OVERVIEW:

The government faced significant political and societal opposition in 2012 as it sought to implement economic and fiscal reforms. While reported fatalities associated with the country’s Maoist insurgency continued to decline, an outbreak of ethnic violence in the northeastern state of Assam caused dozens of deaths and mass displacement of civilians. Separately, high-profile cases of violence against women, including the fatal gang rape of a woman on a Delhi bus in December, triggered protests and public debate about legal protections for women and the effectiveness of Indian policing in general.

India achieved independence from Britain in 1947. The secular Congress Party ruled at the federal level for nearly all of the first 50 years of independence, but the Hindu nationalist Bharatiya Janata Party (BJP) became a major factor in Parliament in the 1990s and led a governing coalition from 1998 to 2004. The 1990s also featured significant economic reforms, with a Congress government initiating a move toward market-oriented policies following a balance-of-payments crisis in 1991. Meanwhile, a pattern of single-party governments gave way to ruling coalitions involving large numbers of parties. The change stemmed in part from the rise of new parties that held power and legislative seats in a single state or region.

After recapturing power from the BJP in the 2004 national elections, the Congress Party formed a ruling coalition with regional parties, and Congress leader Sonia Gandhi handed the premiership to former finance minister Manmohan Singh. The new Congress-led United Progressive Alliance (UPA) government reversed several of its predecessor’s policies, including controversial antiterrorism legislation and the introduction of Hindu nationalism into school curriculums. However, the UPA suffered internal pressures from leftist allies over economic issues, such as privatization. The government survived a contentious July 2008 confidence vote in Parliament triggered by leftist objections to a nuclear pact with the United States, though the vote was marred by bribery allegations.

The UPA gained strength in the April–May 2009 parliamentary elections, decisively defeating the BJP-led National Democratic Alliance, its closest rival. Congress itself won 206 of 543 lower house seats, and the UPA won 260 seats overall. The UPA also made alliances with independent parties that gave it a significant majority, leading to a more stable government.

However, a recent wave of high-profile scandals implicated several politicians and bureaucrats in corruption related to government contracts. Malfeasance in the awarding of telecommunications licenses and coal-mine contracts was alleged to have caused public losses of up to $33 billion and $35 billion, respectively, and prompted the February 2011 arrest of former telecommunications minister Andimuthu Raja. An anticorruption movement spearheaded that year by political and social activist Anna Hazare, backed by large street demonstrations in all
major cities, was aimed at compelling Parliament to accept changes to pending legislation that would empower a Jan Lokpal, or Citizens’ Ombudsman, to investigate and prosecute government corruption. A version of the bill was passed by the lower house of Parliament in December 2011, but had yet to be passed by the upper house at the end of 2012.

In 2012, in an effort to decrease fiscal deficits and stave off a potential downgrade from credit rating agencies, the UPA government undertook a set of controversial economic reforms, including reducing subsidies for diesel and cooking gas. This led to mass protests across India and the withdrawal of one partner from the governing coalition. Protests and political controversy also followed efforts by the government to permit multinational chains such as Wal-Mart to enter the Indian retail market.

In July, violence erupted between the tribal Bodo population and the Bengali-speaking Muslim population in the northeastern state of Assam, leading to the displacement of up to half a million people. Fears of violence between Muslims and migrants from northeastern India spread to cities elsewhere in India, causing many migrants to flee. Online media and text messages played a prominent role in stoking these fears and disseminating threats.

**POLITICAL RIGHTS AND CIVIL LIBERTIES:**

India is an electoral democracy. Members of the lower house of Parliament, the 545-seat Lok Sabha (House of the People), are directly elected for five-year terms (except for two appointed members representing Indians of European descent). The Lok Sabha determines the leadership and composition of the government. Most members of the less powerful 250-seat upper house, the Rajya Sabha (Council of States), are elected by the state legislatures using a proportional-representation system to serve staggered six-year terms; up to 12 members are appointed. Executive power is vested in a prime minister and cabinet. The president, who plays a largely symbolic role but possesses some important powers, is chosen for a five-year term by state and national lawmakers. In July 2012, former finance minister and senior Congress Party leader Pranab Mukherjee was selected as the 13th president of India.

Under the supervision of the Election Commission of India (ECI), elections have generally been free and fair. The 2009 national polls were mostly peaceful, though Maoist militant attacks in parts of the country led to 17 deaths during the first phase of voting. Electronic voting machines, also used in 2004, helped reduce election-day irregularities. Violence declined during state-level elections in 2009 and 2010. Goa, Gujarat, Himachal Pradesh, Manipur, Punjab, Uttar Pradesh, and Uttarakhand each held assembly elections in 2012. In Uttar Pradesh, the largest state in India with approximately 200 million people, the incumbent Bahujan Samaj Party (BSP), which is dedicated to the advancement of India’s Dalit communities, was defeated by the Samajwadi Party, which draws strength from Muslims and other disadvantaged groups. The declared assets of BSP leader Mayawati increased from approximately $180,000 to over $20 million from 2003 to 2012, raising suspicions of corruption. However, a case filed against Mayawati by the Central Bureau of Investigation (CBI) was quashed by the Supreme Court during the year.

Recent attempts to address political corruption, through legislation and activism, have been driven by domestic and international pressure to counter the negative effects of graft on government efficiency and economic performance. India was ranked 94 out of 176 countries surveyed in Transparency International’s 2012 Corruption Perceptions Index. Though politicians and civil servants are regularly caught accepting bribes or engaging in other corrupt behavior, a great deal of corruption goes unnoticed and unpunished. The federal government has introduced a number of initiatives to tackle the problem, such as the 2005 Right to Information Act, which is widely used to improve transparency and expose corrupt activities. While this legislation has had clear positive effects, over a dozen right to information activists have reportedly been killed since late 2009.

The private media are vigorous and diverse. Investigations and scrutiny of politicians make the news media one of the most important components of India’s democracy. Nevertheless, revelations of close relationships between politicians,
business executives, lobbyists, and some leading media personalities have dented public confidence in the press in recent years. While radio remains dominated by the state and private radio stations are not allowed to air news content, the television and print sectors have expanded considerably over the past decade, with many of the new outlets targeting specific regional or linguistic audiences.

Despite this vibrant media landscape, journalists continue to face a number of constraints. The government has used security laws, criminal defamation legislation, hate-speech laws, and contempt-of-court charges to curb critical voices. In September 2012, cartoonist Aseem Trivedi was arrested in Mumbai on charges of sedition for a set of cartoons that lampooned government corruption, though the charges were dropped in October. In November, two women were arrested for expressing dissent on the social-networking site Facebook regarding public mourning after the death of a prominent politician in Maharashtra.

Internet access is largely unrestricted, although some states have passed legislation that requires internet cafés to register with the state government and maintain user registries. Under Indian internet crime law, the burden is on website operators to demonstrate their innocence. Potentially inflammatory books, films, and internet sites are occasionally banned or censored.

Freedom of religion is constitutionally guaranteed in India and is generally respected. However, legislation in several states criminalizes religious conversions that take place as a result of “force” or “allurement.” Hindus make up over 80 percent of the population, but the state is secular. An array of Hindu nationalist organizations and some local media outlets promote antiminority views.

Academic freedom is generally robust, though intimidation of professors and institutions over political and religious issues sometimes occurs. Scholars and activists accused of sympathizing with Maoist insurgents have faced increased pressure from authorities and alleged torture by police.

There are some restrictions on freedoms of assembly and association. Section 144 of the criminal procedure code empowers the authorities to restrict free assembly and impose curfews whenever “immediate prevention or speedy remedy” is required. State laws based on this standard are often abused to limit the holding of meetings and assemblies. Nevertheless, protest events take place regularly in practice. The peaceful demonstrations associated with anticorruption activist Anna Hazare drew tens of thousands of people into the streets during 2011, and the movement continued in 2012.

Human rights organizations operate freely, but continue to face threats, legal harassment, excessive police force, and occasionally lethal violence. While India is home to a strong civil society sector and academic community, foreign monitors are occasionally denied visas to conduct research trips in the country on human rights and other topics. Under certain circumstances, the Foreign Contributions (Regulation) Act permits the federal government to deny nongovernmental organizations access to foreign funding. The government has been accused of abusing this power to target political opponents.

While workers in the formal economy regularly exercise their rights to bargain collectively and strike, the Essential Services Maintenance Act has enabled the government to ban certain strikes. Article 23 of the constitution bans human trafficking, and bonded labor is illegal, but the practice is fairly common across the country. Estimates of the number of affected workers range from 20 to 50 million. Children are also banned from working in potentially hazardous industries, though in practice the law is routinely flouted.

The judiciary is independent of the executive branch. Judges have displayed considerable activism in response to public-interest litigation matters. However, in recent years some judges have initiated contempt-of-court cases against activists and journalists who expose judicial corruption or question verdicts. Contempt-of-court laws were reformed in 2006 to make truth a defense with respect to allegations against judges, provided the information is in the public and national interest. The lower levels of the judiciary in particular have been rife with corruption, and most citizens have great difficulty securing justice through the courts. The system is severely backlogged and understaffed, with an estimated 32 million cases pending in lower courts and 56,000 at the Supreme
Court. This leads to lengthy pretrial detention for a large number of suspects, many of whom remain in jail beyond the duration of any sentence they might receive if convicted. According to the National Crime Records Bureau, nearly 65 percent of prisoners were awaiting trial or on trial at the end of 2011, with more than 9,000 awaiting trial for more than 3 years. The creation of various fast-track courts to clear the backlog has prompted charges that due process is being denied in some instances.

The criminal justice system fails to provide equal protection to marginalized groups. Muslims, who make up some 13 percent of the population, are underrepresented in the security forces as well as in the foreign and intelligence services. Particularly in rural India, informal councils often issue edicts concerning social customs. While these bodies play a role in relieving the overburdened official courts, their decisions sometimes result in violence or persecution aimed at those perceived to have transgressed social norms, especially women and members of the lower castes.

Police torture, abuse, and corruption are entrenched in the law enforcement system. The police also suffer from understaffing in relation to the size of the population. Citizens frequently face substantial obstacles, including demands for bribes, in getting the police to file a First Information Report, which is necessary to trigger an investigation of an alleged crime. Custodial rape of female detainees continues to be a problem, as does routine abuse of ordinary prisoners, particularly minorities and members of the lower castes. According to the Working Group on Human Rights in India and the United Nations, 14,231 people died in police custody between 2001 and 2010, and approximately 1.8 million people are victims of police torture every year. This is likely an underestimate, since it only includes cases registered with the National Human Rights Commission (NHRC).

The NHRC is headed by a retired Supreme Court judge and handles roughly 8,000 complaints each year. While it monitors abuses, initiates investigations, makes independent assessments, and conducts training sessions for the police and others, its recommendations are often not implemented and it has few enforcement powers. The commission also lacks jurisdiction over the armed forces, one of the principal agents of abuse in several parts of the country, further hampering its effectiveness. The NHRC nevertheless makes a substantial contribution to accountability by submitting reports to international bodies such as the UN Human Rights Council, often contradicting the government’s account of its performance.

Security forces operating in the context of regional insurgencies continue to be implicated in extrajudicial killings, rape, torture, arbitrary detention, kidnappings, and destruction of homes. The criminal procedure code requires the government to approve the prosecution of security force members, but approval is rarely granted, leading to impunity. The Armed Forces Special Powers Act (AFSPA) grants security forces broad authority to arrest, detain, and use force against suspects in restive areas; civil society organizations and multiple UN human rights bodies have called for the act to be repealed. An activist in the “disturbed area” of Manipur, Irom Sharmila Chanu, has been on a hunger strike for 11 years to demand the revocation of the AFSPA, but has faced continual arrests and forced feeding by the authorities. A number of other security laws allow detention without charge or based on vaguely worded offenses.

The Maoist insurgency in several parts of India has been of serious concern to the government. There were 367 Maoist-related deaths across nine states in 2012, according to the South Asia Terrorism Portal (SATP), though that represented a sharp decline from the previous year’s 602 deaths and the 1,180 that occurred in 2010. Among other abuses, the rebels have allegedly imposed illegal taxes, seized food and shelter, and engaged in abduction and forced recruitment of children and adults. Local civilians who are perceived to be progovernment have been targeted by the Maoists. Tens of thousands of civilians have been displaced by the violence and live in government-run camps.

Separately, in India’s seven northeastern states, more than 40 insurgent factions—seeking either greater autonomy or complete independence for their ethnic or tribal groups—attack security forces and engage in intertribal violence. Such fighters have been implicated in numerous bombings, killings, abductions, and
rapes of civilians, and they operate extensive extortion networks. More than 40 people were killed in the July 2012 ethnic violence in Assam, where members of the indigenous Bodo community targeted Muslims who were seen as illegal migrants from Bangladesh. The number of killings of civilians, security personnel, and militants in the northeastern insurgencies increased to 317 in 2012 from 246 in 2011, according to the SATP. These levels represent a substantial reduction compared with the more than 1,000 people killed in 2007 and 2008, and the 852 killed in 2009.

The constitution bars discrimination based on caste, and laws set aside quotas in education and government jobs for the so-called scheduled tribes, scheduled castes (Dalits), and other backward classes. Women and religious and ethnic minorities are represented in government; as of 2012, the vice president was a Muslim, the prime minister was a Sikh, and the speaker of the Lok Sabha was a Dalit woman. A number of states were headed by female chief ministers. However, members of the lower castes and minorities continue to face routine discrimination and violence. Dalits are often denied access to land and other public amenities, abused by landlords and police, and forced to work in miserable conditions. Indian Muslims are disproportionately more likely to be poor and illiterate, with less access to government employment, medical care, or loans.

Property rights are somewhat tenuous for tribal groups and other marginalized communities, and members of these groups are often denied adequate resettlement opportunities and compensation when their lands are seized for development projects. While many states have laws to prevent land transfers to nontribal groups, the practice is reportedly widespread. In 2011, the federal government introduced the Land Acquisition, Rehabilitation, and Resettlement Bill, which was still pending in Parliament at the end of 2012. If enacted, it would provide increased rights to people threatened with displacement for industrial and infrastructure projects.

Rape, harassment, and other transgressions against women are serious problems, and lower-caste and tribal women are particularly vulnerable. In July 2012, a mob of at least 18 men stripped and molested a woman leaving a bar in Assam. The incident was caught on camera and caused a national uproar. The fatal gang rape of a woman on a Delhi bus in December led to another public outcry, mass demonstrations, and major international attention. The government responded by proposing significant legal reforms. Despite the criminalization of dowry demands and hundreds of convictions each year, the practice continues. According to a recent National Health Survey, on average, one in three married women between ages 15 and 49 has experienced physical violence. A 2006 law banned dowry-related harassment, widened the definition of domestic violence to include emotional or verbal abuse, and criminalized spousal rape. However, reports indicate that enforcement is poor. The National Crime Records Bureau reports that about 6,000 females are killed every year for dowry-related issues alone.

Muslim personal laws and traditional Hindu practices discriminate against women in terms of inheritance, adoption, and property rights. The malign neglect of female children after birth remains a concern, as does the banned but growing use of prenatal sex-determination tests to selectively abort female fetuses.

A landmark court decision in 2009 struck down Section 377 of the Indian penal code, which criminalized homosexual behavior. However, an appeal of the ruling was pending at the Supreme Court at the end of 2012, and widespread discrimination continues. At a May 2011 conference on HIV/AIDS, the health minister referred to homosexuality as "unnatural" and a "disease," adding to the difficulties faced by activists combating harmful social stigmas regarding both issues.

EXPLANATORY NOTE:

The numerical ratings and status listed above do not reflect conditions in Indian-controlled Kashmir, which is examined in a separate report.