

INDIA

COUNTRY ASSESSMENT

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Country Information & Policy Unit
IMMIGRATION & NATIONALITY DIRECTORATE
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CONTENTS	
1. Scope of Document	**1.1 - 1.4**
2. Geography	**2.1 - 2.4**
3. Economy	**3.1 - 3.4**
4. History	**4.1 - 4.16**
1996 - 1998	4.1 - 4.5
1998 - the present	4.6 - 4.16
5. State Structures	**5.1 - 5.39**
The Constitution	5.1
- Citizenship and Nationality	5.2 - 5.6
Political System	5.7. - 5.11
Judiciary	5.12
Legal Rights/Detention	5.13 - 5.18
- Death penalty	5.19
Internal Security	5.20 - 5.26
Prisons and Prison Conditions	5.27 - 5.31
Military Service	5.32
Medical Services	5.33 - 5.37
Educational System	5.38 - 5.39
6. Human Rights	**6.1 - 6.234**
6.A Human Rights Issues	**6.1 - 6.139**
Overview	6.1 - 6.20
Freedom of Speech and the Media	6.21 - 6.23
- Treatment of journalists	6.24
Freedom of Religion	**6.25 - 6.121**
- Introduction	6.25 - 6.32
- Muslims	6.33 - 6.48
- Christians	6.49 - 6.65
- Sikhs and the Punjab	6.66 - 6.120
- Buddhists and Zoroastrians	6.121
Freedom of Assembly & Association	6.122 - 6.123
- Political Activists	6.124 - 6.129
Employment Rights	6.130 - 6.134
People Trafficking	6.135
Freedom of Movement	6.136 - 6.139
6.B Human Rights - Specific Groups	**6.140 - 6.230**
Ethnic Groups	6.140
- Kashmir and the Kashmiris	6.141 - 6.195
Women	6.196 - 6.213
Children	6.214 - 6.219
- Child Care Arrangements	6.220 - 6.221
Homosexuals	6.222 - 6.224
Scheduled castes and tribes	6.225 - 6.230
6.C Human Rights - Other Issues	**6.231 - 6.234**
Treatment of returned failed asylum seekers	6.231 - 6.233
Treatment of Non-Governmental Organisations (NGOs)	6.234
Annexes	
Chronology of Events	**Annex A**
Political Organisations	**Annex B**
Prominent People	**Annex C**
References to Source Material	**Annex D**

1. SCOPE OF DOCUMENT

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a wide variety of recognised sources. The document does not contain any Home Office opinion or policy.

1.2 The assessment has been prepared for background purposes for those involved in the asylum/human rights determination process. The information it contains is not exhaustive. It concentrates on the issues most commonly raised in asylum/human rights claims made in the United Kingdom.

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain. These sources have been checked for currency, and as far as can be ascertained, remained relevant and up to date at the time the document was issued.

1.4 It is intended to revise the assessment on a six-monthly basis while the country remains within the top 35 asylum-seeker producing countries in the United Kingdom.

Return to Contents

2. GEOGRAPHY

2.1 The Republic of India forms a natural sub-continent with the Himalayas to the north. The Arabian Sea and the Bay of Bengal, which are sections of the Indian Ocean, lie to the west and east respectively. India's neighbours are China (Tibet), Bhutan and Nepal to the north, Pakistan to the north-west, and Burma to the north-east. To the east, almost surrounded by India, is Bangladesh. Near India's southern tip, across the Palk Strait, is Sri Lanka. India covers an area of 3,287,623 square kilometres (1,269,219 square miles). **[1]** The capital is New Delhi. **[35]**

2.2 In July 2002 the population was estimated to be 1,045,845,226. **[35]** Officially the one-billionth baby was born on 11 May 2000, according to the country's census commission. **[32i]**

2.3 India is a mosaic of different cultures, ethnic groups, languages and religions. **[1]**

2.4 The official language of India is Hindi written in the Devanagari script and spoken by some 30% of the population as a first language. Since 1965 English has been recognised as an "associated language". 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 (spoken by 8.2% of the population), 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. **[1]** More than 180 million people in India regard Hindi as their mother tongue, and another 300 million use it as a second language. There is controversy about the status of Punjabi, which can be considered as a dialect of Hindi, or as an independent language. A 1997 survey found that 66% of all Indians can speak Hindi, and 77% of Indians regard Hindi as "one language across the nation". **[31]**

For further information on geography, refer to Europa Yearbook, source **[1]**

Return to Contents

3. ECONOMY

3.1 Since the early 1990s, India has been undergoing a transition from a government-controlled economy to one that is largely market oriented. The private sector is predominant in agriculture, most non-financial services, consumer goods, manufacturing and some heavy industry, although the State dominates the economy through public ownership in sectors such as finance, energy, capital goods and heavy industry, and infrastructure. The State also employs nearly 70% of the 28 million workers in organised employment. **[6e]**

3.2 India is the world's fifth largest economy in terms of gross national product (GNP), but its per capita GNP brings it to 90th place. Agriculture, together with fishing and industry, contribute approximately one third of GNP. About 70% of the population are involved in cultivation activities. Nearly 33% of cultivated land is under assured irrigation while the rest depends on the annual monsoon. The main crops are food grains for domestic consumption such as rice, wheat and sorghum. Large-scale poverty means

that out of the 1.13 billion people living below the poverty line throughout the world, 40% are found in India. **[6e]**

3.3 India is also regarded as a giant in technological achievements and industrial output: it has significant expertise in nuclear energy, communication satellites, vehicles, software design, combat aeroplanes and helicopters, oceanography and deep sea oil drilling, as well as machinery and manufactured goods. **[6e]**

3.4 The approximate rate of exchange on 12 March 2003 was £1 = 77 Indian rupees. **[36]**

Return to Contents

4. HISTORY

1996 - 1998

4.1 The Congress (I) Government entered the May 1996 general elections with its morale at a low ebb and many of its senior leaders at odds with the Prime Minister, Narasimha Rao. Breakaway parties had been formed in the north, in Madhya Pradesh and in Tamil Nadu - the last in response to Narasimha Rao's decision to have an electoral alliance with the Tamil regional party, the AIADMK, then ruling the State. Congress won only 139 seats, its poorest ever performance. The BJP emerged as the largest party, improving on its previous performance to win 160 seats but still well short of a majority, even with allies. **[7e]**

4.2 On 15 May 1996 the Indian President called on the BJP's parliamentary leader, Atal Behari Vajpayee, to form a Government, which he did with the support of Shiv Sena and other smaller allies. Given the antagonism felt towards the BJP by the majority of other political parties, Vajpayee resigned on 28 May 1996 in anticipation of his Government's inevitable defeat in a parliamentary vote of confidence. **[1]**

4.3 The National and Left Fronts merged to form an informal coalition known as the United Front (UF) which comprised a total of 13 parties, with the Janata Dal, the Samajwadi Party, the 2 communist parties and the regional Dravida Munnetra Kazhagam (DMK) and Telugu Desam as its major components. With Congress (I) prepared to lend external support, the UF was able to form a Government at the end of May 1996. H.D. Deve Gowda, a former Chief Minister of Karnataka, was selected to lead the UF and the new Government. **[1]**

4.4 At the end of March 1997 Deve Gowda was faced with a serious political crisis following Congress (I)'s withdrawal of parliamentary support for the UF Government. On 11 April 1997 the Prime Minister resigned following the defeat of the UF Government in a vote of confidence, and he was replaced by Inder Kumar Gujral, the External Affairs Minister and the only person acceptable to all the coalition parties. He was sworn in as Prime Minister on 22 April 1997. **[1]**

4.5 In November 1997 Congress (I) called for the withdrawal of the Dravida Munnetra Kazhagam (DMK) party from the Government. The Government refused the request and Congress withdrew its support. Mr Gujral resigned as Prime Minister on 28

November 1997. On 4 December 1997 President Narayanan dissolved the Lok Sabha (the Lower House). Mr Gujral headed an interim Government until the general election was held. **[1]**

Return to Contents

1998 - the present

4.6 The general election was held between 16 February and 7 March 1998. Atal Behari Vajpayee, parliamentary leader of the BJP, was sworn in as Prime Minister on 19 March 1998, thereby ending 2 weeks of feverish political activity following a general election which had left no party with a clear majority in the Lok Sabha. **[5b]**

4.7 India detonated 5 nuclear devices in May 1998, before Pakistan responded with 6 underground nuclear explosions. The tests enjoyed widespread support in India, but they provoked almost universal condemnation from the international community. **[5c]**

4.8 The BJP-led Government survived with the outside support of several regional parties and the participation in Government of several allies whose backing was conditional on narrow and specific agendas. **[16]** A political crisis arose in April 1999 after the AIADMK party withdrew its support from the Government. **[8j]** India's President asked Prime Minister Vajpayee to seek a vote of confidence. **[8k]** On 17 April 1999 the Government lost a vote of confidence in the Lok Sabha by one vote **[8l]** and after 10 days the President dissolved Parliament and called a general election. **[8m]** The general elections to the 13th Lok Sabha, held between September and October 1999, concluded with a decisive victory for the 24-party National Democratic Alliance (NDA) coalition led by the BJP, which with 296 seats commanded an absolute majority. Overall voter turnout was 60%. Atal Behari Vajpayee, leader of the BJP was sworn in as Prime Minister on 13 October 1999. Although there was a 2.7% swing to Congress (I) nationwide, it went on to suffer its worst ever electoral defeat. In contrast to the 1998 election, the BJP eschewed the rhetoric of sectarian Hinduism, concentrating instead on economic reform and infrastructure projects. In the last phase of the election, violence claimed 41 lives, mostly as a result of attacks by separatist militants in the north eastern States of Assam and Tripura. **[5e]**

4.9 The results of the September/October 1999 general election **[24a]** (with the party positions in the Lok Sabha after the February/March1998 elections in brackets) were:

Bharatiya Janata Party*	**182** (181)
Congress (I)	**111** (141)
Communist Party of India (Marxist)	**32** (32)
Telugu Desam Party*	**29** (12)
Samajwadi Party	**25** (18)
Janata Dal United*	**20** (6)
Shiv Sena*	**15** (6)
Bahujan Samaj Party	**14** (5)
Dravida Munnetra Kazhagam*	**12 (**5)
Biju Janata Dal*	**10** (9)

All India Anna Dravida Munnetra Kazhagam	**10** (18)
All India Trinamool Congress*	**8**
Nationalist Congress Party	**7**
Rashtriya Janata Dal	**7** (17)
Independents	**5** (6)
Pattali Makkal Katchi*	**5** (4)
Indian National Lok Dal*	**5**
Communist Party of India	**4** (9)
Jammu and Kashmir National Conference	**4** (3)
Marumalarchi Dravida Munnetra Kazhagam*	**4** (3)
Revolutionary Socialist Party	**3** (5)
All India Forward Bloc	**2** (2)
Muslim League Kerala State Committee	**2**
Shiromani Akali Dal*	**2** (8)
Rashtriya Lok Dal	**2**
Akhil Bhartiya Tantrik Congress	**2**
Janata Dal Secular	**1**
Samajwadi Janata Party (Rashtriya)	**1**
Manipur State Congress Party	**1** (1)
Himachal Vikas Congress	**1**
Kerala Congress	**1**
Kerala Congress (M)	**1** (1)
Sikkim Democratic Front	**1** (1)
Communist Party of India (Marxist-Leninist)(Liberation)	**1**
Bharipa Bahujan Mahasangha	**1**
Peasants and Workers Party of India	**1** (1)
All India Majlis-E-Ittehadul Muslimmen	**1** (1)
MGR Anna DM Kazhagam	**1**
Shiromani Akali Dal (Simranjit Singh Mann)	**1**

***** indicates parties which supported the BJP led Government.

4.10 The BJP and its allies won 296 seats, Congress and its allies 134 seats, and the others accounted for 107 seats. **[11c]**

4.11 As at 8 November 1999 the party position in the Rajya Sabha (Upper House of the Indian Parliament) **[24b]** was as follows:

Congress (I)	**58**
Bharatiya Janata Party	**45**
Communist Party of India (Marxist)	**16**
Independents	**15**

Telugu Desam	**10**
Janata Dal	**9**
Rashtriya Janata Dal	**8**
Nominated Members	**8**
Samajwadi Party	**7**
Dravida Munnetra Kazhagam	**7**
All India Anna Dravida Munnetra Kazhagam (I)	**5**
Shiv Sena	**5**
Shiromani Akali Dal	**5**
Bahujan Smaj Party	**4**
Biju Janata Dal	**3**
Tamil Maanila Congress (Moopanar)	**3**
Muslim League	**2**
Jammu and Kashmir National Conference	**2**
Asom Gana Parishad	**2**
Forward Bloc	**2**
All India Anna Dravida Munnetra Kazhagam (II)	**1**
Sikkim Sangram Parishad	**1**
Revolutionary Socialist Party	**1**
Kerala Congress	**1**
Maharashtra Vikas Aghadi	**1**
Haryana Vikas Party	**1**
Himachal Vikas Congress	**1**
Jharkhand Mukti Morcha	**1**
Indian National Lok Dal	**1**
Autonomous State Demand Committee	**1**

4.12 In May 2001, India's main opposition Congress (I) party emerged victorious after elections in five key States across the country. Congress (I) swept to power in Kerala, Assam and Pondicherry, while a key ally took the southern State of Tamil Nadu. India's communists also won a record sixth term in West Bengal, continuing their reign as the world's longest serving elected communist administration. The results were being seen as a major blow for Prime Minister Vajpayee whose BJP coalition partners did not win anywhere, although the BJP was not a key player in the five States. In Tamil Nadu, the AIADMK alliance, led by the former film star Jayalalitha, won a resounding victory over the BJP's key Government coalition partner, the DMK. **[32ad]**

4.13 Elections to four State assemblies were held on 13-21 February 2002, with the BJP suffering serious defeats. In the key northern State of Uttar Pradesh (India’s most populous, with a population of 166 million), the BJP lost control, coming second with 107 seats to the socialist Samajwadi Party (SP) with 146 seats. **[5j]** President’s rule was imposed on 8 March 2002 in Uttar Pradesh, and the recently elected 403-seat

State assembly suspended, as no party had been able to assemble a coalition to ensure a ruling majority. **[5k]** The political stalemate was resolved on 3 May 2002 when Mayawati, leader of the Bahujan Samaj Party (BSP), was sworn in as chief minister heading a 19-member Cabinet that included 7 BJP ministers. **[5m]** The BJP lost the new northern State of Uttaranchal and the north western State of Punjab to Congress, which was returning to power in the latter after 5 years. The resurgent Congress Party was now in Government in 14 States. **[5j]** The newly formed Secular Progressive Front (SFP) took power in Manipur with 35 seats in the 60-member assembly. **[5k]**

4.14 In July 2002 the eminent scientist Dr A.P.J. Abdul Kalam was sworn in as India's 12th President, replacing K.R. Narayanan. He was 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]**

4.15 In December 2002 the BJP won in State elections in Gujarat, increasing its majority in the 182-seat assembly by winning 126 seats. The scale of the victory surprised some observers as the BJP's popularity had been in decline. **[32an]**

4.16 In State elections in February 2003, the Congress Party won a big victory over the BJP in Himachal Pradesh. In Meghalaya, Congress were to head a coalition with three regional parties and some independent legislators. A coalition of left-wing parties was triumphant in Tripura, while in Nagaland, the Democratic Alliance of Nagaland was invited to form a Government. **[32ap]**

For history prior to 1996 refer to Europa Yearbook, source **[1]**

Return to Contents

5. STATE STRUCTURES

The Constitution

5.1 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 for all its citizens justice - social, economic and political; liberty of thought, expression, belief, faith and worship; and equality of status and opportunity. **[24c]**

Return to Contents

Citizenship and Nationality

5.2 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]**

5.3 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]**

5.4 Indian citizenship may be acquired by naturalisation if the person has resided in India for five years and they have renounced any previous citizenship. **[38]**

5.5 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]**

5.6 In January 2003, it was announced that India would soon grant dual citizenship to some foreigners of Indian origin. The offer would allow Indians from other countries to buy property in India, but they would not be allowed to vote or run for office. **[40]**

Return to Contents

Political System

5.7 India has a democratic, parliamentary system of Government with representatives elected in multi-party elections. The Constitution provides citizens with the right to change their Government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. **[2c]** India is a federal republic, with legislative power vested in Parliament, which consists of the President and two Houses. The upper house, the Rajya Sabha (Council of States) has 245 members, most of whom are indirectly elected by the State Assemblies for 6 years (one third retiring every 2 years), the remainder being nominated by the President for 6 years. The Lower House, the Lok Sabha (House of the People) has 543 elected members, serving for 5 years. Two members of the Lok Sabha may be nominated by the President to represent the Anglo-Indian community, while the 543 members are directly elected by universal adult suffrage in single member constituencies. **[1]**

5.8 The President is a constitutional Head of State, elected for 5 years by an electoral college comprising elected members of both Houses of Parliament and the State legislatures. The President exercises executive power on the advice of the Council of Ministers, which is responsible to Parliament. The President appoints the Prime Minister and, on the latter's recommendation, other Ministers. **[1]**

5.9 India has 28 States **[33g]** with constitutionally defined powers of Government. The States vary greatly in size, population and development. Each State has a Governor appointed by the President for 5 years, a legislature elected for 5 years, and a Council of Ministers headed by a chief minister. Each State has its own legislative, executive and judicial machinery, corresponding to that of the Indian Union. **[1]** State Governments are elected at regular intervals except in States under President's Rule. 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. **[2c]** There are also 6 Union Territories and the National Capital Territory of Delhi, administered by Lieutenant Governors or Administrators, all of whom are appointed by the President. The Territories of Delhi and Pondicherry also have elected chief ministers and State assemblies. **[1]**

5.10 The 28 States are: Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, **[1]** Chhattisgarh, **[33g]** Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, **[1]** Jharkhand, **[33g]** Karnataka, Kerala, Madhya Pradesh, Manipur, Maharashtra, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, **[1]** Uttaranchal, **[33g]** and West Bengal. **[1]**

5.11 The Territories are: Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Delhi, Lakshadweep, and Pondicherry. **[1]**

Return to Contents

Judiciary

5.12 The Constitution provides for an independent judiciary. Under a Supreme Court ruling, the Chief Justice, in consultation with his colleagues, has a decisive voice in selecting judicial candidates. The President appoints judges, and they may serve up to the age of 62 on the State High Courts and up to the age of 65 on the Supreme Court. Courts of first resort exist at the sub-district and district levels. More serious cases and appeals are heard in State-level High Courts and by the national-level Supreme Court, which also rules on constitutional questions. State Governments appoint sub-district and district judicial magistrates. High Court judges are appointed on the recommendation of the federal Law Ministry, with the advice of the Supreme Court, the High Court Chief Justice, and the chief minister of the State, usually from among district judges or lawyers practising before the same courts. Supreme Court judges are appointed similarly from among High Court judges. The Chief Justice is selected on the basis of seniority. **[2c]**

Return to Contents

Legal Rights/Detention

5.13 The Indian Constitution provides that detainees have the right to be informed of the grounds for their arrest, to be represented by counsel, and, unless held under a preventive detention law, to appear before a magistrate within 24 hours of arrest. At this initial appearance, the accused must either be remanded for further investigation or released. The Supreme Court has upheld these provisions. The accused must be informed of the right to bail at the time of arrest and may, unless held on a non-bailable offence, apply for bail at any time. The police must file charges within 60 to 90 days of arrest; if they fail to do so, court approval of a bail application becomes mandatory. **[2c]**

5.14 When legal procedures function normally, they generally assure a fair trial, but the process is often drawn out and inaccessible to the poor. Defendants have the right to choose counsel from attorneys who are fully 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 the indigent. Defendants are allowed to question witnesses against them, present their own witnesses and evidence, and have access to Government evidence against them. **[2c]**

5.15 Free legal services are available for those on low income. Legal aid is available for fees incurred in legal proceedings, representations by a legal practitioner, obtaining certified copies of legal documents, and preparation of appeal papers. **[6a]**

5.16 The Criminal Procedure Code provides for an open trial in most cases, but it allows exceptions 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 in public. **[2c]**

5.17 Muslim personal status law governs many non-criminal matters involving Muslims, including family law, inheritance, and divorce. The Government does not interfere in the personal status laws of the minority communities, and as a result personal status laws that discriminate against women are upheld. **[2c]**

5.18 In Jammu and Kashmir, the judicial system barely functions due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed anti-militant actions; and because of the frequent refusal by security forces to obey court orders. Courts in Jammu and Kashmir are reluctant to hear cases involving terrorist crimes, and fail to act expeditiously on habeas corpus cases, if they act at all. There were a few convictions of alleged terrorists in the Jammu High Court during 2002; many more militants had been in pre-trial detention for years. **[2c]**

Return to Contents

Death Penalty

5.19 On Amnesty International's "Website Against the Death Penalty" they list India among those countries that retain the death penalty for ordinary crimes. **[3k]**

Return to Contents

Internal Security

5.20 The armed forces are under civilian control. **[2c]** According to 1998 figures, India's armed forces are 1,145,000-strong. The paramilitary forces have 1,088,000 members. **[21]** Each State controls its own police forces through its own home ministry. The Union Ministry for Home Affairs co-ordinates the activities of the all-India bodies. These include the Central Bureau of Investigation (CBI) (the main law enforcement body in India), the Central Detective Training School, the Central Forensic Laboratory, the Central Fingerprint Laboratory, and the National Police Academy in Mount Abu, Rajasthan, where the Indian police service is trained. It also has jurisdiction over the Central Reserve Police Force (CRPF), the Railway Protection Force and the Border Security Force. **[6e]**

5.21 The Government has implemented a variety of special security laws intended to help law enforcement agencies fight separatist insurgencies. There have been reports of widespread arbitrary arrest and detention under these laws. **[2c]**

5.22 The National Security Act (NSA) permits the preventive detention of persons considered to be security risks. Police anywhere in the country (except for Jammu and Kashmir) may detain suspects under NSA provisions without charge or trial for up to one year on loosely defined security grounds. The State Government must confirm the detention order, which is reviewed by an advisory board of 3 High Court judges, within 7 weeks of 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). The Jammu and Kashmir Public Safety Act (PSA) covers corresponding procedures for that State. More than half of the detainees in Jammu and Kashmir are held under the PSA; under these provisions, the authorities may detain a suspect without charge and without judicial review for up to 2 years. **[2c]**

5.23 The Armed Forces (Special Powers) Act 1958 was enacted at a time when India was faced with the activities of insurgents in the border areas on the eastern frontier of the country. The Act's provisions only come into effect when the State Governor declares the area to be "disturbed". The Act lists the situations in which the special powers may be exercised: dispersal of unlawful assembly, preventing people from carrying weapons, destruction of arms dumps, search and seizure and the arrest of those suspected of committing a cognizable offence. The Act also provides for the arrested person to be handed over to the nearest police station. **[6e]** The Act empowers any commissioned officer, warrant officer, non-commissioned officer, or any other person of equivalent rank in the armed forces to fire upon and otherwise use force, even to the point of death, if necessary for the maintenance of law and order. Central Government sanction is required for the prosecution of any officer for acts committed under the Act. The Armed Forces (Special Powers) Act as well as the Disturbed Areas Act remain in effect in several States in which active secessionist movements exist, namely in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. **[2c]**

5.24 The Terrorist and Disruptive Activities Act (TADA) lapsed in 1995. **[2c]** The Act prohibited not only "terrorist acts" but also "disruptive activities" which questioned or threatened the sovereignty and territorial integrity of India. **[6e]**

5.25 In March 2002 the Prevention of Terrorism Ordinance (POTO) was enacted into law and changed to the Prevention of Terrorism Act (POTA). The POTA allows detention without charge for 3 months, deems not disclosing information to the authorities about terrorist activities an offence, and provides extensive new powers to ban organisations and seize their assets. The POTA is similar to the TADA in that it permits detention for 30 days without trial, summary trials, and the use of testimony exacted under duress. In addition, the bill provides for special courts to try offences, place the burden of proof at the bail stage on the accused, makes confessions to a police officer of the rank of superintendent of police admissible as evidence, extends the period of remand from 15 to 60 days, and sets mandatory sentences for terrorism-related offences. Since the POTO and POTA were enacted, the Jammu and Kashmir police have arrested approximately 426 people, 50 percent of whom were charged with sheltering terrorists. **[2c]**

5.26 A total of 32 terrorist organisations were listed in the Schedule to the 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-Ulmujahideen 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, 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). **[39]**

Return to Contents

Prisons and Prison Conditions

5.27 Prison conditions are very poor, prisons are severely overcrowded (Delhi's Tihar jail, with a designed capacity of 3,300 persons houses 9,000 prisoners) and provision of food and medical care is frequently inadequate. In 2000 the Government announced that it was allocating US$108.15 million (RS 5.03 billion) to State Governments for the creation of 1,734 additional courts during 2000-2005 to hear more cases and reduce the number of remand prisoners. By the end of 2002, 706 of these courts had been set up. But the court system is extremely overloaded, resulting in the detention of thousands of people awaiting trial for periods longer than they would receive if convicted. Prisoners may be held for months or even years before obtaining a trial date. **[2c]**

5.28 Women are housed separately from men, and by law juveniles must be detained in rehabilitative facilities. Pre-trial detainees are not separated from the general prison population. There are no reports of political prisoners. **[2c]**

5.29 With the exception of an agreement with the International Committee of the Red Cross (ICRC) for visits to detention facilities in Jammu and Kashmir, the Government does not allow NGOs to monitor prison conditions. However 15 States and union territories have authorised the National Human Rights Commission (NHRC) to conduct surprise check-ups on jails. There is growing public awareness of the problem of custodial abuse. The NHRC has identified torture and deaths in detention as one of its priority concerns. The 1,140 deaths in judicial custody reported to the NHRC during 2002 included a large proportion of deaths from natural causes that in some cases were aggravated by poor prison conditions. **[2c]**

5.30 On 17 November 1999 at least 10 people, including a jail official, were killed and more than 150 injured in a riot in a Madras prison, which broke out following the death of an inmate. **[32b]**

5.31 In 1999 the Supreme Court of India ordered an investigation into the case of a prisoner who had been awaiting trial for 37 years in West Bengal. Ajay Ghosh had been in custody since 1962, when he was arrested and charged with murdering his brother. Throughout this period, Mr Ghosh was denied a trial on the grounds that he was mentally unsound. **[32e]** The Supreme Court later ordered his transfer to an old-age home. **[32f]**

Return to Contents

Military Service

5.32 Military service is voluntary, although the Constitution states that every citizen has a fundamental duty to perform national service if called upon to do so. The armed forces have traditionally not been involved in domestic politics, and have never instigated a coup. **[6e]** Legal enlistment age is between the ages of 18 and 25. There is no known legal provision for conscientious objection. **[21]**

Return to Contents

Medical Services

5.33 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]**

5.34 Medical care is free to all citizens. **[2c]** 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. **[7g]**

5.35 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 these can be overcome. There are very few medical problems for which suitable care cannot be found in India. **[7g]**

5.36 Under an agreement signed on 5 June 2001, the United States Agency for International Development (USAID) pledged to provide US$41.5 million to fight AIDS in the State of Maharashtra. The project aimed to focus on targeted interventions for high risk groups as well as broader-based prevention messages for the general population

and capacity building among HIV and AIDS prevention groups in Maharashtra. It was the largest programme ever undertaken by USAID. **[8q]** In August 2001, Indian drug maker Cipla Ltd said it had launched a three-in-one tablet to treat AIDS, the first combination medicine in the world of the three drugs stavudine, lamivudine and nevirapine. Cipla said in a statement that a month's supply of the new pill, Triomune, would cost patients 1,800 rupees, commenting that the price represented a five to six-fold reduction in the monthly cost of therapy. Cipla is allowed by Indian patent law to make drugs that are patented by other companies internationally, as the law protects only the processes by which drugs are made, and not the drugs themselves. **[8r]** A report in November 2002 listed Tamil Nadu as the State with the highest number of AIDS cases, with 18,276 cases reported until August 2002. **[8s]**

5.37 According to regional NGOs (Non-Governmental Organisations), there are more than 50 million disabled persons in the country. Neither law nor regulations require accessibility for persons with disabilities. With the adoption of the Persons with Disability Act, a nascent disabled rights movement is slowly raising public awareness of the rights of the disabled. Although the Act provides equal rights to all persons with disabilities, advocacy organisations admit that its practical effects have so far been minimal. However, there is a Disabilities Commissioner who oversees implementation of the Act and its provisions protecting persons with disabilities. In addition, the NHRC formed a group of seven experts in August 2001 to identify issues affecting persons with disabilities, to review Government policies, and to protect the rights of persons with disabilities. The Government provides special railway fares, education allowances, scholarships, customs exemptions, budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled. Implementation of these entitlements was not comprehensive. However, significant funding was provided to a few government organisations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. **[2c]**

Return to Contents

Educational System

5.38 The Government 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 UNICEF, 76.2% of all children 11 to 13 years are attending school. No significant sectors or groups are excluded from education, but children of wealthier families are more likely to attend school than those of poor families. About 120 million children out of 203 million attend primary school. A significant gender gap exists in school attendance, particularly at secondary school level. **[2c]**

5.39 Academic freedom is not restricted, and students and faculty espouse a wide range of views. In addition to some 16 national universities and 259 State universities, States are empowered to accredit locally run private institutions. **[2c]**

Return to Contents

6. HUMAN RIGHTS

6.A HUMAN RIGHTS ISSUES

Overview

6.1 India is a longstanding parliamentary democracy with an independent judiciary. The Government generally respects the human rights of its citizens. The law prohibits torture, and confessions extracted by force are generally inadmissible in court. However there are significant human rights abuses. Many of these abuses are generated by a traditionally hierarchical social structure, deeply rooted tensions among the country's many ethnic and religious communities, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. **[2c]** Other reasons include poverty, disparities in the distribution of wealth, persistence of traditional practices and customs particularly affecting women, and discrimination against underprivileged classes and castes. **[6c]**

6.2 According to the U.S. Department of State, human rights abuses include: extra-judicial killings, including faked encounter killings, deaths of suspects in police custody, and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several north eastern States; torture and rape by police and other agents of the Government; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the north east; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention without charge; prolonged detention while undergoing trial; harassment and arrest of human rights monitors; extensive societal violence against women; legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; discrimination and violence against indigenous peoples and scheduled castes and tribes; inter-caste and communal violence; religiously-motivated violence against Muslims and Christians; exploitation of indentured, bonded, and child labour; and trafficking in women and children. **[2c]**

6.3 In July 1997 Amnesty International submitted a report to the Human Rights Committee to supplement and update its concerns in relation to India. The report covered the following areas: the shortcomings of India's implementation of safeguards to prevent human rights violations; the absence of adequate mechanisms to ensure full redress for all victims of human rights violations; the continuing state of impunity for the majority of perpetrators of human rights violations, particularly in areas of armed conflict; the existence of special legislation which grants security forces wide powers to arrest and detain, and escape prosecution for violations; legislation which provides for preventive detention which has been used to detain people not only in areas of armed conflict but also against those defending human rights; and the vulnerability of economically and socially disadvantaged groups in India, including women, scheduled castes and tribal peoples. **[3c]**

6.4 In a report dated 26 April 2000, Amnesty International highlighted their concerns about a range of abuses against the actual human rights defenders themselves. Amnesty acknowledged that steps have been taken by the Indian Government over a number of years to support the work of human rights defence, for example through the establishment of statutory human rights institutions and the ratification of international

human rights treaties, and acknowledged the support that Government agencies have given to sectors of social activism through government-funded programmes and government-NGO co-operation. However, Amnesty were concerned that much of the State's actions in defence of human rights was at a rhetorical level and sporadic in their implementation, and believed that there was an urgent need for the State to take active steps to ensure the protection of activities in defence of human rights. **[3i]** In the wake of two killings of human rights defenders in the space of four months that were linked to police, Amnesty, in a news release dated 19 February 2001, called on the State Government of Andhra Pradesh to take immediate action. They asked that the attacks be impartially investigated and human rights defenders protected. **[3j]** For their part, the Government of Andhra Pradesh had announced in November 2000 that it intended to set up an independent body to deal with complaints against the police, headed by a High Court judge. **[32y]**

6.5 The United Nations Human Rights Committee noted the existence of a broad range of democratic institutions and a comprehensive constitutional framework for the protection of human rights. It referred to the work of the National Human Rights Commission, and the establishment of human rights commissions in a number of States, and the establishment of the National Commission for Scheduled Castes and Scheduled Tribes and the National Commission for Women in 1992 and the National Commission for Minorities in 1993. **[6c]**

6.6 The Protection of Human Rights Act 1993 established a National Human Rights Commission (NHRC) in October 1993. The Commission monitors and investigates human rights violations, advises the Government on human rights issues, and works to further human rights awareness. The existence and functioning of the NHRC has had the effect of raising the profile of a range of human rights issues in India, including custodial violence, prison conditions, working conditions, child labour, basic health, human rights education and the training of police and security forces. **[3d]**

6.7 The NHRC has also influenced the legislative process, particularly by issuing recommendations on women's issues, persons with disabilities, and children's rights. The NHRC encouraged the establishment of human rights cells in police headquarters in some States; however, this policy was not implemented in any meaningful way. In January 2002 the NHRC opened a separate Women's Human Rights Cell in its New Delhi office. This office is able to notify State Governments of human rights violations and investigate some complaints, but it cannot impose punitive measures or implement corrective action. In addition, in October 2002 the NHRC created a computerised complaint database on its website, where information about each case was available. **[2c]**

6.8 The NHRC has also played a role in international and regional fora, including the UN Commission on Human Rights and the Asia-Pacific Forum of National Human Rights Commissions. **[3d]**

6.9 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]**

6.10 Section 19 of the Protection of Human Rights Act limits the mandate of the NHRC and specifies that it is not empowered to investigate allegations of human rights violations by the armed forces. Whenever human rights violations by members of the armed or paramilitary forces are reported to the NHRC, its mandate restricts its action to seeking a report from central Government. After receiving the report, the NHRC can either not proceed with the case if it is satisfied with the report, or make recommendations. The Government is required to inform the Commission of the action taken on its recommendations within 3 months. The effect of this restriction is that the NHRC is reliant on the Government's version of events or the version of events as given by the alleged perpetrator. **[3d]**

6.11 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]**

6.12 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]**

6.13 However 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]**

6.14 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 has 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]** 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]**

6.15 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]**

6.16 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]**

6.17 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]**

6.18 From 1 April 2000 to 31 March 2001 (the last year for which figures were available), the NHRC received 71,685 new complaints of human rights violations. Over 50% of the complaints were from Uttar Pradesh. The increased number of complaints is believed to be the result of the Commission's increased visibility. Of the 53,711 cases considered during 2000, 32,172 were dismissed, 10,718 were transmitted to other governmental authorities for disposition, 3,395 were concluded, and 7,426 remained pending. **[2c]**

6.19 State Human Rights Commissions exist in Assam, Chhattisgarh, Manipur, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala and Rajasthan. **[2c]**

6.20 In July 2002 the Supreme Court ordered regular checks on police stations to ascertain the incidence of custodial violence against persons. The Court directed State Human Rights Commissions and other civic rights protection committees to conduct surprise checks. These checks were conducted in a small number of police stations in the States of Madhya Pradesh and West Bengal. **[2c]**

Return to Contents

Freedom of Speech and the Media

6.21 The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, there are some limitations. A vigorous and growing press reflects a wide variety of political, social, and economic beliefs. Newspapers and magazines regularly publish investigative reports and allegations of Government wrongdoing, and the press generally promotes human rights and criticises perceived Government lapses. **[2c]** 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]**

6.22 Television is no longer a Government monopoly, but this is due more to technological changes than to Government policy. Private satellite television is distributed widely by cable or satellite dish. AM radio broadcasting remains a Government monopoly. Private FM radio station ownership was legalised during 2000 for entertainment and educational content, but not independent news broadcasting. **[2c]**

6.23 A Government censorship board reviews films before licensing them for distribution. The board censors material deemed offensive to public morals or communal sentiment. **[2c]**

Return to Contents

Treatment of Journalists

6.24 The Newspapers Incitements to Offences Act remains in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the press from publishing material likely to incite murder or any act of violence. As punishment the Act stipulates that the authorities may seize newspapers and printing presses. Despite these restrictions, newspapers in Srinagar report in detail on alleged human rights abuses by the Government, and regularly publish press releases of Islamic separatist Kashmiri groups. The authorities generally allow foreign journalists to travel freely in Jammu and Kashmir, where they regularly speak with militant leaders and file reports on Government abuses. **[2c]**

Return to Contents

Freedom of Religion

Introduction

6.25 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]**

6.26 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]**

6.27 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]**

6.28 According to the latest Government estimates, Hindus constitute 81% of the population, Muslims 12% (of which 90% are Sunni and 10% Shi'a), Christians 2.3%;

Sikhs 2.0%, and others, including Buddhists, Jains, Parsis (Zoroastrians) Jews and Baha'is, less than 2%. **[2b]**

6.29 The United Nations Special Rapporteur on Religious Intolerance concluded that the situation in India relating to tolerance and non-discrimination based on religion is generally satisfactory. The country's commitment to democracy, sound democratic institutions, legislative and Government measures, and the secular nature of the State all contributed to religious tolerance in India. **[6b]** In their Annual Report on International Religious Freedom, published 7 October 2002, the U.S. Department of State concluded that despite some 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. **[2b]** The Indian Government has stated that 80% of attacks on minorities were motivated by local incidents, economic arguments, or intra-denominational feuds. **[2c]**

6.30 The Government has taken steps to promote interfaith understanding. The National Integration Council is a non-statutory body with an objective of maintaining social tranquillity and communal harmony. The National Commission for Minorities and the NHRC have appointed members and are tasked respectively with protecting the rights of minorities and protecting human rights. These governmental bodies investigate allegations of discrimination and bias, and can make recommendations to the relevant local or central Government authorities. These recommendations are generally followed, although they do not have the force of law. **[2a]**

6.31 Legally mandated benefits are assigned to certain groups, including some groups defined by their religion. For example, some States reserve jobs and educational enrolment slots for Muslims, who do not benefit from reservations designed to help lower caste Hindus. **[2c]**

6.32 The Religious Institutions (Prevention of Misuse) Act makes it a criminal offence to use any religious site for political purposes or to use temples for harbouring 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 in the State. **[2c]**

Return to Contents

Muslims

6.33 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]**

6.34 The Indian authorities do not restrict the religious activities of Muslims. Muslims have freedom of religious practice and freedom to organise their services according to their codes, religious teachings and customs. **[6b]**

6.35 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]** Muslims are reportedly under-represented in the civil service, the military and institutions of higher education. **[6e]**

6.36 In Jammu and Kashmir, the only State in India where Muslims are in the majority **[6e]**, 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]**

6.37 The BJP and its allies had called repeatedly for the mosque at Ayodhya (built in the 16th century by the Mughal emperor Babar) to be replaced by a temple honouring the Hindu deity, Lord Ram. **[5a]** 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. **[1]**

6.38 Then 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]**

6.39 The Indian Government strongly condemned the desecration and demolition of the holy building and pledged to re-build it. The leaders of the BJP, including L.K. 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. **[1]**

6.40 A few days later the Government banned five communal organisations, 3 Hindu and 2 Muslim, under the Unlawful Activities (Prevention) Act 1967 **[27]**, on the grounds that they promoted disharmony among different religious communities. **[1]** The banned organisations were: VHP, RSS, Bajrang Dal, Islamic Sevak Sengh (ISS) and Jamaat-I-Islami Hind. **[27]** The ban on these groups has since been lifted. **[28]**

6.41 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. **[8c]**

6.42 Various parts of India have suffered inter-communal violence between Hindus and Muslims. In the State of Gujarat, such violence pre-dates Indian independence. The antagonism has also been exacerbated by non-religious considerations. **[7a]**

6.43 At the end of December 1998, 5 people were killed and 50 wounded in Karnataka, and 3 were killed in religious clashes in Amod in Gujarat. **[8e]** In June 2000, a bomb exploded in a mosque in Guntur, Andhra Pradesh, wounding two people and prompting mob attacks that injured five others. **[33d]** Then on 11 July 2000 it was reported that 10 people died in Malpura, Rajasthan after clashes between Hindu and Muslim groups. The riots were sparked by the fatal stabbing of a Hindu man who was facing charges relating to several killings that occurred in Malpura after the destruction of the Ayodhya mosque. **[32q]**

6.44 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 including 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 six bungalows. **[5j]** By 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. **[5k]**

6.45 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]**

6.46 In its final report on Gujarat, released in June 2002, the NHRC held the Gujarat Government responsible for the riots and accused it of "a complicity that was tacit if not explicit." The report concluded that "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 inquiry into the communal riots, which the State Government subsequently refused to allow. **[2c]** By February 2003, almost 80 people had been arrested for their involvement in the Godhra attack. The Gujarat authorities indicated that they intended to charge most of those arrested under the POTA. **[32ao]**

6.47 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]**

6.48 In April 2003, a Muslim woman was elected as the mayor of Ahmedabad, Gujarat. **[32au]**

Return to Contents

Christians

6.49 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]**

6.50 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, and also religious establishments such as seminaries. **[6b]**

6.51 There is constitutional freedom to produce and disseminate religious publications, including the Bible. **[6b]**

6.52 Christians have an adequate number of places of worship, although there have been isolated cases of obstacles to the construction of places of worship. This is attributed to slow administrative procedures, affecting all communities. **[6b]**

6.53 There is no national law that bars proselytising by Christian citizens. Foreign missionaries generally may renew their visas, but the Government has refused to admit new resident foreign missionaries. New arrivals enter as tourists on short-term visas. During 2002, State officials continued to refuse to issue permits for foreign Christian missionaries to enter some north eastern States, on the grounds of political instability in the region. **[2c]** 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]**

6.54 The United Christian Forum for Human Rights (UCFHR) in India stated that it had recorded nearly 120 cases of rape, Bible burning, assault and other forms of violence against Christians during 1998. This compared to 40 cases recorded between 1964 and 1996. **[8d]** Most of these incidents have occurred in Gujarat. It is said that those extremist groups that have been terrorising Christians have been emboldened by the BJP's coming to power at the head of a coalition Government. The BJP also forms the State Government of Gujarat. **[8h]**

6.55 Some of the worst violence occurred in the Dang district of Gujarat, where Hindu mobs went on the rampage for several weeks starting on Christmas Day 1998. The attackers burnt churches and missionary schools, and injured priests and nuns. **[8g]**

The VHP denied instigating such violence, but it criticised evangelists who it said were forcing Hindus to convert. The VHP regarded these conversions as an assault on the Hindu religion and culture, but Christians dismissed these accusations. **[8f]**

6.56 Prime Minister Vajpayee, who visited the Dang area, stated that the Government would not tolerate any further attacks on the Christian minority. The Union Home Ministry sent a team of officials to investigate the attacks. Security forces were deployed in the affected areas to guard missionaries and churches. **[8g]** Further violence took place on the day the Gujarat Chief Minister rejected an interim report by the National Commission for Minorities on the situation in the State as "biased and one-sided". The report found that attacks on Christians and their property had been carried out with the connivance of Hindu groups and was critical of the Gujarat Government's role in failing to protect minorities. **[3e]**

6.57 Concerns have been expressed that these attacks have been carried out directly by, or in connivance with, right wing Hindu groups with links to the ruling BJP, including the VHP and Bajrang Dal. These groups have spoken out strongly against the alleged forcible conversion of tribal people and others by Christian missionaries, justified attacks on Christians and their property and advocated their expulsion from India. **[3e]**

6.58 Much of the violence against Christians has centred around deprived areas of India where Christian missionaries have traditionally carried out development activities with tribal and dalit communities, organising health and educational services. **[3e]**

6.59 In Orissa an Australian missionary, Graham Staines, and his 2 sons were burnt alive in their jeep in late January 1999. **[8i]** The Indian Government ordered a judicial inquiry into the incident to be conducted by a sitting Supreme Court judge. **[10d]**

6.60 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. **[8p]** 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]**

6.61 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]**

6.62 Dara Singh was finally arrested on 31 January 2000 in a village in Orissa. **[32g]**

6.63 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]** By the end of 2002 the trial of Dara Singh was continuing. **[2c]**

6.64 Violence against Christians continued during 2000. In May 2000, a bomb blast in a crowded congregation in Machlipatnam, Andhra Pradesh, left 30 people injured. Three further explosions occurred on 8 June 2000, in the States of Andhra Pradesh and Karnataka, injuring 4 people. **[32m]** Prime Minister Atal Behari Vajpayee spoke out strongly about these incidents. He called on State Governments to "firmly and impartially investigate all incidents of violence against Christians in India", and commenting on the spate of attacks he called them an "aberration and an exception to the general texture of peaceful and cordial relations between the various communities". **[32o]**

6.65 During 2002, Christian leaders detected a slight decrease in incidents of violence against their community. **[2c]**

Return to Contents

Sikhs and the Punjab

Sikh religion and historical background

6.66 Sikhs form a religious and cultural community of some 16 million, less than 2% of the Indian population. Some 80% of Sikhs live in Punjab **[4a]** where they form the majority (about two thirds) of the inhabitants. **[6b]** 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); Kangh (a steel comb); and Kara (an iron bangle). **[4a]**

6.67 New religious ideologies early in the 20th 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 which would articulate Sikh claims and lead the independence movement. **[4a]**

6.68 Following the partition of India in 1947, the Sikhs were concentrated in India in east Punjab. Sikh leaders demanded a Punjabi language majority State which would have included most Sikhs. Fearing that a Punjabi State might lead to a separatist Sikh movement, the Government opposed the demand. **[22]** 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]**

6.69 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]**

6.70 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 5-6 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]**

6.71 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]**

6.72 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]**

6.73 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]**

6.74 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]**

6.75 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. **[1]**

6.76 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. **[1]**

6.77 On 31 August 1995 Beant Singh was killed by a car bomb which exploded outside the Punjab Secretariat in Chandigarh. **[10a]**

Return to Contents

Militant violence in Punjab

6.78 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]**

6.79 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]**

6.80 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. 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]**

Return to Contents

Human rights concerns in Punjab

6.81 Various human rights organisations have strongly criticised the Punjab police for their misuse of power during the 1980s and early 1990s. Amnesty International reported 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]**

6.82 Amnesty International detected a pattern to the arrests, detentions, torture and disappearances which they reported. They concluded that Sikhs were often arrested on mere suspicion that they were linked to armed secessionist groups. Family members of suspects were arbitrarily detained and tortured in order to extract information about the suspect's whereabouts or activities. Amnesty said that women had been arrested and tortured simply to deter them from giving food and shelter to Sikh militants. They described torture in police custody as routine and there were persistent allegations that political prisoners died in custody as a result of torture. **[3a]**

6.83 Amnesty International also reported that hundreds of members or sympathisers of armed Sikh groups were allegedly captured, sometimes tortured, and then extra-judicially executed, the killings attributed by the police to armed "encounters". Amnesty stated that the police repeatedly frustrated attempts to bring those accused of human rights violations to justice. Legal safeguards for the protection of human rights do not apply to those arrested under special legislation relating to national security. **[3a]**

6.84 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]**

6.85 In a later report, Amnesty International expressed concern at a series of incidents in which Punjab police illegally transgressed their operational jurisdiction, travelling to other Indian States to carry out under-cover operations which resulted in serious human rights violations. **[3b]**

6.86 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]**

6.87 In 1995 the Human Rights Wing of the Shiromani Akali Dal published the findings of research it had conducted into illegal cremations by the police. The organisation produced records from cremation grounds in Amritsar district, showing how several hundred "unclaimed" bodies had been cremated by the police. In several cases it claimed to have evidence to show that the bodies were those of individuals who had

disappeared following arrest by the police and alleged that its findings suggested that the Punjab police had illegally cremated the bodies of many of those who had disappeared and who had subsequently been extra-judicially executed. **[3g]**

Return to Contents

Methods of ill treatment

6.88 The Medical Foundation for the Care of Victims of Torture 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 1 to 10 days, but the total time in custody ranged from 2 days to 8 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. **[30]**

6.89 All of the Sikhs examined by the Medical Foundation as part of the study claimed 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. Electric shocks were given. 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 4 feet long and 4 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]**

6.90 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]**

6.91 The Medical Foundation 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 bribe. **[30]**

Return to Contents

Prosecution of security force personnel

6.92 Hundreds of police officials were not held accountable for the serious human rights abuses committed during the counter-insurgency of 1984-94. The CBI claims to be actively pursuing charges against dozens of police officials implicated in the "mass

cremations" in which police in Amritsar, Patti, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants. **[2c]**

6.93 The Times of India in September 1997 reported Union Home Ministry figures 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". **[13]**

6.94 India Today 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]**

6.95 According to human rights monitors in Punjab, approximately 100 police officials either faced charges, were prosecuted, or were under investigation for human rights abuses at the end of 2002. **[2c]**

Return to Contents

Punjab State Human Rights Commission

6.96 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 has 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 has started to inspect jails, with prior notice being given to the State Government, but the Commission wants the power to make unannounced visits. **[12a]**

Return to Contents

The Committee for Co-ordination on Disappearances in Punjab (CCDP)

6.97 This Committee came into existence 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]**

6.98 The Committee first met in December 1997, when it called on the Punjab State Government to constitute a Truth Commission to investigate all reports of human rights violations in the State. The Committee also decided to form a Peoples' Commission to undertake the enquiries as the Punjab Government had declined to do so. **[20]**

6.99 Former Justice Singh announced in 1998 that the CCDP would form a three-member commission to investigate the mass cremations. The Commission met with inaction on the part of the authorities and made little progress during 2002. **[2c]**

6.100 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. This was not because of a change in the attitude of the police but because there was no terrorism left in Punjab. **[37]**

Return to Contents

The People's Commission on Human Rights

6.101 The (unofficial) People's Commission on Human Rights met in Chandigarh on 8-10 August 1998. It comprised Justice D S Tiwatia, former Chief Justice of the Calcutta High Court, Justice H Suresh, retired judge of the Maharashtra High Court, and Justice Jaspal Singh, former judge of the Delhi High Court. **[12a]** The Commission was set up as an independent tribunal to examine complaints of illegal abductions, custodial torture, enforced disappearance, summary execution and illegal cremation. **[20]** The Commission has no legal jurisdiction, but it gave people who had suffered human rights abuses at the hands of the police the opportunity to air their grievances. Nearly 70 police officers who were implicated in cases of disappearances were identified for issue of notices to file their replies or appear in person before the Commission. **[12b]**

Return to Contents

The current situation in Punjab

6.102 The Sikh militant movement is no longer active in Punjab. The hard core militants have either been physically wiped out or are no longer in India. There is no obvious support for the militants. **[4h]** 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]**

6.103 Political representatives informed the UN Special Rapporteur on Religious Intolerance during his visit to India in December 1996 that Sikhs were the victims of a policy of intolerance and discrimination based on religion pursued by the authorities. This policy of religious repression reached a climax in June 1984 with the storming of the Golden Temple in Amritsar, and was followed by reprisals against Sikhs throughout India, but particularly in Delhi, after the murder of Indira Gandhi on 31 October 1984 by her Sikh bodyguards. It was alleged that Sikhs were being subjected to State terrorism which found expression in the desecration of holy places, murders, extra-judicial executions and forced disappearances of Sikhs. **[6b]**

6.104 The Special Rapporteur was informed by other sources, including non-governmental and religious organisations, that the situation of conflict which existed in Punjab had no religious basis, rather it was purely political. The authorities were combating the development of a militant Sikh terrorist movement campaigning for a separate and autonomous Sikh State. The terrorists used religion to secure the support of Sikhs for a political cause. Certain Sikh political parties had exploited that situation for their own ends in the hope of obtaining advantages and concessions from the authorities and of increasing their influence among the Sikh population by creating confusion between religious and political matters. **[6b]**

6.105 According to these sources, the purpose of Operation Blue Star (the storming of the Golden Temple) undertaken in June 1984 had been to expel armed Sikh extremists from the sanctuary. There had been no intention of attacking the religious identity of Sikhs. These sources concluded that there was no religious problem, Sikhs enjoyed all their constitutional rights in the field of religion, including freedom of belief, freedom to practice their religion and freedom to proselytise. **[6b]**

6.106 The UN Special Rapporteur's own conclusions based on the information he had received, and as set out in his report of February 1997 was that the situation of Sikhs in the religious field is satisfactory. There were difficulties in the political field (foreign interference and terrorism) and economic field (in particular with regard to the sharing of water supplies). The Special Rapporteur noted information that there was discrimination in certain sectors of public administration, for example fewer Sikhs in the police force and no Sikhs in personal bodyguard units. Malfunctions in the administration of justice were described but they were connected with the anti-terrorist campaign rather than the Sikh beliefs of the accused. **[6b]**

6.107 The South East Asia Straits Times reported in 1997 that Punjab had returned to the path of peace and prosperity once more. Police roadblocks and the constant military presence had gone. Businesses had re-established themselves and prosperity and affluence were clearly evident. **[18]**

6.108 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 or seriously weakened. 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]**

6.109 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. **[4f]**

6.110 The Supreme Court was seen as clearly attempting to address the failure of the judiciary up until the mid-1990s to deal with human rights violations. Judicial protection in Punjab had improved and many people were using the judicial system. People who are not high profile militant suspects are not at risk in Punjab. They have much less to fear from the police and now have better access to judicial recourse if they are treated improperly. **[4f]**

6.111 The DIRB also interviewed representatives of three human rights groups that work in Punjab, and one human rights lawyer from Punjab. All were agreed that the human rights situation in Punjab had improved since the violence between 1984 and 1995. The human rights activists were of the opinion that the root causes of discontent and political friction in Punjab had not been addressed, and the legacy of 55,000 civilian deaths and 1,700 police deaths between 1984 and 1994 would not be erased easily. **[4g]**

6.112 Sikhs are coming forward in increasing numbers to press claims against the authorities, and people are beginning to have faith in the judicial process. Sikhs are bringing cases to human rights lawyers to be taken up in court, rather than to human rights groups for investigation, even though there are few lawyers taking on this type of work. However the human rights organisations were sceptical about the outcome of court cases against police officers, since the Government is providing senior lawyers to defend them and is still posting many officers to areas in which they are alleged to have committed abuses. **[4g]** 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]**

6.113 Dr. Cynthia Keppley Mahmood of the University of Maine agrees that conditions in Punjab have greatly improved since the worst days of the early 1990s, and that it is no longer accurate to say that any Sikh is at risk of persecution simply because of his or her religion. She refers to the work of the National Human Rights Commission and the prosecutions of individuals accused of human rights violations. Overt support for the militants has slipped dramatically, but the grievances that prompted the Khalistan movement are still there. **[19b]**

6.114 Sikhs do not constitute a persecuted group at the present time, and rank and file members of groups that were at one time targeted (e.g. the AISSF) are in general terms now safe. There are exceptions such as people with a local history of abuse at the hands of the police, who may continue a personal vendetta; and militants together with their close relatives and supporters who continue to be followed as potential seeds for further rebellion. **[4g]**

6.115 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 consulted, 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]**

6.116 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]**

Return to Contents

Internal flight for Sikhs

6.117 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]**

6.118 Some 4 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]** 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]**

6.119 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]**

6.120 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]**

Return to Contents

Buddhists and Zoroastrians

6.121 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]**

Return to Contents

Freedom of Assembly and Association

6.122 The Constitution provides for the right of peaceful assembly and the Government generally respects this right. Permits and notification are sometimes required prior to the holding of parades and demonstrations, but local Governments ordinarily respect the right to protest peacefully, except in Jammu and Kashmir, where separatist parties are routinely denied permits for public gatherings. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code. **[2c]**

6.123 The Constitution provides for the right of association and the Government generally respects this right. Workers may establish and join unions of their own choosing without prior authorisation. More than 400 million people make up the country's active work force. Some 30 million of these workers are employed in the formal sector. The rest are overwhelmingly agricultural workers and, to a lesser extent, urban non-industrial labourers. While some trade unions represent agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members are part of the 30 million member formal sector. Of these 13 to 15 million unionised workers, some 80% are members of unions affiliated with one of the 5 major trade union centrals. All major trade union centrals are affiliated to a greater or lesser extent with particular political parties. **[2c]**

Return to Contents

Political Activists

6.124 Separatist militants have been responsible for numerous, serious abuses, including killing of armed forces personnel, police, Government officials, and civilians; torture; rape; and brutality. Separatist militants were also responsible for kidnapping and extortion in Jammu and Kashmir and the north eastern States. Insurgency and ethnic violence is a problem in the seven north eastern States. The main insurgent groups in the north east include two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security force in Assam; and the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura. The proclaimed objective of many of these groups is to secede from the country. Their stated grievances

against the Government range from charges of neglect and indifference to the widespread poverty of the region, to allegations of active discrimination against the tribal and non-tribal people of the region by the central Government **[2c]**

6.125 There have been clashes between the police and the Naxalite revolutionaries of the People's War Group (PWG) – a Maoist-Leninist organisation formed in 1980, that has been waging an armed struggle for the creation of a communist State consisting of parts of Andhra Pradesh, Maharashtra, Orissa and Madhya Pradesh. Nearly 400 people were killed in Andhra Pradesh in clashes between the police and the Naxalites during 1999, including 31 policemen and 200 Naxalite activists, and more than 5,000 have died in violence between Naxalites and police since 1985. **[32d]** In July 2002 the PWG set off a land-mine explosion in Andhra Pradesh, killing four 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]**

6.126 In Bihar, armed Naxalite groups have reportedly taken control of many villages across the State. Moreover, upper caste private armies and lower caste armed groups are engaged in a bitter struggle in which both groups have committed massacres with impunity on a monthly basis. **[6e]** Ranvir Sena, a private militia controlled by high caste landlords in Bihar, was responsible for murdering at least 58 people on 1 December 1997. **[26]** Ranvir Sena were again blamed for the killing of 34 lower-caste Hindus on 16 June 2000. The massacre, in Miapur, Bihar, appeared to be a revenge attack for the killing of 12 upper-caste Hindus a few days earlier. **[32n]** Bihar is widely regarded as India's most lawless State. During State parliamentary elections there in February 2000, violent clashes and paramilitary raids caused 45 deaths. **[33c]**

6.127 Rebel groups intensified their activities in Tripura during 1999. The outlawed All-Tripura Tiger Force massacred at least 18 Bengali migrants and abducted 5 others from a market on 14 November 1999. Tripura's ethnic rebel groups claim they are upset with the ceaseless influx of Bengali migrants, from what is now Bangladesh, which has reduced the indigenous people of the State into a minority since 1949. **[32a]** Rebels from the National Liberation Front of Tripura (NLFT) killed 18 Bengalis and wounded 40 others in an attack on 21 May 2000. The previous day, Bengali militants had killed 9 tribal people. **[32k]**

6.128 Nearly 100 Hindi-speaking people were killed in a six week period during November and December 2000 in Assam. The Chief Minister accused the ULFA of being responsible, an allegation denied by the group. Assam witnessed the massacres of Bengali settlers during the 1980s and 1990s. **[32z]**

6.129 Surrenders by militants in the north east, often under Government incentive programmes, have been common in recent years. Surrendered militants are usually given a resettlement and retraining allowance and other assistance. Several hundred PWG militants surrendered during 2002. **[2c]**

Return to Contents

Employment Rights

6.130 The directive principles of the Constitution declare that “the State shall endeavour to secure…to all workers…a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities”. Laws set minimum wages, hours of work, and safety and health standards. Minimum wages vary according to the State and to the sector of the industry. Such wages provide only a minimal standard of living for a worker and are inadequate to provide a decent standard of living for a worker and family. **[2c]**

6.131 Trade unions often exercise the right to strike, but prior notice sometimes needs to be given. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions. Collective bargaining is the normal means of setting wages and settling disputes in unionised plants in the organised industrial sector. Trade unions vigorously defend worker interests in this process. The Trade Union Act prohibits discrimination against union members and organisers, and employers are penalised if they discriminate against employees engaged in union activities. **[2c]**

6.132 The law prohibits discrimination in the workplace, but enforcement is inadequate. In both rural and urban areas, women get lower wages than men for doing the same job. **[2c]** Employers in the organised sector often ignore the minimum wage laws. Women are increasingly reliant on employment in the unorganised sector, where wages are lower, and where they are outside the reach of legislation designed to protect them from unsafe working conditions. Family-run businesses and cottage industries, in which most of the workers are women and children, are exempt from much of the labour standards legislation. **[4e]**

6.133 The Constitution prohibits forced or bonded labour, including by children; however, such practices are widespread. The Bonded Labour System (Abolition) Act prohibits all bonded labour, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions are rare. Enforcement of this statute, which is the responsibility of State and local Governments, varies from State to State and generally has not been effective, due to inadequate resources and to societal acceptance of bonded or forced labour. The working conditions of some children in the workplace amounts to bonded labour. Children are sent to work because their parents cannot afford to feed them or in order to pay off a debt incurred by a parent or relative. It is estimated that in the carpet industry alone there may be as many as 300,000 children working, many under conditions that amount to bonded labour. **[2c]**

6.134 The Factories Act established an 8-hour workday, a 48-hour workweek, and various standards for working conditions. These standards are generally enforced and accepted in the modern industrial sector, but tend not to be observed in older and less economically robust industries. In occupations and processes where child labour is permitted, work by children is permissible only for 6 hours a day between 8 a.m. and 7 p.m. with one day's rest a week. Work by children under 14 years of age is barred completely in “hazardous industries”. **[2c]**

Return to Contents

People Trafficking

6.135 The law prohibits trafficking in persons, but the country is a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labour. Over 2.3 million girls and women are believed to be working in the sex industry against their will within the country at any given time and more than 200,000 persons were believed to be trafficked into, within, or through the country annually. **[2c]**

Return to Contents

Freedom of Movement

6.136 Indian citizens enjoy freedom of movement within the country except in certain border areas where, for security reasons, special permits are required. **[2c]** 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]** Under the Passports Act, 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 uses this provision to prohibit the foreign travel of some Government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir. **[2c]**

6.137 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]**

6.138 The Immigration Service, which comes under the Ministry of the Interior, is responsible for checking those leaving the country. The problem of wanted persons leaving India with false or genuine passports on payment of a bribe is being addressed, as the authorities have launched a massive campaign against corrupt officials, particularly in the international airports. **[37]**

6.139 The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, nor has the Government formulated a policy regarding refugees, asylees, or first asylum. UNHCR has no formal status, but the Government permits them to assist certain groups of refugees (notably Afghans, Iranians, Somalis, Burmese, and Sudanese). The Government recognises certain groups, including Chakmas from Bangladesh, Tamils from Sri Lanka, and Tibetans as refugees and provides them with assistance in refugee camps or in resettlement areas. **[2c]**

Return to Contents

6.B HUMAN RIGHTS – SPECIFIC GROUPS

Ethnic Groups

6.140 India is a mosaic of different cultures and ethnic groups. **[1]**

Kashmir and the Kashmiris

Historical Background

6.141 The former Himalayan principality of Kashmir has been disputed by India and Pakistan since independence in 1947. It has been the cause of two of the three wars between India and Pakistan. India controls the State of Jammu and Kashmir which is the only Muslim majority State in India. Pakistan rules the part known as Azad Kashmir, **[8a]** whilst China controls a slice of the territory known as Aksai Chin. **[33h]** Muslims form about 95% of the population of the Kashmir Valley, while Hindus are in the majority in Jammu (about 65%). **[7c]**

6.142 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 battlefront in fighting between India and Pakistan. A cease-fire came into effect in 1949. **[8a]** 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]** Two further wars in 1965 and 1971 left positions virtually unchanged. **[8a]**

6.143 The status of Kashmir remains 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]**

6.144 Within Jammu and Kashmir, there was growing dissatisfaction throughout the 1980s with what was seen as increased corruption in local Government and interference by central Government. This came to a head after the 1987 State elections which were widely viewed as having been rigged in favour of the Congress (I) backed Kashmir National Conference and against the Muslim United Front. Incidents of violence in Kashmir increased. The Indian army was sent into the State in large numbers after the State Government was dismissed and President's Rule was imposed

in 1990. **[4d]** This lasted until the 1996 State assembly elections. **[8a]** Following select killings of community members and widespread anarchy, almost the entire Hindu community (Pandits) of the Kashmir Valley is reported to have fled during 1989-90 when numerous secessionist groups took control of the region. **[6e]**

Return to Contents

Political Developments in Kashmir

6.145 On 9 October 1996 Farooq Abdullah, chairman of the National Conference was sworn in as Chief Minister of Jammu and Kashmir. The All Parties Hurriyat (Freedom) Conference vowed to continue the fight against the Government. **[8b]**

6.146 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 more and 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 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]**

6.147 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]**

6.148 On 24 July 2000, the leading Kashmiri militant group, Hizbul Mujahedin announced a unilateral cease-fire and said it was willing to enter into negotiations with the Indian authorities, stating that the cease-fire would last 3 months. **[32r]** The announcement sparked a wave of attacks by Muslim separatist militants opposed to the cease-fire. Over a period of 2 days starting 1 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; in Baramullah a former militant and six members of his family were also shot dead. **[32t]**

6.149 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]** Hizbul Mujahedin immediately recommenced attacks in Kashmir and two days after the end of the

cease-fire, set off 2 powerful bombs in Srinigar, 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. **[33f]**

6.150 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]** 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]**

6.151 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. **[5m]** The militant group Al-Badr claimed responsibility. **[2c]** 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]**

6.152 Voting in Kashmir State elections concluded in October 2002. The ruling National Conference party, which supports the BJP Government in Delhi, suffered a shock defeat, as it failed to win a majority in the new assembly. The party leader, Omar Abdullah, failed to win a seat. The final results in the 87-seat assembly were: National Conference 28, Congress 20, People's Democratic Party (PDP) 16, Independents 15, and others 8. **[32ak]** It was reported 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% of the voters participated in the polls, in defiance of militants who had called for a boycott. **[32al]**

6.153 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 takes 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]**

Return to Contents

Militant/Political Groups

6.154 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 politically 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]**

6.155 Militant groups active in the Kashmir valley include Hizbul Mujahedin, Harkat-ul-Ansar **[29]** (which has split into the Harkat-ul-Mujahideen and Harkat-ul-Jehad-e-

Islami), Lashkar-I-Toiba **[23]** 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. **[32v]** 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 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]**

6.156 Also active is the All Party Hurriyat Conference (APHC), formed in September 1993. This is an umbrella group of over 30 trade unions, political and religious organisations working together to separate from India. It has led strikes and protests in Jammu and Kashmir. **[4d]**

6.157 India accuses Pakistan of arming and training the militants, while Pakistan says it provides only diplomatic support. **[8a]**

Return to Contents

Recent militant violence

6.158 The armies of India and Pakistan face each other across the Line of Control and there are frequent reports of artillery exchanges. Pakistan accuses the Indian army of shelling villages in Azad Kashmir and India accuses the Pakistani forces of targeting Indian army positions to help Kashmiri rebels to cross the Line. **[4d]**

6.159 In the aftermath of India's nuclear tests in May 1998, an upsurge in shelling and shooting by Indian and Pakistani troops stationed along the Line of Control in Kashmir left over 100 civilians dead. Although India maintained that the exchanges represented a "seasonal" phenomenon, observers in Kashmir reported that the shelling was the heaviest in recent years. **[26]**

6.160 A serious escalation of the conflict in Kashmir occurred in 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. 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 the town. 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]**

6.161 By 11 July 1999 Pakistan had agreed on a plan, under US pressure, for the infiltrators to withdraw from Jammu and Kashmir. **[8n]**. 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. **[8o]**

6.162 On 20 March 2000, unidentified gunmen killed 36 Sikhs in the village of Chadisinghpoora. 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]** 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]** Abdullah later announced a judicial inquiry into the massacre, which would also investigate the killing of five alleged militants a few days after the atrocity, who local people believed were innocent civilians who had been singled out as scapegoats. **[34a]** 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]**

6.163 In May 2000, Minister of Power Ghulam Hasan Bhatt was killed in a landmine explosion, claimed by Hizbul Mujahedin. It was the first time a serving minister had been killed since the start of the armed uprising. **[32j]**

6.164 On 16 January 2001 the militant group Lashkar-I-Toiba tried to storm the airport in Srinigar. In the ensuing gun battle with Indian security forces, 11 were killed and a dozen injured. **[34b]**

6.165 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 Srinigar. No group claimed responsibility for the killings. One person was subsequently killed in clashes between police and Sikh protestors. **[32aa]**

6.166 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. 38 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]**

6.167 A terrorist attack on the federal Parliament (the bicameral legislature) in New Delhi on 13 December 2001 left 14 people dead and 16 wounded. 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 Pervaiz 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]**

6.168 India and Pakistan moved closer to outright war in May 2002 over the deteriorating situation in Kashmir. Up to a million troops 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]**

6.169 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 Pervaiz 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]**

6.170 In March 2003, gunmen dressed in army uniforms killed 24 Kashmiri Hindus in the village of Nadimarg. **[32as]**

Return to Contents

Human Rights Concerns in Kashmir: Summary

6.171 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]**

6.172 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]**

6.173 The U.S. State Department Report on Human Rights Practices for 2002, issued in March 2003, sets out concerns relating to human rights abuses by the security forces in Kashmir, which include torture and disappearances; a disrupted judicial system which faces terrorist threats; the refusal of security forces to obey court orders; and judicial tolerance of the Government's heavy handed counterinsurgency tactics. According to the Kashmir Times, security forces killed 1,606 militants in encounters from January to September 2002. Kashmiri separatist groups claim that in many instances "encounters" are faked and that security forces summarily execute suspected militants and civilians offering no resistance. Human rights groups allege that this is particularly true in the case of security force "encounters" with non-Kashmiri militants who have crossed into Jammu and Kashmir illegally. **[2c]**

Return to Contents

Disappearances

6.174 There have 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 are said to have disappeared after "shoot outs" with security forces. **[6d]** Abduction and hostage taking of unarmed civilians has also been used by armed opposition groups to seek to free arrested associates or to frighten or harass the population. Amnesty International report that the victims of disappearance belong to all ages, including children and juveniles, and all professions and most appear to be ordinary civilians who have no connections with armed opposition groups operating in Jammu and Kashmir. **[3f]**

6.175 The fate of the victim remains unknown in many cases. Investigations into cases of disappearances are rarely carried out and when they are, they are usually conducted by police or army officials rather than by an independent body. Police often fail to register detentions or file arrest warrants, and they are then able to deny holding a detainee. **[6d]**

6.176 Amnesty International reported that during 1998 there were fewer disappearances in Jammu and Kashmir than in previous years, but many of the early cases remain unresolved. Amnesty also reported that no effective measures had been taken to end disappearances and to investigate the fate of hundreds of people who had disappeared, including the more than 100 cases submitted by Amnesty in its 1993 report. **[3f]**

Return to Contents

Special Security Laws

6.177 Several laws in operation in Jammu and Kashmir facilitate human rights violations and the impunity with which they are perpetrated by inadequately safeguarding the rights of those under arrest and detention. Cases are filed against individuals under the

Terrorism and Disruptive Activities Act (TADA) for offences allegedly committed before the Act lapsed in 1995. In January 1997 the Supreme Court expressed concern about the continuing detention of people under TADA, and its misuse to detain those who should be charged under the ordinary criminal law. **[3f]**

6.178 The Armed Forces (Special Powers) Act 1958 was introduced in Jammu and Kashmir in 1990 and gives the armed and paramilitary forces sweeping powers which facilitate arbitrary arrest and detention and extrajudicial executions and reinforce the impunity of offenders acting under it. The Jammu and Kashmir Disturbed Areas Act 1992 gives similar powers to the police in areas declared to be disturbed. The United Nations Human Rights Committee in its July 1997 report expressed its concern at the continued reliance on special powers in areas declared to be disturbed, and at serious human rights violations committed by security and armed forces acting under the Armed Forces (Special Powers) Act and other laws such as the Public Safety Act and the National Security Act. **[3f]**

6.179 The special laws require the Union Government to give sanction for prosecution of military and other central forces and the State Government to give sanction for prosecution of police acting under such legislation - this is withheld as a matter of course. The United Nations Human Rights Committee reported that this requirement contributes to a climate of impunity and deprives people of the remedies to which they may be entitled. Amnesty International is concerned that the Government of India has shielded offenders in the security forces from international scrutiny. **[3f]**

6.180 Legal and constitutional safeguards, including the right to be brought before a magistrate within 24 hours of arrest and to consult a lawyer of one's choice, are not available to those held under preventive detention legislation such as the Jammu and Kashmir Public Safety Act 1978. **[3f]**

Return to Contents

Police and Security Force Impunity

6.181 Accountability remains a serious problem in Jammu and Kashmir. Security forces have committed thousands of serious human rights violations over the course of the conflict, including extra-judicial killings, disappearances, and torture. Despite this record of abuse, only a few hundred members of the security forces have been prosecuted and punished since 1990 for human rights violations or other crimes. Punishments ranged from reduction in rank to imprisonment for up to 10 years. **[2c]** Army admissions of human rights violations have usually been followed by assertions that abuses have been investigated and perpetrators brought to justice. The numbers given vary which makes it difficult to obtain an accurate numerical account. Few of the statements given by the army contain details about the nature of the allegations or the offences, the nature, composition and terms of reference of the inquiries, the identity of the offenders and the punishments awarded. **[3f]**

6.182 Amnesty International is aware of cases where the security forces have not only defied the courts but have also actively threatened, harassed or intimidated relatives of disappeared persons and other victims of human rights violations to stop them from seeking redress. **[3f]**

6.183 In order to get greater accountability for abuses committed by security forces members in Jammu and Kashmir, the NHRC recommended that the Government allow the NHRC to investigate complaints of the army and paramilitary forces excesses; however, the Government decided that the paramilitary forces were part of the armed forces. As such, paramilitary forces were protected from investigation by the NHRC and from criminal prosecution for certain acts under various emergency statutes. Under the Human Rights Protection Act, the NHRC cannot directly investigate allegations of human rights abuses by the armed and paramilitary forces. **[2c]**

6.184 In October 2000 the Indian army sentenced one of its officers (whose rank was captain) to 7 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]**

6.185 It was announced in April 2003 that 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 incidence of its kind in Kashmir. **[32ar]**

Return to Contents

Detention

6.186 Human rights groups maintain that several hundred people are held by the military and paramilitary forces in long-term unacknowledged detention in interrogation centres and transit camps in Jammu and Kashmir which are nominally intended for only short-term confinement. Human rights groups fear that many of these unacknowledged prisoners are subject to torture and extra-judicial killing. **[2c]**

6.187 The Government maintains that screening committees administered by the State Governments provide information about detainees to their families. However, other sources indicate that families are able to confirm the detention of their relatives only by bribing prison guards. In November 2002 the State Government of Jammu and Kashmir responded to this problem by installing a screening system to review old detention cases and released numerous detainees. **[2c]**

6.188 A programme of prison visits by the ICRC is designed in part to help assure communications between detainees and their families. During 2002, the ICRC visited hundreds of detainees in approximately 20 places of detention. All acknowledged detention centres in Jammu and Kashmir, and Kashmiri detainees elsewhere in the country were visited. However, the ICRC is not authorised to visit interrogation centres or transit centres. During 2002, the ICRC stated that it had encountered increasing difficulties in maintaining systematic access to people detained in connection with the situation in Jammu and Kashmir. **[2c]**

Return to Contents

Ineffective Judiciary

6.189 The higher judiciary in Jammu and Kashmir appears in many ways unable or unwilling to provide justice to the disappeared and their families. There are lengthy delays in hearing habeas corpus petitions. There is a large proportion of unconfirmed judges, which makes them open to Government pressure. Some judges, who have been transferred after making observations critical of the Government, are hesitant to make a judgement or pass an order: instead they repeatedly adjourn cases. **[3f]**

6.190 The Jammu and Kashmir High Court appears to be unduly lenient towards the non-appearance of respondents or other non-compliance with court orders. Usually hearings are adjourned and respondents given more time to appear and respond. The State regularly fails to respond to court orders to file objections following the submission of reports of judicial enquiries relating to cases of disappearance. In a few cases the court has attempted to enforce compliance by imposing fines on State representatives for failure to respond to the order to file objections. **[3f]**

6.191 Ordinary people in Jammu and Kashmir are frequently unaware of their right to legal redress. They do not trust the judicial process, and they usually also lack the financial resources to sustain an often long drawn judicial process, especially if they live in remote places a long distance away from the seat of the court. Many a petition has been dismissed in default simply because family members could not afford to travel to the court or to pay legal fees. **[3f]**

Return to Contents

State Human Rights Commission

6.192 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]**

6.193 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]**

6.194 The National Human Rights Commission may inquire into alleged security force abuses in Jammu and Kashmir but does not have the statutory power to investigate such allegations. **[2c]**

6.195 Amnesty International is concerned about the restrictions placed on the functioning of the Jammu and Kashmir Human Rights Commission and its effectiveness in carrying out its mandate. Amnesty has called for a review of the State legislation establishing the Commission to ensure that its powers are at least on par with those of the National Human Rights Commission in the rest of India and that it has the resources and powers to carry out its mandate fully. **[3d]** Amnesty states that the Commission has not vigorously pursued allegations of disappearances in the State, even when allegedly perpetrated by forces other than the security forces and thus well within its mandate to investigate. **[3f]**

Return to Contents

Women

6.196 According to the July 2002 estimates, out of a population of 1,045 million, 506 million are female and 539 million are male. **[35]** 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]** The traditional preference for male children continues. Although the law prohibits the use of amniocentesis and sonogram tests for sex determination, the Government does not enforce the law. The tests are misused widely for sex determination, and termination of a disproportionate number of pregnancies with female foetuses occurs. In addition, parents often give priority in health care and nutrition to male infants. Women's rights groups point out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable. **[2c]**

6.197 There are differences between the lives of rural women (some 75% of the total) and urban women. Literacy rates vary across the country **[4e]** (the 2000 U.N. Development Programme Report for India found that 38% of women were literate, compared with 66% of men) **[2a]**, and the caste system as well as economic circumstances have an impact on the position of women. Scheduled caste women face double discrimination because of their gender and caste. Poverty has a disproportionate effect on women. **[4e]**

6.198 Marriage is considered a social necessity for women of all religions and regions in India. Most marriages are still arranged. In the south, intra-village or intra-family marriages are encouraged in order to strengthen family networks, while in the north, marriage is encouraged outside the community to expand the family network. As a result women in the north have little contact with their natal families. The system whereby a daughter leaves her home to live with her husband's family is characterised by the subordination of the bride to men and older women, and the bride is expected to be submissive. **[4e]**

6.199 The Child Marriage Restraint (Amendment) Act 1976 makes 18 the minimum age of marriage for women, but enforcement is uneven. Child marriages are said to be common, particularly in rural areas. **[4e]**

6.200 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 1869, a Christian woman may petition the court for divorce on one or more of several grounds, including bigamy and rape. **[4e]** In 1997 the Mumbai High Court recognised abuse alone as sufficient grounds for a Christian woman to obtain a divorce. Under Islamic law, a Muslim husband may divorce his wife spontaneously and unilaterally; there is no such provision for women. **[2a]** The divorce law applying to secular marriages is included in the Special Marriage Act 1954 and provides for divorce by mutual consent as well as by petition to the court. **[4e]** Despite legal provisions, divorce is socially unacceptable for women. A divorced woman may be ostracised by her

community and even her family. Divorce may not be an option for many women because of their economic dependence on their husbands. **[4e]**

6.201 The Hindu Succession Act provides equal inheritance rights for Hindu women, but married daughters are seldom given a share in parental property. Islamic law recognises a woman's right of inheritance but specifies that a daughter's share should only be half that of a son. **[2a]**

6.202 Under tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accord women little control over land use, retention or sale. However, several exceptions exist, as in Ladakh and Meghalaya, where women may have several husbands and control the family inheritance. **[2c]**

6.203 Violence against women has increased in recent years. Wife beating is a problem which cuts across all castes, classes, religions and education levels. **[4e]** A report published in 1999 in the Journal of the American Medical Association found that 46% of husbands interviewed abused their wives either physically or sexually. The data came from more than 6,000 men who were interviewed over a period of two years in Uttar Pradesh. **[32c]** Another problem is that of dowry disputes. Although providing or taking dowry is illegal under the Dowry Prohibition Act, a typical dispute is where the groom's family harass a woman they believe has not provided a sufficient dowry. The harassment sometimes ends in the woman's death, which the family try to portray as a suicide or accident. Under the Penal Code, 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 is proven. **[2c]** If convicted, prison sentences can stretch to 14 years. **[32l]** While the legislation introduced by the Government is seen as a serious effort to end dowry deaths, lack of adequate enforcement is a major problem. **[4e]**

6.204 Women are vulnerable to attack and rape while in custody. Amnesty International expressed concern about the lack of official determination to bring the perpetrators of custodial crimes to justice. **[4e]** It is noted in the U.S. Department of State Report published in March 2003 that limits placed on the arrest, search, and police custody of women appear effectively to limit the frequency of rape in custody, although it does occur on occasion. **[2c]**

6.205 Numerous laws exist to protect the rights of women, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. **[2c]** The Indian Penal Code contains a number of sections which address crimes against women and offences relating to marriage, rape and domestic violence. However the laws are not always enforced, especially in rural areas, due to social and religious practices. **[4e]**

6.206 India has ratified a number of international conventions, including the Convention on the Political Rights of Women and the Convention on the Elimination of All Forms of Discrimination against Women. One reservation was made in respect of the latter convention, in that the Indian Government declared that it would not interfere in the personal affairs of any community without that community's initiative or consent. This

has been interpreted as reluctance on the part of the Government to change the religion-specific personal laws that discriminate against women in areas such as marriage, divorce and inheritance. **[4e]**

6.207 The Indian Constitution provides that all persons are equal before the law and shall have equal protection of the law. Women who are subject to violence have recourse through the civil and criminal courts. A civil suit for injunctive relief can be undertaken under the Civil Procedure Code and the Special Relief Act. In criminal law a victim of violence can seek redress under several sections of the Penal Code. **[4e]**

6.208 However many factors make the courts a difficult recourse for women. They often lack economic, geographic and even political access to the legal system. Those who are illiterate, poor, unaware of their legal rights and unaccustomed to dealing with public institutions have particular difficulties. There are reports that women are often subject to the negative attitudes of the male-dominated judiciary. Women face social pressures not to pursue cases, which may not be heard for years due to court backlogs. **[4e]**

6.209 There is also the question of the attitude of the police to women who complain of abuse or crimes committed against them. Police are reluctant to intervene in family disputes. Crimes may be ignored if the perpetrators are influential. The police are perceived as being insensitive, and women are often afraid to report crimes. **[4e]**

6.210 However, it is reported that one women's organisation, Sakshi, has provided gender sensitisation training to police officers. **[4e]**

6.211 There are 70 women in the 783-seat legislature and 6 women in the Cabinet. A large proportion of women participate in voting throughout the country (with turnout rates slightly lower than those of men), and numerous women are represented in all major parties in the national and State legislatures. The passage of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, which brought more than 1 million women into political life at the grassroots level. **[2c]** There has been a prolonged debate over the reservation of parliamentary and State assembly seats for women. In recent years Indian Governments have pledged to introduce legislation which would guarantee that at least 33% of MPs would be women. **[11b]** A Bill has twice been introduced into Parliament, but has yet to be passed. By March 2003, a consensus had still not been reached among political parties discussing the issue. **[32aq]**

6.212 Despite their low numbers, women have been highly visible participants in Indian politics, although they are frequently not representative of women as a whole. Often they are from the "elite" and their political position derives from male relatives also involved in politics. **[4e]**

6.213 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]** Several organisations dealing with women's issues can be found on the website of the South Asian Women's Network (SAWNET). **[25]**

Return to Contents

Children

6.214 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]**

6.215 The Government continued its plan to eliminate child labour from hazardous industries and eventually from all industries. The programme included the enhanced enforcement of child labour laws, income supplements for families, and a public awareness campaign. The Government also continued efforts to enhance enforcement of the Child Labour (Prohibition) Act and other laws prohibiting and regulating child labour. A Supreme Court decision increased penalties for employers of children in hazardous industries and established a welfare fund for formerly employed children. **[2c]** On 26 July 2000, the National Human Rights Commission announced that India's Government had banned its employees from employing children under the age of 14 as servants. **[33e]**

6.216 About 120 million children out of 203 million attend primary school. Most of the remainder do housework, work on family farms, work alongside their parents as paid agricultural labourers, work as domestic servants, or are otherwise employed. **[2c]** Family run businesses and cottage industries, in which children work, are exempt from much of the labour standards legislation. The contractual system allows many industries to evade the requirements of the Factories Act, Minimum Wages Act and Child Labour Act. Participation in home-based industries is higher for girls than for boys. **[4e]**

6.217 There are an estimated 500,000 street children nationwide living in abject poverty. There is child prostitution in the cities, and there are an estimated 575,000 child prostitutes nationwide. **[2c]**

6.218 Child abuse is specifically prohibited by law. The Government states that child abuse is not a significant problem but has not released comprehensive statistics regarding the issue. **[2c]**

6.219 The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country. The Government does not effectively enforce the minimum age of 18 at which girls may marry. **[2c]**

Return to Contents

Child Care Arrangements

6.220 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. **[14]**

6.221 The website http://www.orphanage.org/ lists details of 35 orphanages throughout India. **[9]**

Return to Contents

Homosexuals

6.222 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]**

6.223 The issue of homosexuality is still sensitive in India and is not openly debated to the extent that it is in the West; however society is tending to become more tolerant. There are a number of NGOs, properly registered, in different parts of India which exist to promote the welfare of homosexual men and women. **[7b]** 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]**

6.224 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. Gay rights campaigners however, welcomed the news. **[32ae]**

Return to Contents

Scheduled Castes and Tribes

6.225 India's caste system has strong historic ties to Hinduism. It delineates clear social strata, assigning highly structured religious, cultural, and social roles to each caste and sub-caste. Members of each caste, and frequently sub-caste, are expected to fulfil a specific set of duties (known as dharma) in order to secure elevation to a higher caste through rebirth. The Constitution gives the President authority to identify historically disadvantaged castes, Dalits and tribal people (members of indigenous groups historically outside the caste system). These “scheduled” castes, Dalits and tribals are entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programmes. **[2c]** 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]**

6.226 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 lists offences against disadvantaged people and provides for stiff penalties for offenders. However, according to the U.S. Department of State, this Act has only a modest effect in curbing abuse. **[2c]**

6.227 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. Affirmative measures are also being taken for disadvantaged groups belonging to Other Socially and Educationally Backward Classes (OBCs). **[6a]**

6.228 The practice of untouchability (the belief that contact with members of the Untouchable group would defile members of a higher caste) **[6e]** was in theory outlawed by the Constitution and the 1955 Civil Rights Act, but it remains an important aspect of life. **[2c]**

6.229 Dalits (formerly called untouchables or harijans) are a Scheduled Caste occupying the lowest layer of the Hindu caste system and form some 16% of the Indian population. Dalits are poor and exploited economically, with 90% of them living in rural areas, the overwhelming majority being marginal farmers or landless labourers. **[6e]**

6.230 In August 2000, India's 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]** 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]**

Return to Contents

6.C HUMAN RIGHTS - OTHER ISSUES

Treatment of Returned Failed Asylum Seekers

6.231 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 as such, 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]**

6.232 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]**

6.233 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]**

Return to Contents

Treatment of Non-Governmental Organisations (NGOs)

6.234 Independent human rights organisations operate throughout most of the country, investigating abuses and publishing their findings. However, in some States and in a few circumstances, human rights groups face restrictions. For instance, in Jammu and Kashmir, human rights monitors have been unable to move around the State to document human rights violations due to fear of retribution by security forces and counter-militants. **[2c]**

Return to Contents

ANNEX A: CHRONOLOGY OF EVENTS (Sources: **[1] & [4b]** unless otherwise stated)

1947
15 August: Indian 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 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 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 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 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 emerge 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 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) demand 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 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 agree on a plan for the infiltrators to withdraw. **[5d] & [8n]**
September/October: General election. BJP re-elected under Vajpayee. **[33a]**

2000
March: 36 Sikhs killed by unidentified gunmen in Chadisinghpoora, the first such attack on the Sikh community in Kashmir. **[3h]**
July-August: Militant group Hizbul Mujahedin 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. **[33f]**
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. **[15b]**
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 12th 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]**

Return to Contents

ANNEX B: POLITICAL ORGANISATIONS (Sources **[1] [5l] & [7f]** unless otherwise stated)

All India Anna Dravida Munnetra Kazhagam (All India Anna Dravidian Progressive Association)
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. Leader: Jayaram Jayalalitha, party secretary general.

All India Forward Bloc
Founded 1940 and has socialist aims, including nationalisation of major industries, land reform and redistribution. A minor Marxist-Leninist ally of CPI-M in West Bengal.

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.

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. Led by Kanshi Ram.

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 Rashtriya Swayamsevak Sangh. The BJP's Women's Front is known as the Mahila Morcha. **[5l]**

Biju Janata Dal (BJD)
Made up of almost the entire Janata Dal unit of Orissa, who 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.

Communist Party of India - Marxist (CPI-M)
Formed in 1964 as a pro-Beijing breakaway group from the CPI. Declared its independence of Beijing in 1968. In power in West Bengal since 1977. Support also in

Tripura and Kerala. In October 2000, the Election Commission demoted CPI-M's status from that of a national party to a State party. General-Secretary: Harkishan Singh Surjeet.

Congress (I)
Party of Indian independence, then of Government for 45 of the following 50 years under Nehru, his daughter Indira Gandhi 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, and under her leadership the party made significant gains in the 1998 State elections to take over the Government of Delhi and Rajasthan and retain control of Madhya Pradesh. But it registered its worst ever performance in the Lok Sabha elections of September/October 1999 when it won just 111 seats.

Dravida Munnetra Kazhagam (DMK)
Founded in 1949. Supports greater federalism; resents northern domination. Exclusive to Tamil Nadu and supported primarily by locally dominant backward castes. Member of National Democratic Alliance. Led by Muthuvel Karunanidhi.

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.

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. Strong support base in Bihar. Led by Sharad Yadav.

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.

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.

Revolutionary Socialist Party
Minor Marxist-Leninist party allied with CPI-M, and supported in West Bengal.

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.

Samajwadi Janata Party
The one-man party of Chandra Shehkar, 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.

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.

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, and is led by Bal Thackeray. **[5l]**

Tamil Maanila Congress (TMC)
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) (Telugu Nation)
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.

Return to Contents

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. **[5l]**

All India Sikh Student Federation (AISSF)
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]**

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. **[5l]**

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. **[5l]**

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. **[5l]**

Return to Contents

ORGANISATIONS PROSCRIBED IN THE UNITED KINGDOM UNDER THE TERRORISM ACT 2000 Source: [15a]
International Sikh Youth Federation
Babbar Khalsa
Harakat Mujahideen (alternatively Harkat-ul-Mujahideen)
Jaish e Mohammed (alternatively Jaish-e-Mohammad)
Lashkar e Tayyaba (alternatively Lashkar-I-Toiba)

Return to Contents

ANNEX C: PROMINENT PEOPLE

ABDUL KALAM Dr. A.P.J.
Sworn in as India's 12th President in July 2002. A Muslim, an eminent scientist and architect of India's missile programme.

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.

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. In 1990 he led a procession of Hindu devotees to Ayodhya in Uttar Pradesh, to begin the construction of a Hindu temple on the site of a disused ancient mosque. He was accused of deliberately inciting inter-communal hatred by exhorting Hindu extremists to join him in illegally tearing down the mosque. Advani was arrested along with thousands of Hindu activists. The Ayodhya issue came to the fore again in December 1992 when the mosque was torn down by Hindu militants. Advani was again arrested along with other BJP leaders amidst the violence that followed the demolition.

BHINDRANWALE Jarnail Singh
A charismatic Sikh religious leader who first appeared in 1977. He preached strict fundamentalism and an armed struggle for national liberation. He was arrested following the killing of Lal Jagat Narain, editor of a pro-Hindu newspaper, in 1981. He was released immediately, but his prestige increased among young Sikhs. Sikh unrest escalated and 10,000 Sikhs barricaded themselves in the Golden Temple in Amritsar. Operation Blue Star was initiated by then Prime Minister, Indira Gandhi, and the temple was besieged and shelled by the army. Thousands were killed, among them Bhindranwale.

DEVE GOWDA H.D.
A former Chief Minister of Karnataka, Deve Gowda was selected to lead the 13 party United Front coalition and he took office as Prime Minister in May 1996. He was forced to resign as Prime Minister in April 1997 after Congress (I) withdrew its parliamentary support for the Government.

GANDHI Indira
Daughter of India's first Prime Minister, Jawaharlal Nehru. She became Prime Minister in 1966 leading the Congress Government and held office until she was defeated in the 1977 general election. She resumed office in 1980. She was assassinated in October 1984 by Sikh members of her personal guard in retaliation for the Indian Army's storming of the Golden Temple in Amritsar earlier that year.

GANDHI Rajiv
Son of Indira. He entered politics after the death of his brother Sanjay in an air crash in 1980. He was elected to his brother's constituency in 1981 and became a General

Secretary of Congress (I) in 1983. He was sworn in as Prime Minister in October 1984 immediately after his mother's assassination. He led the Congress party to a decisive election victory in December 1984, but was defeated in the next elections in November 1989. On 21 May 1991 after the first day of voting in the general election, Gandhi was assassinated by members of the Sri Lankan Tamil separatist group, the Liberation Tigers of Tamil Eelam (LTTE), while campaigning in Tamil Nadu.

GANDHI Sonia
Italian-born widow of former Prime Minister Rajiv Gandhi. She refused to become involved in politics after her husband's assassination, but was a leading figure in the Congress (I)'s 1998 general election campaign and was credited with being responsible for the party's better than expected tally of seats. She became President of Congress (I) in March 1998. She attempted, but failed, to form a Congress-led Government following the collapse of the BJP led Government in April 1999.

GUJRAL Inder Kumar
Minister of External Affairs in the United Front Government, Gujral became Prime Minister on 22 April 1997, after Congress (I) reinstated its support for the UF Government providing that the former Prime Minister, Deve Gowda, was replaced. Gujral and the UF Government resigned in December 1997, when Congress (I) withdrew its support for the Government.

NARAYANAN Kocheril Raman
Elected President of India in July 1997, the first Dalit President. Served until July 2002, and as Vice-President from 1992 to 1997.

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.

VAJPAYEE Atal Behari
Prime Minister of India. The Bharatiya Janata Party emerged as the largest party in the Lok Sabha after the 1998 general election and he was appointed Prime Minister on 15 March 1998. His coalition Government lost a vote of confidence in April 1999 and the Government resigned. Vajpayee was re-elected to office at the head of a BJP-led coalition in the general election held in September/October 1999.

Return to Contents

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Return to Contents