

Amnesty International Report 2014/15

Republic of India

Head of state: Pranab Mukherjee

Head of government: Narendra Modi (replaced Manmohan Singh in May)

Impunity was widespread for human rights abuses by state and non-state actors. Despite progressive legal reform and court rulings, state authorities often failed to prevent and at times committed crimes against Indian citizens, including children, women, Dalits and Adivasi (Indigenous) people. Arbitrary arrest and detention, torture and extrajudicial executions often went unpunished. The overburdened and underfunded criminal justice system contributed to justice being denied to those who suffered abuses, and to violations of the fair trial rights of the accused. Violence by armed groups in Jammu and Kashmir, northeastern states and areas where Maoist forces operated continued to put civilians at risk.

Background

National elections in May saw a government led by the Bharatiya Janata Party come to power with a landslide victory. Prime Minister Narendra Modi, who campaigned on promises of good governance and development for all, made commitments to improve access to financial services and sanitation for people living in poverty. However, the government took steps towards reducing requirements to consult with communities affected by corporate-led projects. The authorities continued to violate people's rights to privacy and freedom of expression. There was a rise in communal violence in Uttar Pradesh and some other states, and corruption, caste-based discrimination and caste violence remained pervasive.

Arbitrary arrests and detentions

Arbitrary arrests and detentions of protesters, journalists and human rights defenders persisted. National Human Rights Commission data indicated that 123 illegal arrests and 203 cases of unlawful detention were reported from April to July. The authorities used laws authorizing administrative detention to detain journalists and human rights defenders in custody under executive orders without charge or trial. Adivasi villagers in Maoist-affected areas in central India also remained at risk of being arbitrarily arrested and detained.

“Anti-terror” laws such as the Unlawful Activities (Prevention) Act, which did not meet international human rights standards, were also used. In May, the Supreme Court acquitted six men convicted under anti-terror laws for attacking the Akshardham temple in Gujarat in 2002, ruling that there was no evidence against them and the investigation had been incompetent.

Abuses by armed groups

Human rights abuses by armed groups were reported in various regions, including Jammu and Kashmir, north-eastern states and central India. Armed groups killed and injured civilians and destroyed property in indiscriminate and at times targeted attacks. Their actions also displaced people. Clashes between security forces and armed Maoist groups led to several civilian deaths.

In the lead-up to national elections in May, armed groups allegedly killed local government officials and electoral officials in Jammu and Kashmir, Jharkhand and Chhattisgarh states, in order to intimidate voters and disrupt elections.

In January and May, armed groups in Assam were accused of killing dozens of Muslims, and in December, they were accused of killing scores of Adivasis. Armed groups in other north-eastern states were also accused of targeting civilians, instigating violence and causing large-scale displacement.

Children's rights

In August, the government introduced a bill to Parliament seeking to amend juvenile justice laws to allow for children aged between 16 and 18 to be prosecuted and punished as adults in cases of serious crimes. India's official child rights and mental health institutions opposed the move.

Protests over the rape of a six-year-old girl in a school in Bangalore in July drew attention to the inadequate enforcement of laws on child sexual abuse.

Incidents of corporal punishment were reported from several states, despite its prohibition under law. Laws requiring private schools to reserve 25% of places at the entry level for children from disadvantaged families were poorly implemented. Dalit and Adivasi children continued to face discrimination in school.

In June, the UN Committee on the Rights of the Child expressed concern about the disparity in access to education, health care, safe water and sanitation among different groups of children. Child labour and child trafficking remained serious issues. In October, Kailash Satyarthi, a children's rights campaigner who works on these issues, was awarded the Nobel Peace Prize.

Communal violence

A string of communally charged incidents in Uttar Pradesh prior to elections led to an increase in tensions between Hindu and Muslim communities. Three people were killed in clashes in Saharanpur, Uttar Pradesh state, in July. Politicians were accused of, and in some cases criminally charged with, making provocative speeches. Communal clashes also occurred in some other states. In December, Hindu groups were accused of forcibly converting several Muslims and Christians to Hinduism.

In January, survivors of violence between Hindus and Muslims in Muzzafarnagar, Uttar Pradesh, in late 2013 were forcibly evicted from relief camps. Investigations into the violence were incomplete. Thousands of people, mainly Muslims, remained displaced at the end of the year.

November marked the 30th anniversary of violence in Delhi in 1984 which led to the massacre of thousands of Sikhs. Hundreds of criminal cases closed by the police citing lack of evidence were not reopened, despite large public demonstrations seeking an end to impunity.

Progress in investigations and trials in cases related to the 2002 violence in Gujarat, which killed at least 2,000 people, mostly Muslims, continued to be slow. In November, the Nanavati-Mehta Commission, appointed in 2002 to investigate the violence, submitted its final report to the Gujarat state government. The report was not made public.

Ethnic clashes over the disputed Nagaland-Assam border in August resulted in the deaths of 10 people and the displacement of over 10,000. Caste-based violence was also reported in several states including Uttar Pradesh, Bihar, Karnataka and Tamil Nadu.

Corporate accountability

In September, the Supreme Court cancelled over 200 coal mining licences which it said were granted arbitrarily. The Environment Ministry weakened existing mechanisms for consultation with communities affected by industrial projects, particularly coal mining. The Ministry also lifted moratoriums on new industries in critically polluted areas.

The authorities and businesses failed to meaningfully consult local communities in several instances. In August, a subsidiary of UK-based Vedanta Resources conducted a public hearing towards expanding its alumina refinery in Lanjigarh, Odisha state, without addressing existing impacts or adequately informing and consulting affected communities.

In December, the government passed a temporary law which removed requirements related to seeking the consent of affected communities and assessing social impact when state authorities acquired land for certain projects.

Thousands of people remained at risk of being forcibly evicted from their homes and lands for large infrastructure projects. Particularly vulnerable were Adivasi communities living near new and expanding mines and dams.

December marked the 30th anniversary of the 1984 Bhopal gas leak disaster. Survivors continued to experience serious health problems linked to the leak and to continuing pollution from the factory site. In November, a Bhopal court asked for its criminal summons against the Dow Chemical Company to be re-issued, after the company failed to comply with an earlier summons. Also in November, the Indian government agreed to use medical and scientific data to increase a multi-million US dollar compensation claim against Union Carbide. The Indian government had yet to clean up the contaminated factory site.

Death penalty

In January, the Supreme Court ruled that undue delay in the carrying out of death sentences amounted to torture, and that the execution of people suffering from mental illness would be unconstitutional. The Court also laid down guidelines for safeguarding the rights of people under a sentence of death.

In April, three men were sentenced to death by a Mumbai court under a new law enacted in 2013 which introduced the death penalty for those convicted in multiple cases of rape. In December, the government introduced to Parliament an anti-hijacking bill which seeks to impose the death penalty for hijacking that results in the death of a hostage or security personnel.

Extrajudicial executions

Proceedings continued before the Supreme Court relating to a petition seeking investigations into over 1,500 alleged “fake encounters” – a term referring to staged extrajudicial executions – in Manipur state. Courts in Delhi, Bihar and Punjab convicted police personnel of being involved in fake encounter killings. The National Human Rights Commission ordered compensation for the families of people killed in a number of fake encounters. It also expressed concern about fake encounter killings in Uttar Pradesh by the state police.

In February, the country’s top investigative agency charged former officers of India’s internal intelligence agency with murder and kidnapping in an investigation into a fake encounter case in Gujarat in 2004. The Gujarat and Rajasthan state governments reinstated into service police officers on trial for their alleged involvement in fake encounter cases after they were released on bail from pre-trial detention.

In September, the Supreme Court laid down new requirements for investigations into deaths in encounters with the police, including that the deaths be investigated by a team from a different police station or a separate investigative wing.

Freedom of expression

Laws on criminal defamation and sedition which fell short of international standards were used to harass and persecute journalists, human rights defenders and others for peacefully exercising their right to free expression. The government also used broad and imprecise laws to curb free expression on the internet. Around the general election in May, a number of people were arrested for statements made about Prime Minister Narendra Modi, which police said amounted to criminal offences.

The authorities also implemented and expanded large-scale surveillance of telephone and internet communications, without disclosing details of these projects or safeguards to prevent their misuse.

Impunity – security forces

Despite some signs of progress, almost absolute impunity for violations by Indian security forces continued. Legislation providing virtual immunity from prosecution such as the Armed Forces Special Powers Act and Disturbed Areas Act were still in force in Jammu and Kashmir and parts of north-east India, despite ongoing protests.

In January, the army dismissed without trial charges of murder and conspiracy filed against five of its personnel by the Central Bureau of Investigation. The Supreme Court had ruled in 2012 that the army should try its personnel by court-martial for the extrajudicial executions of five villagers from Pathribal, Jammu and Kashmir, in 2000. In September, an army court-martial convicted five soldiers of killing three men in an extrajudicial execution in Machil, Jammu and Kashmir state, in 2010. In November, an army investigation charged nine soldiers in a case involving the killing of two Kashmiri teenagers in Budgam district.

Perpetrators of past violations in Jammu and Kashmir, Nagaland, Manipur, Punjab and Assam continued to evade justice.

Rights of lesbian, gay, bisexual, transgender and intersex people

The Supreme Court agreed to hear a petition seeking a review of its ruling in December 2013 which effectively recriminalized consensual same-sex sexual activity by upholding Section 377 of the Indian Penal Code. In the run-up to the 2014 parliamentary elections, prominent political parties committed to decriminalizing homosexuality.

In April, the Supreme Court granted legal recognition to transgender people in a landmark judgment. It directed authorities to recognize transgender persons' self-identification as male, female or a "third gender" and put in place social welfare policies and quotas in education and employment. However, cases of harassment and violence against transgender people continued to be reported.

Workers' rights

The lack of effective regulation of visa brokers and rogue recruiting agents continued to put Indian migrant workers travelling to Middle East countries at risk of human rights abuses including forced labour and human trafficking.

Hundreds of Indian migrants including 46 nurses were stranded in Iraq as fighting between armed groups and the Iraqi government intensified. In June, 39 Indian migrants in Iraq were abducted and were believed to be still held by armed groups at the end of the year.

Bonded labour remained widespread. Millions of people were forced to work as bonded labourers in industries including brick-making, mining, silk and cotton production, and agriculture. A number of cases were reported of domestic workers, mostly women, suffering abuses by their employers.

Prisoners of conscience

Adivasi activists and prisoners of conscience Soni Sori and Lingaram Kodopi were granted bail by the Supreme Court in February. Soni Sori stood for parliamentary elections in May.

Manipuri activist Irom Sharmila continued her 14-year hunger strike, demanding the repeal of the draconian Armed Forces Special Powers Act. She was detained on charges of attempted suicide and was released on 20 August by a court which ruled that the charges were baseless. However, she was rearrested two days later for the same alleged offence.

Prolonged pre-trial detention

Prolonged pre-trial detention and overcrowding in prisons persisted. As of December 2013, over 278,000 prisoners – more than two-thirds of the country's prison population – were pre-trial detainees. Dalits, Adivasis and Muslims continued to be disproportionately represented in the pre-trial prison population. Indiscriminate arrests, slow investigations and prosecutions, weak legal aid systems and inadequate safeguards against lengthy detention periods contributed to the problem.

In September, the Supreme Court directed district judges to immediately identify and release all pre-trial detainees who had been in prison for over half of the term they would have faced if convicted. Following advocacy by Amnesty International India, the government of Karnataka state directed state authorities to set up review committees to monitor lengthy pre-trial detention.

Freedom of association

Authorities used the Foreign Contribution (Regulation) Act to harass NGOs and civil society organizations that received funding from abroad. In particular, groups critical of large infrastructure, mining and nuclear power projects faced repeated queries, threats of investigations and blocking of foreign funding by the government.

In June, media organizations reported on a classified document prepared by India's internal intelligence agency, which described a number of foreign-funded NGOs as "negatively impacting economic development".

Torture and other ill-treatment

Torture and other ill-treatment continued to be used in state detention, particularly against women, Dalits and Adivasis. A deeply flawed anti-torture bill lapsed with the end of the central government's term in May.

In August, the Bombay High Court directed the installation of closed-circuit television cameras in all police stations in Maharashtra to curb the use of torture.

Women's rights

Violence against women remained widespread. The authorities did not effectively implement new laws on crimes against women that were enacted in 2013, or undertake important police and judicial reforms to ensure that they were enforced. Rape within marriage was still not recognized as a crime if the wife was over 15 years of age. A number of public officials and political leaders made statements that appeared to justify crimes against women, contributing to a culture of impunity.

Reports of crimes against women rose, but under-reporting was still considered to be widespread. Dalit women and girls continued to face multiple levels of caste-based discrimination and violence. Self-appointed village councils issued illegal decrees ordering punishments against women for perceived social transgressions.

In April, the UN Special Rapporteur on violence against women drew attention to the inability of the authorities to ensure accountability and redress for survivors of violence. In July, the CEDAW Committee recommended the government allocate resources to set up special courts, complaints procedures and support services to better enforce laws.

In November, 16 women died after participating in a botched mass sterilization drive in Chhattisgarh. The government's target-driven approach to family planning continued to allow for compromises on the quality of health care and curtailed women's right to choose appropriate family planning methods.