

# INDIA 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

India is a multiparty, federal, parliamentary democracy with a bicameral legislature. The president, elected by an electoral college composed of the state assemblies and parliament, is the head of state, and the prime minister is the head of the government. Under the constitution the 29 states and seven union territories have a high degree of autonomy and have primary responsibility for law and order. Voters elected President Ram Nath Kovind in July to a five-year term, and Narendra Modi became prime minister following the victory of the National Democratic Alliance coalition led by the Bharatiya Janata Party in the 2014 general elections. Observers considered these elections, which included more than 551 million participants, free and fair despite isolated instances of violence.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included police and security force abuses, such as extrajudicial killings, disappearances, torture, arbitrary arrest and detention, rape, harsh and life-threatening prison conditions, and lengthy pretrial detention. Widespread corruption; reports of political prisoners in certain states; and instances of censorship and harassment of media outlets, including some critical of the government continued. There were government restrictions on foreign funding of some nongovernmental organizations (NGOs), including on those with views the government stated were not in the “national interest,” thereby curtailing the work of these NGOs. Legal restrictions on religious conversion in eight states; lack of criminal investigations or accountability for cases related to rape, domestic violence, dowry-related deaths, honor killings, sexual harassment; and discrimination against women and girls remained serious problems. Violence and discrimination based on religious affiliation, sexual orientation, and caste or tribe, including indigenous persons, also persisted due to a lack of accountability.

A lack of accountability for misconduct at all levels of government persisted, contributing to widespread impunity. Investigations and prosecutions of individual cases took place, but lax enforcement, a shortage of trained police officers, and an overburdened and underresourced court system contributed to a small number of convictions.

Separatist insurgents and terrorists in the state of Jammu and Kashmir, the northeast, and the Maoist-affected areas committed serious abuses, including

killings and torture of armed forces personnel, police, government officials, and of civilians, and recruitment and use of child soldiers.

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

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents.

During the year the South Asian Terrorism Portal, run by the nonprofit Institute for Conflict Management, reported the deaths of 111 civilians, 15 security force members, and 210 terrorists or insurgents as of June 2. Data from the institute also showed 317 fatalities from terrorist violence were recorded in the state of Jammu and Kashmir through August, compared with 329 for 2016.

There were 108 reported deaths as a result of “encounter killings”--a term used to describe any encounter between the security or police forces and alleged criminals or insurgents that resulted in a death--documented countrywide by the Investigation Division of the National Human Rights Commission (NHRC), according to Ministry of Home Affairs 2016-17 data.

On June 6, police killed six individuals during a protest in Madhya Pradesh. The Madhya Pradesh government appointed a one-member commission to investigate police action and paid 10 million rupees (\$160,000) to each of the victims’ families. By year’s end the investigation had not concluded.

Reports of custodial death cases, in which prisoners or detainees were killed or died in police custody, continued. Decisions by central and state authorities not to prosecute police or security officials despite reports of evidence in certain cases remained a problem. The National Crime Records Bureau (NCRB) reported 92 cases of custodial deaths nationwide in 2016 with Maharashtra reporting the highest number of cases at 16. Madhya Pradesh and Gujarat reported 11 cases, and Uttar Pradesh, nine cases. According to a media report, in response to a “Right to Information” (RTI) petition, the NHRC stated that 74 persons died in police custody from January 1 through August 2.

On July 24, the Supreme Court sought an update from the government’s Central Bureau of Investigation (CBI) and the Madhya Pradesh state government on a

court-monitored investigation into the October 2016 killings of eight suspected members of the outlawed Students' Islamic Movement of India after they allegedly killed a guard and escaped from a high security prison. In November 2016 the NHRC issued a formal complaint against the state government, police, and prison authorities, expressing doubt that the men were killed while attempting to escape, classifying them instead as custodial deaths. A relative of one of the deceased, in her petition to the Supreme Court, criticized the Madhya Pradesh government for only appointing only a one-person investigative commission.

On October 25, a special CBI court brought charges against 16 law enforcement officers for their alleged involvement in the encounter deaths of Sohrabuddin Sheikh and Tulsiram Prajapati. A joint Rajasthan and Gujarat antiterrorist squad allegedly killed Sheikh on a highway near Ahmedabad in November 2005; later, police allegedly killed his wife Kausar Bi and Tulsiram Prajapati, a key witness in the case. According to the CBI, charges were not brought against those accused who had applications pending in the Bombay High Court or the Supreme Court.

On March 25, the High Court of Madras directed the Tamil Nadu government to pay one million rupees (\$16,000) to the family of a man named Ramesh, known as "Nambu," who died in 2010 after reportedly being tortured while in police custody on suspicion of theft. The court also imposed a fine of 50,000 rupees (\$800) on the municipal administration secretary of the Tamil Nadu government for failing to provide compensation to the family of the victim. A probe into the case by the additional director general of police confirmed in July that Nambu was subjected to "ill treatment" during his illegal detention and died as a result of this treatment.

Three individuals died in separate incidents due to alleged torture while in Telangana state police custody. On April 7, Mohan Krishna died on the way to a hospital after he returned from Begumpet police station in Hyderabad, where he was detained and questioned in a case of alleged sexual harassment of a minor. On April 21, a man identified as "Ganesh" died on the way to a hospital after he was interrogated in the Hayathnagar police station near Hyderabad for "suspicious movement" on the road. On March 18, Bhim Singh died in a Hyderabad police station after being detained for questioning following an altercation. In all these instances, police denied that detainees were tortured, citing previous illnesses as the cause of death.

The Armed Forces Special Powers Act (AFSPA) remained in effect in Nagaland, Manipur, Assam, and parts of Mizoram, and a version of the law was in effect in the state of Jammu and Kashmir. The government also declared Meghalaya's

border areas adjoining Assam and three districts in Arunachal Pradesh as “disturbed” for two more months from August through October. While the Nagaland government demanded the AFSPA be lifted in the state, the central government extended it through December.

Under the AFSPA, a central government designation of a state or union territory as a “disturbed area” authorizes security forces in the state to use deadly force to “maintain law and order” and arrest any person “against whom reasonable suspicion exists” without informing the detainee of the grounds for arrest. The law also provides security forces immunity from civilian prosecution for acts committed in regions under the AFSPA, although in 2016 the Supreme Court concluded that every death caused by the armed forces in a disturbed area, whether a common person or a terrorist, should be thoroughly investigated, adding that the law must be equally applied.

There was considerable public support for repeal of the AFSPA, particularly in areas that experienced a significant decrease in insurgent attacks. Human rights organizations also continued to call for the repeal of the law, citing numerous alleged human rights violations over the years. On July 14, the Supreme Court directed the CBI to set up a five-member team to examine at least 87 of 1,528 alleged killings by police, army, and paramilitary forces between 1979 and 2012 in Manipur. This order was in response to a petition filed by victims’ families and NGOs. According to rights activists, until mid-December the CBI had not summoned any victims or witnesses and was still collecting documents related to the killings from the courts and the government of Manipur. The Supreme Court judgment stated the CBI must file formal charges by December 31.

The NGO Commonwealth Human Rights Initiative noted in its 2016 report that of 186 complaints of human rights violations reported against the armed forces in states under the AFSPA, between 2012 and 2016, 49.5 percent were from the state of Jammu and Kashmir. The data supplied by the Ministry of Home Affairs under the RTI Act did not, however, indicate whether complaints were deemed to have merit.

On June 27, the Gujarat High Court granted bail to Atul Vaidya, one of 24 individuals convicted in the 2002 Gulbarg Society killings, when a rioting mob killed 69 individuals during communal unrest. The Gujarat government did not allow the Supreme Court-appointed special investigation to appeal to the Supreme Court to enhance the sentences awarded to some of the 24 persons convicted or to challenge the acquittal of 14 others accused. On October 5, the Gujarat High Court

dismissed Zakia Jafri's plea, upholding a lower court's verdict exonerating senior Gujarat government officials, citing lack of prosecutable evidence following her allegations of "a larger conspiracy" behind the 2002 riots. The court allowed Jafri to appeal in higher courts.

Nongovernmental forces, including organized insurgents and terrorists, committed numerous killings and bombings in the state of Jammu and Kashmir, the northeastern states, and Maoist-affected areas (see section 1.g.). Maoists in Jharkhand and Bihar continued to attack security forces and key infrastructure facilities such as roads, railways, and communication towers. On April 24, Maoist insurgents attacked a convoy in Chhattisgarh, killing 25 Central Reserve Police Force personnel and critically injuring six.

### **b. Disappearance**

There were allegations police failed to file required arrest reports for detained persons, resulting in hundreds of unresolved disappearances. Police and government officials denied these claims. The central government reported that state government screening committees informed families about the status of detainees. There were reports, however, that prison guards sometimes required bribes from families 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 NGOs reported torture occurred during the year.

Police beatings of prisoners resulted in custodial deaths (see section 1.a.).

The law does not permit authorities to admit coerced confessions into evidence, but NGOs and citizens alleged authorities used torture to coerce confessions. In some instances authorities submitted these confessions as evidence in capital cases. Authorities allegedly also used torture as a means to extort money or as summary punishment. According to human rights experts, the government continued to try individuals arrested and charged under the repealed Prevention of Terrorism Act and Terrorist and Disruptive Activities Act. Under the repealed laws, authorities treated a confession made to a police officer as admissible evidence in court.

On June 19, Abhay Singh, an antiques dealer, died while in custody in Odisha, allegedly following seven days of torture. Police took Singh into custody on May 30 to investigate the theft of a mobile phone, subsequently charged him with drug trafficking, and transported him to a hospital on June 10 where his health reportedly deteriorated. The NHRC and Odisha State Human Rights Commission (SHRC) ordered the state human rights protection cell of police to investigate and submit a report. At year's end there were no updates to the case.

On July 18, a 19-year-old lower-caste man reportedly committed suicide at Engadiyur in Kerala's Thrissur District a day after he was released from police custody for not having proper motor vehicle registration papers. His father and friends alleged instead that he died from injuries sustained from police brutality while in custody, and a postmortem report confirmed he had injuries consistent with torture. Based on the complaint by the victim's father, a case was filed against several police officers under the Criminal Procedure Code and the Scheduled Caste/Scheduled Tribes Prevention of Atrocities Act. Two police officers were suspended for the death, and the case was transferred to the Crime Bureau for further investigation.

There were continued reports that police raped female and male detainees. The government authorized the NHRC to investigate rape cases involving police officers. By law the NHRC may also request information about cases involving the army and paramilitary forces, but it has no mandate to investigate those cases. NGOs claimed the NHRC underestimated the number of rapes committed in police custody. Some rape victims were unwilling to report crimes due to social stigma and the possibility of retribution, compounded by a perception of a lack of oversight and accountability, especially if the perpetrator was a police officer or other official. There were reports police officials refused to register rape cases.

### **Prison and Detention Center Conditions**

Prison conditions were frequently life threatening, most notably due to inadequate sanitary conditions and medical care and extreme overcrowding. Prisons did not meet international standards.

Physical Conditions: Prisons were often severely overcrowded, and food, medical care, sanitation, and environmental conditions often were inadequate. Potable water was often unavailable. Prisons and detention centers remained underfunded,

understaffed, and lacking sufficient infrastructure. Prisoners were physically mistreated.

According to the NCRB *Prison Statistics India 2015* report, there were 1,401 prisons in the country with an authorized capacity of 366,781 persons. The actual incarcerated population was 419,623. Persons awaiting trial accounted for more than two-thirds of the prison population. The law requires detention of juveniles in rehabilitative facilities, although at times authorities detained them in adult prisons, especially in rural areas. Authorities often detained pretrial detainees along with convicted prisoners. In Uttar Pradesh occupancy at most prisons was two and sometimes three times the permitted capacity, according to an adviser appointed by the Supreme Court.

In November 2016 the Commonwealth Human Rights Initiative launched two reports on the “alarming conditions” in prisons. According to the reports, those awaiting trial included 67 percent of the country’s prison population, and independent monitors regularly inspected less than 1 percent of prisons.

According to the NCRB *Prison Statistics India 2015* report, overcrowding was most severe in Dadra and Nagar Haveli at 277 percent of capacity, while Chhattisgarh prisons were at 234 percent of capacity and Delhi prisons, at 227 percent of capacity. On August 8, Minister of State for Home Affairs Hansraj Gangaram Ahir quoted NCRB data to inform the lower house of parliament that 149 out of 1,401 jails in the country had an overcrowding rate of more than 200 percent at the end of 2015.

In March, Minister of State for Home Affairs Ahir informed the lower house of parliament that there were 4,391 female jail staff for a population of 17,834 female prisoners as of 2015.

On September 26, police submitted charges in a local court against six prison officials for the death of Manjula Shetye, a female convict in Mumbai. On July 8, Mumbai police arrested six prison officials who allegedly assaulted Shetye following her complaint about inadequate food. Her death resulted in violent protests by 200 prison inmates, who were later charged with rioting. On July 31, the Bombay High Court ordered an inquiry into the cause of Shetye’s death. A government doctor who signed the death certificate was suspended.

Administration: Authorities permitted visitors some access to prisoners, although some family members claimed authorities denied access to relatives, particularly in conflict areas, including the state of Jammu and Kashmir.

On August 4, through an alternative dispute resolution mechanism, the Tamil Nadu State Legal Services Authority released 570 pretrial detainees (in nine Central Prisons and five Special Prisons for women in Tamil Nadu) who had been detained for longer than the minimum term prescribed for their alleged crimes.

Independent Monitoring: The NHRC received and investigated prisoner complaints of human rights violations throughout the year, but civil society representatives believed few prisoners filed complaints due to fear of retribution from prison guards or officials. On May 26, the NHRC ordered an investigation into torture allegations by 21 inmates on trial in a jail in Bhopal.

Authorities permitted prisoners to register complaints with state and national human rights commissions, but the authority of the commissions extended only to recommending that authorities redress grievances. Government officials reportedly often failed to comply with a Supreme Court order instructing the central government and local authorities to conduct regular checks on police stations to monitor custodial violence.

In many states the NHRC made unannounced visits to state prisons, but NHRC jurisdiction does not extend to military detention centers. An NHRC special rapporteur visited state prisons to verify that authorities provided medical care to all inmates. The rapporteur visited prisons on a regular basis throughout the year but did not release a report to the public or the press.

#### **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 postpone judicial reviews of arrests. Pretrial detention was arbitrary and lengthy, sometimes exceeding the duration of the sentence given to those convicted.

According to human rights NGOs, some police used torture, mistreatment, and arbitrary detention to obtain forced or false confessions. In some cases police reportedly held suspects without registering their arrests and denied detainees sufficient food and water.

## **Role of the Police and Security Apparatus**

The 29 states and seven union territories have primary responsibility for maintaining law and order, with policy oversight from the central government. Police are under state jurisdiction. The Ministry of Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and national law enforcement agencies, and provides training for senior officials from state police forces. According to Human Rights Watch (HRW), cases of arbitrary arrest, torture, and forced confessions by security forces remained common. Police continued to be overworked, underpaid, and subjected to political pressure, in some cases contributing to corruption. The HRW 2017 India country report found that officials were rarely prosecuted for crimes committed because the law made it “difficult, if not impossible” to prosecute public officials.

The effectiveness of law enforcement and security forces varied widely throughout the country. According to the law, courts may not hear a case against a police officer unless the central or state government first authorizes prosecution. Nonetheless, NGOs reported that in many instances police refused to register victim’s complaints, termed “first information reports” (FIR), on crimes reported against officers, effectively preventing victims from pursuing justice. Additionally, NGOs reported that victims were sometimes reluctant to report crimes committed by police due to fear of retribution. There were cases of officers at all levels acting with impunity, but there were also cases of security officials held accountable for illegal actions. Military courts investigated cases of abuse by the armed forces and paramilitary forces. Authorities tried cases against law enforcement officers in public courts but sometimes did not adhere to due process. Authorities sometimes transferred officers after convicting them of a crime.

The NHRC recommended the Criminal Investigations Department of the state police investigate all deaths taking place during police pursuits, arrests, or escape attempts. Many states did not follow this nonbinding recommendation and continued to conduct internal reviews at the discretion of senior officers.

While NHRC guidelines call for state governments to report all cases of deaths from police actions to the NHRC within 48 hours, state governments did not consistently adhere to those guidelines. The NHRC also called for state governments to provide monetary compensation to families of victims, but the state governments did not consistently adhere to this practice. Authorities did not require the armed forces to report custodial deaths to the NHRC.

On July 27, the Armed Forces Tribunal suspended the life sentences of five army personnel involved in the 2010 killing of three civilians from the state of Jammu and Kashmir. The civilians were reportedly killed in a staged encounter and later accused of being foreign militants.

### **Arrest Procedures and Treatment of Detainees**

Police may detain an individual without charge for up to 30 days, although an arrested person must be brought before a judge within 24 hours of arrest. Lengthy arbitrary detention remained a significant problem due to overburdened and under resourced court systems and a lack of legal safeguards.

Arraignment of detainees must occur within 24 hours unless authorities hold the suspect under a preventive detention law. State authorities invoked preventive detention laws, most frequently in Delhi but also in the states of Gujarat, Maharashtra, Uttar Pradesh, Punjab, and Jammu and Kashmir.

Authorities must promptly inform persons detained on criminal charges of the charges against them and of their right to legal counsel. By law a magistrate may authorize the detention of an accused person for a period of no more than 90 days prior to filing charges. Under standard criminal procedure, authorities must release the accused on bail after 90 days if charges are not filed. The law also allows police to summon individuals for questioning, but it does not grant police prearrest investigative detention authority. There were incidents in which authorities allegedly detained suspects beyond legal limits.

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 Unlawful Activities Prevention Act (UAPA), which gives authorities the ability to detain persons without charge in cases related to insurgency or terrorism, makes no bail provisions for foreign nationals and allows courts to deny bail in the case of detained citizens. It presumes the accused to be guilty if the prosecution can produce evidence of the possession of arms or explosives, or the presence of fingerprints at a crime scene, regardless of whether authorities demonstrate criminal intent. State governments also reportedly held persons without bail for extended periods before filing formal charges under the UAPA.

The law permits preventive detention in certain cases. The National Security Act allows police to detain persons considered security risks anywhere in the country, except the state of Jammu and Kashmir, without charge or trial for as long as one

year. The law allows family members and lawyers to visit national security 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 the state of Jammu and Kashmir permits state authorities to detain persons without charge or judicial review for up to two years without visitation from family members. Authorities allowed detainees access to a lawyer during interrogation, but police in the state of Jammu and Kashmir allegedly routinely employed arbitrary detention and denied detainees access to lawyers and medical attention.

Accused individuals have a right to free legal assistance, including for their first hearing after arrest. The constitution specifies that the state should furnish legal aid to provide that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, but authorities did not assess this need systematically.

There were reported cases in which police denied suspects the right to meet with legal counsel as well as cases in which police unlawfully monitored suspects' conversations and violated confidentiality rights. By law authorities must allow family members access to detainees, but this was not always observed.

Arbitrary Arrest: The law prohibits arbitrary arrest or detention, but in some cases police reportedly continued to arrest citizens arbitrarily. There were reports of police detaining individuals for custodial interrogation without identifying themselves or providing arrest warrants.

Pretrial Detention: The Center for Constitutional Right, Research and Advocacy (CCRRA) in Kochi, Kerala, reported certain prisoners with mental disabilities in the Kerala central prison considered "not fit for trial" had awaited trial for 10 to 26 years. According to the NGO, the prisoners in some cases were in detention far longer than their potential sentences. In 2013 CCRRA's founder filed a writ petition with the Kerala High Court for the release of those prisoners. The court responded by issuing an order directing the state government to provide adequate medical treatment to the accused to render them fit for trial. The case was pending in the Kerala High Court at year's end.

The government continued efforts to reduce lengthy detentions and alleviate prison overcrowding by using "fast track" courts, which specified trial deadlines, provided directions for case management, and encouraged the use of bail. Some

NGOs criticized these courts for failing to uphold due process and requiring detainees unable to afford bail remain in detention.

NCRB data from 2015 showed most individuals awaiting trial spent more than three months in jail before they could secure bail, and nearly 65 percent spent between three months and five years before being released on bail. The NCRB's 2016 report did not include updated statistics.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, but judicial corruption was widespread. For example, in May, *The Hindu* newspaper reported on the case of five judges facing impeachment proceedings for a variety of offenses, including allegations of corruption.

The judicial system remained seriously overburdened and lacked modern case management systems, often delaying or denying justice. According to 2015-16 data released by the Supreme Court, there was a 43 percent vacancy of judges in the country's 24 high courts.

There were developments related to the 2010 killing of Amit Jethwa, an RTI activist. In June the Gujarat High Court ordered a retrial after concluding that Dinu Solanki, a member of parliament at the time he was accused of ordering Jethwa's killing, had tampered with witnesses after 105 out of 195 witnesses turned hostile during the trial. On October 30, the Supreme Court cancelled Solanki's bail and directed him to surrender to police. The court also ordered the trial to be held on a day-to-day basis and directed that Solanki not be in Gujarat unless required in the case.

#### **Trial Procedures**

The law provides for public trials, except in proceedings that involve official secrets or state security. Defendants enjoy the presumption of innocence, except as described under UAPA conditions, and may choose their counsel. The state provides free legal counsel to defendants who cannot afford it, but circumstances often limited access to competent counsel, and an overburdened justice system resulted in lengthy delays in court cases, with disposition sometimes taking more than a decade.

While defendants have the right to confront accusers and present their own witnesses and evidence, defendants sometimes did not exercise this right due to lack of proper legal representation. Defendants have the right not to testify or confess guilt. 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. NGOs reported the state of Jammu and Kashmir held political prisoners and temporarily detained individuals under the Public Safety Act (PSA). More than 650 such cases were registered by the Jammu and Kashmir state government under the PSA through June and referred to the Jammu and Kashmir High Court.

### **Civil Judicial Procedures and Remedies**

Individuals, or NGOs on behalf of individuals or groups, may file public-interest litigation (PIL) petitions in any high court or directly to the Supreme Court to seek judicial redress of public injury. Grievances may include a breach of public duty by a government agent or a violation of a constitutional provision. NGOs credited PIL petitions with making government officials accountable to civil society organizations in cases involving allegations of corruption and partiality.

In January 2016 the Bombay High Court addressed a two-fold rise in reported custodial death and police torture cases from 2014 to 2015 and directed the Maharashtra government to submit a report to the court. The court also criticized the government for its failure to install closed-circuit television cameras in police stations. In January the Maharashtra government allocated 27.5 million rupees (\$440,000) to install closed-circuit television cameras in 25 of the 91 police stations in Mumbai in the first phase of implementation of a court order to install them in all police stations.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

While the constitution does not contain an explicit right to privacy, the Supreme Court has found such a right implicit in other constitutional provisions. In August the Supreme Court ruled that privacy is a “fundamental right” in a case involving government collection of biographical information. The law, with some exceptions, prohibits arbitrary interference. The government generally respected

this provision, although at times authorities infringed upon the privacy rights of citizens. The law requires police 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.

The law hindered transparency and accountability with regard to electronic surveillance. According to a government report quoting NCRB provisional data for 2016, Minister of State for Home Affairs Ahir cited 30 registered cases in violation of the law in 2016 compared with nine in 2015.

Both the central and state governments intercepted communications under legal authority. The Group of Experts on Privacy convened in 2012 by the Government of India Planning Commission, the most recent review available, noted that the differences between two provisions of law had created an unclear regulatory regime that was, according to the report, “inconsistent, nontransparent, prone to misuse, and does not provide remedy or compensation to aggrieved individuals.”

The UAPA provides an additional legal basis for warrantless searches. The UAPA also allows use of evidence obtained from intercepted communications in terrorist cases. In the states of Jammu and Kashmir, Punjab, and Manipur, security officials have special authorities to search and arrest without a warrant.

The Chhattisgarh Special Public Security Act (CSPSA) of 2005 allows police to detain a person without charge for as long as 90 days. Opponents argued the law, which authorizes detention of individuals with a “tendency to pose an obstacle to the administration of law,” infringed upon privacy and free speech. The government detained two journalists under the CSPSA, accusing them of complicity in a deadly attack on police by Naxalite insurgents; some media reports indicated authorities imprisoned the journalists because of their reporting. A local court acquitted one of the two journalists in July 2016. On February 27, the Supreme Court granted bail to Santosh Yadav, a freelance journalist from Chhattisgarh’s Bastar District jailed under the CSPSA and the Unlawful Activities Prevention Act (UAPA) for alleged links with Maoist insurgents.

### **g. Abuses in Internal Conflict**

The country’s armed forces, the security forces of individual states, and paramilitary forces engaged in armed conflict with insurgent groups in several northeastern states, and with Maoist insurgents in the north, central, and eastern

parts of the country--although the intensity of these conflicts continued to decrease significantly. Army and central security forces remained stationed at conflict areas in the northeast.

The use of force by all parties to the conflicts resulted in deaths and injuries to both conflict participants and civilians. There were reports government security forces committed extrajudicial killings, including staging encounter killings to conceal the deaths of captured militants. Human rights groups claimed police refused to release bodies in cases of alleged “encounters.” Authorities did not require the armed forces to report custodial deaths to the NHRC.

In July the SHRC directed the state of Jammu and Kashmir to pay one million rupees (\$16,000) as compensation to a textile worker who was tied to the front bumper of a military jeep by an army major and used as a human shield against demonstrators in central Kashmir in May. Media reported Major Nitin Gogoi used the victim to prevent an angry mob from attacking military personnel during a parliamentary by-election on April 9. Human rights activists also criticized Army Chief General Bipin Rawat’s statement backing Gogoi’s actions. Gogoi was also awarded the army chief’s commendation card for his action and was not individually punished.

The central and state governments and armed forces investigated complaints and punished some violations committed by government forces. Authorities arrested and tried insurgents under terrorism-related legislation.

There were few investigations and prosecutions of human rights violations arising from internal conflicts. NGOs claimed that due to AFSPA immunity provisions, authorities did not hold the armed forces responsible for the deaths of civilians killed in the state of Jammu and Kashmir in previous years.

Killings: Various domestic and international human rights organizations continued to express serious concern at the use of pellet guns by security forces for crowd control purposes in the state of Jammu and Kashmir. In 143 instances in which pellet guns were reportedly used across 12 districts of the Kashmir Valley through July 31, one civilian was killed and 36 were injured. By comparison in 2016 777 instances of pellet gun use across the state of Jammu and Kashmir, mostly during violent protests following the July 2016 killing of Hizbul Mujahideen terrorist Burhan Wani, left at least 15 civilians dead and 396 injured. In a report during the year, Amnesty International detailed cases of 88 individuals in the country whose eyesight was damaged by metal pellets fired by the state of Jammu and Kashmir

police and the Central Reserve Police Force in the years 2014-17. Both national and international media sources and NGOs have reported on the harm, both physical and psychological, to individuals injured by pellet guns.

In Maoist-affected areas, there were reports of abuses by security forces and insurgents. On March 29, two tribal-affiliated citizens died in Assam's Chirang District after an encounter with security forces. The two were believed to be members of a banned armed insurgent group called the National Democratic Front of Bodoland. In a report filed by the Assam Police, the security forces stated they came under heavy fire from the group and that retaliatory fire from the security forces killed the two men. An inquiry conducted by the inspector general of the Central Reserve Police Force (CRPF), however, stated that the two men, already in police custody, were taken to a nearby village, shot, and killed. The report also found that security forces planted arms and ammunition, including a hand grenade with Chinese markings, as incriminating evidence. The CRPF refused to make the inspector general's report public, although a pirated, online version was available.

On March 12, Maoist insurgents killed 13 paramilitary personnel near the Bheji village of Sukma in Chhattisgarh. On April 25, Maoist insurgents killed 25 paramilitary personnel and injured six others, also in Chhattisgarh. The soldiers were providing security for road construction at the time of the attack.

Abductions: Human rights groups maintained that military, paramilitary, and insurgent forces abducted numerous persons in Manipur, Jharkhand, and Maoist-affected areas. Human rights activists alleged cases of prisoners tortured or killed during detention. During the year media outlets reported cases of abduction by insurgent groups in Manipur. According to media reports, in May militants abducted three Kuki tribal members in Manipur and killed two of them. No one claimed responsibility for the incident. United NGOs Mission Manipur reported 291 cases of extrajudicial killing, rape, and disappearance committed by security forces, including Assam Rifles, Manipur Police, and the army as of June.

Physical Abuse, Punishment, and Torture: There were reports government security forces tortured, raped, and mistreated insurgents and alleged terrorists in custody and injured demonstrators.

Child Soldiers: Insurgent groups reportedly used children to attack government entities. The Ministry of Home Affairs reported Maoist groups conscripted boys and girls ages six to 12 into specific children's units (Bal Dasta and Bal Sangham) in the states of Bihar, Jharkhand, Chhattisgarh, and Odisha. The Maoist groups

used the children in combat and intelligence-gathering roles. Insurgents trained children as spies and couriers, as well as in the use of arms, planting explosives, and intelligence gathering.

Although the United Nations was not able to verify all allegations of child soldiers, reports submitted to parliament contained similar allegations. Recruitment of children by Maoist armed groups allegedly continued. Observers reported children as young as age 12 were members of Maoist youth groups and allied militia. The children reportedly handled weapons and improvised explosive devices (IEDs). Maoists reportedly held children against their will and threatened severe reprisals, including the killing of family members, if the children attempted to escape. The government claimed, based on statements of several women formerly associated with Maoist groups, that sexual violence, including rape and other forms of abuse, was a practice in some Maoist camps. NGOs quoting police contacts stated that children employed by Maoist groups in Jharkhand were made to carry IED triggers with them. Police did not engage the children to retrieve these triggering devices.

According to government sources, Maoist armed groups used children as human shields in confrontations with security forces. Attacks on schools by Maoists continued to affect children's access to education in affected areas. There were continued reports on the use of schools as military barracks and bases. The deployment of government security forces near schools remained a concern. There were reports armed groups recruited children from schools in Chhattisgarh.

Other Conflict-related Abuse: The Internal Displacement Monitoring Center estimated that conflicts, violence, and natural disasters in the country displaced 2.8 million persons in 2016.

In August, Minister of State for Home Affairs Ahir informed parliament's lower house there were approximately 62,000 registered Kashmiri migrant families in the country. The Jammu and Kashmir state government reported threats to Kashmiri Pandits (Hindus) in the Kashmir Valley during the year. Tens of thousands of Kashmiri Pandits have fled the Kashmir Valley to Jammu, Delhi, and other areas in the country since 1990 because of conflict and violent intimidation, including destruction of houses of worship, sexual abuse, and theft of property, by Kashmiri separatists.

During the year the state of Jammu and Kashmir allotted apartments to 31 Kashmiri Pandit migrant families who did not leave the valley during the 1990s.

These flats were constructed under a program approved by the central government for rehabilitation of Kashmiri migrants.

In the central and eastern areas, armed conflicts between Maoist insurgents and government security forces over land and mineral resources in tribal forest areas continued. According to the South Asian Terrorism Portal's existing conflict map, Maoist-affected states included Madhya Pradesh, Maharashtra, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Telangana, Odisha, Chhattisgarh, Jharkhand, West Bengal, Bihar, Uttar Pradesh, and Assam. Human rights advocates alleged the government's operations sought not only to suppress the Maoists but also to force tribal populations from their land, allowing for purchase by the private sector.

Internally displaced person (IDP) camps continued to operate in Chhattisgarh for tribal persons displaced during the 2005 fighting between Maoists and the subsequently disbanded state-sponsored militia Salwa Judum.

Throughout the year there were reports by media organizations and academic institutions of corporations' abuses against tea workers, including violations of the law. In some cases violent strikes resulted from companies withholding medical care required by law. Other reports indicated workers had difficulty accessing clean water, with open sewage flowing through company housing areas.

On January 6, the NHRC found that Chhattisgarh police personnel in Bijapur District raped 16 tribal women in 2015. The NHRC directed state authorities to compensate the victims and initiate action against the perpetrators. The NHRC also began an investigation into details of the sexual assault allegations, which the victims reported in January 2016. There was no update on the status of the investigation or delivery of compensation by year's end.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the 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, although there were instances in which the government allegedly pressured or harassed media outlets critical of the government.

Freedom of Expression: Individuals routinely criticized the government publicly and privately. According to HRW, however, sedition and criminal defamation

laws were sometimes used to prosecute citizens who criticized government officials or opposed state policies. In certain cases local authorities arrested individuals under laws against hate speech for expressions of political views. Freedom House asserted the view that freedom of expression is eroding in the country, noting the government's silence regarding direct attacks on free speech. In some instances the government reportedly withheld public-sector advertising from outlets that criticized the government, causing some outlets to practice self-censorship. According to media watchdog The Hoot's *India Freedom Report* detailing cases between January 2016 and April 2017, "there was an overall sense of shrinking liberty not experienced in recent years." The report detailed 54 alleged attacks on journalists, at least three cases of television news channels being banned, 45 internet shutdowns, and 45 sedition cases against individuals and groups.

On March 12, a graduate student from Periyar University in Tamil Nadu state was apprehended by police while distributing pamphlets in support of continuing protests against government oil exploration projects at Neduvasal in Pudukottai District and Kadiramangalam in Thanjavur District. Police invoked a provision of the Goondas Act, which allows preventive detention of a habitual offender for up to one year without the possibility of bail. Chief Minister Edappadi K. Palaniswami, who also holds the home portfolio, defended the student's detention, saying that she "was causing disturbances to the public by taking part in various protests."

On September 13, Akhil Gogoi, an RTI activist and president of the anticorruption organization Krishak Mukti Sangram Samiti, was arrested in Assam on charges of sedition a day after he gave a speech criticizing various policies of the ruling Bharatiya Janata Party (BJP). Additionally, Gogoi was labelled a Maoist by the government. His case continued at year's end.

Press and Media Freedom: Independent media generally expressed a wide variety of views. The law prohibits content that could harm religious sentiments or provoke enmity among groups, and authorities invoked these provisions to restrict print media, broadcast media, and publication or distribution of books.

On June 5, CBI officials searched the offices and residence of NDTV founder Prannoy Roy due to fraud allegations. NDTV called the raids "a blatant political attack on the freedom of the press." Other news agencies characterized the raids as political in light of NDTV's critical reports of BJP leadership. The Editors Guild of India expressed concern about the raids and called on the CBI to uphold due

process of law and freedom of expression for media. On September 11, *Hindustan Times* (HT) owner Shobhana Bhartia announced editor in chief Bobby Ghosh's exit from the media outlet. Ghosh had been critical of BJP leadership, including Prime Minister Modi, and was the creator of HT's "Hate Tracker" regarding violence against Muslims; Dalits; women; lesbian, gay, bisexual, transgender, and intersex individuals (LGBTI); and other discriminated groups.

On November 5, cartoonist G. Bala was arrested for posting a cartoon critical of Tamil Nadu Chief Minister Edappadi K. Palaniswami and other state government officials on his Facebook page. Bala's cartoon suggested officials were preoccupied with enriching themselves rather than addressing the problems of citizens. Police confirmed Bala was arrested and charged with publishing obscene materials in electronic form and printing defamatory material. He was granted bail on November 6.

The government maintained a monopoly on AM radio stations, limiting broadcasting to the state-owned All India Radio (AIR), and restricted FM radio licenses for entertainment and educational content. Widely distributed private satellite television provided competition for Doordarshan, the government-owned television network. There have been some accusations of political interference in the state-owned broadcasters. On August 15, the Chief Minister of Tripura, Manik Sarkar, alleged that Doordarshan and AIR refused to broadcast his Independence Day remarks. State governments banned the import or sale of some books due to material government censors deemed inflammatory or could provoke communal or religious tensions.

Violence and Harassment: Some journalists and media persons reportedly experienced violence and harassment in response to their reporting. During the year a subcommittee of the Press Council of India issued a report to the government on the protection and preservation of the freedom of the press and integrity of journalists; the report highlighted that at least 80 journalists had been killed since 1990 and only one conviction had been made.

Online and mobile harassment, particularly of female journalists, was prevalent, with some female activists and journalists reporting that they receive thousands of abusive tweets from "trolls" every week. The HT launched an antitrolling campaign to call attention to this problem.

The Committee to Protect Journalists (CPJ) expressed concern over attacks on journalists. For example, according to the CPJ, supporters of a legislator

associated with the ruling Telugu Desam Party allegedly chased and attacked a reporter with a local Telugu newspaper in Andhra Pradesh on February 5. The attack, which was recorded anonymously on video, was allegedly in retribution for an investigative report published in a local journal, which accused the legislator and his brother of illegally mining sand and defaulting on bank loans.

On September 5, senior journalist and activist Gauri Lankesh was shot and killed by three assailants at her home in Bengaluru. The Karnataka government instituted a Special Investigation Team to probe the killing. On September 11, UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein highlighted the killing of Lankesh as a journalist who addressed the corrosive effect of sectarianism and hatred. No arrests were made, and the investigation continued at year's end.

On September 20, television journalist Shantau Bhowmik was beaten and stabbed to death while reporting on a clash between police and the Indigenous People's Front of Tripura. The National Union of Journalists India and others have condemned Bhowmik's death and called for a journalist protection act to provide safety for journalists.

In an October 3 report, Reporters without Borders reported that journalist Deeksha Sharma received messages threatening her with rape and death. The report also included threats against *Asian News International's* Abhay Kumar, *The Hindu's* Mohammad Ali, *Firstpost's* Debobrat Ghose, and NDTV's Sonal Mehrotra Kapoor, among others.

Censorship or Content Restrictions: In June the Union Ministry of Information and Broadcasting denied permission to screen three films at a film festival in Kerala. Films screened at festivals do not require certification by the Central Board of Film Certification (CBFC), but they need a censor exemption from the ministry. The three films were about protests at the Jawaharlal Nehru University, the unrest in Kashmir, and the suicide of doctoral student activist Rohith Vemula.

In July the CBFC refused to approve a documentary on Nobel Laureate Economist Amartya Sen for public viewing. According to media reports, the CBFC objected to sections in the documentary where Sen used the terms "cow," "Gujarat," "Hindu India," and "Hindutva." The maker of the documentary, Suman Ghosh, refused to accede to the CBFC instruction to mute these four terms.

Libel/Slander Laws: In April the BJP filed a complaint against Delhi Chief Minister Arvind Kejriwal for accusing the National Election Commission of

manipulating voting machines, the use of which Kejriwal's Aam Aadmi Party had contested and lost, in the Punjab state elections.

National Security: In some cases government authorities cited laws protecting national interest to restrict media content. For example, on April 26, the state of Jammu and Kashmir ordered internet service providers to block 22 social media and instant messaging sites, including Facebook, WhatsApp, and Twitter, for one month after persistent street demonstrations. This was the first time the state government banned individual social media websites rather than restricting internet and data services.

Nongovernmental Impact: In a statement released in June 2016, UN special rapporteurs on human rights expressed the view that Foreign Contribution Regulation Act (FCRA) "provisions were increasingly being used...to silence organizations involved in advocating civil, political, economic, social, environmental, or cultural priorities, which may differ from those backed by the [g]overnment." The statement highlighted the suspension of foreign banking licenses for NGOs including Greenpeace India, Lawyers Collective, and the Sabrang Trust. In May, HRW urged UN member countries to call on India to stop targeting NGOs and others who criticized the government or its policies.

## **Internet Freedom**

There were some government restrictions on access to the internet, disruptions of access to the internet, and censorship of online content. There were also reports the government occasionally monitored users of digital media, such as chat rooms and person-to-person communications. The law permits the government to block internet sites and content and criminalizes sending messages the government deems inflammatory or offensive. Both central and state governments have the power to issue directions for blocking, intercepting, monitoring, or decrypting computer information.

In 2015 the Supreme Court struck down a provision of information technology law that had resulted in a significant number of arrests between 2012 and 2015 for content published on social media. The Supreme Court upheld other provisions authorizing the government to block certain online content. One provision gives the government authority to issue orders to block online content "in the interest of sovereignty and integrity of India, defense of India, security of the State, and friendly relations with foreign states or public order" without court approval.

On August 7, the central Ministry of Communications announced new rules allowing the government to shut telephone and internet services temporarily during a “public emergency” or for “public safety.” Experts noted these rules meant internet shutdowns could be carried out in a more organized manner but raised concerns over arbitrary censorship. According to HRW from January to June, the government temporarily shut the internet 20 times in different locations across the country. In 2016 there were 31 reported shutdowns.

Internet access and services were frequently curtailed during several weeks of violence and curfew in the state of Jammu and Kashmir and occasionally in other parts of the country, including in Haryana during large-scale demonstrations by the Dera Sacha Sauda religious sect in August. The government claimed that it was sometimes necessary to restrict access to the internet to prevent violence fueled by social media. According to HRW authorities sometimes failed to follow legal procedures and in some instances ordered shutdowns unnecessarily.

In July media watchdog The Hoot reported internet shutdowns had risen from eight in the first half of 2016 to 23 in the first half of the year.

In July and August, the central government’s Ministry of Electronics and Information Technology, based on a complaint filed by the State of Jammu and Kashmir Police, reportedly asked Twitter to block 248 accounts, tweets, and hashtags in view of threats posed by them. The ministry requested that a list of 115 accounts and tweets, which were found “propagating objectionable contents,” be blocked “in the interest of the public order as well as for preventing any cognizable offense....”

Persons continued to be charged with posting offensive or derogatory material on social media. For example, the BJP filed charges against Delhi Chief Minister Arvind Kejriwal for posting election-related material on Facebook. An individual was arrested in Madhya Pradesh on charges of hurting religious sentiments by posting a picture of a holy man buying meat. Following Hindu nationalist Yogi Adityanath’s appointment as chief minister of Uttar Pradesh, several critics were reportedly charged over their social media posts.

The Central Monitoring System (CMS) continued to allow governmental agencies to monitor electronic communications in real time without informing the subject or a judge. The CMS is a mass electronic surveillance data-mining program installed by the Center for Development of Telematics, a government-owned telecommunications technology development center. The CMS gives security

agencies and income tax officials centralized access to the telecommunication network and the ability to hear and record mobile, landline, and satellite telephone calls and Voice over Internet Protocol, to read private emails and mobile phone text messages, and to track geographical locations of individuals in real time. Authorities can also use it to monitor posts shared on social media and track users' search histories on search engines, without oversight by courts or parliament. This monitoring facility was available to nine security agencies, including the Intelligence Bureau, the Research and Analysis Wing, and the Home Affairs Ministry.

In August, Minister of State in the Ministry of Communications Manoj Singh informed parliament's upper house that the government decided to set up the CMS to automate the process of lawful interception and monitoring of telecommunications. The law governing interception and monitoring provides an oversight mechanism to prevent unauthorized interceptions. Punishment for unauthorized interception includes fines and/or a maximum prison sentence of three years.

Freedom House, in its 2016 India Country Report, rated the country "partly free" with respect to internet user rights, including accessibility, limits on content, and violations of individual rights. According to Freedom House, internet freedom declined slightly in 2016, offsetting gains made in 2014 and 2015. The NGO reported the number of network shutdowns ordered by local authorities increased. The report documented incidents of physical attacks on internet users for content posted online and stated at least 17 individuals were arrested for information circulated on WhatsApp, including group administrators based on content shared by other group members.

Authorities may hold search engines liable for displaying prohibited content, and the government sometimes requested user data from internet companies. According to Facebook's April transparency report, the government made 7,289 data requests in the second half of 2016, and Facebook complied with 52 percent of those requests. Google also highlighted an increase in government requests for user data in its most recent transparency report. From January 1 through June 30, Twitter reported 261 account information requests from the government--a 55-percent increase over the previous six months--and 102 requests for accounts to be removed.

## **Academic Freedom and Cultural Events**

The government occasionally applied restrictions on the travel and activities of visiting foreign experts and scholars; however, in most cases the government supported and issued visas for international academic conferences and exchanges.

Police in Telangana and Andhra Pradesh filed cases against lower-caste Dalit academician Kancha Ilaiah Shepherd after complaints were received from Vysya caste groups that his book, *Samajika Smugglurlu Komatollu*, portrayed the community in a negative light. On September 12, Hyderabad police registered three cases following complaints lodged by Vysya caste associations and Ilaiah against each other. Ilaiah also complained of receiving abusive calls and death threats. On September 19, the Andhra Pradesh Crime Investigation Department filed a case against Ilaiah on the charge of “promoting enmity between different groups based on religion, place, and through other means.” Andhra Pradesh Director General of Police N. Sambasiva Rao stated police were examining if there was a need to ban the book.

## **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected those rights.

### **Freedom of Peaceful Assembly**

The law provides for freedom of assembly. Authorities often required permits and notification before parades or demonstrations, and local governments generally respected the right to protest peacefully, except in the state of Jammu and Kashmir, where the state government sometimes denied permits to separatist political parties for public gatherings, and security forces sometimes reportedly detained and assaulted members of political groups engaged in peaceful protest (see section 1.g.). During periods of civil unrest in the state of Jammu and Kashmir, authorities used the law to ban public assemblies or impose curfews.

Security forces, including local police, often disrupted demonstrations and used excessive force when attempting to disperse protesters.

From January 17-23, thousands of protesters assembled in Chennai and other parts of Tamil Nadu demanding legalization of the traditional Tamil sport Jallikattu, a form of bullfighting, which was banned in 2014. Some protesters alleged police used disproportionate force to disband peaceful gatherings on January 23, leading to widespread unrest with pockets of violence across the state.

There were restrictions on the organization of international conferences. Authorities required NGOs to secure approval from the Ministry of Home Affairs before organizing international conferences. Authorities routinely granted permission, although in some cases the approval process was lengthy. Some human rights groups claimed this practice provided the government with tacit control over the work of NGOs and constituted a restriction on freedoms of assembly and association.

### **Freedom of Association**

The law provides for freedom of association. While the government generally respected that right, the government's increased regulation of NGO activities that receive foreign funding has caused concern. In certain cases, for example, the government required "prior approval" for some NGOs to receive foreign funds, and in other instances canceled or declined to renew FCRA registrations. According to media reports, the government took action to suspend foreign banking licenses or freeze accounts of NGOs that allegedly received foreign funding without the proper clearances or illegally combined foreign and domestic funding streams. Some human rights organizations claimed these actions were sometimes used to target specific NGOs.

In March the NGO Compassion International, which had been placed on the government's prior approval list, closed its operations due to the inability to transfer funds to its implementing partners. The human rights NGO The Lawyer's Collective was unable to reregister after its FCRA registration was cancelled in 2016. According to media reports, on April 10, the Ministry of Home Affairs also cancelled the license of the Public Health Foundation of India (PHFI), a public health advocacy group. The PHFI filed a request with the government for reinstatement of its license, which continued under government review at year's end.

In July, Minister of State for Home Affairs Kiren Rijiju told parliament's lower house more than 1,000 NGOs were barred from receiving foreign aid after they were found to have "misutilized" such funds. He said more than 2,000 NGOs have been asked to validate their existing bank accounts designated for receiving funds from abroad. All organizations that received financial aid from abroad must be registered under FCRA.

NGOs continued to express concern regarding the government's enforcement of the FCRA, provisions of which bar some foreign-funded NGOs from engaging in activities the government believed were not in the "national or public interest," curtailing the work of some civil society organizations. Some NGOs expressed concern over politically motivated enforcement of the law to intimidate organizations that address social issues or criticize the government or its policies, arguing that the law's uses of broad and vague terms such as "public interest" and "national interest" have left it open to abuse. Some multi-national and domestic companies also stated in some instances the law made it difficult to comply with government-mandated corporate social responsibility obligations due to lengthy and complicated registration processes.

Experts also reported that it was increasingly difficult to secure FCRA registrations for new NGOs. Although the law imposes a limit of 90 days for application processing, FCRA applications were sometimes pending months longer.

In April 2016 the UN special rapporteur on freedom of assembly and association published a legal analysis asserting that the FCRA did not conform to international law, principles, and standards. In June 2016 the UN special rapporteurs on human rights defenders, freedom of expression, and freedom of assembly and association called on the government to repeal the FCRA.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights. In 2015 the implementation of a land boundary agreement between India and Bangladesh enfranchised more than 50,000 previously stateless residents, providing access to education and health services.

The country hosts a large refugee population, including 108,005 Tibetan refugees and approximately 63,000 from Sri Lanka. The government generally allows the Office of the High Commissioner for Refugees (UNHCR) to assist the 36,000 asylum seekers and refugees from noncontiguous countries and Burma. In some

cases refugees and asylum seekers under UNHCR's mandate have faced challenges regularizing their status through long-term visas and residence permits.

Abuse of Migrants, Refugees, and Stateless Persons: The law does not contain the term "refugee," treating refugees as any other foreigners. Undocumented physical presence in the country is a criminal offense. Persons without documentation were vulnerable to forced returns and abuse.

The courts appropriately protected refugees and asylum seekers in accordance with the constitution.

Refugees reported exploitation by nongovernment actors, including assaults, gender-based violence, frauds, and labor exploitation. Also, problems of domestic violence, sexual abuse, and early and forced marriage continued. Gender-based violence and sexual abuse were common in camps for Sri Lankans. Most urban refugees worked in the informal sector or in occupations such as street vending, where they suffered from police extortion, nonpayment of wages, and exploitation.

On August 9, Minister of State for Home Affairs Kiren Rijiju stated in parliament that Rohingya were "illegal immigrants in India and as per law they stand to be deported." A Home Ministry spokesperson later clarified that the government was trying to identify how many refugees were in the country and asking states to develop plans proactively.

In-country Movement: The central government relaxed restrictions on travel by foreigners to Arunachal Pradesh, Nagaland, Mizoram, Manipur, and parts of Jammu and Kashmir, excluding foreign nationals from Pakistan, China, and Burma. The Ministry of Home Affairs and state governments required citizens to obtain special permits upon arrival when traveling to certain restricted areas.

Foreign Travel: The government may legally deny a passport to any applicant for engaging in activities outside the country "prejudicial to the sovereignty and integrity of the nation."

The trend of delaying issuance and renewal of passports to citizens from the state of Jammu and Kashmir continued, sometimes up to two years. The government reportedly subjected applicants born in the state of Jammu and Kashmir, including children born to military officers deployed in the state, to additional scrutiny and police clearances before issuing them passports.

## **Internally Displaced Persons (IDPs)**

Authorities located IDP settlements throughout the country, including those containing groups displaced by internal armed conflicts in the state of Jammu and Kashmir, Maoist-affected areas, the northeastern states (see section 1.g.), and Gujarat. The 2016 annual report of the Internal Displacement Monitoring Center asserted that longstanding regional conflicts had displaced at least 796,000 persons. Estimating precise numbers of those displaced by conflict or violence was difficult, because the government does not monitor the movements of displaced persons, and humanitarian and human rights agencies had limited access to camps and affected regions. While authorities registered residents of IDP camps, an unknown number of displaced persons resided outside camps. Many IDPs lacked sufficient food, clean water, shelter, and health care (see section 1.g., Other Conflict-related Abuse).

Paramilitary operations against Maoists displaced members of the Gotti Koya tribe in the Dandakaranya forests in Chhattisgarh, who migrated to the neighboring Khammam and Bhupalapalli Districts in Telangana. Following the bifurcation of Andhra Pradesh to form the new state of Telangana in 2014, the state governments transferred parts of Khammam District with Gotti Koya settlements to Andhra Pradesh.

NGOs estimated the number of IDPs in Chhattisgarh at 50,000 and in Telangana and Andhra Pradesh combined at 27,000. The Chhattisgarh government reportedly did not acknowledge IDPs in Andhra Pradesh and Telangana camps as Chhattisgarh residents, and the Andhra Pradesh and Telangana governments reportedly provided them basic support, including food rations and education for children. Telangana forest authorities, however, reportedly destroyed several settlements of the Gotti Koya in Bhupalpally District on the charge that they were engaging in unsustainable farming practices by cutting down trees. On April 21, several Gotti Koya huts were burned, and on September 16, 36 huts were pulled down as a woman tied herself to a tree in an effort to stop authorities from carrying out the operation. On October 13, the Hyderabad High Court directed the Telangana government not to displace the Gotti Koya tribal members or demolish their dwelling units.

National policy or legislation did not address the issue of internal displacement resulting from armed conflict or from ethnic or communal violence. Responsibility for the welfare of IDPs was generally the purview of state governments and local authorities, allowing for gaps in services and poor

accountability. The central government provided limited assistance to IDPs, but they had access to NGOs and human rights organizations, although neither access nor assistance was standard for all IDPs or all situations.

In May the Mizoram state government, which had previously refused to accept the repatriation of Bru refugees, submitted a plan to the Ministry of Home Affairs to repatriate more than 20,000 Brus, including 11,500 minors. Bru IDPs were lodged in six relief camps in North Tripura District. The ministry approved the Mizoram plan in July. The repatriation process could not start until August, because Bru IDPs raised new demands about land, security, and resettlement.

### **Protection of Refugees**

Refoulement: Media reported instances of the government detaining Rohingya in the states of West Bengal and Manipur. After serving the allotted time for illegal entry into the country, the government reportedly sought to return some Rohingya to Burma. During negotiations the Burmese government claimed there was no record of the individuals ever having Burmese citizenship. In most cases the Indian government kept the persons in detainment.

Access to Asylum: Absent a legal framework, the government sometimes granted asylum on a situational basis on humanitarian grounds in accordance with international law. This approach resulted in varying standards of protection for different refugee and asylum seeker groups. The government recognized refugees from Tibet and Sri Lanka and honored UNHCR decisions on refugee status determination for individuals from other countries.

UNHCR did not maintain an official presence in the country, but the government permitted UNHCR staff access to refugees in urban centers and allowed it to operate in Tamil Nadu to assist with Sri Lankan refugee repatriation. UNHCR registered asylum seekers and conducted refugee status determination for refugees from noncontiguous countries and Burma. Authorities did not permit UNHCR direct access to Sri Lankan refugee camps, Tibetan settlements, or asylum seekers in Mizoram; but it permitted asylum seekers from Mizoram to travel to New Delhi to meet UNHCR officials. UNHCR did not have access to asylum seekers in Mizoram. The government generally permitted NGOs, international humanitarian organizations, and foreign governments access to Sri Lankan refugee camps and Tibetan settlements but generally denied access to asylum seekers in Mizoram.

After the end of the Sri Lankan civil war, the government ceased registering Sri Lankans as refugees. The Tamil Nadu government assisted UNHCR by providing exit permission for Sri Lankan refugees to repatriate voluntarily.

The benefits provided to Sri Lankan Tamil refugees by the state government of Tamil Nadu were applicable only within Tamil Nadu. NGOs working with Sri Lankan refugees in Tamil Nadu reported a decreased willingness within the state government to assist on refugee issues since the death of the previous chief minister.

Refugees outside Delhi faced added expense and time to register their asylum claims.

Employment: The government granted work authorization to many UNHCR-registered refugees, and others found employment in the informal sector. Some refugees reported discrimination by employers.

Access to Basic Services: Although the country generally allowed recognized refugees and asylum seekers access to housing, primary and secondary education, health care, and the courts, access varied by state and by population. Refugees were able to access public services. In most cases where refugees were denied access, it was due to a lack of knowledge of refugee rights by the service provider. In many cases UNHCR was able to intervene successfully and advocate for refugee access. The government allowed UNHCR-registered refugees and asylum seekers to apply for long-term visas that would provide work authorization and access to higher education. For undocumented asylum seekers, UNHCR provided a letter upon registration indicating the person was under consideration for UNHCR mandate refugee status.

The government did not fully complete a 2012 Ministry of Home Affairs directive to issue long-term visas to Rohingya. These visas would allow refugees to access formal employment in addition to education, health services, and bank accounts.

Government services such as mother-child health programs were available. Refugees were able to request protection from police and courts as needed.

Sri Lankan refugees were permitted to work in Tamil Nadu. Police, however, reportedly summoned refugees back into the camps on short notice, particularly during sensitive political times such as elections, and required refugees or asylum seekers to remain in the camps for several days.

The government did not accept refugees for resettlement from other countries.

### **Stateless Persons**

By law parents confer citizenship, and birth in the country does not automatically result in citizenship. Any person born in the country on or after January 26, 1950, but before July 1, 1987, obtained Indian citizenship by birth. A child born in the country on or after July 1, 1987, obtained citizenship if either parent was an Indian citizen at the time of the child's birth. Authorities considered those born in the country on or after December 3, 2004, citizens only if at least one parent was a citizen and the other was not illegally present in the country at the time of the child's birth. Authorities considered persons born outside the country on or after December 10, 1992, citizens if either parent was a citizen at the time of birth, but authorities did not consider those born outside the country after December 3, 2004, citizens unless their birth was registered at an Indian consulate within one year of the date of birth. Authorities could also confer citizenship through registration under specific categories and via naturalization after residing in the country for 12 years. Tibetans reportedly sometimes faced difficulty acquiring citizenship despite meeting the legal requirements.

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

Approximately 70,000 stateless Bangladeshi Chakma persons lived in Arunachal Pradesh. During the year the Supreme Court ordered the central government and the Arunachal Pradesh state government to consider citizenship for Chakma and Hajong refugees who have lived in the state for almost 50 years. In the early 1960s, Buddhist Chakmas and Hajongs fled persecution from former East Pakistan (Bangladesh) and approximately 15,000 settled in the Changlang District of Arunachal Pradesh.

Children born in Sri Lankan refugee camps received Indian birth certificates. While Indian birth certificates alone do not entitle refugees to Indian citizenship, refugees may present Indian birth certificates to the Sri Lankan High Commission to obtain a consular birth certificate, which entitles them to pursue Sri Lankan citizenship later. According to the Organization for Eelam Refugees'

Rehabilitation, approximately 16,000 of 27,000 Sri Lankan refugee children born in the refugee camps have presented birth certificates to the Sri Lankan High Commission in Chennai. During the year the Sri Lankan High Commission in Chennai issued approximately 2,400 consular birth certificates.

UNHCR and refugee advocacy groups estimated that between 25,000 and 28,000 of the approximately 100,000 Sri Lankan Tamil refugees living in Tamil Nadu were “hill country” Tamils. While Sri Lankan law allows “hill country” refugees to present affidavits to secure Sri Lankan citizenship, UNHCR believed that until the Sri Lankan government processes the paperwork, such refugees were at risk of becoming stateless.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: The Election Commission of India is an independent constitutional body responsible for administering all elections at the central and state level throughout the country. During the year a national electoral college elected President Ramnath Kovind to a five-year term. The seven states of Uttar Pradesh, Gujarat, Punjab, Uttarakhand, Goa, Himachal Pradesh, and Manipur held elections for their state assemblies. Observers considered these elections, which included more than 300 million participants, free and fair, despite very isolated instances of violence.

Political Parties and Political Participation: The constitution provides for universal voting rights for all citizens age 18 and above. There were no restrictions placed on the formation of political parties or on individuals of any communities from participating in the election process. The election law bans the use of government resources for political campaigning, and the Election Commission effectively enforced the law. The commission’s guidelines ban opinion polls 48 hours prior to an election, and exit poll results may not be released until completion of the last phase (in a multiphase election).

Participation of Women and Minorities: The law reserves one-third of the seats in local councils for women. Religious, cultural, and traditional practices and ideas

prevented women from proportional participation in political office. Nonetheless, women held many high-level political offices, including positions as ministers, members of parliament, and state chief ministers. No laws limit participation of women or members of minorities in the political process, and they did participate.

The constitution stipulates that to protect historically marginalized groups and provide for representation in the lower house of parliament, each state must reserve seats for Scheduled Castes and Scheduled Tribes in proportion to their population in the state. Only candidates belonging to these groups may contest elections in reserved constituencies. Members of minority populations previously served as prime minister, vice president, cabinet ministers, Supreme Court justices, and members of parliament.

Some Christians and Muslims were identified as Dalits, but the government limited reservations for Dalits to Hindus, Sikhs, and Jains.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials at all levels of government. Officials frequently engaged, however, in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: Corruption was present at all levels of government. According to Crime in India 2016 data, the CBI registered 673 corruption-related cases. NGOs reported the payment of bribes 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 demonstrations and websites that featured stories of corruption.

Media reports, NGOs, and activists reported links between contractors, militant groups, and security forces in infrastructure projects, narcotics trafficking, and timber smuggling in the northeastern states. These reports alleged ties among politicians, bureaucrats, security personnel, and insurgent groups. In Manipur and Nagaland, allegations of bribes paid to secure state government jobs were prevalent, especially in police and education departments.

Corruption sometimes hampered government programs to investigate allegations of government corruption. On February 14, V. K. Sasikala, general secretary of the Tamil Nadu ruling party, All India Anna Dravida Munnetra Kazhagam-Amma, was convicted of corruption after the Supreme Court restored the trial court verdict

in a 21-year-old case. Additionally, by law Sasikala was barred from contesting any election for six years following her prison term.

In 2015 the Supreme Court ordered the CBI to take over a Madhya Pradesh state government investigation of fraud within the Professional Examination Board, a state government body that conducts school entrance and government service exams. Arrests in the case since the investigation began in 2013 included more than 2,000 individuals. In August 2016 the CBI filed formal complaints against 60 individuals and filed charges against a student candidate and an impersonator. The Madhya Pradesh High Court granted bail to some of the accused. The CBI was also investigating the deaths of 48 individuals over the span of five years, including a journalist who reported on the alleged fraud. On February 13, the Supreme Court cancelled the admission of more than 600 Madhya Pradesh medical students who they believed used examination malpractice to pass.

On April 10, the Anticorruption Bureau (ACB) registered a complaint against Eknath Khadse, the former Maharashtra agriculture and revenue minister, his wife, son-in-law, and an aide in Pune for alleged corruption in a land deal. On March 8, the state government informed the court that the ACB would take over investigations from the local police. Khadse had resigned as a minister in June 2016 when the allegations surfaced. There was no update on the case by year's end.

Financial Disclosure: The law mandates asset declarations for all officers in the Indian Administrative Services. Both the Election Commission and the Supreme Court upheld mandatory disclosure of criminal and financial records for election candidates.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Most domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some circumstances groups faced restrictions. Government officials were generally responsive to NGO requests. There were more than three million NGOs in the country advocating 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. Several NHRC committees had NGO representation. Human rights monitors in the state of

Jammu and Kashmir were able to document human rights violations, but security forces, police, and other law enforcement authorities reportedly restrained or harassed them at times.

Representatives of certain international human rights NGOs sometimes faced difficulties obtaining visas and reported that occasional official harassment and restrictions limited their public distribution of materials.

On July 10, the Supreme Court rejected the relief plea of activists Teesta Setalvad, Javed Anand, and their colleagues associated with Citizens for Justice and Peace from charges of corruption and misappropriation of funds. Police authorities in Gujarat charged the activists with embezzling 1.5 million rupees (\$24,000) collected to build a memorial to victims of the 2002 Gujarat riots. The activists alleged authorities filed the case in retaliation for their work on behalf of the riot victims.

The United Nations or Other International Bodies: The government continued to limit access by the United Nations to the northeastern states and Maoist-controlled areas.

Government Human Rights Bodies: The NHRC is an independent and impartial investigatory and advisory body, established by the central government, with a dual mandate to investigate and remedy instances of human rights violations and to promote public awareness of human rights. It is directly accountable to parliament but works in close coordination with the Ministry of Home Affairs and the Ministry of Law and Justice. It has a mandate to address official 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 law authorizes the NHRC to issue summonses and compel testimony, produce documentation, and requisition public records. The NHRC also recommends appropriate remedies for abuses in the form of compensation to the victims of government killings or their families. It has neither the authority to enforce the implementation of its recommendations nor the power to address allegations against military and paramilitary personnel.

Human rights groups claimed these limitations hampered the work of the NHRC. Some human rights NGOs criticized the NHRC's budgetary dependence on the government and its policy of not investigating abuses more than one year old. Some claimed the NHRC did not register all complaints, dismissed cases

arbitrarily, did not investigate cases thoroughly, rerouted complaints back to the alleged violator, and did not adequately protect complainants.

Twenty-four of 29 states have human rights commissions, which operated independently under the auspices of the NHRC. In six states the position of chairperson remained vacant. Some human rights groups alleged local politics influenced state committees, which were less likely to offer fair judgments than the NHRC.

In the course of its nationwide evaluation of state human rights committees, the Human Rights Law Network (HRLN) observed most state committees had few or no minority, civil society, or female representatives. The HRLN claimed the committees were ineffective and at times hostile toward victims, hampered by political appointments, understaffed, and underfunded.

The Jammu and Kashmir commission does not have the authority to investigate alleged human rights violations committed by members of paramilitary security forces. The NHRC has jurisdiction over all human rights violations, except in certain cases involving the army. The NHRC has authority to investigate cases of human rights violations committed by Ministry of Home Affairs paramilitary forces operating under the AFSPA in the northeast states and in the state of Jammu and Kashmir.

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape in most cases, although marital rape is not illegal when the woman is over the age of 15. Official statistics pointed to rape as the country's fastest growing crime, prompted at least in part by the increasing willingness of victims to report rapes, although observers believed the number of rapes still remained vastly underreported.

Law enforcement and legal recourse for rape victims were inadequate, overtaxed, and unable to address the problem effectively. Police officers sometimes worked to reconcile rape victims and their attackers, in some cases encouraging female rape victims to marry their attackers. NGO Lawyers Collective noted the length of trials, lack of victim support, and inadequate protection of witnesses and victims remained major concerns. Doctors continued to carry out the invasive "two-finger test" to speculate on sexual history, despite the Supreme Court's holding that the

test violated a victim's right to privacy. In 2015 the government introduced new guidelines for health professionals for medical examinations of victims of sexual violence. It included provisions regarding consent of the victim during various stages of examination, which some NGOs claimed was an improvement to recording incidents.

Women in conflict areas, such as in the state of Jammu and Kashmir, the northeast, Jharkhand, and Chhattisgarh, as well as vulnerable Dalit or tribal women, were often victims of rape or threats of rape. National crime statistics indicated Dalit women were disproportionately victimized compared with other caste affiliations.

Domestic violence continued to be a problem. Acid attacks against women caused death and permanent disfigurement. During the year Chhattisgarh became the first state to establish one-stop crisis centers for women in distress, called "Sakhi centers," in all its 27 districts, supported with federal funds from the Ministry of Women and Child Development. These centers provide medical, legal, counseling, and shelter services for women facing various types of violence, but primarily domestic violence related to dowry disputes and sexual violence. The NCRB estimated the conviction rate for crimes against women to be 18.9 percent.

In 2015 the Supreme Court directed all private hospitals to provide medical assistance to victims of acid attacks. Implementation of the policy began in Chennai in 2016. In April the government announced that acid attack victims were to be included in the provisions of the Rights of Persons with Disabilities Act 2016.

In July 2016 the central government launched a revised Central Victim Compensation Fund scheme to reduce disparities in compensation for victims of crime including rape, acid attacks, crime against children, and human trafficking.

Female Genital Mutilation/Cutting (FGM/C): No national law addresses the practice of FGM/C. According to human rights groups and media reports, between 70 and 90 percent of Dawoodi Bohras, a population of approximately one million concentrated in Maharashtra, Gujarat, Rajasthan, and Delhi, practiced FGM/C.

On June 26, the Supreme Court sought responses from the national government and the states of Gujarat, Maharashtra, Rajasthan, and Delhi following a public interest litigation (PIL) petition seeking a ban on FGM/C. In May national

Minister for Women and Child Development Maneka Gandhi said FGM/C should be a criminal offense.

Other 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. NCRB data showed authorities arrested 19,973 persons for dowry deaths in 2015.

“Sumangali schemes” affected an estimated 120,000 young women. These plans, named after the Tamil word for “happily married woman,” are a form of bonded labor in which young women or girls work to earn money for a dowry to be able to marry. The promised lump-sum compensation ranged from 80,000 to 100,000 rupees (\$1,300 to \$1,600), which is normally withheld until the end of three to five years of employment. Compensation, however, sometimes went partially or entirely unpaid. While in bonded labor, employers reportedly subjected women to serious workplace abuses, severe restrictions on freedom of movement and communication, sexual abuse, sexual exploitation, sex trafficking, and being killed. The majority of sumangali-bonded laborers came from the Scheduled Castes (SC) and, of those, employers subjected Dalits, the lowest-ranking Arunthathiyars, and migrants from the northern part of the country, to particular abuse. Authorities did not allow trade unions in sumangali factories, and some sumangali workers reportedly did not report abuses due to fear of retribution. A 2014 case study by NGO Vaan Muhil described health problems among workers and working conditions reportedly involving physical and sexual exploitation. In 2016 the Madras High Court ordered the Tamil Nadu government to evaluate the legality of sumangali schemes. It is unclear whether the state has complied with the court order.

Most states employed dowry prohibition officers. A 2010 Supreme Court ruling makes it mandatory for all trial courts to charge defendants in dowry-death cases with murder.

So-called honor killings remained a problem, especially in Punjab, Uttar Pradesh, and Haryana. These states also had low female birth ratios due to gender-selective abortions. On August 21, the Supreme Court sought suggestions from NGO Shakti Vahini and khap panchayats on ways to prevent harassment and killings of young couples in the name of family honor. The most common justification for the killings cited by the accused or by their relatives was that the victim married against her family’s wishes.

In a case of suspected honor killing in Telangana, police found a lower-caste Dalit man M. Madhukar dead from injuries on March 13. Dalit rights organizations rejected the police contention that it was a case of suicide and asserted the family members of an upper-caste girl were involved in his death. On April 6, the Hyderabad High Court ordered another autopsy on the body following protests and allegations that a local member of parliament was involved in a cover-up operation. There were no updates to the case at year's end.

There were reports women and girls in the “devadasi” system of symbolic marriages to Hindu deities were victims of rape or sexual abuse at the hands of priests and temple patrons, a form of sex trafficking. NGOs suggested families forced some SC girls into prostitution in temples to mitigate household financial burdens and the prospect of marriage dowries. Some states have laws to curb prostitution or sexual abuse of women and girls in temple service. Enforcement of these laws remained lax, and the problem was widespread. Some observers estimated more than 450,000 women and girls engaged in temple-related prostitution.

There was no federal law addressing accusations of witchcraft; however, authorities may use other legal provisions as an alternative for a victim accused of witchcraft. Bihar, Odisha, Chhattisgarh, Rajasthan, Assam, and Jharkhand have laws criminalizing those who accuse others of witchcraft. Most reports stated villagers and local councils usually banned those accused of witchcraft from the village.

Sexual Harassment: Sexual harassment remains a serious problem. Authorities required all state departments and institutions with more than 50 employees to operate committees to prevent and address sexual harassment, often referred to as “eve teasing.”

Coercion in Population Control: There were reports of coerced and involuntary sterilization.

Some women reportedly were pressured to have tubal ligations, hysterectomies, or other forms of sterilization because of the payment structures for health workers and insurance payments for private facilities. This pressure appeared to affect disproportionately poor and lower-caste women. In September 2016 the Supreme Court ordered the closure of all sterilization camps within three years.

The country continued to have deaths related to unsafe abortion, maternal mortality, and coercive family planning practices, including coerced or unethical sterilization and policies restricting access to entitlements for women with more than two children. Policies and guideline initiatives penalizing families with more than two children remained in place in seven states, but some authorities did not enforce them. Certain states maintained government reservations for government jobs and subsidies for adults with no more than two children and reduced subsidies and access to health care for those who have more than two.

Rajasthan, one of 11 states to adopt a two-child limit for elected officials at the local level, was the first to adopt the law in 1992. Despite efforts at the state level to reverse or amend the law, it remained unchanged during the year. According to NGO Lawyers Collective, such policies often induced families to carry out sex-selection for the second birth to assure they have at least one son, without sacrificing future eligibility for political office.

Although national health officials noted the central government did not have the authority to regulate state decisions on population issues, the central government creates guidelines and funds state level reproductive health programs. A Supreme Court decision deemed the national government responsible for providing quality care for sterilization services at the state level. Almost all states also introduced “girl child promotion” schemes, intended to counter sex selection, some of which required a certificate of sterilization for the parents to collect benefits.

The government has promoted female sterilization as a form of family planning for decades and, as a result, female sterilization made up 86 percent of all contraceptive use in the country. Despite recent efforts to expand the range of contraceptive choices, the government sometimes promoted permanent female sterilization to the exclusion of alternate forms of contraception.

Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

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

Many tribal land systems, including in Bihar, deny tribal women the right to own land.

In January 2016 the Bihar government approved a 35-percent quota for women in state government jobs at all levels.

Gender-biased Sex Selection: According to the latest census (2011), the national average male-female sex ratio at birth was 1,000 to 943. The law prohibits prenatal sex selection, but authorities rarely enforced it.

## **Children**

Birth Registration: The law establishes state government procedures for birth registration. UNICEF estimated authorities registered 58 percent of national births 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.

Education: The constitution provides for free education for all children from ages six to 14, but the government did not always comply with this requirement. The NGO Pratham's 2016 *Annual Survey of Education* noted that in the states of Uttar Pradesh, Bihar, Manipur, West Bengal, and Madhya Pradesh, female student attendance rates ranged between 50 to 60 percent.

According to the *National Survey of Out of School Children 2014* report, 28 percent of children with disabilities ages six to 13 did not attend school.

Child Abuse: The law prohibits child abuse, but it does not recognize physical abuse by caregivers, neglect, or psychological abuse as punishable offenses. Although banned, teachers often used corporal punishment. The government often failed to educate the public adequately against child abuse or to enforce the law.

In May humanitarian aid organization World Vision India conducted a survey of 45,844 children between the ages of 12 and 18 across 26 states and found that one in every two children was a victim of sexual abuse. The Counsel to Secure Justice reported nearly 30 percent of child sexual abuse cases involved incest and 99 percent of overall child sexual abuse cases were not reported.

The government sponsored a toll-free 24-hour helpline for children in distress working with 640 partners in 402 locations.

Early and Forced Marriage: The law sets the legal age of marriage for women at 18 and men at 21, and it empowers courts to annul child marriages. It also sets penalties for persons who perform, arrange, or participate in such marriages. Authorities did not consistently enforce the law nor address rape of girls forced into marriage. The law does not characterize a marriage between a girl below age 18 and a boy below age 21 as “illegal,” but it recognizes such unions as voidable. According to international and local NGOs, procedural limitations effectively left married minors with no legal remedy in most situations.

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, remove children from dangerous situations, and deliver them to local child-protection authorities.

In May Karnataka amended existing legislation to declare every child marriage illegal and empowered police to take specific action.

On July 20, Minister of State for Women and Child Development Krishna Raj informed the upper house of parliament that 2015-16 data from NFHS-4 revealed a decline in the percentage of women between ages 20 and 24 married before age 18.

Sexual Exploitation of Children: The law prohibits child pornography and sets the legal age of consent at 18. It is illegal to pay for sex with a minor, to 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 subjected to 10 years’ imprisonment and a fine.

Special Courts to try child sexual abuse cases existed in all six Delhi courts. Civil society groups observed, however, that large caseloads severely limited judges’ abilities to take on cases in a timely manner.

Child Soldiers: No information was available on how many persons under age 18 were serving in the armed forces. NGOs estimated there were at least 2,500 children associated with insurgent armed groups in Maoist-affected areas as well as child soldiers in insurgent groups in the state of Jammu and Kashmir. There were allegations government-supported, anti-Maoist village defense forces recruited children (see section 1.g., Child Soldiers).

Displaced Children: Displaced children, including refugees, IDPs, and street children, faced restrictions on access to government services (see also section 2.d.).

Institutionalized Children: Lax law enforcement and a lack of safeguards encouraged an atmosphere of impunity in a number of group homes and orphanages.

The Calcutta Research Group reported police sometimes separated families detained at the India-Bangladesh border in the state of West Bengal by institutionalizing children in Juvenile Justice Homes with limited and restricted access to their families.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

Jewish groups from the 4,650-member Jewish community 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/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution does not explicitly mention disability. The law provides equal rights for persons with a variety of disabilities, and the Rights of Persons with Disabilities Act 2016 increased the number of recognized disabilities, including Parkinson's disease and acid attacks. The law set a two-year deadline for the government to provide persons with disabilities with unrestricted free access to physical infrastructure and public transportation systems.

The law also reserves 3 percent of all educational places for persons with disabilities, and 4 percent of government jobs. In June 2016 the Supreme Court directed the government to extend the 4-percent reservation to all government posts. In June a government panel decided that private news networks must

accompany public broadcasts with sign language interpretations and closed captions to accommodate persons with disabilities better. The government allocated funds to programs and NGO partners to increase the number of jobs filled.

Despite these efforts, problems remained. Private-sector employment of persons with disabilities remained low, despite governmental incentives.

Discrimination against persons with disabilities in employment, education, and access to health care was more pervasive in rural areas, and 45 percent of the country's population of persons with disabilities was illiterate. There was limited accessibility to public buildings. A PIL file was pending in the Supreme Court on accessibility to buildings and roads.

A Department of School Education and Literacy program provided special educators and resource centers for students with disabilities. Mainstream schools remained inadequately equipped with teachers trained in inclusive education, resource material, and appropriate curricula.

The Ministry of Health and Family Welfare estimated of the individuals with mental disabilities, 25 percent were homeless.

Patients in some mental-health institutions faced food shortages, inadequate sanitary conditions, and lack of adequate medical care. HRW reported women and girls with disabilities occasionally were forced into mental hospitals against their will.

In June 2016 the Supreme Court directed the government to extend the 4-percent reservation to all government posts.

### **National/Racial/Ethnic Minorities**

The constitution prohibits caste discrimination. The registration of castes and tribes continued for the purpose of affirmative action programs, as the government implemented programs to empower members of the low castes. 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 society regarded as the lowest Hindu castes, the Scheduled Castes (SC). Many SC members continued to face impediments to social

advancement, including education, jobs, access to justice, freedom of movement, and access to institutions and services. According to the 2011 census, SC members constituted 17 percent (approximately 200 million persons) of the population.

Although the law protects Dalits, there were numerous reports of violence and significant discrimination in access to services, such as health care, education, temple attendance, and marriage. Many Dalits were malnourished. Most bonded laborers were Dalits. Dalits who asserted their rights were often victims of attacks, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits reportedly often worked without monetary remuneration. Reports from the UN Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. Crimes committed against Dalits reportedly often went unpunished, either because authorities failed to prosecute perpetrators or because victims did not report crimes due to fear of retaliation.

NGOs reported widespread discrimination, including prohibiting Dalits from walking on public pathways, wearing footwear, accessing water from public taps in upper-caste neighborhoods, participating in some temple festivals, bathing in public pools, or using certain cremation grounds. In Gujarat, for example, Dalits were reportedly denied entry to temples and denied educational and employment opportunities.

NGOs reported that Dalit students were sometimes denied admission to certain schools because of their caste or were required to present caste certification prior to admission. There were reports that school officials barred Dalit children from morning prayers, asked Dalit children to sit in the back of the class, or forced them 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.

In April the supporters of Bhim Army, a lower-caste Dalit advocacy group in Uttar Pradesh, reportedly faced violence at the hands of organized upper-caste Thakur landlords in Uttar Pradesh. More than 50 Dalit houses were reportedly burned and many individuals injured in the violence. In May thousands of Dalits, led by the Bhim Army, staged a demonstration against the violence. As confrontations between the communities escalated, police arrested several Bhim Army activists, including leader Chandrshekhhar Azad. State police reportedly did not detain upper-caste participants.

The federal and state governments continued to implement programs for members of lower caste groups to provide better-quality housing, quotas in schools, government jobs, and access to subsidized foods. Critics claimed many of these programs suffered from poor implementation and/or corruption.

Manual scavenging--the removal of animal or human waste by Dalits--continued in spite of its legal prohibition. NGO activists claimed elected village councils employed a majority of manual scavengers that belonged to Other Backward Classes and Dalit populations. Media regularly published articles and pictures of persons cleaning manholes and sewers without protective gear. On March 16, the Ministry of Social Justice and Empowerment stated that there were 12,737 manual scavengers in 13 states and union territories. NGOs maintained the actual numbers were higher.

HRW reported that children of manual scavengers faced discrimination, humiliation, and segregation at village schools. Their occupation often exposed manual scavengers to infections that affected their skin, eyes, respiratory, and gastrointestinal systems. Health practitioners suggested children exposed to such bacteria were often unable to maintain a healthy body weight and suffered from stunted growth.

The law prohibits the employment of scavengers or the construction of dry (nonflush) latrines, and penalties range from imprisonment for up to one year, a fine of 2,000 rupees (\$32), or both.

### **Indigenous People**

The constitution provides for the social, economic, and political rights of disadvantaged groups of indigenous persons. The law provides special status for indigenous individuals, but authorities often denied them their rights.

In most of the northeastern states, where indigenous groups constituted the majority of the states' populations, the law provides for tribal rights, although some local authorities disregarded these provisions. The law prohibits any nontribal person, including citizens from other states, from crossing a government-established inner boundary without a valid permit. No one may remove rubber, wax, ivory, or other forest products from protected areas without authorization. Tribal authorities must approve the sale of land to nontribal persons.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law criminalizes homosexual sex. The country recognizes Hijras (male-to-female transgender persons) as a third gender, separate from men or women. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced physical attacks, rape, and blackmail. Some police committed crimes against LGBTI persons and used the threat of arrest to coerce victims not to report the incidents. With the aid of NGOs, several states offered education and sensitivity training to police.

LGBTI groups reported they faced widespread societal discrimination and violence, particularly in rural areas. Activists reported that transgender persons, who were HIV positive, continued to face difficulty obtaining medical treatment.

In January 2015 a high court dismissed petitions challenging the 2013 Supreme Court judgment reinstating a colonial-era legal provision criminalizing homosexual sex. It has since agreed to review that ruling. Additionally, in an August ruling that the country's citizens have a constitutional right to privacy, the Supreme Court termed sexual orientation "an essential attribute of privacy."

In February the Ministry of Health and Family Welfare unveiled the *2017 Saathiya Education Plan*, resource material related to sex education, which recognized that persons can feel attraction for any individual of the same or opposite sex.

In April K. Prithika Yashini became India's first transgender individual to join a state police force in Dharmapuri, Tamil Nadu. She was initially denied police service employment until the Madras High Court intervened and ruled in her favor.

In May the Kerala government hired 21 transgender citizens in Kochi, but several weeks later many of the transgender workers quit their jobs, reportedly because of difficulty finding rental accommodation in Kochi due to their gender identities.

## **HIV and AIDS Social Stigma**

The number of new HIV cases decreased by 57 percent over the past decade. The epidemic persisted among the most vulnerable populations: high-risk groups, which include female sex workers; men who have sex with men; transgender persons; and persons who inject drugs.

Additionally, antiretroviral drug stock outages in a few states led to treatment interruption. On April 11, the government passed the HIV and AIDS (Prevention and Control) Bill. The bill is designed to prevent discrimination in regards to health care, employment, education, housing, economic participation, or political representation.

The National AIDS Control Program prioritized HIV prevention, care, and treatment interventions for high-risk groups and rights of persons living with HIV. The National AIDS Control Organization worked actively with NGOs to train women's HIV/AIDS self-help groups.

Police engaged in programs to strengthen their role in protecting communities vulnerable to human rights violations and HIV.

### **Other Societal Violence or Discrimination**

Societal violence based on religion and caste and by religiously associated groups continued to be a serious concern. Ministry of Home Affairs 2016-17 data showed 703 incidents of communal (religious) violence took place, which killed 86 persons and injured 2,321.

On July 26, the upper house of parliament issued a statement in response to hate crimes, expressing the need for the Union and the Ministry of Home Affairs to take proactive measures in order to create a heightened sense of security and inclusion for citizens from the northeastern region. In response to a recommendation of the Supreme Court, a committee was established to address such concerns.

The year saw an increase in cow vigilante attacks, typically associated with Hindu extremists. Since 2010 61 of the 63 reported attacks targeted Muslims, and 24 out of 28 of those killed in the attacks were Muslim. According to HRW cow vigilante violence has resulted in the death of at least 10 Muslims since 2015, including a 12-year-old boy. In several instances police filed charges against the assault victims under existing laws prohibiting cow slaughter. According to a report by IndiaSpend, an independent journalism outlet, mob lynchings of minorities took place in Jharkhand, Madhya Pradesh, Rajasthan, and Uttar Pradesh. In the first six months of the year, 20 cow-related vigilante attacks were reported, a more than 75-percent increase over 2016.

According to media reports, on June 22, 16-year-old Junaid Khan was stabbed to death on a train in Haryana by a mob who accused him and his three companions

of transporting beef. The Haryana police arrested six accused individuals in connection with the case. On July 9, Maharashtra police arrested Naresh Kumar, the prime suspect in the case, and as of August, four of the six accused had been granted bail.

On September 11, UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein told the 36th opening session of the Human Rights Council he was dismayed by a broader rise of intolerance towards religious and other minorities in the country. He stated, "The current wave of violent, and often lethal, mob attacks against persons under the pretext of protecting the lives of cows is alarming."

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right to form and join unions and bargain collectively, although there is no legal obligation for employers to recognize a union or engage in collective bargaining. In the state of Sikkim, trade union registration was subject to prior permission from the state government. The law limits the organizing rights of federal and state government employees.

The law provides for the right to strike but places restrictions on this right for some workers. For instance, in export processing zones (EPZs), a 45-day notice is required because of the EPZs' designations as "public utilities." The law also allows the government to ban strikes in government-owned enterprises and requires arbitration in specified "essential industries." Definitions of essential industries vary from state to state. The law prohibits antiunion discrimination and retribution for involvement in legal strikes and provides for reinstatement of employees fired for union activity.

Enforcement of the law varied from state to state and from sector to sector. Enforcement was generally better in the larger, organized-sector industries. Authorities generally prosecuted and punished individuals responsible for intimidation or suppression of legitimate trade union activities in the industrial sector. Civil judicial procedures addressed abuses because the Trade Union Act does not specify penalties for such abuses. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases.

Employers generally respected freedom of association and the right to organize and bargain collectively in the formal industrial sector but not in the large, informal

economy. Most union members worked in the formal sector, and trade unions represented a small number of agricultural and informal-sector workers. An estimated 80 percent of unionized workers affiliated with one of the five major trade union federations. Unions were independent of the government, but four of the five major federations were associated with major political parties. According to the Ministry of Labor and Employment, there were 163 strikes in 2015. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. Membership-based organizations, such as the Self Employed Women's Association, successfully organized informal-sector workers and helped them to gain higher payment for their work or products.

On May 31, 425 workers of Aisin Automotive company in Rohtak, Haryana, were arrested while protesting the dismissal of coworkers who had sought to form a trade union. The arrested workers were charged with assault and obstructing the functioning of government officials and released on bail. Labor groups reported that some employers continued to refuse to recognize established unions and some, instead, established "workers' committees" and employer-controlled unions to prevent independent unions from organizing. EPZs often employed workers on temporary contracts. Additionally, employee-only restrictions on entry to the EPZs limited union organizers' access. On August 22, nearly one million employees of state owned banks went on strike to protest the federal government's plans to merge various banks.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but this problem, including bonded child labor (see section 7.c.), remained widespread.

Estimates of the number of bonded laborers varied widely, although some NGOs placed the number in the tens of millions. Most bonded labor occurred in agriculture. Nonagricultural sectors with a high incidence of bonded labor were stone quarries, brick kilns, rice mills, construction, embroidery factories, and beedi (hand-rolled cigarettes) production.

Enforcement and compensation for victims is the responsibility of state and local governments and varied in effectiveness. The government generally did not effectively enforce laws related to bonded labor or labor trafficking laws, such as the Bonded Labor System (Abolition) Act. When inspectors referred violations for prosecution, court backlogs, inadequate prosecution, and a lack of prioritization sometimes resulted in acquittals. Prosecutions were rare.

The Ministry of Labor and Employment continued to work with the International Labor Organization to combat bonded labor, including the “convergence program” in the states of Andhra Pradesh and Odisha to target workers vulnerable to bonded labor.

The Ministry of Labor and Employment reported the federally funded, state-run Centrally Sponsored Scheme allowed the release of 2,607 bonded laborers during the period April 2016 through March. Some NGOs reported delays in obtaining release certificates for rescued bonded laborers that were required to certify employers held them in bondage and entitled them to compensation under the law. The distribution of rehabilitation funds was uneven across states. In May 2016 the government revised its bonded labor rehabilitation program and increased the compensation for victims from 20,000 rupees (\$320) to 100,000 rupees (\$1,600) for male victims, 200,000 rupees (\$3,200) for women and child victims, and 300,000 rupees (\$4,800) for sexually exploited women and child victims.

Bonded labor, particularly in brick kilns, continued to be a concern in several states. In March, Uttar Pradesh authorities, with assistance from an NGO, rescued 149 bonded laborers from two brick kilns in the state.

On March 10, a Karnataka district court sentenced a brick kiln owner who employed 12 workers as bonded laborers to 10 years in prison with hard labor. The court imposed a penalty of approximately 15,500 rupees (\$250) for employing bonded labor in his premises. Authorities had charged the perpetrator under the Bonded Labor System (Abolition) Act along with Section 370 of the Indian Penal Code.

On July 24, nearly 88 bonded laborers, including 25 children and 29 women, were rescued from a brick kiln following a complaint received by the Delhi-based National Campaign Committee for Eradication of Bonded Labor.

SC and ST members lived and worked under traditional arrangements of servitude in many areas of the country. Although the central government had long abolished forced labor servitude, these social groups remained impoverished and vulnerable to forced exploitation, especially in Arunachal Pradesh.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The government amended the Child Labor (Abolition) Act in August 2016 to ban employment of children below the age of 14. The amended law also prohibits the employment of children between the ages of 14 and 18 in hazardous work except in mines. Children are prohibited from using flammable substances, explosives, or other hazardous material, as defined by the law. In March the Ministry of Labor and Employment added 16 industries and 59 processes to the list of hazardous industries where employment of children below the age of 18 is prohibited and where children under 14 are prohibited from helping, including family enterprises. The law, however, permits employment of children in family-owned enterprises, involving nonhazardous activities, after school hours. Nevertheless, child labor remained widespread.

State governments enforced labor law and employed labor inspectors, while the Ministry of Labor and Employment provided oversight and coordination. Nevertheless, violations were common. The amended law establishes a penalty in the range of 20,000 rupees (\$320) to 50,000 rupees (\$800) per child employed in hazardous industries. Such fines were often insufficient to deter violations, and authorities sporadically enforced them. The fines are deposited in a welfare fund for formerly employed children.

The Ministry of Labor and Employment coordinated its efforts with states to raise awareness about child labor by funding various outreach events such as plays and community activities. On June 13, the government ratified two instrumental conventions of the International Labor Organization, Conventions 138 and 182, which set the minimum age for admission to employment and prohibit the worst forms of child labor, respectively.

According to news reports, the Rajasthan government's antihuman trafficking unit rescued more than 500 children from roadside eateries, grocery shops, and vehicle repair shops in Kota, Bundi, Baran, and Jhalawar Districts during a month-long campaign in May and June.

The majority of child labor occurred in agriculture and the informal economy, in particular in stone quarries, in the rolling of cigarettes, and in informal food service establishments. Commercial sexual exploitation of children occurred (see section 6, Children).

The V. V. Giri National Institute of Labor reported that the two cities with the highest numbers of cases in the country were Hyderabad with 67,366 child workers and Jalore with 50,440.

Forced child labor, including bonded labor, also remained a serious problem. Employers engaged children 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.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law and regulations prohibit discrimination with respect to employment and occupation, with respect to race, sex, gender, disability, language, sexual orientation, and/or gender identity, or social status. The law does not prohibit discrimination against individuals with HIV/AIDS or other communicable diseases, color, religion, political opinion, national origin, or citizenship. The government effectively enforced the law and regulations within the formal sector. The law and regulations, however, do not protect those working within the informal sector, who made up an estimated 90 percent of the workforce.

Discrimination occurred in the informal sector with respect to Dalits, indigenous persons, and persons with disabilities. Legal protections are the same for all, but gender discrimination with respect to wages was prevalent. Foreign migrant workers were largely undocumented and typically did not enjoy the legal protection available to workers who are nationals of the country.

#### **e. Acceptable Conditions of Work**

Federal law sets safety and health standards, but state government laws set minimum wages, hours of work, and additional state-specific safety and health standards. The daily minimum wage varied but was more than the official estimate of poverty level income. State governments set a separate minimum wage for agricultural workers.

Laws on wages, hours, and occupational health and safety do not apply to the large informal sector.

The law mandates a maximum eight-hour workday and 48-hour workweek, as well as safe working conditions, which include provisions for restrooms, cafeterias, 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, but it does not mandate paid holidays. The law prohibits compulsory overtime, but it does not limit the amount of overtime a worker can work. Occupational safety and health standards set by the government were generally up to date and covered the main industries in the country.

State governments are responsible for enforcing minimum wages, hours of work, and safety and health standards. The number of inspectors generally was insufficient to enforce labor law. State governments often did not effectively enforce the minimum wage law for agricultural workers. Enforcement of safety and health standards was poor, especially in the informal sector but also in some formal sector industries. Penalties for violation of occupational safety and health standards range from a fine of 100,000 rupees (\$1,600) to imprisonment for up to two years, but they were not sufficient to deter violations.

Violations of wage, overtime, and occupational safety and health standards were common in the informal sector (industries and/or establishments that do not fall under the purview of the Factories Act), which employed an estimated 90 percent of the workforce. Small, low-technology factories frequently exposed workers to hazardous working conditions. Undocumented foreign workers did not receive basic occupational health and safety protections. In many instances workers could not remove themselves from situations that endangered health or safety without jeopardizing their employment.

On March 15, two contracted sanitation workers of the Vijayawada Municipal Corporation in Andhra Pradesh died of suffocation inside an underground sewage line. Police registered a case of negligent death against their employer. According to an estimate by NGO Safai Karmachari Andolan, a longtime campaigner for eradication of manual scavenging, an estimated 1,500 individuals died cleaning septic tanks across the country between 2014 and 2016.

According to a 2016 Asian Human Rights Commission report, although the Supreme Court ordered enforcement of the law prohibiting employment as manual scavengers, calling for their rehabilitation, and banning manual cleaning of sewage lines, authorities rarely enforced the law. The commission quoted a Dalit rights activist who asserted that at least 700 deaths in manholes occurred every year.