

INDIA

India, the world's most populous democracy, continues to have significant human rights problems despite making commitments to tackle some of the most prevalent abuses. The country has a thriving civil society, free media, and an independent judiciary. But longstanding abusive practices, corruption, and lack of accountability for perpetrators foster human rights violations.

Government initiatives, including police reform and improved access to health care and education, languish due to poor implementation. Many women, children, Dalits (so-called untouchables), tribal communities, religious minorities, people with disabilities, and sexual and gender minorities remain marginalized and continue to suffer discrimination because of government failure to train public officials in stopping discriminatory behavior.

Impunity remains a serious problem, particularly for abuses committed by security forces in Jammu and Kashmir, the northeast, and areas in central and eastern India facing a Maoist insurgency. Resource extraction and infrastructure projects often have deleterious environmental and economic impacts, and may infringe upon the rights of affected communities.

The central government tightened restrictions on internet content, insisting the measures are to contain threats to public order. It used a colonial-era sedition law to stifle peaceful dissent in 2012 on issues ranging from the government's handling of the Maoist insurgency and corruption, to protests against a nuclear power plant in the southern state of Tamil Nadu. The protection of religious minorities received a boost from the prosecutions of several suspects in the 2002 Gujarat riots, resulting in over 75 convictions in 2012. These included the August conviction of Maya Kodnani, a former minister and a leader of Bajrang Dal, a militant Hindu organization.

Impunity

Members of security forces implicated in serious rights abuses continued to enjoy impunity, in large measure due to India's laws and policies.

The Indian defense establishment resisted attempts in 2012 to revoke or revise the Armed Forces Special Powers Act (AFSPA), which permits soldiers to commit serious human rights violations with effective immunity.

Maoist Insurgency

Maoists operations extend to nine states in central and eastern India, finding support in regions with weak governance, infrastructure and basic public services, such as health care and education.

Maoist insurgents known as Naxalites continued to target government schools and hospitals. Paramilitary forces continued to occupy and use schools as bases, despite a Supreme Court order to vacate all schools by May 2011. In September, government officials in Chhattisgarh, central India, stated they would remove forces from 36 schools and hostels because of their impact on children's education.

At this writing, Maoist-related violence in 2012 had resulted in 257 deaths, including 98 civilians. In June, security forces killed 19 villagers in Chhattisgarh state in a night operation, prompting widespread condemnation.

Civil society activists in Maoist areas remain increasingly at risk from both Maoists and state security forces. Many activists have been arbitrarily arrested, tortured, and charged with politically motivated offenses that include murder, conspiracy, and sedition. The Maoists have threatened or attacked activists they believe are linked to the government.

Jammu and Kashmir

While violence in the northern state of Jammu and Kashmir has been on a decline, security forces responsible for serious rights abuses remain effectively immune from prosecution under the AFSPA.

In September, the state government rejected calls for DNA testing of 2,730 corpses that a police investigative team found in unmarked graves at 38 sites in north Kashmir in July 2011. Some of the gravesites are believed to hold victims of enforced disappearance and extrajudicial execution by government security forces dating back to the 1990s.

A number of elected village council leaders resigned in September following threats and attacks from armed separatist militants who oppose any election in Jammu and Kashmir.

Violence in Assam

In July, violence between indigenous Bodo tribes and Muslim migrant settlers started in Kokrajhar and spread to several districts in Assam, resulting in the deaths of at least 97 people and displacing over 450,000. Authorities in Assam failed to prevent the violence, despite information about increasing tensions between the communities, which have clashed in the past over access to land and resources.

Freedom of Expression

In 2012, the central government used the Information Technology (Intermediary Guidelines) Rules to tighten internet censorship, raising concerns about restrictions on the right to free speech. Under the rules, intermediaries such as internet service providers and search engines are required to remove content within 36 hours that is deemed offensive. However, criteria for prohibited content are ambiguous and frequently used to stifle criticism of the government.

The government used the colonial-era sedition law without regard for a Supreme Court ruling that sedition requires evidence of incitement. In September, police in Mumbai arrested political cartoonist Aseem Trivedi, acting on a complaint that his cartoons mocked the Indian constitution and the national emblem. He was released after widespread protests. In May, in the southern state of Tamil Nadu, police filed sedition complaints against thousands of people who peacefully protested the construction of a nuclear power plant. In Orissa and Chhattisgarh states, sedition cases have been filed against activists and lawyers suspected of supporting armed Maoist groups.

The government continued to use the Foreign Contributions Regulation Act (FCRA) to restrict access to foreign assistance by domestic nongovernmental organizations.

Protection of Children’s Rights

Children remained at risk of abuse, with a large number forced into dangerous forms of labor, and without proper access to health care and education.

India has one of the largest populations of malnourished children in the world. According to government estimates, at least 40 percent of children are vulnerable to sex trafficking, homelessness, forced labor, drug abuse, and crime—and need protection.

The government took some significant steps in 2012 to improve children’s rights. In April, the Supreme Court upheld the government decision to provide universal access to primary education, requiring that private schools reserve 25 percent of seats for underprivileged children. In May, parliament passed a new law to protect children from sexual abuse. In August, the government issued a blanket ban on employing children under 14, reversing a former law that only prohibited employment in hazardous jobs.

Women’s Rights

Violence against women and girls continued in 2012, with increased reports of sexual assault, including against those with disabilities. The government had yet to properly investigate and prosecute sexual abuse in police custody.

In June 2012, Pinki Pramanik, a renowned woman athlete, was arrested on allegations of rape. Male police officers mistreated her while taking her into custody and authorities conducted “gender determination” tests in violation of her rights to consent, privacy, and dignity. A video of her undergoing some part of the abusive examination was made public.

India has yet to enact amendments to reform its penal laws to recognize a wide range of sexual offenses. While the central government modified its protocols for handling rape investigations, removing questions on the degrading “two-finger test,” the changes still fall short of World Health Organization (WHO) guidelines on sexual assault, especially regarding medical treatment for victims.

India has a strong law to curb child marriages but the government also pursues discriminatory policies. In central India's Madhya Pradesh state, for example, adult candidates are barred from taking state civil service exams if they were forced to marry as children. The government continued to limit its nutrition programs for pregnant mothers in many states to women ages 19 and older, and up to two live births only, excluding many young mothers from benefits.

Abuses in Extractive Industry

A breakdown in government oversight over India's mining sector has led to rampant corruption and, in some cases, to serious harm to health, environments, and livelihoods of mining-affected communities.

In September, the government of the western state of Goa canceled all mining licenses to examine whether proper procedures were followed to mitigate the negative impact on health and environment. The same month, after a year-long suspension, mining activity was allowed to partially resume in the southern Karnataka state, on condition that no environmental restrictions are violated. However, the government failed to enforce protection mechanisms in other parts of the country.

Access to Palliative Care

The Indian government took several important steps in 2012 to address the suffering of hundreds of thousands of persons with incurable diseases from pain and other symptoms. It has begun to actively encourage regional cancer centers, many of which do not currently offer palliative care, to ensure such services become available. The government is also preparing amendments to the Narcotic Drugs and Psychotropic Substances Act, which, if adopted, would improve the medical availability of morphine. More than seven million people in India require palliative care every year.

Death Penalty

In November, India hanged Ajmal Kasab, the only surviving Pakistani gunman from the November 2008 Mumbai attacks in which 10 members of the Lashkar-e-Taiba Pakistan-

based terrorist group killed more than 160 people. It was the first execution in India since 2004, ending an eight-year unofficial moratorium.

India maintains that it imposes capital punishment in only the “rarest of rare” cases. In July, 14 retired judges asked the president to commute the death sentences of 13 inmates erroneously upheld by the Supreme Court over the past nine years. This followed the court’s admission that these death sentences were rendered *per incuriam* (out of error or ignorance). In November, the Supreme Court also conceded that the “rarest of rare” standard has not been applied uniformly over the years and that the principles for judging what constitutes “rarest of rare” crimes need “a fresh look.”

International Role

India’s foreign policy in the region continues to be influenced by strategic and economic concerns about China’s growing influence in Burma, Nepal, Pakistan, and Sri Lanka.

India took some positive steps toward promoting human rights and accountability globally. In March, India voted for a United States-led resolution at the United Nations Human Rights Council (HRC) calling for post-war reconciliation and accountability in Sri Lanka. This marked a significant change of position by India, which has traditionally refrained from publicly criticizing the Sri Lankan government on well-documented war crimes and related abuses.

In February, India voted in favor of a UN Security Council resolution on Syria backing an Arab League plan concerning the escalating violence there. In July, India again voted with Western governments at the Security Council in favor of a resolution on Syria, which if adopted, would have extended the mandate of the United Nations Supervision Mission in Syria (UNSMIS) and threatened sanctions if demands that Syrian authorities end abuses were not met.

Key International Actors

India has traditionally followed a foreign policy based on the principle of non-interference and deems any criticism on human rights issues as interference in its domestic affairs. As a result, most countries, including the US and the European Union (EU), prefer to discuss these issues with India in private rather than publicly press it to improve its rights record.

However, in May, several UN member states made significant recommendations during the UN Universal Periodic Review (UPR) of India's human rights record. Recommendations included calls for India to ratify international treaties against torture and enforced disappearance, repeal the death penalty as well as the much-abused AFSPA, and protect the rights of Dalits, religious minorities, women, children, and tribal groups. The Indian government has responded by committing to address some of the recommendations, but ignored those that required substantive action against impunity.

India invited the UN special rapporteur on extrajudicial, summary, or arbitrary executions, and the UN special rapporteur on the sale of children, child pornography, and child prostitution to visit the country. After his visit in March, Christof Heyns, the special rapporteur on extrajudicial, summary, or arbitrary executions, expressed concerns over "high levels of impunity" enjoyed by police and armed forces, recommended that the AFSPA be repealed, and called for establishing a commission of inquiry to investigate extrajudicial killings.