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NEWS SERVICE ITEMS: EXTERNAL - INDIA (This is the summary of our memorandum to the Indian government. The summary of our response to their comments will be sent to you later today. They can both be used externally.)

PLEASE NOTE: We have a new intern starting in the press office today. Her name is Lone Hvass and her first project will be to compile an evaluation of the Annual Report media coverage. To help with this please could you send her copies of your press cuttings and also a summary of how the coverage went in your country. Thanks.

INTERNATIONAL NEWS RELEASES

India - 16 August - SEE NEWS SERVICE 175/94

Brazil - 14 September - PLEASE NOTE THIS IS AN INTERNATIONAL RELEASE. SEE NEWS SERVICE 137/94

Kosovo - 19 September - SEE NEWS SERVICE 137/94

Algeria - first week of October - SEE NEWS SERVICE 137/94

France - 12 October - SEE NEWS SERVICE 137/94

TARGETED AND LIMITED NEWS RELEASES

Thailand - 18 August - SEE NEWS SERVICE 176/94

Bhutan/Nepal - 25 August - See news service 168/94

Togo - 15 September - See news service 168/94

Indonesia - 28 September - LAUNCH OF CAMPAIGN

Turkey - 14 October - SEE NEWS SERVICE 181/94

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AI INDEX: ASA 20/28/94
EMBARGOED FOR 16 AUGUST 1994

INDIA: Summary of Amnesty International's memorandum to the Government of India arising from an Amnesty International visit to India 5-15 January 1994

On 16 August 1994 Amnesty International released a 42-page memorandum it sent to the Indian Government on 19 May 1994 following its first research visit to an Indian state for 15 years. The Indian Government commented in a detailed response of 11 August 1994. A separate document describes Amnesty International's response to the comments received from the government (AI Index: ASA 20/29/94).

Amnesty International's visit to Bombay, the capital of Maharashtra, focused on arrest and detention practices in one Indian state and the way these are conducive to illegal detention, ill-treatment and torture. The human rights concerns identified in Amnesty International's memorandum arising from its visit to Bombay are symptomatic of human rights problems throughout the country.

Amnesty International's decision to visit Bombay was originally proposed after allegations of indiscriminate police shootings and reports of police partiality during the January 1992 - December 1993 riots, leaving at least 1,500 people dead. It was also prompted by the organization's wish to understand police procedures and practices in a city not faced with special pressures, believing that if no effective and preventive measures are taken to tackle the human rights situation in a city like Bombay, they stand little chance of being adopted in states like Jammu and Kashmir, Assam and the north-east or Punjab. In those states, where especially grave human rights violations are being perpetrated, the security forces face more extreme pressure because armed opposition groups routinely resort to attacks on the security forces and civilians.

Amnesty International found that large numbers of people were routinely held in Bombay police stations without a proper police record of their arrest or their having been detained. Senior police officials acknowledged that the practice - which is clearly prohibited in Indian law - is relatively commonplace. One senior police officer told the Amnesty International delegates, when asked about unrecorded police detentions: "I don't know whether it's 50 percent of detainees or 25 percent."

Unrecorded police detentions are dangerous, not least because they facilitate more serious abuses, especially torture and, elsewhere in India, "disappearances". Amnesty International urged the government to take immediate steps to halt such illegal practices.

Victims of such practices in Bombay include wives, children and other family members of Muslims, many of whom were arbitrarily arrested after the 12 March 1993 bombings in the city, which killed some 300 people, attributed by the government to Pakistan's intelligence service in cooperation with Muslim elements in the city.

Disturbingly, some of those detained were held as "hostages" to force the surrender of wanted suspects. They were released after days, the police never bringing them before a magistrate as the law requires or suggesting that they were themselves suspected of a criminal offence.

After interviewing dozens of victims, officials and others, Amnesty International concluded that the beating of suspects by the police to extract information is common, that the police are poorly equipped and not trained to use reliable methods of investigation, and that other forms of torture, including electric shocks, occur from time to time.

Torture is facilitated because of the dangerously long periods that people can be held in police custody: normally 15 days and under the Terrorist and Disruptive Activities (Prevention) Act (TADA) even for 60 days. Amnesty International also found that police routinely disregard existing legal safeguards like informing suspects of the legal grounds for their arrest, bringing them before a magistrate within 24 hours of their arrest, and taking women to police stations for investigation. Indian law was also found to be virtually silent on the questioning of suspects in police custody and Amnesty International said there was an almost total lack of openness about what happens in police stations. Lawyers and relatives were routinely denied access to persons held in police custody, and the latter were often refused permission to let relatives know they had been arrested. The government did little to encourage professionalism in the police.

Amnesty International said it was not appropriate or feasible to investigate the numerous charges of police abuses made during the December 1992 / January 1993 riots in Bombay one year after the events during which at least 1,500 people were killed. But Amnesty International reviewed existing laws and procedures regarding the use of force and firearms by the police. Amnesty International concluded that the broad terms of, notably, the 1986 Communal Riot Scheme facilitated arbitrary and indiscriminate killings of people including innocent bystanders by police, that, although some outstanding police officers reportedly acted courageously and impartially, the police had clearly resorted to arbitrary and illegal use of firearms and that existing rules and practices regarding the use force and firearms fell far short of international human rights standards.

Amnesty International also found that the steps taken by the government so far have largely failed to provide effective redress to the hundreds of victims of the rioting. The judicial inquiry instituted by the government - which proceeds at a very slow rate - is ironically abused by officials as an excuse to evade police accountability for serious excesses which were undoubtedly committed. Four specific examples of reported extrajudicial killings and "disappearance" of Muslims during the riots by police are given in an Appendix to the memorandum. Two years after the events no police were known to have been charged or brought to justice for human rights violations committed during the period.

The memorandum found that there could be no justification for abusing a law like TADA, which fails to provide basic legal safeguards, to detain suspected ordinary criminals, as happened in Bombay. Amnesty International said it was particularly concerned that a number of "confessions" from other suspects held under TADA, the 145 accused now on trial under the TADA provisions for their alleged role in the March 1993 bombings in Bombay, had allegedly been extracted under torture by police and that they could be used as evidence against them in contravention of international human rights standards.

Amnesty International made 15 recommendations to the government, which include:

- ◆ official condemnation of and steps to halt the practice of unrecorded detentions including by establishing an independent police complaints body
- ◆ establishing a system of comprehensive police custody records to which outsiders should have access
- ◆ creating an independent mechanism consisting of persons of integrity respected for their impartiality and independence by the local community to scrutinize police behaviour in all Maharashtra police stations.
- ◆ strengthening of legal safeguards by making the right to access to a lawyer promptly after arrest a legal guarantee and by providing clear rules for the treatment of persons in custody
- ◆ reviewing the alleged abuse of TADA, abolishing provisions permitting prolonged remand in police custody without charge or trial and the admission in evidence of statements made to police, under torture
- ◆ taking immediate steps to prosecute police officers responsible for killing people deliberately and illegally during the December 1992 - January 1993 riots, ordering a prompt review of existing rules that facilitate unlawful killings and equipping the police adequately to use non-lethal methods of crowd control.
- ◆ Amnesty International also urged the judicial inquiry conducted by Justice Shrikrishna into the Bombay riots to publish interim reports to facilitate prompt criminal prosecutions of those committing human rights violations.

Amnesty International's visit to Bombay was first proposed in March 1993. Initially refused permission, Amnesty International's visit was twice postponed by the government, but eventually took place from 8-15 January 1994. Its delegates, who were able to visit a Bombay police station, received every cooperation from senior state and police officials. Amnesty International also met dozens of victims of human rights violations, lawyers and members of civil liberties groups.