the National Human Rights Commission (NHRC), following an investigation into cremations carried out by the police and undertaken by the CBI at the behest of the Supreme Court. [5v]

6.184 As noted by BBC News on 11 November 2004:

“Police in the Indian state of Punjab have agreed to pay compensation to the families of people who died in police custody in the 1980s and early 1990s. The victims were arrested in police operations against Sikh separatists in the Punjab. A Police spokesman in the state capital, Chandigarh, said compensation of 250,000 rupees (\$5,500) would be disbursed to 109 families. The move was ordered by India’s National Human Rights Commission. The NHRC’s order was issued in response to what has come to be referred as the Cremations Cases. This refers to dozens of people cremated by Punjab police in the city of Amritsar who the police had declared to be ‘unidentified bodies’.” [32] (fa)

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THE COMMITTEE FOR CO-ORDINATION ON DISAPPEARANCES IN PUNJAB (CCDP)

6.185 As noted in a report on Current Human Rights Efforts dated 1 October 1998, the Committee was established in November 1997, when a variety of human rights organisations and political groups came together. Its purpose was to develop a voluntary mechanism to collect and collate information on disappearances in Punjab; to evolve a workable system of State accountability; and to lobby for India to change its domestic laws to conform to UN instruments on torture, enforced disappearances and accountability. The Committee was set up following the demand of Indian human rights groups that the independent and thorough investigation into complaints of disappearances in Punjab be allowed to proceed unhampered. [20] (p13)

6.186 When asked for their views on the occurrence of disappearances by the Danish Immigration Service on their fact-finding mission of March-April 2000, two members of the Committee observed that extrajudicial executions no longer took place in Punjab. However, a third member of the committee interviewed by the Danish mission did not believe that disappearances and extrajudicial executions had stopped. Therefore, “there was general agreement between the sources [we] asked that disappearances and extrajudicial executions almost never occur, or only in very small numbers. This applies to both ordinary criminals and political activists.” This conclusion was found not to be because of a change in the attitude of the police but because there was no terrorism left in Punjab. [37] (p42)

6.187 As noted in USSD 2005 report:

“At year’s end, the CCDP, a Punjab-based human rights organization, had not received an NHRC response to its report documenting 672 disappearance cases. The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several

prominent Congress party leaders for complicity in the violence. The report highlighted law enforcement culpability in the deaths due to a deliberate lack of action and noted that only one policeman was convicted for committing atrocities during the riots, in which three thousand Sikhs were killed. Union minister Jagdish Tytler and Member of Parliament Sajjan Kumar were indicted in the report. Tytler resigned from parliament and Kumar resigned from the Delhi Rural Development Board after the report's release, but at year's end no formal punishment resulted from the report. The government set up two committees to provide compensation, promised by Prime Minister Singh to the victims' families. [2c] (Section 3)(Government corruption and transparency)

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THE PEOPLE'S COMMISSION ON HUMAN RIGHTS

- 6.188 According to Amnesty International's report: "India – Break the cycle of impunity and torture in Punjab", January 2003. In April 1998 the CCDP announced its intention to set up a three-person People's Commission on Human Rights Violations in Punjab, headed by a former Chief Justice of the Calcutta High Court. "The first hearing of the People's Commission was therefore held from 8-10 August 1998." However further hearings were cancelled because in 1999 the Punjab and Haryana High Court set limits on the work of the People's Commission claiming that it set up a parallel judicial system. Subsequently in May 2000 the People's Commission was wound up following the Supreme Court upholding the High Court judgement that the CCDP was establishing a parallel judicial system. [51] (p13)

NANAVATI COMMISSION

- 6.189 As reported in Keesings News Digest, February 2005, on 9 February a commission headed by retired judge G.T. Nanavati submitted a report to the Government on its inquiry into the causes and course of anti-Sikh riots following the assassination of Prime Minister Indira Ghandi by her two Sikh bodyguards in 1984 resulting in the deaths of some 3,000 Sikhs. The commission was established in May 2000 by the former National Democratic Alliance Government. Nanavati did not disclose details of the report stating that it was the responsibility of the Government to make the report public. [5y]

- 6.190 A BBC news article dated 8 August 2005 stated that:

"An Indian Government inquiry into the anti-Sikh riots in 1984 has said that some Congress party leaders incited mobs to attack Sikhs. It found 'credible evidence' against a current Congress minister, Jagdish Tytler, who denies any wrongdoing... This inquiry is the latest of nine that have looked into the riots. It was begun in 2000 amid dissatisfaction, particularly among Sikhs, with previous investigations... The 339-page inquiry report by former Supreme Court judge, GT Nanavati, was tabled in parliament..."

Other Congress politicians were implicated and further investigations were recommended against certain people. [32] (gw)

- 6.191 As cited by BBC News on 10 August 2005:

“An Indian cabinet minister has submitted his resignation after being implicated in anti-Sikh riots in 1984. Jagdish Tytler aims to clear his name after an inquiry said he probably had a role in organising attacks on Sikhs. Earlier, premier Manmohan Singh said those named in the report would be investigated. The oppositions called for Congress members to be prosecuted...Mr Singh acknowledged that many of the victims were still to receive justice 21 years after the violence. ‘The search for truth has to continue. The [recent enquiry] is just the latest attempt,’ he said.” [32hs]

6.192 As noted in the USSD 2005 report:

The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several prominent Congress party leaders for complicity in the violence. The report highlighted law enforcement culpability in the deaths due to a deliberate lack of action and noted that only one policeman was convicted for committing atrocities during the riots, in which three thousand Sikhs were killed. Union minister Jagdish Tytler and Member of Parliament Sajjan Kumar were indicted in the report. Tytler resigned from parliament and Kumar resigned from the Delhi Rural Development Board after the report’s release, but at year’s end no formal punishment resulted from the report. The government set up two committees to provide compensation, promised by Prime Minister Singh to the victims’ families.” [2c] (section 4)

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THE CURRENT SITUATION IN PUNJAB

6.193 As noted by Amnesty International in their report: “India – Break the cycle of impunity and torture in Punjab”, January 2003, the majority of the armed opposition groups are currently inactive in Punjab and AI have received no reports of acts of torture perpetrated by their members after the end of the militancy period which was the mid-1990s. “Similarly, the issue of impunity for abuses committed by these groups during the militancy period is marginal, as most of their members in the state were arrested or killed by security forces in counter insurgency operations in the early 1990s.” However Amnesty International raised concerns about the continuation of abuses committed by the police in the Punjab. [51] (p1) This opinion was confirmed by the USSD 2004 report, which noted that: “In Punjab the pattern of disappearances prevalent in the early 1990s ended, however, during the year, the Government failed to hold accountable hundreds of police and security officials for serious human rights abuses committed during the counterinsurgency of 1984-94, despite the presence of a special investigatory commission.” [2c] (Section 1b)

6.194 As cited in the joint Danish Immigration Service/Danish Refugee Council fact-finding report of April 2000:

“According to Ravi Nair, Director of the South Asia Human Rights Documentation Centre, a case involving a human rights violation will usually be reported at the local police station. The police will undertake an investigation and on that basis will decide whether a case should be brought. If no case is brought, the individual may bring a civil suit to the lower (district) court. Nair

added that the case often stops there, as the court does not always proceed with the case.”

However, he remarked that it was easier to have a case heard in the courts than previously. [37] (p30)

- 6.195 The Danish Immigration Service consulted various individuals, authorities and organisations regarding the security situation during their fact-finding mission to Punjab in March and April 2000. According to the UNHCR in Delhi, the security situation in Punjab is now under control, but as the UNHCR does not have a presence in Punjab they could not comment on the situation in detail. Three foreign diplomatic missions in India agreed that the situation in Punjab had considerably improved and that the conflict between various groups had calmed down. Acts of violence in Punjab were becoming less common, and were now at a low level. Two of the missions reported that incidents do occasionally occur, such as explosions caused by bombs on buses and trains, but that such incidents occur in the rest of India, and not exclusively to Punjab. Officials of the Committee for Co-ordination on Disappearances in Punjab (CCDP) considered that Punjab was now peaceful and that there were no problems with militant groups and no political problems either. A Foreign Embassy consultant, reported that several people who had previously been militants and who had served their sentences for terrorist activities now lived a normal life in Punjab. [37] (p19)
- 6.196 As noted in their fact-finding report of 2000, the Danish Immigration Service also spoke to Chief Minister Prakash Singh Badal, who underlined that there were now no security problems in Punjab. Badal underlined that co-operation between the State Government and central Government was good. Former Advocate-General G.S. Grewal pointed out that cases concerning human rights abuse were different from before in that now the abuse was individual and had specific reasons. Sikhs were not subjected to torture just because they were Sikhs or because of the general political situation. One diplomatic mission also commented that the situation was not perfect but that Sikhs in general were not being persecuted. The problems were of a different nature than before, and were often due to problems in local society, e.g. disputes over land, etc. [37] (p13, 39 & 34)
- 6.197 According to Satp.org in its Punjab Assessment – 2002: “The Indian State of Punjab remains largely free from terrorist violence for the ninth consecutive year after the terrorist secessionist movement for Khalistan was comprehensively defeated in 1993. However, there remain a handful of terrorist groups, mainly sponsored by Pakistan and by some non-resident Indian Sikh groups based in the West, who continue to propagate the ideology of Khalistan.” [85] (p1)
- 6.198 As reported by Amnesty International (AI) in their report, “India – Break the cycle of impunity and torture in Punjab”, January 2003: “Since 1995 there have been no reports of killings of human rights defenders in Punjab, although AI believes that human rights defenders are still subject to constant surveillance and have been subjected to harassment, threats and violent attacks by the police in attempts to intimidate and silence them.” [51] (p17)
- 6.199 The same 2003 AI report states that there has been an overall increase in crimes against women recorded in Punjab in the post-militancy period, particularly with regard to matrimonial disputes. In response the police created “women cells” at district level to specifically deal with offences against women. However it is reported that these units lack staffing and other resources. [51] (p24)

- 6.200 AI states in their 2003 report that the Supreme Court issued 11 directives known as the “DK Basu guidelines” to be followed in all cases of arrest or detention as preventive measures against torture in custody in addition to the safeguards in the Code of Criminal Procedure. The Director General of Police in Punjab has reportedly instructed the police force that these guidelines should be observed – in accordance with the Supreme Court’s request to all DGPs. However they have not been incorporated into the Punjab Police Rules 1935 under which the police act or in any other police manual. AI believes that the “guidelines” are routinely ignored in most police stations. [51] (p18)
- 6.201 Amnesty International notes in the Punjab 2003 report that the failure to implement the legal safeguards for detainees cannot be solely attributed to a lack of will of individual police officers but in part is linked to difficult working conditions in which most police operate in Punjab. The police authorities or the Punjab Human Rights Commission have initiated or ordered internal inquiries or taken disciplinary action against offending police officers involved in unlawful practices. However, officers due for suspension have often remained on active duty at the same police station in which that offence was committed. Because police disciplinary action is conducted internally, it is often difficult for the judiciary and civil society to monitor their implementation, as was the view of Amnesty International. [51] (p19)

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INTERNAL RELOCATION FOR SIKHS

- 6.202 As noted in an IRB report dated January 1999, the Indian Constitution guarantees Indian citizens the right to move freely throughout the territory of India, and to settle and reside in any part of the country. These rights are subject to restrictions as imposed by law in the interests of the general public. Punjabi Sikhs are able to relocate to another part of India and as Sikhs are a mobile community, there are Sikh communities all over India. [4i] (p1)
- 6.203 According to an IRB question and answer series, December 1992, some four million Sikhs live in India outside Punjab. Sikh communities are found in most Indian cities and in virtually all States. They are generally urban and prosperous and they control important trades and occupy a prominent position within the central and regional administration. [4c] (p1) An IRB response dated 12 January 1999 states that most Sikhs, particularly the better-educated and urban Sikhs, have some knowledge of English and/or Hindi. Punjabi Sikhs would have no more problem enrolling their children in school or obtaining employment than any other Indian relocating to a new area. [4i]
- 6.204 According to an IRB response dated 12 January 1999, there are no checks on a newcomer to any part of India arriving from another part of India, even if the person is a Punjabi Sikh. Local police forces have neither the resources nor the language abilities to perform background checks on people arriving from other parts of India. There is no system of registration of citizens, and often people have no identity cards, which in any event can be easily forged. [4i]
- 6.205 According to the Danish Immigration Service fact-finding report 2000, “The Director of the South Asia Human Rights Documentation Centre believed that a high-profile person would not be able to move elsewhere in India without being

traced, but that this would be possible for low-profile people.” Sources from foreign diplomatic missions in India considered that there was no reason to believe that someone who has or has had problems in Punjab would not be able to reside elsewhere in India. Reference was made to the fact that the authorities in Delhi are not informed about those wanted in Punjab. [37] (p53)

- 6.206 The US Citizenship and Immigration Services, in a response to a query: (last updated on 22 September 2003), noted that:

“Observers generally agree that Punjab police will try to catch a wanted suspect no matter where he has relocated in India. Several say, however, that the list of wanted militants has been winnowed [whittled] down to ‘high-profile’ individuals. By contrast, other Punjab experts have said in recent years that any Sikh who has been implicated in political militancy would be at risk anywhere in India. Beyond this dispute over who is actually at risk, there is little doubt that Punjab police will pursue a wanted suspect. ‘Punjab police and other police and intelligence agencies in India do pursue those militants, wherever they are located, who figure in their lists of those who were engaged in separatist political activities and belonged to armed opposition groups in the past,’ a prominent Indian human rights lawyer said in an e-mail message to the Resource Information Center (RIC) (Indian human rights lawyer 4 May 2003).” [86] (p1)

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BUDDHISTS AND ZOROASTRIANS

- 6.207 According to a report by the Special Rapporteur on religious intolerance, 1997, Buddhist and Zoroastrian minorities are able to practise their religion freely, possess adequate numbers of places of worship and religious publications, and refrain from proselytising among other communities. Buddhists and Zoroastrians are said to be fully integrated into society. [6b] (p6)
- 6.208 As noted in a BBC news article dated 19 July 2005, “Zoroastrian Iranians came to India 12 centuries ago to avoid Islamic persecution. They settled in the western state of Gujarat. Today the majority of the 69,000-strong community lives in Mumbai in the neighbouring state of Maharashtra. They speak Gujarati but many of their religious rituals are preserved.” [32gp]

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FREEDOM OF ASSEMBLY AND ASSOCIATION

- 6.209 As noted in the US Department of State report 2005 (USSD):

“The law provides for freedom of assembly and association, and the government generally respected this right in practice. The authorities normally required permits and notification prior to holding parades or demonstrations, and local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where the local government sometimes denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, the authorities may

ban public assemblies or impose a curfew under the Criminal Procedure Code.” [2c] (Section 2b)(Freedom of Assembly)

6.210 As cited in the Freedom House Survey report 2003, Section 144 of the Criminal Procedure Code empowers state-level authorities to declare a state of emergency, restrict free assembly, and impose curfews. [43a]

6.211 The USSD Report 2005 notes that:

“The law provides for the right of association, and the government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorisation. More than 400 million persons made up the country’s active work force and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial labourers. While some trade unions represented agricultural workers and informal sector workers, most of the country’s estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million unionised workers, some 80 percent, of the unionised workers were members of unions affiliated with 1 of the 5 major trade union centrals.” [2c] (Section 6a)

6.212 In an article entitled “Human Rights Feature” by the Voice of the Asia-Pacific Human Rights Network, a joint initiative of SAHRDC and HRDC, dated 24 June 2005, it states that:

“While the right to strike is not explicitly included in the list of fundamental rights specified in the Constitution of India, Article 19 enumerates the right to freedom of speech and expression, to assemble peaceably without arms, and to form associations or unions (Art 19(1)(a)-(c)). The right to strike is thus a corollary of these expressly stated rights.”

“The Industrial Disputes Act 1947 (IDA) and the Trade Unions Act 1926 (TUA) are the primary pieces of central legislation regulating this right in India. The IDA establishes the conditions regarding notice and arbitration that must be complied with before industrial action is undertaken (Sections 22, 23), and the circumstances in which such actions may be deemed illegal (Section 24). The IDA by virtue of its regulation of the legality of a strike, thus explicitly recognises that strikes exist as a legitimate means of negotiation, including for government employees (Section 22).” The article states that, “While these provisions effectively grant workers and unions the right to legal strike, the recognition of this right in India, has been inconsistent.” [103] (p2)

6.213 BBC News reported on 24 February 2004 that: “More than a million government employees took part in a one-day strike in India”, affecting many government banks, offices and state-owned firms. “Unions called the walk-out in protest at the Supreme Court’s ban on the right of government employees to strike because of the disruption caused.” [32cr]

6.214 BBC News reported on 26 July 2005 that protesters fought running battles with police for two days as clashes flared when workers from Honda Motorcycle and Scooter India protested at the firing of colleagues. Many were injured during the fighting and further trouble erupted outside the hospital following reports that the injured were not being treated. The National Human Rights Commission demanded detectives from the CBI investigate the incident. [32hv]

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POLITICAL ACTIVISTS

6.215 As noted in the US Department of State Report 2005 (USSD):

“Separatist guerrillas and terrorists in Kashmir and the northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents also engaged in widespread torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion. [2c] (Introduction)

6.216 The same report continues, “During the year, there were numerous instances of abuse by insurgent and terrorist groups in both Jammu and Kashmir and the northeastern states.” [2c] (Section 1a)

6.217 “The Home Ministry reported that security forces killed 927 insurgents and terrorists during the year. The ministry also reported that insurgent and terrorist attacks in Jammu and Kashmir declined in 2004 with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members, and 976 insurgents killed. Security forces often used staged encounter killings to cover up the murders of captured non-Kashmiri insurgents and terrorists from Pakistan or other countries, often after torturing them. Human rights groups accused security forces of targeting suspected terrorists, militants and their suspected supporters. There were no widely accepted data on the magnitude of extrajudicial killings in Jammu and Kashmir, with estimates or reports depending on the political orientation of the source. In 2003 the Jammu and Kashmir state human rights commission received 15 complaints relating to custodial deaths and 27 complaints relating to disappearances. Human rights organizations sought to clarify these cases by submitting numerous requests to Jammu and Kashmir authorities, but they received inadequate and unsatisfactory responses.” As noted in the USSD 2005 report. [2c] (Section 1a)

6.218 As noted in the same report: “During the year killings and abductions of suspected and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir, although the number of such instances has declined substantially since the 1990s.” [2c] (Section 1a)

6.219 As reported by BBC News on 6 November 2004, “About 40 different rebel groups exist in the north-east of India, with many believed to use bases in neighbouring countries.”

6.220 As cited in a BBC news article dated 2 October 2004:

“At least 48 people have died in a series of attacks across the states of Nagaland and Assam in north-east India. Two bombs exploded in the main commercial center of Dimapur town in Nagaland and one at a train station and another at a local market. At least 28 people were killed and more than 100 injured in the morning blasts. Hours later, rebels from the Bodo tribe sprayed shoppers with bullets in the neighbouring state of Assam, killing at least 20 people, police said. They suspect the rebels – the National Democratic Front of Bodoland (NDFB) – may have been behind the Nagaland attacks too. There are

many separatist rebel groups in north-east India...There has been an insurgency in Nagaland since 1956, but for the last seven years the state's major separatist group, the National Socialist Council of Nagaland (NSCN), has been negotiating with the Indian government, and its fighters are observing a cease-fire with the government's security forces. Both factions of the NSCN have condemned the explosions." [32ge]

- 6.221 As noted by BBC News on 31 July 2005, separatist rebels in north-east India extended a ceasefire with the Government but expressed concern at the progress of the peace talks: "Rebels of the National Socialist Council of Nagaland (NSCN) extended the ceasefire by six months instead of the usual 12. A spokesman said they were no closer to a deal than when the talks began in 1997. The Naga rebellion – India's oldest ethnic conflict – spanned 40 years before the negotiations started."

They have been campaigning for a separate homeland for the Naga tribe in the north-eastern states of Nagaland, Assam, Arunachal Pradesh and Manipur. "But the demand has been fiercely opposed by the states, Manipur in particular." [32go]

- 6.222 As reported by BBC News on 6 November 2004:

"The Indian army says it is conducting a major operation against rebel bases in the north-east of the country. Burma has sealed its border to prevent militants crossing into its territory from the Indian state of Manipur, where the offensive is focused. The north-east of India is home to many groups who often cross back and forth into neighbouring countries." [32fv]

- 6.223 As reported by USSD 2004:

"On July 11, Mnoaram Devi, an alleged member of the People's Liberation Army (PLA) in the northeastern state of Manipur, died while in the custody of the Assam Rifles, a paramilitary unit in the state. Officials initially denied that Devi was killed, tortured, or raped, but the postmortem found that she died of multiple gunshot wounds, was bleeding from the vagina, and had a perforated liver and gall bladder, among other injuries, and forensic tests detected semen stains on her clothes. The case prompted demonstrations and riots, and led to a serious deterioration of the security situation in Manipur. The National Commission for Women (NCW) publicized the case, and the Army ordered an investigation; however, by year's end, culpability for her death had not been established." [2j] (Section 1a)

- 6.224 The USSD 2005 report continued:

"At year's end no action was taken on the Manorama Devi rape/custodial death case from July 2004. The Upendra Commission, formed in November 2004 to investigate the Devi case, submitted its report to the state government. The inquiry was concluded without the DNA fingerprints and blood samples of the Assam Rifles personnel on duty the night of the incident, and the contents of the report were not made public. On June 23, the state high court directed the Manipur government to send the report to the Union Home Ministry for the Center's action and to make the report public. On August 31, the Manipur

government appealed the New Delhi High Court's decision. The appeal was pending at year's end." [2c] (Section 1a) (rRespect for human rights)

- 6.225 Amnesty International, in its annual report (2005), noted that: "There were reports of abuses – including torture, attacks and killings of civilians – by armed groups in a number of states in the north-east as well as Andhra Pradesh, Bihar, Jharkhand, and West Bengal. [3k] (Abuses by opposition groups)

NAXALITES

- 6.226 According to rediff.com (dated 2 October 2003), "The Naxalites or Naxals, is a loose term to define groups waging a violent struggle on behalf of landless labourers and tribal people against landlords and others." The Naxalites claim that they are fighting a class war to free oppressed members of Indian society from exploitation. The Naxalites are Maoists with links to the Communist Party of India (Marxist-Leninist). [81a] (p1) According to rediff.com, the Naxalites groups operate across a broad swathe of India:

"The Naxalites operate mostly in the rural and Adivasi areas, often out of the continuous jungles in these regions. Their operations are most prominent in (from North to South) Jharkhand, Chhattisgarh, Madhya Pradesh, eastern Maharashtra, the Telengana (northwestern) region of Andhra Pradesh, and western Orissa. The People's War is active mainly in Andhra Pradesh, western Orissa and eastern Maharashtra while the Maoist Communist Centre is active in Bihar, Jharkhand and northern Chhattisgarh." [81a] (p2)

- 6.227 According to rediff.com (dated 2 October 2003), "At village levels, the Naxalites' terror tactics have spawned local armies to provide protection to the landlords and others. The most infamous of these is the Ranvir Sena in Bihar and Jharkhand, formed by Bhumihar caste landlords, which kill tribals, Dalits and landless labourers either in retaliation or to enforce their domination." [81a] (p3)

- 6.228 According to *India Daily*, dated 1 July 2004: "Since 1980 clashes between police and Naxalite Maoist revolutionaries have taken place in north-western Andhra Pradesh. In areas under their control, Naxalites dispense summary justice in 'people's courts' which in some cases condemn to death suspected police informers, village headmen, and others deemed to be 'class enemies' or 'caste oppressors'..."

The Naxalites extort money from business firms, railway services in one area had to be cancelled for months due to PWG destruction of stations, track and signalling equipment..."Over the past few years, hundreds of policemen and suspected Naxalites have been killed, according to press reports and human rights organisations." [82] As noted in a BBC news report, dated 1 December 1999, more than 5,000 people have died in violence between Naxalites and police since 1985. [32d] A BBC news report dated 23 July 2002 stated that in July 2002 the PWG set off a landmine explosion in Andhra Pradesh, killing 4 policemen and seriously injuring 30 others. The attack followed the breakdown of peace talks between the PWG and State Government which had continued for two months, making little headway. The State secretary of the PWG also announced the withdrawal of a unilateral cease-fire saying that the Government and the police had failed to reciprocate. [32ah]

6.229 As noted in the USSD 2005 report: “The killing of civilians by Naxalites (Maoist insurgents) in Andhra Pradesh increased dramatically during the year. According to Andhra Pradesh police, Naxalites killed 123 civilians including political leaders, and 16 policemen between January and July. Police killed 84 Naxalites during the same period.” [2c] (Section 1g)

6.230 As noted in the USSD 2005 report:

“According to human rights activists and journalists during the year, a few Naxalites (Maoist guerillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) who surrendered, retained their weapons and worked for the police as anti-People’s War Group (PWG) officers. Human rights groups alleged that police used former Naxalites to kill current Naxalites and human rights activists with Maoist links. Police denied the charges, attributing such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year.” [2c] (Section 1a)

6.231 BBC News reported on 15 October 2004 that the first day of historic talks between the southern Indian state of Andhra Pradesh and a Maoist rebel group took place in Hyderabad. The state’s Interior Minister met a People’s War Group delegation (PWG). [32ft]

6.232 As noted in Keesings News Digest for November 2004, according to the Indian news agency PTI, on 20 November 17 policemen were killed in an ambush by approximately 150 suspected Maoist Naxalite rebels in Chandauli district of Uttar Pradesh. [5v]

6.233 As reported in the same source, on 29 November 2004 an offensive in Manipur started by the army in October, employing some 6,000 troops, resulted in the destruction of some 100 separatist rebel camps including the headquarters of the People’s Liberation Army (PLA). Most of the camps appeared to have been abandoned by the rebels. An army spokesman claimed on 9 November 2004 that 20 rebels were killed and 59 captured for the deaths of 2 soldiers. [5v]

6.234 As noted by the BBC news report of 17 January 2005, “Left-wing rebels in the southern Indian state of Andhra Pradesh have announced that they are breaking off peace talks with the state government.” This was in protest against police killings of their members and the rebels accused the Government of failing to honour a cease-fire which took effect last summer:

“Peace prevailed in the state for almost eight months following a ceasefire by the two sides in June. The state government also lifted an 11 year ban on the CPIML People’s War Group in July. Until October last year (2004), the rebels were known as the People’s War Group. But at that time they announced a merger with the Maoist Communist Centre to become the CIP (Maoist). The rebels have been fighting since 1980 for the creation of a communist state comprising tribal areas in the states of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh.” [32er]

6.235 As noted in another BBC news report dated 8 October 2004, two key Indian Maoist groups decided to merge into a single party: “The People’s War Group (PWG) and the Maoist Communist Centre (MCC), which are active in a number of states, will form a new party, the leader said... The PWG has considerable

influence in Andhra Pradesh, Chhatisgarh, Jharkhand, Orissa, Madhya Pradesh and Bihar, while the MCC is strongest in Bihar... Both groups have pockets of influence in West Bengal.” [32fu]

- 6.236 As further reported by the BBC on 20 January 2005, the Maoists announced their withdrawal from the peace negotiations following a series of encounters with police. The rebels were pulling out of the peace process due to “combing operations by the Greyhounds”. The Greyhounds are an elite police force set up to fight the insurgents who carry out search operations in Maoist areas. [32es]
- 6.237 As reported in a BBC news article dated 20 January 2005, police in Andhra Pradesh claimed to have killed three more Maoist guerrillas. The violence took place as a state-wide strike called by Maoist groups evoked only a partial response. This incident followed a series of clashes between police and Maoists in which 15 rebels and 6 other people, including a policeman and 2 politicians, were killed. It was reported that police recovered weapons and hand grenades after the last encounter with Maoists belonging to the Communist Party of India-Marxist Leninist (CPI-ML) coalition. [32fs]
- 6.238 As reported by BBC News on 9 April 2005, according to police suspected Maoist rebels shot dead a leading Congress party politician in Andhra Pradesh. District committee secretary Ramdev Reddy is the most senior figure killed since the breakdown of peace talks in the state at the beginning of the year. About 130 people have died in violence since January. [32gm] BBC news reported on 15 August 2005 that suspected Maoist rebels shot dead 10 people including a ruling party legislator, Narsi Reddy, in Andhra Pradesh. The Congress party legislator was returning from a function when the group was attacked by four suspected rebels, who riddled the car with bullets, killing most on the spot and injuring eight others during the raid in Makhtal, 80 miles south of Hyderabad: “Violence in Andhra Pradesh has intensified since the peace process between Maoist rebels and the state government broke down in January. More than 250 people have been killed since then.” [32gr]
- 6.239 A BBC news article dated 24 June 2005 stated that at least 21 people were killed in a fierce gun battle between Maoist rebels and police in Bihar where the dead included 16 rebels, 2 police officers and 2 civilians. The overnight fighting ensued when about 100 rebels attacked a police station and two state-run banks in a village in East Champaran. Police say the rebels belong to the Maoist Communist Centre operating in five Indian states and are also believed to be closely linked to Maoist rebels in Nepal. [32hd]
- 6.240 On 9 July 2005 BBC News reported that police in Andhra Pradesh reportedly killed four suspected Maoist guerrillas. The rebels belonging to two groups were killed in separate clashes in Warangal and West Godavari district. It was thought the rebels belonged to the Communist Party of India-Marxist Leninist Praja Pratighatna and Jana Shakti groups and were killed in clashes after busting some of their hideouts. [32ir]
- 6.241 As reported by BBC news on 12 August 2005:
- “Suspected Maoist rebels in the eastern Indian state of Bihar have attacked a police station killing two policemen. Four other officers were wounded in the attack late on Thursday...Maoist groups, claiming to represent the interests of poor peasants and landless labourers, often target police stations in

Bihar...Maoist groups in Bihar are thought to have links with Maoist rebels operating in neighbouring Nepal...India has an open border with Nepal and the rebels are thought to move in and out of both countries.” [32gs]

- 6.242 On 17 August 2005, BBC News reported that: “The Indian state of Andhra Pradesh has imposed a ban on the rebel Communist Party of India (Maoist) group and what it says are six front organisations. The ban comes two days after suspected Maoist rebels shot dead 10 people, including a ruling party legislator.” The state government empowered the Chief Minister to impose the ban and the federal government in Delhi gave approval. The rebel groups were banned between 1992-2004 but the ban was lifted last year in a bid to engage in peace talks which subsequently ended in failure in January 2005. [32gt]
- 6.243 As reported by BBC News on 19 August 2005, police arrested five writers said to be supporters of the newly banned Communist Party of India (Maoist). The head of the Revolutionary Writers Association (Virasam) and a poet were amongst those arrested. The Government banned the writers’ association which it accuses of having links to the rebels. Varavara Rao denied the link. [32gu]
- 6.244 Maoist groups have been banned in the state of Chattisgarh following a landmine blast killing 24 policemen in September 2005. (reported by BBC News on 5 September 2005) Under the order the government will be able to confiscate property of individuals and organisations seen to be supporting terrorist activities and provisions will be in place for sentencing between one and seven year jail terms. The order requires final approval from the president. There are thought to be 10,000 Maoist rebels in India. [32ik]

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TRIPURA

- 6.245 As reported in a BBC news report dated 15 November 1999, separatist rebels intensified their activities in Tripura during 1999. Tripura’s ethnic rebel groups are opposed to the influx of Bengali migrants, from what is now Bangladesh, which has made the indigenous people of the State a minority since 1949. [32a]
- 6.246 A BBC news report of 7 July 2003 stated that on 6 May 2003 the police reported that separatist rebels killed 22 Bengali villagers in indiscriminate firing in Tripura:
- “In a separate raid carried out later on a village market at Moharcherra, 10 more Bengali villagers were killed...Tripura’s Chief Minister, Manik Sarkar alleged that the rebels who carried out the attack came from one of their bases just across the border in Bangladesh where he says several hideouts of the Tripura rebel groups exist... It is not known which of Tripura’s several rebel ethnic groups were responsible for the massacre.” [32br]
- 6.247 According to a BBC News report, dated 15 April 2004, a faction of the National Liberation Front of Tripura (NLFT) declared a cease-fire with the Indian security forces. “The leader of the NLFT faction, Nayanbashi Jamatia, said his group had taken the decision to suspend military action following several rounds of talks with the Indian government.” [32ei] In a further report from the BBC on 6 May 2004, it was reported that:

“In what is seen as a further break-up of the state’s once strongest rebel group, the National Liberation Front of Tripura (NLFT), the group’s former general secretary, Mantu Koloj, said more surrenders were expected from the NLFT ranks. This leaves only a small number of fighters with the NLFT Chairman Biswamohan Debbarma, who, the surrendered rebels say, is in a small camp in the remote Chittagong Hill Tracts of Bangladesh.” [32ej]

6.248 According to a BBC news report, dated 17 May 2004, Indian security forces patrolling a remote area bordering the Chittagong Hill Tracts in Bangladesh were attacked by Tripura rebel separatists; at least six soldiers were killed in the attack. The BBC reported that most factions of the rebel group are now involved in peace talks with the Indian Government, but some 200 fighters loyal to the chairman have not joined the cease-fire. [32ek] On 14 June 2004, BBC News reported that, according to the local police, at least 24 people had been kidnapped and were being held by separatist rebels in or near the north-eastern Indian state of Tripura. In response to the kidnapping, it was reported that a large contingent of police and paramilitary forces were patrolling a key road in Tripura’s northern district where the incident took place...The BBC reported that NLFT chairman, Biswamohan Debbarma, is upset over the desertion of hundreds of guerrillas from his faction of the NLFT and it was believed that he was responsible for the kidnapping. [32el] Tripura police chief, G.M. Srivastava, believed to be the architect of the earlier surrenders [32ej], said he expects more rebels to surrender soon. [32el]

6.249 The Foreign Office travel report for 2005 advises against travel to Manipur and Tripura stating that: “There is a risk from insurgent groups, mainly in rural areas of these and other states in the east and north east (particularly Manipur and Tripura). Although foreigners have not been the deliberate targets of violence, attacks can be indiscriminate. Kidnapping, banditry and insurgency are rife.” [7k]

ASSAM

6.250 The BBC reported in a news article dated 10 December 2004:

“A leading rebel organisation in the north-east Indian state of Assam has rejected an offer of peace talks with the Indian Government. The powerful United Liberation Front of Assam, (Ulfa) says it could not accept the offer because of a demand that the group give up violence... India’s north-east is home to more than 200 ethnic and tribal communities and more than 20 rebel groups fighting for greater degrees of independence or tribal rights. Ulfa is one of the most powerful groups in the region and has been fighting Indian security forces for more than two decades.”

It is reported that Ulfa would like the question of Assamese sovereignty discussed but this is unacceptable to Delhi. [32fg]

6.251 The Foreign Office Travel Advice report for 2005 states that:

“A series of bomb attacks in the north eastern states of Assam and Nagaland over the weekend of 2/3 October 2004, marked an increase in the severity of terrorist incidents. Attacks were carried out in public places including railway stations and local shops. In August 2004, an Independence Day function in Assam was bombed killing 22 people, mainly children. Further bombings, including in the capital area of Guwahati, took place on 9 March 2005.” [7k]

- 6.252 As reported by BBC News on 28 May 2005, India's Government invited the leading north-eastern separatist group, the United Liberation Front of Assam, to participate in talks. "The rebel group has so far refused to join talks because of disagreements with Delhi over the sovereignty issue." So far there had been no official reaction from the ULFA. "Most rebel groups in Assam, including the National Democratic Front of Bodoland (NDFB) have started negotiations with Delhi." [32hi]
- 6.253 As noted by the BBC on 9 August 2005, "The top separatist group in India's Assam state says it was behind attacks on pipelines...But the United Liberation Front of Assam denied it killed four people in a bombing of a marketplace near state capital Guwahati." Police blamed Ulfa for the bus stop bombing. [32] (gw)
- 6.254 As noted in a BBC news item dated 26 August 2005:
- "The Indian army says it has launched an operation against the top separatist group in the north eastern Assam state. At least five rebels belonging to the United Liberation Front of Assam (Ulfa) have died in the fighting so far, the army said. The operation was launched after the rebels refused to begin talks with the Indian Government...They said a senior Ulfa leader Ritu Bora had been killed in the fighting along with four other rebels...Earlier this month, the army launched an operation in the area to flush out the rebels from Assam's Joypur and Arunachal Pradesh's Changlang areas...Analysts say efforts to open a dialogue between the Indian government and Ulfa have almost fallen through after Delhi refused to release 10 senior rebel leaders." [32] (iit)
- 6.255 As noted by BBC news on 9 October 2005: The army was called in to restore order following ethnic riots in Assam where at least 14 villagers were killed during clashes between rival ethnic groups. The majority of the dead were from the Karbi tribe who are in opposition to the Dimasa tribe and both are among many ethnic groups battling for control of territory. Officials claim more than 9,000 people have been displaced by the violence thus far. [32iv]
- 6.256 The army in Assam have been authorised to shoot on sight in a bid to prevent more violence in troubled Karbi Anglong district. In recent weeks there were 125 fatalities in clashes between two rival tribal guerrilla groups. Anyone other than security personnel, wearing a military uniform and carrying weapons will be shot on sight. [42gc](Reporters without borders)
- 6.257 As reported by BBC News on 22 October 2005, an estimated 30,000 people have been displaced by clashes between rival tribes in Assam, according to government officials. Since September 2005, some 90 people are estimated to have died in fighting between the Karbi and Dimasa tribes. Assam police hold militia groups representing both groups responsible. Most of the dead are elderly, women or children. Army presence has been increased in Karbi Anglong but reports of sporadic violence continued. [32iy]

MANIPUR

- 6.258 "Insurgent groups in the Northeast continued to attack civilians. In April a group based in Manipur, called the People's Revolutionary Party of Kangleipak, executed the parents of two of its members who had surrendered, and seriously wounded the mother of a third. On August 7, ULFA insurgents detonated a bomb at a bus station in Boko, Assam, killing four persons and wounding three

others. The insurgents also attacked oil pipelines in the districts of Sibsagar, Dibrugarh and Tinsukia. In September eight people were killed and several wounded when Kuki Revolutionary Army rebels fired on villagers in Karbi Anglong district, Assam.” (as noted by USSD in their 2005 annual report) [2c]

- 6.259 As reported by BBC News on 1 June 2005, according to police three people were killed in two separate attacks in the north-east Indian state of Manipur when unidentified gunmen shot at three traders late on Tuesday night – two of them died with the third in a serious condition. Separately, another man was shot and killed in the state’s southern district of Churachandpur. Police did not know the motive for the attack but suspected separatists’ involvement. [32if]
- 6.260 BBC News reported on 10 August 2005 that organisations representing Naga tribesmen lifted a month-long blockade of a national highway in the north-eastern state of Manipur. “They were demanding that some parts of Manipur be integrated into the neighbouring state of Nagaland. The federal Government has rejected the idea saying it is opposed by Manipur’s political parties.” They lifted the blockade because of hardship caused to people, according to a Naga spokesman, threatening to resume the blockade at any time unless the state and federal Governments met their demands. The Indian Government ordered an airlift of essential commodities to Manipur from neighbouring Assam. Earlier attempts to break the blockade by the Manipur police were thwarted when Nagas retaliated by burning down scores of Government offices in four districts of Manipur where Nagas are prevalent. [32] (hk)
- 6.261 A further BBC report dated 10 August 2005 stated that Naga protesters in Manipur torched over 40 Government buildings when violence erupted after rumours police manhandled Naga tribespeople in their attempt to break the roadblock. “Nagas are angry at state government opposition to the proposed integration of Naga majority areas in Manipur with neighbouring Nagaland state.” It was also reported that at least three soldiers died in an attack on their convoy south-east of the capital Imphal. “Manipur police said violent protests by Nagas had taken place in four districts dominated by the tribe...The Nagas, who are Christians, are outnumbered in Manipur by the Meiteis and want to be part of a greater Nagaland.” They were reportedly angry that 18 June had been declared “state integration day” in Manipur. “On that day in 2001 Manipur’s legislative assembly was set alight in protest at moves to break up the state and integrate Naga-dominated districts with Nagaland.” [32h]
- 6.262 BBC news reported on 20 September 2005 that at least nine soldiers and six rebels were killed in a spate of violence in Manipur. The soldiers were killed in two separate ambushes. Six rebels were killed in factional fighting between two groups who claim to represent the Zomi tribe in southern Manipur. The MPLF which is an umbrella organisation of three leading separatist groups in Manipur claimed responsibility for the attack. More than 10 armed insurgent groups actively operate in Manipur. Most of these groups represent the state’s majority Hindu Meitei people. Others represent tribes like the Nagas, Kukis and Zomis. Manipur became an Indian state in 1972 however unrest has simmered ever since over the remote state’s relationship with the central government. [32y]

In addition refer to section 6.239 on Kashmiri militant groups.

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EMPLOYMENT RIGHTS

6.263 As reported by BBC News on 27 June 2005, "The body of legislation that shapes the industrial and labour environment in India is huge." Examples of these are: Minimum Wages Act 1948; Trade Unions Act 1926; Contract Labour Act 1970; Weekly Holidays Act 1942; Beedi and Cigar Workers Act 1966. The article cites them as forming a "Crisscrossing network of chaotic, strangulating, overlapping and often-contradictory laws" in need of an overhaul. "The single most important labour law is arguably the Industrial Disputes Act (IDA) 1947." This law guides the recruitment and dismissal of employees. [32hu]

6.264 As noted in the US Department of State report 2005 (USSD):

"State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries. Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated." [2c] (Section 6e)

6.265 As reported in the USSD report covering 2005:

"Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states had laws requiring workers in certain nonpublic sector industries to give notice of a planned strike." [2c] (Section 6a)

6.266 The USSD 2005 report states that:

"The law provides for the right to organize and bargain collectively. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the the parties were unable to agree on equitable wages, the government may establish boards of union, management, and government representatives to make a determination. The legislation distinguishes between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights...The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. Thus the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. The Industrial

Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.” [2c] (Section 6a)

6.267 According to the USSD 2005: “In August the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.” [2c] (Section 6a)

6.268 The USSD 2005 report states that, “The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalised if they discriminated against employees engaged in union activities.” [2c] (Section 6a)

6.269 As noted in a BBC news article dated 12 November 2004, “Political parties and trade unions in India’s eastern state of West Bengal say they will disobey a court order declaring strikes illegal.” They announced three strikes in West Bengal despite a Supreme Court order imposing a ban on the right of government employees to strike because of the disruption caused. [32fq]

“The state government has said it will honour a recent Calcutta High Court ruling that government employees absent from work on strike days will lose a day’s wages...The Supreme Court ruled last year (2003) that ‘no political party or organisation can claim a right to paralyse the economic and industrial activities of a state or the nation or inconvenience citizens.’ The ruling related to cases arising from a major strike in India’s southern state of Tamil Nadu, as a result of which the state government sacked 176,000 employees. Most of the employees were reinstated after a Supreme Court intervention but only after providing a written apology and pledging not to take part in strikes in the future.” [32fq]

6.270 As reported in Keesings News Digest for March 2005: “Nearly a million bank workers took part on March 22 in a one-day strike in protests against government plans to merge 27 state-owned banks, which union leaders said would result in the closure of 22,000 branches. It was thought that the strike was also supported by many workers in the private banks.” [5z]

6.271 As reported in the USSD report covering 2005:

“The law prohibits discrimination in the workplace, however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to their owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported micro credit programs for women that began to have an impact in many rural districts. In March the government amended the law to provide flexibility for women to work in factories on the night shift. Women’s organizations welcomed the move but stressed the need to improve security for such women.” [2c] (p27)

6.272 As cited in the USSD 2005 report:

“The law prohibits forced or bonded labour, including by children; however, such practices remained widespread. The Bonded Labour System (Abolition) Act prohibits all bonded labour, by adults and children. Offenders may be

sentenced to up to three years in prison, but prosecutions were rare. Enforcement of this statute, which is the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and to societal acceptance of bonded or forced labour. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children. According to an ILO report published during the year, an overwhelming majority [sic] of bonded laborers belonged to the scheduled castes and scheduled tribes.” [2c] (Section 6c)

- 6.273 In February 2006, India launched its largest-ever rural jobs scheme aimed to lift approximately 60 million families out of poverty. [32] [BBC timeline]

See also section 6.465 on children for employment rights.

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PEOPLE TRAFFICKING

- 6.274 As recorded in the US State Department report covering 2005 (USSD):

“The Immoral Traffic Prevention Act (ITPA) prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. Some law enforcement officials participated in and facilitated trafficking in persons... The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labour... More than 2.3 million girls and women were believed to be working in the sex industry, and experts believed that more than 200,000 persons were trafficked into, within, or through the country annually... The NCW (National Commission for Women) reported that organized crime played a significant role in the country’s sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape.” [2c] (Section 5)

- 6.275 As stated in the USSD report covering 2005:

“Implementation of the ITPA’s provisions for protection and rehabilitation of women and children rescued from the sex trade improved. The government significantly increased police training and modestly improved inter-state coordination of antitrafficking efforts, cooperated with NGOs, supported awareness campaigns, and increased the number of shelter facilities available to rescued trafficking victims. The Home Ministry and the Bureau of Police and Research Development (BPRD) began a law enforcement training program, considered a significant achievement by NGOs, to sensitize police and improve trafficking arrests and convictions. The Department of Women and Child Development (DWCD) improved delivery of support services through greater coordination with its state counterparts and civil society organizations. Government-run shelters in some localities, specifically Mumbai, expanded significantly under the Swadhar (women’s home) scheme.” [2c] (Section 5)

- 6.276 The same report continues:

“In March the home minister of Maharashtra ordered the closure of all dance bars operating in the state, many of which served as prostitution and trafficking outlets...However, the government’s implementation of this order without a rehabilitation plan caused displacement of women, forcing many to enter direct prostitution in Mumbai, Dlehi, Goa, and other major trafficking destinations.” [2c] (Section 5)

“Over the last several years, arrests and prosecutions under the ITPA increased slightly. All indications suggested a growing level of trafficking into and within the country.” [2c] (section 5)

6.277 The USSD 2004 report states:

“The Government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral anti-trafficking agreements. Training and informational meetings took place under the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) and South Asian Association for Regional Cooperation... In February, the NHRC held a 2-day program for judges, law enforcement, and government officials on trafficking, and in August, the NHRC released a study on the trafficking of women, recommending the creation of a national anti-trafficking agency. According to NGOs, there were significant improvements in investigations and arrests of traffickers in Mumbai, New Delhi, Chennai, Hyderabad, and Calcutta. There were roughly 80 NGOs in 10 states working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC included representatives from the NCW, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.” [2j] (section 5)

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FREEDOM OF MOVEMENT

6.278 As recorded in the US Department of State report 2005 (USSD), “The law provides for freedom of movement, and the government generally respected this in practice; however, in certain border areas the government required special permits.” [2c] (Section 2d) The Danish Immigration Service fact-finding report 2000 states that various diplomatic missions, several human rights lawyers and a former Advocate-General told the Danish Immigration Service on their fact-finding mission of 2000 that there were no restrictions on movement from one State to another. Furthermore, there were no rules that one should register in connection with a move from one State to another. [37] (p48)

6.279 According to the USSD report covering 2005, “Under the Passports Act of 1967, the government may deny a passport to any applicant who “may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India.” The Government used this provision to prohibit the foreign travel by some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir...Unlike in previous years, there were no reports of the government using the issuance of

passports or travel documents to restrict travel of separatist leaders in Jammu and Kashmir.” [2c] (Section 2d)

- 6.280 As cited in the Danish Immigration Service fact-finding report 2000, regarding application for a passport, a very thorough check is made by the local police to investigate an individual’s status, including whether there was a case pending against him or her. However, sources indicate that it would not be impossible for a wanted person to obtain a passport on payment of a bribe, as throughout India it was very easy to obtain false documents. This applied to passports, birth certificates, certificates regarding education and career, marriage certificates and ID cards, arrest orders and so-called FIRs (First Information Reports). It was also reported that it was possible to obtain false letters from lawyers. [37] (p50-52)
- 6.281 As reported in the Danish Immigration Service fact-finding report 2000, “The Immigration Service, which comes under the Ministry of the Interior, is responsible for checking those leaving the country.” [37] (p51)

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6.B HUMAN RIGHTS – SPECIFIC GROUPS

ETHNIC GROUPS

- 6.282 India is a mosaic of different cultures and ethnic groups, as stated in Europa World Year Book. [1a] (p1648)

KASHMIR AND THE KASHMIRIS

HISTORICAL BACKGROUND

- 6.283 As noted by FCO in their annual report updated 8 October 2005:

“The status of Kashmir, and the history of events leading to its division, have long been contested between India and Pakistan. India claims that Kashmir legally acceded to it in 1947. Pakistan claims that the Kashmiris were denied their choice of which state to join. Discussions have been held periodically between India and Pakistan since 1972 but there have been no concrete negotiations. Kashmir has been divided since 1948 by a cease-fire line, known since 1972 as the Line of Control (LoC). The Pakistani-administered portion is almost exclusively Muslim. The Indian-administered area is two-thirds Muslim. About one third of Indian-administered Kashmir’s population is Hindu, Buddhist or Sikh. There has been continued violence between militants seeking secession from India and the Indian security forces since the insurgency began in earnest in 1990.” [7i]

- 6.284 According to The Council on Foreign Relations – Terrorism: Q&A, updated in 2004, India controls about two-thirds of the disputed territory, which it calls Jammu and Kashmir. Pakistan controls about one-third, which it calls Azad (meaning free) Kashmir. China also controls two small sections of northern Kashmir [79] (p2) According to an FCO document dated 26 April 1996, Muslims

form about 95 per cent of the population of the Kashmir Valley, while Hindus are in the majority in Jammu region (about 65%). [7c]

- 6.285 According to a Reuters News Service report dated 7 September 1996, on partition in 1947, Kashmir with its largely Muslim population was expected to go to Pakistan. The Hindu ruler wanted Kashmir to stay independent but faced a revolt in the west and invasion by Pathan tribesmen from Pakistan. In October 1947 the Maharajah signed an instrument of accession to India in return for military aid and the territory became a battlefield in fighting between India and Pakistan. A cease-fire came into effect in 1949. [8a] According to FCO correspondence dated 1996, a UN Military Observer Group (UNMOGIP) has been in place monitoring the cease-fire line (that was agreed between India and Pakistan in July 1949) ever since (redefined as the "Line of Control" after the 1971 war). [7c] As noted in the Reuters news report of 7 September 1996, two further wars in 1965 and 1971 left positions virtually unchanged. [8a]
- 6.286 As noted in FCO correspondence dated 1996, the status of Kashmir remained highly sensitive for both India and Pakistan; many of the Kashmir Valley's population are not reconciled to being included in India but are divided as to whether they would prefer independence or to join Pakistan. Under the peace agreement signed at Simla in July 1972, both sides agreed "to settle their differences by peaceful means through bilateral negotiations or by other peaceful means mutually agreed on between them", and they committed themselves to a final settlement of the problem. The Indians have since held that, by this agreement, Pakistan is precluded from invoking the United Nations resolutions in an effort to resolve problems with India. Pakistan does not accept this interpretation and regularly calls for a peaceful settlement "on the basis of the UN resolutions and in the spirit of the Simla Agreement". [7c]
- 6.287 According to the Norwegian Refugee Council in a report dated 9 June 2004, growing dissatisfaction throughout the 1980s reached a level in 1986 when discontent within the state found wider popular support:
- "In that year the state's ruling National Conference (NC) party, widely accused of corruption, struck a deal with India's Congress Party administration that many in Kashmir saw as a betrayal of Kashmir's autonomy... Blatant rigging assured a National Conference victory, which was followed by the arrests of hundreds of Muslim United Front (MUF) leaders and supporters. In the aftermath, young MUF supporters swelled the ranks of a growing number of militant groups who increasingly crossed over to Pakistan for arms and training... In the late 1980s, the groups began assassinating NC leaders and engaging in other acts of violence. Some groups also targeted Hindu families, and a slow exodus of Hindus from the valley began... On 19 January 1990, the [Indian] central government imposed direct rule on the state. From the outset, the Indian government's campaign against the militants was marked by widespread human rights violations, including the shooting of unarmed demonstrators, civilian massacres, and summary executions of detainees." [87] (p15)
- 6.288 As cited in a Reuters News Service report of 1996, this lasted until the 1996 State assembly elections. [8a] According to a UNHCR background paper 1998, "Following select killings of community members and widespread anarchy, almost the entire Hindu community (Pandits) of the Kashmir Valley was reported to have fled during 1989-90", as the violence increased. [6e] (p8) The Norwegian Refugee Council (NRC) in its report 'Profile of Internal

Displacement: India' dated 9 June 2004, estimates that between 250,000 and 400,000 Pandits (Hindu Kashmiris), who fled their homes seeking protection in the cities of Jammu and Delhi. [87] (p14)

- 6.289 A BBC news report dated 11 August 2003 reported that "A key militant group in Indian-administered Kashmir, Hizbul Mujahideen, has appealed to Kashmiri Hindus who fled their homes after the start of armed conflict 13 years ago, to return home." Supreme Commander Syed Salahuddin promised full protection to the Hindus and asked for their support in the freedom struggle. This was the first time a militant group has promised to give returnees protection. [32az] A *Dawn news* report dated 13 August 2003 stated that at least 300,000 Kashmiri Pandits have left the strife-torn valley since a revolt against New Delhi's rule erupted in 1989. [41a]

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POLITICAL DEVELOPMENTS IN KASHMIR

- 6.290 According to an Amnesty International Report 1999, under the National Conference State Government, the State police was restructured, strengthened from 38,000 to 50,000 men and prepared for a counter-insurgency role. The Special Operations Group (SOG), earlier known as the Special Task Force, was given better communications and transport facilities, training by security agencies and a supplement of some 12,000 Special Police Officers (SPOs) and local people, including many renegades with good local knowledge and links in the population. Police security operations against the militants became proactive, particularly after the BJP Government came to power in 1998. The new Union Government expressed a will to adopt a proactive approach to what were described as "infiltrators and Pakistani and Afghan mercenaries" carrying out the armed struggle in Jammu and Kashmir. "Security forces were called upon to initiate operations against members of armed opposition groups rather than react to attacks initiated by them." [3f] (p5-6)
- 6.291 According to a BBC news report dated 4 July 2003, in July 2000, the Indian Cabinet rejected a demand for greater autonomy in the State. The proposal would have seen Jammu and Kashmir return to its pre-1953 status, when it had its own constitution, flag, and Prime Minister, and had control over all its affairs with the exception of finance, defence and communications. Home Minister L.K. Advani admitted that a major factor in the decision was concern that other States too would start to demand the same rights. [32p]
- 6.292 As noted in a BBC news report dated 24 July 2000, the leading Kashmiri militant group, Hizbul Mujahedin announced a unilateral three month cease-fire and said it was willing to enter into negotiations with the Indian authorities. [32r] As noted in a BBC news report of 2 August 2000, the announcement sparked a wave of attacks by Muslim separatist militants opposed to the cease-fire. During the first two days of August 2000, 34 people died and 46 were injured in an exchange of fire between militants and Indian security forces at Pahalgam (30 of the dead were pilgrims en route to a Hindu cave shrine); 19 Hindu labourers were massacred at a brick kiln in Mir Bazar, and a further 7 others were killed in a separate attack in a nearby village; at least 22 Hindus were shot dead in the Doda region and in Baramulla a former militant and six members of his family were shot dead. [32t]

- 6.293 A BBC news report dated 9 August 2000 reported that on 8 August 2000, Hizbul Mujahedin called off the cease-fire after India refused to enter three-way peace talks with the Kashmiri leadership and Pakistan. India and Pakistan blamed each other for the breakdown. [32u] A CNN news article dated 14 August 2000 stated that Hizbul Mujahedin immediately recommenced attacks in Kashmir and 2 days after the end of the cease-fire, set off 2 powerful bombs in Srinagar, killing 14 soldiers and journalists and wounding 25 others. Then on 13 August 2000, a string of landmine explosions and gun battles left 22 dead and 52 wounded. [33d]
- 6.294 According to a BBC news report dated 22 February 2001, in November 2000 the Indian Government announced a unilateral cease-fire barring Indian forces from offensive operations against Muslim separatists in Kashmir. Extensions of the cease-fire were made a month at a time, before a three month extension to the end of May 2001. Militant groups rejected the cease-fire and extensions as merely a propaganda stunt. [32ab] As reported in the Keesings News Digest for May 2001, the cease-fire was ended on 24 May 2001 after "It was said to have demoralised the security forces without producing any real lessening of violence. Some 1,200 had died in the conflict since November 2000." [5g]
- 6.295 According to Keesings News Digest report of May 2002, on 21 May 2002, two gunmen shot dead moderate Kashmiri separatist leader Abdul Ghani Lone. One of Lone's bodyguards was also killed in the attack. Lone, a peaceful advocate of Kashmiri independence rather than union with Pakistan, was founder of the People's Conference Party (PCP), and a founder and former chairman of the All-Party Hurriyat Conference (APHC). [5m]
- 6.296 As noted in the US Department of State report covering 2002 (USSD):
- "In November [2002] State Assembly elections in Jammu and Kashmir transferred power to a coalition composed of the People's Democratic Party and the Congress Party. International observers stated that the election took place in a somewhat fair and transparent manner; however, some non governmental organizations (NGOs) alleged that there were some flaws in the election, including that all major separatist groups boycotted the elections and there was a widespread fear of attacks by militants. These two parties defeated the National Conference, a political party that has dominated state-level politics since Indian independence in 1947. Violence remained a pervasive feature of politics in Jammu and Kashmir. The fall elections took place in a climate of sporadic violence and isolated irregularities. Election-related violence killed more than 800 persons." [2d] (p2) [It was reported in a BBC news report dated 17 October 2002 that 50 activists of various political parties were killed in separatist violence during the elections, the bloodiest ever held in the State. The Indian Government said that more than 40 per cent of the voters participated in the polls, in defiance of militants who had called for a boycott.] [32a1]
- 6.297 As reported by the BBC on 3 November 2002, Mufti Mohammad Sayeed was sworn in as Chief Minister, to head a coalition of his PDP and the Congress party for three years, before a Congress leader took over for a second three-year period. His programme included the release of militants who have no serious charges against them, as well as a promise of financial help for relatives of separatists killed by Indian forces. [32am]

- 6.298 Indian Prime Minister, Mr Vajpayee made a surprise speech in April 2003, calling for an end to more than 18 months of simmering tensions with Pakistan, prompted by an attack on the Indian Parliament, as reported by BBC on 6 January 2004. [32c]
- 6.299 According to a BBC news report dated 10 August 2003, a conference of nearly 100 parliamentarians from India and Pakistan took place in August 2003 in Islamabad amid calls for all avenues for peace between the two adversaries to be explored. It was the largest gathering of elected representatives of India and Pakistan since the two countries came to the brink of all-out war in 2002. It was the first time members of some of the hard-line religious groups had agreed to sit across the table and listen to each other's point of view. [32bs]
- 6.300 The BBC reported on 29 August 2003 that India and Pakistan had been enjoying a thaw in relations in 2003 but the atmosphere soured following the Mumbai car bomb attack on 25 August 2003 and violence in Kashmir. India leaders accused Pakistan of "indirect responsibility" for the bomb attack; Pakistan denied the accusations. [32bt]
- 6.301 According to a BBC news report dated 21 September 2003, Indian authorities accused Pakistan of stepping up its efforts to push armoured infiltrators into the Indian side of the Line of Control dividing Jammu and Kashmir between the two countries. India had ruled out bilateral talks with Pakistan unless the latter stopped abetting separatist violence in Indian-administrated Kashmir. [32bu]
- 6.302 As reported in the USSD report covering 2005:
- "Unlike in previous years, tension along the Line of Control (LOC) in Kashmir was minimal. The Home Ministry reported no cases of artillery shelling, mortar, or small arms fire across the LOC or on the Siachen glacier during the year." [2c] (Section 1f)
- 6.303 As recorded in the USSD 2005,
- "During the year insurgents and terrorists committed political killings, kidnappings, and rapes of politicians and civilians, engaged in extortion, and carried out acts of random terror that killed hundreds of Kashmiris...Killings of security force members by insurgents and terrorists in Jammu and Kashmir declined to 330 for the year, according to home ministry statistics. As of August 15, the Jammu and Kashmir police claimed fighting in Kashmir had resulted in the deaths of 167 security forces, 359 civilians, and 622 insurgents." [2c] (Section 1a)
- 6.304 On 5 January 2004, the leaders of Pakistan and India met for the first time in two years, promising to restore normal relations, as reported by *Guardian Unlimited*. [40b] As reported by *the Guardian* newspaper on 7 January 2004, India and Pakistan announced peace talks over Kashmir, on 6 January 2004. [52a]
- 6.305 According to a BBC news report dated 2 June 2004, ties between India and Pakistan thawed after last year's peace initiatives between Pakistani President Pervez Musharraf and former Indian Prime Minister Atal Behari Vajpayee. Since the resumption of dialogue, a number of confidence-building measures have

been introduced, including a resumption of rail, air and bus links and a strengthening of diplomatic ties. [32o]

- 6.306 In a report by BBC News on 10 June 2004, the Indian Foreign Minister, Natwar Singh, indicated that he would not rule out redrawing borders with Pakistan in the search for peace. Mr Singh told the BBC he was seeking a “new beginning”. [32z]
- 6.307 BBC News reported on 28 June 2004 that India and Pakistan after two day of talks announced a series of measures aimed at consolidating the peace process. Both countries agreed to adopt a system of pre-notification of flight testing of missiles. High Commission staff would be restored to their full complements with Consulates in Karachi and Mumbai re-opening. Both Governments also agreed to immediately release fishermen held prisoner and to also take steps to facilitate the early release of civilian prisoners. [32eb]
- 6.308 According to a BBC news report, dated 7 August 2004, the Indian and Pakistani defence secretaries concluded two days of talks on demilitarising the Line of Control on the Siachen Glacier, the world’s highest battlefield. The meeting was the first time in six years that the two countries’ defence secretaries had sat down to discuss reducing tension on the glacier. [32ef]
- 6.309 As reported by Keesings in October 2004, on 4 October a group of Pakistani journalists began a visit to Indian Jammu and Kashmir, the first of its kind ever allowed by the Indian Government. No Indian journalists had ever been permitted access to Pakistani Kashmir. [5u] As noted in a BBC article dated 10 January 2005, when governments on both sides allowed journalists to visit the disputed territory of Kashmir:
- “It seemed to many observers that one of the greatest taboos had been laid to rest...In an unprecedented move, the Indian government allowed a group of Pakistani journalists to visit Srinagar, and the Pakistan government reciprocated by letting Indian journalists into Muzaffarabad.” [32gf]
- 6.310 A further Keesings report for November 2004 noted that “Prime Minister Manmohan Singh made a personal commitment in November (2004) to the efforts to resolve the separatist conflicts in the northern state of Jammu and Kashmir and India’s troubled north-eastern states.” He announced the first reduction of Indian security forces (by about 1,000 troops) would occur on 17 November with a further 3,000 troops withdrawn on 20 November. The total number of troops and paramilitaries maintained by India in Kashmir was commonly estimated to stand at up to 500,000. [5v]
- 6.311 The Keesings report for December 2004 further noted that on 15 December 2004 a defence spokesman announced India was withdrawing a further third batch of troops from Kashmir, comprising 700 personnel. “Indian officials said that infiltration by separatist militants across the de facto border the Line of Control (LoC) had dropped by some 60 per cent.” [5w]
- 6.312 Keesings further reported that Pakistan’s Prime Minister visited New Delhi on 23-24 November 2004 for talks with Manmohan Singh, the first Pakistani Prime Minister to visit India since 1991. He brought no formal proposals but both sides affirmed that the peace process for the disputed state was still on track. However, “Agreement was reached on starting a new rail service in October

2005 connecting India's north-western state of Rajasthan with Pakistan's Sind province." [5v]

- 6.313 Human Rights Watch reported in their Country Summary January 2006: "In 2005, India and Pakistan continued talks to resolve the Kashmir issue, and both sides also met with some Kashmiri rebel leaders...According to the Indian government, there was a marked decline in violence in 2005 because of the peace efforts." [26i]

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MILITANT/POLITICAL GROUPS

- 6.314 BBC News reported on 6 April 2005: "Since it began in the 1980s, armed militancy has increased significantly in strength. Despite a large number of casualties, the militants are still believed to number thousands rather than hundreds. Several new militant groups, mostly having radical Islamic views, have also emerged." [32hm]

- 6.315 According to a BBC reporter in Srinagar the most militant groups are based in Pakistan or Pakistani-administered Kashmir:

"...Some of the groups that were in the forefront of the armed insurgency in 1989, particularly the pro-independence Jammu-Kashmir Liberation Front (JKLF) – have receded into the background. More recently other militant groups such as Lashkar-e-Toiba and Jaish-e-Mohammad, no longer operate under these names after they were banned by the Indian government. India says that over the last two years, Lashkar-e-Toiba has split into two factions, al-Mansurin and al-Nasrin. Another new militant group reported to have emerged is the Save Kashmir Movement (SKM). Of the larger militant groups, only the Hizbul Mujahideen – which is indigenous to Indian administered Kashmir – has kept its name. Other less well known groups are the Freedom Force and Farzandan-e-Milat. A smaller militant group, al-Badr, has been active in Kashmir for many years and is still believed to be functioning. At present, the prevailing political tendency among the militants in Kashmir is pro-Pakistani with heavy emphasis on religion. However, this may not be entirely true for the separatist political movement represented by the All Parties Hurriyat Conference (APHC), as many of its constituent groups have kept their options open." [32hm]

"Sometimes the ideological differences result in friction between the factions of the separatist movement. The APHC is itself split between a faction which supports negotiations with the Indian government and a faction which is opposed to such dialogue...Not much is known about collaboration between the various militant groups, but most say they are members of an alliance known as the United Jihad Council (UJC). The two groups which India says were behind the December 2001 attack on the Indian parliament in Delhi – known then as Jaish-e-Mohammad and Lashkar-e-Toiba were both believed to be members...Correspondents say that the one armed separatist outfit which has had a real impact on the militant movement in recent years is arguably the group formerly known as Lashkar-e-Toiba. Lashkar emerged as one of the most prominent groups involved in militant activities in Kashmir...In a pamphlet entitled 'Why Are We Waging Jihad?' the group defined its agenda as the restoration of Islamic rule over all parts of India...Lashkar-e-Toiba may not exist anymore, but there has been no shortage of groups to replace it." [32hm]

- 6.316 As cited in a BBC news report of 9 July 2005: "India accuses Pakistan of sponsoring a violent uprising in Kashmir, a charge Islamabad denies. Pakistan says it has only given diplomatic support to militant groups in the past and has now taken steps to ensure they no longer have bases in the country." [32bx]
- 6.317 According to an article "Kashmir in Crossfire report 1996", the Jammu and Kashmir Liberation Front was one of the main militant groups operating in Kashmir, but by 1993 it had lost its "military ascendancy to the Hizbul Mujahedin", although it claimed to have retained the support of the majority of the people. In 1994 the JKLF leader, Yasin Malik, renounced the armed struggle and made an offer of political negotiations. This non-violent approach caused a rift with Amanullah Khan, who had continued to operate as chairman of the JKLF in absentia from Rawalpindi and Muzaffarabad. [29] (p268)
- 6.318 As noted in "Kashmir in Crisis", militant groups active in the Kashmir valley include Hizbul Mujahedin, Harkat-ul-Ansar [29] (p269) (which has split into the Harkat-ul-Mujahideen and Harkat-ul-Jehad-e-Islami), Lashkar-i-Toiba, [23] [5m] Lashkar-e-Toyeba and Jaish-e-Mohammad (Army of Mohammad). It remains to be seen how long these militant groups will remain powerful because many that were prominent some years ago no longer appear to wield influence today, according to a BBC news report dated 10 August 2000. [32v] It was reported by Keesings in January 2000 that "The war of words between India and Pakistan in the aftermath of the December 1999 hijacking of an Indian airliner by Kashmiri separatists escalated" in January 2000 when [then] Home Affairs Minister L.K. Advani claimed that the interrogation of four accomplices arrested in Bombay had revealed the identities of the hijackers, who were all Pakistani. Mr Advani claimed that the hijacking had been organised by Pakistan's Inter-Services Intelligence agency (ISI) and Harkat-ul-Mujahideen. [5f]
- 6.319 As recorded in the *Kashmir Herald* (May 2002), the All Party Hurriyat Conference (APHC) was one of the main groupings within Jammu and Kashmir: "An alliance of 26 political, social and religious organisations, the All Party Hurriyat Conference was formed on 9 March 1993, as a political front to further the cause of Kashmiri separatism. The amalgam has been consistently promoted by Pakistan in the latter's quest to establish legitimacy over its claim on the Indian State of Jammu and Kashmir." [84] (p1)
- 6.320 The Hurriyat was the only secessionist grouping in Indian-controlled Kashmir to have responded positively to the former Indian Government's announcement of a unilateral cessation of offensive operations. [84] (p3) As reported by BBC News on 8 September 2003, in September 2003 the APHC split into two factions. [32bx] As reported in a BBC News report, dated 10 August 2004, moderates within the Hurriyat Conference separatist umbrella group accused India's new Congress-led Government of being insincere about peace. A statement by the Hurriyat accused the Indian Government of laying conditions where the former BJP led Government had set none. [32eg]
- 6.321 As stated in the US State Department report "Patterns of Global Terrorism May 2003", as cited in Keesings News Digest 2003, four militant organisations operating in Jammu and Kashmir had been added to their list of terrorist organisations. Hizbul Mujaheddin; Al-Badr Mujaheddin (said to be a splinter group of HM); Jamiat-ul-Mujaheddin and Harakat-ul-Jehadi-i-Islami. [5p]

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MILITANT VIOLENCE

- 6.322 As recorded by *Keesings News Digest* for May 1999, "A serious escalation of the conflict in Kashmir occurred in late May [1999] in response to the largest infiltration of Islamic militants into Jammu and Kashmir in recent years." India attacked the guerrilla positions with jet fighters and helicopter gunships on May 26. After frequent skirmishes along the Line of Control earlier in the month, a prolonged battle developed after insurgents, under cover of artillery fire from Pakistan, had launched a rocket attack on 9 May 1999 on an Indian ammunition dump near the town of Kargil in northern Kashmir. Pursuing the attackers, Indian troops discovered that at least 600 well-armed militants had occupied bunkers on a ridge overlooking Kargil. It had been reported that the infiltrators' force had been trained in camps in Azad Kashmir by Pakistan's Inter-Services Intelligence Agency (ISI). Pakistan denied that it had any control over the militants, and denied Indian allegations that some of Pakistan's own troops were fighting alongside them. [5d]
- 6.323 According to a Reuter's news report of 1999, by 11 July 1999 Pakistan had agreed on a plan, under US pressure, for the infiltrators to withdraw from Jammu and Kashmir. [8e]. As noted in a Reuters news report, July 1999, on 17 July 1999 India announced that it believed that most of the infiltrators had withdrawn from the Indian side of the Line of Control. [8f]
- 6.324 According to an Amnesty International news release dated 21 March 2000, on 20 March 2000, unidentified gunmen killed 36 Sikhs in the village of Chadisinghpooora. The identity of the perpetrators was uncertain as contradictory accounts were reported from Jammu and Kashmir. The Director General of Police believed it to be the work of Muslim rebels, and the Indian Government blamed the attack on Hizbul Mujahedin and Lashkar-i-Toiba. A spokesperson of the APHC claimed that it had been carried out by the State security agencies in order to discredit the separatist movement. No attacks on members of the Sikh community in Kashmir had previously been reported. [3h] According to a BBC news report dated 23 March 2000, Farooq Abdullah [who was then Chief Minister] admitted his Government had failed in anticipating the risk that the Sikhs faced from militants active in the State. He said he would revamp the State's security system to provide adequate protection for all minority communities in Kashmir. [32h] An independent newspaper article dated 3 November 2000 stated that Abdullah later announced a judicial inquiry into the massacre, which would also investigate the killing a few days after the atrocity who local people believed were innocent civilians who had been singled out as scapegoats. [34a] According to a BBC news article of 16 July 2002, in July 2002, the Kashmir State authorities confirmed that DNA tests proved that the five men were local residents of Anantnag District and not foreign militants. Farooq Abdullah said he would be asking the Central Bureau of Investigation (CBI) to look into the killing of the men. [32ag]
- 6.325 It was reported in the *Independent* on 26 March 2001 that on 16 January 2001 the militant group Lashkar-I-Toiba tried to storm the airport in Srinagar. In the ensuing gun battle with Indian security forces, 11 were killed and a dozen injured. [34b]
- 6.326 According to a BBC news article dated 5 February 2001, on 3 February 2001, a further attack was carried out on the Sikh community in Kashmir. On this occasion, six Sikhs were killed in the provincial capital Srinagar. No group claimed

responsibility for the killings. One person was subsequently killed in clashes between police and Sikh protesters. [32aa]

- 6.327 According to a BBC news report dated 3 October 2001, on 1 October 2001, a suicide attacker detonated a Government jeep loaded with explosives outside the Kashmir State Assembly building, while at least two other militants wearing police uniforms entered the complex and took over one of the buildings there. Police said the remaining militants were killed after a gun battle lasting several hours. Thirty-eight people were killed in the attack. The Jaish-e-Mohammad militant group initially said it carried out the attack, naming the suicide bomber as a Pakistani national. However, it subsequently withdrew the claim. [32af]
- 6.328 Keesings News Digest December 2001 reported that "A terrorist attack on the federal Parliament (the bicameral legislature) in New Delhi on 13 December 2001 left 14 people dead." The attack also precipitated a crisis with Pakistan that threatened to erupt into war, over Kashmir. India held Jaish-e-Mohammad and Lashkar-i-Toiba responsible for the attack, saying that both were supplied and trained by Pakistan's military Inter-Services Intelligence (ISI) agency. "Pakistan's President General Pervez Musharraf immediately condemned the attack but demanded evidence that the two groups – which both disclaimed responsibility – were involved and warned India not to take 'precipitous action' against Pakistan." Both India and Pakistan put their armed forces on a state of heightened military alert and moved troop reinforcements not only up to the Line of Control (LoC) dividing the Indian and Pakistani zones of Kashmir, but also to the international border between Pakistan and the Indian north-western States of Punjab and Rajasthan. On 21 December 2001 India recalled its High Commissioner to Pakistan, and announced that from 1 January 2002, it would cut the only land transport links between the two countries. In a further escalation of pressure, India on 27 December 2001 announced the halving of the strengths of both countries' diplomatic missions and a ban on Pakistan Airlines from flying over India, measures which Pakistan reciprocated. [5i]
- 6.329 As noted in Keesings Record of World Events May 2002, "India and Pakistan moved closer to outright war in May [2002] over the 'deteriorating situation' in Kashmir. Up to a million troops had faced each other across both the Line of Control and the international frontier between the two countries." Then on 14 May 2002, 34 people were killed in an attack by militants on Kaluchak army base in Kashmir. The dead included 8 women and 11 children from army families. The three militants themselves were shot dead by Indian troops. "A hitherto unknown militant group called Al-Mansooren claimed responsibility for the attack, but Indian officials said that this could be a cover name for either Lashkar-i-Toiba or Jaish-e-Mohammad." Meanwhile, exchanges of artillery shelling and small arms fire across the Line of Control intensified, causing dozens of deaths, mostly among civilians in border villages. Both the U.K. Foreign and Commonwealth Office and the U.S. State Department on 31 May 2002 issued unprecedented advice to their respective 20,000 and 60,000 citizens living in India to leave the country. They also advised people to cancel plans to travel to India. [5m]
- 6.330 As cited in Keesings News Digest June 2002, "Tension on the border between India and Pakistan, especially on the Line of Control was lowered during June [2002], largely as a result of international pressure..." Pakistan's President General Pervez Musharraf had ordered that all infiltration of separatist militants across the Line of Control should cease. India had opened its airspace to civilian

Pakistani aircraft, and announced the appointment of a new High Commissioner to Pakistan. [5n]

- 6.331 According to a BBC news report dated 26 March 2003, in March 2003, gunmen dressed in army uniforms killed 24 Kashmiri Hindus in the village of Nadimarg. [32as] As noted in Keesings News Digest April 2003, on 10 April 2003 the police said they had arrested Zia Mustafa, a local commander of the Islamic militant group Lashkar-i-Toiba in connection with the massacre. However it was reported by the *Daily Excelsior* on 12 April 2003 that Lashkar-i-Toiba denied responsibility for the Nadimarg killings. [5o]
- 6.332 As reported in Keesings News Digest April 2003, in two incidents on April 21-22 2003 security forces killed 18 militants infiltrating into the Poonch district, south-west of Srinagar, following the loss of one soldier. Five people were killed on 22 April 2003 in the village of Gulshanpora when a civilian vehicle was blown up in a landmine attack. Official sources claimed that 13 foreign militants and 6 soldiers were killed during a gun battle in the Doda district of Jammu on 29 April 2003. At least 53 people were killed during April 2003 in Kashmir in other incidents of separatist related violence, including at least eight civilians. [5o]
- 6.333 According to Keesings News Digest April 2003, on 18 April 2003 Prime Minister Atal Bihari Vajpayee made an offer of dialogue with Pakistan during a visit to Srinagar, the summer capital of the northern state of Jammu and Kashmir. Vajpayee stated that "open dialogue" was the only way to bring peace to Kashmir. [5o]
- 6.334 According to Keesings News Digest May 2003, there was no let-up in separatist violence in Kashmir during June 2003. In the single most bloody incident 2 militants attacked an army camp at Sunjwan, 10km south of Jammu on 28 June 2003, killing 12 soldiers. In incidents on 22-23 June, 11 civilians and 5 militants were killed including 2 civilians and 36 wounded in grenade attacks in Srinagar. On 20 June 2003, 30 civilians were injured in grenade attacks. The police also stated that militants had killed at least two civilians by a new method of poisoned injections. [5q]

RECENT MILITANT VIOLENCE

- 6.335 As reported by BBC News 17 September 2003, police in Indian-administered Kashmir reported that they had killed one of the most senior members of the Jaish-e-Mohammad militant group, Nasir Mehmood Ahwan, alias Ansar. However a Jaish-e-Mohammad spokesman claimed that it was not Ansar. The leader of Jaish-e-Mohammad, Ghazi Baba had been shot dead by Indian security forces on 30 August 2003. His death "sparked an upsurge in violence that left more than 200 people dead in the state." The police chief of Indian Kashmir stated that the security forces had stepped up their offensive against the militants. [32bv]
- 6.336 As reported in a BBC news report dated 21 September 2003, the Line of Control saw an increase in exchanges of fire between the Indian and Pakistan armies in September 2003. [32bu] However, as reported in the USSD 2005:

"Unlike in previous years, tension along the Line of Control (LOC) was minimal. The Home Ministry reported no cases of artillery shelling or mortar and small

arms fire across the LOC or on the Siachen Glacier during the year.”
[2c] (Section 1f)

6.337 Amnesty International, in its 2005 annual report, covering events in 2004, noted that: “In Jammu and Kashmir, members of opposition groups were responsible for targeted killings of civilians. Victims included relatives of state officials and people suspected of working for the government. The use of explosives led to indiscriminate killings of civilians.” [3k] (abuses by armed opposition groups)

6.338 However, according to a BBC news article dated 29 December 2003 it was reported that “There had been a substantial decline in violence in Indian-administered Kashmir since Pakistan and India began a cease-fire, the Indian authorities say.” [32cc] As noted in the USSD 2005 report, “Killings of security force members by insurgents and terrorists in Jammu and Kashmir declined to 330 for the year, according to home ministry statistics. As of August 15, the Jammu and Kashmir police claimed fighting in Kashmir had resulted in the deaths of 167 security forces, 359 civilians, and 622 insurgents.” [2c] (Section 1a) Keesings News Digest for January 2005 also noted that:

“A police spokesman announced on Jan. 23 that the number of civilian fatalities in the northern state of Jammu and Kashmir in 2004, 733, was not only reduced from 836 in 2003 but was the lowest figure since the insurgency began in 1989. Security forces, including police and paramilitaries, lost 330 dead in 2004, compared with 384 in 2003 and the lowest number for five years. Security forces killed 976 separatist militants, but no comparison was offered with the previous year. The number of militancy-related incidents in 2004 was 2,565, decreased from 3,401 in 1984.” [5x]

6.339 The USSD report 2005 reported:

“The Home Ministry reported that security forces killed 927 insurgents and terrorists during the year. The ministry also reported that insurgent and terrorist attacks in Jammu and Kashmir declined in 2004 with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members, and 976 insurgents killed.” [2C] (section 1a)

6.340 According to an article on PolitInfo.com, dated 26 June 2004, suspected Islamic militants shot and killed 12 people and wounded 12 others in an attack in the Indian-administered part of Kashmir. Indian officials reported that armed men burst into several homes on Friday night (25 June) opening fire on residents in a remote village in the Poonch district, about 200 km north of Jammu. The attack came a day before India and Pakistan opened talks on the future of Kashmir. [77]

6.341 According to an article published by ABC 7 News on 3 July 2004, 8 people were killed and a further 44 wounded in terrorist attacks in Srinagar and other towns in the Indian-controlled part of Kashmir. The Indian police believe the attacks were in reprisal for a crackdown launched by the security forces against militant group Lashkar-e-Tayyaba. The attacks took place five days after the first meeting between the Pakistan government and the new Congress-led Indian Government. [78]

6.342 In another report of terrorist violence, INQ7.net reported (5 July 2004) that eleven people were killed in fresh separatist violence in Indian-administered Kashmir. It is reported that the violence erupted following the Indian army’s search out operation

of Harkat-ul-Jihadi Islami militants. During the operation Ansar Khan, alias Talibani, a commander of Harkat-ul-Jihadi Islam, was killed. [80]

- 6.343 The Foreign Office travel advice report for 2005 reported that in Jammu and Kashmir, "Much of the violence is between militants and the security forces in the countryside and around the Line of Control, although there have also been attacks in towns. Whilst such incidents are not normally directed against tourists, a hotel (in Pahalgam) was the target of an attack in June 2004."

Recent significant incidents include:

- "On 20 July 2005, a suicide car bomb in central Srinagar, which killed at least four soldiers, a passer-by and injured 15 people.
- On 24 June 2005, a large bomb close to Nishat Gardens (one of Srinagar's prime tourist sites) killed nine soldiers and wounded 20 people, including some civilians.
- On 13 June 2005, a large truck bomb was detonated in Pulwama, killing at least 13 people and injuring over 100.
- On 12 May 2005, a grenade was thrown outside a school on the main market in Srinagar.
- On 6 and 7 April 2005, terrorists attempted to attack passengers due to travel on the inaugural service of the re-introduced Srinagar-Muzaffarabad bus. Further attacks are possible." [7k]

- 6.344 It was reported on 3 June 2005 by BBC News that police in Indian-administered Kashmir reported a local politician was killed by suspected militants in Srinagar. Mohammed Ashraf Balla, a municipal councillor belonging to the National Conference Party, was shot dead. No militant group claimed responsibility for the killing. "Mr Balla's National Conference Party has a majority of seats in the Srinagar municipality. Municipal polls were held in Indian-administered Kashmir early this year after nearly three decades." [32ht]

- 6.345 BBC News reported on 13 June 2005 that at least 14 people were killed and a 100 injured in the car bomb attack which occurred outside a government-run school in Pulwama, 18 miles south of Srinagar. Following the blast angry demonstrators shouted anti-government slogans protesting at the slow reaction by emergency services. Police opened fire to disperse the protesters and three people were hurt in the firing. This was the second time an explosion took place near a school in Indian-administered Kashmir. [32iq] As noted by Reuters on 13 June 2005, no militant group claimed responsibility for the explosion. Bomb blasts and gun battles occur almost daily between rebels and Indian troops, despite an 18-month peace process between India and Pakistan. [8k]

- 6.346 BBC News reported on 24 June 2005 that 9 Indian troops were killed and 15 wounded in a bomb blast outside a tourist site in Srinagar. The car bomb exploded when an army convoy drove past Nishat Gardens. The Hizbul Mujahideen militant group said it carried out the explosion. [32hr]

- 6.347 A BBC News report of 9 July 2005 stated that suspected Muslim militants raided a village in Indian-administered Kashmir, slitting the throats of five Hindus. The attackers segregated Muslims from Hindus in the village of Dhoob with no group claiming responsibility, according to police. A number of Muslim militant groups operate in the region which have been fighting Indian rule since 1989. [32bx]

- 6.348 As reported by BBC News on 16 July 2005, security forces in Kashmir said they killed 13 infiltrators. Indian troops claim to have foiled more than 25 attempts to cross the Line of Control this year. In general, violence in Indian-administered Kashmir has abated since peace talks began last year. [32ip]
- 6.349 BBC News reported on 13 August 2005, Islamist militants killed five Hindus and injured nine more during an attack in a remote mountain village in Kashmir with three of the injured in a serious condition. The Deputy Inspector General of Police was quoted by another news agency as blaming the attack on Pakistan-based militant groups. An unnamed police officer said some of the victims were members of a village defence committee. [32hq]
- 6.350 BBC News reported on 26 August 2005 that fourteen people, including two paramilitaries, were wounded in grenade attacks by militants. Militants carried out a series of five grenade attacks on Indian security forces in Sopore. No militant group claimed responsibility. [32iu]
- 6.351 BBC News reported on 2 November 2005 that: at least 14 people were injured and four people killed when a suicide car bomb targeting the new leader of Indian-administered Kashmir went off early, hours ahead of the swearing-in of the chief Minister. Pakistan-based Islamic militant group, Jaish-e-Mohammad claimed responsibility. [32fd]
- 6.352 BBC News reported on 18 October 2005: The education minister in Indian administered Kashmir was killed by suspected Islamist militants. Militant group Al Mansurain claimed responsibility for the attack. [32iw]

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HUMAN RIGHTS CONCERNS IN KASHMIR: SUMMARY

- 6.353 According to an Amnesty International report in February 1999:
- “Human rights violations, including arbitrary arrests, torture leading to hundreds of deaths in custody, and extra-judicial executions perpetrated by State police and armed and paramilitary forces, soared in the early 1990s. Armed opposition groups were reported to have taken hundreds of civilians hostage and to have tortured and killed hundreds of unarmed civilians.” [3f] (p5)
- 6.354 The Amnesty International report 1999 states that reliable figures of the number of deaths in Jammu and Kashmir as a result of the conflict are impossible to obtain. But according to official reports and figures obtained in September 1998, 19,866 people had died in Jammu and Kashmir since January 1990. This included 9,123 members of armed opposition groups; 6,673 victims of armed opposition groups; 2,477 civilians killed by Indian security forces and 1,593 security personnel. These figures do not reflect the number of victims who were deliberately or arbitrarily killed or died as the result of torture inflicted in the custody of State agents. [3f] (p7)
- 6.356 The UK Foreign and Commonwealth Office, in its 2003 annual human rights report, stated that “We continue to receive credible reports of human rights violations by Indian security forces operating in Kashmir, where we remain concerned about the human rights situation.” [7b] (p136)

- 6.357 The USSD 2005 report, issued in March 2006, sets out concerns relating to human rights abuses by the security forces in Jammu and Kashmir.

“Government forces continued arbitrary and unlawful deprivation of life of those in custody. Police and prison officers also committed extrajudicial killings of suspected insurgents and suspected criminals by the use of staged encounter killings. Terrorist and militant groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir.” [2c] (Section 1a) The report continues, “Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, numerous persons continued to be held by the military and paramilitary forces. Human rights activists feared that many of these unacknowledged prisoners were subjected to torture and some were killed extrajudicially.” [2c] (section 1b)

- 6.358 As reported in an article published in *The Times of India*, dated 22 August 2004, the Indian Government withdrew future patronage from European Parliament (EP) visits to Jammu and Kashmir. The Indian Government was reported to be furious with an allegedly biased and interventionist report by an EP delegation, whose leader, John Cushman, called Jammu and Kashmir “the world’s most beautiful prison”. India had already stopped extending official patronage to the annual visit by the European Union following criticism of the Government’s human rights record in the state. The EP report branded Jammu and Kashmir as “Indian Occupied Kashmir”, and criticised the Indian Government’s failure to curb human rights abuses by its security forces, which it believed was contributing towards feeding the cycle of violence. The report also highlighted the fact that the huge Indian military presence in Kashmir amounted to 1 soldier to every 10 civilians. [13d]

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DISAPPEARANCES

- 6.359 As reported in the USSD 2005:

“The latest figures available from the Jammu and Kashmir government from 2003 stated that 3,931 persons had disappeared in the state since the insurgency began in 1990, compared with an APDP estimate which put the number at approximately 8 to 10 thousand. In September ACHR reported that more than six thousand cases of disappearances remain unresolved in the state. In May 2004 the government reported that many of those listed as missing by the APDP in 2003 had joined insurgent groups, had been killed, were in custody, or were in Pakistan.” [2c] (Section 1b)

- 6.360 According to a United Nations report dated January 1998, there had also been ‘disappearances’, most of which occurred between 1983 and 1995. They were attributable to the police authorities, the army and paramilitary groups acting in conjunction with, or with the acquiescence of, the armed forces. In Kashmir numerous people were said to have disappeared after “shoot outs” with security forces. [6d] (p38) “Insurgents in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, obtain the release of detained comrades, and extort funds. At the end of 2004 the government verified that few kidnappers were arrested or prosecuted. Insurgents and terrorists in

Jammu and Kashmir and the northeast killed some kidnapping victims.” (USSD 2005 report) [2c] (Section 1b)

6.361 As reported by the UN in 1998, the fate of the victim remains unknown in many cases. Investigations into cases of disappearances were rarely carried out and when they were, they were usually conducted by police or army officials rather than by an independent body. Police often failed to register detentions or file arrest warrants, and they were then able to deny holding a detainee. [6d] (p39)

6.362 As reported in the USSD 2005: “Although government complicity was not always confirmed, scores of persons disappeared in strife and insurgency-torn areas during the year.” [2c] (Section 1b)

6.363 As reported by Amnesty International in their 2005 report for events occurring in 2004:

“In April women members of the Association of the Parents of Disappeared persons were beaten by police when they demonstrated in Srinagar against continuing impunity for those responsible for ‘disappearances’ in the state of Jammu and Kashmir. While the state admitted in 2003 that 3,744 persons had ‘disappeared’ since insurgency began in 1989, human rights activists believed the true figure to be over 8,000. No one had been convicted by the end of 2004.” [3n] (p2)

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SPECIAL SECURITY LAWS

6.364 As noted in the USSD 2005 report: “The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.” [2c] (Section 1f)

6.365 The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country--except for Jammu and Kashmir-- without charge or trial for as long as one year on loosely defined security reasons.” [2c] (section d)

6.366 As noted in the USSD 2005:

A version of the Armed Forces Special Powers Act (AFSPA) remained in effect in Jammu and Kashmir. “Under AFSPA, the government can declare any State or Union Territory a ‘disturbed area’. This allows the security forces to fire on any person in order to ‘maintain law and order’ and to arrest any person ‘against whom reasonable suspicion exists’ without informing the detainee of the grounds for arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA.” [2c] (Section 1d)

6.367 As reported in the USSD 2005 report:

“TADA courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extracted under duress were admissible as evidence.” [2c] (Section 1d)

6.368 As cited in the USSD 2005: "Security force personnel enjoyed extraordinary powers under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, which includes the authority to shoot suspected lawbreakers on sight and destroy structures suspected of harboring militants or arms." [2c] (Section 1g)

6.369 As noted in the USSD 2005 report:

"The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to 2 years. During this time, detainees do not have access to family members or legal counsel. Between March and April, the PSA was invoked against 12 persons. The Government estimated that approximately 600 persons were in custody under the PSA or related charges in January. In April, two Kashmiri separatist leaders...were released after several months' detention under the PSA...During the year the Jammu and Kashmir government released 326 persons held under PSA since 2002." [2c] (Section 1d)

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POLICE AND SECURITY FORCE IMPUNITY

6.370 As noted in the US Department of State report for 2005 (USSD):

"Accountability by the Jammu and Kashmir Government remained a serious problem. Human rights groups estimate that 30 to 35 thousand persons died during the two decades of conflict in Jammu and Kashmir, but there were no reliable estimates of the number of deaths resulting directly from abuses. Members of the security forces continued to abduct and kill suspected insurgents, and security forces were not held adequately accountable for their actions. Reliable data on such cases were difficult to obtain. The Jammu and Kashmir governor, Lt.General S.K. Sinha, reported 39 thousand deaths during the conflict." [2c] (section 1a)

"Security forces have committed thousands of serious human rights violations over the course of the insurgency, including extra-judicial killings, disappearances, and torture." [2c] (section 1a)

6.371 As reported in the USSD 2005 report, security forces have committed thousands of serious human rights violations over the course of the insurgency, including extrajudicial killings, disappearances, and torture: [2c] (Section 1a)

"Members of the security forces continued to abduct and kill suspected insurgents, and security forces were not held adequately accountable for their actions. Reliable data on such cases were difficult to obtain." [2c] (Section 1g)

Cases where security personnel were held accountable for abuses have been rare, but according to a BBC news report dated 4 October 2000, in October 2000 the Indian army sentenced one of its officers (whose rank was captain) to seven years' imprisonment for raping a young girl in a village in the Doda district. The case marked a rare departure for the army, both in terms of making the case public and in taking such severe action. [32x]

- 6.372 As reported in a BBC news report dated 20 March 2003, in April 2003 three members of India's elite National Security Guards (NSG) were to face charges in connection with the disappearance of a Kashmiri civilian in 1990, in the first case of its kind in Kashmir. [32ar]

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DETENTION

- 6.373 As reported in the US Department of State report 2005 (USSD): "Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, numerous persons continued to be held by the military and paramilitary forces. Human rights activists feared that many of these unacknowledged prisoners were subjected to torture and some were killed extrajudicially." [2c] (Section 1b)

- 6.374 As stated in the USSD 2005 report:

"The government maintained that screening committees administered by the state governments provided information about the unacknowledged detainees to their families. Other sources indicated that families could only confirm the detention of their relatives by bribing prison guards. In February authorities released 34 former militants from custody, and in October, the Jammu and Kashmir government announced the release of 44 detainees previously held under the 1978 Public Safety Act." [2c] (Section 1b)

- 6.375 The UK Foreign and Commonwealth Office, in its 2003 annual report on human rights, welcomed the commitment of the state Government in its review of cases of detainees held for long periods without trial and the release of those held on non-specific or less serious charges. [7b] (p136) However, Amnesty International (AI), in an open letter to the Chief Minister of Jammu and Kashmir (dated 2 December 2003), did not consider that the state Government had done enough to address the problem of detainees and noted that the screening committee had released only a few political prisoners because the committee had failed to meet consistently throughout the year (2003). AI also expressed concerns about the make-up of the committee, after it was announced that the committee would include an officer of the Union Ministry for Home Affairs, thereby changing the nature of the screening whereby the central Government was able to determine which candidates were released. [3l] (p2)

- 6.376 As noted in the USSD 2005 report:

"According to the Home Ministry's 2004 annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. During the year the ICRC visited 28 places of detention in Jammu and Kashmir and found that 1,356 persons were detained – 524 of them newly registered. The ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states. During the year, the ICRC stated that it

continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir.” [2c] (Section 1c)

The 2004 USSD report notes: “The NHRC received authorisation from 15 states and union territories to conduct surprise jail visits. [2j] (Section 1c)

6.377 Amnesty International (AI), in an open letter to the Chief Minister of Jammu and Kashmir, dated 2 December 2003, expressed concern about the “scores” of people who continued to be held under Prevention of Terrorism Act (POTA) (2002) powers. AI welcomed the fact that POTA powers had not been used to arrest Kashmiris during 2003, but pointed out that the detainees were being arbitrarily detained in violation of Article 9 of the International Covenant on Civil and Political Rights. AI also considered that the state Government had failed to live up to an election commitment to release a large number of detainees being held outside Jammu and Kashmir. AI noted that detention outside of Jammu and Kashmir was in violation of the amendments to the Jammu and Kashmir Public Safety Act, 1978 (PSA) which provides that Kashmiris cannot be detained outside the state. In addition, those detained under the Terrorism and Disruptive Activities (Prevention) Act, (TADA) which was enforced in the state in 1987, continued to be behind bars even though the law lapsed in Jammu and Kashmir in 1995. TADA continued to be applied retrospectively in the state. [3] (p1-2)

6.378 USSD report 2005 stated: “In March 2004, Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed announced there were 533 persons of unidentified ethnicity, 361 Kashmiris and 172 foreigners, behind bars. During the year, the Government released 85 detainees.”[2c] (Section 1e)

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INEFFECTIVE JUDICIARY

6.379 As reported in the US Department of State report 2005 (USSD):

“Unlike in previous years, court was regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of the government’s anti-insurgent actions and because of the frequent refusal by security forces to obey court orders. Due in part to intimidation by militants and terrorists, courts in Jammu and Kashmir were reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases.” [2c] (Section 1e)

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STATE HUMAN RIGHTS COMMISSION

6.380 As reported by BBC monitoring service on 2 May 1997, the Jammu and Kashmir Protection of Human Rights Act 1997 established a State Human Rights Commission and human rights courts. The Commission is empowered to enquire into any complaint of a violation of human rights presented to it by a victim or any person on his/her behalf. It can also intervene in any proceeding

involving any allegation or violation of human rights pending before a court with the approval of the court. [10b]

- 6.381 The same report continues that the Commission may also visit any jail or detention centre. It can also review human rights legislation and recommend measures for its effective implementation. [10b]
- 6.382 However, the USSD 2004 report stated that the Jammu and Kashmir State Human Rights Commission had no authority to investigate alleged human rights violations committed by members of the security forces. [2j] (Section 4)

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WOMEN

For more detailed information on the situation of women in India the report of the Home Office Fact Finding Mission to India in July 2004, published in December 2004, should also be consulted.

OVERVIEW

- 6.383 According to the July 2002 estimates as cited in the CIA World Factbook 2002, out of a population of 1,045 million, 506 million are female and 539 million are male. [35] (p3) As reported in the US Department of State report 2001, higher female mortality at all age levels, including female infanticide and sex selective termination of pregnancies, accounts for the higher ratio of males to females. [2a] (Section 5)

- 6.384 A report commissioned by the Office of the United Nations Resident Coordinator in India in 2001 entitled "Women in India How Free? How Equal?" (the 2001 UN report) states that "Only 54% of Indian women are literate as compared to 76% men." [50] (p8) The report continues:

"At the time of the 1991 Census, only 39% of Indian women could read and write. According to the Census of India 2001, female literacy rates have gone up to 54%. In 1951, India's female literacy rate for the entire population over 5 years of age, was barely 9%. In the past 50 years, therefore, it has increased six-fold. Despite this progress, close to 190 million Indian women lack the basic capability to read and write. Female literacy levels vary dramatically between states. The Census of India 2001 results are sobering – only Kerala and Mizoram have even approached universal female literacy. In Orissa, Rajasthan, Uttar Pradesh, Arunchal Pradesh, Jharkhand, Madhya Pradesh, Andhra Pradesh and Bihar almost 50% of women do not know how to read and write." [50] (p43)

- 6.385 The 2001 UN report notes that:

"The Constitution of India guarantees to all Indian women

- Equality before the law. Article 14.
- No discrimination by the State on the grounds only of religion, race, caste, sex, place of birth or any of these. Article 15 (1).

- Special provisions to be made by the State in favour of women and children. Article 15 (3)
- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Article 16
- State policy to be directed to securing for men and women equally the right to an adequate means of livelihood. Article 39(a)
- Equal pay for equal work for both men and women. Article 39 (d)
- Provisions to be made by the State for securing just and humane conditions of work and for maternity relief. Article 42.
- To promote harmony and to renounce practices derogatory to the dignity of women. Article 52 (a).” [50] (p11)

6.386 The 2001 UN report concludes that there is evidence of huge gaps between constitutional guarantees and the daily realities of women’s lives. The report notes that all women are not equal; women belonging to the privileged and dominant classes and castes enjoy many more freedoms and opportunities than women from the subordinate and less privileged groups. Inequality in India affects men: Dalits and Adivasis, members of subordinate castes and communities, landless people, disabled people, and many other groups. However the report concludes women have a position at the bottom of the pile in each of these groups. [50] (p79)

6.387 Amnesty International, in its 2005 Annual report covering events in 2004, noted:

“Despite the efforts of women’s rights advocates to address the widespread problem of violence in the home, India still lacked comprehensive legislation addressing domestic violence.”

“The government failed to submit overdue periodic reports to the UN Committee on the Elimination of Discrimination against Women.”

“Impunity continued for most perpetrators of widespread rape and killing in Gujarat in 2002. During the communal violence Muslim women were specifically targeted and several hundred women and girls were threatened, raped and killed; some were burned alive (see Gujarat section below).” [3k] (women)

6.388 In 2003 the Government of Assam Planning and Development Department issued a Human Development report for the state of Assam. In a chapter entitled “Women: Striving in an Unequal World”, the report states:

“Despite their contribution, they [women] continue to be severely disadvantaged, and even discriminated against. In most fields of professional endeavour, women have had to struggle to reach the top, in the process of combating indifference, occasionally even obstruction and hostility. At the other end of the economic scale, women are deprived access to basic services, and relegated to subservient yet physically demanding roles. In this context the position of women in Assam is no different from that of women in other regions of the country. In fact, in some respects women in Assam are even more disadvantaged.” [88] (p106)

6.389 In 2003 the Government of Tamil Nadu issued a report on Human Development in Tamil Nadu which included a chapter entitled “Gender”. The report states that the performance of Tamil Nadu in a number of areas including female literacy, infant mortality rates, life expectancy and fertility rates shows that the status of

women is higher in Tamil Nadu than in other states with the exception of Kerala. However the report acknowledges that their position has remained unchanged or even worsened as far as the declining sex ratio is concerned. [18] (p93)

6.390 The 2001 UN report states that:

“India has led the world in ratifying UN Conventions and international covenants like the convention of the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action...The last few years have seen dramatic increases in the space available for women in Indian society – a consequence of affirmative policies and programmes by the government and initiatives by NGOs and other civil society groups. Most of all, these changes are the result of years of determined advocacy, campaigning and action for change by women themselves.” [50] (p13)

However, the report continues: “But gaps still remain. While some women are emerging as strong and confident individuals, in control of their own lives and capable of raising their voices to demand their rights, others face a very different reality, prompting the question: ‘Is the glass half full or half empty?’” [50] (p13)

6.391 As reported by the Guardian newspaper dated 3 February 2006, the All India Muslim Personal Law Board which claims to represent the nation’s 140 million Muslims has issued an edict stating Muslim women should not work with men or shop in areas where they could mix with strangers of the opposite sex. Women were also criticized for wearing western clothes deemed to be too revealing. The comments angered Muslim liberals. “The board, which is made up of leading clerics from all over India, carries considerable weight. Almost every mosque in the country takes its advice.” [40e]

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LEGISLATION

6.392 As noted in the AI report entitled “India: The battle against fear and discrimination”: “The central government and state government have taken several steps to protect woman [sic] through enactment of legislation and to prosecute those who perpetrate violence against them. The Indian Penal Code (IPC) has been amended several times in relation to crimes against women largely as a result of campaigns against violence led by the womens’ movement in the country.” [3e](p13)

6.393 As reported in the US State Department Report 2005 (USSD) published on 8 March 2006: “Numerous laws exist to protect women’s rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the sati Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However the government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted.” [2c] (Section 4)

6.394 The same report continues: “The government took a number of steps to assist the female crime victims. These included establishing telephone help lines, creating short-stay homes, providing counseling, occupational training, medical

aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue.” [2c] (Section 4)

6.395 As noted in the 2001 UN report):

“In response to years of sustained legal activism by the women’s movement, the Supreme Court has begun to apply equality principles to address issues of violence against women. Apart from the landmark ruling on sexual harassment in the workplace in 1997, judgements have also begun to apply international conventions like CEDAW and the Convention on Human Rights. Following the declaration of 2001 as the ‘Year of Women’s Empowerment’, the Government of India has announced that more stringent civil legislation will be enacted to combat violence against women. The proposed bill will give women victims the rights to protection, relief and custody of their children.” [50] (p76-77)

6.396 According to Amnesty International’s report, May 2001: “The battle against fear and discrimination”:

“Attempts by women to seek justice through the criminal justice system are regularly forestalled...Unless supported by male relatives or a strong social group, women victims of crime are at a severe disadvantage within the criminal justice system. Threats and harassment by perpetrators and their communities and social pressures which exist within families and communities force them towards compromise or withdrawal rather than pursuing justice. Gender biases which exist within institutions of redress are often exacerbated by ingrained caste and other biases against members of disadvantaged communities.” [3e] (p16-17)

6.397 The Home Office Fact-Finding Mission report, “Women in India”, 2004 notes many laws exist for the protection of women’s rights but implementation and enforcement appeared to pose the biggest barrier with cultural reasons cited as one of the problems surrounding implementation. [105]

6.398 According to Amnesty International’s 2005 report covering events of 2004: “Despite the efforts of women’s rights advocates to address the widespread problem of violence in the home, India still lacked comprehensive legislation addressing domestic violence. The government failed to submit overdue periodic reports to the UN Committee on the Elimination of Discrimination against Women.” [3n] (p1)

6.399 As reported in *The Hindu* on 25 August 2005, “The Protection of Women from Domestic Violence Bill, 2005 – which seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members of relatives – was unanimously passed by the Lok Sabha on Wednesday.” It was commented that the situation of women was what it was not due to absence of adequate laws, but poor implementation. [60I] (p12)

(See section on domestic violence for more information on the bill)

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GENDER IMBALANCE

- 6.400 As reported in the US State Department Report 2005 (USSD) published on 28 February 2005:

“Although the law prohibits and the government conducted programs to limit the use of amniocentesis and sonogram tests for sex determination, NGOs in the area reported that some family planning centers in the state reveal the sex of fetuses. Both female infanticide and selective feticide targeting female babies occurred during the year as the traditional preference for male children continued. The government did not enforce effectively the law prohibiting termination of a pregnancy for sexual preference. In May the health minister stated to parliament that there were no feticide-related convictions in the past eight years.” [2c] (Section 4)

“Parents often gave priority in health care and nutrition to male infants. Women’s rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low male/female ratios, with Punjab reporting the lowest statewide totals in the country: 793 females to 1000 males. [2c] (Section 4)

- 6.401 As stated in the US Department of State report 2003, published on 25 February 2004, “In Tamil Nadu, three persons were sentenced to life imprisonment for killing a newborn girl. Tamil Nadu implemented a ‘cradle scheme’ in 1992 whereby unwanted infants could be left outside the Social Welfare Department.” [2g] (p29)

- 6.402 The independent report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled “Women in India How Free? How Equal?” noted that:

“Given the enormous progress India has made in health care and nutrition for its women and children one would expect a steady increase in the number of women in the population. It is shocking that the reverse has happened. The female to male ratio has become worse, not better, in the last 100 years. The adverse male to female ratio can be explained only by the fact that women in India are still second class citizens. It is proof that, at every stage in their lives beginning from before birth, women are deprived of their rights and entitlements, and discriminated against in a variety of ways.” [50] (p12-13)

- 6.403 As reported in a BBC report dated 24 August 2004 in connection with a man in Rajasthan threatening to kill his third daughter born after the failure of an operation to sterilise his wife, “Female infanticide is rife in Rajasthan, where the birth of a daughter is considered a curse, while the birth of a son is celebrated. The state has a gender imbalance, with just 922 females for every 1,000 males.” [32ee] A report issued by the Government of Assam in 2003 states that, “The SR [sex ratio] in Assam according to the 2001 Census, is 932 females per 1000 males, marginally below the national SR of 933 females per 1000 males. For Assam as well as for India there has been an improvement in the SR (from 923 to 932 for Assam and from 927 to 933 for India).”

However these figures are based on a comparison with the 1991 census, and are marginally more adverse than the 1981 census for India which showed a figure of 934 females per 1000 males. [88] (p112)

6.404 As reported by BBC News on 22 January 2005:

“In some parts of India there are so few women that men are having to look away from home to secure a bride. In the worst affected state of the Punjab there are fewer than eight girls to ten boys. Experts blame the outlawed practice of female foeticide (aborting female babies) for the skewed male/female ratio and say that almost a million girl fetuses have been killed because culture and tradition state that boy babies are preferable. In India, girls can be viewed as a burden, not least because many still believe a family must provide a dowry for their daughter’s marriage – even though this practice is now illegal. There is also widespread belief that the family is continued through the male line and an interpretation of Hinduism that says the father’s last rites must be carried out by his son.”

To raise awareness and to try to change opinion, the international charity Plan and the Indian Government with financial backing from the Edward Greene charity are to produce a soap opera in the hope that this will reach a wider audience and start the process of change. “Dr Saarda Jain, from the Indian Medical Association, based in New Delhi, said that although the practice of female foeticide was banned in practice that it was still flourishing in certain areas.” He commented that although it is condemned as a crime it is still being carried out. According to the article there is great cause for concern about the female/male ratio in India which is dropping rapidly. “In 1991 there were 945 female to 1,000 males, but by 2001 that was just 927... It is a very male dominated society.” Dr Saarda Jain stated that the statute is not making much difference where even the educated and elite are involved in female foeticide. [32fw]

6.405 According to an answer to a starred question in the Rajya Sabha dated 18 March 2005, the Minister of health and family welfare stated that, “The Government is continuously working towards ending the practice of pre-birth elimination of females. A comprehensive Act known as Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PC & PNDT Act) is being implemented in the country...The violaters of the Act are punishable with imprisonment upto [sic] 5 years and fine up to Rs. 5 lakhs, along with cancellation of registration licence...this sends a signal to the society at large, and females in particular, that gender-based discrimination shall not be tolerated.” [27e]

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MARRIAGE

6.406 According to a World Bank document, “Terror as a Bargaining Instrument: A Case study of Dowry violence in rural India, 2002: “In India marriage is almost never a matter of choice for women, but is driven almost entirely by social norms and parental preferences.” [55] (p1)

6.407 The report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled “Women in India How Free? How Equal?” notes that:

“Legally the minimum age for marriage in India is 18 for women and 21 for men, but this law is honoured more in the breach. Close to 60% of women in rural India were married before the age of 18, when they were still adolescents – and this is in a sample of women in the age group of 20-24 years, not the ‘older generation’ where this may have been the norm. The fact that the legal provisions for compulsory registration of births and marriages are seldom enforced, allows the prohibition against child marriage to be flouted with impunity.” [50] (p62)

- 6.408 According to the UNHCR Human Rights report 1995, the personal status laws of the religious communities govern matters such as marriage, divorce and property. The Hindu Marriage Act 1955 gives the parties the right to dissolve the marriage according to their custom. Under the Indian Divorce Act 1969, a Christian woman may petition the court for divorce on one or more of several grounds, including bigamy and rape. [4e] (p9) The BBC, in a news item dated 4 August 2004, reported that following several cases where Indian men had divorced their wives by mail, over the phone and via text messages, the All India Muslim Personal Law Board had taken the matter up at a recent meeting. Although the board did not have the authority to ban the practice there was a consensus among the board that it was a sin and should be discouraged. An awareness campaign was started. [32b] According to the UNHCR Human Rights report 1995, the divorce law applying to secular marriages was included in the Special Marriage Act 1954, providing for divorce by mutual consent as well as by petition to the court. [4e] (p9)
- 6.409 The USSD 2003 report notes that: “The Government continued to review legislation on marriage; it passed the Indian Divorce (Amendment) Act during 2001; the act widely had been criticized as biased against women. The Act placed limitations on interfaith marriages and specified penalties, such as 10 years’ imprisonment, for clergymen who contravened its provisions.” [2h] (Section 5: Women)
- 6.410 As reported in the US Department of State Report 2005: “In February (2004), the government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they resided during the marriage or where the marriage took place; however, the amendment permits women to file where they currently reside. At year’s end, there were no changes to the triple talaq provisions, which allowed Muslim men to divorce their wives simply by saying ‘talaq’ three times.” [2c] (Section 4)
- 6.411 The USSD 2005 report notes that: “In August parliament amended the Hindu Succession Act, which removed discriminatory clauses from the Hindu Succession Act by giving equal inheritance rights to Hindu, Buddhist, Jain, and Sikh women, including giving married daughters the same inheritance rights as male heirs.” [2a] (Section 5: Women)
- 6.412 As noted in the USSD 2005 report: “Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women controlled family property and enjoyed full inheritance rights.” [2c] (Section 4)

A BBC news report dated 24 June 2003 notes that in Meghalaya, women ran family businesses, dominated the households and took all key family decisions. However according to a Meghalaya based NGO, North East Network, patriarchal values were gaining ground. Domestic violence against women in Meghalaya was increasing. The number of cases of rape and sexual abuse against women has also been rising. [32ba]

- 6.413 It was reported on 16 September 2003 by the BBC that India faced a key marriage ruling after a landmark ruling in the Calcutta High Court. An Indian man planned to appeal after the court ruled that he had no right to force his wife to live with his family. Two judges ruled that his wife should live with him but separately from her in-laws:

“When her husband refused to move out she sued him in a lower court, with the request that he be legally compelled to stay with her. When the lower court turned down her request, she took the case to the High Court... They ruled that a wife had the right to live separately with her husband, and could refuse to live with his parents and relatives. Legal experts say this judgement could have a huge impact on conjugal relations in India’s male-dominated society and if not overturned by the Supreme Court, could be used as case-law.” [32bw]

Child Marriages

- 6.414 As reported in a BBC news item dated 11 May 2005, it was claimed that a woman was attacked for trying to stop child marriages in Madhya Pradesh. Authorities launched an inquiry. The practice of child marriages is illegal but some rural children are still forcibly married. Akha Teej is an auspicious Hindu day traditionally used in some rural areas as the date for child marriages. The Chief Minister Babulal Gaur, said of the practice, ‘It is not possible to stop it. Have we been able to end alcoholism or untouchability? If Gandhi could not succeed in this, how can Babulal Gaur?’ Child marriages in India are illegal for girls under 18 and boys under 21 and authorities in many areas have taken steps to prevent marriages on Akha Teej. There has been a large public awareness campaign in Rajasthan. Indian television reported the number of child marriages to be down this year [2005] following tough police measures. (Parents, owners of the premises and the priest conducting the ceremony can all be arrested). [32im]
- 6.415 “Child marriage was the norm among certain scheduled castes and tribal communities in the Krishnagiri district of Tamil Nadu. Brides were typically between the ages of 8 and 12 years of age, while the groom was generally much older. According to the 1999 national Family Health Survey, 64.3 percent of women in Andhra Pradesh, 46.3 percent in Karnataka 24.9 percent in Tamil Nadu, and 17 percent in Kerala were married before the age of 18.” As reported in the 2005 USSD report. [2c](section 5)
- 6.416 BBC News reported on 14 February 2006, the Supreme Court has given the federal and state governments three months to enact legislation making it compulsory to register all marriages. Under proposed changes proof of a traditional religious marriage ceremony would no longer be sufficient. The proposed law would help ensure a minimum age for marriage, ensure consent of both parties, deter bigamy and polygamy and deter the trading of young girls under the guise of marriage. It would also help women claim alimony after divorce or separation. Details of the new law are yet to be finalised. Gujarat,

Maharashtra, Karnataka and Himachal Pradesh already have these laws but according to the NCW (National Commission for Women) are in need of strengthening. Currently the majority of marriages are not registered because ceremonies are performed according to religious rites. Divorce petitions have accepted religious ceremonies as legal. [32ao]

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DOMESTIC VIOLENCE

- 6.417 As noted in the US State Department Report 2005 (USSD) published on 8 March 2005:

“Domestic violence was common and a serious problem. According to a 2004 National Commission for Women Survey, 60 to 80 percent of women were abused in some way by their spouses, 42 percent were beaten physically, and 22 percent were expelled from their homes for at least a day. According to the women’s group Majlis, many women were forced to remain in abusive relationships because of social and parental pressure and to protect their children. According to a survey conducted during the year by the International Institute for Population studies, 56 percent of women believed wife beating was justified in certain circumstances.” [2c] (Section 5)

- 6.418 The report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled “Women in India How Free? How Equal?” notes that all women, regardless of age, class, caste and community are vulnerable to domestic violence and further notes that marriage, a joint family, education, economic security and social status do not provide any real protection. [50] (p73)

- 6.419 As reported in the Human Rights Watch Annual Report 2005, “Domestic violence includes dowry-related abuses and ‘bride-burning’.” [26e]

- 6.420 A note in “The Battle against fear and discrimination” report that violence within the home is widespread in both Uttar Pradesh and Rajasthan and affects women throughout society. It is apparent in both wealthy urban households and the poorest rural households, cutting across all religious, class and caste boundaries. Offences include beating, slapping, kicking, rape and even murder, often by burning. [31] (p5-6)

- 6.421 In a report issued in 2003 by the Government of Assam it was noted that:

“All over the country women face harassment and violence at the work place and at home. To a degree, this is also true of Assam where women increasingly need to cope with aggression, especially domestic violence. According to National Health Survey-2 (NFHS-2), 16 percent of women in the State have experienced violence since the age of 15. Although lower than the national average of 21 percent, this is still a matter of concern. Rural illiterate women, according to the survey are most likely to have experienced violence in some form. Of married women, 14 per-cent have been mistreated by their husband. The fact of a ‘culture of silence’ surrounds the issue of domestic violence makes data collection very difficult. These figures could well be under-estimates.” [88] (p132-133)

6.422 A Human Development report issued by the Government of Tamil Nadu in 2003 stated, on the issue of gender-based violence:

“There are several causes of violence against women. The perception that women are their husband’s property is strong in Tamil Nadu. Suspicion of infidelity, infertility (of the couple), alcoholism, dowry and instigation by in-laws are some of the immediate causes of violence against women, signalling the deep-rooted patriarchal values that underlie the same. The result is that wife beating is considered normal, even by women themselves.” [18] (p101)

6.423 The 2001 UN report notes, on the issue of the law protecting women from violence, that the laws themselves constitute the greatest barrier against injustice for women. The report states that:

- “The definition of rape excludes all forms of sexual assault other than penetrative intercourse
- The age of consent is defined as fifteen years, contradicting the definition of an adult woman as one above 18 years of age.
- Marital rape is not considered an offence unless the wife is less than 12 years, even though marriage with a minor is itself a crime.
- Women who cannot show physical proof of having resisted the act, in the form of injuries, are generally assumed to have consented to it.” [50] (p75)

6.424 However the 2001 UN report concludes:

“Following the declaration of 2001 as the ‘Year of Women’s Empowerment’, the Government of India has announced that more stringent legislation will be enacted to combat violence against women. The proposed Bill will give women victims of violence the rights to protection, relief and custody of their children. The common perception of domestic violence as a ‘private’ issue is also changing. According to a survey conducted by the Times of India in Bangalore, where 250 women and men were interviewed, 81% considered domestic violence to be a serious problem and defined it as verbal and physical abuse, sexual harassment and mental torture. The overwhelming majority of respondents felt that legal action was justified in cases of domestic violence.” [50] (p77)

6.425 Rediff.com reported on 22 August 2005 that a landmark bill which seeks to deter all forms of domestic violence against women by providing for punishment up to a one year jail term was introduced into the Lok Sabha. The Protection of Women from Domestic Violence Bill, 2005, defines the expression ‘domestic violence’ to include actual abuse or threat of abuse: physical, sexual, verbal, emotional or economic violence. [81b]

6.426 The report continues:

“Harassment like unlawful dowry demands would also be covered under this definition. A magistrate can pass protection orders in favour of the aggrieved person. Breach of protection order by the respondent shall be an offence and shall be punishable with imprisonment, which may extend to one year or fine, which may extend to Rs 20,000 or with both. The magistrate can prevent the respondent from entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets

used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from domestic violence.” [81b]

- 6.427 As reported by BBC News on 24 August 2005, the lower house of parliament has passed a bill seeking to protect women from domestic violence. The bill is expected to become law in the next few days following approval from the upper house. The bill seeks to ban harassment from dowry demands and will give sweeping powers to magistrates to issue protection orders. The report states:

“Every 6 hours in India a young married woman is burned alive, beaten to death or driven to commit suicide...According to a recent study, at least 45% of Indian women are slapped, kicked or beaten by their husbands, many of them on a continual basis...Women’s activists have welcomed the bill, although many say it is not perfect.”

They advocate that a change in mindsets is needed in preventing domestic abuse and that a bill alone will not help. “A recent survey by the International Institute for Population Studies showed 56% of Indian women believed wife beating to be justified in certain circumstances. The reasons varied from going out without the husband’s permission to cooking a bad meal. Domestic abuse is often denied by the victims themselves.” [32hj] As further reported in *The Hindu* on 25 August 2005, “The Protection of Women from Domestic Violence Bill, 2005 – which seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members or relatives – was unanimously passed by the Lok Sabha...” [60i]

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DOWRY

- 6.428 As reported by the BBC on 16 July 2003, dowries and the problems associated with them have meant that many Indian families are desperate to avoid having girls. Legislation against sex determination tests was passed nearly a decade ago, but the practice is still widespread. The Pre-natal Diagnostics Techniques (Regulation and Prevention of Misuse) Act 1994 (amended 2002) bans sex determination tests. [32bb]

- 6.429 As noted in the US State Department Report 2005 (USSD) published on 8 March 2005:

“Providing or taking dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes remained a serious problem. In a typical dowry dispute, the groom’s family harassed a new wife for not providing a sufficient dowry. This harassment sometimes ended in the woman’s death, which the family often tried to portray as a suicide or accident. In 2004 the government registered 6,250 dowry death cases under the Dowry Prohibition Act, in which husbands or in-laws murdered women for not providing sufficient dowry. In September the Delhi Commission for Women reported 677 cases of abuse against women from January to July, of which 92 percent were dowry related and 22 percent a result of harassment by in-laws. In 2004 Delhi police’s crime against women cell recorded 7,987 dowry-related cases. Of these, police counselled 1,853 families to a compromise, filed criminal charges in another 1,200 cases, and in five thousand

cases the victim did not pursue the matter. In 2004 there were 122 dowry-related deaths in Delhi. In March the West Tripura sessions court sentenced three persons to five years' rigorous imprisonment for abetting the suicide of a woman by torturing her for dowry in 2003." [2c] (Section 5)

"The media often reported cases of dowry murder. On August 19, 19-year-old Charanpreet Kaur was set on fire and killed by her father-in-law because her parents could not meet her in-laws' ever-increasing demands for dowry. Kaur made a statement to police before she died, and her husband and in-laws were arrested. At year's end, all accused were in New Delhi's central jail awaiting formal murder charges." [2c] (Section 5)(USSD 2005)

The same report continues:

"The Tamil Nadu government reported an increase in cases filed under the Dowry Prohibition Act from 175 in 2003 to 294 cases in 2004. In 2004 the government won convictions in 32 cases of dowry harassment, including 8 involving murder. Lawyers confirmed that wife-battering cut across all religions, caste, and educational levels. Convictions potentially took several years. For example, during the year the Chennai high court convicted two accused persons of a dowry death case initially filed in 1995." [2c] (Section 5)

- 6.430 As reported in the US Department of State report 2005, "Under the law, courts must presume the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first 7 years of marriage - provided that harassment was proven. In such cases, police procedures required that an officer of the rank of deputy superintendent or above investigate and that a team of two or more doctors perform the postmortem procedures; however, in practice police did not follow these procedures consistently." [2c] (Section 4)

As reported by the BBC news service on 1 June 2000, if convicted, prison sentences can stretch to 14 years. [32I]

- 6.431 As noted in a BBC news article dated 16 July 2003, this type of murder is often referred to as "bride burning" in India. Payment and acceptance of a dowry has been illegal in India for 40 years but is still widely practised. Dowry Prohibition Act 1961 (amended in 1984 and 1986) bans paying and receiving dowries. [32bb] As reported by the BBC on 16 July 2003, in 2003, Nisha Sharma, a prospective bride from Noida just outside Delhi had her groom arrested after he demanded a dowry. The groom and his mother were arrested under the rarely enforced 1961 Anti-Dowry Act. Both were awaiting trial. [32bb] According to a BBC news item dated 8 October 2003, Nisha Sharma became an instant celebrity as politicians and non-government organisations honoured her for her boldness in calling the police. [32cb] According to the US State Department report 2004, in the case of Nisha Sharma, the potential groom was detained for 14 days while formal charges were filed for violating the country's laws against dowries. The case received considerable publicity and the story has been included in the school curriculum in Delhi to teach children the problems of the dowry system. [2c] (Section 4)
- 6.432 As reported in a BBC news article dated 29 September 2004, "The new English textbook for the sixth standard – age 11 to 12 – in schools run by the government of the Indian capital, Delhi, includes a chapter on Nisha Sharma." The State Council of Education Research and Training who prepared the book stated that the story was included to draw children's attention to social problems. Nisha

Sharma became a role model after calling off her wedding because her fiance asked her parents for more dowry money. [32fj]

6.433 As recorded in the USSD report of 2005, "Usually at a disadvantage in dowry disputes, women have begun to speak out against dowry demands. In February a woman from Bhiwani, Haryana, refused to join her husband after her marriage ceremony because of a dowry demand by her in-laws. The local panchayat stood by the woman's decision." [2c] (Section 5) According to a BBC news report dated 28 November 2003, "Thousands of people in the southern Indian city of Bangalore have staged a march and rally against the system of dowry." The Karnataka State Women's commission (KSWC) organised the rally. Apparently the women were joined by many men. [32cd]

6.434 It was reported by the BBC in an article dated 14 November 2003 that India's illegal dowry system was still thriving, leaving women vulnerable to abuse. The Crime Women Cell is a women's crime unit in south Delhi set up to protect women in a male dominated society:

"The police unit has been given new powers to arrest and detain suspects... Despite the corruption and bureaucracy, hundreds are convicted of dowry crime every year... Crimes against women have soared in the last 10 years with many more being committed than are recorded, these are serious crimes. The head of the Crime Women Cell stated that dowry was the main problem, with increasing numbers of women going to the unit." [32ch]

6.435 As noted in a BBC news article dated 30 September 2004, a triple suicide attempt was made by three sisters afraid any dowry demands for their potential marriage would financially cripple their father. The sisters were from a village in Calcutta. The three drank pesticides whereupon the youngest died and her two sisters survived but were in hospital. One of the sisters said that her mother had a brain disease and her father had struggled for months to get sufficient money together for dowries. In their suicide note the girls said they wanted to save the family from continuing struggles for dowry money which had led to bitter arguments. The father denied the situation was that bad but admitted that on occasion marriages have broken down because he could not find a dowry. "He said the dowry system – while technically illegal – is a way of life... If you have a daughter, you have to give a dowry, if you have a son, you will receive one when you are married. It is the way of our society." The article further states that although the dowry system is officially illegal in India, it is common outside the main cities. A doctor at the hospital where the girls were admitted stated that a survey was carried out some months earlier whereby it was found that 35-40 people attempted suicide in that area every month. He said that extreme poverty was the principle cause of suicides linked to dowries. [32gb]

6.436 As noted in a reply to an unstarred question regarding the increasing number of false dowry cases in the Rajya Sabha, dated 16 March 2005, "As per statistics compiled by the National Crime Records Bureau, the number of dowry death, which were declared false due to mistake of fact or of law during 2002 was 396 in comparison to 400 in 2001. The number of such cases further came down to 312 in 2003." The number of cases of dowry deaths reported during 2001-2003 was 6,851 in 2001, 6,822 in 2002 and 6,208 in 2003. [28d]

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GENDER DISCRIMINATION

- 6.437 AI further report that gender discrimination is a problem within many communities. Caste and land rights impact on political, social and economic relationships. In Uttar Pradesh political parties representing dalit and lower-caste communities have played a role in empowering some of these groups in some areas. [3e] (p6) Despite many positive developments in securing women's human rights, patriarchy continues to be embedded in the social system in many parts of India. [3e] (p5)
- 6.438 As cited in Human Rights Watch Annual Report 2005, "Despite several legal provisions for gender equality, women still struggle to realize equal rights to property, marriage, divorce, and protection under the law." [26e]

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SOCIETAL VIOLENCE

- 6.439 As noted in the US State Department Report 2005 (USSD) published on 8 March 2006:
- "The press reported that violence against women was increasing, although some local women's organizations attributed the apparent increase to greater reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, fostering a climate of impunity. Upper caste gangs often used mass rapes as an intimidation tactic against lower castes, and often gang raped as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state." [2c] (Section 4)
- 6.440 As noted in an Amnesty International report 2003: "India, Break the cycle of impunity and torture in Punjab": "There has been an overall increase in crimes against women recorded in Punjab in the post militancy period, particularly in the context of matrimonial disputes, in response, the police in Punjab have created 'women cells' at district level to deal specifically with offences against women. However, these units reportedly lack staffing and other resources such as means of transport." [51] (p24)
- 6.441 Amnesty International stated in "The battle against fear and discrimination" report, "Crimes against Women Cells have also been criticised for not responding appropriately or effectively to cases of violence against women although the majority of crimes referred to these cells relate to violence within the family." [3e] (p18)
- 6.442 As reported in the Human Rights Watch Annual Report 2005, "Gender-based violence, including domestic violence, sexual harrassment, sexual assault, and trafficking into forced labor and forced prostitution remain serious and pervasive problems in India." [26e]
- 6.443 In a Rajya Sabha, unstarred question dated 3 August 2005, the Minister of State in the Minister of Home Affairs stated the Government of National Capital Territory of Delhi has started "Project Raksha" to impart self-defence training to female

physical education teachers in the first instance who in turn will teach female students self-defence techniques. "It is up to the concerned State Governments to introduce such schemes. However, the Government of India will be happy to share the details of the initiative taken up in Delhi with other States." [27b]

6.444 It was stated in a news article, "The Asian Age", New Delhi, dated 28 August 2005, "In a move to curb rising crime against women, Delhi police is recruiting 1,000 more women personnel. The recruitment process has already begun and women police personnel will be trained and deployed within the next 18 months." Currently in the Delhi police, out of 60,000 personnel, 3,000 are women. The current drive is geared towards comprising ten per cent of women in the police force. Kanwaljit Deol, joint commissioner of police, said it would be easier for the department to curb crimes against women once the women brigade was in the field. The article states, "Last year Delhi witnessed 551 rapes, whereas in the first 7 months of this year the number has crossed 400." She stated that Delhi police force was also introducing a new system of Women Beat Constables in certain areas, aimed at combating crime against women, in particular molestations and 'eve-teasing' (a term used to denote harassment of women). [101]

6.445 As noted in Amnesty International's Regional Overview 2004 for Asia and the Pacific: "In Jammu and Kashmir, a paramilitary unit, the Rashtriya Rifles, was reported to be responsible for a series of sexual assaults on women. In Manipur, northeast India, the alleged sexual assault and killing in custody of a young woman, Thangjam Manorama, sparked calls for the repeal of security legislation that had facilitated human rights abuses for decades." [3m]

6.446 Amnesty International reported in their 2005 report for events covering 2004:

"Impunity continued for most perpetrators of widespread rape and killing in Gujarat in 2002. During the communal violence Muslim women were specifically targeted and several hundred women and girls were threatened, raped and killed; some were burned alive." [3m]

6.447 As stated in a reply by the Minister of State in the Ministry of Home Affairs to an unstarred question in the Lok Sabha for 1 March 2005, the Government of India has been advising the State Governments, from time to time, to take the necessary measures for the prevention of crime against women and other vulnerable sections of society.

"In an advisory sent to the State Governments on 5 May 2004, they have been requested, inter alia, to take following measures to check crime against women:

- Identification of crime prone areas and to put in place a mechanism to monitor infractions in schools/colleges to ensure safety and security of female students,
- Registration of FIR [First Information Report] in all cases of crime against women,
- Prominent exhibition of help-line numbers of the crime against women cells at public places,
- Setting up of women police cells in the police stations and exclusive women police stations where necessary,
- Adequate training of police personnel in special laws who deal with crime against women." [28c]

- 6.448 According to the report commissioned by the Office of the United Nations Resident Co-ordinator in India in 2001 entitled: "Women in India How Free? How Equal?":

"The India constitution guarantees to all Indians the right to bodily integrity, personal safety and security. The last ten years have seen a much greater sensitivity within the police and justice systems to the issue of violence against women, and sustained campaigning by women's groups has led to stringent legislation to protect women from bodily harm. Yet the violence against women appears to be a 'high growth sector'...The rise in reported crimes has occasionally been interpreted as a positive development, showing that more and more women are 'breaking the silence' and an increasingly gender-sensitive police force is recording their complaints with sympathy and efficiency. However the picture becomes disturbing when these statistics are seen side by side with the decrease in the number of convictions and the increasing number of pending cases in the courts." [50] (p71)

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RAPE

- 6.449 The US Department of State report 2005 records that the Home Ministry reported that in Delhi during 2004 there were 490 instances of rape and 489 sexual molestations of women. [2c] (Section 5) "Rape and other violent attacks against women continued to be a serious problem. According to the National Crime Records Bureau (NCRB), in 2004 authorities arrested 133,865 persons for violent attacks against women and there were 12,558 convictions. The NCRB reported 1,157 cases of rape against dalit women in 2004 and 523 cases of rape against the scheduled castes in the first six months of the year. Human rights groups claimed that these numbers were much lower than the actual totals." [2c] (Section 5)

The same report notes that the government prosecuted some rape cases during 2004 but was unable to effectively enforce rape laws. "In January two years after the gang rape of a student from the Maulana Azad Medcial College in Delhi, an additional sessions court gave life sentences to the two accused." [2c] (Section 5)

- 6.450 The 2005 USSD report notes that in June a Muslim woman was raped by her father-in-law in Uttar Pradesh. Following the incident, local community and religious leaders ruled she must separate from her husband and move in with her rapist. They also determined she should treat her former husband as her son, now being married to her father-in-law. The All India Muslim Personal Law Board, responsible for overseeing Muslim family law issues, refused to overturn this decision. Numerous women's organisations protested. However, the chief minister of Uttar Pradesh supported the edict, stating their verdict must have been deeply considered. However, in July, police arrested the father-in-law, charging him with rape and he remained in custody at year's end. [2c] (Section 5)
- 6.451 Six tribal women were raped whilst working in a brick kiln in February 2004 in Lucknow. Initially police refused to lodge a complaint, alleging the three victims had not been raped. Following the intervention of higher authorities, police filed

charges and two suspects were arrested. As reported in the 2005 USSD report. In March a 21 year old woman was stripped and tortured and made to sit on a donkey whilst paraded around Chandupur village in Uttar Pradesh after she was accused of killing a small child by a local mystic. Despite police intervention, no arrest was made. [2c] (Section 5)

- 6.452 AI reported in “The Battle against Fear and discrimination” report that many women victims in India do not report a complaint to the police because they fear it will be dismissed or they will suffer further abuse. Activists told AI in Uttar Pradesh and Rajasthan in December 2000 that the majority of cases were not reported for fear of reprisals and bringing dishonour. Most women will only visit a police station if accompanied by a male relative. As a means of encouraging women to register complaints to the police, Mahila thanas (women’s police) stations were established in many states. [3e] (p17-18)
- 6.453 According to an Amnesty International report of 2003, “India, Break the cycle of impunity and torture in Punjab”: “Women are particularly vulnerable to police abuse. Rape and other forms of sexual harassment are reported to be frequent forms of torture in police custody. Their humiliation is often greater as they are often tortured solely as a means of putting pressure on their husbands and families.” [51] (p16)
- 6.454 It is noted in the USSD 2005 report, published in March 2006, that:
- “The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape was more common than the NHRC [National Human Rights Commission] figures indicated. A higher incidence of abuse appeared credible, given, other evidence of abusive behaviour by police and the likelihood that many rapes were unreported due to the victims sense of shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared effectively to limit the frequency of rape in custody. There were no recent NHRC data on the extent of this problem.” [2c] (Section 1c)
- 6.455 The same report notes that: “In February a soldier with the Tripura State Rifles raped a minor girl in West Tripura district. Public outrage led to his arrest.” [2c] (Section 1c)
- 6.456 As noted in a Penal Reform International report 2003, counselling units are now being operated by PRAJA in women’s prisons across Andhra Pradesh. They counsel women and in addition provide legal and social awareness training. This was one of the recommendations in the PRAJA/PRI report on a mental health and care project for women and children imprisoned in Andhra Pradesh, published in October 2001. The report convinced the State’s Prisons Department of the need for counselling units and resource centres in women’s prisons. [53] (p4)
- 6.457 According to a BBC news article dated 19 December 2003 Delhi is to set up special courts to hear rape cases that will be prosecuted and judged by women. “The city’s police argue that courts dedicated to crimes against women can deliver justice faster. There were over 300 cases of rape filed last year in Delhi. Women’s rights activists say the social stigma attached to victims prevents many coming forward with complaints.” Even fewer take their alleged attackers to court:

“The new move will add to the three current special courts in the capital in which women judges deal with sexual harassment and dowry related offences...The minimum punishment for rape is seven years and a section of society is now demanding the death penalty for rapists.” [32ce]

6.458 As reported in the Human Rights Watch Annual Report 2005:

“Activists continue to campaign for reform of rape laws to protect women and children from all forms of sexual violence. The pervasive understanding of ‘rape’ is that it occurs only when a stranger uses force on a woman. A marital exemption protects men from being prosecuted for raping their wives. Marital rape is not recognized or penalized unless the wife is under the age of fifteen or if she lives separately from her husband.” [26e]

6.459 As reported in a BBC article dated 23 June 2005:

“An Indian court has sentenced five men to life imprisonment and imposed 23 year jail terms to seven others after a mass rape four years ago. The men were found guilty of raping 15 women in a remote village in the western state of Maharashtra. Two others were acquitted. The court said the men jailed for life should not be granted bail and should remain in prison until they die. In India, life imprisonment is generally equivalent to 14 years.”

BBC correspondents say the defendants were said to be members of a feared gang of bandits:

“Some of the 52 witnesses who gave evidence said that the raped villagers endured a four hour ordeal, and throughout that time their village was plundered. The victims were aged between 26 and 70, and in some cases were repeatedly raped. Women’s rights groups claim that hundreds of rapes go unreported in India for fear of social discrimination. Correspondents say that latest government figures show there were more than 16,000 rapes in India in 2002.” [32ic]

6.460 BBC News reported on 15 June 2005:

“An Indian woman who was allegedly raped by her father-in-law is now being ordered by a Muslim council of community elders to marry him. The council says under Islamic law the rape has nullified her marriage, according to media reports. But a top Muslim body in India has rejected the argument saying it is not valid under Sharia (Islamic) law. It says the council was not authorised to give such a verdict and added that the alleged rapist should be punished. Reports say the 28-year-old woman was raped when she was alone at home in Charthawal, in the northern Indian state of Uttar Pradesh. When the incident came to the notice of the council, it ordered that she marry her father-in-law and change her relationship with her husband to that between a mother and son. It also ordered her to leave her home and stay away for seven months and 10 days to become ‘pure’. A senior police officer, Amrinder Singh Senger, told the BBC that police have now filed a case against the woman’s father-in-law. India’s National Commission of Women has also asked for a report from the government in the state of Uttar Pradesh, where the incident took place. ‘We have requested the government to take action against the guilty and also pay compensation to the victim,’ NCW president Girija Vyas told the BBC. A representative of a top Muslim body in India, the All India Muslim Personal Law

Board, said the case should be dealt with under Islamic law. 'Under the Sharia law, whatever happened with the victim is wrong and if her father-in-law has raped her, he should be sentenced to death,' the representative, Zafarab Geelani, said." [32id]

6.461 BBC News reported on 9 March 2005:

"A court in India has handed down the death penalty to two people convicted of the rape and murder of an eight-year-old girl. The crime was committed in the north-eastern city of Guwahati more than two years ago. Most Indian rights groups oppose the death penalty and say life sentences are a more appropriate punishment...The death penalty is rarely carried out in India. It is usually reserved for particularly heinous crimes or in politically sensitive cases. However, this is the third time in a year the country's courts have handed down the death penalty to people convicted of rape and murder." [32ii]

6.462 BBC News stated on 20 October 2005 two policemen were arrested accused of rape. The two incidents occurred within 24 hours of each other. A constable allegedly raped a rag-picker near the airport at Mumbai and in another incident in the centre of the city another constable was arrested for allegedly raping a former dance bar worker prior to their closure. Both constables were suspended from duty and await trial in police custody. [32ix]

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WOMEN IN POLITICS

6.463 As cited in the US State Department Report 2005 (USSD) published on 8 March 2005: "There were 69 women in the 783-seat legislature, and 7 women in the Cabinet of Ministers. Numerous women were represented in all major parties in the national and state legislatures. Constitutional amendments passed in 1992 reserved 33 percent of seats for women in elected village council (panchayats)." [2c] (Section 3)

6.464 *India Today* reported in July 1998 that there had been a prolonged debate over the reservation of parliamentary and State assembly seats for women. In recent years Indian governments had pledged to introduce legislation which would guarantee that at least 33% of MPs would be women. [11b] As reported by the BBC on 7 March 2003, a Bill had twice been introduced into Parliament, but had yet to be passed. By March 2003, a consensus had still not been reached among political parties discussing the issue. [32aq]

6.465 According to Keesings Record of World Events for May 2003, the Women's Reservation Bill, which sought to reserve one third of seats in the Lok Sabha for women, was again effectively stalled on 6 May 2003 after male legislators opposed to it, engineered a disruption in the Lok Sabha. The speaker of the house adjourned the discussion of the bill, effectively ensuring its deferral. Although the BJP and the main opposition Congress (I) were united in support of the bill some parties in the ruling National Democratic Alliance and other opposition parties were determined to thwart its progress. Only 10 percent of MPs were women as at 2003. [5p]

- 6.466 As reported in a BBC news article dated 20 November 2003, women were on the rise in Indian elections:

“High profile female candidates were fighting pitched battles in at least 3 of the four states in key state elections in December 2003. Delhi had 77 female candidates, an increase from 58 in the last elections, Congress party fielded 40 women candidates in Madhya Pradesh. The total number of women candidates was less than 10% of the total contestants. A study conducted by the Delhi based Centre for Social Research showed the winning percentage of women candidates to be much higher than their male counterparts. The study was based on an analysis of the last five general elections since 1972. Analysts say a slow but definite change is emerging in people’s perception of women politicians.” [32cf]

- 6.467 A BBC news report dated 8 December 2003 further stated that while India had seen a number of women leaders, they had not overseen any remarkable change in the status of women in Indian society:

“The two main national parties, the BJP and Congress, have always advocated strong support for reserving a third of seats for women in national and state parliaments. But these attempts have failed and the national parliament percentage for women stands at only 17. The federal cabinet has less than 10% women.” [32cg]

- 6.468 A report issued by the Government of Tamil Nadu in 2003 noted that despite the differences in participation in voting between men and women in Tamil Nadu being small, gender difference in achieving positions of power through elections was higher, with the percentage of female members of parliament being consistently lower than eight per cent. [18] (p103)

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WOMEN IN THE WORKPLACE

- 6.469 The US State Department Report 2005 (USSD) published on 8 March 2006 notes that:

“The law prohibits discrimination in the workplace; however, enforcement was inadequate. In both rural and urban areas women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported microcredit programs for women began to have an impact in many rural districts. In March the government amended the law to provide flexibility for women to work in factories on the night shift. Women’s organizations welcomed the move but stressed the need to improve security for such women.” [2c] (Section 4)

- 6.470 As noted in the USSD report for 2005:

“Sexual harassment was common, with a vast majority of cases unreported to authorities. A 2003 study by a senior Professor at the Madras Institute of Development Studies chronicled the hazards faced by some women in the

workforce. Among these were physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In June 2004 a joint report released by the NCW [National Commission for Women] and the national press institute found that most women experienced gender discrimination at their workplaces. Attempts by women to report harassment resulted in further problems or dismissal..." [2c] (Section 4)

The same report notes that, "In April 2004 the Supreme Court determined that a victim of sexual harassment had a right to compensation based on the findings of an internal departmental report or investigation of the case." [2c] (Section 4)

6.471 As reported by BBC news on 27 July 2005:

"India's Supreme Court has upheld the conviction for sexual harassment of a policeman who became a national hero. 'Super cop' KPS Gill must pay more than \$4,500 compensation to a female civil servant who said he slapped her bottom while drunk at a 1988 cocktail party. The Supreme Court ruled a three-month prison term for Gill. Gill, now retired, denied the charges. He shot to prominence as Punjab police chief in the early 1990s when he led efforts to crush Sikh militancy."

Gill was head of Punjab police when he molested a senior female bureaucrat and was convicted ten years later of "outraging her modesty". In 1988 the Sessions court in Punjab sentenced him to three months in prison which was later commuted to a year on probation by the state high court, which ordered him to pay compensation to his victim plus a fine. "Upholding the conviction, two Supreme Court judges...ordered that the officer pay the compensation as well as \$500 in legal expenses." The Supreme Court also ordered him not to drink in public. The judges did not deem a custodial sentence necessary as he had already served probation. [32ii]

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ORGANISATIONS OFFERING ASSISTANCE TO WOMEN

6.472 As noted in the US State Department report of 2001: "There are thousands of grassroots organisations working for social justice and economic advancement of women, in addition to the National Commission for Women. The Government usually supports these efforts, despite strong resistance from traditionally privileged groups." [2a] (Section 5: Women)

6.473 According to the South Asian Women's Organisations website, several organisations dealing with women's issues can be found on the website of the South Asian Women's Network (SAWNET). [25a] As noted in FCO correspondence dated November 2003, in 2001, the Government of India drafted The National Policy for Women after consultation with NGOs, gender experts and sociologists. This policy recognises the constraints women face in the social, economic and political spheres. The Tenth Plan is committed to implementing this policy. [7h]

6.474 According to the UN commissioned report 2001, "Women in India, how free, how equal?":

“Indian women have far greater visibility and voice than they did fifty years ago – they have entered into and created impacts in every sphere of public activity. There are many strong and vibrant movements around issues of importance not only to their own lives, but also to the country as a whole. Movements in India – for the right to control and manage natural resources, the right to information, the right to participation in decisions and development – have set the parameters of global debates on these issues. Millions of women are part of these struggles and movements. Tangible proof of the relevance and effectiveness of Indian women’s movements, is the fact that the issue of women’s rights is today a central tenet of political and development discourse in India. Affirmative actions for women’s political participation, the implementation of major poverty alleviation programmes through women’s groups, the review of laws and regulations to ensure women’s equality – all demonstrate this recognition at the political level and at the level of policy. Nevertheless there is no denying the facts documented in this report – evidence of the huge gaps between constitutional guarantees and the daily realities of women’s lives.”
[50] (p79)

- 6.475 As reported in the US State Department Report 2003 (USSD) published on 25 February 2004, the Government addressed women’s concerns primarily through the National Commission for Women, but NGOs were also influential. [2h] (Section 5: Women)
- 6.476 Amnesty International in their “Battle against fear and discrimination” report, welcomed the Policy on Empowerment of Women as a symbol of the Government’s commitment to empower women and to bestow rights with equality. However AI criticised the “contradictory character” of the Indian State. [3e] (p30) Amnesty delegates recognised good administrative policies and practices when they visited Uttar Pradesh and Rajasthan. They saw the idea behind the Zilla Mahila Sahayata Samitis (District Women’s Support Committees) in Rajasthan as a positive step. However, they levied some criticism. In Rajasthan regular meetings are held between members of the women’s movement and the Home Commissioner and additional Director General of Police. This was seen as an extremely effective mechanism for ensuring that action was taken in several individual cases; however, it was dependent on a measure of goodwill being established between the women’s movement and organs of government. AI commented that this was absent in many states. [3e] (p31)
- 6.477 As stated in the National Commission for Women website: Legal Awareness Programme, accessed April 2004: “The National Commission for Women regularly extends financial support to NGOs and educational institutions to conduct Legal Awareness Programmes to enable women and girls to know their legal rights and to understand the procedure and method of access to the legal systems.” Fifty-five Legal awareness programmes had been conducted. [47b]
- 6.478 As noted in Amnesty International: “The battle against fear and discrimination” report:
- “Outside the formal criminal justice system, women in India can turn to other bodies for support and redress. There are a large number of active non-governmental and voluntary organizations which provide legal support to women. However, given their localised nature, the lack of resources available

and the vulnerability of such initiatives to pressure from families, police, community or state, these initiatives cannot wholly address the scale of the problem in a country the size of India.” [3e] (p29)

According to AI:

“Women activists in India have played a crucial role in highlighting the problems faced by women. Delegates saw clear evidence of this in Rajasthan and Uttar Pradesh where alliances of women’s organisations come together regularly in protest of incidents of violence and pressure the authorities to take action against the perpetrators. Many victims would be alone without redress for justice, without such pressure... Many of the positive initiatives of the state have been taken as a result of the forceful arguments of the women’s movement in India.” [3e] (p6)

- 6.479 The Centre of Social Research (an NGO for women in India) website lists non-governmental organisations involved in combating violence in Delhi and it states that the organisation can be contacted for help or counselling. Crime Against Women cells throughout Delhi are listed, as are a number of shelter homes and counsellors. [54] (p1-3)
- 6.480 SAWNET, an NGO, in a domestic violence report, lists various organisations available to women who suffer domestic violence. Delhi based Sakshi helps as violence intervention for women and children with their work on sexual harassment, sexual assault, child sexual abuse and domestic violence and with a focus on equality education for judges, implementation of the 1997 Supreme Court Sexual Harassment Guidelines, outreach and education. The Women’s Rights Initiative [based in New Delhi] runs a pro bono legal aid cell for domestic violence cases and is associated with law reforms in connection with domestic violence. [25b] (p1-2)
- 6.481 A BBC news report dated 22 July 2005; gives an overview of the work of a women’s organisation called Sewa.

“Sewa is India’s first and largest union in the informal, unprotected sector – 93% of India’s workforce is in this sector – and claims to have 700,000 members across seven states. The organisation runs 60 rural and urban literacy classes for girls and women across Gujarat. It has taught illiterate women to operate video cameras and to film their working lives, trained grassroots activists to go out and offer help to women with their most pressing problems – from small loans, to minimum wages, access to water, health insurance, work skills, and childcare. It has taught rural barefoot doctors.”

[Members of Sewa describe themselves as a women’s movement, a development movement and a cooperative movement] Sewa early on realised the poorest women had no access to finance so they set up their own bank, enabling women who saved regularly, even if only a few rupees per week, to get a loan. They set up health insurance and provided basic health training:

“Sewa has a long track record in promoting cooperatives...Sewa also worked in the camps for Hindus and Muslims displaced by the communal riots in Gujarat in 2002 violence, and is committed to supporting some of the orphans through to adulthood...They continue to fight for women’s rights, from grassroots to

international level, but they are also in business, from the home worker to global exports.” [32hp]

- 6.482 As reported by Amnesty International in a report on women in Andhra Pradesh and Rajasthan, many states have set up Mahila thanas (women’s police stations) to encourage women to register their complaints with the police. However, the majority of these are in large cities, thus denying access to the most marginalised women in rural areas and there are few of them even in large cities. Rajasthan had nine and was planning to establish a further three as at December 2000. [3e] (p18)
- 6.483 According to an article in *The Times of India* dated 15 May 2003, a two-day training programme was organised for the Mahila Samajik Suraksha Samiti (MSSS) at the Pune rural police headquarters in May 2003. The first MSSS was formed in 1986 in Mumbai. The main aim of the MSSS is to address such issues related to women and children as domestic violence and sexual harassment. “MSSS also helps distressed women seek rehabilitation, education, legal help and social acceptability.” The main focus of appointing rural women as MSSS representatives in various rural areas was to develop a good rapport with rural women and it was reported that “These women will act as immediate mediators between the police force and women from rural areas.” It was also hoped that it would help improve law and order and curb crimes against women. [13a]
- 6.484 An article published in *The Times of India* dated 21 July 2004 reported that the Delhi Commission for Women had proposed that a scheme be introduced in the forthcoming budget so that the city’s destitute women could be given Rs 500 per month. The Chairman of the Commission indicated that the women were often deserted and had gone through horrific experiences of physical and mental torture and although there has been no study on the numbers of destitute women in Delhi she believed the number to be quite large. [13e]
- 6.485 A report issued by the Government of Tamil Nadu in 2003 on Human Development in Tamil Nadu noted that institutional structures including all-women police stations, free legal aid boards, family counselling centres and the State Commission for Women had been established. In addition, several NGOs were working to prevent atrocities against women. The report further stated:
- “Recognising that the attitude of the police is one of the barriers to institutional redress, the State Commission for Women has initiated gender sensitization of Tamil Nadu Police functionaries and legal literacy programmes for teachers with the support of NGOs.” [18] (p111)
- 6.486 As noted in the USSD report covering 2005: “The government took a number of steps to assist female crime victims. These include establishing telephone help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue.” [2c] (Section4)
- 6.487 As cited in a Ministry of Home Affairs answer to an unstarred question (no.3005) in the Lok Sabha for 22 March 2005: “The Government of India has issued guidelines to the State Governments to give more focused attention to improving the administration of criminal justice system and to take such

measures as are necessary for prevention of crime against women. The steps taken by Delhi Police to check crime against women and children include:

- Establishment of a Crime Against Women Cell;
- Setting up of Rape Crises Intervention Centres in all the nine Police Districts;
- Association of Women Police Officers in investigation of rape cases;
- Setting up of Special Courts headed by Women judges to try rape cases;
- Networking with Non-Governmental Organisations;
- Deployment of staff in plain clothes at vulnerable places;
- Starting of dedicated telephone helplines;
- Constitution of 'Women Mobil [sic] Team' to attend to distress calls from women on round-the-clock basis;
- Briefing of the police personnel regularly to be more vigilant to prevent crime against children;
- Deployment of Police personnel at schools specially to keep watch on suspicious persons at the time of opening and closing time of schools;
- Advising school authorities in Delhi not to allow the children to go out of the school premises during school hours and to persuade the parents to educate the children not to mix-up/be friendly with strangers and also not to accept any gift or eatable from any unknown person; and
- Collection of intelligence to identify and keep watch on gangs and persons suspected to be involved in committing crime against children." [28b]

6.488 An article in *The Asian Age*, New Delhi, dated 28 August 2005 states that in New Delhi:

"In a move to curb rising crime against women, Delhi police is recruiting 1,000 more women personnel. The recruitment process has already begun and women police will be trained and deployed within the next 18 months...The current drive is a step in the direction of having 10 percent women in the police force...Last year Delhi witnessed 551 rapes, whereas in the first seven months of this year the number has crossed 400. The Delhi police is also beginning next week, a new system of Women Beat Constables in certain areas. The system, aimed at combating crime against women particularly molestation and eve teasing..." [106]

6.489 The USSD report 2005 states that

"In July 2004 the National Commission for Women (NCW) directed all mental hospitals to check the legitimacy of insanity certificates after receiving reports of husbands falsely committing their wives to obtain divorces. The NCW issued the edict after authorities accused a resident psychiatrist at the Agra Mental Asylum of issuing false insanity certificates for this purpose. On July 23, the Agra police arrested the doctor, who remained in judicial custody at year's end." [2c]

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CHILDREN

6.590 As reported in the US State Department report 2005 (USSD):

“The government has not demonstrated a commitment to children’s rights and welfare and does not provide compulsory, free, and universal primary education. According to the Government’s statistics from 2003, 165 million of the 203 million children between the ages 6-14 attended school. The upper house of Parliament failed to take any action on the constitutional amendment passed by the lower house of Parliament in 2002 that provided free and compulsory education to all children aged 6 to 14.” In contrast to the government’s figures, UNICEF reported that approximately 120 million of the country’s 2003 million school-aged children attended primary school, a net primary school enrolment/attendance rate of 77 percent. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001. The government initiated a plan to provide free schooling for girls from single-child families. The program would also provide a \$45 (Rs.2,005) per month stipend for university studies. Under the scheme, families with only two girls will get a 50 percent reduction in primary education fees.” [2c] (Section 4)

6.491 According to a UN report dated June 1996, a National Policy for Children has been designed by the Government for the welfare of children and is implemented by the Ministry of Welfare. The Juvenile Justice Act lays down a scheme for the care and protection of neglected and delinquent children. India has ratified the Convention on the Rights of the Child. [6a] (p37)

6.492 As reported in the USSD 2005 report: “The government was responsive to some incidents of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months.” [2c] (Section 6d)

6.493 As noted in the USSD report covering 2005:

“The Government participated in the ILO’s International Program on the Elimination of Child Labor (IPEC). Approximately 145 thousand children were removed from work and received education and stipends through IPEC programs since they began in 1992. The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC [National Human Rights Commission] also intervened in individual cases. Press reports said that a Madurai NGO rescued 33 children who had been sold into slave labor during the year.”

The report further states that:

“The Government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the work place; however, NHRC officials admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the commission was focusing on the adequacy of existing legislation.” [2c] (Section 6d)

- 6.494 The USSD 2005 states that, "There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in factories, mines and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m and 7 p.m, with 1 day's rest weekly." [2c] (section 6d)
- 6.495 The USSD report covering 2005 noted that:
- "The government assisted working children through the National /Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates penalties for employers of children in hazardous industries to be \$430 (Rs. 20 thousand) per child employed, and establishes a welfare fund for formerly employed children. The government is required to find employment for an adult member of the child's family or pay \$108 (Rs five thousand) to the family...Employers in some industries took steps to combat child labor...According to the South Asian Coalition on Child Servitude, authorities were pursuing over six thousand cases against employers. NGOs noted that requiring the government to pay the family of a child laborer or finding the adult family member a job could be a disincentive to investigating crimes." [2c] (Section 6d)
- 6.496 As noted in the USSD 2005report:
- "In 2000, the Government issued a notification prohibiting government employees from hiring children as domestic help; however, this did not prevent nongovernment employees from employing children as domestic help, and many children were employed as domestic help throughout the country... Those employers who failed to abide by the law were subject to penalties specified in the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace." [2c] (Section 6d)
- 6.497 As recorded in the Human Rights Watch Annual Report 2005, "India has the largest number of working children in the world, millions of whom work in the worst forms of child labor, including bonded labor." [26e] (p3)
- 6.498 According to a Human Rights Watch (HRW) press release dated 23 January 2003, Human Rights Watch first investigated bonded child labour in India in 1996. Since then, the Supreme Court made rehabilitation of child workers a legal requirement, and India's National Human Rights Commission has successfully pressured some local governments to act. However, HRW considered that the Indian Government was failing to protect the rights of hundreds of thousands of children and that there was evidence that the Government was starting to backtrack on earlier commitments. [26b]
- 6.499 As noted in the USSD report covering 2005: "Estimates of the number of child laborers varied widely. According to the Ministry of Labor and Employment census, there were 12.7 million child laborers in the country. The government reported that Delhi had 41,899 child laborers. Through the Child Labor (Prohibition & Regulation) Act, 1986, the government convicted 1,799 offending employers in 2001-02, 325 in 2002-03 and 3,910 in 2003-2004. The ILO estimated the number at 44 million. However, NGOs asserted the number of child laborers is closer to 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their

parents as paid agricultural laborers, or worked as domestic servants.” [2c] (Section 6d)

6.500 The USSD report covering 2005 noted that the working conditions for children in the workplace often amounted to bonded labour:

“Children were often sent away to work because their parents could not afford to feed them or in order to pay off a debt incurred by a parent or relative. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents’ consent.” [2c] (Section 6d)

6.501 As reported by BBC News on 1 June 2005, police in Mumbai say they freed nearly 450 child labourers in a series of raids. Forty-two people were arrested on suspicion of recruiting the children, who according to the police appeared malnourished. The children, aged between five and 14, had been brought to work in small workshops in Mumbai making leather goods, clothes and jewellery. Employing children under the age of 14 is illegal in India, but according to child welfare groups the practice is widespread. [32hh]

6.502 As reported in the USSD report covering 2005: “According to UNICEF, in 2004 the country contained half the one million children worldwide who entered the sex trade.” [2c] (Section 5)

6.503 As cited in the USSD report covering 2005, “The law prohibits child abuse; however, there were societal patterns of abuse of children, and the Government did not release comprehensive statistics.” [2c] (Section 5)

6.504 The same report notes: “The buying and selling of female children was a common practice in rural Tamil Nadu.” For example police arrested a 55 year old man who sold an 18 month child to a woman in September. [2c] (Section 5)

6.505 The same report continues, “The Government was responsive to some claims of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months.” [2c] (Section 5)

6.506 As noted in the USSD report covering 2003: “The Union Ministry of Social Justice and Empowerment set up a 24-hour ‘child help line’ phone-in service for children in distress in 14 cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation.” [2h] (Section 5: Children)

6.507 As reported in the USSD report covering 2005, “The law prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18; however, according to the Health Ministry’s Country Report on Population and Development, published during the year, half of all women were married by the age of 15...In April the NCW launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Program), a

nationwide awareness program against child marriages with particular focus on the states of Bihar, Rajasthan, Chattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh.” [2c] (Section 5)

- 6.508 Aid workers claimed some children who were rescued from illegal working in Delhi were refusing to leave their jobs to return home. Indian authorities rescued almost 500 children aged between five and 14 years in one of the biggest raids in Delhi in November 2005. The raids were carried out by the labour department and the Delhi police. In south Delhi a temporary shelter has been set up by an NGO for the rescued children accommodating some 60 boys in a large hall. There are nine similar shelters within the complex. The children were to be kept for a week when they would be produced in court then arrangements made for their return home. Some allegedly tried to escape from the shelter, wishing to return to work. It was reported that most children had nothing to return to as their parents were unable to provide for them. [32iz]

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CHILD CARE ARRANGEMENTS

- 6.509 According to their website the Ministry of Social Justice provides assistance to State Governments for the establishment and maintenance of a range of children’s homes. There are at present 280 “observation homes”, 251 “juvenile homes”, 36 “special homes” and 46 “after care institutions” in the country. (A Programme For Juvenile Justice) [14]
- 6.510 The majority of orphanages throughout India are run by charities and religious organisations making it difficult to determine the exact numbers. Orphanage.org, accessed 15 December 2004, lists 62 orphanages throughout India. [89] (p3-4) However, the site only lists orphanages with a direct link to a web site. The Hindu published a report on 7 March 2004 regarding the regulation of orphanages in Tamil Nadu. The report noted that:
- “More than a year after the State Government made it mandatory for all institutions for the reception, care, protection and welfare of destitute women and children to be registered under the Orphanages and Charitable Homes Act, 1960, only 566 of them have been recognised.” [60c]
- 6.511 As noted in *The Hindu* on 28 February 2005, according to the law only Hindus are allowed to adopt. Guardianship ends at the age of 18 for girls and 21 years for boys. Legally the relationship finishes once the child is an adult. [60e]
- 6.512 As reported by BBC News on 3 March 2005: “Around 200 children were orphaned and many more lost one parent when December’s tsunami struck the district of Nagappattinam in Tamil Nadu state, the worst-affected region in India. The local administration has handled scores of queries from individuals and organisations wanting to adopt the children. But fears of human trafficking have made the government tread with caution. The emphasis now is on rehabilitating these children in the local communities.” [32hn]

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

- 6.513 According to Foreign and Commonwealth Office correspondence dated 1996, homosexuality as such is not illegal in India. Section 377 of the Indian Penal Code (1860) proscribes “unnatural offences”, which are defined as penetrative intercourse “against the order of nature” with man, woman or animal. Certain practices might therefore be deemed illegal in India. However the scope of the definition has not been much tested in the courts and cases under section 377 are rare. [7b] According to a report for the Swedish Embassy by a Delhi law firm in 1997, “It is punishable with ten years’ imprisonment and a fine; however no-one so far, is known to have been awarded a ten year sentence for having been found guilty of this offence. The maximum punishment reported is two years.” [48] (p2) However, Arvind Narrain of the Alternative Law Forum, in an article entitled – “Homosexuality in India, Where Tradition Still Rules” (published 8 June 2003) is quoted as saying, “Section 377 is used to criminalise and prosecute homosexuals. It actually legitimises the abuse of homosexuals.” [75] (p1) The Times of India, in an article dated 18 September 2003, reported the view of another gay rights activist who considered that “Gays are beaten up and even raped under the cloak of this law [Section 377].” [13c] (p2)
- 6.514 As reported in the US State Department report covering 2005: “Section 377 of the Penal Code punishes acts of sodomy, buggery and bestiality; however, the law is commonly used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups stated that gay and lesbian rights were not considered as legitimate human rights in the country.” [2c] (Section 5)
- 6.515 The same report continues, “Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation were fired from their jobs. Homosexuals also faced physical attacks, rape and blackmail...In January 2004 a Mumbai High Court ruled that HIV-positive persons could not be fired on the basis of their medical status.” [2c] (Section 5)
- 6.516 The International Lesbian and Gay Association world legal survey (last updated in 1999) states that same-sex male sexual activity is illegal and is punishable under Unnatural offences 377 of the Indian penal code. [49]
- 6.517 As reported in an article on the International Gay and Lesbian Human Rights Commission (IGLHRC) website, dated 31 January 2005:
- “According to IGLHRC, India is one of 79 countries that maintain laws directed at or used to outlaw sex between people of the same sex... India’s law, Indian Penal code Section 377, criminalizes ‘voluntary carnal intercourse against the order of nature’. Although it bans these acts committed by anyone, the law is commonly used to target, harass and punish sexual minorities. In a 2001 report, ‘Human Rights violations against Sexual Minorities in India’, the People’s Union for Civil Liberties - Karnataka documented widespread police harassment, abuse and extortion against LGBT people and other sexual minorities in India... The report also documents in detail the impact of local media and popular psychology instilling fear and creating a hostile climate for LGBT people.” [92]
- 6.518 As noted in the same report:

“A recent attempt by Indian advocates to challenge the constitutionality of Section 377 was rejected by the Delhi High Court on September 2, 2004. The Court claimed that the deletion of Section 377 from the Indian Penal Code would ‘open flood gates of delinquent behaviour and be misconstrued as providing unbridled license to such behaviour’. An affidavit submitted by the government in support of the law claimed that Section 377 was necessary ‘to provide a healthy environment in the society by criminalizing unnatural sexual activities’.” [92]

- 6.519 According to a report published by the People’s Union for Civil Liberties – Karnataka in February 2001: “Many people deny the existence of sexuality minorities in India, dismissing same-sex behaviour as a Western, upper class phenomenon. Many others label it as a disease to be cured, an abnormality to be set right or a crime to be punished. While there are no organised hate groups in India as in the West, the persecution of sexuality minorities in India is more insidious.” [74] (p18)
- 6.520 The People’s Union for Civil Liberties – Karnataka reported in February 2001 that “All sexuality minorities, i.e. gays, bisexuals, lesbians, transgender, transvestites, hijras [hermaphrodites or eunuchs] and other homosexual men and women, suffer in different degrees social and political marginalisation due to their sexuality and or gender.” The report found a sharp increase in the numbers of attacks on sexuality minorities in Bangalore, including harassment and illegal detention by the police of gay and bisexual men in public places. [74] (p8)
- 6.521 According to the People’s Union for Civil Liberties – Karnataka (February 2001), testimonies gathered for the purpose of the report found that oppression by the police counted as the major concern of gay, bisexual and transgender people. Such abuse by the police generally consisted of extortion, illegal detention and abuse. Extortion usually involved the threat of “outing” to family and the wider community unless a bribe was paid. Reports of illegal detention, varying from overnight to a few days and verbal and physical abuse and/or sexual abuse were reported as common. [74] (p13)
- 6.522 However, according to the People’s Union for Civil Liberties – Karnataka (February 2001), one welcome development was the formation in April 2000 of a coalition of sexual minorities (including a lawyer’s collective and a woman’s group) to resist increasing police violations. [74] (p15)
- 6.523 According to a BBC news article dated 29 May 2001, homosexual relationships are not unheard of in India, but they generally exist in the country’s larger cities where people can be more open about their sexuality. [32ae] According to the People’s Union for Civil Liberties – Karnataka (February 2001), a number of cities and larger towns, such as Delhi, Mumbai, Calcutta, Bangalore, Hyderabad, Pune, Chennai, Patna, Lucknow, Akola, Trichi and Gulbarga, had a number of resources for gays, lesbians and transgender communities that include – help-lines, publications/newsletters, health resources, social spaces and drop-in centres. [74] (p8)
- 6.524 As reported in a BBC news article dated 29 May 2001, in May 2001, it was reported that a lesbian couple had married in a Hindu ceremony, believed to be one of the first gay weddings in the country. The marriage still needed the approval of the local registrar to be legalised. The registry office refused to

grant approval because Indian law does not recognise gay marriages. Gay rights campaigners, however, welcomed the news. [32ae]

6.525 India's gay community has begun to assert itself in recent years. According to a BBC news report dated 29 June 2003, cities such as Bombay and Bangalore have become centres for gay culture. [32bd] The BBC reported on 19 June 2003 that there are regular gay parties in bars and pubs. There are other gay clubs in cities such as Delhi and Bangalore. [32be] It was reported by the BBC on 29 June 2003 that up to 100 people marched in a gay rights parade in Calcutta. [32bd]

6.526 As reported by BBC news on 6 June 2005, "Throughout South Asia, homosexuality has been a taboo subject. There are signs in some areas that gay people are now becoming more open – but that is not always the case." In Kanpur a lesbian couple attempted suicide because their parents had forced them to marry men. "Several organisations have now demanded that the law be amended to allow same-sex marriages. Legal experts say the government should consider the recent advice of the Supreme Court to re-examine the issue of same-sex marriages." [32gh]

6.527 As reported in a BBC news report dated 4 September 2003, India's eunuchs (Hijra) are demanding the right to be treated with tolerance and respect. [32eh] According to the BBC news report of 4 September 2003, it is estimated that there are between 500,000 and one million hijras living in India. Because of growing societal prejudice, many hijras are unable to find work in their communities and therefore have had to resort to begging and prostitution to survive. It is reported that hijras face routine harassment and abuse by police and the wider community. [32eh]

6.528 As cited in a BBC news report of 4 February 2003:

"A court has said eunuchs are still technically men in a controversial ruling set to force a mayor from a job held for women. The landmark judgement in the central northern state of Madhya Pradesh has thrown the political status of eunuchs throughout India into doubt... In India Eunuchs often form close-knit and ostracised communities. Some are castrated men but others are transsexuals or hermaphrodites who have been rejected by their families. Traditionally eunuchs earn money by singing and dancing at weddings and births but recently they have also started to enter politics, standing as independents and offering an alternative to mainstream political parties." [32ev]

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SCHEDULED CASTES AND TRIBES

6.529 The USSD Background note on India of 2005 notes:

"The caste system reflects Indian occupational and socially defined hierarchies. Ancient Sanskrit sources refer to four social categories, priests (Brahmin), warriors (kshatriya), traders (vaishya) and farmers (shudra). Although these categories are understood throughout India, they describe reality only in the most general terms. They omit, for example, the tribes and low castes once known as 'untouchables.' In reality, society in India is divided into thousands of

jatis – local, endogamous groups based on occupation – and organized hierarchally according to complex ideas of purity and pollution. Despite economic modernization and laws countering discrimination against the lower end of the class structure and outlawing “untouchability”, the caste system remains an important source of social identification and a potent factor in the political life of the country. Nevertheless, the government has made strong efforts to minimize the importance of caste through active affirmative action and social policies. Moreover, caste has been diluted if not subsumed in the economically prosperous and heterogeneous cities, where an increasing percentage of India’s population lives. In the countryside, land reform and economic opportunity through access to information, communication, transport and credit have lessened the harshest elements of the caste system.” [2f](people)

6.530 As noted in the US Department of State report covering 2001 (USSD), Dalits (formerly known as untouchables) are a Scheduled Caste occupying the lowest layer of the Hindu caste system. [2a] (Section 5) As noted in the USSD report covering 2005:

“The law gives the president the authority to identify historically disadvantaged castes, Dalits and tribal people (members of indigenous groups historically outside the caste system). These ‘scheduled’ castes, Dalits and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programmes... According to the 2001 census, scheduled castes, including Dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes were 8 percent (84.3 million).” [2c] (Section 5)

6.531 According to a UNHCR background paper dated October 1998, they include India’s aboriginal inhabitants, or Adivasis, who comprise nearly 200 ethnic and culturally distinct peoples who speak more than 100 languages. They are represented in Parliament but as theirs is usually a minority vote, legislation favourable to their interests can be impeded by vested interests. [6e] (p17)

6.532 As noted in the USSD report covering 2005: “The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offences against disadvantaged persons and provides for stiff penalties for offenders; however, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase, and that it claimed hundreds of lives. Caste violence was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.” [2c] (Section 5)

6.533 According to a United Nations report dated June 1996, the National Commission for Scheduled Castes and Tribes was established in March 1992. It serves to ensure observance of the measures taken to promote the educational and economic interests of these groups. These include reservation of seats in public services, administration, Parliament and State legislatures, and the setting up of advisory councils and separate departments for the welfare of vulnerable groups. The Commission has the powers of a civil court in investigating violations of rights guaranteed to Scheduled Castes and Tribes. [6a] (p9-11)

6.534 As noted in the USSD 2005 Report:

“The 1955 Civil Rights Act made the practice of untouchability, which discriminates against dalits and other people defined as Scheduled Castes, a punishable offense; however, such discrimination remained ubiquitous, stratifying almost every segment of society. Many members of lower castes were relegated to the most menial of jobs and had little social mobility. The widespread belief that dalits and low caste Hindus, Muslims, Christians, and Sikhs were inferior compounded the discrimination they faced. Despite stated efforts by the government to eliminate the discriminatory aspects of caste, the practice remained, and widespread discrimination based on the caste system occurred throughout the country. Human rights groups asserted that the government was not committed to ending caste-based discrimination, pointing at the government’s failure to fill over 50 thousand vacant positions specifically reserved for dalits.” [2c] (Section 5)

6.535 According to Minority Rights Group International bulletin dated 15 March 2004, “Dalits in India who have converted to Christianity not only continue to face caste discrimination, they also lose privileges accorded by the government to Hindu Dalits. Eighty four percent of all Dalits live in rural parts.” [52a]

6.536 As cited by Human Rights Watch in the World Report 2005, “Despite legislative measures to protect marginalized groups, discrimination based on caste, social, or religious grounds continues widely in practice. Local police often fail to implement the special laws set up to protect Dalits and members of tribal groups.” [26e] Amnesty International note in their 2005 report that socially and economically disadvantaged groups such as dalits and adivasis continued to be discriminated against by the police and the criminal justice system. [3k]

6.537 Human Rights Watch, World Report 2005, states that:

“Indigenous peoples, or Adivasis, have suffered from high rates of displacement. Scheduled Tribes that make up 8 percent of the total population 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 Land Acquisition Act of 1894 to displace the indigenous peoples from their lands without sufficient compensation, as is evident in the Narmada Valley Development Project. Tribal groups who have converted to Christianity have been targeted for attack by extremist Hindu organizations.” [26e]

6.538 As reported by Minority Rights Group (MRG) on 13 January 2005:

“Dalit communities in tsunami devastated coastal regions of southern India are facing exclusion from relief efforts due to caste discrimination which continues even in the face of massive and indiscriminate natural disaster... Reports have been received of Dalit communities being sidelined for aid delivery, neglected by government officials, excluded from relief camps, bypassed in the delivery of food, water and medical care, and forced to carry out the worst tasks of dealing with bodies and clearance of debris with little or no protective clothing. The National Campaign on Dalit Human Rights (NCHR) has been closely monitoring the situation in the states of Tamil Nadu, Andhra Pradesh and Kerala, and stated that: ‘Dalits are doubly victimized, firstly by the natural disaster and secondly by human made discrimination’.” [52b]

- 6.539 A Human Rights Watch report: "End Caste Bias in Tsunami Relief", dated 14 January 2005, states that HRW received credible reports of discrimination in tsunami-stricken areas against Dalit communities by the authorities, some aid groups and local communities. [26h]
- 6.540 As reported by BBC News in an article dated 1 August 2000, in August 2000, India's then ruling Bharatiya Janata Party chose for the first time a lower caste member to be the party's new President. Banguru Laxman, Junior Minister for Railways, was the first member of the Dalit community to head a major party. [32s] As reported by the BBC on 14 March 2001, Laxman resigned as President of the BJP in March 2001 over a bribery scandal that implicated several senior political figures and bureaucrats. An Indian website accused Laxman of taking money in connection with supposed defence deals. [32ac]
- 6.541 As noted in the US Department of State report covering 2005 (published 2006):
- "Violence against dalits was a problem during the year...Social pressures to enforce caste lines led to episodes of vigilante retribution against dalits who tried to assert their independence. While rare in urban settings, examples of intolerance occurred regularly in rural parts of the country. Complicated social and ethnic divisions in society created severe localised discrimination."
[2c] (Section 5)

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6.C HUMAN RIGHTS – OTHER ISSUES

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS

- 6.542 As reported in the Danish Immigration Service fact-finding report of 2000, UNHCR observed that judging by their general information on Indian nationals who returned after having their asylum applications abroad rejected, returnees did not have problems if they returned with valid travel documents and if their departure had taken place with valid travel documents. Those who had not complied with Indian laws on leaving and arriving in India might be prosecuted. Refused Indian asylum seekers who returned to India with temporary travel documents could enter without any problems, but if they arrived after their passport had expired then they would be questioned about the reasons for this. These arrivals were questioned briefly and could then leave the airport. [37]
- 6.543 As reported in the Danish Immigration Service fact-finding report of 2000, UNHCR also remarked that in cases where the Indian authorities became aware that the person returning had been refused asylum, it was likely that the immigration authorities would detain the person briefly for questioning and then release the individual, unless suspicion was aroused by the returnee's behaviour or the individual was being sought by the Indian security services. Those in the latter group would be thoroughly questioned and, if they were wanted, would be handed over to the security force in question. According to information available to the UNHCR, such questioning in international airports had not led to the use of violence: [37]

"However, it could not be said with certainty what might eventually happen to those arrivals who were wanted by other security forces and were handed over

to them. Strictly speaking they should appear before a judge in 24 hours. However, legal rights were not always observed, eg torture took place, as did other human rights abuses such as a lack of medical treatment during detention, etc.” [37] (p53)

- 6.544 As reported in the Danish Immigration Service fact- finding report of 2000, it would not be seen as an offence to have sought asylum in another country unless the person in question had connections with a terrorist group or a separatist movement and could be connected with activities which might damage India’s sovereignty, integrity or security, or activities which might have a harmful effect on India’s relations with other countries. For Indian asylum seekers who were already wanted by the Indian authorities for earlier offences such as alleged involvement in a terrorist group, arrival in India would certainly lead to prosecution wherever the Indian citizen landed or went afterwards. [37]

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TREATMENT OF REFUGEES

- 6.545 As noted in the USSD report covering 2005:

“The law does not provide for the granting of asylum in accordance with the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees or asylum seekers. The government provided temporary protection to certain individuals who may not qualify as refugees, under the 1951 convention and 1967 Protocol...The UNHCR office had no formal status, but the government permitted its staff access to refugees living in urban areas. The government did not formally recognise UNHCR grant of refugee status although it has provided ‘residential permits’ to many Afghans and Burmese. The government considered Tibetans and Sri Lankans in refugee camps to be refugees, but regards most other groups as economic migrants. However, in recent years, a number of court rulings have advanced the protection of refugees whom the Government had considered to be economic migrants.” [2c] (Section 2d)

- 6.546 According to “Refugees International: India: Nepali migrants in need of protection”, dated 25 July 2005:

“As a result of the nine-year Maoist conflict in Nepal, greater numbers of Nepalis are going to India and these new arrivals are being confronted with the same protection concerns that have plagued generations of Nepalis in India. Under the 1950 Peace and Friendship treaty between Nepal and India, Nepalis have the right to live and work in India and have been coming for decades to India in search of employment opportunities. In theory, Nepalis in India have the same rights as Indian citizens, with the exception of voting rights, yet they are often denied their basic legal rights and are vulnerable to labor rights violations and various forms of exploitation.” [102] (p1)

- 6.547 “The 1950 Peace and Friendship treaty allows Nepalis free access to Indian government schools, provided they have the correct documentation. However, for many migrants, it is difficult to obtain papers, especially since no documents

are needed to cross into India. Without documentation, the Nepalis have no choice but to pay for their children's education in private schools or keep their children out of school. Lack of documentation also hinders Nepalis from opening bank accounts in India, which would make the process of remitting money to Nepal much simpler. In the absence of access to bank accounts, the Nepalis have no choice but to send money via people traveling to and from Nepal. Many of these couriers become the victims of extortion at the hands of petty border officials and guards. Almost all the Nepalis interviewed by RI stressed the need for a registration system for them in India, which would bring with it legal identification." [102] (p2) "Nepalis who have fled to India in search of asylum do not come under the mandate of the Office of the UN High Commissioner for Refugees (UNHCR) because the Government of India insists that the 1950 Indo-Nepal treaty accords Nepali residents in India the same rights as Indians, and therefore they do not qualify as refugees. The Nepalis in India appear to lack organization and to be ignorant about the labor rights entitled to the community, such as fair wages and compensation in case of death or injury. This fragmentation and lack of awareness among the Nepali community is in stark contrast to the knowledge about rights and opportunities possessed by nationals of some of the other countries who have fled to India to escape conflict, such as the Burmese." [102] (p3)

6.548 "Although there are some Nepali service organizations in India, they are politically affiliated and primarily provide assistance to the Nepalis with allegiance to their party. While an initiative such as the one taken in 2005 by the Delhi-based South Asia Study Center to organize and register some of the thousands of *chowkidars* in Delhi is a step forward, such programs are needed all over India for Nepali workers in the informal sector." [102] (p3)

6.549 According to BBC News in an article dated 12 July 2005:

"India's Supreme Court has scrapped a controversial law in the state of Assam that has been used to identify and deport illegal foreign migrants. The law was introduced in 1983 at the peak of a public campaign against the largely Bengali-speaking migrants. However, Assam's minorities came to embrace the law as it placed the onus of proof on the state rather than the individual migrant. Minorities say their only protection from persecution has now been removed. The court annulled the Illegal Migrants (Determination through Tribunal), or IMDT, Act and disputes over citizenship will now be referred to the Foreigners Act, which is used in the rest of the country. 'Bona fide Indian nationals in Assam have no cause for fear but illegal migrants from Bangladesh who entered Assam after 1971 will have to go,' AASU's chief adviser, Sammujjal Bhattacharya, said. During the Bangladesh independence war, many Bangladeshis entered Assam and the regional groups say many never went back after the country gained independence in 1971. But the United Minorities Front of Assam said the scrapping of IMDT would jeopardise many people belonging to linguistic and religious minorities." [32hz]

TREATMENT OF NON-GOVERNMENTAL ORGANISATIONS (NGOs)

6.550 As reported in the US State Department report covering 2005 (USSD):

"A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in a few circumstances, groups

faced restrictions. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities...The government banned 355 NGOs during the year for misuse of funds. In April 2004 ACHR alleged harassment by local authorities, including denial of government services and numerous intimidating visits from the security forces. Other human rights activists and NGOs also complained of surprise visits and other harassment by police and government officials. Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, were attacked in past years and in some cases killed.”

- 6.551 No such cases were reported during the year, although one monitor was killed during the 2004 polls by an improvised explosive device. The report continues:

“International human rights organizations were restricted. Foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes. For example, in 2004, the government did not respond when AI’s secretary general, Irene Khan Zubeida, applied for a visa. This was her third attempt, following unsuccessful visa applications in 2002 and 2003. AI claimed that the repeated visa denials may be linked to its demand for a retrial of the Best Bakery case and its report critical of state actions during the 2002 Gujarat riots.” [2c] (Section 4)

- 6.552 According to a Freedom House survey report of 2003, “Human rights organisations generally operated freely throughout 2002.” However, Amnesty International’s 2002 annual report noted that the harassment of human rights defenders by state officials and other actors, including beating, shooting, and the use of excessive force by police, remained a concern. An Amnesty International team hoping to assess the situation in Gujarat was denied visas by the Indian Government in July [2002]...A report issued by Human Rights Watch documented numerous cases of police harassment of HIV/AIDS outreach workers in several states:

“The work of rights activists could also be hindered by a Home Ministry order issued in July 2001 that requires organisations to obtain clearance before holding conferences or workshops if the subject matter is political, semi-political, communal or religious in nature or is related to human rights.” [43a] (p4)

- 6.553 According to Amnesty International’s 2005 report:

“Human rights defenders in many parts of the country were harassed and attacked. On 21 August at least 13 members of the Association for Protection of Democratic Rights (APDR) were attacked in Greater Kolkata, West Bengal, allegedly by supporters of the ruling political party. A group of up to 60 people attacked a peaceful meeting, kicking and beating the participants. Although the police station was less than 50m away, the police reportedly failed to assist or protect the APDR members until the attackers dispersed several hours later. Several of the victims required hospital treatment for serious injuries.” [3n] (p3)

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HUMANITARIAN ISSUES

- 6.554 As reported by the BBC in an article dated 21 May 2004, Congress chief minister of Andhra Pradesh state issued a fresh plea for debt-ridden farmers not to commit suicide. Nearly 3,000 farmers in the state have committed suicide over the past six years. A relief package was announced which will cover families of all the farmers who have taken their own lives since 1999:

“A total of 50,000 rupees (\$1,100) will be provided for the one-time settlement of debts and another 100,000 rupees will be given for the economic rehabilitation of the family... Mr Reddy has already announced the free supply of electricity to small farmers and poor families.”

Officials were apprehensive that the relief package was proving counter-productive and encouraging more debt-ridden farmers to take their lives. Mr Reddy stated his Government would look into the matter but also stressed the measures would cover farmers who were considering suicide. [32fp]

- 6.555 As cited in a BBC news article dated 15 November 2004:

“India has launched a massive food-for-work programme aimed at tackling hunger in poor rural areas. Poor farmers will earn the equivalent of five kilograms of grain for each day’s work – mostly paid in food but including a small cash sum... Premier Manmohan Singh said the 20bn ruppee (\$445m) scheme was a ‘first step to eradicating rural unemployment’. The federal government will provide states with the food and funding.”

Mr Singh launched the scheme in the village of Aloor in Andhra Pradesh which has suffered hundreds of suicides by farmers devastated by drought. “The scheme will target 150 poverty-stricken districts nationwide... Although there is no figure for the number of people the government hopes to help with the new scheme, it does pledge to provide 100 days’ work for each person from each rural family.” [32fi]

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Indian Ocean tsunami – 26 December 2004

- 6.556 As reported by Global Education, “On the morning of Sunday 26 December (2004) a severe earthquake in the ocean off the coast of northern Sumatra caused tsunamis (tidal waves) that devastated communities in neighbouring countries and other countries in the Indian Ocean.” The earthquake measured 9.0 on the Richter scale. [95] As reported by the World Health Organization (WHO), with regard to India, “The tsunamis hit the coast of the states of Tamil Nadu, Andhra Pradesh, Orissa, Kerala and Pondicherry on the mainland. Additionally, “The Andaman and Nicobar islands were particularly affected.” [62a]
- 6.557 WHO further reported in their India weekly Tsunami situation report for 24 February 2005 (updated on 25 February 2005) that the tsunami caused extensive damage in the states of Tamil Nadu, Andhra Pradesh and Kerala and the Union Territories of Andaman and Nicobar Islands and Pondicherry. “It affected nearly 2,260 km of the coastline besides the entire areas of Nicobar Islands. Tidal waves

as high as 3 to 10 meters penetrated inland ranging from 300m to 3km.” Andaman and Nicobar Islands situated in the Bay of Bengal were hit particularly badly. [62b]

6.558 The report continues: “The Government of India, in association with the affected states/Uts, mounted massive relief and rescue operations on the mainland and in the Andaman and Nicobar group of islands. According to the latest estimates, 157,393 dwelling units in 897 villages were damaged. A total of 638,297 persons were evacuated, and the total affected population was reported to be about 3.6 million.” [62b]

6.559 As noted by the same report: “The administrations of the state governments/Uts are implementing rehabilitation measures for the affected populations by providing temporary shelters for all those who lost their houses and living quarters... All schools in the affected districts of Andhra Pradesh have reopened.”

It was also reported that most of the schools in the affected areas of Tamil Nadu, Kerala and Pondicherry had re-opened. The Andaman and Nicobar administration evacuated people from smaller islands to bigger islands where relief operations were concentrated. The number of deaths reported as at 25 February 2005 stood at 10,872 with 5,746 people reported as missing in Andaman and Nicobar Islands and feared dead. There were 647,556 displaced persons and 41 districts were affected in total. No outbreak of communicable diseases was reported by any of the government agencies involved in the rescue and relief operations but there have been sporadic cases of acute respiratory infection and acute diarrhoeal disease in both affected and non-affected areas of Tamil Nadu. No reports of epidemics were received and the Ministry of Health and Family Welfare were monitoring the situation. [62b]

6.560 The Foreign Office Travel Advice Report 2005 states that: “Services such as water, power and communications have largely returned to normal in the coastal areas of Tamil Nadu, Andhra Pradesh and the Andaman and Nicobar Islands, affected by the 26 December 2004 tsunami.” [7k]

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Annex A – Chronology of events

(Sources: [1] & [4b] unless otherwise stated)

- 1947 15 August:** India gains independence as a Dominion within the Commonwealth, with Lord Mountbatten as Governor-General and Jawaharlal Nehru as Prime Minister.
- 1950 26 January:** India becomes a Republic.
- 1962** Border dispute with China escalates into brief military conflict.
- 1964** Death of Nehru. Succeeded as Prime Minister by Lal Bahadur Shastri.
- 1965** Second war with Pakistan over Kashmir.
- 1966** Death of Shastri. Nehru's daughter, Indira Gandhi, becomes Prime Minister.
- 1971** Third war with Pakistan over Kashmir. The Indian Army occupies East Pakistan, which India recognises as Bangladesh.
- 1972** Mrs Gandhi and President Bhutto of Pakistan meet in Simla and agree that their respective forces should respect the cease-fire line in Kashmir.
- 1975** Mrs Gandhi declares a State of Emergency after she is accused of election fraud.
- 1977** General election: the Janata Party wins and Morarji Desai becomes Prime Minister.
- 1978** Indira Gandhi becomes leader of a new breakaway political group, the Congress (I).
- 1979** Resignation of Desai's Government. Charan Singh becomes Prime Minister at the head of a Lok Dal and Congress coalition, which collapses 24 days later.
- 1980** General election: Congress (I) wins and Mrs Gandhi becomes Prime Minister.
- 1982** Giani Zail Singh is elected Indian President, the first Sikh to hold the position.
- 1983 October:** Following unrest in Punjab, the State is brought under President's Rule.
- 1984 19 March:** The All India Sikh Student Federation (AISSF) is banned. Jarnail Singh Bhindranwale establishes a terrorist stronghold inside the Golden Temple in Amritsar. In June, Operation Blue Star is launched as the army storm the temple.
31 October: Indira Gandhi is assassinated by two of her Sikh bodyguards. Anti-Sikh riots break out. Indira's son, Rajiv Gandhi, is appointed Prime Minister.
December: Congress (I) win the general election with an overwhelming victory.
- 1985 11 April:** the ban on the AISSF is lifted.

- September:** The Akali Dal win elections to the Punjab State Assembly and President's Rule is lifted.
- 1987** The Congress Government encounter political setbacks including defeats in State elections, an open dispute between the Prime Minister and the President, and accusations of corruption and financial irregularities against senior Congress figures, including the Bofors affair.
11 May: The Punjab State Assembly is suspended and President's Rule is imposed.
October: Formation of the Jan Morcha by V.P. Singh and other Congress (I) dissidents.
- 1988** **May:** Operation Black Thunder - Punjab police and Indian paramilitary forces besiege the Golden Temple in Amritsar.
Formation of Janata Dal to oppose Congress at forthcoming elections.
- 1989** **November:** General election in which Congress loses its majority. V.P. Singh is appointed Prime Minister of a National Front coalition with the support of the BJP.
- 1990** **October:** The BJP withdraws support for the Government, following the arrest of the BJP leader Lal Krishna Advani as he led a procession of Hindus to Ayodhya in Uttar Pradesh to begin the construction of a temple on the site of an ancient mosque. Clashes occur between police and crowds, and Hindu extremists storm and damage the mosque.
November: Chandra Shekhar forms his own dissident faction called the Janata Dal (S). The Government loses a vote of confidence in Parliament and V.P. Singh resigns. Chandra Shekhar, is appointed Prime Minister at the head of a minority Government with Congress (I) support.
- 1991** **March:** Chandra Shekhar resigns as Prime Minister
May: General election held, but on 21 May, after the first day's polling, Rajiv Gandhi is assassinated by members of the Sri Lankan militant group, the Liberation Tigers of Tamil Eelam (LTTE). Congress emerges as the largest party and forms a Government with P.V. Narasimha Rao as Prime Minister.
- 1992** **February:** State Assembly elections in Punjab won by Congress (I), but there is a low turnout of the electorate. President's Rule lifted. Municipal elections held in September with a greatly increased turnout. The Congress candidate, Dr Shankar Dayal Sharma is elected President of India.
6 December: demolition of the Babri Masjid, the ancient mosque in Ayodhya, Uttar Pradesh, by Hindu mobs. This sparks off widespread communal violence throughout India with Mumbai (Bombay) one of the worst affected areas. BJP leaders are arrested, the Uttar Pradesh Chief Minister resigns and the State is placed under President's Rule, as are three other States also under BJP control. Five communal organisations are also banned.
- 1993** **January:** Resurgence of communal violence in Mumbai and in Ahmedabad in Gujarat.
February: Thousands of BJP activists are arrested throughout India to prevent a mass rally taking place in New Delhi.
March: Bomb explosions in Mumbai.

- 1995** **31 August:** Assassination of the Chief Minister of Punjab, Beant Singh. Harchan Singh Brar appointed Chief Minister.
- 1996** Accusations of corruption come to the fore with leading politicians allegedly receiving bribes from the industrialist Surendra Jain (Hawala scandal).
April/May: General election. No party gains an overall majority, but the BJP emerges as the largest party. On 15 May, Atal Behari Vajpayee of the BJP forms a Government, but resigns on 28 May. On 1 June H.D. Deve Gowda is appointed Prime Minister at the head of the United Front coalition of 13 parties, supported by Congress (I).
- 1997** **30 March:** Congress (I) withdraws support for the United Front Government. The crisis is resolved by the resignation of the Prime Minister, Deve Gowda, and the appointment of the External Affairs Minister, Inder Kumar Gujral, as Prime Minister on 21 April.
July: K.R. Narayanan elected President of India, the country's first President from an "untouchable" caste.
November: Congress (I) demands the withdrawal of the DMK from the Government, following allegations of its involvement in the assassination of Rajiv Gandhi. The Government refuses, and Congress withdraws its support.
4 December: Parliament is dissolved. Gujral heads a caretaker Government until the general election is held.
- 1998** **February/March:** General election. No party wins a majority, but the BJP emerges as the largest party and Atal Behari Vajpayee forms a Government in coalition with 17 other parties. The Government wins a confidence vote on 28 March. [5b]
May: Tension rises between India and Pakistan as India conducts five underground nuclear tests, and Pakistan conducts six tests. [5c]
November: The BJP suffers defeats in the State elections in Delhi and Rajasthan, and fails to dislodge Congress (I) from control of Madhya Pradesh.
December: Escalation of violence against the Christian minority in Gujarat.
- 1999** **April:** The AIADMK withdraws support from the Government coalition, which resigns after losing a vote of confidence in the Lok Sabha. The President dissolves Parliament and calls an election.
May-July: A serious escalation of the conflict with Pakistan in Kashmir occurs in response to the largest infiltration of Islamic guerrillas into the State in recent years. On 11 July India and Pakistan had agreed on a plan for the infiltrators to withdraw. [5d] [8e]
September/October: General election. BJP re-elected under Vajpayee. [33a]
- 2000** **March:** 36 Sikhs killed by unidentified gunmen in Chadisinghpooora, the first such attack on the Sikh community in Kashmir. [3h]
July-August: Militant group Hizbul Mujaheddin announces a unilateral cease-fire in Kashmir [32r] but calls it off after India refuses to enter three-way peace talks with the Kashmiri leadership and Pakistan. [32u] Violence ensues during [32t] and immediately after the cease-fire. [33d]
November: The Indian Government announces a unilateral cease-fire barring Indian forces from offensive operations against Muslim separatists in Kashmir. Extensions of the cease-fire were made a month at a time, before a three-month extension to the end of May 2001. Militant groups reject the cease-fire. [32ab]

- 2001** **May:** The cease-fire in Kashmir announced in November 2000 by the Government is ended as some 1,200 people had died during its period of operation. [5g]
July: Talks between India and Pakistan fail after the two countries fail to reach an agreement over Kashmir. [15]
13 December: A terrorist attack on the federal Parliament in New Delhi leaves 14 dead and 16 wounded. The attack precipitates a crisis with Pakistan which threatens to erupt into war over the disputed Kashmir region. [5j]
- 2002** **13-21 February:** Elections to four State assemblies (Manipur, Punjab, Uttaranchal and Uttar Pradesh) result in heavy losses for the BJP. [5j]
27 February: At least 58 passengers are burnt to death and 43 injured when a train carrying Hindu activists is attacked in Godhra, Gujarat. A wave of communal violence is triggered across the State. [5j] By 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. [5k]
26 March: The Prevention of Terrorism Ordinance (POTO) is passed into law. [5k] Having been promulgated in October 2001, the POTO replaced the TADA. [5h]
21 May: Moderate Kashmiri separatist leader Abdul Ghani Lone is shot dead. [5m]
May-June: India and Pakistan move closer to outright war over the deteriorating situation in Kashmir. Up to a million troops face each other across both the Line of Control and the international frontier between the two countries. The situation worsens when, on 14 May 2002, 34 people are killed in a militant attack on an army base in Kashmir, the dead including 8 women and 11 children from army families. Tensions are lowered somewhat in June 2002, largely as a result of international pressure. [5m] [5n]
July: Dr A.P.J. Abdul Kalam, a Muslim, is sworn in as India's twelfth President. [32ai]
October: Voting concludes in Kashmir State elections. The ruling National Conference party fail to win a majority. [32ak] Mufti Mohammad Sayeed is sworn in as Chief Minister to head a coalition of his PDP and the Congress Party for three years, before a Congress leader takes over for a second three-year period. [32am]
December: The BJP wins State elections in Gujarat. [32an]
- 2003** In 2003 both India and Pakistan continued testing missiles. [32bg]
March: Twenty-four Hindu villagers were murdered in Kashmir. [32bg]
April: Prime Minister Vajpayee to hold talks with Pakistan. [32bg]
Mr Vajpayee made a surprise speech calling for an end to more than 18 months of simmering tensions with Pakistan, prompted by an attack on the Indian Parliament, as reported by the BBC on 6 January 2004. [32cj] Atal Behari Vajpayee offers the "hand of friendship" to Pakistan in a landmark address in Indian-administered Kashmir. [32fm]
May: India announces the resumption of a bus service between Delhi and Lahore, described by Pakistan as a "positive gesture". Both sides resume diplomatic links and Delhi states it will release Pakistani prisoners following a similar move by Islamabad. [32fm]
June: India and China reach de facto agreement over the status of Tibet and Sikkim in a landmark cross-border trade agreement. [32bf]
The state assembly in Gujarat passed a Freedom of Religion Bill introduced by the BJP Government, ostensibly designed to prevent forced religious conversions. [5o]

25 August: Blast at Zaveri Bazaar. 34 killed and 112 injured. Blast in a taxi parked near the Gateway of India. 18 killed, 37 injured. [11e]
 Four people were arrested and charged in connection with the twin bomb attacks in Mumbai. India has blamed the attacks on an outlawed Islamic militant group – Lashkar-e-Toiba- in the Pakistani-controlled part of the disputed region of Kashmir. [32bi] Four Muslims are charged under the anti-terrorism laws. [41b]
 For the first time in history, Indians and Pakistanis hold joint independence day celebrations in a further sign of the thaw in relations. [32fm]
September: There is a sudden upsurge in separatist violence across the state. Indian troops claim to have foiled at least 18 infiltration bids by militants in September alone. [32bu]
 The Line of Control witnesses increased exchanges of fire between the armies of India and Pakistan. [32bu]
1 September: Blast near key Kashmir tunnel kills a bomb disposal expert and injure two security force members. [32bj]
 Indian police claim to have shot dead the mastermind behind the twin bomb blasts in Mumbai that killed 53 people and wounded more than 150 on 25 August 2003. Five people have been detained in connection with the bombings. [45] [32bz]
October: India unveils a series of measures aimed at improving relations with Pakistan and forging progress in the Kashmir dispute. [32fm]
13 November: At least 50 train passengers are injured in attacks by armed mobs in Bihar. Youths were protesting over alleged discrimination against Biharis who had tried for jobs with Indian railways in neighbouring Assam, as reported by BBC News on 13 November 2003. [32ci]
November: 12 Hindus are given life prison sentences in Gujarat state for killing Muslims in religious riots last year, as reported by the BBC on 21 November 2003. [32cq]
25-26 November: A cease-fire comes into effect at midnight on 25-26 November between the armies of India and Pakistan on the LoC in Kashmir. The ceasefire is reportedly fully implemented by both sides, as noted by Keesings. [5r]
5 December: India's Hindu-nationalist BJP celebrates sweeping election wins in three states held by the Congress party, as reported by BBC news on 5 December 2003. [32ck] Keesings News Digest for December 2003 reports that the BJP secured administrations in Rajasthan, Madhya Pradesh and Chattisgarh, giving rise to speculation that Prime Minister Vajpayee would bring forward the date of the general elections due in October 2004. [5s]
7 December: Ayodhya anniversary sparks riots as reported by BBC News 7 December 2003. At least 3 people are killed and more than 20 injured in clashes between Muslims and Hindus in Hyderabad when trouble erupts on the eleventh anniversary of the razing of the Babri mosque in Ayodhya. [32cn]
 India and Pakistan agree to resume direct air links from 1 January following a two year ban. [32fm]

2004 **1 January:** Direct air links are resumed between India and Pakistan after a gap of more than two years. [Keesings]
5 January: The leaders of Pakistan and India meet for the first time in two years, promising to restore normal relations, as reported by Guardian Unlimited. [40b]
6 January: Pakistan and India agree to discuss the Kashmir issue in historic talks due to start in February. It comes a day after President Musharraf hosted talks with India's Atal Behari Vajpayee, reported by BBC on 6 January 2004. [32cj]

9 January: At least 15 Muslims are wounded in Indian-administered Kashmir in a grenade attack on a mosque, as reported by BBC News on 9 January 2004. [32cm]

27 January: The Prime Minister conveys to the President on 27 January the recommendation of the Cabinet to dissolve the thirteenth Lok Sabha on 6 February to pave the way for early legislative elections in April. The final parliamentary session begins on 29 January. [5e]

18 February: 3 days of talks in February in Islamabad start on 16 February with the disputed region of Kashmir top of the agenda. India and Pakistan agree to a 'roadmap' for peace that will begin with high-level talks in May or June. [30co]

March: Around 30,000 cricket fans watch India beat Pakistan in the historic first contest of their first tour of Pakistan since 1989. [32fm]

12 April: The Supreme Court orders a retrial of a riot case in which 12 Muslims were burned to death by a Hindu mob 2 years ago in Gujarat. It rules that the new trial must take place in neighbouring Maharashtra state and calls for a fresh investigation. [32cp]

19-29 April: BJP campaign slogan is "India Shining". [32dt] Polling is held in five phases: April 20-May 10. Electronic voting machines are used for the first time. [33e] [32ay] India's autonomous election commission orders an inquiry into complaints of widespread vote-rigging and other irregularities in Bihar. [32dj] Violence and ballot box theft requires reballoting in some areas. [33e] Surprise victory for Congress Party in general elections. [32bf] The Congress needs to seek support from smaller parties to form a Government. India's financial markets slump initially and recover. [32dt]

18 May: India's Congress party leader Sonia Gandhi says she will not be the country's next Prime Minister. [32dl]

20 May: Pakistan welcomes the pledge made by incoming Prime Minister Manmohan Singh to seek friendly relations. [32dq]

22 May: Manmohan Singh is sworn in as Prime Minister. [32bf]

27 May: The Congress-led Government says it will scrap the Prevention of Terrorism Act (POTA). [32cw]

1-2 June: The BJP, the main opposition party, elects L.K. Advani, the former deputy Prime Minister as its new leader. [32dr] New Parliament is sworn in. [32dk]

8 June: Parliament closes for two days after the opposition demands that the new Government sack ministers it deems unfit for office. [32bf]

24 June: The first budget of the newly elected United Progressive Alliance is presented and is labelled "please-all". [32dn]

June: India and Pakistan renew a ban on nuclear weapons tests and set up a hotline to alert each other to potential nuclear risks. [32fm]

23 July: Pakistani President Pervez Musharraf meets India's new foreign minister, Natwar Singh, to push forward the peace process. [32do]

11 August: India and Pakistan end two days of talks on terrorism and drug trafficking. Pakistan announces it will release 400 prisoners. [32dp]

14 August: India carries out first execution in nine years. [32cy]

27 August: The World Bank agrees to lend India a maximum of \$12bn (£6.6bn) over four years, or \$3bn a year. [32ad]

30 August: The Indian central bank warns that drought and the high global price of oil may force it to lower its GDP forecasts. [32ds]

September: "The two countries' (India & Pakistan) foreign ministers meet in Delhi – the first official meeting at such high level for three years. Both sides say they have made some progress but there are few results to show for it." [32fm]

26 December: A very severe earthquake measuring a magnitude of 8.9 on the Richter scale struck northern Sumatra, Indonesia. “The earthquake was felt widely along the east coast of India.” [97] India’s south-east coast, especially the state of Tamil Nadu, was the worst affected area on the mainland. More than 8,800 people are confirmed dead in mainland India, 7,968 of them in Tamil Nadu and almost 600 in Pondicherry (see below for data on the Andaman and Nicobar islands). Thousands more are still missing. At least 140,000 Indians, mostly from fishing families, are in relief centres. Repairing the damage is expected to cost about \$1.2bn – but India is in fact providing aid to other countries hit by the tsunami, including medical workers, supplies and cash. [32ex]

Andaman & Nicobar Islands

Salt water, which washed over the islands, contaminated many sources of fresh water and destroyed large areas of arable land. Most of the islands’ jetties have also been destroyed.

At least 1,894 of the islands’ 400,000 people are confirmed dead and more than 5,500 are missing – 4,500 from Katchall island alone. India has refused assistance from international aid agencies because of the presence of a military base on one island and indigenous tribes on some others. The military has been building extra landing fields on the islands to help with relief. About 12,000 people have been moved to relief camps on larger islands. [32ex]

2005 7 April: “Bus services, the first in 60 years, operate between Srinagar in Indian-controlled Kashmir and Muzaffarabad in Pakistani-administered Kashmir.” [32io]

July: “India signs a nuclear co-operation deal with the US, heralding a possible lifting of sanctions on Indian access to civilian nuclear technology.” [32io]

More than 1,000 people were killed in floods and landslides caused by monsoon rains in Mumbai (Bombay) and Maharashtra region. [32io]

8 October: An earthquake, with its epicentre in Pakistan-administered Kashmir killed more than 1,000 people in Indian administered Kashmir. [32] [BBC timeline]

29 October: Triple bomb attacks killed at least 62 people in Delhi, more than 200 people were killed in the attacks. The attacks occurred just days before Diwali. A previously little-known group called Inqilabi claimed responsibility which police were trying to verify. This is a very old organisation formed in 1996 which had not been active recently, they are purportedly linked to Lashkar-e-Toiba, one of the leading groups fighting Indian rule in Kashmir. The attacks happened at Paharganj where 16 died near a train station. The second at Sarojini Nagar where 43 were killed and in Govindpuri a bus driver threw a bomb from the vehicle – no-one was killed. The attacks were designed to cause maximum damage in places frequented by people from all religions. [32ja]

2006 February India launched its largest-ever rural jobs scheme aimed to lift approximately 60 million families out of poverty. [32] [BBC timeline]

7 March 14 people were killed by bomb blasts in city of Varanasi – a Hindu Pilgrimage city [32][BBC timeline]

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Annex B – Maps

<http://www.un.org/Depts/Cartographic/map/profile/seasia.pdf>

Government of India: India - States & Union Territories 1991

<http://www.mapsofindia.com/maps/india/india-political-map.htm>

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Annex C – Political organisations

(Sources [1a] [5I] [7f] [32dh] [32de] unless otherwise stated)

Akali Dal also termed as **Shiromani Akali Dal**

A Sikh party was formed in 1920 and demanded an independent Sikh state. This demand has been dropped since the Punjab peace accord of 1985. Formed an alliance with the BJP in 1997, but lost the Punjab state elections in 2002. Strong performance in the 2004 elections, winning 10 out of 13 seats in Punjab. It is a major player in the northern state of Punjab where it is currently in opposition. [32dh] Shiromani Akali Dal (Akali religious party) is a Sikh political party mainly based in Punjab India. Akali Dal in a sense considers itself as a religio-political party and principal representative of Sikhs. "The basic philosophy of Akali Dal is to give political voice to Sikh issues (Panthic cause) and it believes that religion and politics go hand in hand." Akali Dal's history is full of divisions and factions with each faction claiming to be the real Akali Dal:

"As of 2003, the SAD headed by Prakash Singh Badal was the largest faction and the one recognized as having the name SAD by the Election Commission of India. Other factions have included Sarb Hind Shiromani Akali Dal led by Gurcharan Singh Tohra, Shiromani Akali Dal led by Gurcharan Singh Tohra, Shiromani Akali Dal (Simranjit Singh Mann) (also called SAD (Amritsar)), and Shiromani Akali Dal (Panthik) led by Amarinder Singh (which later merged with Congress), Shirmomani Akali Dal Delhi, Shiromani Akali Dal (Democratic), Haryana State Akali Dal and the Shiromani Akali Dal (Longowal)." [76c]

All India Anna Dravida Munnetra Kazhagam (All India Anna Dravidian Progressive Association: AIADMK)

A Tamil Nadu party, with its headquarters in Chennai (Madras). Founded in 1972 as a breakaway group from the DMK. It went into the 1998 national elections in alliance with the BJP and joined the BJP-led Government afterwards. However its withdrawal of support in April 1999 led to the collapse of the Government and another national election. [32dh] Leader: Jayaram Jayalalitha has been the Chief Minister since 2001. [7,I] Its alliance with the BJP failed to win a single seat in Tamil Nadu in the 2004 national elections. [32dh]

All India Forward Bloc

Founded in 1940 by Netaji Subhash Chandra Bose and has socialist aims, including nationalisation of major industries, land reform and redistribution. A minor Marxist-Leninist ally of CPI-M in West Bengal. General Secretary: Debabrata Biswas. (900,000 members) [1] (p196)

All India Trinamool Congress

Breakaway group of the Congress (I) in West Bengal. Part of the BJP-led NDA Government. Led by: Mamata Banerjee.

Asom Gana Parishad (AGP) (Assam People's Council) Founded 1985. Draws support from the All Assam Gana Sangram Parishad and the All Assam Students' Union. (President: Keshab Mahanta.) Advocates the unity of India in diversity and a united Assam. President: Mr Brindaban Goswami. [1] (p196) [7,I] The AGP split in 2005. Its founder president Prafulla Kumar Mahanta, who was expelled, formed a separate outfit AGP-Progressive (P). Mr Brindaban Goswami is the president of the original AGP. [7,I]

Bahujan Samaj Party

Formed in 1980 as the champion of scheduled castes and is strong in Uttar Pradesh, where it briefly formed the Government in alliance with the BJP in 1996. President: Mayawati. The party won 19 seats (5.4% of the vote) in the recent elections. [66]

Bharatiya Janata Party (Indian People's Party)

The leading political party of the 24-party National Democratic Alliance (NDA) governing coalition, which has downplayed its Hindutva associations since coming to power in 1998 in order to accommodate secular NDA partners. The BJP was formed in 1980 from the former Bharatiya Jana Sangh, founded in 1951 as the political wing of the extremist Hindu nationalist organisation Rashtriya Swayamsevak Sangh (RSS), responsible for outbreaks of communal violence in which a mosque was destroyed at Ayodhya. The BJP and its allies (NDA) were routed in a surprise defeat in the 2004 elections. The former PM Atal Behari Vajpayee is viewed as the leading moderate while former deputy PM and current BJP parliamentary leader L.K. Advani fronts the hardline faction. [51] [66]

Biju Janata Dal (BJD)

Made up of almost the entire Janata Dal unit of Orissa, which formed the BJD because of neglect by the Janata Dal national leadership. Main Government party in Orissa. An ally of the BJP. Led by Naveen Patnaik (Chief Minister of Orissa).

Communist Party of India (CPI)

Founded 1925 and advocates the establishment of a socialist society led by the working class, and ultimately of a communist society. Support in West Bengal, Bihar and Kerala. General-Secretary: Ardhendu Bhushan Bardhan. CPI is recognised by the Election Commission of India as a "National Party". On the national level it supports the Indian National Congress-led United Progressive Alliance Government, but without taking part in it. The CPI won 43 seats (5.7% of the vote) in the recent elections. [66]

Communist Party of India - Marxist (CPI-M)

Formed in 1964, as a breakaway faction of the Communist Party of India because of what it describes as the latter's revisionism and sectarianism. In October 2000, the Election Commission demoted CPI-M's status from that of a national party to a State party. CPI(M) took 5.5 per cent of the vote in the last legislative election (May 2004) and it has 43 MPs. They support the Indian National Congress-led United Progressive Alliance Government but without taking part in it. In West Bengal and Tripura it participates in Left Front. In Kerala the party is part of the Left Democratic Party. In Tamil Nadu it is part of the Progressive Democratic Alliance. General-Secretary: Prakash Karat. The CPI (M) MP Somnath Chatterjee is the speaker of the Lok Sabha (2004). The CPI(M) is the third largest party in the Indian parliament and is a key ally of the country's governing Congress-led coalition. Mr Karat's wife, Brinda, has become the first woman to be elected to the 18-member politburo, the supreme decision-making authority in the party. [32hf]

Dravida Munnetra Kazhagam (DMK)

Founded in 1949. Supports greater federalism; resents northern domination. Exclusive to Tamil Nadu and supported primarily by locally dominant scheduled castes. In 1972, a faction of the party broke away to form the AIADMK. Member of the National Democratic Alliance. Led by Muthuvel Karunanidhi (President). The DMK won all the 16 seats it contested in the 2004 elections. [32di]

Indian National Congress (INC)

Party of Indian independence, then of Government for 45 of the following 50 years under Nehru, his daughter Indira Gandhi (Congress I) and grandson Rajiv Gandhi. Had support throughout India, but suffered massive losses in the North and partially in the West in 1998 and lost the confidence of traditional voters such as Muslims and scheduled castes. Sonia Gandhi, widow of Rajiv Gandhi, took over as President of Congress (I) in April 1998. In December 2003, Congress began actively seeking alliance partners. The 2004 national elections ended governance by the BJP and brought in a new left-leaning coalition government, the United Progressive Alliance, led by Prime Minister Manmohan Singh after Sonia Gandhi declined the post. The INC with its allies won 217 seats (35.8% of the votes) in the parliamentary election. [66]

Indian Union Muslim League

Concerned with the interests of the Muslims of Kerala.

Jammu and Kashmir National Conference (JKNC)

Headquarters in Srinagar. Formerly All Jammu and Kashmir National Conference. Founded 1931, renamed 1939, reactivated 1975. A State-based party campaigning for internal autonomy and responsible self-government. Accepts accession to the Indian Union. President: Omar Abdullah. (1m members) [1] (p196)

Janata Dal (United)

Formed on the eve of the 1999 Lok Sabha election due to a split in the Janata Dal over whether to ally with the BJP in the National Democratic Alliance. The JD(U) favoured the alliance. Merged with another regional party, the Samata. Strong support base in Bihar. George Fernandes is the main national leader. Sharad Yadav is the president. The party along with the BJP defeated Laloo Prasad Yadav's Rashtritya Janata Dal in Bihar in 2005. It has suffered a major setback in the elections in 2004 winning only eight seats. [32dh] [7,1]

Janata Dal (Secular)

A smaller section of the Janata Dal did not agree with an alliance with the BJP and formed the Janata Dal (Secular). Led by former Prime Minister H.D. Deve Gowda.

Kerala Congress (M)

Concerned with the interests of the Christians of Kerala.

Nationalist Congress Party

Formed in 1999 by Sharad Pawar, a senior Congress (I) leader from Maharashtra, and others expelled from Congress (I) for being unwilling to accept Sonia Gandhi, a non-Indian born citizen, as Congress' candidate for Prime Minister. Formed coalition Government with Congress (I) after State elections in Maharashtra. The NCP won half of the 18 seats it contested in the 2004 elections. [32di] Pawar is a minister in the Congress led UPA coalition at the Centre. [7,1]

Rashtriya Janata Dal (RJD) (National People's Party)

Formed in 1997 by a breakaway group of former Janata Dal MPs from Bihar. Supported by the backward Yadav caste and Muslims of Bihar. Led by Laloo Prasad Yadav. Leading an alliance with Congress, the RJD won 19 of the 23 seats it contested in the 2004 elections. The Congress-RJD alliance won 26 of the 40 seats in Bihar. [32di] Its leader Laloo Prasad Yadav is the Union minister for Railways.

Revolutionary Socialist Party

Minor Marxist-Leninist party allied with CPI-M, and supported in West Bengal. Leaders: Debarata Bandopadhyay; Abani Roy.

Samajwadi Party (Socialist Party)

Emerged from V.P. Singh's Janata Dal as an aggressive champion of specific backward castes and Muslims. Supports reservations for jobs and education. Support confined to Uttar Pradesh. Led by Mulayam Singh Yadav.

Mulayam Singh Yadav is the Chief Minister of of Uttar Pradesh. [7,I]

Samajwadi Janata Party

The one-man party of Chandra Shekhar, a former Prime Minister.

Samata Party

A breakaway from V.P. Singh's Janata Dal. Supported by backward castes mainly in Bihar and also in Uttar Pradesh. It was led by George Fernandes. It has completely merged its identity with the Janata Dal United, which is the ruling party in Bihar. [7,I]

Shiromani Akali Dal

A moderate Sikh party controlled by the dominant Jat Sikh farming community of Punjab. Supports greater federalism and is a strong ally of the BJP. Main leader is Prakash Singh Badal. (see under Akali Dal for a more detailed account)

Shiv Sena (Shiva's Army)

A member of the NDA and more hard-line than the BJP, Shiv Sena is based in Mumbai (Bombay), the capital of Maharashtra State. [5I] An important ally of the BJP. [32dh] Shiv Sena is described as an ultra-nationalistic Hindu party based in Maharashtra state with a powerful presence in Mumbai, headed by one of India's most controversial and militant right-wing leaders, Bal Thackeray:

"Over the years, the party has acquired a reputation of promoting religious and ethnic chauvinism while targeting minorities, especially Muslims. An important ally of the BJP, the western state of Maharashtra remains the Shiv Sena's main support base where it formed its first government in 1995." [32dh]

Tamil Maanila Congress (TMC)

TMC returned to Congress in 2002. Broke away from Congress (I) in 1996 in protest against Rao's decision to fight elections with the AIADMK. Policies not otherwise distinct from Congress (I). Confined to Tamil Nadu.

Telugu Desam Party (NAIDU)

Founded in 1982 by Telugu film star N.T. Rama Rao, who died in 1996. Based in Andhra Pradesh, and is supported by locally dominant middle castes. Led by N. Chandrababu Naidu, Chief Minister of Andhra Pradesh. His defeat in the 2004 elections has cast him in the political wilderness. Continues to back the BJP at the federal level. [32dh] Telegu Desam Party (Party for Telugu Land) is a regional political party in Andhra Pradesh state. On founding the party Rama Rao wanted an alternative to the ruling Congress Party in the state. He embraced Sanyasa (or reunification) and vowed to dedicate himself to the Telegu people. It was the fourth largest party with 29 members in the 13th Lok Sabha (1999-2004). [76d]

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OTHER ORGANISATIONS

Rashtriya Swayamsevak Sangh (RSS) (Association of National Volunteers)

A Hindu supremacist umbrella organisation, founded in 1925 by Keshav Baliram Hedgewar. Prime Minister Vajpayee, most BJP ministers and leading members of the party are RSS members. The RSS was banned between December 1992 and June 1993 for its role in the destruction of the Babri mosque at Ayodhya in 1992. [5I]

The AISSF was founded in 1944. Its founder President was Sardar Swarup Singh. It was the first body to pass a resolution seeking the formation of a separate Sikh homeland. Its other objectives were to promote and propagate Sikhism amongst the college-going Sikh students. While the AISSF sought a separate Sikh homeland, it did not fight for it until militancy erupted under Bhindranwale in 1981. From then onwards, a number of AISSF members joined the ranks of the militants. [7d] The organisation was banned between 19 March 1984 and 11 April 1985. [4b] According to FCO advice in correspondence dated 18 August 2005, to the best of its understanding the AISSF was banned in 1984 and the ban was subsequently lifted in 1985:

“The AISSF has since split into various factions and is believed to be active in various universities in Punjab. The AISSF now operates in the name of Sikh Students Federation (SSF). The ‘All India’ was dropped in 1991. There were originally three factions, now there are two: the main SSF faction and the Bitto factions, the latter led by Mandhir Singh.”

It is thought that the current president of the SSF is Gurucharan Singh Grewal, and that the organisation is based in Amritsar but now operates from Ludhiana district (address: 1756, Tehsil Road, Jagraon, Ludhiana, Punjab – 142 026). The SSF has a 100-member executive including 50 office bearers. Senior Vice Presidents are: Surendrapal Singh, Kulwant Singh Kamal, Sarabjit Singh and Paramjit Singh. General Secretaries are Major Singh, Shispal Singh and Jaspal Singh. The SSF adheres to the ideology of the Guru Granth Sahib (Religious book of Sikhs) and the principles of the Akal Takht (the highest seat of religious-political power) headed by the Jathedar, the head priest. The SSF works to the Sikh principles but often takes the advice of the Jathedar. [7j]

Bajrang Dal

The youth wing of the [VHP]. Banned between December 1992 and June 1993, Bajrang Dal was originally formed in the 1980s to counter “Sikh terrorism”, but has since then shifted to militant activism against the Muslim and Christian minorities. [5I]

The People’s War Group (PWG)

Banned guerrilla organisation. Campaigns to establish Communist state in the tribal areas of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh. Peace talks between the PWG and the Government broke down in July 2003 when the Government decided to renew its ban on the group. [43a]

Sangh Parivar (Family of Associations)

The Sangh Parivar is the collective name for the various loosely associated Hindu nationalist organisations. All embraced the concept of Hindutva (“Hindu-ness”), Hindu nationalism, and an ideal of Hindu supremacy in India, often called “saffron power”. The Hindutva project was intended to redress supposed grievances deriving from the contamination of Hindu India by Islam and Christianity, two religions that refused to incorporate the Hindu caste structure. [5I]

Vishwa Hindu Parishad (VHP) (World Council of Hindus)

Led by Ashok Singhal. [5n] Right-wing ally of the BJP, concerned explicitly with religious matters, founded in August 1964. The VHP was banned between December

1992 and June 1995 for its role in the destruction of the Babri mosque in Ayodhya. A wealthy organisation, the VHP is partly funded by donations from Hindu communities abroad, especially the USA. The VHP's militant women's wing is known as Durga Vahini. [51] Dr Pravin Togadia is its international General Secretary, also spelt Dr Praveen Togadia. [7,1]

Organisations proscribed in the United Kingdom under the Terrorism Act 2000 [68]

International Sikh Youth Federation: ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India.

Babbar Khalsa: BK is a Sikh movement that aims to establish an independent Khalistan within the Punjab region of India.

Harakat Mujahideen (alternatively Harkat-ul-Mujahideen): HM, previously known as Harakat Ul Ansar (HuA), seeks independence for Indian-administered Kashmir. The HM leadership was also a signatory to Osama Bin Laden's 1998 fatwa, which called for worldwide attacks against US and western interests.

Jaish e Mohammed (alternatively Jaish-e-Mohammad): JeM seeks the 'liberation' of Kashmir from Indian control as well as the "destruction" of America and India. JeM has a stated objective of unifying the various Kashmiri militant groups.

Lashkar e Tayyaba (alternatively Lashkar-i-Toiba): LT seeks independence for Kashmir and the creation of an Islamic state using violent means.

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Annex D – Summary of election results

National summary of votes and seats

Votes and seats are compared with those won in the 1999 election

Party	Votes	%	Change	Seats	Change
All India Forward Bloc	1,367,280	0.3	0.0	3	+1
All India Trinamool Congress	8,047,771	2.1	-0.5	2	-6
Asom Gana Parishad	2,069,610	0.5	-	2	-
Bahujan Samaj Party	20,713,468	5.3	+1.1	19	+5
Bharatiya Janata Party	85,866,593	22.2	-1.5	138	-44
Biju Janata Dal	5,084,428	1.3	+0.1	11	+1
Communist Party of India	5,434,738	1.4	-0.1	10	+6
Communist Party of India (Marxist)	22,061,677	5.7	+0.3	43	+11
Dravida Munnetra Kazhagam	7,064,393	1.8	+0.1	16	+4
Indian National Congress	103,405,272	26.7	-1.6	145	+32
Jammu and Kashmir National Conference	493,067	0.1	0.0	2	-2
Jammu and Kashmir People's Democratic Party	267,457	0.0	-	1	-
Janata Dal (Secular)	5,732,296	1.5	+0.6	3	+2
Janata Dal (United)	9,924,209	2.6	-0.5	8	-11
Jharkhand Mukti Morcha	1,846,843	0.5	-	5	-
Kerala Congress	353,529	0.1	0.0	1	-
Marumalarchi Dravida Munnetra Kazhagam	1,679,870	0.4	0.0	4	-
Mizo National Front	182,864	0.0	-	1	-
Muslim League of Kerala	770,098	0.2	0.0	2	+1
Nagaland People's Front	715,366	0.2	-	1	-
Nationalist Congress Party	6,915,740	1.8	-0.5	9	+1
Pattali Maltital Katchi	2,169,020	0.5	-0.1	6	+1
Rashtriya Janata Dal	8,613,302	2.2	-0.5	21	+12
Revolutionary Socialist Party	1,717,228	0.4	0.0	3	-
Samajwadi Party	16,645,356	4.3	+0.5	36	+10
Shiromani Akali Dal	3,506,681	0.9	+0.2	8	+6
Shiv Sena	7,056,075	1.8	+0.2	12	-3
Sikkim Democratic Front	153,409	0.0	0.0	1	-
Telugu Desam Party	11,844,811	3.0	-0.6	5	-24
Other parties and independents	45,751,173	11.8	-	25	-
Total	387,453,223	-	-	543	-

Source: [Election Commission of India](http://www.worldhistory.com/wiki/I/Indian-general-elections,-2004.htm), collated by <http://www.worldhistory.com/wiki/I/Indian-general-elections,-2004.htm> [69]

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Annex E – Political make-up of government

Cabinet Ministers/Ministers of State

<i>Name</i>	<i>Constituency/State</i>	<i>Portfolio</i>
Dr. Manmohan Singh, INC	Assam - Rajya Sabha	Prime Minister
Cabinet Ministers		
Pranab Mukherjee, INC	West Bengal, Lok Sabha	Defence
Arjun Singh, INC	Madhya Pradesh, Rajya Sabha	Human Resource Development
Sharad Pawar, NCP	Maharashtra, Lok Sabha	Agriculture, Food & Civil Supplies, Consumer Affairs and Public Distribution
Lalu Prasad Yadav, RJD	Bihar, Lok Sabha	Railways
Shivraj Patil, INC	Maharashtra	Home
Ram Vilas Paswan, UNSP	Bihar, Lok Sabha	Chemicals & Fertilisers, Steel
Ghulam Nabi Azad, INC	Jammu & Kashmir, Rajya Sabha	Parliamentary Affairs, Urban Development
Jaipal Reddy, INC	Andhra Pradesh, Lok Sabha	Information & Broadcasting, Culture
Sis Ram Ola, INC	Rajasthan, Lok Sabha	Labour & Employment
P. Chidambaram, INC	Tamil Nadu, Lok Sabha	Finance
Mahavir Prasad, INC	Uttar Pradesh, Lok Sabha	Small scale, Agro & Rural Industries
P.R. Kyndiah, INC	Meghalaya, Lok Sabha	Tribal Affairs, Development of North East
T.R. Baalu, DMK	Tamil Nadu, Lok Sabha	Road Transport & Highways & Shipping
S. Vaghela, INC	Gujarat, Lok Sabha	Textiles
K. Natwar Singh, INC	Rajasthan, Rajya Sabha	External Affairs
Kamal Nath, INC	Madhya Pradesh, Lok Sabha	Commerce & Industry
H.R. Bhardwaj, INC	Madhya Pradesh, Rajya Sabha	Law & Justice
P.M. Sayeed, INC	Lakshadweep	Power
Raghuvansh Prasad Singh, RJD	Bihar, Lok Sabha	Rural Development
P. R. Dasmunshi, INC	West Bengal, Lok Sabha	Water Resources
Mani Shankar Aiyar, INC	Tamil Nadu, Lok Sabha	Petroleum & Natural Gas, Panchayati Raj
Sunil Dutt, INC	Maharashtra, Lok Sabha	Youth Affairs & Sports
Meira Kumar, INC	Bihar, Lok Sabha	Social Justice & Empowerment
K. Chandra Shekhar Rao, TRS	Andhra Pradesh, Lok Sabha	Without Portfolio
A Raja, DMK	Tamil Nadu, Lok Sabha	Environment & Forests
Shibu Soren, JMM	Jharkhand, Lok Sabha	Coal, Mines & Minerals
Dayanidhi Maran, DMK	Tamil Nadu, Lok Sabha	Communications & Information Technology
Dr. Anbumani Ramdoss, PMK	Tamil Nadu, Lok Sabha	Health & Family Welfare
Ministers of State (Independent Charge)		
Santosh Mohan Dev, INC	Assam, Lok Sabha	Heavy Industries, Public Enterprises
Jagdish Tytler, INC	Delhi, Lok Sabha	Non-Resident Affairs
Oscar Fernandes, INC	Karnataka	Statistics & Programme Implementation
Renuka Choudhury, INC	Andhra Pradesh, Lok Sabha	Tourism
Subodh Kant Sahay, INC	Jharkhand, Lok Sabha	Food Processing
Kapil Sibal, INC	Delhi, Lok Sabha	Science & Technology, Ocean Development
Vilas Muttemwar, INC	Maharashtra, Lok Sabha	Non-Conventional Energy Sources
Praful Patel, NCP	Maharashtra, Rajya Sabha	Civil Aviation
Kumari Selja, INC	Haryana, Lok Sabha	Urban Employment, Poverty Alleviation
Prem Chand Gupta, RJD	Bihar, Rajya Sabha	Company Affairs

Ministers of State		
E. Ahamed, IUML	Kerala, Lok Sabha	External Affairs
Suresh Pachauri, INC	Madhya Pradesh, Rajya Sabha	Personnel, Parliamentary Affairs
B.K. Handique, INC	Assam, Lok Sabha	Defence, Parliamentary Affairs
Panabaka Lakshmi, INC	Andhra Pradesh, Lok Sabha	Health & Family Welfare
Dasari Narayan Rao, INC	Andhra Pradesh, Rajya Sabha	Coal & Mines
Rao Inderjit Singh, INC	Haryana, Lok Sabha	External Affairs
Naranbhai Rathwa, INC	Gujarat, Lok Sabha	Railways
K Rehman Khan, INC	Karnataka, Rajya Sabha	Chemicals & Fertilizers
K.H. Muniyappa, INC	Karnataka, Lok Sabha	Road Transport, Highways
M.V. Rajashekharan, INC	Karnataka, Rajya Sabha	Planning
Kantilal Bhuriya, INC	Madhya Pradesh, Lok Sabha	Agriculture, Food & Civil Supplies, Cons Affairs
Manik Rao Gavit, INC	Maharashtra, Lok Sabha	Home Affairs
S.P. Jaiswal, INC	Uttar Pradesh, Lok Sabha	Home Affairs
Prithviraj Chavan, INC	Maharashtra, Rajya Sabha	Prime Minister's Office
Taslimuddin, RJD	Bihar, Lok Sabha	Agriculture, Food & Civil Supplies, Cons Affairs
Suryakanta Patil, NCP	Maharashtra, Lok Sabha	Rural Development, Parliamentary Affairs
Md. Ali Ashraf Fatmi, RJD	Bihar, Lok Sabha	HRD
R. Velu, PMK	Tamil Nadu, Lok Sabha	Railways
S.S. Palaniamanickam, DMK	Tamil Nadu, Lok Sabha	Finance
S. Regupathy, DMK	Tamil Nadu, Lok Sabha	Home Affairs
K. Venkatapathy, DMK	Tamil Nadu, Lok Sabha	Law & Justice
J. Subbulakshmi Jagadeesan, DMK	Tamil Nadu, Lok Sabha	Social Justice & Empowerment
E.V.K.S. Elagovan, INC	Tamil Nadu, Lok Sabha	Commerce & Industry
Kanti Singh, RJD	Bihar, Lok Sabha	HRD
Namo Narayan Meena, INC	Rajasthan, Lok Sabha	Environment & Forests
Jay Prakash Narayan Yadav, RJD	Bihar, Lok Sabha	Water Resources
Akhilesh Prasad Singh, RJD	Bihar, Lok Sabha	Agriculture, Food & Civil Supplies, Consumer Affairs
Shakeel Ahmed, INC	Bihar, Lok Sabha	Communications & IT
A. Narendra	Andhra Pradesh, Lok Sabha	Rural Development

As on 7 June 2004 [11f] (p22-23)

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Annex F – Prominent people

ABDULLAH Farooq

Chairman of the National Conference. Was sworn in as Chief Minister of Jammu and Kashmir in October 1996 following the party's win in the State elections. On 23 June 2002, he handed on the presidency of the National Congress (Conference) party to his son, Omar Abdullah. Farooq Abdullah's family have dominated the Kashmiri political landscape for the best part of the last 50 years. He supported union with India, but pressed for greater autonomy for the state. [32m]

ADVANI Lal Krishna

Deputy Prime Minister in the Bharatiya Janata Party-led coalition Government which took office in March 1998 and a former President of the BJP, L.K. Advani is credited with scripting the BJP's swift rise as a major political force from its two parliamentary seats in 1984. In 1990, he travelled across the country whipping up support for a campaign to build a Hindu temple on the site of the sixteenth-century Babri mosque in the northern town of Ayodhya. After the shock election defeat of 2004, Advani was elected by the BJP as its new leader in Parliament. He has often been seen as Mr Vajpayee's natural successor if the BJP is returned to power. [32dr] (Charges against him were revived in 2005 after the UPA came to power. [7,1])

CHIDAMBARAM P

Beginning as a congressman, Mr Chidambaram first got elected to Parliament from Tamil Nadu in 1984. He went on to hold the Commerce portfolio in the Congress party Government of P.V. Narasimha Rao. Later on he left Congress on account of differences with the leadership and became Finance Minister in 1996 under the United Front government. Economists acclaimed his budget for 1996-97, in which he brought discipline in Government spending and launched an ambitious tax reform programme. He lost the elections in 1999, which he contested on behalf of the erstwhile Tamil Maanila Congress party; the latter merged with Congress in 2002. After the election victory of 2004, Chidambaram was appointed India's new Finance Minister. [32dv]

GANDHI Sonia

Italian-born widow of former Prime Minister Rajiv Gandhi. She refused to become involved in politics after her husband's assassination but officially took charge of the Congress party in 1998 and was elected to Parliament in the last elections in 1999. She declined prime ministership following her surprise general election success and was re-elected Party President in May 2005. She is also a Member of Parliament and heads the Congress delegation in the Lok Sabha. 32dz][2f] (Political Conditions)

JAYALALITHA Dr J

Chief Minister of Tamil Nadu and popular film star-turned-politician, her party, the All India Anna Dravida Munnetra Kazakham (AIADMK) suffered a huge defeat in recent national elections. The AIADMK-BJP alliance could not win even 1 of the 40 seats in Tamil Nadu and Pondicherry and lost heavily to a powerful alliance comprising the regional Dravida Munnetra Kazakham (DMK) party and the Congress party. Jayalalitha is also known as Amma or Puratchi Thallai (Revolutionary Leader). Jayalalitha is one of India's most colourful and controversial politicians. She spent two months in jail in 2001 after being convicted for corruption, a ruling which was later overturned. In 2002 she won a massive victory in state elections in Tamil Nadu and made a triumphant return to the post of Chief Minister. [32dw][32dx]

KALAM Abdul Dr APJ

Sworn in as India's twelfth President in July 2002. A Muslim, an eminent scientist and architect of India's missile programme. [32ai]

MUKHERJEE Pranab

Finance Minister in Indira Gandhi's cabinet after Congress's return to power in 1980, he has been a member of the Rajya Sabha for 24 years. He has been appointed Defence Minister in the new cabinet after the 2004 elections. [65] He won the Lok Sabha election from Jangipur (West Bengal) in 2004. [7,1]

PATIL Shivraj

Former Speaker of the lower house, he is responsible for the interior ministry in the new cabinet after the recent elections. [32ea]

PAWAR Sharad

A former federal Defence Minister, Mr Pawar has a reputation for being an efficient administrator. A powerful regional politician, he broke away from the Congress party a few years ago, but agreed to ally with it during the recent elections. Mr Pawar is looking after the crucial food and agriculture ministry, one of the areas in which the new Government really hopes to make a difference. [32ea]

SINGH Beant

Took office as Chief Minister of Punjab following the State elections of February 1992. His Government pursued a counter-insurgency policy which saw normality return to Punjab. He was assassinated in August 1995 in a car bomb explosion.

SINGH Natwar

Natwar Singh, a former career diplomat who studied history in Cambridge, is a Congress loyalist and became the new External Affairs Minister in 2004. However, he had to resign in 2005 after controversy over the Volcker Report that linked him to Iraq's oil for food programme. [7,1] A former ambassador to Pakistan and junior minister in Rajiv Gandhi's cabinet he is a prolific writer and has written a book on EM Forster. [32ea]

SINGH Dr Manmohan

Manmohan Singh, India's Prime Minister, is widely regarded as the architect of the country's economic reform programme. He is the first Sikh to hold the position. The academic-turned-civil servant, who studied economics at Cambridge and Oxford, became India's Finance Minister in 1991 when the country was plunging into bankruptcy. Under his stewardship, the economy revived and inflation was checked. A trusted confidante of Congress leader Sonia Gandhi, Dr Singh piloted the economic manifesto for the Congress party during this year's election campaign. [32du] The Prime Minister leads a coalition Government called the United Progressive Alliance. [32bf]

VAJPAYEE Atal Behari

Prime Minister of India (1996, 1998-2004). He was a founding member of the Bharatiya Jana Sangh, the Hindu nationalist precursor of the Bharatiya Janata Party (BJP). When the BJP won the largest number of parliamentary seats in 1996, Vajpayee became Prime Minister; failing to form a coalition, he resigned 13 days later. After the 1998 elections gave the BJP a greater representation in Parliament, Vajpayee again became Prime Minister; he was returned to office in 1999. Vajpayee has softened some of the more strident nationalist and anti-Muslim rhetoric of other BJP members and has pressed for the continuation of free-market reforms, the eradication of untouchability, and the rights of women. He also advocates the development of India as a nuclear power; several nuclear tests were conducted in 1998. He has written a number of

books, including collections of his speeches, a work on Indian foreign policy, and poetry. [66]

YADAV Lalu Prasad

A key ally of Sonia Gandhi. He formed the Rashtriya Janata Dal in 1997 after breaking away from the Janata Dal. He is regarded as a formidable force in Bihar which his Rashtriya Janata Dal has governed for many years. He was accused of corruption by his opponents following a corruption scandal that he and the state's bureaucrats and politicians were alleged to be involved in. Following his resignation as Chief Minister he made his wife, Rabi Devi, his successor. She is illiterate and knows little about politics. [32f] The RJD lost the state elections in 2005. [7,1]

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ANNEX G – List of Abbreviations

AI	Amnesty International
AIADMK	All India Anna Dravida Munnetra Kazhagam party
AISSF	All India Sikh Student Federation
A&N	Andaman and Nicobar Islands
BHC	British High Commission
BJP	Bharatiya Janata Party – Indian People's Party
CBI	Central Bureau of Investigation
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
DMK	Dravida Munnetra Kazhagam party
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
FIR	First Information Report
GOI	Government of India
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
INC	Indian National Congress
IOM	International Organisation for Migration
ISYF	International Sikh Youth Federation
J&K	Jammu and Kashmir
JKNC	Jammu and Kashmir National Conference
MSF	Médecins sans Frontières
NCRB	National Crime Records Bureau
NCW	National Commission for Women
NGO	Non Governmental Organization
NHRC	National Human Rights Commission
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organization of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
PWG	People's War Group
Rs	Rupees
RSS	Rashtriya Swayamsevak Sangh (Association of national volunteers)
SAWNET	South Asian Women's Network
SEWA	Self Employed Women's Association
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization

UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USSD	United States State Department
VHP	Vishwa Hindu Parishad (World Council of Hindus)
WFP	World Food Programme
WHO	World Health Organization

ANNEX H – List of source material

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Numbering of the source documents below is not always consecutive because some older sources have been removed in the course of updating this document.

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- m May 2002
- n June 2002
- o April 2003
- p May 2003
- q June 2003
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