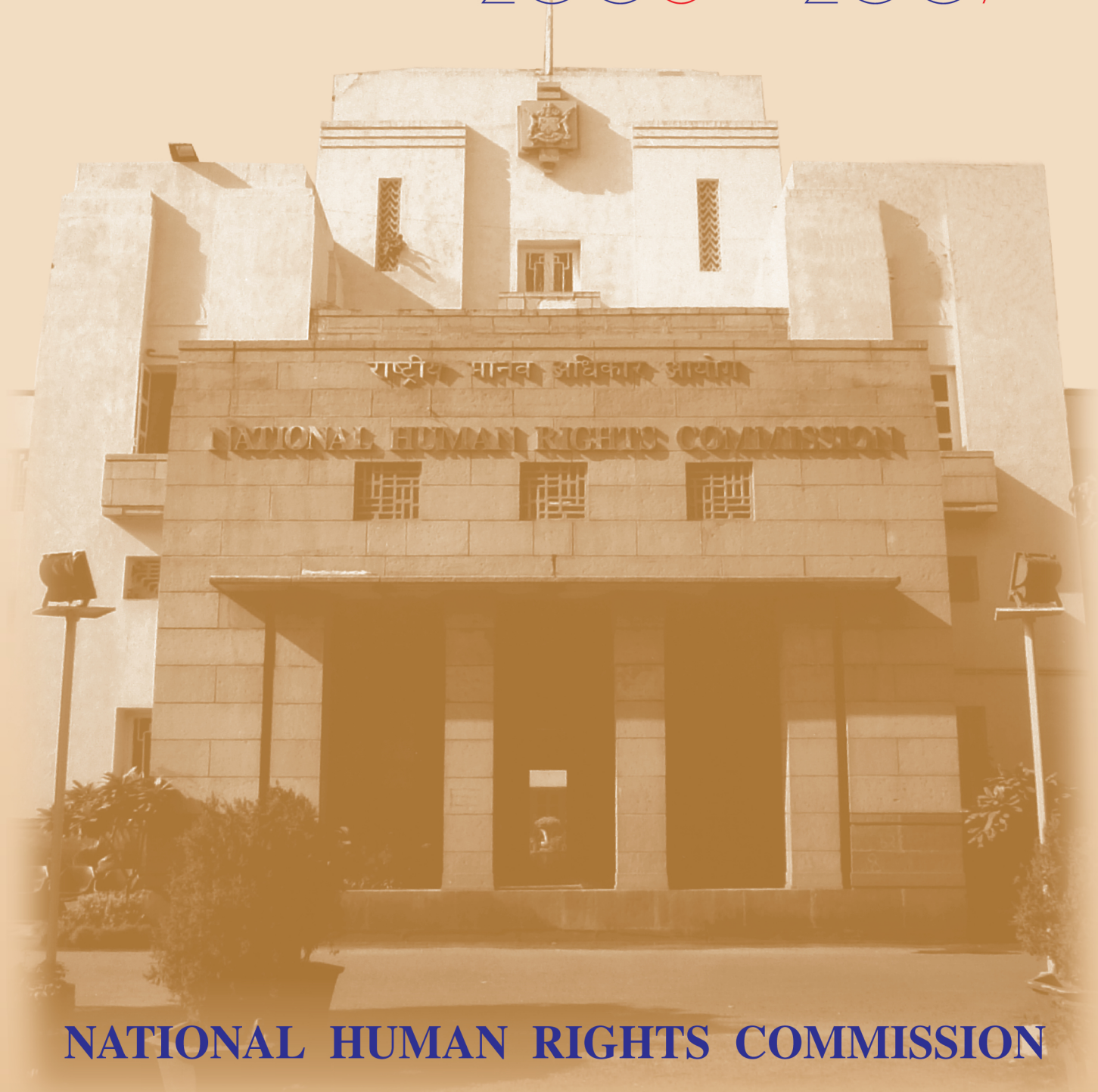


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# Annual Report

## 2006 – 2007



**NATIONAL HUMAN RIGHTS COMMISSION**

# **ANNUAL REPORT 2006-2007**



**NATIONAL HUMAN RIGHTS COMMISSION**

Faridkot House, Copernicus Marg,

New Delhi - 110 001, India

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# Annual Report 2006-2007

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# 1

## Introduction

1.1 This is the fourteenth annual report of the National Human Rights Commission covering the period April 1, 2006 to March 31, 2007.

1.2 The thirteenth annual report of the Commission, for the period from April 1, 2005 to March 31, 2006 was forwarded to the Central Government on November 27, 2006 for preparing the Memorandum of Action Taken and placing the same before the Parliament in accordance with the procedure envisaged under section 20(2) of the Protection of Human Rights Act, 1993. As at the time of writing the present annual report, the annual report together with the Memorandum of Action Taken had not been placed before each House of Parliament, in accordance with the procedure envisaged under section 20(2) of the Protection of Human Rights Act, 1993.

1.3 The twelfth annual report of the Commission, for the period from April 1, 2004 to March 31, 2005 was tabled in the Lok Sabha and the Rajya Sabha on August 22 and 23, 2006 respectively alongwith the Memorandum of Action Taken Report.

1.4 The annual reports of the Commission serve as essential sources of information on the human rights situation in the country. The Commission had also forwarded copies of the twelfth annual report to all the State Governments/Union Territories as required under Section 20(2) of the Protection of Human Rights Act, 1993, for tabling the report in the State Legislature, along with a Memorandum of Action Taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

1.5 In the year 2005-2006, 74,444 complaints were received by the Commission, while 80,923 cases were disposed off during the year. The Commission, thus, took effective steps to deal with the pending cases. In the year under review (2006-2007), 82,233 complaints had been received by the Commission, while 31,881 complaints were pending with the Commission, which included 148 cases awaiting preliminary consideration and 32,029 cases in respect of which reports were either awaited from the authorities concerned or the reports had been received and were pending for further consideration within the Commission itself. In all, the Commission disposed of 93,421 complaints during the year under review.

1.6 During the period under review, the Chairperson, Members and Senior Officers of the Commission participated in various meetings organized by the National Human Rights Institutions. The Commission also addressed various issues relating to Rights of the Disabled, Internally Displaced Persons, Food Security, Trafficking in Women and Children, Health, Rights of the Elderly, Manual Scavenging and Custodial Justice, etc.

1.7 In view of the long pending cases before the Commission, the Commission developed a unique yet proactive method of reducing the pendency by 'out-reaching'. The first Full Commission sittings, away from the Headquarters were held in Lucknow Uttar Pradesh during 18 to 20 January 2007. By holding such Commission's Camp Sittings, NHRC gets opportunity to not only in handling the urgent complaint(s) but also to deliberate upon the various enactments and policies. NHRC has its own mechanism for the feedback and based on the same, specific areas are highlighted to the State officials so as to exercise extra care and caution to ensure that the economic, social, cultural rights and civil and political rights are well protected.

1.8 After completing his term as Chairperson, Dr. Justice A.S. Anand demitted office on October 31, 2006. Dr. Justice Shri Shivaraj Patil assumed the charge as acting Chairperson on November 1, 2006. Subsequently, Shri Justice S. Rajendra Babu assumed office as Chairperson on April 2, 2007. Dr. Justice Shivaraj V. Patil, Shri Justice Y. Bhaskar Rao, Shri R.S. Kalha and Shri P.C. Sharma continued to serve as Members.

1.9 With regard to those who are "deemed to be Members of the Commission" under the provisions of Section 3(3) of the Act, Shri Mohammad Hamid Ansari continued in office as Chairperson, National Commission for Minorities. The post of Chairperson National Commission for Scheduled Castes fell vacant since 6 August 2006 due to the demise of Dr. Suraj Bhan. Shri Kunwar Singh continued in office as Chairperson, National Commission for Scheduled Tribes till 14 February 2007. Dr. Girija Vyas continued in office as Chairperson of National Commission for Women.

1.10 Shri Ravi Kamal Bhargava, IAS (MH:72) assumed office as Secretary General on August 7, 2006. Shri Damodar Sarangi, IPS (WB :72) assumed office as Director General (Investigation) on September 18, 2006.

  
(S. Rajendra Babu)  
Chairperson

  
(Shivaraj V. Patil)  
Member

  
(Y. Bhaskar Rao)  
Member

  
(R.S. Kalha)  
Member

  
(P.C. Sharma)  
Member

New Delhi  
September 19, 2007



# 2

## An Overview

2.1 The National Human Rights Commission (NHRC) was set up under the Protection of Human Rights Act, 1993. The recent amendment to the Act came into force on 23 November 2006 by Gazette Notification No.15011/50/2006-HR III. The Commission has relentlessly endeavoured to promote and protect human rights in the country and highlighted its achievements in the national and international forums.

2.2 Today, both the government of the day as well as the Commission has been facing daunting challenges in the task of protection of human rights of the citizens of the country, tackling issues such as terrorism, missing children, child labour, right to education for children with HIV/AIDS, dowry deaths, custodial deaths, and rights of the disabled among other issues. The Commission has flagged these issues and taken concrete measures in terms of not just representing individual incidents but also coming up with policy guidelines for implementing agencies. The Commission has also monitored implementation of its guidelines.

### **Economic, Social and Cultural Rights**

2.3 The Commission has always flagged the importance of ensuring Economic, Social and Cultural Rights and repeatedly emphasized that it is not party affiliation but the rights of the citizens, which should be the guiding factors for the Government.

### **Nineteenth Session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)**

2.4 The nineteenth annual meeting of the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) was held in March 2007, in Geneva, Switzerland. The delegation from the Commission, headed by Dr. Justice Shivaraj V. Patil, Acting Chairperson and comprising of Mr. R.S. Kalha, Member, Mr R.K.Bhargava, Secretary General and Mrs. Aruna Sharma, Joint Secretary attended the meeting.

2.5 Prior to the ICC meeting, the National Institutions Unit of the Office of the United Nations High Commissioner for Human Rights (OHCHR) organised a thematic dialogue

on the role of National Institutions (NIs) in prevention of torture. The Commission was invited to share its experiences on the topic “Working towards an effective complaint handling system and NHRC’s experience”. Mrs. Aruna Sharma, Joint Secretary made a detailed presentation which was well received by all. The presentation contributed to the content of the thematic dialogue immensely and was appreciated by the National Institutions Unit of the OHCHR.

2.6 During the deliberations of the ICC meetings, one of the important questions relating to the participation of National Human Rights Institutions in the United Nations Human Rights Council (HRC) was discussed. The ICC in this connection had prepared two draft papers viz., ICC position Volume-III ‘Engagement of NHRIs with the Universal Periodic Review Mechanism’ and ICC position Volume –IV ‘Engagement of NHRIs with the Special Procedures’.

2.7 With regard to the objectives and guiding principles of Universal Period Review (UPR) (ICC position Volume-III) the Commission was of the opinion that the UPR mechanism should be based on principles of equality, universality, transparency, cooperation and it was supported by other NIs.

## **Rights of the Disabled**

2.8 The Commission is facilitating the evolution of a common sign language with Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai and Ministry of Social Justice and Empowerment for the visually impaired persons. The basic data has been collected and analysed. In addition, other parameters of the project are being undertaken by Jawaharlal Nehru University (JNU) and Delhi Development Authority (DDA). A plan to organise a National Conference on this issue has been chalked out by AYJNIHH. The project is in progress and is likely to be completed by 2008.

## **Juvenile Justice**

2.9 A National Conference on ‘Juvenile Justice System in India’ was held from 3 to 4 February 2007 in New Delhi.

2.10 The emergence of the concept of juvenile justice in India owes much to the developments that has taken place in Western countries, especially in the perception of children and human rights jurisprudence in Europe and America. The promulgation of the Apprentice Act, 1850 was, in fact, the first legislation, which laid the foundation of juvenile justice system in India. The concept seems to have gained momentum with the enactment of the Indian Penal Code (1860), the Code of Criminal Procedure (1861), the Reformatory School Act passed in 1876 and modified in 1897 and the recommendations made by the India Jails Committee (1919-1920). The latter Committee categorically recommended establishment of a separate court for children as well as separate institutions for children. It opposed the idea of incarceration for child offenders. As India was still under British rule, it could not enact central legislation for the entire country. As a result, individual provincial government enacted their own legislation for juveniles in their respective jurisdictions.

2.11 After India gained its independence in the year 1947, the country witnessed several initiatives both official and non-governmental that contributed to the development of a more pronounced juvenile system. In order to look into the problems of neglected and delinquent children, the Government of India passed a Central Children’s Act in 1960. This Act provided for the care, protection, maintenance, welfare, education, training and rehabilitation of the neglected and delinquent children. The Central Government, however, did not make any effort to apply the law throughout the entire country. As a result, States continued to enforce their own existing laws. In the year 1974, the Government of India declared its National Policy for Children, “Recognizing children as a supremely important asset and that their



programmes must find a prominent place in the national plan for the development of human resources.” This policy included, among other things, training and rehabilitation of delinquent, destitute, neglected and exploited children. Consequently, a National Children’s Board was created in 1975 to assist in the development of children.

2.12 By 1986, almost all the States had passed their own children’s legislation. Since they lacked consistency in terms of defining delinquency, court procedures, institutional and non-institutional practices, the Government of India once again felt a need for a children’s justice act that could be applied uniformly throughout the country. With this in mind, the Central Government passed the Juvenile Justice Act, 1986. This Act could be proclaimed as the first all-India child welfare enactment seeking to promote ‘the best interest of the juveniles’ by incorporating into its fold not only some of the major provisions and clauses of the Indian Constitution and the National Policy Resolution for Children but also universally agreed principles and standards for the protection of juveniles such as the United Nations Standards Minimum Rules for the Administration of Juvenile Justice (commonly known as ‘Beijing Rules’), thereby, making it the most comprehensive piece of legislation for the protection of children. The basic ideology for adopting this differential approach was to save children from the devastating ill effects of criminalization, penalization and stigmatization.

2.13 This Act, in a way, had a more treatment oriented and humanistic approach compared to juvenile laws enacted earlier. However, in terms of implementation, it had many loopholes in terms of age determination, separate trials, confidential court proceedings and notification of charges to parents or guardians, filing of personal information report by probation officers, conditions and length of confinement, rehabilitation and after care. Moreover, the juveniles were often not provided with a copy of the rules governing their detention and the written description of their rights. Many children housed in institutions run by the Government did not know the purpose of their stay and the future of their institutionalization. Besides, in terms of age and gender too, the Act was not a “uniform legislation”. Though juveniles have a right to appeal, few cases ever reach that stage. The Juvenile Justice Act (1986) allowed the decisions of the Juvenile Courts to be appealed to the Court of Sessions, which has both original and appellate jurisdiction. The grounds for appeals were limited to the omission of relevant evidence, dissatisfaction with type of disposition received, or clerical errors made in the orders of disposition. The resultant effect of all this was that very few cases reached the Supreme Court on issues pertaining to age determination, standard of proof, conditions of confinement, and length of confinement.

2.14 These concerns resulted in a number of national meetings in the nineties to improve the unsatisfactory conditions in the juvenile justice system. The ratification of the United Nations Convention on the Rights of the Child (CRC) in 1992, in a way also made the Government think about the recasting of the 1986 Juvenile Justice Act so as to bring it in consonance with the CRC. The collective outcome of all these efforts was that a new bill, the Juvenile Justice (Care and Protection of Children) was introduced in the Parliament, which was passed in the year 2000. The new 2000 Act introduced a wide range of community placement options, imposition of fines on parents, and counseling to families of children in conflict with law. The Act also included uniform definition of juvenile irrespective of gender; use of better terminology; adoption of a child-friendly approach in the adjudication and disposition of matters in the best interest of children; and a strong emphasis on rehabilitation. Juveniles in conflict with law are handled by the Juvenile Justice Board (previously Juvenile Court) and children in need of care and protection fall under the jurisdiction of Child Welfare Committee (previously Juvenile Welfare Board). In addition to these changes, the 2000 Act makes a specific provision for bail for all children irrespective of the nature of their crimes. Bail may be refused if such release is likely to expose these children to criminal elements or if it defeats the purpose of justice. The 2000 Act, though passed with good intentions, overlooks the inclusion of certain substantive and procedural due process rights. An amendment to the said Act was brought in

2006 to cover up the gaps existent in the 2000 Act. However, questions are still being raised concerning the implementation of this law.

## **Objectives**

- i) Analyse the existing situation of children in especially difficult circumstances
- ii) Analyse the existing status of juvenile justice in India with regard to human rights standards
- iii) Critically appraise the emerging issues in juvenile justice system and suggest alternate measures in terms of investigation adjudication, disposition, care, treatment and rehabilitation
- iv) Develop appropriate linkages and coordination between the formal system of juvenile justice and voluntary agencies engaged in the welfare and development of children in need of care and protection or those in conflict with law

## **Rights of the Persons Displaced, due to Natural and Man-made Disasters**

2.15 Background paper has been drafted and the Commission proposes to have a national level consultation on the issue from 23 to 24 August 2007.

## **Food Security**

2.16 The second meeting of the Core Group was held on 8 August 2006 in the Commission at New Delhi. The recommendations of the meeting are:

- i) There is a need to define concepts like, 'Right to Nutrition', 'Malnutrition', 'Starvation' so that there is a paradigm shift from 'welfare' approach to 'rights based approach' to the issue of malnutrition and starvation.
- ii) There is, therefore, the need to identify 200 (government and public sector) organisations with expertise to deal with malnutrition across the country to monitor the distribution mechanism independently. The role of 200 organisations would not be day-to-day monitoring, but to see at ground level that things are moving properly. 'Independent Evaluators and Facilitators' is the expression, which can be used for 200 organisations. These will be short-listed by NHRC and the NHRC will recommend to the State governments to help these organisations to perform their monitoring work.
- iii) In order to see that things are proceeding according to scheme, the State governments would be requested that the Panchayats should cooperate with these organisations for providing them information under different schemes.
- iv) It is mandatory to not just have food as a matter of right but also to ensure proper nutrition. Schemes are already available but the discrepancies in existing schemes need attention. Provision of food should not be based on quantity but on calories of energy, while, ensuring that the nutrition level is maintained. Food available locally must be utilized, to clarify instead of insisting on uniform pattern flexibility to use local coarse grain like ragi etc. should be permitted.
- v) The system of delivery be firmed up by active involvement of Panchayati Raj, Institutions (PRIs), with zero tolerance, i.e., ensure that there is no case of malnutrition and starvation in a Panchayat. All Gram Panchayats must be held accountable under all the schemes. People should know what are the schemes and benefits available to them. Panchayats should notify by displaying billboards in their office/prominent places.
- vi) There is a need to dovetail with employment generation schemes and other interventions to ensure sustainable livelihood.

## **Trafficking in Women and Children**

2.17 NHRC has carried out substantive research on the subject and has come up with a plan of action. However, there are number of agencies dealing with the issues of trafficking in women and children. Thus, NHRC has made an effort to converge these agencies namely, Department of Women and Child Development, Ministry of Home, National Commission for Women and NHRC. The plan of action prepared by NHRC and the 1998 draft by the Ministry was discussed in detail. This Committee came up with a plan of action of NHRC that has been acceptable to all these agencies. This plan of action has been extensively discussed in three regional workshops held at Guwahati, Hyderabad and Goa and is targeted to be discussed in the National Workshop to be held on 14 July 2007 which will then be incorporated in the policy of Government of India. A copy of action is appended at **Annexure 1**.

## **Silicosis**

2.18 The Commission has been deeply concerned regarding the issue of silicosis. This issue came up during the discussions in the National Review Meeting on Health held on 6 March 2007 in New Delhi.

2.19 The Commission noted that the silicosis is an occupational hazard and it needs necessary intervention and convergence of efforts of the Industries, Labour and Health departments of the Government along with the National Institute of Occupational Health (NIOH), Ahmedabad and the National Institute of Miners Health (NIMH), Nagpur. There is a need to have a comprehensive legislation and operational mechanism to ensure prevention of such cases in future apart from care for all the affected persons. The Commission insists that technology like Electrostatic Dust Precipitators should be implemented in all hazardous workplaces. Compensation and care needs to be given to all silicosis affected workers within a short time frame.

2.20 In pursuance of the above, the Commission has constituted a committee to discuss the issue of silicosis under the leadership of Dr. Justice Shivaraj V. Patil, Hon'ble Member, NHRC.

2.21 The other members of the committee are:

1. Secretary, Deptt. of Industrial Policy & Promotion, Ministry of Commerce & Industries, Government of India
2. Secretary, Ministry of Labour & Employment, Government of India
3. Secretary, Ministry of Health, Government of India
4. Director, National Institute of Occupational Health, Ahmedabad
5. Director, National Institute of Miners Health, Nagpur

2.22 The committee will look into the various aspects of the problem and suggest remedial measures.

## **Bonded Labour**

2.23 NHRC has mandate for prevention and protection of bonded labour and child labour and has conducted awareness building programmes in Andhra Pradesh and Tamil Nadu. A visit was made by Dr. L. Mishra, Special Rapporteur. A need was emphasized to bring to the notice of the district administration the provisions under the Bonded Labour Act especially Section 21 that empowers district administration to do summary trials. The recent amendment to the Act against bonded and child labour in dhabas is being monitored by NHRC. This issue is directly related to the question of ensuring Right to Education of Children and, therefore, 100% enrolment in schools. This is being emphasised repeatedly by the Commission.

2.24 Financial provisions: The rehabilitation grant has also been raised from Rs. 10,000/- per identified bonded labour to Rs. 20,000/- per identified bonded labour.

## **Custodial Justice**

2.25 As a follow up of the recommendations of the Seminar held on Custodial Justice NHRC has had a regional review with the States.

## **Human Rights Education**

2.26 NHRC believes that when India is striving to be a developed country by 2020, it is important that the younger generation be exposed to the right perspective of development. Thus, NHRC has taken initiative and formulated a task force to incorporate Human Rights Education in School and University level. School education level from Class I to Class X for incorporating human rights in their curriculum as an input in children dealing with Civics i.e., Constitution, Legal provisions etc. from the year 2007. For the Class XI and XII, Human Rights will become one of the optional subjects in the school curriculum as a major subject.

2.27 At the university level, NHRC has organised regional workshops to deliberate with the Vice Chancellors and Professors of different Universities of the country to come up with a curriculum, which ensures sufficient standards to impart human rights education at postgraduate level, PG diploma and research. The deliberations have also emphasized the need to have Human Rights as a compulsory subject for all undergraduate students irrespective of what major subjects they take and thus are being incorporated in the University education system of the country.

2.28 NHRC is targeting to have a national consultation to incorporate these recommendations in the university and school education system. NHRC has always emphasized on the issue of Right to Health; Health on the basis of not just viability, affordability and accessibility but also in terms of ensuring availability of Doctors, Drugs and development in terms of sufficient infrastructure.

2.29 On 16 March 2007 a National Review meeting was held and the recommendations are enclosed at Annexure 2.

## **First Camp Commission**

2.30 NHRC has done a unique endeavour in its first Camp Commission at Uttar Pradesh in which a large number of pending cases were disposed of. The Commission drew the attention of authorities to failure in filing FIRs and delay in compliance and directed the State Government to complete all pending magisterial inquiries.

2.31 The Commission is also planning to have a detailed discussion and sensitize NGOs accordingly.

## **Non-Governmental Organisations**

2.32 The Core Group on Non-Governmental Organisations has been reconstituted to not only ensure the Government representation but also to ensure that the various issues of concern of NHRC are also of the core group. NHRC has released dossiers for the University students on the following seven topics:

1. Environment and Human Rights
2. Children in India and their Rights
3. Rights of the Disabled
4. The Human Rights to adequate housing and lands

5. Women's Right to Health
6. The coasts, the fish resources and the fish-workers' movement
7. Dalit Rights

2.33 NHRC has organised a Health week aimed at creating awareness in the health care for the senior citizens in collaboration with Helpage India from 26 February to 2 March 2007 at Ahmedabad. The five - day programme included lectures by eminent doctors, surgeons both on allopathy and on homeopathy, which covered issues like healthy ageing, domestic accidents and prevention, diabetes and management. Then discussions were held on the use of alternative medicines.

## **National Action Plan for Human Rights**

2.34 The Commission has constituted an Advisory body and a Working Group to promote National Action Plan for Human Rights. Accordingly, the focus has been on five primary issues i.e., Right to Food Security, Right to Education, Right to Housing, Right to Health and Right to Custodial Justice. A draft Action Plan is being prepared after extensive discussions with the concerned Ministries and Departments and will be forwarded to Government of India for finalization.

## **National Commitments**

2.35 The Commission announced its recommendation for an Interim relief of Rs. 2.8 crore to the 89 victims of atrocities committed by the Joint Special Task Force (JSTF) set up by the two States to apprehend the forest brigand Veerappan. The announcement was made at a press conference on 15 January 2007.

## **State Human Rights Commission (SHRC)**

2.36 SHRC has been set up in 17 States. Karnataka and Bihar are working to formulate the same. The Commission has now made a special provision in its budget plan to strengthen the SHRC. For this, a provision of Rs. 2 crore is proposed in the Annual Plan 2007 - 2008 and Rs. 10 crore in the Five Year Plan 2007 - 2012. As per the amendment to the Act, 2006, NHRC can transfer the case to State Human Rights Commission. Thus, NHRC will improve the capability of State Human Rights Commission in complaint handling system as well as protection and promotion of human rights relating to economic, social and cultural rights and civil and political rights.

## **International Conventions and Treaties Optional Protocol**

2.37 NHRC has been subsequently pressing and has presented the opinion on universal periodic review and special procedures of Human Rights Commission, which was discussed in detail in the Asia Pacific Forum (APF) meeting at Fiji, held from 31 July 2006 to 3 August 2006. This has been accepted and corresponded with the International Coordinating Committee of National Institutes for Promotion of Human Rights (ICC). After a lot of persuasion and correspondence, ICC has finally approved the draft as it is as presented by the APF and this has been discussed in detail and accepted in the meeting held in March 2007 in Geneva.

## **International Commitments**

**Bolivia:** The National Human Rights Commission of India has been accredited with status "A" at the International Coordination Committee of National Institutes for Promotion of Human Rights. The re-accreditation came after the 18th session of the ICC held at Santa Cruz, Bolivia. In accordance with the Rules of Procedure of the ICC, the Sub-Committee on Accreditation has the mandate to review and analyse accreditation applications and to make recommendations to ICC members on the compliance of applicants with the Paris Principles.





# 3

## Civil Liberties

### A. Terrorism and Insurgency

3.1 The Commission firmly believes that terrorism is not a disease but a symptom of socio-political ailment, and to deal with it effectively, it is necessary to identify the causes. Though terrorism cannot be justified, one should also not forget that far too many people live in conditions where it can breed.

3.2 It is a common knowledge that systemic human rights violations for long periods are often the root cause of conflicts and terrorism. Tyranny and widespread neglect of human rights and denial to the people hoping for a better future are fertile conditions for breeding terrorism. The existence of social, economic and political disparities, in a large measure, contributes to conflicts within the State and beyond. The importance of promoting economic, social and cultural rights to contain such conflicts must, therefore, be realised and appreciated.

3.3 More often than not, terrorism thrives in an environment where human rights and more particularly, economic, social and cultural rights are denied by the, State and political rights are violated with impunity by both the State and non-State actors. Systemic denial of economic, social and cultural rights, like right to food, health, education, etc, is a causative factor of conflict and terrorism. Any worthwhile strategy to resolve conflicts and terrorism will have to ensure enjoyment of the full range of economic, social and cultural rights.

3.4 It is a historical fact that human rights recognize the essential worth of a human being. It is also a reality that the cult of terrorism strikes at the very root of human rights of innocent people. The Commission has shown great concern for the problems of terrorism and extremism, because they have today emerged as serious threats to humanity. Since they are not merely law and order issues, and they have deep socio-economic dimensions and roots, the Commission is of the view that effective enforcement of laws and good governance are both critical for the prevention and control of extremism and terrorist activities.

3.5 The Commission has always taken up the cause of victims of acts of terrorism and taken steps for providing relief and rehabilitation to them. The Commission believes that all persons responsible for acts of terrorism should be proceeded against in accordance

with the law and that, by and large, the existing laws are sufficient. It is of the firm view that though the terrorist threats that we are facing now are on an unprecedented scale, but, since the fundamental rationale of anti-terrorism measures has to be to protect human rights and democracy, counter-terrorism measures should not undermine democratic values, violate human rights, or subvert the rule of law. The state thus needs to master all its resources, utilize all available technologies, and improve the capacities of the manpower at its disposal in meeting these challenges.

3.6 The protection and promotion of human rights is essential in countering terrorism. Any kind of partisan and sectarian approach would be counter-productive. A limited approach may help eliminate some terrorists but only at the cost of violation of human rights of many innocents. If human rights were violated in the process of combating terrorism, it would be a self-defeating approach. It is imperative that the essential safeguards of due process and fair trial should not be jettisoned. Respect for human rights must be accepted as an essential element of any strategy to counter terrorism.

3.7 The fundamental concepts of laws of war are based on maintaining a balance between military necessity and humanity; which include proportionality of the force used. Military necessity does not admit of cruelty or injury except in fight, or of torture to extract confessions. If humane considerations prevail even in an armed conflict with an enemy, the treatment of persons to be dealt with in a low intensity conflict cannot be harsh, because they are often not even enemies of the nation.

3.8 No doubt, 'the war on terrorism' has to be relentlessly fought, but it should be done without going over-board and in effect declaring war on the civil liberties of the people.

3.9 The Commission has taken suo-moto cognizance of a newspaper report published in the Kashmir Times dated 17 December 2006 titled "76 army men punished for Human rights violations". The report mentions that while the higher authorities in the army had given instructions to make the anti-insurgency operations people-friendly and to minimize civilian losses during these operations, the GOC 15 Corps indicated at Srinagar on 16 December 2006 that 76 army personnel were awarded punishment during the last couple of years after receiving complaints of human rights violations against them. These punishments included dismissal from service and rigorous punishment.

3.10 In view of the above report, the Defence Secretary, Ministry of Defence, Government of India and the Chief Secretary, J&K were directed to apprise the Commission about the ex-gratia relief, if any, awarded to the victims/next of kin of the victims of such human rights violation by armed forces personnel in J&K.

## **B. Criminal Justice System**

### *i) Introduction*

3.11 In a democratic society like that of ours, recognition of and respect for the inherent dignity of all human beings, regardless of their rank and status, profession and calling, sex, caste or religion is a quintessential principle which has to be observed for stability of that society.

3.12 This principle is equally relevant for those who are free or those who have been detained or imprisoned. The latter retain their full human rights as human beings, except that they have been temporarily deprived of their liberty for certain alleged offences committed by them. It is important to have a clear understanding of the various implications of this principle. To illustrate some of them:

- A total prohibition on torture and deliberately inflicted, cruel, inhuman or degrading treatment.
- Prisoners are kept in prison as a punishment and not for punishment.



- The right to family contact is not taken away, but its exercise may be restricted.
- The rights of mothers and children to family life require special consideration. Mere imprisonment cannot be a ground to deprive the detainees from the natural love and affection of their families.

3.13 The Supreme Court of India, which has acted like a guardian angel of liberty and human dignity, has given a very broad, liberal and expansive interpretation of Article 21 of the Constitution (dealing with Right to Life) and has laid down salutary norms and principles in a number of cases, such as:

- Kharak Singh *Vs.* State of U.P.
- Rajendra Prasad *Vs.* State of U.P.
- Attorney General of India *Vs.* Lachman Devi case
- D.K. Basu *vs* state of West Bengal
- Nilabati Behera *Vs.* state of Orissa
- Prem Shankar Shukla *Vs.* Delhi Administration
- Francis Corallie Mullers *Vs.* Administrator, UT of Delhi
- Sunil Batra *Vs.* Delhi Administration
- ADM Jabalpur *Vs.* Shivakant Shukla
- Ravikant *Vs.* State of Maharashtra

#### *ii) Historical Background*

3.14 The Prison Enquiry Committee, which was the first of its kind on Jail Administration, was set up in 1836. It recommended abolition of the practice of prisoners working on roads. Adequate steps were also taken to eradicate corruption amongst prison staff. About 26 years later, another Committee was appointed by the Government of India (GOI) to examine the relevant existing rules and suggest improvement. On the strength of recommendations of this Committee, a comprehensive Jail code was compiled for the first time in 1894, and Prisons Act of 1894 and the Prisoner Act of 1900 were enacted subsequently.

3.15 The Indian Jails Committee of 1920 made some further useful observations about introduction of correctional rehabilitational activities for promoting the wellbeing of offender. It had recommended that arrangements should be made for giving proper orientation and training to officers and subordinates who would be recruited to serve in prisons.

3.16 Following certain initiatives taken by the UN and following the recommendations of Dr. W.C. Reckless to assist GOI in the matter of modernization of jail administration, the eighth conference of Inspectors General of Prisons of different States of India was convened and Prison Welfare Officers were appointed for the first time. The punishment of stripping was abolished in 1952 and Probation of Offenders Act came into force in 1958.

3.17 In 1956, the Central Government appointed the All India Jail Manual Committee with a view to bringing out a compilation of Model Prison Manual for guidance of the States. The manual suggested some guidelines about improvement in correctional administration, leaving the details to be worked out by the States concerned.

3.18 In 1972, the Central Government appointed yet another Working Group for making recommendations relating to the improvement of correctional administration. The Working Group's report was submitted early in 1973, but was not acted upon by the States.

3.19 The Bureau of Police Research and Development (BPR&D) has been seriously concerned about the modernization of the prison system in the country in the light of the directives issued by the Supreme Court in a number of judgements, as referred to earlier. The terms of reference for preparing the Model Prison Manual were laid down in the year 2000 and the Model Prison Manual was released in 2003. The manual recognized the urgent need for replacement of the hitherto retributive approach in dealing with prisoners by a new approach, which will be more caring, compassionate and reformatory.

3.20 In 2006, BPR&D prepared a draft policy paper on Police Reforms and Correctional Administration and circulated it amongst all State Governments/Union Territories (UTs) for their comments. It has also constituted an Advisory Committee on Prison Reforms to consider the responses received from various State Governments/UTs and to make final recommendations to Ministry of Home Affairs. The Commission has been given due representation in the said Advisory Committee. So far, five meetings of the Committee have been held. Dr L. Mishra, Special Rapporteur and Ms. Mamta Singh, SSP attended the fifth meeting on 3 November 2006 and participated in the deliberations.

### **C. Prison Population**

3.21 The Commission continued to compile and analyse prison statistics on bi-annual basis. During the period under report, the prison statistics as of 30 June 2005 and 31 December 2005 were analysed. The salient points of the analysis as of 31 December 2005 are given in the succeeding paragraphs.

#### **Analysis of Prison population as on 31 December 2005**

3.22 The total prison population of the country was 3,58,177, which shows an increase of 8.0% over the prison population of 3,32,112 in the corresponding earlier period as on 31 December 2004. This increase was 2.96% over the previous period as on 31 December 2004. The authorised capacity of all jails and sub jails being of the order of 2,48,439, there is an overcrowding to the extent of 44.2% for the country as a whole, as compared to 39.0% as on 31 December 2004. Nine States, namely Jharkhand, Chhattisgarh, Bihar, Gujarat, Delhi, Madhya Pradesh, U.P., Sikkim and Orissa experienced overcrowding ranging from 52% to 216% above the authorised capacity.

3.23 Delhi is consistently making serious efforts to deal with the situation of overcrowding and has brought the same down from 231.07% as on 31 December 2002 to 97.1% as on 31 December 2005. This has become possible by opening new jails regularly. Jharkhand (216.3%) is maintaining its top position followed by Chhattisgarh (114.9%), Bihar (107.1%) and Gujarat (100.2%).

3.24 Six States and five Union Territories, namely, Manipur, Nagaland, J&K, Mizoram, Rajasthan, West Bengal, Andaman and Nicobar, Chandigarh, Daman and Diu, Lakshadweep and Pondicherry, have idle capacity in their jails.

3.25 Under trial prisoners constituted 69.9 % of the total prison population in the country as on 31 December 2005, which shows a slight decline over the situation as on 31 December 2004 (70.1%). The proportion of under trial prisoners (UTPs) was more than 80% of the total prison population in seven States/UTs. These are: Dadar and Nagar Haveli (100%), Lakshadweep (100%), Manipur (92.7%), Meghalaya (92.4%), Bihar (87.7%), J&K (87.4%) and Chandigarh (81.5%). Chandigarh and Lakshadweep have entered into this category, while Daman and Diu has made an exit from this category.

3.26 Women comprised 3.9% of the total prison population in the country as compared to 3.7% as on 31 December 2004. Mizoram with 9.1 % is continuing to hold its top slot in all the four analyses, followed by Tamil Nadu (7.8%), West Bengal (6.9%), Andhra Pradesh (6.1%), Chandigarh (5.7 %), and Punjab (5.2 %)

3.27 A total of 1,737 children upto the age of 5-6 years were staying in jails with their mothers. West Bengal with 410 accounted for the largest number of children kept in jails, followed by U.P. (251), Maharashtra (151) Madhya Pradesh (137) and Jharkhand (120).

## **Visits to Jails**

3.28 Improving working and living conditions in jails has been a major concern of the Commission since its inception in fulfillment of its obligation under section 12 (c) of the Protection of Human Rights Act, 1993. The Custodial Justice Cell of the Commission carried out a study of jail conditions in Meghalaya during the period of report. Mr Chaman Lal, Special Rapporteur and Chief Coordinator, Custodial Justice Cell of the Commission visited the District Jail at Shillong and Jowai from 6 to 8 June 2006. The jails are marginally overcrowded (6.3%) and lacking in sanitation. The renovation work, which is already in progress, will take care and it is hoped that sanitation will come to normal level. The unpleasant part of these jails is that under-trials have always been above 90% and during the period under report, the same is 92.4%. The number of UTPs languishing for periods exceeding two years is proportionately very high.

3.29 The basic needs for prisoners, such as food, water and clothing are being met satisfactorily. The jails were also found to have provided sufficient entertainment facilities.

3.30 The prison infrastructure of the State is very weak and urgently need strengthening. Only four out of seven districts have District Jails. There is no Central Jail in the State. The concept of Sub-jail is yet to be introduced. Some improvement is expected after two more District Jails i.e., Nongstoin and Nongpoh are opened after the construction of jail buildings, now in progress, is completed.

3.31 Health-care facilities provided at the Jails are good and working satisfactorily. Pathological testing facilities can be developed at District Jail, Shillong. Treatment and care including segregation of patients suffering from T.B. needs more attention.

3.32 Facilities for vocational training and running Jail Industries have been provided in carpentry, cane, bamboo and crafts in all the four districts jails. Under trial prisoners are working in large numbers in these jails and doing maintenance jobs like helping in the kitchen and garden, and maintenance of campus. They are not receiving any remuneration, which is a clear violation of their rights.

3.33 The system of providing legal aid to poor and indigent prisoners introduced only recently at the Commission's instance needs to be expanded.

3.34 The system of parole provided under the Assam Jail Manual, which is supposed to be followed in Meghalaya, is not operational for the past several years. The time-tested system of Board of Visitors has been defunct and needs to be revived.

3.35 Housing facilities for the jails Staff are adequate and are being improved further with additional construction of type II, III and type IV quarters under the modernization grant.

3.36 There is a need for NGOs involvement in matters relating to the welfare of prisoners such as literacy, education, vocational training, legal counselling and schooling of prisoners, children and rehabilitation of prisoners after release.

3.37 Commission considered the above report and issued appropriate recommendations to State Governments.

## **‘Action Taken Reports’ received from States**

3.38 During the period under review, Action Taken Reports (ATRs) and clarifications on them were received from the State Government concerned on the Commission’s directions in respect of visits to jails of Andhra Pradesh (4 to 6 December 2004) by Justice Mr Y. Bhaskar Rao, Member and Mr Chaman Lal, Special Rapporteur and jails in Kerala (29 October to 2 November 2004) by Special Rapporteur were received.

3.39 ATRs were duly considered by the Commission after scrutiny by the Custodial Justice Cell. The Commission has noticed with satisfaction the following improvements effected because of the above visits:

### **1. *Andhra Pradesh***

3.40 Measures have been taken to improve drinking water position, scale of clothing and bedding, providing of ambulance to Central Prison, Cherlapalli, facilities for the recreation of prisoners, filling up of unfilled posts, improvement in the diet of children. The system of appointment of a Board of Visitors, which had been defunct, has been revived now.

### **2. *Kerala***

3.41 Steps to improve sanitation and hygienic conditions in the jails have been taken. Instructions have been issued for improving availability of clothing and bedding to prisoners. Funds have been earmarked for providing recreational avenues to prisoners. Action has been initiated for filling up the unfilled posts. Procedure for elevation of workers from unskilled to skilled is being streamlined and efforts are being made to raise the minimum wages. Action on the premature release of prisoners is being taken regularly and action is being taken for the revival of system on the appointment of board of visitors.

## **Sensitization of Jail Staff**

3.42 The sensitization programme for Jail Superintendents, Jailors and officers of the Correctional Services introduced in 2000 - 2001 continued during the period under review. One-day workshop was held at Kolkata (West Bengal) on 5 June 2006. The workshop was conducted by the Chief Coordinator, Custodial Justice Cell in collaboration with Inspector General (IG), Prisons of the State. The workshop was attended by Superintendents of 15 out of the total 18 Correctional Homes of the State.

3.43 The programme of the workshop was carefully designed to explain to the Jail officials the compatibility of the basic human rights of prisoners with requirements of security and discipline. The participants were also apprised of the various initiatives taken by the Commission to improve jail conditions in the country. One session was exclusively devoted to discussing the prison infrastructure of the State concerned, which helped in identifying the areas of possible improvement. The workshop concluded with an interactive session in which the participants were encouraged to express freely their views about problems and difficulties related to their working and living conditions. This helped in resolving doubts and misgivings troubling many of them about the role of the Commission and constitutional obligation of Jail staff to protect and uphold the right of prisoners.

## **Medical examination of prisoners on admission**

3.44 The Commission continued to compile and analyse the data received on the medical examination of prisoners on bi-annual basis. During the period under report, the data received for the period 1 January to 30 June 2004 and 1 July to 31 December 2004 were analysed. The salient features of the analysis for the period 1 July to 31 December 2004 are given in the succeeding paragraphs:

## **Analysis of reports on Medical Examination of prisoners for the period 1 July to 31 December 2004**

3.45 The average proportion of prisoners subjected to medical examination comes to around 95%. It is 100% for Bihar, Goa, Haryana, J&K, Maharashtra, Meghalaya, Mizoram, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Andaman and Nicobar, Chandigarh, Delhi and Pondicherry.

3.46 On all India basis, Scabies (8.53%) is found to be most prevalent disease followed by Gastro-enteritis (7.76%), and skin disease (5.68%). Scabies is a prominent disease among prisoners in Bihar (23.2%), Maharashtra (21.3%), Meghalaya (20.3%), Tripura (12.4%) and Jammu & Kashmir (12.0%). Gastro-enteritis is prominent in Tripura (41.9%), Meghalaya (25.7%), J&K (23.2%), Mizoram and AandNicobar (18.7%). Skin diseases are prominent with the prisoners of Gujarat (20.8%), Andaman and Nicobar (17.0%), Mizoram (16.7%) and Meghalaya (13.5%).

3.47 With a view to dealing with these diseases afflicting the jail population, both preventive and corrective steps need to be taken. Among the preventive steps, the most important are promoting, improving and sustaining hygiene in jails, improving the system of storage and distribution of potable water to all inmates according to a scale and preventing water and air pollution.

3.48 The common diseases in jails are Gastro-enteritis, Scabies and Skin. This shows the need for giving more attention to quality of drinking water, sanitation and hygiene in jails.

### **Board of Visitors for the jails in Maharashtra**

3.49 To implement the direction of the Mumbai High Court in its judgement on a Writ Petition No. 3899/96 (Muktaran Sitaram Shinde Vs The State of Maharashtra) on the appointment of non-official visitors to the jails of Maharashtra, the Commission recommends its nominees for appointment as non-official visitors to the State Government who, in turn, appoints them as non-official visitors to the jails of Maharashtra.

### **Workshop for the sensitization of Prison Officers and NHRC Nominees on the Board of Visitors for jails in Maharashtra**

3.50 A two-day workshop, first of its kind on Prison Visiting System in Maharashtra, was held at Jail Officers Training College, Yervada, and Pune from 21 to 22 August 2006. The workshop was jointly organised by Tata Institute of Social Sciences (TISS), Mumbai and NHRC. Superintendents of Central Prisons numbering eight and DIG Prisons numbering four were invited. Dr Arvind Tiwari, Reader, Department of Criminology and Correctional Administrations (TISS) and Mr. Chaman Lal, Special Rapporteur, NHRC conducted the workshop.

3.51 The workshop was inaugurated by Dr. Justice A.S. Anand, Chairperson, NHRC. Mr R.K. Bhargava, Secretary General, NHRC was also present at the inaugural session.

3.52 The workshop was attended by 15 NHRC nominees and 13 Jail officials. Mr. Radhakant Saxena, retired IG Prison, Rajasthan and Dr. Murali Karnam both Consultants, CHRI were associated as resource persons. Two NGOs namely PRAYAS and VARHAD also took part in the workshop.

3.53 The subjects discussed at the workshop included illustrations on various Human Rights violations that took place in prisons. A critical overview of the efficacy of the Prison Visiting System was undertaken and explained to nominees who shared their views and expressed their difficulties and problems.

## **D. Custodial Violence and Deaths**

3.54 The Commission has made sincere efforts for the protection and promotion of Human Rights within the country. Though the impact of the Universal Declaration of human rights is quite evident in Part III and IV of the Indian Constitution, the fact remains that there is a wide gap between theory and practice. The denial of fundamental freedoms and human rights by the states, creates conditions of social and political unrest. It definitely sows the seeds of violence and conflicts within and between societies and nations.

3.55 Some of the common features of violations of human rights are torture of arrested persons, disappearance of suspects who ought to have been in regular police custody, deaths in fake encounters, deaths in police custody, and under-trials detained in jails for years without trial.

3.56 In order to curb custodial violence, the Commission has issued guidelines to all States and Union Territories that all deaths in police and judicial custody should be promptly reported to the Commission within 24 hours of the occurrence.

3.57 The Commission has further directed that in cases of death in police custody, the post-mortem is to be video-graphed and the videotape sent to the Commission. These measures enable the Commission to exercise checks on custodial torture and violence by the police and other public servants.

3.58 Since its inception in October 1993, the Commission has received intimations of 15166 deaths in police and judicial custody. Most of these deaths, especially those in judicial custody, were chiefly attributable to natural causes such as illness and old age. In other cases, they occurred for a variety of reasons, including illness aggravated by medical negligence, violence by public servants or between prisoners, and due to suicides.

3.59 During the period under review, the Commission recommended payment of compensation to the kith and kin of the victims in 16 cases of custodial deaths, amounting to Rs.14,25,000/- (8 cases of deaths in judicial custody and 8 cases of police custody).

3.60 The figures of custodial death cases reported to the Commission w.e.f. 1 April 2006 to 31 March 2007 were 119 deaths in police custody (PC) and 1466 deaths in judicial custody (JC), making a total of 1585 (State wise details annexed). The Commission finalized 1403 (1352 JC & 151 PC) custodial death cases, in addition to scrutinizing 1585 CD cases during the period under review.

### **Views of the Commission before the Hon'ble Supreme Court on 'Federal Crime' and their investigation by a Central Agency**

3.61 The issue relating to police reforms contained in the recommendations of the National Police Commission was dealt with by the Hon'ble Supreme Court in the case of Prakash Singh Vs. Union of India & others (WP (C) 310/96).

3.62 The Hon'ble Apex Court, after hearing the arguments from both the sides, vide its judgment dated 22 September 1996 issued certain directions to the Central Government & State Government /UTs for (1) Constitution of the State Security Commission (2) Selection and Minimum tenure of DGP (3) Minimum tenure of IG of Police and other Officers (4) Separation of Investigation and Law and Order Wings of Police (5) Constitution of Police Establishment Board, Police Complaints Authority and National Security Commission, etc. and directed for its compliance by 31 December 2006.

3.63 The Hon'ble Supreme Court, while delivering the above-referred judgment, had also directed inter-alia as follows:

“Before parting we may note another suggestion of Mr. Prashant Bhushan that directions be also issued for dealing with the cases arising out of threats emanating from international terrorism or organised crimes like drug trafficking, money laundering, smuggling of weapons from across the borders, counterfeiting of currency or the activities of mafia groups with transnational links. For considering this suggestion, it is necessary to enlist the views of expert bodies. We, therefore, request the National Human Rights commission, Sorabjee Committee and Bureau of Police Research and Development to examine the previously mentioned suggestion of Mr. Bhushan.

3.64 The Commission eventually submitted its considered views regarding identification of certain offences as Federal Crime and the importance of their investigation by a Central Agency. The Commission gave its anxious thoughts on the rapid changes marked by the effects of globalization on the society, the undergoing changes in the forms of crime, their contours and the types of modus operandi of such crimes posing grave threat to the country and the world. It has been felt that the challenges posed by the multifaceted forms of growing terrorism, narcotics menace, human trafficking, organised crimes, the phenomenon of crime syndicates and cyber crimes are indeed too grave to be ignored. The past experience had shown that the State Police Forces who have been traditionally recording and investigating such grave offences are finding themselves increasingly handicapped to deal with such offences on account of their inter-state/international ramifications. The state agencies do suffer from handicaps like lack of appreciation of various aspects of such crime in a wider perspective, lack of effective intelligence/sharing between the State Agencies, hurdles of bureaucratic channels, lack of specialization of State Investigating Agencies, challenges connected with extradition of criminals etc.

3.65 Upon consideration of the above aspects, the Commission identified certain offences as 'Federal Crime' for the previously mentioned purpose and recommended that such crimes should be investigated by the CBI.

3.66 The views of the Commission have been submitted before the Hon'ble Apex Court as desired.

### **Investigation Division and Cases handled by the Division**

3.67 The Investigation Division is headed by the Director General (Investigation) and comprises of other officers including a DIG, SSP, DSP, Inspectors, and supporting staff. This Division plays an important role in the National Human Rights Commission and is primarily involved in carrying out spot investigations independently through its own investigators.

3.68 The Investigation Division also assists the Commission in examining complaints, in scrutinizing reports/intimations received from the police and other agencies, including those concerning incidents of custodial violence. In addition to dealing with serious occurrences like deaths in police encounters and in judicial custody, the Investigation Division also renders useful professional advice whenever called upon to do so.

3.69 During the period from 1 April 2006 to 31 March 2007, the Commission ordered spot investigations in 52 cases. In order to carry these out, 46 spot investigation teams were sent out to various places in the country. Investigations in such cases are carried out on an urgent basis and the reports are then submitted by the investigation teams to the Commission through the DG(I).

3.70 During the year, the Commission also directed the Investigation Division to look into 1585 intimations of custodial deaths and 2318 cases of complaints of acts of omissions and commissions related

to the violation of Human Rights by various authorities from different parts of the country. Besides, the Investigation Division also received 33 cases for analysis, advice, and monitoring.

3.71 One of the mandates of the Protection of Human Rights Act, 1993 is to spread human rights literacy amongst various sections of society. The Commission tries to sensitize the State Police and Para-military forces of the Union through various means including holding of Debate Competitions for their personnel. This is being done through the Investigation Division of the Commission.

3.72 The Debate Competition is being organised every year under the aegis of NHRC on Human Rights Issues for the personnel of Para-military Forces for the last several years. Initially, the Debate was being held only at Delhi inviting participants from various Para-military Forces. Now, for the last three years, Zonal Rounds are held first in eight zones to increase the reach and spread of the message of human rights. The Semi-final and Final rounds are then held in Delhi to select the top most speakers and teams. The responsibility for organising this year's Debate was entrusted to ITBP and the topic selected for this year was "custodial violence is a calculated assault on human dignity and it does not lead to better policing." A lot of enthusiasm was created amongst the Para-military forces and the level of Debate was of a very high order. Prizes to the winners were given in the function organised on the Human Rights Day on 10 December 2006.

3.73 As regards the State Police Forces, they are encouraged to hold their own Annual Debate Competitions at various levels like District Range and State, keeping the Commission informed of the developments in this regard. 22 of the 35 States and UTs were able to hold the Debate Competitions this year and were given a token contribution of Rs. 10,500/- from the Commission. Representatives of the Commission also went to witness the Finals at the State level in a few States. Here too, there was a lot of enthusiasm and the standard was of a very high order.

### **Important cases investigated by the Investigation Division:**

#### **1. *Appalling conditions of Observation Home, Meerut (Case no. 98884/24/05-06)***

3.74 The Commission took suo-motu cognizance of a news item that appeared in Amar Ujala dated 21 September 2005, about the appalling conditions in the Observation Home at Meerut. The Commission directed the Investigation Division to carry out a spot investigation. During its visit, the investigation team brought out certain shortcomings, which the administration assured, would be improved upon.

3.75 The Commission after considering the report of the Investigation Division directed the investigation team on 26 April 2006 to visit the Home again after two months to find out whether the promised improvement has been brought about or not.

3.76 The team after visiting the Home a second time observed that the important posts of Principal Magistrate and Superintendent were lying vacant. The juveniles were still being taken in a van and were kept waiting outside the court in hot conditions as had been mentioned in the news item. The team also found that the children were neither being provided any education, books, etc. nor any vocational training. The team also observed that no doctor was posted at the Home.

3.77 The Commission has now forwarded its proceedings, along with the report of the investigation team, to Government of U.P. for appropriate measures.

#### **2. *Alleged sexual abuse of inmates in Balnath Ashram, Ghaziabad (Case no. 35707/24/2006-2007-wc)***

3.78 A petition was filed in the Hon'ble Supreme Court by Ms. Aparajita Singh, learned counsel, regarding sexual abuse of inmates/young girls at Balnath Ashram located in Ghaziabad. The counsel brought to the



notice of the Hon'ble Apex Court a story titled 'Exclusive of Anchal Vohra', Watch Story on Friday, 1 December 2006. The Anchal Vohra story is mainly about physical violence and sexual harassment of the inmates. She quoted the condition of some of the inmates who were allegedly subjected to sexual and physical harassment.

3.79 The Hon'ble Supreme Court considered the matter on 1 December 2006 and directed the National Commission for Women, the NHRC and DM, Ghaziabad to send their comments/response to the allegations of sexual harassment as made in this story.

3.80 The Commission directed the Investigation Division to carry out the enquiry. Accordingly, a four member team visited the Ashram and found that some of the girls of the Balnath Asharam, Ghaziabad had been sexually exploited by Swami Balnath. They also found that the local police had registered a case against Swami Balnath and that the inmates had been temporarily shifted to Rajkiya Baal Grih (Shishu), Mathura, U.P.

3.81 The team reported that a few mentally retarded inmates who needed proper care and protection are staying in this Ashram. The team also countered the claim of DM, Mathura that there were only three such inmates and mentioned in its report that the number was more than that.

3.82 The Commission forwarded the report of the Team to the Hon'ble Supreme Court. The Court accepted the report of NHRC and directed the DM, Mathura not to shift the inmates as proposed by them and further directed NHRC to conduct or get conducted such medical, psychological or other investigation at the earliest, preferably by 12 December 2006 to identify the mentally retarded inmates.

3.83 The Hon'ble Court further directed that the shifting process shall not start for another two days and that as regards shifting or otherwise of mentally retarded inmates, physically retarded inmates and siblings was concerned, the District Magistrate, Mathura, shall go by the suggestion as may be given by the Commission.

3.84 In accordance with the directions of Hon'ble Supreme Court, the Commission then sent another team from the Investigation Division, which went and identified the mentally ill/ retarded inmates, physically handicapped and siblings and submitted its report.

3.85 On the consideration of this report, the Commission directed the DG(I) to send three separate teams to Lucknow, Meerut and Bareilly to find out the status of facilities available in the Homes situated in these places. The teams proceeded immediately and, subsequently, submitted their reports about the living conditions in these institutions. The Commission then forwarded a consolidated report to the Hon'ble Supreme Court and the matter is under consideration of the Court.

### 3. *Alleged Police in action in a case of abduction of minor girl (Case no.4524/30/2006-2007-wc)*

3.86 The Commission received a complaint from one Nanak Chand of Delhi alleging that though his minor daughter Sangeeta was kidnapped on 3 February 2007, the police instead of registering a case against a suspect named Rinku (neighbour) lodged only a Missing Report.

3.87 The Commission directed the Investigation Division to carry out a spot investigation. Accordingly, a team conducted an enquiry and not only got a case registered under section 363 IPC PS Sangam Vihar on 22 February 2007, but with constant liaison with the Delhi Police, also helped to trace the girl in West Bengal, to the satisfaction of the complainant.

4. *Custodial death of UTP Sunil in the custody of Dist Jail, Mirzapur (Case No. 28510/24/2003-2004-cd)*

3.88 The Commission received intimation from Suptd. Dist Jail, Mirzapur regarding the custodial death of UTP Sunil alias Sonu (22 year) on 30 November 2003. The Commission sought and obtained the relevant reports. The post mortem found no external injuries but the cause of death was not received. The mother and brother of the deceased alleged that during a visit of DIG (Prisons), the deceased had made allegations against the then jail staff due to which they tortured him to death.

3.89 The Magisterial Enquiry Report (MER) held the Jailor, the Jail doctor and the pharmacist responsible for Sunil's death. The Commission on consideration of this report directed the Home Secretary, U.P. to get the matter enquired by an independent agency.

5. *Custodial death of one Revati Prasad in the custody of PS Norhauri, Mathura (Case No. 13571/24/2003-2004-cd)*

3.90 The Commission received intimation from Distt. Police, Mathura, regarding the custodial death of one Revati Prasad (16 year) on 9 August 2003. As per the report, on 8 August 2003 a police patrolling party saw three boys damaging the railing of a divider on the National Highway (NH) 2. The police caught two of them, while Revati Prasad ran away. His body was found on the NH next day. The report concluded that he had probably come under a vehicle.

3.91 The Commission sought and obtained the relevant reports. As per the post mortem report, there were as many as 20 external injuries on the body and the cause of death was coma because of ante mortem injuries.

3.92 Though the magisterial enquiry did not find any foul play, in its report it mentioned that case No.142/03 under section 302 IPC and under section 3(2) (v) of SC/ST Act had been registered against constables Ramesh Yadav and Suraj Pal in c/w Revati Prasad's death.

3.93 The Commission after considering the reports observed that Revati Prasad might have been taken into custody by the two constables and that custodial torture leading to Revati Prasad's death cannot be ruled out. The Commission directed the DGP, U.P. to entrust the investigation of case No. 142/03 to CB/CID for further enquiry.

6. *Custodial death of UTP Bhoomani Veeranna in the custody of Central Prison, Nellore (Andhra Pradesh) (Case No. 308/1/2003-2004-CD)*

3.94 The Commission received intimation from Superintendent Central Prison, Nellore, Andhra Pradesh (AP) regarding the custodial death of UTP Bhoomani Veeranna (18 year) on 19 September 2003. The Commission sought and obtained the relevant reports. The post mortem found no external injuries and after chemical analysis, it was opined that he might have died due to renal failure. The Magisterial Enquiry Report did not hold anyone responsible for his death.

3.95 The Commission after considering the reports observed that this was a case of custodial death of a young prisoner in less than two months of his stay in the prison. That from the history of his illness/treatment it appeared that he had shown some symptoms of chronic renal failure and proper tests could have diagnosed the same.

3.96 It was presumed that proper medical treatment was not provided to the deceased. The Commission directed the Chief Secretary Government of AP to explain why suitable compensation be not granted to the next of kin of the deceased.

7. *Custodial death of convict Rameswar in the custody of Central Jail, Bikaner, Rajasthan (Case No.53/20/2003-2004-cd)*

3.97 The Commission received intimation from Superintendent District Jail, Bikaner, regarding the custodial death on 17 April 2003 of a convict Rameswar (43 year). The post mortem found no external injuries, and the cause of death after chemical analysis report was opined to be fibrosis and collapse of lungs. The Magisterial Enquiry Report observed that he died due to some unknown disease and no one was held responsible for his death.

3.98 The medical records indicated that he was given routine treatment on 15 and 17 April 2003. The Commission after considering the reports observed that no proper examination was carried out at the time of admission or else his ailment would have been discovered from the visible symptoms. The jail doctor attended him for the first time only on 15 April 2003 and prescribed tablets, though his condition was serious by that time. The ailment he was suffering from was curable and his life could have been saved with timely diagnosis and proper treatment. In order to cover up the act of omission and commission of criminal negligence, a vain attempt seems to have had been made to show that he was being referred to the Civil Hospital, Bikaner when he had already died.

3.99 The Commission directed the Chief Secretary, Government of Rajasthan to explain why suitable compensation be not granted to the next of kin of the deceased.

8. *Custodial death of UTP Suresh Khar in the custody of Dist Jail, Lucknow (Case No.11722/24/2003-2004-cd)*

3.100 The Commission received intimation from DIG (Prisons), Lucknow regarding the custodial death of UTP Suresh Khar (25 yr) on 29 June 2003. The post mortem found one stitch wound on right inguinal region hernia and the cause of death was obstructed right inguinal hernia. The Magisterial Enquiry Report held the jail administration responsible for not providing timely treatment.

3.101 The Commission after considering the reports observed that the deceased was advised surgery on 20 September 2003 but was not operated until 28/29 September 2003 by which time his condition became serious. The Commission directed the Chief Secretary, Government of U.P. to explain why suitable compensation be not granted to the next of kin of the deceased.

9. *Case No. 1533/12/2004-2005-CD*

3.102 A convict named Ramnath, aged about 55 years, died on 3 November 2004 in Jayrogya Hospital, Gawlior. He was seriously ill and had been sent to the said hospital for treatment on the same day. At the time of admission in Central Jail, Gwalior, the jail doctor found him to be suffering from an enlarged spleen and malaria.

3.103 The City Magistrate in his enquiry found that no guard was made available for taking the patient to the hospital. The Commission very seriously viewed the inaction on the part of jail administration, which resulted in the death of Ramnath and directed to issue a show-cause notice under section 18(3) of PHR Act, 1993 to the Chief Secretary, Government of M.P.

3.104 In response, the Prison Department, Madhya Pradesh (M.P.) through its Dy. Secretary, vide communication received in the Commission on 5 December 2006 has stated that the Government has sanctioned Rs. 50,000/- as interim relief to the next of kin of the deceased on the condition of recovery from the negligent officers/officials.

3.105 The Commission further directed the Chief Secretary, Government of M.P. that the payment must be made expeditiously without waiting for deduction of the recovered amount and furnish proof of the payment.

*10. Case No. 290/4/2000-2001-CD*

3.106 UTP Praveen Dev alias Bhikhari Dev of Distt. Jail - Saharsa, Bihar died in Sadar Hospital because of a razor blade injury. A complaint in this regard was received from Rasmani Devi, wife of the deceased, alleging that her husband had been killed in furtherance of a conspiracy by Chhotu Mian and others.

3.107 DM, Saharsa intimated that in furtherance of the complaint of the widow of the deceased, a case has been registered against Chhotu Mian and others, including some jail staff under section 302/34 IPC.

3.108 The Commission directed issuance of show-cause notice to the Chief Secretary, Government of Bihar, calling upon him to show-cause why interim relief under section 18(3) of the PHR Act, 1993, be not recommended in favour of the next of kin of the deceased.

3.109 However, despite a DO letter by Secretary General, followed by a reminder, no response was received. The Commission felt that the Government of Bihar has no cause to show against the notice and recommended to the State of Bihar, through its Chief Secretary, to make a payment of Rs. 1 lakh to the next of kin of the deceased and submit compliance.

*11. Visit to Sub-Jail, Gopalganj in Case No. 2796/4/2003-2004-CD*

3.110 This case pertains to the death of Sunil Kumar Tiwary, UTP, who received severe head injury due to violent fighting and riot between two rival groups inside the jail on 14 November 2003. He subsequently died on 18 November 2003 while undergoing treatment at P.M.C.H. Patna, Bihar.

3.111 The Magisterial Enquiry Report indicated that the jail is over crowded. Since the State is liable for the negligent acts of jail officials leading to failure to protect the life and liberty of the inmates, the Commission directed the State of Bihar, through its Chief Secretary, to show-cause as to why the Commission should not recommend interim relief under section 18(3) of PHR Act, 1993 to the next of kin of the deceased.

3.112 In response to the show-cause notice Dy. Secretary, Home (Police), Government of Bihar submitted that the State of Bihar could not be held responsible in the circumstances where two groups of jail inmates fought each other inside the jail because of their criminal and violent attitude.

3.113 The Commission did not accept this view and observed that there had been negligence on the part of the jail authorities in maintaining law and order in the jail and protecting its inmates.

3.114 The Commission also directed DG(I) to send a team to visit the sub jail at Gopalganj and make a report by 10 April 2007 with regard to the existing conditions in the prison and also to report whether any improvements have been made since the clash which led to Sunil Kumar Tiwary's death. This case is under progress.

*12. Case No. 32539/24/2002-2003-CD*

3.115 An UTP Arun Kumar Upadhyay was shot dead while being escorted by two constables deputed for his security and safe transit to Lucknow by train. The father of the deceased alleged in his complaint to the Commission that he was apprehending a threat to the life of his son and in this regard, he had moved an application in the Court of CJM, Lucknow and the Court had issued directions to provide special security to the UTP.

3.116 The Commission is of the opinion that prima facie, this is a case of violation of human rights of the deceased who lost his life due to the act of dereliction of duty on the part of the constables, as well as the failure of the State to provide proper security while escorting him, despite directions of the CJM.

3.117 Pursuant to the show-cause notice as to why payment of interim relief be not recommended in favour of the next of kin of the deceased, Secretary, Home (HR) Deptt, U.P. communicated that the escorting police personnel have been punished with "censure" and the assailants have been charge sheeted.

3.118 The report further stated that it would be appropriate to pay interim relief to the next of kin of the deceased since the full responsibility of the security of the UTP was on the police administration.

3.119 Subsequently, the Commission recommended a sum of Rs. 50,000/- as interim relief and directed Chief Secretary, Government of U.P. to submit compliance report and proof of payment.

### **13. Case No. 17979/24/2000-2001-CD**

3.120 This case pertains to the death of UTP Munna Singh, aged 26 years, in custody on 12 September 2000. As per records, the deceased had no criminal background and there was no resistance on his part when he was arrested. Thus, prima facie, there did not appear to be any justification to inflict as many as 14 injuries on him. The fact remains that these injuries were caused to him when he was in custody.

3.121 The Commission vide proceedings dated 24 June 2002 observed that it was a clear case of violation of human rights and issued a show-cause notice under section 18(3) of PHR Act, 1993 to the Chief Secretary, Government of U.P.

3.122 The response from the Special Secretary, Government of U.P. stated that since the matter was pending in the Court and departmental action against the delinquent officials was continuing, it would be proper if the decision to grant interim relief was taken after the decision of the Court.

3.123 The Commission vide its proceedings considered it just and appropriate to recommend to the Chief Secretary, Government of U.P. to pay Rs. 2 lakhs to the next of kin of the deceased. The Commission held that since the final report had been filed in the Court about the case registered against the officials, law would take its own course and the Commission need not wait for the conclusion of those proceedings.

3.124 The Commission recommended to the Government of U.P. to pay within six months a sum of Rs. 2 lakhs as immediate interim relief to the next of kin of the deceased and submit proof of payment within eight weeks.

### **14. Case No. 36/13(107)/96-LD**

3.125 Santaram Nane Wagh died in police custody. The Commission after considering the report and the PMR found that it was a case of display of extreme brutality by the police on an accused. He was subjected to the most inhuman torture resulting in his death.

3.126 The Commission called for the outcome of departmental proceedings against the delinquent police officials and issued notice under section 18(3) PHR Act, 1993.

3.127 As per the report from SP, Pune, one Assistant Sub-inspector and nine police personnel were involved in this case and an offence was registered vide Cr. No. 47/96 under section 302/342/328/218/201/109/34 176(1), (2) 119(1) (2) IPC. The Additional Sub-Judge Pune acquitted the Assistant Sub-inspector of police and six police personnel, while three police personnel were convicted and dismissed from service. A departmental enquiry was also separately initiated against them.

3.128 Joint Secretary (Home Department), Government of Maharashtra has informed that the Government has decided to grant a relief of Rs.1 lakh to the next of kin of the deceased. The Commission accepted this decision and further directed Chief Secretary, Government of Maharashtra to furnish proof of payment and intimate the status of the departmental enquiry against the delinquent police personnel.

*15. Case No. 50/12/2001-02-CD*

3.129 Munna Kumar Soni died in the Court premises on 25 March 2001 due to consumption of poisonous substance while he was in police custody of P.S. Khajarana, Indore. The Magisterial Enquiry Report found the police personnel guilty of indifference and negligence in performance of their duty as they failed to conduct a thorough search of the deceased.

3.130 The Commission issued a show-cause notice under section 18(3) PHR Act, 1993 to the Chief Secretary regarding payment of interim relief. Pursuant to the notice, Secretary, Home (Police) Department submitted that the delinquent police officials were only found guilty of negligence in performance of their duty for which departmental action had been taken by the Government and there was no justification for payment of interim relief to the next of kin of the deceased.

3.131 The Commission, however, did not find any merit in the contention of the State authorities and reiterated that it is a settled position in law that once the State forces decide to curtail the liberty of a person and take him in custody, by implication, they take upon themselves an obligation to ensure his personal safety and also to exercise due diligence to ensure that such person may not cause self harm to himself. Hence, the Commission recommended to the State of Madhya Pradesh through its Chief Secretary to pay a sum of Rs. 50,000/- as immediate interim relief to the next of kin of the deceased.

*16. Case No. 104/19/2006-07*

3.132 A complaint was received in the Commission from Buta Singh aged about 90 years R/o District Bhatinda, Punjab alleging that his disowned son Jagpreet Singh and daughter-in-law Pratibha have resorted to various means in order to grab his property. He further alleged that on 24 April 2006 the police of P.S. Narwana, Haryana came to his residence and forcibly took him to the Police Station, tortured, humiliated and made him to sign on blank papers. He further stated that both his son and daughter-in-law were present in the Police Station. Consequent to his alleged torture at the Police Station he was shifted to hospital as he became unconscious. He apprehended that he might be eliminated/abducted by his son in future.

3.133 The SP, Jind was directed to send the factual report. It was intimated that a case FIR No. 69/05 under section 498A IPC was registered by his daughter-in-law Pratibha on 28 April 2005 against the complainant's daughter i.e. his own sisters-in-law at P.S. Narwana, District Jind. Subsequently a cancellation report was prepared on 28 November 2005. But their harassment did not stop there and again a Case No. 100/06 to under section 323/452/506/427 IPC was registered against Buta Singh and his daughters on 23 April 2006 at P.S. Narwana by Pratibha and Buta Singh was arrested the very next day.

3.134 Both the daughters of the complainant then obtained anticipatory bail in order to escape arrest. In this case, also a cancellation report was subsequently prepared and submitted in the court.

3.135 Commission had also directed SSP Bhatinda to submit a report in this regard, in response to which SSP, Bhatinda vide his report stated that the complainant's son and daughter-in-law were getting false cases registered against him in order to grab his property.

3.136 The matter was analysed by Investigation Division of the NHRC. It was found that the police acted in violation of the law, as established by the Hon'ble Supreme Court of India, in the Joginder Kumar v/s State of U.P. According to which "no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and a reasonable belief, both as to the persons' complicity and even as to the need to effect arrest". It was also found that the complainant and his daughters were harassed by Jind police at the behest of his estranged son and daughter-in-law.

3.137 After going through various reports placed on file, the Hon'ble Commission directed to issue a 'Show-cause Notice for interim relief under section 18 to the Haryana Government'. The Commission also ordered a spot investigation by our own team for fixing responsibility for the purpose.

3.138 Accordingly, the case was investigated by NHRC Team and it was found that the petitioner and his daughters were subjected to harassment by ASI Rajinder Singh of P.S. Narwana. The SP, Jind and Dy.SP., Narwana were fully aware of the facts and high handedness of ASI Rajinder Singh but did not deal with him firmly and he continued to harass the daughters of the complainant.

3.139 On consideration of the findings of the team, the Commission has directed:

"The ASI who had a major role has been merely transferred and no charge-memo has been issued.

It is a clear case of collusion between the police and the family members of the victim.

We should ask whether proper proceeding have been updrawn with a view to punishing the police officials found remiss in their duties.

Secondly, regarding the role of the Dy.S.P., DGP, Haryana is directed to have his conduct enquired into by a senior officer and due departmental action be taken against him as well.

Regarding the SP's conduct, the Commission had expressed its displeasure with a direction to convey the same to DGP Haryana.







# 4

## Civil and Political Rights

4.1 Cases relating to Civil and Political Rights, which are being handled by the Commission are brought out in detail in the succeeding paragraphs relate to Human Rights Violations by Custodial Institutions, Police, Security Forces, other State agencies they also relate to repatriation of two Pakistani Prisoners kept in Jail.

### A. Number and Nature of complaints

4.2 During the year under review, the Commission had a total number of 1,21,313 cases to consider (Annexure 3 & 4), which included cases brought forward from previous years as well as fresh institution during the current year. During the period from 1 April 2006 to 31 March 2007, the Commission disposed of 93,421 cases (Annexure 5). The State-wise and Category-wise details of cases are shown in Annexures 6 (a) to (c).

4.3 At the end of the reporting period, i.e. as on 31 March 2007, the total number of cases pending with the Commission was 31,881, which included 148 cases awaiting preliminary consideration and 31,733 cases in respect of which reports were either awaited from the authorities concerned or the reports had been received and were pending further consideration within the Commission itself (Annexure 7).

4.4 The total number of cases registered in the Commission during 2006 - 2007 was 82,233, while the corresponding figure for the year 2005 - 2006 was 74,444. Of the cases that were registered during the year under review, 80,325 cases were complaints of alleged human rights violations, besides 1597 cases related to intimations of custodial deaths, 10 cases of custodial rapes and 301 relating to police encounters. In accordance with the guidelines issued by the Commission, every death in police and judicial custody is to be reported to the Commission for its scrutiny, irrespective of such death being natural or otherwise. Of the custodial deaths that were reported in the course of the year 2006 - 2007, 1 death occurred in the custody of defence/para-military forces, 119 deaths occurred in police custody, while 1477 in judicial custody, most of the latter resulting from illness, old age or similar factors. (Annexure 4).

4.5 The details in respect of complaints/cases registered last year again confirm the assessment made by the Commission in the preceding annual reports that, after successive years of rapid increase, the number of complaints received by the Commission now appears to have stabilized as between 6,000 -7,000 per month. As in the past, the largest number of complaints/cases registered was from the State of Uttar Pradesh; they numbered 52,004 or 63.2 percent of the total number of complaints/cases registered by the Commission. Delhi followed Uttar Pradesh, with 5,331 complaints/cases, while Bihar coming third with 3,689 complaints/cases. It would again appear that the establishment of State Human Rights Commissions has not so far led to any significant reduction in the number of complaints being received by the National Human Rights Commission from Uttar Pradesh.

4.6 Of the total number of 93,421 cases disposed of in 2006 -2007, 47,252 were dismissed 'in limini', while 27,222 were disposed off with directions to the appropriate authorities for remedial measures. 1525 intimations relating to custodial deaths, 81 cases of encounter deaths and 17,341 other cases were also disposed of after calling for reports from the concerned authorities. In the latter group, 15 cases pertained to alleged disappearances, 760 cases to illegal detention/ illegal arrest, 489 cases of alleged false implication, 4 cases of alleged custodial violence, 89 cases of alleged 'fake encounters', 2682 instances related to failure to take appropriate action and 3740 complaints related to other alleged police excesses. During the period under review, the Commission dealt with a number of complaints relating to rights of women. 155 cases of allegations of violating the dignity of women, 150 cases alleging sexual harassment of women, 667 cases alleging abduction, rape and murder, 956 cases relating to dowry deaths, 330 cases of dowry demand, 174 cases alleging exploitation of women and 332 cases alleging rape of women were disposed of. The Commission also disposed of 28 cases concerning child labour, 25 cases relating to child marriages and 93 cases of bonded labour. The Commission also dealt with 127 complaints relating to conditions in prisons, 161 cases alleging harassment of prisoners and 33 cases alleging lack of medical facilities in jails. In addition to the above, 330 cases alleging atrocities against members of the Scheduled Castes/Scheduled Tribes were disposed of by the Commission, as also 5 cases of communal violence and 5996 cases of other categories. The State-wise position in respect of these cases may be seen at Annexures 6 (a) to (c).

4.7 Since its establishment in October 1993, the Commission has recommended interim relief to the victims/next of kin of deceased victims in appropriate cases, details of which are given in the previous reports. During the year 2006 - 07, the Commission has recommended interim relief amounting to Rs.3,25,07,500 to be paid in 71 cases, including 12 cases of deaths in police/judicial custody.

4.8 In addition, while considering the Punjab Mass Cremation case remitted by the Supreme Court of India, the Commission has till the end of the year 2006 - 2007 recommended compensation of Rs. 2.5 lakhs to the next of kin of each of 195 deceased identified to be in deemed custody of police and Rs. 1.75 lakhs to each of next of kin of other 1103 identified persons, whose dead bodies were cremated by Punjab Police (amounting to Rs. 24,27,25,000/-).

4.9 Besides, in certain cases, either in response to the notice issued to the State Authorities or notice issued to them under section 18(3) of the Protection of Human Rights Act, 1993 to show-cause as to why interim relief be not recommended in favour of the victim/next of kin of the deceased victim, the concerned authorities of their own, informed the Commission about their decision to pay compensation/provision of other relief. Summaries of some such cases have been included in the selective cases.

## **B. Selective Cases of 2006 - 2007**

### **B.1 Civil and Political Rights**

#### **a. Cases of Human Rights Violation by Custodial Institutions**

##### **1. *Death of Arun Kumar Upadhyay in police custody while in transit from Sultanpur Jail to Lucknow in U.P. (Case No. 32757/24/2002-2003-ad linked with Case No. 32539/24/2002-2003-cd)***

4.10 The Commission received a complaint dated 14 January 2003 from one Ram Murti Upadhyay stating that his son Arun Kumar Upadhyay alias Babloo Upadhyay, was an under-trial prisoner lodged in Sultanpur Jail in Case No.74/2002 under section 302/120 B IPC, P.S. Maha Nagar, Lucknow. Since, son of the complainant was apprehending threat to life; he requested jail authorities for providing him with proper protection and even moved an application in the court of CJM, Lucknow on 6 April 2002 seeking protection. The court allowed the application and issued directions to Officer-in-Charge, Escort and Jail Superintendent for providing special security to the son of the complainant while being transported to and from the court. The authorities, however, did not provide adequate security. Consequently, on 3 January 2003, at about 7.55 a.m. while the son of the complainant was being escorted by Constables Sampurnanand Pandey and Satya Prakash Yadav by train to Lucknow, he was shot dead at Railway Station, Sultanpur. The killers Mahender Singh Negi and others escaped. Raising suspicion on the role of the two Constables in the killing of Arun Kumar Upadhyay, the complainant prayed for intervention of the Commission for proper investigation in the case.

4.11 An intimation in respect of the death in custody was also received from the Superintendent, District Jail, Sultanpur, U.P.

4.12 In response to the notice issued by the Commission, Superintendent of Police (HR), Office of the DGP, U.P. forwarded a report dated 30 September 2003 received from Additional Superintendent of Police, Lucknow and Circle Officer, Gomti Nagar, Lucknow which disclosed that appropriate steps for security of the deceased were taken and two Armed Constables were deputed for ensuring his safe transit from Sultanpur Jail to the Court at Lucknow. The two Constables even acted diligently, chased the killers of deceased, and fired rounds, but the killers took advantage of the heavy fog and managed to escape. The report concluded that there was no negligence on the part of the police personnel in the said matter. It was further submitted that a Case No.2/2003 under section 302/307/34/1208 IPC had been registered and the accused Swatantra Kumar Tiwari and Lalit Negi have already been arrested. Proceedings under section 82/83 Cr.P.C. were initiated against Mahendra Singh Negi and efforts were afoot to trace the whereabouts of other accused Deepu. It was also stated that during enquiry, the conduct of the two Constables was found somewhat negligent in as much as they took the deceased outside the Railway Station, when tea was available at the platform itself.

4.13 While considering the report on 19 December 2005, the Commission observed that:

“Admittedly, the above-mentioned two armed Constables had been deputed for ensuring the safe transit of the deceased. Under these circumstances, they were supposed to be more careful about the safety of the deceased, yet, during transit, they allegedly took him outside the railway station to a teashop, although as per the report forwarded to the Commission, tea was available even at the railway platform. This, definitely, amounts to grave negligence and dereliction of duty, which resulted in the murder of the accused. In view of the previously mentioned, we are of the opinion that this is a case of failure on the part of public servants in performance of their duty, of care for the safety of the deceased, who had expressed apprehensions about it and had even filed an application in the court of Learned Chief Judicial Magistrate, Lucknow, seeking proper security. The report of the Addl. Superintendent of Police dated 30 September 2003 is also contradictory. While it is stated at one place that there was no negligence on the part of the police, yet, towards the conclusion it has

been stated that the two constables were somewhat negligent and a preliminary enquiry had already been initiated against the two constables.

4.14 In above view of the matter, the Commission is of the opinion that prima facie, this is a case of violation of human rights of the deceased who lost his life due to acts of dereliction of duty on the part of the constables as well as the failure of the State to provide proper security while escorting the deceased despite directions of the C.J.M. Accordingly, it is directed that notice under section 18(3) of the Protection of Human Rights, 1993 be issued to the State of Uttar Pradesh through its Chief Secretary, calling upon him to show-cause why payment of interim relief be not recommended in favour of the next of kin of the deceased."

4.15 In response, Secretary, Home (HR), Department, U.P. vide communication dated 12 May 2006 stated that since the full responsibility for the security of UTP was on the police administration, it would be appropriate to pay "interim relief" to the next of kin of the deceased.

4.16 The Commission vide proceedings dated 12 June 2006 recommended that a sum of Rs.50,000/- be paid by U.P. Government through its Chief Secretary to the next of kin of the deceased as 'interim relief' under section 18(3) of the Protection of Human Rights Act, 1993 and to submit compliance report along with proof of payment within six weeks.

4.17 Compliance report is awaited.

## **2. *Death of Gurnam Singh in Judicial Custody in District Jail, Kapurthala (Case No. 157/19/2001-2002-CD)***

4.18 The Commission received an intimation dated 26 June 2001 from Superintendent District Jail, Kapurthala, Punjab about the death of one under trial prisoner Gurnam Singh on 25 June 2001 while undergoing treatment in Civil Hospital, Kapurthala. A complaint dated 8 July 2002 was also received from Gurdeep Singh, brother of the deceased who requested for payment of compensation to the next-of-kin of the deceased.

4.19 In response to the notice issued by the Commission, Under Secretary, Government of Punjab, vide letter dated 1 February 2002 forwarded copies of the inquest report, Magisterial Enquiry Report and post-mortem report. Separately, Superintendent District Jail, Kapurthala vide letter dated 10 April 2002 submitted the histopathology report and the report of the Chemical Examination.

4.20 According to the Magisterial Enquiry Report, Gurnam Singh complained of chest pain and the co-prisoners tried to draw the attention of the jail authorities by striking spoons and steel plates continuously, but the jail officials and employees failed to respond. It was further mentioned that Gurnam had been complaining of chest pain for 3 - 4 days. There was gross negligence on the part of jail doctor who also failed to accompany the patient to the Civil Hospital. It was recommended that the jail hospital doctor should be transferred immediately. The post-mortem report mentioned that the cause of death would be known only after the viscera report and the histopathology report was obtained. As per the viscera report aluminum phosphide was found in the viscera. The final cause of death has been given as asphyxia because of aluminum phosphide poisoning, which is sufficient to cause death in ordinary course of nature.

4.21 Upon perusal of action taken report on the Magisterial Inquiry submitted by the Addl. Secretary (Home), Government of Punjab vide letter dated 23 June 2003, it transpired that Gamdoor Singh, Superintendent Jail (now retired), Gian Singh, the then acting Deputy Superintendent Jailor (now retired), Puran Singh, the then officiating Assistant Superintendent (now Head Warder), Jasmail Singh, Head Warder and Mr. Jaswant Singh, Warder, all delinquent officers/officials, had been charge-sheeted under

Rule 8 of the Punjab Civil Service (Punishment and Appeal) Rules 1970 for imposing major penalties. As regards medical officer, it was reported that the action was being taken by Department of Health and Family Welfare, Punjab.

4.22 While considering the matter on 7 December 2005, the Commission observed that in magisterial inquiry report it has been found that there was negligence on the part of jail officials and the jail doctor in not promptly ensuring medical treatment to the deceased under-trial prisoner. Admittedly, for the previously mentioned lapses departmental proceedings had been initiated against the delinquent officials. As per the post-mortem report and the viscera examination report, the cause of death was opined as asphyxia because of aluminum phosphide poisoning. This, prima facie, indicates failure on the part of jail officials in their duty of care towards life and person of the deceased for which the State is also vicariously liable. In this view of the matter, the Commission held that prima facie this is a fit case to consider grant of "immediate interim relief" to the next of kin of the deceased. Accordingly, the Commission directed that a notice under section 18(3) of the Protection of Human Rights Act, 1993 be issued to the Chief Secretary, State of Punjab calling upon him to show-cause within four weeks, as to why immediate interim relief be not recommended to be paid to the next of kin of the deceased.

4.23 Vide proceedings dated 19 July 2006, Commission considered a report dated 22 June 2006 received from the Government of Punjab, Department of Home Affairs and Justice (Jail Branch), which indicated that disciplinary proceedings against the delinquent officials were in progress. It was further stated that if Hon'ble Commission deemed it appropriate to grant immediate relief to the deceased's legal heirs, State Govt. has no objection to it.

4.24 Accordingly, while considering the facts and circumstances of the case, the Commission on 19 July 2006 recommended that a sum of Rs. 1 lakh be paid to the next of kin of the deceased. The Chief Secretary, Government of Punjab was directed to submit compliance report together with proof of payment to the Commission within six weeks.

4.25 Under Secretary, Home Department, Government of Punjab vide letter dated 23 August 2006, has informed that sanction for Rs. 1 lakh for payment to the next of kin of the deceased has been issued. Proof of payment is awaited.

### 3. *Death of Sharma in judicial custody in Sitapur, U.P. (Case No. 38895/24/2001-2002-CD)*

4.26 The Commission on 15 March 2002 received intimation from Superintendent, District Jail, Sitapur, U.P. about the death of UTP, Sharma, aged 28 years, who was admitted in jail on 26 February 2002 in Cr. Case No.302/01 for an offence under section 364 IPC. The intimation indicated that on 11 March 2002, Sharma was badly injured with a knife by his fellow UTP, Babloo Tiwari and Raj Kumar, when they were being brought back in a police vehicle, after being produced in the court. Sharma was admitted to District Hospital, Sitapur, by the Police escort and he was referred to KGMC for further treatment. The accused Sharma, died in the night of 11 March 2002 while being taken for further treatment by the Police.

4.27 In response to the notice issued, DIG, Prisons, U.P., submitted report of Superintendent, District Jail, Sitapur along with the inquest and post mortem reports.

4.28 In the post mortem report, six ante-mortem incised wounds were mentioned. The cause of death was mentioned as "shock and haemorrhage as a result of ante-mortem injuries." Magisterial inquiry report revealed that deceased, Sharma, was assaulted by UTP, Babloo with a sharp knife with an intention to kill him with the help of another UTP, Guddu. The deceased had enticed away the sister of UTP, Guddu who had enmity with him on that score. In the Police van, the deceased, Sharma, made an obscene remark

against the sister of the UTP, Babloo, who thereupon made an assault on him with a knife, which was supplied, to him, through the broken grill of the Police van, on the date of the incident by one of his supporters, Pradeep. The report further revealed that Sharma died due to ante-mortem injuries and the Police duty personnel were held guilty for negligence on their part. A Case Cr. No.328/02, under section 302 IPC was got registered against Guddu and Babloo for committing the murder of Sharma.

4.29 While considering the matter on 1 February 2006, the Commission observed that:

“The magisterial inquiry has revealed that the deceased was assaulted by another under trial prisoner with a sharp knife which was supplied to him by a visitor. The victim died due to the injuries sustained in the above assault and the guilt of certain police officials has been established. The Superintendent of Police (HR) has submitted a report dated 17 May 2003 received from the Superintendent of Police, Sitapur, which indicated that the delinquent Police officials - Head Constable, Ram Kishor, Constable, Ranbir, Sunil Kumar and Tilak Lal had been punished under orders of the D.G.P., U.P. with “censure”. In view of the findings recorded in the post-mortem report as well as the Magisterial Enquiry Report, prima facie, it is established that it is a case of gross violation of human rights of the deceased Sharma.

Keeping in view the findings recorded in the Magisterial inquiry, which found that police had been particularly negligent in performing their duties, and the subsequent action of the DGP, U.P. in punishing the delinquent police officials departmentally, the Commission prima facie finds that the State, which had the sole responsibility of safe-custody of the prisoner, is vicariously responsible for the death of the deceased. It is settled law that safety of the prisoners is the prime responsibility of those who have the custody of the prisoner and in case any harm comes to them because of the negligence of the authorities concerned, the State must be held responsible.”

4.30 The Commission, therefore, directed that notice be issued under section 18(3) of the Protection of Human Rights Act, 1993, to Chief Secretary, U.P. to show-cause within four weeks, as to why in the established facts and circumstances of the case, recommendation be not made for award of interim relief in favour of the next of kin of the deceased.

4.31 In response to the show-cause notice, Secretary, Home (HR) Department, Govt. of U.P. vide letter dated 21 July 2006 submitted that action had been taken against the erring police officials, and because of negligence in performance of duty by the police officials, human rights of Sharma were violated. Accordingly, the grant of interim relief to the next of the kin of the deceased is justified.

4.32 The Commission vide proceedings dated 13 September 2006 recommended to Chief Secretary, Govt. of U.P. for payment of Rs. 50,000/- as ‘interim relief’ to the next of kin of the deceased and to submit a compliance report along with proof of payment.

4.33 Compliance report is awaited.

#### 4. *Death of Prithvi in the custody of police at Police Station, Mukherjee Nagar, Delhi-(Case No.1112/30/97-98-CD)*

4.34 The Commission received an intimation dated 12 August 1997 from Sub-Divisional Magistrate, Model Town, New Delhi, stating that on 30 July 1997, one Prithvi S/o Bheema, was arrested by the Police of PS Mukherjee Nagar, New Delhi. He was produced before the Magistrate on 31 July 1997. He was not feeling well and taken to the Hindu Rao Hospital. From there, he was referred to RML Hospital, where he expired on 9 August 1997.

4.35 In response to the notice issued to Home Secretary, Govt. of NCT, Delhi, the DCP, Vigilance, vide letter dated 27 August 1998, forwarded a report received from Additional DCP, North West Delhi. The report indicated that an operation was launched by Govt. of NCT, Delhi to catch beggars. One beggar, namely, Prithvi Singh was caught in the evening of 30 July 1997 and taken to RCC Camp, Kingsway Camp, Delhi around 9.30 P.M. Since no Magistrate was available during the night, he was produced before the Magistrate on 31 July 1997 and sent to the Remand Home where he complained of some health problem. He was taken to Hindu Rao Hospital and subsequently, referred to RML Hospital and was got admitted there. On 11 August 1997, information was received at Police Station, Mukerjee Nagar about the death of Prithvi Singh at RML Hospital. SDM was informed and conducted proceedings under section 176 Cr.P.C. In his inquiry report, he pointed out that there was lack of supervision on the part of the staff posted at RCC Camp, Sewa Kuteer, Kingsway Camp, Delhi and due care was not taken to look after the beggars.

4.36 While considering the matter on 19 November 2004, the Commission observed that:

“The Additional CP, North Range, Delhi, vide his letter dated 28 July 1998, has categorically stated that the SDM, who had conducted the proceedings under section 176 Cr.P.C. in his inquiry report, had pointed out that there was lack of supervision on the part of the staff posted at RCC Camp, Sewa Kuteer, Kingsway Camp, and also that due care was not taken to look after the beggars. The report establishes a strong case of violation of human rights of Prithvi Singh. The Govt. of NCT, Delhi, through its Chief Secretary, is directed to show-cause why immediate interim relief under section 18(3) of the Protection of Human Rights Act be not granted to the next of kin of Prithvi Singh.

In response, vide letter dated 17 January 2005, Joint Director, Department of Social Welfare, Govt. of NCT of Delhi informed that the Vigilance Branch had examined the report of SDM, Model Town and issued show-cause notice to the erring officials. It was further submitted that the grant of interim relief to the next of kin of the deceased may be taken up only after finalization of the above said proceedings.

While considering the matter on 11 March 2005, the Commission directed the Govt. of NCT of Delhi to take appropriate steps for the proper functioning and maintenance of Sewa Kuteer, Kingsway Camp, Delhi, and to inform the Commission of the steps taken by the Govt. to streamline the functioning of Sewa Kuteer and for providing basic bare necessities to its inhabitants.

Director (Admn.), Department of Social Welfare, Govt. of NCT Delhi vide communication dated 22 June 2006 submitted a report wherein a mention was made about the difficulties being faced in expeditious conclusion of the departmental action against the erring officials. The report also mentioned about the steps taken for the improvement in maintenance and functioning of the Sewa Kuteer, Kingsway Camp. The report pointed out that the Reception-cum-classification Centre (for male under trial beggars) under sub-section (1) of Section 12 of Bombay Prevention of Begging Act 1959 as extended to Delhi is functioning as Sewa Kuteer, Kingsway Camp. This Reception cum classification Centre provides food, clothing, bedding and other articles including Jersey for winter etc. to the inmates as per the norms/scales of the department. The inmates are housed in clean dormitories till they are shifted to certified institutions as per the directions of the ‘Court for Beggars’, which is also operational in Sewa Kutir Complex. The sanitation and hygiene for the upkeep of the inmates is ensured. The Department of Social Welfare, Govt. of NCT of Delhi, however, submitted that it has no objection to the recommendations, if any, made by the Commission for payment of interim relief to the next of kin of the deceased.

The Commission on 15 November 2006 after taking into consideration facts and circumstances of

the case recommended to Government of NCT of Delhi through its Chief Secretary to pay a sum of Rs. 50,000/- to the next of kin of the deceased Prithvi Singh as “immediate interim relief”.

4.37 Vide letter dated 19 January 2007, Superintendent, Sewa Kuteer, Kingsway Camp has informed that the amount of Rs. 50,000/- have been paid to the next of kin of the deceased vide a cheque on 19 January 2007. Proof of payment was also submitted. The matter was, however, still under consideration.

5. *Death of Chakradhar Nayak in the custody of Central Jail, Hazaribagh, Jharkhand – (Case No. 409/34/2001-2002-cd)*

4.38 The Commission received an intimation dated 11 July 2001 from the Superintendent of Central Jail, Hazaribagh about the death of an under-trial prisoner Chakradhar Nayak on 10 July 2001, while undergoing treatment. The prisoner was admitted in the jail on 31 January 2001 and was facing trial for the offence under section 323/302/307 IPC.

4.39 The Commission issued notice to the Home Secretary, Government of Bihar (Jharkhand), calling for the relevant reports. Postmortem report received disclosed death due to “cardio-respiratory failure due to chronic disease of lungs”. However, in Magisterial Enquiry Report, where a number of witnesses were examined including the inmates of the jail and the concerned doctors, it was found that due to negligence of Dr. Vijay Shanker Narain Singh he died. It appeared that on 9 July 2001, Under Trial Prisoner complained of weakness and he was given medicines. On 10 July 2001, he had difficulty in breathing and was shifted to Sadar Hospital and died. The statement of the co-inmates recorded indicated that he was suffering from breathlessness, but there was no oxygen available except for 30 minutes. The two doctors, namely, Dr. Vijay Shankar Narayan Singh and Dr. S.K. Rajan examined by the enquiry officer blamed each other for his death. Dr. Vijay Shankar Narayan Singh stated that there was oxygen cylinder available in the Jail Hospital but it was only for 30 minutes. Requisition for another cylinder was already submitted, but it was not received. However, the Jail Superintendent in his statement stated that requisition for fresh oxygen cylinder was given only on 12 July 2001 in support of which a copy of the requisition slip was enclosed. This clearly showed that the doctors had not given any requisition for the oxygen cylinder before 12 July 2001 and, therefore, were found responsible for his death.

4.40 Upon consideration of the reports, the Commission, vide proceedings dated 15 March 2002, came to the conclusion that the deceased had died due to the negligence of doctors treating him and issued notice to Chief Secretary, State of Bihar to show-cause as to why immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 be not granted to the next of kin of the deceased. Chief Secretary, Jharkhand, was also asked to explain why recommendation for taking action against the errant doctor be not made.

4.41 In response to the show-cause notice, Special Secretary (Home), Govt. of Jharkhand, submitted that deceased was a chronic patient of Bronchial Asthama. The cause of death as per post-mortem report was cardio-respiratory failure due to chronic infection of lungs. It was further stated that even if oxygen was given to the patient, he would have died.

4.42 The Commission on 8 August 2002 considered the response received from the State Government and observed that it was obvious from the magisterial inquiry that the deceased was suffering from Bronchial Asthama and he had died because he had not been given oxygen in time. It has further been stated that oxygen available in the hospital was sufficient only for 30 minutes and no timely requisition for fresh oxygen cylinder had been given. The Magistrate in his report concluded that deceased had died due to negligence of Dr. Vijay Shankar Narayan Singh.



4.43 The Commission further observed that the report of Home Secretary that the patient would have died even after oxygen was given to him, is based on surmises and conjectures contrary to the magisterial inquiry report. Even if there was possibility of the patient dying after giving oxygen, it was the duty of the doctor to provide him oxygen, when he was suffering from breathlessness and was admitted to the hospital as a patient of Bronchial Asthma. The Commission, therefore, accepted the report of Magistrate, that the deceased had died on account of negligence in the hospital and failure to give oxygen to the patient. Accordingly, the Commission recommended to Govt. of Jharkhand to pay a sum of Rs. 50,000/- , as 'immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 to the next of kin of the deceased. The Commission also recommended departmental action against Dr. Vijay Shankar Narayan Singh, who had been found negligent in the magisterial inquiry.

4.44 Vide proceedings dated 27 November 2006, the Commission considered a communication dated 21 August 2003 received from State Government in respect of the payment of the interim relief to the next of kin of the deceased as well as the communication dated 11 October 2006 informing about the imposition of punishment of stoppage of one increment with cumulative effect upon Dr. Vijay Shankar Narayan Singh at the culmination of the departmental proceedings.

4.45 As compliance report was received, the case was closed.

6. *Death of Bhandas in the custody of police in Balaghat, Madhya Pradesh (Case No. 145/12/2000-2001-CD)*

4.46 The Commission on 28 April 2000 received intimation from Superintendent of Police, Balaghat regarding the death of Bhandas in the custody of Police at Police Station Changotola in the night of 26/27 April 2000. The deceased was arrested by the police in Crime No. 30/2000 P.S. Lamata under section 147/148/149/307/302/396/435 IPC in connection with conspiracy leading to the murder of the then Station Officer, P.S. Lamata, SI Rakshit Shukla and Constable Komal Prasad Chaudhary.

4.47 In response to the notice issued to Home Secretary, Government of M.P., Bhopal the requisite reports were received. The inquest report indicated no injury on the body of deceased and witnesses found the cause of death as unascertainable. The post mortem report indicated that there were more than a dozen ante mortem injuries on the body of deceased caused by hard and blunt object. The cause of death was kept reserved till the chemical analysis report of viscera was received. Though the viscera report was received wherein the presence of alcohol was detected the report regarding final cause of death was not submitted.

4.48 In Magisterial Enquiry report, the Magistrate held the police personnel guilty of custodial violence. He further recorded that a Case crime No. 36/2000 under section 330/323/341/302 IPC and Section 3(2) 5 SC/ST (Prevention of Atrocities) Act was registered against the errant police personnel in Police Chhangotola.

4.49 While considering the matter on 5 June 2006, the Commission directed Home Secretary, Government of M.P., Bhopal to submit the status report of Case Crime No. 36/2000 under section 330/341/323/302 IPC registered against the errant Police personnel and to further explain as to why the departmental proceedings had not been initiated against the errant police personnel. The Commission also directed to issue a show-cause notice to Chief Secretary, Government of M.P., Bhopal to show-cause within 4 weeks as to why the provisions Section 18(3) of the Protection of Human Rights Act, 1993 be not invoked and immediate interim relief be not awarded.

4.50 The Commission vide its proceedings dated 11 December 2006 considered a response dated 10 November 2005 received from Inspector General Police (Complaints), Police Head Quarters., Bhopal which indicated that charge sheet against all the delinquent police personnel SI, G.P.Sharma, SI Raj

Ballabh Singh Chauhan and H/C Phulchant Tarware has been submitted in the Court on 21 July 2005 and pending trial in the court. As regards interim relief under section 18(3) of the Protection of Human Rights Act, 1993, it was submitted by Secretary, Home (Police) Department, Govt of M.P. vide communication dated 8 August 2006 that a relief of Rs.1,50,000/- has been released in favour of the wife of the deceased and she has also been given employment in Class IV of Govt. service and, therefore, the Govt. of MP did not consider any further interim relief to the next of kin of the deceased, as necessary.

4.51 Accordingly, the Commission called for the proof of payment of Rs. 1.5 lakh to the wife of the deceased along with a copy of appointment letter issued in respect of her employment by Government of Madhya Pradesh.

4.52 Compliance report received from the Government of M.P. was however, still under consideration.

7. *Death of Munna kumar Soni in police custody in Indore, Madhya Pradesh (Case No. 50/12/2001-2002-CD)*

4.53 The Commission received an intimation dated 28 March 2001 from the District Magistrate, Indore, about the death of one Munna Kumar Soni, son of Suraj Prasad, in suspicious circumstances in the court premises while in police custody on 25 March 2001. It was mentioned that the deceased was arrested by the police in connection with case No. 246/2000 under section 411 IPC P. S. Khajrana.

4.54 In response to the notice issued by the Commission, Inquest report, post-mortem report, viscera report and Magisterial Enquiry Report were received. The post-mortem report indicated that there were five external injuries on the body of the deceased, and the cause of death was suspected to be due to poison. The chemical analysis of the viscera indicated consumption of Aluminium Phosphide.

4.55 The Magisterial Enquiry Report concluded that deceased Munna Kumar Soni died because of consumption of poisonous substance while he was in police custody. The Magistrate in his report held police personnel namely, S.I. Laxminarayan Dhruve, Constable Shiv Prasad and Constable Domnik Ekka, guilty of indifference and negligence in performance of their duty as they had failed to conduct a thorough search of the deceased before taking him to his residence for search and recovery and on his return to the police station. He also observed that they failed in their duty in not conducting search of the deceased before taking him to the Court for remand proceeding, and the previously mentioned negligence provided an opportunity to the deceased to consume the poisonous substance.

4.56 Pursuant to the direction of the Commission calling for action taken report on the recommendations made in the magisterial Inquiry Report, Deputy Secretary, Madhya Pradesh Administration informed the Commission vide letter dated 20 May 2003 that the police officials responsible for the death of Munna while in police custody had been dismissed from the service. According to the report the charges against the delinquent officials were proved in the inquiry including the charge that, because of the negligence on the part of the delinquent police officials, the deceased got an opportunity to consume the poisonous substance.

4.57 Upon consideration of the reports, vide proceedings dated 12 May 2005 the Commission observed that It had been established that the police officials were negligent in discharge of their duties. It is a clear case of violation of human rights of the deceased. The Commission therefore directed that a show-cause notice be issued to the Chief Secretary, Government of Madhya Pradesh, to show-cause within four weeks as to why immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 be not given to the next of kin of the deceased.

4.58 In response to the show-cause notice, Secretary, Home (Police) Department, Government of M.P. vide communication dated 10 August 2005 submitted that in the Magisterial Enquiry Report the delinquent police officials were only found guilty of negligence in performance of their duty for which departmental action have been taken by the Government. Therefore, in the opinion of the State Government, there was no justification for payment of “interim relief” to the next of kin of the deceased.

4.59 Vide proceedings dated 22 November 2006 the Commission considered the response received from the State Government and observed that:

“We have considered the response of the State to the show-cause notice issued under section 18(3) of the Act. We do not find any merit in the contention of the State Authorities. We would like to reiterate that it is a settled position in Law that once the State Forces decide to curtail the liberty of a person and take him in custody, by implication, they take upon themselves an obligation to ensure his personal safety and also to exercise due diligence to ensure that such person may not cause self-harm to himself.

In the instant case, the Enquiring Magistrate has found the delinquent police officials guilty of indifference and negligence in performance of their duty in not properly searching the detainee. He has also observed that due diligence on the part of public servants could have avoided the unfortunate incident.”

4.60 In view of the findings in the Magisterial Enquiry, the Commission, therefore, found this as a fit case in which “immediate interim relief” should be recommended to the next of kin of the deceased, Munna Kumar Soni. Accordingly, the Commission, on 22 November 2006 recommended to State of Madhya Pradesh through its Chief Secretary to pay a sum of Rs. 50,000/- as “immediate interim relief” to the next of kin of the deceased Munna Kumar Soni and to submit compliance report within four weeks.

4.61 Under Secretary, Home (Police) Department has reported that Rs. 50,000/- as per recommendations of the Commission has been sanctioned, vide sanction letter dated 23 February 2007. Proof of payment is still awaited.

## 8. *Death of a UTP Manna Singh in judicial custody in Kanpur, Uttar Pradesh (Case 17979/24/2000-2001-cd)*

4.62 The Commission received an intimation dated 30 September 2000 from Superintendent, District Jail, Kanpur about the death of an under trial prisoner Manna Singh, aged 26 years in the night of 28/29 September 2000. It was reported that the deceased was admitted in the jail on 12 September 2000 for facing trial under section 4 & 5 of Explosives Act relating to the police station of Naubasta, Kanpur Nagar. He was admitted in the hospital on 14 September 2000 and in the course of treatment died allegedly due to cardio-respiratory arrest.

4.63 In response to the notice calling for the requisite reports, the Commission was informed that a magisterial enquiry held in the matter had concluded that police of Naubasta police station, Kanpur was responsible for the custodial death. This conclusion was arrived at by the enquiry officer after collecting the evidence. It was mentioned in the report that the deceased was a ordinary labourer without any history of crime. Police officers ASI Jaya Prakash, HC Ram Prakash, Contable Vimlesh and Maharaj Singh had described him as arrested in an encounter and he was severely beaten by them to confess some earlier offence. On account of the injuries sustained at the hands of the police, he reportedly died. In the postmortem report, there were 14 injuries found on this person, some of which were on private parts. The police was held responsible for his death.

4.64 After considering the Magisterial Enquiry Report, the Commission on 24 June 2002 held that this was a clear case of violation of human rights and a fit case where immediate interim relief should be granted. The Commission accordingly, directed to issue a notice to Chief Secretary, Government of Uttar Pradesh to show-cause within four weeks as to why suitable immediate interim relief be not granted to the next of kin of the deceased under section 18(3) of Protection of Human Rights Act, 1993. The Commission also called for a report on the action taken against the errant police officials.

4.65 Vide proceedings dated 8 January 2007, the Commission considered a response dated 7 August 2003 submitted by Special Secretary, Government of U.P., stating that since the matter was pending in the Court and departmental action against the delinquent officials was continuing, it would be proper if the decision to grant interim relief was taken after the decision of the Court and also after the completion of the departmental action.

4.66 While considering the matter the Commission observed that:

“From the record it is revealed that final report is filed in the court and the matter is pending trial.

It is clear from the Magisterial Enquiry Report that the deceased had sustained as many as 14 external injuries, which in fact has been supported by the post-mortem report too. It was also held that the police officials were, *pima facie*, held guilty. In response to the notice issued under section 18(3) of the Act, the only defence of the authorities is that the matter is pending in the Trial Court and “immediate interim relief” may not be granted till the completion of the proceedings before the Court.

The Commission has been consistently taking the view that mere pendency of the criminal proceedings is not the ground either to deny or postpone granting “immediate interim relief”. If *prima facie* there has been violation of human rights, immediate interim relief is granted, having regard to the object and purpose of the Act and, in particular, Section 18(3) of the Act in mind.

In this case, the Magisterial Enquiry Report finds that the officials are guilty of violation of human rights of the deceased. From the letter dated 1 January 2003 addressed to the Secretary (Administration), U.P. Government by the SSP, Kanpur Nagar, it is clear that he recommended for grant of immediate interim relief to the next of kin of the deceased, observing that there has been violation of human rights of the deceased.

From the communication dated 12 January 2003 of the Additional DGP (HR) addressed to the SSP, Kanpur Nagar, it is clear that the DGP asked clarification as to from whom the amount of interim relief should be recovered if payment is made. The records further reveal that the deceased had no criminal background and that there was no resistance on his part when he was arrested and he was a young man of 26 years. *Prima facie*, it appears that there was no justification to inflict as many as 14 injuries on him. The Commission is not concerned with who has been responsible for inflicting injuries on the deceased. The fact remains that these injuries were caused to him when he was in custody. The Commission is primarily concerned with regard to the violation of human rights of a person.”

4.67 Accordingly, the Commission recommended to Government of Uttar Pradesh through its Chief Secretary for payment of immediate interim relief of Rs. 2 lakhs to the next of kin of the deceased.

4.68 The compliance report along with proof of payment is awaited.

9. *Death of Dilip Sitaram Chaudhari in Judicial Custody in Jalgaon, Maharashtra (Case No. 531/13/2002-2003-cd)*

4.69 The Superintendent, Jalgaon Prison, Maharashtra, submitted an intimation dated 19 July 2002 informing the Commission that the under-trial prisoner, Dilip Sitaram Chaudhari was admitted in the jail on 18 January 2002 in a case under section 302 IPC. As the prisoner fell ill, he was sent to Jalgaon Hospital on 14 July 2002, where he was admitted as an indoor patient on the same day. He expired at the General Hospital, Jalgaon in the morning of 19 July 2002 during the course of medical treatment.

4.70 In response to the notice issued to District Magistrate, Jalgaon, Maharashtra, the requisite reports were submitted. The Magisterial Enquiry Report revealed that the deceased UTP was kept in the hospital along with another prisoner, Sidhram Kamala Yadav, who assaulted the deceased with an iron rod causing a head injury and the deceased succumbed to such a head injury. According to the post-mortem report, the cause of death was "head injury associated with multiple rib fracture". The magistrate recommended initiation of disciplinary action against police personnel found negligent in performance of their duties as they were guarding the deceased and the assailant prisoner in the hospital.

4.71 While considering the matter on 2 June 2006, the Commission held this as a case where the state had failed to protect the life of the deceased. Accordingly, the Commission directed to issue show-cause under section 18 (3) of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Maharashtra, to show-cause within six weeks as to why interim relief to the next of kin of the deceased be not recommended.

4.72 In response to the show-cause notice issued, Deputy Secretary to the Government of Maharashtra, vide communication dated 11 September 2006, submitted that the deceased Dilip Sitaram Chaudhary and Sidhram Kamala Yadav were kept in the same room of Jalgaon Civil Hospital under the security of ASI and a Constable of Police. On 19 July 2002 at about 3.00 according to the Magisterial Enquiry Report both of them quarreled, resulting in the death of the deceased. For dereliction of duty, both police personnel had been punished.

4.73 It was further mentioned that the Government had made adequate arrangements for the safety and security of the jail inmates since the prisoner died due to a quarrel between two accused, the failure of the police guard to prevent and control the same (for which they have been punished) was the cause of death. There was no basis for the Government to pay any compensation to the kin of the deceased.

4.74 While considering the matter on 15 February 2007, the Commission observed that:

The response of the State Government to the show-cause notice under section 18(3) of the Act has been considered by the Commission. We find no merit in the objection raised on behalf of the Government. Admittedly, Sidhram Kamala Yadav who hit the deceased on his head with the iron rod was showing signs of madness. Therefore, the authorities should have taken precaution to keep him in a separate room. Moreover, the Deputy Secretary to the Government of Maharashtra has himself stated in the reply that the death was the result of dereliction of duty on the part of the police guards.

In view of this categorical admission, the State cannot avoid its liability. As held by the Apex Court in (2000) 2 SCC 465 *Chairman Railway Board Vs. Chandrima Das*, the State has vicarious liability to pay compensation for tortuous acts of its employees. In AIR 2000 SC 2083 *State of Andhra Pradesh Vs. Challa Ramakrishna Reddy*, the Supreme Court held as follows:

"A prisoner, be he a convict or under-trial or a detenu, does not cease to be a human being. Even when lodged in the jail, he continues to enjoy all his Fundamental Rights including the Right to Life guaranteed to him under the Constitution.

Thus, the Fundamental Rights which also included basic human rights continue to be available to a prisoner and those rights cannot be defeated by pleading the old and archaic defence of immunity in respect of sovereign acts which has been rejected several times by the Supreme Court.”

4.75 The Commission, therefore, recommended payment of Rs. 1 lakh as “interim relief” to the next of kin of the deceased Dilip Sitaram Chaudhary.

4.76 Compliance report is awaited.

#### **b. Cases of Human Rights Violation by Police**

##### **1. *Custodial torture and false implication of Rajeev Ranjan by police in Nalanda, Bihar (Case No. 1086/4/2000-2001)***

4.77 The commission on 25 May 2000 received a complaint from one Rajeev Ranjan stating that on 27 April 2000, Ramod Kumar Singh, SHO, Rahooi, Nalanda picked him up, caused grievous hurt, snatched valuables, cash and obtained his signatures on blank paper forcibly, which was converted into a false confession. He further stated that although he was not named in Crime No. 8/2002 under section 394 IPC, still he was allegedly implicated falsely and denied any treatment for the bleeding injury. He was produced before the Chief Judicial Magistrate on 28 April 2000 and remanded to judicial custody. As jail officials refused to admit him because of the bleeding injuries, he was detained unlawfully at the Police Station until 29 April 2000 and subjected to torture. The complainant further stated that the complaint in Crime No. 8/02 submitted an application before the court stating that the complainant before the Commission was known to him and had not robbed him. He has prayed for appropriate action against the guilty police personnel responsible for violation of his human rights.

4.78 In response to the notice issued by the Commission, the Director General of Police, Bihar submitted a report dated 21 November 2002 enclosing therewith a copy of the report dated 12 December 2000 submitted by the Superintendent of Police, Nalanda. According to the report dated 12 December 2000, the complaint had been entrusted for inquiry to SDPO, Sadar (Bihar Sharif), Bihar. His report disclosed that on 27 April 2000 at about 3.30 p.m., Thana Incharge, Thana Rahooi was returning from Bihar Sharif to Rahooi after completing official work. On the way he found that Bus No. BIQ-8178 had been stopped by four boys and they were demanding money from the driver. Thana Incharge, Rahooi apprehended two boys namely W. Kumar alias Satinder Kumar and Rajiv Ranjan, complainant before the Commission and brought them to Thana. During interrogation, both the boys confessed their involvement in Crime No. 8/2000 dated 30 January 2000 under section 394 IPC. It has also been mentioned in the report that the complainant was hurt and had been treated in the Primary Health Centre vide outdoor patient entry No. 1272 dated 27 April 2000. The report further disclosed that on the basis of confessional statement of the complainant and another, they were produced before the Chief Judicial Magistrate on 28 April 2000. Thereafter, Jail Superintendent declined to admit the complainant in the jail, since Injury Report was not brought by Thana Incharge. Therefore, Thana Incharge took back the complainant Rajiv Ranjan to Thana. SDPO in his report confirmed beating of Rajiv Ranjan and found that the complainant had been wrongly implicated in case No. 8/2000 under section 394 IPC. Other allegations contained in the complaint regarding snatching of money and gold chain could not be substantiated during enquiry. Report further disclosed that after enquiry, Mr Ramod Kumar Singh, the then Thana Incharge was placed under suspension as per the orders of the District Magistrate, Nalanda.

4.79 The Commission considered the matter on 3 September 2004 when it observed that this appeared to be a fit case for grant of immediate interim relief and directed State of Bihar through its Chief Secretary to show-cause within four weeks, as to why the Commission should not recommend grant of relief under

section 18(3) of the Protection of Human Rights Act, 1993 to the complainant.

4.80 Under Secretary, Home (Police) Department, Government of Bihar, Patna vide communication dated 16 July 2005 submitted that on the recommendation made by the Commission for grant of 'interim relief' to Rajiv Ranjan, State Government would take necessary steps for its compliance.

4.81 The Commission on 3 April 2006 recommended that a sum of Rs.10,000/- be paid to the complainant by way of 'interim relief' under section 18(3) of the Protection of Human Rights Act, 1993 within four weeks.

4.82 Under Secretary Home (Special) Department, Government of Bihar, vide letter dated 15 November 2006, forwarded to the Commission a copy of letter dated 13 November 2006, of District Magistrate, Nalanda intimating that the "interim relief" of Rs.10,000/-, as recommended by the Commission, has been paid to Rajiv Ranjan vide cheque No.303546 dated 13 November 2006, after verification.

4.83 As the recommendations of the Commission were complied with, the case was closed on 27 November 2006.

2. *Abuse of power and false implication of Lalit Mehto by Madhepur Police, Madhubani, Bihar (Case No. 4190/4/2002-2003)*

4.84 The Commission on 25 February 2003 received a complaint from Kusheswar Mehto r/o Madhubani, Bihar stating that his son Lalit Mehto was assaulted by some persons and his motorcycle and some cash was snatched from him for which his son accompanied with Rakesh Mondal went to the police station Madhepur to lodge a complaint, but the police in order to help the accused party did not take any action and his son Lalit and Rakesh were put in the lockup without any reason. Thereafter, they were allegedly abused, beaten, and involved in the false case by the police. He has prayed to the Commission to intervene and to conduct independent investigation.

4.85 Pursuant to the directions of the Commission, a report dated 2 September 2004 was received from the Superintendent of Police, Madhubani stating that the matter referred in the complaint relates to a crime No.16/03 registered at Madhepur Police Station on 7 February 2003 under section 25,26,35 of the Arms Act, registered at the instance of ASI Mundrika Prasad, on the ground that some illegal arms were recovered from the accused, including the son of the complainant. It is reported, however, that inquiry was made in the matter and the case registered against Lalit Mehto, son of the complainant was found false. For this reason ASI, Mundrika Prasad was placed under suspension and directions were issued for taking departmental action against him. During departmental inquiry, Mundrika Prasad was found guilty and his six months salary had been deducted, which is equal to a black mark in his confidential report.

4.86 While considering the above report on 25 January 2005, the Commission concluded that Lalit Mehto, the son of the complainant was falsely involved in a criminal case under Arms Act and he has been, as such, unnecessarily harassed resulting in violation of his human rights. Accordingly, the Commission directed to issue notice to the Chief Secretary, Bihar to show-cause within six weeks, as why immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 be not given to the victim.

4.87 In response, Deputy Secretary, Home (Special) Department, Government of Bihar vide letter dated 10 August 2005 submitted that action will be taken by the State Government for payment of interim relief to the victims, as was recommended by the Commission.

4.88 The Commission on 15 February 2006 considered the facts and circumstances of the case and recommended a payment of Rs. 10,000/- to each of the two victims by way of interim relief. The Under Secretary, Government of Bihar vide letter dated 15 November 2006 informed about the payment made to

the two victims on 28 September 2006 and 7 October 2006 respectively. As the direction of the Commission has been complied with, the case is closed on 27 November 2006.

### 3. *Police Atrocities and false implication of a Dalit in Bihar (Case No.2541/4/2000-2001)*

4.89 The Commission on 12 October 2000 received a complaint from Dayanand Manjhi and his wife Ramavati Devi, who belong to a poor scheduled caste family, stating that they had raised a loan of Rs.20,000/- under Jawahar Rojgar Yojna at the instance of one, Satan Rai, who utilized the loan for purchase of building material. On the basis of a report lodged with the police, a case No. 71/2000 was registered at Harijan PS, Hajipur. Offended by it, Satan Rai also got a case registered against the complainant. Sub-Inspector Devanand Jha helped the opposite party and raided the house of the complainant in the night of 24 September 2000. He abused the family members and outraged the modesty of the complainant Ramavati who was stripped naked and kept in the lock up. A prayer was made for independent investigation and action against the accused.

4.90 In response to the notice issued to the Director General of Police, Bihar, a report dated 13 April 2002 was received admitting the registration of two cases, as mentioned in the complaint and the fact that Satan Rai had beaten the complainant Dayanand Majhi and tortured him for whom a criminal case no. 71/2000 was registered. The accused was arrested and a challan in the case, after investigation, had been filed in the Court. As regards case no.116/2000 registered at the instance of Satan Rai for various offences under IPC, the report mentioned that the case was investigated by Devanand Jha, Sub-Inspector. In the course of investigation, it was established that he had visited the house of the complainant, misbehaved with his family members, arrested them and put them in the lock-up. However, no truth was found in the allegations and a final report had been submitted to the court on 5/8/01. It was further mentioned that for the misconduct of Sub-Inspector Devanand Jha, departmental action was taken against him. He was suspended and, at the culmination of the departmental inquiry, his increment for one year was stopped.

4.91 Upon consideration of the report on 19 June 2003, the Commission observed that the fact that Sub-Inspector, Devanand Jha, misbehaved with the complainant and his family members was itself sufficient to hold that there was violation of human rights, in as much as their dignity was lowered in the eyes of the public. The Commission, therefore, directed to issue notice to the Chief Secretary, Government of Bihar, to show-cause within four weeks as to why immediate interim relief under section 18(3) of Protection of Human Rights Act, 1993 be not given to the petitioner.

4.92 In response to Show-cause Notice, Home Secretary, Home (Police) Department, Govt. of Bihar endorsed to the Commission a copy of the Sanction letter dated 21 April 2005 conveying grant of Rs. 50,000/- to the complainant. As the proof of payment called for by the Commission was also received from the State Government of Bihar, vide letter dated 22 February 2006, the case was closed on 27 October 2006.

### 4. *Police Torture of Mentally Disabled Lyek Anwar in Chamanganj, Kanpur, Uttar Pradesh (Case No. 36115/24/2002-2003)*

4.93 The Commission received a complaint dated 22 December 2002 from one Iftkhar Ahmed stating that his mentally challenged son Lyek Anwar was stopped and questioned by constable Firoz Khan of police post Takia Park Police Station Chamanganj without any reason. Because of his mental disability, his son could not answer the questions and the constable Firoz Khan took him to the police post, where he was beaten with a lathi and his head was struck against the tree. Consequently, his son sustained serious injuries. When the complainant came to know about the incident, he took his son to the doctor for treatment. Thereafter, the complainant went to the police station to report the matter, but the SHO and



other police officials did not register his complaint. He thus prayed for intervention of the Commission for action against the errant constable.

4.94 In response to a communication from the Commission transmitting the complaint to the concerned authority for appropriate action and for submission of action taken report, Superintendent of Police, South, Kanpur vide letter dated 16 July 2003 forwarded detailed inquiry report of Circle Officer, Seesamau, Kanpur dated 11 May 2003. During inquiry, Circle Officer Seesamau found constable Firoz Khan of Police Station Chamanganj guilty of beating the son of the complainant and he recommended a departmental action against the delinquent constable. SP, South, Kanpur vide communication dated 16 July 2003 further reported that pursuant to the recommendation of the Circle Officer, concerned constable had been punished with 7 days P.O vide Order dated 15 July 2003.

4.95 While considering the matter on 5 July 2005, the Commission directed for issue of a notice under section 18(3) of the Protection of Human Rights Act, 1993 to Chief Secretary, U.P. to show-cause as to why interim relief be not recommended in favour of the victim.

4.96 In response to the show-cause notice, Secretary, Government of U.P. vide communication dated 23 March 2006 submitted that in view of the fact that human rights of the victim were violated, the grant of interim relief to the victim seems to be justified.

4.97 The Commission vide proceedings dated 22 November 2006 recommended to the State of U.P. through its Chief Secretary to pay Rs. 10,000/- as “immediate interim relief” to the victim (Lyek Anwar) within four weeks.

4.98 Compliance report along with the proof of payment is awaited.

5. *Detention of Syed Ahmad alias Munna under mistaken identity in Varanasi, Uttar Pradesh (Case No.36872/24/2002-2003)*

4.99 The Commission received a complaint from Syed Ahmad and Munna, a resident at house No.B-9/33, Mohalla Pheelkhana, Gauri Ganj, Varanasi, alleging that on 28 June 2000 at about 1.00 p.m. he was present at his house for his lunch. Tehsildar (Sadar), Varanasi alongwith one Nayab Tehsildar and two collection Ameens came to his house, picked him, took him away in a jeep to Varanasi jail. On the way, he tried to make them understand that he was known as Syed Ahmed alias Munna Babu and not the person against whom a recovery certificate was issued. In fact, the recovery certificate was issued against one Munna, son of Babu, resident of B-9/25 Mohalla Pheelkhan, Gauri Ganj, Varanasi. His son, Kadeer Ahmed moved an application before Tehsildar (Sadar), Varanasi, on 29 June 2000 and after verification of facts, he was released from jail after 4 days. He alleged that because of illegal detention, he suffered mental torture and defamation. Intervention of the Commission was requested for action in the matter.

4.100 In response to the directions of the Commission, DM, Varanasi, vide communication dated 13 June 2003 reported that a recovery certificate was issued by the Labour Department against Munna Sari Kendra for recovery of Rs.60,000/-. For effecting recovery, Syed Ahmed alias Munna was arrested inadvertently and lodged in the lock up. When the facts came to light, he was immediately released. It was further reported that erring officials were punished by the then District Magistrate, Varanasi.

4.101 From the report of DM, Varanasi, it was established that the complainant Syed Ahmed alias Munna was detained in civil prison in respect of recovery certificate issued against another person. This obviously had resulted in violation of his human rights. Accordingly, the Commission on 11 November 2005 directed State of U.P. through its Chief Secretary to show-cause within four weeks as to why payment of interim relief be not recommended in favour of the petitioner as contemplated by sub section (3) of section 18 of

the Protection of Human Rights Act, 1993.

4.102 Pursuant to the directions of the Commission, ADM (Finance and Revenue), Varanasi vide communication dated 25 January 2006 and forwarded a communication dated 9 January 2006 of DM, Varanasi which mentioned that a mistake was committed in this case in discharge of official duties, as there was similarity in the names of the victim and the actual person against whom the warrant has been executed. Both persons were residents of the same locality and this mistake occurred on the ground of wrong identification. It was stated that as the mistake was committed out of ignorance and the same was rectified immediately after it came to the notice of the officials and the delinquent official had also been punished by the then DM, the concerned official deserved leniency.

4.103 While considering response received from State of U.P., the Commission on 23 May 2006 considered the explanation given by the State authorities show as not entertainable, as admittedly the petitioner Syed Ahmad alias Munna was detained in civil prison in respect of recovery certificate issued against another person. Even if, the said detention was the result of mistaken identity, the fact remained that the petitioner was wrongfully detained. The plea of carelessness on the part of the state officials, therefore, could not absolve the State of its responsibility to compensate the petitioner for violation of his human rights because of unjustified detention.

4.104 Taking into account overall facts and circumstances of the case, the Commission recommended to the State Government, U.P. through its Chief Secretary to pay a sum of Rs.10,000/- as immediate interim relief under section 18(3) of the Protection of Human Rights Act to the victim.

4.105 As the compliance report was received, the case was closed on 20 January 2007.

#### 6. *Illegal detention of Santosh by Chandigarh Police (Case No. 72/27/2006-2007-wc)*

4.106 The Commission on 8 January 2007 took cognizance of a news item captioned "Cops mix up identity, jail woman for 14 days that appeared in "Indian Express" dated 23 December 2006.

4.107 According to report, on 28 November 2006 Head Constable Ramjumar of Chandigarh Police arrested one Santosh from Shiv Colony in Kamal. Though the arrested woman, her husband Surjit Kumar and their neighbours pleaded her innocence, the cops brought her to Chandigarh on presumption that she was the proclaimed offender in a September 2000 liquor smuggling case. The police did not even verify her husband's name before arresting her. They also did not verify her photograph with the real accused arrested six years ago on charges of smuggling liquor and declared proclaimed offender.

4.108 In response to a communication calling for a factual report in respect of the newspaper report from Administrator, Union Territory of Chandigarh, a report received is under consideration of the Commission.

#### 7. *Killing of students in police firing in Meghalaya (Case No. 10/15/2005-2006)*

4.109 The Commission on 4 October 2005 took suo-motu cognizance of a news item captioned "11 students killed, 90 hurt in Meghalaya firing" appeared in "the Pioneer" dated 1 October 2005. As per the report, police opened fire in Jura and William Nagar districts to quell thousands of student protestors. The condition of many of the injured was stated to be critical. The student rallies had been organised by the Garo Students' Union to oppose plans by the State Govt. to shift the headquarters of Meghalaya Board of Secondary Education (MBOSE) from Jura to Shillong. The controversy has been an emotive issue with Khasi and Garo tribes engaged into a bitter war of words over relocation of MBOSE for more than four months. According to the news-item, the firing was unproved.

4.110 In response to the communication, dated 6 October 2005 calling for comments from the Chief Secretary, Meghalaya, the Commissioner and the Secretary vide letter dated 2 November 2005 submitted a report confirming the incident. It stated that a large crowd had gathered at Chandmari playground, Jura and Rongrengri Play ground, Williamnagar at 11.00 a.m. violating prohibitory orders. The police declared the assembly unlawful and resorted to lathi charge and use of tear gas, in retaliation to which the mob pelted stones causing injuries to the Magistrate and the Police. Thereafter, the police resorted to firing, killing 4 civilians and injuring 18 at Jura, while five persons were killed and 22 injured in police firing at Williamnagar.

4.111 The report further stated that the Chief Minister along with his Cabinet colleagues later visited the place. Apart from ex-gratia payment of Rs. 1 lakh disbursed earlier, financial assistance of Rs. 5 lakhs each was disbursed to the next of kin of the nine deceased. The injured were assured that their cost of treatment would be borne by the Government.

4.112 The District Administrations at the two districts ordered their Additional District Magistrates to cause magisterial inquiry and report within 15 days. The State Government also directed the Administration to ensure proper medical aids to the victims and an additional sum of Rs. 10 lakhs was sanctioned for the purpose, which was placed at the disposal of the DC, Jura for meeting the costs of the treatments.

4.113 On 26 April 2006, NHRC considered the report submitted by the State Government, which mentioned that the State Government has instituted a Commission of Enquiry under the Commission of Enquiries Act, 1952, headed by Justice (Retd.) T.C. Das to inquire into the incidents at Jura and Williamnagar.

4.114 The report submitted by the State Government also mentioned about the payment of a sum of Rs.5 lakhs as special financial assistance to the family of each of the five deceased persons and that payment had been made to the next of kin of the deceased persons, and that has since been accepted by them. This amount was in addition to the ex-gratia payment of Rs. 1 lakh to each of the next of kin of the deceased persons. Besides, the State Government have sanctioned a sum of Rs. 10 lakhs for meeting the expenditure of the hospital bill of those who were injured in William Nagar and Tura and issued appropriate directions to the Administration to ensure appropriate medical treatment to the injured persons at the State Government's cost.

4.115 As the State Government had taken the requisite action in the matter, the report was taken on record and the case was closed.

#### 8. *Police atrocities on farmers in Chabba, Amritsar, Punjab (Case No. 640/19/2006-2007)*

4.116 The Commission on 1 February 2007 took suo motu cognizance of a newspaper report published in the 'The Tribune' dated 27 December 2006 titled "Farmers face police violence". The report mentioned that use of brutal force by the police, while handling the agitation by farmers, especially over land acquisition, had become a routine in Punjab. According to the report, as many as 35 farmers including women got injured at Chabba near Amritsar. The report mentioned that for the second time in three days the farmers had been beaten black and blue by the police at Chabba. There had also been similar earlier incidents of police atrocities on protesting farmers in the State.

4.117 The Commission called for a factual report from Chief Secretary and DGP, Government of Punjab, which is awaited.

9. *Delay in registration of FIR and inaction by police in Agra, Uttar Pradesh (Case No.13710/24/2000-2001)*

4.118 The Commission received a complaint from Ajjo Begum, alleging that her son, Bashir, was murdered on 5 September 1999 by Munna, etc. named in the petition but the Police, after persistent pressure, registered the case only on 16 November 1999. The police was allegedly not taking any action in the matter and she, therefore, prayed for intervention for punishment to the offenders.

4.119 Taking cognizance, the Commission called for a report from SSP, Agra. The report stated that in the morning of 6 September 1999, one Shaukat Ali came to the Police Station and informed about his younger brother Bashir consuming liquor in excess. Thereafter, he left the house and later on, his dead-body was found in the drain.

4.120 The Commission finding itself not satisfied with the report received, directed the case to be investigated through its team. The matter was enquired by the Investigation Wing of the Commission and it was found that in the night of 5 September 1999, Munna etc., had taken Bashir with them from his house and on the next day, his dead body was found near a drain in front of the house of Ram Narayan. Shaukat Ali informed the Police, giving the names of the accused, but the Police did not register the case, except making an entry in the general diary about Bashir Khan consuming excessive liquor in the previous night and dying for this reason. The petitioner, finding no action on the part of Police, approached the C.J.M., Agra, who directed the Police on 16 November 1999 to register the case, but the Police did not comply. Even the investigation was not conducted by the Police with regard to this murder. It was only after the intervention of the Commission that viscera was sent by the Police for chemical examination on 7 February 2001, of which the report was received on 17 April 2001, finding the presence of alcohol and organochloro insecticide poison. There was clear negligence on the part of the Police in not immediately registering the case, nor properly investigating it. The entry in the general diary of 6 September 1999 was converted to F.I.R. of the murder case under section 302 IPC on 15 August 2001. It was further reported that the accused was arrested on 28 August 2001 and a charge sheet filed in the court.

4.121 From the inquiry conducted by the Commission itself, it became apparent that the Police was negligent and was indifferent to the gravity of the crime. The Commission, therefore, considered it proper to ask the Director General of Police, U.P., to identify the errant police officers and take action against them. In the facts and circumstances of the case, the Commission on 28 October 2002 further directed to issue notice to the Chief Secretary, Uttar Pradesh, to show-cause why immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993, be not given to the legal heirs of the deceased.

4.122 In response to the show-cause notice and subsequent reminders, the Secretary, Home (HR), Government of U. P., through a communication dated 7 July 2005 submitted a copy of the report dated 13 April 2005 of the Joint Secretary, Home (HR), Government of U. P. The report stated that:

- a) The Senior Superintendent of Police got the case investigated by the Circle Officer, Sadar, Agra.
- b) The Senior Sub-Inspector Mr. Rampal Singh Panwar, Sub-Inspector Rameshwar Prasad Verma and Inspector Mr Ramjeet Mishra had been found guilty and the action is being taken against the above mentioned personnel.
- c) It is justified to provide interim relief to the victim under Protection of Human Rights Act. “

4.123 While considering the response on 21 June 2006, the Commission recommended that an amount of Rs.10,000/- be paid to the complainant by way of interim relief.

4.124 As the proof of payment was received from Government of U.P., the case was closed on 18 January 2007.

**10. *Illegal detention and torture of Raju by police at Pahwa, Unnao, Uttar Pradesh (Case No.23139/24/2001-2002)***

4.125 The Commission received a complaint dated 17 September 2001 from Anil, a resident of Unnao, U.P., alleging that on 16 February 2001, his elder brother Raju was picked up by the police officials of Police Chowki Pahwa in connection with a case of looting motor cycle. His brother was beaten by the police officers and was lodged in PS Makhi. He further stated that his brother was never involved in any criminal activity and no criminal case has been registered against him in any Police Station. He prayed that the matter may be investigated by some senior officers and his brother be saved from becoming a criminal.

4.126 In response to the notice issued to the Superintendent of Police, Unnao, vide letter dated 10 December 2002, an investigation report of Mr Harpal Singh, Circle Officer, Unnao, U.P. was forwarded which indicated that on the complaint of one Prakash Tiwari alias Lala Tiwari a complaint being Case No. 236 of 2001 under section 394 IPC had been registered against 3 - 4 unknown persons for looting motor cycle and Rs. 4001/- from Prakash Tiwari at Pariar Marg. In connection with this case, the brother of the complainant Raju was searched by the police officers, as the complainant Anil and his brother Raju had bad reputation in the area and had connections with the anti-social elements of the area. The allegations of beating Raju and lodging him in the lock-up by the police of PS Chowki were false. Raju was not arrested in connection with the case of looting the motorcycle. Both the complainant and his brother Raju are living in their home.

4.127 In his comments on the above mentioned report, the brother of the complainant Raju by his letter dated 24 April 2003 stated that the investigation in his case was conducted by Mr Harpal Singh, Circle Officer, Safipur, Unnao, U.P. The said Circle Officer had given a false report to the Commission. As Police Station Makhi under which the case of the complainant is registered also comes under the jurisdiction of Mr. Harpal Singh, the Circle Officer, with a view to save his juniors, he has sent a false report to the Commission. As per the brother of the complainant, he was beaten by the police officers of Pahwa Chowki on 16 September 2001 and later was lodged in PS Makhi for three days. He prayed that the matter might be entrusted to some independent agency.

4.128 After considering the report of the Investigating Officer and the comments received from the brother of the complainant, the Commission found that there was material difference in the two versions. The mere mention in the report of the Investigating Officer that the complainant and his brother Raju have bad reputation and connection with the anti-social elements does not justify the illegal detention of the citizens. The Commission, therefore, on 29 January 2004 directed that the record be forwarded to IG (Human Rights) U.P. for an independent inquiry by a senior officer and report.

4.129 Pursuant to the directions of the Commission, SP (Human Rights) in the office of the DGP, U.P. vide communication dated 20 September 2004 submitted a report. According to the report, Inspector General of Police, Lucknow Range, U.P. vide communication dated 9 September 2004 forwarded copies of report of SP, Hardoi, U.P. Copy of report of SP, Hardoi dated 5 September 2004 who got the complaint enquired into through Addl. SP, East Hardoi. According to the report of SP (Human Rights) in the office of the DGP, U. P. on 15 September 2001, crime No. 236/01 under section 394 IPC was registered at Thana Mahi, Unnao, U.P. In this case on 16 September 2001, Raju was picked up and taken to Thana and was released on 19 September 2001. As such, Raju was detained illegally from 16 September 2001 to 19 September 2001. The report also disclosed that no entries in this regard have been recorded in the police record and that SI, Ms. Mamta Vidyarthi had been found guilty.

4.130 SP (Human Rights) in the office of the DGP, U.P., vide communication dated 9 March 2005 stated that SI, Ms. Mamta Vidyarthi has been found guilty in the departmental enquiry and an adverse entry has been recorded in his ACR vide order dated 21 February 2005.

4.131 While considering the matter on 8 April 2005, the Commission observed that it appears to be a fit case for award of interim relief to the victim. The Commission, therefore, directed to issue notice to the Chief Secretary, U.P. to show-cause as to why the Commission should not recommend payment of interim relief to the victim under section 18(3) of the Protection of Human Rights Act, 1993 for his unlawful detention for three days as per the report of the SP (Human Rights) in the office of the DGP, U.P. The Commission also directed issue of notice under section 16 of the Protection of Human Rights Act, 1993 to the then Circle Officer, Mr Harpal Singh, Unnao, U.P. through DGP, U.P. to show-cause as to why the Commission should not recommend action against him for submitting false report to the Commission.

4.132 In response to the notice issued by the Commission, Secretary U.P. Administration vide his communication dated 22 September 2005 submitted that since it has been established that the victim Raju had been illegally detained in the police custody, there was no objection to a grant of interim relief to the victim. No response, however, was received from Mr. Harpal Singh, the then Circle Officer, Unnao despite notice.

4.133 While considering the matter on 29 December 2006, the Commission observed that it is established that victim Raju was illegally detained in police custody for 3 days, which is a gross violation of his human rights. The Commission accordingly directed that a sum of Rs. 5000/- be paid to the victim by U.P. Government through Chief Secretary, U.P. Compliance report is awaited.

*11. Illegal detention of Ashok Kumar by Sultanpur Police, Uttar Pradesh (Case No.20728/24/2002-2003)*

4.134 The Commission received a complaint from Shiv Kumari Devi, alleging that her husband Ashok Singh has been picked up by Thana Kurebhar police on 31 August 2002 along with their jeep without disclosing any reason, and his whereabouts are not known.

4.135 Pursuant to the directions of the Commission, a report was obtained from SSP, Sultanpur. According to the report, one Ramyaga Mishra of Babria Gang (criminal gang) used to hire a jeep of the complainant for committing crimes. The complainant's husband was questioned by the police on 31 August 2002 on that count. As the report was found unsatisfactory, the Commission on 26 March 2003 called upon Addl. DGP (Human Rights), U.P. to get the matter investigated and to submit a report.

4.136 SP (Human Rights), Directorate General of Police, U.P., responded vide communication dated 7 August 2004 transmitting letter dated 30 July 2004 of Addl. SP (Rural), Faizabad. It has been mentioned in the said letter that Harilal Kashyap, SI, and Ram Dayal Verma, SI, Vipin Kumar Pandey and Shiv Nath Patel, Constables were found guilty and punished by censuring their conduct. A communication dated 29 August 2004 was also sent by SP (Human Rights), Directorate General of Police, U.P., transmitting letter dated 16 August 2004, of DIG (Faizabad Zone), wherein it has been detailed that Subhas Chandra Patel SI, the then SO, police station Kurebhar was not found guilty of the charges.

4.137 Upon consideration of the matter on 29 April 2005, the Commission directed to issue show-cause notice to the Chief Secretary, Government of U.P. under section 18(3) calling upon him to explain that why immediate interim relief be not granted to the victim.

4.138 Secretary, Government of U.P. vide communication dated 12 September 2005 responded to the show-cause notice and admitted that in this case, the human rights of victim have been found to be violated and, therefore, there was justification for grant of immediate interim relief to the victim.

4.139 In view of the response sent by Secretary, Government of U.P. dated 12 September 2005, the Commission on 7 July 2006 recommended that a sum of Rs. 20,000/- as an immediate interim relief be paid to the victim. The Chief Secretary, Government of U.P. was also directed to send report of compliance together with proof of the payment to the Commission within four weeks.

4.140 As the compliance report was received, the case was closed on 18 January 2007.

12. *Illegal detention of Govardhan for recovery of bogus electricity dues (Case No. 34711/24/2000-2001)*

4.141 The Commission received a complaint dated 4 January 2001 from Saroj Kumari alleging that her husband Govardhan, had been illegally arrested, pursuant to recovery certificate issued in respect of bogus electricity dues in regard to electricity connection which her husband had got disconnected in the year 1996 and against which he had settled all the dues. Despite a communication from the Electricity Department indicating no dues, Naib Tehsildar Baldev refused to release the husband, unless she paid 10% amount of the recovery certificate. A prayer was, therefore, made for release of her husband and action against the accused officers.

4.142 The Commission considered a report received from the District Magistrate, Mathura and the Electricity Department alongwith the comments received from the complainant on the report vide its proceedings dated 19 May 2005. The report submitted by the Electricity Department made Govardhan responsible for not communicating to the department about the settlement of the dues and his failure to contact the officials after receiving the notice. The Commission observed that there was total lack of co-ordination between the various wings of the Electricity Department and that the blame of the same has been put on Govardhan and he has been detained illegally. The Commission accordingly directed that a notice under section 18(3) of the Protection of Human Rights Act, 1993 be issued to the Chief Secretary, Government of Uttar Pradesh to show-cause why immediate interim relief to the victim be not granted. It was also directed that the disciplinary action be initiated against the errant officials.

4.143 Vide proceedings dated 10 July 2006, the Commission considered the response dated 22 June 2005 received from Senior Personnel Officer, U.P. Power Corporation Ltd., which indicated that departmental action, had been initiated against the erring officials. The response from the Special Secretary to Government of U.P. vide communication dated 22 July 2005 informing the Commission that the two officials who have been found negligent have retired from service, and observed as under :

“No explanation whatsoever, much less satisfactory explanation, had been offered against the show-cause notice issued under section 18(3) of the Act. A frivolous plea, however, had been taken that had Govardhan responded to the notice issued under section 3, proceedings under section 5 would not have been initiated against him.

This assertion is not only illegal but also illogical. Since according to the Department itself, Govardhan was not in arrears no notice under section 3 could have been issued to him. It is of no consequence that he ignored that notice. The departmental authorities were expected to be vigilant and they cannot act in an absolutely casual and callous manner. From the facts as admitted from the response received from the State Electricity Department, the violation of human rights of Govardhan who had been illegally arrested and detained for non-payment of arrears of electricity charges, which were never due from him, stands amply established”.

4.144 In view of the above, the Commission held that the response of the State to the show-cause notice is not acceptable and this is a fit case for grant of ‘interim relief’ to the victim whose human rights have been violated by putting him in detention for non-existing arrears of electricity charges. The Commission, therefore, recommended to the Government of U.P. through its Chief Secretary to pay a sum of Rs.20,000/- to the victim Govardhan as ‘interim relief’ within six weeks and submit compliance report, together with a proof of payment, to the Commission.

4.145 As the compliance report was received, the case was closed on 18 December 2006.

## **B.2. Economic, Social and Cultural Rights**

### **a. Violation of Rights of the Women and Children**

#### **1. Rape on four Dalit women in Lakhisarai, Bihar (Case No.1375/4/2006-2007-wc)**

4.146 A delegation of Members of Parliament led by Kanti Singh, Minister of State, Govt. of India on 23 August 2006 submitted a representation before the Commission alleging that on the night of 6 August 2006 in Village Ram Nagar, Shankar Sharma along with others threw stones at the house of Bindeshwari Paswan, broke the door and committed rape on his sister Reena Devi. Later, they entered the house of Dinesh Ram and raped his grand daughter. They also forcibly entered the house of Vinod Paswan, raped his wife Mina Devi and subsequently raped Kiran Devi w/o Ishwar Paswan. While returning, they outraged the modesty of the daughter of Ramvaran Ram and beat Chando Paswan. During protest by the villagers, on the orders of the BDO, the police personnel resorted to lathi charge on the men and women. While many people ran away, three persons were arrested by the police and no action was taken by the SP on the complaint made to him.

4.147 As per the complaint, the police also obtained signatures of the complainants on a blank paper with a plea that they would draft their case in a proper way. The original complaint was allegedly removed by the police and another complaint regarding minor offences was written on the blank paper obtained from them.

4.148 The complainants have prayed for the Commission's intervention for an in-depth investigation of the matter and stern action against culprits after registration of FIR against accused persons for committing the offence of rape and assault. They have also prayed for withdrawal of false case allegedly filed against some of the protestors.

4.149 The Commission on 24 August 2006 transmitted the complaint to DM & SP, Lakhisarai, Bihar to look into the contents of the complaint and submit a report within four weeks.

4.150 Pursuant to the directions of the Commission, DM, Lakhisarai, Bihar vide communication dated 25 September 2006 has submitted a report, which mentioned that on 7 August 2006 an information was received at 9 a.m. about beating up of people belonging to SC by anti-social elements of Nandgaon (Gopalpur Panchayat) of Suryagarh Range, and the road has been blocked by residents of Ramnagar. The SDPO reached the spot around 10:00 a.m. The then Dy. S.P., Prakhanda Development Officer, Suryagarh and Thana Incharge, Suryagarh had reached earlier. The jam was cleared with the assistance of the police. It came to light that the local people were protesting due to beating up and use of derogatory language by the men of the village head, since they have not voted for village head during Panchayat election. It was further stated in the report that in regard to above-mentioned harassment and beating up crime case No. 195/06 dated 7 August 2006 under section 341/323/448/504/379/34 IPC was registered on the basis of a written complaint submitted by one Anil Singh s/o Ramvaran Singh against Arun Sharma, Nisu Kumar, Putput Kumar and an unknown man. Complainant (Anil Singh) also produced Nishu Kumar one of the named accused in an injured condition in Thana. Nishu Kumar was produced in the Court after necessary medical treatment. Other named accused Shambu Sharma, Arun Sharma and Putput Singh were arrested on 8 August 2006 and 22 August 2006 and produced in the Court.

4.151 Report further added that on 23 August 2006 DIG of Police, Munger informed SP, Lakhisarai that four women of the village Ramnagar, Police Station Suryagarh complained about commission of rape on them by the accused in the Janta Darbar of the Chief Minister. On the basis of that complaint, Woman Additional Inspector Seema Kumari recorded statements of all the victims. As per orders of SDPO,



Patna, statements of the victims were sent to the DIG of Police, Munger and on his directions SP, Munger directed registration of the following four cases:

- i) Suryagarh Thana Case No. 208/06 dated 23 August 2006 under section 450/376(2G)/323/504 IPC against Shankar Sharma and Shambu Sharma on the basis of complaint of Vandana Devi.
- ii) Suryagarh Thana Case No. 209/06 dated 23 August 2006 under section 450/376/323/342/427/34 IPC and under section 3/4 SC/ST (PA) Act against Arun Sharma and Vipin Sharma on the basis of complaint of Reena Devi.
- iii) Suryagarh Thana Case No. 210/06 dated 23 August 2006 under section 450/376/323/34 IPC and under section 3/4 SC/ST Act against Vishu Sharma and 4 unidentified man on the basis of complaint of Meena Devi.
- iv) Suryagarh Thana Case No. 211/06 dated 23 August 2006 under section 450/376/323/34 IPC and under section 3/4 SC/ST (PA) Act against three unidentified man on the basis of complaint of Kiran Devi.

4.152 Investigation of the above-mentioned four cases has been entrusted to the Police Inspector, Thana Suryagarh. All the victims and their witnesses have been provided with armed guards for their protection.

4.153 Report further adds that all the above-mentioned four cases during investigation have been found to be true. Accordingly, I.O. has been instructed to submit charge sheets in these cases.

4.154 The matter was still under consideration of the Commission.

## 2. *Atrocities on Dalit Women in Bhandara, Maharashtra (Case No. 1107/13/2006-2007/WC)*

4.155 The Commission received a complaint from N. K. Sunare, an NGO inviting its attention towards a shocking incident of gang rape and murder of four members of a Buddhist family of Khairlanji Village, Distt. Bhandara, Maharashtra on 29 September 2006 by people of higher caste of the village. It was alleged that a mob of about 300 people with sharp weapons raided the house of Byaiyallal Bhotmange and dragged all four members of his family who were present at home. They were allegedly stripped of their clothes and paraded naked throughout the village. They also allegedly forced both sons of Byaiyallal Bhotmange to have sex with their sister and mother and, on refusal, they were beaten mercilessly and hacked to death. It was further mentioned that the main culprit and his 30 associates were not arrested as they were being protected by local powerful political leaders.

4.156 Taking cognizance, the Commission directed to transmit the complaint to the Chief Secretary and DGP, Maharashtra to look into the contents of the allegations and to take necessary action and submit their comments within four weeks. DGP, Maharashtra was also directed to ensure that necessary protection was provided to Mr. Byaiyallal Bhotmange.

4.157 Response from chief Secretary and DGP, Maharashtra is still awaited.

## 3. *Attempt of Rape on a widow woman, killings and injuries to 7 persons by a policeman in Begusarai, Bihar [Case No.3618/4/2004-2005-WC]*

4.158 The Commission on 4 January 2005 received a complaint from R. H. Bansal, Editor, Human Rights Observer, Mori Gate, Delhi inviting attention of the Commission to an incident of alleged attempt of rape on a widow Seema Kumari by a constable of Bihar Police, Dinanath Tiwari in the area Nagar Thana (Baghi Mohalla) Distt. Begusarai, Bihar. As per the complaint, because of unsuccessful attempt of rape, Const. Dinannath Tiwari, indiscriminately opened fire killing four persons including three women and caused grievous injuries to three others. A prayer was made before the Commission to direct the State

of Bihar for grant of Rs. 5 lakhs to the next kin of each of the deceased and Rs. 2 lakh each to the injured besides, medical expenses, action against the errant Constable and appropriate security for the victim, Seema Kumari.

4.159 In response to the notice issued to the SSP, Begusarai, SP, Begusarai submitted a report dated 27 May 2005 enclosing a copy of the investigation report SDPO, Sadar, Begusari. The report mentioned that Begusarai City Police Station Case No. 372/04 dated 19 November 2004 under section 302/307/326/354/376/511 IPC read with section 27 Arms Act had been registered against the accused police Hawaldar for his acts of commission. During the firing two persons, including one man and one woman died and six others sustained injuries. The accused were arrested and remanded to judicial custody. A charge sheet No.334/04 dated 10 December 2004 had been submitted in the Court against accused Havaladar Dinanath Tewari. The report further mentioned that the guilty policeman/accused had been dismissed from the service and the SHO, PS Begusarai directed to give appropriate security to the Victim, Seema Devi.

4.160 Upon consideration of the report, the Commission on 7 December 2005 directed to issue a notice under section 18(3) of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Bihar to show-cause within six weeks, as to why “interim relief” to the next of kin of the persons, who had died, as also in favour of the six persons who had received injuries be not granted.

4.161 The Government of Bihar vide letter dated 8 March 2006 submitted their no objection in this case to the grant of interim relief under section 18 (3) of the Protection of Human Rights Act. Accordingly, the Commission on 2 August 2006 recommended to the Government of Bihar to pay a sum of Rs.1 lakh each to the next of kin of the two deceased and Rs.25,000/- each to the six injured persons by way of “interim relief”. Compliance report is awaited.

#### 4. *Sexual abuse of children (Case No.39250/24/2006-2007/WC)*

4.162 The Commission on 2 January 2007 took suo motu cognizance of media reports regarding missing/kidnapping, sexual abuse of children and their murder in Nithari village, near Sector 31, Noida, allegedly by a businessman Mohinder Singh along with his servant Surender.

4.163 According to the reports, 38 children from Nithari village, near Noida's Sector 31, went missing over a period of 30 months, but only 19 police complaints were registered. Though 5 of these 19 have returned home, the skeletons and body parts found suggest that more than those registered missing have been killed. The employer-servant duo has confessed to sexual abuse, mutilation and killing of not only young boys and girls but also grown-up women and dumping the remains of those murdered in the drain behind the house. Evidently, the drains were neither cleaned nor inspected through out the period of this horror.

4.164 The reports further reveal that the barbaric depravity came to light not because the police were investigating the disappearances of the children but by sheer chance. They nabbed the serial killer who was in possession of a cellphone that belonged to a missing woman, Payal, who was also murdered. The negligence of the U.P. Administration is no less brutish than the heinous crime. Those in the administration who are guilty of and responsible for such prolonged negligence of even routine investigation and civil functions should be sacked forthwith, instead of being merely suspended. If the State Government shows the least hesitation in taking the urgent measures necessary, the Centre should step in before Noida slips further out of civilized administration.

4.165 As the contents of the media reports revealed, gross violation of human rights of the citizens and, in particular, of the children, because of certain acts of omission on the part of public servants in not taking timely action in the matter, the Commission transmitted the newspaper report to the Chief Secretary & DGP, State of U.P. to look into the matter on priority basis and send a factual report to the Commission

within two weeks.

4.166 In response to the directions of the Commission, DGP, U.P. forwarded a report of the Inspector General of Police, Meerut Zone, stating that 19 cases have been registered during the period between from 13 December 2006 to 4 January 2007 in connection with the missing/abducted children/adults from the village Nithari. According to the report, the investigation of these cases has been entrusted to CBI in public interest. It is also stated in the report that disciplinary action has been taken against erring police officers.

4.167 Upon perusal of the report, the Commission on 12 February 2007 observed that it is not clear from the report whether CBI investigation is limited to the 19 cases registered between 13 December 2006 and 4 January 2007 or covers the cases of all persons reported missing in village Nithari because, according to the media reports, more than 38 persons/children of the Nithari village are said to be missing. The Commission, therefore, directed the Chief Secretary and DGP, U.P. to submit a detailed report within four weeks giving the present status of CBI investigation and specifying whether cases of all the missing persons/ children in village Nithari have been registered and entrusted for investigation to CBI.

4.168 The Commission further observed that the phenomenon of missing children is not confined to Nithari or U.P. alone, as the Commission has come across media reports of similar incidents from other parts of the country as well. The problem of missing children has thus become an issue of grave concern to the nation and more so, to the National Human Rights Commission of India. The Commission underlined the need to evolve guidelines to deal with such cases effectively and meaningfully to protect and promote human rights of children and take appropriate steps where violation of human rights is found in this regard.

4.169 In view of the seriousness of the issue, the Commission appointed a five member Committee head by Hon'ble Mr. P.C. Sharma, Member, NHRC to study the matter in detail and to give suggestions, so that appropriate guidelines may be drawn by the Commission so that they could be forwarded to the concerned authorities, including the Government of India and all State Governments. The Committee was expected to submit its report in eight weeks.

## 5. *Right of the Child to immunization (Case No. 2440/30/2005-2006)*

4.170 The Commission on 15 September 2005 took cognizance of an article captioned "Immunization and Human Rights" which appeared in the "The Pioneer" dated 15 September 2005. It is stated in the article that as against the perception of torture, imprisonment and rape amounting to violation of human rights, an individual's human rights involve a broader commitment to alleviate poverty and disease among the world's poorest residents. While referring to the Convention on the Rights of the Child, which states that every child shall enjoy special protection and be given the opportunity to develop physically, morally, spiritually and socially in a healthy and normal manner. It is stated that for many children in developing countries, these words have little meaning. According to the WHO, 10.5 million children die each year before reaching the age of five. Almost all of them are from developing countries and more than half are from Africa. The poor children lack access to clean water, basic health care and proper nutrition amongst other things. Many of them also miss out vaccine against common diseases such as measles and whooping cough. As a result, about 1.4 million die every year from infectious disease. While highlighting the impact of universal immunization in preventing such deaths of children in wealthy countries, it is stated that it is a basic infringement of children rights in deliberately putting them at risk of death, which can be prevented with immunization. The article, therefore, emphasizes on the provision of vaccine as a human right. Referring to a report on health and human rights by the United Kingdom Commonwealth Medical Trust and the American Association for the Advancement of Science, it is stated that when provision of vaccine

is characterised as a human right, governments are more likely to provide children with immunization. Within a human rights framework, immunization is not simply a necessary medical requirement for children and a responsible public health measure; it is a right for all children with corresponding government obligation.

4.171 Pursuant to the directions of the Commission calling for the comments from the Ministry of Health and Family Welfare, Government of India, Ministry of Health and Family Welfare, Department of Family Welfare (CH Section) vide communication dated 28 October 2005 submitted a report, which indicated as under:

“Immunization programme is one of the key interventions for protection of children from life threatening conditions, which are preventable. Immunization Programme in India was introduced in 1978 as Expanded Programme on Immunization. This gained momentum in 1985 as Universal Immunization Programme (UIP) and implemented in phased manner to cover all districts in the country by 1989 - 90. UIP become a part of Child Survival and Safe Motherhood Programme in 1992. Since 1997, immunization activities have been an important component of National Reproductive and Child Health Programme.

Under the Immunization programme vaccines are given to infants and pregnant women for controlling vaccine preventable diseases, namely childhood tuberculosis, diphtheria, pertussis, poliomyelitis, measles and neonatal tetanus. Except polio vaccine, which is administered orally all other vaccines are given as injections.

Significant achievement has been made under this programme. After the launching UIP in 1985, the entire country was covered for vaccination by 1990. However, the coverage levels as seen recently had wide variation from state to state. In the coverage in states like TN, Kerala, HP, Maharashtra had a very good coverage, whereas states like U.P., Bihar, Jharkhand, Rajasthan, Assam etc. did not receive good coverage.

4.172 The major reasons identified for poor implementation of EPI in many States are as follows:

- Immunization Sessions are not being held regularly in the community.
- Staff vacancies, particularly of the health workers in the sub-center.
- Inadequate mobility of the health workers and the supervisory staff at district and state levels.
- Problem of delivery of vaccines and drugs to outreach session's sites.
- In URBAN areas lack of adequate health infrastructure and multiplicity of agencies.

4.173 To strengthen routine immunization, Govt. of India has planned the following:

- Introduction of AD syringes for all immunization replacing the existing glass syringe and needles and supplies to the States has been stated from August 2005
- Downsizing the BCG vial from 20 dose to 10 dose in order to ensure that BCG vaccine is available in all immunization session site
- Plans for alternate vaccine delivery from PHC to Sub centers and outreach sessions
- Deploying retired manpower to carryout immunization activities in urban slums and underserved areas, where services are deficient
- Mobility support to District Immunization officer for monitoring and supportive supervision
- Review meeting at the State level with the districts on 6 monthly intervals
- Mobilization of children to immunization session sites by Accredited Social Health Activist.

(ASHA), Anganwadi workers (AWW), Women Self Help Groups etc.

- Any other State specific issues

4.174 Government of India is closely working with the State Government to strengthen routine immunization in order to reach every eligible child for vaccination.

4.175 Government of India has also launched Hepatitis B pilot project in 15 cities and 33 districts since 2002 and the coverage in the project area is around 78%. The project at present is supported by Global Alliance for Vaccine & Immunization (GAVI). Government of India also planned for inclusion of Hepatitis B Immunization by expanding the project into 11 good performing states (Himachal Pradesh, Kerala, Maharashtra, Tamil Nadu, Jammu & Kashmir, Andhra Pradesh, Chattisgarh, Karnataka, Madhya Pradesh, Punjab and West Bengal) and over a period may expand to the entire country.

## 6. *Polio Eradication Programme*

4.176 In India, vaccination against polio was initiated in 1978 under Expanded Programme on immunization (EPI) and the coverage achieved by 1984 was around 40% of all infants with 3 doses of Oral Polio Vaccine (OPV). In 1985, the Universal Immunization Programme (UIP) was launched and implemented in phased manner to cover all districts in the country by 1998 - 1990. During 1986, the UIP was accorded the status of the Technology Mission under the banner of the Technology Mission on Immunization. This resulted in significant increase in the coverage to over 95% during 1990 - 1991 and is being sustained over 90% since then.

4.177 In pursuance of the World Health Assembly Resolution of 1988, in addition to administration of routine OPV through the Universal Immunization Programme, the pulse polio Immunization (PPI) Programme was launched in 1995 - 1996 to cover all children below the age of 3 years. In order to accelerate the pace of polio eradication, the target age group was increased from 1996 - 1997 to all children under the age of 5 years. Until 1998 - 1999, the PPI Programme consisted of vaccination of children at fixed booths on two National Immunization Days (NID) separated by six weeks during the winter season.

4.178 In spite of very good coverage during NIDs, 5 -5% of children was being missed even in the PPI Programme. During 1999 - 2000, therefore, in addition to booth immunization, a house-to-house search of missed children and vaccinating them on the next 2-3 days following each NID Sub NID was undertaken. This 'house-to-house' programme resulted in identification and vaccinating 2.3 crore children who had never been vaccinated before. Total children vaccinated during each NID round in the country were about 17 crores.

4.179 Since the initiative to eradicate polio from India was started in 1995, significant success has been achieved in reducing the number of polio cases in the country. As against 1600 cases in 2002, 134 cases were detected in 2004. There has been a 92% decline in Polio cases recorded between 2002 and 2004. The geographical spread has also declined from 159 districts in 2002 to 87 in 2003. By the year 2004, the virus could be restrained to only 43 districts, mainly in Western U.P. and Bihar.

4.180 During 2005 until date, only 39 cases have been confirmed. Out of 39 cases detected so far, 15 cases were detected from Bihar and 21 cases from Uttar Pradesh. The geographical spread has been limited to only 25 districts, mainly in western U.P. and Eastern Bihar.

### Polio cases by month of onset, 1998 - 2005

| Month        | 1998        | 1999        | 2000       | 2001       | 2002        | 2003       | 2004       | 2005      |
|--------------|-------------|-------------|------------|------------|-------------|------------|------------|-----------|
| January      | 112         | 36          | 36         | 7          | 18          | 51         | 4          | 10        |
| February     | 32          | 22          | 10         | 1          | 8           | 16         | 3          | 5         |
| March        | 42          | 11          | 10         | 3          | 7           | 9          | 1          | 1         |
| April        | 26          | 8           | 20         | 3          | 16          | 7          | 1          | 2         |
| May          | 49          | 39          | 6          | 4          | 42          | 5          | 9          | 2         |
| June         | 118         | 69          | 8          | 13         | 117         | 7          | 14         | 6         |
| July         | 324         | 142         | 25         | 30         | 251         | 25         | 13         | 3         |
| August       | 418         | 187         | 39         | 62         | 280         | 29         | 18         | 5         |
| September    | 283         | 193         | 32         | 33         | 334         | 30         | 18         | 5         |
| October      | 170         | 195         | 31         | 38         | 247         | 20         | 32         |           |
| November     | 226         | 155         | 31         | 43         | 180         | 16         | 14         |           |
| December     | 134         | 69          | 17         | 31         | 100         | 10         | 7          |           |
| <b>Total</b> | <b>1934</b> | <b>1126</b> | <b>265</b> | <b>268</b> | <b>1600</b> | <b>225</b> | <b>134</b> | <b>39</b> |

4.181 Of the 3 types of polio causing viruses, type 2 virus has already been eliminated in 1999. During 2004 and 2005, Type 3 virus has been restrained and is limited to 4 districts (Moradabad, Rampur, Shajahanpur and Bareilly) in Western U.P.. The P1 type of virus is predominate and is the chief cause of poliomyelitis.

4.182 In view of predominance of Type 1 Polio virus, the Government of India has revised the strategy for use of monovalent OPV 1 in the state of U.P., Bihar, Delhi and Mumbai based on the advice of WHO and other experts. Monovalent OPV 1 vaccine was indigenously made available in a record time.

4.183 In order to reach every eligible child during the pulse polio round, apart from the strategy of vaccinating children at fixed booths and house-to-house visit, efforts in vaccinating children in transit at railway stations, inside long distance trains, major bus stops, market places, religious congregations, major road crossings etc. through out the country have been intensified. Through these efforts an additional 5 million children in transit have been effectively administered polio drops from May 2005 immunization rounds).

4.184 The report received from the Government of India, Ministry of Health and Family Welfare, Department of Family Welfare, detailed the steps being taken in the matter of immunization for protection of children from life threatening conditions, which are preventable.

4.185 While taking the report on record on 4 October 2006, the Commission observed that similar steps are required to be taken by every State. It, therefore, directed that a copy of the comments received from the Ministry of Health and Family Welfare be sent to the Health Secretaries of all State Governments and Union Territories so that effective steps can be taken by those States/Union Territories, keeping in view the reasons identified for "poor implementation of EPI in many States." The States/ Union Territories shall tone up the administration and take effective steps so that Immunization Programme becomes effective.

7. *Violation of rights of farmers by acquisition of land for mega projects in Ghaziabad, Uttar Pradesh (Case No.13218/24/2006-2007)*

4.186 Justice Rajendra Sachar (Retd.), former President, PUCL and some others submitted a petition raising the issue of basic human rights of farmers and farm labourers affected due to acquisition of their lands and habitats in the name of Mega-development projects. Along with the petition, a report prepared by Justice Rajendra Sachar, Ms. Medha Patkar and others on the violence perpetrated by the State authorities on the 'innocent villagers' sitting on a protest 'dharna' at village Bajhera had also been annexed. The allegations of the petitioners in brief were that the land of seven villages in Ghaziabad district, measuring about 2500 acres, was acquired by the State for the Reliance Power Project in Dadri. The affected villagers were awarded a meagre compensation of Rs. 150/- per sq.yard for their lands, though the prevailing price was somewhere around Rs.500/- sq.yard. It is alleged that when the villagers on realizing the unfair deal meted out to them indulged in protest, the Chief Minister, U.P. assured them that they would get compensation @ Rs.300 per sq. yard. However, the promise was not fulfilled.

4.187 The villagers resorted to peaceful protest. While they were sitting in dharna, the policemen approached them on 6 July 2006 with a request to disperse which was declined by the villagers. On 7 July 2006 and early morning of 8 July 2006, the police resorted to unprovoked lathi-charge, firing and pelting of stones. As a result thereof, several villagers sustained injuries.

4.188 The petitioners have requested NHRC to take up an in-depth investigation into the previously mentioned incident and to take steps to protect the civil rights of the villagers besides their right to life and livelihood.

4.189 The Commission taking cognizance of the matter on 19 July 2006, directed that a copy of the complaint along with the annexures be forwarded to Chief Secretary and DGP, U.P. for a factual report. It was also directed that one copy of the complaint along with its annexure should be forwarded to the DM within two weeks.

4.190 While the response from the Government of U.P. was still awaited, a communication was received from Dr. Vandana Shiva, Founder Director, Research Foundation for Science, Technology and Ecology, New Delhi vide communication dated 13 July 2006, enclosing a similar fact-finding report pertaining to the above-referred incidents of 7 and 8 July 2006 at village Bhajera, Khurd, Ghaziabad along with some photographs. Another petition from Ms. Meera Singh Sengar, State General Secretary, U.P. Mahila Congress (I) Committee pertaining to an incident dated 8 July 2006, was also received in the Commission on 24 July 2006. Mr V.P. Singh and others also met the Chairperson and submitted a petition dated 19 September 2006 under the signatures of Mr Babu Singh Arya, President, Dehat Morcha, wherein besides the incidents dated 7/8 July 2006 reference was also made to another incident which took place on 17 September 2006, in which more than 15 people suffered serious injuries, which also included women and old persons. Some reports regarding alleged atrocities committed upon the farmers, including a report titled "Unbound Savagery on Farmers of Bejhera Khurd" prepared by National Alliance of People's Movements (NAPM) and People's Union For Civil Liberties (PUCL) were also annexed.

4.191 The Commission on 20 September 2006 directed that copies of all the complaints and the fact-finding reports received in the Commission be forwarded to the DGP, U.P., D.M., Ghaziabad and the SSP concerned calling upon them to personally look into the matter and submit a detailed report within four weeks along with their response to the notice issued by the Commission.

4.192 As it appeared to the Commission the genesis of the alleged incidents, as per the allegations in the complaints, lay in the acquisition of land/habitats of the villagers for a mega Power Project and the complaints raised a serious issue relating to relocation and rehabilitation of the persons displaced by the project, the Chief Secretary, Uttar Pradesh was, therefore, requested to furnish the following information:

- i) Whether any policy has been formulated by the State for compensating and rehabilitating the persons dislocated from their habitats/lands for mega development projects?
- ii) If so, whether any plan has been formulated for relocation and rehabilitation of the persons affected by the acquisition of land for Reliance Power Project?

4.193 Pursuant to the Commission's direction, Secretary U.P., Admn Home (HR) vide letter dated 13 January 2007 and Secretary, Power Department, U.P. vide letter dated 17 January 2007 has submitted reports detailing the scheme for resettlement and rehabilitation. The matter is however, still under consideration by the Commission.

#### 8. *Deaths during fire tragedy at Meerut, UP Case No. 521/24/2006-2007*

4.194 The Commission has come across a distressing news item widely covered both by print and electronic media relating to the fire tragedy which occurred at Victoria Park in Meerut on 10 April 2006.

4.195 It has been reported in 'The Hindu' dated 12 April 2006 that in the blaze at the Victoria Park, about 50 persons were reportedly killed and 110 injured. However, the administration put the death toll at 34, and said that 27 bodies had been identified. Of the 40 injured sent to various hospitals in Delhi, two died in Safdarjung Hospital.

4.196 As per the report, there are allegations of laxity on the part of the local administration in ensuring that the fair organisers obtained proper fire safety clearance. Relatives of those killed alleged that adequate fire-fighting equipment was not in place despite the fact that highly combustible material was used as canopy for the pandals and even the floor of the premises was made of wood.

4.197 It is further reported that the organisers, Mrinal Events and Expositions, had got as many as 24 air-conditioning ducts installed in the three pandals as part of an "impressive" arrangement. To make sure that the air-conditioning functioned effectively, they kept just a single entry and single exit to the fair premises. The eating joint inside the pandals also had LPG cylinders.

4.198 The contents of the news item, if true, raise a serious issue of violation of human rights of the citizens.

4.199 Let a copy of the newspaper report be transmitted to Chief Secretary and D.G.P., U.P. calling for their report within two weeks. They shall, in particular, furnish the following information to the Commission. In the meantime, State of U.P. through the Chief Secretary shall ensure that free and proper medical aid is provided to all the injured persons at State expense.

- i) Number of persons who died in the incident and details thereof
- ii) Whether proper identification of the dead bodies has been made and if so whether the dead bodies have been handed over to the relatives of the deceased
- iii) Number of persons injured in the incident and details thereof
- iv) Whether proper medical arrangements have been made for providing medical aid to the injured at the State cost
- v) Whether any amount of relief has been disbursed to the next of the kin of the deceased or the injured persons
- vi) Whether any person has been reported to be missing and, if so, details thereof
- vii) What efforts have been made by the Administration to trace out the missing persons



- viii) Whether all the requirements and necessary procedures were followed before granting license/ permission for organising the consumer exhibition
- ix) Whether any case has been registered with police relating to the incident, if so, the status of investigation

4.200 Pursuant to the Commission's direction report dated 20 April 2006 received from SSP, Meerut mentioned that 51 persons had died during the incident. After postmortem 29 dead bodies were identified and handed over to their relatives. Other dead bodies remained to be identified. Further, out of 172 persons injured, 50 persons were admitted in the hospital of Meerut and 45 admitted outside Delhi, and remaining 77 were discharged by the hospital. Apart from mentioning the arrangements made free treatment of injured at hospital, it has been mentioned that a demand of 4.40 crores had been made to the Government of UP for treatment of injured. An ex-gratia payment of rupees 2 lakhs was made to the next of kin of the deceased, rupees 1 lakh to the relatives of seriously injured and rupees 50 thousand to persons with ordinary injuries. Information regarding missing of 7 persons was received on 4 October 2006 of which one person was identified, two other traced and four other persons remained to be traced. Efforts were being made to trace / recover missing persons. Apart from an inquiry being made by the Commission, Meerut Mandal in respect of compliance with the requirements / procedures for grant of license / permission for organising a consumer exhibition, a case No. 65/06 was registered PS Civil Line, Meerut in respect of the incident and investigation taken up. The matter was still under consideration by the Commission.

#### **b. Rights of Juveniles**

##### **1. *Suo-motu cognizance of newspaper report about condition of Child inmates in Juvenile Home, Meerut Uttar Pradesh (Case No.19884/24/2005-2006)***

4.201 The Commission on 26 September 2005 took suo-motu cognizance of a news item published in "Amar Ujala" (Meerut Edition) dated 21 September 2005, captioned "Masoomo Ke Liye Kale Pani Se Kam Nahi Jail". As per the news item, 59 child accused were taken to the Meerut Court for appearance before the Magistrate on 20 September 2005. The van carrying 59 children was parked in an open area outside the Court premises under the direct sunlight for five hours and the inmates were not offered food and even the water. According to the inmates, the condition of the jail where they are lodged is even more disturbing. The total capacity of the jail is 50 whereas as on 19 September 2005, there were 118 inmates. One of the inmates even alleged threat to his life from the jail officials. Inmates also told that they were being given rotten food and contaminated water. There is only one teacher in the jail who teaches them only for half an hour and they do not have books to read.

4.202 As the newspaper report raised a serious issue about violation of child rights the Commission directed its Investigating team to visit Govind Ashram located at Juvenile Court, Saket. The team was specifically asked to inquire about the factual allegations contained in the newspaper report and to submit its report within two weeks.

4.203 Pursuant to the directions of the Commission, a team of two officers of the Investigation Division conducted an inquiry and reported that Women & Child Development Deptt Govt. of U. P. vide its order no. 3702/60-1-04 1/13(69)-2004 dt 10 November 2004 had abolished Juvenile Home of Distt Ghaziabad, Bulandshar, Baghpat and Gautam Budh Nagar. All Juveniles of these home were transferred to the Juvenile observation home Meerut, which had a sanctioned strength of 30, slowly Juveniles were shifted to Meerut and its present strength reached 116 Juveniles, which caused a problem of overcrowding and related problems like the lack of proper food, water etc. The Juvenile court was functioning in a room of Juvenile observation home Saket, which was shifted to court premises by Distt Judge on 19 September 2005, which mentioned

that space for the Juvenile court at Saket was not proper. So the Juvenile court was shifted to the Collectorate building in Meerut.

4.204 The Enquiry team in their report concluded that:

- i) On the basis of enquiry the issues highlighted in press clipping of Amar Ujala dated 21 September 2005 regarding improper transportation facilities for Juvenile on 20 September 2005 at Collectorate Building, Meerut were true.

On these issues, CJM Meerut had already taken cognizance, personally summoned reserve inspector, and directed him to shift the court from Saket to Collectorate Building on 20 September 2005, so that proper transportation facilities could be provided for Juvenile in this regard. The Chief Judicial Magistrate Meerut had also written to SSP/ Meerut for provision of proper transportation facilities for Juveniles.

- ii) On the basis of enquiry it was true that in the press clipping it was highlighted that juveniles were lodged in the police vehicle for 4 - 5 hours without food and water, but during enquiry it was revealed that food and water was provided to the juveniles at juvenile home Saket before their arrival at the court. The Chief judicial magistrate Meerut had written to the Distt Judge Meerut for provision of judicial lock up, which had facilities of water and toilets for juveniles at the Collectorate Building, Meerut. As stated, the Juvenile court started functioning from 20 September 2005.

- iii) On the basis of enquiry, it is true that overcrowding was a problem at the Juvenile home Saket as juvenile homes of adjoining Distts of Ghaziabad & Baghpat, Gautam Budh Nagar and Bulandshahar were abolished by the Govt. of U.P. and Juveniles of these home were shifted to the Juvenile home at Meerut, which created the problem of overcrowding and related subsequent problems of food, water, sanitation etc., but due to intervention of the National Human Rights Commission regarding plight of the Juveniles, the Distt Administration Meerut and Women & Child Development Deptt. of Govt. of U.P. acted promptly and shifted the Juvenile Observation Home Saket to a new place Bhawani Nagar Jail chungi Meerut, which has ample space and adequate provision of water, food, and Sanitation etc.

During enquiry, Chief medical officer Meerut assured that one medical officer will visit the Juvenile Observation Home Meerut twice a week for medical help and providing medicines to the juveniles. Basic Shiksha Adikari (BSA) Meerut assured that they will provide one primary teacher for the Juvenile Observation Home to provide basic education to the Juveniles.

The District probation officer, Meerut has assured that they will provide vocational training to Juvenile for manufacturing cricket bats. For this, they will take help of NGO's and concerned industries.

4.205 The report of the team was considered by the Commission along with a further spot investigation report indicating the extent to which the assurances made before the team earlier had been carried out. Action taken report called for from the Chief Secretary, Government of U.P. is awaited.

## 2. *Violation of human rights of inmates of juvenile homes (Case No.35707/24/2006-2007-wc)*

4.206 The Hon'ble Supreme Court of India vide its order dated 1 December 2006 remitted to the Commission a matter relating to sexual abuse of inmates/young girls at Balanath Asharam, Ghaziabad. The Court directed the NHRC amongst others to send their comments/response.

4.207 Pursuant to the order of the Hon'ble Supreme Court, the Commission vide proceedings dated 1 December 2006, directed DG(I) to depute a team of officers to inquire into the matter and submit factual report on 4 December 2006.

4.208 A team consisting of four officers of the Investigation Division of the Commission visited Balanath Asharam, Ghaziabad as well as Rajkiya Bal Grah (Shishu) Mathura and conducted the inquiry on 2 and 3 December 2006. The team submitted the report on 4 December 2006.

4.209 Upon perusal of the report, the Commission vide proceedings dated 5 December 2006 directed to place the same before the Hon'ble Supreme Court of India.

4.210 The matter came up for hearing before the Supreme Court on 11 December 2006, when it considered the reports submitted by the NHRC, the National Commission for Women and the District

4.211 Magistrate, Ghaziabad and directed NHRC to send its team by 12 December 2006 for the purpose of:

- examination of inmates
- identification of mentally ill inmates with the assistance of a psychiatrist at the earliest and to suggest measures for their shifting to suitable homes
- obtain complete medical examination record of the victim inmates

4.212 In accordance with the orders of the Hon'ble Supreme Court, the Commission directed the Director General (Investigation) of the Commission to send the team for the purpose. DM., Agra/Mathura was asked to give assistance to the team as may be required.

4.213 Pursuant to Commission's directions, a team consisting of four officers of the Investigation Division visited Rajkiya Bal Grah (Shishu) Mathura on 12 December 2006 and submitted a detailed report. The Investigation team also submitted another report before the Commission when the matter came up for hearing on 2 January 2007.

4.214 Upon consideration of the suggestions made by Investigation Division, the Commission directed the D.M. Mathura and In-charge of Rajkiya Sishu Sadan, Mathura to shift 25 inmates to other Homes/ Institutions.

4.215 Since the Investigation Team reported that one inmate Neha was suffering from borderline mental retardation, the Commission directed to keep her at Mathura in the company of her sister and directed the Incharge, Rajkiya Sishu Sadan to take special care of her and get her regularly examined by a psychiatrist.

4.216 Since the Investigation Division also reported that there was no doctor or psychiatrist posted in Nari Niketan, Bareilly or Rajkiya Sishu Sadan, Mathura, it directed the person-in-charge of these two Institutions as well as the District Magistrates concerned to ensure that the services of a doctor and psychiatrist are regularly made available in the above mentioned two institutions.

4.217 Investigation Division also reported that Nari Niketan at Bareilly is facing problem because there is procedural delay in sanction of funds from Lucknow. The Commission directed the Director, Mahila Kalyan Vibhag, Lucknow to ensure that the inmates of Nari Niketan, Bareilly are not made to suffer for want of funds.

4.218 The Commission has also called for action taken reports from In-charge, Rajkiya Sishu Sadan, Mathura, Medical Superintendent, Institute of Mental Health and Hospital, Agra, In-charge, Nari Niketan, Bareilly, D.M., Mathura, D.M. Bareilly and Director, Mahila Kalyan Vibhag, Lucknow. Reports are awaited.

4.219 The matter is under consideration of the Hon'ble Supreme Court.

### 3. *13 Juveniles lodged in Tihar Jail, Delhi (Case No. 3308/30/2006-2007)*

4.220 The Commission on 7 December 2006 took suo motu cognizance of a newspaper report published in the Times of India dated 26 November 2006 titled “13 Juveniles still in Tihar”. According to the newspaper report, despite a stringent law in place and Supreme Court directives, Juvenile delinquents under the age of 18 years had been lodged in Tihar Central Jail along with hardened criminals. These 13 Juvenile delinquents had been sent to Tihar Jail for 1 - 5 years in contravention of provisions of Juvenile Justice (Care and Protection of Children) Act, 2000, which required juvenile delinquents to be kept separately from the hardened criminals in observation home during their trial and in special homes after conviction.

4.221 In response to the communication addressed by the Commission, Deputy Secretary (Home Jail), Government of NCT of Delhi vide communication dated 31 January 2007 has stated that the said juvenile delinquents were kept in Tihar Jail as per the court’s order. The department had already made a request to the Juvenile Justice Board to review the cases of juveniles, which were sent in Tihar Jail for custody.

4.222 The matter is still under consideration by the Commission.

### c. **Protection of Child Labour Rights**

#### 1. *Rescue of 184 Child Labourers from Kotla Mubarakpur, Delhi Case No. 2687/30/2005-2006)*

4.223 The Commission on 25 October 2005 took suo-motu cognizance of a newspaper report published in the ‘The Times of India dated 8 October 2005 titled “184 child labourers rescued”, The report indicated that during a raid conducted by the Labour Department, Police and NGO Bachpan Bachao Andolan (BBA) at a zari unit in Bapu Park, Kotla Mubarakpur, 184 child labourers were rescued. The area, which has several such units, is estimated to house about 2,000 child bonded labourers. Most of these children aged 8 -12 years, hail from Midnapore and Howrah Districts of West Bengal. The report further indicates that working hours range from 12 -15 hours daily depending upon whether you have completed your target or not. If you have not completed your target, then you are entitled to a sound thrashing and working overtime in spite of ill health or injury, work must go on and wages differ from Rs. 1500/- a month to Rs. 70 -100/- a week, depending upon experience. This amount must take care of meals, clothing and some money to send home.

4.224 A related newspaper report in the ‘Indian Express’ dated 8 October 2005 also indicated that while 30 children were working in the light of a few candles at a zari embroidery unit in Pilanji, Kotla Mubarakpur, 130 others were rescued from four such units in Kotla Mubarakpur area. Most of these children, the oldest among them not into their teens, were from villages along the Bengal-Bihar Border, There were about 1000 children working in five hundred units in the area and 30 to 40 of them packed into 12 feet by 30 feet rooms with no window. From 9 a.m. to midnight, they embroider lehengas, kurtas and salwars with or without light. The NGO Bachpan Bachao Andolan under whose initiative the raid was carried out along with the Labour department and the local police, stated that the owners make money both ways, on labour and the product. It is cheaper for these factory owners to employ these kids. Where they would have to pay 120/- to an adult kaarigar, they get away by paying Rs. 20 - 25 to a kid. While the children earn not more than Rs. 100/-, every item of what they make sells not less than for a hundred. A case had been lodged under the provisions of the Child Labour Act and the Juvenile Justice Act. However, the NGO was pressing for the Bonded Labour Act to be invoked against the owner.

4.225 The Commission called for comments from the Chief Secretary, Govt. of NCT of Delhi, the Commissioner of Police Delhi and the Labour Secretary, Govt. of NCT of Delhi.

4.226 Pursuant to the Commission's directions, office of Dy. Commissioner of Police, Vigilance, Delhi, vide communication dated 31 January 2006 submitted a report which mentioned that the matter has been enquired into through the Deputy Commissioner of Police, South Distt., Delhi which revealed that a joint raid of the Police, Labour Department and NGO (Bachpan Bachao Andolan) under the supervision of Ms. Sonika Singh, SDM, Defence Colony was conducted in the area of PS K. M. Pur on 7 October 2005. 129 children, who were found working in Zari Units, were rescued and produced before Mrs. Prabha Mathur, Chairperson, Child Welfare Committee, Sewa Kutir, K. W. Camp, Delhi and, after verification, they were handed over to their parents by the child welfare committee. In this regard a case FIR No. 550/05 under section 26 J.J. Care of Protection of Children Act 2000 and section 3/14 of Child Labour Prohibition and Regulation Act 1986 has been registered at PS K. M. Pur. These children were sent by their parents to do the Zari work due to poverty. The accused persons are absconding to evade arrest. Efforts are being made sincerely to trace and arrest the accused persons.

4.227 Joint Director (Admn.) Department of Social Welfare, Govt. of NCT of Delhi vide communication dated 2 February 2006 submitted a report which indicated that though primarily the issue pertains to the Labour Department, the Department of Social Welfare extended its support by providing shelter to the rescued children in Children Homes. 245 of the rescued children were given shelter by the Department of Social Welfare and 239 of these children have been restored to their parents/guardians by the Superintendent of the Children Homes through Child Welfare Committees. Efforts are being made to restore the rest of the children.

4.228 Joint Secretary, Govt. of NCT of Delhi, office of the Labour Commissioner vide communication dated 15 February 2006 submitted a report which indicated that as per report of the area Deputy Labour Commissioner, a joint raid by a team comprising the SDM (Defence Colony), Inspectorate of the Labour Department, Delhi and Police Authorities from the Kotla Police Station, Mubarakpur was conducted in Zari units of Bapu Park, Kotla Mubarakpur, New Delhi on 7 October 2005 in the presence of representatives of the Bachpan Bahao Andolan, New Delhi. During the raid, 129 children were detected by the team from 11 Zari embroidery units.

4.229 Out of those 129 children, 80 children were below the age of 14 years and therefore one prosecution for each child has been filed in the Court of Special Metropolitan Magistrate under the provisions of the Child Labour (Prohibition & Regulation) Act, 1986 against the units in which these children were found employed.

4.230 During the inspection, no child reported that he was working in the unit on account of an advance obtained by himself or by his guardian/parents or he was been forced to work in lieu of an agreement with his parents. As such, it may not be possible to initiate any action against the employers under the provisions of the Bonded Labour System (Abolition) Act, 1976.

4.231 As regards the difference of wages of these children and overtime for the extra hours, work they have performed is concerned, at present none of the children is working in those units where they were at the time of raid/inspection. As per the ruling of Hon'ble Punjab & Haryana High Court, in the case of Army School "Hoshiarpur and Inderjeet Singh & Ors., the employees defined under section 2 (I) of the Act, does not include ex-employee. The only person in actual employment at the time of making the application is entitled to make an application under section 20 of the Minimum Wages Act, 1948. Therefore, the claims to recover the difference of earned wages and the overtime wages in respect of these children are being filed before the Claim Authority appointed under the Delhi Shops & Establishment Act, 1954. Further action in the matter will be taken by the Authority as per provisions of the Act."

4.232 The Commission on 29 July 2006 took on record the reports submitted by the Joint Secretary, Government of National Capital Territory of Delhi, the Office of the Labour Commissioner, the Joint Director (Administration), Department of Social Welfare, Government of NCT of Delhi and DCP, Vigilance, Delhi detailing the action taken by the respective agencies and in view of the action taken, closed the matter.

4.233 In view of the action taken, the matter was closed on 3 July 2006.

2. *Rescue of Child Labourers from Madanpura, Central Mumbai, Maharashtra (Case No. : 246/13/2005-2006/FC)*

4.234 The Commission on 7 June 2005 took cognizance of a news item captioned "Over 400 child labourers rescued" appeared in the Times of India dated 2 June 2005. According to the news item, the police in coordination with NGOs, rescued around 400 child labourers from Madanpura in Central Mumbai in one of the ever largest raids spread over two weeks. About 150 policemen combined with 200 workshops, arrested 42 employers and charged them under JJ Act & IPC.

4.235 In response to a communication dated 9 June 2005 calling for comments from the Chief Secretary, Govt. of Maharashtra as well as information about any action taken against employers as well as order, if any, made by the Child Welfare Committee, children were produced before such Committee, a report dated 8 September 2005 submitted by the Secretary(Labour), Industries, Energy & Labour Deptt., Government of Maharashtra indicated that:

- i) There were some reports in the local papers in early April 2005 about beating up of a child worker aged 12 years by his employer. It was also reported that this resulted in his death on 18 April 2005. The Government of Maharashtra perceived this event very seriously and criminal action was initiated against the accused persons under section 302/34 of IPC and Section 23, 24, 26 of Juvenile Justice Act. Thereafter, properly organised action has been taken by different agencies of the State Government to detect child labour, particularly in the city of Mumbai.
- ii) A number of raids were conducted in different localities for this purpose. Subsequently, a Task Force has been constituted by the State Government under the leadership of the Labour Commissioner. This Task Force has representation of various Government departments such as Home, Women and Child Development, Labour, Brihanmumbai Municipal Corporation and NGOs working in this field. Details of various raids conducted as a part of this drive are mentioned in Annexe "A". The child workers found engaged in different activities by their employers were detected during these raids. They were rescued from their employers and then they were taken to children's homes maintained by the Women and Child Development Department and accommodated there. Thereafter, they were produced before the Child Welfare Committee, their identity was established and then, they were sent to their respective places in different States with police escort to be handed over to their respective families. Some of these identified children were also handed over to their respective parents at the children's homes after the Child Welfare Committee completed its work.
- iii) The child workers rescued in 13 raids were found to be mainly from the States of West Bengal, Bihar, Uttar Pradesh and Nepal.
- iv) As per the guidelines issued by the Supreme Court in the decision on Writ Petition case No. 465/1986 in M.C. Mehta Vs. State of Tamil Nadu and others, employers of the rescued child labour during the raids have been served with notices for recovery of Rs. 20000/- per child. So far notices have been served on 191 employers who were found to have employed 348 children.

- v) With respect to the raid carried out on 1 June 2005 it is to inform that 446 children were rescued from 115 employers. These children were produced before the Child Welfare Committee (CWC) members and they allowed 160 children to be released when their parents/guardians approached. The remaining 286 workers were kept at two rescue homes i.e. at Bal Sudhar Gruha, Chembur and Bal Kalyan Nagari, Mankhurd. However, out of these, 24 children fled from the Bal Kalyan Nagari Children's Home at Mankhurd, when they were lodged there.
- vi) Thereafter, the CWC took up their identification and as per instructions of the CWC, 259 children were handed over to their respective parents/guardians who approached the CWC. Three children were sent with police escort to their native place in Bihar and West Bengal.
- vii) During this raid on 1 June 2005 from the premises of the employers, 42 persons in charge of the premises were taken to the police station and after inquiry, out of them 26 persons have been arrested under section 374 of IPC Section 23 and 26 of Juvenile Justice Act and under 3 and 14 of the Child Labour [Prohibition & Regulation] Act. Investigation in these cases is in progress.

4.236 Upon consideration of the report, the Commission on 17 March 2006 called for the status report from the Chief Secretary, Maharashtra and Secretary (Labour) Government of Maharashtra. The further report dated 15 May 2006 received interalia stated as under:

“On 1 June 2005, 446 child labourers were rescued by raiding various places in Mumbai. Subsequently, criminal action was initiated and 108 cases had been registered under section 374 of Indian Penal Code, Section 23 and 26 of Juvenile Justice Act, 2000 and Section 3, 14 (1) of Child Labour (Prohibition and Regulation) Act, 1986. The details are as under:

| S.No. | Details                          | Number |
|-------|----------------------------------|--------|
| 1.    | Total number of cases registered | 108    |
| 2.    | Cases filed in Court             | 45     |
| 3.    | Cases under investigation        | 63     |
| 4.    | Number of persons arrested       | 46     |

4.237 As per the guidelines issued by Hon. Supreme Court in the decision on writ petition case No. 465/1986 in M.C. Mehta V/s State of Tamil Nadu and others, 54 offenders employing 93 child labourers have been served with notices for recovery of Rs.20,000/- per child labour. A total amount of Rs.18,60,000/- is expected from this recovery.

4.238 Out of the 262 child labourers taken to rescue homes, 259 child labourers were handed over to their respective parents/guardians, who approached the Child Welfare Committee. Remaining 3 child labourers were sent to their native places in Bihar and West Bengal with police escort.”

4.239 Having regard to the action taken by the Governemnt of Maharashtra, the case was closed on 12 July 2006.

### 3. *Death of Child Labour in Davangere, Karnataka (Case No. 365/10/2004-2005)*

4.240 The Commission on 21 December 2004 took suo-motu cognizance of a news item published in “Decan Herald” dated 13 February 2004, captioned “Death of another child labourer in Davangere”. As per the news item, 13-year-old Tahir Ali, fell into a cauldron while working in a puffed rice factory and sustained severe burns. He eventually died on 11 December 2004, succumbing to injuries. There are more

than 600 unregistered puffed rice factories in Davangere employing child labour for hazardous work. Most children are working as bonded labourers in these factories in condition of servitude in order to pay off debts of their parents. More than 35 lakh children are reported to have been employed in various sectors in the district. The news item also stated that despite having full knowledge of the problem, the District Administration did nothing to take action in the matter.

4.241 The Commission called for a factual report from the Secretary, Govt. of Karnataka, Labour Department, and the Labour Commissioner, Davangere, Karnataka.

4.242 The Principal Secretary to the Govt., Labour Department, Govt. of Karnataka, responded to a Commission's notice and informed that an amount of Rs. 1 lakh has been paid as compensation to the next of the kin of the deceased. He also informed about the number of steps being taken by the government to create public awareness against child labour and to curb this menace.

4.243 After taking on record all these reports, the Commission expressed hope that the drive to curb and eliminate child labour and prosecute the guilty would continue to be pursued with the same vigour. The case was closed on 2 August 2006.

#### 4. *Rescue of 55 child labourers in Delhi (Case No. 364/30/2006-2007)*

4.244 The Commission on 1 May 2006 took suo motu cognizance newspaper reports published in the "The Sunday Statesman" dated 8 January 2006, "The Sunday Hindu" of the same date as well as similar reports from other newspapers. The reports mentioned that 55 child labourers had been rescued from embroidery units in South Delhi area. The children belonging to Bihar, West Bengal and Uttar Pradesh were working in the units in Mamraj Mohalla and Shera Mohalla in East of Kailash and were rescued by authorities during raids with the assistance of activists of Bonded labour Liberation Front. The children have been lodged at the Ashraya Kendra, New Delhi.

4.245 The Commission called for a factual report from the Chief Secretary, Govt. of NCT of Delhi, the Commissioner of Police Delhi and the Labour Secretary, Govt. of NCT of Delhi. The Chief Secretary, Govt. of NCT of Delhi was also directed to inform about the steps taken to rehabilitate the rescued children.

4.246 The reports received from SDM, Defence Colony, Delhi and the Deputy Commissioner of Police, Vigilance and Delhi Government were still under consideration.

#### d. **Electrocution Cases**

##### 1. *Injuries sustained by Kaju Sah in Sitamarhi, Bihar due to Electrocution (Case No.1201/4/2002-2003)*

4.247 The Commission received a complaint dated 11 July 2002 from the President of the District Janata Dal (U), Sitamarhi, stating that on 15 April 2002 at 7.30 a.m. a live electric cable of 11000 KV fell on one Kaju Sah, a hawker while selling sattu opposite Bajrang cinema, Thana Road, Sitamarhi. Consequently, he got an electric shock and suffered burn injury. He was shifted to the P.M.C.H.hospital. During the treatment, his feet and fingers of the one hand had to be amputated. A case crime No.112/2002 under sections 287, 324, 326 IPC was registered against the erring officials of the Electricity Department. The Govt. paid only a meager amount of Rs.5000/- to the victim. The complainant prayed for action against the erring officials and service to a member of the family of the victim and compensation.

4.248 In response to the notice issued to the Chairman, Bihar State Electricity Board, a report dated 21 August 2002 received from the Bihar State Electricity Board, stated that on 15 April 2002 the pin insulator



of 11 KV line was broken, as a result of which the cable fell down on the ground. Kaju Sah who was selling 'Sattu' came in contact with the live cable and sustained injuries. The occurrence was accidental and did not take place due to any fault of any employee of the electricity board.

4.249 A report received from the SP, Sitamarhi, stated that in case crime No.112/02 registered against officials of the Electricity Department in connection with the above mentioned incident, a final report has been submitted on 23 July 2002. The Department has been repeatedly requested by the District Magistrate to change the transformer.

4.250 Upon consideration of the matter on 4 August 2004, the Commission held that Kaju Sah had come in contact with the live cable of 11000 KV, which fell down on the ground, as the Department had not taken proper precaution. Consequently, his feet and fingers of the hand had to be amputated. Prima Facie, a case of violation of human rights of Kaju Sah by the Electricity Department was, therefore, made out. The Commission, therefore, directed the State of Bihar through its Chief Secretary to show-cause within six weeks as to why immediate interim relief under section 18(3) of the Protection of Human Rights Act be not granted to the victim.

4.251 In response to the show-cause notice, Under Secretary, Home Department, Government of Bihar vide letter dated 6 April 2005 forwarded a copy of the earlier report of Bihar Electricity Board, Patna dated 21 August 2002.

4.252 While considering the matter on 4 October 2006, the Commission considered a response submitted by Secretary, Bihar State Electricity Board in the light of the provisions of rule 79 of Indian Electricity Rules, 1956 and observed as under:

"Rule 79 of Indian Electricity Rules 1956 casts for an obligation upon the Electricity Supply Company to ensure minimum safety clearance between low and minimum voltage lines as also the service lines and the buildings to avoid unfortunate electrocution accidents. The Rule, by no stretch of imagination imposes any obligation on a common man to avoid sitting or moving below the transmission lines for his own safety. In our view, the above-referred rule only re-emphasizes the fact that the Electricity Supply Company is in the business of carrying on hazardous activity having foreseeable risk of electrocution accidents due to negligence or otherwise inherent in the very nature of such activity. The provision in the Electricity Rules has been made to remind the transmission company to be very careful in maintenance of transmission lines and not with a view to provide them with a defence of contributory negligence to avoid payment of compensation to the victims. The Commission, therefore, does not find any merit in the plea set-up by the Electricity Board in its response to the show-cause notice. The response is not only based upon incorrect interpretation of Rule 79, but, it also reflects upon the lack of sensitivity of the authorities concerned towards human rights".

4.253 Accordingly, keeping in view the facts and circumstances of the case, the Commission recommended to State of Bihar through its Chief Secretary to pay a sum of Rs.50,000/- as "immediate interim relief" under section 18(3) of the Protection of Human Rights Act, 1993, to the victim, Kaju Shah.

4.254 Secretary, Bihar State Electricity Board informed the Commission vide letter dated 22 November 2006, that the amount of Rs.50,000/- has been paid to Kaju Sah vide Cheque No. 6622242 dated 20 December 2006.

4.255 Since the recommendation made by the Commission had been complied with, the case was closed on 21 February 2007.

## 2. *Death of Ganshyam due to electrocution in Bareilly, U.P. (Case No. 20385/4/2000-2001)*

4.256 Anil Sawhney of Nav Shrishti, an NGO, vide letter dated 10 September 2000 invited attention of the Commission to the negligence of the electricity department at Bareilly in maintenance of electric lines in the city. It was alleged that electric wires snap on the ground with current moving in it. One person, namely, Ganshyam, trod on a live electric wire lying on the ground and was electrocuted. Further reference was also made of deaths of seven innocent persons in the past three months due to electrocution. A prayer was made before the Commission for intervention and action in the matter.

4.257 In response to the notice issued to the Chairman, U.P., Electricity Board, Lucknow, a report dated 17 January 2005 was received from the Chairman, U.P. Power Corporation Ltd., Shakti Bhawan, Lucknow, which mentioned that a sum of Rs.20,000/- was paid to Sangeeta, wife of Ganshyam, vide cheque No.041843 dated 12 November 2000 as compensation.

4.258 While considering the matter on 10 February 2006, the Commission observed that:

“Payment of Rs.20,000/- for the loss of a human life is not only grossly inadequate, but even borders on adding insult to injury. Loss of human life, by factors other than natural cause of death, is not capable of being calculated in terms of rupees. The object of granting “immediate interim relief” under section 18(3) of the Act for violation of Constitutional human right - right to life - is only in the nature of helping the next of kin, in their hour of distress, by applying balm to their wounds. Grant of “interim relief” is only a palliative for the act of instrumentalities of the State, which result in infringement of the fundamental right of the citizen to life. Grant of ‘relief’ is only a step to enable the State and its instrumentalities to repair the damage done to the victims rights. We must emphasize that this Commission which was set up by the Parliament “for better protection of human rights” has been empowered under the aforesaid provision to grant relief of monetary compensation for contravention of the guaranteed basic and indefeasible rights of the citizen. It is a remedy in public law proceedings and is aimed not only to civilize public power but also to assure the citizen that they live under a legal system, which aims to protect their interests and preserve their rights. “Immediate interim relief” is in the nature of making monetary amends, in public law, for the wrong done due to breach of public duty of not protecting the indefeasible fundamental rights of the citizen.

At this stage, we would also like to bring to the notice of the Chairman, U.P. Power Corporation Ltd., that even in cases of motor vehicle accident deaths under Motor Vehicles Act, 1988, the Legislature in its supreme wisdom has now fixed a much higher amount of Rs.50,000/- as compensation to next of kin of the deceased victim and Rs.25,000/- to the victim who suffers permanent disability as “no fault liability” i.e. without any proof of negligence on the part of motor vehicle driver. In that light also, the amount of payment of compensation of Rs.20,000/- in the event of death by electrocution provided under the Rules of the Transmission Company, therefore, sounds rather unrealistic and warrants a fresh look and an upwards appropriate revision, keeping in view the present day cost of living.”

4.259 The Commission accordingly, requested the Chairman, U.P. Power Corporation Ltd., (who is the supplier of electricity) to examine the matter personally with a humane approach, overlooking the technicalities and legalities and not only grant adequate relief to the next of kin of the deceased in this case but also rationalize the rules for grant of compensation in cases of electrocution accidents in the future.

4.260 He was also directed to streamline the procedures for laying down and maintenance of electricity transmission lines and all safety precautions so as to avoid recurrence of such unfortunate accidents resulting in loss of life and property etc.

4.261 While considering the matter on 20 January 2007 the Commission took note of a communication dated 19 April 2006 from the U.P. Power Corporation informing that the compensation payable to electrocution victims had been enhanced from Rs. 20000/- to 50000/- and that an order had been passed for payment of Rs. 50000/- to the next of kin of victim Ganshyam.

4.262 In the light of the assurance by the General Manager, U.P. Power Corporation for submission of proof of payment, the case was directed to be closed on receipt of the proof of payment.

#### e. Starvation Deaths

##### 1. *Starvation death in KBK District of Orissa (Case No.37/3/97-LD)*

4.263 The Indian Council of Legal Aid and Advice and others had filed a Writ Petition (civil) No. 42/97 before the Supreme Court of India inviting attention to starvation deaths in the KBK Districts of Orissa, despite the direction of the Apex court in an earlier case reported as 1989 Supp. (1) SCC 258. On the basis of information furnished by the petitioner before the Supreme Court about an intervention of the Commission on a complaint, the Supreme Court vide its order dated 28 April 1997 and 26 July 1997 directed the petitioner to submit suggestions before the Commission for further consideration of the matter.

4.264 While dealing with the matter, the Commission observed that the expression “right to life” contained in Article 21 of the Constitution has been judicially interpreted as not merely life of survival or animal existence but a “life with human dignity”. It follows therefore, that the State is obliged to provide at least those minimum requirements, which are essential to enable a person to live with human dignity, and right to food is inherent to live with dignity.

4.265 As a result of the intervention by the Commission, the Government of Orissa proposed short term and long-term measures of development to end the scourge of deprivation, malnutrition and cyclical starvation in the KBK Districts of Orissa. As a part of monitoring of the situation in the three Districts on a continuing basis, the Commission sought and examined quarterly performance appraisal reports relating to the achievement of physical and financial targets. The key areas of concern for the Commission included rural water supply and sanitation, primary health care, social security schemes, soil conservation, rural development, afforestation, land reforms, SC/ST development and school education.

4.266 The Commission on 30 August 2006 considered the reports submitted by the Special Rapporteur, which presented a satisfactory picture about the execution of long-term action plan under the various heads. The Commission considered the crucial role of the revised a long-term action plan proposed, in achieving the ultimate objective of drought proofing, poverty alleviation and development saturation to improving the quality of life of the people in KBK districts and recommended to the Planning Commission for further extension of RL TAP beyond March 2007. It also recommended execution of all projects under a system of surveillance and monitoring and hoped for encouraging action both by the State Government as well as by the Government of India on the various recommendations and suggestions made by the Commission.

#### f. Violation of Rights of SC / ST

##### 1. *Killing of four persons of Dalit community by crowd in police presence in Ara, Bihar (Case No. 1099/4/2006-2007)*

4.267 The Commission received a complaint dated 8 August 2006 from Prabir Kumar Dass, an Advocate and Human Right Activist from Bhubaneswar, Orissa stating that a highly shocking news item was telecast by India TV (Hindi Channel) on 7 August 2006 and 8 August 2006. The news item mentioned killing of

4 young persons on 6 August 2006 by a crowd in the presence of police in Ara, Bihar. The crowd allegedly murdered these persons due to their attempt to steal a buffalo. The most shocking aspect of the incident was that this incident took place in the presence of the police, who did not take any action to prevent the crime. A prayer was made for intervention of the Commission and justice.

4.268 Separately a joint complaint from the relatives of the deceased was also referred by Mr Ram Kripal Yadav, Member of Parliament, stating that the four dalit persons killed in the incident were not thieves. It was alleged that the deceased were robbed of their money and later on killed by the accused.

4.269 The Commission called for detailed enquiry report from Chief Secretary and DGP, Govt. of Bihar, and also directed them to take appropriate steps for protection and safety of the next of kin of the deceased and the witnesses to the incident.

4.270 In response to the notice, a report dated 20 October 2006 received from the SP, Bhojpur mentioned that on 6 August 2006, 4 persons had been murdered by the villagers on the allegations of stealing buffaloes. On the complaint of HC Ram Nath Singh, a case FIR No. 166/06 dated 6 August 2006 under section 302/34 IPC was registered against 300/400 unknown villagers. The report also mentioned that a case FIR No.165/06 dated 6 August under section 379/411 IPC was also registered on the complaint of Kamlesh Rajak regarding stealing of his buffaloes. Five of the accused had been arrested and sent to jail. The report further mentioned that proceedings under section 82/83 Cr.PC were initiated against the remaining accused and that an amount of Rs.10,000/- each was given as grant to the families of the deceased for performing their last rites. ASI Gauri Shankar, who was found wanting in performing the duties was placed under suspension and departmental proceedings initiated against him.

4.271 The Commission on 27 December 2006 considered the report and called for the status of the criminal cases registered as well as information as to whether any interim relief had been granted to the families of the deceased. The response from Government of Bihar is awaited.

## 2. *Auction of Dalit Woman Panchayat President in Madurai, Tamil Nadu (Case No.802/22/2006-2007-wc)*

4.272 The Commission on 20 November 2006 took cognizance of a news item captioned “Dalit woman Panchayat President auctioned for 2.16 lakh in TN village” that appeared in “Indian Express” dated 19 November 2006. According to the news item, in a Madurai village, Kodikulam, Balamani was auctioned on 18 November 2006 by Thevar (an upper caste) elders for Rs. 2.16 lakh to a farmer Karuppusamy. When Balamani and her husband protested against the auction, angry villagers demanded to know if they could hand over Rs. 2 lakh, the initial offer of a bidder. She was elected President of the panchayat because the post was reserved for a Dalit woman.

4.273 According to the report, the village had decided that the highest bidder could use Balamani as a “rubber stamp” for signing agreements and other contracts for the village and take the “commission” for herself. The Dalit woman was auctioned despite her pleas that she would hand over all her “earnings” to the village committee.

4.274 Pursuant to the directions of the Commission calling for a factual report from District Collector, Madurai, a report was received denying the allegations contained in the news report. The matter is under consideration of the Commission.

## 3. *Burning to death of a Dalit rape victim by the accused in Madhya Pradesh (Case No. 1486/12/2006-2007-wc)*

4.275 The Commission on 11 December 2006 took suo-motu cognizance of a news item appeared in “The Indian Express” dated 23 November 2006 highlighting a case of burning of a Dalit girl, who refused to drop rape charge against alleged rapist belonging to upper caste of a village in Madhya Pradesh.

4.276 According to the report, a 15-year-old Dalit girl who refused to drop rape charge against an upper caste youth was burnt alive by the alleged rapist, when she was sleeping at her home on 21 November 2006. The victim was allegedly raped in July 2006 and the matter is still pending in a court in Hoshangabad. The victim told the police before she died of her burn injuries at a hospital in Pipariya that Chhote Singh Rajput had threatened to kill her if she did not change her statement in the court. The report quoting victim's mother, Shashibai stated that the accused had warned them on 21 November 2006 in the afternoon that he would burn them, set their house afire and cut the victim's father into pieces. The report also quoted the victim's aunt Anita stating that she saw the accused Chhote Singh escaping into the fields. The allegations were, however, denied by the upper caste people.

4.277 The Commission issued notice to DGP, Madhya Pradesh, calling for a report within four weeks. DGP, Madhya Pradesh was also directed to inform the Commission as to whether any compensation was paid to the victim when she was alive or to the next of kin of the deceased after her death.

4.278 Pursuant to Commission's directions, SP, Hoshangabad, Madhya Pradesh vide communication dated 12 January 2007 sent a report stating that case FIR No. 573/06 under section 307 IPC 3(2)5 S.C / S.T. Act was registered at PS Pipria and after the death of the victim Section 302 IPC was added. The accused was arrested on 23 November 2006 and sent to jail. A cheque of Rs.75,000/- was given to the father of the victim as interim relief. A challan had also been filed in the court on 27 December 2006.

4.279 As a further interim relief of Rs.75,000/- under the provision of SC / ST Prevention of Atrocities Act had also been sanctioned, and the law set into motion, the case was closed on 27 March 2007.

#### **g. Protection of Right to Health**

##### **1. *Delay in provisions of medicines to CGHS Pensioners in Delhi and neighbouring areas (Case No. 418/30/2006-2007)***

4.280 The Commission on 5 May 2006 took suo motu cognizance of newspaper report captioned "Pensioners get medicines after 10 days here". According to the newspaper report, the Central Government pensioners at Noida were supplied medicines 8 to 10 days after they have been indented. The supply, when made was usually short. According to the Secretary of Central Government Pensioners Welfare Association (CGPWA), the CGHS authorities had appointed a chemist M/s Alankrit, who is based in Ashok Vihar Delhi, making it difficult for old and sick pensioners to travel to Ashok Vihar for getting supply of urgent medicine in an emergency.

4.281 A similar complaint was also received in respect of the delay in supply of medicines by CGHS dispensary No. 56 at Patparganj Road, Krishna Nagar and other dispensaries in Delhi.

4.282 The Commission called for comments from the Secretary, Ministry of Health and Family welfare and DG, Health Services.

4.283 Pursuant to the directions of the Commission, Addl. Director (Hq.), CGHS vide communication dated 4 July 2006 submitted a report detailing the problem faced in the supplying of medicines as well as the steps taken for improvement in the supply. The matter was, however, still under consideration.

##### **2. *Denial of right to health for tribals in Hakeerpet Mandal, Vishakhapatnam, Andhra Pradesh (Case No. 513/1/2006-2007)***

4.284 The Commission on 14 December 2006 took suo-motu cognizance of a news item telecast by a Telugu news channel "TV-9" on the "Agony of Tribals living in the village of Hakeerpet Mandal, Vishakhapatnam" on 11 December 2006.

4.285 The news items revealed that the Tribals living in the village of Hakeerpet Mandal, Vishakhapatnam agency are suffering from a peculiar fever that has led to the death of about 100 tribals between the age of 14 and 40 years and a number of people are still suffering from the said fever. No treatment or medical help is available there, as these villages are far away from the main town.

4.286 The report also mentioned that neither doctors nor medical facilities were available in full strength in the hospital. Further, drinking water was not available in a number of villages and the villagers have to fetch water from far off places i.e., more than 5 to 10 kilometers, but the water is also not safe for drinking.

4.287 Factual reports called for by the Commission from the Secretary, Health Medical and Family Welfare and Principal Secretary, Panchyati Rai and Rural Water Supply, Govt. of Andhra Pradesh are awaited.

### 3. *Violation of rights of mental patients in Saharsa, Bihar (Case No. 630/4/2006-2007)*

4.288 The Commission on 19 June 2006 took suo motu cognizance of a distressing audio-visual report run on CNN-IBN News Channel about the inhuman treatment meted out to inmates of an unlicensed mental asylum run by a quack at his home - at Saharsa, Bihar. As per the video clippings, mental patients were kept chained and brutally beaten in the previously mentioned mental asylum. The treatment methods, shown in the news report, were primitive like pouring buckets of cold water on the patients tied to the tree.

4.289 The Commission called for a factual report from the Chief Secretary, Bihar including the steps taken for the release of the mental patients confined in the afore-said unauthorized mental asylum, as also the steps taken to ensure proper medical/psychiatric treatment to those unfortunate victims.

4.290 Pursuant to the directions of the Commission, Under Secretary, Home (Special) Department, Bihar vide his communication dated 25 September 2006 has forwarded a copy of communication dated 23 September 2006 of the District Magistrate, Madhepura along with a copy of the report of the Civil Surgeon-cum-Chief Medical officer, Madhepura submitted to the DM, Madhepura.

4.291 According to the report submitted, an inquiry into the matter was conducted jointly by the Sub-Divisional Officer and the Civil Surgeon. Their inquiry revealed that 33 so-called mentally retarded patients were found restrained with chains in groups of 2 or 3 persons. All of them were rescued and brought to Sadar Hospital under security where they were given refreshments and advised to take rest. A Medical Board under the Chairmanship of Civil Surgeon, Dr. Devender Kumar and three other doctors was constituted. The Board examined all those patients and those who were found in fit medical condition were handed over to their relatives. The report further mentioned that out of 33 mentally retarded patients, custody of 25 patients was handed over to their parents/relatives. The remaining eight patients were admitted to the hospital as nobody from their family came forward to claim them. However, subsequently, with the help of police, the family members of the remaining eight patients were also traced and they were handed over to their family members. Report further disclosed that FIR in Cr. Case No.16/2006 pertaining to previously mentioned wrongful detention and inhuman treatment of mentally retarded persons detained at Morkahi Mental Asylum was registered at P.S. Shankarpur.

4.292 Pursuant to the Commission's directions calling for status of case FIR No. 16/2006 registered at P. S. Saharsa, a further report dated 9 December 2006 received from IGP; Bihar mentioned that in case FIR No.16/2006 accused Mahadev Yadav had been sent for trial under section 3/4 of Drugs and Magic Remedies Act, 1954. As the inmates had been rescued and the law set into motion, the case was closed on 7 February 2007.

## **h. Other cases**

### **1. *Compensation for loss of life and property due to collapse of wall of Distirct Jail, Tuensang, Nagaland (Case No. 3/17/2004-2005)***

4.293 The Commisison on 23 March 2004 received a complaint from Pongjhei Phom, President of Nagaland, forwarded by the Chairperson, National Commission for Women, praying for grant of compensation of Rs. 15,00,000/- for the loss of life of his daughter Narola Phom due to the collapse of a wall of the District Jail, Tuensang, Nagaland.

4.294 Taking cognizance of the matter, the Commission on 2 April 2004 called for comments from the Home Secretary, Government of Nagaland.

4.295 The Secretary, Home Department , Government of Nagaland vide letter dated 30 January 2006 reported that the collapse of the wall was due to the pressure of water which had risen to a certain level and seepage of the water below the ground, loosening the foundation of the wall.

4.296 The report further mentioned that the Deputy Superintendent of Jail, Tuensang had permitted female warden Apila Phom w/o Pongjhei to construct a temporary kutcha house about 40 ft. from the outer wall of the jail in 1992. The house as claimed by Ponghei Phom, was not a hill type building having a concrete cement foundation with cement plastered wall and strong wooden posts. It actually had posts of undressed wooden bally and a CGI sheet roof.

4.297 Also no cracks had occurred on the wall of the jail before the date of collapse. Had cracks occurred earlier, the collapse would have been apprehended by Apila Phom, who was also a staff of the District Jail, Tuesnsang.

4.298 The report also revealed that the collapse of the wall did not hit Pongjhei Phom, but the splintered cement damaged the house and brick mortars, which rolled down as the house was built on a slope. Narola, was killed on account of a large dump of debris that rolled down and hit her when the deceased was taking a bath in the make-shift bathroom.

4.299 The State Government sanctioned an ex-gratia amount of Rs.10,000/- to the next of kin of the deceased, this being the permissible amount in all cases of death due to natural calamity and disaster.

4.300 Upon consideration of the report on 28 August 2006, the Commission was satisfied with the action taken. Therefore, the matter was closed.

### **2. *Denial of admission to a blind student in Hyderabad, Andhra Pradesh (Case No. 382/1/2005-2006)***

4.301 The Commission on 23 September 2005 took suo-motu cognizance of a news report that appeared in Telugu daily "Enadu" dated 16 September 2006. According to the report a blind student of Hyderabad, named Venkataih, a bronze medalist in the National Level Chess Competition held in 2002, scored 819 marks out of 1000 in class XII and secured 21422nd rank in DIET CET, but was denied admission in a Teacher Training Course and the candidates who got lower ranks were given admission by the State Education Department. The Authorities not only refused to give him admission but also questioned him, as how would he study without vision. The DIET CET office had also declared that no seat was available even under the disabled welfare quota.

4.302 The Commission directed the Secretary, Deptt. of Education, Govt. of Andhra Pradesh to look into the matter and submit comments.

4.303 In response to the Commission's notice, the Secretary, Education (SE) Department, Government of Andhra Pradesh vide letter dated 11 October 2006 informed that the State Govt. had examined the matter and permitted the Director of School Education, Hyderabad to allot a seat to Venkataiah as a special case in any DIETs during the academic year 2006 - 2007.

4.304 While taking on record the report of the Govt. of Andhra Pradesh, the Commission appreciated the decision of the A. P. Government and closed the case on 9 January 2007.

3. *Atrocities committed by Joint Special Task Force of State of Karnataka and Tamilnadu for apprehending Veerappan (Case No. 795/22/1998-1999)*

4.305 The Commission received a number of representations from non-government organisations and individuals regarding atrocities committed by the Joint Special Task Force set up by the States of Karnataka and Tamil Nadu to apprehend the forest brigand Veerappan.

4.306 Taking cognizance of the complaints, the Commission constituted two-member panel of inquiry comprising Hon'ble Mr. Justice A.J. Sadashiva, former Judge of Karnataka High Court as Chairman and Mr. C.V. Narasimhan, former CBI Director as Member to inquire into the matter and make its recommendations to the Commission. The panel during its inquiry recorded the statements of 243 persons, including 193 alleged victims, 4 representatives of NGOs and 38 police officers.

4.307 The inquiry panel submitted its report on 1 December 2003 and the Commission sought comments of the two states in the report.

4.308 The Chief Secretaries, Govt. of Tamil Nadu and Additional Chief Secretary, Govt. of Karnataka appeared before the Commission and conveyed that both the governments are ready and willing to respect the decision/recommendation to be made by the Commission with regard to the interim relief to the victim of atrocities alleged to have been committed by the Joint Special Task Force. The Chief Secretary, Govt. of Tamil Nadu also stated before the Commission that the Government of Tamil Nadu had already dispersed a sum of Rs.20 lakh to 12 victims/next of kin. The Commission directed that the amount already paid by the Government of Tamil Nadu shall be adjusted while making payment of interim relief recommend by the Commission.

4.309 Vide proceedings dated 15 January 2007, the Commission recommended immediate interim relief to 89 victims amounting to Rs. 2 crore and 80 lakhs. These victims included women victims of repeated rape, women subjected to assault, application of assault and application of electric current and outrage of modesty, persons who suffered illegal detention, assault and electric shock, persons who suffered permanent disability as a result of torture, persons unlawfully detained as well as 36 persons allegedly killed in suspicious encounters by the Special Task Force. The Commission recommended interim relief varying between one lakh to five lakhs to these 89 persons to mitigate the suffering and hardship suffered by them or their families.

4.310 The Commission also clarified that the Government of Tamil Nadu shall pay interim compensation to those victims who live in Tamil Nadu and the Government of Karnataka shall pay to the victim living in Karnataka.

4.311 The Commission further opined that both the State Governments in their discretion may consider taking development activities, such as laying roads, establishment of school, hospital etc. in the affected tribal and border areas of both the States.



4. *Death of Professor due to beating by students in Ujjain, Madhya Pradesh (Case No. 886/12/2006-2007)*

4.312 The Commission on 5 September 2006 took suo-motu cognizance of a news item that appeared in "The Times of India" dated 27 August 2006, under the caption "students beat professor to death, two others critical". According to the news item, elections for college President took a violent turn in Madhav College, Ujjain, leading to the death of Professor, H.K. Sabharwal after he was beaten by a group of children and two other professors.

4.313 It was also reported in another English daily 'Hindustan Times' dated 2 September 2006 that 4/5 policemen were present at the site of the incident but did almost nothing to save the professor. The police was also accused of tampering with the evidence and protecting the guilty persons.

4.314 The Commission called for a report from the Chief Secretary and DGP of Madhya Pradesh.

4.315 In response I.G.P (Complaints) M.P. sent a report dated 3 October 2006 stating that a Case Crime No. 262/2006 under section 353/332/427/147/451 IPC has been registered and challan filed in the court. The report further disclosed that three more cases were registered in this regard.

4.316 Additional Secretary to the Government Home (Police) Department submitted a report dated 25 October 2006 that police personnel were found negligent in their duties. Negligent officers have been placed under suspension and departmental proceedings initiated against them. Magisterial Inquiry has also been ordered in this case.

4.317 The Commission on 20 December 2006, after considering reports of State Government, was satisfied that a prima facie case of violation of human rights has been established during enquiry caused by the State Government. Having regard to the action taken for filing of charge sheet and action against the erring police personnel, it became a fit case for grant of interim relief to the next of kin of the deceased. Accordingly, the Commission directed to issue a notice to the Chief Secretary, Govt. of Madhya Pradesh to Show-cause within four weeks as to why interim relief to the next of kin of the deceased under section 18(3) of the Protection of Human Rights Act, 1993 be not recommended for violation of human rights of the deceased.

4.318 The Commission also directed the DGP, to submit the status of the administrative proceedings initiated against the negligent police officers and also status of the investigation being carried out by CID in the criminal cases.

4.319 A further report from the Government of Madhya Pradesh is awaited.

5. *Killing and injuries by constable of Railway Protection Force in Madhya Pradesh (Case No. 2252/12/2001-2002)*

4.320 The Commission received a complaint from R.H. Bansal, of Human Rights Observer, Rohini, New Delhi regarding alleged killing of three persons and injuring 11 others in an in discriminate firing by a Constable of Railway Protection Force on 11 March 2002.

4.321 The Commission took cognizance of the case on 22 March 2002 and issued notice to the Secretary, Railway Board.

4.322 In response to the Commission's notice, the Railway Board confirmed the incident and informed that an inquiry was ordered to fix the responsibility for the incident of firing and on the basis of the inquiry

the accused Constable Arvind Shrivastava has been dismissed from service and a criminal case registered against him. He was also arrested and sent to judicial custody.

4.323 The Commission considered the report and held that the prima facie a case of violation of human rights of innocent persons killed in the firing has been established. Therefore, it directed to issue a notice to the Railway Board under section 18(3) of the Protection of Human Rights Act, 1993 to show-cause why immediate interim relief should not be granted to the next of kin of the victim and the injured.

4.324 In response to the show-cause notice issued by the Commission under section 18(3) of the Protection of Human Rights Act, the Railway Board after referring to Sections 18 and 19 of the Protection of Human Rights Act, 1993 (for short 'Act') took-up a plea that RPF being an Armed Force of the Union, the NHRC can only seek a report from the Government and make recommendations on the basis of information sought and received. Since Section 19 is having over-riding effect on Section 18 of the Act, the provisions of recommendation of 'interim relief' under section 18(3) of the Act is not applicable in the instant case, where the alleged violation of human rights have been committed by a member of the Armed Forces of the Union.

4.325 The Commission rejected the plea and observed that the issue has already been settled in another case relying upon a communication of Director (HR), Government of India, Ministry of Home Affairs dated 31 October 2003. The communication clarified that Government has reconsidered the issue and are of the view that interim compensation can be recommended by the Commission in respect of cases relating to armed forces also.

4.326 The Commission opined that the Railway Board couldn't avoid its vicarious liability to pay interim relief to the next of kin of unfortunate victim who lost their lives and recommended payment of Rs. 1 lakh each to the next of kin of the four victims by the Railway Board through its Chairman.

4.327 The Railway Board informed the Commission that Rs. 5 lakhs has been paid as ex-gratia lumpsum payment to the family of the two victims. The Railway Board submitted that compensations to one of the victims could not be granted as there were claims from two wives and the matter is sub-judice. As regards the other victim, a part payment of Rs.3,12,970/- has been made and proposal for the payment of remaining compensation of Rs.1,87,030/- is under process for sanction. The compliance report about the status of sanction/payment of ex-gratia is still awaited.

## 6. *Man kept in chain for two years in Orissa (Case No. : 122/18/2005-2006)*

4.328 The Commission took suo-motu cognizance of a news item captioned "Orissa man kept in chains for 2 years" published in "The Asian Age" dated 13 June 2005. The report stated that a 32 years old man named Upendra Naik, a resident of Chauriberhampur Village, Kendrapada District, had been kept chained and confined to a room since 2003 after the villagers declared him insane, because about three years ago he beat up people and threw stones at some villagers.

4.329 The Commission obtained a report from the Chief Secretary, State Government of Orissa, which revealed that Upendra Naik became mad after nine months of his marriage and he was treated at SCB Medical College, Cuttack, but there was no improvement in his condition. The report further reveals that due to mental disorder, Upendra Naik threw stones on people and assaulted them. Whereupon his father, chained both of his legs and confined him to an open room in the house. Being a low paid servant, the wife of the victim was unable to take care of her husband.

4.330 The Commission considered the report and observed that from the report, it appears that the state authorities even after coming to know the plight of Upendra Naik failed to take initiative to provide him

proper medical treatment. It further observed that under the Mental Health Act 1997, it is the responsibility of the State Govt. to ensure proper medical treatment to mentally ill persons at State expenses in deserving cases.

4.331 The Commission, therefore, directed the District Magistrate, Kendrapada to take immediate steps to provide proper medical treatment to Upendra Naik and asked the Secretary, Ministry of Health and Govt of India to provide all possible assistance to the State Authorities.

4.332 The Collector, Kendrapada on 10 June 2006 intimated that Upendra Naik has been thoroughly examined and thereafter referred for specialized treatment at Deptt. of Psychiatry, SCB MCH, Cuttak. He was treated at SCM Medical College, Cuttak and at the time of discharge from the hospital, he was given one-month free medicine and asked to collect free medicines for follow up treatment on monthly basis.

4.333 The Collector, Kendrapada also informed that though the patient is not completely cured, he has been taking medicine regularly and now living as a normal person with his father.

4.334 Upon consideration of the report, the Commission closed the case with the observation that since the state government has taken adequate steps for the treatment of Upendra Naik following its intervention; no further action by the Commission is called for.

## **7. *Punjab Mass Cremation Case***

4.335 Two writ petitions were filed before the Supreme Court of India being W.P. (Crl.) No. 497/95, Paramjit Kaur Vs. State of Punjab and others; and Writ Petition (Crl) No. 447/95, Committee for Information and Initiative on Punjab Vs. State of Punjab. Serious allegations were made in the writ petitions about large scale cremations resorted to by the Punjab Police of persons allegedly killed in what were alleged “encounters”. The Supreme Court was apparently disturbed by the gravity of the allegations and it ordered an inquiry by the CBI into the allegations. Accordingly, the CBI, after completing its inquiry, submitted its final report to the Supreme Court on 9 December 1996. The Supreme Court after examining the final report relating to cremation of dead bodies on 11 December 1996 observed and directed as under:

“The report indicates that 585 dead bodies were fully identified, 274 partially identified and 1238 unidentified. Needless to say, the report discloses flagrant violation of human rights on a mass scale”.

We, therefore, direct the CBI to take further action into the matter and register the cases, where necessary, hold investigations and proceed in accordance with law on the basis of the material collected during investigation”

4.336 The Supreme Court of India, vide its order dated 12 December 1996 referred the matter to the National Human Rights Commission with the following observations:

“We request the Commission through its Chairman to have the matter examined in accordance with law and determine all the issues which are raised before the Commission by the learned council for the parties.

Since the matter is going to be examined by the Commission at the request of this court, any compensation awarded by the Commission shall be binding and payable.”

4.337 During the period 2006 - 2007, the Commission heard the matter from time to time and vide its proceedings dated 10 October 2006, the Commission found that out of the total 2097 bodies, including 38 duplicate names, 1245 bodies had been identified. The Commission held that for the violation of human rights of 194 admitted in custody of police immediately prior to their death and their cremation, their next of kin were entitled to a monetary compensation of Rupees 2.50 lakhs. As regards 1051 bodies of persons who were not in police custody but cremated by the State of Punjab without following the Punjab Police Rules, guidelines, practice and Humanitarian law, the Commission awarded monetary relief of Rupees 1.75 lakhs to the next of kin of each of the deceased. For the identification of the remaining 814 bodies, the Commission appointed a Commissioner (Justice K.S. Bhalla, retired judge of Punjab and Haryana High Court) for receiving evidence and conducting an inquiry to fix the identity of as many dead bodies as possible out of the 814 unidentified deceased persons.

4.338 Vide proceedings dated 15 February 2007, the Commission considered an application submitted by the State of Punjab in respect of 54 more bodies identified. The Commission was satisfied about the identity of 53 persons. In respect of one person in deemed custody, the Commission awarded monetary relief @ Rupees 2.50 lakhs to the next of kin of the deceased and regarding other 52 bodies identified, it awarded a relief of Rupees 1.75 lakhs to the next of kin of each of the deceased.

#### 8. *76 Armymen punished for human rights violation (Case No. 122/9/2006-2007-AF)*

4.339 The Commission on 21 December 2006 took suo-motu cognizance of a newspaper report published in the Kashmir Times dated 17 December 2006 titled "76 army men punished for human rights violations". The report mentioned that while the higher authorities in the army had given instructions to make the anti-insurgency operation people-friendly and minimize civilian losses during these operations, 76 army personnel were awarded punishment during the last couple of years after complaints of human rights violations against them. These punishment included dismissal from services and rigorous punishment.

4.340 The Commission called for information from Defence Secretary, Ministry of Defence, Government of India and Chief Secretary, J&K about ex-gratia relief, if any, awarded to the victims / next of kin of the victims of such human rights violation by armed forces personnel in J&K. The response is awaited.

#### 9. *Abuse of power by police personnel in Gurgaon, Haryana (Case No. 1906/7/2006-2007-wc)*

4.341 The Commission took suo-motu cognizance of a news item "cops abuse girl, thrash father" appeared in the Times of India on 17 November 2006. According to the newspaper report, Jitender Singh Sandhu, R/o Kusum Marg, DLF-I, was taking a stroll with his 21 year old daughter - an executive in a finance company on 15 November 2006, when two cops came and asked them what they were doing and also asked questions about the identity of the girl. Upon mention by Sandhu that the girl was his daughter, he was further questioned in a manner, which was derogatory of the dignity of the girl. When Sandhu asked the cops to behave properly, he was taken by them to the police station and subjected to beatings with belts and baton for about 20 minutes.

4.342 The report further mentioned that three of the policemen involved in the incident, had been suspended pending a departmental inquiry into the incident.

4.343 The Commission vide proceedings dated 21 November 2006 directed to send a copy of the news item to DGP, Haryana to submit a factual report within four weeks. He was also directed to intimate the outcome of the departmental inquiry, if it has already been initiated as reported in the newspaper.

4.344 Pursuant to the directions of the Commission calling for the comments of DGP, Haryana on the newspaper report along with the outcome of the departmental inquiry against the police personnel, DGP,

Haryana vide communication dated 11 January 2007 submitted a report. According to the report, SP, Gurgaon has informed that during inquiry, three police personnel SI, Jitender No. 122/Kurukshetra, ASI Karan Singh No. 69/Gurgaon and Constable Hari Chand No. 425/Gurgaon have been placed under suspension and departmental proceedings are being initiated against them. Report further added that SI, Jitender had been transferred to Palwal and ASI, Karan Singh and Head Constable Hari Chand transferred to Narnaul.

4.345 The Commission on 29 March 2007 upon consideration of the report held that prima facie, a case of violation of human rights of the victim has been established. The Commission, therefore, directed to issue notice to the Chief Secretary and DGP, Haryana under section 18(3) to show-cause as to why the Commission should not recommend immediate interim relief to the victims for violation of their human rights. DGP, Haryana was also directed to submit status of departmental proceedings initiated against the 3 police personnel.

4.346 Response to the Show-cause notices issued to the Chief Secretary and DGP, Haryana is awaited.

#### *10. Death of Child due to beating by teacher in Punjab (case No. 621/19/2006-2007-wc)*

4.347 The Commission on 1 February 2007 took suo-motu cognizance of a news item captioned '6-yr-old girl dies after beating by teacher' that appeared in 'The Tribune' dated 14 January 2007.

4.348 According to the report, Simran, a class-I student of a private run Guru Amardas Public School, Shaheed Udham Singh Nagar, Distt. Amritsar, Punjab, died due to alleged severe beating by her teacher. The incident took place on 4 January 2007 after which Simran was admitted to a hospital where she succumbed to injuries on 14 January 2007. Giving details of the incident, the father of the deceased said they were a poor family and therefore had failed to submit the monthly fees to the school for the past two months. However, the Principal of the school has strongly refuted the allegations.

4.349 The report further stated that the police had sent the body for post mortem and it will take action only after the post-mortem report is received.

4.350 The comments called for by the Commission from the DGP, Government of Punjab on the newspaper report on 1 February 2007 are awaited.

#### *11. Selling of girls by parents in Andhra Pradesh (Case No.: 658/1/2006-2007-wc)*

4.351 The Commission on 1 February 2007 took suo motu cognizance of a news report captioned "parents turn pimps, sell girls in AP" telecast by CNN-IBN.

4.352 According to the report, young girls are being sold for as little as Rs. 12,000/- in Rajahmundry and turned into sex slaves. The people selling and forcing them into flesh trade are their own parents. The report revealed that a CNN-IBN Special Investigation uncovered the racket by meeting brokers, promising money and fixing deals for 'delivery' of girls. According to the report, the CNN-IBN team interviewed one D Nirmal, who wanted to sell her daughter like cattle. She also informed that one Chinna Rao also wanted to sell his two daughters.

4.353 Giving the details, the report states that the deal was finalized with Chinna Rao, who was to get Rs.12000/- and the brokers Rs.2000/- each, but as soon as they pocketed the money, the police pounced on them as CNN-IBN had tipped off authorities.

4.354 A similar story published in The Hindustan Times dated 28 January 2007 also mentioned that of 41 girls rescued from various vice dens in Maharashtra, 37 were from Andhra Pradesh. Twelve brokers

and two parents, who had sold off their teenage daughters, were arrested. The police rescued seven girls from various vice dens in the town. Five of them were minors.

4.355 The Commission called for the factual report from the Chief Secretary and DGP, Govt. of Andhra Pradesh, which is awaited.

**12. Denial of education to HIV+ Children in Kerala (Case No.143/11/2006-2007)**

4.356 The Commission took suo-motu cognizance of a news item captioned "School Slams door on HIV positive tots" that appeared in the "Hindustan Times" dated 8 December 2006.

4.357 The news item revealed that five HIV positive children in the age group of 4 -10 were thrown out of their school in Kottayam after parents of other children threatened to pull out their wards, because of the stigma attached to the disease. It is also reported that the orphanage, where they stay, kept their HIV positive status under wraps but the participation in a programme on World Aids Day on 1 December 2006 and the consequent splashing of their photographs in newspapers proved their undoing. The ostracized five - a pre-nursery boy and four girls studying in class II and IV respectively - are now confined to their rooms in the orphanage. The Secretary of the school reported to have said that the continued presence of these five children in the school would spell doom for the school.

4.358 The Commission called for a factual report from the Secretary, Deptt. of Health and Family Welfare and Secretary, Deptt. of General Education, Govt. of Kerala which is awaited.

**13. Disappearance of children in Gujarat (Case No.756/6/2006-2007)**

4.359 The Commission on 25 February 2007 took suo-motu cognizance of a news item captioned "3,000 missing children, number of staff in Gujarat missing cell: 2" that appeared in The Indian Express dated 5 February 2007.

4.360 According to the news item, between 2001 and 2005, 1054 children in the age group of 6 months to 18 years were reported missing. The report also mentioned that the police itself discouraged parents from filing complaints. There is no system or mechanism in place by which the missing complaints filed at one Police Station is relayed to another even in the same city. The Missing Persons Cells in various cities are inadequately staffed and tracing of missing persons is very low on its priority. It is further reported that the police manual itself does not give much importance to dealing with cases of missing persons or unidentified bodies.

4.361 The Commission vide its proceedings dated 25 February 2007 called for factual reports from Chief Secretary and Director General of Police, Government of Gujarat, which are awaited.

**i. Action Taken Report in respect of cases reported in the Annual Report of 2004-2005**

**1. Case of death in judicial custody of Bhaiyalal in Allahabad, UP. (9161/24/98-99-cd)**

4.362 This case was reported in the Annual Report for the year 2004-2005.

4.363 Compliance report regarding payment of interim relief of Rs. 1 lakh as well as the action against the delinquent police officials was received. This case was closed by the Commission on 12 July 2006.

**2. Death in Judicial Custody of Kolumbus in Lucknow, UP (Case No. 20143/24/2002-2003-CD)**

4.364 This case was reported in the Annual Report for the year 2004 -2005.

4.365 The proof of payment of interim relief of Rs. 50,000/- was received. The case was closed by the Commission on 13 June 2005.

**3. Death in judicial custody of Chandra Prakash in Bareilly, UP (Case No. 5237/24/2000-2001-cd)**

4.366 This case was reported in the Annual Report for the year 2004 -2005.

4.367 The proof of payment of interim relief of Rs. 1 lakh was received. The case was closed by the Commission on 25 September 2006.

**4. *Illegal detention of Rajesh Saini by police in Muzaffarnagar, UP (Case of 6454/24/97-98).***

4.368 This case was reported in the Annual Report for the year 2004-2005.

4.369 The proof of payment of interim relief of Rs. 100000/- was received. The case was closed by the Commission on 18 January 2007.

**5. *Allegations of death, rape and torture of tribals as a result of actions of the Joint Task Force set up by Government of Tamil Nadu and Karnataka to apprehend Veerappan and associates (Case No. 222/10/97-98)***

4.370 This case was earlier reported in the Annual Report for the year 2004 - 2005.

4.371 The Commission has recommended compensation of Rs.2 crore and 80 lakhs to the 89 victims of atrocities by Joint Task Force. Both the state governments have submitted their willingness to respect their recommendation of the Commission with regard to payment of interim relief to the victims of atrocities.

4.372 The Commission has also opined that the State Governments in their discretion may consider taking up of development activities such as laying of roads, establishment of schools, hospitals etc in the affected areas namely, tribal and border areas of both the states.

4.373 Proof of payment of compensation is awaited.

**6. *Displacement of farmers and agricultural labourers by construction of a barrage across the river Nagavalli (Case No. 667/1/2002-2003)***

4.374 This case was earlier reported in the Annual Report for the year 2004 - 2005.

4.375 The Commission had called for the progress of implementation of relief and rehabilitation package from the Principal Secretary, Government of Andhra Pradesh. The report has not yet been received. Registrar (Law) has written a DO letter to the Principal Secretary, Govt. of Andhra Pradesh to send the report as directed by the Commission vide its proceedings dated 25 March 2007.

4.376 The matter is still under consideration of the Commission.

**7. *Atrocities on Adivasi Families by Forest Officials of Wynad District, Kerala (Case No. 199/11/2002-2003)***

4.377 This case was earlier reported in the Annual Report for the year 2004 - 2005.

4.378 This case relates to the death of 16 Adivasis and injuries to many others including women and children during firing by Kerala Police on 19 February 2003.

8. *Suicide of farmers in Andhra Pradesh and Kerala (Case No. 208/1/2004-2005)*

4.380 This case was earlier reported in the Annual Report for the year 2004 - 2005.

4.381 This case relates to suicide by farmers in the State of Andhra Pradesh. The matter is still under consideration of the Commission.

9. *Devastation caused by Tsunami in Coastal areas of South India (Case No. 1054/22/2004-2005)*

4.382 This case was earlier reported in the Annual Report for the year 2004 - 2005.

4.383 This case relates to devastation caused by the Tsunami waves in large areas of coastal India. The Commission continued to monitor the relief, rehabilitation and reconstruction measures being undertaken in the Tsunami affected areas.

4.384 The Commission has called for status report from the Chief Secretaries of Andhra Pradesh, Kerala, Tamil Nadu and Pondichery about follow up action taken pursuant to relief and rehabilitation measures. The Commission has also called for comments from the Administrator, Andaman & Nicobar Island on a news report published about rehabilitation package. A factual report on a news item regarding sale of kidney has also been called for from the Chief Secretary, Tamil Nadu. The reports are awaited.

10. *Case of Jalil Andrabi, Advocate, Jammu & Kashmir (Case No. 9/123/95 LD)*

4.385 This case has been included in earlier reports.

4.386 This case relates to alleged abduction and subsequent killing of Jalil Andrabi, an advocate of Srinagar by the Security forces.

4.387 The Commission has called for status of the Criminal cases and the fact whether or not Major Avtar Singh has put in appearance in the Court from CJM, Budgam.

4.388 CJM, Budgam has sent the report and the same is under consideration of the Commission.

j. **Action Taken Report in respect of cases reported in the Annual Report of 2005 - 2006**

1. *Death in judicial custody of Goddam Mohan Reddy, Karimnagar, Andhra Pradesh (Case No. 919/1/2000-2001-cd)*

2. *Death in judicial custody of Roop Kishore, Bareilly, UP (Case No. 6194/24/2000-2001-cd)*

3. *Death in judicial custody of Sukumar Panja, Mayurbhanj, Orissa (Case No. 825/18/97-98-cd)*

4.389 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.390 The proof of payment of interim relief of Rs. 50,000/- to the wife of the deceased was received. The case was closed as per direction dated 18 December 2006 of the Commission.

4. *Death in judicial custody of Banja Pillow Gawale, Wardha, Maharashtra (Case No. 840/13/2002-2003-cd)*

4.391 This case was earlier reported in the Annual Report for the year 2005-2006.

4.392 The proof of payment of interim relief of Rs. 50,000/- to the wife of the deceased was received. The case was closed as per direction dated 31 July 2006 of the Commission.



5. *The case relates to death of Chityala Sudhakar in alleged custody of police at Karimnagar, Andhra Pradesh (Case No. 381/1/98-99)*

4.393 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.394 The Commission on 6 February 2006 directed that the case might be closed on receipt of proof of payment of interim relief of Rs. 50,000/- to the next of kin of the deceased. The proof of payment is still awaited.

6. *Illegal detention and torture of a minor by Haryana Police (Case No. 1453/7/2005-2006-/FC)*

4.395 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.396 This case relates to the illegal detention of a 12-year-old child by Haryana police. According to media reports both hands of the victim were tied and he was hanged from a tree and beaten up by the policemen.

4.397 In response to Commission's directions, a report has been received from SP(Crime) which stated that Hon'ble Supreme Court of India is seized of the matter and further action would be taken as per orders of the Apex Court. No further report has been received and the matter is still under consideration of the Commission.

7. *Illegal detention and torture by Maharashtra Police (Case No. 1220/13/199-2000)*

4.398 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.399 This case relates to police atrocities on two victims picked up by the police from a restaurant on 18 September 1999 and taken them to the police station, where one of them was sexually abused in filthiest and beastly manner.

4.400 On receipt of proof of payment of compensation of Rs. 50,000/-, the case was closed.

8. *Unlawful detention and torture by police in Karnataka (Case No. 137/10/2000-2001)*

4.401 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.402 This case relates to the illegal detention and subsequent death of one Mohan on 7 February 2000 due to torture in police custody in Maleshwaram Police Station in the State of Karnataka.

4.403 The State Government has furnished proof of payment of balance amount of interim relief of Rs.15,000/-. On receipt of proof of payment the Commission on 24 April 2006 closed the case.

9. *Killing of innocent person by Meghalaya Police (Case No. 11/15/2005-2006)*

4.404 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.405 This case relates to gunning down of 5 suspected NSCN(IM) cadres by a Special Operation team (SOT) Meghalaya Police at Mawlyngade, Sohryngkhan, East Khasi Hills District.

4.406 The Commission vide proceedings dated 29 January 2007 has directed JR (Law) to write to DGP, Meghalaya and impress upon him to submit the requisite report in the matter. The response is still awaited.

*10. Assault on agitating workers of Honda Factory by Haryana Police (Case No. 681/7/2005-2006/FC and LF No. 741/7/2005-2006)*

4.407 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.408 This case relates to alleged brutal assault on the agitating workers of Honda Motorcycle and Scooter India (HMSI) by the Haryana Police at Gurgaon on 25 July 2005.

4.409 The matter is still under consideration of the Commission.

*11. False implication by Panipat Police (Case No. 1062/7/1999-2000/FC)*

4.410 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.411 This case relates to threat of false implication of the husband of the complainant in a murder case as he failed to pay the bribe of Rs. 50,000/- demanded by the police.

4.412 On receipt of proof of payment of interim relief under section 18(3) of the Protection of Human Rights Act, 1993, the Commission closed the case.

*12. Kidnapping of minor girls from outside BSF Camp in Kishanganj District, Bihar.(Case No. 2610/4/2005-2006-wc)*

4.413 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.414 This case relates to kidnapping of two daughters of Jai Singh of 10<sup>th</sup> Battalion, BSF District Kishanganj, Bihar from outside the camp on 19 September 2005.

4.415 The Commission, after consideration of the report submitted by the Fact Finding Team directed the DGP, Bihar to investigate the crime and submit detailed report. The requisite report is still awaited.

*13. Death of four persons in a indiscriminate firing by a RPF constable at the Railway Station (case No. 2252/12/2001-2002/FC)*

4.416 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.417 This case relates to the killing of 4 persons in indiscriminate firing by a RPF on the public at Bhopal Railway Station on 11 March 2002. The Railway Board informed the Commission that Rs. 5 lakh has been paid as ex-gratia lump sum payment to the family of the two victims.

4.418 The Railway Board submitted that compensation to one of the victims could not be granted as there were claims from two wives and the matter is sub-judice. As regards the other victim, a part payment of Rs.3,12,970/- has been made and proposal for the payment of remaining compensation of Rs.1,87,030/- is under process for sanction. The compliance report about the status of sanction/payment of ex-gratia is still awaited.

*14. Death of Jagrup due to electrocution in Lakhimpur Kheri, UP (Case No.37670/24/2001-2002)*

4.419 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.420 As Madhyanchal Vidyut Vitharan Nigam Ltd. conveyed to the Commission about enhancement of the interim relief from Rs 20,000/- to 50, 000/- the case was closed on 14 June 2006.

15. *Prolonged detention of under trial prisoner Jag Jevan Ram Yadav in U.P. (Case No. 35741/24/2005-2006)*

4.421 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.422 This case pertains to prolonged detention of an under trial prisoner Jag Jevan Ram Yadav in U.P.

4.423 The Commission has asked the Chief Secretary, Govt. of Uttar Pradesh, to apprise the Commission about the clarification being sought by the State Govt. from the Law Deptt. as to how the documents pertaining to the case of Jag Jeevan Ram Yadav have been weeded out.

4.424 The matter is still under consideration of the Commission.

16. *Suo motu cognizance of newspaper report about detention of Shankar Dayal for 44 years in Unnao Jail, UP (Case No. 37484/24/2005-2006)*

4.425 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.426 The report received from DM, Unnao is under consideration by the Commission.

17. *Prolong detention of undertrial prisoner in Tezpur, Mental Hospital for 33 years in Assam (Case No. 26/3/2005-2006)*

4.427 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.428 The case relates to the prolonged detention of undertrial Anil Kumar Burman for about 33 years, though he was acquitted of his charges, vide judgement dated 15 July 1969 and also declared fit to be released on 20 April 1974.

4.429 The Commission was informed by the Chief Secretary, Assam that State Government on its own had decided to pay Anil Kr. Barman one time rehabilitation grant of Rs. 3 lakh along with life time monthly ex-gratia of Rs.1000/-. The amount was being drawn by the Inspector General of Prisons, Assam and will be paid to Anil Kr. Burman. The Commission has directed the State authorities to furnish proof of payment which is awaited.

18. *Under trial lady prisoner in detention for 32 years. Released at the instance of NHRC- Assam (Case No.32/3/2005-2006)*

4.430 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.431 This case relates to release of an under trial lady prisoner who remained as an under trial prisoner for 32 years, at the instance of the NHRC.

4.432 The matter is still under consideration of the Commission.

19. *Commission of rape of a dancing girl by police sub-inspector in Bihar (Case No. 660/4/2003-2004-wc)*

4.433 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.434 This case relates to an alleged rape of a dancing girl of Suraj Music Troup after the show by sub Inspector of Hussainganj police station Bihar along with his three associates.

4.435 The compliance report in respect of payment of interim relief of Rs. 50,000/- to the victim has been received and is under consideration of the Commission.

20. *Attack on woman campaigning against child marriages Madhya Pradesh (Case No. 165/12/2005-2006-wc).*

4.436 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.437 This case relates to an attack on an official of Women & Child Welfare Department, Madhya Pradesh on 10 May 2005.

4.438 The Commission has called for status of the Criminal Case registered in respect of the said incident. The report is awaited.

21. *Assault on a Dalit woman, a rape victim in Raisen District, Madhya Pradesh (Case No. 1807/12/2005-2006-wc)*

4.439 This case was earlier reported in the Annual Report for the year 2005-2006.

4.440 This case relates to assault on a Dalit woman, a rape victim by rapists who chopped off her hands with an axe as she reported the matter to the police.

4.441 Accused in this case have been charge sheeted and an compensation of Rs.80,000/- has been sanctioned under the provisions of the S.C./S.T. Act in two cases. A sum of Rs.40,000/- has been paid to her and the balance would be paid on the completion of trial of the cases. In view of the report received, the Commission on 13 September 2006 closed the case.

22. *Panchayat's decision in Saharanpur District leading to Human Rights Violation (Case No. 16173/24/2005-2006-wc)*

4.442 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.443 This case relates to letting off alleged rapists by Village Panchayats on payment of fine in two separate incidents in Saharanpur District in U.P.

4.444 The Commission has called for comments from the Chief Secretary and DGP, Uttar Pradesh. A report has been received in the case and is under consideration of the Commission.

23. *Violation of human rights by Panchayat in Bagpat District, Uttar Pradesh (Case No. 16755/24/2005-2006-wc)*

4.445 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.446 This case relates to the settlement and hushing up of cases of rape and murder by caste panchayats in Bagpat District of Uttar Pradesh.

4.447 The Commission has called for comments from the Chief Secretary and DGP, Uttar Pradesh. A report has been received in the case and is under consideration of the Commission.

24. *Torture and inhuman treatment of tribal woman in Surguja District, Chhattishgarh (Case No. 232/33/2005-2006-wc)*

4.448 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.449 This case relates to torture and inhuman treatment of tribal woman who was punished by the village panchayat. She was tied with a bull-lock cart and was compelled to plough the agricultural land for five times.

4.450 The Commission has called for comments from the Chief Secretary and DGP, Chhattishgarh. A report has been received in the case and is under consideration of the Commission.

25. *Action of Dalit woman in Palamu District, Jharkhand (case No. 712/34/2005-2006-wc)*

4.451 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.452 This case relates to the alleged action of 23-year-old Dalit woman and her newborn daughter in Chiro Village of Palamu District, Jharkhand.

4.453 The Commission has called for comments from the Chief Secretary and DGP, Jharkhand. A report has been received in the case and is under consideration of the Commission.

26. *Suo motu cognizance of newspaper report about death of Children due to Japanese Encephalitis at the BRD Medical College in Gorakhpur, UP (Case No. 17749/24/2005-2006).*

4.454 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.455 The Commission on 8 January 2007 referred the matter to the Core Advisory Group on Health for its detailed consideration.

27. *Rescue of child labour in Maharashtra (Case No. 246/13/2005-2006/FC)*

4.456 This case was earlier reported in the Annual Report for the year 2005 -2006.

4.457 This case relates to rescue of around 400 child labourers from Madanpura in Central Mumbai in one of the largest ever raids in the country to rescue child labourers.

4.458 Responding to the Commission's directions, the Dy. Secy., Industries, Energy & Labour Deptt., Govt. of Maharashtra sent a status report. According to the report, 446 child labourers were rescued in different raids, 108 cases registered and 45 cases filed in the court. 46 persons have been arrested and 63 cases are under investigation.

4.459 54 offenders employing 93 child labourers have been served with notices for recovery of Rs.20,000/- per child and total amount of Rs.18,60,000/- is likely to be recovered.

4.460 Keeping in view the action taken by the Govt. of Maharashtra, the Commission held that no further action on its part is required and closed the case.

28. *Starvation deaths of children in Sonebhadra Community (Case No.21997/24/2003-2004)*

4.461 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.462 The case relates to starvation deaths of children in Sonebhadra in Uttar Pradesh.

4.463 The Commission after considering the reports from concerned authorities had called for comments from the complainant.

4.464 The comments from the complainant have been received and the same are under consideration of the Commission.

29. *Complaint from Mohd. Faiyaz about environmental pollution in Burdwan, West Bengal (Case No. 53/25/2002-2003).*

4.465 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.466 Upon consideration of the report received from the West Bengal Pollution Control Board, the Commission closed the case on 26 April 2006.

30. *Earthquake in Jammu & Kashmir (Case No. 76/9/2005-2006)*

4.467 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.468 The Commission vide proceedings dated 1 May 2006 has directed Registrar (Law) to obtain copy of the Public Interest Litigation pending in the High Court of Jammu & Kashmir titled "Public Interest Litigation Form Vs. State of J&K" with regard to the relief and rehabilitation measures. The requisite information is yet to be received despite reminder.

31. *The case relates to death of two employees of Delhi Jal Board while working in sewer. (Case No. 716/30/2005-2006)*

4.469 This case was earlier reported in the Annual Report for the year 2005-2006.

4.470 The report received from the Chief Executive Officer, Delhi Jal Board, New Delhi is under consideration of the Commission.

32. *Protection of the rights of the Disabled, Case of Shyam Sexana (Case No. 4/0/2005-2006)*

4.471 This case was earlier reported in the Annual Report for the year 2005-2006.

4.472 The Commission, vide its proceedings dated January 13 2006, called for comments from the Secretary, Ministry of Heavy Industries, which have not yet been received despite DO letter by Registrar (Law).

33. *This case relates to levy of charges by AIIMS, New Delhi Case No. 3153/30/2005-2006)*

4.473 This case was earlier reported in the Annual Report for the year 2005 - 2006.

4.474 The information and documents called for by the Commission vide proceedings dated 24 July 2006 from the Secretary, Health and Family Welfare, Government of India are awaited.



# 5

## Economic, Social and Cultural Rights

5.1 Cases relating to Economic, Social and Cultural Rights, which are being handled by this Commission, are brought out in detail in the succeeding paragraphs. These cases relate to violation of the Rights of the Women and Children, Child Labour, Starvation Death, Pollution caused by Industry, Natural Calamities Death of DJB workers in sewer, Protection of the Rights of the Disabled, Violation of Human Rights of SC/ST, Suicide by farmers in Maharashtra and protection of Right to Health.

### A. Right to Health

5.2 The Commission has been deeply concerned with several issues relating to human rights. Under this, the Commission has taken the issue of 'Right to Health' as one of its major concern. The World Health Organisation (WHO) endorses health as a state of physical, mental and social well being. The Right to Health has been enshrined in the Universal Declaration of Human Rights under Article 25 stating, "Everyone has a right to standard of living, adequate for the health and well being of himself and of his family including food, clothing, housing and medical care and right to security in the event of sickness and disability. Further, the International Covenant on Economic, Social and Cultural Rights too under Article 12 recognises "The right of everyone to the enjoyment of highest attainable standard of physical and mental health".

5.3 The Commission has been deeply concerned regarding the shortage of trained medical man power in the rural and remote parts of the country, which is in turn perpetuating poor correctional measures to reduce infant mortality rates (IMR) and maternal mortality rates (MMR). The Hon'ble Acting Chairperson of the Commission vide letter dated 3 January 2007 to the Acting President of Medical Council of India (Annexure 8) convey the concerns of the Commission and recommended that:

- The MCI should design a three-year course for training doctors on basic preventive and curative health services, so that the paucity or non-availability of manpower is taken care of. Another alternative is to have one-year bridge course for doctors of Indian System of Medicine and post them at the CHCs and PHCs.
- There is need to give recognition to 'mid-wife course' and induct more number of local women to practice as mid-wives independently. A 2 - 3 year course

will enable these women to ensure proper pre-natal, ante-natal care and also handle institutional deliveries. This in a way would contribute to reduction in MMR.

- MCI should consider developing 'Emergency Medicine' as a speciality.

5.4 A meeting of the Commission's core advisory group on health was held on 22nd January 2007 to discuss the various issues of concern related to health. The core group discussed the issue concerning the upgradation of the existing health care services in the country and expressed its concern towards the lack of availability of doctors at the primary health centre level. The core group also discussed the issue of the non-availability of drugs at PHC and CHC level. After extensive deliberations, the core group gave its recommendations and suggested that a meeting to review the status of implementation of the recommendations of the commission be organised at New Delhi.

5.5 Accordingly, a National Review Meeting on Health was held on 6 March 2007 at India Habitat Centre, New Delhi. This meeting was attended by Health Secretaries of ten States, Union Secretaries/their representatives of the Ministry of Health and Family Welfare, Labour, Industries, Drug Controller of India, Women and Child Development, members of Core Advisory Group on Health and representatives of Jan Swasthya Abhiyan, a NGO. The meeting was chaired by Dr Justice Shivaraj V. Patil, Acting Chairperson, NHRC.

5.6 After the inaugural session, the national health issues were discussed in the 2nd Session. During this session, various issues including role of ASHA as a community health worker, the issue of user fee and the effect of pulse polio programme on the routine immunization were extensively discussed.

5.7 In the 3rd Session, the States were divided into two groups i.e. Group A and Group B. The Group A was chaired by Justice Mr. Y. Bhaskar Rao and the Group B was chaired by Mr. P.C. Sharma, Hon'ble Members, NHRC. During this Session, the representatives of Jan Swasthya Abhiyan made a presentation on the group situation and on the status of the implementation of the recommendations of the Commission that was followed by response from the respective State Government.

5.8 The recommendations of the National Review Meeting are as follows:

1. To fulfil health rights of citizens, especially in rural areas, there is a need to ensure universal provision of guaranteed health services - particularly services for maternal health, child health, emergency medical care and provision of essential drugs.
2. It is recommended that all non-government employees living in the rural areas be issued a Limited Paying Capacity Card, which will ensure free accessibility to all the essential medical services as is being provided to Below Poverty Line (BPL) cardholders. This card could be issued by the local district administration.
3. To facilitate the provision of these essential services in rural areas, there is a need to have a recognised course for nurse practitioners to ensure availability of independent treatment and specialists like Nurses Anesthetist and Gynecologists in the rural parts of the country. This will definitely have a direct impact on the IMR, MMR and general health status.
4. There is a need for the Medical Council of India and the Nursing Council of India to have a relook and work out a methodology to recognize course for nursing practitioner. It is also necessary for Medical Council of India to have an inbuilt compulsory rural attachment and it may reduce number of years for postgraduate training.
5. There is a need to have a Community Health Worker in every village. Thus, ASHA to be strengthened so that she remains not just motivator but a Community Health Worker capable



- of providing basic health care. Assistance may be taken to make develop a comprehensive training manual.
6. It is recommended that Public Private Partnerships (PPP) be considered in the area of healthcare. However, there is a need to have a regulatory mechanism to ensure quality standards by the private partners and national norms for PPPs, to ensure that all such partnerships fulfil public health goals.
  7. It is also recommended that there is a need to enact a National Clinical Registration and Regulation Act to develop various standards to be observed even by the private institutions running health care facilities. National and State level legislations should include provisions to protect patient's rights
  8. The availability of drugs at affordable price is an essential element to ensure the right to health. Hence, the group strongly recommends a proper drug procurement mechanism to ensure guaranteed availability of all essential drugs at the primary and secondary care level. The Tamil Nadu Model of procurement of essential drugs needs to be taken as a standard by the other states and be executed within a timeframe. Examine issue of stay-order issued resulting in delay in drug procurement.
  9. To create awareness concerning the availability of the essential drugs, the appropriate government may print a booklet having a list of essential drugs, which would be necessarily available at PHC/CHC/District hospitals. This booklet may be printed and be made widely available.
  10. To protect the right to health, the drug be made available at a cheaper rate. It is also recommended that all essential drug and its analogues be placed under the Drug Control Order.
  11. The groups also reiterated the need for rational use of drugs and need for implementing mandatory standard treatment protocols in both public and private sectors to avoid over subscription.
  12. It was also recommended that there is a need to develop 'Emergency Medicines' as a specialty to improve the emergency medical services in the country. The snakebites, dog bites and bleeding be included in emergency services and their respective treatment to be provided to all free of cost. In addition, approval should be given for the use of intradermal rabies vaccination in all facilities at the earliest to enable its universal free availability.
  13. The discussions today has reiterated its earlier recommendations on the issue of Organ Transplantation (**Annexure 2**) and suggested that there is a need to have a follow up on them.
  14. It further noted that silicosis is an occupational hazard and it needs necessary interventions and convergence of efforts of the industries, labour and health departments of the government along with NIOH (Ahmedabad) and NIMH (Nagpur). There is a need to have a comprehensive legislation and operational mechanism to ensure prevention of further cases and care for all the affected persons. Technology like electrostatic dust precipitators needs to be implemented in all hazardous workplaces. Compensation and care should be given to all silicosis affected workers within a short time frame.
  15. Concerning the issue of fluorosis and other water related diseases the core group recommended that to fulfill the right to have potable drinking water, the government be requested to ensure safe potable water to all citizens of the country.
  16. The discussions expressed concern on the drop in the rate of immunization as has been reflected in NFHS III. Thus, it is recommended that the immunization programmes of the Health Departments have the focus to achieve nothing less than 100% immunization. Efforts should

include provision of complete Ante-Natal and Post Natal care. There is also need to take care of key childhood diseases, namely, diarrhea and acute respiratory infections and to provide effective nutritional supplementation to all children to minimize malnutrition.

17. It is recommended that the maternal health services should also focus on adequate treatment of maternal anemia including safe institutional delivery services, health promotion and health education concerning safe motherhood.
18. It is recommended that all States enact a Public Health Act to enshrine the Health Rights of citizens related to public health services and public health conditions.
19. There is a need to have a redressal mechanism to ensure right to health as such it is recommended the complaints received by the Rogi Kalyan Samiti/Monitoring Committees be referred to the respective State Human Rights Commission.
20. There is a need to review pulse polio based eradication strategy and to consider compensation for all children affected by Vaccine Associated Paralytic Polio.
21. The group strongly advocates that improvement is more of a matter of management and good governance than of resource crunch.
22. Steps taken by the Union and the State governments for implementation of the recommended measures may be communicated for periodic review by NHRC.

5.9 The National Public Hearing on Right to Health Care, which was organised by the Commission in the year 2004, developed a National Action Plan to operationalise the right to health care. The various recommendations of National Action Plan have been incorporated in the Mission Document (2005 - 2012) of the National Rural Health Mission of Ministry of Health & Family Welfare.

5.10 In the National Action Plan, it has been recommended to the government to increase the central budgetary provision for public health substantially. The vision of the National Rural Health Mission, as mentioned in its document also mentions about the rise in public spending on health from 0.9% of GDP to 2 - 3% of GDP, which is a reflection of the Commission's recommendations.

5.11 The Commission has recommended that a Public Health Services Act and a Clinical Establishment Regulation Act to regulate the private medical sector be enacted by the Government. The National Rural Health Mission also stressed upon the need to refine the regulation of health services being provided by the private sector.

5.12 Concerning public sector health reform measure, it was recommended by the Commission that the State Governments should take steps to decentralize the health services by giving control to the respective Panchayati Raj Institutions. In the mission document of NHRM, the role of Panchayati Raj Institution has been duly recognised. Panchayati Raj Institution has been involved through Rogi Kalyan Samiti for good hospital management.

5.13 Further, the National Knowledge Commission has constituted a working group on medical education. This group is deliberating upon the various issues of concern recommended by the Commission concerning the right to health care including the issue of strengthening of Panchayati Raj Institution and community based organisations to strengthen the primary health care system.

5.14 During the meeting of Commission's core group on health and in the National Review Meeting on Health, it has been brought to the notice of the Commission that although adequate numbers of doctors are available in the country, the interior parts of the country are not being covered. Therefore, it was

recommended that there was a strong need to ensure the availability of doctors in the remotest parts of the country. Towards this end, it was recommended that there is need to discuss the issue of a three - year course for Nurse Practitioner to ensure availability of nurses, anesthesiologist and gynecologist in the rural areas of the country. The working group of the Knowledge Commission has also recognised that the nurses can make a large contribution in the public health sector health programme. It could be achieved by upgrading their skills and by providing expansion of nurses training programme to include clinical nurse, nurse practitioners and nurse anesthetists. It is also considering the issue of upgradation of nurse professionals to undertake a set of primary health care tasks, presently in the domain of doctors who are often not available in the primary health centre.

## **B. Mental Health**

5.15 There is a common perception that, amongst persons afflicted with disabilities, those with intellectual and psychological impairment are the worst victims of social stigmatisation, discrimination and denial. With a view to protecting human rights of this most vulnerable section of the society, a law (Mental Health Act, 1987) has been enacted (repealing the earlier outdated and inadequate Indian Lunacy Act, 1912 and Lunacy Act, 1977). Successive judgements of the apex court (*Rakesh Chandra Narayan vs Govt of Bihar* WP No 339 of 1986, *Sheela Barse vs Union of India and others*, 1993 4 SCC 204, *Chandan Kumar Barik vs State of WB* 1995 Supp (4)) have gone into the appallingly inhuman conditions of the mentally ill patients in mental hospitals in Bihar and West Bengal and given clear directions as to how their cases are to be handled with care and compassion, dignity and decency.

5.16 Since its inception, NHRC has been deeply concerned with the harrowing conditions prevailing in the mental hospitals all over the country. Many of them function as custodial rather than therapeutic institutions. As a result of the order of the apex court entrusting the responsibility to NHRC on 11 November 1997, it enabled the NHRC to directly intervene and oversee the functioning of the three premier institutions, namely Ranchi Institute of Neuro-Psychiatry and Allied Sciences (RINPAS), Ranchi, the Institute of Mental Health and Hospital (IMHH), Agra and Mansik Arogyasala, Gwalior (GMA). Since then the Chairperson, Members and the Special Rapporteurs of the Commission have been visiting and conducting detailed reviews of the functioning of these institutions and monitoring their performance in the light of directions issued. A number of such visits took place during 2006 - 07. A gist of the status of present performance of these institutions following the visit and review is indicated in terms of time sequence as under:

### *i) Mental Health Hospital, Vadodara*

5.17 Member Dr. Justice Shivraj V Patil accompanied by Mr. Chaman Lal, Special Rapporteur visited Government Mental Health Hospital, Vadodara and carried out an in depth review on 27-04-06. The status of the hospital in terms of performance emerging from the visit and review is as under:

- Bed strength (155 in 1960) has been doubled to 300 – 200 for male and 100 for female patients
- Open ward facilities have been upgraded with reasonably satisfactory facilities for a family member to stay with the patient
- Newly constructed rehabilitation centre building provides accommodation for a Halfway Home in addition to the male OT
- With receipt of liberal grant from Government of India, the physical infrastructure has been upgraded
- All records for different categories of indoor admissions are being separately maintained, though the same cannot be said about the discharged cases.

- There are no casualty/emergency services, as also any short stay ward and ambulance facilities
- The functioning of the OPD has registered significant improvement even though there is only one interview room (as against minimum of four such rooms needed)
- The utilization of bed capacity in the inpatient's service deptt. (IPD) ranges from 105 PC to 123 PC between 1997- 1998 and 2001 - 2002.
- The toilet patient ratio at 1:6 is good, but the maintenance of toilets is poor (without running water and poor sanitation)
- Facilities for supply of potable water are inadequate
- The arrangements in both the kitchen and dining hall were found to be satisfactory
- Significant improvement has taken place in the area of voluntary admissions
- The average length of stay is four months, while 91 out of 221 patients in IPD have stayed for more than 2 years, 54 have completed more than 10 years, and 33 are languishing for more than 15 years. None of them is fit for discharge, as they need long term treatment
- Modified ECT facility is available since September 2002, while one digital EEG machine is lying non-operational (for want of a regular neuro surgeon)
- The hospital does not have facilities for Serum Lithium estimation facility, HIV/AIDs screening and Hepatitis B Screening
- The hospital provides vocational training and gainful employment to 42 patients, 27 male and 15 female, in about 23 trades (12 for male and 11 for female)
- Rehabilitation of patients through occupational therapy, Day care centre, NGOs involvement and Community outreach programme and setting up of a Half-way Home are some of the redeeming features in the management of the hospital under the leadership and direction of a young Superintendent 'with a flair for innovation and creativity'

## ii) *Mental Health Hospital, Goa*

5.18 Special Rapporteur, Mr. Chaman Lal visited the Mental Health Hospital, Goa on 3 and 4 July 2006 and reviewed its performance. The hospital, known as the Institute of Psychiatry and Human Behaviour, was established on 8 August 1980 by amalgamation of the old mental hospital and the psychiatry department Government of Goa, Medical College. Shifting of the Institute from the old building to the new campus at Bambolim, Panajee spread over a large area (about 70 acres), increase of bed strength from 190 to 300, combination of both closed and open wards for both male and female inpatients, a very high percentage of voluntary admissions, emergency services round the clock throughout the week, required space for OPD patients and their relatives with attendant facilities (drinking water, toilets, etc.), 6 independent rooms for interview/screening of OPD patients, decline in average length of stay from 21 to 15 days, conducting specialised clinics (child guidance clinics, ESI clinics, epileptic clinics) on weekly basis, existence of attached toilet and bathroom, satisfactory sanitary facilities for conducting all basic investigations (except thyroid test), existence of modified ECT, reduction in numbers of death, community out-reach programme, medical education, training and research are some of the redeeming features in management of the hospital. Stay of patients in IPD beyond 90 days without obtaining formal permission of CJM, as required under section 19 of Mental Health Act, denial of 100 percent free supply of drugs to all OPD patients languishing in the hospital for 10 to 15 years, occupying 25 percent of the beds, inordinate delay in discharge of patients due to delay in completion of procedural formalities, insufficient food with low calorie value supplied to the patients due to Low percapita expenditure of Rs 20/- (which includes cost of cooking gas) and patients going hungry every day, inadequacy of recreational and occupational therapy facilities, are some of the grey areas in management.

*iii) Gwalior Manasik Arogyasala (GMA)*

5.19 The Special Rapporteur, Dr L. Mishra visited GMA for a day, interacted with the Director, Medical Officers, Paramedical staff, patients and relatives accompanying them and had a thorough review of the performance of the hospital in the light of the guidelines drafted jointly by NHRC and NIMHANS, Bangalore and contained in the publication 'Quality Assurance in Mental Health'. The outcome of the review is as under:

5.20 The constitution of a Managing Committee to facilitate the decision making process, construction of a new Block for OPD with proper seating arrangements and facilities for the patients and relatives accompanying them, commencement of a new and scientific system of registration of patients, thorough examination of all inpatients and meticulous documentation of the outcome of such examination, launching a time-bound campaign to obtain correct postal address of long stay patients/their family members and discharging them after obtaining such address with a view to reducing overcrowding, adequacy and effectiveness of all support services available (modified ECT, emergency psychiatric services, extension services, etc.), adequacy of amenities for inpatients in shape of access to good quality food, inpatients taking food on the dining table, observance of due nutritive and calorie value in breakfast, lunch and dinner, adequacy of lighting, ventilation, potable water, conservancy services, pathological laboratory to conduct tests for the barest minimum number of items, procedure for indenting and storage of drugs, cleanliness, regular change of dress and linen, library, telephone services, occupational therapy and Half-Way Homes are amongst the redeeming features.

5.21 Persistence of a large number of vacancies in various positions for a long time, inordinate delay in filling up the posts, absence of any scientific arrangement for collection of hospital waste, limited space in the documentation centre and delay in computerization of old records, a state of overcrowding due to existence of more beds in wards than what they can accommodate, absence of any arrangement for family members to stay with patients in the open ward, the problem of long stay of patients (ranging between 1 to 15 years) persisting for quite some time, a large number of patients leaving the hospital unilaterally of their own but against medical advice (LAMA), absence of a professional dietician to advise hospital management on nutrition aspect of food, absence of a mechanized kitchen and laundry, difficulty in discharging undertrial prisoners who were earlier mentally ill but who have now been declared fit to be discharged due to bureaucratic red-tapism, the problem of lack of social acceptability of certain patients who have been effectively treated and fast on the way to recovery in a stigmatized society are some of the grey areas in the management of the hospital.

5.22 At the end of the review, the reviewing officer has left a number of suggestions and recommendations that have been communicated to the State Government and hospital authorities for compliance.

*iv) Psychiatric Centre, Jaipur*

5.23 Member Mr. P.C. Sharma and Special Rapporteur Dr. L. Mishra paid a visit to Psychiatric Centre, Jaipur on 30 and 31 January 2007 and conducted a thorough review of the performance of the centre on the basis of a detailed checklist of points mostly resting on the guidelines contained in 'Quality Assurance in Mental Health'. The outcome of the review is as under:

5.24 Progressive evolution and growth of the psychiatric centre over the years since inception in 1952, recognition of the centre as a P.G. teaching department In 1980, number of P.G. students (80) who have passed out so far, increase in bed strength from 150 in 1952 to 316 now, existence of two well managed OPDs one for the centre and another for the SMS hospital, adequacy of space both for the OPD and IPD, adequacy of facilities and amenities both at the OPD and IPD, impact of qualitative counselling of patients

– both during pre-admission and post-discharge stages, a mechanism for grievance ventilation and redressal, a full-fledged pathological laboratory to conduct all necessary and desirable blood tests, facilities for ECG and X-ray, adequacy of stock of medicines indented and stored, a separate rehabilitation centre for occupational therapy are some of the redeeming features of management of the Centre.

5.25 Amongst the grey areas the following deserve special mention:

- About 12,000 square meter area of the hospital has been occupied unauthorizedly by a set of anti-social elements. The illegal human settlement (called katchi basti) is a source of pollution, crime, theft of hospital property and detrimental to the smooth management of the hospital.
- Contrary to the trend observed elsewhere, the number of voluntary admissions in the Psychiatric Centre, Jaipur is declining.
- The gap between lunch and dinner and between dinner and breakfast is much longer than what it should be.
- Power supply is both erratic and inadequate. Power cuts are frequent. Power back-up is not available for all the wards in the hospital.
- There is no provision for supply of hot water in winter months to the patients, and the latter have to take bath with fresh water even if the same is quite cold.
- The quality of services available in the canteen is not satisfactory.
- The state of affairs relating to repair and maintenance of the building by the State PWD is not satisfactory.
- The cleanliness of the building is a serious problem.
- The arrangement for occupational therapy is not separate for male and female patients. The Instructors are also not different. There is no arrangement for sale of products made in the OT wing.
- There is no psychiatric indoor ward for dealing with the problems of mentally ill children. Putting such patients with attendants in the open wards by an interested agency is not a very happy arrangement.

5.26 At the end of the review, NHRC Member made the following suggestions for improvement in the management of the hospital:

- Member met the Chief Minister, Rajasthan and pleaded for urgent steps to be taken for removal of encroachment. The Chief Minister spoke to Vice Chairman, Jaipur Development Authority for prompt administrative action. The Superintendent of the Centre was requested to furnish full details of the area encroached to the Vice Chairman, Jaipur Development Authority and follow up.
- All vacant posts should be got filled up by constant follow-up with the Secretary, Medical Education Department, Government of Rajasthan.
- In view of the rapid increase in the number of OPD patients (both old and new) the hospital management should go in for computerization of records of OPD and IPD patients.
- Power back up should be available for all wards.
- The toilet patient ratio needs improvement.
- The standard of cleanliness of the hospital should improve. Tighter control should be exercised over the agency to which this task has been outsourced.
- The State PWD needs to be more vigilant about proper repair and maintenance of the hospital building. The old sewer lines should be changed.

- There should be separate male and female sections in the occupational therapy. Instructors should also be different. There should be organised effort for sale of finished products.
- There is urgent and imperative need for a 40-bedded exclusive Psychiatric Ward to deal with mentally ill children.

v) *Ranchi Institute of Neuro Psychiatry and Allied Sciences (RINPAS)*

5.27 Special Rapporteur, Dr. L. Mishra paid a visit to RINPAS from 25 to 27 February 2007. He decided on the strategy and methodology of review of performance of RINPAS only after consultation with the Director, Brigadier (Prof.) R.N. Chakraborty. He interacted extensively and intensively for two days with the Director, all faculty members, para medical staff, patients and their relatives and the outcome of the review conducted by him is as under:

5.28 Both in terms of physical infrastructure as also in terms of range and quality of therapeutic services, facilities and amenities, RINPAS, Ranchi has registered rapid progress and improvement. The progress and improvement have been particularly discernible since NHRC, in pursuance of the directions of the Apex Court on 11 November 1997 started closely monitoring the performance of RINPAS and issued directions to bring about a qualitative change in the overall management. Some of the redeeming features of these changes may be explained as under:

- The Board of Management has been reconstituted as per Apex Court's direction with Divisional Commissioner, South Chotanagpur as Chairperson and with 11 Members including Director, RINPAS as Member Secretary. As many as 11 functional Sub-Committees have been formed with a clear delineation of mandate. This has streamlined and accelerated decision making process, timely implementation of the decisions and achievement of the desired results.
- In regard to physical infrastructure and with the support of the Board of Management, a number of new items of work with a functional orientation have been taken up and completed and all the blocks of RINPAS wear a refreshingly new look which are also neat and tidy.
- Distribution of work within RINPAS (OPD, IPD, biochemical lab, general store, medical store, diagnostic centre, agriculture, horticulture, dairy and poultry units, occupational therapy, library, canteen, etc.) and outside RINPAS (satellite clinics, community mental health) has been streamlined. There is clear division of responsibility and accountability.
- The space available for OPD patients and relatives accompanying them is adequate with a proper sitting arrangement and provision of all facilities and amenities.
- Over the years, there is significant increase in OPD attendance, which is a reflection on the care and attention given to the patients, quality of service rendered and effectiveness of treatment.
- A computerized database of all OPD patients has been taken up from December 2006.
- A systematic and time bound programme for complete computerisation of all activities in all departments/wings has been drawn up.
- Meticulous care is being taken to check weight and all other parameters such as blood pressure, pulse, temperature, TLC, DLC, ESR, Haemoglobin, HIV/non-reactive, etc.
- Support services, facilities and amenities (drinking water, conservancy services, laundry, kitchen, dining hall, canteen, bakery unit, lighting and ventilation, power back-up, telephone connectivity, biomedical waste management, library, patient's library, other recreational avenues, etc.) are adequate and satisfactory.
- The bio-chemical/pathological laboratory is well equipped to carry out all the standard blood profile tests.

- The occupational therapy and rehabilitation units are fully equipped, are imparting instructions in as many as 25 skills/trades for males and 23 skills/trades for females, the instructors (separate for male and female) are qualified, experienced and committed to their tasks. Both the instructors and the learners have the desired willingness, opportunity, responsibility and knowledge (WORK).
- On account of excellent management of Occupational Therapy (OT) unit as also that of agriculture, horticulture, dairy and poultry units RINPAS is completely self-sufficient.
- The community outreach as well as awareness programmes have been well conceptualized and well executed.
- Of all the 37 mental hospitals located in different parts of the country, RINPAS alone has fulfilled the directions of the Apex Court in all the five areas as under:
  - Diagnostic and therapeutic facilities for mental patients;
  - Social and occupational rehabilitation of mental patients;
  - Professional and Para-Professional training in the field of Psychiatry, Clinical Psychology, Psychiatric Social Work and Psychiatric Nursing;
  - Expansion of mental health services at community level by providing training to medical and para medical personnel in the field;
  - Research in behavioural sciences.

5.29 The faculty of RINPAS has participated in a large number of conferences, seminars and symposia – both national and international, have contributed a very large number of papers, many of which have been published and have also brought out a number of useful books. The new Academic Block at an estimated cost of Rs. 5.25 Crores is getting ready and, additionally, it is proposed to raise a Convention Centre at an estimated cost of Rs. 35 Crores. The Government of Bihar owes to the Government of Jharkhand a sum of Rs. 27,93,20,292/- and, if this amount could be voluntarily paid, it would go to a long way in accelerating the work of the proposed Convention Centre.

*vi) Institute of Mental Health and Hospital, Agra*

5.30 The Special Rapporteur, Dr. L. Mishra visited IMHandH, Agra from 14 to 16 February 2007 and conducted a thorough review of its performance in all the relevant areas of treatment, training, teaching and research. Like RINPAS, Ranchi IMHandH, Agra has also been formally declared as an autonomous institution by the Government of U.P. w.e.f. 15 August 1994. There are a number of redeeming features in the management of the hospital as observed by him in course of review and these are as under:

- The layout of the hospital with good driveways, small pavements surrounded by grassy lawns with a picture of green all around is excellent. The hospital is located in a very large area (172 acres) with adequate security, lighting and ventilation.
- All cases right from OPD to the wards (open as well as closed wards), admission, counselling and discharge are being attended to with utmost urgency and with minimal waiting period for patients.
- Through prompt handling of cases and an intensely humane approach, the Director, other Psychiatrists, Clinical Psychologists, social workers, para-medical staff have been able to generate the trust and confidence in the mind of the patients and their relatives.
- Several patients who were discharged from the hospital and who have come again for follow-up have been effectively treated, have regained their normal health and are able to manage their lives on their own.



- The quality of counselling – both drug and behaviour related is very good. It promotes awareness among the patients and relatives about importance of timely compliance. It instills a lot of hope in their minds that not all is lost and that there is always hope for resurrection.
- A good number of messages written in simple and colloquial Hindi of interest and relevance to mentally ill persons have been displayed at a number of conspicuous points.
- Several lives of patients have been saved due to timely intervention of the nursing staff.
- Observance of all norms and criteria and scales of diet, change, dress, linen, mattresses, protective warm clothing is encouraging.
- Through installation of incinerator and auto clave, the hospital has ensured scientific management of hospital waste material.
- All supplies and services, facilities and amenities with the hospital for the IPD patients (modified ECT, EEG, bio-chemical/pathological tests, supply of potable water, conservancy services, training imparted in the occupational therapy, laundry services, etc.) are of good quality.
- The most outstanding redeeming feature is the rapport and bonhomie that has been, established between the Head of the Hospital, other supervisory officers, supporting staff and the dignity and decency with which patients and their relatives are being treated.

5.31 There are certain grey areas, which also need attention and action. These are:

- The present building is very old and the existing arrangement for repair and maintenance of the building by the State PWD is not satisfactory.
- The waiting space in the OPD for the relatives of patients is inadequate (barely sufficient for 50 whereas the minimum space needed in for 150, for a hospital of the size of Agra).
- The dispensing unit is not an integral part of OPD (as in GMA, RINPAS, Jaipur). Relatives of the dispensing room have to walk about 1/3rd of a kilometer to the dispensing room to collect medicines leaving the patient alone in OPD.
- A part of the Institutes land, which is outside, is under encroachment. This inhibits proposals for future expansion and growth of the hospital.
- The overhead tank of the hospital with a capacity of 15 lakh litres is in a precarious condition. The supporting beams have developed cracks. Being very old, no repairs are possible. We have to go in for a total replacement of the tank.
- Current arrangements for supply of power are both erratic and inadequate. There are problems of severe fluctuations in supply and low voltage.
- There is no proper mechanism for ventilation and redressal of the grievances of the staff.
- There is a clear note of dissatisfaction amongst the patients with the quality of chappatis, which are being served for dinner.
- The Institute has submitted a proposal for certain courses like M.D. (Psychiatry) to Dr. B.R. Ambedkar University for affiliation. The University is sitting over this proposal for a long time.
- The experience of getting quality referral services from S.N. Medical College has not been very encouraging either.

## **Silicosis**

5.32 The Commission has been deeply concerned regarding the issue of silicosis. This issue came up during the discussions in the National Review Meeting on Heath held on 6 March 2007 in New Delhi.

5.33 The Commission noted that the silicosis is an occupational hazard and it needs necessary intervention and convergence of efforts of the Industries, Labour and Health departments of the Government along with the National Institute of Occupational Health (NIOH), Ahmedabad and the National Institute of Miners Health (NIMH), Nagpur. There is a need to have a comprehensive legislation and operational mechanism to ensure prevention of such cases in future apart from care for all the affected persons. The Commission insists that technology like Electrostatic Dust Precipitators should be implemented in all hazardous workplaces. Compensation and care needs to be given to all silicosis affected workers within a short time frame.

5.34 In pursuance of the above, the Commission has constituted a committee to discuss the issue of silicosis under the leadership of Dr. Justice Shivaraj V. Patil, Hon'ble Member, and NHRC.

5.35 The other members of the committee are:

1. Secretary, Deptt. of Industrial Policy & Promotion, Ministry of Commerce & Industries, Government of India
2. Secretary, Ministry of Labour & Employment, Government of India
3. Secretary, Ministry of Health, Government of India
4. Director, National Institute of Occupational Health, Ahmedabad
5. Director, National Institute of Miners Health, Nagpur

5.36 The committee will look into the various aspects of the problem and suggest remedial measures.



# 6

## Rights of Persons with Disabilities

### Development of Indian Sign Language for Deaf Persons

6.1 The Commission has been deeply concerned regarding the rights of persons with Disabilities. The Commission in the year 2003 considered the representation from the Delhi Association of Deaf on the discrimination being faced by persons with hearing impairment alongwith the comments of Special Rapporteur, NHRC. Thereafter, a proposal entitled “Indian Sign Language for Deaf Persons” was developed.

6.2 Thereafter, a series of meetings of potential partners in development of the project have been held in the Commission. In these meetings, it was decided that National Institute of Hearing Handicapped (NIHH), Mumbai could be selected as the nodal institution and project would be based at NIHH, Mumbai.

6.3 The project was launched by a video conferencing between Delhi, Mumbai and U.K., which was followed by a visit of team to U.K. for study tour organised by the British Council.

6.4 The team consists of Dr. R. Rangasayee (NIHH), Ms. Meher Sethna (NIHH), Prof. Vaishna Narang (JNU), Mr. D.S. Chauhan, (Delhi Association for the Deaf), Dr. Onkar Sharma (All India Federation of the Deaf) and Ms Kalpana Das (British Council).

6.5 Further, a meeting of the potential partners of the project was held on 26 May 2006 in the Commission chaired by the Joint Secretary, NHRC. It was decided that the project would be known as “Common Sign Language for Deaf Children”. It was informed in the meeting that the Ministry of Social Justice and Empowerment has approved an amount of Rs. 24/- lakhs for this project and NIHH, Mumbai was requested to provide financial assistance to JNU, New Delhi in addition to develop technical vocabulary of sign language by the end of 2006 by JNU. Further, the calendar of events submitted by the Director, NIHH, Mumbai will be redrawn and, thereafter, it will be submitted to NHRC. Finally, the NHRC will play the role of a facilitator throughout the tenure of the project.





# 7

## Rights to Food

7.1 The National Human Rights Commission has consistently maintained that the Right to Food is inherent to living a life with dignity. The Commission has expressed that the Right to Food includes nutrition at an appropriate level. It also implies that the quantum of relief to those in distress must meet those levels in order to ensure that the Right to Food is actually secured and does not remain a theoretical concept. The Commission is of the view that mortality alone should not be considered as the effect of starvation, but destitution and the continuum of distress should be viewed as indicators demonstrating the prevalence of starvation. There is thus an accompanying need for a paradigm shift in public policies and relief codes in this respect.

7.2 The Supreme Court of India on 26 July 1997 directed that, since NHRC is seized of the matter and it is expected to deliver some order, the petitioner could approach the Commission. Realising the urgency of the matter, the Commission, acted quickly and initially prepared an interim measure for the two years period and requested the Orissa State Government to constitute a committee to examine all aspects of the land reform question in the KBK Districts. The Commission observed that, as starvation deaths reported from some pockets of the country are invariably the consequence of mis-governance resulting from acts of omission and commission on the part of the public servant, the Commission strongly supported the view that to be free from hunger is a fundamental right of the people of the country. Starvation, hence, constitutes a gross denial and violation of this right.

7.3 Pursuant to the orders of the Supreme Court and in order to ensure that every one is free from hunger, the Commission re-constituted a Core Group on the Right to Food on 2 January 2006 with experts in the field and a Small Group in the Commission to crystallize the suggestions made by the Core Group. The first meeting of the Core Group was held in the Commission on 13 January 2006. The second meeting of Core Group was held on 15<sup>th</sup> September 2006 in the Commission. These groups formulated some recommendations, which were placed before the Commission. The Commission approved some recommendations on the Right to Food to ensure the proper distribution of foodgrain and proper implementations of Government schemes. Food should not be based on quantity but on calories of energy. Ensuring the nutrition level, food available locally must be utilised, to clarify insisting on uniform pattern, and flexibility to use local coarse grain like ragi etc. should be permitted.

7.4 The Commission is in process of identification of 200 (government and public sector) organisations with expertise to deal with malnutrition across the country to monitor the distribution mechanism independently. The role of 200 organisations would not be day-to-day monitoring, but to see at ground level that things are moving properly. 'Independent Evaluators and Facilitators' is the expression, which can be used for the 200 organisations.

7.5 The system of delivery may be firmed up by active involvement of panchayati raj, institutions, with zero tolerance, i.e. ensure that there is no case of malnutrition and starvation in a panchayat. All Gram Panchayats must be held accountable under all the schemes. People should know what are the schemes and benefits available to them. The Panchayats should notify by displaying billboards in their office/ prominent places. There is a need to dovetail with employment generation schemes and other interventions to ensure sustainable livelihood.

7.6 The Commission's recommendations have been forwarded to the Central/State governments for compliances/implementation. The responses are being received from the States. The Government of Madhya Pradesh informed that Women and Child Development Department have issued instructions to provide nutritious, good and tasteful local food. The Administration is aware that there should not be any death due to hunger. The provision of food fund has been made in the villages. Each tehsildar is authorised to incur up to Rs.40,000/- in emergency, so that there should no death of children and older persons. The Government schemes have been displayed for information of general public on the outer walls of the Panchayat Bhavan. Madhya Pradesh Gramin Rojgar Guarantee Yojana has been implemented in 18 districts of the State. The Panchayat & Rural Development Department of M.P. has instructed all district collectors and CEOs of Zila Panchayat to cooperate and provide support to the evaluators identified by NHRC. Under the mid-day meal scheme nutritional norms of the food served to a student are 450 Calories and 15-20 gram protein. The mid-day meal scheme has been dovetailed with the employment generation opportunities. Self help groups have been associated with the overall implementation of the scheme and other allied activities like wheat grinding, vegetable production, etc.

7.7 The Government of Uttar Pradesh has informed that the Panchayati Raj Department has issued guidelines to all the District Magistrates to restrict the cases of hunger death and malnutrition in the State. DMs have to implement the government schemes in an effective manner so that eligible persons at village level are benefited. The Government schemes may be publicised through Panchayats. Effective implementations of the government schemes may also be discussed in the Panchayat meetings.

7.8 Union Territory of Daman & Diu was informed that they strictly follow the ICDS manual & instructions issued by the Ministry from time to time. As per the Manual, the scheme aims to improve the nutrition and health status of vulnerable groups including pre-school children, pregnant women & nursing mothers, adolescent girls by providing services including supplementary nutrition, pre-school education, Immunization, regular health check-up, nutrition & health education etc. At present, no malnutrition and starvation case existed/reported in the AWCs as well as in a Panchayat in the UT of Daman & Diu.



# 8

## Rights of Women and Children

8.1 Dr. Justice Shivaraj V. Patil, Acting Chairperson of the Commission continued to serve as the focal point on Human Rights of Women, including Trafficking during the course of the year under review. The focal point dealt with a number of issues pertaining to rights of women including prevention and combating of trafficking in women and children.

### A. Rights of Women

#### i) Trafficking in Women and Children

##### 1. *NHRC's Plan of Action to Prevent and End Trafficking in Women and Children in India*

8.2 In the preceding Annual Report of the Commission, it was reported that the Commission had evolved a comprehensive Plan of Action to Prevent and End Trafficking in Women and Children in India based on the recommendations and suggestions of the Action Research Report on Trafficking in Women and Children in India, that was conducted in collaboration with UNIFEM and the Institute of Social Sciences, New Delhi and the Report of the National Workshop to Review the Implementation of Laws and Policies Related to Trafficking ("Towards an Effective Rescue and Post-Rescue Strategy"). was conducted in collaboration with PRAYAS, a field action project of the Tata Institute of Social Sciences Mumbai.

8.3 This Plan of Action was also forwarded to the Secretaries of the Department of Women and Child Development of all the States/Union Territories for taking appropriate action to prevent and end trafficking at their end. Besides, the Plan of Action was forwarded to the Secretary/Joint Secretary in the Ministries of Home Affairs, Tourism and Culture, Labour and Employment, Women and Child Development and the National Commission for Women. The Commission reports with extreme dissatisfaction that except for the States of West Bengal, Madhya Pradesh and Gujarat, none of the other States/Union Territories have taken pains to report back to the Commission about the action taken by them on the Plan of Action. The details of the action taken reports of the above three States are at Annexure 1.

8.4 The Commission intends to follow-up the matter with all those States/Union Territories who have failed to send in their action taken report on the NHRC's Plan of Action.

## 2. *Formulation of an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women*

8.5 The National Human Rights Commission, Ministry of Home Affairs, Ministry of Women and Child Development, National Commission for Women and the UNICEF, took a collective decision in September 2006 to work in unison and draw up an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women. According to all concerned, this collective effort would not only bring in convergence in the various initiatives undertaken by them but also yield better results to facilitate uniform action in eliminating the problem of trafficking from its very roots.

8.6 Correspondingly, based on the field experiences of all concerned, a draft Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women was evolved and it was collectively decided that before the same was finalised, it needed to be discussed with all stakeholders in the field. For this purpose, three regional workshops were held in Guwahati, Hyderabad and Goa. These workshops also helped to identify qualitative and quantitative targets that would enable implementation of the Integrated Plan of Action, once the same was finalized.

8.7 The Guwahati regional workshop had participants from the States of Assam, Manipur, Meghalaya, Tripura, Arunachal Pradesh, Nagaland, Mizoram, West Bengal and Sikkim. The Hyderabad regional workshop catered to the four Southern States – Andhra Pradesh, Karnataka, Kerala and Tamil Nadu. Besides, it had participation from the State of Orissa and Union Territory of Pondicherry. The Goa regional workshop had participation from Maharashtra, Madhya Pradesh and Goa.

8.8 In order to finalise the draft Integrated Plan of Action, it is proposed to have a National Workshop at Delhi on 14 July 2007.

## 3. *Issue of Incentives/Disincentives in the Population Policies of State Governments vis-à-vis the National Population Policy 2000.*

8.9 In the preceding Annual Report of the Commission, it was reported that the population policies framed by some of the State governments had a coercive approach by way of incentives/disincentives that was inconsistent with spirit of the 2000 National Population Policy and that a decision had been taken by the Commission to constitute a Working Group to examine this whole issue from the perspective of 'human rights'. Further, the Commission had requested Mr. A. K. Shiva Kumar, Advisor to UNICEF India, to be the Convenor of the Working Group. Besides, it had also requested the National Commission for Women and the National Commission for Minorities to suggest one nominee each in the Working Group. The Commission expressed its satisfaction when all the concerned had given their acceptance to be part of the Working Group. The National Commission for Minorities nominated Mr. A. Banerji, Joint Secretary, from their Commission, whereas Mrs. Romi Sharma, Under Secretary, represented the National Commission for Women. The other members of the Working Group were (i) Dr. Abhijit Das, Director, Centre for Health and Social Justice, New Delhi; (ii) Mr. A. R. Nanda, Executive Director, Population Foundation of India, New Delhi; (iii) Dr. Mohan Rao, Professor, Centre of Social Medicine and Community Health, Jawaharlal University, New Delhi; (iv) Dr. Abusaleh Shariff, Chief Economist and Head, Human development Programme, National Council of Applied Economic Research, New Delhi; and (v) Dr. Rajani Ved, Independent Public Health Consultant, New Delhi.

8.10 The first meeting of the Working Group was held on 12 of July 2006 in NHRC. In the said meeting, it was deliberated that the International Conference on Population and Development (ICPD)



that was held in Cairo in the year 1994 was a milestone in the history of population and development as well as in the history of women's rights. This is because it heralded a paradigm shift in the approach to population and development, placed women's equity and equality centre stage and introduced the importance of rights based programming. The Programme of Action (PoA) that emanated out of the ICPD also declared that reproductive health and reproductive rights could not be realised without a concomitant fulfillment of women's human rights. The ICPD-PoA, undoubtedly, has garnered all efforts to bring about a qualitative change in policy focus from population control rationale and objectives to that of women's reproductive health and rights within a broad framework of primary health care. The Working Group was of the view that the 2000 National Population Policy, drawing upon the ICPD-PoA, too had resolutely affirmed the commitment of the Government towards "voluntary and informed choice and consent of citizens while availing of reproductive health care services, and continuation of the target free approach in administering family planning services". These commitments for human rights and the freedom and dignity of women had been translated into a non-targeted family welfare programme, which rightly abjured incentives and disincentives. Despite all this, several State governments had formulated their own State specific population policies. Unfortunately, most of these deeply reflected the population control mindset viewing population growth as human crisis and were thus more forthright in methods of achieving demographic goals by listing series of incentives and disincentives. The Working Group expressed that there was sufficient data and documentation to establish that the disincentives tended to be coercive. Moreover, the disincentives always affected the poor and the downtrodden, especially those who belonged to the Scheduled Castes/Tribes and other backward classes in comparison to those other sections of the society.

8.11 The Working Group thus felt that apart from examining the population policies enacted by various State governments, it would be pertinent to examine other related issues intrinsic to women's empowerment and empowerment of other marginalised sections of the society. Besides, it would focus on the issue of dwindling sex ratio, especially between 0-6 years age group as well as the issue of safe, effective, user-friendly and affordable 'basket of choices' for stabilising the population, so that the State governments are weaned away from laying emphasis on incentives/disincentives in the State population policies.

8.12 The Working Group also decided to co-opt the following five experts:

- Dr. 'Abhijit Das, Director, Centre for Health and Social Justice, Lucknow
- Dr. Mohan Rao, Associate Professor (Social Sciences), Centre for Social Medicine and Community Health, Jawaharlal Nehru University, New Delhi
- Mr. A. R. Nanda, Executive Director, Population Foundation of India, New Delhi
- Dr. Abusaleh Shariff, Chief Economist, National Council for Applied Economic Research and Member Secretary of Prime Minister's High Level Committee on Muslims, New Delhi
- Dr. Rajani Ved, Public Health Specialist, New Delhi.

8.13 The second and third meetings of the Working Group were held in the Commission on 17 August and 8 September 2006. In these meetings, it was decided that the Working Group would submit to the Commission a report along with a Plan of Action and a questionnaire that could be used as a device by the NHRC for monitoring the whole issue of State population policies vis-à-vis the National Population Policy.

8.14 The final Plan of Action proposed and submitted by Working Group is enclosed at Annexure 9.

## 2. *Combating Sexual Harassment of Women at the Workplace*

8.15 In pursuance to the Vishaka guidelines issued by the Apex Court with regard to prevent and combat sexual harassment of women at the work place in all the States and Union Territories. In this

regard, all the State governments and Union Territories have constituted Complaint Committees and amended the Conduct Rules for their employees.

## **B. Rights of Children**

8.16 During the year under review, Mr. P. C. Sharma, Member of the Commission was assigned the portfolio of 'child rights'. Under his able guidance, the Commission, in particular, focused on the issue of juvenile justice in India.

8.17 The purpose of setting the same is to provide objective-guidelines for the police authorities and for the district administration to handle issues related to missing children like Nithari incident under law and implementation to ensure immediate and effective action and intervention.

### **i) Juvenile Justice**

#### **1. *National Conference on Juvenile Justice System in India***

8.18 The Commission, ever since it was set up in October 1993, has been concerned about the plight of children who are in conflict with law and those who are in need of care and protection. The Policy Research, Projects and Programmes Division of the Commission is also involved in the monitoring of the status of the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000. During the course of its monitoring, it was brought to the notice of the Commission that in many States/Union Territories, the adjudicatory bodies consisting of the Juvenile Justice Boards and Child Welfare Committees had not been constituted at all or their numbers were insufficient vis-à-vis the need. In many States/Union Territories, the institutional mechanism consisting of the Special Juvenile Police Units and other institutions required under the Act were not in place either.

8.19 In order to understand the existing situation of the juvenile justice system in the country, and the fact that an amendment to the said Act was brought in 2006 to cover up the gaps existent in the 2000 Act, the National Human Rights Commission organised a two-day National Conference on Juvenile Justice System in India at the Conference Hall of the Indian Institute of Public Administration, New Delhi on 3 and 4 February 2007.

8.20 The main objectives of the conference were:

- a) To analyze the existing situation of children in especially difficult circumstances
- b) To analyze the existing status of juvenile justice in India with regard to human rights standards
- c) To critically appraise the emerging issues in the juvenile justice system and suggest alternate measures in terms of investigation, adjudication, disposition, care treatment and rehabilitation
- d) To develop appropriate linkages and coordination between the formal system of juvenile justice and voluntary agencies engaged in the welfare and development of children in need of care and protection or those in conflict with law.

8.21 The conference was attended by Judicial Officers, Members of Child Welfare Committees/Juvenile Justice Boards, senior officers/representatives of State Governments/Union Territories, Academicians, senior/middle level representatives of international/non-governmental organisations and members of the civil society. 120 delegates attended the conference.

8.22 The two-day conference deliberated on four major themes having a direct bearing on the functioning of the juvenile justice system in the country in four plenary sessions. These were:

a) *Situational Analysis of Children*

- Existing Situation of Children in Especially Difficult Circumstances
- Existing Status of Juvenile Justice and Human Rights Standards

b) *Emerging Issues in Juvenile Justice System*

- Evolving Best Practices for Protection of Children
- Strengthening Mandatory Statutory Mechanisms at the Pre-Ad-judicatory Stages
- Evolving and Strengthening Non-Institutional Services for 'Children in Need of Care and Protection' & 'Children in Conflict with Law'

c) *Children in Conflict with Law: Adjudication and Dispositional Alternatives – A Critical Analysis*

- Key Operational Concerns with Specific Recommendations for Improvement
- Issues Concerning Delay in Adjudication and Shortfalls in Dispositional Alternatives

d) *Community Based Models for Care and Protection for Children – Case Presentations*

- Socio-Legal Information Centre's Initiatives in the Area of Juvenile Justice
- Bal Sakha's Initiatives in the Area of Juvenile Justice

8.23 Plenary Session V was devoted to Preparation of an Action Plan for bringing about improvement in the functioning of the juvenile justice system in the country, wherein the delegates focussed on four broad topics as given below :

- a) Due Process Guarantees and Legal Aid/Support to Children in Conflict with Law
- b) Formulation of a Monitoring System for the Administration of Juvenile Justice
- c) Developing Appropriate Linkages between the Juvenile Justice System, NGOs, Corporate Sector and the Civil Society for Rehabilitation and Reintegration of 'Children in Conflict with Law' and 'Children in Need of Care and Protection'
- d) Developing Appropriate Strategies and Structures for Wide Range of Dispositional Alternatives for 'Children in Conflict with Law' and 'Children in Need of Care and Protection'

8.24 It was strongly recommended that there is a need to prepare Bench Books/Manuals/Hand books containing guidelines about:

- Process of Institutionalization
- Role of professionals/ other cadres involved in the juvenile justice system
- Child as a witness
- Case Management of juvenile before trial.
- Case Management of juvenile during trial.
- Child as a victim/plaintiff
- Child as an accused
- Release, rehabilitation and reintegration
- Role of Advisory Boards/visitors
- Community Based Practices, etc.

## 2. *Follow-up of the National Conference on Juvenile Justice*

8.25 The National Conference on Juvenile Justice System in India that was organised by the Commission from 3 to 4 February 2007 that brought to the forefront many loopholes with regard to the treatment being meted out to children in conflict with law and those in need of care and protection. For instance, as

per the Juvenile Justice Law, all inquiries pertaining to a juvenile in conflict with law have to be completed within a period of four months by the Juvenile Justice Board. In reality, this was not so as many juveniles were found to be languishing in Observation Homes beyond four months as these inquiries were pending with the Juvenile Justice Board. In order to have first hand information about the exact number of children in conflict with law who were under detention in the Observation Homes beyond a period of four months across the country, the Commission on 12 February 2007 called for information from all the States/Union Territories along with the date of apprehension by the police and the date of remand to the said Observation Homes by the Juvenile Justice Boards. In addition, the Commission also enquired from the Secretaries of the concerned Ministries/Departments, the duration of the stay of these children and the reason for their confinement therein.

8.26 Similarly, it called for information relating to children in need of care and protection along with the date of the orders passed by the Child Welfare Committees to various Homes meant for them and the duration of their stay therein.

8.27 At the time of writing of this report, information had been received from the States of Gujarat, Haryana and Meghalaya and the Union Territory of Lakshadweep. It was shocking to learn that in the Observation Home located at Sonipat in the State of Haryana, there were more than 57 boys whose inquiries were still pending with the Juvenile Justice Board as on 25 February 2007. Out of these, many children had been apprehended by the police and remanded to the Observation Home by the Juvenile Justice Board way back in 2004 and 2005. In Meghalaya there were 10 boys as on 7 March 2007 whose inquiries had not been completed by the Juvenile Justice Board and as such they continued to stay in the combined Observation-cum-Special Home meant for them at Shillong. Few of these boys were languishing in the said home from the year 2005. The Government of Lakshadweep has informed that in their Union Territory, there were no children who were in conflict with law and that the State did not have any Observation/Special Homes for children. The information provided by the Government of Gujarat is inconclusive.

8.28 The Commission intends to follow-up this matter with the remaining State governments/Union Territories who have not furnished the requisite information about these children.

### 3. *Visit to Prayas Observation Home for Boys at Delhi Gate, Juvenile Justice Board and Observation Home for Boys –II at Sewa Kutir Complex, Kingsway Camp, Delhi*

8.29 As a follow-up of the National Conference on the Juvenile Justice System in India that was organised by the National Human Rights Commission at New Delhi on 3 and 4 February 2007, Mr P.C. Sharma, Member, NHRC along with Dr. Savita Bhakhry, Senior Research Officer in the Commission visited the following three institutions in February 2007:

- i) Prayas Observation Home for Boys at Feroz Shah Kotla, Delhi Gate
- ii) Juvenile Justice Board, Sewa Kutir Complex, Kingsway Camp, Delhi
- iii) Observation Home for Boys – II, Sewa Kutir Complex, Kingsway Camp, Delhi

8.30 The main objective of the visit was to oversee the functioning of the Observation Home for Boys located at Feroz Shah Kotla, Delhi Gate and Sewa Kutir Complex at Kingsway Camp, Delhi as well as the operation of the Juvenile Justice Board located in the Sewa Kutir Complex, Kingsway Camp itself.

#### 1. *Visit to PRAYAS Observation Home for Boys*

8.31 The PRAYAS Observation Home for Boys caters to boys between the ages of 10 to 18 who have been charged with some kind of an offence or have committed some kind of a crime, petty or heinous, and

are awaiting trial. The Government of Delhi earlier ran the Home. The management of the Home was taken over by PRAYAS, an NGO working for rehabilitation of juveniles in conflict with law and children in need of care and protection, in the year 1997.

8.32 As per the Act, the Observation Home is a place of temporary reception for any juvenile in conflict with law and the concerned juvenile is kept there till the time all inquiries relating to him/her are completed and final disposition orders are passed by the Juvenile Justice Board. The time limit prescribed by the Act for all inquiries to be completed is four months from the date of its commencement. The juveniles are kept in the Observation Home according to his/her age group, such as between 7 to 12 years, 12 to 16 years and 16 to below 18 years, giving due consideration to their physical and mental status and degree of the offence committed. The Act empowers the State government to establish and maintain either by itself or under an agreement with voluntary organisations, Observation Homes in every district or group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them.

8.33 On the day of the visit, the total strength of juveniles staying at PRAYAS Observation Home was found to be 123. Out of these, 17 juveniles had gone to the Juvenile Justice Board for their trial proceedings. It was revealed by the General Secretary and the In-charge of the Prayas Observation Home and the Chairperson of the Steering Committee constituted in PRAYAS Observation Home that despite the time limit of four months prescribed in the Act within which all inquiries relating to juveniles in conflict with law are to be completed, there were still a significant number of juveniles in their Home, whose inquiries were pending beyond this time limit. **Annexure 10** gives the details of children at PRAYAS Observation Home whose inquiries were still pending with the Juvenile Justice Board at Delhi beyond the period of four months as on 15th of February 2007.

8.34 They further informed that as per the Act, given the offence committed by a juvenile, the Juvenile Justice Board could pass any of the following dispositional orders:

- a) allow the juvenile to go home after advice or admonition and counselling to the parent or the guardian and the juvenile
- b) direct the juvenile to participate in group counselling and similar activities
- c) direct the juvenile to perform community service
- d) direct the parent of the juvenile or the juvenile himself to pay a fine, if he/she is over fourteen years of age and earns money
- e) release the juvenile on probation of good conduct under the care of parent/ guardian/ other fit person executing a bond
- f) release the juvenile on probation of good conduct under the care of any fit institution
- g) in case of (d), (e), and (f), in addition, place under the supervision of Probation Officer; and
- h) make an order directing the juvenile to be sent to a Special Home

8.35 Out of these, however, in the majority of the cases of children who were in conflict with law, the Juvenile Justice Board had restricted itself to dispositional order given at serial no. h above. The Board had never taken into consideration the other options available for reasons best known to it. It was also revealed that in order to combat the problem of recidivism among these children, there is a need to ensure better and extensive level of counselling by trained counsellors in all Observation Homes as well as adoption and follow-up of a personalized rehabilitation programme taking into consideration the individual aptitude and needs of these children.

8.36 It was suggested by the PRAYAS officials that it would be ideal and in the interest of juveniles lodged in the Home, if the Juvenile Justice Board itself functioned from the premises of the PRAYAS Observation Home rather than the children being taken in a police van under their custody to the Juvenile Justice Board. The PRAYAS team also proposed that more number of Juvenile Justice Boards should be set-up in Delhi. This, to a large extent, would facilitate in disposition of pending cases pertaining to juveniles in conflict with law.

8.37 After this, the Member, NHRC was acquainted with the different kinds of activities that were being carried out by the juveniles lodged in the Observation Home for Boys, such as, hand embroidery, candle making, tailoring, painting, handicraft work, sports, computer training, and alternative and multi-level education through the National Open School. Mr. P. C. Sharma was informed that PRAYAS had a dedicated team of medical personnel, welfare/probation officers, counsellors, educators, vocational instructors, care takers, cooks, etc. whose job responsibilities were well-defined. Accordingly, these people paid attention and took care to ensure the well-being of each and every juvenile who came to the Observation Home – right from discipline, cleanliness, conduction of assembly, imparting education/vocational skills, vigilance against any maltreatment, taking counselling sessions, carrying out social investigation of cases, and restoration of juveniles. The juveniles in the said Home were classified on the basis of their interest into different sadans. Each of these sadans had 15 to 20 juveniles wherein they pursued their area of interest.

8.38 The Member was also introduced to some of the young boys who were staying in the Observation Home. These boys narrated in detail their individual cases. It was told by the PRAYAS team that majority of these children were picked up for petty cases of crime, such as minor theft/burglary. Some of them had committed heinous crimes like rape, murder, attempt to murder and one or two were caught in cases of kidnapping and abduction.

8.39 After this, there was a detailed discussion between the Member, NHRC and PRAYAS team with the sole aim of giving justice to juveniles who were in conflict with law. The salient features of this discussion revolved around the following:

- There is a need to review the overall functioning of the Juvenile Justice Boards across the country.
- There is a need to constitute more number of Juvenile Justice Boards in Delhi as well as across the country given the number of pending cases of juveniles in conflict with law awaiting trial.
- There is a need for the Juvenile Justice Board at Delhi to function from the premises of the Observation Home itself rather than the juveniles being taken to the Board in a Police Van.
- As per Section 15 of the JJ Act, the Juvenile Justice Board should take into account all dispositional options rather than restricting itself to the option of sending the juvenile to a Special Home only.
- Need to review all pending cases awaiting trial by the Juvenile Justice Board within a stipulated period of time so that relief is granted to affected juveniles.
- Need to appoint adequate number of Probation Officers/Welfare Officers and Counsellors in Observation Homes established under the Act.
- Appointment of adequate number of Probation Officers would facilitate in preparation of social investigation reports of juveniles who are in conflict with law, which the Board takes into consideration before passing its final order.
- Since the entire juvenile justice system is an anti-thesis to the criminal justice system, there is no need to resort to the Criminal Procedure Code/Indian Penal Code. Likewise, there should

not be any role for the police personnel/lawyers in the juvenile justice system. The juvenile justice law is complete in itself as it covered substantive procedural laws.

- There is need to impart extensive counselling not only to the juveniles but also to the parents/guardians of the juveniles.

8.40 There is need to release juveniles whose cases have been pending in the Board for more than a year. The strategy for this had to be worked out by all concerned so that there were no cases of recidivism.

## 2. *Visit to Juvenile Justice Board, Delhi*

8.41 The Juvenile Justice Board at Delhi is located at Sewa Kutir Complex, Kingsway Camp. It is the only Board in Delhi that deals with cases of juveniles in conflict with law. The Board is popularly known by the nomenclature of 'Children's Court'. As per the Juvenile Justice Act, the Board consists of a Bench consisting of a First Class Metropolitan Magistrate or a Judicial Magistrate and two Social Workers of whom atleast one should be a woman. The Magistrate on the Board is designated as the Principal Magistrate. Section 4 of the Act, empowers the State governments to constitute for a district or a group of districts one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law.

8.42 On arrival at the Sewa Kutir Complex, the Juvenile Justice Board premise was found to be quite crowded with parents, relatives and lawyers. The Bench on that day consisted of the Principal Magistrate (Mrs. Illa Rawat) and one Social Worker. The other Social Worker was not present on that day. Since the Principal Magistrate was busy, the team from NHRC took a round of the complex and found that the juveniles whose cases were listed before the Board were kept in a small cage like structure that was at some distance from the Board. The police personnel manned this cage like structure and the juveniles kept therein shouted continuously to draw the attention of the Member, NHRC. One of them told the Member that the place in which they were kept was not only overcrowded but also stinking as there was no water in the lavatories. One of them pleaded for relief from the Board on that very day itself otherwise he feared that his fellow juveniles would kill him. These juveniles had been brought from their respective Observation Homes from different parts of Delhi in the wee hours of the morning in a police van and stayed there till the time the Board closed for the day. Some of them carried with them small lunch boxes that had been given to them by the Observation Home in which they were lodged. The police personnel manning the cage like structure in which the juveniles were kept also stated that the juveniles undergoing inquiry were brought to the Board everyday in a police van and then were transferred to the cage like structure where they waited with others for their turn and went back to their Observation Homes only when the Board closed down for the day.

8.43 At this point of time, the Principal Magistrate of the Board joined the NHRC team and took them to the Counselling Room where juveniles and their parents/guardians are counselled and from there escorted them to her office. In her office, she gave a brief overview about the manner in which the Juvenile Justice Board functioned and the problems faced by her in discharging her duties. She categorically mentioned that the Board functioned under the Department of Social Welfare, Government of Delhi and that there was need to set up more Juvenile Justice Boards for the National Capital Territory of Delhi. This was the requirement as per the Act too. She further informed that as the present Board was the only one that was in operation in Delhi, it was somehow not able to handle the caseload of all the juveniles who were facing trial. Thus along with the setting-up of additional number of Juvenile Justice Boards, there was need to appoint additional number of Principal Magistrates also. As of now, there were no Link Magistrates, which meant that if the Principal Magistrate had to go on leave, the work of the Board automatically stopped. She also expressed with anguish that despite repeated requests to Delhi Administration to segregate the first-time offenders from repeated offenders, the Delhi Government had not adhered to this. This

posed a major threat to most of the Observation Homes in Delhi. She informed that a high-level Committee, headed by Justice Mr. Madan Lokur, had been constituted in the High Court of Delhi to oversee the functioning of this Juvenile Justice Board.

8.44 She narrated that ever since she took over the Board, she had emphasized on the rehabilitation and restoration of juveniles back to their families. And, as such, she personally interacted with both the juvenile and his/her family members, counselled them, and ensured a rehabilitation plan for the juveniles in consultation with well-wishers. Only when all these formalities were complied with, she released the juvenile. On being asked about the presence of lawyers in the Board premises, she said that they were a necessity and could not be dispensed with. She was of the view that there was need to set-up more 'fit institutions'. At present, there were only two 'fit institutions' in Delhi. Both these 'fit institutions' were being run by PRAYAS – one for Boys at Jahangirpuri and the other one for Girls at Tughlaqabad.

8.45 After this, a detailed discussion took place between the NHRC team and the Principal Magistrate of the Board. Some of the salient features of the discussion were as follows:

- There was a steady increase in the number of juveniles who were in conflict with law.
- The number of repeat offenders among the juveniles was also on the increase on account of poor rehabilitation on part of the first time juvenile offenders.
- Need to involve the Delhi Legal Services Authority in giving due justice to the juveniles.
- Need to build up more number of counselling rooms in the premises of Juvenile Justice Board so that extensive counselling sessions could be held between the juveniles and their family members.

8.46 Need to release juveniles whose cases have been pending in the Board for more than a year. The strategy for this had to be worked out by all concerned so that there were no cases of recidivism

### 3. *Visit to Government Observation Home for Boys — II, Seva Kutir Complex, Kingsway Camp, New Delhi*

8.47 This Government Observation Home for Boys was earlier located at Magazine Road at Delhi. It caters to juvenile in conflict with law in the age group of 14 and above but less than 18. But, there were juveniles in the Home who were below 14 years of age. This Home was in sharp contrast to the Home run by PRAYAS at Delhi Gate. The Superintendent of the Home took the NHRC team to one of the rooms occupied by the juveniles. Over here, few of the juveniles interacted with the Member, NHRC. Most of them who interacted showed their resentment with regard to the overall functioning of the Board, since there cases had been pending for a long time with the Board and there had been no respite for them whatsoever. There was pent up anger among the juveniles who had been kept at this Home. The younger boys kept there along with the elderly boys too looked vulnerable. The Superintendent and one of the Probation Officers reported that some quick action ought to be taken by the authorities regarding these juveniles before it was too late. The Superintendent feared that if any of the juveniles ran away from the Observation Home, their job would be in jeopardy for they could either be suspended or terminated from services.

#### ii) *Prevention and Combating of Child Marriage*

8.48 It is a cruel reality that the problem of child marriage still continues to plague many parts of the country even today. It is on Akshya Tritiya, popularly known as Akha Teej, when hundreds of child marriages are openly performed despite the fact that there is a law in existence to prevent and combat the same. Given the ramifications it has on the rights of children, particularly girl children, the Commission, ever



since it was constituted in October 1993, has continued to focus its attention towards the eradication of this problem.

8.49 In its earlier Annual Reports, the Commission had reported that in order to curb the practice of child marriage in the country, it had recast the Child Marriage Restraint Act, 1929, so that higher penalties and stringent punishment could be imposed on all those involved in the solemnization of child marriages.

8.50 The Commission is happy to report that the amendments proposed by it have been taken into cognizance not only by the Government of India but also by both the Houses of Parliament. The new Act which got the assent of the President of India on 10 January 2007 is known by the nomenclature of “The Prohibition of Child Marriage Act, 2006” (No. 6 of 2007). The said Act has also been published in Gazette of India on 11 January 2007.

8.51 It was reported in the last Annual Report of the Commission that it had written to all State governments/Union Territories to organise mass-scale awareness programmes/campaigns, in association with the Integrated Child Development Services, local self-governments/Panchayats and State/District Legal Services Authorities, so as to educate and sensitise the people at large about the ill effects of child marriage. It was also mentioned that action taken reports had been received from the States/Union Territories of Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Madhya Pradesh, Maharashtra, Manipur, Nagaland, Punjab, Rajasthan, Tamil Nadu, West Bengal, Chandigarh, Dadra & Nagar Haveli and Daman & Diu and NCT of Delhi. The Commission is pained to state that during the year under report, except for the State of Jharkhand, none of the remaining States/Union Territories have felt the need to report back about the steps being taken by them to do away with the evil practice of child marriage. The Commission on its part intends to monitor all those remaining States/Union Territories who till date have not reported back, especially the steps being taken by them to end the scourge of child marriage.

### *iii) Missing Children*

8.52 The National Human Rights Commission (NHRC) has been concerned about the problem of missing children ever since it was constituted in October 1993. It has sent notices and called for action taken reports from many State governments/Union Territories.

8.53 However, the manner in which young children went missing from one of the neighbouring villages of the National Capital Territory of Delhi, namely, Nithari in NOIDA, which falls under the overall jurisdiction of the State of Uttar Pradesh, had a deep impact on the Commission too. While taking suo motu cognizance of the matter on the one hand, the Commission noticed, “the phenomenon of missing children is not confined to Nithari or Uttar Pradesh alone. The Commission has come across media reports of similar incidents from other parts of the country as well. The problem of missing children has thus become an issue of grave concern to the nation and more so, to the National Human Rights Commission of India. It is deeply concerned and it has mandate for better protection and promotion of human rights and also to deal with cases of human rights violations that come to its notice and make appropriate recommendations in that regard, including giving relief to the victims. The Commission is, therefore, of the opinion that this issue should be examined in depth and guidelines should be evolved to deal with such cases effectively and meaningfully to protect and promote human rights of children and also take appropriate steps where violation of human rights is found in this regard”.

8.54 Accordingly, on 12 February 2007, the National Human Rights Commission constituted a Committee to examine the issue of missing children in depth and give its suggestions so that appropriate guidelines may be evolved by the Commission and forwarded to the concerned authorities across the

States/Union Territories as well as to the Government of India that would facilitate in tracing and restoring missing children back to their families or to agencies/support systems where they could be taken care of and protected.

8.55 The constitution of the Committee was as follows:

- |                                  |          |
|----------------------------------|----------|
| 1. Mr. P.C. Sharma               | Chairman |
| Member                           |          |
| 2. Mr. Damodar Sarangi           | Member   |
| Director General (Investigation) |          |
| 3. Mr. A.K. Garg                 | Member   |
| Acting Registrar(Law)            |          |
| 4. Dr. Savita Bhakhry            | Member   |
| Senior Research Officer          |          |
| 5. Mr. P.M.V. Siromony           | Convener |
| Chief Coordinator (Training)     |          |

8.56 The Commission did not set-up any specific Terms of Reference for the Committee. However, the Committee on its own decided to have the following Terms of Reference:

- to make an overall assessment of the role played by the police and local administration in different States/Union Territories across the country in locating/tracing missing children
- to make an in-depth study and analysis of Rules, Guidelines, Circulars and Orders being followed by the police in locating/tracing missing children
- to examine the good practices being followed by States/Union Territories, if any, in finding/tracing missing children as well as study important rulings / guidelines issued by the Apex and other courts in the country for protecting or searching missing children
- to study the role played by other governmental and non-governmental organisations, including the media and the civil society in finding/tracing missing children as well as cooperation extended by them to the families of missing children
- to evolve practical guidelines for police and other stakeholders for initiating standardised measures that would not only facilitate in tracing and restoring missing children back to their families but also make all the stakeholders accountable

8.57 The Committee was given the option of obtaining the assistance and help from other experts and organisations as it deemed proper. The Committee was directed to submit its report within a period of eight weeks.



# 9

## Elimination of Bonded Labour System

### A. Bonded Labour System

9.1 Labour implies service. Bonded labour is service rendered under bonded or forced conditions. The person who renders such service is a bonded labourer. The totality of the system under which bonded service is rendered may be termed as bonded labour system. The system as visualized in the Bonded Labour System (Abolition) Act represents the relationship between a creditor and debtor. When a debtor incurs loan/debit/advance from a creditor and undertakes to mortgage his services or services of any of his family members to the creditor for a specified or for an unspecified period with any one of the following consequences, it comes within the definition of bonded labour system.

- Denial of the freedom of movement from one part of the territory of India to another
- Denial of the right to receive minimum wages or market wages, wherever minimum wages have not been fixed
- Denial of the freedom of choice of employment or other means of livelihood
- Denial of the right to sell one's labour or the product of one's labour at market value

9.2 Existence of the creditor-debtor relationship with one of the consequences as above is enough to determine the existence of the bonded labour system.

9.3 In the landmark judgement delivered on 16 December 1983 while allowing writ petition No. 2135 (filed by Swami Agnivesh, President, Bandhua Mukti Morcha in February 1982) the Supreme Court has given a broad, liberal and expansive interpretation of the definition of bonded labour system contained in Section 2(g) of the Bonded Labour System (Abolition) Act. According to this interpretation, it is not necessary to prove beyond doubt the element of loan/debt/advance. Such an element can always be implied or assumed. To quote from the judgement:

“There would be no occasion for a labourer to be placed in a situation where he is required to supply forced labour for no wage or for nominal wage unless he has received some advance or other economic consideration.”

“This presumption may be rebutted by the employer and also by the State Government if it so chooses but unless and until satisfactory matter is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act”.

9.4 In April 1985 an explanation was added by way of amendment to Bonded

Labour System (Abolition) Act that contract and migrant labourers may be brought within the purview of the bonded labour system, if they fulfil the ingredients of the system as defined in Section 2(g) of the Act.

9.5 Article 23 of the Constitution prohibits “Beggar” and other similar forms of “forced” labour and adds that any contravention of this provision shall be an offence punishable in accordance with law.

9.6 India ratified ILO Convention No. 29 of 1930 on forced labour in 1954 and ILO Convention No. 105 of 1957 on abolition of forced labour in 2000. In pursuance of the legal obligation arising out of the first ratification, Government of India promulgated Bonded Labour System (Abolition) Ordinance on 24 October 1975 followed by enactment of Bonded Labour System (Abolition) Act, 1976. Abolition of bonded labour system figured as Item No. 5 in the old 20 Point Programme announced by the then Prime Minister – Mrs. Indira Gandhi on 1 July 1975. Rehabilitation of bonded labourers figured once again as item No. 4 in the new 20 Point Programme announced to the nation on 14 January 1982.

9.7 All this notwithstanding, doubts and misgivings persist even today to the following effect:

- Bonded Labour System was a one time phenomenon
- With enactment of the law the system stands abolished lock, stock and barrel
- Taking cognizance of the system would be a slur on the image of the State government
- A few State governments have come to the conclusion that there are no bonded labourers in their States even without constituting Vigilance Committees
- Some of them refuse to make any budget provision for survey, for awareness generation and for rehabilitation of bonded labourers on the ground that all that was required to be done has been done and noting more is required to be done. Such misgivings and mindsets result in the following undesirable consequences:
  - \* A stiff, rigid and stereotyped approach is adopted towards identification and release of bonded labourers
  - \* Summary trial of all offences under the Bonded Labour System (Abolition) Act is seldom taken recourse to
  - \* Bonded labourers are put in the witness box and asked inconvenient and uncomfortable questions
  - \* They would find it difficult to respond to these questions in presence of their oppressors;
  - \* Such an approach would prolong trial
  - \* A stand is taken that no action should be taken to release and rehabilitate bonded labourers until and unless the bonded labour keeper has been convicted
  - \* This is how identification and release are not simultaneous; so are release and rehabilitation
  - \* A huge time gap between identification, as also release and rehabilitation results in relapse of the bonded labourer to his erstwhile bondage
  - \* An indifferent and step motherly approach is adopted towards identification and release of migrant bonded labourers from bondage and their rehabilitation

9.8 It is on account of such negative perception and approach to this issue that the Supreme Court has been intervening from time to time by entertaining a large number of writ petitions. Between 1981 and 2000 as many as 23 Public Interest Litigations (PIL) have been entertained as writ petitions under Article 32 of the Constitution of India and a number of positive and decisive directions have been issued.

9.9 Important among some of these cases are:

- Writ Petition No. 8143 of 1981 filed by People's Union for Democratic Rights (PUDR) Vs. Union of India and others disposed off on 18 September 1982 (AIR Supreme Court 1473)
- Writ Petition No. 2135 of 1982 filed by Bandhua Mukti Morcha Vs. Union of India and others disposed off on 16 December 1983
- Writ Petition No. 6816 of 1981 filed by Sanjit (Bundker) Roy Vs. State of Rajasthan disposed off on 20 January 1983 (AIR 1983 Supreme Court 328)
- Writ Petition No. 1179 of 1982 filed by labourers working on Salal Hydro-Electric Project Vs. State of Jammu and Kashmir disposed off on 25 April 1984, (1984) 3 Supreme Court Cases 588
- Writ Petition No. 12637 of 1982 filed by Neerja Chaudhury Vs. State of M.P. disposed off on 8 May 1984 (AIR 1984 Supreme Court 1099)
- Writ Petition No. 1232 of 1982 filed by Mukesh Advani Vs. State of M.P. disposed off on 2 May 1985 (AIR 1985, Supreme Court 1363)
- Writ Petition No. 1071 of 1986 filed by Upendra and others Vs. State of M.P. and others disposed off on 25 September 1986 (1986 (supplementary) Supreme Court Cases 558)

9.10 It is against this background that a writ petition (civil) No. 3922/85 pertaining to the problem of migrant bonded labourers from Tamil Nadu who were being subjected to exploitation in Madhya Pradesh came under the scrutiny of the Supreme Court. The Supreme Court vide its order dated 13 May 1994 issued detailed instructions to the State governments for identification, release and rehabilitation of bonded labourers in their respective States. The Supreme Court vide its order dated 11 November 1997 requested NHRC to assume the responsibility for monitoring the implementation of the directions of the apex court as also that of the provisions of the Bonded Labour System (Abolition) Act.

9.11 The Commission started monitoring the implementation of the Bonded Labour System (Abolition) Act, 1976 under the directions dated 11 November 1997 of the Supreme Court passed in writ petition (civil) No. 3922 of 1985. Justice Mr. Y. Bhaskar Rao, Member, NHRC conducted a review of the status of implementation of the Act for the State of Andhra Pradesh at Hyderabad on 19 October 2006. The last such review was conducted by him on 23 June 2006. He was assisted by Dr. L. Mishra, Special Rapporteur in conducting the review. Subsequently, Justice Mr. Y. Bhaskar Rao also conducted a review of the status of implementation of the Act for the State of Tamil Nadu at Chennai on 9 November 2006 backed by field visit to Kancheepuram district on 10 June 2006. He was also assisted by Dr. L. Mishra, Special Rapporteur in this review. Subsequently, the Special Rapporteur, Dr. L. Mishra independently carried out a review of the status of implementation of the Act for the State of Haryana, Orissa, Madhya Pradesh and Rajasthan. The salient points emerging from these reviews are indicated below:

## **Andhra Pradesh**

- The department of Social Welfare has been made responsible since 1975 for overall planning, implementation, monitoring, supervision, coordination of all items relating to the Act.
- A State level Steering Committee with the Chief Secretary to the State Government as Chairman and Secretaries of the concerned departments as members has been constituted since 9 June 1997 to take all steps to preempt Bonded Labour System by a series of measures.

- The Member suggested that the meetings of the Committee should be more frequent and all decisions should be implemented in right earnest and in a time bound manner.
- Vigilance Committees have been reconstituted in pursuance of the directions of the Supreme Court at the District and Sub Divisional level.
- Significant additions over and above what is mandated in Bonded Labour System (Abolition) Act have been added to the duties and responsibilities of these committees. This is encouraging.
- The Member suggested that Sub Divisional Level Committees should meet once every month where as the District Level Committee should meet quarterly. Clear guidelines should be issued by the State Government for their effective functioning.
- While Vigilance Committees were responsible for identification of Bonded Labour System at the district and sub divisional level, the task of such identification through surveys has been entrusted to the M.D., Andhra Pradesh, Scheduled Caste Cooperative Finance Corporation. The latter in turn has further delegated this responsibility to local NGOs in 11 districts. The Vigilance Committees were neither consulted nor involved with the process of identification. This is a departure from the provisions of Bonded Labour System (Abolition) Act. In 7 out of 11 districts, 1424 persons have been identified as bonded labourers. It could not, however, be confirmed if they have been released from bondage and if they have been rehabilitated.
- Executive Magistrates notified by the State Government and vested with powers of Judicial Magistrate under section 21 of the Act have tried and disposed off 3703 cases between 2000 - 2001 to 2005 - 2006.
- All cases of release have been followed by issue of a release certificate and the procedure for summary trial has also been followed in every case of release as also for launching prosecutions.
- In all, 35,461 bonded labourers have been released since inception of Bonded Labour System (Abolition) Act and release certificates have been issued but prosecutions have been launched only in 166 cases. This gap could not be explained by the State government.
- The powers of sanction of rehabilitation assistance of bonded labourers have been delegated to District Collectors. District Level Screening Committees have been formed and are in existence for the last 25 years. They are approving rehabilitation proposals and sanctioning the funds required for this purpose. They are also reviewing the progress in rehabilitation of freed bonded labourers.
- There is a gap of 3 to 6 months between release and rehabilitation. This is an avoidable delay and could result in relapse to bondage.
- The State Government have initiated certain progressive measures (such as purchase of land, allotment of land, allotment of house sites, provision of housing, issue of ration cards etc.).
- In the eighties, there was evidence of adoption of a community/group oriented approach to rehabilitation of freed bonded labourers through community poultry complexes. There is however, no evidence of continuance of the same approach for rehabilitation in the nineties and after.
- There are weaknesses in obtaining an accurate and up-to-date feedback about the Inter State Migrant Workmen either migrating from or migrating into Andhra Pradesh and working under conditions akin to bondage. These weaknesses need to be removed.
- There is a need for better liaison and coordination between Government and agencies of the originating State and those of the destination State to ensure just, fair and decent working conditions for such workmen.

- It was suggested that joint study teams should be constituted comprising of the representatives of the originating and the destination State. Such teams could visit the work sites where inter State migrant workmen live, listen to their grievances and redress them on the spot.
- It was further suggested that a highly decentralised village/gram panchayat level grievance ventilation and redressal mechanism for all bonded labourers should be in place.
- It was also suggested that similar institutional mechanisms should be created for orientation, familiarization and sensitization of all State, District, Sub Division and Taluka/Block level functionaries who were concerned with identification, release and rehabilitation of freed bonded labourers.

## Tamil Nadu

- Adi Dravidar Welfare Department has been made responsible for all items of work relating to identification, release and rehabilitation of bonded labourers in Tamil Nadu. However, the entire process of identification of bonded labour system in Tamil Nadu seems to have been seriously flawed in as much as 25,503 cases were dropped out of 35,678 bonded labourers identified without sufficient justification. In the course of the Member's visit to Kancheepuram on 9 November 2006, questions about rationale of such outright rejection were posed to the 3 RDOs of Chengalpattu and Maduranthagam but no convincing explanation could be elicited. It was explained that the process of identification took place in 1996 to 97 through NGOs, that about 10 years have passed that the officers who carried out the survey has been replaced by a new set of officers and, therefore, the rationale of the decision to drop 25503 cases could not be clearly brought out. It was indicated from the Commission that a lot of care and caution needs to be exercised in dealing with such matters in future so that such large scale unjustified rejections do not take place after the initial identification.
- The RDOs are the principal officers at the field level for identification, release and rehabilitation of bonded labourers. It was suggested that they should be given a thorough orientation and need to be sensitized so that they acquire necessary knowledge, information and skills to handle all such cases connected with implementation of Bonded Labour System (Abolition) Act.
- The State Government was advised to organise similar orientation for sensitization of employers, trade unions, NGOs, Members of Vigilance Committee and officers of concerned departments etc.
- The State Government was also advised to view special problems of migrant bonded labourers with greater empathy and sensitivity. It was found that overall attitude and approach to these sections appear to indicate a lack of urgency and seriousness of human concern.
- This necessitates setting up of grievances ventilation and redressal machinery at the district, sub-divisional, taluk/block levels on the one hand and massive programmes for legal and programme literacy for generation of better awareness and sensitivity in the minds of all concerned. In the course of review, an impression was given by the State Government that the aggrieved should be able to approach the Legal Aid Centre functioning in the High Court of Chennai for help. Such a process is difficult to implement in actual practice. Instead, the State Government was told that the functionaries of the Legal Aid Centre should approach the aggrieved through public advertisement/ notice, take them to confidence, talk to them in a simple and non threatening language, understand and internalize their grievance and assist them in the process of its timely redressal.
- The State Government was also advised to take expeditious steps to complete the process of rehabilitation of 642 freed bonded labourers who were waiting for such rehabilitation for quite sometime failing which they may lapse back to bondage. Similarly, the district administration was advised to release 23 bonded labourers in Keelkathirpur village in Kancheepuram and

issue release certificate in their favour so that these freed bonded labourers do not have to wait indefinitely for their rehabilitation.

- The State Government was also advised to take stock of the number of cases pending with the Executive Magistrates who have been vested with judicial powers and who are competent to try all offences under section 21 of the Bonded Labour System (Abolition) Act. The sole objective of this exercise is to make identification and release simultaneous and to secure prompt release of bonded labourers. The prosecution of the offenders of law takes its own time.
- The State Government was advised to attempt a complete documentation of all bonded labourers along with documentation of a few success stories. It was felt that such documentation could be used during programmes of orientation and training of all functionaries and others concerned with identification, release and rehabilitation of bonded labourers.
- It was observed that the State Government had not paid much attention to ways and means of preventing occurrence and recurrence of bonded labour system through the following:
  - a) Creating avenues of stable and durable employment
  - b) Review, revision and enforcement of minimum wage
  - c) Access to public distribution system
  - d) Access to skill training programmes
  - e) Access to micro credit, formation of SHGs in large numbers and creating avenues for meeting personal consumption, ceremonial and development needs
  - f) Access to micro insurance  
(for fisherwomen and men, for collectors of minor forest produce, for flayers and tanners, for salt workers, for workers in brick kilns and stone quarries, for toddy tappers, for rickshaw pullers, for scavengers, for headload carriers, for hawkers and venders, for beedi rollers, labelers and packagers, for workers in rice mills, for handloom weavers, for handicraft women and men).
- The State Government was advised to initiate these measures in a planned, coordinated and concerted manner to prevent occurrence and recurrence of bonded labour system.
- It was observed that the functionaries in charge of rehabilitation of freed bonded labourers have not been able to sufficiently internalize the importance of community/group approach to rehabilitation. They were advised to follow successful examples of such an approach in the (a) land colonization scheme in Kerala (b) economic rehabilitation of rural poor in Orissa and (c) community poultry complexes in Andhra Pradesh.
- The State Government was advised to adopt and implement such a group approach towards rehabilitation of freed bonded labourers particularly keeping in view the hostile treatment to which 45 members of Irula, ST community in Keelkathirpur village in Kancheepuram were subjected by their erstwhile bonded labour keepers.
- The State Government was advised that much of the success of the programme of rehabilitation ultimately rests on the attitude, approach, insight and perception of the field functionaries. To the extent these are positive, the programme will be successful. To the extent these are negative; there will be no trace of success.

## Haryana

9.12 The Special Rapporteur, Dr. L. Mishra visited Haryana from 22 to 24 November 2006 to review efforts made by the State Government and District Administration for implementation of Bonded Labour System (Abolition) Act. The following is a gist of the outcome of the review:



- Vigilance Committees constitute the primary statutory and institutional mechanism for identification of bonded labourers. They have been constituted at the district and sub divisional level but are largely non functional. The State Government was advised to activate them.
- The State Labour Department which is the administrative department dealing with the subject of bonded labour should issue guidelines about functioning of these Committees, where and when they should go out, how they should conduct a discrete enquiry in the field, how they should place their reports before the Executive Magistrates appointed under section 21 of the Act and how they should plead for their release and issue of release certificate.
- It is urgent and imperative that all members of the Vigilance Committees, all Executive Magistrates and all other officers at the district, sub divisional, taluka and block levels who have a vital stake in identification, release and rehabilitation of bonded labourers should be provided orientation and training to improve their awareness and professional competence.
- The State Government had commissioned a few agencies like Ambedkar Centre, Department of Sociology, Punjab University to conduct studies/surveys and report the extent to which bonded labour system exists in Haryana. It was observed that the Centre had not come to any specific conclusion about existence of bonded labourers in Haryana. The report itself is full of contradictions and ambiguities and has left a number of questions unanswered. These have been highlighted in the report and shared with the State Government. The latter was advised to get all the doubts raised by the Reviewing Officer clarified by the Centre and initiate followup action in respect of those points which are free from such doubts. The State Government should also initiate similar followup action on the report of another agency called South Asian Foundation for Human Initiatives (SAFHI) without any further delay.
- With regard to Inter-State Migrant Workmen getting into the status of debt bondage, the State Government is taking a stand that migrant workmen come to Haryana to work on their own, go back on their own, are not recruited through any contractor and, therefore, do not come in the category of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act. This is contrary to facts. The Reviewing Officer found in the course of his field visits in Kurukshetra district that all migrant workmen were being recruited by recruiting agents through payment of advance and were not coming to Haryana of their own. He further observed that there was no proper system of accounting in terms of payment of advances and its subsequent adjustment with the wages paid. The migrant workmen are thus kept in a state of perpetual advance and bondage.
- It was further observed that there were over 900 brick kilns in Haryana which employ inter State migrant workmen who are recruited through recruiting agents. It was noted that no principal employer of an establishment to which the Act applies shall employ inter State migrant workmen unless a certificate of registration has been issued by the competent authority as required under section 6 of the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act. Not a single registration certificate has so far been issued by the competent authority as per own admission by the State Government of Haryana. In other words, all the inter State migrant workmen working in the brick kilns in Haryana have been illegally employed in these brick kilns without a valid registration certificate.
- It was further observed that there was no coordination and liaison between the originating and destination States in the matter of proper implementation of Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act. The track record of both the originating as well as the destination States in regard to compliance with statutory requirements such as (a) grant of licence to the recruiting agent under section 9 of the Act (b) grant of registration certificate to the principal employer under section 4 of the Act (c) payment of

journey allowance, displacement allowance and wages during the journey period was not very encouraging. The State Government has been advised to constitute joint study teams with the representatives of the Government of Haryana and those of the originating States and redress the grievances of the Inter State Migrant Workmen by organising joint visits to all the working sites in Haryana.

## Madhya Pradesh

9.13 The Special Rapporteur, Dr. L. Mishra visited Bhopal on 4 and 5 January 2007 and reviewed in indepth the measures taken by the Government of M.P. for enforcement of Provisions of Bonded Labour System (Abolition) Act. This was followed by a field visit to Vidisha district and a wrap up meeting with the Secretary, Department of Labour and Employment which is the Administrative Department for enforcement of the Act. The following is a gist of the outcome of the review:

- Between 1999 - 2000 (the year when the subject of bonded labour was transferred from Revenue Department to Labour and Employment Department) and December 2006, 605 bonded labourers have been released from debt bondage, 270 of them being residents of Madhya Pradesh and 335 being residents of other States.
- Of the 270 bonded labourers who were residents of M.P., the maximum number relates to Raisen (83) followed by Vidisha (70), Chhattarpur (47), Gwalior (40), Bhopal (14), Ratlam (7), Shivpuri (4) and Dhar and Shadol (1 each).
- Of the 335 bonded labourers released who are residents of other States the maximum number has been identified and released in Raisen and Bhind (127 each) followed by Indore (46), Sagar (20) and Vidisha (15).
- Release Certificates have been issued in both the cases.
- State-wise breakup of the 335 bonded labourers is available with the Government of M.P. The breakup is as under:

|             |   |     |
|-------------|---|-----|
| U.P.        | - | 92  |
| Bihar       | - | 76  |
| Chhatisgarh | - | 167 |

- No information is available with the State Government about rehabilitation of these 335 migrant bonded labourers who have been released from debt bondage in M.P. and have been repatriated to Bihar, Chhatisgarh and U.P.
- In regard to the remaining 270 bonded labourers who belong to Madhya Pradesh and who have been released from debt bondage in M.P., it was reported by the State Government that 263 bonded labourers have been rehabilitated. The remaining 7 could not be rehabilitated as they could not be traced at their available address up to date. In regard to the migrant bonded labourers the State Government was advised to ascertain the source/origin from where they were recruited, whether they would like to go back to their native State or they would like to be rehabilitated in M.P. itself.
- Between 2000 - 2001 and 2006 - 2007, a total number of 24 prosecutions including 6 FIRs have been filed. Of these, only 1 has resulted in conviction and the remaining prosecutions have ended in acquittals. It has been observed that the average duration of these prosecutions ranged from 1 to 4 years. In other words, the concept of summary trial provided for in Section 21 of Bonded Labour System (Abolition) Act and repeatedly emphasized by the apex Court has been honoured only in the breach.

- The State Government were advised to launch a programme for orientation and training for all Executive Magistrates appointed by the State Government under section 21 of the Act and orient them to take recourse to summary trial in regard to all cases filed under the Act as opposed to the summons procedure which is followed in dealing with prosecutions under other Acts.
- A register is required to be maintained under Rule 7 of the Bonded Labour System (Abolition) Rules in respect of every identified and released bonded labourer. It could not be confirmed by the State Government if such registers have been opened by all the district and sub divisional level Vigilance Committees and if they are being updated from time to time.
- A Screening Committee is required to be constituted at the District level to screen all proposals for rehabilitation. This does not appear to have been done. The State Government were advised to have such Screening Committees in place at the earliest pending which the responsibility for formulation of rehabilitation proposals may be entrusted to the Vigilance Committees wherever they are in existence.
- There are a few redeeming features of rehabilitation assistance being extended to the freed bonded labourers by the State government such as grant of mining lease, provision of electricity and supply of potable water, allotment of agricultural and homestead land, setting up of Anganwadi Centres in the areas where pregnant women and children of ex-bonded labourers could be extended services of immunisation and nutrition (through special feeding programme) and issue of BPL ration cards to all freed bonded labourers.
- The field visits to Vidisha, however, brought out certain disquieting features of rehabilitation such as:
  - \* All freed bonded labourers continued to be landless.
  - \* On an average they get an employment for 2 - 3 days in a week.
  - \* Their average earnings raised between Rs. 50/- to Rs. 60/- for eight hours of work.
  - \* Most of them have large size families (6-7 members).
  - \* Even though these families have been provided with BPL cards and are entitled to a quota of 35 kgs. of wheat per month they need an additional 15 kgs. on account of large families.
  - \* The children of ex-bonded labourers appear to be severely under nourished or malnourished.
  - \* Their parents find it difficult to send them to school and ensure regular attendance as the schools were located within a radius of 2 kms. and sometimes even beyond.
  - \* Through the Welfare Fund constituted under "the Building and Other Construction Workers (Cess and Welfare Fund) Act 1996, it has been possible to provide a series of benefits to the building and other construction workers (including bonded labourers who happened to belong to that category) through maternity protection, accident insurance and medical treatment arising out of accidents.
  - \* The State government has initiated certain concrete measures with a view to preempting debt bondage, are given below:
    - 1) In 2002-03, 40,80,394 BPL families have been identified (42.7% of the total number of families in the State) through a survey;
    - 2) A multi-pronged strategy to deal with the situation of poverty characterized by landlessness, assetlessness, absence of stable and durable avenues of employment, living wage and absence of any worthwhile access to credit for personal consumption and

ceremonial needs (which leads to indebtedness and bondage) has been launched by the State government. The salient features of this strategy are:

- a) Promotion of rural employment programmes
- b) Credit/mobilization for self-employment through formation of self-help groups, thrift and credit groups etc.
- c) Construction of houses under Indira Awaas Yojana
- d) Provision of BPL cards
- e) Allotment of land (both homestead and agricultural land to the landless)

9.14 Despite these measures, a large number of BPL families belonging to SC and ST communities continue to migrate from M.P. to other parts of the country (U.P., Haryana etc.). They are recruited by recruiting agents, receive advances from them and get into a situation of bondage because of their inability to repay the debt/advance.

9.15 The extent of migration that is taking place to M.P. from other parts of the country is of the following magnitude as in 2006:

|          |   |       |
|----------|---|-------|
| Dindori  | - | 7     |
| Ratlam   | - | 400   |
| Jhabua   | - | 37048 |
| Raigarh  | - | 21    |
| Shivpuri | - | 130   |

9.16 To deal with the above situation and with a view to regulating migration and providing relief to the migrant workers, strict instructions need to be issued by the Labour and Employment Department to the Labour Law enforcement machinery for (a) issue of licence to all recruiting agents and (b) for ensuring that the journey allowance, displacement allowance and wages paid during the journey period are disbursed to all migrant workers..

- The Labour and Employment Department should also send the names of all recruiting agents and migrant workers to their counter parts in the destination States with a request that (a) registration certificate should be issued to the principal employers of establishments in those States who are recruiting the workers from M.P. (b) minimum wage as notified in respect of scheduled employment by the destination State must be enforced and all other statutory facilities and amenities should be ensured.
- Joint study teams comprising of representatives of both originating as well as destination State should, after prior consultation and having agreed on a mutual schedule, pay a visit to the work sites at the destination State, interact with the workers, listen to their grievances and take timely action to redress them on the spot.
- If in the course of such joint visits it is established beyond doubt that some of the migrant workers are working under bonded conditions, prompt action should be taken to release them, issue a release certificate by the competent authority and have them repatriated and rehabilitated at the originating point after ascertaining the wishes of such workers.

## Orissa

9.17 The Special Rapporteur, Dr. L. Mishra undertook a tour to KBK region in Orissa from 15 to 22 December 2006 to review the measures taken by the State Government for implementation of Bonded Labour System (Abolition) Act. In the course of this tour, he addressed the Collectors and other district level officers at the district level on the Provisions of Bonded Labour System (Abolition) Act and undertook

extensive field visits to study the ground level realities vis-à-vis the Provisions of the Act and efforts made by the State government. A gist of the outcome of this visit and review is given below:

- Orissa had one of the earliest regulations relating to debt bondage namely 'Orissa Debt Bondage Abolition Regulation, 1948 which prohibited 'Gothital', a form of bonded labour system but its impact even after decades of operation was minimal.
- The State government launched a series of bold and imaginative measures after promulgation of the Bonded Labour System (Abolition) Ordinance on 24 October 1975. Despite these measures, however, and between 24 to 31 October 1980, barely 350 bonded labourers could be identified and freed.
- Introduction of a new programme captioned "Economic Rehabilitation of Rural Poor" in 1980 brought about a sea change in the scenario in as much as from 1980 - 81 and 1984 - 85 as many as 15,000 bonded labourers were identified and released.
- A State level committee under the chairmanship of Addl. Chief Secretary was constituted to plan, monitor, coordinate and supervise implementation of programmes relating to identification, release and rehabilitation of bonded labour system on the ground.
- It was observed that this committee is no longer in existence. It was also observed that urgency and seriousness of the concern with which the issue of elimination of bonded labour system was viewed in 70s and 80s are not visible.
- It was further observed that no fresh survey had been undertaken after 2001 - 2002 even though financial assistance from the Ministry of Labour, Government of India at the rate of Rs. 2 lakh per district once in 3 years is available for this purpose.
- A sample study of 10 case records in Malkangiri Sub Division confirmed that identification of bonded labour system through NGOs has not been conducted properly resulting in dropping of many cases by the Sub Divisional Officer, Malkangiri and competent authority under section 21 of the Bonded Labour System (Abolition) Act for this purpose.
- Debt bondage is generally perceived as the outcome of:
  - \* Landlessness
  - \* Assetlessness
  - \* Lack of avenues of stable and durable employment
  - \* Non payment of living wage/remuneration
  - \* Ceremonial and personal consumption needs which results in expenditure far in excess of the income and leads to indebtedness which in turn leads to bondage
- It was observed that harsh geography and topography (undulating landscape, low water table, poor quality of soil), harsh agro climatic conditions (rainfall not evenly spread, low capacity of soil to retain water, extensive waste land, insufficient harnessing of irrigation potential), successive cycles of flood and drought, decline of forest and vegetal cover due to drought for successive years, decline of productive assets (milch animals) and increasing malnourishment are some of the well known features of poverty of KBK region.
- Such poverty leads to indebtedness and indebtedness in turn leads to bondage.
- A number of interventionist strategies and measures have been in place for successive years to deal with these harsh conditions. They have produced many desired results too.
  - \* Serious problems of delivery, however, still remain
  - \* There is pervasive landlessness in the region

- \* Majority of the bonded labourers are landless (both homestead and agricultural land)
- \* Wherever land has been allotted (comprising of a very small area) no extension effort is forthcoming from the officers of the agriculture department to provide guidance to the farmers on a (a) suitability of the soil for a particular species to be grown (b) how to maximize output by making available all possible inputs and with forward and backward linkage and (c) the economics of growing certain species vis-à-vis their nutritive value
- Overall, it was observed that the delivery mechanism in the KBK region has serious problems. It came out clearly in the course of field visits that generally poor, economically deprived and disadvantaged sections of the society were being excluded from the purview of assistance under Indira Awaas Yojana while the better off were invariably being favoured for extraneous considerations.
- It was felt that employment, wages, livelihood, access to public distribution system, promotion of thrift through SHGs and an economically autonomous existence (which is exactly the opposite of bonded existences were interlinked but no planned, coordinated and concerted efforts have been made to establish and sustain this linkage.
- It was further observed that the State government with a view to preempting poverty and bondage needs to establish similar linkage between :
  - \* Low intake of food and nutrients
  - \* Under nutrition/malnutrition
  - \* Repeated assaults from nutrition related disease and infections
  - \* Stunted development of children
  - \* Small body size of adults
  - \* Impaired work capacity and production
  - \* Low earning capacity
- It was further suggested that a massive campaign should be launched for promotion of nutrition in the KBK region.
- This is relevant for victims of bonded labour system as:
  - \* Most of them are victims of malnutrition
  - \* Malnutrition reduces work capacity and productivity
  - \* It enhances mortality and morbidity amongst children
- It was further suggested that occurrence and recurrence of bonded labour system can be prevented by adoption of a long term perspective plan with the following perspectives:
  - \* Access to micro credit through SHGs implementation of land reform
  - \* Access to full, freely chosen and productive employment
  - \* Enforcement of the law on minimum wage to pave the way for a living wage
  - \* Strengthening the public distribution system
  - \* Access to skill training (for both skill formation and upgradation)
  - \* Minimizing the incidence of distress migration
  - \* Promoting social indicators of development such as early childhood education, primary and elementary education, primary health care, immunization and nutrition, hygiene and sanitation etc.
  - \* The State government would do well to conceptualise and progressively implement in phases such a perspective plan

## Rajasthan

9.18 The Special Rapporteur, Dr. L. Mishra visited Bundi, Kota and Baran districts of Rajasthan on 1 and 2 February 2007 for an indepth review of the measures taken for implementation of Bonded Labour System (Abolition) Act, 1976. A gist of the outcome of the visit and review is as under:

- \* the sagrital system (which is a variant of the bonded labour system) was abolished by the Act of 1961
- \* it did not however provide any alternative source of consumption loan or credit for ceremonial purpose and the system continued for many years even after this enactment at the State level
- Identification of bonded labour system is the primary responsibility of Vigilance Committees constituted under section 13 of Bonded Labour System (Abolition) Act at the sub divisional and district level.
- It was further observed that the guidelines issued by the concerned department (Labour and Employment) have completely ignored the role and responsibility of such committees.
- Instead, the task of conducting a survey for identification of bonded labour system has been entrusted to the lower echelons of Revenue, Panchayati Raj and Labour departments, who in the words of the Supreme Court generally lack social commitment and are in collusion with the exploiting class.
- It was further suggested that a fresh set of comprehensive guidelines should be issued by the State government entrusting the Vigilance Committees with responsibilities related to identification of bonded labourers.
- It was further suggested that a study of conditions leading to prevalence of bonded labour system can become meaningful if a clear and conscious effort is made to establish a linkage between the following:
  - \* Poverty
  - \* Unemployment
  - \* Under employment
  - \* Hunger
  - \* Malnutrition
  - \* Minimum wage
  - \* Purchasing power of the currency
  - \* Quantity and quality of foodgrains available through the Public Distribution System
  - \* Access to primary health and medical care
  - \* Market price of commodities
  - \* Gap between income and expenditure
  - \* Ways and means of bridging this gap
- Between 1975 - 77, 1981 - 82, 1982 - 83 a number of bonded labourers were identified and freed in respect of five districts and reported by the State government to the Ministry of Labour, Government of India is as under:

| District             | 1975-77  | 1981-82  | 1982-83  | Total    |
|----------------------|----------|----------|----------|----------|
| Kota                 | 3895     | —        | —        | 3895     |
| Bundi                | 332      | —        | —        | 332      |
| Jhalawad             | 78       | 36       | 51       | 165      |
| Tonk                 | 6        | —        | —        | 6        |
| <b>Swai Madhopur</b> | <b>7</b> | <b>—</b> | <b>—</b> | <b>7</b> |

- According to the State government, 11,327 bonded labourers have been identified and released so far. It is not, however, clear as to where and how they have been rehabilitated and how many remain to be rehabilitated.
- The circular letters issued by the State government on identification of bonded labour through surveys are silent on the following:
  - \* What should be the composition of the survey team?
  - \* What is the questionnaire needed to be addressed at the time of conducting the survey?
  - \* How the informations so elicited should be analysed and how to arrive at correct conclusions?
  - \* How the Vigilance Committee should place the gist of the survey report before the Executive Magistrate appointed under section 21 of Bonded Labour System (Abolition) Act and vested with powers of a Judicial Magistrate?
  - \* How the said Magistrate should come to a conclusion that 'x' is a bonded labourer or not?
  - \* When and how the release certificate should be issued in favour of the person who is confirmed by the Magistrate as a bonded labourer?
  - \* What should be the language and format of the said release certificate?
  - \* Should there not be a Screening Committee at the district level to scrutinise all proposals of rehabilitation of freed bonded labourers?
  - \* How to ascertain the preferences, felt needs and genuine interests of freed bonded labourers before formulating a proposal for rehabilitation?
- The State government needs to undertake a thorough and complete assessment of the following in regard to the persons who are released from bondage and rehabilitated in 1975 - 76:
  - \* Extent of landlessness and assetlessness.
  - \* Sustainability of livelihood.
  - \* Adequacy of income/wage earned.
  - \* Gap between income and expenditure.
  - \* How the gap is being bridged?
  - \* Is the gap being bridged by turning to moneylenders/malfunctional middlemen?
  - \* Can it be met by mobilising the debtors into thrift and credit groups or SHGs (reminiscent of what Prof. Mohammad Yunus achieved through Grameen Bank experiment in Bangladesh)? If not, why not?
  - \* Presence of social countervailing power.
  - \* How to pre-empt the possibility of future debt bondage.



## **B. Elimination of Child Labour**

9.19 Legally speaking a child is a person below 14 years of age. In a more refined sense, however, a child is the finest human resource. It constitutes the country's next generation, on the centre of hope of the nation. Childhood represents the most tender, formative and impressionable stage of human development which is expected to be devoted to singing, dancing, playing, painting, cartooning, clay modeling as well as learning a host of skills including cognitive, affective and psychomotor skills. It is certainly not the stage for work, hard manual work, arduous, drudgery and hazardous work spread over long hours and performed under unclean, unsafe and unhygienic conditions.

9.20 The whole issue of elimination of child labour revolves round (a) prescribing a minimum age of entry to working life; (b) holistic development of a tender human resource; (c) protection of inalienable human rights of all children; and (d) building a solid foundation for social justice and equity.

### *i) Minimum age of entry to the world of work*

Any person intending to enter the world of work should be physically energetic, mentally and emotionally mature and stable, able to confront situations/crises as they come and able to take decisions which should be sound and sensible. Under the present day conditions and keeping the overall poverty and malnutrition of the younger population in view, that minimum age should not be less than 14 in case of simple, innocuous and harmless work and 18 in case of difficult, strenuous and hazardous work. If a person enters the world of work regardless of his/her minimum age it will result in early ageing, stunted growth, occupational diseases and eventual loss of childhood.

### *ii) Holistic development of tender human resource*

Holistic development implies easy and universal access of all children in the 6 - 14 age group as human beings and as members of a household to:

- \* Functional literacy and numeracy
- \* Free and compulsory primary and elementary education
- \* Primary health care including immunization
- \* Food security and elementary nutrition
- \* Environmental hygiene and sanitation
- \* Potable water
- \* Overall care and protection of all children (orphans, destitutes, abandoned children, physically, orthopaedically and visually challenged, mentally retarded children and mentally ill children)

### *iii) Protection of inalienable human rights*

- \* Working children often bonded or working under slavlike conditions along with parents or on their own either at originating or destination points.
- \* Those who are sold and trafficked for prostitution including pornography and pornographic performances.
- \* Those who are victims of drug peddling.
- \* Those who are vagrants working as street children in urban or semi-urban centres.
- \* Those who are victims of HIV/AIDS and therefore, victims of socially induced discrimination, stigmatisation and denial (DSD).
- \* Within these groups, girls bear the maximum brunt of exploitation, abuse and violence in view of prevailing gender discrimination and dominant patriarchal values in society.

- \* The vast majority of such children are from socially and economically deprived SC and ST communities who are victims of both social discrimination and economic exploitation.
- \* India has ratified the UN Convention on the Rights of the Child (CRC) in 1992. It is, therefore, a moral, ethical and legal imperative that the violation of children's rights be urgently and seriously addressed with special emphasis on:
  - Right to protection
  - Right to survival
  - Right to participation
  - Right to development

*iv) Building a foundation of social justice and equity*

There are widespread social and economic inequalities and disparities in matters of distribution of land, number of days available for employment of women and men, absence of national and regional minimum wage, functioning of public distribution system, availability and distribution of foodgrains all cumulatively contributing to poverty, hunger, starvation and malnutrition and overall deprivation. All these individually and collectively have a bearing on health, education, evolution and growth of children and employment of children. They have also a bearing on the constitutional provision of Right to Life (Article 21) which includes:

- Right to life and limb
- Right to land, water, air, food and nutrition
- Right to education and skill training
- Right to environmental sanitation and hygiene

Elimination of child labour will have to be viewed from this holistic and integrated perspective. It should begin with withdrawal of children in the 6 - 14 age group from work and should end with protection of childhood, holistic development (physical, mental and emotional) of children and creating conditions conducive to children to exercise their right to protection, development, survival and participation and such a perspective should ultimately entail:

- end of adverse sex ratio
- end of foeticide and female infanticide
- end of discrimination of girl children in terms of denial of or equal access to opportunities
- end of early child marriage
- end of cross border trafficking for child sex abuse (including pornography and pornographic performances)

*Initiatives taken and efforts made by NHRC in putting an end to child labour in the States of A.P., Tamil Nadu, Haryana, Orissa, M.P. and Rajasthan:*

**i) Andhra Pradesh**

9.21 Member, Justice Mr. Y. Bhaskar Rao assisted by the Special Rapporteur, Dr. L. Mishra conducted a review of the status of Child Labour and measures taken by the State government for elimination of child labour in general and child bonded labourers in particular in Andhra Pradesh on 19 October 2006. The outcome of this review is placed as under:

- Andhra Pradesh ranked No. 1 in terms of number of working children in as much as it had 1.6 million working children according to 1991 census;

- As a result of a series of measures initiated by the State government including operationalization of a large number of National Child Labour Projects in all the 23 districts of the State, the number of working children has come down to 1.3 million according to 2001 Census. This together with the innovative initiatives taken by MVR Foundation for making all villages of Rangareddy district child labour free there has been a new momentum to the drive for elimination of child labour;
- In the wake of launch of Sarva Shikshya Abhiyan (Education for All) in 2002 - 2003 there has been a renewed thrust and emphasis for enrolment of all children in the 6-14 age group in the formal school system which has a direct bearing on elimination of child labour.
- There were, however, two areas of major concern in A.P.:

### 1. *Special Problems of Child Bonded Labourers*

It was found that MVR Foundation has released about 15,000 child bonded labourers and admitted them to schools/bridge schools in 8 districts of the State. It was felt necessary and desirable to ascertain the present status of these children from MVR Foundation.

It was also found that Deccan Development Society, an NGO conducted a survey of bonded labour system in 120 villages of Medak district and identified 9000 bonded labourers, a good number of whom were children. This NGO is conducting a summer school programme since 1990 and sending these children to regular schools for continuing their education. It was felt necessary to ascertain the present status of these children from Deccan Development Society.

It was further reported that the district administration of Hyderabad had recently identified 33 child bonded labourers. Of them, 25 children who belonged to Chennai have been sent to Chennai with police escort. The other 8 children who belong to A.P. and who were working on daily wages have been handed over to their parents after obtaining an undertaking that the children will be sent to school for education and not to work.

### 2. *Trafficking of girls for commercial sexual exploitation*

It was observed that A.P. is both sending as well as a receiving State for trafficking of girls. It was also reported that between January to July 2006, 198 trafficking cases were registered under Immoral Traffic (Prevention) Act, 1956, 780 traffickers were arrested, 140 cases chargesheeted, 9 cases ended in conviction, 10 cases ended in acquittal and the rest are sub judice. Further 175 cases were registered under section 8 of the above Act during 2006 and upto 30 September 2006.

9.22 It was further reported that 80 victims from Mumbai and 62 victims from Delhi were released from the captivity of pimps/brothel owners and brought back to A.P. Six pimps were also arrested by the police through the good offices of an NGO of Ananthpur.

9.23 There was further reporting of trafficking of girls from Bhogapuram and Poospatirega mandals of Vijayanagaram district to Mantada village of Vyyuni mandal of Krishna district which on verification was found true. The victims were released and financial assistance made available to them through Indira Kranthi Patham, District BC and SC Societies and Rajeev Yuva Sakshi Schemes.

9.24 There were complaints of trafficking of girls from Cuddapah, Chenchu of Mehaboobnagar and Lambadas of Kaderi. Prompt action has been taken to release and rehabilitate these victims.

9.25 It was reported that a multipronged strategy has been adopted by the Women Development and Child Welfare Department to prevent potential victims from entering the vice den of flesh trade by skill

training on the one hand and by Provision of a host of income generating activities. Concrete examples of a few of these rehabilitation efforts are:

- An NGO called CARD has rehabilitated 25 trafficked girls/women in Nellore during March 2004
- 25 Dommara girls were imparted skill training through an NGO called SWARD and DRDA Medak
- Between 2003 - 2004 to 2005 - 2006 138 rescued victims have been sanctioned rehabilitation assistance costing Rs. 6,90,000/- for the State as a whole
- Various skills in which training is being imparted to trafficked girls who have been released as a measure of their rehabilitation assistance are:
  - \* Provision of training in beautician course/netmaking
  - \* Provision of jobs as anganwadi workers, jobs at STD booths, as sales girls, workers at fast food centers, workers at Kakinada Ship Building Yard etc.
  - \* Reunion with families
  - \* Rehabilitation through short stay homes
  - \* Enrolment of trafficked girls who have been released in residential bridge school
  - \* Allotment of land patta (both homestead and agricultural) by Collectors concerned

*Special measures to be taken for identification, release and rehabilitation of working children:*

- a) The Ministry of Labour has vide Notification No. SO (1029) (E) dated 10 July 2006 prohibited employment of children in:
1. Domestic service
  2. Hospitality sector (hotels, motels, dhabas, eating -houses, roadside restaurants etc.)
  3. Recreation sector (SPA, resorts etc.)
- The notification will be effective w.e.f. 10 October 2006 i.e. after expiry of 3 months.
- b) Member emphasised in course of the review on the following:
1. Intensive and continuous publicity through press and electronic media to heighten awareness of both parents and employers about prohibition of employment of children in the categories as above
  2. Survey for identification and enumeration including raids for unearthing such children employed in the prohibited categories should be conducted
  3. Plan for rehabilitation of children released from work through access to education, nutrition (through mid day meal) and skill training should be formulated and implemented
- c) It was reported by the State government that:
1. Employers of establishments who engaged children below 14 years in the hospitality sector under the Provisions of A.P. Shops and Establishments Act are being prosecuted.
  2. From 10 October 2006 these employers will be prosecuted under Section 14 of Child Labour (Prohibition & Regulation) Act as well.
  3. It was admitted that the domestic sector employs a large number of children below the age of fourteen. These children belong to both A.P. as well as other States. They are also children of migrant parents. A drive is necessary to release them from work as also to rehabilitate them through education. Department of Education has been requested to ensure this.

9.26 On the whole, it was emphasized from the Commission that (a) magnitude of the problem of trafficking of girls in A.P. was very large and serious (b) what has been unearthed is merely a tip of the iceberg and much more remains to be done and (c) it was imperative that both sending and receiving States come together with a lot of courage and determination and launch well planned, coordinated and concerted initiatives to put an end to this socially unethical and detestable practice.

## ii) Tamil Nadu

Member, Justice Mr. Y. Bhaskar Rao assisted by Special Rapporteur, Dr. L. Mishra reviewed programmes undertaken by the State government of Tamil Nadu for elimination of child labour on 9 November 2006. The current status of child labour in Tamil Nadu is as under:

- There were 5.78 lakhs working children (48.2% male and 51.8% female according to 1991 Census)
- This came down to 4.18 lakh in 2001 Census
- The Sarva Shikshaya Abhiyan has established the number of working children at 3.49 lakh in the same year
- This number has come down to 70,344 in 2003, 46,153 in 2004 and 25,589 in 2005
- No break-up between urban and rural areas, hazardous and non-hazardous forms of employment, boys and girls was, however, available
- In 1995 a survey was conducted by District Administration to identify children in child labour endemic districts i.e. Vellore, Tiruchirapalli, Pudukottai, Salem, Coimbatore, Tirunelveli, Viruddhanagar and Dharmapuri. In all 2,45,796 working children were identified.
- Within two years when a fresh survey was conducted in 1997 in pursuance to the directions of the Supreme Court in its judgement dated 10 December 1996 the number of working children came down to 9,493 in hazardous occupations and 8,828 in non-hazardous occupations
- These figures on further verification came down to 9,007 in hazardous and 9,052 in non-hazardous occupations

9.27 In the light of the above, the Member directed the State government on the following course of action:

- A survey should be undertaken by identifying an area
- Such an area can be a village, a panchayat a block or a district
- Teams of surveyors from different parts of the State government such as Education, Labour, Revenue, Rural Development, Panchayati Raj etc. could be constituted for the proposed survey
- A questionnaire in simple Tamil should be designed to canvas information on child labour by putting a few friendly and non threatening questions to the head of the family or the head of an establishment (where children are employed) as the case may be
- A brief orientation and training should be imparted to the members of the survey team prior to their proceeding to conduct the survey
- No advance information should be given about the date and time of the survey
- The survey should be conducted in a discrete and circumspect manner with a view to eliciting facts about existence of child labour in a particular area
- The findings of the survey in respect of different areas (village, grampanchayat, block etc.) should be properly compiled, analysed and authenticated before it is stored in the computer for future reference as an accurate and authentic database of child labour in the State

9.28 The Member reviewed the pace and progress of implementation of programmes of rehabilitation of children who have been released from work through education, nutrition, skill training and check up of health through special schools of the National Child Labour Projects (NCLPs). Tamil Nadu has 12 such NCLPs and 12 INDUS Child Labour Projects to take care of 75,330 and 9,691 children respectively. Of them 41,476 children have completed three years schooling in the special schools and have been mainstreamed into the formal school system.

9.29 In the course of review, the Member wanted to know the measures taken to impart quality education to such children. He was of the view that since a child spends a major part of the day of his/her life in a school, the classroom environment must be cheerful and bright. He observed that most of the schools in rural and urban India have classrooms that are small, over crowded and aesthetically unappealing. Education was meant to train both body and mind of a tender human resource i.e. the children. It was to raise physically healthy and strong children on the one hand and to train their mind, to enable them to reflect reason and ratiocinate with a view to boosting their intellectual animation. Parents and teachers in special schools under the NCLP should insist that children should show compassion towards the less fortunate while instilling in them the passion to pursue excellence academically. This is particularly relevant for working children who themselves belonged to the less fortunate category. They should make it a point to prevent other children to get into similar work which took away their own childhood and all the excitement and joy associated therewith. The Member emphasised that motivational stability, security and sensitivity are the bedrock of a fulfilling life and these should be granted in the forefront of the educational agenda of the special schools under the NCLP. He emphasised that the children who have received a good quality of motivational education stand a better chance of managing failure and stress in later life.

9.30 A few problems, constraints and challenges in identification and enumeration of children employed in hazardous work, their released from such work and rehabilitation came up in the course of review. Some of these constraints are:

- Employers evade and circumvent their statutory responsibility.
- They invariably indulge in manipulation of age of children, employer-employee relationship, terms and conditions of employment, wages etc.
- Pervasive mindsets on the part of parents, employers and cross-sections of the civil society about children's education vis-à-vis entry to the world of work continue to persist.
- There is no stability and durability of employment in rural areas necessitating migration to urban areas.
- There is no clear-cut policy about educating the children of migrant parents in their own mother tongue.
- Absence of teacher's motivation to teach, unionization of teachers, teacher's absenteeism, deficient training of teachers which does not equip the teachers in child psychology and make teaching learning a child centered process which is joyous, exciting, relevant and worthwhile have all contributed to poor quality education of children.

9.31 These constraints notwithstanding, there are certain positive points which need to be listed. These are:

- Tamil Nadu Compulsory Elementary Education Act was enacted in 1994.
- A State Advisory Board for Child Labour was constituted in 1995.
- Tamil Nadu Slum Clearance Board, Chennai was allotted Rs. 1 Crore in March, 1996 for undertaking a Child Labour Eradication Project in Chennai City.
- A State Level Workshop on Mobilization of Employer's Association was held on 5 July 2006 at Chennai.

- A State Level Workshop on 'Child Rights and Child Labour related enactments' were held on 22 June 2006 and 7 July 2006 at the State Judicial Academy, Chennai.
- An Action Plan for Eradication of Child Labour in Tamil Nadu has been prepared by the State Labour Department on 12 May 2003 and published by the State Child Labour Rehabilitation-cum-Welfare Society with all relevant components such as:
  - \* Identification of working children through survey
  - \* Rehabilitation of children withdrawn from work
  - \* Enrolment of children in 5 - 7 years age group
  - \* Mainstreaming children released from work to formal schools
  - \* Strengthening the foundation of formal education;
  - \* Awareness generation
  - \* Targeting implementation of development programmes
  - \* Training of all functionaries involved in eradication of child labour

## **Convergence of services**

9.32 The State government's track record of performance in terms of compliance with the directions of the Supreme Court in Civil Writ Application No. 465 M.C. Mehta Vs. State of Tamil Nadu dated 12 December 1996 was, however, found to be not as encouraging as it should have been.

9.33 The following disquieting features in the status of this compliance came to notice:

- Contrary to the directions of the Apex Court to withdraw all these children from work and enrol them in the formal schools, only 708 children have been withdrawn and enrolled in such schools.
- The reasons for non-withdrawal and non-enrolment of the remaining children are:
  - \* A stand has been taken by the employers that the children identified in course of survey are above 14 years of age.
  - \* That the children identified are no longer working in their establishments.
  - \* That the children identified are either the relatives of workmen or of employers and not workmen themselves.
  - \* That parents are unwilling to send the children withdrawn from work to school.

9.34 It was noted that these are not valid grounds for non-enrolment of children released from work. It was emphasised on the State government that according to the direction of the Apex Court in M.C. Mehta's case quoted earlier it was the responsibility of the Labour Inspectors to have persuaded the parents to send all children withdrawn from hazardous work to school.

9.35 At the rate of Rs. 20,000/- per child withdrawn from hazardous work, a minimum amount of Rs. 181,040,000/- (Rs. 20,000/- x 9007) should have been collected from the offending employers. As against this, a pittance of Rs. 1,60,000/- only has been collected. Here again, a set of alibis/excuses came from the employers as well as the State government for non-collection of the balance amount. In the light of this, the Member gave the following directions to the State government:

- The birth certificate produced by the employer in support of the age of child is likely to have been forged or manipulated.

- It should have been placed before the prescribed medical authority involved by the State government under section 10 of the Child Labour (Prohibition and Regulation) Act for authentication.

9.36 The fact that a child below the statutorily prescribed age was found in course of the survey to have been employed in a hazardous occupation/process is enough to establish infringement of the law by the employer concerned and, therefore, the latter is liable to pay Rs. 20,000/- per working child and recovery of the amount need not wait till the employer has been convicted by a Criminal Court.

9.37 The State government was advised to get the various alibis/excuses made by the employers examined by the legal remembrancer (LR) of the Law Department of the State government and Advocate General and to take appropriate action thereafter.

## HARYANA

9.38 Special Rapporteur, Dr. L. Mishra reviewed the current status of child labour in Haryana, measures taken for implementation of Child Labour (Prohibition & Regulation) Act, 1986 by the State Government and problems, constraints and challenges inhabiting the implementation process. The outcome of the review is as under:

- According to 1991 Census, Haryana had 1,09,691 working children,
- This has gone up to 2,53,491 which is more than double according to 2001 Census.
- The State government, however, has quoted a figure of 72,738 working children which is obviously an under estimation and not borne by facts.
- Even with this reduced figure, no break up between urban and rural areas, between boys and girls, between children engaged in hazardous and non hazardous work is available with the State Government.
- The State government has not drawn up any action plan for implementation of the National Policy on Elimination of Child Labour so far.
- The first step in the action plan is to have clear and precise information about the number of children engaged in hazardous work.
- This should be identified and enumerated through a survey. Thereafter, all children employed/engaged in hazardous work should be withdrawn from that work and rehabilitated through the special schools under the NCLP in conformity with the national policy and programme.
- The Ministry of Labour has sanctioned three NCLPs at Gurgaon, Faridabad and Panipat in November 2003. They have also released a grant of Rs. 8.59 lakh for each NCLP.
- Since the State Government has reported that only 6 children could be found to be engaged in hazardous work on the basis of a survey conducted in 1996 - 97 and that these children have left for their native place, the basis of sanction of three NCLPs by the Ministry of Labour is not clear.
- This anomaly notwithstanding the NCLPs is a non starter even three years after the sanction and release of funds.
- In response to the questionnaire circulated by the Special Rapporteur, the State Government has now reported that only 103 children at Faridabad and 1400 children at Panipat could be found in hazardous work.
- No survey has been conducted in Gurgaon so far.
- In respect of children withdrawn from work in Panipat only 5 schools have been opened although the number of working children (1400) warranted opening up of much larger number of schools (at least 30).



- Not a single school has been opened in Faridabad even though 103 working children were found to have been employed in hazardous work.

*Compliance with the directions of the Supreme Court in Civil Writ Application No. 465 in M.C. Mehta Vs. State of Tamil Nadu and Others dated 10 December 1996*

- A survey was conducted in the wake of the judgement and completed by 31 May 1997.
- According to the findings of the survey only 6 children in the 6 -14 age group were found to have been employed in hazardous occupations and 2813 children in non hazardous occupations.
- The children found in hazardous work were the children of migrant parents who have left for their native place in U.P. They, therefore, could not be enrolled in the formal school system in Haryana as directed by the apex Court.
- A sum of Rs. 1,20,000/- (Rs. 20000/- per child) was, however, recovered from the offending employers, deposited in the District Child Labour Welfare-cum-Rehabilitation Fund and is lying there unutilized.
- All children employed in non-hazardous work were required to receive non-formal education for 2 hours in the evening and the cost of that education was to be recovered from the employers of the establishments concerned. This does not appear to have been complied with.
- Since the 6 children have already gone back to their respective States along with their parents it would be appropriate to transfer the entire amount of Rs. 1,20,000/- to the districts concerned and utilized for the welfare and development of those children.
- All Inspectors responsible for carrying out inspections and enforcement of the provisions of the Child Labour (Prohibition & Regulation) Act, 1986 should have been made accountable to the District Magistrate of the district concerned. These do not appear to have been complied with.
- The State government was advised to view the issue of elimination of child labour with a lot more urgency and seriousness of concern than what has been the case so far. They were also advised to operationlize the three NCLPs sanctioned for Faridabad, Gurgaon and Panipat three years ago without any further delay.

## **ORISSA**

9.39 Special Rapporteur, Dr. L. Mishra received the current status of child labour in the State with special reference to the situation obtaining in KBK districts in December 2006. The outcome of the review is as under:

- The Decennial Census of 2001 has reported 3,77,594 as the total number of working children in Orissa.
- The Project implementing Sarva Shikshya Abhiyan (Education for All), however, conducted a child Census in 2005 and reported that 603290 children in the 6 - 14 age group are out of school as on 1 October 2005.
- The gap between the two sets of figure (2,25,696) is quite high and needs to be reconciled.
- According to the estimates made available by NCLP authorities, 74,266 children have already completed a three-year cycle in the special schools of NCLPs and have been mainstreamed into the formal schools. They have further reported that 32,388 children have been released from work and have been enrolled into the special schools of 14 NCLPs. This makes a total of 1,06,654 children who are in special schools of NCLP/formal schools and who have ceased to be working children.

- If this figure is excluded from the number of working children according to Decennial Census 2001 the number of working children left would be 2,70,940.
- This is much lower than the number of children who are out of school (6,03,290) according to Project Authorities of SSA.
- With a view to steering clear of such confusion the State Government was advised to conduct a second round of survey (both household and establishment wise) to arrive at a clear and precise enumeration of working children.
- They were also advised on the following :
  - \* To keep a constant vigilance and surveillance through Gram Panchayats with a view to preventing children from the 6 - 14 age group to get into the status of out of school children or working children
  - \* To keep a vigil over children accompanying migrant parents to destination States and in the process becoming victims of educational deprivation. It will be appropriate if such children are retained by the home state and taken care of in terms of their health, education, nutrition and recreation.
  - \* In the wake of issue of Notification No. SO 1029 (E) dated 10 July 2006 by the Ministry of Labour a number of steps have been taken by the State government in the direction of elimination of child labour, which are as follows:
- A State High Level Committee with the Chief Minister/Chairman and Secretaries of concerned Departments as Members has been reconstituted.
- Secretaries of the concerned Departments have been asked to prepare an Action Plan for elimination of child labour.
- Secretaries of 3 departments (School and Mass Education, Labour and Women and Child Development) have been asked to visit Maharashtra, Karnataka, Tamil Nadu and Delhi where progress towards elimination of child labour are reported to have been successfully implemented.
- All out of school children including the drop outs have been adopted as reference points for survey.
- Transit homes are to be established at Cuttack, Puri, Bhubaneswar, Balasore, Berhampur, Sambalpur, Rourkela, Balangir and Koraput for keeping children released from work till they get admitted to some school.
- Collectors have been advised to have their health checked up, issue age certificate wherever necessary and provide counselling to both children and parents.
- Government of India have been moved for sanctioning additional 12 NCLPs for the remaining 12 districts, an additional amount of Rs. 2 crore for identification and release of children, for setting up of transit homes and to increase the number of special schools in the existing NCLPs for rehabilitation of all released working children.
- All these are positive and welcome steps in the right direction and would, when fully implemented, provide a fillip to the process of substantial, if not total elimination of child labour in Orissa. There are however, problems, constraints and challenges and these are:
  - \* There are 32 Labour Districts in the State and each district is required to be manned by a District Labour Officer with requisite supporting staff.
  - \* As against this, in districts like Sonapur, Nuapada, Balangir, Talcher, Deogarh, there is at present no ALO to assist the DLO.
  - \* Over a period of time, the number of inspectors for inspection of establishments under various Labour Laws such as Minimum Wages Act, Beedi and Cigar Workers (Conditions

of Employment and Service Act etc.), Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, Building and Other Construction Workers Act) has practically remained the same. Even though according to the stipulation in 1975-76, one Inspector was to be attached to each of the 314 blocks in labour law enforcement.

- \* Most of the field offices are running without any non gazetted staff;
- \* There are serious mobility constraints in as much as none of the DLOs have been provided with any vehicle.
- \* Neither the zonal nor the district level offices have been equipped with modern communication gadgets (computer, fax).

The Special Rapporteur had called on the State Labour Minister and State Finance Minister to appraise them about these administrative problems and constraints and had appealed to their good sense to remove these constraints in the larger interest of the efficient motivation of the department.

*Compliance with the directions of the Supreme Court contained in its judgement dated 10 December 1996 arising out of Civil Writ Application No. 4065.*

- A Child Labour Cell has been created by the State government since 21 March 1997 to supervise, coordinate and monitor implementation of the directions issued by the apex court.
- No exclusive senior position was sanctioned to man the multifarious responsibilities entrusted to the Cell.
- Pursuant to the direction, a survey was conducted and 2,15,222 working children were found to be engaged in both hazardous and non hazardous occupations.
- While 23,761 children were withdrawn from hazardous work and only 2460 children have so far been enrolled into the formal school system.
- No explanation was forthcoming as to why all 23,761 children could not be enrolled into the formal school system.
- According to the directions of the Apex Court, a sum of Rs. 47,52,20,000/- should have been collected as punitive fine from the offending employers.
- As against this, only Rs. 1,20,000/- (Rs. 20,000/- per employer) has been collected from six offending employers. No plausible explanation is forthcoming as to why the amount recovered is such a small fraction of what was actually recoverable.
- The District Child Labour Welfare-cum-Rehabilitation Fund has been created only in two districts and the position about the remaining districts is not known.
- No indication was forthcoming from the Department or the Directorate as to how many of such non formal education centres have been opened and how many children have been enrolled into these centers.

*National Child Labour Projects: Special Schools opened under the aegis of NCLPs – Management thereof– expected outcome and actual outcome*

- In all 18 NCLPs have been sanctioned for 18 districts of which 14 have been operational and 4 are yet to be operational (Malkangiri, Sambalpur, Bargarh and Balasore). Even though, the NCLP Malkangiri was operational for about six years (1998 - 2004), following detention of gross financial irregularities/ misappropriation in January 2004, 40 special schools under the NCLP has been discontinued w.e.f. 1 July 2005.

- Similar complaints of misappropriation of the stipend amount (Rs.100/- per student) were received in course of the Special Rapporteur visit to Special School, Maidapur in Papadahandi Block of Nawrangpur district. All such cases deserve to be viewed with utmost urgency and seriousness of concern and firm, stringent and deterrent action needs to be taken at the earliest against the delinquents.

## **Impressions at the time of visit to NCLP Special Schools in the KBK Region**

### *i) Accommodation*

Wide variations were found in terms of:

- Adequacy of space
- Lighting and ventilation
- Condition of the building (free from seepage, cracks etc.)
- Kitchen garden
- Conservancy facilities (toilet with flushing arrangement);
- Playground

This was inherent in a situation of hired accommodation in an area where physical infrastructure was not very strong

### *ii) Quality of the teachers*

It was observed that while sincere efforts have been made to recruit teachers with all limitations of low literacy in the region, there are serious problems in terms of general proficiency of the teachers to teach. This could be corrected only through intensive and recurrent training and retraining of teachers imparted in a participative and communicative mode.

### *iii) Proficiency of learners*

Serious deficiencies in terms of acquisition of minimum levels of learning in mother tongue, arithmetic, social sciences, general/earth sciences, environment etc. were observed practically in all the schools which were visited. While deficiencies in learning are understandable in a situation of poverty, hunger and malnutrition, such deficiency if not corrected in time, will land the children in serious problems at higher levels of education later. For this purpose, series of measures such as drills and exercises at the end of every lesson, self evaluation at the end of every primer and professional evaluation at the end of completion of all the text books and rigorous home tasks to be attended by the students at home were recommended. The repetitive dictations with correct pause and rhythm, holding the students by their hands and making them write in straight lines, letters of uniform shape and size and promotion of correct pronunciation of words and correct comprehension of the meanings of the passages dictated were recommended.

## **Madhya Pradesh**

9.40 Special Rapporteur, Dr. L. Mishra reviewed the current status of child labour in Madhya Pradesh including efforts made by the State government for elimination of child labour in the first week of January 2007. The outcome of the review is as under:

- The number of working children has come down from 1352563 in 1991 to 10,65,259 in 2001. This is a positive and welcome development.

- The other redeeming feature in elimination of child labour, which was observed, relates to involvement of women and child welfare, education, panchayat and rural development departments in the process. The State government has set up a State Resource Centre for elimination of child labour in the office of Labour Commissioner and a Project Steering Committee at the State level to monitor, coordinate and supervise all activities pertaining to elimination of child labour. These bodies are functional and they meet at regular intervals to take stock of the developments in this area.
- There is a system of registration of births of all children administered by Women and Child Development Department. With the help of that department, it should be possible to work out the number of children in the age group of 0 - 6 years, 0 -14 years and 6 -14 years.
- This will be useful for planning of education of children at the preprimary, primary and upper primary level.

## **Status of Child Labour in M.P.**

9.41 In the course of review, it was found that employment of child labour has been prohibited in hazardous occupations and processes such as :

- Automobile workshop/garage
- Domestic help
- Dhabas, restaurants, hotels/motels, tea shops, recreation centres etc.
- Beedi rolling, labelling and packaging
- Manufacturing process using toxic metals & substances
- Fabrication Workshops
- Brick Kilns
- Stone breaking and crushing
- Grinding and glazing of metals
- Extraction of slates from mines
- Rag picking and scavenging

### ***Compliance with the directions of the Apex Court dated 10 December 1996 in Civil Writ Application No. 465 M.C. Mehta Vs. State of Tamil Nadu and Others***

- The State Government has reported on the basis of a Statewide Child Survey conducted in April 1997 that 10,246 children in hazardous occupations, processes and 3045 in non hazardous ones were found. These on scrutiny were brought down to 8826 and 2994 respectively.
- Of the 8739 working children, who were eventually identified and released from hazardous work, 6663 only were admitted in schools. The picture is a bit unclear about the rest.
- 3649 criminal cases were launched against offending employers of which 1833 cases have been decided of which in 1746 cases offending employers have been acquitted.
- The Department was unable to explain reasons for acquittal in such large number of cases.
- 3033 revenue recovery certificates were issued against 3854 employers involving 8456 children in hazardous work for recovering compensation amount of Rs. 20,000/- per working child. It appears that a sum of Rs. 4.55 lakhs only could be recovered in 12 districts namely Indore, Dhar, Sagar, Sidhi, Seoni, Maundsar, Ratlam, Neemuch, Jhabua, Bhopal, Vidisha and Betul. It further appears that 1537 employers have been granted stay by the High Court in 1998 petitions filed by them involving 4930 working children. This is how the desired objective of

setting up of Child Labour Welfare-cum- Rehabilitation Fund in all districts of M.P. and depositing the recovered compensation amount could not be fulfilled.

- As against a sum of Rs. 17,65,20,000/- which would have been collected @ Rs. 20000/- for 8826 children what has been collected is a pittance.
- 1074 adult members of the working children were provided with employment as against adult members of families of 8826 children. It was explained that the remaining members being beedi workers did not accept the offer of employment outside beedi industry.
- A State Level Child Labour Cell has been established at the office of the Labour Commissioner, M.P. at Indore for monitoring the welfare measures taken for working children released from work.

## **National Child Labour Projects**

- The first NCLP at Maundsar in M.P. was started in May 1988. This project was meant for withdrawing children from slate making and rehabilitating them through education, nutrition etc. It has been on the ground for nearly 20 years. It was felt that it is time for the State to undertake a review and come to a conclusion regarding further continuance of this project/ shifting the project elsewhere, as the case may be.
- 17 NCLPs with 360 special schools have been started. Proposals for starting two new NCLPs at Raisen and Tikamgarh have been sent to Government of India.
- Through the intervention of the 17 NCLPs and 360 special schools, 16,098 working children have been withdrawn from hazardous work and enrolled and 6553 children have been mainstreamed into the formal system of education after completing the 3-year cycle in special schools.
- In all 720 teachers have been appointed though they are yet to be trained.
- It is imperative that the State Government chalks out a systematic programme for intensive training and retraining of these teachers to improve their professional skills of teaching and evaluation.
- The Special Rapporteur observed certain silver linings in the management of the Special School under Gwalior NCLP. The school is being managed by Adarsh Samaj Sewa Siksha Samiti, an NGO that came into being in 1978 and has been in the forefront of education since then. The following innovative features in the management of the Special School came out clearly:
  - \* The students are able to respond to queries of outsiders with freedom and spontaneity, with strength, courage and confidence.
  - \* The children are hale and hearty, are subjected to regular checks and are neat and tidy in dress and manners.
  - \* The levels of proficiency in arithmetic and mother tongue are above average.
  - \* The crafts (with the training imparted by the craft teacher) are objects of beauty and would help in bringing out the best of imagination and creativity of the students.
  - \* The Collector, Gwalior, Mr. Srivastav has provided the best of leadership and direction to the management of NCLP in his district.
- The State Government have drawn up an Action Plan for elimination of child labour which has convergence, formation of district and block level Committees, voluntary declaration, monitoring, training and sensitization and strengthening general awareness as its strategies amongst others. The State Government were advised to take a holistic or integrated approach to protection of children's rights (of which elimination of child labour would be one of the major components) which would include:

- \* a total ban on sex determination tests
- \* a total ban on foeticide and female infanticide
- \* improving the current sex ratio which is adverse
- \* a total ban on early child marriage (the average age of nuptiality for girls being 15-16)
- \* launching a campaign against malnutrition, hunger and starvation
- \* launching a campaign against caste and sex based discrimination;
- \* launching a campaign for early childhood education
- \* launching a campaign for universal access to free and compulsory primary and elementary education
- \* launching a campaign against lack of environmental hygiene and sanitation particularly in the country side

## RAJASTHAN

9.42 The Special Rapporteur, Dr. L. Mishra reviewed the current status of child labour in Rajasthan and measures taken by the State government for elimination of child labour in January and February 2007. The outcome of the review is as under:

- The number of working children which was 77,4199 during the 1991 census has gone up to 12,62,570 in the 2001 Census – an increase of nearly 60% which is a matter of deep concern.
- A State Level Child Labour Project Monitoring Committee has been set up under chairmanship of State Labour Secretary. It has been meeting regularly and monitoring the pace and progress of elimination of child labour through a projectized approach i.e. NCLP. It has taken a number of useful decisions in this direction.
- Against 32 districts in Rajasthan NCLPs have been sanctioned for 23 districts. However, only 856 out of 1019 special schools have been operational. The number of children enrolled in these schools could not, however, be precisely indicated.
- Of the special schools visited by the reviewing officer at Bundi, Tonk and Jaipur there are redeeming as well as disquieting features. The redeeming features are:
  - \* convergence of different departments and activities thereof has been the key in planning and executing special schools under the NCLP.
  - \* health checks of children released from work is being regularly conducted.
  - \* free text books and uniforms have been made available.
  - \* teachers have been trained by NGOs funded by UNICEF.
  - \* attendance and punctuality are high water marks in special schools of NCLPs.
  - \* families of working children are being mobilized and organised under SHGs.
  - \* a host of activities are being organised to promote awareness of the importance of children as the most precious human resource.
  - \* a good number of working children who have received education through special schools of the NCLP have come up in life later – this has inspired and motivated a whole generation of children.

9.43 The grey areas are:

- proficiency levels in taking down dictations with normal speed, in mother use of tongue and in arithmetic and social science, leaves much to be desired.

- magnitude of the problem of child labour is gigantic, resources (human, material and financial) are limited, the entire duration of the special school programme is condensed and too short amidst high and rising expectations.
- children come from very poor families and by the time they are withdrawn from work and enrolled in a special school they have been badly battered and traumatized.
- a number of issues (health, hygiene, nutrition, sanitation etc.) which need to be addressed along with education.
- overall environment for a child to pursue education amidst grinding economic poverty of families, large size of families and too many additional mouths to be fed does not appear to be very conducive. Absence of a learning society and learning environment, which would value and prize literacy and education is a major constraint.

9.44 Additionally there are serious problems of law enforcement. The constraints inhibiting this process are:

- Age of the child is invariably a major dispute.
- There are no set parameters to determine the age of a child accurately even though medical authorities have been prescribed under section 10 of Child Labour (Prohibition and Regulation) Act. Age is closely correlated to growth but there is no credible growth monitoring of children.
- There is invariably a problem to get credible and independent evidence and substantiate employment of children in certain occupations and processes.
- There is generally no cooperation from the public in regard to (a) existence of child labour in certain occupations/processes (b) in identification and release of children from work and (c) resolution of disputes where employers take a negative stand about the age of children.
- Inspections are not being performed according to number of establishments employing children and according to a scale.
- While the number of inspections is limited, number of prosecutions filed is few and far between and the rate of conviction is very poor. Most of the prosecutions end up in acquittal.
- Most of the employers prefer to pay a paltry fine, escape with impunity and continue with the offences.

*Compliance with the directions of the apex court in civil writ application No. 465 of 1986 M.C. Mehta Vs. State of Tamil Nadu and Others dated 10.12.96.*

- State Labour Department has conferred the powers of an Inspector under section 17 of Child Labour (Prohibition and Regulation) Act, 1986 on a very large number of functionaries of different departments of State Government.
- This laudable intention (that there will be a very large number of inspections) has not been translated in to action.
- Barely 8107 children could be found in the course of survey of whom 3026 were in hazardous work and 5081 in non hazardous.
- The number of working children found in the course of survey is miniscule compared to the findings of decennial census and those of NSSO.
- Number of children withdrawn from hazardous work and enrolled formal schools of education could not be confirmed. The Labour Department has not gone about this task in a planned, coordinated and concerted manner.



- At the rate of Rs. 20,000/- per child Rs. 6,05,20,000/- should have been collected from the offending employers in relation to 3026 children. As against this a very meagre amount of Rs. 9,42,000/- only could be collected from all offending employers.
- Only 99 adult parents could be given employment.
- For failure to provide employment to all adult parents who were sending their children to hazardous work the State Government has deposited Rs. 140.15 lakh for 2803 children @ Rs. 5000/- per child in the Welfare-cum-Rehabilitation Fund.
- No information is available about (a) total corpus of the said Fund (b) pattern of investment (c) manner of utilization of the Fund.
- As majority of the working children identified in course of the survey has crossed the age of 14 years, the State Government have sought guidelines from the Ministry of Labour.

9.45 This was unnecessary as the Fund is meant for welfare of children and even if they have crossed the age of 14, the money from the corpus can be utilized for their higher education.





# 10

## Rights of the Vulnerable

### A. Manual Scavenging

10.1 The Central Government notified the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 on 24 January 1997. The NHRC has been vigorously pursuing the need to end the degrading practice of manual scavenging in the country. It has taken up this matter at the highest echelons of the Central and the State governments through a series of personal interventions by the Chairperson of NHRC.

10.2 The Commission held a number of meetings with the State governments. The last such meeting was held on 18 March 2007 on Eradication of Manual Scavenging under the chairmanship of the Hon'ble Chairperson, NHRC with representatives of the Central and the State governments and other stakeholders.

10.3 Ministry of Social Justice and Employment informed that the scheme of Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) which aims to rehabilitate remaining 3.42 lakhs manual scavengers and dependents by March 2009. The main feature in this aspect was capacity building to enhance employability, to provide placement linkages, liberalised funding for SHGs & micro financing through State Governments, in a flexibility of choice for implementing agencies, and the involvement of NGOs. The Cabinet in December 2006 approved the new SRMS and this is administered as a National priority with a resolute sense of purpose for surmounting any obstacles in implementation.

10.4 Ministry of Housing and Poverty Alleviation informed that twenty States have adopted the Act. The States that do not require the Act are Arunachal Pradesh, Manipur, Nagaland and Jammu Kashmir.

10.5 The schemes envisage a conversion of dry latrines into low cost twin pit sanitary latrines and construction of individual toilets where non-existent. The scheme has been taken up on a whole town basis meaning that by that all sections of population of the town (HIG, MIG, LIG and EWS) are presently covered by the ILCS guidelines. The scheme is being operated through HUDCO by providing a mix of subsidy from the Central Government and loan from the HUDCO. In the demand driven scheme there is no State allocation. HUDCO is providing loan on a mix of subsidy from the Central Government

in a synchronized manner. The budget allocation during the 10th Five Year Plan under ILCS is Rs.30 crores. The EFC has approved the proposed modifications in the integrated low cost sanitation scheme. The draft Cabinet note on the revised guidelines of the integrated low cost sanitation scheme has since prepared and circulated to various ministries and departments. Comments are awaited.

**10.6** On the basis of detailed deliberations in the meeting, the following recommendations emerged for implementation/ follow-up action by the States / Central governments:

1. All states should adhere to the target date of 2007 for the complete eradication of the inhuman practice of manual scavenging even though date is contemplated to be extended to March 2009. It is high time and without loss of time, the States adopt the Act. In case of those States who have not adopted that Act, NHRC will take serious and sincere view on the matter.

### **Survey**

2. Fresh survey be conducted for Identification of manual scavengers including in the rural areas while parallelly proceeding to rehabilitate already identified 3.4 lakhs manual scavengers.
3. Involve NGOs throughout in the process of identification, capacity building, placement linkages, convergence with other programmes and rehabilitation of manual scavengers under SRMS. NSLRS schemes approved by the Cabinet now named as Schemes for Rehabilitation of Manual Scavengers (SRMS) emphasised that SRMS to be implemented through State governments.
4. A proper rehabilitation plans needs to be executed and monitored. All State governments should make efforts to not just rehabilitate but ensure their acceptance and reintegration in the society of the identified scavengers.

### **Steps to be taken**

5. State governments should set quarterly target for converting the dry latrines into wet latrines.
6. The work of conversion/ construction of sanitary toilets under the scheme should be awarded to the selected NGOs who have got experience, manpower, infrastructure, expertise and credibility. The Government should prepare a list of such NGOs who fulfill these criteria.
7. There should be a separate provision for Information, education and communication (IEC) including motivational campaigns. There is such provision in case of rural sanitation. It is suggested that the same may also be included in case of urban sanitation.
8. Necessary steps should be taken by the States to impart education at the primary level to the wards of manual scavengers.
9. There is a need to examine the existing subsidy scheme in order to make it more feasible.
10. Municipal bodies to have detailed plan to construct more public toilets.

### **Rehabilitation, Acceptance & Reintegration**

11. Rehabilitation & Reintegration is not just an issue of providing economical alternative.
12. Need to impart training to liberated manual scavengers in the vocation of their choice.
13. Loans by Banks at liberalized rate of interest for liberated manual scavengers for setting up self employment ventures.
14. Need for good and quality schooling for children of manual scavengers along with ensuring continuation of scholarship to their children. The rehabilitation efforts should result in sustainable alternate employment, better education to dependent & their complete reintegration.

## **Ministry of Housing and Urban Poverty Elevation**

15. Request the Ministry to expedite the approval of new schemes so that the action could be initiated accordingly.
16. Alternative to dry latrines, Super structure, which was not considered as a part of cost, is now added.
17. To closely monitor the States where existing survey has indicated still large number of dry latrines viz. U.P., Bihar and West Bengal.
18. Municipal bodies who do not remove the dry latrines should be debarred from Central government funds.
19. Need is to cover the efforts through improved water supply as shift from dry latrine to wet is not just a case of eradication of manual scavenging but also of general hygiene.
20. Coverage with technology for getting energy from human waste, on the line of Sulabh International.
21. Penalize individuals who do not convert to flush latrines; even if need be resort to Section 133 Cr. PC.

## **Rewards**

22. To work out reward scheme to urban development bodies; those who achieve 100% result in removing the menace of manual scavenging and rehabilitating the liberated manual scavengers and their families.

The Commission is also monitoring the status of adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993. The progress made by the States to carry out fresh surveys to identify the number of scavengers and their dependents, imparting training to these scavengers and their dependents, rehabilitation, making provision in building by-laws, not to sanction the construction of new buildings and not to issue completion certificate unless there is a provision of water flush latrine. The present status of adoption and implementation of Act is at Annexure 11.

## **B. Rights of the Elderly**

### **Health Awareness Week**

10.7 The Commission had organised “Health Awareness Week” for the elderly people (senior citizens) in collaboration with HelpAge India from 26 February to 2 March 2007 at Ahmedabad. The inauguration function was held on 26 February 2007 at 9.30 a.m. at Shri Haribhai Memorial Hall chaired by Justice Daya Saran Sinha, Chairperson, Gujarat State Human Rights Commission and the Valedictory function was held on 2 March at 1.30 p.m. at Shri Ramujilal Memorial Hall Chaired by Mr. P C Sharma, Member, NHRC. Lectures on following topics were delivered by specialist in the field, which were very much informative with regards to the health of older persons:.

- i) Healthy Ageing and Domestic Accidents and Prevention by Dr. Mukund Mehta
- ii) Pain and its Management by Dr. Digvijay S. Bedi
- iii) Alternative Medicine by Dr. Ankur Dave (Homeopath) & Dr. Sharad Dave (Homeopath)
- iv) Diabetes and its Management by Dr. Jayesh Pavara & Dr. Samer Shah

10.8 A special health camp for screening, blood pressure, blood sugar was also organised on 2 March 2007 from 2.00 p.m. to 4.00 p.m.

## C. Dalits

10.9 The Commission has been actively engaged since its inception in the protection and promotion of the human rights of Dalits. The Commission has viewed its role as that of an “Equalizer: adding its weight on behalf of the vulnerable, so that the scales of justice and equity may be more evenly balanced for them, and to ensure that those who violate the rights of the vulnerable are brought to justice, as the Constitution of the country, its laws and treaty obligations all require.”

10.10 The Commission has also acted suo-motu on complaints in a number of cases to address the human rights violations of Dalits and to ensure that rights of the disadvantaged were protected and respected.

10.11 The Commission released eight dossiers on the human rights issues including Dalit Rights on the Human Right Day on 10 December 2006. The objective of these dossiers is to inspire, motivate, cultivate curiosity, shape the opinion and remove ignorance of the university students on issues concerning human rights. The focus of these dossiers has been on various movements that have taken place at the grassroots level rather than on individual entities. The overall content of the dossiers consists of milestones at the national and international levels, critical analysis of the situation, role of various stakeholders and players, action agenda, etc.

10.12 A meeting on Dalit issues was held in the Commission on 28 June 2006 chaired by the Hon'ble member of the Commission and it was resolved that for the year 2006 - 07 the focus would be on:

- i) Eradication of Manual Scavenging and
- ii) Elimination of atrocities against Dalits

10.13 Another meeting was convened on 6 February 2007 in the Commission on promotion and protection of Dalit rights under the Chairmanship of Hon'ble Member Mr R S Kalha. It was decided in the meeting that the Commission would take up four districts of the country from north, south, east and west, for an awareness campaign. Districts where atrocities against Dalits are reported high are, i) Karimnagar in Andhra Pradesh, ii) Vaishali in Bihar, iii) Palanpur in Gujarat, iv) Gulbarga in Karanataka, v) Ujjain in Madhya Pradesh, vi) Khurda in Orissa, vii) Bharatpur in Rajasthan, viii) Thiruvallur in Tamil Nadu, xi) Sitapur in Uttar Pradesh.

10.14 It was proposed in the meeting that in the first instance, the Commission would focus on the State of Rajasthan. Two officers each in Bharatpur district and Jodhpur district of Rajasthan would be deputed for a one day meeting, with officers of district administration to make them aware of the current situation as well as laws and obligations for protection of Dalit rights. It will facilitate the feedback for the State meeting, which will be held at Jaipur with the Home Secretary and the Secretary Social Welfare Department to discuss about high rate of atrocities in their State. It was also decided the Commission would seek a meeting with the Chief Minister of the State to appraise him about the situation, if found necessary. Similar intervention would be done in Faridabad district of Haryana State.



# 11

## Internally Dispalced Persons

### A. Human Rights situation in Natural Disasters

#### 1. *Monitoring of Cyclone Reconstruction Work in Orissa*

11.1 The Commission had taken suo motu cognizance of the situation arising from the devastating cyclone, which affected large areas of the State of Orissa in October 1999. After considering the reports of Mr. N. Gopalaswami, Secretary General and Mr. Chaman Lal, Special Rapporteur who made a detailed assessment of the situation in the affected districts, the Commission issued some specific directions and recommendations relating to relief and rehabilitation work.

11.2 Mr. Chaman Lal, the then Special Rapporteur NHRC visited the cyclone affected districts from 13 -19 March 2000 and on 10 -14 July 2000 to review the implementation of the Commission's directions/ recommendations.

11.3 The Commission notes with satisfaction the implementation of its directions/ recommendations. However, it finds follow-up action rather slow in the matter of (a) operationalisation of ICDS projects already sanctioned by the Government of India; (b) grant of mandatory compensation to fishermen families for loss/damage of boats and nets; and (c) the establishment of Ham Radio clubs.

11.4 While the Commission is satisfied with the probe into the allegations of professional lapses on the part of some district collectors and CEOs, Cuttack Municipal Corporation, it feels the probe into the allegations about the delay in opening of gates of three irrigation projects needs to be more extensive. The Commission noted with some reservation the finding of the expert committee leading to the suspension of a petty junior engineer without ascertaining and fixing the responsibility of any higher authorities.

11.5 Government of Orissa informed that necessary departmental proceedings had been initiated against Mr. Sridhar Behera, Ex-Executive Engineer (Civil) and Mr. L. Mallick, Ex. Asstt. Engineer (Civil). Besides, proceedings have also been initiated against Mr. R. Rout, Ex.S.E (Civil) and Mr. N. N. Mohanty, Ex. E.E. (Civil). The final proceedings of the inquiry have not been sent to the Commission as yet by the State Government.

11.6 The Commission is receiving quarterly progress report from the Government of Orissa regularly. In the last report which shows the status as on 30 June 2006, the progress made by the State Government of Orissa is as under:

*1. Construction of Multipurpose Cyclone Shelters*

11.7 Out of 60 MCSs, with CMRF Fund, all the MCSs have been completed. Out of 37 MCS taken up with WB assistance, 35 have been completed. Out of 36 MCS with K.F.W. German Assistance (Phase-II revised), 14 have been completed.

*2. Construction of School Buildings*

11.8 Out of 1152 taken up High School Buildings, 1148 have been completed and out of 5774 taken up primary school buildings, 5757 have been completed.

*3. Operationalisation of ICDS Projects*

11.9 All the sanctioned 41 posts of CDPOs have been filled up. Out of 5763 Anganwadi Workers and 5763 Anganwadi Helpers, the posts of 4924 and 5040 respectively are filled up.

11.10 It is noticed that the progress in construction of multipurpose cyclone shelters with the German assistance is very slow and there are approx 14% vacancies of Angawadi workes and helpers in ICDS projects. The Commission asked the State Government to complete the project and sent compliance report to the Commission along with final outcome of the proceedings initiated against the delinquent government officers/officials.

**B. Monitoring of post earthquake measures in Gujarat**

11.11 The Commission took suo-motu cognizance of the national calamity that arose from the devastating earthquake, which hit large areas in the State of Gujarat on 26 January 2001. Keeping in mind the precedent of monitoring of relief and rehabilitation work in the super cyclone-affected areas and the generally perceived efficacy of the Commission's intervention in Orissa, the Commission engaged itself in this task in Gujarat in the aftermath of devastating earthquake.

11.12 In order to monitor closely the follow-up action taken by the State governments to impact its directions, the Commission set up a group consisting of Mr. PGJ Nampoothiri, Special Rapporteur, NHRC, Mr. Gagan Sethi, Managing Trustee of Jan Vikas Trust, Mrs. Annie Prasad, President of Kutch Mahila Sangathan and Prof. Anil Gupta, IIM, Ahmedabad.

11.13 The Special Rapporteur submitted a preliminary report of the group in February 2003 regarding the monitoring of the relief of persons disabled in the earthquake. A detailed report from the Special Rapporteur was received during the period under report.

11.14 The report submitted by the Special Rapporteur was considered by the Commission in its meeting held on 24 January 2006 and desired that the report received from the State government should be incorporated in the report received from the Special Rapporteur. The Commission has again requested the State government to submit the action taken report/ comments on the report submitted by the Special Rapporteur, NHRC and current status of the relief & rehabilitation of victims of the earthquake. However, the report is still awaited.



### **C. Problems of Denotified and Nomadic Tribes**

11.15 The Commission has been concerned about the violation of the human rights of communities designated as Denotified Tribes (DNT) and Nomadic Tribes (NT). They had, earlier in pre-Independence India, been identified as “Criminal Tribes”. Though the Criminal Tribes Act, 1871 was annulled soon after independence, prejudice against them persisted. The police, as well as members of the public, frequently treat persons belonging to these communities as “born criminals” and “habitual criminals.”

11.16 The Commission constituted an advisory group to examine the matter. It submitted its report in August 1998 and made several recommendations to improve the condition of the communities.

11.17 The Commission is monitoring the response from the State governments/UTs on the recommendations. The report received from some of the States was considered by the Commission which decided to prepare a note by the Secretary General of the Commission. Before preparing a note, the then Secretary General of the Commission requested the State Governments to furnish the information relating to the plight of the Denotified and Nomadic Tribal communities on matters such as whether these Tribes have been included in the list of SC/ST/OBC, specific settlements, basic facilities for schooling, primary health etc. being extended to these communities etc.

11.18 States of Arunachal Pradesh, Assam, Goa, Jammu & Kashmir, Manipur, Mizoram, Nagaland, Sikkim, Tripura, Uttaranchal and Union Territories of Chandigarh, Dadra and Nagar Haveli, Daman & Diu, Lakshadweep and Pondicherry have provided no information.

11.19 The information from the State of Bihar, Maharashtra and Meghalaya are still awaited.

11.20 The State of Andhra Pradesh, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Union Territory of Andaman & Nicobar Islands have furnished the relevant information. Government of Jharkhand has provided the partial information stating that the information is being asked from district, as and when they receive the same will be provided to the Commission. A statement showing analytical status of action taken by the State governments is at **Annexure 12**.





# 12 Research Studies and Projects

12.1 The Statute of the Commission requires it to undertake and promote research in the field of human rights [Section 12 (g)]. Ever since the Commission was constituted, its endeavour has been to ensure that its overall efforts in the area of research are not only of greater depth and relevance but also have a practical outcome. The research studies thus undertaken by the Commission are not only directed to ascertain ground realities, build database, etc., but also to evolve some kind of a mechanism in the country that can be used to promote and protect human rights and combat violations of such rights. The details of such research studies and projects, a few of which have been completed and the others on-going are given below:

## i) Completed Studies

12.2 A Study of the “Status of Tendu Leaf Pluckers in Orissa” The above research study has been entrusted by the Commission to Human Development Society (HDS), which is based in New Delhi during March 2004 at the total cost of Rs.3,06,000. The objectives of the project are as under:

- Find out the socio-economic background of the tendu leaf pluckers
- Analyze the dynamics of the tendu leaf trade - the role of different actors, the process and the economics of the trade
- Examine the extent of bonded labour system in tendu leaf trade - relationship between the pluckers and their employers, wages, working conditions etc. in the light of various statutory provisions and guidelines and orders of the Supreme Court, NHRC, etc.
- Examine the extent of child labour in tendu leaf trade
- Find out the social, economic and other problems faced by the pluckers and their families
- Suggest remedial measures that can be taken up to address the problems
- Create a database on pluckers with a view to helping the policy makers and others concerned with the conditions of the marginalised people, especially the tendu leaf pluckers.

12.3 For the purpose of the study, 5 tendu leaf divisions of Orissa, viz., Nawarangpur, Jeypore, Padampur, Patnagarh and Angul have been selected. Each of these divisions has further been divided into 4 zones and from each of these zones 5 villages have been randomly selected for collecting data. The field work for the study has been completed. HDS submitted the draft report on April 2005, which was placed before the Commission in its meeting held on 21 February 2006. Joint Secretary of the Commission has examined the report critically. The report has to be placed before the Commission alongwith the comments of the Joint Secretary. The Commission considered the report in its meeting held on 12 December 2006 and gave certain recommendations for implementation of the State government. The main recommendations are as under:

- Some of the tendu leaf pluckers are not having their plucker cards. This results in depriving them of the right to record their labour. Hence, it should be ensured that every tendu leaf plucker is issued a plucker card.
- Children below the age of 14 years have been issued a plucker card. This is a serious issue as the Government itself is employing child labour. Children below the age of 14 years should not be engaged in doing this work and be put up in schools as per Section 21 (A) of the Constitution.
- The payment of pluckers is not made on time and, therefore, leads to malpractices like plucker card being mortgaged to the money-lenders. Hence, the State government must ensure that the payments are made to the pluckers on time. The Government should take steps to ensure availability of sufficient funds to ensure that there is no delay in making the payment.
- From the findings from the research project, the impression gathered is that the profits are invested in the areas where tendu leaf plucking does not take place. The Government of Orissa should have a relook and work out methodology that profits do not go in general revenue of the State and is earmarked to invest in improvement of infrastructure and development in areas where tendu leaf is plucked.
- The research also shows that as number of individual pluckers is increasing, the individual is getting lesser and lesser income. Hence, it is recommended that other development programmes of the Government leading to employment should be focused in this area so that the people also have alternate means of livelihood in the off season when agriculture is providing lesser opportunities for the livelihood.
- The system adopted in Madhya Pradesh, Chattisgarh and Andhra Pradesh has been working well for a number of years. Having regard to experience of these States, Orissa may also consider adopting a cooperative structure as in these States. Such adoption will ensure that the pluckers are entitled not only to their wages but also to a share in the profit from the tendu leaf. NHRC recommends to adopt the model of the above States as it will be helpful in accomplishing the recommendations (1) to (5) as stated above.

## ii) On-going Projects

### 1. Child Rights

#### a) *Current Trends in Child Labour in Beedi Industry*

The Commission has entrusted the research study on 'Current Trends in Child Labour in Beedi Industry' to Surul Centre for Services in Rural Area (CSRA), an NGO based in Birbhum District of West Bengal during March 2004 with the financial assistance of Rs.1,88,000, out of which Commission has released Rs.1,50,000 in two installments.

The study has been undertaken in Bharatpur – II Block of Murshidabad district in West Bengal. It has primarily focused on children in the age group of 5 to 7 years engaged in beedi processing activities and those falling in the age group of 8 to 14 years engaged in beedi rolling activities from 10 villages, which covers about 40% of the villages where beedis are being made. In addition to this, information has also been elicited from the parents of child labourers, contractors, employers, panchayat functionaries, school teachers, block development authorities, sub-divisional officials and district social welfare officials.

The CSRA has submitted draft project report to the Commission. Report would be placed before the Commission shortly. The objectives of the study are as follows:

- \* To highlight the living and working conditions of beedi workers in general and child workers in particular.
- \* To unveil the social and economic realities that forces the children to start beedi rolling at an early age.
- \* To understand the current trends in child labour in beedi industry and to find a proper explanation as to why child labour in beedi industry is growing, while it is showing, a clear cut decline at national level as a general trend.
- \* To enumerate Government - NGO level intervention towards protection of rights and rehabilitation programmes for the beedi making child labour.

**12.4** The findings of the present study attest to the fact that the lives of thousands of children in the entire region are at stake. Specific measures need to be adopted in order to give livelihood support to the parents of each household so that the children could be mainstreamed to education, standard health facilities and restoration of normal childhood pleasures. Considering the analysis and findings of the study, CSRA has proposed a multi-dimensional approach to be designed for effective intervention and proper addressing of the problem of beedi rolling child labour. The strategy suggested by CSRA consists of the following:

- i) Direct household level intervention with the families of the beedi rolling children by counseling and motivating their parents
- ii) Constant review and research on the results and impacts of direct intervention
- iii) Influencing existing policies on child labour alongwith strong public advocacy
- iv) Curative and rehabilitative approach targeting the households of the beedi rolling children
- v) Preventive and promotional approach comprising of alternative income generation avenues for parents

**b) *Freedom Mortgaged and Future Abandoned: Bonded Child Labour in Karnataka's Silk Industry***

**12.5** The Commission entrusted the above research study to the Institute of Social and Economic Change (ISEC), Bangalore during May 2004. The main aim of the research is to analyse the household conditions contributing to the occurrence of bonded child labour in the silk industry of Karnataka and thereby make an overall assessment of the magnitude of bonded child labour engaged in sericulture in Karnataka. In addition to this, it would analyse the policies and programmes of the Government and non-governmental organisations in promoting child rights and eliminating bonded child labour in the silk industry. The total cost of the study would be Rs.3,60,367. An amount of Rs.2,71,126 has been released to ISEC in two installments.

12.6 Director ISEC has informed on 7 April 2007 that the project report has been completed in a draft form and is being discussed in a seminar. Soon after the seminar, the project will be treated a "Draft Completed". They expect to send the report by the end of June 2007.

## **2. Economic, Social and Cultural Rights**

### *a) Action Research Project on 'Land, Labour and Human Rights Violation in Bundelkhand and Sonbhadra Region of Uttar Pradesh'*

12.7 The Commission in August 2004 asked Dr. K. Gopal Iyer, retired Professor in Sociology from Punjab University, Chandigarh to undertake the action research project on 'Land, Labour and Human Rights Violation in Bundelkhand and Sonbhadra Region of Uttar Pradesh'. For this action research, the Commission has agreed to provide financial assistance of Rs.6,92,000/-. The main aim of the action research is to understand in depth, the intensity of violations of legal, labour and other human rights of the people in Bundelkhand and Sonbhadra region, thereby evolving an action strategy for taking remedial measures. The focus is to improve the overall basic conditions of the vulnerable sections in the region, especially of dalits, tribals and women. The duration of the project is for 24 months. The Commission has released the first installment of Rs.2,70,000 on 3 November 2004 and the second installment of Rs.1,80,000 on 7 November 2006. Dr. Iyer has submitted the brief progress report in respect of Bundelkhand Region and Sonbhadra District of U. P. They have to collect/study 1350 samples cases for the study from Bundelkhand and Sonbhadra District out of which 590 cases have been completed. The project is in progress and the same is being monitored.

### *b) A Study of the Human Rights Status of Denotified and Nomadic Communities of Delhi, Gujarat and Maharashtra*

12.8 The 'Study of the Human Rights Status of Denotified and Nomadic Communities of Delhi, Gujarat and Maharashtra' was entrusted by the Commission to Bhasha Research and Publication Centre (BRPC), Baroda in March 2004 at a total cost of Rs.4,21,000.

The objectives of the proposed study are as under:

- i) To study the economic status and occupational patterns of the communities selected for study
- ii) To study the patterns of encounter with the police department
- iii) To study incidents of custodial deaths of persons belonging to the communities selected for study
- iv) To study the levels of legal awareness and legal literacy among these communities
- v) To study the engagement of these communities with the electoral processes

12.9 In each of the three States, two to three denotified and nomadic communities have been identified. For instance in Delhi, Gadia Lohar/Gaddi Lohar and Sansis, in Gujarat, Bahurupis, Chamthas and Sansi/Chhara and from Maharashtra, Banjara, Ramoshi and Pardhi have been selected for the study. Dr. Prof. G N Devy, BRPC has informed that the project report is ready and he will submit the report to NHRC personally. BRPC has also returned the unspent amount of Rs.18,772/- to the Commission.



# 13 Promotion on Human Rights Literacy and Awareness

## A. Publications

13.1 The Publication wing under I & PR Division of the Commission plays a pivotal role to create awareness amongst the people regarding their human rights. It has a number of publications related to human rights. One of the functions of the Commission is stated in the section 12(h) of the Protection of the Human Rights Act, 1993 is “to spread the human rights literacy among various sections/society and promote awareness of the safeguards available for the protection, through publications, the media, seminars and available means.” In order to fulfill the requirements the Commission has, since its establishment, published the literature for a cross-section of the people including students, researchers, scholars, human rights activists and the public at large.

13.2 In order to spread awareness on human rights, the Commission has brought out a series of booklets entitled, “Know Your Rights” on 8 (eight) themes, which have been printed and published in English, Hindi and other regional languages. Booklets on the following 8 themes have been printed and published in English and four South Indian Languages, namely Tamil, Telugu, Kannada and Malayalam in 2004:

- National Human Rights Commission
- International Human Rights Conventions
- Manual Scavenging
- Bonded Labour
- Child Labour
- Sexual harassment of women at the work place
- Rights of persons with Disabilities
- Human Rights and HIV/AIDS

13.3 The Commission in collaboration with different State Human Rights Commission also published Know Your Rights Series in other regional languages i.e. Marathi, Assamese, Bengali, Punjabi and Oriya.

13.4 These booklets are intended to assist a wide audience to achieve a better understanding of the basic human rights and of the international and national machinery

available to help realise those rights. The booklets were well received from all quarters. As a result these had to be reprinted. The Urdu version of the booklets is also being taken up for translation. The Gujarati, and Manipuri version of the booklets are in advanced stage.

13.5 Apart from the above the Commission also brought out the following publications during the year:

- Journal of National Human Rights Commission Vol. V 2006
- Hindi Journal “Nai Dishayen” Vol.III 2006
- Bhartiya Sanskriti Mein Manav Adhikar
- Dalit Rights
- The Human Right to Adequate Housing and Land
- Women’s Right to Health
- Rights of the Disabled
- Rights of Home-based Workers
- Environment and Human Rights
- Children in India and their Rights
- The Coasts, the Fish Resources and the Fish workers’ Movement
- Annual Report 2005-2006

13.6 On the occasion of the Human Rights Day on 10 December 2006, Hon’ble Vice President of India released 11 publications of NHRC, viz. Annual Journal, Hindi Journal (Nai Dishayien), Bhartiya Sanskriti Mein Manav Adhikar and 8 Human Rights Dossiers related to various issues.

13.7 The two books titled “Human Rights Manual for District Magistrates” and “Human Rights Best Practices relating to Criminal Justice Processes in a Nutshell” have also been printed. The book, Human Rights Manual for District Magistrates has emphasised the role of District Magistrates to protect the human rights of the individuals. The second one, titled “Human Rights Best Practices relating to Criminal Justice Processes in a Nutshell” has evolved through an interdisciplinary rigorous exercise. Keeping in mind the dominant concern of the book for the developing Human Rights Culture in our society, the six chapters comprising of thirty eight tables provide do’s and don’ts that go in to strengthen human rights component in the various criminal justice processes. All this is done with a view to creating better awareness of human rights oriented criminal justice processes.

13.8 To cater to the demand of the public, the ‘Human Rights Education for the Beginners’ and ‘Report on Prevention of Atrocities against Schedule Caste’, have also been reprinted.

## **B. Human Rights Education**

### *i) Source Material on Human Rights Education for Indian Universities*

13.9 As a follow-up of the ‘Round-Table Conference on Human Rights Education’ organised by the NHRC in collaboration with Karnataka Women’s Information and Resource Centre (KWIRC), Bangalore, on 10 and 11 October 2002, the Commission decided to develop source material on human rights education for Indian universities along with KWIRC on seven different themes. The themes decided upon were - right to information, environment and human rights, rights of dalits, land and housing rights, rights of children, rights of home based workers in India and struggle of fish workers for their human rights. Drafts of all these source materials have been submitted by KWIRC. The Commission examined the draft



material and desired to convene a meeting with the Authors of KWIRC. A meeting in the regard was held on 20 February 2006. The Commission requested the KWIRC to revise the dossier on Human Rights Narratives and re-submit the draft report. After examining the revised dossiers from the authors, following 8 dossiers were released by the Commission on the Human Right Day i.e. on 10 December 2006 by Hon'ble Vice-President of India H.E. Mr. Bhairon Singh Sekhawati:

Rights of Disabled by Ms. Anuradha Mohit

Housing and Land Rights by Mr. Miloon Kothari and Ms. Shivani Choudhary

Dalit Rights by Mr. Martin Macwan

Rights of Home Based Workers by Ms. Shalini Sinha

Women's Right to Health by Ms. N.B. Sarojini

Environment and Human Rights by Mr. Ashish Kothari

Coasts, Fish Resources and Human Rights of Fish Workers by Ms. Nalini Nayak

Children in India and their Rights by Dr. Savita Bhakry of NHRC

13.10 Three dossiers, on I) 'Right to Information' ii) 'Gandhian struggle for Rights such a Bhoodan and Gramdhan' iii) The New Environmentalism – The Struggle in Narmada Valley, are yet to be finalised.

*ii) Status of Human Rights Education in India at the University Level*

13.11 The Commission has entrusted the National Institute of Human Rights at the National Law School of India University, Bangalore, to carry out the above research study during February 2004 at the total cost of Rs.4,50,000/-. The main objective of the study is to assess the overall status of human rights education in India at the university level with special reference to the UN Decade on Human Rights Education (1995-2004). The project is under progress and the Commission granted extension for a period of six months to complete the project. The project is expected to be completed shortly.

*iii) Sensitization Workshops for judicial officers on Human Rights*

13.12 The Commission has entrusted the National Institute of Human Rights at the National Law School of India University, Bangalore, to carry out the Sensitization Workshops for judicial officers on Human Rights. An amount of Rs. 8 lakhs was sanctioned for conducting four workshops for judicial officers (Rs. 2 lakhs per workshop), one each in the States of Tamil Nadu, Kerala, Andhra Pradesh and Karnataka. Three workshops at Chennai (Tamil Nadu), Cochin (Kerala), and Bangalore (Karnataka) have been conducted successfully. The remaining one workshop for Andhra Pradesh will be held shortly. Commission has granted extension for a period of 6 months to complete the project i.e. up to July 2007.

## **C. The Protection of Human Rights Act, 1993**

13.13 The Protection of Human Rights Act 1993 [As amended by the Protection of Human Rights (Amendment) Act, 2006 – No 43 of 2006] has been printed.

## **D. Calendar on Human Rights**

13.14 For the sixth successive year, the Commission brought out a Desk Calendar on Human Rights themes in Hindi and English. The Calendar for the year 2007 encompassed some of the key concerns of the Commission like Right to Education.

13.15 The landmark decision of the Supreme Court in Unnikrishnan vs. State of Andhra Pradesh paved ground for making education for children a fundamental right. It did set out that Article 45 of the

Constitution, directing the providing of free and compulsory education for all of the children of India until completion of the age of 14 years, be treated as enforceable Fundamental Rights. Following this ruling, the 86th Constitution Amendment Act, 2002 added Article 21A stating, “The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, by law, determine.” The 86th Amendment also modified Article 45, which now reads, as “The State shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years”. The above Act further added Article 51-A (k) in the Fundamental Duties, which says that it shall be a fundamental duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child/ward between the age of 6 and 14 years.

13.16 Thus, the Commission has chosen “ Education for Empowerment” as the focal theme of the calendar for the year 2007.

## ISBN & ISSN

13.17 The commission has also introduced International Standard Book Number (ISBN) and International Standard Serial Number (ISSN) in its publication from this year that will help to identify the Commission’s publication from any places of the world.

## E. Human Rights Training

13.18 Independent Training Division was established in September 2003, since then the activities of the Training Division of NHRC have expanded manifold. The Training Division is imparting training to the officials of the Central and the State Governments, field functionaries and representatives of NGOs, Universities etc. The main objective is to sensitize the participants of various levels/ groups on Human Rights and equip them to work with more sensitivity in their respective field with a Rights Based Approach. The methodology adopted in the seminars/ workshops/ trainings is lecture method, group discussions, syndicate report, action planned etc. The participants are exposed to international and national levels of Human Rights Conventions and Law & Culture.

The Training Division of NHRC is functioning with the following staff structure:

|                                               |   |
|-----------------------------------------------|---|
| Chief Co-ordinator (Training) – JS level      | 1 |
| Senior Research Officer (Training) - US level | 1 |
| PS to CC (T)                                  | 1 |
| PA to SRO (T)                                 | 1 |
| Assistant                                     | 1 |
| Peon                                          | 1 |

### 13.19 a) AIMS & OBJECTIVES

- To impart specialized training programmes for different grades of officers/ staff from cutting edge level to senior officers level, so as to enable and enlighten them on Human Rights issues to enable them to perform their duties more effectively keeping in mind the human rights values and culture
- To assess the training needs at various levels and to organise training programmes to meet their specific needs
- To create and foster among the participants a positive and innovative outlook on Human Rights to work and to create sensitivity and develop team spirit

- To extend financial support particularly to the National /State Level Training Institutes, SHRCs, Judicial Academies, Universities & NGOs and assist them in designing their training courses and also to provide them NHRC publications as training material/ reading material
- To inculcate the awareness of Human Rights among the trainees so that there is no violation of Human Rights and the participants may respect the dignity and Human Rights of all individuals to make this world a better place to live in with dignity for all
- Make a right-based approach for development with equality in India
- Keeping up-to-date on development in the Human Rights issues, International conventions and enhancing professional knowledge and skills needed for better performance at National level Training organisations and NGOs in spreading human rights awareness.
- Promoting better sensitization to the organisational requirements as well as the professional, socio-economic, cultural and political environment in which work is done; and bringing about right attitudinal orientation among participants through their various collaboration programmes on Human Rights issues through /Seminars/Workshops /training etc.
- To make them responsive to the challenging human rights needs and expectations of the citizens
- To conduct TOT programme and develop large number of trained personnel and resource persons

## **b) Programmes Conducted during 2006-2007**

13.20 As part of accomplishing the mandates, the Commission approved 48 training programmes on various issues of human rights for the year 2006 - 2007 in all over the country focusing the North-eastern States, Backward States, UTs etc. Out of these 45 training programmes were conducted in which 3,613\* participants were Trained. The details are given in Annexure 13.

## **c) Internship Programme for University Students**

13.21 To sensitize the university students about the issue of human rights, the Training Division of NHRC conducts a one-month Internship Programme twice in a year i.e. one in summer and the other in winter. In the Summer Internship Programme 2006 (15 May to 14 June 2006), 14 students from 9 Universities of 8 States participated and successfully completed the programme.

13.22 In the Winter Internship Programme 2006, which was conducted from 18 December 2006 to 17 January 2007, 41 students from 18 Universities of 13 States participated.

## **d) In-House Training Programmes**

13.23 In-house training is also given top priority and training is imparted to all category staffs:

### *i) Training Programme for Class IV Staff*

13.24 In-house training for class – IV staff organised by the Training Division of the NHRC from 26 to 27 June 2006 in which 58 class IV regular employees of the Commission and 22 persons other than regular staff were imparted training. As a follow up of this training for Class IV employees, they requested for computer exposure and accordingly computer training was organised by the Training Division of NHRC on 17, 19 and 24 July 2006 in which 22 class IV employees of the Commission attended the training. The training was imparted with the help of Computer Division of NIC and the participants were apprised with the basic knowledge of the computer and day-to-day work of computer in the office to enhance efficiency and be updated.

*ii) Training Programme for Group 'C' staff*

13.25 In-house Training programme for Group 'C' staff was held in the Court Room of the Commission on 28 and 31 July 2006 in two batches in which 55 Group 'C' staff comprising of Junior Accountants, Stenos, UDCs and LDCs working in different divisions of the Commission, participated in the programme.

*iii) Training for Drivers and Dispatch Riders of NHRC*

13.26 The Training Division in continuation of the in-house training of staff members of NHRC, took up a training programme of Staff Car Drivers and Despatch Riders which is more technical, hence outsourced with Automobile Association of India (AAI) on Saturdays i.e. on 22 and 29 July 2006 (Full day programme both lectures and test) at Delhi Flying Club, Sudarjung Airport, New Delhi in which 14 Drivers (13 Staff Car Drivers and 1 Despatch Rider) were trained.

*iv) Attachment of IFS (Foreign Service) Probationers*

13.27 For the first time since the inception of the NHRC, 20 IFS Probationers of 2005 Batch were attached to NHRC for two days, i.e. on 26 and 27 July 2006. During this attachment programme, Chairperson, Members and senior officers of the Commission interacted with the IFS Probationers.

*v) Visit of Students from Law Colleges/Universities from different parts of the country*

- 60 students each of two batches along with 5 professors of N.B. Thakur Law College, Nasik, Maharashtra visited the Commission on 23 November 2006 and on 29 November 2006 respectively and they were briefed by Dr. S.K. Jain, Senior Research Officer (Trg.), NHRC.
- Law students from Government Law College, Mumbai visited the Commission on 11 December 2006 addressed by Mr. A.K. Parashar, Dy. Registrar (Law) and Dr. S.K. Jain, Sr. Research Officer (Trg.).
- Law students from NDMVP Samaj Law College Nasik visited the Commission NHRC on 12 December 2006 addressed by Dr. S.K. Jain, Sr. Research Officer (Trg.).
- 72 Students of Nagpur University, Maharashtra visited NHRC on 8 February 2007. Mr. P. Michael Vetha Siromony, CC (T) and Dr. S.K. Jain, Senior Research Officer interacted with the students.
- 32 PG students of Political Science and Human Rights of Shivaji University, Kolhapur, Maharashtra visited on 23 February 2007 and were addressed by Dr. S.K. Jain, Senior Research Officer.
- 30 students and 2 Professors of K.C. Law College, Nagpur, Maharashtra visited the Commission on 1 March 2007. Mr. P. Michael V. Siromony, Chief Co-ordinator (Trg.) and Mr. Ashok Chakraborty, SSP II interacted with the students.
- A group of 31 students and 4 faculty members from D.E.S. Law College, Pune visited the Commission on 12 March 2007 and Dr. S.K. Jain, Senior Research Officer (Trg.) interacted with the students.
- A group of 26 students with 6 teachers of G.H. Raisonni Law School, Nagpur, and Maharashtra visited the Commission on 13 March 2007 and addressed by Dr. S.K. Jain, Senior Research Officer (Trg.).

*vi) Visit of Officers of NHRC to other Human Rights Organisations*

- Senior level officers from all over the country including District & Sessions Judges, Addl. District & Sessions Judges, Dy. Inspector General of Police, Senior Superintendent of Police,

and senior officers of equivalent rank from Prison and Welfare Services as Officer Trainees of the 46th Course on 'Human Rights in Criminal Justice System organised by the L.N.J.N. National Institute of Criminology and Forensic Science visited the Commission on 10th January 2007. Mr. Damodar Sarangi, DG (Investigation), Mr. A.K. Parashar, Dy. Registrar (Law) and Dr. S.K. Jain, Sr. Research Officer (Training) interacted with the Officer Trainees.

- 33 Senior level Officers from all over the country including Inspector General of Police, Dy. Inspector General of Police, Dy. Commissioner of Police, Addl. General of Police, District & Session Judges, Addl. District & Session Judges, senior level officers from Prison and Prosecution visited NHRC as a part of 74th Training Course on Crime & Justice being organised by L.N.J.N. National Institute of Criminology, M/o Home Affairs, Rohini on 7 February 2007. Mr. Damodar Sarangi, DG (I), Mr. P. Michael Vetha Siromony, CC (T), Mr. R.K. Sharma, PO and Ms. Santha Kumari, PO interacted with the officers.

A comparative summary of trainings held during 2003 to 2007 is given in **Annexure 13**.





# 14 International Co-operation

## A. Meetings of the International Coordination Committee (ICC) and the United Nations Human Rights Council

- i) The 17th Annual meeting of the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC), was held in April 2006, in Geneva, Switzerland. Dr. Justice A.S. Anand, Chairperson attended the meeting.
- ii) The first session of the U.N. Human Rights Council was held in June 2006 at Geneva, Switzerland. The National Human Rights Commission of India was the only NHRI invited to attend the session. Dr. Justice A.S. Anand, Chairperson participated in the first session and presented a statement on 'Right to Development.'
- iii) The 18th annual meeting of the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) and the 8th International Conference of National Human Rights Institutions (NHRIs) was held in October 2006 in Santa Cruz, Bolivia. Dr. Justice Shivaraj V. Patil, Member and Mr. R.K.Bhargava, Secretary General attended the meeting.
- iv) During the deliberation in the International Conference of National Institutions held at Santa Cruz, Bolivia in October 2006, NHRC, India along with Australian Human Rights and Equal Opportunity Commission was entrusted with the responsibility of defining 'National' in respect of the 'National Institution' under the Paris Principles. The NHRC India was also nominated from the Asia Pacific Region to be representative in the ICC Bureau set up to take follow up action on the decisions reached in the 18th ICC meeting in Bolivia.
- v) The 19th annual meeting of the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) was held in March 2007, in Geneva, Switzerland. The delegation from the Commission headed by Dr. Justice Shivaraj V. Patil, Acting Chairperson and comprising of Mr. R.S.Kalha, Member, Mr. R.K.Bhargava, Secretary General and Mrs. Aruna Sharma, Joint Secretary attended the meeting.
- vi) Prior to the ICC meeting, the National Institutions Unit of the OHCHR organised a thematic dialogue on the role of National Institutions in prevention of torture. The Commission was invited to share its experience on the topic "Working towards

an effective complaints handling system and the NI experience”. Mrs. Aruna Sharma, Joint Secretary made a detailed presentation on the matter which was well received by all. The National Institutions Unit of the OHCHR appreciated the presentation made by the Commission which immensely contributed to the content of the thematic dialogue. A copy of the presentation is at **Annexure 14**.

- vii) During the deliberations of the ICC meetings, one of the important questions relating to the participation of National Human Rights Institutions in the United Nations Human Rights Council (HRC) was discussed. The ICC in this connection had prepared two draft papers viz., ICC position Volume-III ‘Engagement of NHRIs with the Universal Periodic Review Mechanism’ and ICC position Volume –IV ‘Engagement of NHRIs with the Special Procedures’. With regard to the objectives and guiding principles of Universal Period Review (UPR) (ICC position Volume-III) the Commission was of the opinion that the UPR mechanism should be based on principles of equality, universality, transparency, cooperation and it was supported by other NIs.
- viii) The role played by the Commission through its Special Rapporteur Ms. Anuradha Mohit who was nominated as the representative of the ICC in the Ad Hoc Committee to ‘consider proposals for drafting a thematic human rights convention on disability’ came in for much appreciation in the ICC meeting. The United Nations Convention on the Rights of Persons with Disabilities was adopted by the United Nations General Assembly on 13 December 2006.

## **B. Annual Meeting of the Asia Pacific Forum**

- i) The 11th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions was held in Suva, Fiji from 31 July to 3 August 2006. The Commission was represented at the Forum meeting by a delegation led by Dr. Justice Shivaraj V. Patil, Member and Mrs. Aruna Sharma, Joint Secretary, NHRC. The Report from Forum Members was presented by Dr. Justice Shivaraj V. Patil, Member, NHRC India. (**Annexure 15**).
- ii) Participants from the member institutions of the Asia Pacific Forum (APF) viz., Mongolia, Afghanistan, Australia, Fiji, India, Indonesia, Jordan, Malaysia, Nepal, New Zealand, Palestine, Philippines, Qatar, Republic of Korea, Sri Lanka, Thailand and Timor-Leste, attended the meeting.
- iii) The overall membership of the Forum, during the period of report, stands at seventeen.
- iv) The Report of the APF/ICC working group on the Human Rights Council was presented by the NHRC India. The Forum Councillors expressed their appreciation for the efforts of the members of the working group in particular NHRC India and expressed their strong support for the advocacy on behalf of all members of the forum.
- v) The Commission has remitted an amount of US \$ 100,000 as its contribution to the Asia Pacific Forum during the year 2006 – 2007

## **C. Commonwealth Conference of National Human Rights Institution**

- i) Justice Y. Bhaskar Rao, Member and Mrs. Aruna Sharma, Joint Secretary visited London, U.K. from 26 to 28 February 2007 to attend the Commonwealth Conference for National Human Rights Institutions.
- ii) During the course of the deliberations in the Conference, it was decided to set up a Steering Committee to consider the proposal for setting up of a Commonwealth Forum of National Human Rights Institutions. Justice Y. Bhaskar Rao, Member, NHRC was nominated as Vice-Chair of the Steering Committee. The Steering Committee would inter-alia invite views from all participants and observers who attended the Commonwealth Conference of NIs. The views compiled by the Steering Committee were considered by it in its meeting held in Geneva in March 2007 on the sidelines of the ICC/HRC meeting. The views expressed by the NHRC India are at **Annexure 16**.



The recommendations made by the Steering Committee would be considered in the meeting scheduled to be held at London in May 2007.

#### **D. International Cooperation**

- i) The Complaint Management System (CMS) has been successfully implemented at the Nepal National Human Rights Commission, Kathmandu and Jordan National Centre for Human Rights, Amman in partnership with the Canadian Human Rights Commission and Asia Pacific Forum respectively.
- ii) The Rwanda National Human Rights Commission, Kigali requested the NHRC, India to get the CMS implemented at their place, which was funded by the UNDP. The National Human Rights Commission, India has put in place an effective and advanced complaint handling system in the Rwanda National Human Rights Commission with the technical assistance of the National Informatics Centre (NIC). As such, the complaint handling software used by the Indian NHRC has been customized, tested and implemented in the Rwanda National Human Rights Commission.
- iii) In this connection, the Officials of the Commission deputed for this job (Mr. A.K. Parashar Deputy Registrar and Mr. Shashi Kant Sharma, Principal Systems Analysts) have made visit to the Rwandan Commission 4 to 13 November 2006. A series of discussions with the officials were held in which various needs identified by the Rwandan Commission were customized in the software as per the need of the Commission. The CMS was made operational in Kenya - Rwanda and French fonts are being used by the Rwandan Commission. The team provided orientation to the IT experts of the NHRC for the understanding of the Master Codes and effective operation of the software. The Hon'ble President and Members as well as the other staffs were trained in the operation of the software. After the customization and implementation of the CMS application software, a well-organised and fully computerized database management of complaints is established in the Commission for various purposes.

#### **E. Co-ordination and Co-operation with other APF Member Institutions**

- i) The Commission continued its endeavour to share information and expertise with other APF member institutions. The Commission has developed an Internet based Complaint Management System (CMS), by which it is possible for a complainant to track the progress of his complaint lodged with the Commission through the internet. The Commission has been privileged to share its expertise with the Human Rights Commission of Rwanda including training of the concerned personnel in handling the software.
- ii) A three-member delegation from the National Human Rights Commission of South Korea visited the Commission under the staff visiting programme of the National Human Rights Commission, South Korea from 22 to 27 December 2006. During their period of stay, the delegation interacted with various divisions of the Commission getting an insight into the working of the Commission.
- iii) Under the APF staff exchange programme, a two-member delegation from the Human Rights and Equal Opportunity Commission (HREOC), Australia were attached with the Commission from 9 January to 9 February 2007. During their stay in the Commission, the delegation was exposed to the various programmes/projects being undertaken by the Commission in the better promotion and protection of the Human Rights in the Country.
- iv) A two-member delegation from the National Human Rights Commission of Maldives comprising of Ms. Ashiyth Shuna, Acting Research Officer and Ms. Dhunya Abdul Hadhy, IT Officer were under attachment with the Commission for a period of two weeks starting from 28 March 2007. The main purpose of their attachment was to learn about the Commission's Complaint Management System (CMS).

## **F. Visits, Seminars and Workshops abroad**

- i) Mr. Ajit Bharihoke, Registrar (Law) visited Islamabad, Pakistan from 12 to 13 September 2006 to participate in the workshop on the possible establishment of a National Human Rights Commission in Pakistan.
- ii) Mr. Sudhir Chowdhary, DIG visited Seoul, South Korea from 9 to 17 October 2006 to participate in the NI partnership programme with the National Human Rights Commission of South Korea.
- iii) Mr. S.P.Singh, SSP and Mr. Khwaja Hafeez, Assistant Registrar (Law) participated in the Regional Training Programme in Human rights for Representatives from National Human Rights Institutions in the Asia Pacific at Bangkok, Thailand from 27 November to 8 December 2006.
- iv) Mr. P. Michael Vetha Siromony, Chief Coordinator Training visited Seoul, South Korea to attend an International Symposium on 'The Structures and Functions of NHRIs: A search for Best Practices on 4 December 2006.

## **G. Exchanges and other Interactions**

- i) Col. Makale Ntsimako Alidi and Maj Alfred Baikakedi of Botswana Defence Force visited the Commission on 5 April 2006
- ii) Mr. Michel Doucin, Ambassador for Human Rights of the French Ministry of External Affairs visited the Commission on 7 April 2006.
- iii) Professor Gerard Quinn, Member and Mr. Gavin McSpadden, Sr. Policy Officer, Irish Human Rights Commission visited the Commission from 24 to 26 June 2006.
- iv) Baroness Emma Nicholans, Member of European Parliament (MEP) and Vice-Chair of its Foreign Affairs Committee visited the Commission on 26 June 2006.
- v) A five-member delegation from the Sudan Judicial Service Commission visited the Commission on 3 August 2006.
- vi) A five-member delegation of Friends of India Group from the European Parliament led by Dr. Charles Tannock, President of Friends of India group visited the Commission from 31 October 2006.
- vii) Ms. Rabab Fatima, Adviser and Head, Human Rights Unit, Commonwealth Secretariat, London visited the Commission on 7 November 2006.
- viii) Mr. Antonio Guterres, United Nations High Commissioner for refugees the Commission on 8 December 2006.
- ix) Mr. Ahmad Obeidat, former Prime Minister of Jordan and Chairman, Jordan National Centre for Human Rights visited the Commission on 1 December 2006.
- x) Mr. Jose Luis Soberanes, Chairman, Human Rights Commission of Mexico visited the Commission on 29 January 2007.
- xi) Mr. Richard Howitt, Member of European Parliament (MEP) visited the Commission on 21 February 2007.
- xii) Mr. Jean Christian Remond, Head of Unit (India Desk) at the Director General for External Relations, European Commission, Brussels accompanied by Mrs. Cristina Martins Barreira, Head of Political Section, Delegation of the European Commission, New Delhi visited the Commission on 22 February 2007.

- xiii) Mr. Norihito Mukai, Attorney, Investigation and Remedies Department, Human Rights Bureau, Ministry of Justice, Japan visited the Commission on 28 February 2006.
- xiv) Professor Kay Hampton, Chair of the United Kingdom's Commission for Racial Equality accompanied by Ms. Roisin Donachie, Head of European and International Relations in the Commission for Racial Equality and Mr. Thom Reilly, Deputy Head of the Engaging the Islamic World Group in the Foreign and Commonwealth Office visited the Commission on 26 February 2006.
- xv) Mr. Keith D. Leslie, Sr. Human rights Advisor of UNDP/Capacity Development of NHRC visited the Commission on 26 February 2007.
- xvi) A delegation from the ICJ Eminent Jurists Panel on terrorism and Counter-terrorism and Human Rights headed by Justice Arthur Chaskalson, former Chief Justice of South Africa visited the Commission on 1 March 2007.
- xvii) A nine-member delegation from Tajikistan headed by Ms. Sumangul Tagoeva, 1st Deputy Minister, Ministry of Labour and Social Protection visited the Commission 28 March 2007.





# 15

## Non-Governmental Organisations (NGOs)

15.1 Encouraging the efforts of the non-governmental organisations (NGOs) working in the field of human rights is a statutory responsibility of the Commission under Section 12(i) of The Protection of Human Rights Act, 1993. The promotion and protection of human rights cannot gather momentum without the fullest cooperation between the Commission and the NGOs.

15.2 The Commission continues to receive complaints relating to serious violations of human rights from NGOs, which have acted as the eyes and ears of the Commission in the remotest corners of the country.

15.3 A Core Group of NGOs has been constituted under section 12(i) of the Protection of Human Rights Act, 1993, to encourage the efforts of the Non-Governmental Organisations (NGOs) and institutions engaged in the field of human rights. The Core Group provides the Commission with crucial inputs regarding the hopes, aspirations and expectations of the civil society from the Commission. Since the year 2001, the Core Group on NGOs has held 12 meetings till 2004. The Core Group of NGOs was reconstituted in October 2006 and the first meeting of the reconstituted Core Group was held on 6 December 2006.

15.4 The Commission has had various significant partnerships with the non-governmental organisations during the year on various critical areas of human rights concerns. The Commission on 2 June 2006 held a meeting with NGOs working in the field of Abolition of Bonded Child Labour to discuss the strategies and to frame guidelines in this regard.

15.5 In the area of health, a National Review Meeting on Health was held at New Delhi on 6 March 2007. During this meeting the Jan Swasthya Abhiyan, an umbrella organisation of around 2000 NGOs working in the Health Sector made presentation on the ground situation of the Health Care in the Country.

15.6 The Commission also proposes to hold a two-day conference on the 'Role of NGOs in support of NHRC in better promotion and protection of Human Rights' at Bangalore from 28 to 29 April 2007. The two-day conference would bring together around 100 NGOs working in the field of human rights. The Conference would bring together various

stakeholders and it is hoped that at the end of the Conference, a concrete approach towards better cooperation and coordination between the Commission and the NGO Section in the protection and promotion of Human Rights in the country would emerge.



# 16

## State Human Rights Commissions

16.1 State Human Rights Commissions (SHRCs) have been set up in 15 States viz., the States of Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The State of Karnataka has also notified setting up of SHRC in that State. Information has also been received from the State government of Bihar that they are in the process of setting up the State Human Rights Commission.

16.2 The primary obligation to protect human rights of citizens lies on the State. The NHRC and SHRC supplement their efforts by better protection of human rights. The Commission has been reiterating its view that the “better” protection of human rights can be ensured only if all the States set up human rights Commission. The Commission has been urging all those States, which have not yet constituted Human Rights Commissions, to do so expeditiously. The States must appreciate that the Commissions supplement the work of the governments concerned, in not only fulfilling their constitutional obligations and responsibilities of protecting and promoting human rights of the citizens, but also in facilitating the ushering in of good governance.

16.3 The Commission reiterates that Human Rights Commissions in the States need to be set-up in accordance with the ‘Paris Principles’, which lay down the guiding principles for setting up of the same.

16.4 The Commission, on its part, has endeavoured to assist and guide the State Commissions in whatever manner possible, whenever requests for such assistance or guidance have been sought. The strengthening of the State Commissions is an important agenda in the Commission’s activities. With this in view, the Commission has taken the initiative to have annual interactions with all the State Human Rights Commissions, where mutual discussions take place. The Commission places great importance on these interactions especially keeping in view the social, cultural and linguistic diversity that comprises our society. Institutionalizing the mechanism of these annual interactions is one way the Commission hopes to keep up the process of dialogue.

16.5 One of the important amendments to the Protection of Human Rights Act, 1993 vide Protection of Human Rights (Amendment) Act, 2006 pertains to the composition

of the State Human Rights Commission. As per the principal Act, the State Commission shall consist of a Chairperson and four Members [Section 21(2)]. With the amendment to this Section, the State Commission would now consists of a Chairperson who has been a Chief Justice of a High Court and one Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of 7 years experience as District Judge; one Member to be appointed from amongst persons having knowledge or, or practical experience in, matters relating to human rights.

16.6 Further, a new sub-section (6) has been inserted under Section 12 of PHR Act, which states that two or more State governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment.

16.7 One of the reasons for the lack of will on the part of the State Governments in setting up of the State Human Rights Commission has been the resource crunch faced by the States. Further, a small number of complaints of Human Rights violations being received has been another reason due to which the State Governments have not been setting up the Human Rights Commissions. With the amendments now carried out, the Commission hopes the State Governments would be in a better position to set up State Human Rights Commission in their respective States or two or more State governments may set up joint State Commissions as provided under sub-section (6) of Section 12.





# 17

## **Review of Laws, Implementation of Treaties and other International Instruments on Human Rights**

### **A. Protection of Human Rights Act, 1993**

17.1 The Commission had referred a proposal to the Government, in March 2000, for amendments to the statute. As reiterated, over the years, the Commission is of the considered view that the amendments, as proposed by the Commission, are necessary to ensure the independence and effectiveness of the Commission in the fulfillment of its mandate.

17.2 The Government of India has finally notified the Protection of Human Rights (Amendment) Act, 2006 that came into force on 23 November 2006. A copy of the Gazette Notification of the Government of India is at Annex.

17.3 Though, the amendments carried out by the Government of India to the Protection of Human Rights Act, 1993 falls short of its recommendations and expectations, it, however, feels that a small step in the right direction has been taken by the Government to remove certain lacunae in the Act.

17.4 One of the important amendments carried out by the Government in the PHRA, 1993, pertains to the Section 13 of the principal act, wherein after sub-section (5), a new sub-section (6), has been inserted. The inserted sub-section provides for 'Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arise, for disposal in accordance with the provision of the Act.' Pursuant to the insertion of this provision, an exercise was initiated in the Commission to identify the complaints pending before it which could be transferred to the State Commissions of the respective States from which the complaints arise.

17.5 The second important amendment pertains to the Commission and its officers' right to visit any jail or other institution under the control of the State government. Hitherto, the Commission was required, as per the PHR Act, to intimate in advance to the State government before visiting such facilities. With the amendment now carried out to Section 12 (f) of the PHR Act, the provision of prior intimation has been done away with. This would go a long way in enabling the Commission to visit any jail or other institution where persons are detained or lodged for purposes of treatment, reformation or protection, and get first hand information on the ground realities pertaining to the living conditions of the inmates and make appropriate recommendations to ameliorate their conditions.

17.6 Thirdly, under Section 18 of the principal Act dealing with steps after inquiry, the following provisions have been inserted by the amendment:

- i) To make payment of compensation or damages to the complainant or to the victim or the members his family as the Commission may consider necessary
- ii) To initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons
- iii) To take such further action as it may think fit

17.7 The Commission hopes that with the insertion of the above clauses, it will not only get more teeth in bringing to book the violators of the human rights but it will also act as deterrent against commitment of human rights violations.

17.8 The fourth important amendment pertains to the composition of the State Human Rights Commission. As per the principal Act, the State Commission shall consist of a Chairperson and four Members [Section 21(2)]. With the amendment to this Section, the State Commission would now consists of a Chairperson who has been a Chief Justice of a High Court and one Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of 7 years experience as District Judge; one Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

17.9 Further a new sub-section (6) has been inserted under Section 12 of PHR Act, which states that two or more State governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment.

17.10 One of the reasons for the lack of will on the part of the State governments in setting up of the State Human Rights Commission has been the resource crunch faced by the States. Further, a small number of complaints of Human Rights violations being received has been another reason due to which the State Governments have not been setting up the Human Rights Commission. With the amendments now carried, the Commission hopes the State Governments would now be in a better position to set up State Human Rights Commission in their respective States or two or more State Governments may set up joint State Commissions as provided under sub-section (6) of Section 12.

## **B. Convention against Torture**

17.11 The Commission has been requesting the Government of India to ratify the convention against torture and other Cruel, inhuman or degrading treatment or punishment 1984, which was signed by India on 14 October 1997 on the recommendation of the Commission.

17.12 The Commission is of the view that the process of ratification must proceed with far greater speed and clarity of purpose than has hitherto been the case. It has not gone unnoticed within the country or in major external forums, including treaty bodies, when the commitment of India to the promotion and protection of human rights is considered since the Government of India signed this treat. Indeed, failure to ratify the Convention has even affected the capacity of the country to secure the extradition of persons wanted by the law-enforcement agencies of India. The irony is all the greater because Article 21 of the Constitution already covers this area effectively. Further, as has repeatedly been pointed out by the Commission, the Apex Court has judicially recognised the Right against Torture as a Fundamental Right with the corresponding obligation on the State and its agencies to abide by it.

17.13 Whatever be the threats or attacks against human rights, we hold the view that the State should act within the parameters of the Rights recognised by the Constitution or embodied in the international Covenants on Civil and Political Rights or on Economic, Social and Cultural Rights and we play a proactive role to uphold the same.





# 18 Administration and Logistic Support

18.1 The total sanctioned strength of the staff of the Commission remained at the level of 343 posts. As on 31 March 2007, 322 officers and staff were in position. Under Section 32 of the Protection of Human Rights Act, 1993, the Commission is granted financial assistance by way of grants-in-aid after due appropriation made in this behalf by the Parliament. During 2006 - 2007 the Commission received Rs. 1348 lakhs under Non-plan funding as grants-in-aid. The actual expenditure during the year under Non-plan was Rs.1322.50 lakhs.

## A. Special Rapporteurs

- i) The Commission continued with the scheme for engaging eminent persons as Special Rapporteurs to function as representatives of NHRC for the concerned State(s) in the area of civil and political rights and human rights violations and to provide guidance to citizens regarding the provisions of the Protection of Human Rights Act, 1993 for seeking redressal from the Commission. The Special Rapporteurs are drawn from among eminent persons who have had a meritorious record of service as retired Secretary to the Government of India or retired Director General of Police or Chief Secretary or Academician of repute with a commitment for human rights concerns.
- ii) Mr. Chaman Lal continued to serve as Special Rapporteur for issues such as Custodial Justice, Prison Reforms, Bonded Labour, Child Labour, monitoring of the functioning of the Agra Protective Home and the three Mental hospitals in Agra, Gwalior and Ranchi and monitoring cyclone reconstruction work in Orissa. His term completed on 31 August 2006.
- iii) Mr. K.R. Venugopal, as the Special Rapporteur for the States of Karnataka, Andhra Pradesh, Tamil Nadu, Kerala, Andhra Pradesh and UT of Pondicherry, continued to look after the issue of bonded labour. His term completed on 14 June 2006.
- iv) Mr. P.G.J. Nampoothiri also continued to serve as Special Rapporteur to look after the matters relating to Civil and Political Rights in the State of Gujarat such as Gujarat Earthquake and events that occurred in Gujarat after the Godhra tragedy. His term completed on 31 March 2007.
- v) Mr. A. B. Tripathy also continued to serve as Special Rapporteur to look after the issues on Custodial Justice, Civil and Political Rights in the States of Orissa and Jharkhand. His term completed on 31 December 2006.

- vi) Ms. Anuradha Mohit continued to serve as Special Rapporteur on issues relating to Disability. Her term completed on 29 September 2006.
- vii) Dr. Lakshmidhar Mishra, IAS, Retd, joined this Commission as Special Rapporteur on 18 August 2006 for a period of three years and has been looking after (a) Implementation of the Bonded Labour Act / Child Labour in the carpet industry etc., entrusted to NHRC by the Supreme Court of India and Abolition of Child Labour and Bonded Labour (b) Starvation Deaths in the KBK Districts, entrusted to NHRC by the Supreme Court of India. (c) Quality Assurance in Mental Health – Assessment of institutions in Ranchi, Agra and Gwalior, entrusted to NHRC by the Supreme Court of India (d) Custodial Justice Cell – matters relating to prison reforms.

## **B. Core Groups**

- i) The Core Groups of experts set up by the Commission continued to function and advise the Commission on complex technical issues. The Members of the Core Groups showed their concern for the cause of human rights by sparing their valuable time to advise on the issues referred to them by the Commission.
- ii) Some of the important Core Groups that have been set up by the Commission are:
  - A Core Group on Rehabilitation of Long Stay Mentally Ill Patients Cured of their Illness has been set up under the Chairmanship of a Member of the Commission.
  - A Core Group has been set up on the Right to Food to advise the Commission on issues relating to Right to food in the context of India.
  - An Expert Group has been set up on Refugees by the Commission with a view to have an expert opinion on the subject before formulating its views on the Model Law on Refugees.
  - A Core group has been set up on Disability related issues with a view to consider the problems faced by the disabled people in the country from a human rights perspective and to enable the Commission to have regular consultation with experts in the field.
  - An Expert group has been set up to go into the issue of unsafe drugs and medical devices, which have not been addressed so far, and to examine the effectiveness of licensing and monitoring systems.
  - A Core group of lawyers has been set up to enable the Commission to draw upon the expertise and experience of eminent lawyers in matters having legal implications.

## **C. Use of Official Language**

18.2 The Official Language section is responsible for translation of the Annual Report, Monthly Newsletter and Budget documents of the Commission in Hindi. The Division also translates complaints/ reports received in Hindi/ Regional languages into English language. This year, about 4000 complaints/ reports received in Hindi and other Regional languages from different States/UTs which were translated into English.

### **1. National Seminar**

18.3 A National Seminar on the “Role of Media and NGO’s in the promotion and protection of Human Rights” and importance of Human Rights education in India was organised by the Commission in Indore (MP) on 16 -17 December 2006. Eminent personalities from all over India participated in the Seminar. The Seminar aimed at exhorting Media and NGO’s to actively lend a hand to the Commission and at large to the society in the protection and promotion of human rights and placing themselves as a platform to focus more vigilantly on human rights issues and its awareness.

18.4 A similar Seminar was organised in the month of May 2007 in Hyderabad on “The Role of South Indian languages and Hindi in the protection and promotion of Human Rights” .

## 2. *Publication of Annual Hindi Magazine*

18.5 The Commission had taken a decision to bring out a Hindi Journal, “Manav Adhikar : Nai Dishayen” annually to create awareness among the masses about Human Rights. The third issue of the Journal was released on 10 December 2006, on the Human Rights Day. The main aim to bring out this annual journal was to cater to the needs of masses as well as to those working in field of human rights who were feeling dearth of human rights literature in Hindi Language as Hindi is widely spoken and is the official language of the Country. This magazine tries to bring forth different aspects of Human Rights evolved everyday in the modern society in each edition.

## 3. *Book published by the Commission*

18.6 A National Seminar on “The Concept of Human Rights in Indian Culture and importance of Human Rights education in India” was organised by the Commission in Delhi from 2 to 3 March 2006. Eminent personalities expressed their views on how Indian Culture inspite of being diversely constituted religions, every religion be it Hinduism, Sikhism, Islamism, Jainism, Buddhism and Christianity, all of them unanimously upholds the spirit of human rights and are steeped in umpteenth instances of protection of human rights. Moreover, it is not a foreign concept. They were also of the view that every citizen of India should inherit this culture most importantly through teaching of Human Rights at school level.

18.7 The Commission has published a book titled “Bhartiya Sanskriti Main Manav Adhikar Ki Avdharnayen” containing these articles. This book would be very effective in bringing awareness on Human Rights and it highlights the concept of Human Rights in Indian culture and the importance of Human Rights education in India.

## 4. *Award Scheme*

18.8 The Commission has instituted an award for creative writing in Hindi on Human Rights issues since 1998. The Commission had advertised for this scheme for the year 2006 - 2007 through DAVP in all the major national dailies to invite entries.

## 5. *Applied Glossary of Human Rights terms (Hindi-English)*

18.9 The Commission has already published an English-Hindi Glossary which proved very useful in the field. A similar publication on “Applied Glossary of Human Rights terms (Hindi-English)” was released by Justice Shri S. Rajendra Babu, Chairperson, NHRC on 31<sup>st</sup> May 2007 at the ‘National Seminar on the Role of Hindi and Indian Regional Languages in the Protection and Promotion of Human Rights’ at Hyderabad. The glossary contains more than fourteen thousand words compiled from the complaints received in the Commission from different Hindi speaking states. The most important aspect of this Glossary is that the words contained in it include Hindi words, local and words of the region such as Bhojpuri, Magahi, Malvi, Rajasthani, Haryanavi etc. Thus, it would be very useful for the translators of the Commission who are required to translate the reports/complaints in English and others who want to write on this issue in these regional dialects particularly to spread awareness on human rights in their respective regions.

## D. **Library**

18.10 The library of the commission was established for research and reference purpose since 1994 primarily for the staff of the Commission. Now, it is also being used by the Interns, research scholars and others working in the field of human rights.

18.11 The library has institutional membership of British Council library and DELNET (Developing Library Networking, which promotes resource sharing among the libraries). Library also maintain liaison with others library through inter library loan facilities to access and borrow the books and documents.

18.12 The library has 14,125 books, 44 journals, 93 CD/ videocassettes and subscribes to 26 magazines, 23 newspaper (including 4 regional language newspapers). It has an expensive collection of books and records covering a wide spectrum and digests of human rights related subjects.

18.13 During 2006 - 2007, 742 books on human rights were added to the library. The new acquisitions cover the focus area of human rights, women, children, child labour, bonded labour, law, tribes, poverty, displaced persons and their rehabilitation. The journals give access to most recent and modern developments all over the world in the field of Human rights. Till 2006 list about 1250 article had been prepared. This is very useful for hon'ble chairperson, members, researchers and students/interns as it help them to locate easily and go through the articles published in different journals. 50 books are issued daily an average 75 person/ visitors visit the library daily.

18.14 Library committee selects and recommends books for their purchase. During 2006 - 2007 the library added 1046 new books on human rights or having relevance to human rights to the collection that it had acquired in earlier years.

18.15 The library is being computerised with the assistance of computer cell (NIC) and a software namely E- Granthalaya has been installed. Now database of books would be available on internet.

18.16 The Commission intends to develop the library into a Documentation and Information Centre and steps are being taken in this regard.

## **E. Manavadhikar Bhavan**

18.17 The Commission has been desirous of having its own office building commensurate with its status as an independent and autonomous National Human Rights Institution. The Commission has been allotted space for Manavadhikar Bhavan in the Block - C of the office complex premises in INA area. The construction of Manavadhikar Bhavan is to be executed through CPWD, which is constructing a General Pool Office Accommodation at INA area, New Delhi. A sum of Rs. 2.88 crores has so far been released to the Ministry of Urban Development/CPWD towards construction of the building from Plan funds. In addition, a sum of Rs.62 lakhs had also been released from Non-Plan funds for the cost of land and construction of boundary wall. There are some procedural delays in obtaining clearances by Ministry of Urban Development/CPWD from various authorities leading to delay in commencement of the construction work. The Commission has been expressing its concern about the inordinate delay and has been taking up the mater with CPWD and MCD to get the process expedited.

## **F. Camp Commission**

18.18 As a part of the on going drive in the Commission for review of pendency of cases and measures to expedite disposal, the Commission has initiated a number of measures. One of these was to hold camp sittings in States' Capitals. Accordingly, the Commission held its first sitting in the State of Uttar Pradesh at Lucknow from 18 to 20 January 2007. The second sitting in the State of Bihar at Patna was held from 17 to 19 May 2007 for expeditious disposal of important / old cases as well as discussion with the State Government authorities on vital human rights related issues and focus on all specific concerns of the Commission.



18.19 By holding such Commission's Camp Sitzings, NHRC gets opportunity to not only in handling the urgent complaint(s) but also to deliberate upon the various enactments and policies. NHRC has its own mechanism for the feedback and based on the same, specific areas are highlighted to the State officials to exercise extra care and caution to ensure that the economic, social, cultural rights and civil and political rights are well protected.

18.20 NHRC is concerned about the protection of rights of inmates who are under detention with the State authorities and this includes juvenile justice, police custody, judicial custody, mental hospital and other homes. Such important cases are also discussed on priority basis with the State Government authorities during the Commission's Camp Sitzings. The Commission's first sitting was held at Uttar Pradesh, Lucknow from 18 to 20 January 2007 and its second sitting was held at Bihar, Patna from 17 to 19 May 2007.

## **G. Computerisation of Complaint handling mechanism**

18.21 The Commission has been using latest Information Technology tools to ease out the complaint handling mechanism with the help of NIC since 1994. The NIC has developed and implemented software, Complaint Management System (CMS) for the Commission and it has been working successfully since 25 August 2000. This new work environment has increased productivity substantially; thereby helping the Commission in handling the disposal of cases more efficiently. The CMS application software has the information about 6,73,953 complaints along with their follow-up of action as on 31 March 2007.

18.22 The CMS has assisted the Commission to introduce transparency of its actions to public by providing complaint status at 'Facilitation Counter'. It is an on-line facility by which the status along with complete details about a case is made available as and when desired by the Complainant / Victim / anyone concerned from the Facilitation Counter.

18.23 The Commission has further extended CMS to help the public by developing and hosting a query module for complaint status on Internet, integrated with the home page of NHRC ([www.nhrc.nic.in](http://www.nhrc.nic.in)). It includes current status of a case, complainant's details, victim's details and last order / direction / recommendations given by the NHRC. It supports search based on file number, complainant's details, victim's details and incident details. This website has nearly 4,25,000 hits till 31 March 2007.

18.24 In addition to the CMS, the Commission is using web based application software to store news clippings developed by the NIC. This News Clipping software stores and retrieves all the important press clippings. These clippings are stored in scanned image format along with the other information related to that.





# 19 Right to Information Act, 2005

19.1 The Commission has appointed Information and Public Relation Officer Mrs. S. Manjula as the Central Public Information Officer in the Commission to take care of the applications being received from members of the public and to furnish the requisite information to them under Right to Information Act, 2005.

19.2 The Commission has also appointed Ms. Aruna Sharma, I.A.S., Joint Secretary as an Appellate Authority in this regard.

19.3 The details of applications and Appeals received under RTI Act during the period from 1 April 2006 to 28 February 2007 are indicated below:

|   |                                                                       |     |
|---|-----------------------------------------------------------------------|-----|
| 1 | No. of Application Received                                           | 403 |
| 2 | No. of Applications disposed off within 30 days                       | 382 |
| 3 | No. of Applications pending but disposed off beyond one month         | Nil |
| 4 | No. of Application pending but are within one month                   | 21  |
| 5 | No. of Application transferred to other Ministry/Deptts./Organisation | 3   |

## Details of 1st Appeals

|   |                                                   |     |
|---|---------------------------------------------------|-----|
| 1 | No. of Appeal received by the Appellate Authority | 6   |
| 2 | No. of such Appeals disposed off within one month | 6   |
| 3 | No. of Appeals pending                            | Nil |

## Details of 2nd Appeal with C.I.C.

|   |                                                                        |     |
|---|------------------------------------------------------------------------|-----|
| 1 | No. of notices received from C.I.C.                                    | 2   |
| 2 | No. of hearings attended by C.P.I.O./Appellate Authority               | 2   |
| 3 | No. of hearings in r/o which compliance reports submitted to C.I.C     | 2   |
| 4 | No. of hearings in r/o which compliance report not submitted to C.I.C. | Nil |





# 20 Summary of Principal Recommendations and Observations

## General

20.1 The Annual Reports of the Commission are essential sources of information on the human rights situation in the country. The Commission, therefore, expresses its deep concern over the delay in placing the Annual Reports before the Parliament. The 13<sup>th</sup> Annual Report of the Commission for the period 1 April 2005 till 31 March 2006 was sent to the Government on November 27, 2006. However, as of August 14, 2007, it is yet to be tabled in the Parliament.

## Human Rights Education

20.2 NHRC believes that when India is striving to be a developed country by 2020, it is important that the younger generation be exposed to the rights perspective of development. Thus, NHRC has taken initiative and formulated a task force to incorporate Human Rights Education in School and University level....There is a need to have Human Rights as a compulsory subject for all undergraduate students irrespective of what major subjects they take (Para 2.27).

## Camp Commission:

20.3 NHRC has done a unique endeavor in its first Camp Commission at Uttar Pradesh in which a large number of pending cases were disposed of. The Commission drew the attention of authorities to failure in filing FIRs and delay in compliance and directed the State Government to complete all pending magisterial inquiries (Para 2.30).

## National Action Plan for Human Rights

20.4 The Commission has constituted an Advisory body and a Working Group to prepare the National Action Plan for Human Rights. Accordingly, the focus has been on five primary issues i.e., Right to Food Security, Right to Education, Right to Housing, Right to Health and Right to Custodial Justice. A draft Action Plan is being prepared after extensive discussions with the concerned Ministries and Departments and will be forwarded to Government of India for finalization (Para 2.34)

## **Interim Relief to victims of atrocities committed by JSTF:**

20.5 The Commission announced its recommendation for an Interim relief of Rs. 2.8 crore to the 89 victims of atrocities committed by the Joint Special Task Force (JSTF) set up by the two States [Karnataka and Tamil Nadu] to apprehend the forest brigand Veerappan (Para 2.35)

## **CIVIL LIBERTIES**

### *Terrorism & Insurgency*

- The Commission firmly believes that terrorism is not a disease but a symptom of socio-political ailment, and to deal with it effectively, it is necessary to identify the causes. Though terrorism cannot be justified, one should also not forget that far too many people live in conditions where it can breed (Para 3.1).
- More often than not, terrorism thrives in an environment where human rights and more particularly, economic, social and cultural rights are denied by the State and political rights are violated with impunity by both the State and non-State actors. Systemic denial of economic, social and cultural rights, like right to food, health, education, etc, is a causative factor of conflict and terrorism. Any worthwhile strategy to resolve conflicts and terrorism will have to ensure enjoyment of the full range of economic, social and cultural rights... Since they are not merely law and order issues and they have deep socio-economic dimensions and roots, the Commission is of the view that effective enforcement of laws and good governance are both critical for the prevention and control of extremism and terrorist activities (Paras 3.3 & 3.4)
- The Commission has always taken up the cause of victims of acts of terrorism and taken steps for providing relief and rehabilitation to them. The Commission believes that all persons responsible for acts of terrorism should be proceeded against in accordance with the law and that, by and large, the existing laws are sufficient. It is of the firm view that though the terrorist threats that we are facing now are on an unprecedented scale, but since the fundamental rationale of anti-terrorism measures has to be to protect human rights and democracy, counter-terrorism measures should not undermine democratic values, violate human rights, or subverts the rule of law. The State thus needs to master all its resources, utilize all available technologies, and improve the capacities of the man-power at its disposal in meeting these challenges (Para 3.5).
- The protection and promotion of human rights is essential in countering terrorism. Any kind of partisan and sectarian approach would be counter-productive. A limited approach may help eliminate some terrorists but only at the cost of violation of human rights of many innocents. If human rights were violated in the process of combating terrorism, it would be a self-defeating approach. It is imperative that the essential safeguards of due process and fair trial should not be jettisoned. Respect for human rights must be accepted as an essential element of any strategy to counter terrorism (Para 3.6).
- The Commission has taken suo-moto cognizance of a newspaper report published in the Kashmir Times dated 17 December 2006 titled "76 army men punished for Human rights violations". The report mentions that while the higher authorities in the army had given instructions to make the anti-insurgency operations people-friendly and to minimize civilian losses during these operations, the GOC 15 Corps indicated at Srinagar on 16 December 2006 that 76 army personnel were awarded punishment during the last couple of years after receiving complaints of human rights violations against them. These punishments included dismissal from service and rigorous punishment. In view of the above report, the Defence Secretary, Ministry of Defence, Government of India and the Chief Secretary, J&K were directed

to apprise the Commission about the ex-gratia relief, if any, awarded to the victims/next of kin of the victims of such human rights violation by armed forces personnel in J&K (Paras 3.9 & 3.10).

### *Criminal Justice System*

20.6 In a democratic society like that of ours, recognition of and respect for the inherent dignity of all human beings, regardless of their rank and status, profession and calling, sex, caste or religion is a quintessential principle which has to be observed for stability of that society (Para 3.11).

20.7 This principle is equally relevant for those who are free or those who have been detained or imprisoned. The latter retain their full human rights as human beings, except that they have been temporarily deprived of their liberty for certain alleged offences committed by them. It is important to have a clear understanding of the various implications of this principle. To illustrate some of them:

- A total prohibition on torture and deliberately inflicted, cruel, inhuman or degrading treatment.
- Prisoners are kept in prison as a punishment and not for punishment.
- The right to family contact is not taken away, but its exercise may be restricted.
- The rights of mothers and children to family life require special consideration. Mere imprisonment cannot be a ground to deprive the detainees from the natural love and affection of their families (Para 3.12).

20.8 The authorised capacity of all jails and sub-jails being of the order of 2, 48,439, there is an overcrowding to the extent of 44.2% for the country as a whole, as compared to 39.0% as on 31 December 2004. Nine States, namely Jharkhand, Chhattisgarh, Bihar, Gujarat, Delhi, Madhya Pradesh, U.P., Sikkim and Orissa experienced overcrowding ranging from 52% to 216% above the authorised capacity (Para 3.22).

20.9 Delhi is consistently making serious efforts to deal with the situation of overcrowding and has brought the same down from 231.07% as of 31 December 2002 to 97.1% as of 31 December 2005. This has become possible by opening new jails regularly. Jharkhand (216.3%) is maintaining its top position followed by Chhattisgarh (114.9%), Bihar (107.1%) and Gujarat (100.2%) (Para 3.23).

20.10 The proportion of under trial prisoners (UTPs) was more than 80% of the total prison population in seven States/UTs. These are: Dadra and Nagar Haveli (100%), Lakshadweep (100%), Manipur (92.7%), Meghalaya (92.4%), Bihar (87.7%), J&K (87.4%) and Chandigarh (81.5%). Chandigarh and Lakshadweep have entered into this category, while Daman and Diu has made an exit from this category (Para 3.25).

20.11 Improving working and living conditions in jails has been a major concern of the Commission since its inception in fulfilment of its obligation under section 12 (c) of the Protection of Human Rights Act, 1993. Based on visit of the Commission's Special Rapporteur to the District Jail at Shillong and Jowai from 6 to 8 June 2006, the Commission made recommendations to the concerned State Government (Para 3.28).

### *Analysis of reports on Medical Examination of prisoners for the period 1 July to 31 December 2004*

20.12 The average proportion of prisoners subjected to medical examination comes to around 95%. It is 100% for Bihar, Goa, Haryana, J&K, Maharashtra, Meghalaya, Mizoram, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Andaman and Nicobar, Chandigarh, Delhi and Pondicherry (Para 3.45).

20.13 On all India basis, Scabies (8.53%) is found to be most prevalent disease followed by Gastro-enteritis (7.76%), and skin disease (5.68%). Scabies is a prominent disease among prisoners in Bihar (23.2%), Maharashtra (21.3%), Meghalaya (20.3%), Tripura (12.4%) and Jammu & Kashmir (12.0%). Gastro-enteritis is prominent in Tripura (41.9%), Meghalaya (25.7%), J&K (23.2%), Mizoram and Andaman and Nicobar (18.7%) each. Skin diseases are prominent with the prisoners of Gujarat (20.8%), Andaman and Nicobar (17.0%), Mizoram (16.7%) and Meghalaya (13.5%) (Para 3.46).

20.14 With a view to dealing with these diseases afflicting the jail population, both preventive and corrective steps need to be taken. Among the preventive steps, the most important are promoting, improving and sustaining hygiene in jails, improving the system of storage and distribution of potable water to all inmates according to a scale and preventing water and air pollution (Para 3.47).

## **Custodial Violence and Deaths**

20.15 The denial of fundamental freedoms and human rights by the states, creates, conditions of social and political unrest. It definitely sows the seeds of violence and conflicts within and between societies and nations (Para 3.54).

20.16 Some of the common features of violations of human rights are torture of arrested persons, disappearance of suspects who ought to have been in regular police custody, deaths in fake encounters, deaths in police custody, and under-trials detained in jails for years without trial. In order to curb custodial violence, the Commission has issued guidelines to all States and Union Territories that all deaths in police and judicial custody should be promptly reported to the Commission within 24 hours of the occurrence. The Commission has further directed that in cases of death in police custody, the post-mortem is to be video-graphed and the videotape sent to the Commission. These measures enable the Commission to exercise checks on custodial torture and violence by the police and other public servants (Para 3.56 & 3.57).

## **Views of the Commission on 'Federal Crime' and their investigation**

20.17 The Commission gave its anxious thoughts on the rapid changes marked by the effects of globalization on the society, the undergoing changes in the forms of crime, their contours and the types of modus operandi of such crimes posing grave threat to the country and the world. It has been felt that the challenges posed by the multifaceted forms of growing terrorism, narcotics menace, human trafficking, organised crimes, the phenomenon of crime syndicates and cyber crimes are indeed too grave to be ignored. The past experience had shown that the State Police Forces who have been traditionally recording and investigating such grave offences are finding themselves increasingly handicapped to deal with such offences on account of their inter-state/international ramifications. The state agencies do suffer from handicaps like lack of appreciation of various aspects of such crime in a wider perspective, lack of effective intelligence/sharing between the State Agencies, hurdles of bureaucratic channels, lack of specialization of State Investigating Agencies, challenges connected with extradition of criminals etc. (Para 3.64).

20.18 Upon consideration of the above aspects, the Commission identified certain offences as 'Federal Crime' for the previously mentioned purpose and recommended that such crimes should be investigated by the CBI (Para 3.65).

20.19 The views of the Commission in this regard have been submitted before the Hon'ble Apex Court (Para 3.66).



## **Appalling conditions of Observation Home, Meerut**

20.20 Based on Investigation Division's Report, the Commission made certain recommendations for improvement of conditions in this Home (Para 3.74).

## **Complaints**

20.21 During the year under review, the Commission had a total number of 1, 21,313 cases to consider, which included cases brought forward from previous years as well as fresh institution during the current year. During the period from 1 April 2006 to 31 March 2007, the Commission disposed of 93,421 cases... The total number of cases registered in the Commission during 2006 - 2007 was 82,233, while the corresponding figure for the year 2005 - 2006 was 74,444. Of the cases that were registered during the year under review, 80,325 cases were complaints of alleged human rights violations, besides 1597 cases related to intimations of custodial deaths, 10 cases of custodial rapes and 301 relating to police encounters (Para 4.1).

20.22 While considering the Punjab Mass Cremation case remitted by the Supreme Court of India, the Commission has till the end of the year 2006-2007 recommended compensation of Rs. 2.5 lakhs to the next of kin of each of 195 deceased identified to be in deemed custody of police and Rs. 1.75 lakhs to each of next of kin of other 1103 identified persons whose dead bodies were cremated by Punjab Police (amounting to Rs. 24, 27, 25,000/-) (Para 4.1).

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### *Right to Health*

20.23 The Commission has been deeply concerned regarding the shortage of trained medical man power in the rural and remote parts of the country which is in turn perpetuating poor correctional measures to reduce infant mortality rates (IMR) and maternal mortality rates (MMR).

- The MCI should design a three-year course for training doctors on basic preventive and curative health services so that the paucity or non-availability of manpower is taken care of. Another alternative is to have one-year bridge course for doctors of Indian System of Medicine and post them at the CHCs and PHCs.
- There is need to give recognition to 'mid-wife course' and induct more number of local women to practice as mid-wives independently. A 2 - 3 year course will enable these women to ensure proper pre-natal, ante-natal care and also handle institutional deliveries. This in a way would contribute to reduction in MMR.
- MCI should consider developing 'Emergency Medicine' as a speciality (Para 5.3)

20.24 In addition, the Commission made following recommendations on right to health :

- To fulfil health rights of citizens, especially in rural areas, there is a need to ensure universal provision of guaranteed health services - particularly services for maternal health, child health, emergency medical care and provision of essential drugs.
- It is recommended that all non-government employees living in the rural areas be issued a Limited Paying Capacity Card, which will ensure free accessibility to all the essential medical services as is being provided to Below Poverty Line (BPL) cardholders. This card could be issued by the local district administration.

- To facilitate the provision of these essential services in rural areas, there is a need to have a recognised course for nurse practitioners to ensure availability of independent treatment and specialists like Nurses Anaesthetist and Gynaecologists in the rural parts of the country. This will definitely have a direct impact on the IMR, MMR and general health status.
- There is a need for the Medical Council of India and the Nursing Council of India to have a relook and work out a methodology to recognize course for nursing practitioner. It is also necessary for Medical Council of India to have an inbuilt compulsory rural attachment and it may reduce number of years for postgraduate training.
- There is a need to have a Community Health Worker in every village. Thus, ASHA to be strengthened so that she remains not just motivator but a Community Health Worker capable of providing basic health care. Assistance may be taken to make develop a comprehensive training manual.
- It is recommended that Public Private Partnerships (PPP) be considered in the area of healthcare. However, there is a need to have a regulatory mechanism to ensure quality standards by the private partners and national norms for PPPs, to ensure that all such partnerships fulfil public health goals.
- It is also recommended that there is a need to enact a National Clinical Registration and Regulation Act to develop various standards to be observed even by the private institutions running health care facilities. National and State level legislations should include provisions to protect patient's rights.
- The availability of drugs at affordable price is an essential element to ensure the right to health. Hence, it is strongly recommended that a proper drug procurement mechanism to ensure guaranteed availability of all essential drugs at the primary and secondary care level. The Tamil Nadu Model of procurement of essential drugs needs to be taken as a standard by the other States and be executed within a timeframe. Examine issue of stay-order issued resulting in delay in drug procurement.
- To create awareness concerning the availability of the essential drugs, the appropriate government may print a booklet having a list of essential drugs, which would be necessarily available at PHC/CHC/District hospitals. This booklet may be printed and be made widely available.
- To protect the right to health, the drug be made available at a cheaper rate. It is also recommended that all essential drug and its analogues be placed under the Drug Control Order.
- The Commission also reiterated the need for rational use of drugs and need for implementing mandatory standard treatment protocols in both public and private sectors to avoid over subscription.
- It was also recommended that there is a need to develop 'Emergency Medicines' as a specialty to improve the emergency medical services in the country. The snakebites, dog bites and bleeding be included in emergency services and their respective treatment to be provided to all free of cost. In addition, approval should be given for the use of intra dermal rabies vaccination in all facilities at the earliest to enable its universal free availability.
- The discussions today has reiterated its earlier recommendations on the issue of Organ Transplantation and suggested that there is a need to have a follow up on them.
- It further noted that silicosis is an occupational hazard and it needs necessary interventions and convergence of efforts of the industries, labour and health departments of the government along with NIOH (Ahmedabad) and NIMH (Nagpur). There is a need to have a comprehensive

legislation and operational mechanism to ensure prevention of further cases and care for all the affected persons. Technology like electrostatic dust precipitators needs to be implemented in all hazardous workplaces. Compensation and care should be given to all silicosis affected workers within a short time frame.

- Concerning the issue of fluorosis and other water related diseases the core group recommended that to fulfil the right to have potable drinking water, the government be requested to ensure safe potable water to all citizens of the country.
- The discussions expressed concern on the drop in the rate of immunization as has been reflected in NFHS III. Thus, it is recommended that the immunization programmes of the Health Departments have the focus to achieve nothing less than 100% immunization. Efforts should include provision of complete Ante-Natal and Post Natal care. There is also need to take care of key childhood diseases, namely, diarrhoea and acute respiratory infections and to provide effective nutritional supplementation to all children to minimize malnutrition.
- It is recommended that the maternal health services should also focus on adequate treatment of maternal anaemia including safe institutional delivery services, health promotion and health education concerning safe motherhood.
- It is recommended that all States enact a Public Health Act to enshrine the Health Rights of citizens related to public health services and public health conditions.
- There is a need to have a redressal mechanism to ensure right to health as such it is recommended the complaints received by the Rogi Kalyan Samiti/Monitoring Committees be referred to the respective State Human Rights Commission.
- There is a need to review pulse polio based eradication strategy and to consider compensation for all children affected by Vaccine Associated Paralytic Polio.
- The group strongly advocates that improvement is more of a matter of management and good governance than of resource crunch.
- Steps taken by the Union and the State governments for implementation of the recommended measures may be communicated for periodic review by NHRC (Para 5.8).

**20.25** During the meeting of Commission's core group on health and in the National Review Meeting on Health, it has been brought to the notice of the Commission that although adequate numbers of doctors are available in the country, the interior parts of the country are not being covered. Therefore, it was recommended that there was a strong need to ensure the availability of doctors in the remotest parts of the country. Towards this end, it was recommended that there is need to discuss the issue of a three - year course for Nurse Practitioner to ensure availability of nurses, anesthtist and gynecologist in the rural areas of the country. The working group of the Knowledge Commission has also recognised that the nurses can make a large contribution in the public health sector health programme. It could be achieved by upgrading their skills and by providing expansion of nurses training programme to include clinical nurse, nurse practitioners and nurse anesthetists. It is also considering the issue of upgradation of nurse professionals to undertake a set of primary health care tasks, presently in the domain of doctors who are often not available in the primary health centre (Para 5.14).

## **Silicosis**

**20.26** Deeply concerned about the adverse effects of silicosis on human rights, the Commission recommends that:

- There is a need to have a comprehensive legislation and operational mechanism to ensure prevention of such cases in future apart from care for all the affected persons.

- The Commission insists that technology like Electrostatic Dust Precipitators should be implemented in all hazardous workplaces. Compensation and care needs to be given to all silicosis affected workers within a short time frame (Para 5.33).

## **Mental Health**

20.27 NHRC has been deeply concerned with the harrowing conditions prevailing in the mental hospitals all over the country. Many of them function as custodial rather than therapeutic institutions. Based on visits to Mental Health Hospitals in Vadodara and in Goa, Gwalior Manasik Arogyasala, Psychiatric Centre, Jaipur, Ranchi Institute of Neuro Psychiatry and Allied Sciences (RINPAS) and Institute of Mental Health and Hospital, Agra, the Commission made specific recommendations for better protection of rights of mentally ill persons (Para 5.16).

## **Right to Food**

20.28 Based on a meeting of the Core Group on the Right to Food on 8<sup>th</sup> August 2006, the Commission made the following recommendations:

- There is a need to define concepts like, 'Right to Nutrition', 'Malnutrition', 'Starvation' so that there is a paradigm shift from 'welfare' approach to 'rights based approach' to the issue of malnutrition and starvation.
- There is, therefore, the need to identify 200 (government and public sector) organisations with expertise to deal with malnutrition across the country to monitor the distribution mechanism independently. The role of 200 organisations would not be day-to-day monitoring, but to see at ground level that things are moving properly.
- The Panchayats should cooperate with these organisations by providing them information under different schemes.
- It is mandatory to not just have food as a matter of right but also to ensure proper nutrition. Schemes are already available, but the discrepancies in existing schemes need attention. Provision of food should not be based on quantity but on calories of energy, while ensuring that the nutrition level is maintained. Food available locally must be utilized. To clarify, instead of insisting on uniform pattern, flexibility to use local coarse grain like ragi etc. should be permitted.
- The system of delivery be firmed up by active involvement of Panchayati Raj Institutions (PRIs), with zero tolerance, i.e., ensure that there is no case of malnutrition and starvation in a Panchayat. All Gram Panchayats must be held accountable under all the schemes. People should know what are the schemes and benefits available to them. Panchayats should notify by displaying billboards in their office/prominent places.
- There is a need to dovetail [right to food] with employment generation schemes and other interventions to ensure sustainable livelihood (Para 2.16).

20.29 The Commission's recommendations have been forwarded to the Central/State governments for compliance. Responses have been received from Madhya Pradesh, Uttar Pradesh and the Union Territory of Daman and Diu. The Commission recommends to all States and Union Territories to take necessary action in this regard.

## **Rights of Women and Children**

20.30 NHRC's Plan of Action to Prevent and End Trafficking in Women and Children in India was forwarded to the Secretaries of the Department of Women and Child Development of all the States/

Union Territories for taking appropriate action to prevent and end trafficking at their end. Besides, the Plan of Action was forwarded to the Secretary/Joint Secretary in the Ministries of Home Affairs, Tourism and Culture, Labour and Employment, Women and Child Development and the National Commission for Women. The Commission reports with extreme dissatisfaction that except for the States of West Bengal, Madhya Pradesh and Gujarat, none of the other States/Union Territories have taken pains to report back to the Commission about the action taken by them on the Plan of Action....The Commission intends to follow-up the matter with all those States/Union Territories who have failed to send in their action taken report on the NHRC's Plan of Action (Paras 8.3 & 8.4).

***B. Formulation of an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women***

20.31 The National Human Rights Commission, Ministry of Home Affairs, Ministry of Women and Child Development, National Commission for Women and the UNICEF, took a collective decision in September 2006 to work in unison and draw up an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women. According to all concerned, this collective effort would not only bring in convergence in the various initiatives undertaken by them but also yield better results to facilitate uniform action in eliminating the problem of trafficking from its very roots.

20.32 Correspondingly, based on the field experiences of all concerned, a draft Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women was evolved and it was collectively decided that before the same was finalised, it needed to be discussed with all stakeholders in the field (Para 8.5. & 8.6).

**Rights of Children**

20.33 The National Conference on Juvenile Justice System in India that was organised by the Commission from 3 to 4 February 2007 that brought to the forefront many loopholes with regard to the treatment being meted out to children in conflict with law and those in need of care and protection. For instance, as per the Juvenile Justice Act, all inquiries pertaining to a juvenile in conflict with law have to be completed within a period of four months by the Juvenile Justice Board. In reality, this was not so as many juveniles were found to be languishing in Observation Homes beyond four months as these inquiries were pending with the Juvenile Justice Board. In order to have first hand information about the exact number of children in conflict with law who were under detention in the Observation Homes beyond a period of four months across the country, the Commission on 12 February 2007 called for information from all the States/Union Territories along with the date of apprehension by the police and the date of remand to the said Observation Homes by the Juvenile Justice Boards. In addition, the Commission also enquired from the Secretaries of the concerned Ministries/Departments, the duration of the stay of these children and the reason for their confinement therein.

20.34 Similarly, it called for information relating to children in need of care and protection along with the date of the orders passed by the Child Welfare Committees to various Homes meant for them and the duration of their stay therein.

20.35 At the time of writing of this report, information had been received from the States of Gujarat, Haryana and Meghalaya and the Union Territory of Lakshadweep. It was shocking to learn that in the Observation Home located at Sonipat in the State of Haryana, there were more than 57 boys whose inquiries were still pending with the Juvenile Justice Board as on 25 February 2007.

20.36 In Meghalaya there were 10 boys as on 7 March 2007 whose inquiries had not been completed by

the Juvenile Justice Board and as such they continued to stay in the combined Observation-cum-Special Home meant for them at Shillong. Few of these boys were languishing in the said home from the year 2005... The information provided by the Government of Gujarat is inconclusive (Paras 8.25 to 8.27).

20.37 The Commission intends to follow-up this matter with the remaining State governments/Union Territories who until date have not furnished the requisite information about these children (Para 8.28).

20.38 The National Conference on Juvenile Justice System in India organised by the Commission strongly recommended that there is a need to prepare Bench Books/Manuals/Hand books containing guidelines about: Process of Institutionalization, Role of professionals/ other cadres involved in the juvenile justice system, Child as a witness, Case Management of juvenile before trial, Case Management of juvenile during trial, Child as a victim/plaintiff, Child as an accused, Release, rehabilitation and reintegration, Role of Advisory Boards/visitors and Community Based Practices, etc (Para 8.24).

## **Missing Children**

20.39 The manner in which young children went missing from one of the neighbouring villages of the National Capital Territory of Delhi, namely, Nithari in NOIDA, which falls under the overall jurisdiction of the State of Uttar Pradesh, had a deep impact on the Commission too. While taking suo motu cognizance of the matter on the one hand, the Commission noticed, "the phenomenon of missing children is not confined to Nithari or Uttar Pradesh alone. The Commission has come across media reports of similar incidents from other parts of the country as well. The problem of missing children has thus become an issue of grave concern to the nation and more so, to the National Human Rights Commission of India. It is deeply concerned and it has mandate for better protection and promotion of human rights and also to deal with cases of human rights violations that come to its notice and make appropriate recommendations in that regard, including giving relief to the victims. The Commission is, therefore, of the opinion that this issue should be examined in depth and guidelines should be evolved to deal with such cases effectively and meaningfully to protect and promote human rights of children and also take appropriate steps where violation of human rights is found in this regard" (Para 8.53).

20.40 Accordingly, on 12 February 2007, the National Human Rights Commission constituted a Committee to examine the issue of missing children in depth and give its suggestions so that appropriate guidelines may be evolved by the Commission and forwarded to the concerned authorities across the States/Union Territories as well as to the Government of India that would facilitate in tracing and restoring missing children back to their families or to agencies/support systems where they could be taken care of and protected (Para 8.54).

## **Elimination of Bonded Labour**

20.41 NHRC has mandate for prevention and protection of bonded labour and child labour and has conducted awareness-building programmes in Andhra Pradesh and Tamilnadu.

- A need was emphasized to bring to the notice of the district administration the provisions under the Bonded Labour Act especially Section 21 that empowers district administration to do summary trials. The recent amendment to the Act against bonded and child labour in dhabas is being monitored by NHRC.
- This issue is directly related to the question of ensuring Right to Education of Children and, therefore, 100% enrolment in schools. This is being emphasized repeatedly by the Commission (Para 2.23).

20.42 The Commission started monitoring the implementation of the Bonded Labour System (Abolition) Act, 1976 under the directions dated 11 November 1997 of the Supreme Court passed in writ petition (civil) No. 3922 of 1985. Based on a review of bonded labour in Andhra Pradesh, Tamil Nadu, Haryana, Orissa, Madhya Pradesh and Rajasthan, the Commission made a number of recommendations to address this issue (Para 9.11).

## **Elimination of Child Labour**

20.43 The whole issue of elimination of child labour revolves round (a) prescribing a minimum age of entry to working life; (b) holistic development of a tender human resource; (c) protection of inalienable human rights of all children; and (d) building a solid foundation for social justice and equity...Based on a review of elimination of child labour in Tamil Nadu, Haryana, Orissa, M.P. and Rajasthan, the Commission made detailed recommendations for the elimination of child labour (Para 9.20).

## **Rights of Vulnerable**

### *A. Manual Scavenging*

20.44 The NHRC has been vigorously pursuing the need to end the degrading practice of manual scavenging in the country. Based on a review meeting held on 18 March 2007 the Commission made the following recommendations to all States and the Central Government for implementation/ follow-up action:

- All states should adhere to the target date of 2007 for the complete eradication of the inhuman practice of manual scavenging, even though date is contemplated to be extended to March 2009. It is high time and without loss of time, the States adopt the Act. In case of those States who have not adopted that Act, NHRC will take serious and sincere view on the matter.
- Fresh survey be conducted for Identification of manual scavengers including in the rural areas while simultaneously proceeding to rehabilitate already identified 3.4 lakhs manual scavengers.
- Involve NGOs throughout in the process of identification, capacity building, placement linkages, convergence with other programmes and rehabilitation of manual scavengers under SRMS. NSLRS schemes approved by the Cabinet now named as Schemes for Rehabilitation of Manual Scavengers (SRMS) emphasised that SRMS to be implemented through State governments.
- A proper rehabilitation plans needs to be executed and monitored. All State governments should make efforts to not just rehabilitate but ensure their acceptance and reintegration in the society of the identified scavengers.
- State governments should set quarterly target for converting the dry latrines into wet latrines.
- The work of conversion/ construction of sanitary toilets under the scheme should be awarded to the selected NGOs who have got experience, manpower, infrastructure, expertise and credibility. The Government should prepare a list of such NGOs who fulfil these criteria.
- There should be a separate provision for Information, Education and Communication (IEC) including motivational campaigns. There is such provision in case of rural sanitation. It is suggested that the same may also be included in case of urban sanitation.
- Necessary steps should be taken by the States to impart education at the primary level to the wards of manual scavengers.
- There is a need to examine the existing subsidy scheme in order to make it more feasible.
- Municipal bodies to have detailed plan to construct more public toilets.
- Rehabilitation & Reintegration is not just an issue of providing economical alternative.

- Need to impart training to liberated manual scavengers in the vocation of their choice.
- Loans by Banks at liberalized rate of interest for liberated manual scavengers for setting up self employment ventures.
- Need for good and quality schooling for children of manual scavengers along with ensuring continuation of scholarship to their children. The rehabilitation efforts should result in sustainable alternate employment, better education to dependent and their complete reintegration.

## **Ministry of Housing and Urban Poverty Elevation**

- Request the Ministry to expedite the approval of new schemes so that the action could be initiated accordingly.
- Alternative to dry latrines, super structure, which was not considered as a part of cost, is now added.
- To closely monitor the States where existing survey has indicated still large number of dry latrines viz. U.P., Bihar and West Bengal.
- Municipal bodies who do not remove the dry latrines should be debarred from Central government funds.
- Need is to cover the efforts through improved water supply as shift from dry latrine to wet is not just a case of eradication of manual scavenging but also of general hygiene.
- Coverage with technology for getting energy from human waste, on the line of Sulabh International.
- Penalize individuals who do not convert to flush latrines; even if need be resort to Section 133 of Cr. PC.

## **Rewards**

- To work out reward scheme to urban development bodies; those who achieve 100% result in removing the menace of manual scavenging and rehabilitating the liberated manual scavengers and their families (Paras 10.2 & 106).

## **Dalits**

20.45 The Commission has viewed its role as that of an “Equalizer”: adding its weight on behalf of the vulnerable, so that the scales of justice and equity may be more evenly balanced for them, and to ensure that those who violate their rights are brought to justice, as the Constitution of the country, its laws and treaty obligations all require.” (Para 10.9).

20.46 Based on review meeting held on 28 June 2006, the Commission resolved that for the year 2006 - 07 the focus would be on:

- i) Eradication of Manual Scavenging and
- ii) Elimination of atrocities against Dalits

20.47 It was decided in the meeting that the Commission would take up four districts of the country from north, south, east and west, for an awareness campaign. Districts where atrocities against Dalits are reported high are, i) Karimnagar in Andhra Pradesh, ii) Vaishali in Bihar, iii) Palanpur in Gujarat, iv) Gulbarga in Karanataka, v) Ujjain in Madhya Pradesh, vi) Khurda in Orissa, vii) Bharatpur in Rajasthan, viii) Thiruvallur in Tamil Nadu, xi) Sitapur in Uttar Pradesh (Paras 10.12 & 1013).



## **Monitoring of Cyclone Reconstruction Work in Orissa: Internally Displaced Persons**

20.48 The Commission notes with satisfaction the implementation of its directions/ recommendations in this regard. However, it finds follow-up action rather slow in the matter of (a) operationalisation of ICDS projects already sanctioned by the Government of India; (b) grant of mandatory compensation to fishermen families for loss/damage of boats and nets; and (c) establishment of Ham Radio clubs (Para 11.3).

## **Monitoring of post earthquake measures in Gujarat**

20.49 The Commission has requested the State government to submit the action taken report/ comments on the report submitted by the Special Rapporteur, NHRC and current status of the relief & rehabilitation of victims of the earthquake. However, the report is still awaited (Para 11.14).

## **Problems of Denotified and Nomadic Tribes**

20.50 The Commission constituted an Advisory Group to examine the matter. It submitted its report in August 1998 and made several recommendations to improve the condition of the communities. The Commission is monitoring the response from the State governments/ UTs on the recommendations. The report received from some of the States was considered by the Commission which decided to prepare a note by the Secretary General of the Commission. Before preparing a note, the then Secretary General of the Commission requested the State Governments to furnish the information relating to the plight of the Denotified and Nomadic Tribal communities on matters such as whether these Tribes have been included in the list of SC/ST/OBC, specific settlements, basic facilities for schooling, primary health etc. being extended to these communities etc.

20.51 States of Arunachal Pradesh, Assam, Goa, Jammu & Kashmir, Manipur, Mizoram, Nagaland, Sikkim, Tripura, Uttaranchal and Union Territories of Chandigarh, Dadra and Nagar Haveli, Daman & Diu, Lakshadweep and Pondicherry have provided no information.

20.52 The information from the State of Bihar, Maharashtra and Meghalaya are still awaited (Paras 11.16 to 11.19).

## **Promotion on Human Rights Literacy and Awareness**

20.53 On the occasion of the Human Rights Day on 10 December 2006, Hon'ble Vice President of India released 11 publications of NHRC, viz. Annual Journal, Hindi Journal (Nai Dishayien), Bhartiya Sanskriti Mein Manav Adhikar and 8 Human Rights Dossiers related to various issues.

20.54 The two books titled "Human Rights Manual for District Magistrates" and "Human Rights Best Practices relating to Criminal Justice Processes in a Nutshell" have also been printed. The book on Human Rights Manual for District Magistrates has emphasised the role of District Magistrates to protect the human rights of the individuals. The second one, titled "Human Rights Best Practices relating to Criminal Justice Processes in a Nutshell" has evolved through an interdisciplinary rigorous exercise (Para 13.6 & 13.7).

## **Training Programmes Conducted during 2006-2007**

20.55 As part of accomplishing the mandate, the Commission approved 48 training programmes on various issues of human rights for the year 2006 - 2007 in all over the country focusing the North-eastern States, Backward States, UTs etc. Out of these 45 training programmes were conducted in which 3,613 participants were trained (Para 13.20).

## **Non-Governmental Organisations (NGOs)**

20.56 Encouraging the efforts of the non-governmental organisations (NGOs) working in the field of human rights is a statutory responsibility of the Commission under Section 12(i) of The Protection of Human Rights Act, 1993. The promotion and protection of human rights cannot gather momentum without the fullest cooperation between the Commission and the NGOs (Para 15.1).

## **State Human Rights Commission**

20.57 The Commission has now made a special provision in its budget plan to strengthen the SHRC. For this, a provision of Rs. 2 crore is proposed in the Annual Plan 2007 - 2008 and Rs. 10 crore in the Five Year Plan 2007 - 2012. As per the amendment to the Act, 2006, NHRC can transfer the case to State Human Rights Commission. Thus, NHRC will improve the capability of State Human Rights Commission in complaint handling system as well as protection and promotion of human rights relating to economic, social & cultural rights and civil and political rights (Para 2.36).

20.58 State Human Rights Commissions (SHRCs) have been set up in 15 States viz., the States of Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The State of Karnataka has also notified setting up of SHRC in that State. Information has also been received from the State government of Bihar that they are in the process of setting up the State Human Rights Commission. The Commission recommends those States which have not yet constituted State Human Rights Commissions to follow suit at the earliest in the interests of protection and promotion of human rights (Para 16.1 & 16.2).

20.59 One of the important amendments to the Protection of Human Rights Act, 1993 vide Protection of Human Rights (Amendment) Act, 2006 pertains to the composition of the State Human Rights Commission. As per the principal Act, the State Commission shall consist of a Chairperson and four Members [Section 21(2)]. With the amendment to this Section, the State Commission would now consists of a Chairperson who has been a Chief Justice of a High Court and one Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of 7 years experience as District Judge; one Member to be appointed from amongst persons having knowledge or, practical experience in, matters relating to human rights (Para 16.5).

20.60 Further, a new sub-section (6) has been inserted under Section 12 of PHR Act, which states that two or more State governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment. One of the reasons for the lack of will on the part of the State Governments in setting up of the State Human Rights Commission has been the resource crunch faced by the States. Further, a small number of complaints of Human Rights violations being received have been another reason due to which the State Governments have not been setting up the Human Rights Commissions. With the amendments now carried out, the Commission hopes the State Governments would be in a better position to set up State Human Rights Commission in their respective States or two or more State governments may set up joint State Commissions as provided under sub-section (6) of Section 12 (Para 16.6 & 16.7).

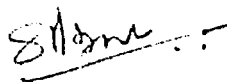
## **Review of Laws, Implementation of Treaties and other International Instruments on Human Rights**

20.61 Though, the amendments carried out by the Government of India to the Protection of Human Rights Act, 1993 falls short of its recommendations and expectations, it, however, feels that a small step in

the right direction has been taken by the Government to remove certain lacunae in the Act. (Paras 17.2 & 17.3).

## Convention against Torture

20.62 The Commission has been requesting the Government of India to ratify the Convention against Torture and Other Cruel, Inhuman Or Degrading Treatment Or Punishment 1984, which was signed by India on 14 October 1997 on the recommendation of the Commission. The Commission is of the view that the process of ratification must proceed with far greater speed and clarity of purpose than has hitherto been the case. It has not gone unnoticed within the country or in major external forums, including treaty bodies, when the commitment of India to the promotion and protection of human rights is considered since the Government of India signed this treaty. Indeed, failure to ratify the Convention has even affected the capacity of the country to secure the extradition of persons wanted by the law-enforcement agencies of India. The irony is all the greater because Article 21 of the Constitution already covers this area effectively. Further, as has repeatedly been pointed out by the Commission, the Apex Court has judicially recognised the Right against Torture as a Fundamental Right with the corresponding obligation on the State and its agencies to abide by it. Whatever be the threats or attacks against human rights, we hold the view that the State should act within the parameters of the Rights recognised by the Constitution or embodied in the international Covenants on Civil and Political Rights or on Economic, Social and Cultural Rights and we play a proactive role to uphold the same (Paras 17.11 to 17.13).



(S. Rajendra Babu)  
Chairperson



(Shivaraj V. Patil)  
Member



(Y. Bhaskar Rao)  
Member



(R.S. Kalha)  
Member



(P.C. Sharma)  
Member

New Delhi  
September 19, 2007





## Action Taken Report from States on Plan of Action to prevent and end Trafficking in Women and Children in India

| Sl.No. | Name of the State | Action Taken                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.     | Madhya Pradesh    | Efforts are being made under Immoral Trafficking (Prevention) Act, Child Labour Act, Child Marriage Act and IPC Act to prevent trafficking in women and children. Public Awareness Camps are being organised to prevent crimes against the women and children in the state. A nodal officer has been appointed of the rank of Deputy Inspector General of Police and Anti Trafficking Nodal Cells also been constituted in each district of the state. To prevent trafficking, state government has set-up Women Police Station, Women Consultation Centre, Women Cell, Help lines and also deputed Special Police Officer. Sensitization Training Programmes are being organised from time to time for police officers so as to make them sensitized while take the case of women and children at range and district level and cooperation is also taken from NGOs and other organisation so as to prevent trafficking.                                                                               |
| 2.     | West Bengal       | Anti poverty scheme of Government of India such as Swadhar, Swayamsakti, Swasakti, Balika Samridhi Yojna, etc. are being implemented by the states in all districts and remote corners of villages in order to boost economic status for the women and reduce vulnerability of trafficking. Primary schools are being set up in most of the villages to provide access to education among backward parts of society. Awareness generation campaign is constantly being organized by the Government of W.B. for imparting knowledge and information about trafficking. Awareness campaign specially to the adolescents, potential victims and clients has been introduced with the help of media and other mode of communication under direct patronage of Government of W.B. Liaison is being maintained for concerting coordination between judiciary, police and other stakeholders who are responsible to act as watchdog regarding trafficking and sexual exploitation. Help desk has already been |

| Sl.No. | Name of the State | Action Taken                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                   | provided with the help of various NGO's at vulnerable transit point of trafficking like Railway station and bus terminus etc.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 3.     | Gujarat           | <p>In the state of Gujarat following organizations are in existence and taking care and attention in rescue and post rescue activities in conformity with the human rights. There are 7 Reception Centres and 4 State Homes, 9 Vikas Gruhs which, beside, providing shelter, arrange for education, health counseling, vocational training, guidance for the victims. To rehabilitate them through social and economic measures arrangements for marrying them with suitable match and providing assistance of Rs.5,000/- for self-employment and livelihood is made available. Government provides assistance of Rs. 10,000/- in form of N.S. Certificates and domestic appliances. More over to fulfill their basic needs for starting family life necessary arrangement are made with the help of NGO institutions and reputed donors. This State Government consider the human rights of the inmates of these institutions as prime importance and hence by making regular inspection of the above stated organizations the State Government ensures the observance of minimum standards of care and protection including fooding, clothing, shelter, medical care, physical and cultural needs etc. Following Steps are taken for the effective implementation of Immoral traffic. A State level Advisory Committee has been formed under the Chairmanship of Chief Secretary. To co-ordinate activities among the various agencies involved for the prevention, rescue, rehabilitation of women victims a State Level Co-coordinating committee has been constituted under the Chairmanship of Principal secretary, Women &amp; Child Development Department on 22/9/05</p> |



## **Recommendations emerging from the National Review Meeting on Health held on 6th March 2007**

In the National Review Meeting on Health, concern was expressed regarding inadequate provision of public health services in rural areas. In this context it was stated that although sufficient Doctors are available in absolute number in the country, there are still innumerable pockets in the country where there is a shortage of Doctors specially in the rural and remote areas as result nearly 56% of the population is still being treated by the quacks, hence there is a strong need that NHRC may ensure that Doctors and other trained health care professionals are available in the remotest parts of the country. Thus, the following recommendations have been made in the National Review Meeting on Health :-

1. To fulfil health rights of citizens, especially in rural areas, there is a need to ensure universal provision of guaranteed health services - particularly services for maternal health, child health, emergency medical care and provision of essential drugs.
2. It is recommended that all non-government employees living in the rural areas be issued a Limited Paying Capacity Card which will ensure free accessibility to all the essential medical services as is being provided to BPL Card holders. This card could be issued by the local district administration.
3. To facilitate the provision of these essential services in rural areas, there is a need to have a recognized course for Nurse Practitioners to ensure availability of independent treatment and also specialists like Nurses Anesthetist and Gynecologists in the rural parts of the country. This will definitely have a direct impact on the IMR, MMR and also health status.
4. There is a need that the Medical Council of India and the Nursing Council of India to have a relook and work out a methodology to recognize course for Nursing Practitioner. It is also necessary for Medical Council of India to have an inbuilt compulsory rural attachment and it may reduce number of years for post graduate training.
5. There is need to have a Community Health Worker in every village. Thus, ASHA to be strengthened so that she remains not just motivator but a Community Health Worker capable of providing basic health care. Assistance be taken to make comprehensive training manual.
6. It is recommended that Public Private Partnerships (PPP) be considered in the area of Healthcare. However, there is a need to have a regulatory mechanism to ensure quality standards by the private partners and national norms for PPPs, to ensure that all such partnerships fulfill public health goals
7. It is also recommended that there is a need to enact a National Clinical Registration and Regulation Act to develop various standards to be observed even by the private institutions running health care facilities. National and State level legislations should include provisions to protect patients rights.
8. The availability of drugs at affordable price is an essential element to ensure right to health. Hence the group strongly recommends that there is a need to have a proper drug procurement mechanism to ensure guaranteed availability of all essential drugs at the primary and secondary care level. The Tamil Nadu Model of procurement of essential drugs be taken as a standard by the other states and

be executed within a time frame. Examine issue of stay-order issued resulting in delay in drug procurement.

9. To create awareness concerning the availability of the essential drugs, the appropriate government may print a booklet having a list of essential drugs which would be necessarily available at PHC/CHC/District Hospitals. This booklet be printed and be made widely available.
10. To protect the right to health, the drug be made available at a cheaper rate. Towards this end, it is recommended that all essential drug and its analogues be placed under the Drug Control Order.
11. The groups also reiterated the need for rational use of drugs and need for implementing mandatory standard treatment protocols in both public and private sector to avoid over subscription.
12. It was also recommended that there is a need to develop 'Emergency Medicines' as a specialty to improve the emergency medical services in the country. The snakebites, dog bites and bleeding be included in emergency services and their respective treatment to be provided to all free of cost. In addition, approval should be given to use of Intradermal rabies vaccination in all facilities at the earliest to enable its universal free availability.
13. The discussions today has reiterated its earlier recommendations on the issue of Organ Transplantation (Annexure) and suggested that there is a need to have a follow up on them.
14. It further noted that Silicosis is an occupational hazard and it needs necessary interventions and convergence of efforts of the industries, labour and health departments of the government along with NIOH (Ahmedabad) and NIMH (Nagpur). There is a need to have a comprehensive legislation and operational mechanism to ensure prevention of further cases and care for all the affected persons. It is insisted that technology like electrostatic dust precipitators be implemented in all hazardous workplaces. Compensation and care to be given to all silicosis affected workers within a short time frame.
15. Concerning the issue of Fluorosis and other water related diseases the core group recommended that to fulfill the right to have potable drinking water the government be requested to ensure safe potable water to all citizens of the country.
16. The discussions expressed concern on the drop in the rate of immunization as has been reflected in NFHS III. Thus, it is recommended that the immunization programmes of the Health Departments have the focus to achieve nothing less than 100% immunization. Efforts should include provision of complete Ante-Natal and Post Natal care. There is also need to take care of key childhood diseases, namely, Diarrhea and acute respiratory infections and to provide effective nutritional supplementation to all children to minimize malnutrition.
17. It is recommended that the maternal health services should also focus on adequate treatment of maternal anemia including safe institutional delivery services, health promotion and health education concerning safe motherhood.
18. It is recommended that all States enact a Public Health Act to enshrine the Health Rights of citizens related to public health services and public health conditions.
19. There is a need to have a redressal mechanism to ensure right to health as such it is recommended the complaints received by the Rogi Kalyan Samiti/Monitoring Committees be referred to the respective State Human Rights Commission.
20. There is a need to review pulse polio based eradication strategy and to consider compensation for all children affected by Vaccine Associated Paralytic Polio.
21. Finally the group strongly advocates that the improvement is more of a management issue and good governance than of resource crunch.
22. Steps taken by Union and State governments for implementation of the recommended measures may be communicated for periodic review by NHRC.



**Remedial Measures suggested by NHRC to all States/UTs to check illegal trade in human organs**

- a) State Medical Councils should screen the records of hospitals performing organ transplants (especially kidney transplants) and estimate the proportion of transplants which have been made through a 'compassionate donor' mechanism. In case of kidney transplants, wherever the proportion has exceeded 5% of the cases performed in any of the past 5 years, the State Medical Council should initiate a full fledged enquiry into the background of the donors and the recipients, as well as a careful documentation of the follow-up health status of the donor and the nature of after care provided by the concerned hospital. Wherever police enquiries are needed for such background checks, the help of the State Human Rights Commission may be sought for providing appropriate directions to the State agencies.
- b) Cadaver Transplant programmes should be promoted to reduce the demand for 'live donors'.
- c) Facilities for chronic renal dialysis should be increased and improved in hospitals, to provide alternatives to kidney transplantation.
- d) Better facilities should be provided for transparent and effective counseling of prospective donors.
- e) Wherever possible, a mechanism should be established for independent verification of the veracity of 'compassionate donation' by a group of experts which is external to the hospital wherein the transplant procedure is proposed to be performed.



## Annexure - 3

## Para 4.2

### STATEMENT SHOWING STATE-WISE NUMBER OF CASES PENDING AS ON 1/4/2006

| Sl. No. | Name of the State/ Union Territory | Cases awaiting preliminary consideration |                  |                  |       | Pendency of cases where reports have either been received or awaited from the State Authorities |                       |                       | Total |
|---------|------------------------------------|------------------------------------------|------------------|------------------|-------|-------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-------|
|         |                                    | Intimation about                         |                  |                  |       | Complaints                                                                                      | Custodial Death cases | Encounter Death cases |       |
|         |                                    | Complaints                               | Custodial Deaths | Encounter Deaths | Total |                                                                                                 |                       |                       |       |
| 1       | 2                                  | 3                                        | 4                | 5                | 6     | 7                                                                                               | 8                     | 9                     | 10    |
| 1       | All India                          | 0                                        | 0                | 0                | 0     | 4                                                                                               | 0                     | 0                     | 4     |
| 2       | Andhra Pradesh                     | 15                                       | 3                | 0                | 18    | 782                                                                                             | 390                   | 22                    | 1194  |
| 3       | Arunachal Pradesh                  | 1                                        | 0                | 0                | 1     | 29                                                                                              | 7                     | 0                     | 36    |
| 4       | Assam                              | 1                                        | 1                | 0                | 2     | 231                                                                                             | 53                    | 12                    | 296   |
| 5       | Bihar                              | 291                                      | 0                | 0                | 291   | 3737                                                                                            | 523                   | 6                     | 4266  |
| 6       | Goa                                | 1                                        | 0                | 0                | 1     | 22                                                                                              | 7                     | 0                     | 29    |
| 7       | Gujarat                            | 46                                       | 2                | 0                | 48    | 510                                                                                             | 200                   | 5                     | 715   |
| 8       | Haryana                            | 274                                      | 1                | 0                | 275   | 1082                                                                                            | 119                   | 6                     | 1207  |
| 9       | Himachal Pradesh                   | 6                                        | 0                | 0                | 6     | 82                                                                                              | 4                     | 0                     | 86    |
| 10      | Jammu & Kashmir                    | 13                                       | 0                | 0                | 13    | 403                                                                                             | 5                     | 2                     | 410   |
| 11      | Karnataka                          | 5                                        | 2                | 0                | 7     | 433                                                                                             | 213                   | 10                    | 656   |
| 12      | Kerala                             | 1                                        | 1                | 0                | 2     | 158                                                                                             | 73                    | 1                     | 232   |
| 13      | Madhya Pradesh                     | 21                                       | 2                | 1                | 24    | 925                                                                                             | 107                   | 10                    | 1042  |
| 14      | Maharashtra                        | 133                                      | 5                | 0                | 138   | 1349                                                                                            | 205                   | 30                    | 1584  |
| 15      | Manipur                            | 0                                        | 0                | 0                | 0     | 103                                                                                             | 2                     | 2                     | 107   |
| 16      | Meghalaya                          | 1                                        | 0                | 0                | 1     | 21                                                                                              | 10                    | 1                     | 32    |
| 17      | Mizoram                            | 3                                        | 0                | 0                | 3     | 13                                                                                              | 3                     | 0                     | 16    |
| 18      | Nagaland                           | 0                                        | 0                | 0                | 0     | 23                                                                                              | 1                     | 0                     | 24    |
| 19      | Orissa                             | 8                                        | 0                | 0                | 8     | 630                                                                                             | 98                    | 3                     | 731   |
| 20      | Punjab                             | 110                                      | 1                | 0                | 111   | 833                                                                                             | 159                   | 0                     | 992   |
| 21      | Rajasthan                          | 208                                      | 0                | 0                | 208   | 1167                                                                                            | 73                    | 33                    | 1273  |
| 22      | Sikkim                             | 0                                        | 0                | 0                | 0     | 4                                                                                               | 0                     | 0                     | 4     |
| 23      | Tamilnadu                          | 18                                       | 2                | 0                | 20    | 814                                                                                             | 384                   | 9                     | 1207  |
| 24      | Tripura                            | 0                                        | 0                | 0                | 0     | 55                                                                                              | 11                    | 1                     | 67    |
| 25      | Uttar Pradesh                      | 1873                                     | 8                | 2                | 1883  | 16307                                                                                           | 796                   | 231                   | 17334 |
| 26      | West Bengal                        | 103                                      | 2                | 0                | 105   | 606                                                                                             | 75                    | 8                     | 689   |
| 27      | Andaman & Nicobar                  | 1                                        | 0                | 0                | 1     | 6                                                                                               | 2                     | 0                     | 8     |
| 28      | Chandigarh                         | 7                                        | 0                | 0                | 7     | 48                                                                                              | 11                    | 0                     | 59    |
| 29      | Dadar & Nagar Haveli               | 0                                        | 0                | 0                | 0     | 5                                                                                               | 0                     | 0                     | 5     |
| 30      | Daman & Diu                        | 1                                        | 0                | 0                | 1     | 3                                                                                               | 0                     | 0                     | 3     |
| 31      | Delhi                              | 643                                      | 0                | 0                | 643   | 2346                                                                                            | 82                    | 26                    | 2454  |
| 32      | Lakshadweep                        | 0                                        | 0                | 0                | 0     | 1                                                                                               | 0                     | 0                     | 1     |
| 33      | Pondicherry                        | 0                                        | 0                | 0                | 0     | 20                                                                                              | 3                     | 0                     | 23    |
| 34      | Chattisgarh                        | 34                                       | 1                | 0                | 35    | 178                                                                                             | 57                    | 2                     | 237   |
| 35      | Jharknand                          | 84                                       | 2                | 0                | 86    | 1011                                                                                            | 158                   | 1                     | 1170  |
| 36      | Uttaranchal                        | 48                                       | 0                | 0                | 48    | 761                                                                                             | 38                    | 19                    | 818   |
| 37      | Foreign Countries                  | 3                                        | 0                | 0                | 3     | 69                                                                                              | 0                     | 0                     | 69    |
|         |                                    | 3953                                     | 33               | 3                | 3989  | 34771                                                                                           | 3869                  | 440                   | 39080 |
|         | 3989+39080=43069                   |                                          |                  |                  |       |                                                                                                 |                       |                       |       |



## Annexure - 4

## Para 4.2

### STATEMENT SHOWING STATE-WISE NUMBER OF CASES/ INTIMATIONS REGISTERED DURING THE YEAR 2006-2007

| Sl. No. | Name of the State/ Union Territory | Complaints   | Intimation received above Custodial Deaths |                  |                        |                 | Intimation received about Encounter Deaths | Total        |
|---------|------------------------------------|--------------|--------------------------------------------|------------------|------------------------|-----------------|--------------------------------------------|--------------|
|         |                                    |              | Police Custody                             | Judicial Custody | Defence/ Para-Military | Custodial rapes |                                            |              |
| 1       | 2                                  | 3            | 4                                          | 5                | 6                      | 7               | 8                                          | 9            |
| 1       | All India                          | 27           | 0                                          | 0                | 0                      | 0               | 0                                          | 27           |
| 2       | Andhra Pradesh                     | 672          | 5                                          | 118              | 0                      | 1               | 15                                         | 811          |
| 3       | Arunachal Pradesh                  | 19           | 1                                          | 1                | 0                      | 1               | 0                                          | 22           |
| 4       | Assam                              | 133          | 8                                          | 17               | 0                      | 0               | 6                                          | 164          |
| 5       | Bihar                              | 3493         | 2                                          | 193              | 0                      | 0               | 1                                          | 3689         |
| 6       | Goa                                | 39           | 0                                          | 1                | 0                      | 0               | 0                                          | 40           |
| 7       | Gujarat                            | 795          | 7                                          | 54               | 0                      | 0               | 0                                          | 856          |
| 8       | Haryana                            | 3144         | 2                                          | 51               | 0                      | 0               | 2                                          | 3199         |
| 9       | Himachal Pradesh                   | 144          | 0                                          | 3                | 0                      | 0               | 0                                          | 147          |
| 10      | Jammu & Kashmir                    | 209          | 0                                          | 0                | 1                      | 0               | 1                                          | 211          |
| 11      | Karnataka                          | 458          | 8                                          | 56               | 0                      | 1               | 6                                          | 529          |
| 12      | Kerala                             | 165          | 3                                          | 37               | 0                      | 0               | 0                                          | 205          |
| 13      | Madhya Pradesh                     | 2195         | 10                                         | 59               | 0                      | 0               | 6                                          | 2270         |
| 14      | Maharashtra                        | 1761         | 21                                         | 130              | 0                      | 0               | 15                                         | 1927         |
| 15      | Manipur                            | 33           | 0                                          | 0                | 0                      | 0               | 0                                          | 33           |
| 16      | Meghalaya                          | 10           | 1                                          | 1                | 0                      | 0               | 0                                          | 12           |
| 17      | Mizoram                            | 17           | 0                                          | 0                | 0                      | 0               | 0                                          | 17           |
| 18      | Nagaland                           | 7            | 0                                          | 0                | 0                      | 0               | 0                                          | 7            |
| 19      | Orissa                             | 833          | 2                                          | 53               | 0                      | 0               | 1                                          | 889          |
| 20      | Punjab                             | 713          | 1                                          | 87               | 0                      | 0               | 2                                          | 803          |
| 21      | Rajasthan                          | 2541         | 3                                          | 54               | 0                      | 1               | 2                                          | 2601         |
| 22      | Sikkim                             | 8            | 0                                          | 0                | 0                      | 0               | 0                                          | 8            |
| 23      | Tamilnadu                          | 1070         | 16                                         | 103              | 0                      | 0               | 4                                          | 1193         |
| 24      | Tripura                            | 26           | 1                                          | 5                | 0                      | 0               | 0                                          | 32           |
| 25      | Uttar Pradesh                      | 51548        | 11                                         | 241              | 0                      | 3               | 201                                        | 52004        |
| 26      | West Bengal                        | 835          | 7                                          | 69               | 0                      | 0               | 1                                          | 912          |
| 27      | Andaman & Nicobar                  | 20           | 0                                          | 0                | 0                      | 0               | 0                                          | 20           |
| 28      | Chandigarh                         | 98           | 0                                          | 2                | 0                      | 1               | 0                                          | 101          |
| 29      | Dadar & Nagar Haveli               | 10           | 0                                          | 0                | 0                      | 0               | 0                                          | 10           |
| 30      | Daman & Diu                        | 15           | 0                                          | 0                | 0                      | 0               | 0                                          | 15           |
| 31      | Delhi                              | 5286         | 3                                          | 25               | 0                      | 1               | 16                                         | 5331         |
| 32      | Lakshadweep                        | 1            | 0                                          | 0                | 0                      | 0               | 0                                          | 1            |
| 33      | Pondicherry                        | 47           | 0                                          | 1                | 0                      | 0               | 0                                          | 48           |
| 34      | Chattisgarh                        | 517          | 3                                          | 50               | 0                      | 0               | 1                                          | 571          |
| 35      | Jharkhand                          | 1494         | 3                                          | 59               | 0                      | 0               | 2                                          | 1558         |
| 36      | Uttaranchal                        | 1857         | 1                                          | 7                | 0                      | 1               | 19                                         | 1885         |
| 37      | Foreign Countries                  | 85           | 0                                          | 0                | 0                      | 0               | 0                                          | 85           |
|         | <b>Total</b>                       | <b>80325</b> | <b>119</b>                                 | <b>1477</b>      | <b>1</b>               | <b>10</b>       | <b>301</b>                                 | <b>82233</b> |



## Annexure - 5

## Para 4.2

### STATEMENT SHOWING STATE-WISE DISPOSAL OF CASES DURING THE YEAR 2006-2007

| Sl. No. | Name of the State/ Union Territory | Dismissed in limini | Disposed of with directions | Concluded after receipt of reports |                       |                       | Total        |
|---------|------------------------------------|---------------------|-----------------------------|------------------------------------|-----------------------|-----------------------|--------------|
|         |                                    |                     |                             | Compliants cases                   | Custodial Death cases | Encounter Death cases |              |
| 1       | 2                                  | 3                   | 4                           | 5                                  | 6                     | 7                     | 8            |
| 1       | All India                          | 20                  | 4                           | 0                                  | 0                     | 0                     | 24           |
| 2       | Andhra Pradesh                     | 426                 | 156                         | 625                                | 197                   | 1                     | 1405         |
| 3       | Arunachal Pradesh                  | 14                  | 3                           | 18                                 | 4                     | 0                     | 39           |
| 4       | Assam                              | 87                  | 31                          | 100                                | 34                    | 4                     | 256          |
| 5       | Bihar                              | 2692                | 725                         | 1824                               | 157                   | 1                     | 5399         |
| 6       | Goa                                | 31                  | 10                          | 13                                 | 2                     | 0                     | 56           |
| 7       | Gujarat                            | 537                 | 150                         | 224                                | 57                    | 2                     | 970          |
| 8       | Haryana                            | 1663                | 1076                        | 707                                | 48                    | 2                     | 3496         |
| 9       | Himachal Pradesh                   | 117                 | 27                          | 40                                 | 2                     | 0                     | 186          |
| 10      | Jammu & Kashmir                    | 109                 | 71                          | 122                                | 0                     | 0                     | 302          |
| 11      | Karnataka                          | 291                 | 98                          | 235                                | 53                    | 0                     | 677          |
| 12      | Kerala                             | 115                 | 35                          | 54                                 | 36                    | 0                     | 240          |
| 13      | Madhya Pradesh                     | 1546                | 534                         | 405                                | 52                    | 3                     | 2540         |
| 14      | Maharashtra                        | 1060                | 465                         | 685                                | 45                    | 10                    | 2265         |
| 15      | Manipur                            | 14                  | 9                           | 23                                 | 0                     | 1                     | 47           |
| 16      | Meghalaya                          | 8                   | 1                           | 20                                 | 5                     | 0                     | 34           |
| 17      | Mizoram                            | 12                  | 5                           | 4                                  | 2                     | 0                     | 23           |
| 18      | Nagaland                           | 4                   | 1                           | 6                                  | 0                     | 0                     | 11           |
| 19      | Orissa                             | 53                  | 200                         | 312                                | 63                    | 0                     | 628          |
| 20      | Punjab                             | 469                 | 250                         | 382                                | 151                   | 0                     | 1252         |
| 21      | Rajasthan                          | 1883                | 567                         | 595                                | 58                    | 0                     | 3103         |
| 22      | Sikkim                             | 6                   | 1                           | 1                                  | 0                     | 0                     | 8            |
| 23      | Tamilnadu                          | 676                 | 318                         | 455                                | 104                   | 1                     | 1554         |
| 24      | Tripura                            | 14                  | 7                           | 21                                 | 2                     | 0                     | 44           |
| 25      | Uttar Pradesh                      | 28899               | 19248                       | 8412                               | 232                   | 41                    | 56832        |
| 26      | West Bengal                        | 493                 | 273                         | 190                                | 85                    | 2                     | 1043         |
| 27      | Andaman & Nicobar                  | 14                  | 0                           | 2                                  | 1                     | 0                     | 17           |
| 28      | Chandigarh                         | 59                  | 32                          | 26                                 | 5                     | 0                     | 122          |
| 29      | Dadar & Nagar Haveli               | 8                   | 0                           | 4                                  | 0                     | 0                     | 12           |
| 30      | Daman & Diu                        | 15                  | 0                           | 0                                  | 0                     | 0                     | 15           |
| 31      | Delhi                              | 3062                | 1990                        | 938                                | 40                    | 5                     | 6035         |
| 32      | Lakshadweep                        | 1                   | 0                           | 1                                  | 0                     | 0                     | 2            |
| 33      | Pondicherry                        | 34                  | 7                           | 3                                  | 0                     | 0                     | 44           |
| 34      | Chattisgarh                        | 361                 | 113                         | 106                                | 28                    | 0                     | 608          |
| 35      | Jharkhand                          | 1194                | 275                         | 488                                | 56                    | 1                     | 2014         |
| 36      | Uttaranchal                        | 1217                | 507                         | 283                                | 6                     | 7                     | 2020         |
| 37      | Foreign Countries                  | 48                  | 33                          | 17                                 | 0                     | 0                     | 98           |
|         | <b>Grand Total</b>                 | <b>47252</b>        | <b>27222</b>                | <b>17341</b>                       | <b>1525</b>           | <b>81</b>             | <b>93421</b> |



## Annexure - 6(a)

## Para 4.2

### STATE/UNION TERRITORY-WISE STATEMENT OF CATEGORY OF REPORT CASES DISPOSED OFF DURING THE YEAR 2006-2007

| Sl. No. | Name of the State/ Union Territory | Disappe-<br>rance | False Impli-<br>cation | Custo-<br>dial Viole-<br>nce | Illegal Arrest | Unlawful Deten-<br>tion | Failure in taking action | Alleged Fake Encounters | Other Police excessess | Total |
|---------|------------------------------------|-------------------|------------------------|------------------------------|----------------|-------------------------|--------------------------|-------------------------|------------------------|-------|
| 1       | 2                                  | 3                 | 4                      | 5                            | 6              | 7                       | 8                        | 9                       | 10                     | 11    |
| 1       | All India                          | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
| 2       | Andhra Pradesh                     | 0                 | 8                      | 0                            | 12             | 8                       | 33                       | 5                       | 46                     | 112   |
| 3       | Arunachal Pradesh                  | 0                 | 0                      | 0                            | 0              | 0                       | 1                        | 0                       | 2                      | 3     |
| 4       | Assam                              | 0                 | 0                      | 0                            | 1              | 3                       | 6                        | 2                       | 11                     | 23    |
| 5       | Bihar                              | 1                 | 72                     | 0                            | 6              | 17                      | 415                      | 16                      | 245                    | 772   |
| 6       | Goa                                | 0                 | 1                      | 0                            | 0              | 0                       | 1                        | 0                       | 4                      | 6     |
| 7       | Gujarat                            | 0                 | 6                      | 0                            | 2              | 1                       | 19                       | 1                       | 20                     | 49    |
| 8       | Haryana                            | 1                 | 31                     | 0                            | 13             | 20                      | 189                      | 0                       | 88                     | 342   |
| 9       | Himachal Pradesh                   | 0                 | 1                      | 0                            | 0              | 0                       | 7                        | 0                       | 6                      | 14    |
| 10      | Jammu & Kashmir                    | 0                 | 1                      | 0                            | 0              | 5                       | 6                        | 1                       | 28                     | 41    |
| 11      | Karnataka                          | 0                 | 1                      | 0                            | 3              | 3                       | 19                       | 0                       | 33                     | 59    |
| 12      | Kerala                             | 0                 | 0                      | 0                            | 0              | 1                       | 2                        | 0                       | 9                      | 12    |
| 13      | Madhya Pradesh                     | 0                 | 17                     | 0                            | 6              | 13                      | 86                       | 0                       | 47                     | 169   |
| 14      | Maharashtra                        | 0                 | 7                      | 0                            | 1              | 1                       | 34                       | 6                       | 46                     | 95    |
| 15      | Manipur                            | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 1                       | 4                      | 5     |
| 16      | Meghalaya                          | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 1                      | 1     |
| 17      | Mizoram                            | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
| 18      | Nagaland                           | 0                 | 0                      | 0                            | 0              | 1                       | 0                        | 0                       | 1                      | 2     |
| 19      | Orissa                             | 0                 | 10                     | 0                            | 2              | 3                       | 36                       | 0                       | 32                     | 83    |
| 20      | Punjab                             | 0                 | 10                     | 0                            | 2              | 7                       | 38                       | 0                       | 55                     | 112   |
| 21      | Rajasthan                          | 0                 | 20                     | 0                            | 3              | 7                       | 77                       | 0                       | 103                    | 210   |
| 22      | Sikkim                             | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 1                      | 1     |
| 23      | Tamilnadu                          | 0                 | 15                     | 0                            | 10             | 13                      | 20                       | 1                       | 67                     | 126   |
| 24      | Tripura                            | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 1                       | 3                      | 4     |
| 25      | Uttar Pradesh                      | 10                | 245                    | 4                            | 81             | 400                     | 1424                     | 51                      | 2463                   | 4678  |
| 26      | West Bengal                        | 0                 | 4                      | 0                            | 0              | 6                       | 22                       | 0                       | 25                     | 57    |
| 27      | Andaman & Nicobar                  | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
| 28      | Chandigarh                         | 0                 | 1                      | 0                            | 0              | 1                       | 3                        | 0                       | 5                      | 10    |
| 29      | Dadar & Nagar Haveli               | 0                 | 0                      | 0                            | 0              | 0                       | 1                        | 0                       | 1                      | 2     |
| 30      | Daman & Diu                        | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
| 31      | Delhi                              | 2                 | 19                     | 0                            | 8              | 73                      | 145                      | 1                       | 195                    | 443   |
| 32      | Lakshadweep                        | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
| 33      | Pondicherry                        | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
| 34      | Chattisgarh                        | 0                 | 0                      | 0                            | 1              | 5                       | 11                       | 0                       | 8                      | 25    |
| 35      | Jharkhand                          | 0                 | 18                     | 0                            | 0              | 9                       | 66                       | 2                       | 75                     | 170   |
| 36      | Uttaranchal                        | 1                 | 2                      | 0                            | 4              | 8                       | 21                       | 1                       | 116                    | 153   |
| 37      | Foreign Countries                  | 0                 | 0                      | 0                            | 0              | 0                       | 0                        | 0                       | 0                      | 0     |
|         |                                    | 15                | 489                    | 4                            | 155            | 605                     | 2682                     | 89                      | 3740                   | 7779  |



## Annexure - 6(b)

## Para 4.2

### STATE/UNION TERRITORY-WISE STATEMENT OF CATEGORY OF REPORT CASES DISPOSED OFF DURING THE YEAR 2006-2007

| Sl. No. | Name of the State/ Union Territory | Indignity to women | Sexual Harassment | Abduction Rape & Murder | Dowry death or its attempt | Dowry Demand | Exploitation of women | Rape of women | Total |
|---------|------------------------------------|--------------------|-------------------|-------------------------|----------------------------|--------------|-----------------------|---------------|-------|
| 12      | 13                                 | 14                 | 15                | 16                      | 17                         | 18           | 19                    | 20            | 21    |
| 1       | All India                          | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 2       | Andhra Pradesh                     | 3                  | 2                 | 2                       | 5                          | 4            | 4                     | 5             | 25    |
| 3       | Arunachal Pradesh                  | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 4       | Assam                              | 1                  | 0                 | 2                       | 1                          | 0            | 0                     | 0             | 4     |
| 5       | Bihar                              | 12                 | 8                 | 22                      | 155                        | 17           | 13                    | 36            | 263   |
| 6       | Goa                                | 1                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 1     |
| 7       | Gujarat                            | 1                  | 0                 | 2                       | 2                          | 1            | 0                     | 3             | 9     |
| 8       | Haryana                            | 7                  | 9                 | 47                      | 32                         | 15           | 8                     | 15            | 133   |
| 9       | Himachal Pradesh                   | 0                  | 0                 | 0                       | 1                          | 0            | 1                     | 1             | 3     |
| 10      | Jammu & Kashmir                    | 1                  | 0                 | 1                       | 3                          | 0            | 1                     | 1             | 7     |
| 11      | Karnataka                          | 1                  | 1                 | 2                       | 4                          | 4            | 4                     | 0             | 16    |
| 12      | Kerala                             | 0                  | 0                 | 1                       | 1                          | 0            | 0                     | 0             | 2     |
| 13      | Madhya Pradesh                     | 3                  | 3                 | 6                       | 28                         | 4            | 2                     | 5             | 51    |
| 14      | Maharashtra                        | 2                  | 2                 | 4                       | 6                          | 2            | 3                     | 2             | 21    |
| 15      | Manipur                            | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 2             | 2     |
| 16      | Meghalaya                          | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 17      | Mizoram                            | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 18      | Nagaland                           | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 19      | Orissa                             | 1                  | 3                 | 3                       | 20                         | 5            | 1                     | 3             | 36    |
| 20      | Punjab                             | 1                  | 1                 | 5                       | 4                          | 5            | 1                     | 0             | 17    |
| 21      | Rajasthan                          | 11                 | 6                 | 14                      | 24                         | 8            | 12                    | 14            | 89    |
| 22      | Sikkim                             | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 23      | Tamilnadu                          | 1                  | 5                 | 4                       | 8                          | 1            | 2                     | 3             | 24    |
| 24      | Tripura                            | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 25      | Uttar pradesh                      | 89                 | 96                | 480                     | 583                        | 216          | 94                    | 209           | 1767  |
| 26      | West bengal                        | 2                  | 0                 | 5                       | 13                         | 2            | 2                     | 5             | 29    |
| 27      | Andaman & Nicobar                  | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 28      | Chandigarh                         | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 1             | 1     |
| 29      | Dadar & Nagar Haveli               | 0                  | 0                 | 0                       | 1                          | 0            | 0                     | 0             | 1     |
| 30      | Daman & Diu                        | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 31      | Delhi                              | 11                 | 10                | 40                      | 24                         | 30           | 10                    | 13            | 138   |
| 32      | Lakshadweep                        | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 33      | Pondicherry                        | 0                  | 0                 | 0                       | 0                          | 0            | 0                     | 0             | 0     |
| 34      | Chattisgarh                        | 2                  | 0                 | 1                       | 3                          | 0            | 0                     | 1             | 7     |
| 35      | Jharkhand                          | 3                  | 1                 | 11                      | 24                         | 5            | 7                     | 7             | 58    |
| 36      | Uttaranchal                        | 2                  | 3                 | 15                      | 14                         | 10           | 9                     | 6             | 59    |
| 37      | Foreign Countries                  | 0                  | 0                 | 0                       | 0                          | 1            | 0                     | 0             | 1     |
|         |                                    | 155                | 150               | 667                     | 956                        | 330          | 174                   | 332           | 2764  |



## Annexure - 6(C)

## Para 4.2

### STATE/UNIOIN TERRITORY-WISE STATEMENT OF CATEGORY OF REPORT CASES DISPOSED OFF DURING THE YEAR 2006-2007

| Sl. No. | Name of the State/ Union Territory | Child Labour | Child Marriage | Bonded Labour | Harassment of prisoners | Lack of medical facilities in Jails | Jail Conditions | Atrocities on SC/ ST | Communal Violence | Others | Total | Grand Total (11+21+33) |
|---------|------------------------------------|--------------|----------------|---------------|-------------------------|-------------------------------------|-----------------|----------------------|-------------------|--------|-------|------------------------|
| 22      | 23                                 | 24           | 25             | 26            | 27                      | 28                                  | 29              | 30                   | 31                | 32     | 33    | 34                     |
| 1       | All India                          | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 0      | 0     | 0                      |
| 2       | Andhra Pradesh                     | 1            | 0              | 1             | 3                       | 1                                   | 3               | 5                    | 0                 | 474    | 488   | 625                    |
| 3       | Arunachal Pradesh                  | 0            | 1              | 0             | 0                       | 0                                   | 1               | 0                    | 0                 | 13     | 15    | 18                     |
| 4       | Assam                              | 0            | 0              | 0             | 0                       | 0                                   | 2               | 1                    | 0                 | 70     | 73    | 100                    |
| 5       | Bihar                              | 2            | 1              | 6             | 11                      | 8                                   | 22              | 66                   | 1                 | 672    | 789   | 1824                   |
| 6       | Goa                                | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 6      | 6     | 13                     |
| 7       | Gujarat                            | 0            | 0              | 1             | 3                       | 0                                   | 0               | 2                    | 1                 | 159    | 166   | 224                    |
| 8       | Haryana                            | 1            | 1              | 13            | 8                       | 1                                   | 3               | 3                    | 0                 | 202    | 232   | 707                    |
| 9       | Himachal Pradesh                   | 0            | 0              | 2             | 0                       | 0                                   | 1               | 2                    | 0                 | 18     | 23    | 40                     |
| 10      | Jammu & Kashmir                    | 4            | 0              | 2             | 0                       | 0                                   | 2               | 0                    | 0                 | 66     | 74    | 122                    |
| 11      | Karnataka                          | 2            | 1              | 5             | 5                       | 0                                   | 0               | 2                    | 0                 | 145    | 160   | 235                    |
| 12      | Kerala                             | 0            | 0              | 0             | 0                       | 0                                   | 3               | 1                    | 0                 | 36     | 40    | 54                     |
| 13      | Madhya Pradesh                     | 0            | 0              | 2             | 2                       | 0                                   | 3               | 12                   | 0                 | 166    | 185   | 405                    |
| 14      | Maharashtra                        | 1            | 0              | 1             | 11                      | 1                                   | 27              | 3                    | 0                 | 525    | 569   | 685                    |
| 15      | Manipur                            | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 16     | 16    | 23                     |
| 16      | Meghalaya                          | 0            | 0              | 0             | 0                       | 0                                   | 1               | 0                    | 0                 | 18     | 19    | 20                     |
| 17      | Mizoram                            | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 4      | 4     | 4                      |
| 18      | Nagaland                           | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 4      | 4     | 6                      |
| 19      | Orissa                             | 1            | 2              | 1             | 2                       | 1                                   | 2               | 4                    | 0                 | 180    | 193   | 312                    |
| 20      | Punjab                             | 0            | 0              | 18            | 11                      | 0                                   | 2               | 1                    | 0                 | 221    | 253   | 382                    |
| 21      | Rajasthan                          | 0            | 0              | 4             | 18                      | 3                                   | 7               | 73                   | 1                 | 190    | 296   | 595                    |
| 22      | Sikkim                             | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 0      | 0     | 1                      |
| 23      | Tamilnadu                          | 3            | 1              | 1             | 2                       | 0                                   | 2               | 13                   | 0                 | 283    | 305   | 455                    |
| 24      | Tripura                            | 0            | 0              | 0             | 65                      | 0                                   | 1               | 0                    | 0                 | -49    | 17    | 21                     |
| 25      | Uttar Pradesh                      | 10           | 17             | 31            | 0                       | 16                                  | 25              | 119                  | 2                 | 1747   | 1967  | 8412                   |
| 26      | West Bengal                        | 0            | 0              | 0             | 0                       | 0                                   | 1               | 0                    | 0                 | 103    | 104   | 190                    |
| 27      | Andaman & Nicobar                  | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 2      | 2     | 2                      |
| 28      | Chandigarh                         | 0            | 0              | 0             | 1                       | 0                                   | 1               | 1                    | 0                 | 12     | 15    | 26                     |
| 29      | Dadar & Nagar Haveli               | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 1      | 1     | 4                      |
| 30      | Daman & Diu                        | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 0      | 0     | 0                      |
| 31      | Delhi                              | 3            | 0              | 2             | 9                       | 1                                   | 10              | 3                    | 0                 | 329    | 357   | 938                    |
| 32      | Lakshadweep                        | 0            | 0              | 0             | 0                       | 0                                   | 0               | 0                    | 0                 | 1      | 1     | 1                      |
| 33      | Pondicherry                        | 0            | 0              | 0             | 1                       | 0                                   | 0               | 0                    | 0                 | 2      | 3     | 3                      |
| 34      | Chattisgarh                        | 0            | 0              | 1             | 3                       | 0                                   | 0               | 1                    | 0                 | 69     | 74    | 106                    |
| 35      | Jharkhand                          | 0            | 0              | 0             | 5                       | 1                                   | 6               | 16                   | 0                 | 232    | 260   | 488                    |
| 36      | Uttaranchal                        | 0            | 1              | 2             | 1                       | 0                                   | 0               | 2                    | 0                 | 65     | 71    | 283                    |
| 37      | Foreign Countries                  | 0            | 0              | 0             | 0                       | 0                                   | 2               | 0                    | 0                 | 14     | 16    | 17                     |
|         |                                    | 28           | 25             | 93            | 161                     | 33                                  | 127             | 330                  | 5                 | 5996   | 6798  | 17341                  |







## Annexure 7

## Para 4.3

### STATEMENT SHOWING STATE-WISE NUMBER OF CASES PENDING AS ON 31/3/2007

| Sl. No.                                | Name of the State/<br>Union Territory | Cases awaiting preliminary consideration |                  |                  |       | Pendency of cases where reports have either been received or awaited from the State Authorities |                       |                       | Total (7+8+9) |
|----------------------------------------|---------------------------------------|------------------------------------------|------------------|------------------|-------|-------------------------------------------------------------------------------------------------|-----------------------|-----------------------|---------------|
|                                        |                                       | Intimation about                         |                  |                  |       | Complaints                                                                                      | Custodial Death cases | Encounter Death Cases |               |
|                                        |                                       | Compl-aints                              | Custodial Deaths | Encounter Deaths | Total |                                                                                                 |                       |                       |               |
| 1                                      | 2                                     | 3                                        | 4                | 5                | 6     | 7                                                                                               | 8                     | 9                     | 10            |
| 1                                      | All India                             | 0                                        | 0                | 0                | 0     | 7                                                                                               | 0                     | 0                     | 7             |
| 2                                      | Andhra Pradesh                        | 1                                        | 0                | 1                | 2     | 262                                                                                             | 319                   | 35                    | 616           |
| 3                                      | Arunachal Pradesh                     | 1                                        | 0                | 0                | 1     | 14                                                                                              | 5                     | 0                     | 19            |
| 4                                      | Assam                                 | 0                                        | 0                | 0                | 0     | 147                                                                                             | 45                    | 14                    | 206           |
| 5                                      | Bihar                                 | 0                                        | 1                | 0                | 1     | 2280                                                                                            | 560                   | 6                     | 2846          |
| 6                                      | Goa                                   | 0                                        | 0                | 0                | 0     | 8                                                                                               | 6                     | 0                     | 14            |
| 7                                      | Gujarat                               | 4                                        | 1                | 0                | 5     | 436                                                                                             | 205                   | 3                     | 644           |
| 8                                      | Haryana                               | 5                                        | 0                | 0                | 5     | 1049                                                                                            | 125                   | 6                     | 1180          |
| 9                                      | Himachal Pradesh                      | 0                                        | 0                | 0                | 0     | 48                                                                                              | 5                     | 0                     | 53            |
| 10                                     | Jammu & Kashmir                       | 2                                        | 0                | 0                | 2     | 321                                                                                             | 6                     | 3                     | 330           |
| 11                                     | Karnataka                             | 2                                        | 1                | 0                | 3     | 271                                                                                             | 225                   | 16                    | 512           |
| 12                                     | Kerala                                | 0                                        | 0                | 0                | 0     | 120                                                                                             | 78                    | 1                     | 199           |
| 13                                     | Madhya Pradesh                        | 4                                        | 1                | 0                | 5     | 652                                                                                             | 125                   | 14                    | 791           |
| 14                                     | Maharashtra                           | 2                                        | 2                | 0                | 4     | 1031                                                                                            | 314                   | 35                    | 1380          |
| 15                                     | Manipur                               | 0                                        | 0                | 0                | 0     | 90                                                                                              | 2                     | 1                     | 93            |
| 16                                     | Meghalaya                             | 0                                        | 0                | 0                | 0     | 3                                                                                               | 7                     | 1                     | 11            |
| 17                                     | Mizoram                               | 0                                        | 0                | 0                | 0     | 12                                                                                              | 1                     | 0                     | 13            |
| 18                                     | Nagaland                              | 0                                        | 0                | 0                | 0     | 19                                                                                              | 1                     | 0                     | 20            |
| 19                                     | Orissa                                | 3                                        | 1                | 0                | 4     | 903                                                                                             | 89                    | 4                     | 996           |
| 20                                     | Punjab                                | 3                                        | 1                | 0                | 4     | 552                                                                                             | 96                    | 2                     | 650           |
| 21                                     | Rajasthan                             | 1                                        | 1                | 0                | 2     | 871                                                                                             | 71                    | 35                    | 977           |
| 22                                     | Sikkim                                | 0                                        | 0                | 0                | 0     | 4                                                                                               | 0                     | 0                     | 4             |
| 23                                     | Tamilnadu                             | 4                                        | 2                | 0                | 6     | 449                                                                                             | 399                   | 12                    | 860           |
| 24                                     | Tripura                               | 0                                        | 0                | 0                | 0     | 39                                                                                              | 15                    | 1                     | 55            |
| 25                                     | Uttar Pradesh                         | 22                                       | 4                | 0                | 26    | 13150                                                                                           | 820                   | 393                   | 14363         |
| 26                                     | West Bengal                           | 10                                       | 2                | 0                | 12    | 578                                                                                             | 66                    | 7                     | 651           |
| 27                                     | Andaman & Nicobar                     | 0                                        | 0                | 0                | 0     | 11                                                                                              | 1                     | 0                     | 12            |
| 28                                     | Chandigarh                            | 0                                        | 0                | 0                | 0     | 37                                                                                              | 8                     | 0                     | 45            |
| 29                                     | Dadar & Nagar Haveli                  | 0                                        | 0                | 0                | 0     | 3                                                                                               | 0                     | 0                     | 3             |
| 30                                     | Daman & Diu                           | 0                                        | 0                | 0                | 0     | 4                                                                                               | 0                     | 0                     | 4             |
| 31                                     | Delhi                                 | 59                                       | 0                | 0                | 59    | 2227                                                                                            | 70                    | 37                    | 2334          |
| 32                                     | Lakshadweep                           | 0                                        | 0                | 0                | 0     | 0                                                                                               | 0                     | 0                     | 0             |
| 33                                     | Pondicherry                           | 2                                        | 0                | 0                | 2     | 21                                                                                              | 4                     | 0                     | 25            |
| 34                                     | Chattisgarh                           | 0                                        | 0                | 0                | 0     | 149                                                                                             | 83                    | 3                     | 235           |
| 35                                     | Jharknand                             | 1                                        | 1                | 0                | 2     | 631                                                                                             | 165                   | 2                     | 798           |
| 36                                     | Uttaranchal                           | 1                                        | 1                | 0                | 2     | 659                                                                                             | 39                    | 31                    | 729           |
| 37                                     | Foreign Countries                     | 1                                        | 0                | 0                | 1     | 58                                                                                              | 0                     | 0                     | 58            |
| Grand Total                            |                                       | 128                                      | 19               | 1                | 148   | 27116                                                                                           | 3955                  | 662                   | 31733         |
| Grand Total (6+10) = 148+31733 = 31881 |                                       |                                          |                  |                  |       |                                                                                                 |                       |                       |               |



## **The Acting Chairperson's letter dated 3rd January 2007 to the Acting President of Medical Council of India**

D.O.No.11/9/2001-PRP&P

January 3, 2007

Dear Dr. Nayar,

*The NHRC in its "Review Meeting on the Recommendations of Core Group on Health and Public Hearing on Health"* that was held on 4<sup>th</sup> of March 2006 at Vigyan Bhavan, New Delhi has made a number of recommendations, a copy of which is enclosed for your ready reference and information. Out of these recommendations, three have a direct bearing on the mandate of the Medical Council of India (MCI). As you are aware, there is dearth of trained manpower in rural and remote parts of the country. This is perpetuating poor correctional measures to reduce Infant Mortality Rate (IMR) and Maternal Mortality Rate (MMR). India has committed itself to fulfilling Millennium Development Goals (MDGs) and the need therefore is to evolve methods to correct the fallacy. These recommendations are as follows:

- I. The MCI should design a three-year course for training doctors on basic preventive and curative health services so that the paucity or non-availability of manpower is taken care of. Another alternative is to have one-year bridge course for doctors of Indian System of Medicine and post them at the CHCs and PHCs.
  - II. There is need to give recognition to 'mid-wife course' and induct more number of local women to practice as mid-wives independently. A 2-3 year course will enable these women to ensure proper pre-natal, ante-natal care and also handle institutional deliveries. This in a way would contribute to reduction in MMR.
  - III. MCI should consider developing 'Emergency Medicine' as a specialty.
2. As the purview of the aforesaid recommendations falls within the jurisdiction of MCI, the Commission hereby recommends to the MCI to examine the same and take positive action. If need be, we could also convene a meeting between MCI and NHRC.

With regards,

Yours Sincerely,  
Sd/-  
(Shivaraj V. Patil)

Dr. P.C. Kesavankutty Nayar  
Acting President, (MCI),  
303, Residential Complex  
MCI Building, Pocket-14,  
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New Delhi-110075



**MONITORING THE IMPLEMENTATION OF THE NATIONAL  
POPULATION POLICY 2000 FROM A RIGHTS PERSPECTIVE:  
Incentives, Performance and Outcomes**

Report submitted to  
National Human Rights Commission  
New Delhi

by  
Members of the Working Group on Population  
National Human Rights Commission  
New Delhi

April 2007

## **Members of the Working Group**

1. Dr. A. K. Shiva Kumar (Convener), Development economist and Member National Advisory Council, New Delhi.
2. Mr. A. Banerjee, Joint Secretary, National Commission for Minorities, New Delhi
3. Dr. Abhijit Das, Director, Centre for Health and Social Justice, New Delhi
4. Mr. A. R. Nanda, Executive Director, Population Foundation of India, New Delhi
5. Dr. Mohan Rao, Professor, Centre of Social Medicine and Community Health, Jawaharlal University, New Delhi
6. Dr. Abusaleh Shariff, Chief Economist and Head, Human Development Programme, National Council of Applied Economic Research, New Delhi
7. Mrs. Aruna Sharma, Joint Secretary, National Human Rights Commission, New Delhi
8. Mrs. Romi Sharma, Under Secretary, National Commission for Women, New Delhi
9. Dr. Rajani Ved, Independent Public Health Consultant, New Delhi.

We thank the National Human Rights Commission for the administrative support extended to the Working Group and are particularly grateful to Mrs. Aruna Sharma, Joint Secretary, National Human Rights Commission and to Dr. Savita Bhakhry, Senior Research Officer, National Human Rights Commission, for their guidance.

# MONITORING THE IMPLEMENTATION OF THE NATIONAL POPULATION POLICY 2000 FROM A RIGHTS PERSPECTIVE: Incentives, Performance and Outcomes

## Summary

Many positive developments can be noted on the population front in recent years. Nevertheless, the Working Group is concerned about the use of coercion, misuse of incentives, disincentives and penalties that some State governments have introduced in their State population policies contrary to the spirit of the National Population Policy 2000. The Working Group expresses strong reservations over discussions that propose either a one-child policy or even a two-child norm. Given the dominating son preference, such measures will inevitably lead to further discrimination against the girl child and would also have serious adverse implications on the reproductive health and rights of women.

### The Working Group:

- ☑ urges the National Human Rights Commission (NHRC) to ensure that population policies framed by State Governments are consistent with the National Population Policy 2000; and that they do not in any way violate the dignity of women and rights of individuals;
- ☑ endorses the viewpoint that use of coercion, disincentives and penalties are undesirable and unacceptable as they tend to exploit the vulnerability of the poor and the socially disadvantaged, especially women;
- ☑ affirms that advocating a one-child policy or even a two-child norm is undesirable as it has adverse consequences on the future of the girl child. It is also clearly iniquitous. It imposes a penalty on the poor and the socially disadvantaged who typically enjoy less freedoms, are deprived of adequate education and access to reproductive health and primary health care, face poor conditions of child survival, and are more disempowered than others in society;
- ☑ emphasizes, for achieving population goals, the importance of providing universal access to comprehensive *primary health care* which includes access to reproductive health services as well as secondary and tertiary care; and
- ☑ calls for the adoption of a rights-based framework for monitoring the implementation of population policies.

### The Working Group recommends that NHRC should:

- ☑ make it mandatory on all State Governments and Union Territories to submit a status report every year on the implementation of the State's population policy using a Reporting Format for the purpose that has been designed by the Working Group (see Annex 1);
- ☑ solicit comments and suggestions on the Implementation Reports submitted by State Governments and Union Territories from different stakeholders; and
- ☑ select a few states every year for detailed discussions on the implementation of health and population policies (using as a basis the Implementation Report submitted by the State Government) in order to ensure that in practice the policies enforced do not violate the dignity of women and the rights of individuals.

# **MONITORING THE IMPLEMENTATION OF THE NATIONAL POPULATION POLICY 2000 FROM A RIGHTS PERSPECTIVE:**

## **Incentives, Performance and Outcomes**

### **1. The background**

The National Human Rights Commission (NHRC) has been deeply concerned about population policies framed by some State Governments that are inconsistent with the National Population Policy 2000 especially as they tend to be coercive and violate the rights of citizens particularly women. The NHRC has also expressed concern with the use of penalties, incentives and disincentives that exploit the vulnerability of the poor and violate the rights of a large section of population especially the marginalized and the poor. In order to address this issue, the NHRC had organized a two-day Colloquium on “Population Policy – Development and Human Rights” in January 2003 in collaboration with the Ministry of Health and Family Welfare (Department of Family Welfare) and the United Nations Population Fund. The Colloquium adopted a Declaration and recommended that State Governments and Union Territories should exclude discriminatory and coercive measures from their population policies. The issue was further discussed in the Statutory Full Commission meeting where one of the ex-officio members felt that without incentives and disincentives India could not achieve population stabilization. The member was in favour of imposing a two-child norm to contain the ‘population explosion’. In the meantime, the Supreme Court of India in July 2003 upheld the Constitutional validity of disqualifying candidates with more than two children under the Haryana Panchayati Raj Act 1994 [No. JT 2003(6) 283 dated 30 July 2003]. Following this judgment, the NHRC requested Dr. A. K. Shiva Kumar to examine the implications of the Supreme Court judgment vis-a-vis population policies framed by the Central and the State Governments especially in terms of the impact on the rights of women and the vulnerable in society. The Report submitted by Dr. Shiva Kumar was examined in the Full Commission meeting held in November 2005.

There is a growing recognition that the use of incentives and disincentives adopted by some State governments in their population policies is a gross violation of human rights as they, directly and indirectly, disempower women. Endorsing this viewpoint, Prime Minister **Dr. Manmohan Singh**, at the first meeting of the reconstituted National Commission on Population held in New Delhi on July 23, 2005, in his capacity as Chairman emphasized the importance of making target-free, voluntary and informed choices and objected to the adoption of any coercion or incentives and disincentives to achieve population stabilization.

It is against this background that the NHRC decided to constitute a Working Group to examine the entire issue of population policy – National Population Policy 2000 and the population policies formulated by State governments vis-à-vis incentives and disincentives.

### **2. Terms of Reference**

The NHRC’s motivation behind the setting up of a Working Group on Population has been to:

- o examine the entire issue of population policy and particularly the role and use of incentives and disincentives from a ‘rights perspective’ keeping in view the sequel of events that have

taken place since the organization of the 'Colloquium on Population Policy: Development and Human Rights' by NHRC and other stakeholders;

- o examine issues intrinsic to women's empowerment and empowerment of the marginalised sections of society including the issue of dwindling sex ratio among children 0-6 years and concerns of minority communities; and
- o develop a practical Plan of Action consisting of a set of recommendations for the authorities concerned and stakeholders.

The Working Group at its first and subsequent meetings discussed at length the importance of adopting a 'rights perspective' to achieve the objective of population stabilization. It deliberated on the issue of disincentives and penalties introduced by some State governments in their population policies. The Group underscored the importance of women's empowerment, especially with respect to access, availability and affordability of health and reproductive care. It reviewed the situation of declining sex ratios among children 0-6 years and reflected on population issues concerning minority communities. Members also took note of the changes in law including the formulation of the Pre-conception and Pre-natal Diagnostic Techniques Act and the monitoring mechanisms in place to ensure compliance. Recognizing the need, however, to narrow down the scope of work, the following Terms of Reference of the Working Group were agreed upon:

- o to examine from a human rights perspective the implications of limiting the size of the family through administrative or other directives;
- o to assess from a rights perspective the use of incentives, disincentives and penalties in the implementation of population policies;
- o to suggest a rights-based monitoring framework for ensuring that State population policies do not violate the dignity of women and the rights of individuals; and
- o to recommend a Plan of Action for NHRC to ensure that the implementation of population policies in practice conforms to human rights standards.

### **3. Population trends and concerns**

Members of the Working Group met and discussed a number of issues that have a bearing on achieving the population goals set out in the National Population Policy 2000. Most significantly, it was felt that the issue of population ought to be discussed within (i) a framework of women's rights and empowerment, (ii) the need to ensure comprehensive primary health care provisioning through national health, education and nutrition policies (iii) efforts by the State to improve child survival, and (iv) measures put in place to assure citizens a decent standard of living. Discussions focused on the extent of unmet need, the reach, coverage and quality of primary health care services available to the poor, basket of reproductive health choices available to women and men, the adequacy of resources both financial and human, and the special problems of under-served populations, minority groups, and socially disadvantaged communities (Scheduled Castes, Scheduled Tribes and others). Members underscored the centrality of empowering women and creating the enabling conditions necessary for women to take their own fertility decisions. Members also discussed the many different ways, direct and indirect, in which family size has unfortunately become an eligibility criterion in State-supported programmes of entitlement, promotion and performance appraisal. The Working Group discussed at length issues relating to Quality of Care (QoC) and the need to respect the dignity of women when ensuring universal access to comprehensive primary health care especially reproductive health services. Members noted the adverse implications on women of forced abortions and the risks that young adolescents face when they get married at a young age. This brought out the need for

the State to move rapidly towards universal registration of all births, marriages and deaths. In all this, limitations of adopting a top-down target driven approach were reiterated. Members felt that Panchayats ought to play a more central role in monitoring the implementation of population policies at the community level.

Members of the Working Group, however, are unanimous in recognizing the following features of India's population trends and policy experience.

**Population stabilization – a priority:** Members acknowledge that addressing the population issue is critical for India's progress. Rapid population growth, in most situations, imposes many pressures on society, on the environment, on social and physical infrastructure, and on many vital public services needed for decent living. At the same time, high fertility rates, especially if they are the result of unwanted pregnancies and births, suggest limited access that women have to primary health care and reproductive health choices. Unwanted births also raise critical issues of women's autonomy over their body especially in situations where patriarchy and other social norms limit the freedoms and choices that women have to regulate their fertility. Members also note that almost 75 percent of the projected increase in population over the next 30 years is likely to be on account of the 'population momentum'. And, to that extent, efforts to lower population growth rates are not likely to make a substantial difference as they can at best reduce as much as possible the numbers accounted for by the remaining 25 percent projected increase in population.

**Positive steps:** Members acknowledge several progressive steps taken by India especially in the 1990s to stabilize India's population. India was applauded soon after the International Conference on Population and Development held in 1994 for its leadership in charting a new path towards population stabilization that respected the rights and dignity of women. India received international praise for shifting its focus from fulfilling demographic targets to improving the reproductive health needs of individuals by adopting the Target Free Approach; and implementing the all-India Reproductive and Child Health Programme requiring that "...services will be client centered, demand driven, of high quality and based on community needs assessed through people's participation".

**Good news on the population front:** Members recognize that fertility transition in India is well underway and birth rates will continue to decline in the coming years.

- India's birth rate has fallen steadily from 45.5 per 1,000 population in 1951 to 24 in 2004.
- India's annual population growth rate that was 2.14 percent between 1981-91 fell, for the first time, to below 2 percent (1.93 percent) between 1991-2001.
- There is all-round slowing down of the rate of population growth in all states. And total fertility has declined in all states since the early 1970s.
- Between 1992-93 and 1998-99, when the National Family Health Surveys I and II were conducted, India's Total Fertility Rate (TFR) declined by almost half a child. According to the National Family Health Survey-3, India's overall TFR was 2.68 - 2.07 in urban areas and 2.98 in rural areas (see Table 1)
- Even in states like Uttar Pradesh, Bihar, Madhya Pradesh and Rajasthan, the TFR has been declining though not as fast. This is primarily because these states have lagged behind in the provisioning of comprehensive health care and basic education.
- Replacement level, or close to replacement level fertility, has been reached in several states including Kerala, Tamil Nadu, Karnataka, Goa, Andhra Pradesh, Himachal Pradesh, Delhi and Punjab. This is more so in urban than in rural areas (see Table 1)



**Table 1: Fertility Rates across Indian states, 2005-06**

| S.No.                      | Total Fertility Rate | Total | Urban | Rural |
|----------------------------|----------------------|-------|-------|-------|
| 1                          | Andhra Pradesh       | 1.79  | 1.73  | 1.82  |
| 2                          | Arunachal Pradesh    | 3.03  | 2.51  | 3.21  |
| 3                          | Assam                | 2.42  | 1.43  | 2.65  |
| 4                          | Bihar                | 4.00  | 2.87  | 4.22  |
| 5                          | Chhatisgarh          | 2.62  | 1.78  | 2.88  |
| 6                          | Delhi                | 2.13  | -     | -     |
| 7                          | Goa                  | 1.79  | 1.77  | 1.81  |
| 8                          | Gujarat              | 2.42  | 1.92  | 2.80  |
| 9                          | Haryana              | 2.69  | 2.17  | 2.92  |
| 10                         | Himachal Pradesh     | 1.94  | 1.57  | 1.98  |
|                            | India                | 2.68  | 2.07  | 2.98  |
| 11                         | Jammu & Kashmir      | 2.38  | 1.63  | 2.69  |
| 12                         | Jharkhand            | 3.31  | 2.32  | 3.69  |
| 13                         | Karnataka            | 2.08  | 1.90  | 2.19  |
| 14                         | Kerala               | 1.93  | 1.73  | 2.04  |
| 15                         | Madhya Pradesh       | 3.12  | 2.58  | 3.34  |
| 16                         | Maharashtra          | 2.11  | 1.91  | 2.30  |
| 17                         | Manipur              | 2.83  | 2.35  | 3.07  |
| 18                         | Meghalaya            | 3.80  | 2.28  | 4.38  |
| 19                         | Mizoram              | 2.86  | 2.50  | 3.33  |
| 20                         | Nagaland             | 3.74  | 2.68  | 4.15  |
| 21                         | Orissa               | 2.37  | 1.89  | 2.48  |
| 22                         | Punjab               | 1.99  | 1.88  | 2.06  |
| 23                         | Rajasthan            | 3.21  | 2.21  | 3.62  |
| 24                         | Sikkim               | 2.02  | 1.29  | 2.22  |
| 25                         | Tamil Nadu           | 1.80  | 1.70  | 1.91  |
| 26                         | Tripura              | 2.22  | 1.66  | 2.34  |
| 27                         | Uttar Pradesh        | 3.82  | 2.95  | 4.13  |
| 28                         | Uttaranchal          | 2.55  | 2.21  | 2.67  |
| 29                         | West Bengal          | 2.27  | 1.59  | 2.54  |
| Source: NFHS-3 Fact Sheets |                      |       |       |       |

**Policy lessons:** Members have identified six policy lessons learned from within India and from other countries based on overwhelming evidence.

1. There is a strong inter-connectedness between lowering fertility rates on the one hand and empowering women, providing universal comprehensive primary health care (including reproductive health services), improving child survival and reducing poverty on the other.
2. The success of the southern states within India in reducing fertility point to the importance of simultaneous actions along multiple fronts – quality health care services, education, women’s empowerment, child survival and reducing human poverty. Indeed the lesson is “take care of people, and population will take care of itself.”
3. Enforcing a one-child norm like China or even a two-child norm is impractical, unnecessary and undesirable. Neither does it result in quicker outcomes.
4. Use of penalties, disincentives and coercion to achieve population stabilization is counter-productive.
5. Offering monetary incentives to acceptors of family planning, motivators or providers has often resulted in misuse, abuse and limited benefits.
6. Improving access to high quality comprehensive primary health care - including and not limited to reproductive health services - is essential for lowering fertility.

“Since the advocacy of coercion, in different forms, has been growing in India, it is important to emphasize that it achieves little and destroys a lot. It does not seem to work faster than what can happen through the cooperative route, and its other consequences, including side effects, can be quite horrendous. The alternative is to facilitate ways of relying in those whose well-being and agency are most directly involved, particularly young women. This has worked elsewhere, and there is no reason why it will not work in India as well... Cooperation can contribute something that coercion cannot.”

**Amartya Sen**  
Population Policy: Authoritarianism versus Cooperation  
The MacArthur Foundation Lecture  
August 17, 1995, New Delhi

**The problems with a one-child policy:** Members oppose a one-child or even the adoption of a two-child norm. Members feel strongly that a rights perspective should guide population policies in order to ensure equity and justice. They are particularly concerned about the impact that coercive policies could have on the future of young girls given the strong son-preference in the country and the already declining sex ratio among children 0-6 years of age. Members have reviewed the experience of China’s one-child policy and reject its relevance and applicability to India on the following grounds:

- Imposing restrictions on the number of children violates people’s freedoms and individual rights.
- Enforcing a one-child policy may be possible in an authoritarian country like China. But enforcement of such a measure can have disastrous political consequences in a democracy like India.
- There is no justification for limiting the number of children when all countries (with the exception of China) in the world including Bangladesh and Indonesia have effectively lowered birth rates without forcibly limiting family size.

- Forcibly limiting family size does not yield quicker results. For example, Kerala and China had similar fertility rates in 1979 when the one-child policy was introduced in China. Today, Kerala reports lower fertility rates than China.
- Even in China, the one-child policy was accompanied by a broad and equitable expansion of social and economic opportunities for women – the proven way to reduce fertility rates.
- Imposing restrictions on family size will promote further discrimination against the girl child. In China, for instance, the sex ratio at birth is highly skewed in favour of boys and against girls. As against a ratio of 105 boys to 100 girls at birth that is reported by most countries, the sex ratio in China is as high as 112 boys to 100 girls – reflecting the serious consequences of son-preference and anti-female biases. Given the strong ideology of son-preference in India, particularly marked in the high fertility regions of the country, a vigorous pursuit of even a two-child norm is bound to increase sex-selective female foeticide and abortions.
- China's one-child policy has created several other problems. Adoptions, for instance, have risen sharply and a significantly higher proportion of girls are put up for adoption than boys. Also, abortion rates have shot up in China with serious implications for women's health.
- The shortage of girls and women in China has given rise to a serious problem of trafficking in women – a problem that the government now acknowledges and is beginning to address. This phenomenon has begun to appear in some Indian states as well.

#### 4. The undesirability of penalties

Members have examined in-depth the issue of penalties, disincentives and coercion and have reached the conclusion that such measures are unnecessary and counter-productive. Imposing penalties makes little sense when NFHS and other studies repeatedly point out that people themselves – even the poorest, even those living in rural areas and belonging to minority groups – want to have fewer children. For example, according to the National Family Health Survey-2 of 1998-99 almost half (47 percent) of ever-married women consider two to be the ideal number of children and 72 percent consider two or three to be ideal. The same survey also reveals that 72 percent with two living children and 86 percent of women with four or more children do not want to have any more children. People's knowledge of contraceptive methods is nearly universal. The real problem is that a vast majority of women lack adequate access to safe and appropriate reproductive health services and the freedom to make choices.

"In discussing issues relating to the regulation of fertility, the role of incentives and disincentives and the need for an element of compulsion invariably crops up. My own view is that incentives and disincentives can have only a marginal impact and at times can be counter-productive. Furthermore, coercion of any kind in this regard will be unacceptable in a democracy."

**Dr. Manmohan Singh**  
Population, Poverty and Sustainable Development  
Eighth JRD Tata Memorial Oration: February 3, 2003

From a rights perspective, imposing penalties on those having more than two or three children has no moral or ethical justification. Penalties tend to be unfair and inequitable in terms of whom they affect in society. For example, according to NFHS-2, the Total Fertility Rate among women in the reproductive age group 15-49 years is higher in rural areas (3.07) than in urban areas (2.27). The TFR is similarly higher among Scheduled Caste and Scheduled Tribe communities than among the rest of the population. Again, the TFR is higher among illiterate women than among those who have been educated beyond Class X. Clearly, any measure that imposes penalties is biased against the poor, the illiterate and socially

disadvantaged groups in society – groups that have historically faced discrimination and whose Constitutional rights have not been assured by the State. Similarly, to deny the third child either free education or even subsidized food seems utterly unjust and unfair. Moreover, it is found that implementing a system of penalties quickly gets abused and reduced to tokenism. It is impractical. People tend to find all kinds of loopholes to get out of paying the penalty.

Members also feel that offering monetary incentives to acceptors of family planning, motivators or providers may be unnecessary; they also result in misuse, abuse and limited benefits. For instance, it is observed that many women in rural areas ask for and prefer to undergo sterilisation. To that extent, there is really no need to offer any cash incentive to acceptors. In any case, many women feel that the small amount of money offered is not what influences the decision. At the same time, it is important to note that many of these women opt for sterilisation over other methods simply because there are no other reasonable choices available to them. And this deficiency needs to be addressed.

Several ethical questions arise when it comes to paying cash as incentives to influence such a private and personal decision as child-bearing. Paying cash is sometimes justified on the grounds that it is paid to the acceptor as compensation for lost wages and expenses. This seems reasonable as long as checks and balances are in place to prevent abuse of the system. And this is difficult to ensure. For example, it is well-known that extreme poverty tends to drive poor women to undergo sterilisation in order to collect the meagre monetary incentives. This amounts to the exploitation of both women's vulnerability and poverty. Sometimes motivators have been offered cash incentives for bringing women to sterilisation camps. This is also problematic because poor women are reported to have been coerced and threatened to come to the camps especially if targets are to be met. It is the duty of the motivator to inform, educate and convince the woman as part of her job; offering an additional monetary incentive makes little sense. Similarly, offering monetary incentives to doctors has also led to situations where doctors have pressurized women to undergo sterilisation. There are problems with implementation as well. Monetary incentives and cash awards have led to several instances where the health system fakes records as well as payments. Besides, the costs of administering and monitoring the implementation of the incentive systems tend to be considerable.

Some people tend to justify monetary incentives on the grounds that it improves the performance of health workers and thereby of the health system. Members did not find this argument to be convincing at all. First of all, it raises the question – should fertility targets or sterilisation targets serve as criteria for judging the performance of health workers? To what extent does use of targets improve the health status of the people? Are cash incentives the most effective way of ensuring that women get access to good quality care? Are there adequate checks and balances in the system to prevent abuse of incentives? These questions need to be examined especially if one has to assess the superiority of cash incentives over other instruments for improving performance. As a matter of fact, the National Population Policy 2000 lists sixteen promotional and motivational measures for adoption of the small family norm. Members of the Working Group feel that some of these incentives need to be re-examined from a rights perspective to fully ensure that they do not, both in spirit and in practice, violate the rights of individuals or exploit the vulnerability of the poor.

Population stabilization is best achieved by seeking the cooperation of people, by treating women with respect, and by recognizing the human rights of individuals. It is critical for society to invest in its people – in their health, in their education, in expanding reproductive health choices and in enhancing their capabilities. This is the only way to lower birth rates and stabilize India's population.

## 5. A Rights-based Monitoring Framework

Members call for adopting a rights approach to population stabilization. The objectives of any population programme ought to extend beyond simply fertility or birth control. They should include efforts at enabling women to manage their own fertility safely and effectively by conceiving when they desire to, by terminating unwanted pregnancies, and by carrying wanted pregnancies. Women ought to have the freedom to lead a healthy, satisfying sexual life, free of disease, violence, disability, fear, unnecessary pain, or death associated with reproduction and sexuality. And policies should enable women to bear and raise healthy children as and when they desire to do so.

From a rights perspective, the reproductive health approach must ensure that it provides the rationale for the design and implementation of client-focused programmes based on the principles of choice, equity and quality of care. It ought to promote comprehensive primary health care by enhancing access to information and services, without excluding the reproductive health needs of women, men and adolescents. And it should legitimize client demand as a right as well as the basis for the provision of information and services while emphasizing synergies between programmes for population, health, nutrition and development.

Members note, however, that women in many parts of India do not enjoy universal access to primary health care. In fact, members were informed that in some instances women have been denied contraception and sterilization services simply because they belong to certain *adivasi* groups. This is a gross violation of rights. Every woman must have the freedom to regulate her fertility and parents must have the right to make informed choices.

"A sensible approach to the regulation of fertility must respect the fundamental rights of parents to make informed choices about the number of children they wish to have and the types of spacing they would prefer in deciding about their family size."

Dr. Manmohan Singh  
Population, Poverty and Sustainable Development  
Eighth JRD Tata Memorial Oration: February 3, 2003

## 6. Recommendations

Based on extensive discussions and deliberations, The Working Group:

- ☑ **urges** the National Human Rights Commission (NHRC) to ensure that population policies framed by State Governments are consistent with the National Population Policy 2000; and that they do not in any way violate the dignity of women and rights of individuals;
- ☑ **endorses** the viewpoint that use of coercion, disincentives and penalties are undesirable and unacceptable as they tend to exploit the vulnerability of the poor and the socially disadvantaged, especially women;
- ☑ **affirms** that advocating a one-child policy or even a two-child norm is undesirable as it has adverse consequences on the future of the girl child. It is also clearly iniquitous. It imposes a penalty on the poor and the socially disadvantaged who typically enjoy less freedoms, are deprived of adequate education and access to reproductive health and primary health care, face poor conditions of child survival, and are more disempowered than others in society;
- ☑ **emphasizes**, for achieving population goals, the importance of providing universal access to comprehensive *primary health care* which includes access to reproductive health services as well as secondary and tertiary care; and

- ☑ calls for the adoption of a rights-based framework for monitoring the implementation of population policies.

*The Working Group recommends that NHRC should:*

- ☑ make it mandatory on all State Governments and Union Territories to submit a status report every year on the implementation of the State's population policy using a Reporting Format for the purpose that has been designed by the Working Group (see Annex 1);
- ☑ solicit comments and suggestions on the Implementation Reports submitted by State Governments and Union Territories from different stakeholders; and
- ☑ select a few states every year for detailed discussions on the implementation of health and population policies (using as a basis the Implementation Report submitted by the State Government) in order to ensure that in practice the policies enforced do not violate the dignity of women and the rights of individuals.

**Annex 1**  
**National Human Rights Commission**  
**Faridkot House, Copernicus Marg, New Delhi 110 001**

**Status on the Implementation of the Population Policy**  
**Reporting Format**

**[This form should be completed and signed by the Chief Secretary/Administrator  
of the State Government/Union Territory]**

**SECTION I: POPULATION POLICY**

1. *Does your State have a population policy?*

- ☐ Yes
- ☐ No
- ☐ Under Consideration

If yes, in which year was the policy announced?

[Kindly furnish a copy of the State policy, government orders or any such documents that enunciate the State's population policy]

2. *Does your State have a health policy?*

- ☐ Yes
- ☐ No
- ☐ Under Consideration

If yes, in which year was the policy announced?

[Kindly furnish a copy of the State policy, government orders or any such documents that enunciate the State's health]

3. *Does the State population or health policy mention goals that include the following:*

|                                          | Yes | No |
|------------------------------------------|-----|----|
| Goal for TFR                             |     |    |
| Target for contraception prevalence rate |     |    |
| Target for female sterilisation          |     |    |
| Target for institutional deliveries      |     |    |
| Target for registration of births        |     |    |
| Target for registration of marriages     |     |    |

4. *Does the State population or health policy have reference to the small family norm or the two-child norm in any of its sections?*

|                                | Yes | No |
|--------------------------------|-----|----|
| Reference to two-child norm    |     |    |
| Reference to small family norm |     |    |

5. *Are targets for sterilisation given to district, block or village level officials or health personnel in your State?*

| Sterilisation Targets are set for | Yes | No |
|-----------------------------------|-----|----|
| State                             |     |    |
| District                          |     |    |
| Block                             |     |    |
| Village                           |     |    |

- o Yes
- o No

If Yes, what is the basis for fixing such targets?

6. *Does the State adopt the Community Needs Assessment technique while formulating microlevel village block and district plans for family welfare?*

- o Yes
- o No
- o Other methods (specify)

## SECTION II: INCENTIVES AND DISINCENTIVES

7. *Does the population policy or population programme in your State have provisions for incentives and disincentives linked to number of children? Please list them.*

| Scheme                                                                                                         | Yes | No | If Yes, describe scheme |
|----------------------------------------------------------------------------------------------------------------|-----|----|-------------------------|
| Linked with promotion or recruitment in government jobs                                                        |     |    |                         |
| Linked with access to benefits such as PDS or other government schemes                                         |     |    |                         |
| Linked with maternity benefit, old age pension, insurance or medical benefits etc                              |     |    |                         |
| Linked to loans and subsidies including agricultural land allotments, irrigation loans, subsidies, rates, etc. |     |    |                         |



|                                                                                   |  |  |  |
|-----------------------------------------------------------------------------------|--|--|--|
| Linked to school admission or scholarships and other education related incentives |  |  |  |
| Any others                                                                        |  |  |  |

| Name of Scheme | Incentive<br>(√) | Disincentive<br>(√) | No of persons in the previous year |              |
|----------------|------------------|---------------------|------------------------------------|--------------|
|                |                  |                     | covered                            | disqualified |
| 1              |                  |                     |                                    |              |
| 2              |                  |                     |                                    |              |
| 3              |                  |                     |                                    |              |
| 4              |                  |                     |                                    |              |
| 5              |                  |                     |                                    |              |
| 6              |                  |                     |                                    |              |

8. *Are any kind of monetary or non-monetary incentives provided to the following under the State's family welfare programmes?*

|                                         | Monetary<br>(specify details) | Non-monetary<br>(specify details) |
|-----------------------------------------|-------------------------------|-----------------------------------|
| <b>Individual</b>                       |                               |                                   |
| Women and men who accept contraception  |                               |                                   |
| Health worker who counsels the acceptor |                               |                                   |
| Doctor or medical professional          |                               |                                   |
| Others (specify)                        |                               |                                   |
| <b>Community</b>                        |                               |                                   |

9. *Does the State Government have any of the following schemes:*

- 8.1 Rewards and honours to Panchayats, Zila Parishads and other officials for exemplary performance in universalising the small family norm, achieving reductions in infant mortality and birth rates, and promoting literacy with completion of primary schooling.

| Persons eligible for reward | Criteria | No of persons awarded the previous year (specify year) |
|-----------------------------|----------|--------------------------------------------------------|
|                             |          |                                                        |
|                             |          |                                                        |
|                             |          |                                                        |
|                             |          |                                                        |
|                             |          |                                                        |
|                             |          |                                                        |
|                             |          |                                                        |

- 8.2 Balika Samridhi Yojana or any other similar scheme to promote survival and care of the girl child. For example, is there a cash incentive awarded at the birth of the girl child of birth? What are the criteria? List them below.

| Name of the scheme | Nature of incentive | Criteria | No of persons awarded the previous year |
|--------------------|---------------------|----------|-----------------------------------------|
|                    |                     |          |                                         |
|                    |                     |          |                                         |
|                    |                     |          |                                         |
|                    |                     |          |                                         |
|                    |                     |          |                                         |
|                    |                     |          |                                         |

- 8.3 Is there a reward or an incentive scheme for couples, who marry after the legal age of marriage, register the marriage, have their first child after the mother reaches the age of 21, accept the small family norm, and adopt a terminal method after the birth of the second child?

| Incentive for                                                 | Scheme meant for |     |       | Persons covered in the previous year |     |       |
|---------------------------------------------------------------|------------------|-----|-------|--------------------------------------|-----|-------|
|                                                               | Gen              | BPL | SC/ST | Gen                                  | BPL | SC/ST |
| Marry after the legal age of marriage                         |                  |     |       |                                      |     |       |
| Register the marriage                                         |                  |     |       |                                      |     |       |
| Have their first child after the mother reaches the age of 21 |                  |     |       |                                      |     |       |
| Accept the small family norm                                  |                  |     |       |                                      |     |       |
| Adopt a terminal method after the birth of the second child   |                  |     |       |                                      |     |       |

- 8.4 Are any other development benefits like irrigation rates, or free schooling linked with the number of children (two children) that the couple has?

| Name of the scheme | Criteria | Persons covered in the previous year |
|--------------------|----------|--------------------------------------|
|                    |          |                                      |
|                    |          |                                      |
|                    |          |                                      |
|                    |          |                                      |
|                    |          |                                      |
|                    |          |                                      |

9. *Do family planning targets figure in the performance appraisal of health staff?*
- o Yes
  - o No
10. Are annual increments or promotions linked in any manner to family size?
- o Yes
  - o No
11. Does the State Government offer incentives to non-governmental organizations and private institutions for provision of sterilisation?
- o Yes
  - o No
12. Does the State have any law restricting participation in municipal bodies, cooperatives, and panchayats to persons with more than two children born after a cut off date?

|                    | Disqualification<br>application received |     |   | Disqualified |     |   | Decision pending |     |   |
|--------------------|------------------------------------------|-----|---|--------------|-----|---|------------------|-----|---|
| Panchayat law      | General                                  | Res | F | General      | Res | F | General          | Res | F |
| Municipal body law |                                          |     |   |              |     |   |                  |     |   |
| Cooperative law    |                                          |     |   |              |     |   |                  |     |   |
| Other bodies       |                                          |     |   |              |     |   |                  |     |   |

General; Res = Reserved Caste/ Minority; F= Reserved for Women

### SECTION III: INFORMED CHOICE AND QUALITY OF CARE

13. *Please provide the number of Family Planning acceptors by method for the last three years*

| Method               | Y1    |       |       | Y2                |       |       | Y3    |       |       |
|----------------------|-------|-------|-------|-------------------|-------|-------|-------|-------|-------|
|                      | Rural | Urban | Total | Rural             | Urban | Total | Rural | Urban | Total |
|                      |       |       |       | (Number of cases) |       |       |       |       |       |
| Female sterilisation |       |       |       |                   |       |       |       |       |       |
| Male Sterilisation   |       |       |       |                   |       |       |       |       |       |
| Copper T             |       |       |       |                   |       |       |       |       |       |
| Oral Pills           |       |       |       |                   |       |       |       |       |       |
| Condoms              |       |       |       |                   |       |       |       |       |       |

14. *Are disaggregated data on female and male sterilisation available separately for minority communities (including Muslims)?*
- o Yes
  - o No

15. *Please provide a breakdown of the number of cases for the previous year:*

| Method               | SC | ST | OBC | Others | Total |
|----------------------|----|----|-----|--------|-------|
| Female sterilisation |    |    |     |        |       |
| Male Sterilisation   |    |    |     |        |       |
| Copper T             |    |    |     |        |       |
| Oral Pills           |    |    |     |        |       |
| Condoms              |    |    |     |        |       |

16. *What is the proportion of female to male acceptors of:*

|               | Permanent methods in the previous year (specify) | Temporary methods in the previous year (specify) |
|---------------|--------------------------------------------------|--------------------------------------------------|
| 90% and above |                                                  |                                                  |
| 75 to 90%     |                                                  |                                                  |
| 50 and 75%    |                                                  |                                                  |
| Less than 50% |                                                  |                                                  |

17. *What has been the change in the proportion of female to male acceptors over the past three years with respect to:*

|                     | Permanent methods (specify 3-year period) | Temporary methods (specify 3-year period) |
|---------------------|-------------------------------------------|-------------------------------------------|
| Increase            |                                           |                                           |
| No reduction        |                                           |                                           |
| Reduced by upto 10% |                                           |                                           |
| Reduced by 10 -25%  |                                           |                                           |
| Reduced by over 25% |                                           |                                           |

## SECTION IV: MISCELLANEOUS

18. *Total number of cases that have applied for and received compensation under the Family Planning Insurance Scheme?*

| Nature of claim        | Pending from last year | Filed this year | Claims rejected | Settled this year | Pending |
|------------------------|------------------------|-----------------|-----------------|-------------------|---------|
| Failures               |                        |                 |                 |                   |         |
| Complications          |                        |                 |                 |                   |         |
| Deaths in hospital     |                        |                 |                 |                   |         |
| Death outside hospital |                        |                 |                 |                   |         |

19. *Does the State collect and present periodic data on the following:*

|                                                       | Yes | No |
|-------------------------------------------------------|-----|----|
| Birth order details of women terminating pregnancies  |     |    |
| Birth order details of women undergoing sterilisation |     |    |

20. *Please furnish following details of the implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act:*

|                 | Y1 | Y2 | Y3 |
|-----------------|----|----|----|
| Cases booked    |    |    |    |
| Cases convicted |    |    |    |

21. *Is the State Government aware of any public organization operating within the State that provides incentives for sterilisation after one, two or more children?*

- ☐ Yes - specify
- ☐ No
- ☐ Don't know

This is to certify that the information provided above is correct and has been verified by the undersigned.

Date:

Place:

Signature  
Chief Secretary

Completed forms should be submitted to:

Secretary General  
National Human Rights Commission  
Faridkot House, Copernicus Marg  
New Delhi 100 001

**Status of Children in Observation Home For Boys-I****From 1 January 2007 to 31 January 2007**

|    |                |   |     |
|----|----------------|---|-----|
| 1. | 5th Years      | : | 02  |
| 2. | 4th Years      | : | 02  |
| 3. | 3rd Years      | : | 11  |
| 4. | 2nd Years      | : | 02  |
| 5. | 1st Years      | : | 12  |
| 6. | Under One Year | : | 94  |
|    | Total          | : | 123 |



## Status of adoption of Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 by the States/UTs

| Sl. No. | State                                            | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                                                                                                                                                                    | Imparting of training to the identified scavengers.                                                                                                      | Rehabilitation under the prescribed funding pattern.                                                                                                                                                                                                                                                                  | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                                                                                                                                                                  |
|---------|--------------------------------------------------|--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)                                              | (3)                                                                                                    | (4)                                                                                                                                                                                                                                                                                                                                                                                                                                                              | (5)                                                                                                                                                      | (6)                                                                                                                                                                                                                                                                                                                   | (7)                                                                                                         | (8)                                                                                                                                                                                                                                          |
| 1.      | Andhra Pradesh<br>(Vide letter dated 10.03.2006) | <b>Adopted.</b>                                                                                        | Pr. Secretary, Social Welfare Department has informed in the meeting held on 18.3.2007 that the Survey carried out during 1992, 1996 and 2000. 45,822 scavengers and their dependents identified in the State, out of which 40,333 have been rehabilitated. Recently they identified 40 dry latrines in Urban areas, which have been demolished. They also identified 1,000 dry latrines in rural areas, which will be converted/ demolished in next 6-7 months. | Vocational Training was imparted to 11,925 Scavengers for rehabilitation under schemes like auto taxi, sanitary mart, dairy, construction activity, etc. | Out of 45,822 identified scavengers and their dependents, 40,333 have been rehabilitated. So far, an amount of Rs. 93.57 crores have been spent for rehabilitation i.e. Rs. 55.78 Cr. from Govt. of India Subsidy Rs. 30.67 Cr. From NSKFC (Loan) Rs. 7.12 Cr. Margin Money. 3,257 Houses constructed for Scavengers. | Yes, made. Orders were issued vide G O Ms No.83, SW(PAO) Dept. dated 4.9.2001.                              | Govt. of Andhra Pradesh has launched a massive programme for construction of individual sanitary toilets, in both Urban and Rural areas, and to make the state totally scavenging free as well as free from open defecation by the year 2007 |

| Sl. No. | State                                                                                                                   | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993                                                                     | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                   | Imparting of training to the identified scavengers.                                                                                              | Rehabilitation under the prescribed funding pattern. | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                           |                 |
|---------|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|-----------------|
| (1)     | (2)                                                                                                                     | (3)                                                                                                                                                                        | (4)                                                                                                                                                             | (5)                                                                                                                                              | (6)                                                  | (7)                                                                                                         | (8)                                                                                                   |                 |
| 2.      | Arunachal Pradesh (Letter No.DOH/PLG/14/2001-2002/1500-01 dated 19.07.2002.                                             | Reply received that there is no dry latrine and scavengers system in the State as it is a tribal state with a population of 99% tribal and such practice is not customary. |                                                                                                                                                                 |                                                                                                                                                  |                                                      |                                                                                                             |                                                                                                       | Not applicable. |
| 3.      | Assam                                                                                                                   | Adopted.                                                                                                                                                                   | The representative of Assam in the meeting held on 18.3.2007 has informed that they have converted 24,497 dry latrines and 16,361 are in process of conversion. | 6,019 Manual Scavengers identified. 2,411 have been rehabilitated in 48 schemes.                                                                 | Being done.                                          | -                                                                                                           | Yes.                                                                                                  |                 |
| 4.      | Bihar (Response received from Govt. of Bihar vide their letter No.4610604 dated 13.10.2001) (Page-864-865 & 905-906/C). | Secretary, Urban Development in the meeting held on 18.3.2007 informed that they have adopted the Act                                                                      | Fresh Survey entrusted to Jila Saksharta Samiti.                                                                                                                | 10,078 Manual Scavengers identified, out of which 1,464 have been rehabilitated under various schemes and training imparted for 1,140 scavengers |                                                      | No reply.                                                                                                   | The scheme can be implemented as soon as 100% fund is released by the Govt. of India for the purpose. |                 |



| Sl. No. | State                                                                                                  | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993                                                                                   | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                | Imparting of training to the identified scavengers.                                         | Rehabilitation under the prescribed funding pattern. | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                                                   |
|---------|--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)                                                                                                    | (3)                                                                                                                                                                                      | (4)                                                                                                                                                                                                                                                          | (5)                                                                                         | (6)                                                  | (7)                                                                                                         | (8)                                                                                                                           |
| 5.      | Chhattisgarh                                                                                           | <b>Adopted.</b>                                                                                                                                                                          | <b>Carried out.</b>                                                                                                                                                                                                                                          | No reply.                                                                                   | No reply.                                            | No reply.                                                                                                   | Earlier it was informed that all dry latrines would be converted by 30 June 2002. However the present status is not informed. |
| 6.      | Delhi                                                                                                  | It has been informed that Govt. of NCT is organizing a fresh survey through Delhi School of Social Work, Delhi University, which is likely to take six months. (Letter dated 27/10/2006) |                                                                                                                                                                                                                                                              |                                                                                             |                                                      |                                                                                                             | Yes.                                                                                                                          |
| 7.      | Goa                                                                                                    | N.A.                                                                                                                                                                                     | N.A.                                                                                                                                                                                                                                                         | N.A.                                                                                        | N.A.                                                 | N.A.                                                                                                        | Informed that no practice of manual handling of night soil is prevailing in the State.                                        |
| 8.      | Gujarat<br>(Response received from Govt. of Gujarat vide their letter No.CMS-GOI-623 dated 01.09.2001) | <b>Adopted.</b>                                                                                                                                                                          | Representative from Govt of Gujarat in the meeting dated 18.3.2007 informed that the survey carried out during 1994. They identified 64,195 Manual Scavengers out of which 31,625 have been rehabilitated. Re-survey entrusted to Tata consultancy Services. | Imparted training to 2,200 scavengers through 17 NGO with the total cost of Rs. 33.00 lakhs | Benefit of the scheme is being utilized.             | Provisions made in building by laws.                                                                        | -                                                                                                                             |

| Sl. No. | State                                                                                                 | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                                                                                                                                                                                                  | Imparting of training to the identified scavengers.                                                                                                                                           | Rehabilitation under the prescribed funding pattern.                                                                                                                                                                                                                                                                                                     | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                                                                                                                                                   |
|---------|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)                                                                                                   | (3)                                                                                                    | (4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | (5)                                                                                                                                                                                           | (6)                                                                                                                                                                                                                                                                                                                                                      | (7)                                                                                                         | (8)                                                                                                                                                                                                                           |
| 9.      | Haryana<br>(Information received vide letter No.HSCB/B-II/2003/3405 dated 16.01.2003 (Page 897-902/C) | <b>Adopted.</b>                                                                                        | The survey has been conducted in all the towns during 1991-92. 2,02,893 numbers of Low Cost Sanitation Units were to be constructed, out of which, 74,212 units were constructed. The low cost sanitation programme was implemented in 77 towns of Haryana. Five towns were declared as Scavenging free. The Govt. of Haryana is facing difficulties in implementing as 45% subsidy is provided for the EWS category in towns. Most of the beneficiaries belong to SC expected higher subsidy. | The most of the beneficiaries have already left their profession of scavenging and shifted to alternative modes of income. No specific reply about imparting the training has been furnished. | Out of 17,776 identified scavengers in three survey i.e. 1992-93, 1995-96 and 1997-98, 15,621 scavengers have already received assistance by way of loans and subsidy under the different schemes. After knowing the exact position of the scavengers involved in handling of night soil, a specific scheme can be formulated for the State of Haryana.. | No specific information has been given                                                                      | Representative of the State Government in the meeting held on 18.3.2007 informed that they have declared in the year 2004 manual scavenger free state and filed an affidavit before the Hon'ble Supreme court to this effect. |

| Sl. No. | State                                                                                                                | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                    | Imparting of training to the identified scavengers.                                                                     | Rehabilitation under the prescribed funding pattern. | Making provision in building by-laws not to sanction new building without provision of pour flush latrines.                                  | Response to the directive of the Commission                         |
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| 10.     | Himachal Pradesh                                                                                                     | State has its own Municipal Acts, which provide for attaining the objectives of the Central Act.       | Representative of State Government in the meeting held on 18.3.2007 informed that a survey was conducted. As per survey they have identified 4,835 families (23,317 scavengers). Identified 30,266 dry latrine also converted into wet latrines. Recently identified 45 dry latrines are going to be demolished. | 7,000 Manual Scavengers have been provided training.                                                                    | 5,238 Manual Scavengers have been rehabilitated.     | Recently they filed an affidavit before the Hon'ble Supreme Court mentioning that no building construction is permissible with dry latrines. | All scavengers engaged in the practice have already been liberated. |
| 11.     | Jammu & Kashmir<br>(Response received from Govt. of J&K vide their letter No.Home/ NHRC/155/ 2001 dated 03.01.2002 ) | No reply on this point.                                                                                | Survey conducted in 1993 mainly in Jammu region. 4,150 persons were identified. Nearly 50% of them have been liberated.                                                                                                                                                                                          | The representative of J & K in the meeting dated 18.3.2007 informed that they will conduct fresh survey in rural areas. | No reply.                                            | Instructions issued for Jammu region                                                                                                         | No reply on this point.                                             |

| Sl. No. | State                              | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993                                                                                                                                                                                                                                                                                                     | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                         | Imparting of training to the identified scavengers. | Rehabilitation under the prescribed funding pattern. | Making provision in building by-laws not to sanction new building without provision of pour flush latrines.  | Response to the directive of the Commission                 |
|---------|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| (1)     | (2)                                | (3)                                                                                                                                                                                                                                                                                                                                                                                                        | (4)                                                                                                                                                                                                                                                                                   | (5)                                                 | (6)                                                  | (7)                                                                                                          | (8)                                                         |
| 12.     | Jharkhand (Reply dated 03-09-2004) | In the meeting dated 25.2.06 the representative has informed that they have adopted the Act                                                                                                                                                                                                                                                                                                                | Action for conducting Survey is being taken. Tenders have been invited from NGOs for the purpose                                                                                                                                                                                      | Concerns the Department of Social Welfare           | Concerns the Department of Social Welfare            | Vide letters dated 07-01-2003, Municipal Administrations have been directed to comply with the instructions. | Action is being taken for eradication of manual scavenging. |
| 13.     | Karnataka                          | <b>Adopted.</b>                                                                                                                                                                                                                                                                                                                                                                                            | 14,555 scavengers were identified during the year 2001-2002. Representative in the meeting dated 18.3.2007 has informed that fresh survey is in progress in 27 districts. They identified 725 dry latrines in 345 families, which will be converted/ demolished in next three months. | No reply.                                           | 14,555 scavengers were identified and rehabilitated. | Action taken.                                                                                                | No specific reply on this point.                            |
| 14.     | Kerala                             | <b>Adopted.</b> vide Gazette No. 45 dated 12 November 2002. The Chief Minister, however, informed that Kerala State has already abolished Manual Scavenging. Secretary, Local Self Government (Urban Department has given affidavit in the supreme Court on 14.3.2006 stating that Manual scavenging is not in existence in the State of Kerala, in both rural and in urban areas (letter dated 19.10.2006 |                                                                                                                                                                                                                                                                                       |                                                     |                                                      |                                                                                                              |                                                             |

| Sl. No. | State                                                                                       | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                              | Imparting of training to the identified scavengers.                                                                                                                                    | Rehabilitation under the prescribed funding pattern.                                                                                                                                                            | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                                                                                                                                                                               |
|---------|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15.     | Madhya Pradesh                                                                              | <b>Adopted.</b>                                                                                        | MD, SCFDC in the meeting dated 18.3.2007 has informed that they have converted all the identified 5,06,571 dry latrine into wet latrines with the help of HUDCO and GOI. They identified 95,504 scavengers, out of which 86,309 were rehabilitated and remaining 9,185 will be rehabilitated up to the targeted date 2009. | -                                                                                                                                                                                      | All the identified 1536 scavengers in Municipalities have been rehabilitated.                                                                                                                                   | No building construction is permissible in any Local bodies with dry latrine.                               | Government of Madhya Pradesh Adopted act on 19 November 1997                                                                                                                                                                                              |
| 16.     | Maharashtra (Response received from Govt. of Maharashtra vide their letter dated 27.06.2006 | <b>Adopted.</b>                                                                                        | In the meeting dated 18.3.2007 the representative of State Government has mentioned that a survey was conducted during 2004 through Tata Institute of Social Studies. They identified 237 villages where this system exists. However this has been denied by district authorities.                                         | 43,652 scavengers and their dependent are imparted training and are rehabilitated with the help of various schemes implemented by Mahatama Phule Backward Class Development Corp. Ltd. | Various schemes are being implemented in the State through Mahatama Phule Backward Class Development Corp. Ltd. Under which so far 43,652 scavengers and their dependents have been given financial assistance. | Suitable orders/ instruction have been issued by U.D.D of the Government.                                   | As on date (18.3.2007) no dry latrine in the State and no practice of manual scavenging is in existence. However, since a writ-petition is pending before the Hon'ble Supreme Court in this matter, Government can not make any Statement in this regard. |

| Sl. No. | State                                                      | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                 | Imparting of training to the identified scavengers. | Rehabilitation under the prescribed funding pattern.          | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                               |
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| (1)     | (2)                                                        | (3)                                                                                                    | (4)                                                                                                                                                                                                                                                                                                           | (5)                                                 | (6)                                                           | (7)                                                                                                         | (8)                                                                       |
| 17.     | Manipur                                                    | No reply                                                                                               | No reply                                                                                                                                                                                                                                                                                                      | No reply                                            | No reply                                                      | No reply                                                                                                    | No reply                                                                  |
| 18.     | Meghalaya                                                  | <b>Adopted.</b>                                                                                        | Survey carried out in 1990-91. Secretary and Commissioner, Urban Development Department in the meeting dated 18.3.2007 has informed that they completed the survey of rural areas in Dec 2006 and not fund any scavenger. The survey in the Shillong town is yet to be completed by Shillong Municipal Board. | No scavenger came forward for training.             | All scavengers have been deployed in other category of posts. | Provision has been made in building by-laws.                                                                | Informed that Manual Scavenging has already been completely discontinued. |
| 19.     | Mizoram<br>(Vide letter No.LAD/SAN/2/90 dated 11.02.2002 ) | N.A.                                                                                                   | N.A.                                                                                                                                                                                                                                                                                                          | N.A.                                                | N.A.                                                          | N.A.                                                                                                        | Certified that no dry latrine exist in the State.                         |
| 20.     | Nagaland<br>(Vide letter No.UAM.4/2001/70 dated 18.03.2002 | Not required                                                                                           | In Nagaland there is no manual scavenging practice and no need of any Act or assistance.                                                                                                                                                                                                                      |                                                     |                                                               |                                                                                                             |                                                                           |

| Sl. No. | State                                                                                   | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993                | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                                                                                                                   | Imparting of training to the identified scavengers.                                                                        | Rehabilitation under the prescribed funding pattern.                                                                                                                                                                                                                                              | Making provision in building by-laws not to sanction new building without provision of pour flush latrines.                                                                                                                                                                                                    | Response to the directive of the Commission                                                                                                                   |
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| 21.     | Orissa<br>(Information received and placed at page 756-757/C) and letter dated 3.3.2006 | <b>Adopted</b><br>On 25.7.94                                                                                          | Implemented integrated Low Cost Sanitation Schemes in all 103 Urban Local Bodies (ULBs). 50,913 dry latrines have been identified, out of which 38,582 have been converted to pour flush latrines. Remaining 12,331 dry latrines have been converted by individuals. Pr Secretary, Hosing and Urban Development in the meeting dated 18.3.2007 informed that a fresh survey has been entrusted to an institute. | Mason training has been imparted to liberated (selected) Scavengers and they have been also engaged through sanitary mart. | Proposed to establish 24 Nos. of sanitary marts in 12 ULBs, out of which OSFDC have been released funds in favour of 3 ULBs for setting up of 4 sanitary marts. The OSFDC have released 37.05 lakhs @ Rs.15,000/- per unit for constructions of Kiosks/Shops Shed/Work Shed in favour of 14 ULBs. | The Govt. have introduced Regulations in 2001 naming as B h u b a n s w a r Development Authority (Planning and Building Standards) Regulation Act, 2001. Under section 6 it has been made clear that application for approval of Building Plan must be accompanied with plan for sewerage/ drainage disposal. | -                                                                                                                                                             |
| 22.     | Punjab                                                                                  | Implemented the Integrated Scheme of Liberation of Scavengers and Improvement in Sanitation in 77 towns in the State. | Out of total provision of 2,11,766, so far 1,88,191 latrines of poor people have been converted into sanitary latrines. 52% of urban population has proper facility of sewerage system. The remaining 48% population is dependent upon septic tanks, soakage pits and leach pits etc.                                                                                                                           | No specific reply has been given.                                                                                          | The Govt. of India has not so far provided grant to the State for S e w e r a g e Schemes.                                                                                                                                                                                                        | No specific reply has been given                                                                                                                                                                                                                                                                               | The representative of State Government in the meeting held on 18.3.2007 has informed that the State has declared free from the practice of Manual Scavenging. |

| Sl. No. | State                                                                                                                | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                                                       | Imparting of training to the identified scavengers.                                                                                                            | Rehabilitation under the prescribed funding pattern.       | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                                                                                      |
|---------|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)                                                                                                                  | (3)                                                                                                    | (4)                                                                                                                                                                                                                                                                                                                                                 | (5)                                                                                                                                                            | (6)                                                        | (7)                                                                                                         | (8)                                                                                                                                                              |
| 23.     | Rajasthan<br>(Vide letter No.F.2(114) HHR/2001 dated 24.11.2001. (Page-418/C)                                        | They have their on separate act                                                                        | Representative of State Government informed that Survey was conducted in October 2004 of all the 183 Urban Local Bodies (ULB), They identified 638 scavengers and 12,691 dry latrines. All the dry latrines have been converted in wet latrine with the help Sulabh International and all the identified Manual Scavengers have been rehabilitated. | Training provided to 11,152 scavengers.                                                                                                                        | 13,935 scavengers have been rehabilitated utilising funds. | Yes, provision made                                                                                         | There are no scavengers in the State at present. A notice has been given in Sept. 2006 in the news papers. No scavenger has been reported up to now (18.3.2007). |
| 24.     | Sikkim                                                                                                               | Informed that there are neither dry latrines nor any practice of Manual Scavenging in the State.       |                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                |                                                            |                                                                                                             |                                                                                                                                                                  |
| 25.     | Tamil Nadu<br>(Response received from Govt. of Tamil Nadu vide their letter No.39637/MA-11/2002-1 dated 10.10.2002 ) | <b>Adopted.</b>                                                                                        | Secretary, SC & ST Welfare, Department in the meeting dated 18.3.2007 informed that they have converted 4,84,000 dry latrines into wet latrines. They identified 35,561 scavengers for rehabilitation. More than 20,000 manual scavengers have already been rehabilitated. Approx 11,000 scavengers to be rehabilitated.                            | Yes (They have given vocational training and financial assistance for rehabilitation of liberated scavengers to enable them to take up dignified professions). | Done.                                                      | Yes, provision made.                                                                                        | Urban and rural areas are free for manual scavenging.                                                                                                            |

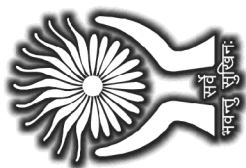


|         |                                                                                                                                                                               |                                                                                                        |                                                                                                                                                                                                                                          |                                                                                  |                                                                                  |                                                                                                             |                                                                                                                                                                        |
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| Sl. No. | State                                                                                                                                                                         | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                            | Imparting of training to the identified scavengers.                              | Rehabilitation under the prescribed funding pattern.                             | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission                                                                                                                            |
| 26.     | Tripura<br>(Vide letter No.2222-23 dated 28.01.2002 (Page- 432-433))                                                                                                          | <b>Adopted.</b>                                                                                        | Survey conducted in all the 13 Urban local bodies. Out of 29,497 dry latrines, 14,962 dry latrines have been converted into low cost sanitary latrines and the practice of carrying of night soil in no longer in existence in the State | No specific reply received.                                                      | Claimed that all the 249 scavengers have been rehabilitated.                     | No specific reply received.                                                                                 | Notification issued that Tripura is free of scavengers.                                                                                                                |
| 27.     | Uttar Pradesh<br>(Response received from Govt. of U. P. vide their letter No.Home/HR/Sec-1 dated 26-10-2002 & No.251/69-1-03-7(L)/2001-TC dated 15-02-2003) (Page-962-963/C). | <b>Adopted.</b>                                                                                        | Survey carried out and found 40,227 scavengers.                                                                                                                                                                                          | Matter referred to Scheduled Caste Financial and Development Corporation (SCFDC) | Matter referred to Scheduled Caste Financial and Development Corporation (SCFDC) | Yes, provision made in building by-laws.                                                                    | Vide notification dated 10-4-2002, manual scavenging has been completely abolished in UP with effect from the same date. Directions have been issued to all concerned. |

| Sl. No. | State                                                                                           | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993                                                           | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                                                                                                                                                                                                                              | Imparting of training to the identified scavengers.                                                                                 | Rehabilitation under the prescribed funding pattern.                                                            | Making provision in building by-laws not to sanction new building without provision of pour flush latrines.                                    | Response to the directive of the Commission |
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| (1)     | (2)                                                                                             | (3)                                                                                                                                                              | (4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | (5)                                                                                                                                 | (6)                                                                                                             | (7)                                                                                                                                            | (8)                                         |
| 28.     | Uttarakhand<br>(Information received vide letter No.06/PS/SUD/2003 dated 13.01.2003 (Page-896)) | <b>Adopted.</b>                                                                                                                                                  | Survey has been carried out for all 63 local bodies of the State. Out of 29,724, 16,355 dry latrines are to be converted to flush latrines and 13,389 is an additional demand. A Project for 12.5 crore has been made and State Guarantee for Rs. 5.50 crore has also been issued in Nov.,2002. An amount of Rs.1.23 crores has been received as subsidy from G.O.I. and Rs. 53 lacs has been released to NGOs like Sulabh International for the construction of latrines. | 1,057 Scavenger identified and training will be imparted to them and their dependent under the "Swaran Jyanti Sahari Rojgar Yojna". | Rehabilitation of the identified scavengers will be done through Self Employment Programme.                     | Instructions issued to all the local bodies not to issue certificate of completion of house unless there is a provision of water flush latrine |                                             |
| 29.     | West Bengal                                                                                     | In the meeting dated 18.3.2007 Pr. Secretary, Urban Development Department informed that as per section 3 of the Act they have issued notification in Nov. 2003. | They have converted 2,06,494 dry latrines into wet latrines including 88,664 in Integrated Low Cost Sanitation Programme. A fresh survey was conducted during 2006. 4,022 Dry latrine identified out of which 3,703 were converted and 279 under process of conversion. 40 dry latrines have been demolished.                                                                                                                                                              | -                                                                                                                                   | Scavengers are employed in the Municipality. 80% of them rehabilitated by providing training in various skills. | Yes, provision made in building by-laws.                                                                                                       | -                                           |

## Union Territories

| Sl. No. | State                                        | Adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993                                                                                                                                | Carry out Survey to identify the number of Scavengers and their dependents including the No. of dry latrines;                                                                                                                                                        | Imparting of training to the identified scavengers. | Rehabilitation under the prescribed funding pattern. | Making provision in building by-laws not to sanction new building without provision of pour flush latrines. | Response to the directive of the Commission |
|---------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| 30.     | Union Territory of Andaman & Nicobar Islands | <b>Adopted.</b>                                                                                                                                                                                                                       | Representative in the meeting dated 18.3.2007 has informed that they have converted all the identified 1,302 dry latrines into wet latrines and also rehabilitated all the identified 52 manual scavengers in 1994. The UT has been declared Manual Scavenging free. | -                                                   | -                                                    | Yes, provision made in building by-laws for construction of all the water flush latrines.                   |                                             |
| 31.     | Chandigarh.                                  | Chandigarh is a planned city and is equipped with modern infrastructure including a well planned sewerage system. The practice of scavenging has never been prevalent in the Union Territory. The information may be treated as "NIL" |                                                                                                                                                                                                                                                                      |                                                     |                                                      |                                                                                                             |                                             |
| 32.     | Dadra & Nagarhaveli.                         | No reply on any point received from the U.T.                                                                                                                                                                                          |                                                                                                                                                                                                                                                                      |                                                     |                                                      |                                                                                                             |                                             |
| 33.     | Daman & Diu.                                 | No reply on any point received from the U.T.                                                                                                                                                                                          |                                                                                                                                                                                                                                                                      |                                                     |                                                      |                                                                                                             |                                             |
| 34.     | Lakshadweep                                  | No reply on any point received from the U.T.                                                                                                                                                                                          |                                                                                                                                                                                                                                                                      |                                                     |                                                      |                                                                                                             |                                             |
| 35.     | Pondicherry.                                 | No reply on any point received from the U.T.                                                                                                                                                                                          |                                                                                                                                                                                                                                                                      |                                                     |                                                      |                                                                                                             |                                             |



## Statement showing status of action taken by the State governments on the Problems of Denotified and Nomadic Tribes

| Sl. No. | State          | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                                                                                                                                                                                                                    | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                                                                                                                                                                                                                                             | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                                                                                                                                 |
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| (1)     | (2)            | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | (4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | (5)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | (6)                                                                                                                                                                                                                                                                                                                                                                |
| 1.      | Andhra Pradesh | The Government of India under British rule passed an enactment in 1871 under which tribes committing criminal activities were categorised as criminal tribes and organised tribal criminality as a fact was recognised (Criminal Tribes act of 1871). This act was in force until 1952. Indian Government in 1952 repealed this act. This act was amended in 1911 and again in 1923. By the Criminal Tribes (Madras Amendment) act 1923 the term 'Criminal Tribes' was changed to 'Notified Tribes'. Consequent on the repeal of the C.T. Act the | The First Criminal Tribes Settlement Act was passed in 1908. The Criminal Tribes who have been convicted, were placed in settlements where certain land was assigned to them for cultivation and they were taught to work and were given instructions to lead and honest life. Under the 1911 amendment of the Criminal Tribes Act Government tried to put the Criminal Groups in settlements and rehabilitate them. The salvation army was put in charge of this settlements. (The salvation army found by Willam Booth in London in | The inclusion of almost all the Criminal Tribes under SC/ST/BCs. All the facilities and benefits which are extended to SC,ST,BC Communities under the policy of reservation may automatically extended these communities also. Scholarships, Hostels and Schools for Education, Quota under services, Loans and Finances for Financial upliftment which were sanctioned for SC, ST, BCs were simultaneously extended to these communities also. Separate HODs like Social Welfare, Tribal Welfare | Some of the Tribes like Yerukulas were associated with crimes like theft, robbery etc. and whenever major crimes take place, depending upon the modus operandi of the crime, certain groups were suspected and action was taken upon them. The exact data on the specific instances of the crimes committed by the Denotified and Nomadic tribes is not available. |

| Sl. No. | State | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                               | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
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|         |       | <p>Criminal Tribes of erstwhile Hyderabad and composite Madras State came to be called as 'Denotified Tribes' or 'Vimuktha Jathis'.</p> <p>In the State of Andhra Pradesh in accordance with the lists of Ex-Criminal Tribes notified under the Criminal Tribes Act of 1871 up to the repeal of the act in 1952, there were 59 criminal Tribes.</p> <p>The above 59 criminal tribes were subsequently included in the lists of S.C./S.T./B.Cs.</p> <p>As per the report of the A.P. Tribes Enquiry Committee (1961-62) certain communities were classified as Primitive Tribes, Nomadic Tribes and Forest Tribes which are subsequently included under S.Ts. Some of these communities find place in the list of Criminal Tribes also.</p> | 1861 was a religious body organised throughout the world. It aimed at fighting against the evils and bringing peace to the people.)                                                                | Departments Corporations like S.C. Corporation, B.C. Corporation, Gurukul Schools, Study Circles etc. were established to look after their Welfare. |                                                                                                                                                                                                    |

| Sl. No. | State             | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                                           | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                         | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
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| (1)     | (2)               | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | (4)                                                                                                                                                                                                | (5)                                                                                                                                                                                                                                                                           | (6)                                                                                                                                                                                                |
| 2.      | Arunachal Pradesh | There is no nomadic tribal communities in Arunachal Pradesh                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | N.A.                                                                                                                                                                                               | N.A.                                                                                                                                                                                                                                                                          | N.A.                                                                                                                                                                                               |
| 3.      | Assam             | N.A.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                    |
| 4.      | Bihar             | Information not furnished                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                    |
| 5.      | Chhattisgarh      | <p>21 communities were included in De-notified list vide notification dated 21-9-63 of the Govt. of Madhya Pradesh. Out of these, Banjara, Pardhi, Pasi and Bairagi are in the newly created State of Chhattisgarh. Pardhi is included in ST list and Pasi in the SC list. Banjara and Bairagi are included in the OBC List.</p> <p>As per MP Govt. notification of 1963, 30 Nomadic and Semi-nomadic Tribes are available. Out of these, only 9, namely, Bhaat, Devaar, Jogi, Joshi, Kasai, Sikligar, Banianthar Raj Goud, Gosain and Dhangar are in Chhattisgarh. Devaar and Kasai (named as Kowkhatik) have been included in SC list.</p> | In the State of Chhattisgarh, the aforementioned communities are living in villages and towns alongwith the rest of the population.                                                                | The Education and Primary Health facilities available in Village/Town are utilized by these communities alongwith the rest of the population. No discrimination is in existence in the State of Chhattisgarh as far as education and primary health facilities are concerned. | None of these communities are being treated as Criminal Tribes in Chhattisgarh. They are being extended all the Constitutional rights given to SC/ST/OBCs.                                         |

| Sl. No. | State     | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                           | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                        | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
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|         |           | Other 6 communities, namely Bhaat, Jogi, Joshi, Sikligar, Gosain and Dhargar are in OBC List.                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                              |                                                                                                                                              |                                                                                                                                                                                                    |
|         | Jharkhand | It has been informed that 7 Tribes notified under the Criminal Tribes Act of 1871 included in the lists of S.C./S.T./OBC. 2 denotified tribes included in the list of SC and 1 nomadic tribes included in Backward class.                                                                                                                                                         | At present there is no Denotified and Nomadic Tribes. Earlier Birhor was a nomadic tribe now they are settled permanently.                                                                                                                                                                                                   | Welfare Department since the undivided Bihar providing the housing, education and medical facility to the Denotified and Nomadic Tribes      | Note informed                                                                                                                                                                                      |
| 6.      | Goa       | -- NIL --                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                              |                                                                                                                                              |                                                                                                                                                                                                    |
| 7.      | Gujarat   | It is informed that there are 12 castes/communities classified as Nomadic tribes and 28 communities are classified as Denotified tribes. Out of these 40 caste/communities 33 castes are covered in the list of Socially and Educationally Backward Classes (OBC), 4 castes are covered in the list of Scheduled Tribes and 2 castes are included in the list of Schedule Castes. | Most of the population of these communities have been merged with the rest of the population due to better education and awareness. While there are rare separate pockets such as Satarkantha, Ahmedabad, Kutchh, Junagardh and Mehsana districts where they are living isolated from other population in the Gujarat State. | The detailed brief note of the basic facilities of schooling, primary health centre etc. for NT/DNT has been enclosed (Vide page-461-466/C). | There are no specific report of the Nomadic & Denotified Tribes being perpetrators or victims                                                                                                      |

| Sl. No. | State   | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                                                                                                                                                                                          |
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| (1)     | (2)     | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | (4)                                                                                                                                                                                                | (5)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | (6)                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 8.      | Haryana | <p>While one caste named Garudi is not covered in the list of SC/ST/OBC. Thus, 39 castes / communities of NT-DNT are covered in the list of SC/ST/OBC. A list of the NT/DNT communities which have been included in the list of SC/ST &amp; OBC has been enclosed</p> <p>20 Nomadic Tribes and 11 Denotified Tribes (including 17 Subcastes). All are included either in the list of Scheduled Castes or in Backward Classes. It is informed that some of the castes in the list of Vimukt Jatis (Denotified Tribes) have been covered under the list of Scheduled Caste and some have been covered under the list of Backward Classes. A list of Vimukt Jatis (Denotified Tribes) communities who have been included in Scheduled Castes and Backward Classes is provided. The education</p> | <p>It is informed that the people belonging to Vimukt Jatis (Denotified Tribes) are found in all the districts of the State.</p>                                                                   | <p>The Scholarship at the rates ranging from Rs.10/- to Rs. 185/- per month from 1st class onward to Post-graduate classes in different classes is given to the students belonging to Vimukt jatis (Denotified Tribes). Ashram School (Hostel) has been set up at Jind for Vimukt Jatis (Denotified Tribes) students. Free lodging and boarding facilities are provided to them. Rs. 80/- p.a for middle classes and Rs. 120/- p.a for the Secondary Classes are given as grant for the purchase of stationery articles to the students belonging to Denotified Tribes.</p> | <p>It is informed that as many as 224 cases were registered in Haryana State during the period from 1-1-2003 to 30-9-2003 in which members of Denotified or Nomadic Tribal Communities are accused/ perpetrators of crimes. Out of these 224 cases challans in 210 cases have been put in court. 11 cases are under investigation in 2 cases accuses have been connected by the courts and one case has been cancelled.</p> |



| Sl. No. | State            | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                  | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.        | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                     | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
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|         |                  |                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                           | The State Govt. provides cash incentive of Rs.1/- per day to the children belonging to Nomadic Tribes in primary classes on attending the school. The health facilities are being provided to the Vimukt Jatis (Denotified Tribes) as to the general public in the State. |                                                                                                                                                                                                    |
| 9.      | Himachal Pradesh | The tribal communities already declared as scheduled tribes in H.P. has not been denotified. The Gaddi/Gujjars are partially treated as nomadic tribes who shift their sheep/goats and cattle according to change in seasons viz. hill station during summer & return during winter to their permanent settlements. | Yes, these nomadic tribes have their permanent settlements & they live alongwith the rest of the population in the Villages.                                                                              | The children of nomadic tribes are also getting education and health facilities from the Schools & health institutions opened by the Govt. in the Villages where the nomadic tribes have their permanent settlement.                                                      | No such instance has come to the notice of the Govt.                                                                                                                                               |
| 10.     | Jammu & Kashmir  | The problem of criminal and nomadic tribes was non-existent in the State of Jammu and Kashmir.                                                                                                                                                                                                                      | The provisions of the Criminal Tribes Act, 1924 or the 1871 Act were neither extended to the State of J&K, nor the State Government enacted any corresponding law/ Act in the State in view of (1) above. | Despite (1) and (2) above, some nomadic tribes such as Gujjars, Bakerwals and Gaddis have been declared as 'scheduled tribes' enabling them to avail special concessions of various welfare Government schemes for their upliftment.                                      | Nil Information                                                                                                                                                                                    |

| Sl. No. | State     | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                              | (3) | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                      | (4) | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                   | (5) | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                | (6) |
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| 11.     | Karnataka | The Denotified and Nomadic Tribes of Karnataka have been separately categorized in the list of OBCs except a few who have not been classified and have been provided concessions and other privileges. The list of tribes/communities included in the OBC list Category and list of Nomadic and Semi-nomadic Tribes and Denotified Tribes through out the state of Karnataka has been provided. |     | There is no specific settlement or area in which nomadic and denotified tribes are located. However these are normally found in Gulbarga Rayachur, Bidar, Dharwad, Belgaum, and Uttara Kannade.                                                                                                                                         |     | There are no separate schooling, primary health facilities being extended to these communities since they share the facilities provided generally to all communities in the area of their residence wherever available. |     | General cases of atrocities against Scheduled Castes and Scheduled Tribes are governed by Prevention of Atrocities Act and Rules. No separate categorization of these cases based on caste/tribe specification have been undertaken by the State. |     |
| 12.     | Kerala    | (a) Domban (De-notified) is included in SC List of Kerala at Sl.No.18<br>(b) Odde Naicken & Kodangi (once Nomads) have settled in many districts of Kerala.<br>(c) Cholaikkan, Malapandaram and Kadar are the nomadic communities in Kerala. All are included in the ST List.                                                                                                                   |     | Many ameliorative schemes have been introduced to settle the De-notified tribes. They have now been permanently settled in the border areas of Kerala adjoining Tamil Nadu. Colonized housing schemes have been provided to Cholaikkan community found in Nilambur forest of Malappuram District, due to various reasons, they have not |     | No specific reply                                                                                                                                                                                                       |     | No specific reply                                                                                                                                                                                                                                 |     |

| Sl. No. | State | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided. | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | What are the basic facilities for schooling, primary health etc. being extended to these communities. | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
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|         |       |                                                                                                                                                                                                                                                                    | <p>been attracted towards a permanent settlement.</p> <p>Some of the Malapandaram are engaged in settled cultivation to a limited extent. Others still roam around the forest area and have not shown any interest to settle down permanently.</p> <p>The development programmes, particularly in the field of education, have not benefited the Kadars.</p> <p>As regards Ulladans, they are settled in agriculture in huts on or near their place of work. The settlements in eastern and western areas have a marked difference. In western areas, they live side by side with other communities whereas those living in eastern forest areas are isolated and still depend on forest economy and do not enjoy the fruits of developmental programmes.</p> |                                                                                                       |                                                                                                                                                                                                    |

| Sl. No. | State          | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                  | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                         | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                       | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
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| (1)     | (2)            | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                 | (4)                                                                                                                                                                                                                                        | (5)                                                                                                                                                                                                                                         | (6)                                                                                                                                                                                                |
| 13.     | Madhya Pradesh | In terms of the Notification dated 21-9-1963, 30 tribes have been declared nomadic and 21 tribes, who were treated as criminal tribes during the British period, have been declared de-notified tribes. The Govt. of India has included 13 tribes in the list of Scheduled Castes. 3 tribes from the rest of tribes, are included in OBC List. Thus, out of the 21 tribes, only 5 tribes have not been included in SC/ST/OBC lists. | The semi-nomadic habit of the Uralis does not allow them to settle down in one place. Kattunayakan also live in reserve forests and are still leading a semi-nomadic life. Those living in rural areas have more contact with non-tribals. | There are "Ashrams" functioning in Bhopal, Raissen, Shivpuri, Guna, Rajgarh, Shajapur, Mandasour, Ratlam and Ujjain for the children of de-notified tribal people and they are being provided scholarship at Matric and Post-Matric levels. | The Study Report in respect of former nomadic tribe "Kanjari" (now included in SC) and "Bijoria" is placed at pages 561-565/c.                                                                     |
| 14.     | Maharashtra    | Information not received.                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                             |                                                                                                                                                                                                    |
| 15.     | Manipur        | --NIL--                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                             |                                                                                                                                                                                                    |

| Sl. No. | State     | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                        | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                                                                                                                                                                                 | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                             | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                       |
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| 16.     | Meghalaya | Information not received.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                   |                                                                                                                                                                                                                          |
| 17.     | Mizoram   | - NIL -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                   |                                                                                                                                                                                                                          |
| 18.     | Nagaland  | - NIL -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                   |                                                                                                                                                                                                                          |
| 19.     | Orissa    | <p>Mundapota, Ghasi, Pydis (Paidi), Lodha, Jaintira Pana, Telenga Pamula (Telaga Pamula), Minkab, Gaudas, Bandasi Rano (Dandasi), Oriya Domb and Anduria Domb are the De-notified and Nomadic Communities in Orissa.</p> <p>Out of these, Mundapota, Ghasi, Pydis (Paidi), and Dandasi Pano (Dandasi) have been included in SC List at S. Nos. 62, 31, 66 and 23 respectively.</p> <p>Jaintira Pana, Telenga Pamula (Telaga Pamula), Minkas and Gaudas have been included in SEBC List at Sl. No.54, 169, 114 and 101 respectively and the benefits provided to SEBC category are also extended to these communities.</p> | <p>The Lodha community declared and DNT are no longer considered nomadic, but they are settling in villages after implementation of Lodha Development Agency, Morada in Mayurbhanj District since 1986 onwards and has been included in ST List at Sl.No.43 and has been declared as Primitive Tribes.</p> <p>The Lodha tribes are settled in the villages/hamlets under the Morada block of Mayurbhanj district and have since re-assimilated with the rest of the population in the village.</p> | <p>The basic facilities like schooling in Primary Schools for education and Primary Health Centre for treatment of ailments are provided by the Lodha Development Agency for Lodha Community.</p> | <p>Specific instances of the community being perpetrators or victims of Human Rights violation are not reported and no instances has come to the notice to indicate that they are victims of Human Rights violation.</p> |

| Sl. No. | State     | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided. | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                     | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                                                                                                                                                                                         |
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| (1)     | (2)       | (3)                                                                                                                                                                                                                                                                | (4)                                                                                                                                                                                                | (5)                                                                                                                                       | (6)                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 20.     | Punjab    | Communities such as Sansi, Bhangali, Brara, Bauria, Nat, Gandhila have been included in the list of Scheduled Castes notified vide Constitution (Scheduled Castes) Order, 1950.                                                                                    | The list of Districts where these denotified tribes were located on 25 February, 1965 has been furnished.                                                                                          | Free books are provided in class 1st to 10th. Moreover, scholarships are provided from 1st class to post graduation.                      | Nil.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 21.     | Rajasthan | There are 9 Denotified Tribes, 10 Nomadic Tribes and 19 Semi nomadic tribes in the States. Three tribes namely Kanjar, Sansi and Nut are included in the list of S.C.                                                                                              | According to 1991 census the population of the State was 440.06 lakh of which a considerable part belongs to the DNT/NT and Semi-nomadic Tribal Communities.                                       | The Social Welfare Department has concentrated on the educational and economic development and social welfare of the DNT/NT/Semi-nomadic. | It is informed that on the basis of reports received from Superintendents of Police of all the districts, 2 cases were registered from the side of tribes and after their proper investigation the challan has been filed in the Court. Further, five cases have been registered by the representatives of tribes communities in Jaipur rural area out of which the challan in the four cases has been filed in the Court. |
| 22.     | Sikkim    | Information not received.                                                                                                                                                                                                                                          | --NIL--                                                                                                                                                                                            |                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                            |

| Sl. No. | State      | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                                                                                       | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                           | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                                                                                                                                                                                                                   |
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| 23.     | Tamil Nadu | The Denotified Tribes which did not have the stigma of untouchability, tribal and nomadic characteristics were treated as a separate entity along with State Backward Classes and Most Backward Classes and these Denotified Tribes were called as Denotified Communities since they did not have the tribal characteristics and also for avoiding any confusion with Scheduled Tribes. Other than the Denotified Communities mentioned above, the remaining Denotified Tribes and Nomads were included either in the list of Scheduled castes or Scheduled Tribes depending upon their characteristics. The list of Denotified Communities forming part of the Other Backward Classes is enclosed herewith. These Denotified | As per the reclamation of the Piramalai Kallars which is one of the predominant communities of the Denotified Communities in Madurai, Theni and Dindigul districts, 260 schools and 48 hostels are functioning. The Piramalai Kallars and other Denotified Communities scattered in other parts of the State are taken care by the Primary Health Centres and the general hospitals in their localities. | As far as the Denotified Communities (OBCs) are concerned no specific instances of victimisation were brought to the notice of this Department. | It is informed that welfare of Nomadic and Denotified Tribes are looked after by the Directorates of Adi Dravida Welfare and the Tribal Welfare Department and the same may be collected from them. The Secretary, Adi Dravidar and Tribal (ADW II) Deptt. vide his letter dated 30.01.2002 has requested for copy of the Criminal Tribes Act, 1871 to enable him to furnish the information. (Page-622/C). Copy of the said Act is being forwarded. |

| Sl. No. | State         | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                      | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                                                            | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                                                                                                                                                 | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                                                    |
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| (1)     | (2)           | (3)                                                                                                                                                                                                                                                                                                                                                     | (4)                                                                                                                                                                                                                                                                                                                                                                           | (5)                                                                                                                                                                                                                                                                                                                                                                                                   | (6)                                                                                                                                                                                                                                                                                   |
|         |               |                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                       | Communities are given facilities on par with Most Backward Classes in the State, provided 20% reservation of seat (along with Most Backward Classes) in the educational institutions and in the employment in public services and public sector undertakings of the State Government. |
| 24.     | Tripura       | -- NIL --                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                       |
| 25.     | Uttar Pradesh | In Uttar Pradesh under the category of Denotified and Nomadic Tribes 11 communities are classified under settled category whereas 25 communities under the nomadic category. Among these 36 communities the caste wise classified communities among Scheduled Castes, Scheduled Tribes, Other Backward Classes and general categories are as furnished. | In Uttar Pradesh there are 3 large colonies of Denotified and Nomadic Tribes at Kalyanpur (Kanpur), Fazalganj (Moradabad) and Gorakhpur while 51 small colonies are in different districts. The list of these 51 small colonies is furnished at Annexure No. II At present all the Denotified and Nomadic Tribes are mixed with general Caste people and are living together. | The facilities of Scholarship is made available from class I to class X to all the Denotified tribes by the State Government. However, Ashram Type School are also run by the State Government, providing free accommodation, dress, Book, Stationery etc. along with free education upto the level of class XII. The Health facility is also made available in these communities as of other castes. | So far, no specific instance has come to the knowledge of State Government regarding perpetrators or victims of these Denotified and Nomadic Tribes in the State.                                                                                                                     |



| Sl. No. | State       | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                                                                              | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
|---------|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 26.     | Uttaranchal | There are no denotified or nomadic tribes in Uttaranchal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | N.A.                                                                                                                                                                                                                                                                                                                                                                                            | N.A.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | N.A.                                                                                                                                                                                               |
| 26.     | Uttaranchal | There are no denotified or nomadic tribes in Uttaranchal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | N.A.                                                                                                                                                                                                                                                                                                                                                                                            | N.A.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | N.A.                                                                                                                                                                                               |
| 27.     | West Bengal | According to the Criminal Tribes Act (1871) there were only two communities as a whole, identified as criminal. The communities are Bediya and Karwal Nat. The Bediya is an enlisted as ST Community of West Bengal. The Karwal Nat is a section of Nat and not a separate community. In the long past, this section was assimilated with the main group 'Nat' and lost their separate identity. Regarding the other communities it may be mentioned that all the members of them are not declared as criminals but only those convicted of any non-tribe offence or under the preventive section of the Criminal | In the State of West Bengal, these De-notified tribes are not located in specific settlements and they do not live in isolation. They have settled and distributed in multiethnic villages spreading all over the State. They have taken to the avocations of agriculture and in other occupations and assimilated with the rest of the population and they are no more identified as criminal. | As the communities are enlisted in the SC/ST the facilities of schooling, drinking water, health etc. are generally extended to them. They are covered under Family Oriented Economic Schemes and they are getting the facilities like Ashram Hostel, Central and School attached hostels, Merit Scholarships, Book grants, primary health, etc. They are also getting different community development schemes under Special Component Plan (SCP) and Tribal Sub-Plan (TSP). In addition, Lodhas are getting special benefits under 275(1) as Primitive Tribal Group. | No such cases of Criminal Activities of the De-notified Tribes are reported. As mentioned earlier, there is no Nomadic Tribes in this State.                                                       |

| Sl. No. | State | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities. | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
|---------|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)   | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | (4)                                                                                                                                                                                                | (5)                                                                                                   | (6)                                                                                                                                                                                                |
|         |       | <p>Procedure Code were declared to be Criminal Tribes in the State of West Bengal. Among them there is no such community as Bhar which can be identified as criminal tribe. Dhekaru has been merged with the other communities and Maghaiya Dom, which is a section of Dom are assimilated with their main group of Dom. In this connection, it may be mentioned that there are two communities as Nat and Dom in the Scheduled Caste list of West Bengal. The Lodha has been denotified and declared as ex-criminal tribe in the long past and included in the Scheduled Tribe list and identified as one of the PTG of West Bengal. There is no tribal community as Gonda in the State of West Bengal. Lastly, it may be mentioned that in the State of West Bengal the</p> |                                                                                                                                                                                                    |                                                                                                       |                                                                                                                                                                                                    |

| Sl. No. | State        | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                       | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities. | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
|---------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)          | (3)                                                                                                                                                                                                                                                                                                                                                      | (4)                                                                                                                                                                                                | (5)                                                                                                   | (6)                                                                                                                                                                                                |
|         |              | communities or a part of the communities which were identified as criminal tribes as per Criminal Tribes Act, were not habitual criminals and a few of the members only were sometimes engaged in the act of burglary due to their nomadic habits. Now they have lost their criminal habits and assimilated and cannot be identified as criminal tribes. |                                                                                                                                                                                                    |                                                                                                       |                                                                                                                                                                                                    |
| 28.     | NCT of Delhi | Total of 18 Denotified and Nomadic Tribes have been included I) the list of SC of NCT of Delhi and II) Denotified Nomadic, Semi-Nomadic Tribes figured in the OBC List of NCT of Delhi. List provided to the Commission.                                                                                                                                 | There are no specific settlements of these Tribes. However, they are mostly living in resettlement of unauthorized colonies with rest of population                                                | These communities are availing of all basic facilities including schooling and primary health.        | -                                                                                                                                                                                                  |

## UNION TERRITORIES

| Sl. No. | State                     | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town.                                                                                                                                          | What are the basic facilities for schooling, primary health etc. being extended to these communities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof.                                                                                                                             |
|---------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)                       | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | (4)                                                                                                                                                                                                                                                                                                                                         | (5)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | (6)                                                                                                                                                                                                                                                                                                                            |
| 29.     | Andaman & Nicobar Islands | There are six aboriginal tribes, viz-Onges, Great Andamanese, Shompens, Sentinelese, Jarawas and Nicobarese notified as Scheduled Tribes in respect of this UT. As none of them were prescribed as criminal tribes under the Criminal Tribes Act, 1871, the question of de-notifying them does not arise. However, a community named Bhatu, who were the members of the roving tribe of North and Central India, were convicted and jailed for having committed organized offence of robbery and dacoity and the then government of United Provinces (now UP) tried to confine the rest to settlement under the care of Salvation Army. A large group of them voluntarily came to Andamans in 1926 and they were settled and allotted agricultural land at places such as Caddle Gunj, Aniket and Ferrargunj. | As mentioned in Point No.(1), the Bhatu have been settled at the following villages namely-Caddlegunj, Aniket and Ferrargunj in South Andaman. Over the years, they have shed their criminal attitude and got integrated with the rest of the population. Inter-cast marriages between Bhatu and other communities have also been reported. | There is a primary school, one each at Caddlegunj and Aniket and a Govt. Sr. Secondary School at Ferrargunj. The students passing out from primary Schools, Caddlegunj and Ferrargunj are admitted into Govt. Senior Secondary School, Ferrargunj for further studies. A medical sub-centre located at Ferrargunj, covers the Bhatu of Caddlegunj and Aniket villages. A building to house a PHC at Ferrargunj has been constructed. It will start functioning as soon as the requirement of manpower is sanctioned by the Government of India. At present the PHC Tushanabad caters to the medical needs of Bhatu of the above three villages. | As per the findings of the A&N Commission for OBCs, an average of 70% Bhatu drink country liquor made by the community themselves. This too has come down significantly over the years due to social intervention. They are no longer perpetrators of any other crime or victims as in the mainland during their earlier days. |

| Sl. No. | State                | Whether the Denotified and Nomadic Tribes which formed part of the Criminal Tribes Act 1871 in your state have been included in the list of SC/ST/OBC. If so, a list of the tribes/communities and the category under which they have been listed may be provided.                                                                                                                                                              | Whether there are specific settlements in your State where these Nomadic and Denotified Tribes are located or whether these have since merged with the rest of the population in the village/town. | What are the basic facilities for schooling, primary health etc. being extended to these communities. | Whether there are specific instances reported of the Denotified and Nomadic Tribes being perpetrators or victims and whether these have been inquired into. If so, what were the findings thereof. |
|---------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |                      | villages in South Andaman. The A&N Commission for Other Backward Commission, in its report submitted to this Administration recently has recommended for the classification of Bhatus as OBC in respect of this UT' alongwith four other communities. The report of the Commission is under the consideration of this Admn. The Bhatus will be entitled for all admissible facilities once they are notified as OBCs in this UT |                                                                                                                                                                                                    |                                                                                                       |                                                                                                                                                                                                    |
| 30.     | Chandigarh           |                                                                                                                                                                                                                                                                                                                                                                                                                                 | -- NIL --                                                                                                                                                                                          |                                                                                                       |                                                                                                                                                                                                    |
| 31.     | Dadra & Nagar Haveli |                                                                                                                                                                                                                                                                                                                                                                                                                                 | -- NIL --                                                                                                                                                                                          |                                                                                                       |                                                                                                                                                                                                    |
| 32.     | Daman & Diu          | It is informed that there are no Denotified and Nomadic Tribal communities in U.T. of Daman & Diu. Hence, required information may be treated as NIL in respect of U.T.                                                                                                                                                                                                                                                         |                                                                                                                                                                                                    |                                                                                                       |                                                                                                                                                                                                    |
| 33.     | Lakshadweep          | It is informed that the U.T. of Lakshadweep are Muslims and have classified as Scheduled Tribes. There is a small floating population of the religious communities viz. Hindus, Christians etc. who constitute less than 5% of the total population. It is further informed that <b>no denotified and nomadic Tribes have been formed as a part of Criminal Tribes Act 1871 in respect of this Union Territory.</b>             |                                                                                                                                                                                                    |                                                                                                       |                                                                                                                                                                                                    |
| 34.     | Pondicherry          |                                                                                                                                                                                                                                                                                                                                                                                                                                 | -- NIL --                                                                                                                                                                                          |                                                                                                       |                                                                                                                                                                                                    |



## Annexure 13

## Para 13.20

### Training Programmes Conducted during 2006-2007

| Sl. No. | Name of the Institution/ Address                                                                 | Topic of Training Programme                                                                     | Venue                                                                                 | No. of programmes/ Date/ No. of participants                                                                                                                           |
|---------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.      | National Human Rights Commission, Faridkot House, Copernicus Marg, New Delhi.                    | National Conference on <u>'Effects of Corruption on Good Governance and Human Rights'</u> .     | Vigyan Bhavan, New Delhi.                                                             | <i>One (2 days)</i><br>9th & 10th May 2006<br><b>250 participants</b>                                                                                                  |
| 2.      | Lal Bahadur Shastri National Academy of Administration, Mussoorie, Uttaranchal                   | <u>Human Rights Sensitization</u>                                                               | National Institute of Administrative Research (NIAR), LBSNAA, Mussoorie, Utttaranchal | <i>One (2 days)</i><br>29th & 30th June 2006<br><b>20 participants</b>                                                                                                 |
| 3.      | Akshaya Rehabilitation Trust, Madurai (Tamil Nadu)                                               | Capacity Building Seminar on <u>'Disability Human Rights'</u>                                   | Madurai, Tamil Nadu                                                                   | <i>Four (1 day each)</i><br>26th Aug. 2006<br>3rd Sept. 2006<br>10th Sept. 2006<br>17th Sept. 2006<br><b>500 participants</b>                                          |
| 4.      | University School of Law and Legal Studies, Guru Gobind Singh Indraprastha University, New Delhi | Workshop on <u>'Role of Students in Creating Understanding and Advancement of Human Rights'</u> | Guru Gobind Singh I.P. University, Delhi                                              | <i>One (2 days)</i><br>8th & 9th Sept. 2006<br><b>100 participants</b>                                                                                                 |
| 5.      | University College of Law, Dharwad, Karnataka                                                    | National Workshop on <u>Women's Rights</u>                                                      | Dharwad, Karnataka                                                                    | <i>One (2 days)</i><br><i>14th &amp; 15th Oct. 2006</i><br><b>250 participants</b>                                                                                     |
| 6.      | Bharatiya Nagrik Kalyan and Apradh Nirোধak Samity, Hathrus, (U.P.)                               | <u>Human Rights Awareness for Panchayati Raj Officials</u>                                      | Dixit Dharam-shala, Agra Marg, Hathrus                                                | <i>One (1 day)</i><br><i>14th Oct. 2006</i><br><b>150 participants</b>                                                                                                 |
| 7.      | Assam State Human Rights Commission, Guwahati, Assam                                             | <u>Sensitisation Workshop on 'Human Rights Awareness'</u>                                       | Guwahati, Assam                                                                       | <i>One (2 days)</i><br><i>28th &amp; 29th Nov. 06</i><br><b>157 participants</b>                                                                                       |
| 8.      | Bihar Institute of Public Administration and Rural Development, Patna, Bihar                     | Training programmes on <u>Human Rights</u>                                                      | Academy premises, Patna                                                               | <i>Five (2 days)</i><br>14th - 15th Dec. 06<br><b>33 participants</b><br>18th - 19th Jan. 07<br><b>34 participants</b><br>12th-13th March 07<br><b>33 participants</b> |

| Sl. No. | Name of the Institution/ Address                                                                                                  | Topic of Training Programme                                                               | Venue                                                           | No. of programmes/ Date/ No. of participants                                                                                                                                                          |
|---------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |                                                                                                                                   |                                                                                           |                                                                 | <i>28th - 29th March 07</i><br><b>35 participants</b>                                                                                                                                                 |
| 9.      | Institute of Management Public Administration & Rural Development, Jammu & Kashmir                                                | Human Rights <u>Training of Trainers (TOT)</u>                                            | Jammu and Srinagar                                              | <i>Three (3 days each)</i><br>14th -16th Dec. 06 (Jammu)<br><b>17 participants</b><br>5th - 7th Feb.2007 (Srinagar)<br><b>24 participants</b><br>26th-28th Feb.2007 (Jammu)<br><b>23 participants</b> |
| 10.     | Administrative Training Institute, Govt. of Karnataka, Mysore                                                                     | <u>Child Trafficking</u>                                                                  | Belgaum                                                         | <i>Two (3days each)</i><br>-4th Jan. 07 - 3rd Mar. 07<br><b>35 participants</b>                                                                                                                       |
| 11.     | Assam Administrative Staff College, Jawahar Nagar, Khanapara, Guwahati                                                            | <u>TOT Course on Human Rights</u>                                                         | Assam Administrative Staff College, Guwahati                    | <i>One (3-days)</i><br><i>8th to 10th Jan.07</i><br><b>157 participants</b>                                                                                                                           |
| 12.     | Shri Krishna Institute of Public Admn, Govt. of Jharkhand, Ranchi                                                                 | <u>Training of Officers on Human Rights issues</u>                                        | SKIPA, Ranchi                                                   | <i>Two (3 days each)</i><br>15th - 17th Jan.2007<br>22nd - 24th Jan. 2007<br><b>17 participants</b>                                                                                                   |
| 13.     | Amity School of Natural Resources and Sustainable Development, NOIDA Uttar Pradesh                                                | National Seminar on <u>'Human Rights' and related Environmental issues</u>                | NOIDA (U.P.) (Jointly with NHRC)                                | <i>One (2 days)</i><br>24th - 25th Jan. 07<br><b>120 participants</b>                                                                                                                                 |
| 14.     | Gujarat State Judicial Academy, Gujarat High Court, 16, Sola, Ahmedabad - 380 060 Gujarat                                         | Training Programme on <u>Human Rights</u>                                                 | Academy Hall, Gujarat State Judicial Academy Gujarat High Court | <i>One (2 days)</i><br>27th -28th Jan. 07<br><b>54 participants</b>                                                                                                                                   |
| 15.     | SEVAC - Sane and Enthusiast Volunteers' Association of Calcutta Podda Apartments Tala Thakur Pukur Kolkotta - 700 063 West Bengal | Mental Health Education for Prison Personnel working in Orissa, Jharkhand and West Bengal | Central Hall of Academy of Fine Arts, Calcutta                  | <i>One (2 days)</i><br><i>1st - 2nd Feb. 07</i><br><b>47 participants</b>                                                                                                                             |
| 16.     | Indian Society of Victimology, University of Madras, Chennai, Tamil Nadu                                                          | 2nd International and 6th Beinnial Conference of the Indian Society of Victimology        | University of Madras, Chepauk, Chennai                          | <i>One (3 days)</i><br><i>8th - 10th Feb. 07</i><br><b>250 participants</b>                                                                                                                           |

| Sl. No. | Name of the Institution/<br>Address                                                                            | Topic of Training<br>Programme                                                        | Venue                                                      | No. of programmes/ Date/<br>No. of participants                                                                                    |
|---------|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 17.     | Deptt. of Personnel & Administrative Reforms, Administrative Training Institute, Naharlagun, Arunachal Pradesh | TOT Training Programme on <u>Human Rights Issue</u>                                   | ATI premises<br>Itanagar                                   | <i>One (3 days)</i><br>12th -14th Feb.07<br><b>25 participants</b>                                                                 |
| 18.     | Institute of Judicial Training & Research Vineet Khand GomtiNagar, Lucknow (U.P.)                              | <u>Human Rights for Judicial and Police Officers</u>                                  | Institute of Judicial Training & Research, UP, Lucknow     | <i>One (3 days)</i><br>24th - 26th Feb. 07<br><b>22 participants</b>                                                               |
| 19.     | Nalsar University of Law, Hyderabad                                                                            | <u>Tribes and Human Rights</u>                                                        | Raisoni Law College, Nagpur                                | <i>One (2 days)</i><br>27th - 28th Feb. 2007<br><b>100 participants</b>                                                            |
| 20.     | Judicial Officers' Training & Research Institute, High Court of MP, Jabalpur                                   | Workshop on <u>Protection of Human Rights- Role of District Judiciary</u>             | Judicial Officers' Training & Research Institute, Jabalpur | <i>One (2 days)</i><br>27th - 28th Feb. 07<br><b>40 participants</b>                                                               |
| 21.     | Administrative Training Institute, Mizoram                                                                     | Seminar on Human Rights - Concept & Issues                                            | Conference Hall of ATI, Mizoram, Aizawl                    | <i>One (2 days)</i><br>1st - 2nd March 07<br><b>44 participants</b>                                                                |
| 22.     | Haryana Institute of Public Administration, Gurgaon, Haryana                                                   | <u>Training of Trainers programme on Human Rights</u>                                 | Gurgaon                                                    | <i>One (5 days)</i><br>5th - 9th March 07<br><b>22 participants</b>                                                                |
| 23.     | Mahatma Gandhi State Institute of Public Administration, Punjab                                                | Programmes on <u>Human Rights</u>                                                     | Academy premises, Chandigarh                               | <i>Two (3 days each)</i><br>7th - 9th March 07<br><b>15 participants</b><br>19th - 21st March 07<br><b>15 participants</b>         |
| 24.     | IIPA, Karnataka Regional Branch, Karnataka                                                                     | Training course on <u>Human Rights</u>                                                | Belgaun Karnataka                                          | <i>One (3 days)</i><br>12th - 14th March 07<br><b>50 participants</b>                                                              |
| 25.     | Chhattisgarh Academy of Administration, Chhattisgarh                                                           | 1. Workshop on Child Labour<br>2. Workshop on Women's Improvement and gender equality | Academy premises                                           | <i>Two (3 days)</i><br>14th - 16th Mar. 07<br><b>30 participants</b><br>five days<br>20th - 24th Mar. 07<br><b>31 participants</b> |



| Sl. No. | Name of the Institution/ Address                                                                                                         | Topic of Training Programme                                          | Venue                                  | No. of programmes/ Date/ No. of participants            |
|---------|------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------|---------------------------------------------------------|
| 26.     | Association of Social Affairs and Rare Folk Art (ASARA), Jalandhar, P.O. Drabla, Teh. Rajgarh, Distt. Sirmour - 173 223 Himachal Pradesh | Seminar on Human Rights                                              | Shannaie, Shergoun, Distt. Sirmour, HP | One (3 days)<br>16th - 18th Mar. 07<br>150 participants |
| 27.     | Sri Srinivasa Education & Voluntary Organisation, Ongole, Andhra Pradesh.                                                                | Seminar on Human Rights                                              | Ongole, Prakasam Distt. A.P.           | One (2 days)<br>17th - 18th Mar. 07<br>450 participants |
| 28.     | Garima Gayatri Shiksha and Samaj Kalyan Samiti, Near Dolia Gate, Chanderi Distt, Ashok Nagar, Madhya Pradesh                             | Workshop on Human Rights                                             | Chanderi in M.P.                       | One (3 days)<br>21st - 23rd Mar. 07<br>350 participants |
| 29.     | Manipur Human Rights Commission, Court Complex, Lamphelpat, Imphal - 759 004, Manipur                                                    | TOT programme                                                        | Imphal (SHRC premises)/Suitable venue  | One (3 days)<br>28th - 30th Mar. 07<br>35 participants  |
| 30.     | Collective Initiation for Social Solidarity (CISS), At/PO: Khandabindha, via. Gadasila, Distt. Dhenkanal - 759025, Orissa                | Human Rights Literacy and Awareness for Women Self Help Groups       | District Headquarters, Dhenkanal       | One (1 day)<br>29th March 2007<br>60 participants       |
| 31.     | Rajasthan State Human Rights Commission, Jaipur                                                                                          | Training cum Workshop on <u>Child Labour and Women Trafficking</u>   | H.C.M. RIPA, Jaipur (Rajasthan)        | One (1 day)<br>29th March 07<br>54 participants         |
| 32.     | Society for Social Empowerment, New Delhi                                                                                                | National seminar on Disability, employment and Human Rights in India | IMA Hall, Near Gandhi Maidan, Patna    | One (3 days)<br>29th - 31st Mar. 07<br>70 participants  |

|               |                        |   |                         |
|---------------|------------------------|---|-------------------------|
| NB:           | 1. BIPARD, Bihar       | - | 5 programmes            |
|               | 2. Akshaya, Tamil Nadu | - | 4 "                     |
|               | 3. IMPA, Jammu         | - | 3 "                     |
|               | 4. ATI, Mysore         | - | 2 "                     |
|               | 5. SKIPA, Ranchi       | - | 2 "                     |
|               | 6. MGSIPA, Punjab      | - | 2 "                     |
|               | 7. Chhattisgarh        | - | 2 "                     |
|               | 8. Other Institutions  | - | 25 (one programme each) |
| <b>Total:</b> |                        |   | <b>45</b>               |

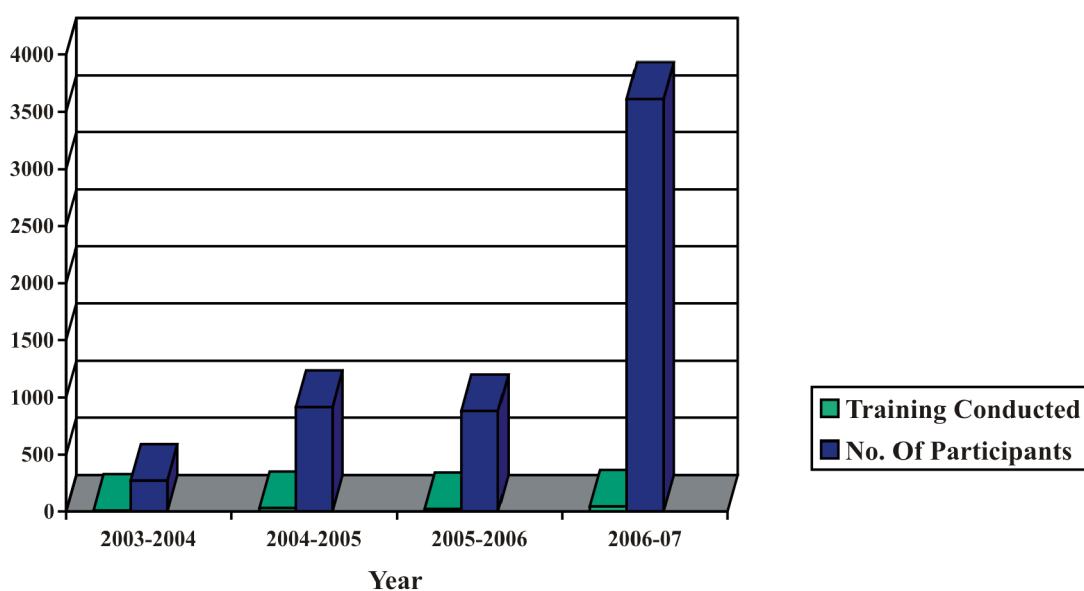
**SUMMARY OF TRAINING CONDUCTED BY NHRC**  
**(Training/seminars/workshop conducted by NHRC during 2006-07)**

| <b>April 2006 - March 2007</b> |              |                                                    |                          |
|--------------------------------|--------------|----------------------------------------------------|--------------------------|
| <b>Sl. No.</b>                 | <b>Place</b> | <b>Organizing Institutes</b>                       | <b>No. of Programmes</b> |
| 1.                             | New Delhi    | NHRC, GGS IP University                            | 2                        |
| 2.                             | Mussoorie    | LBSNA, Uttaranchal                                 | 1                        |
| 3.                             | Madurai      | Akshaya Rehabilitation Trust, Tamil Nadu           | 4                        |
| 4.                             | Dharward     | University College of Law, Karnataka               | 1                        |
| 5.                             | Hathrus      | Bharatiya Nagrik Kalyan and Aparadh                |                          |
|                                |              | Nirodhak Samiti, U.P.                              | 1                        |
| 6.                             | Guwahati     | Assam Administrative Staff College                 | 1                        |
| 7.                             | Guwahati     | Assam SHRC                                         | 1                        |
| 8.                             | Patna        | BIPARD, Bihar                                      | 5                        |
| 9.                             | Jammu        | IMPA, J&K                                          | 2                        |
| 10.                            | Srinagar     | IMPA, J&K                                          | 1                        |
| 11.                            | Mysore       | ATI, Mysore                                        | 2                        |
| 12.                            | Ranchi       | SKIPA, Jharkhand                                   | 2                        |
| 13.                            | NOIDA        | Amity University                                   | 1                        |
| 14.                            | Gujarat      | JTI, Ahemdabad                                     | 1                        |
| 15.                            | Calcutta     | SEVAC, West Bengal                                 | 1                        |
| 16.                            | Chennai      | Indian Society of Victimology                      | 1                        |
| 17.                            | Naharlagum   | ATI, Arunachal Pradesh                             | 1                        |
| 18.                            | Lucknow      | JTI, UP                                            | 1                        |
| 19.                            | Nagpur       | Nalsar University of Law, Hyderabad                | 1                        |
| 20.                            | Jabalpur     | JTI, MP                                            | 1                        |
| 21.                            | Aizawl       | ATI, Mizoram                                       | 1                        |
| 22.                            | Gurgaon      | HIPA, Haryana                                      | 1                        |
| 23.                            | Chandigarh   | MG State Institute of Pub. Admn., Punjab           | 2                        |
| 24.                            | Belgaun      | IIPA, Karnataka                                    | 1                        |
| 25.                            | Chhattisgarh | Chhattisgarh Academy of Administration             | 2                        |
| 26.                            | Shergoun     | ASARA, HP                                          | 1                        |
| 27.                            | Ongole       | Sri Srinivasa Education & Vol. Orgn., A.P.         | 1                        |
| 28.                            | Chanderi     | Garima Gayatri Shiksha & Samaj Kalyan Samiti, M.P. | 1                        |
| 29.                            | Imphal       | SHRC, Manipur                                      | 1                        |
| 30.                            | Dhenkanal    | CISS, Orissa                                       | 1                        |
| 31.                            | Jaipur       | SHRC, Rajasthan                                    | 1                        |
| 32.                            | Patna        | Society for Social Empowerment, N. Delhi           | 1                        |
|                                | <b>Total</b> |                                                    | <b>45</b>                |

## Comparative summary of trainings held during 2003 - 2007

| Year                       | Trainings conducted | No of participants |
|----------------------------|---------------------|--------------------|
| 2003-04<br>Sep 03-Mar 04   | 08                  | 272                |
| 2004-05<br>Apr 04-Mar 05   | 30                  | 915                |
| 2005-06<br>Apr 05-Mar 06   | 22                  | 880                |
| 2006-07<br>Apr 06 - Mar 07 | 45                  | 3613               |

**Bar Chart**





**Mrs. Aruna Sharma, Joint Secretary, NHRC's presentation  
on working towards an effective complaint handling system  
and National Institutions experience at the ICC meeting  
held in Geneva during March, 2007**

**Torture: very negation of human dignity**

- crime under the international law
- cuts at the root of the culture of human rights.
- ruins the victim physically as well as mentally
- subject of so many conventions and Declarations
- all aiming at total banning of it in all forms.

UN resolution in December, 1997, proclaiming 26th June as United Nations International Day in support of victims of Torture

**Status of India on the Issue**

- India is a party to the ICCPR, ICESCR, and CRC.

India is not a party to the First Optional Protocol, OPCAT or the Refugee Convention.

- It has signed, but not ratified, the CAT

India is a party to the Geneva Conventions of 12 August 1949 but not their protocols.

India is also not a party to the Rome Statute.

**HOWEVER HAVE STRONG CONSTITUTIONAL PROVISIONS & ACTS & PRACTICE**

*Provides for several rights and freedoms including :*

- protection of life and personal liberty (article 21) no person shall be deprive of his life and personal liberty except according to the procedure established by law
- rights relation to arrest and detention (article 22) provides protection against arrest and detention in certain cases.

**OTHER ENACTMENTS**

**1. Indian Penal Code:**

Section 220 – Indian Penal Code punishes a person, who having authority commits for trial or confines any person knowing that in doing so, he is acting contrary to the law

Section 330- Indian Penal Code punishes voluntary causing hurt for extorting confession of any information, which may lead to detection of an offence.

Section 331- punishes voluntary causing grievous hurt to extort or compel restoration of property.

Section 376(2) - Punishes rape committed in police custody

Section 376(B) - Punishes for sexual intercourse by public servant with woman in his custody.

## **2. The Indian Evidence Act 1872**

Section 25 - no confession made to a police officer shall be proved as against a person accused of any offence.

Section 26 - no confession made by any person whilst he is in custody of police officer unless it is made in the immediate presence of a Magistrate shall be proved as against such a person.

## **3. The Code of Criminal Procedure 1973**

Sec. 41-44 enumerates the circumstance under which, police officer shall be proved as against a person accused of any offence.

Section 49 - provides that the person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

*The Code also provides certain rights to the arrested persons:*

- The detainee has the right to be taken before a Magistrate without delay under (Section 56 and 76).
- He has the right not to be detained for more than 24 hours without judicial scrutiny (Sec 57 and 76).
- He also has the right to be examined by a medical practitioner at the request of the arrested person (Sec. 54).
- mandatory inquiry by a Sessions Judge in each case of custodial death, rape or grievous hurt.

## **4. Suggested further amendment to existing laws reiterating suggestion on Indian Law Commission (ILC)**

- to the effect that a Section 114(B) be inserted in the Indian Evidence Act 1872

Introduce rebuttable presumption that injuries sustained by a person IN police custody may be presumed to have been caused by a police officer

Section 197 of the Code of Criminal Procedure amended, to obviate the necessity for governmental sanction for the prosecution of defaulter

### *Public law regime in India*

- enforceable right to compensation in case of 'Torture' including 'mental torture' inflicted by the State or its agencies e.g:

Rudal Shah V. State of Bihar (AIR 1983 SC 1086);  
 Bhim Singh V. State of J& K (1984 SCC Supp.504);  
 Saheli V. Commission of Police [(1990)1 SCC 422],

- Nilabati Behera v. State (AIR 1993 SC 1960) the Court: crystallized the judicial right to compensation
- D.K.Basu's case :As compensation to be paid by State: State held vicariously liable for the illegal acts of its officials.
- the sentencing policy of the judiciary in torture related cases, against erring officials in India, has become very strict

## **The National Human Rights Commission of India**

### **1. *Receives reports, inquire, monitor, recommend interim relief and action against erring personnel***

- 14 December, 1993 the Commission issued instructions :

to all States to direct all District Magistrates and Superintendents of Police to report directly to the Commission

1. any instance of death(1720) or rape(5) in police custody
2. within 24 hours of its occurrence,
3. failing which there would be presumption that efforts were being made to suppress the fact
  - post-mortem report, a videography report on the post-mortem examination, an inquest report, a magisterial report, a chemical analysis report etc.
  - The new amendment to CrPC has made judicial inquiry mandatory in such instances.

### **2. Undertakes Research and brings out publications**

- *Poor People in custody – experience of biases in the Criminal Justice System*
- *Rights of Women Prisoners in Indian Jails – a sociological study*

### **3. Modules introduced on human rights in the training courses**

- *the police*
- *paramilitary forces and the army*
- *the public servants.*

### **4. Visits to Jails in various States/UTs : by the Chairperson, Members and Special Rapporteurs of the Commission without intimation**

- *make assessment of the living conditions, state of sanitation*
- *extent of medical cover, production in court,*
- *overcrowding of prisons, wage claims etc.,*
- *specific problems of convicts and under trials.*

## **Role of NHRC India to sign and ratify the Convention Against Torture**

1. As a result of Constant persuasion by the Commission Government of India signed by India on 14th October 1997

2. Now requesting the Government of India to ratify the convention
3. A draft Cabinet note along with the draft bill for ratification of Convention against Torture was sent to the Commission for comments by the Ministry of Home Affairs, Government of India. The comments of the Commission which were communicated to the MHA in July, 2006.

### **THUS**

- As stated Article 21 of the Constitution already covers this area effectively.
- The Right against Torture has been judicially recognized by the Apex Court as Fundamental Right.
- making that right and the corresponding obligation of the State and its agencies a fundamental entrenched right.



**(REPORT FROM FORUM MEMBERS)**

**Presented by**

**Hon'ble Dr. Justice Shivaraj V. Patil**  
Member, NHRC of India

**On 1 August 2006**

**At the 11th Annual Meeting of Asia Pacific Forum of NIs**  
**Suva, Fiji**



The National Human Rights Commission of India was set up on 12 October, 1993 under a Parliamentary enactment, namely, The Protection of Human Rights Act, 1993 in conformity with 'Paris Principles'. The Commission is an autonomous institution both functionally and financially with a wide mandate for better protection of Human Rights of the people of the country.

Dr. Justice A.S. Anand as Chairperson and Dr. Justice Shivaraj V. Patil, Justice Bhaskar Rao, Shri R.S. Kalha and Shri P.C. Sharma as Members of the Commission continued to serve.

During the year 2005-06, the Commission received 74,444 complaints. Against this, the Commission disposed of 80,923 complaints which included complaints carried forward from earlier years. In the first year of the establishment, the Commission received 496 complaints complaining violation of the Human Rights. The enormous increase in the number of complaints indicates the awareness of Human Rights among the people and the confidence the people have in the Commission.

On an average 93% of recommendations made by the Commission are accepted/ implemented by the Central / State Governments as the case may be.

As reported earlier, at the 10<sup>th</sup> Annual Meeting of the APF Forum at Mongolia, next of the kin of each of the 109 deceased persons were given monetary relief @ Rs. 2.5 lakhs in Punjab Mass Cremation case. During the year under report, the monetary relief at the same rate was given to the next of the kin of the deceased in 85 cases amounting to Rs. 2,12,50,000/-. This was the case remitted by Supreme Court to the Commission.

The Commission deeply concerned with better protection of Human Rights continued its work on issues like terrorism and insurgency, torture, custodial death, prison reforms, rights of disabled, health, rights of mentally challenged, food security, education, rights of minorities, Scheduled Castes and Scheduled Tribes and internally displaced persons, etc.

On 11.11.1997, the Supreme Court entrusted to the Commission the responsibility of overseeing the functioning of three mental institutions. The Commission has been continuing its work through the Special Rapporteur. Due to continuous efforts of the Commission, during the year 2005-06 there has been a significant progress. It is heartening to note that more than 90% of the admissions are voluntary admissions in these hospitals consistent with the provisions of the U.N. Principles for the Protection of Persons with Mental Illness and Improvement of Mental Health Care (1999). There has been an overall shift from custodial care to treatment and rehabilitation. Cell admissions have been totally stopped and close wards are being progressively converted into open wards.

Since December, 1996, the Commission has been dealing with complaints alleging starvation deaths in Koraput, Bolangir and Kalahandi (KBK) districts of Orissa. The issue was also raised in writ petition in Supreme Court. On learning that the Commission had taken cognizance of the matter, the Supreme Court allowed the Commission to deal with the matter and empowered it to issue enforceable recommendations and directions. The Commission after hearing the parties formulated a practical programme covering rural water supply schemes, public health care, social security schemes, water and soil conservation measures and rural development schemes. Much progress has been made in this regard due to monitoring of the programme. Shri Chaman Lal, Special Rapporteur, after visiting the area has presented recently an encouraging picture of execution of these schemes which was considered in the proceedings of the Commission dated 18.7.2006.

These remitted cases by the Supreme Court to the Commission and the Commissions proceedings clearly indicate the complementary and cooperative role of the judiciary and the Commission in serving the cause of Human Rights.

## **Economic, Social and Cultural Rights**

There exist massive inequalities particularly in the developing countries which render the enjoyment of Human Rights illusory. Clearly realizing that political freedom would not be purposeful for the teeming millions of people who suffer from poverty and social evils unless economic, social and cultural rights are assured to them, the Commission, during the year 2005-06 has made intense and serious efforts towards realization of economic social and cultural rights.

In the Constitution of India, Part-III and Part-IV deal with Fundamental Rights and Directive Principles of State Policy. Part III relates to civil and political rights, Part IV talks of economic, social and cultural rights. Austin aptly stated that both “Fundamental Rights and Directive Principles” constitute conscience of the Constitution. The concept of socio and economic justice embodied in the form of Directive Principles is the most dynamic, flexible and revolutionary aimed at removing inequalities among the citizens.

The Supreme Court of India dealing with number of cases under Article 21 of the Constitution of India as to life and liberty has delivered several landmark judgments meaningfully expanding the concept of “Right to Life” to mean right to live with human dignity and all that goes with it.

### **International Round Table on National Institutions Implementing Economic, Social and Cultural Rights**

The Commission in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized a three-day International Round Table on National Institutions Implementing Economic, Social and Cultural Rights at New Delhi from 29 November to 1 December 2005 mainly to discuss and strengthen the role and capacity of National Institutions in protecting and promoting Economic, Social and Cultural Rights (ESCR).

Twenty-four National Institutions from countries in America, Africa, Europe and Asia-Pacific participated in the Round Table. A declaration called the ‘New Delhi Declaration’ was adopted by the delegates at the conclusion of the Round Table.

### **Rights of Disabled**

Clearly bearing in mind that the persons with disabilities are equally entitled to a full range of Human Rights like any other section of people, the Commission has been making efforts to create awareness at all levels of training for the administrators and other professionals. The Commission has advised Government of India and the State Governments to introduce disability components in all their training initiatives and in their development plans.

The Indian Commission has been privileged to be involved, through its Special Rapporteur on disability related issues, in the role assigned to National Institutions in the drafting of the international Convention on Disability which has made substantial progress. In June, 2006 the Commission facilitated a discussion between the Special Rapporteur and a delegation from the Irish Commission as a prelude to the next meeting of the Ad-Hoc Committee which is scheduled to meet in August, 2006.

### **Terrorism**

It is unfortunate that millions of innocent people all over the world have been helpless victims of mindless and inhuman violence perpetrated by the various terrorist groups in recent years. Violating Human Rights by terrorist groups are a serious and major concern for the world community. The current century has

begun with the emergence of international networks of terror directly targeting democratic and peace-loving States. Our Prime Minister Dr. Manmohan Singh in his address at the 59<sup>th</sup> Session of the U.N. General Assembly on 23<sup>rd</sup> September, 2004 observed:-

“Terrorism exploits the technologies spawned by globalisation, recruits its foot soldiers on ideologies of bigotry and hatred, and directly targets democracies. And yet it is a sad reality that international networks of terror appear to cooperate more effectively than the democratic nations that they target.”

The Commission has always stood firm in its belief that the twin concepts of individual and national security are mutually compatible and attainable and not contradictory as the lay person often erroneously believes. At the same time, the Commission believes that terrorism has to be dealt with firmly and decisively. The recent killing of hundreds of innocents in Mumbai Train Blasts on 11.7.2006 can never be condoned. It has been heartening that the world has been quick and emphatic to condemn these acts of terrorism faced by India.

### **National Action Plan for Human Rights**

The Commission has taken up the task of preparing the National Action Plan. The Commission constituted a Working Group and an Advisory Committee including representatives of various departments of the Government, NGOs and eminent lawyers to prepare a National Action Plan for Human Rights. The Working Group decided to focus on the following areas which would require a continuous dialogue and discussion before taking an appropriate shape for its documentation in the body of National Action Plan for Human Rights: Human rights education; Criminal justice system - encompassing police , prosecution court etc; Rights of vulnerable (women, children, bonded labour, dalits, elderly, tribals, minorities, disabled etc.); Right to food, water, health and environment; Right to social security Globalization and human rights.

The Working Group has recently decided to prepare draft chapters of the proposed National Action Plan for Human Rights and these chapters will be extensively discussed with the concerned ministries/ departments of the Government of India before they are finalized.

### **Prevention and Combating of Child Marriage**

In order to curb the practice of child marriage, the Commission recommended to the Central Government (Ministry of Women & Child Development) a number of amendments to the Child Marriage Restraint Act, 1929. In pursuance of these recommendations, the Central Government introduced a Bill entitled the Prevention of Child Marriage Bill, 2004 in the Rajya Sabha (Council of States) on 20.12.2004 incorporating almost all the recommendations of the Commission.

The Commission, however, has continuously been emphasizing on the need for public awareness to end this evil practice of child marriage. The Chairperson of the Commission has written on 17.3.2005 to the concerned Ministries/Departments in the Central Government and all the State Governments and Union Territories to organise mass-scale awareness programmes/campaigns, in association with the field level implementing agencies so as to educate and sensitise people about the demerits of child marriage.

### **International Conventions and Treaties**

#### ***A) Optional Protocols to the Convention on the Rights of the Child***

The Commission's persistent efforts yielded dividends with the Government of India ratifying, both, the Optional Protocols. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was ratified on 30<sup>th</sup> November 2005 with the following Declaration:-

“Pursuant to article 3(2) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Government of the Republic of India declare that:

- (i) The minimum age for recruitment of prospective recruits into Armed Forces of India (Army, Air Force and Navy) is 16 years. After enrollment and requisite training period, the attested Armed Forces personnel is sent to the operational area only after he attains 18 years of age;
- (ii) The recruitment into the Armed Forces of India is purely voluntary and conducted through open rally system/open competitive examinations. There is no forced or coerced recruitment into the Armed Forces”.

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified by the Government of India on 16 August 2005.

## **B) Convention Against Torture**

The Commission has been requesting the Government of India to ratify the Convention against Torture and other Cruel, Inhuman Or Degrading Treatment Of Punishment 1984, which was signed by India on 14 October 1997 on the recommendation of the Commission. The Commission has been urging early ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment Of Punishment 1984. The Government has now drafted a Bill to ratify the Convention Against Torture. The Ministry of Home Affairs has requested the Commission to send the comments on the draft Bill. The Commission has responded on 14.7.2006 to the Government and is hopeful that the Convention Against Torture will be ratified in near future.

## **Spread of Human Rights Awareness**

Creating Human Rights awareness is considered important and useful for better protection and promotion of Human Rights. With this in view, the Commission has organized/supported several workshops, training programmes and seminars for sensitizing the stakeholders on Human Rights issues consisting of academicians, activists, NGOs, civil servants, etc. In the year 2005-06, twenty-five training programmes were conducted addressing problems of human rights and prevention of atrocities against the weaker sections, legal literacy for the women, mental health education, combating trafficking in women and children, child rights, are a few to mention. As the country is vast, the Commission has tried to reach all the regions of the country.

Corruption being one of the key violators of human rights, a two-day **National Conference on “Effects of Corruption on Good Governance and Human Rights”** was organised in the month of May 2006. The main objective of the Conference was to explore the factors responsible for precipitating corruption in India as well as ponder over strategies that could contain the problem of corruption in the country.

This Conference was inaugurated by President of India and the concluding address was delivered by the Chief Justice of India.

The Indian Army also organized sensitization workshop on Human Rights at Kargil on 22.5.2005 and Leh on 15.4.2005 which were chaired by Member Dr. Justice Shivaraj V. Patil and Member Shri P.C. Sharma respectively.

The Commission conducted summer internship programmes from 15.5.2006 to 14.6.2006 to create awareness in Human Rights among the students of various law colleges and universities.

The Commission published / encouraged to publish the following books for creating awareness in Human Rights during the year 2005-2006:-

- 1) "Know Your Rights" Series (Booklets)
- 2) Disability Manual – Human Rights Disability and Law
- 3) Report of the Proceedings of the International Round Table on National Institutions implementing Economic, Social and Cultural Rights
- 4) From Bondage to Freedom : An Analysis of International Legal Regime on Human Trafficking
- 5) Hand Book on Human Rights for Judicial Officers
- 6) Handbook on Employment of Persons with Disabilities in Government of India

## **Trafficking in Women and Children**

The Commission had conducted an Action Research on Trafficking to know the trends, dimensions, factors and responses related to trafficking in women and children in India. It had also organised a National Workshop on 27<sup>th</sup> & 28<sup>th</sup> February, 2004 to Review the Implementation of Laws and Policies Related to Trafficking: Towards an Effective Rescue and Post-Rescue Strategy. In order to ensure implementation of the recommendations made in the Action Research as well as the National Workshop in true spirit, the Commission formulated a Plan of Action to Prevent and End Trafficking in Women and Children in India and has disseminated the same on 18<sup>th</sup> July, 2006 to all concerned for necessary action.

## **Juvenile Justice in India**

Poor implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 by the States and Union Territories, necessitated the Commission to review the status of implementation of the Act all over the country. For this purpose, the Commission is collecting information from all the State Governments and Union Territories. The Commission has also undertaken a research study on the subject. The study is on the verge of completion.

## **Exchanges and other Interactions**

A number of dignitaries concerned with Human Rights and of the National Institutes from different countries visited the Commission and there was sharing of experiences.

## **Abolition of Manual Scavenging**

The Commission has been vigorously pursuing the need to end the degrading practice of manual scavenging in the country.

The Commission has held a number of meetings with the State Governments. The last such meeting was held on 25<sup>th</sup> February, 2006 on Eradication of Manual Scavenging with the representatives of the Central and State Governments and other stakeholders. On the basis of detailed deliberations follow up action is being taken.

Pursuant to the efforts of the Commission, the Prime Minister made an announcement for abolition of manual scavenging. The Planning Commission accordingly formulated a National Action Plan for Total Eradication of Manual Scavenging by the end of 2007.

## **Financial Contribution to the APF**

The Commission has remitted an amount of US \$ 100,000 as its contribution to the Asia Pacific Forum during the year 2005-06

## **Right to Health**

### ***Emergency Medical Services***

The Commission has been concerned with the prevailing unsatisfactory system of emergency medical care in the country, which results in the loss of many lives. To look into this issue, the Commission constituted an Expert Group headed by an eminent medical specialist. The report of the Group revealed the lacunae which exist in the present system and made a number of recommendations for implementation, in the short term as well in the long term. These include enunciation of a National Accident Policy, establishment of Centralized Accident and Trauma Services in all Districts of all States / Union Territories etc. These recommendations were sent to the Government for taking necessary action on 12<sup>th</sup> May, 2004.

In addition, a National Action Plan to operationalise the Right to Health Care was proposed. The objectives of the National Action Plan include : explicit recognition of the Right to Health Care; delineation of essential health services and supplies; legal enshrinement of the Right to Health Care; initiation of mechanisms for joint monitoring etc. The recommendations of Regional Public Hearing and National action Plan were communicated to the Government in March, 2005.

### ***Right to Food***

The NHRC has consistently maintained that right to food is inherent to living a life with dignity. It has also expressed that right to food includes nutrition at an appropriate level. To deliberate on the food situation in the country as well as ways and means to make the right to food a reality to the common man, the Commission reconstituted its Core Group on Right to Food and met on 13 January 2006. The Group dwelled on issues relating to food security, monitoring of existing schemes and reforms in Public Distribution System, starvation deaths/suicides including the State's response to these occurrences, need for up-gradation of scientific and technological measures in the country and the spreading of awareness among the masses that all of them were entitled to get two square meals.

### ***Health Awareness Week for the Older Persons***

A health awareness week for the elderly was organised by the Commission along with an NGO working for the older persons from 20-24 March 2006 in New Delhi. The weeklong initiative was an attempt to address the crucial needs of the elderly that are not fully understood by them and their caregivers and to spread awareness of diseases that affect the elderly.

### ***Visit to Prisons and Mental Hospitals/Institutions***

The Chairman and Members of the Commission have been visiting prisons and mental hospitals/institutions from time to time with a view to seeing the prevailing conditions therein and to make recommendations for improving them and for providing necessary facilities.

### ***Best Bakery Case***

On 27.2.2002, some of the compartments of the Sabarmati Express Train were set on fire by a mob. Fifty-eight persons were burnt alive and more than 40 passengers received injuries. The Commission took suo motu cognizance of the news report and approached the Supreme Court as reported at the 10<sup>th</sup> Annual Meeting of the APF.

The Supreme Court directed retrial of the case in Mumbai i.e. outside the State of Gujarat. The victims of the Best Bakery Case finally got justice by the Mumbai trial court on 21.2.2006 when the Court convicted and awarded life imprisonment to 9 out of 17 accused. The court also issued show cause notice to all the

witnesses, including Zaheera Shaikh, who had turned hostile asking them to show cause why they should not be prosecuted for perjury.

### *Honda Motor Cycle and Scooters Workers case*

On 25.7.2005 the police brutally assaulted the agitating workers of Honda Motor Cycle and Scooters India at Gurgaon. The Commission took suo motu cognizance of the news item and recommended to the Government of Haryana to take effective steps for getting an independent enquiry preferably by CBI.

In response the State Government of Haryana informed (1) that certain cases have been registered at the Police Station against the workers and (2) the State Government had sanctioned payment of Rs. 20,000/- to each of the persons injured in the incident. The matter is under investigation.

### *Conclusion*

These are turbulent times in many parts of the world. It becomes apparent that in many ways the world has become complicated, to say the least. The destinies and interests of nations and its peoples have become interlinked to such an extent that invariably the actions of one have adversely affected the other, leading to strife and suffering. In all such tragic situations, it has been the common people, men, women and children who have their rights violated. Martin Luther King said – “Injustice anywhere is threat to justice everywhere.” This is the greatest challenge which all of us are faced with. In the constant endeavour for a better future, nations and its people should always respect the human rights of the people who could be affected in the process. But experience has shown that more often this is not so. The result is that innocent people all over the world, irrespective of their colour, religion and creed have suffered devastatingly.

The existence of the national institutions has to be seen in the above context. Every nation/State has its own priorities and goals. However, there can be minimum standards which can rightfully be expected to be fulfilled by all to meet their international obligations and the larger world order. The ‘Paris Principles’, adopted by the General Assembly is the edifice on which national institutions have to be set up. National institutions set up on the basis of these principles survive. A free and fully autonomous national institution, is the best guarantor for the protection of human rights within the country and the National Human Rights Commission of India is fully conscious of the same.

\* \* \*



## **Commonwealth Conference of National Human Rights Institutions**

The Commonwealth Secretariat had organized a conference on the Commonwealth National Human Rights Institutions at London, U.K. from 26th -28th February, 2007. One of the items on the agenda of the meeting was "Toward a Commonwealth Forum of National Human Rights Institutions".

Justice Y. Bhaskar Rao, Member and Smt. Aruna Sharma, Joint Secretary visited London, U.K. from 26th -28th February, 2007 to attend the Commonwealth Conference for National Human Rights Institutions.

During the course of the deliberations in the Conference, it was decided to set up a Steering Committee consisting of bureau of the conference Ms. Margaret Sekaggya (Commissioner, Uganda Human Rights Commission), Chair, Justice Y. Bhaskar Rao (Member, National Human Rights Commission of India), Vice-Chair and Mr. David Langtry (Commissioner, Canadian Human Rights Commission), Rapporteur, to consider the proposal setting up of a Commonwealth Forum of National Human Rights Institutions. The Steering Committee met in Geneva in March on the side lines of the ICC/HRC meeting to discuss the issue. The stand expressed by the NHRC-India on setting up of Commonwealth Forum of National Human Rights Institutions is re-produced below:-

" The matter was considered very carefully in the Commission and the Commission is of the opinion that if the suggested Forum is of the National Human Rights Institutions only, then by definition itself, it would become an exclusive body and not inclusive. The members and voting rights will only be of those NHRIs who are Paris Principles compliant. Thus it will automatically exclude the Ombudsman and other categories of National Institutions which are not compliant with Paris Principles. Thus it will only result in duplication of the discussion on issues as NHRIs compliant with Paris Principles are members of their regional bodies or ICC or both.

Hence, it is suggested that we could have an informal Commonwealth forum of all the Human Rights Institutions of the member countries of Commonwealth. Having this kind of a common forum, we feel will enable us to forward the objective of capacity building, encouraging countries to establish Paris Principles compliant NHRIs and to assist these countries to enhance their activities without duplication or overlapping of activities with regional coordinating bodies and ICC. The Human Rights Unit of the Commonwealth Secretariat could fund the activities of this informal forum. Thus it will not invite any contribution from the NHRIs and the Commonwealth Secretariat can appropriately fund the Human Rights Unit for its activities like capacity building, holding preliminary meetings during CHOGM, ICC etc".

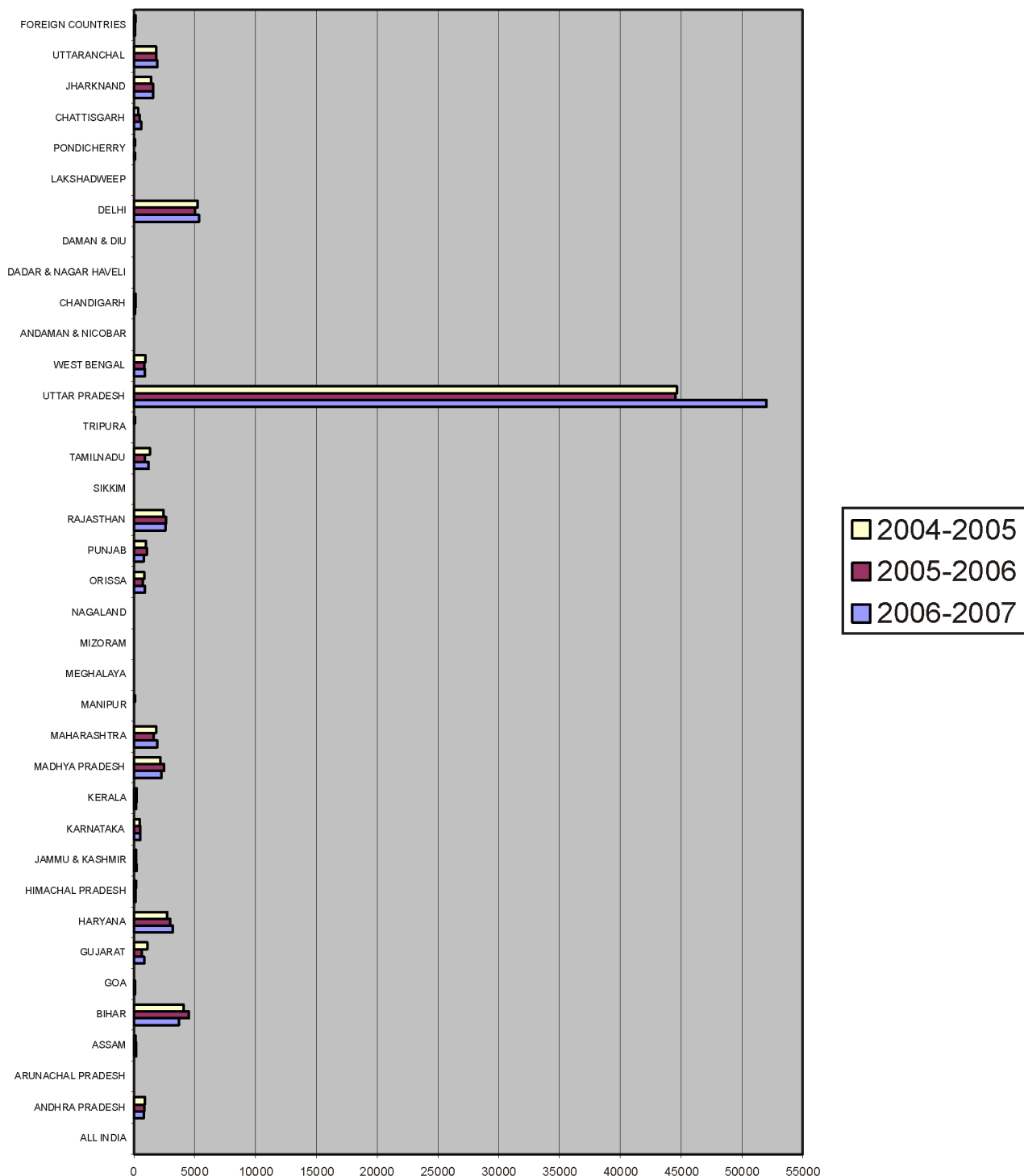
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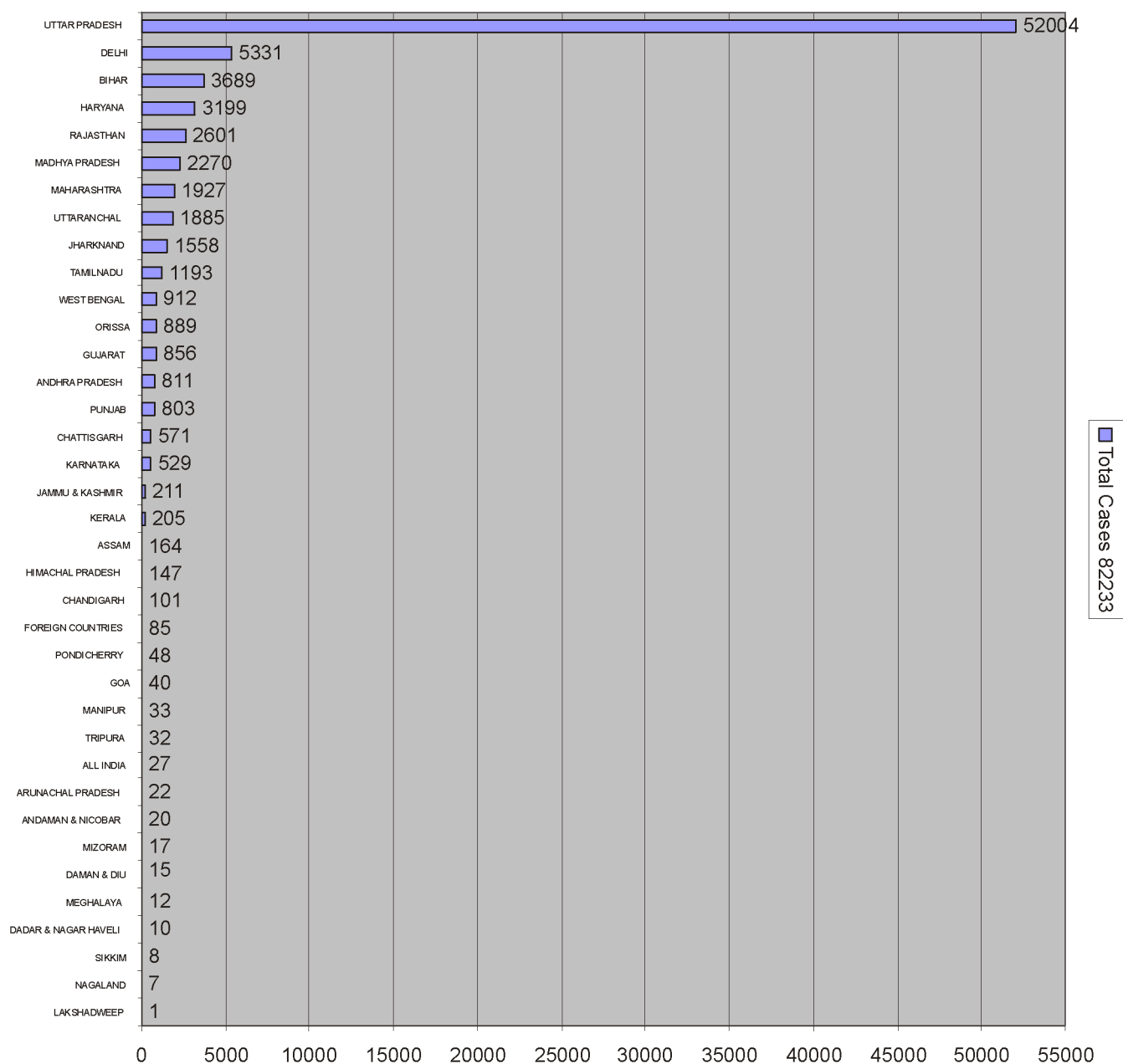


# Charts & Graphs

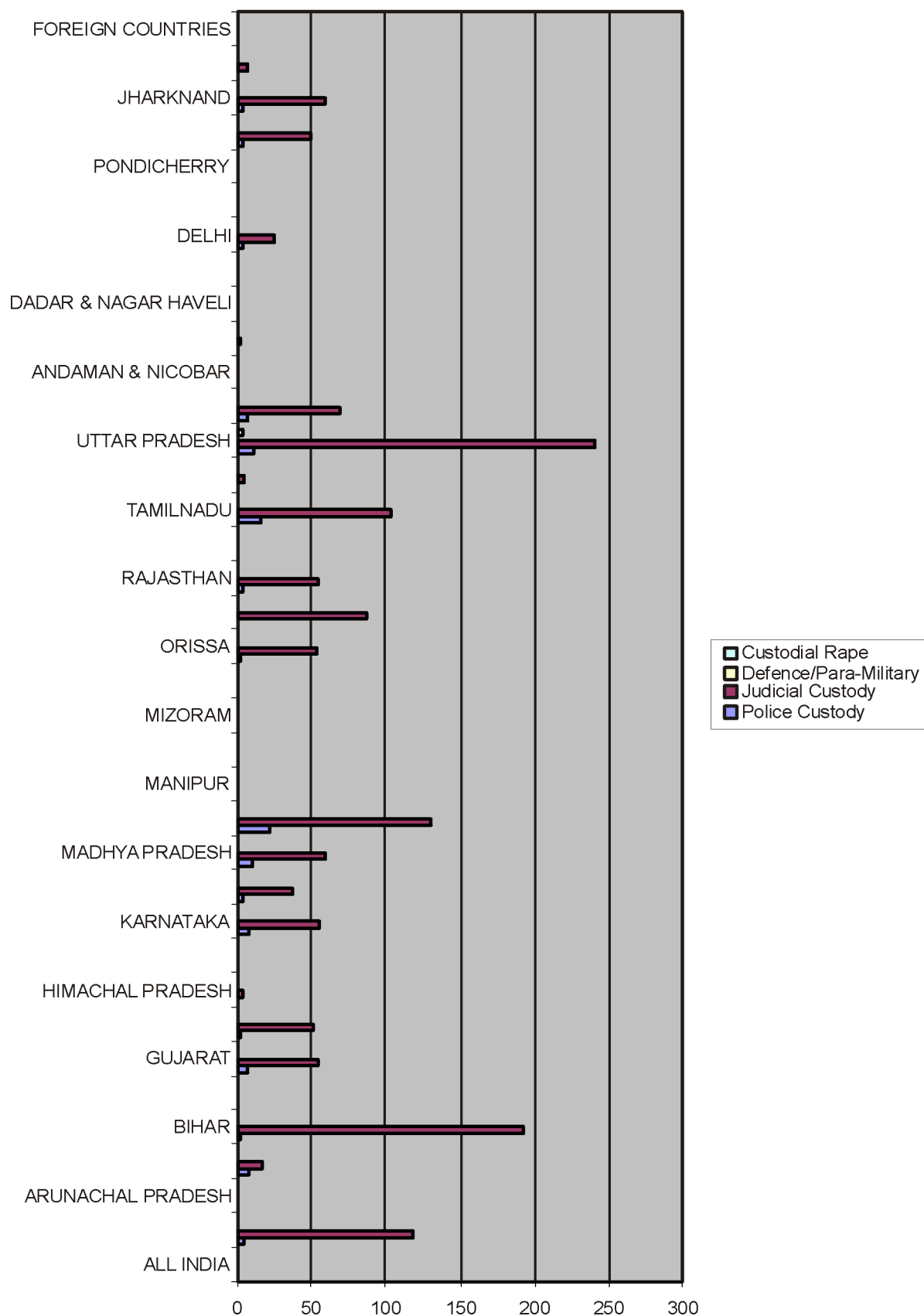
**List of cases Registered During the Last Three Years**



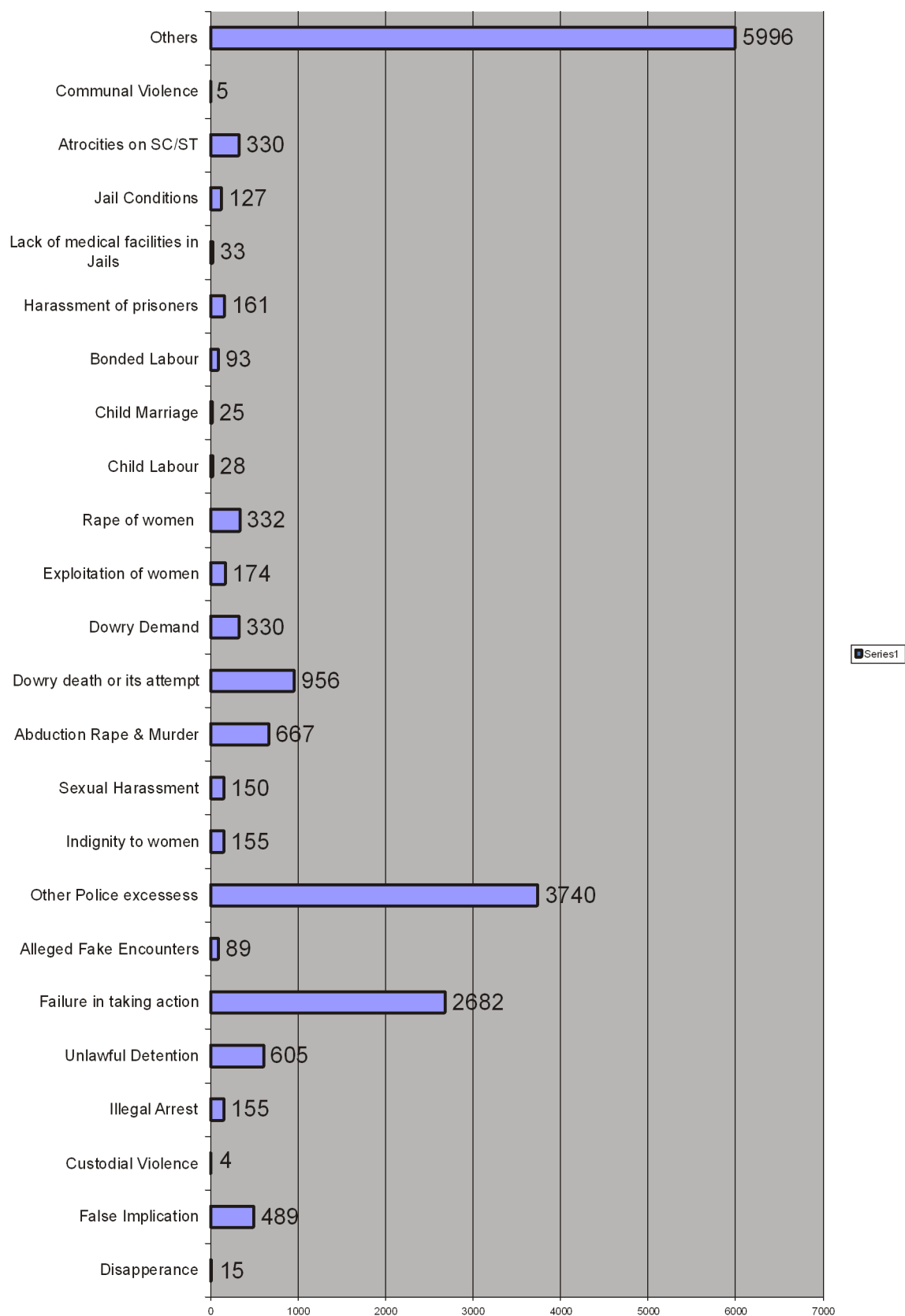
## State wise List of Cases Registered During 2006-2007



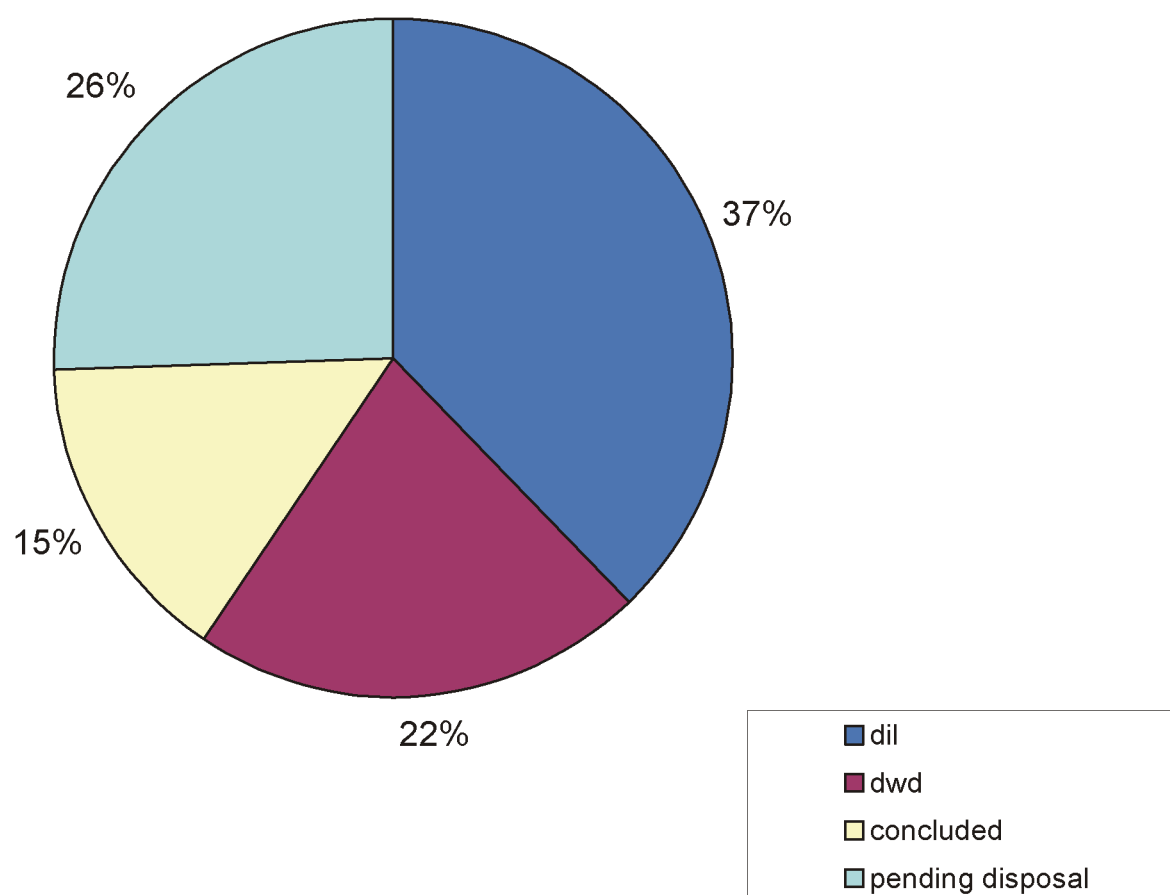
## State-wise List of Intimations Registered relating to Custodial Death/Rape during the Year 2006-2007



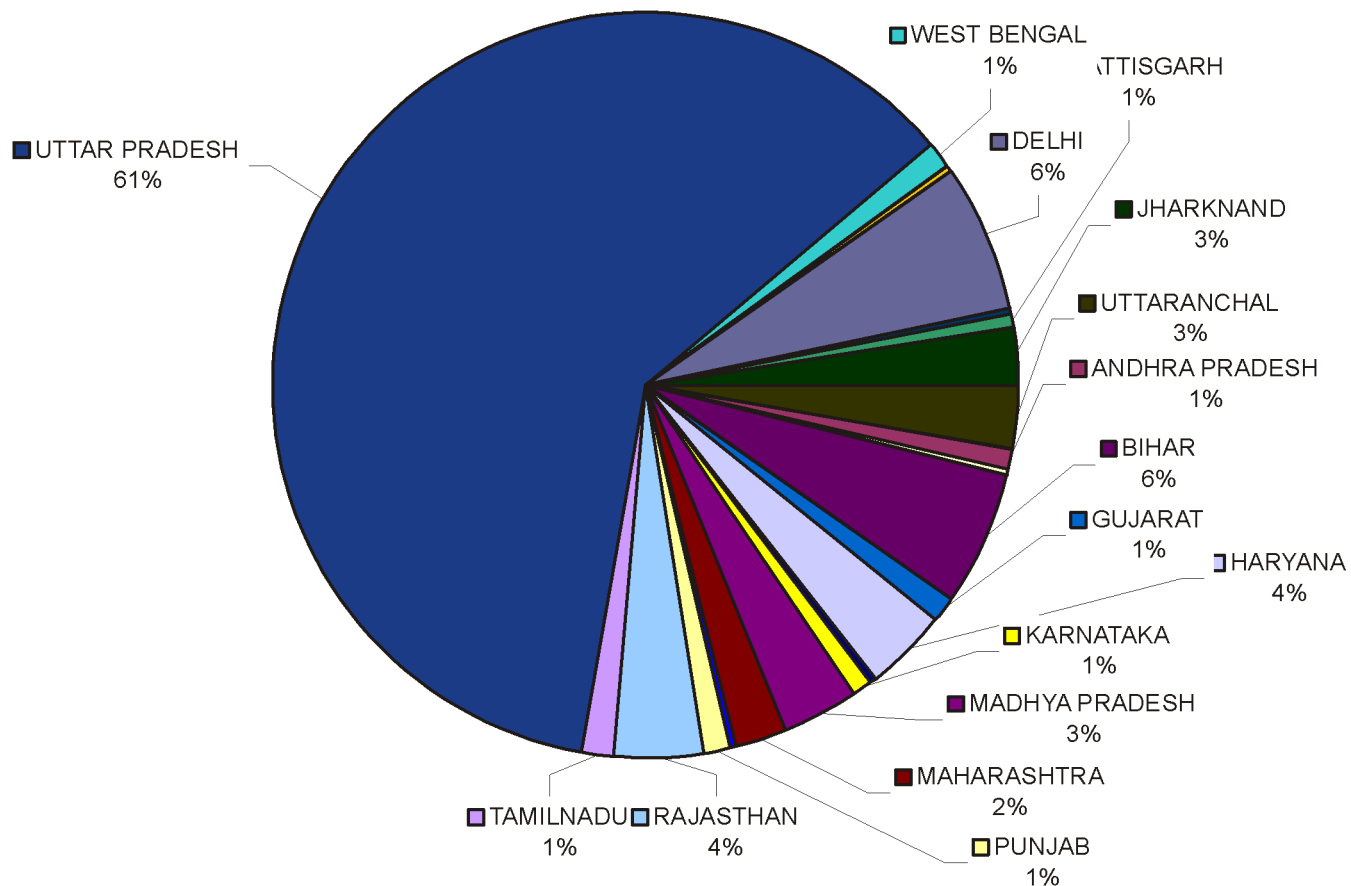
## Nature and Categorisation of the Cases Disposed off by the Commission during the Year 2006-2007



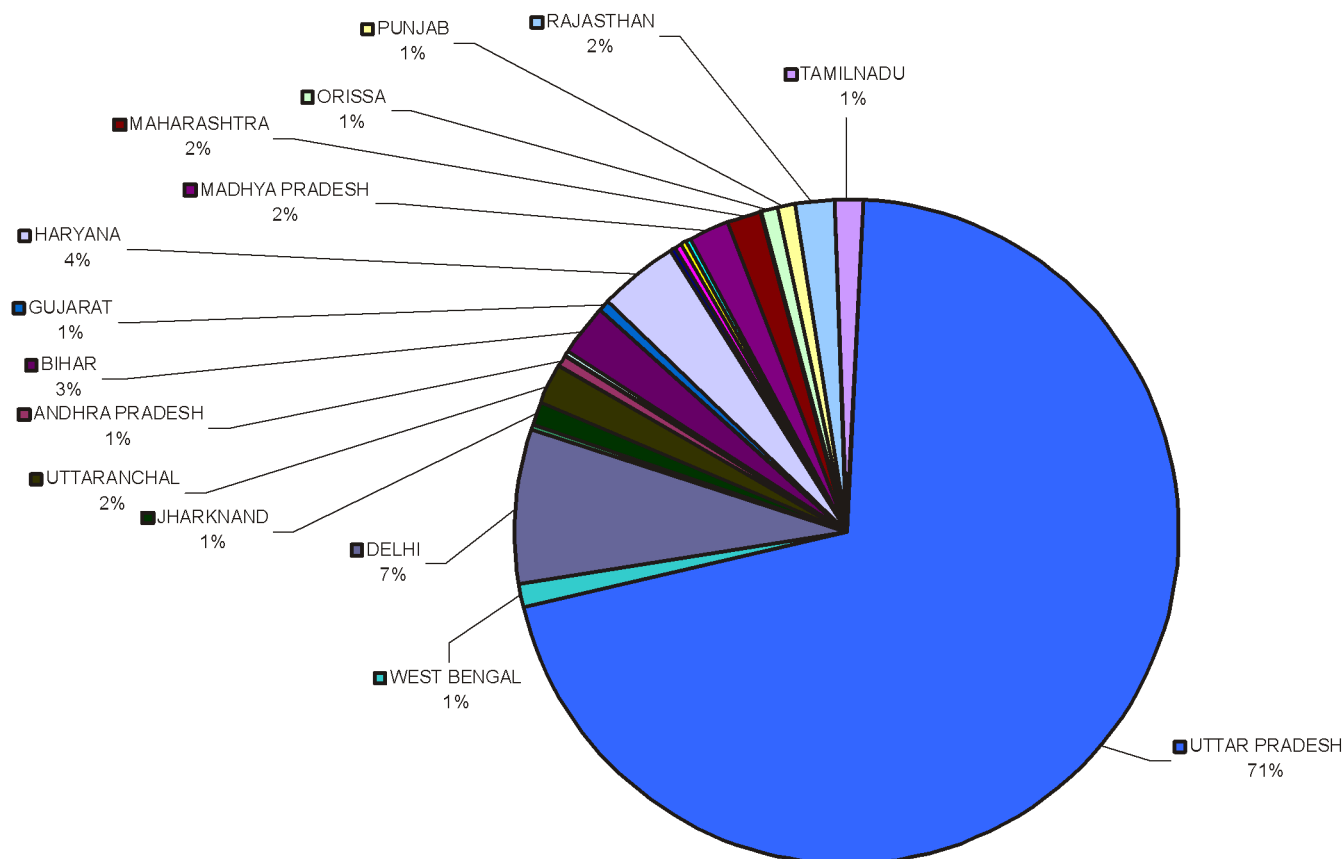
**Cases Disposed off/Pending Disposal by the Commission During  
the year 2006-2007**



## Cases Dismissed in limini during the Year 2006-2007 States/UTS with a Dismissal Rate of more than 1%



# **Cases Disposed off with Directions during the Year 2006-2007 States/UTs with a Dismissal Rate of more than 1%**





# Abbreviations

|           |   |                                                                            |
|-----------|---|----------------------------------------------------------------------------|
| A.P.      | - | Andhra Pradesh                                                             |
| Addl      | - | Additional                                                                 |
| APF       | - | Asia Pacific Forum                                                         |
| ATRs      | - | Action Taken Reports                                                       |
| BRPC      | - | Bhasha Research and Publication Centre                                     |
| C.I.C.    | - | Chief Information Commissioner                                             |
| CHRI      | - | Commonwealth Human Rights Initiatives                                      |
| CJM       | - | Chief Judicial Magistrate                                                  |
| CMS       | - | Complaint Management System                                                |
| CRC       | - | Convention on the Rights of the Child                                      |
| CSRA      | - | Centre for Services in Rural Area                                          |
| DAVP      | - | Directorate of Advertising and Visual Publicity                            |
| DDA       | - | Delhi Development Authority                                                |
| Deptt     | - | Department                                                                 |
| DG(I)     | - | Director General (Investigation)                                           |
| DLO       | - | Deputy Labour Officer                                                      |
| DM        | - | District Magistrate                                                        |
| DM & SP   | - | District Magistrate and Superintendent of Police                           |
| DNT       | - | Denotified Tribes                                                          |
| Dy. Secy. | - | Deputy Secretary                                                           |
| EWS       | - | Economically Weaker Section                                                |
| GOC       | - | General Officer Commanding                                                 |
| GOI       | - | Government of India                                                        |
| HDS       | - | Human Development Society                                                  |
| HR        | - | Human Rights                                                               |
| HUDCO     | - | Housing Urban Development Corporation                                      |
| I & PR    | - | Information and Public Relations                                           |
| ICC       | - | International Coordinating Committee of National Human Rights Institutions |



|               |   |                                                                                     |
|---------------|---|-------------------------------------------------------------------------------------|
| ICDS projects | - | Integrated Child Development Scheme                                                 |
| ICJ           | - | International Court of Justice                                                      |
| ICPD-PoA      | - | The International Conference on Population and Development - Programme of Action    |
| IGP           | - | Inspector General of Police                                                         |
| ILCS          | - | Integrated Low Cost Sanitation Scheme                                               |
| ISBN          | - | International Standard Book Number                                                  |
| ISSN          | - | International Standard Serial Number                                                |
| ISEC          | - | Institute of Social and Economic Change                                             |
| ITBP          | - | Indo Tibetan Border Police                                                          |
| JNU           | - | Jawaharlal Nehru University                                                         |
| JR            | - | Joint Registrar                                                                     |
| JS            | - | Joint Secretary                                                                     |
| KBK region    | - | Kalahandi, Bolangir and Koraput Region                                              |
| KWIRC         | - | Karnataka Women's Information and Resource Centre                                   |
| LDCs          | - | Lower Division Clerks                                                               |
| LIG           | - | Lower Income Group                                                                  |
| M.P.          | - | Madhya Pradesh                                                                      |
| MER           | - | Magisterial Enquiry Report                                                          |
| NHRC          | - | National Human Rights Commission                                                    |
| NHRIs         | - | National Human Rights Institutions                                                  |
| NIC           | - | National Informatics Centre                                                         |
| NIMH          | - | National Institute of Miners Health                                                 |
| NIOH          | - | National Institute of Occupational Health                                           |
| NIs           | - | National Institutions                                                               |
| NSCN(IM)      | - | National Socialist Council of Nagaland (IM)                                         |
| NSLRS scheme  | - | National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents |
| NSSO          | - | National Sample Survey Organisation                                                 |
| NT            | - | Notified Tribes                                                                     |
| OBC           | - | Other Backward Classes                                                              |
| OHCHR         | - | Office of the High Commissioner for Human Rights                                    |
| PHC and CHC   | - | Primary Health Centre, Community Health Centre                                      |
| PHRA          | - | Protection of Human Rights Act                                                      |
| PMR           | - | Post Mortem Report                                                                  |

|          |   |                                                |
|----------|---|------------------------------------------------|
| SC       | - | Scheduled Castes                               |
| SHRC     | - | State Human Rights Commission                  |
| SI       | - | Sub-Inspector                                  |
| SOT      | - | Special Operation Team                         |
| SP       | - | Superintendent of Police                       |
| SRMS     | - | Scheme for Rehabilitation of Manual Scavengers |
| ST       | - | Scheduled Castes                               |
| TOT      | - | Training of Trainers                           |
| U.P.     | - | Uttar Pradesh                                  |
| UDCs     | - | Upper Division Clerks                          |
| UPR      | - | Universal Periodic Review                      |
| US level | - | Under Secretary level                          |
| UTP      | - | Under Trial Prisoner                           |
| UTs      | - | Union Territories                              |
| WHO      | - | World Health Organisations                     |



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