

INDIA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

India is a multiparty, federal, parliamentary democracy with a bicameral parliament. The president, elected by an electoral college, is the chief of state, and the prime minister is the head of the government. Under the constitution the 28 states and seven union territories have a high degree of autonomy and have primary responsibility for issues of law and order. President Pranab Mukherjee was elected in 2012 to a five-year term, and Manmohan Singh became prime minister for a second term following the Congress Party-led coalition's victory in the 2009 general elections, which were considered free and fair, despite scattered instances of violence. Security forces reported to civilian authorities.

The most significant human rights problems were police and security force abuses, including extrajudicial killings, torture, and rape; widespread corruption at all levels of government, leading to denial of justice; and separatist, insurgent, and societal violence.

Other human rights problems included disappearances, poor prison conditions that were frequently life-threatening, arbitrary arrest and detention, and lengthy pretrial detention. The judiciary was overburdened, and court backlogs led to lengthy delays or the denial of justice. Authorities continued to infringe on citizens' privacy rights. The law in some states restricted religious conversion, and there were reports of arrests, but no reports of convictions under these laws. There were some limits on freedom of movement. Rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women remained serious problems. Child abuse and child marriage were problems. Trafficking in persons, including widespread bonded and forced labor of children and adults, child prostitution, and forced adult prostitution, were serious problems. Caste-based discrimination and violence continued, as did discrimination against persons with disabilities and indigenous persons. Discrimination against persons with HIV and discrimination and violence based on gender identity continued. Religiously based societal violence remained a concern. Forced labor and bonded labor were widespread. Child labor also was a serious problem.

Widespread impunity at all levels of government remained a serious problem. Investigations into individual cases and legal punishment for perpetrators occurred, but in many cases a lack of accountability due to weak law enforcement, a lack of

trained police, and the overburdened and underresourced court system created an atmosphere of impunity.

Separatist insurgents and terrorists in Jammu and Kashmir, the Northeastern States, and the Naxalite belt committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents were responsible for numerous cases of kidnapping, torture, rape, and extortion, and they used child soldiers. For the second consecutive year, Jammu and Kashmir and the Northeast saw considerably less violence than in the past.

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents, especially in areas of conflict such as Jammu and Kashmir, the Northeastern States, and the Naxalite belt (see section 1.g.). According to the South Asian Terrorism Portal (SATP), run by the nonprofit Institute for Conflict Management, during the year there were 805 fatalities in the country--including members of the security forces, individuals classified by the government as terrorists, and civilians. This represented a decrease from 1,073 fatalities in 2011. The Ministry of Home Affairs 2010-11 report, released during the year, noted a perceptible decline in incidents of violence in Kashmir and all the Northeastern States.

Most encounter killings, in which security forces and police killed alleged criminals or insurgents, occurred in conflict areas, but the practice reportedly occurred elsewhere in the country as well. Some encounter killings were staged. On the night of July 24, an army informant, after first alerting local army troops from the 27 Rashtriya Rifles that armed men were in the area, gave an AK-47 weapon to civilian Hilal Ahmed Dar and lured him to a location in Halmathpora Forests, Bandipora, Kashmir. The army troops opened fire when Dar reached the spot, killing him and injuring his friend. Authorities later arrested two informers for the Rashtriya Rifles. The army first claimed that Dar was a militant but later retracted the statement; on July 30, the public relations office for the Ministry of Defense announced that action would be taken against those found to be involved. On September 6, the Jammu and Kashmir police confirmed that the weapon allegedly owned by Dar was not his.

Despite the recommendations of the National Human Rights Commission (NHRC) that the Criminal Investigations Department investigate all police encounter deaths, many states did not follow this nonbinding advice and continued to conduct internal reviews only at the discretion of senior officers.

On May 1, the Supreme Court ordered the army to decide within eight weeks whether officers and soldiers accused by the Central Bureau of Investigation (CBI) of fake or staged encounters in May 2000 in Pathribal, Jammu and Kashmir, and in February 1994 in Saikhowa Reserve Forest, Assam, would face a court-martial or judicial trial. In September after the failure of the army to comply with the court's order, the court ordered the army to issue courts-martial against officers and soldiers accused in the two alleged fake encounters. In October fresh notices were issued to the accused officers and remained pending at year's end.

Sources continued to report a serious problem with custodial deaths, in which prisoners were killed or died in police custody, and authorities often delayed or failed to pursue prosecutions against members of the police or security forces. On August 29, the Ministry of Home Affairs (MHA) reported to parliament that 128 cases of custodial deaths and 675 cases of custodial torture were reported from various states during the period April 1, 2011, to March 31, 2012. The MHA also stated that during the period April 1 to July 31, 46 cases of custodial deaths and 129 cases of custodial torture were reported by the states. The National Crime Records Bureau (NCRB) reported 104 deaths in judicial custody in 2011, of which 35 were due to unnatural causes, such as suicide or murder by other inmates. The NCRB reported that no police were convicted for custodial deaths during the year.

NHRC guidelines direct state governments to report all cases of deaths from police actions to the NHRC within 48 hours; however, state governments did not consistently comply with the guidelines. The armed forces were not required to report custodial deaths to the NHRC, and the commission did not have the power to investigate the armed forces.

The Kashmir Coalition of Civil Society, a Kashmir-based human rights nongovernmental organization (NGO), reported 148 deaths from violent incidents, among other human rights abuses, including the deaths of 35 civilians, 75 alleged militants, and 36 security forces personnel.

Reported direct action by police continued to result in custodial deaths. In June Mohammed Salman Khan, a suspect in a case of vehicle theft in Patna, died in the hospital from injuries allegedly inflicted during his interrogation by subinspector

Dhirendra Kumar. On June 16, authorities arrested Maner Station Chief Ras Bihari Paswan and suspended all other officers posted to the Maner station as a result of the case. In accordance with NHRC guidelines for custodial deaths, authorities initiated a judicial probe and postmortem. On June 18, Bihar Chief Minister Nitish Kumar ordered the headquarters inspector general and the prison inspector general of Bihar to begin a probe into custodial death cases, including the case of Khan. The chief minister also directed the inspectors general to determine whether the victims were treated properly while in police custody in accordance with the NHRC guidelines.

Negligence by police also resulted in deaths of those in custody. For example, on June 8, two prisoners in Yerawada prison in Pune, Maharashtra, allegedly murdered Mohammad Qateel Siddiqui, an accused operative of the terrorist organization Indian Mujahideen. Siddiqui was imprisoned for his alleged involvement in planting a bomb in Pune in August. Police claimed that the two prisoners strangled Siddiqui over a small dispute; human rights groups blamed the police for lax custodial conditions and poor prison security. The Maharashtra government ordered a probe and, pending the outcome, the suspension of prison superintendent S.V. Khatavkar. The probe was not completed by year's end.

There were reports that security forces fired upon demonstrators during violent protests. For example, on May 7, police in the Raisen District of Madhya Pradesh fired at farmers protesting wheat procurement practices and killed 35-year-old farmer Harisingh Parjapati; several police officers and 40 farmers were injured in the violence.

According to the MHA 2011-12 report, the Border Security Force (BSF) was responsible for killing 30 persons along the country's land borders. Deaths along the India-Bangladesh border have been a recurrent human rights concern. Former BSF director general U.K. Bansal said that the BSF killed six persons along the border with Bangladesh as of September. According to the Bangladeshi NGO Odhikar, the BSF killed 38 Bangladeshi nationals and as of November injured 90 and abducted 64. Government statistics for 2012 were not available, but former home minister Chidambaram stated on July 5 that the number of BSF-related deaths along the Bangladesh border decreased, quoting the number as of June at "either nine or 10."

The BSF typically explained these killings as actions to stop those evading arrest or as the result of shots fired in self defense. On June 11, Human Rights Watch (HRW) alleged that border troops continued to abuse both Bangladeshi citizens

and Indian nationals residing in the border area. BSF soldiers reportedly inflicted severe beatings and torture, resulting in deaths in custody, in order to circumvent “shoot on sight” restrictions. For example, in January a five-minute video was broadcast on local television showing a man being stripped, kicked, and beaten by men wearing BSF-style fatigues. The BSF ordered a full court inquiry, and the government ordered a full investigation; on January 19, authorities suspended eight BSF personnel. The man, a Bangladeshi national, allegedly was crossing the border to smuggle cows. On May 18, Odhikar reported that BSF personnel detained and tortured Bangladeshi national Shufol Singho when he went to tend his crops along the international border. On March 22, 21-year-old Babu Seikh and three others from the Kharmapara-Beledanga villages in the Raninagar area did not return from work in the fields. The human rights NGO MASUM reported that local residents saw BSF forces chase and fire at the group, killing Seikh. Police recovered the body and registered a case of unnatural death.

On August 26, the Jammu and Kashmir government asked the Jammu and Kashmir State Human Rights Commission (JKSHRC) to close the case of unmarked graves in north Kashmir, claiming that most of the unmarked graves were known to respective police stations and that the remaining graves were of unidentified militants killed in security force encounters. In a report submitted to the state government in July 2011, the JKSHRC had documented 2,156 unmarked graves at 38 different sites at the heart of the 1990s insurgency and recommended an inquiry by an independent body. The report was the first time that a government entity confirmed that some of the bodies in graves were of civilians and not insurgents, an allegation made by independent human rights organizations. In December the International People’s Tribunal on Human Rights and Justice in Indian-Administered Kashmir documented 2,943 bodies in graves in Kashmir, 87 percent of which were unmarked.

The Armed Forces Special Powers Act (AFSPA) remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under the AFSPA, the government can declare any state or union territory a “disturbed area,” a declaration that allows security forces to fire on any person to “maintain law and order” and to arrest any person “against whom reasonable suspicion exists” without informing the detainee of the grounds for arrest. The law also gives security forces immunity from civilian prosecution for acts committed in regions under the AFSPA. There were no public records available of acts committed under the AFSPA. In March the UN special rapporteur on extrajudicial, summary, or arbitrary executions recommended the AFSPA’s repeal, stating that it “had no place in democracy.”

Sushanta Ghosh, a Communist Party of India member of the West Bengal state legislature, was jailed for six months in 2011-12 on alleged involvement in political killings. Ghosh was charged after the skeletal remains of five workers from the rival political party, the Trinamool Congress, were found near his ancestral house in Benachapra village. He was released on conditional bail February 4, and his trial was set to continue at the beginning of 2013.

On August 30, Uttar Pradesh police charged Anil Dubey, a former leader of the far right Hindu nationalist political party Shiv Sena, with attempted murder, assault, thrashing, and threatening with dire consequences for his involvement in an altercation with opposition party members. Dubey was part of a group protesting his murder charges for allegedly raping and setting ablaze a 19-year-old tribal teacher in Barwani, Madhya Pradesh, in 2010. Dubey was charged under the Scheduled Castes and Tribe (Prevention of Atrocities) Act.

The government made some progress in holding police and security officials accountable for killings committed during the Gujarat riots in 2002. On June 30, a court convicted M.K. Patel for “dereliction of duty” when he served as a police inspector during the 2002 riots. The court sentenced Patel to one year in jail for failing to register an accurate First Information Report (FIR) and not protecting evidence of the 2002 Deepa Darwaja massacre, in which a mob killed 11 members of one family. Patel was the first police officer to be convicted for dereliction of duty during the riots. Besides Patel, the designated fast track court in Mehsana sentenced 21 police officers to life imprisonment in July. In August a special court in Gujarat convicted 32 persons, including former Bharatiya Janata Party (BJP) state cabinet minister Mayaben Kodnani and Bajrang Dal leader Babu Bajrangi, for the massacre of 97 persons in the Naroda Patiya area during the riots. In October those who were sentenced to life in the Deepa Darwaja riots case, including Patel, challenged their sentences in the Gujarat High Court.

There were some developments on accountability efforts for the Delhi anti-Sikh violence of 1984. On December 21, the Delhi High Court withheld its final verdict on the plea of Congress party leader Sajjan Kumar, after Kumar challenged the framing of the charges against him by a trial court. Protests against the government continued, highlighting 28 years of perceived impunity for Congress party officials accused of inciting the deadly mobs that perpetrated the 1984 violence.

There were developments in the July 2010 killing of Amit Jethwa, a Right to Information (RTI) Act activist. On February 28, the government of Gujarat submitted an affidavit stating that a government probe did not find incriminating evidence against Dinu Solanki, a BJP member of parliament from Junagadh accused of planning and ordering the killing. On March 16, a charge sheet on the case was filed, but the contents were not released, leaving the identity of the accused unknown.

Nongovernmental forces, including organized insurgents, reportedly committed numerous killings, especially in areas of conflict such as Jammu and Kashmir, the Northeastern States, and the Naxalite belt (see section 1.g.).

b. Disappearance

There were reports that police throughout the country failed to file required arrest reports for detained persons, resulting in hundreds of unresolved and unreported disappearances. Police and government officials typically denied these claims. The central government reported that state government screening committees that determined which detainees were eligible for release provided information about detainees to their families, but other sources stated that families often needed to bribe prison guards to confirm the detention of their relatives.

Disappearances attributed to government forces, paramilitary forces, and insurgents occurred in areas of conflict during the year (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture, but many NGOs reported that such practices were common, especially in areas of conflict (see section 1.g.). For example, on August 1, police arrested a 25-year-old mentally ill man, Satnam Singh Mann, after he attempted to attack spiritual leader Mata Amritanandamayi at an ashram in Kollam District, Kerala. After police took him into custody, he was admitted to a mental hospital, where he died. The state criminal branch investigation reported that Mann was tortured to death in the hospital, in the ashram, or both. The case remained under investigation by state police, although activists claimed that the police were attempting to cover up abuses at the ashram.

On July 12, the NHRC asked the Rajya Sabha, the upper house of parliament, to pass the Prevention of Torture Bill, where it had been pending in review since

2010. NGOs remained concerned about the requirement in the proposed legislation that complaints regarding torture be made within six months and that previous remedies be sought from appropriate government bodies before a court is empowered to consider a complaint. The NHRC was the only independent agency to conduct investigations of torture complaints outside of the overloaded legal system.

The law generally does not permit authorities to admit into evidence confessions that have been coerced, but NGOs and citizens alleged that authorities used torture to coerce confessions, which in some instances were submitted as evidentiary support for death sentences. Authorities allegedly also used torture to extort money or as summary punishment.

There were reports that police raped women, including while in police custody. NGOs stated that the NHRC underestimated the number of rapes that police committed. Because of lack of oversight and accountability, some rape victims were unlikely to come forward and report the crime due to the victims' feelings of shame and fear of retribution, especially if the perpetrator was a police officer or other official. Many of the reported rapes by security forces occurred in relation to internal conflicts and insurgencies (see section 1.g.).

On August 20, Delhi Police Constable Inssaf Khan was arrested for allegedly raping a 15-year-old girl he had befriended. Authorities suspended Khan and initiated an investigation, which continued at year's end. On August 23, the Delhi High Court convicted four former members of the president's bodyguards for raping a 17-year-old Delhi University student in Buddha Jayanti Park in 2003. The student had gone to watch a program of the Dalai Lama at the park, located in the backyard of the Presidential Palace. The court sentenced two men to life imprisonment, while the others were sentenced to 10 years' hard labor.

Prison and Detention Center Conditions

Physical Conditions: Prison conditions were frequently life threatening and did not meet international standards. Prisons were severely overcrowded and food, medical care, sanitation, and environmental conditions were often inadequate. Potable water was only occasionally available.

According to the NCRB Prison Statistics India 2011 report, there were 1,392 prisons in the country with an authorized capacity of 332,782 persons; however, the actual jail population was 372,929. Persons awaiting trial accounted for two-

thirds of the prison population. There were 16,024 female prisoners, approximately 4 percent of the total prison population, while juveniles constituted less than 1 percent. Authorities held men and women separately. The law requires juveniles to be detained in rehabilitative facilities, although at times they were detained in prison, especially in rural areas. Officials held many pretrial detainees with convicted prisoners.

The MHA acknowledged in its 2011-12 annual report that prison and detention center conditions were extremely poor and severely overcrowded, understaffed, and lacked adequate medical care and infrastructure. The MHA also noted that prisoners were physically mistreated, faced long detention before and during trial, and had inadequate opportunity to communicate with legal counsel, authorities, and family members. NHRC Director General (Investigation) Sri Sunil Krishna stated that the main areas for improvement were prisoners' rights, general transparency and accountability, monitoring of prison conditions, modernization of prison administration, and sensitization and expansion of staff.

Administration: Prisoners were permitted some access to visitors, although some family members stated that they were denied access to relatives held in detention, particularly in areas of conflict, including Jammu and Kashmir. Prisoners have the right to engage in religious observances, and in most cases that right was respected. The government allowed some NGOs to provide assistance to prisoners, within specific guidelines. Prison officials kept extensive records. There was no ombudsman for detention facilities, but prisoners could submit complaints to judicial authorities. Alternative sentencing methods were rarely used.

Monitoring: The NHRC received and investigated prisoner complaints of human rights violations throughout the year, but some activists indicated that many complaints were not filed due to fear of retribution from prison guards or officials. Most NHRC findings and recommendations were published on the NHRC Web site; however, there were allegations by NGOs that investigations and recommendations dealing with controversial issues were not disclosed. Prisoners could register complaints with state and national human rights commissions, but these commissions could only recommend that authorities redress grievances. The Supreme Court ordered the central government and local authorities to conduct regular checks on police stations to monitor custodial violence, but government officials often failed to comply with the order.

Most state governments permitted prison monitoring by independent groups, such as the International Committee of the Red Cross (ICRC) and the NHRC, but the

states of Manipur and Nagaland required visitors to obtain special permits. In many states the NHRC made surprise visits to state prisons but not to military detention centers. The NHRC lacks jurisdiction over the armed forces and their detention centers.

During the year the ICRC reported visiting detainees arrested in connection with the situation in Jammu and Kashmir, both in the state and in other parts of the country. The ICRC did not ask to visit interrogation or transit centers in the northeastern states of Manipur, Mizoram, and Nagaland, but it assisted in medical and health-related projects in Assam, Nagaland, and Chhattisgarh. The ICRC's findings resulting from observations of prison conditions remained confidential due to agreements with the government.

The NHRC had a special rapporteur to verify that state prison authorities performed medical checkups on all inmates. The rapporteur visited prisons on a regular basis throughout the year. The National Commission of Women continued visiting jails during the year to assess the living conditions of women.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but both occurred during the year. Police also used special security laws to delay judicial review of arrests. Pretrial detention was arbitrary, lengthy, and sometimes exceeded the duration of the sentence given to those convicted.

In 2011 HRW detailed police responses to incidents of terrorism, including the use of torture, mistreatment of suspects, and arbitrary detention in an effort to obtain forced or false confessions. Police held suspects without registering their arrests; some were denied sufficient food and water. The report cited the failure of accountability mechanisms as a factor allowing the abuse of terrorism suspects.

Role of the Police and Security Apparatus

Although the central government provides guidance and support, the 28 states and seven union territories have primary responsibility for maintaining law and order. Police are under state jurisdiction. The MHA controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and it provides training for senior police officers of the state-organized police forces. According to HRW, cases of arbitrary arrest, torture, and forced confessions by security forces were common. Several laws, including part of the criminal procedure code and the

AFSPA, were used to provide legal protection for members of the security forces who were accused of violating human rights.

The effectiveness of law enforcement and security forces varied widely throughout the country. Officers at all levels acted with impunity, and officials rarely held them accountable for illegal actions. Military courts investigated cases of abuse by security officials, both army and paramilitary forces; cases against law enforcement officers were tried in public courts. Authorities sometimes transferred officers after they were found guilty of a crime. The central government wrote to the state governments asking them to implement measures to improve over four dozen functional areas of policing.

According to the MHA's 2011-12 annual report, 74,918 cases were registered with the NHRC nationwide. A total of 45,571 cases were resolved, including cases brought forward from previous years, and 19,355 cases were transferred to state human rights commissions for resolution. Interim relief payments were made in 420 cases.

Arrest Procedures and Treatment While in Detention

Arbitrary Arrest: The code of criminal procedure prohibits arbitrary arrest or detention, but police allegedly continued to arbitrarily arrest citizens. In practice police detained individuals for custodial interrogation without identifying themselves properly or providing arrest warrants.

Arun Ferreira, an alleged Naxalite sympathizer, was arrested under the Unlawful Activities Prevention Act (UAPA) in 2007, acquitted in 2009 on one of the cases, released in September 2011, but immediately rearrested on other charges. On January 4, Ferreira was released on bail and filed a petition alleging that police had abducted him in collusion with jail authorities in order to rearrest him.

Pretrial Detention: Under the law those detained on criminal charges must be informed promptly of the charges against them and of their rights to legal counsel. Under the criminal code, a magistrate may authorize the precharge detention of an accused person for a period of no more than 90 days. Under the regular criminal procedure, the accused must be released on bail after 90 days. The code also allows police to summon individuals for questioning, but it does not provide authority for police to involuntarily detain individuals for questioning before placing them under arrest. There were incidents in which authorities allegedly detained suspects beyond the legal limit for police custody.

There were reported cases in which police denied suspects the right to meet with their legal counsel, as well as cases in which police unlawfully monitored suspects' conversations and denied their right to confidentiality. The constitution mandates free legal aid in cases of "economic or other disabilities"; however, need is not assessed systematically. By law authorities must allow family members access to detainees, but this was not always observed. Arraignment of detainees must occur within 24 hours unless the suspect is held under a preventive detention law.

The UAPA gives authorities the ability to detain persons without charge in cases where insurgency or terrorism is suspected. Under the law police can detain an individual without charge for up to 30 days. The law also permits authorities to hold a detainee in judicial custody without charge for up to 180 days (including the 30 days in police custody). The UAPA denies bail for foreigners and makes it easier for courts to deny bail in the case of detained citizens. It presumes the accused to be guilty if the prosecution can produce certain incriminating evidence indicating the possession of arms or explosives or the presence of fingerprints at a crime scene, regardless of whether criminal intent is demonstrated. State governments also held persons without bail for extended periods before filing formal charges under the UAPA.

Two earlier laws to prevent terrorism have lapsed, but some persons accused under these laws remained in detention. By law those arrested under previous laws continue to be prosecuted under these laws even after they are repealed. In 1995 the Terrorist and Disruptive Activities (Prevention) Act (TADA) was allowed to lapse. In 2004 the government repealed the Prevention of Terrorism Act (POTA)--the successor legislation to the TADA. There were conflicting reports during the year of how many persons remained detained under the POTA. As of October 10, the Jammu and Kashmir government informed the Legislative Council that 323 persons were booked under the TADA and 31 persons had been charged under the POTA.

On July 28, the Gujarat High Court, while hearing appeals in the 2002 Godhra train burning case, ordered the release of 18 convicts who already had served five years in jail, providing they did not press for acquittal. The appeal trial of 13 others continued. In February 2011, 31 persons held under the POTA in the Godhra train burning were convicted--11 received the death penalty, and 20 were sentenced to life imprisonment.

The law permits preventive detention in certain cases. The National Security Act (NSA) allows police to detain persons considered security risks anywhere in the country, except Jammu and Kashmir, without charge or trial for as long as one year. The law allows family members and lawyers to visit NSA detainees and requires authorities to inform a detainee of the grounds for detention within five days, or 10 to 15 days in exceptional circumstances.

The Public Safety Act, which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge or judicial review for as long as two years. During this time family members do not have access to detainees. Detainees are allowed access to a lawyer during interrogation. In practice police in Jammu and Kashmir routinely employed arbitrary detention and denied detainees, particularly the destitute, access to lawyers and medical attention.

Chhattisgarh State maintained the Special Public Security Act, in place since 2005, which permits detention for as long as three years for loosely defined unlawful activities. Human rights groups voiced concerns that the law criminalizes any support given to Naxalites (Maoists), even support provided under duress.

In many states police made “preventive arrests” in the name of curbing public unrest. For example, on March 27, prior to the arrival in New Delhi of Chinese President Hu Jintao, police arrested Tibetan poet and activist Tenzin Tsundue under preventive detention for “notorious activities in Bangalore,” based on his involvement in a protest during the Chinese prime minister’s 2005 visit. On March 28, New Delhi authorities took more than 250 Tibetan activists into preventive custody after Jamphel Yeshe self-immolated and died at a local hospital. The Chinese president’s visit concluded on March 29, and all of the detained Tibetan activists were released from custody by March 31.

Arbitrarily lengthy detention was a major problem as a result of the overburdened and underresourced court systems and the lack of sufficient safeguards and oversight of the law. The government continued efforts to reduce lengthy detentions and alleviate prison overcrowding by using “fast track” courts, which specify a trial date or timeline, provide directions for case management, and encourage the use of bail. Critics contended that poor detainees were unable to make bail and remained in detention. On April 19, the Supreme Court upheld the policy decision of the central government to stop funding the 1,734 fast track courts created in 2002, as the courts were being funded on an ad hoc basis. The court directed both the central and state governments to create more posts in lower courts. State-funded fast track courts were unaffected by the ruling.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice, although judicial corruption was widespread.

The judiciary system was seriously overburdened and lacked modern case management systems, often delaying or denying justice. By October nearly one-third of sanctioned judges' positions (895 posts) in the country's 21 high courts were vacant. On May 14, the Ministry of Law and Justice announced that approximately 27.225 billion rupees (\$500 million) would be provided to states to set up special courts dedicated to backlog reduction. As of November 30, there were 65,703 cases pending in the Supreme Court; 22,133 cases were less than one year old.

On May 31, Delhi High Court Acting Chief Justice AK Sikri stated that at the pace at which cases were then being processed, the Delhi High Court would likely take 466 years to clear its case backlog.

Many citizens reported that they offered bribes to move cases through the court system. On May 1, an RTI query revealed that at least 75 complaints of corruption and misconduct against serving judges of the Supreme Court and high courts had been forwarded to the chief justice for action during the previous 12 months. The Ministry of Law and Justice told newspapers that it "was unaware of any action taken on these complaints."

There were allegations of bias in cases stemming from the 2002 Gujarat violence (see section 6, Other Societal Violence or Discrimination).

Trial Procedures

The criminal procedure code provides for public trials, except in proceedings that involve official secrets, trials in which someone might make statements prejudicial to the safety of the state, or under provisions of special security legislation. Defendants enjoy the presumption of innocence and may choose their counsel. The state provides free legal counsel to poor defendants, but in practice access to competent counsel often was limited, especially for the poor, and the strained justice system usually resulted in major delays in court cases.

The law allows defendants access to relevant government evidence in most civil and criminal cases; the government reserved the right to withhold information and did so in cases it considered sensitive. While defendants have the legal right to question witnesses against them, underprivileged defendants sometimes did not enjoy this right due to lack of proper legal representation. Courts must announce sentences publicly, and there are effective channels for appeal at most levels of the judicial system.

Political Prisoners and Detainees

There were reports of political prisoners and detainees in the country. NGOs reported that the Jammu and Kashmir government held political prisoners and also temporarily detained hundreds of persons characterized as terrorists, insurgents, and separatists. On August 11, separatist leader Syed Ali Geelani alleged that 891 political prisoners were incarcerated in different jails across Jammu and Kashmir.

During the year the West Bengal state government announced the names of 267 prisoners to whom it proposed to grant general amnesty; of these, 83 persons, including some charged under the UAPA for their links with Maoists, were accorded the status of political prisoner. On July 21, Kolkata Chief Minister Mamata Banerjee announced the release of 52 political prisoners, including two Maoist leaders and several members of the Gorkha Liberation Organization. As of the end of September, only six persons had been released. According to the Association for Protection of Democratic Rights, the MHA objected to the release of the two Maoist leaders. By the end of September, 50 political prisoners were on bail, according to the association, did not amount to amnesty to political prisoners, as the cases against them were not withdrawn. On December 10, Chief Minister Banerjee announced the release of 51 additional prisoners serving life terms, two of whom were political prisoners.

Kartam Joga, a tribal political activist arrested in 2010, remained imprisoned in Chhattisgarh at year's end on charges of collaborating with Maoists in ambushing and killing 76 Central Reserve Police Force (CRPF) personnel on April 6; murdering Budhram Sodi, a leader of the ruling Bharatiya Janata Party, in May; and killing the father of a special police officer attached to the CRPF in 2010. Civil society activists claimed that Joga was arrested only because he was one of the petitioners who challenged the legality of operations against Maoists by the state-sponsored militia Salwa Judum. Joga remained in prison at year's end.

Civil Judicial Procedures and Remedies

Individuals, or NGOs on behalf of individuals or groups, may file public interest litigation petitions in any high court or directly in the Supreme Court to seek judicial redress of public injury. These injuries could result from a breach of public duty by a government agent or a violation of a provision of the constitution. NGOs credited public interest litigation petitions for making government officials accountable to civil society organizations in cases involving allegations of corruption and partiality.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary interference, and the government generally respected these laws in practice; however, at times authorities infringed upon the right to privacy. Police are required to obtain warrants to conduct searches and seizures, except in cases in which such actions would cause undue delay. Police must justify warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. In Jammu and Kashmir, Punjab, and Manipur, authorities have special powers to search and arrest without a warrant, and in terrorism cases under the UAPA, police are provided greater discretion to conduct search and seizure operations.

The Information Technology Act allows police under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting obscene material.

Central and state government used the authority of the Telegraph Act to surveil communications, including telephone conversations and personal mail, in cases of public emergency or “in the interest of the public safety or tranquility,” although that evidence is generally inadmissible in court. The UAPA allows use of evidence obtained from intercepted communications in terrorist cases.

The government imposed a temporary nationwide ban on bulk text messaging and mobile-to-mobile messaging after groups in several cities used mass text messages to incite violence and hatred against persons from the Northeast, following the violence in Assam in July and August. The government allowed only five recipients per text message to be sent at a time. The authorities gradually eased the restriction to 20 recipients a day until the ban was lifted on September 5.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

During the year the country's armed forces, individual states' security forces, and paramilitary forces continued to engage in armed conflict with insurgent groups in Jammu and Kashmir, in several northeastern states, and with Naxalite insurgents in the central and eastern parts of the country. Army and central security forces continued to be deployed in non-Maoist conflict areas in the Northeast, with major insurgent groups engaged in peace negotiations with the federal government. In West Bengal's Naxalite belt, there was no army presence, although other central and state forces remained deployed.

The use of force by all parties to the conflicts caused death and injuries to both conflict participants and civilians. Insurgents reportedly committed attacks on schools, roads, and railways tracks. The central and state governments and the armed forces investigated complaints and punished some violations committed by their own forces, and they arrested and tried insurgents under terrorism-related legislation. There were no examples of prosecution of human rights violations committed by police or paramilitary forces.

Investigations and prosecutions into human rights violations arising from internal conflicts were slow and few in number. The Jammu and Kashmir Coalition of Civil Society reported that eight extrajudicial killings by the armed forces took place during the year. The government failed to prosecute or conduct impartial investigations of these deaths by year's end. NGOs reported that the armed forces continued to kill civilians with impunity provided under the AFSPA in Jammu and Kashmir. Jammu and Kashmir Chief Minister Omar Abdullah advocated for a partial withdrawal of the AFSPA, and activists called for fast track courts to hear cases of accusations of human rights abuses in Jammu and Kashmir.

Killings: According to the SATP database, total terrorism or insurgency related fatalities continued to decrease from the previous year. The total deaths reported declined from 1,073 in 2011 to 804 in 2012 (252 civilians, 139 security personnel, and 413 militants).

The SATP database reported that 368 persons--including 118 militants, 104 security force personnel, and 146 civilians--were killed during the year as a result of Naxalite (Maoist) violence, a decrease from 2011, when 199 militants, 128 security force personnel, and 275 civilians were killed. The Institute for Conflict Management reported that there were 117 fatalities in Jammu and Kashmir during the year, including 84 alleged terrorists, 17 members of the security forces, and 16 civilians.

Insurgents in the three conflict zones continued to commit killings during the year. As of August, investigations into the death of Sadishiva Gowda continued. Police found Gowda, a 50-year-old basket weaver and police informer, in December 2011 in a heavily forested area of Udupi District, southern Karnataka. His body bore signs of torture, and a poster next to the body carried a warning from Maoists. A police postmortem stated the cause of death as a gunshot wound to the abdomen from a homemade rifle.

There were reports that government security forces committed extrajudicial killings, including staging encounter killings to cover up the deaths of captured militants. Human rights groups claimed that police refused to turn over bodies in cases of suspected staged encounters. The armed forces are not required to report custodial deaths to the NHRC.

In Naxalite (Maoist) affected districts, there were reports of excessive use of force by security agencies and insurgents. For example, on June 29, CRPF soldiers killed 19 persons who they alleged were Naxal rebels during a nighttime encounter in Bijapur District, Chhattisgarh. Human rights organizations and activists claimed that the CRPF shot and killed 19 innocent tribal persons in the incident. The CRPF admitted that some of those killed might have been innocent villagers who merely happened to attend a meeting where Naxal rebels were present. Later probes carried out by the CRPF and Chhattisgarh police confirmed that only seven of those killed were Naxal operatives.

On July 23, the army agreed to a military court trial in response to a Jammu and Kashmir high court request for either a civil court or army court trial in the Machil fake encounter case. In the 2010 Machil case, authorities charged three army officers, four soldiers, and three civilians in the deaths of three young persons killed along the Line of Control in Kupwara District, after protests forced the district magistrate to exhume the three bodies. On July 27, Lieutenant General KT Parnaik told reporters that civilians, witnesses, and members of other security forces connected to the encounter would be allowed to testify at the trial. However, by year's end the trial had not begun due to judicial delays.

There were developments in the case of Mohammed Ajmal Amir Kasab, the lone Lashkar-e-Taiba terrorist captured alive from the 2008 terrorist attack in Mumbai in which more than 160 persons were killed. The Supreme Court held Kasab guilty of waging war against India and found that he was given a free and fair trial.

The Supreme Court upheld his death sentence August 29, and on November 21, he was hanged in Pune.

Abductions: Human rights groups maintained that military, paramilitary, and insurgent forces abducted numerous persons in Jammu and Kashmir, Manipur, Jharkhand, and the Naxalite belt. Human rights activists feared that some of the unacknowledged prisoners were tortured and/or killed during detention.

Estimates of the number of missing persons varied. Human rights organizations stated that there were 8,000 to 10,000 persons missing but in custody in Jammu and Kashmir. On October 8, the Jammu and Kashmir state government stated that of 2,305 persons reported missing, only 182 FIRs had been filed, and Chief Minister Omar Abdullah stated that the discrepancy between reported missing persons and FIRs filed was due to “missing reports.” Successive state governments have reported inconsistent figures on the number of missing persons during the 23 years of armed conflict, with no authoritative data to reconcile the different figures.

The Srinagar-based Association of Parents of Disappeared Persons reported that two persons disappeared during the year. Mohammad Maqbool Khan of Drangbal in Baramulla District disappeared on March 23, and Shabeena Begum of Mandi in Poonch District allegedly was abducted by army personnel from the 13th Sikh Light Infantry. The state government did not initiate an investigation into either case by year’s end.

Naxalites abducted individuals during the year. For example, on April 21, a group of 20 Naxalites in Chhattisgarh kidnapped Administrative Services Officer Alex Pal Menon and killed two of his security officers while they were holding a meeting in Majhipara village, Sukma District. The Naxalites demanded the release of 70 Naxal operatives imprisoned in various Chhattisgarh jails. Pal was released on May 3, despite the state government’s refusal to accommodate the Naxalites’ demands.

In March Maoist rebels in southern Odisha kidnapped two foreign tourists, their two local guides, and a local politician. The government of Odisha granted some of the kidnappers’ demands, including releasing from prison the wife of the state’s top Maoist leader and temporarily suspending security operations. One of the foreign prisoners, Claudio Colangelo, was released after 11 days of captivity; the other, Paolo Bosusco, was freed after 29 days. Their local guides were released

within a day of being captured. Jhina Hikaka, the local state lawmaker, was freed after 33 days.

Physical Abuse, Punishment, and Torture

There were reports that government security forces tortured, raped, and mistreated insurgents and alleged terrorists in custody and injured demonstrators. All parties to the conflicts injured civilians.

On August 11, two youths were killed and 52 persons--including 44 policemen--were injured when a protest rally, organized in Mumbai by Muslim organizations against alleged atrocities directed at Muslims in Assam and Myanmar, turned violent. As of August 29, 53 persons had been arrested in connection with the incident.

Child Soldiers: There were no credible reports that any government security forces used child soldiers during the year; however, insurgent groups reportedly used children in militant activities. For example, on March 26, an activist reported that various Bodo militant groups engaged thousands of child soldiers in the Kokrajhar District of Assam's Bodoland Territorial Council. On August 10, the Hindustan Times, a national newspaper, reported that on August 2 closed-circuit television cameras recorded two teenage boys throwing grenades at a police post in Sopore, Jammu and Kashmir. Also caught on film was an unidentified man handing each boy 545 rupees (\$10). Police arrested the boys, ages 12 and 13; they were released after their families gave personal bonds. Local security officials claimed that Lashkar-e-Taiba sponsored the attack, the first known incident in which the group used children in terrorist activities.

The UN 2012 Children and Armed Conflict report noted that the Ministry of State for Women and Child Development had informed parliament in December 2011 that Maoist armed groups recruited and indoctrinated children and created children's squads and associations. There was one credible report of children being used by insurgent groups as human shields in Chhattisgarh. On June 29, the CRPF killed at least three children under 15 in Bijapur District. The CRPF admitted that the children may not have been Naxal operatives but were being used by the Naxalites as human shields. Some children told media representatives that Naxalites coerced them into attending the meeting where the encounter took place.

Other Conflict-related Abuses: Since 1990 the conflicts in Jammu and Kashmir, the Northeastern States, and the Naxalite belt have displaced an estimated 621,000 persons; most remained without permanent homes at year's end.

Tens of thousands of Kashmiri Pandits (Hindus) have fled the Kashmir valley to Jammu, Delhi, and other areas in the country since 1990 because of conflict. According to the MHA's 2011-12 annual report, 58,697 Kashmiri Pandit families remained displaced from their homes.

Violence between ethnic groups in the states of Assam, Manipur, and Mizoram displaced an unknown number of persons during the year, and more than 227,000 internally displaced persons (IDPs) remained from previous incidents of communal violence dating back to 1993. The July-August violence in Assam between tribal groups and migrant Muslims displaced approximately 450,000 persons. Sporadic violence continued, and as of September some of those displaced had not returned.

According to official Tripura State records and media reports, there were between 36,000 and 41,000 ethnic Bru (Reangs) IDPs from Mizoram. On May 16, media reported that only seven of 669 eligible Bru families returned during a recent phase of the repatriation campaign; others claimed they faced verbal obstruction from other refugees. The Mizoram government administered a central government-funded program in which each repatriated family received 98,000 rupees (\$1,800) for house construction, farming assistance, and free rations for a period of 12 months.

In central and eastern India, armed conflicts between Naxalite (Maoist) insurgents and government security forces over land and mineral resources in tribal forest areas continued, affecting 182 of the country's 626 districts in 20 of its 29 states. Human rights advocates argued that the operation sought not only to suppress the Naxalites but also to force tribal persons off their land, allowing for commercial development.

IDP camps in Chhattisgarh for displaced tribal persons caught in fighting between Naxalites and the state-sponsored militia Salwa Judum in 2006 continued to operate. Following a 2011 Supreme Court decision banning the Salwa Judum, by July most of the approximately 50,000 tribal persons displaced by the Salwa Judum had returned to their villages.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and expression, but it does not explicitly mention freedom of the press. The government generally respected these rights in practice.

Freedom of Speech: Individuals generally could criticize the government publicly or privately without reprisal. However, some police invoked sedition charges to arrest individuals participating in protests. For example, on August 8, West Bengal Chief Minister Mamata Banerjee ordered police to arrest a local farmer, Shiladitya Chowdhury, accusing him of being a Maoist activist. Chowdhury had interrupted Banerjee's speech during a public rally to discuss rising fertilizer prices; media reported that he climbed onto the police barricade. On August 11, he was arrested and charged with criminal trespass, voluntarily causing hurt to deter a public servant from performing her duty, and criminal intimidation. Chowdhury was granted bail after 14 days in judicial custody.

In November a 21-year-old girl posted a statement on Facebook criticizing the citywide shutdown that occurred after the death of Shiv Sena leader Bal Thackeray in Mumbai. She and a friend who had "liked" the post on Facebook were arrested on November 18 under sections 295(a) and 505(2) of the penal code for hurting religious sentiments and promoting enmity among classes. The charges were dropped after widespread public criticism.

Freedom of Press: The independent media were active and expressed a wide variety of views without restriction. Independent newspapers and magazines were published regularly and television channels broadcast investigative reports, including allegations of government wrongdoing. The media generally promoted human rights and criticized perceived government violations. AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licenses authorized only entertainment and educational content. With the exception of radio, foreign media generally operated freely. Widely distributed private satellite television provided competition for Doordarshan, the government-owned television network.

On September 9, Mumbai police arrested cartoonist Aseem Trivedi of Kanpur for exhibiting cartoons allegedly mocking the parliament and the national symbol Ashoka Pillar during a December 2011 anticorruption protest in Mumbai. Mumbai police initially charged Trivedi with sedition under section 124 (A) of the penal code, under the Information Technology (IT) Act for displaying the cartoons on his

Web site, and under the 1971 National Emblem Act for insulting the country's national symbols. After widespread public criticism, the Maharashtra government dropped the sedition charges in October, but the charges under the National Emblem Act and the IT act remained; Trivedi was released on bail. The case had not come up for a hearing by year's end.

On September 28, police in Dhenkanal District in Odisha detained four journalists to stop them from reporting police "misdeeds," according to Media Unity for the Freedom of the Press.

Violence and Harassment: There were reports that journalists experienced violence and harassment as a result of their reporting during the year. On August 12, rioters seriously injured three journalists, damaged cameras, and burned news vans at a Mumbai protest rally after rally speakers allegedly incited the mob against reporters by claiming that riots in Assam were being poorly and incorrectly covered by media. Media representatives at the scene said that rioters specifically asked for their identities and which media organizations they represented before attacking them. As of August 25, police arrested a total of 50 persons for participating in the violence.

In January activists of Tamil Nadu's governing All India Anna Dravida Munnetra Kazhagam party attacked the Chennai office of the Tamil vernacular magazine *Nakkeeran* over an article that allegedly defamed Chief Minister Jayaram Jayalaithaa. The local party leader filed a case against the magazine editor who, in turn, filed cases against the activists. The magazine subsequently issued an apology for the controversial article in a later issue.

Police reportedly declined to respond to cases involving journalists; for example, on February 28, reporters covering news of Trinamool party workers attacking the office of a political opponent were themselves assaulted by Trinamool Congress party members in Kolkata's Jadavpur area. Local police reportedly did not intervene; the Trinamool chief minister later claimed that the incident was staged. On March 6, a group of 100 journalists covering election results in Uttar Pradesh were forced to lock themselves in a school for protection when clashes erupted in the crowd after results were announced. The mob damaged their cameras and vehicles. The journalists were unable to leave the building until early the following morning, and they alleged that the police did not take any action to assist them.

Censorship or Content Restrictions: The law prohibits content that could harm religious sentiments or provoke enmity among groups. During the year state governments banned some books from being imported or sold in the state because they contained material that government censors deemed inflammatory and apt to provoke communal or religious tensions. For example, under the Customs Act, it remained illegal to import Salman Rushdie's book, *The Satanic Verses*.

Libel Laws/National Security: Throughout the year the Tamil Nadu state government filed a series of defamation cases, which can be brought for actions intended or believed to "harm the reputation" of a person, against newspapers for publishing statements critical of the chief minister. Journalists stated that the pending legal actions affected the decisions of reporters and editors.

Internet Freedom

According to the 2011 census, 6.3 percent of the total population had access to computers or laptops within the household. Half of those with computers or laptops had Internet access. However, many more citizens had access to the Internet through cyber cafes and mobile phones.

There were some government restrictions on access to the Internet and reports that the government occasionally monitored users of digital media, such as chat rooms and person-to-person communications. The IT act permits the government to block Internet sites and content, and it criminalizes sending messages the government deems inflammatory or offensive. Both central and state governments have the power to issue directions for blocking, interception, monitoring, or decryption of computer information.

In April 2011 the government enacted regulations on Internet content that prohibit many types of content, including "harmful" and "insulting" content. Search engines can be held liable for displaying prohibited content. Cyber cafes are required to install surveillance cameras and provide the government with records of their users' browsing activity.

The government ordered more than 300 specific URLs blocked in August, including articles, accounts, groups, and videos said to contain inflammatory or fictitious content relating to violence in Assam. In response to court orders, Google removed 360 search results from January to June.

As of April 12, civil suits were pending against six social media sites for hosting objectionable content. In December 2011 Mufti Aijaz Qasmi, a religious leader from Delhi, filed a complaint against 22 primarily social media sites. The filing followed public complaints after media reported that the government asked social media companies to find a technical solution to prescreen user content prior to posting on the Internet, apparently in an attempt to circumvent the requirement for legal justification to remove content. However, after the arrest of two girls in Maharashtra for their Facebook comments criticizing the situation in Mumbai following Hindu supremacist leader Bal Thackeray's death, the Supreme Court directed the government to look into the misuse of section 66 (A) of the IT act. On November 29, the government issued new procedures to prevent the misuse of the IT act. The guidelines require the approval of an officer at the deputy commissioner of police level in rural areas and at the inspector general-level in metropolitan areas to register complaints under the controversial section 66 (A). Government officials anticipated the new guidelines would prevent misuse of the controversial law.

On April 13, West Bengal police arrested Jadavpur University professor Ambikesh Mahapatra and his neighbor Subrata Sengupta for uploading a cartoon of Chief Minister Mamata Banerjee on Facebook. They were charged under the penal code and sections 66A and 66B of the IT act. The accused were released, and the West Bengal Human Rights Commission directed the state government to pay each 54,450 rupees (\$1,000) as compensation. The commission also recommended departmental action against responsible police officials.

Academic Freedom and Cultural Events

The government continued to apply restrictions to the travel and activities of a few visiting experts and scholars. Academic guidelines issued by the Ministry of Human Resources Development (MHRD) required all central universities to obtain MHRD permission before organizing "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. In most cases the MHRD permitted international academic exchanges to take place.

On January 20, author Salman Rushdie's participation in the Jaipur Literary Festival via video link was cancelled due to security concerns after Islamic groups planned protest marches. Festival organizers refused to allow readings of The Satanic Verses due to concerns about potential violence. On February 20, Kolkata police allegedly ordered Kolkata Book Fair authorities to cancel the launch of

exiled Bangladeshi author Taslima Nasreen's autobiography. The book publisher went ahead with the launch within the book fair's premises.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

Freedom of Assembly

The law provides for freedom of assembly. Authorities normally required permits and notification before parades or demonstrations, and local governments generally respected the right to protest peacefully, except in Jammu and Kashmir. In this state the local government sometimes denied permits to separatist parties for public gatherings, and security forces sometimes detained and assaulted separatists engaged in peaceful protest (see section 1.g.). During periods of civil tension, authorities used the criminal procedure code to ban public assemblies or impose a curfew.

There were restrictions on the organization of international conferences. NGOs were required to secure approval from the MHA before organizing international conferences; authorities typically granted permission, but the process was lengthy. Human rights groups contended that this practice provided the government with political control over the work of NGOs and restricted their freedom of assembly and association.

During the visit of Chinese President Hu Jintao, New Delhi authorities restricted public gatherings of four or more persons in the vicinity of Hu's meetings, and paramilitary officers increased patrols in Tibetan neighborhoods.

On February 23, the Supreme Court ordered prosecution of police accused of using excessive force while evicting protesters from yoga guru Baba Ramdev's June 2011 fast and protest rally in New Delhi.

Freedom of Association

The law provides for the freedom of association, and the government generally respected this right in practice; however, there were restrictions on the organization of conferences funded with foreign funds, which must be approved by both the MHA and the ministry concerned with the conference topic.

As of August 30, the MHA barred 60 NGOs from receiving foreign contributions under the Foreign Contributions (Regulation) Act (FCRA) due to complaints of corruption or irregularities in their accounts. The accounts of 20 NGOs were frozen while their use of funds was investigated. The MHA also listed 4,138 NGOs whose registration was frozen or revoked until their records could be verified or updated by the MHA. The FCRA bars NGOs that receive foreign funding from engaging in political activity or activity “of a political nature,” and it prohibits political organizations or associations engaged in the production and broadcast of audio or audiovisual news or current affairs programs from accepting foreign contributions. Human rights organizations expressed concern about the undefined category of “political nature” and stated that the act could be applied in an arbitrary way.

After protests over a nuclear power plant in Kudankulam, Tamil Nadu, the accounts of approximately 11 NGOs were frozen, 90 NGOs were investigated for possible diversion of funds, and 784 NGOs in Tamil Nadu lost their FCRA registration. Human rights organizations reported that the government of Tamil Nadu registered 107 cases against leaders of the Kudankulam protests as well as nearly 2,000 protest participants. Charges included “waging or attempting to wage war or abetting waging of war against the Government of India” and “sedition.”

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to some but not all IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The government generally only allowed the UNHCR to assist asylum seekers and refugees from noncontiguous countries.

In-country Movement: The central government continued to require special permits for nationals and foreigners to travel to parts of Arunachal Pradesh and Jammu and Kashmir. State governments require nationals to obtain special permits upon arrival for travel to these areas.

Security forces often searched and questioned vehicle occupants at checkpoints, mostly in troubled areas in the Kashmir valley, before public events in New Delhi, or after major terrorist attacks.

Foreign Travel: The government legally may deny a passport to any applicant who it believes may engage in activities outside the country “prejudicial to the sovereignty and integrity of the nation.” There were no reports of the government using this power during the year.

Citizens from Jammu and Kashmir continued to face extended delays, often as long as two years, before the Ministry of External Affairs would issue or renew their passports. The government subjected applicants born in Jammu and Kashmir--including children born to military officers during their deployment in the state--to additional scrutiny, requests for bribes, and police clearances before issuing them passports.

Internally Displaced Persons (IDPs)

There were several groups of IDPs in various locations in the country, including those displaced by internal armed conflicts in Jammu and Kashmir, the Naxalite belt, and the Northeastern States (see section 1.g.), as well as in Gujarat. On April 23, the International Displacement Monitoring Centre (IDMC), operated by the Norwegian Refugee Council and the UN, estimated that regional conflicts had displaced at least 506,000 persons. The IDMC estimated that at least 53,000 persons were newly displaced. It was difficult to estimate the exact number of those displaced by conflict or violence because there was no central government agency responsible for monitoring the numbers of those displaced or returning, and humanitarian and human rights agencies had limited access to camps and affected regions. While those who resided in official IDP camps were registered, an unknown number stayed outside the camps. Many IDPs did not have sufficient access to food, clean water, shelter, and health care. IDPs who returned to their places of habitual residence often were disadvantaged or faced discrimination as a result of their displacement.

On April 23, the IDMC reported that the responses by government authorities to displacement situations had been “ad hoc, inconsistent, and often inadequate.” More than 20,000 IDPs continued to live in 24 relief camps in southern and central Chhattisgarh at year’s end. NGOs alleged that hundreds of Chhattisgarh IDPs who had settled in forest reserve areas in Andhra Pradesh were denied basic assistance, including food, water, shelter, medical facilities, and sanitation. Little was known about the population or living conditions in the area. Media reports on the state of relief camps suggested that their remote location and the Naxal insurgency hampered government efforts to provide basic amenities to the tribal population of the camps.

In Assam violence between tribal groups and migrants resulted in the displacement of more than 450,000 persons. Students and workers from northeast states faced violence by local political parties in Pune, Mumbai, and Bangalore, according to the media.

According to a 2012 survey from the NGO Janvikas, 16,087 persons of the approximately 250,000 displaced in the 2002 Gujarat violence remained in camps, living in 83 relief colonies that lacked adequate infrastructure and security. Janvikas alleged that the government of Gujarat was not making significant efforts to resettle IDPs.

The government had no national policy or legislation to address internal displacement resulting from armed conflict or from ethnic or communal violence. The responsibility for assisting IDPs was delegated to the state governments and district authorities, allowing for gaps in services and poor accountability. When state- or district-level authorities provided assistance, it was often ad hoc and inadequate. The central government provided some assistance to IDPs and allowed them access to NGOs and human rights organizations, but neither access nor assistance was standard for all IDPs or all situations.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the Foreigners Act (1946) does not contain the term “refugee,” treating refugees as any other foreigner. Under this act, physical presence in the country without valid travel or residential documents is a criminal offense, rendering refugees without appropriate documentation eligible to be refouled; nevertheless, there were no reports that the government refouled refugees during the year. The government generally provided protection against the

expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Access to Asylum: Absent a legal framework, the government occasionally granted asylum and refugee status on an ad hoc basis on humanitarian grounds in accordance with international law. However, this approach resulted in varying standards of protection for different refugee groups. The government recognized refugees from Tibet and Sri Lanka and honored UNHCR decisions on refugee status determination for individuals from other countries. According to the UNHCR, in January there were 185,118 refugees in the country, including more than 60,000 Sri Lankan refugees in 114 refugee camps and 109,015 Tibetan refugees. More than 14,000 urban refugees from other countries were living in New Delhi. According to the UNHCR and its partners, a small number of urban refugees and asylum seekers were in cities like Pune and Hyderabad due to the cheaper cost of living and availability of employment. Of the 5,300 asylum seekers and 16,400 refugees registered with the UNHCR office in New Delhi, the majority were from Burma, Afghanistan, and Somalia. NGOs reported that an additional 80,000 to 100,000 Burmese Chin refugees were located in the Mizoram region.

The UNHCR had no formal status in the country, but the government permitted its staff access to refugees in urban centers and allowed it to maintain a local office in Tamil Nadu. The UNHCR was not permitted direct access to Sri Lankan refugee camps, Tibetan settlements, or asylum seekers in Mizoram. Authorities permitted asylum seekers from Mizoram to travel to New Delhi to meet UNHCR officials. The government generally permitted NGOs, international humanitarian organizations, and foreign governments access to Sri Lankan refugee camps and Tibetan settlements, but it also generally denied them access to populations of asylum seekers in Mizoram. The UNHCR provided refugee status and assistance to approximately 3,000 to 4,000 Burmese living in New Delhi, primarily Chin, but did not have access to the larger population of ethnic Chin living in the northeastern states. The UNHCR estimated that there were 5,600 refugees and 4,000 asylum seekers from Burma registered in New Delhi and tens of thousands more who were not registered.

The central government and the state of Tamil Nadu jointly provided monthly cash payments and food subsidies to the Sri Lankan Tamil refugees in Tamil Nadu's 114 camps. As of year's end, an estimated 67,000 refugees remained in the camps. More than 1,200 Sri Lankan refugees in the country repatriated during the year

with monetary support from the UNHCR. According to NGOs, conditions in the Sri Lankan Tamil refugee camps in Tamil Nadu were generally acceptable, although much of the housing, as well as water and sanitation facilities, were of poor quality. The UNHCR did not have direct access to the Sri Lankan refugee camps during the year.

Refugee Abuse: The problems of domestic violence, sexual abuse, and early marriage continued, but at lower levels than during previous years. One NGO reported a number of cases of abuse of refugees and arbitrary detention. The organization noted that many urban refugees worked in the informal sector or in highly visible occupations, such as street vending, where they were subject to police extortion, nonpayment, and exploitation.

Access to Basic Services: NGOs estimated that there were between 80,000 and 100,000 Burmese Chin asylum seekers in Mizoram. Chin refugees generally reported fair access to housing, education, and health services. However, because most Chin refugees lacked legal status and were unable to work legally, they had inadequate income to meet their basic needs and remained vulnerable to abuse, discrimination, and harassment.

While the government respected the UNHCR's mandate of protection for UNHCR-recognized groups in New Delhi and provided residential permits to many of the UNHCR-recognized urban refugees, the government did not recognize these populations in New Delhi and other cities as "refugees," leaving them ineligible for certain rights and services and vulnerable to harassment and gender-based violence. They did not have the legal right to work and thus often worked for low wages in the informal market. Many refugees did not have sufficient access to education or basic services, although they received medical care in free clinics. There were reports that refugees without residency permits or other official documents were unable to access police or courts.

Stateless Persons

According to the Citizenship Act of 1955, citizenship is derived from one's parents; birth within the country does not ensure citizenship. Any person born in the country on or after January 26, 1950, but before July 1, 1987, obtained citizenship by birth. A person born in the country on or after July 1, 1987, obtained citizenship if either parent was a citizen at the time of the child's birth. Those born in the country on or after December 3, 2004, were considered citizens only if at least one parent was a citizen and the other was not an illegal migrant at

the time of the child's birth. Persons born outside the country on or after December 10, 1992, were considered citizens if either parent was a citizen at the time of birth; however, those born outside the country after December 3, 2004, were not considered citizens unless their birth was registered at an Indian consulate within one year of the date of birth. Only in certain circumstances and with the permission of the central government was it possible to register after one year. Citizenship also could be obtained through registration under specific categories and via naturalization after residing in the country for 12 years. Ethnic Tibetans sometimes faced difficulty acquiring citizenship even if they met the requirements set out in the law.

According to the UNHCR and NGOs, the country had a large population of stateless persons, but there were no accurate estimates of the number. Stateless populations included Chakmas and Hajongs, who migrated to India decades ago from present-day Bangladesh, and groups affected by the 1947 partition of the Indian subcontinent into India and Pakistan.

The UNHCR and refugee advocacy groups estimated that 28,500 of the estimated 100,000 Sri Lankan Tamil refugees living in Tamil Nadu were "hill country" Tamils whose status as Sri Lankan citizens was uncertain. These refugees were in some cases able to prove their citizenship with an affidavit; however, some children born to Sri Lankan Tamil refugees living in India sometimes were considered stateless. Tamil Nadu state authorities and the diplomatic mission of Sri Lanka to India had a cooperative program for registration of these children as Sri Lankan citizens.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: The country held a five-phase national election in April and May 2009 that included 714 million eligible voters. National and local security forces helped to ensure a relatively smooth election, although 65 persons died in voting-related violence. The Congress Party-led United Progress Alliance

government (a coalition of parties), headed by Prime Minister Manmohan Singh, continued in power for a second term.

During the year state assembly elections took place in the states of Uttar Pradesh, Goa, Punjab, Uttarakhand, Manipur, Himachal Pradesh, and Gujarat. The elections were largely peaceful and free of major violence.

Participation of Women and Minorities: The law requires one-third of the seats in local bodies (panchayats and municipal councils) to be reserved for women. There were religious, cultural, and traditional practices and ideas, as well as structural barriers, that prevented women from participating in political life on the same basis as men. Nonetheless, women held many high-level political offices, including positions as union ministers (eight), members of parliament (87), members of the Supreme Court (two), and several state chief ministers. Women participated in politics throughout the country at all levels.

During the year some states took steps to increase seats for women: Kerala and Odisha implemented a 50 percent reservation for women in urban local bodies, building on an existing 50 percent reservation for women in village councils in those states. Assam also announced a 50 percent reservation for women in panchayats (local councils) in late November. Bihar has had a 50 percent reservation for women in panchayats since 2006.

The constitution stipulates that to protect historically marginalized groups and to ensure representation in the lower house of parliament, each state must reserve seats for Scheduled Castes (SC) and Scheduled Tribes (ST) in proportion to their population in the state. Only candidates belonging to these groups can contest elections in reserved constituencies. In the 2009 elections, 84 seats for candidates from SCs and 47 seats from STs were reserved, representing 24 percent of the total seats in the lower house. Members of minority populations served as prime minister, vice president, union cabinet ministers, Supreme Court justices, and members of parliament.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption was present at all levels of government. The law mandates asset declarations for all officers in the Indian Administrative Services. On May 2, parliament was informed that the CBI had

investigated 1,023 cases of corruption in 2011. The Central Vigilance Commission (CVC) assessed 3,144 cases of corruption and recommended action on 1,027 cases. The CVC, which operates a toll-free hotline to lodge complaints and a Web portal to share information, reported that 38 cases were filed against officers at the rank of joint secretary and above for involvement in corrupt practices between 2011 and March 31. NGOs noted that bribes typically were paid to expedite services, such as police protection, school admission, water supply, or government assistance. Civil society organizations drew public attention to corruption throughout the year, including through public demonstrations and Web sites, that featured individual stories of corruption. As of July the Web site had logged more than one million visitors since its September 2010 launch, recording 20,548 reports on bribes requested amounting to approximately 49 crore (crore is equal to 10 million) rupees (\$9 million).

Both the Election Commission of India (ECI) and the Supreme Court upheld mandatory disclosure of criminal and financial records for election candidates. Election campaigns for parliament and state legislatures reportedly often were funded with unreported money, and the government typically failed to control the practice. The ECI oversaw free and fair elections in the January-March state assembly polls in Uttar Pradesh, Goa, Punjab, Uttarakhand, and Manipur in addition to October-December polls in Himachal Pradesh and Gujarat states, where voter turnout improved and electoral violence declined markedly. The ECI supervised the electoral college process to elect the president and vice president during the year.

The government designated chief vigilance officers to address public complaints and grievances in the banking, insurance, and other sectors serviced by private, public, and corporate bodies. In addition several states established Lokayukta offices, which serve as ombudsmen with the authority to investigate allegations of corruption and poor administration.

During the year, A. Raja, the former telecommunications minister, and M.K. Kanimozhi, a member of the Rajya Sabha (upper house of parliament), were released on bail and continued to be active members of parliament while on trial for their alleged roles in a scandal over the rigged sale of the 2G mobile phone spectrum in January 2008. The two were accused of taking bribes and causing a theoretical loss to the national treasury of up to 1.9 trillion rupees (\$36 billion).

On March 7, the Karnataka High Court dismissed numerous corruption charges against former chief minister B.S. Yeddyurappa, who resigned in 2011 after his

indictment in an illegal mining investigation by Karnataka's Lokayukta (state-level anticorruption ombudsman).

Many government-run programs to alleviate poverty and provide employment suffered from poor implementation and corruption. For example, on January 13, newspapers reported the arrest of 12 persons in connection with a scheme to fraudulently report enrollment and collect wages in the names of villagers under a Mahatma Gandhi National Rural Employment Guarantee Act (NREGA) road-building scam in Bhuj, Gujarat. On January 27, newspapers reported that NREGA workers in Rajasthan and Karnataka were being paid between one and 11 rupees (\$0.02-0.20) rather than the publicly established daily wage of 109 rupees (\$2.00). Loopholes in the law and a lack of transparency allowed executing authorities to manipulate the amount of wages paid.

On January 19, Suresh Kalmadi, the former chief of the organizing committee of the Commonwealth Games, was granted bail after his arrest in April 2011 on charges of cheating, conspiracy, and corruption in connection with the awarding of several contracts related to the 2010 Commonwealth Games. Despite facing trial on these charges, Kalmadi continued to represent Pune in the lower house of parliament.

On July 2, social activist Rajamohan Chandra was killed in Tiruvannamali, Tamil Nadu. Chandra had filed public interest litigation cases against government officials, politicians, and realtors suspected of corruption and land grabbing. Several suspects, including Tiruvannamalai municipality councilor KVN Venkatesan, surrendered or were arrested, and the suspects were remanded to Vellore Central Prison.

On July 4, the CBI filed charges against 14 persons, including former Maharashtra chief minister Ashok Chavan, for alleged involvement in the Adarsh housing scam involving improper allocations of apartments reserved for veterans and war widows. The Maharashtra state government filed a petition challenging the CBI's jurisdiction to probe the matter. Concurrently, a two-member panel appointed by the Maharashtra state government summoned former chief ministers Chavan, Vilasrao Deshmukh, and Sushil Kuman Shinde for questioning. All three former chief ministers blamed each other and other officials for the misconduct. The panel did not complete its probe by year's end.

The law provides for public access to information. Although the government was often slow in response to requests, local community members as well as

noncitizens could access the RTI online portal to get information on personal documentation, city plans, and other public records. RTI information can be requested only by citizens. The government charged a fee of 11 rupees (\$0.20) per request. If a request is denied, citizens can appeal to the Central Information Commission and then to the High Court. Activists expressed concern that public authorities remained unable to implement the RTI Act adequately, hindering the supply of information, and that rural inhabitants were not always aware of their rights under the act.

Many states also have right-to-information laws. The fee schedule and regulations for state-level RTI queries vary; for example, on January 27, Chhattisgarh increased the state's RTI application fee to 544.50 rupees (\$10) from 14 rupees (\$0.25). Maharashtra, Karnataka, and Madhya Pradesh have an RTI request word limit of 150 words.

During the year several RTI activists who used social media platforms were attacked. Premnath Jha was shot and killed on February 25 in Virar, Maharashtra; Bharat Jhunjunwala was attacked in his home in Devprayag, Uttarakhand on June 22; Akhil Gogoi was assaulted in Nalbari, Assam, on July 6; and Ramesh Agarwal was shot and hospitalized on July 7 in Raigarh, Chhattisgarh.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, in a few circumstances groups faced restrictions. Government officials were somewhat cooperative and responsive to their views. The country hosts more than three million NGOs that advocate for social justice, sustainable development, and human rights. The government generally met with domestic NGOs, responded to their inquiries, and took action in response to their reports or recommendations. The NHRC worked cooperatively with numerous NGOs, and NGOs were represented on several NHRC committees. Human rights monitors in Jammu and Kashmir were able to document human rights violations, but security forces, police, and counterinsurgents at times restrained or harassed them.

Some international human rights NGOs faced difficulties obtaining visas for their representatives, and occasional official harassment and restrictions limited the public distribution of materials.

UN and Other International Bodies: The government permitted representatives of the UN and other international humanitarian organizations, such as the ICRC, access to the northeastern states and Naxalite-controlled areas. On March 19-30, the UN special rapporteur on extrajudicial, summary, or arbitrary executions visited Gujarat, Kerala, Jammu and Kashmir, Assam, and West Bengal to assess the human rights situation in each area. UN special rapporteurs have visited Jammu and Kashmir three times since 2010.

The ICRC continued work with the Indian Red Cross in Nagaland, Chhattisgarh, and Assam to provide household items, water, and sanitation facilities for persons displaced by ethnic violence.

Government Human Rights Bodies: The NHRC is an independent and impartial investigatory and advisory body. It is directly accountable to parliament but works in close coordination with the Ministries of Home Affairs and Law and Justice. It has a mandate to address public servants' violations of human rights or negligence in the prevention of violations, intervene in judicial proceedings involving allegations of human rights violations, and review any factors (including acts of terrorism) that infringe on human rights. The NHRC has the ability to summon and enforce witness attendance, produce documentation, and requisition public records. The NHRC also recommends appropriate remedies for alleged wrongs in the form of compensation to the families of individuals killed or harmed extrajudicially by government personnel; however, it cannot force the implementation of its recommendations. The NHRC is not empowered to address allegations against military and paramilitary personnel.

The NHRC registered 74,918 cases during 2011-12 and took action on 45,571 cases, of which 420 cases received monetary relief. The government-appointed NHRC generally acted independently, but some human rights groups claimed that institutional and legal weaknesses hampered it. The president appoints members after recommendations from parliament. While the NHRC has the authority to initiate investigations, inquire into complaints, or request that state governments submit a report--a request that state governments often ignored--it does not have the statutory power to enforce requests, initiate proceedings for prosecution, or grant interim compensation, nor can it inquire independently into human rights violations by the armed forces. Human rights NGOs criticized the NHRC's financial dependence on the government and its failure to investigate abuses more than one year old. They claimed that the NHRC did not register all complaints,

dismissed cases on frivolous grounds, failed to investigate cases thoroughly, and did not adequately protect complainants.

Twenty states also have human rights commissions, which hold independent investigations but work under the NHRC. In six states the position of chairperson was vacant. Human rights groups alleged that state human rights commissions were limited by local politics and less likely to offer fair judgments than the NHRC.

For example, the Jammu and Kashmir commission did not have the authority to investigate alleged human rights violations committed by members of paramilitary security forces. The NHRC has the jurisdiction over all human rights violations, except in certain cases where army is involved. In those cases the states of Jammu and Kashmir are covered under the Armed Forces Special Powers Act, as in all other parts of India. Since paramilitary forces are controlled by the Ministry of Home Affairs, the NHRC has full authority to investigate the cases of human rights violations committed by the paramilitary forces in the Northeast states and Jammu and Kashmir. However, on September 28, based on Jammu and Kashmir's special relationship with the federal government, the state government challenged the authority of the NHRC to initiate proceedings in 34 cases of alleged human rights violations by security forces in the Jammu and Kashmir High Court. The case remained pending before the High Court.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, religion, place of birth, caste, or social status; the government worked with varying degrees of success to enforce these provisions.

Women

Rape and Domestic Violence: The law criminalizes rape, except spousal rape when the woman is over age 15. Punishment ranged from prison terms of two years to life, a fine of 20,418 rupees (\$375), or both. Official statistics pointed to rape as the fastest growing crime, even when compared to murder, robbery, and kidnapping. The NCRB reported 24,206 cases of rape across the country in 2011, the latest year for which data was available; rape is considered an underreported crime. Law enforcement and legal avenues for rape victims were inadequate, overtaxed, and unable to address the issue effectively. Law enforcement officers sometimes worked to reconcile rape victims and their attackers, in some cases

encouraging female rape victims to marry their attackers. Doctors sometimes further abused rape victims who had come to report the crimes by using the “two finger test” to speculate on their sexual history.

Women in conflict situations, such as in Jammu and Kashmir, and vulnerable women, including lower-caste or tribal women, were often victims of rape or threats of rape. For example, villagers from Sarkeguda in Bijapur District told a civilian enquiry team that CRPF men dragged two women to the fields nearby and tore their clothes and threatened three other women with rape June 28.

On February 9, a woman reported to police that she was gang-raped in a car after leaving a pub in Kolkata’s Park Street neighborhood on February 5. The victim told media that police were reluctant to register her complaint. When media reported the incident, the chief minister (also the home minister) and Kolkata police commissioner went on record alleging that the incident was fabricated to malign the government, even as the investigation was in progress. After Kolkata’s detective chief found evidence of rape and molestation, the detective chief was transferred to another position as punishment.

In July a YouTube video recording the sexual molestation of a teenage girl by a crowd of men in Guwahati, Assam, went viral, sparking widespread debate about gender violence. The local journalist who videotaped the incident was later arrested on charges of instigating the men. The National Commission for Women was criticized publicly for its handling of the case when the name of the victim and an image of her were leaked to the press. In December, 11 of the men charged in the case were convicted, while four were acquitted of charges.

The brutal gang rape and assault of a 23-year-old woman and her companion on a moving bus in New Delhi on December 16 sparked widespread public outrage and mass rallies against the Indian government’s inability to stem the rise in gender-based violence. The victim died of her injuries on December 29. In response to national protests, the government announced two judicial commissions of inquiry, one headed by former chief justice J.S. Verma and the other by former Delhi High Court judge Usha Mehra. At the end of the year, the Verma Commission was working to identify potential areas of legislative reform to address crimes against women, while the Mehra Commission was investigating police handling of the Delhi gang-rape case in order to recommend ways to improve women’s safety in Delhi. Five men and a boy were in custody for allegedly perpetrating the assaults and subsequent death.

The law provides for protection from some forms of abuse against women in the home, including verbal, emotional, and economic abuse, as well as threat of abuse. However, domestic abuse remained a serious problem. Lack of law enforcement safeguards and pervasive corruption limited the effectiveness of the law. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman can seek alternative accommodations at the partner's expense. The law also provides women with the right to police assistance, legal aid, shelter, and medical care.

While the Ministry of Women and Child Development (MWCD) has guidelines for the establishment of these social services, lack of funding, personnel, and proper training resulted in limited services, primarily available only in metropolitan areas. The MWCD reported that there were only 6,483 protection officers appointed in police forces across the country.

Domestic violence continued to be a problem, and the National Family Health Survey revealed that more than 50 percent of women reported experiencing some form of violence in their home. The NCRB reported that in 2011 there were 99,135 reported cases of "cruelty by husband and relatives," an increase of 5.4 percent from the previous year. Advocates reported that many women refrained from reporting domestic abuses due to social pressures.

Crimes against women were common. According to the NCRB Crime in India 2011 Statistics, there were 228,650 crimes against women in 2011, a 7 percent increase from 2010. These crimes included kidnapping and abduction, molestation, sexual harassment, physical and mental abuse, and trafficking. The NCRB noted that underreporting of such crimes was likely. The NCRB estimated the conviction rate for crimes against women to be 27 percent. Delhi recorded the highest proportion of crimes against women with 4,489 cases, followed by Bengaluru, Karnataka, with 1,890.

Harmful Traditional Practices: The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also bans harassment in the form of dowry demands and empowers magistrates to issue protection orders. Deaths associated with the nonpayment of dowries rose in the past several years. According to the NCRB, in 2011 there were 8,618 reported dowry deaths, mostly bridal deaths at the hand of in-laws for failure to produce a dowry. Uttar Pradesh had the highest number of dowry deaths with 2,322 cases, followed by 1,413 cases in Bihar. However, since many cases were not reported or monitored, statistics were

incomplete. The NCRB reported that 23,280 persons were arrested and 6,503 persons were convicted for dowry death in 2011.

Most states have dowry prohibition officers. However, Mizoram and Nagaland do not since there is traditionally no dowry system in these states, and cases rarely were registered. As of August 21, Arunachal Pradesh and Sikkim did not have dowry prohibition officers. The Dowry Prohibition Act does not apply to Jammu and Kashmir. In 2010 the Supreme Court made it mandatory for all trial courts across the country to add the charge of murder against persons accused in dowry death cases.

So-called honor killings continued to be a problem, especially in Punjab and Haryana, where as many as 10 percent of all killings were honor killings. In some cases the killings were the result of extrajudicial decisions by traditional community elders such as “khap panchayats,” unelected caste-based village assemblies that have no legal authority. Statistics for honor killings were difficult to verify, since many were unreported or passed off as suicide or natural deaths by family members. NGOs estimated that at least 900 such murders occurred every year in Haryana, Punjab, and Uttar Pradesh alone. The most common justification for the killings offered by those accused or by their relatives was that the victim married against her family’s wishes.

Uttar Pradesh Chief Minister Akhilesh Yadav transferred and demoted the deputy inspector general and a district police chief who appeared to endorse the practice of honor killing in a case involving a missing 14-year-old girl (who was later recovered).

On August 24, Sanjana Raj and her three-year-old daughter were killed in Gulab Bagh, Bihar, allegedly by family members who did not approve of her marriage outside of her caste.

In some areas of the country, women and girls dedicated in symbolic marriages to Hindu deities reportedly were subjected to instances of rape or sexual abuse at the hands of priests and temple patrons--a form of sex trafficking. NGOs suggested that some SC girls were sent to these symbolic marriages, and subsequent service in temples, by their families to mitigate financial burdens and the prospect of marriage dowries. The women and girls were also at heightened risk of contracting HIV/AIDS and other sexually transmitted infections. Some states have laws in place to curb prostitution or sexual abuse of women and girls in temple service. However, enforcement of these laws remained weak and the problem was

widespread; observers estimated that there were more than 450,000 women and girls in this system.

Other forms of societal violence targeting women continued to occur in rural areas. In Rajasthan several women were branded as witches and harassed. On August 6, a woman in Keshavnagar, Pali District, Rajasthan, was forced to lie on hot coals and burned with tongs, suffering severe burns, after family members, including her husband, branded her as a “witch.” Police arrested her husband, brother-in-law, and sister-in-law.

Sexual Harassment: Sexual harassment, sometimes euphemistically called “eve teasing,” remained prevalent. According to the NCRB, 8,570 cases of sexual harassment were reported in 2011, a 14 percent decline from 9,961 cases in 2010; however, there were 42,968 cases of molestation, nearly a 6 percent increase from 40,613 cases in 2010. Cases of rape and molestation remained largely unreported due to social pressure.

There are no legislative enactments or statutory policies against sexual harassment and abuse in workplaces; all charges of sexual harassment used the guidelines set forth in a 1997 judgment. The guidelines are treated as law declared by the Supreme Court but do not provide for penalties. Instead, the guidelines outline what conduct is considered harassment and make it incumbent on the employer to include a prohibition of sexual harassment in employees’ rules of conduct and discipline. All state departments and institutions with more than 50 employees are required to have committees to deal with matters of sexual harassment.

Reproductive Rights: The government permitted health clinics and local health NGOs to operate freely in disseminating information about family planning. There are no restrictions on the right to access contraceptives. Laws favoring families that have no more than two children remained in place in seven states, but authorities seldom enforced them. The laws provide reservations for government jobs and subsidies to those who have no more than two children and reduced subsidies and access to health care for those who have more than two.

Government efforts to reduce the fertility rate were in some cases coercive; in many areas health workers were offered rewards for encouraging sterilization or given targets for quotas of female sterilizations and threatened with pay cuts or dismissal for failing to reach the set number. National health officials noted that the central government did not have authority to regulate state decisions on population issues. Some states also introduced “girl child promotion” schemes,

intended to counter gender-biased sex selection, some of which required a certificate of sterilization for the parents in order to collect benefits. In some areas sterilizations were practiced in unsafe and unsanitary conditions. The Human Rights Law Network alleged that more than 50 women in Bihar were sterilized by flashlight while lying on school desks without follow-on medical care; one woman reportedly miscarried as a result of the procedure.

According to the 2012 UN Population Fund State of World Population Report, the maternal mortality ratio was 200 deaths per 100,000 live births in 2010. The major factors influencing the high maternal mortality rate were lack of adequate nutrition, medical care, and sanitary facilities. The World Bank estimated that 75 percent of women received some prenatal care during the year, and the World Health Organization estimated that 47 percent of births were attended by skilled help, 75 percent of women made at least one prenatal visit, and 50 percent made at least four prenatal visits.

The National AIDS Control Organization, which formulates and implements programs for the prevention and control of HIV and AIDS, reported that women accounted for approximately one million of the estimated 2.5 million citizens with HIV/AIDS. Infection rates for women were highest in urban communities, and care was least available in rural areas. Traditional gender norms, such as early marriage, limited access to information and education, and poor access to health services continued to leave women especially vulnerable to infection. The National Aids Control Organization actively worked with NGOs to train women's HIV/AIDS self-help groups.

Discrimination: The law prohibits discrimination in the workplace, but employers paid women less than men for the same job, discriminated against women in employment and credit applications, and promoted women less frequently than men.

On March 14, subsequent to a 2010 Supreme Court order to the armed forces to grant permanent commissions to women in noncombat roles, the Delhi High Court directed the air force to give permanent commissions to three women officers. On May 28, Defense Minister AK Anthony directed the army, navy, and air force chiefs to explore more options for granting permanent commissions to female officers in the armed forces.

Many tribal land systems, notably in Bihar, deny tribal women the right to own land. Muslim personal law traditionally determines land inheritance for Muslim

women, allotting them less than men. Other laws relating to the ownership of assets and land accord women little control over land use, retention, or sale. Several exceptions existed, such as in Kerala, Ladakh District, and Himachal Pradesh, where women could control family property and had inheritance rights.

Gender-biased Sex Selection: According to the 2011 national census, the national average male-female sex ratio at birth was 109.4 to 100. In 2011 there were 914 girls per 1,000 boys under age six, down from 927 girls per 1,000 boys in 2001. The Pre-Natal Diagnostic Technical Act prohibits prenatal sex selection, but the law was rarely enforced. Numerous NGOs throughout the country and some states attempted to increase awareness about the problem of prenatal sex selection, promote girl children, and prevent female infanticide and abandonment.

Children

Birth Registration: The law establishes state governments' procedures for birth registration. UNICEF estimated that 58 percent of national births were registered each year. Children lacking citizenship or registration may not be able to access public services, enroll in school, or obtain identification documents later in life (see also section 2.d., Stateless Persons).

Education: The constitution provides free education for children from six to 14 years of age, but the government did not always enforce this provision. On August 17, the MWCD reported receiving 1,768 complaints of violations of the Right of Children to Free and Compulsory Education Act (RTE Act) in 2011-12. On January 17, the Annual Survey of Education Report, released by the NGO Pratham, revealed that 96.7 percent of children between ages six and 14 were enrolled in schools in 2011, and 94.8 percent of eligible girls were enrolled. On July 10, a study by the NGO RTE Forum found that 95 percent of schools in the country did not comply with the RTE guidelines. Only one in 10 schools in 2010-11 had drinking water facilities, while two out of every five schools lacked a functioning toilet. The report also noted that nearly 36 percent of teaching positions were vacant. The report found that teachers in Haryana were being used for nonteaching activities such as construction work or as cooks for midday meals.

There were numerous reports of schools refusing admission or denying entry to underprivileged students. Across the country more than eight million children between six and 14 years of age remained out of school. Newspapers reported that more than 100,000 disabled students lacked inclusive education due to the lack of primary or upper primary schools in 122 villages in Punjab.

UNICEF estimated that school attendance among girls dropped from 86 percent in primary school to 59 percent in secondary school. Potential causes included family pressure, lack of secondary schools in rural areas, and poor quality of school facilities, including a lack of dedicated sanitation facilities for girls.

Child Abuse: The law provides for protection against various forms of child abuse, but child abuse remained common, including in school and institutional settings, and the government failed to adequately educate the public against child abuse or enforce the law. Although corporal punishment is banned, teachers often used it. According to the MHA 2011-12 annual report, there were 26,694 cases of crimes reported against children in 2010, an increase from 24,201 cases in 2009. The National Commission for Protection of Child Rights (NCPCR) reported that courts heard 299 cases in 2011-12 involving crimes against children, up from 294 during 2010-11.

The MWCD reported 26,694 cases of sexual or physical abuse against children in 2010. The NCPCR reported receiving 1,059 complaints related to sexual and physical abuse of children from January 2007 to December 2011. Of these, 156 cases related to sexual abuse by family members.

The most recent study by the MWCD in 2007 stated that approximately 69 percent of children reported having been physically abused, 53 percent of children reported sexual abuse, 48 percent of children reported emotional abuse, and 71 percent of female children reported neglect. Corporal punishment in city schools continued despite a judicial ban. The 2007 MWCD study stated that 65 percent of schoolchildren reported receiving corporal punishment. A study conducted by the NCPCR during the 2009-10 school year reported that more than 99 percent of children face corporal punishment in school.

On September 22, a fast track court acquitted the principal and three teachers from Kolkata's La Martiniere School of abetting the suicide of eighth-grade student Rouvanjit Rawla, who hanged himself in 2009 after he was caned.

The government sponsored a toll-free 24-hour helpline for children in distress in 72 cities. A network of NGOs staffed the "Childline 1098 Service" number, accessible by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counseling.

Child Marriage: The law sets the legal age of marriage for women at 18 and men at 21, prohibits child marriage in any form, and empowers courts to annul child marriages. It also sets penalties for persons who perform, arrange, or participate in such marriages. However, in practice the law was not enforced. The law does not characterize a marriage between a girl below age 18 and a boy below age 21 as “illegal” but recognizes such unions as void and voidable, providing grounds for such unions to be challenged in court.

The law establishes a full-time child marriage prohibition officer in every state to prevent and police child marriage. These individuals have the power to intervene when a child marriage is taking place, document violations of the law, file charges against parents, and remove children from dangerous situations in order to deliver them to local child protection authorities. Police registered a case under the Child Marriage (Prevention) Act against six persons, including the parents, after receiving information about a young couple forced into marriage on October 28 in Udumalpet, Tamil Nadu.

UNICEF’s State of the World’s Children 2012 report stated that 43 percent of women were married before age 18. On August 8, the MWCD informed parliament that there were 113 incidents of child marriage reported in 2011; however, it noted that sample surveys on health indicators suggested the “prevalence of child marriages which are not registered.” According to the UNICEF report, women married as children contributed to the country’s high infant and maternal mortality rates, since early motherhood was suspected to contribute to the deaths of 6,000 adolescent mothers each year.

Harmful Traditional Practices: There is no national law addressing the practice of female genital mutilation/cutting (FGM/C). According to human rights groups, between 70 and 90 percent of Bohra Muslims practiced various forms of FGM/C. The states of Maharashtra, Gujarat, Madhya Pradesh, and Rajasthan have a Bohra population estimated at one million. During the year a campaign continued against FGM/C among the Bohra community.

Sexual Exploitation of Children: The law prohibits child pornography and states that the legal age of consent is 18. By law it is illegal to pay for sex with a minor or induce a minor into prostitution or any form of “illicit sexual intercourse,” or to sell or buy a minor for the purposes of prostitution. Violators are subject to 10 years’ imprisonment and a fine. Nevertheless, according to UNICEF, approximately 1.2 million children were trafficking victims, prostituted and enslaved throughout the country, including via child sex tourism.

Child Soldiers: No information was available on how many persons under the age of 18 were serving in the armed forces. There were allegations that government-supported anti-Naxalite village defense forces recruited children. Armed groups, including Naxalites and groups in Jammu and Kashmir and in the Northeast States, were reported to be using children (see section 1.g.).

Displaced Children: Displaced children, including refugees, IDPs, and street children, faced limits on access to government services (see also section 2.d.) and were often unable to obtain medical care, education, proper nutrition, or shelter. Such children were often physically and sexually abused and forced to work in hazardous jobs, such as rag picking (sorting garbage for recyclables).

Institutionalized Children: Weak enforcement of laws and lack of safeguards encouraged an atmosphere of impunity in group homes and orphanages. NGOs alleged that many such homes for children operated without government oversight or approval. Only 14 states had established commissions for the protection of child rights, as mandated under the 2005 Commission for Protection of Child Rights Act. In August 2011 the MWCD informed parliament that there were 1,199 shelter homes across the country, serving 76,035 children.

On June 14, a report submitted to the Punjab and Haryana High Court led to a CBI probe of abuse and exploitation of children at a shelter run by the NGO Bharat Vikas Sangh in Rohtak, Haryana. Staff members, police officers, and others abused the children physically, mentally, and sexually. By the end of the year, courts had ordered DNA testing of three persons accused of sexual abuse and were hearing a contempt of court petition against the state government's chief secretary following the disappearance of several of the shelter inmates. On July 27, the Haryana state government announced that all children in shelter homes would be enrolled in neighborhood schools.

On August 28, the MHA reported that as of August 15, 3,171 children were reported missing in 2012; of these, 2,186 were traced. In 2011, 5,111 children were reported missing; of these, 981 remained missing. At a July 2011 public hearing organized by the organization Child Rights and You, parents alleged that police often refused to file missing person reports for children.

International Child Abductions: The country is not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report at

travel.state.gov/abduction/resources/congressreport/congressreport_4308.html, as well as country-specific information at travel.state.gov/abduction/country/country_4441.html.

Anti-Semitism

Jewish groups and the 1,500-person Jewish population cited no reports of anti-Semitic acts during the year.

Trafficking in Persons

See the Department of State's Trafficking in Persons Report at www.state.gov/j/tip.

Persons with Disabilities

The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights for persons with the following disabilities: blindness, low vision, leprosy-cured (those cured of leprosy but who still lack sensation in extremities or suffer from deformity), hearing impairment, locomotor disability, mental retardation, and mental illness. The law is weakened by a clause that links implementation of programs to the "economic capacity and development" of the government.

On May 5, the Ministry of Social Justice and Empowerment (MSJE) informed parliament that the government established 215 District Disability Rehabilitation Centers and identified 100 more underserved districts for such centers. The centers provide comprehensive rehabilitation services, such as medical intervention and surgical correction, fitting of aids and prosthetics, therapeutic and educational services, vocational training, and community awareness.

In 2010 the MSJE operated the first government Web site to fulfill the accessibility norms for persons with disabilities. In May the MSJE reported that only three states requested funds to make Web sites accessible to persons with disabilities.

Discrimination against persons with physical and mental disabilities in employment, education, and access to health care was more pervasive in rural areas. Despite legislation that all public buildings and transport be accessible to the disabled, there was limited accessibility. On January 4, the National Institute

for Visually Handicapped, Dehradun, launched an online Braille library, which allows books to be accessed in real time from any location.

The Ministry of Health and Family Welfare estimated that 6 to 7 percent of the population suffered from a mental or psychosocial disability and that 25 percent of the mentally ill were homeless. Disabled rights activists estimated that the country had 40 to 90 million persons with disabilities. There were three mental health institutions run by the federal government and 40 state-operated mental hospitals across the country.

Most of those with mental disabilities were dependent on public health-care facilities, and fewer than half of those who required treatment or community support services received such assistance. There was a severe shortage of trained staff; on May 4, the health ministry reported that the country had 7,048 mental health professionals and 47,702 vacancies.

The PDA requires that 3 percent of public sector jobs be reserved for persons with physical, hearing, or visual disabilities. The government continued to allocate funds to programs and NGO partners to increase the number of jobs filled. Private sector employment of persons with disabilities remained low, despite PDA benefits to private companies where persons with disabilities constituted more than 5 percent of the workforce. The state government of Tamil Nadu passed an order in 2010 reserving 3 percent of all positions in state public services and educational institutions for physically disabled persons and all positions where reservations were applied for SC/STs and Backwards Classes.

The law also stipulates that 3 percent of all educational places be reserved for persons with disabilities, but according to the MSJE, students with disabilities made up only an estimated 1 percent of all students. Some schools continued to segregate children with disabilities or deny their enrollment due to lack of infrastructure, equipment, and trained staff. UNICEF estimated that between 6 and 10 percent of all children in the country were born with disabilities. In August 2011 the MHRD informed parliament that 183 students with disabilities were enrolled in central education institutions in 2010-11. The MSJE continued to offer scholarships to persons with disabilities to pursue higher education. University enrollment of students with disabilities remained low for several reasons, including inaccessible infrastructure, limited resources, nonimplementation of the 3 percent job reservation, and harassment.

On September 29, the Delhi High Court served a four-month deadline to the state government of Delhi to complete the recruitment of special educators for children with disabilities. The court's order was in response to a public interest litigation in which the NGO Social Jurist claimed that 2,039 private schools without special educator aids and 258 aided schools lacked basic physical and academic infrastructure, including special educators for those suffering from blindness, hearing impairment, and mental handicaps. In October Delhi's Social Welfare and Education Minister Kiran Walia stated that several schools had special educators on staff to serve children with special needs and disabilities, and the government had begun recruitment of 900 such permanent teachers through the Delhi Subordinate Services Selection Board.

On July 11, the body of 32-year-old Guriya was found buried at Dulal Smriti Samsad (DSS), a state-funded home for the mentally disabled; an investigation found several other bodies. On July 19, police arrested Shamal Ghosh and charged him with murder and criminal conspiracy. Investigators believe Ghosh was instrumental in Guriya's death and the burial of her body. Interrogation revealed that Ghosh was smuggling food items from the home to sell on the local market. Due to his relationship with DSS secretary Uday Chand Kumar, Ghosh enjoyed unhindered access to the facility. A police investigation revealed that Ghosh exploited his access and sexually abused inmates and was responsible for killing several inmates who were then buried on the banks of the Damodar River at Jamalpur. Ten persons were arrested, including Kumar, cook Najiya Khatun, and guard Mathur Patra. Tarumal Das and Prafulla Mallick, who buried Guriya, were also in police custody. The government of West Bengal canceled the home's license and relocated the inmates to other homes.

National/Racial/Ethnic Minorities

The national census does not distinguish racial or ethnic groups; population is categorized by language spoken. Society traditionally has been divided into castes or clans. Caste is a complex Hindu social hierarchy system that traditionally determines ritual purity and occupation. Caste discrimination was outlawed by the constitution in 1949. The registration of castes and tribes continued for the purpose of affirmative action programs, as the government continued to implement various programs to empower members of the low castes. The law gives the president authority to identify historically disadvantaged castes and tribes for special quotas and benefits; these are the SC and ST. Discrimination based on caste remained prevalent, particularly in rural areas.

The term “Dalit,” derived from the Sanskrit for “oppressed” or “crushed,” refers to members of what are traditionally regarded as the lowest Hindu castes, the SC. Many SC members continued to face impediments to the means of social advancement, such as education, jobs, access to justice, freedom of movement, and access to institutions and services. According to the 2001 census, SC members constituted 16 percent (168.6 million persons) of the population. The MHA 2011-12 annual report noted 32,712 cases of registered crimes against SC members in 2010, compared with 33,594 cases in 2009. In March 2011 the MHA informed parliament that 4,410 Dalits were hurt in various incidents, and 1,683 persons were convicted of crimes against Dalits, according to NCRB records.

Although the law protects Dalits, in practice they faced violence and significant discrimination in access to services such as health care and education, temple attendance, and marriage. Many Dalits were malnourished. Most bonded laborers were Dalits. Dalits who asserted their rights often were attacked, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits often worked without remuneration. Reports from the UN’s Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. Crimes committed by upper-caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute or because victims did not report the crimes due to fear of retaliation. For example, on July 26, Mahender Kumar was abducted and killed in Haryana for refusing to provide liquor on credit to upper-caste men. Authorities suspended local policeman Pratap Singh for negligence of duty in failing to protect Kumar.

On June 18, the CBI charged Purushottam Dwivedi, a member of the Uttar Pradesh state assembly from the Bahujan Samaj Party, in connection with rape on multiple occasions of a minor Dalit girl in 2010 at his home in Banda District.

NGOs reported discrimination including that many Dalits were not permitted to walk on public pathways, wear footwear, access water from public taps in upper-caste neighborhoods, participate in some temple festivals, bathe in public pools, or use some cremation grounds.

NGOs reported that students were denied admission to certain schools because of their caste or were required to present caste certification prior to admission. During the year there were reports that school officials barred Dalit children from morning prayers, asked Dalit children to sit at the back of the class, or forced Dalit children to clean school toilets while denying them access to the same facilities.

There were also reports that teachers refused to correct the homework of Dalit children, refused to provide midday meals to Dalit children, and asked Dalit children to sit separately from children of upper-caste families.

The federal and state governments continued to implement various programs for SC members, ostensibly to provide better quality housing, reserved seats in schools, government jobs, and access to subsidized foods, but critics claimed that many programs suffered from poor implementation and corruption.

On January 16, CBI special judge AS Narang acquitted all 11 persons, including the son of a former Sonipat parliamentarian, accused of setting 50 Dalit homes on fire in 2005 in the Sonipat District of Haryana. All witnesses had turned hostile in court and would not identify the 11 accused; consequently the case was closed due to lack of evidence.

On November 7, more than 500 Dalit families lost their homes and belongings in three Dalit villages of Natham, Anna Nagar, and Kondampatti in Dharmapuri District, Tamil Nadu, at the hands of mobs allegedly from the Vanniyar caste community. The Tamil Nadu state government reported 268 houses were burned and estimated property damage at 6.9 crore rupees (\$1.27 million). Police arrested 120 persons for the violence, and Tamil Nadu's chief minister gave 49,550 rupees (\$910) to each affected family for immediate relief.

On August 5, newspapers reported that a monitoring team from the MHRD found gender and caste-based discrimination to be prevalent in the government's midday meal plan for students. For example, upper-caste children in Rajasthan were not sharing midday meals with lower-caste students. In Dausa, SC children were forced to sit separately to eat their meals. In some schools only upper-caste children were served the midday meal, and in many schools girls were made to serve the food.

Manual scavenging, the removal of animal or human waste by Dalits, continued in spite of its prohibition under the Employment of Manual Scavengers and Construction of Dry Latrines (Prevention) Act of 1993 and a March 2012 deadline for the practice's abolition. Indian Railways is one of the largest employers of manual scavengers, using them to clean the train tracks.

Indigenous People

The constitution provides for the social, economic, and political rights of disadvantaged groups of indigenous people. The law provides special status for indigenous people, but authorities often denied them their rights. According to the Ministry of Tribal Affairs 2011-12 annual report, there were more than 700 STs in the country, and the 2011 census revealed the population of ST members as 84.3 million, approximately 8 percent of the total population. In April 2011 a pilot survey to identify households below the poverty line found that SC and ST members constituted half the total of poor households. There were 75 Particularly Vulnerable Tribal Groups, characterized by primitive technology, stagnant or declining population, extremely low literacy, and subsistence level economy.

In most of the northeastern states, where indigenous groups constituted the majority of the states' population, the laws provide for tribal rights, although some local authorities attempted to violate these provisions. The laws prohibit any nontribal person, including citizens from other states, from crossing a government-established inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from protected areas without prior authorization. Tribal authorities must approve the sale of land to nontribal persons.

According to the MHA 2011-12 annual report, there were 5,885 criminal cases reported against members of STs in 2010, an increase from the 5,425 cases reported in 2009. Tribal women employed as domestic workers often were neither properly paid nor protected from sexual exploitation. Land encroachment on tribal lands continued in almost every state, despite limited efforts by the states to combat it, as businesses and private parties continued to exert political influence and pressure on local governments. Those displaced by the encroachments typically were not compensated or provided with appropriate relief and rehabilitation packages.

Numerous tribal movements demanded the protection of tribal land and property rights. Local activists claimed that the rights of tribal and rural groups under the Forest Act continued to be manipulated. Weak enforcement of the act often circumvented the free and informed consent of tribal and rural groups prior to development.

Starting on July 19 and continuing through September, tensions stemming primarily from land disputes between the ethnic Bodo majority and what was perceived as a growing migrant community in Assam erupted into violence. The initial violence resulted in at least 77 persons killed, 11 missing, and 400,000 displaced. Military and paramilitary troops were deployed to restore order on July

24; however, violence continued through August. At least seven persons were killed when police fired into crowds during the violence.

On September 5, the Rajasthan Gujjars relaunched their protests for 5 percent special reservations for government jobs and educational institutions after earlier assurances for a quota were not met.

Civil rights organizations working with indigenous persons in Karnataka alleged that some families were evicted due to state efforts to promote tourism.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

In 2009 the Delhi High Court overturned a portion of section 377 of the penal code, which had prohibited same-sex sexual activity. During the year the Supreme Court heard appeals from groups and individuals opposed to the ruling. In Supreme Court hearings on February 23, Additional Solicitor General P.P. Malhotra told the court that homosexuality was immoral and was causing the spread of HIV/AIDS in the country. His arguments were followed by those of the health ministry lawyer, who countered that there was “no error in decriminalizing gay sex.” The government later clarified that it supported the legalization of homosexuality and abolishment of section 377, and it replaced Malhotra with Mohan Jain as its counsel in the case. The Supreme Court had not rendered a judgment on the appeal by year’s end. The abolished clause continued to be used sporadically to target, harass, and punish lesbian, gay, bisexual, and transgender (LGBT) persons.

Although LGBT groups were active throughout the country, sponsoring events and activities including rallies, gay pride marches, film series, and speeches, they faced discrimination and violence throughout society, particularly in rural areas. Activists reported that transgender persons who were HIV positive often had difficulty obtaining medical treatment. Activists also reported that some employers fired LGBT persons who were open about their sexual orientation or gender identity. LGBT persons also faced physical attacks, rape, and blackmail. Some police committed crimes against LGBT persons and used the threat of arrest to coerce victims not to report the incidents. Several states, with the aid of NGOs, offered police education and sensitivity training.

The benefits accorded to transgender persons varied across the country. Tamil Nadu established a transgender welfare board in 2008 and provided separate

identity and ration cards to transgender persons. In 2010 the state of Karnataka announced that transgender persons would be included in the “Backward Classes” list, making them eligible for pensions, ration cards, and housing assistance under a reservation scheme. The National Legal Services Authority included transgender persons in the definition of marginalized groups, enabling access to free legal aid.

In February a study by Mission for Indian Gay and Lesbian Empowerment (MINGLE) reported that nearly 80 percent of staffers in 17 organizations surveyed had heard homophobic comments in their offices. The LBGT 2012 workplace survey report reported that nearly 30 percent of the homophobic remarks came from managers.

On April 12, a transgender woman, Diya Rai, filed a complaint with the West Bengal Human Rights Commission alleging that police in Baguiati illegally detained her at the police station for nine hours and taunted her about her sexuality. She was released without being charged and alleged that police made her sign a “personal bond” to never return to the area.

On March 19, the MSJE informed parliament that the ECI had directed the chief electoral officers in all states to modify electoral rolls to include the option of “other” under sex for eunuchs and transgender persons.

Other Societal Violence or Discrimination

There were an estimated 2.4 million persons with HIV/AIDS in the country, and according to the International Labor Organization (ILO), as many as 70 percent faced discrimination. HRW reported that many doctors refused to treat HIV positive children and that some schools expelled or segregated children because they or their parents were HIV positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing. Incidents of discrimination were more frequent in rural areas.

Social activists working with HIV-affected individuals claimed that they were being denied basic rights to education, employment, and nutrition. For example, on September 3, an HIV-positive woman initially was denied care at a district hospital in Balasore, Odisha. She had delivered her baby in the ambulance and was left unattended for nearly two hours when she arrived at the hospital. The umbilical cord was cut by a sweeper. The District AIDS Prevention and Control Unit raised the issue with the State AIDS Control Society, who formed an inquiry

committee. Neither the government nor the hospital took action against those responsible.

Societal violence based on religion continued to be a concern. According to the MHA's annual report, 91 persons died in altercations between religious communities in 2011.

Civil society activists continued to express concern about the Gujarat government's failure to protect the population or arrest those responsible for communal violence in 2002 that resulted in the killing of more than 1,200 persons, the majority of whom were Muslim, although there was progress in several court cases. The Gujarat government appointed the Nanavati-Mehta Commission to investigate the 2002 violence. On March 30, the commission received its 18th extension; the new deadline for submission of its final report was December 31, but the deadline passed with no submission.

On August 31, a special court in Gujarat sentenced BJP legislator and former state minister Maya Kodnani to 28 years in jail for being the "kingpin" of the 2002 Naroda Patiya violence, in which 97 Muslims were killed. Kodnani became the first senior politician convicted and sentenced for her involvement in the post-Godhra riots. The court also sentenced Babu Bajrangi, leader of the militant Hindu group Bajrang Dal, to life in prison and gave different sentences to 29 others.

On July 30, a fast track court in Mehsana sentenced 21 persons to life sentences and a retired police officer to one year in prison in the Deepda Darwaja riot case, in which 11 members of a Muslim family were killed in 2002 in North Gujarat. The court acquitted 61 others and rejected charges of preplanned conspiracy.

On July 8, the Bombay High Court sentenced four persons to life in prison in the Best Bakery case, in which 14 persons were killed in Vadodara, Gujarat, in 2002. The court acquitted five persons in the case due to lack of evidence. On April 12, a special court in Gujarat sentenced 18 persons to life imprisonment and five persons to seven years in prison in the Ode riots case, in which 23 persons were killed in Anand District of Central Gujarat in 2002.

At the end of the year, the complaint filed by Zakia Jafri in 2006 that blamed Gujarat Chief Minister Narendra Modi and 60 others for complicity in the 2002 communal violence, was still being heard in court. Human rights groups continue to allege that investigative bodies showed bias in favor of Modi in their reports.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The right to form unions and the right to collective bargaining are provided for by law. In some states registration of a trade union is subject to prior permission from the state government. There is no legal obligation on employers to recognize a union or engage in collective bargaining. The threshold for union formation is a simple majority of regular workers. The law protects the right to strike, but in export processing zones (EPZs) a 45-day notice is required due to the EPZs' designation as "public utilities." In addition, employee-only restrictions on entry to the EPZs limited union organizers' access. The law limits public employees' organizing rights, allows the government to ban strikes in government-owned enterprises, and requires arbitration in specified essential industries; however, interpretations vary from state to state. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. The law prohibits antiunion discrimination and retribution for involvement in legal strikes, and provides for employee reinstatement for those fired for union activity. There were no recorded instances of retribution or sanctions against employees during the year.

Enforcement of labor laws varies from state to state and from sector to sector. Most of the country's union members were in the formal sector; trade unions represented a small number of agricultural and informal sector workers. An estimated 80 percent of unionized workers were affiliated with one of five major trade union federations. Unions were independent of the government, but four of the five major federations were associated with major political parties.

In practice authorities generally prosecuted and punished persons responsible for intimidation or suppression of legitimate trade union activities in the organized industrial sector. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases. EPZ workers often were employed on temporary contracts.

According to the Ministry of Labor and Employment (MOLE), there were a total of 207 labor disputes during the year. On July 18, workers at the Maruti Suzuki factory in Manesar, Haryana, went on a rampage, assaulted managerial staff, and set fire to the factory. The violence reportedly started after union leaders demanded that management revoke the suspension of an employee who assaulted a supervisor who had allegedly made derogatory remarks about the worker's caste.

When management refused, the workers began rioting, beating the managers and setting fire to equipment and the building. A general manager was killed, 90 other company officials were injured, and nearly 100 persons were arrested on charges of assault and rioting. Factory workers were locked out from July 21 to August 21.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced labor through the penal code, the Bonded Labor (System) Abolition Act, the Child Labor (Prohibition and Regulation) Act, and the Juvenile Justice Act. Enforcement and compensation for victims are the responsibility of state and local governments and varied in effectiveness. When inspectors referred violations for prosecution, long court backlogs and inadequate prosecution sometimes resulted in acquittals. Prison sentences for employers of forced laborers are a maximum of three years, but successful prosecutions were rare.

The MOLE continued to partner with the NHRC and NGOs to investigate allegations of bonded labor, including through the “convergence program” established with the ILO in the states of Tamil Nadu, Andhra Pradesh, Haryana, and Orissa targeting workers vulnerable to bonded labor.

The state government of Odisha reported some progress during the year in sensitizing officials to identify and release bonded laborers in a traditional practice of semibonded labor called “bartan,” in which upper caste families extracted work from barbers and washermen for as little as 15 kilograms (33 pounds) of paddy rice a year. The social activist Baghambar Patnaik, who launched the movement for abolition of the bartan system, stated there could be a total of one million bonded persons in the system. In the Puri District alone, a caste and economic survey identified 84,000 people serving under the bartan system.

Forced labor practices remained widespread. Estimates of the number of bonded laborers in the country varied widely; several NGOs placed the number in the millions. Most bonded labor occurred in agriculture. Nonagricultural sectors that had a high incidence of bonded labor were stone quarries, brick kilns, rice mills, construction, embroidery factories, and beedi (hand-rolled cigarettes) production.

SC and ST members lived and worked under traditional arrangements of servitude in many areas of the country. In Arunachal Pradesh, the Nishi tribe traditionally subjugated Sulungs or Puroiks as customary slaves.

Also see the Department of State's Trafficking in Persons Report at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

Child labor remained widespread. The government estimated the number of child laborers at 1.2 million; UNICEF estimated the number of child workers at 29 million, but several NGOs estimate the number to be significantly higher. The majority of child labor occurred in agriculture and the informal economy, and new incidents were reported in the thread/yarn and fish industries.

Forced child labor, including bonded labor, also remained a serious problem. Children were engaged in forced or indentured labor as domestic servants, and beggars, as well as in quarrying, brick kilns, rice mills, silk thread production, and textile embroidery. There were instances of forced child labor in factories.

The law establishes a penalty for employers of children in hazardous industries of 20,691 rupees (\$380) per child employed. The fines go into a welfare fund for formerly employed children. The law does not apply to family farms or family businesses, both large sectors of the economy.

State governments enforce labor laws and employ labor inspectors, while the MOLE provides oversight and coordination; however, enforcement was inadequate. The ILO reported that there were 12.6 million laborers between the ages of five and 14, with approximately 20 percent working as domestic help.

On August 13, the MOLE reported that 1,360,117 inspections had been carried out since 2007 targeting violations of child labor in the domestic and hospitality sectors, with 49,092 persons prosecuted and 4,774 employers convicted. On April 4, a 13-year-old girl who worked as a maid for a couple was found crying for help in a locked city apartment while her employers were on vacation. The child had been sold to a job placement agency by her uncle and was receiving no wages.

On May 14, the MOLE reported that a study conducted by the National Sample Survey Organization estimated that nearly five million children in the 5-to-14 age group were working in 2009-10, down from nine million in 2004-05. Employers in cottage industries often claimed that child laborers were assisting their families, an exemption under the law. Labor inspectors also generally did not investigate family businesses, including farms, as these are not covered under the labor law.

The MOLE reported 4,590 labor prosecutions and 774 convictions nationwide in 2011-12. On April 30, the MOLE reported that four domestic child laborers in Mumbai, 55 in Delhi, and 13 from Chennai were rescued.

On September 5, the NGO Bachpan Bachao Andolan, in conjunction with state governments and local police, removed 36 child laborers from several bangle manufacturing units in Jahangirpuri, Delhi. The boys ranged in age from seven to 11 and came from Bihar or Uttar Pradesh. Several boys reported that the employer had made an advance payment to their parents of 5,445 rupees (\$100) before taking them to Delhi. All of the children were entitled to rehabilitation packages of 20,691 rupees (\$380) and priority access to government housing and education.

The MOLE coordinated its efforts with states to raise awareness about child labor.

Also see the Department of Labor's Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. Federal law is applicable to all industries and sets safety and health standards, but enforcement is by state governments. In 2012 the daily minimum wage (with local cost of living allowance included) varied from 118 rupees (\$2.18) in Bihar to 185 rupees (\$3.40) in Haryana. State governments set a separate minimum wage for agricultural workers. The law mandates a maximum eight-hour workday and 48-hour workweek, as well as safe working conditions, which include adequate provisions for restrooms, canteens, medical facilities, and ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime. It does not mandate paid holidays and prohibits compulsory overtime. The law does not give workers the right to leave workplaces that endanger health and safety without jeopardizing their continued employment.

State labor inspectors typically are required to enforce a minimum of at least 10 labor-related laws. Penalties were not sufficient to deter violations, and the number of inspectors was insufficient to enforce the diverse array of labor laws.

Laws on wages, hours, and occupational health and safety do not apply to the informal sector, which employed nearly 93 percent of the workforce. Violations of wage, overtime, and occupational safety and health standards were common in the

informal sector. State governments did not effectively enforce minimum wage laws for agricultural workers. Enforcement of safety and health standards was poor, especially in the informal sector but also in some formal sector industries. Workers in small, low-technology factories often were exposed to hazardous working conditions. The country's undocumented foreign workers did not receive basic occupational health and safety protections. There were no new specific government actions to prevent violations, improve wages, or improve working conditions during the year.

Industrial accidents occurred frequently. Thirty-eight persons died in an explosion and fire on the premises of Om Sakthi Fireworks Industries, Virudhanagar District, in Tamil Nadu on September 5. A massive explosion in the public sector Vizag Steel Plant in Visakhapatnam, Andhra Pradesh, on June 13 killed 18 people. The plant was frequently cited by government inspectors for failing to address safety issues but continued to operate.