

# **India main points (Amnesty Int'l)**

## **Jammu and Kashmir**

Amnesty International India welcomes the pledge of the new central government to ensure the security of all citizens in Jammu and Kashmir (J&K) in the wake of Defence Minister Arun Jaitley's visit to the state. In particular, the organization welcomes the recent overtures made to rehabilitate families of an estimated 150,000 to 200,000 Kashmiri Pandits who were forced to leave the state between 1990 and 1994 due to threats and intimidation from armed groups. At the outbreak of insurgency in the early 1990s, several prominent Kashmiri Pandit community leaders were killed and others intimidated by armed groups.

Amnesty International India welcomes the positive steps taken by the National Democratic Alliance Government, and urges the new government to take a comprehensive approach in implementing proposed policies, including consultations with all communities living in Jammu and Kashmir, and those looking to return there. The organization is also concerned that proposed steps do not adequately address India's obligations under international and domestic law to provide effective remedy and reparation to victims of human rights abuses, a necessary measure according community leaders to build confidence in the state and promote long-term stability.

Amnesty International India recognizes the government's duty to protect its citizens in situations of conflict from threats to their lives and security. Recent statements made by armed groups, including a video released by Al-Qaeda, have raised concerns within the government and civil society of heightened conflict in the region. The government should ensure that any response to these threats respects the human rights of those living in J&K, and the rule of law. These principles must be held in the highest regard even in the most challenging of times.

Despite the authorities' stated commitment to "zero tolerance for human rights violations," Amnesty International India has continued to receive consistent reports of human rights violations including allegations of extrajudicial killings, torture, and arbitrary detention by state security forces. The government must uphold its obligations under international law and the Constitution of India to provide effective remedy and reparation to all victims of human rights abuses, which includes prosecution of those suspected, irrespective of their position.

### **Rehabilitation scheme for return of Kashmiri Pandits**

Press reports indicate that the central government will approve an enhanced rehabilitation and relocation financial package for Kashmiri Pandit families seeking to return to Jammu and Kashmir. The previous Congress-led coalition government had also announced a return and rehabilitation scheme to Kashmiri Pandit migrants in 2008 which promised up to Rs 7.5 lakh [12,500 USD] to families for re-constructing homes. The new scheme promises up to Rs. 20 lakh [33,315 USD] per family.

Previously, the financial assistance was only available to families of Kashmiri Pandits who had sold their homes between 1989 and 1997, but the revised plan makes assistance available to all families, regardless of when they lost or sold their homes in the state.

The state government has promised a dignified return for the estimated 200,000 Kashmiri Pandits who were internally displaced to camps in the Hindu-majority Jammu region, or relocated to Delhi at the outbreak of the insurgency in the early 1990s. However, Amnesty International is concerned that there have been insufficient measures to build confidence and ensure the safety and smooth integration of families returning to the Kashmir valley. The state and central governments have made several attempts since 2003 to persuade Pandit families to return to their homes. According to the head of the Kashmiri Pandit Sangharsh Samiti (KPSS), Sanjay Tickoo, not a single family has returned to the valley. The KPSS estimates that there are currently 651 families living in the Kashmir valley, and up to 75,000 families who are eligible to return from outside the state.

“If the government wants them to come back, then they have to take into confidence the local politicians, all the civil society actors, both separatist and mainstream. That is the only way [violence between the communities] will not happen again,” Tickoo said.

Rashneek Kher, the founding member of Roots in Kashmir, an organization comprised mostly of young Kashmiri Pandits born outside the Kashmir valley, said that security and justice are the main concerns of Kashmiri Pandits looking to relocate to Kashmir. “No one left because of money in the first place. And no one will go back because of money. Not a single family went back to Kashmir when the scheme was first announced in 2008, and no one will go back now.”

Kher said that if the government is serious about taking steps to rehabilitate Kashmiri Pandits they must seek justice for Kashmiri Pandits killed during the conflict, and address issues like land scarcity.

AJ&K police report in 2011 stated that 209 Kashmiri Pandits had been killed in J&K since 1989, but that charges had been established in just 24 cases. One notorious incident involved the deaths of 24 Kashmiri Pandits in 2003 by unidentified gunmen in Nadimarg. Eleven years later, investigations into this incident have yet to be completed. Ensuring accountability and remedy to victims of human rights abuses, such as unlawful killings, is a crucial confidence-building measure according to Pandit groups to restore faith in the government’s ability to protect their community in Kashmir, and uphold India’s obligation under international law to investigate and hold accountable those responsible for abuses.

Amnesty International urges the state government to ensure that religious minorities in the state are able to exercise all their constitutionally guaranteed rights, and that impartial and independent investigations are conducted into the killings at Nadimarg, and all other allegations of unlawful killings, with a view to bringing to justice those responsible.

Amnesty International also urges the Indian authorities to establish a rehabilitation programme to provide full and effective reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition to all victims of human rights abuses in Jammu and

Kashmir. The programme should be devised in consultation with victims and should take into account the different experiences and needs of people who experience conflict differently, as well as minority religious groups.

### **Armed forces special powers act**

Armed forces special powers act: One of the primary facilitators of impunity for security force personnel has been the existence of provisions like Section 7 of the Armed Forces Special Act (AFSPA), 1990 under which members of the security forces are protected from prosecution for alleged human rights violations.<sup>16</sup> Similar to clauses in a number of other Indian laws, this legal provision mandates prior executive permission from the central or state authorities for the prosecution of members of the security forces. These provisions, called “sanctions” in India, have been used to provide virtual immunity for security forces from prosecution for criminal offences.

To date, not a single member of the security forces deployed in Jammu and Kashmir over the past 25 years has been tried for alleged human rights violations in a civilian court. An absence of accountability has ensured that security force personnel continue to operate in a manner that facilitates serious human rights violations.

With the continued existence and enforcement of legal provisions like AFSPA, access to effective legal remedies for victims of human rights violations and their relatives in J&K remains as limited today as it was in the 1990s.

## **Demand US and India governments deliver justice for Bhopal disaster**

There are certain moments in your life you never forget. I was in my early twenties, living in Bangalore, when I heard the news.

On the night of 2nd December, 1984, toxic gas had leaked from a pesticide factory run by Union Carbide, India Ltd spreading fumes over a large residential area in Bhopal.

Between 7,000 and 10,000 people died within just three days of the leak, our researchers at Amnesty International have since estimated. Hundreds of thousands more were poisoned.

Despite the deaths, the many years gone by, and the numbers of people who today still suffer from chronic health conditions as a result of the leak, justice is yet to be served.

Survivors have not received adequate compensation for their injuries, the polluted factory site has not been cleaned up, and the companies involved have not been held to account.

2014 marked the 30th anniversary of one of the world’s worst industrial disasters.

Thirty years on, it is time that those who failed to prevent responsible for the horrors of Bhopal must be held to account and made to pay. But the central actor, a US corporation, is an absconder from justice.

US-based Union Carbide Corporation (UCC) has repeatedly refused to face criminal charges of culpable homicide in India. The Dow Chemical Company, which bought UCC in 2001, has shown a similar arrogant disregard for the Indian legal system.

The United States government has acted as a safe haven for UCC and Dow, ignoring its responsibility to ensure that US companies are held accountable for human rights abuses elsewhere in the world.

Meanwhile, the Indian government itself has consistently underestimated the number of people who were killed or injured in the aftermath of the leak, and has also failed to ensure a clean-up of the factory site.

Together, we ask the Government of the United States to apply political pressure to ensure that Dow and UCC comply with Indian court orders, and the companies pay adequate compensation to the survivors and cover the costs of the clean-up of the Bhopal site.

We ask the Government of India to ensure that survivors of the gas leak get the compensation they deserve and the medical treatment they need. We also ask it to urgently clean up the Bhopal site, ultimately making the companies responsible for the pollution foot the bill.

In September, Prime Minister Modi and President Obama expressed the need to renew the US-India relationship, based on a shared desire for justice and equality.

There is no better place to start than Bhopal. Thirty years is too long to wait for justice and remedy. The wait must end. Now.

## **Communal Violence:**

Authorities failed to prevent hundreds of incidents of communal violence across the country. Some politicians contributed to religious tensions by making speeches justifying discrimination and violence. At least four Muslim men were killed in attacks by mobs which suspected them of stealing, smuggling or slaughtering cows.

## **2002 Gujarat riots**

In a constitutional democracy based on the rule of law, electoral outcomes should not in any way affect the pursuit of justice. Unfortunately, history shows that governments in India have allowed political

considerations to interfere with the processes of seeking justice and accountability especially in instances of communal violence.

There is clearly much to be done still to deliver justice for the crimes that were perpetrated in Gujarat in 2002. There is significant evidence to suggest that the Gujarat government's efforts to ensure justice have been inadequate.

Keeping in mind that judicial processes are still pending, it is crucial that the NDA government ensures that these processes are not obstructed in any manner. Anyone found responsible for criminal acts – whether they are political leaders, police or government officials – must be brought to justice.

### **1984 Sikh massacre**

Over 31 years have passed since the 1984 Sikh massacre, when at least 3000 Sikh men, women and children were killed, mainly in Delhi, over the course of four days of killing and looting that followed the assassination of Prime Minister Indira Gandhi.

Over the last three decades, 10 commissions and committees have looked into the 1984 killings. However only a tiny fraction of those responsible have been brought to justice. In February 2015, the central government constituted a special investigation team (SIT) to reinvestigate criminal cases related to the massacre, and file charges against accused person where there was sufficient evidence. However the SIT's functioning has been marked by a complete lack of transparency. Right to Information applications revealed that the SIT has not filed a single chargesheet as of December 2015.

Amnesty International India is urging the government of India to ensure that the SIT makes the status of its investigation public, and files charges against suspected perpetrators.

### **Caste-based violence (Dalits)**

Incidents of violence against Dalits and Adivasis were reported from states including Uttar Pradesh, Bihar, Karnataka and Tamil Nadu. According to statistics released in August, over 47,000 crimes against members of Scheduled Castes, and over 11,000 crimes against members of Scheduled Tribes, were reported in 2014.

In October 2015, two Dalit children were burned to death in an arson attack near Delhi, allegedly by dominant caste men.

In December 2015, Parliament amended the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, recognizing several new offences. The amendments also required that special courts be established to try these offences and that victims and witnesses receive protection. The Act makes the dispossession of Dalit and Adivasi people from their land without their consent, or interference with the enjoyment of their rights, criminal offences. However several laws, such as the Coal-Bearing Areas Act, continue to enable forced evictions for 'development' projects.

In July, an official census stated that over 180,000 households were engaged in “manual scavenging” – the practice of cleaning human waste carried out mainly by Dalit people. Activists said the figure was an underestimate.

In March 2016, unidentified men killed Shankar, a 22-year-old Dalit man in Tiruppur, Tamil Nadu, allegedly for marrying an upper caste Hindu woman.

In April 2016, Jishamol, a 30-year-old Dalit law student, was found dead in her home in Vattalipodi, Kerala. An autopsy found 38 wounds and signs of rape on her body; and her intestines had been partially removed. Jisha's mother said earlier complaints to the police about harassment and threats from the family's neighbours had been ignored.

Dominant castes continued to use sexual violence against Dalit and Adivasi women and girls.

### **Dalit:**

There is a long documented history of systematic and organized marginalization of Dalits within Indian society. The UoH campus has been at the center of an ongoing protest that began after the social boycott and suspension of five Dalit students in 2015 over allegations of violence against other students. These allegations were brought forward by the Akhil Bharatiya Vidyarti Parishad (ABVP) which is the student wing of the Bharatiya Janata Party (BJP), the ruling political party in India. None of those allegations of violence were proven and the students continue to face marginalization by the university authorities. In January 2016, one of the five students, a 26-year-old PhD scholar Rohith Vemula committed suicide. His suicide galvanized student protests across the country.

### **Violence Against Women:**

Although nearly 322,000 crimes against women, including over 37,000 cases of rape, were reported in 2014, stigma and discrimination from police officials and authorities continued to deter women from reporting sexual violence. A majority of states continued to lack standard operating procedures for the police to deal with cases of violence against women.

In over 86% of reported rape cases, the survivors knew the alleged offenders. Statistics released in August showed that nearly 123,000 cases of cruelty by husbands or relatives were reported in 2014. Marital rape is not a criminal offence under Indian law. The Indian government has made inconsistent remarks about whether it will criminalize marital rape.

## **Chhattisgarh**

Freedom of expression is being throttled in Chhattisgarh as the state cracks down on media and civil society.

For the last six months, the central Indian state has witnessed a sustained attack on journalists and human rights defenders. Conditions have been created where arbitrary arrests, threats to life, and organized hindrance to the work of journalists, lawyers, and other human rights defenders have led to a near total information blackout.

Local journalists investigating excesses by security forces have been arrested on trumped-up charges and tortured, while their lawyers have been threatened. Abusive security laws have been deployed. And increasingly, Chhattisgarh is playing to a script of the bizarre.

Violations by the state have been accompanied by intimidation by those acting on its behalf. Local self-styled vigilante groups called the Samajik Ekta Manch (Social Unity Forum) and Mahila Ekta Manch (Women's Unity Form), which appear to have the backing of the state police, have intimidated and harassed journalists and activists who express dissenting views. Among the members of these groups are people who were part of the banned Salwa Judum civil militia.

Most of these incidents have taken place in and around the Bastar region of the state, the epicenter of the long-drawn conflict between state forces and armed Maoist groups. Bastar has witnessed violence and counter-violence

leading to massive human rights violations. Adivasi communities in particular have faced abuses from all sides. Against this backdrop, the silencing of civil society and the media may both enable and hide more abuses.

## **HR issues in India**

### **CASTE-BASED DISCRIMINATION AND VIOLENCE**

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Activists said the figure was an underestimate. Dominant castes continued to use sexual violence against Dalit and Adivasi women and girls.

### **FREEDOM OF EXPRESSION**

Laws which did not meet international standards on freedom of expression were used to persecute human rights defenders and others. In January 2015, two activists were arrested in Kerala for possessing "pro-Maoist" literature.

In October 2015, a Dalit folk singer was arrested in Tamil Nadu for writing songs criticizing the state government and Chief Minister. In March, the Supreme Court struck down Section 66A of the Information Technology Act as being vague and overly broad. The law had been used to prosecute people for legitimately exercising their right to free speech online.

In August 2015, the Maharashtra state government issued a circular on how India's sedition law must be applied, suggesting that criticism of a government representative would amount to sedition. It withdrew the circular in October.

In December 2015, an MP introduced a bill in Parliament seeking revision of the sedition law. There were several instances of intimidation and attacks against journalists, authors, artists and human rights defenders by religious and caste-based groups. Two rationalist writers were killed in attacks thought to be related to their criticism of religious intolerance and idolatry.



In July 2015, the government argued before the Supreme Court that privacy was not a fundamental right under the Constitution. In September, authorities proposed – and withdrew after facing opposition – a draft encryption policy which would have threatened free expression and privacy. Authorities restricted access to internet services on several occasions, including in Gujarat and Jammu and Kashmir states, on grounds of public order.

### **FREEDOM OF ASSOCIATION**

Authorities took several measures to repress civil society organizations, including using the Foreign Contribution (Regulation) Act (FCRA) – which restricted organizations from receiving foreign funding – to harass NGOs and activists.

The government took a series of actions against Greenpeace India, including preventing one of its campaigners from travelling to the UK in January 2015, ordering the organization's bank accounts to be frozen in April and cancelling its FCRA registration in September.

There's a fevered crackdown on critics underway in India at the moment. NGOs and activists face multiple obstructions to carrying out their work, including being subjected to smear campaigns, having their funding cut off and being accused of being anti-national.

"Over 10,000 organisations have been 'de-registered' over the last year to prevent them from receiving foreign funding, and just last week Greenpeace had its license to operate cancelled.

High Courts ruled that some of these steps were illegal. The Ministry of Home Affairs cancelled the FCRA registration of thousands of NGOs for violating provisions of the law.

In April 2015, the Ministry ordered that it would have to approve foreign funds from certain identified donor organizations.

In July 2015, the Central Bureau of Investigation registered a case against human rights activists Teesta Setalvad and Javed Anand for allegedly violating provisions of the FCRA.

In September 2015, authorities suspended the registration of an NGO run by the activists to receive foreign funding.

### **Journalist Santosh Yadav**

Journalist Santosh Yadav is facing a charge of 'sedition', (encouraging disaffection towards the government) a charge which has been levelled against journalists and activists in India. He was arrested in September 2015 in the conflict-torn state of Chhattisgarh in central India, on what Amnesty International believes are fabricated charges. He was targeted because of his investigatory journalism exposing police brutality against Adivasis (indigenous communities). He has been charged under laws which the UN Special Rapporteur on Human Rights Defenders has called for the repeal of.

## **Authorities must end impunity for attacks on journalists**

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Indian authorities must bring to justice those behind the murder of a journalist shot dead last week in the state of Bihar. Journalists must be protected from threats and allowed to function in an unhindered manner, and their freedom of expression upheld.

“In four months, two regional journalists have been killed in India for their work, and many others are being arrested and intimidated. India is increasingly becoming a dangerous place for journalists,” said Abhirr VP, Campaigner, Amnesty International India.

On 13 May, Rajdeo Ranjan, the Hindi daily Hindustan’s bureau chief in Siwan, Bihar, was shot dead by unknown assailants less than half a kilometer away from the Siwan Town police station. He was shot in the forehead and neck. Rajdeo Ranjan had covered local politics and crime extensively, and had written several recent reports on the nexus between criminals and politicians, including on a former Member of Parliament serving a life term for murder. His colleagues and family members told newspapers that that Ranjan had faced threats from political leaders for his writing.

Speaking to Amnesty International India, Saurabh Kumar, Superintendent of Police, Siwan district, said, “Investigations are going on. We have detained four people so far and I cannot comment more about the investigations. Those who are responsible for Rajdeo Ranjan’s murder, whoever they are, will be arrested.”

“Convictions for attacks on journalists are exceedingly rare. The government of Bihar must send out a strong signal that there will be no impunity for people who kill journalists. Journalism is not a crime, and those who target them shouldn’t be allowed to get away”, said Abhirr VP.

In February 2016, Karun Mishra, who worked with the Hindi daily Jansandesh Times, was shot dead by gunmen on motorcycles in Sultanpur, Uttar Pradesh. The state police said that the journalist had been targeted for his reports on illegal soil mining.

In Chhattisgarh, four journalists - Santosh Yadav, Somaru Nag, Prabhat Singh and Deepak Jaiswal - all working out of the Bastar region, have been arrested on politically motivated charges since July 2015. Another journalist - Malini Subramaniam - who had reported extensively on human rights violations by the state government, was forced to leave Bastar in February 2016 following attacks on her home and police pressure on her landlord.

“Every journalist has the right to raise difficult issues and ask tough questions of the government. State governments must respect the constitutional right to freedom of expression, and release all journalists arrested for simply doing their jobs,” said Abhirr VP.

According to Reporters Without Borders, five journalists were killed in India in 2015 for their work, of whom two had exposed illegal mining practices. India was featured in the 2015 Global Impunity Index of the Committee to Protect Journalists, which highlights countries where journalists have been killed without the perpetrators being held responsible.

