India Overview

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**Environment**

The Republic of India is one of the largest countries in the world, sharing a northern frontier with Tibet in the People's Republic of China, and with Nepal and Bhutan. To the north-west it borders Pakistan, to the north-east Burma and to the east Bangladesh. India's great southern peninsula stretches far down into the tropical waters of the Indian Ocean, where its territorial boundaries extend to the Andaman and Nicobar Islands in the Bay of Bengal and the Lakshadweep archipelago in the Arabian Sea. In terms of its population, India - after China -is most populous country in the world. It is estimated by the United Nations that India will have a larger population than China by the year 2045, with the projections indicating a total population of India of 1.501 billion and of China of 1.496 billion. Even at present, India is more like a continent than a country, with a population larger than that of Western Europe and the United States.

**Peoples**

Main languages: Hindi (official), English, Urdu

Main religions: Hinduism, Islam, Sikhism, Christianity, Janism, Buddhism, Judaism

Main minority groups include Dalits (scheduled castes) 166.6 million (16%) 2001 Census, Muslims 120 million (13.4%), Adivasis (scheduled tribes) 84 million (8%) 2001 Census including Nagas 100,000 (0.1%); also Christians 25,080,000 (2.4%), Sikhs 14,800,000 (1.9%), Kashmiris 9 million (est., 0.9%); others include Buddhists, Jews 6,000 (BBC News, 2008), Anglo-Indians, Andaman Islanders, Parsis.

India is the birthplace of two of the most widely practised world religions, Hinduism and Buddhism, and has within its borders a greater number of the followers of Islam than any country of the Middle East or North Africa. India could in many ways be described as a nation of minorities, yet it is nevertheless overwhelmingly Hindu. Although Hinduism may be seen as the one unifying thread running through the country as a whole, Hinduism is not a homogeneous religion. Its centuries-old traditions have been shaped by, and have in turn shaped, several different religious and social traditions. More importantly, cultural traditions often have much deeper resonances in India than those shaped by religion.
Amidst India's cultural traditions is rigid caste structure, a continuing symbol of identification and social stratification. 16 per cent of the total population of India consists of the scheduled castes which includes ‘Dalits’ also known as Harijans, or ‘Untouchables’. The Indian constitution requires the government to define a list or schedule of the lowest castes in need of compensatory programmes. There are also within India, a significant population of 8 per cent indigenous peoples, the Adivasis, who are constitutionally described as ‘Scheduled Tribes’.

Unlike the large Muslim minority, Christians and Buddhists, do not suffer high levels of discrimination and are not specifically targeted as minorities. Even within the broader Hindu tradition however, many groups have suffered discrimination and persecution. A prime example of the systematic discrimination to which a group may be subjected within Hinduism is evident from the case of the Dalits. The term Dalit, which means ‘the oppressed’, is an assertive term of self-identity, and as noted above, referred to what in strict legal and constitutional terms are known as the scheduled castes.

India's indigenous peoples, Adivasis, like many other indigenous peoples, might, with justification, claim that they remain victims under alien and colonial domination, even after the departure of the white colonizers. Adivasis of India do not represent a homogenous or unified community. There is a huge amount of diversity amongst the Adivasis: Nagas, although having indigenous claims, have nonetheless a distinct existence and differing political and constitutional aspirations from other Adivasi peoples.

While the exploitation of Adivasi has been a historical as well as a contemporary phenomenon, and their exploitation has gained no respite from developments in post-colonial India, other ethnic and religious minorities became particular casualties of the march towards independence. The two most significant are the Kashmiris and the Sikhs; the issue of their right to existence and to self-determination has resulted in large-scale bloodshed, with tragic consequences. The numerous smaller minorities include Jews, Anglo-Indians and Andaman Islanders.

**History**

The subcontinent witnessed the horrors of religious division through the experience of partition at the time of independence in 1947. Partition not only took a terrible toll of life, with an estimated 1 million victims, it also gave rise to one of the largest transfers of population in the twentieth century. The threat to India's multicultural, multi-ethnic, multi-religious polity of aggressive Hindu fundamentalism has raised fears among the country's many different religious, ethnic and cultural minorities, regarding the future of India's democratic structures and the role of the state in ensuring the protection of minority rights.

Religion is not, however, the only, or even the most significant, fault line in India's multi-layered polity. Economic transformation, and the lack of it in many cases, has led to the rise of extremism in various parts of India. The issue of language has played an important part in shaping the modern political agenda. The Official Languages Act (1963) established Hindi language as the single official language of India from 1965, with English as an ‘associate additional official language’. Such an arrangement was the recipe of massive demonstrations and self-immolations in Tamil Nadu and subsequently stretching to many states. Pressure groups representing a range of issues—from women and the environment to trade unions and unorganized labour—have exerted, and continue to exert, pressure upon the state. Movements with a broad range of political ideologies, sometimes with a radical vision for change, have often created problems for the fragile democratic foundations of the Indian state.

**Governance**
India, like many of the countries of the postcolonial world, remains to a great extent an artificial construct of the colonial era. Beneath the surface it is a country burdened with ethnic, religious and linguistic conflicts. There have been fears that India would meet the same fate as the former Yugoslavia or, to a lesser extent, the former Soviet Union. However, it is perhaps remarkable that a state presenting so much diversity in the character of its peoples, religions and civilizations, with an underdeveloped infrastructure and a majority of the population living in poverty, has managed to survive as a viable unit.

Even so, minority issues are increasingly taking centre stage in Indian politics, whether in the form of separatist movements, demands for increased political representation, or the need to provide protection to its many religions and cultures. Many of these conflicts are yet to be resolved, and the challenge for India will be to put in place processes that enable minority problems to be discussed and resolved for the benefit of the country as a whole, while ensuring the collective survival of the many minority peoples who form an integral part of the country.

A worrying feature in the last few years has been the emergence of fundamentalism in India, as elsewhere. Religious chauvinism, for example through the rise of religiously fundamental political parties, has been on the increase and this poses a threat to future communal relations. For the promotion and protection of the rights of the minorities, the traditions of democracy and secularism that have been the characteristic of constitutional and political developments of post-independence India are virtues which need to be preserved.

A change in the political climate also impacted on the position of religious minorities within India. The coalition led by the Hindu Nationalist Party (Bharatiya Janata Party) lost the general parliamentary elections held in April-May 2004 and was succeeded by the Indian National Congress. Notwithstanding a change in the federal government, security forces continued to pursue policies, inter alia, of extra-judicial killings, detentions and torture.

The implication of such policies are particularly tragic for India's religious, ethnic and linguistic minority groups. Arbitrary practices of arrests, detentions and torture are continually deployed against the Muslims in Jammu and Kashmir; courts in Jammu and Kashmir are reluctant to hear cases involving militants and failed to act expeditiously on habeas corpus cases. Jammu and Kashmir has a bitter and painful political history, the roots of the conflict going back to the partition of India in 1947 and leading to three wars between India and Pakistan. The conflict between the Kashmiris and the Indian armed forces has been brutal, resulting in more than 40,000 deaths within the past 15 years.

Since April 2005 (with the visit of Pakistan's Military leader Pervez Musharraf to India) some, albeit slow, progress has been made in developing a peace dialogue. In April 2005 a bus service opened between the two parts of the divided Kashmir. In June 2005, a number of Kashmiri leaders held talks with the Pakistani leader, with a view to advancing the peace initiative. This was followed by the decision at the end of August by the Indian Prime Minister Manmohan Singh to hold talks with the Kashmiri separatists. The talks, which were conducted with the moderate wing of the All Parties Hurriyat Conference in Delhi on 5 September 2005, provide cause for optimism: the leader of the Hurriyat-an umbrella group of parties opposed to Indian rule in Kashmir-agreed in principle to denounce all forms of violence within Kashmir. However, in the light of the intransigent stance of all the parties involved in the conflict and the continuing violations of Indian security forces, a resolution to the dispute appears distant. Amidst the current impasse The divisions between the Hurriyat and the hardliners in the negotiating process has been a key issue. This is manifest by a various killings of and attacks on moderate Hurriyat leaders by Pakistan-based hardline militant groups in Kashmir over the last few years.

In addition to the grievances emerging from Kashmir, Muslims of India claim to have suffered
persecution and genocide in the state of Gujarat. Muslim leaders condemn the failure of the Gujarat government and the Indian courts to prosecute those involved in the killing of over 2,000 Muslims at the hands of Hindu extremists. In many cases, attempts to hold perpetrators of Gujarat riots accountable were hampered by the allegedly defective manner in which police recorded complaints. There were allegations made by the victims that the police failed to register their complaints or recorded the details in such a way as to lead to lesser charges. Victims complained that the police and governmental authorities deliberately failed to bring charges against prominent people involved in attacks. No appropriate action has been undertaken against those involved in the Gujarat riots. A retrial was ordered in relation to the most serious instance of rioting in Godhra, and arrest warrants were issued for 10 of the 21 accused. In April 2009 the Indian Supreme Court ordered the setting up of six special courts to investigate the religious riots in Gujarat, including the role of Gujarat Chief Minister Narendra Mori, member of the Hindu nationalist Bharativa Janata Party, who is allegedly turned a blind eye to the violent attacks. On the eve of the general elections the trials were said to be a test on the ability of the state to protect minority Muslims in the secular but Hindu-majority India.

There has also been the continuation of another related sectarian Hindu-Muslim dispute over the sacred site of Ayodha. On 5 July 2005, six men pretending to be tourists used explosives to blast through the wall of the Ayodha site. Although all the assailants were killed, Hindu nationalist parties such as the Vishwa Hindu Parishad (VHP) called for retaliatory action to be taken against Muslim organizations and blamed Pakistan for orchestrating the attack.

The 166.6 million Scheduled Castes (including the Dalits) and the 84.3 million Scheduled Tribes (Adivasis) continue to face discrimination and social segregation in many aspects of public and private life. The Adivasis—who have historically been deemed as outside the ambit of the Hindu Caste system—are consistently discriminated against and suffer from socio-economic marginalisation. Dalits are made the victims of social ostracism, having inadequate access to health care and poor working conditions. Dalit women continued to face ‘double discrimination’ on the basis of their caste as well as gender—deprived of education and basic health care they were frequently forced into slave-like work and menial labour.

In the light of the egregious and systematic denial of the fundamental rights of the Dalits, the UN, on 19 April 2005 (in an unprecedented move) decided to appoint two Special Rapporteurs to examine the substantial and deep-rooted problem of caste-based discrimination. The special rapporteurs are mandated to study all issues surrounding the discrimination against Dalits and report to the UN Sub-Commission on the Promotion and Protection of Human Rights. The three-year process lead to the drafting of a set of Principles and Guidelines aimed at eliminating caste-based discrimination. The final report was officially issued in 2009. It sets out that ‘discrimination based on work and descent is a form of discrimination prohibited by international human rights law as proclaimed by the Universal Declaration of Human Rights’ and other key international human rights instruments, and that discrimination based on work and descent is not only a major human rights violation but also major obstacle to development. Furthermore it states the obligation of all States to acknowledge this form of discrimination and take all necessary steps to eliminate and prevent discrimination based on work and descent, including affirmative action. The reports of the special Rapporteurs are not binding upon States; the States themselves having the discretion as to extent to which they adopt the recommends set forth in the reports produced by the special Rapporteurs. In their recommendations to the UN principles and guidelines the International Dalit Solidarity Network called on the UN and states to establish effective follow-up mechanisms.

Tamils

The total Tamil population of India is estimated to be over 60-70 million. The Tamils are primarily the
residents of the Indian state of Tamil Nadu, the sixth most populated state in the union. Official estimates for Tamil Nadu's population in March 2001 were 62,110,839, accounting for 6 per cent of India's total population. After its initial colonisation by the British East India Company, Tamil Nadu was amalgamated into the Presidency of Madras. Subsequent to gaining independence, in 1956 a new state based on linguistic boundaries - Madras - was established. The name of the Madras State was changed to Tamil Nadu (Land of the Tamils) during 1969.

Tamils are renowned for their art, cultures and traditions. Renowned composers such as Tyagaraja were the products of the Tamil culture and values. Tamil politics has revolved around efforts to obtain recognition of linguistic, ethnic and cultural rights. Demand for linguistic rights have therefore been at the top of the agenda for the Tamils.

In addition, Tamils of India have been at the forefront for campaigning for the rights of the Tamil minority in Sri Lanka. At the same time, there are also allegations of violations of human rights conducted by the Tamils themselves. Thus, for example, at the time of the Hindu-Sikh riots in the aftermath of the Indian Prime Minister Indra Ghandhi's assassination, Tamil Nadu was one of the worst affected region. Similarly after the Coimbatore blasts of 1998, Muslim institutions and businesses were violently attacked. As regards caste-based discrimination, there are currently allegations of large-scale discrimination, in particular against the Dalits.

**Boro people**

The Boro people share many of the charactaristics of the Adivasis and many of their demands characterise those of the other indigenous peoples of India. The Boro people are of the Sino-Tibetan origin among the Mongoloid group, thought to have evolved from the ancient Chinese origins. Their ancient language originates from the Tibeto-Burman family of languages. In addition to a distinct language, Boro people take pride in well-developed traditions and customary tribal values. There are difficulties in establishing the accurate number of the Boro people currently living in India: the official census reports of 1971 advanced a figure of 6,10,459. Subsequent census conducted by the government of India have not presented an accurate figure, although it is estimated that the present population of Boro people is between 6 million to 9 million.

In common with other Adivasis, the Boro peoples are totally dependant on their environment and lands. Ninety-nine per cent of the Boro population lives in the villages and therefore agriculture is the mainstay of their economy. Notwithstanding commercial development and enterprise within India, Boro people have firmly attached themselves to the agrarian mode of production with their lands being an indispensable element of their existence and identity.

Developments in the latter half of the twentieth century have been highly disturbing since over time the Boro people have witnessed encroachment of their lands by outsiders (including East Bengal and Nepal) as well as from peoples from mainland India. This encroachment of lands has had a devastating effect on the socio-political life of the Boro people. It has also brought an unfortunate change in the demography of the region. At present, amidst the four districts of Assam (Dhubri, Goalpara, Barpeta and Nogaon), the illegal immigrants have become the predominant population and thus the Boro people have turned into ineffective minority exploited, discriminated, dominated and despised by the outsiders. The problem of encroachment of lands has assumed an alarming proportion during 2000-2007 and remains the major grievances of the Boro people.

**Anglo-Indians**

The Anglo-Indian community is the smallest officially recognized minority group in India. The
community originated soon after 1639 when the British East India Company founded a settlement in Madras. The community identified itself with, and was accepted by, the British until 1791, when Anglo-Indians were excluded from positions of authority in the civil, military and marine services in the East India Company. During the Indian rebellion of 1857 the Anglo-Indians sided with the British, and consequently received favoured treatment from the British government in preference to Indians, serving in large numbers in the strategic services of the railways, post and telegraph, and customs. In 1919 the Anglo-Indian community was given one reserved seat in the Central Legislative Assembly in Delhi. The English-speaking Anglo-Indians identified themselves with the British against the nationalist Congress Party, despite British attitudes of superiority. After independence in 1947, Anglo-Indians faced a difficult choice: to leave India or to integrate. Many Indians distrusted their pro-British attitudes and Western-oriented culture. Large numbers did leave, mainly for Britain and Australia. The current estimates for the Anglo-Indian population are less than 100,000. In contemporary terms, the Anglo-Indian community is an ageing community and also fast declining in numbers. Most of its younger members have either chosen to emigrate to Britain, Australia or Canada and the few that remain are unlikely to have the numbers or social cohesion to continue as a dynamic community. The key issues faced by the community in 2005-2007 is to maintain its own identity through its numerical growth and by tracing the respective family histories. Constitutional and legislative guarantees are provided for the Anglo-Indians to maintain their schools and retain English as the medium of language. There is nevertheless significant, societal pressure on the Anglo-Indians to assimilate within mainstream Indian society: members of the community view their choices as being limited to assimilation or return to countries of their ancestors.

Current state of minorities and indigenous peoples

It is amply clear that various issues related to minorities have started putting pressure on the policy formulation and implementation by the government. It also needs to be added that the dominant heterogeneous groups are quite fragmented and that government policy cannot be faulted for working to further the interests of any particular group as such. However, there are substantial difficulties; these include problems with the implementation of policies currently dealing with property rights and interests and the restructuring of rights of religious minorities. The plurality existing within the political framework and the pressures generated by the polity is now seeing a continuous process of social churning affecting the position of minority groups.

In 2006, the Government has drawn up and implemented a reservation policy through a legislative enactment in Parliament that will entitle members of Other Backward Classes (OBCs), both Hindu and Muslim, to avail of fifty per cent of seats in all government educational institutions and all government-aided and sponsored educational institutions. This is in consonance with the objectives of the Ninth Five Year Plan (1997-2002) that chooses to enhance ‘growth with social justice and equity’. It needs to be mentioned that the Ninth Plan emphasizes on the removal of historical social wrongs through the vehicle of private participation and private ownership in industry. There is a state driven-transfer of economic power that is slowly taking shape from the urban, westernized, educated upper-castes to the rural masses and intermediary castes. This has been manifest in various densely-populated states across the country like Bihar, Uttar Pradesh, Jharkhand, Chattisgarh, Tamil Nadu and West Bengal. The politics of this newly emerging constituent class has re-defined Indian politics since 1991 after the implementation of the Mandal Commission Report (1990). In its report of 1980, the Commission endorsed the affirmative action policies existing in Indian law whereby lower castes (also known as Other Backward Classes and Scheduled Castes and Tribes) were provided with exclusive access to a certain proportion in higher education and governmental jobs and recommend changes to the quota system by increasing these to 49.5 per cent (a rise of 27 per cent).

The Mandal Report has been a significant factor that has influenced the recent changes in the political
map of the country both at the federal level and at the State level. At one level, Mandal has brought in the demand for greater decentralisation and increased democratisation of political power. At another level, it has been the reason for political expediency and the government placing more emphasis on caste and religion in certain areas of policy-making. While implementation of the Mandal Report by the V.P. Singh Government and the Rajiv Gandhi Government in the early 1990s arguably has had a pronounced effect on the political developments in the last decade in a positive way in some sense, it is also seen one of the reasons for the meteoric rise of the right-wing Hindu party, the BJP. The recent move towards a fresh spate of reservation in educational institutions by the Congress Party in 2006 has again stoked fears that the BJP may see a fresh lease of political life after it's last few years in political wilderness.

The Dalits and the Adivasis continue to suffer from enormous discrimination and social ostracism. At the same time, India's official discourse of equal rights for all religious minorities, has increasingly been translated into the will the Hindu majority. The global war on terror has raised substantial increased the leverage of right-wing Hindu fundamentalism to further undermine the position of Muslim minorities. Muslims - in particular those seeking autonomy and self-determination-in Kashmir are viewed as collaborators or terrorists. Within Kashmir, there have been limited and piece-meal initiatives under taken by the present Congress government for a lasting cession of violence. The position of Muslim minorities, on the whole, continues to be precarious. Further tensions have emerged as consequence of the blasts which shook Mumbai on 11 July 2006. These blasts resulting in the deaths of 209 have been blamed on Islamic extremists aggrieved, with Indian security services suspecting Al-Qaeda and their Indian agents. On 18 July three members of the Students Islamic Movement of India were arrested on suspicion of masterminding the terrorist plot. This atrocity has led to further increasing the nervousness and tensions for Indian Muslims.

Tensions also increased in Gujarat following blasts from 21 simultaneous bombs in the city of Ahmedabad. The bombs killed 53 people and injured 200 more. In August 2008, local human rights activists claimed that about 400 Muslim youths had been rounded up in the aftermath.

Muslim-Hindu tensions heightened again after a fatal assault in Mumbai in November 2008, in which 166 were killed and many left wounded. The only survivor from 10 gunmen who, according to the police, landed in Mumbai by boat from Pakistan faces 83 charges the State made against him and a death sentence if found guilty. India suspended talks with Pakistan until it took steps against the 38 people the Indian police have identified in connection with the attack.

In September 2008 an anti-Christian wave of violence spread in the state of Orissa, that has left 38 people dead and many injured. According to media reports tens of thousands of Christians fled their homes. Pope Benedict condemned the incidents that also involved churches being set on fire. The Indian Supreme Court ordered the state government to ensure the security of the refugees.

The impacts of recent governmental initiatives are as yet unclear. The Sachar Report on the Status of Indian Muslim which was tabled in the Parliament on 30 November 2006 contains revealing comments on the social, economic and educational status of the Muslim community; it is as yet too early to assess the extent to which its recommendation will be implemented. However, it is the first of its kind report and it puts forward recommendations to implement comprehensive policies to ensure equality of opportunity to Muslims in the workplace and in education. The current government also established a Ministry for Minority Affairs. However, this ministry which was created in January 2006 is generally perceived as a political instrument on the part of the Congress government to regain the confidence and sympathies of minorities within India. There is as yet no significant impact of this ministry in the projection or promotion of minority rights. In August 2007 the Minister of Minority Affairs published the government’s 15 point follow-up actions on the recommendations of the Sachar Committee. Actions include targeted interventions to improve basic amenities and employment and economic opportunities in specific towns and districts with a substantial Muslim minority population, a multi-pronged strategy is
foreseen to address educational backwardness and the setting up of an Equal Opportunity Commission and a National Data Bank is recommended.

Ms. Asma Jahangir, United Nations Special Rapporteur on Freedom of Religion or Belief visited India in March 2008 and released her report on religious freedom in India in January 2009. In her report she positively commented on the Sachar Report, on the new 15 Point for Welfare of Minorities report and on the work of the National Commission for Minorities and acknowledged that a comprehensive legal framework to protect freedom of religion or belief exist. But she expressed concern that when it comes to implementation of the law and policies, the level of action at the regional and local level is unsatisfactory. She condemned ‘institutionalised impunity for those who exploit religion and impose their religious intolerance on others’ and warned that ‘communal violence might happen again unless political exploitation of communal distinctions is effectively prevented’. Recommendations include the delinking of Scheduled Caste status from the individual’s religious affiliation and vigorous protection of religious minorities and prevention of communal violence, including passing legislation to specifically deal with inter-religious violence.

Violence across the country marked the general elections in early 2009. According to media reports at last two people were killed and dozens wounded in violent clashes in Calcutta, and in Kashmir a petrol bomb was thrown at a police station and anti-India separatists clashed with security forces. Results of the five-round elections are expected on 16 May 2009.

**International commitments**

While there are substantial failings in India’s compliance with international commitments, the State has nevertheless accepted and ratified a number of international human rights and minority rights instruments. India is a party to both the International Covenants on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966). However very significantly India, has made a reservation to Article 1 of both these treaties, in effect denying the application of the right to self-determination to such groups as Kashmiris or Nagas. India has not ratified either the first optional protocol, which allowes individuals to makes complaint to the international treaty body, called the Human Rights Committee. India also has as yet failed to ratify the second optional protocol to the International Covenant on Civil and Political Rights which abolishes Capital Punishment. India has also ratified the International Convention on the Elimination of All forms of Racial Discrimination (1966), the Convention for the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). India has yet not ratified the optional protocol to the Convention for the Elimination of All Forms of Discrimination against Women (1979). It has however accepted the two protocols attached to the Convention on the Rights of the Child.

India was one of the first countries to ratify the International Labour Organisation’s Convention 107 (1957) on Indigenous and Tribal Population Convention. India however has failed to ratify the revised ILO convention concerning Indigenous and Tribal Peoples in Independent Countries. India continues to take issue with the United Nations Working Group on Indigenous peoples on the applicability of the criteria of the Special Rapporteur José R. Martinez Cobo’s definition of Indigenous People: According to the viewpoint of successive Indian governments, the definition as articulated by Martinez Cobo is restricted in application to the Indigenous Peoples of the American Continent, Australia and New Zealand. In May 2006, India was one of the forty-seven States elected to the newly established United Nations Human Rights Council (which replaced the United Nations Human Rights Commission).