

EXECUTIVE SUMMARY

Persecuted for challenging injustice: Human Rights Defenders in India

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This report summarises a 124-page report published by Amnesty International which sets out the organization's concerns about a range of abuses against those defending the broad range of human rights in India, including social and economic as well as civil and political rights.

The report is divided into three parts. Part I sets out the background to Amnesty International's concerns. Part II looks at how the law has been used and misused against human rights defenders, how human rights defenders have been harassed in violation of the law and how their work has been adversely affected by the prevalence of impunity and limitations on access to the international community.

Part III of the report looks at specific areas of concern in relation to human rights defence in India, analysing the particular problems faced by human rights defenders coming from or working with specific groups identified as "vulnerable". The final chapter of Part III looks specifically at the problems faced in defending human rights in areas of armed conflict in India.

As an adjunct to the main report, Amnesty International will be publishing a series of recommendations which are intended to seek the full realisation of the rights of human rights defenders in India and thereby provide space for the unhindered defence of human rights.

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Cover photo: Two women activists being forcefully removed from a peaceful protest by police in Saharanpur district, Uttar Pradesh, 25 June 1997. © Private (AI use)

INTRODUCTION

Human rights defenders are at the frontline of the struggle for human rights. They play a vital role in reminding governments that they must fulfil their political promises and honour their legal and constitutional obligations to protect the rights of their citizens. However, they often pay a high price for their courage including their lives and physical integrity.

Amnesty International recognises the crucial role that defenders play in the struggle for human rights worldwide. The protection of human rights defenders is therefore a top priority for the movement. In recent years the organization has carried out a number of programs focussing on the protection of human rights defenders including in South Asia. Based on a mandate set by its members which opposes the violation of certain rights within the Universal Declaration of Human Rights while promoting all rights in the Declaration, the organization could never hope to reflect the full range of concerns of human rights activists in a country as huge and diverse as India. However, the process of monitoring and reflecting on at least some of the concerns of the human rights movement has made the organization acutely aware of the growing problems that those defending human rights throughout India face. The full report is being published as a result of a series of discussions held with human rights defenders in India during 1999 and research carried out in recent years.

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms [hereafter called the Human Rights Defenders Declaration] adopted by the UN General Assembly in December 1998 provides a framework for the protection of those engaged in human rights work. It has been an important step in recognising the vital role that human rights defenders play in any society. Amnesty International believes that there is an urgent need for the Government of India to bring certain policies in line with the UN Declaration.

PART I: Background

The human rights movement in India has in recent years been transformed from one primarily concerned with civil and political rights to a movement raising concerns across the broad spectrum of human rights from the right to livelihood and the right to employment to the right to a fair trial and freedom of expression. The diversity of the human rights movement emerges from the range of issues of concern across the entire rights framework, and from the enormity of the human rights challenges facing India as a democratic country facing extreme poverty, increasing pressure on resources, social discrimination, economic and industrial development and situations of armed conflict to name but a few.

Attacks on the work of human rights defence in India include the arbitrary and preventive detention of peaceful protesters, torture and ill-treatment, threats and harassment, the filing of false criminal cases, "disappearance" and even extra-judicial execution. In addition to direct state responsibility for these abuses, Amnesty International is concerned about the involvement of other powerful vested interests in attacking the work of human rights defenders and the failure of the state to prevent these abuses.

As well as civil and political rights activists who have faced harassment and attack, particularly in areas of armed conflict, movements have emerged in India in recent years to challenge the inequality, discrimination and social marginalization which exists in the country. These movements have been fuelled by increased access to information and awareness of rights through the work of activists and concern about the perceived threat of globalization as a force which increases these inequalities. However, movements who condemn such marginalization and attempt to seek ways for all of society to participate in the country's development are increasingly persecuted for exposing the empty rhetoric of human rights promises.

Amnesty International acknowledges the steps that have been taken by the Government of India over a number of years to support the work of human rights defence, for example through the establishment of statutory human rights institutions and the ratification of international human rights treaties. In addition the organization acknowledges the support that government agencies have given to sectors of social activism through government funded programs and government-NGO cooperation. However, it is concerned that much of the state's actions in defence of human rights are at a rhetorical level and sporadic in their implementation. In light of increasing concerns in recent years that organs of the state have been actively involved in suppressing human rights activities or acting in connivance with other groups engaged in the suppression of human rights defenders, Amnesty International believes that there is an urgent need for the state to take active steps to ensure the protection of activities in defence of human rights.

PART II

1. Use and misuse of the law against human rights defenders

On the evening of 7 March 2000, section 144 of the CrPC was imposed around the entrance to the Maheshwar dam site in Khargone district of Madhya Pradesh while several hundred people affected by the dam were carrying out a peaceful *dharna* [sit-in] in a nearby field. The following day, over 350 people, including over 200 women, were forcibly removed and many of them arrested and detained. Several were reportedly beaten with *lathis* [long wooden sticks] and the clothes of several women were torn.

The law in India has been used to suppress activities in defence of human rights in many ways.

Provisions in the Code of Criminal Procedure (CrPC) -- notably section 144 -- are used to prevent peaceful protest by banning assemblies. Amnesty International is concerned that this section has been used on numerous occasions as a means of directly prohibiting activities in defence of human rights in violation of international standards granting the right to peaceful assembly including Article 21 of the International Covenant on Civil and Political Rights (ICCPR) to which India is a party. In addition, some human rights defenders have been served with orders banning them from entering particular areas.

Further provisions in the CrPC and state legislation including section 107 and 151 of the CrPC and section 37 of the Bombay Police Act grant police widespread powers to

preventively detain individuals and has been used widely throughout India to prevent peaceful protests by human rights defenders, particularly in the context of protest movements against industrial and other development projects.

The National Security Act, 1980 (NSA), which provides for preventive detention for up to one year without charge or trial, has also been used to detain human rights defenders throughout India in a context in which individuals and groups engaged in challenging the state through peaceful dissent and defending human rights contained in the Constitution of India and in international human rights standards are being labelled as "anti-national".

On 29 May 1999, four fishworkers including a woman were killed and thirteen injured when police opened fire on fishworkers protesting against illegal prawn cultivation on Chilika Lake in Orissa. Protests against these illegal shrimp farms were organized by the *Chilika Matsyajibi Mahasangh* [Federation of Chilika Fishermans Associations], supported by the National Fishworkers Forum, which on 28 May gave a 24 hour ultimatum to the local administration to demolish all the illegal prawn farming structures. When the administration failed to act to demolish the structures, the fishworkers themselves reportedly destroyed around 11 prawn farms. Police raided Sorana village at midnight that evening. They reportedly beat many of the villagers, threw tear-gas shells and finally opened fire.

Individuals peacefully protesting against human rights violations or attempting to defend their human rights have also been subjected to ill-treatment by security forces who have routinely used excessive force to suppress protests. In addition, Amnesty International is concerned at numerous incidents of police firings occurring throughout India leading to death or injury -- many of them in response to demonstrations and rallies held by peoples' movements, unions and others to demand their rights from the state. Few are properly investigated and there appears to be little accountability for police actions. Amnesty International is concerned that existing rules and practices regulating the use of force and firearms fall far short of international standards as set out in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and believes that they should be reviewed and amended to bring them into full compliance.

Amnesty International is concerned about the widespread use of false criminal charges against human rights defenders as a means of harassment. An alarmingly high number of human rights defenders with whom Amnesty International consulted during 1999 indicated that they had criminal charges pending against them. While Amnesty International does not condone criminal activity including violence against property or persons, the organization is concerned that there is clear evidence that many of the criminal cases filed against human rights defenders have been filed maliciously as a means of harassing them.

The state of the criminal justice system in India ensures that it is easy for false cases to be filed against individuals as a means of harassment. Political influence over the police not just by politicians but by powerful individuals including landowners and businessmen ensures that registering such cases is relatively simple. This is viewed as one of the foremost causes of abuse within the criminal justice system in India. Amnesty International believes that the harassment of human rights defenders by powerful interests through the filing of false criminal cases will continue for as long as the Government of India fails to address the failures of the criminal justice system.

Given that cases can take years to proceed through the courts, the impact on those obliged to defend themselves against criminal cases can be huge both in terms of time and financial and other resources. While many human rights defenders are not subjected to long periods of imprisonment pending trial and are granted bail by the courts, they are still obliged to prepare and present their defence and attend hearings for periods of several months if not years. This obviously has an enormous impact on grass-roots activists living and working in rural areas often hundreds of kilometres from the place where the hearings are taking place. Meanwhile, the work of human rights defence suffers.

Finally, Amnesty International is concerned about the use of legislation regulating the flow of funding to non-governmental organizations (NGOs), in particular the Foreign Contributions Regulation Act. There has been increasing concern in recent years about the use of such regulations to withhold funds from those organizations which may be critical of government policy. There are serious allegations that the *Bharatiya Janata Party* (BJP -- which heads the current National Democratic Alliance government) has used its influence to target organizations which are critical of its policies and discriminated against organizations with real or imagined links to non-Hindu agendas. Amnesty International believes that such strict regulation invites misuse, is in danger of violating Article 13 of the Human Rights Defenders Declaration which states that everyone has the right to "solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" and leads to violations of freedom of association as the programs of many human rights organizations rely on the resources that foreign funding brings to them.

2. Other abuses to which human rights defenders are subjected

Human rights defenders in India are subjected to a range of abuses in violation of the law in India. The torture and ill-treatment of human rights defenders has been of particular concern in areas of armed conflict but excessive force amounting to ill-treatment by security forces has also been used more widely throughout India, particularly in the context of suppressing peaceful protests.

The branding of human rights defenders as members of armed groups is common in areas of armed conflict. However, the branding of human rights defenders as "anti-national" has extended throughout the country. Defamation by state and non-state groups -- notably in recent years by right-wing Hindu groups -- has stigmatized many human rights groups and led to the filing of false charges and in some cases incidents of violence. Intimidation of human rights defenders has taken many forms. At the grass-roots level local *goondas* [criminals] are often hired by vested interests (most commonly landowners, mafias and companies) to intimidate those organizing communities to defend their rights against exploitation and other forms of abuse.

Human rights activities are routinely monitored by the state. The offices of human rights organizations are regularly visited by Intelligence Bureau officials, post is checked and human rights defenders questioned about their activities.

3. Access to effective remedy for human rights defenders

While the right to effective remedy is by no means the preserve of human rights defenders, it is often they who represent the rights of others in seeking redress. Article 9 of the Human Rights Defenders Declaration specifically grants rights to procedures for redress to human rights defenders. In the course of discussions with human rights defenders throughout 1999, it has been clear that the systematic failure of the state to provide redress to victims of human rights violations through a process of delay, political interference and legal impediments has taken its toll on activists and is a severe hindrance to their work. It has led to a situation of impunity which is a major hurdle for human rights defenders in trying to obtain the human rights guaranteed to their constituents in the Indian Constitution and in international human rights standards to which India is a party.

Impunity also exists for those attacking and harassing human rights defenders themselves. Threats are very rarely investigated and action is rarely if ever taken against those found to be filing politically motivated charges against human rights defenders. In many cases where the state is not directly responsible for harassment, the state hides behind the complexity of the situation in which this happens, arguing that it has been impossible to allocate responsibility and take action against the perpetrators. The pressure on the police and the administration to cover up incidents of violence against human rights defenders is enormous.

Problems begin when human rights defenders and victims of human rights violations attempt to file complaints with police which are regularly refused in violation of provisions in the CrPC. Once registered, pursuing a case through the criminal justice system can be tortuous. Given the limited resources of most human rights defenders and the crippling delays of the criminal justice system, it is rare for defenders to be able to pursue cases to their conclusion. Legal aid is not provided systematically and there are concerns that the ability of Public Interest Litigation to address violations of the fundamental rights of vulnerable sections of the population has been weakened in recent years.

Commissions of Inquiry under the Commission of Inquiry Act, 1952, held into a range of human rights violations (often at the request of human rights defenders themselves) have failed in most cases to provide prompt redress to victims of human rights violations. Amnesty International is concerned that in some states the government's regular appointment of such Commissions appears to amount to a deliberate policy of delaying or avoiding action against the perpetrators. Their recommendations are not binding and their reports are not always completed or made public, particularly in areas of armed conflict.

Despite repeated appeals by national and international human rights bodies, the Government of India has refused to withdraw provisions which require governmental sanction for the prosecution of state officials. This is another significant impediment to pursuing redress.

Article 14(3) of the Human Rights Defenders Declaration recommends the creation and development of "independent national institutions for the promotion and protection of

human rights and fundamental freedoms". During the 1990s India established several national institutions for the protection of human rights¹.

While welcoming the establishment of these bodies, Amnesty International is concerned that the now complex web of human rights institutions which citizens and human rights defenders can approach ensures a fairly unsystematic and often inadequate form of redress. Common concerns of the human rights community about the NHRC and state human rights commissions relate to the lack of resources including investigative staff, the lack of human rights expertise amongst members, the lack of responsiveness to individual complaints and the failure of recommendations to be pursued or implemented. Human rights defenders have also pointed to the problem of pursuing cases on behalf of victims when under section 36(2) of the PHRA the commissions are not permitted to investigate complaints over a year old.

The other statutory commissions do not have the same powers or resources as the NHRC although there have been repeated requests from these bodies to the Government of India to amend their statutes. They do not have investigative wings and as they are appointed directly by the government are more open to political influence. While Amnesty International acknowledges that they have taken strong action in some cases, the organization believes that there is a clear need for a systematic review of the working of the NHRC and state human rights commissions and more generally the working of other statutory commissions. The review should assess their effectiveness and their actual impact on the human rights situation in the country. In particular, the degree to which such institutions are responsive to the concerns of the human rights movement in the country and consult regularly with human rights defenders should be reviewed.

Given that official inquiries into human rights violations are often an inadequate means of remedy, human rights defenders in India have increasingly resorted to their own alternative redress mechanisms. While this disillusionment with legal mechanisms for redress has led many to pursue more direct action -- to concentrate on mobilising public opinion through the media, awareness campaigns, holding *dharnas* [sit-in], courting arrest, demonstrations etc. -- it has also led to the establishment of unofficial commissions and inquiries and the emergence of movements to demand information from the state which aim to enable individuals and groups to assert their rights.

4. Access to the international human rights community

Access to India has long been of concern to the international human rights community. Visits have been made to India by the United Nations High Commissioner for Human Rights in May 1995 and by the Special Rapporteur on religious intolerance in December 1996. However, the

¹ In 1992, the National Commission for Minorities and the National Commission for Women were established under separate enactments and in 1993, the National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act (PHRA). The establishment of a National Commission for Children is currently reported to be under discussion. In addition to these Commissions established in the 1990s, the National Commission for Scheduled Castes and Scheduled Tribes is provided for under Article 338 of the Indian Constitution.

government has yet to invite the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on enforced or involuntary disappearances to visit India, despite their requests to visit.

The Government of India has on many occasions barred access to international human rights organizations. For many years Amnesty International delegates were not able to visit the country and there are still long delays in obtaining visas to carry out research in the country. The organization's repeated requests to visit states of the north-east as well as Jammu and Kashmir where there are grave human rights concerns have to date been refused. Other international NGOs have also had problems in gaining access to the country. Human rights defenders have also been prevented from leaving the country or been subjected to intense questioning by officials on departure or return.

The organization believes that recent directives from the Ministry of Home Affairs that all conferences held in India to do with the voluntary sector and which appear to be politically sensitive have to get clearance from them for participants from abroad represent a further attempt by the Government of India to restrict access to the country by members of the international human rights community, thereby restricting the flow of information on human rights and their ability to act on these in violation of Article 5(c) of the Human Rights Defenders Declaration.

Amnesty International hopes that if the UN Commission on Human Rights establishes a Special Rapporteur with a mandate to monitor, document and intervene on behalf of human rights defenders -- as it and other NGOs have urged -- such a mechanism would have access to examine the situation in India.

PART III

1. Human rights defenders from or working with specific groups

Besides documenting the way in which the law is used against human rights defenders and the way in which mechanisms for redress violate international standards, Amnesty International has documented the way in which specific groups of human rights defenders have been targeted.

Human rights defence in the context of development

In Sonbhadra district of Uttar Pradesh, villagers protesting against their displacement by the construction of an ash dike as part of the expansion of the Rihand Super Thermal Power Project (financed in part by the World Bank) have been beaten and detained by police when trying to prevent construction work from going ahead. They have organized themselves into a "people's organization". In an incident on 27 June 1996 a woman's two-year-old son was reportedly flung to the ground which she was being dragged away by police. Two other women were reportedly severely beaten with sticks. The women and their children were detained by police overnight while the men were detained for 14 days.

In India, opposition to policies of development which are seen to impinge on the rights of vulnerable groups has brought together a wide variety of human rights defenders. Many of those affected by development projects and involved in protests against them have been from *dalit* or *adivasi* communities particularly concerned with displacement. In these instances, whole communities often unite to defend their rights. They widely report that rather than being consulted and provided with access to information, repressive tactics are used against them to expedite projects. Amnesty International believes that full consultations about the human rights impact of economic decisions with those to be affected -- often with activists and with non-governmental organizations as representatives of affected communities -- are vital means through which human rights are safeguarded in the context of development and globalization.

State support for development projects through its deployment of security forces has regularly led to the curtailment of freedom of association, expression and assembly. The use of excessive force by law enforcement officials on economic and social rights activists is common. The state has also taken steps to prevent the funding of non-governmental organizations involved in local protests against development projects. Trade union activists have also been targeted for their activities in defending the economic rights of workers, particularly in relation to wages and working conditions.

Human rights defenders working with *dalits*²

In July 1998 a *dalit* activist from Jalma district of Maharashtra was attacked and killed by upper caste members of his village when he returned in the middle of the night to visit his wife and new-born child. He had been banned from the district for two years after several criminal cases were registered against him by police (reportedly at the instigation of a local factory owner opposed to his activities in raising awareness amongst the *dalit* community of their rights). He reportedly had his tongue cut out and his hands and legs cut off before his body was set fire to.

Dalit activists and those defending the rights of dalits are active throughout India. However, The growing assertion of *dalit* human rights which necessarily challenges existing power groups, be it landlords, employers or even so-called "backward castes", has met with violent reaction in some quarters. Those defending the rights of *dalits* have been routinely subjected to physical attack by vested interests. Many have had false criminal cases filed against them as a means of harassment. In addition, *dalit* activists are subjected to discrimination within the criminal justice system. Their credibility is questioned and they are often treated with contempt by police and the judiciary.

Amnesty International recognises the huge challenge that the socio-economic situation in India presents for the state and the country as a whole. However with legislation designed to safeguard the rights of *dalits* in existence, and with Constitutional guarantees for the abolition of "untouchability" and prohibition of discrimination on the basis of caste,

² This term -- meaning "oppressed" -- is widely used to describe members of the "Scheduled Castes". This is a group, formerly known as "untouchables" designated in the Constitution of India as "Scheduled Castes". The schedule (list) currently includes many groups which are isolated and disadvantaged by their low status in the traditional Hindu caste hierarchy and therefore exposed to discrimination and social, economic and cultural injustice.

Amnesty International believes the Government of India must respond to abuses against *dalits* with a powerful message -- not just through rhetoric but in practice -- that those who strive for equality will not be punished but that the state will find ways of supporting these initiatives.

Human rights defenders working with *adivasis*³

In August 1999, Vijay Sathe of the *Shramik Mukti Sanghatna* [Organization for the Liberation of Labourers], fellow activists and *adivasi* villagers who they were representing were charged with attempted murder after an incident in which Mumbai businessmen who claimed ownership of the land which the *adivasis* had been cultivating for generations attempted to forcibly evict them. Vijay Sathe was also accused of inciting the *adivasis* at a meeting the day before the incident. They were detained for 22 days and cases against them are continuing.

Friction between traditional community rights of *adivasis* and the pressure of powerful interests in a country where there is intense competition for land and resources, has produced a complexity of problems. Traditionally inhabiting many of the areas of India which are rich in minerals, the process of economic liberalisation has led to widespread displacement of *adivasis* who are reported to constitute between 40 and 50% of the displaced population. Other problems are also apparent. The widespread existence of corruption complicates and entrenches the daily struggles for *adivasi* people still further and increases the stake which those holding power have in maintaining the status quo through which *adivasi* people are easily exploited.

In the context of these conflicts, "peoples' organizations" of *adivasis* have been formed and non-governmental organizations have become involved in a process of assertion of *adivasi* rights to land as well as against various forms of exploitation. The activities of these organizations which aim to educate *adivasi* communities about their land and other rights and empower communities at the lowest level have often been viewed with suspicion by the authorities in India. Some non-*adivasi* activists are viewed as "outsiders" who have no *locus* within *adivasi* communities, while others are branded as "anti-national" or supporters of or members of *naxalite* movements. More recently many activists with links to the Christian church have been accused of converting *adivasis*. In this way, Amnesty International is concerned that the authorities and other vested interests including landowners and local politicians have sought to criminalize campaigning activities for land and other rights.

Adivasi activists approaching the state in order to claim rights for their communities have talked of a sense of isolation and estrangement. As with *dalits*, in approaching the state or the criminal justice system for redress -- whether for land rights or for civil and political rights violations -- they face discrimination inherent within the system as both have in-built biases against them. Legal systems and procedures are often alien to them.

³ Tribal people in India, also known as Scheduled Tribes (because of their special designation within the Constitution), are commonly known as *adivasis*, meaning "original inhabitants". This term also denotes their position as an indigenous population. The Government of India has taken a consistent position at the UN Working Group on Indigenous Populations that Scheduled Tribes are not equivalent to indigenous peoples.

Women human rights defenders

In mid-1999, activists who took up the case of a woman and her child alleging domestic and sexual abuse in Uttar Pradesh were subjected to threats and abuse by her relatives who also filed cases of kidnapping against them. The police failed to investigate complaints made by activists about the threats and a judge made derogatory statements against them in open court. The National Commission for Women which investigated the case expressed grave concern at the way in which the human rights activists had become the focus of harassment commenting: "Recognizing the growing need for interventions by civil society and women's groups in order that the hidden sores of society are revealed, the State should devise some mechanism to legitimize these interventions."

For women in India the challenge in defending human rights is compounded by gender discrimination inherent within traditional societies as well as within state structures. Women are often condemned by their own families as well as their community for speaking out against human rights abuse and suffer harassment from all sides. When they seek help from the state to enable them to carry out their legitimate activities they are often confronted with further discrimination from the criminal justice system and from the state machinery.

As women are the most vulnerable amongst all the marginalised and socially deprived sections, it is not surprising that women are also in the forefront of many struggles launched by these sections. Women have been vocal in calling for greater consultation, access to information, and the halting of "development policies" which threaten to destroy their way of life and their family. As such movements are viewed by the state to be in direct opposition to policies of economic development, they are often met by force in police actions to remove protestors. The harassment which women human rights defenders face is often extremely personal and based on their sexuality. Women participating in demonstrations are regularly beaten on their breasts and buttocks and their clothes torn.

Human rights defenders from religious minority communities

In March 1999, the office of the social organization *Navsarjan* in Vadodra in Gujarat was attacked, allegedly by members of the *Vishwa Hindu Parishad* (VHP - see below). *Navsarjan* alleges that the VHP activists carried out the attack at the instigation of local landlords who were angry at *Navsarjan's* involvement in securing minimum wages for agricultural labourers, the majority of them *dalits*. Several women doing tailoring work in the *Navsarjan* office were dragged and kicked by the attackers. When they went to the police to file a complaint they were reportedly abused. The landowners are reported to be supporters of the BJP and have accused *Navsarjan* of carrying out conversions to Christianity. However, the work of the organization has no religious basis.

The identification of human rights defenders as coming from specific minority communities has brought many specific problems for these human rights defenders. In recent years, there have been growing fears amongst the human rights community about the hostility of the state and groups close to it to activities being carried out by individuals and organizations from minority communities.

Right-wing Hindu political groups and associations including the *Rashtriya Swayamsevak Sangh* (RSS) [Association of National Volunteers], *Vishwa Hindu Parishad* (VHP) [World Hindu Council] and *Bajrang Dal* [trained militant wing of the VHP] which have links with the ruling BJP have been responsible for targeting social activists.

The rhetoric of national security of the present government which has been overtly linked to loyalty to the Hindu religion by such groups has led to the increased labelling of non-Hindu human rights activity as anti-national. This attitude towards human rights activity based on religious discrimination which ignores the fundamental principles on which the UDHR was based -- that all human rights should be guaranteed to all, regardless of their religion -- has led to attacks on several members of religious minority communities.

Much of the violence against Christians in recent years has centred around deprived areas in India such as the Dangs district of Gujarat, where Christian organizations have traditionally carried out development activities with adivasi and dalit communities, organizing health and educational services.

Human rights defenders in armed conflict⁴

In Manipur in November 1999 police cordoned off a hall in the capital, Imphal, where a meeting was to be held on November 27 to protest against the Armed Forces Special Powers Act. They arrested two volunteers of the Committee Against Atrocities on Civilians (CAAC) who were at the hall preparing for the meeting. The previous day, two CAAC volunteers were arrested while they were distributing badges and pamphlets and were later denied bail. Senior police officials reportedly told human rights activists that it was 'anti-national' to peacefully challenge any law upheld by the Supreme Court of India.

The killing in September 1998 by unidentified gunmen of one of the members of the Association of Parents of Disappeared Persons in Jammu and Kashmir, Haleema Begum and her 14-year old son Shakeel Ahmed, and the absence of any official response to the killings - be it public condemnation of the killings, the setting up of a judicial inquiry, police investigation or protection for the surviving witnesses - has intimidated other members of the Association formed with the support of other similar initiatives of relatives of the "disappeared" worldwide. The activities of the Association have been restricted by the limited resources at their disposal and threats to the security of its members.

Human rights defenders working in areas of armed conflict in India face threats to their physical security as well as other forms of attack and harassment. The conviction of the state that human rights defenders operating in these areas are a "wing" of the armed opposition, while ignoring the very real human rights concerns that they are trying to raise has had a devastating impact on their ability to promote and protect human rights with freedom.

⁴ Amnesty International uses the term "armed conflict" in relation to areas where it has concerns about certain abuses by armed political groups regardless of the level or nature of the conflict involved: the organization does not suggest there is any particular status to the fighting in question by using this term.

Several human rights defenders in Punjab, Jammu and Kashmir and states of the north-east have been killed. In Jammu and Kashmir and Assam, the use of surrendered members of armed opposition groups -- "vigilante groups" or "renegades" -- by security forces has presented human rights defenders with enormous challenges and dangers. Such groups operate without uniform or identity badges and the fear they generate is enormous. There is no apparent chain of command and therefore no accountability.

Journalists who have attempted to gather information and report on human rights abuses by either side in the conflict have themselves become the target of attack by security forces and armed groups as well as by "renegades".

Access of international human rights monitors has been severely restricted to all areas of armed conflict in India for many years. This isolation affects not only access to information relating to human rights but also impacts on regular communication channels and the resources necessary to sustain such communication.

As in the case of many human rights violations by security forces in areas of armed conflict, the perpetrators of violations against human rights defenders are rarely brought to justice. Special legislation in force in areas of armed conflict -- particularly the Armed Forces (Special Powers) Act -- makes it more difficult for victims of human rights violations and human rights defenders to access justice. Problems of the criminal justice system which limit access to justice throughout India are compounded in areas of armed conflict by various factors including political influence over the judiciary, contempt for legal processes by the administration and security forces and intimidation of witnesses and human rights lawyers by security forces. As well as the courts, other avenues of redress are severely limited in areas of armed conflict. Section 19 of the Protection of Human Rights Act prevents the National Human Rights Commission from investigating on its own, allegations of human rights violations by members of the armed and paramilitary forces. This restriction applies also to members of the state human rights commissions. In an already difficult situation, the psychological toll that this takes on human rights defenders and those they are trying to help can be extreme.

The post-conflict scenario of Punjab amply demonstrates the continuing dangers for human rights and human rights defenders when the state fails to address human rights violations or impunity during armed conflict. Several human rights defenders were killed or "disappeared" in Punjab during the phase of conflict between 1979 and 1995. The fate of many remains unknown. While the scale and range of human rights violations has decreased, human rights defenders are still subjected to threats and harassment.

Attacks on human rights defenders by armed groups

Human rights defenders operating in areas of armed conflict in India have been subjected to threats and abuse from both sides to these conflicts and are at risk of harassment and attack by armed groups. Human rights defenders are often treated as "traitors" by armed groups because they fail to openly support the violent methods of the groups or to condone their actions. They are often branded as agents of the state and subjected to violence and intimidation. This undoubtedly puts human rights defenders in an extremely difficult and dangerous position.

Human rights defenders operating in areas where *naxalites* and other armed Maoist groups are active have faced severe difficulties in carrying out their activities. In Andhra Pradesh, the People's War Group and some of the myriad of other *naxalite* groups are reportedly responsible for intimidating *adivasi* and *dalit* villagers into providing them with food and shelter. Some of these armed groups have viewed human rights defenders engaged in "development" activities with suspicion and compelled villagers to speak out against the work of human rights defenders. This has led in some cases to violent actions against the human rights defenders.

While international human rights standards impose certain obligations on states to protect and promote human rights, even in areas of armed conflict, the rules of international humanitarian law (provisions of Article 3 common to the four Geneva Conventions of 1949) prohibit hostage-taking, torture and the deliberate or indiscriminate attack on civilians and those not taking direct part in hostilities and place obligations on armed groups to take concrete steps to avoid such attacks. Armed opposition groups have an international legal obligation to respect fundamental rights.

KEYWORDS: HUMAN RIGHTS DEFENDERS1 / HARASSMENT1 / FREEDOM OF EXPRESSION1 / IMPUNITY1 / WOMEN / RELIGIOUS INTOLERANCE / ARMED CONFLICT / NON-GOVERNMENTAL ORGANIZATIONS / ADVERSE DISCRIMINATION / LEGISLATION / PHOTOGRAPHS / CHILDREN / ADMINISTRATIVE DETENTION / USE OF EXCESSIVE FORCE / TORTURE/ILL-TREATMENT / ARBITRARY ARREST

This report summarizes a 124-page document (63,186 words) Persecuted for challenging injustice: Human rights defenders in India (AI Index: ASA 20/08/00) issued by Amnesty International in April 2000. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.amnesty.org/news/emailnws.htm>

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