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U.S. Department of State

India Country Report on Human Rights Practices for 1996

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INDIA

India is a longstanding parliamentary democracy with a bicameral parliament. Prime Minister H. D. Deve Gowda, whose United Front (UF) party heads a 13-member parliamentary coalition, took office in June and heads the Government. President Shankar Dayal Sharma, who was elected by an electoral college made up of members of parliament and members of state assemblies, is Head of State and also has special emergency powers. The judiciary is independent.

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

India has a mixed economy. The private sector is predominant in agriculture, most nonfinancial services, consumer goods manufacturing, and some heavy industry. Economic liberalization and structural reforms begun in 1991 continued largely unchanged despite a change of government. The economic problems are compounded by rapid population growth of 2 percent per year with a current total well above 900 million. Income distribution remained very unequal. Forty percent of the urban population and half the rural population live below the poverty level.

There continue to be significant human rights abuses, despite extensive constitutional and statutory safeguards. Many of these abuses are generated by intense social tensions, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. These problems are acute in Kashmir, where the judicial system has been disrupted by terrorist threats including the assassination of judges and witnesses, by judicial tolerance of the Government's heavy handed antimilitant tactics, and by the refusal of security forces to obey court orders. A decrease in abuses by security forces in Kashmir coincided with increased abuses by progovernment countermilitants.

Serious human rights abuses include: Extrajudicial executions and other political killings and excessive use of force by security forces; torture, rape, and deaths of suspects in police custody throughout the country; poor prison conditions; arbitrary arrest and incommunicado detention in Kashmir and the Northeast; continued detention throughout the country of thousands arrested under special security legislation; prolonged detention while under trial; widespread intercaste and communal violence; legal and societal discrimination as well as extensive violence, both societal and by police and other agents of government, against women; discrimination and violence against indigenous people and scheduled castes and tribes; child prostitution; and widespread exploitation of indentured, bonded, and child labor.

During 1996 India made further progress in resolving human rights problems. Following state elections in September and October, elected government was restored in Jammu and Kashmir for the first time in 6 years. Insurgency-related deaths were at the same level as last year, although the proportion of civilian deaths increased slightly apparently due to militant efforts to prevent elections and disrupt the newly elected government. State elections were also held in Uttar Pradesh, but results failed to resolve a political impasse and President's Rule was extended for an additional 6 months. In Punjab serious abuses of the early 1990's were acknowledged and condemned by the Supreme Court. Visits by international human rights groups, as well as continuing International Committee of the Red Cross (ICRC) prison visits in Kashmir, demonstrated increased transparency on human rights problems. The National Human Rights Commission (NHRC) continued to enlarge its useful role in addressing patterns of abuse, as well as specific abuses. The NHRC helped foster human rights education among the police and security forces, and advanced its program of human rights education in the schools.

Separatist militants were responsible for numerous, serious human rights abuses, including extrajudicial executions and other political killings, torture, and brutality. Separatist militants were also responsible for kidnaping and extortion in Kashmir and Northeast India.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Political killings by government forces (including deaths in custody and faked encounter killings), progovernment countermilitants, and insurgents continued at a high level in the state of Jammu and Kashmir and the seven northeastern states, where separatist insurgencies continued.

Security forces committed an estimated 100-200 extrajudicial killings of suspected militants in Kashmir. Although well-documented evidence to corroborate cases and quantify trends is lacking, most observers believe the number of killings declined from previous years. However, the decline was at least partially offset by an increased number of killings by progovernment countermilitants. According to press reports and anecdotal accounts, those killed typically had been detained by security forces, and their bodies,

bearing multiple bullet wounds and often marks of torture, were returned to relatives or were otherwise discovered the same day or a few days later. Security forces claim that these killings, when acknowledged at all, occur in armed encounters with militants. Members of the security forces are rarely held accountable for these killings.

Throughout the country, numerous accused criminals continue to be killed in encounters with police. Police personnel were wounded in a number of cases, however, and such incidents do not appear to reflect a pattern of extrajudicial execution. The most recent statistics, for 1995, show that 525 civilians and 159 police died in exchanges of gunfire involving police.

While extrajudicial killings continued in areas buffeted by separatist insurgencies, the press and judiciary continued to give attention to deaths in police custody and faked encounter killings elsewhere. According to NHRC statistics, 136 persons died in police custody in the year ending March 31. Many such persons were tortured (see Section 1.c.). The NHRC has focused on torture and deaths in custody. It has directed district magistrates to report all deaths in police and judicial custody and stated that failure to do so will be interpreted as an attempted coverup. Magistrates appear to be complying with this directive. However, the NHRC has no authority directly to investigate abuses by the security forces, and security forces are therefore not required to--and do not--report custodial deaths in Kashmir or the Northeast. In February 24-year-old union leader Ram Gopal died in Faridabad while undergoing police interrogation on a theft charge. Charges related to the death were brought against a police inspector and the owner of a factory where the unionist was active. In July liquor dealer Debu Pramanik died after being detained and beaten by police in West Bengal, reportedly in revenge for selling liquor that sickened a policeman. In January the Supreme Court ordered prosecution of 27 Punjab policemen for abduction, illegal confinement, and murder of 4 suspected militants in a January 1994 incident described at the time as an encounter. Over 300 persons died in prison, many from natural causes, in some case aggravated by poor prison conditions (see Section 1.c.).

Killings and abductions of suspected militants and other persons by progovernment countermilitants emerged as a significant pattern in Kashmir. Countermilitants are former separatist militants who have surrendered to government forces but have retained their arms and paramilitary organization. Some observers number them at several thousand strong, but the precise figure is unknown. They committed an estimated 100 to 200 political killings in Kashmir, although this figure is speculative. For example, on March 20 journalist Sheikh Ghulam Rasool was abducted from his home by countermilitants reportedly angered by a news report criticizing their activities; Rasool's body was found in the Jhelum river a month later. There are credible reports that government agencies fund, exchange intelligence with, and direct operations of countermilitants as part of the counterinsurgency effort. Countermilitants are known to screen passersby at roadblocks and guard extensive areas of the Kashmir Valley from attacks by militants. In sponsoring and condoning countermilitant activity, which takes place outside the legal system, the Government cannot avoid responsibility for abductions, murders, and other abuses by these irregulars.

In March co