

# South Asia

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South Asia remained besieged by religious, ethnic and political conflicts, which also entailed substantial threats to international and regional security. The economic, political and social imbalance amongst the communities within South Asia was a factor contributing to the abuse of human rights, with particularly significant implications for the ethnic, religious and racial groups of the region. Aspirations for peace, security and respect for human rights within South Asia remained confounded by the enormity of the regions' political and constitutional problems. The shortfall in democracy and political accountability, coupled with the continuation of draconian measures – ostensibly to deal with terrorism – were features consistently impinging on the rights of minorities and indigenous peoples of the region.

### **Bangladesh**

The persecution of religious minorities featured prominently within the political development of Bangladesh. In January 2004, the Bangladesh government imposed a ban on Ahmaddiya publications as a response to growing demands from mainstream Sunni Imams for Ahmaddiyas to be declared non-Muslims. On an application by the Ahmaddiya community, the High Court intervened to grant a stay of the governmental executive order in December 2004. Police and governmental authorities nevertheless continued to seize books and documents relating to Ahmaddiya faith, and colluded with Muslim extremists to remove signs referring to Ahmaddiya places of worship as 'mosques'. There was also a sustained campaign of harassment, violence and physical abuse against the Ahmaddiya minority. On 29 October 2004, a mob of around 300 men belonging to Khateme-Nabuwat party attacked a mosque in Brahmanbaria, seriously injuring 11 Ahmaddiyas. On 17 April, a crowd of religious extremists attacked another Ahmaddiya mosque in Jotidriangar injuring 25 people. There was also harassment, abuse and physical destruction of properties belonging to religious minorities during the period 2004–5. On 1 January 2004, local Bangladesh National Party officials set 20 houses belonging to the Hindu community on fire. This action was repeated in Sarkerpur village in Rangpur district in September 2004. During April 2004, 12 Ahmaddiya houses were destroyed and, on 18 September 2004, Christian convert Dr Joseph

Gomes was killed by unidentified assailants. Religious minorities also continued to suffer from discrimination in key areas of the public sector: jobs, higher education and access to justice. The Hindu minorities and the indigenous peoples (particularly those from the Chittagong Hill Tracts) have blamed the government for being complicit in continued seizure of their lands by the so-called Muslim vigilantes and those belonging to extremist religious parties.

### **Bhutan**

In the absence of a written constitution providing for fundamental human rights, the overall position of minorities within Bhutan remains precarious. King Jigme Singye Wangchuck of Bhutan maintains a despotic autocracy; those campaigning for democratic reforms and the repatriation of refugees (from Nepal) are condemned as 'terrorist and anti-national' elements. The primary minority, ethnic Nepalese, continued to claim that they have suffered from forced expulsions and non-rehabilitation in their native lands, and discrimination in civil service and public-sector employment – claims rejected by the government. There are currently over 100,000 Bhutanese who have been forced to become refugees in the bordering Nepal. Almost all of these are ethnic Nepalese, who were stripped off their nationality by the new Bhutanese Citizenship Law. These refugees, while desperate to return to their homes, have put forward substantial claims of mass torture, persecution and repression by Bhutan's security forces. In what it perceives as efforts to maintain a Buddhist national identity, the government of Bhutan also carried on with a policy of compulsory wearing of traditional Buddhist dress for both men and women of Bhutanese nationality (including minorities) while in public places. This law was rigorously applied, in particular for those visiting Buddhist religious buildings, schools and monasteries, and those participating in official functions and public ceremonies.

### **India**

A change in the political climate had an impact on the religious minorities of India. The coalition led by the Hindu Nationalist Party (Bharatiya Janata Party) lost the general parliamentary elections held in April–May 2004 and was succeeded by the Indian National Congress. Notwithstanding a

change in the federal government, security forces continued to pursue policies, *inter alia*, of extra-judicial killings, detentions and torture. The implication of such policies was particularly tragic for India's religious, ethnic and linguistic minority groups. Arbitrary practices of arrests, detentions and torture were deployed against the Muslims in Jammu and Kashmir; courts in Jammu and Kashmir were reluctant to hear cases involving militants and failed to act expeditiously on *habeas corpus* cases. Jammu and Kashmir has a bitter and painful political history, the roots of the conflict going back to the partition of India in 1947 and leading to three wars between India and Pakistan. The conflict between the Kashmiris and the Indian armed forces has been brutal, resulting in more than 40,000 deaths within the past 15 years. Since April 2005 (with the visit of Pakistan's Military leader Pervez Musharraf to India) some, albeit slow, progress has been made in developing a peace dialogue. In April 2005 a bus service opened between the two parts of the divided Kashmir. In June 2005, a number of Kashmiri leaders held talks with the Pakistani leader, with a view to advancing the peace initiative. This was followed by the decision at the end of August by the Indian Prime Minister Manmohan Singh to hold talks with the Kashmiri separatists. The talks, which were conducted with the moderate wing of the All Parties Hurriyat Conference in Dehli on 5 September 2005, provide cause for optimism: the leader of the Hurriyat – an umbrella group of parties opposed to Indian rule in Kashmir – agreed in principle to denounce all forms of violence

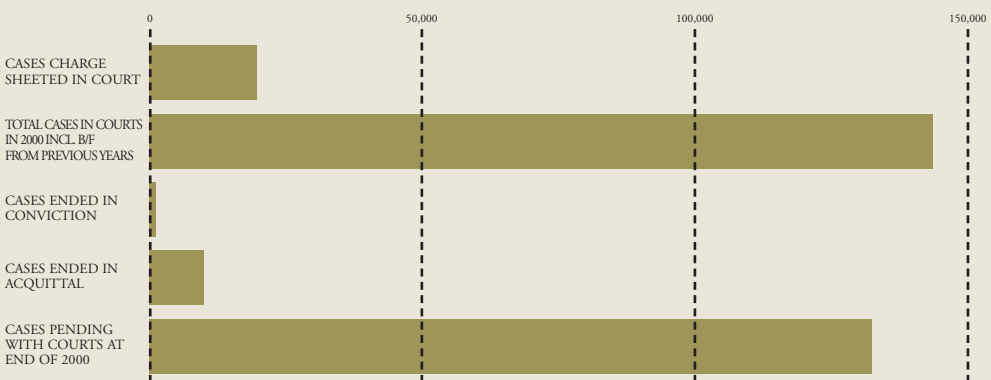
within Kashmir. However, in the light of the intransigent stance of all the parties involved in the conflict and the continuing violations of Indian security forces, a resolution to the dispute appears distant.

In addition to the grievances emerging from Kashmir, Muslims of India claim to have suffered persecution and genocide in the state of Gujarat. Muslim leaders condemn the failure of the Gujarat government and the Indian courts to prosecute those involved in the killing of over 2,000 Muslims at the hands of Hindu extremists. In many cases, attempts to hold perpetrators of Gujarat riots accountable were hampered by the allegedly defective manner in which police recorded complaints. There were allegations made by the victims that the police failed to register their complaints or recorded the details in such a way as to lead to lesser charges. Victims complained that the police and governmental authorities deliberately failed to bring charges against prominent people involved in attacks. No appropriate action has been undertaken against those involved in the Gujarat riots. A retrial was ordered in relation to the most serious instance of rioting in Gadhra, and arrest warrants were issued for 10 of the 21 accused. However, in November 2004, the key prosecution witness refused to testify in the Mumbai court in one of a series of recantations.

There was also the continuation of another related sectarian Hindu-Muslim dispute over the sacred site of Ayodha. On 5 July 2005, six men pretending to be tourists used explosives to blast

### India: Disposal of cases during 2000 under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989

Source: Ministry of Social Justice and Empowerment, 7th report; national Human Rights Commission, Report on Prevention of Atrocities against Scheduled Castes, 2004.



through the wall of the Ayodha site. Although all the assailants were killed, Hindu nationalist parties such as the Vishwa Hindu Parishad (VHP) called for retaliatory action to be taken against Muslim organizations and blamed Pakistan for orchestrating the attack. The 166.6 million Scheduled Castes (including the Dalits) and the 84.3 million Scheduled Tribes (Adivasis) continued to face discrimination and social segregation in many aspects of public and private life. Dalits were victims of social ostracism, having inadequate access to health care and poor working conditions. Dalit women continued to face 'double discrimination' on the basis of their caste as well as gender – deprived of education and basic health care they were frequently forced into slave-like work and menial labour. In the light of the egregious and systematic denial of the fundamental rights of the Dalits, the UN, on 19 April 2005 (in an unprecedented move) decided to appoint two special rapporteurs to examine the substantial and deep-rooted problem of caste-based discrimination. The special rapporteurs are mandated to study all issues surrounding the discrimination against Dalits and report to the UN Sub-Commission on the Promotion and Protection of Human Rights. The three-year process will lead to the drafting of a set of *Principles and Guidelines* aimed at eliminating caste-based discrimination.

### **Maldives**

An unfortunate pattern of discrimination and persecution of religious minorities persisted in Maldives, which does not provide constitutional guarantees of freedom of religion. According to the legislative provisions, the president and members of parliament must be Muslims. There is a continuing failure in providing places of worship to non-Muslims, with the government also prohibiting the import of religious statues and icons.

### **Nepal**

In Nepal since the dismissal of the elected government in 2002, the king has appointed three interim governments. Sher Bahadur Deuba, a former prime minister, was reinstated on 2 June 2004. However due to the ongoing insurgency led by the Maoists, and the inability to form a political consensus, it has become impossible to establish a parliament. Prime Minister Deuba was forced to resign in February 2005 with the King Gyanendra

seizing absolute control of the government, ostensibly to combat the Maoist rebellion. Sher Bahadur Deuba was convicted over charges of corruption by a Royal Commission and has been imprisoned for two years. The charges brought against the former prime minister and his conviction at the hands of a Commission appointed by the king has been heavily criticized as a major setback to democracy and rule of law.

The continuing Maoist insurgency has led to an increase in the number of political disappearances in Nepal. According to the UN High Commissioner for Human Rights, at present Nepal has the highest number of disappearances anywhere in the world. The Maoist insurgency has a hugely negative impact at all levels, including schooling and higher education. Amidst the civil and political unrest, women (from all communities) have suffered from discrimination, victimization and degradation. In addition, and as discussed below, Nepal continues to suffer from long-standing refugee problems. There has been no durable solution to, or improvement in the plight of, over 100,000 Bhutanese refugees in Nepal. During 2005, the UN High Commissioner for Refugees intends to withdraw support for the refugees – this would leave these refugees vulnerable to further abuse and continuing statelessness.

### **Pakistan**

Whilst almost all of the regions' minorities suffered from a 'democratic-deficit' and undermining of rule of law and human rights principles, the situation of religious minorities within Pakistan was particularly unfortunate. The year 2004–5 witnessed the strengthening of military rule, and, although some progress was made by the military ruler General Pervez Musharraf to inject a sense of moderation and pluralism in the societal fabric, marginalized communities (particularly the religious minorities and women) were targeted and victimized. Madrasas (Islamic religious schools) continued to flourish, and as the tragic events of London on 7 July 2005 have confirmed, several of these madrasas persist in disseminating fanatical and intolerant ideologies; it is now confirmed through media reports that three of the four men involved in the London bombings had visited madrasas in Pakistan. Notwithstanding the political rhetoric on the part of the government, discriminatory laws such as the Blasphemy Laws and the Hudood Ordinances continue to be deployed

against religious minorities and women. Women in Pakistan suffer huge discrimination as a consequence of the arbitrary application of the Hudood laws. President Musharraf's efforts to introduce a minor amendment in the procedural application of the Blasphemy Laws – a measure approved by the national parliament in October 2004 – failed to reduce the number of arrests and detentions on blasphemy charges. According to the statistics provided by the Human Rights Commission of Pakistan, during the period January 2004–August 2005 more than 150 persons were detained for offences under the Blasphemy Laws. The abuse of blasphemy legislation was exemplified through the cases of Javed Anjum and Samuel Massih. Both were accused of blaspheming under s.295(c) of the Pakistan Penal Code 1860 (as amended). Samuel Massih was bludgeoned to death by his police guard while receiving treatment for tuberculosis in a Lahore Hospital, while the 19 year old Javed Anjum was tortured to death by students from a local madrasa. No action has been taken by the police or security forces against those involved in these murders. Furthermore, there was a substantial increase in sectarian violence across the country, with the Shia minority community being the principal target of victimization and killings.

Religious minorities also claim to have been excluded from the limited avenues of Pakistan's fragile democracy. The present military government had in 2002 agreed to abandon the much-despised separate electorate system – a system whereby separate electoral colleges were established for

Muslims and Non-Muslims. Despite the promise of abolition, the system was deployed in the local elections held in August and September 2005. These local elections, seen as the precursor to the national parliamentary elections due for 2007, were marred by considerable bloodshed. There were also substantial accusations of widespread fraud and vote rigging and intimidation of minorities (particularly Christians) at the behest of the government. Minority groups have criticized the Pakistan Election Commission for retaining separate lists for such communities as the Ahmadiyahs, and for reserving four seats for male Muslims and two for female Muslims in each of the 13-member local councils.

### **Sri Lanka**

Within Sri Lanka during 2004, the peace negotiations (which had been stalled in the previous year) remained suspended. During the period January 2004–August 2005, both the government and Liberation Tigers of Tamil Eelam (LTTE) violated the provisions of the 2002 accord on numerous occasions. The situation was further exacerbated by the split within LTTE itself. Vinayagamorthy Muralitharan, the eastern commander, broke ranks with the main party on 3 March 2004, claiming neglect and poor treatment of eastern Tamils. Fighting between the two LTTE groups erupted in early April and continued intermittently for several months. The Tamils, as a minority, complained of continuing systematic discrimination in areas such as employment, higher

**Right:** Farmer outside her home in Chittagong Province, Bangladesh.  
Karen Robinson/  
Panos Pictures



education and housing. However, an ongoing and unfortunate feature of the conflict has not only been the torture and brutalization perpetuated by the governmental security forces, but also the political killings by LTTE, targeting of Tamil splinter groups and the enforced recruitment of children as soldiers. The recruitment of children is particularly tragic; it extends to both young boys and girls and is in violation of all norms and values of international law. The fragile peace between the government and the Tamil Tigers was further strained after the assassination of the Sri Lankan foreign minister, Lakshman Kadirgamar on 12 August 2005. Mr Kadirgamar, although a Tamil himself, had been highly critical of the terms of the peace agreement, which he perceived as unfairly favourable towards the Tamils. During the period January 2004–August 2005, the indigenous peoples of Sri Lanka, the Veddas made claims of ‘land-grabbing’ and abuse.

### ‘War on Terrorism’

As a key ally of the Western governments in the global ‘War on Terrorism’ Pakistan played a prominent role both in Afghanistan and within Pakistan itself. While the Pakistan government was supported financially and militarily by the US and was granted re-entry to the Commonwealth in September 2004, the ‘War on Terrorism’ resulted in a number of negative consequences for ethnic, religious and racial minorities of the region. There have also been substantial difficulties for the indigenous peoples of the tribal belts of Pakistan. Amendments were made to the Anti-Terrorism Act 1997 in October 2004, whereby those convicted of ‘supporting’ acts of ‘terrorism’ were to be sentenced to life imprisonment. The police and security services were given the power to seize the passports of ‘terrorists’. Earlier, in April 2004, the Supreme Court of Pakistan ruled that individuals convicted of terrorist offences could not be pardoned at the behest of victims’ families – a practice that is allowed in other serious criminal offences such as murder. The ‘War on Terrorism’ was pursued with ruthless intensity against nationals of some countries – there were numerous instances of disappearances, arbitrary detentions and torture of foreigners. In July 2004, a Tanzanian national Ahmed Khalfan Ghailamin ‘disappeared’ after having been arrested by the Punjab police. His whereabouts are not known since his arrest, nor is there any confirmation

as to whether he is still alive. Since March 2004, the Pakistan government has also undertaken significant military operations in the autonomous Federally Administered Areas of Pakistan (FATA). While the military activities are conducted ostensibly to hunt for Osama bin Laden and to flush out foreign supporters of Al-Qaeda, the indigenous tribal peoples of FATA have complained of torture, killings and arbitrary detentions of their peoples. There have been reports of extra-judicial killings, mass arrests and house-demolitions of the indigenous peoples of Waziristan. After the bombings in London on 7 July 2005, Pakistan’s military government rounded up and detained dozens of people, including Islamic religious leaders. While this move is seen as a response on the part of the President Musharaff to placate the West, in particular the US and the United Kingdom, there is a substantial risk of generating a backlash. Furthermore on 1 September 2005, the foreign ministers of Pakistan and Israel also held talks in Istanbul, Turkey – thereby allowing the possibility of establishing formal diplomatic relations between the two countries. Given the religious sensitivities evoked by the Israeli–Palestinian conflict, and the fact that much of the Islamic world does not recognize the state of Israel, critics of General Musharaff perceive this initiative as yet another ill-conceived step towards appeasing the West.

A further negative impact of the ‘War on Terrorism’ – widely considered as a US-driven operation – is to increasingly radicalize the society of Pakistan. In the North West Frontier Province of Pakistan (NWFP), which borders Afghanistan, a Taliban-friendly government came into power after the 2002 elections. In July 2004 the elected provincial government of NWFP launched the ‘Hisbah Bill’, and has during 2005 campaigned for its adoption and implementation. This proposed legislation calls for the setting up of ‘Muhtasib Offices’ at provincial and district levels with the objective of ensuring ‘adherence to Islamic values at public places, and during weekly Friday prayers’. The adoption of ‘Hisbah Bill’ has become a serious matter of contention between the radical Islamic parties of NWFP and the federal government. On 4 August 2005, the nine members Supreme Court Bench declared several provisions – relating to the role of Muhtasib – as unconstitutional. The Court advised the governor of NWFP not to give his

assent to the bill. The issue, however, is likely to remain a serious source of controversy and aggravation. Critics of the proposed legislation are concerned that, once in force, this law could be deployed to ensure adherence to prayers and timings of the call to prayer. The scope of 'Islamic values' is vague and liable to abuse; this ideology is already being used to curb freedom of expression and freedom of religion. Religious minorities fear persecution and further intimidation at the hands of Islamic extremists.

The 'War on Terrorism' had implications on other minorities of the region. In India on 21 September, 2004 the newly elected Congress government repealed the anti-terrorism legislation (Prevention of Terrorism Act – POTA) which had been enacted in the aftermath of 11 September 2001 and the attacks on Indian parliament in December 2001. However, as Human Rights Watch has noted, the legislation was draconian in nature and '[i]n practice, the law was often used against marginalized communities such as Dalits (so-called 'untouchables'), indigenous groups, Muslims and the political opposition'. While the repeal of the legislation was a positive step, POTA in effect continued, courtesy of a sunset feature authorizing the Central POTA Review Committee to using existing powers of arrest, detention and interrogation, and to review all the pending cases under the law. Further, the government combined the repeal of POTA with amendments to the Unlawful Activities of Prevention Act (UAPA) 1967. The impact of the revised anti-terrorism legislation and the application of other laws such as the National Security Act, the Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Acts continue to allow the security forces to abuse the rights of minority communities especially Muslims in Jammu and Kashmir.

### **Impact of the tsunami**

On 26 December 2004 a powerful tsunami, measuring 9 on the Richter scale, hit the coastal areas of South-East Asia. The tsunami brought disaster and devastation not only to the Far East, but also to a number of South Asian countries, most notably Sri Lanka, southern India and Maldives. It is estimated that over 300,000 people were killed and at least a million people were rendered homeless in this tragedy. Women and girls were worst affected

by this disaster; fatalities among them were much higher than among men. The tsunami had a devastating impact on the northern and eastern coastlines of Sri Lanka, regions which are controlled partly by the government and partly by the LTTE. The destruction accounted for over 11,000 deaths in Sri Lanka and displaced thousands of people. A huge international effort was launched to support the victims of the tsunami, and a package of US\$3 billion was promised by the international community for the reconstruction of Sri Lanka. However, the process of aid distribution has been hampered by internal conflict – there are divisions within the governing coalition, and between the government and the LTTE. Eight months after the disaster, the Tamil and Muslim minorities affected by the disaster claim a failure of support from the Sinhalese-dominated majority government. There are claims of discrimination, diversion of aid and deliberate withholding of funds for reconstruction of Tamil areas. On 14 July 2005, the Supreme Court of Sri Lanka suspended the implementation of an agreement signed earlier between the LTTE and the government for post-tsunami aid-sharing. In its ruling, the Court took the view that the Tamil Tigers were failing to ensure that their offices were accessible to individuals affected by the disaster. The Court also expressed serious misgivings about the management and distribution of aid. The Court's ruling is likely to have a significant negative impact on the already strained cease-fire between the LTTE and the government forces.

In India, the Dalits faced serious losses as a consequence of the tsunami. The most heavily affected areas – with heavy concentrations of Adivasis and Dalits – were the remote islands of Andaman and Nicobar, and the Chennai and Cuddalore, Kanyakumari and Nagapattinam districts of Tamil Nadu. The Andaman and Nicobar Islands are home to six indigenous tribes, including the Onge, the Jarawa, the Sentinelese and the Andamanese. Indigenous peoples faced considerable loss of life and a huge disruption to their lifestyles. The Indian government remains reluctant to admit the level of damage, or to allow international access to the islands because of strategic military bases in the Nicobar Islands. The tsunami brought a substantial amount of devastation for the Dalits of the southern Indian state of Tamil Nadu – it is estimated that 10,000 died while 650,000 were



displaced. More tragic and shameful was the fact that in the aftermath of the tsunami, the Dalits of Tamil Nadu were made to suffer from worst forms of discrimination and humiliation. Notwithstanding substantial losses, many Dalit victims have not been paid compensation – a consequence of their exclusion from the initial lists drawn up on 27–28 December 2005. Dalits also complain of exclusion from making use of (and in some cases even entering into) makeshift relief camps; the untouchability syndrome continues to dominate the upper Hindu caste mentality. The limited shelter that has been provided to Dalits is close to what are regarded as less desirable areas, for example near graveyards or garbage dumps, and are lacking in proper sanitation or other facilities. In these shelters there is no regular supply of water. After the tsunami, several international agencies donated large portable water-tanks for the general consumption of all those affected by the tsunami. In several instances, the Dalits have been prevented from drawing water from these taps because of the fears of the upper-caste Hindus of the ‘pollution’ of water at the hands of ‘untouchables’.

The tsunami also brought devastation and destruction to the islands of Maldives. Over 50 of the 198 Islands were severely affected by the huge waves; the contamination and destruction of clean water sources is among the most serious problems. There has been considerable disquiet at the way the Maldives government has handled the crises. However, since Maldives continues to have an autocratic regime, any opposition to the governmental policies is likely to be stifled. ■