



ANNUAL REPORT

2011-2012

National Human Rights Commission
India



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ABBREVIATIONS

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INTRODUCTION

1.1 This is the nineteenth Annual Report of the National Human Rights Commission (NHRC). It covers the period from 1 April 2011 to 31 March 2012.

1.2 The eighteenth Annual Report of the Commission, for the period 1 April 2010 to 31 March 2011, was submitted to the Central Government on 23 January 2012 and to the State Governments/Union Territory Administrations on 16 May 2012 for preparing the Memorandum of Action Taken and placing the same before each House of Parliament and concerned State Legislative Assembly respectively in compliance with the procedure laid down under Section 20 (2) of the “Protection of Human Rights Act, 1993” and its amendment thereby in September 2006 (PHRA).

1.3 During the period under review, Justice Shri K. G. Balakrishnan, former Chief Justice of the Supreme Court of India continued to hold the office of Chairperson of the NHRC. Justice Shri G.P. Mathur, Justice Shri B.C. Patel, Shri Satyabrata Pal and Shri P.C. Sharma continued to serve as Members in the Commission.

1.4 In accordance with Section 3 (3) of the PHRA, Dr. P. L. Punia, Chairperson of the National Commission for Scheduled Castes; Dr. Rameshwar Oraon, Chairperson of the National Commission for Scheduled Tribes; and Shri Wajahat Habibullah, Chairperson of the National Commission for Minorities, continued to be deemed Members for discharge of functions specified in clauses (b) to (j) of Section 12 of the PHRA. Ms. Mamta Sharma assumed office as the new Chairperson of the National Commission for Women on 2 August 2011 after Dr. Girija Vyas demitted office.

1.5 Dr. Rajiv Sharma, IAS (RJ:76) assumed charge as the Secretary-General and Chief Executive Officer of the NHRC on 30 May 2011. Prior to his appointment in NHRC, he was holding the post of Additional Chief Secretary to the Government of Rajasthan and Principal Resident Commissioner, Rajasthan in New Delhi. Shri Sunil Krishna, IPS (UP:73) continued to serve as Director General (Investigation) and Shri A. K. Garg as Registrar (Law) in the NHRC. Shri J.P. Meena, IAS (AM:83) and Shri J. S. Kochher, IES (1986) continued to function as Joint Secretary (Programme & Administration) and Joint Secretary (Training) respectively in the NHRC.

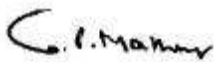
1.6 Ever since the NHRC came into existence on 12 October 1993, the protection and promotion of civil and political rights as well as economic, social and cultural rights has remained the focus of the Commission. On all of these matters, the Commission has been

making determined efforts to prevent violation or neglect of human rights occurring anywhere in the country. The number of complaints received by it is an indication of increased awareness of human rights among the people and the confidence they have in the Commission.

1.7 During the period under review, the NHRC as a national institution continued to address all these rights and related challenges. The action taken by the Commission on various human rights related issues have been detailed in the chapters that follow. These chapters deal, *inter alia*, with range of civil liberties including custodial violence and torture, deaths in custody and encounter as well as conditions in prisons. The report also deals with issues such as the right to health; the right to food; the right of Scheduled Castes, Scheduled Tribes and other vulnerable groups like women and children; the rights of elderly persons; efforts to inculcate human rights awareness and literacy among all; and role played by it to encourage the efforts of State Human Rights Commissions and non-governmental organizations. In addition, the report focuses on human rights defenders. Each of the above issues dealt with in the present Annual Report covers cases of human rights violation reported to the Commission for adjudication.



(K. G. Balakrishnan)
Chairperson



(G.P. Mathur)
Member



(B.C. Patel)
Member



(Satyabrata Pal)
Member

20 December, 2012
New Delhi

HIGHLIGHTS : 2011-2012

2.1 Given the broad range of functions and powers conferred on the National Human Rights Commission (NHRC) as per the “Protection of Human Rights Act, 1993” (PHRA), the Commission is discharging its role and responsibilities in accordance with the Constitution of India, the laws of the land and the Paris Principles relating to national institutions that are vested with the duty to protect and promote human rights. The Commission along with the Ministries of the Government at the Centre and State, non-governmental organizations and other institutions operating at the regional, national and international level is playing a significant role in protecting and promoting human rights. Over the years, the NHRC has brought to the fore several important issues relating to human rights and has dealt with many difficult cases. The ensuing paragraphs highlight some of the major events and activities of the NHRC during the period April 2011 to March 2012.

Commission’s Meetings

2.2 During the year under review, the Full Commission deliberated upon and decided numerous cases of human rights violations in 37 sittings. In addition, the two Division Benches considered 1,950 cases in 127 sittings. Other important cases were considered in 11 sittings of the Commission in open court hearings. Other programme and administrative agenda items were dealt with in 17 meetings. The Statutory Full Commission, which includes deemed Members, also met on 14 June 2011 and 7 February 2012 wherein issues relating to inter-Commission coordination were discussed.

NHRC Camp Sitting in Gujarat

2.3 The Commission organized a camp sitting in Ahmedabad, Gujarat on 11 November 2011. The camp sitting was chaired by Justice Shri B. C. Patel, Member, NHRC. In the camp sitting, 45 matters relating to the State were taken up. Four cases were closed after considering the reports submitted by the concerned State authorities. In four cases, the Commission directed the Registry to forward the reports received from the State authorities to the petitioners for their comments. In the remaining cases, including matters relating to bonded labour, the Commission granted extension of time, on the request of the State authorities, for the submission of complete reports.

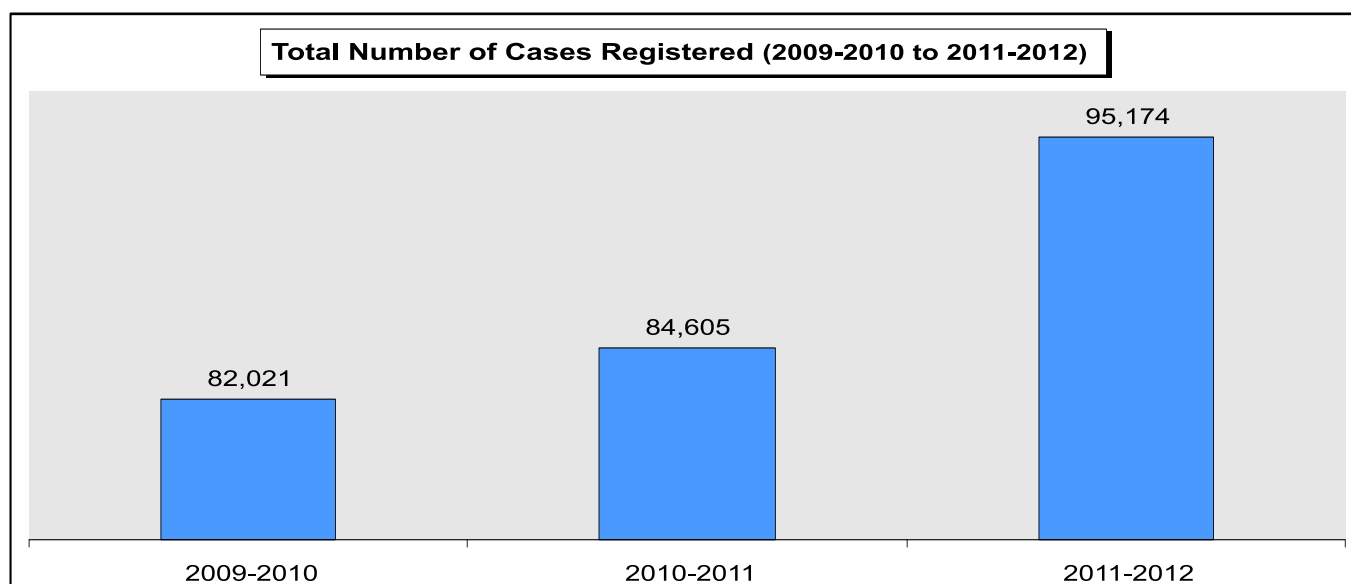
Number and Nature of Complaints

2.4 As in the past, the Commission received a wide range of complaints relating to human rights violations from different parts of the country. These complaints included cases alleging custodial deaths, torture, fake encounters, police high-handedness, violations committed by security forces, conditions relating to prisons, atrocities committed on women and children and other vulnerable sections, bonded and child labour, negligence by public authorities, etc. The Commission also took *suo motu* cognizance of incidents pertaining to violation of human rights based on reports in print and electronic media as well as visits undertaken by its Chairperson, Members and Special Rapporteurs.

Human Rights Violation Cases

2.5 During 2011-2012, 95,174 cases were registered in the Commission (**Annexure-1**), 92,942 cases including cases of previous years were disposed off during the period under review. Of the total number of cases disposed off by the Commission, 48,913 were dismissed '*in limini*' while 13,214 were disposed off with directions to the concerned authorities for taking remedial measures. A total of 24,055 cases were transferred to the State Human Rights Commissions (SHRCs) for disposal in accordance with the provisions of the PHRA. The details of State/Union Territory-wise cases disposed off by the NHRC are given in **Annexure-2**. At the end of the reporting period, i.e. on 31 March 2012, the total number of cases pending with the Commission was 15,090 which included 1,533 cases awaiting preliminary consideration and 13,557 cases in respect of which reports were either awaited from the authorities concerned or the reports had been received but were pending further consideration of the Commission (**Annexure-3**).

2.6 The Graph below gives a comparative analysis of total number of cases registered in the NHRC from 2009-2010 to 2011-2012:



NHRC-India Statement on Media Release of AiNNI Report

2.7 The Commission released a statement on the occasion of the media release of AiNNI¹ report in New Delhi and in Mumbai stating that it misrepresented the facts about NHRC-India thus lowering the prestige of the country in the eyes of the world community.

Installation of Complaint Management System in SHRCs

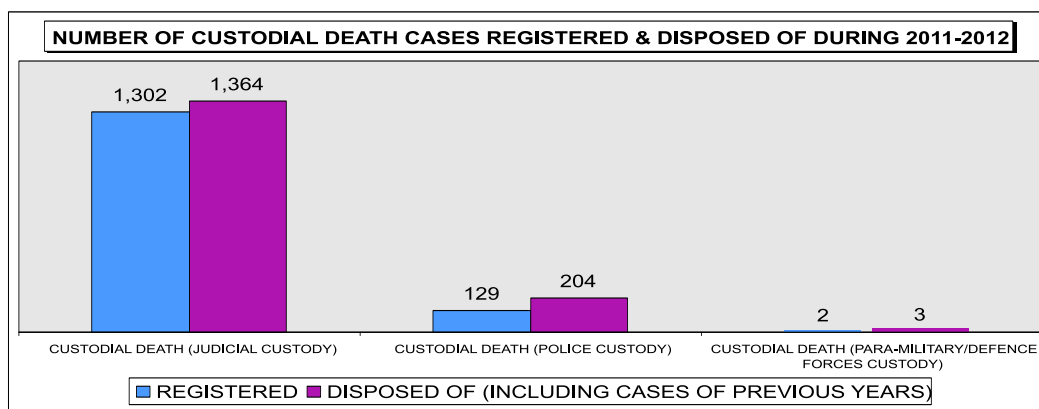
2.8 The prime function of the complaint management system (CMS) software installed in the NHRC is to facilitate the complaint handling mechanism. During 2010-2011, the NHRC along with the National Information Centre (NIC) had facilitated in setting-up the complaint handling mechanism in four State Human Rights Commissions (SHRCs) of the country, namely, Assam, Madhya Pradesh, Uttar Pradesh and West Bengal. During the period under review, NHRC extended its support to four more States -- Gujarat, Maharashtra, Odisha and Rajasthan. These SHRCs were provided financial assistance for procurement of related equipment and technical training to their officers and staff. The training was imparted by the officers of NHRC and NIC.

2.9 Technical support was also rendered by the Commission to National Human Rights Commission of Rwanda in setting up of their complaint management system.

CIVIL AND POLITICAL RIGHTS

Preventing Custodial Violence

2.10 The NHRC received 1,302 intimations about deaths in judicial custody², 129 intimations regarding deaths in police custody and two intimations regarding deaths in para-military/defence forces custody during the period under review. It disposed off 1,571 cases of custodial deaths – comprising 1,364 cases of deaths in judicial custody, 204 cases of deaths in police custody and three cases of deaths in para-military/defence forces custody. These figures also include cases of previous years. See the Graph below.



¹ AiNNI is a group of NGOs under the banner of All India Network of NGOs and individuals.

² In the Annual Report, judicial custody means persons in jails as per the orders of the court.

Inspection of Jails and Correctional Homes

2.11 A Member, one of the Special Rapporteurs, Director General (Investigation), Joint Secretary (P&A) and officers from the Investigation Division of the Commission visited District Jail Durg in Chhattisgarh; Dum Dum Central Correctional Home in Kolkatta, West Bengal; Raipur Central Jail in Chhattisgarh; Dasna Jail in District Ghaziabad and District Jail Hardoi in Uttar Pradesh; Central Jail in Chennai, Tamil Nadu and Central Jail in Puducherry. The main objective of the visits was to inspect the functioning of these institutions and study the human rights situation of the inmates therein.

Spot Investigations

2.12 During the period, the Commission directed its Investigation Division to conduct spot investigations in 60 cases of alleged violations of civil and political rights and economic, social & cultural rights. These cases related to custodial deaths/rapes; sexual harassment by policemen; custodial torture; false implication; illegal detention; bonded and child labour; atrocities on scheduled castes, scheduled tribes, and other disadvantaged groups; medical negligence and lack of proper medical facilities in Government hospitals, death due to negligence of various State authorities; inhuman conditions in jails and homes for children.

National Seminar on Prison Reforms

2.13 A day long 'National Seminar on Prison Reforms' was organized by the Commission in New Delhi on 15 April 2011. The seminar was inaugurated by Justice Shri K.G. Balakrishnan, Chairperson of NHRC and was attended by 68 participants.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

National Colloquium on Right to Health with Special Reference to Women's Right to Reproductive Health

2.14 A one-day colloquium on 'Right to Health with Special Reference to Women's Right to Reproductive Health: A Human Rights Perspective' was organized by the Commission in collaboration with the Mody Institute of Technology & Science, in Sikar, Rajasthan on 16 April 2011.

Meeting on Banning Use of Endosulfan

2.15 A meeting of senior officers from the Centre and the State Government of Kerala was held in the Commission on 19 April 2011 to review the implementation of its recommendations on the issue of endosulfan, which included a ban on its use, among other measures.

Meeting of NHRC's Core Group on Disability

2.16 The NHRC organized a meeting of its re-constituted Core Group on Disability on 3 June 2011. The meeting was chaired by Shri P.C. Sharma, Member, NHRC.

National Conference and Regional Review Meetings on Silicosis

2.17 NHRC had organized a 'National Conference on Silicosis' on 1 March 2011 in New Delhi. Its objective was to review the action taken on its recommendations, discuss implementation issues with all the stakeholders and evolving future course of action.

2.18 The first 'Regional Review Meeting on Silicosis' covering the States of Gujarat, Madhya Pradesh, Rajasthan and NCT of Delhi was organized by the Commission on 10 June 2011, as follow-up to the recommendations made in its National Conference on Silicosis held on 1 March 2011 in New Delhi.

2.19 The second 'Regional Review Meeting on Silicosis' was held in Bengaluru on 18 November 2011. The participating States were Andhra Pradesh, Karnataka, Puducherry, Tamil Nadu and Kerala.

2.20 The third 'Regional Review Meeting on Silicosis' was held in the Commission on 14 February 2011. The States covered were Bihar, Chhattisgarh, Jharkhand, Odisha and West Bengal.

2.21 All these meetings were chaired by Shri P.C. Sharma, Member, NHRC. In these meetings the representatives of Directorate General of Factory Advice Services & Labour Institute (DG FASLI), Directorate General of Mines Safety (DGMS), and Employees' State Insurance Corporation (ESIC) also participated.

Special Report to Parliament on Silicosis

2.22 In accordance with the provisions of Section 20 of the PHRA, the Commission on 9 November 2011 submitted a Special Report on Silicosis to the Ministry of Home Affairs, Government of India for placing the same in the Parliament of India. The report draws the attention of the parliamentarians towards the high prevalence of silicosis in the country and taking of suitable measures including payment of appropriate compensation to victims and their families.

National Seminar on Religion and Human Rights

2.23 The NHRC organized a 'National Seminar on Religion and Human Rights' in Hindi in New Delhi in collaboration with Bhartiya Charitra Nirman Sansthan, an NGO on 7 July 2011.

NHRC's Views on NIAI Bill

2.24 In response to a request from the Parliamentary Standing Committee on Finance, the Commission gave its views on the National Identification Authority of India Bill, 2010.

Formation of a Monitoring Cell in NHRC to Monitor Bonded & Child Labour Issues

2.25 The NHRC has been supervising the implementation of the Bonded Labour System (Abolition) Act, 1976 and the Child Labour (Prohibition & Regulation) Act, 1986 in the country ever since it was constituted in 1993. During the period under review, it set-up a Cell to specifically monitor bonded and child labour issues including action taken by public authorities on its recommendations.

National Seminar on Elimination of Bonded Labour

2.26 The Commission organized a one-day 'National Seminar on Elimination of Bonded Labour' on 30 September 2011 in New Delhi. The seminar was attended by senior officers of the States and Union Territories, representatives of SHRCs, technical institutions, non-governmental organizations (NGOs) and senior officers of the Commission.

Reconstitution of NHRC's Core Group of NGOs

2.27 The NHRC reconstituted its Core Group of NGOs under the chairmanship of Justice Shri K.G. Balakrishnan on 16 September 2011. The reconstituted Core Group has eleven members. It held its first meeting on 10 February 2012 in New Delhi under the chairmanship of Justice Shri K.G. Balakrishnan, Chairperson, NHRC.

NHRC's Advisory Group on Media and Human Rights

2.28 A 'Media and Outreach Policy' was framed by the NHRC. As part of the Policy, an Advisory Group on Media and Human Rights under the chairmanship of Justice Shri K.G. Balakrishnan was constituted. The Group consists of twelve members representing major news organizations of the country. The aim of the Advisory Group is to have regular interaction with the media and seek its support in promoting and protecting human rights of the people. The first meeting of the Advisory Group was held in the NHRC on 1 November 2011.

Seminar on Human Rights and Mental Health Care

2.29 A one-day Seminar on Human Rights and Mental Health Care was organized by the Commission in New Delhi to observe the World Mental Health Day on 10 October. The seminar was inaugurated by Shri P.C. Sharma, Member, NHRC.

National Conference on Human Trafficking

2.30 The National Commission for Women in collaboration with the NHRC organized a one-day National Conference on Human Trafficking in New Delhi on 23 November 2011.

NHRC Core Group on Bonded Labour

2.31 A Core Group on Bonded Labour was constituted by the NHRC in November 2011 to give further impetus to its efforts for elimination of this evil practice. The Core Group aims to review existing government policies, Acts, Rules, etc. on bonded labour from the human rights perspective and give suggestions for modifications to meet the legal objectives. The members of the Core Group comprise academicians, legal experts, NGO representatives and former civil servants.

Awareness Programme on Human Rights for Presidents of Gram Panchayats

2.32 A delegation from NHRC led by Shri P.C. Sharma, Member and comprising Shri J.P. Meena, Joint Secretary (P&A) visited Vaishali and Ara districts in Bihar from 16 to 18 February 2012 to participate in the awareness programme on human rights for Panchayat Presidents organized by the Government of Bihar. The delegation also assessed the performance of the schemes for socio-economic development of people in these districts.

National Conference on Rethinking Feminism – Human Rights Approach to Women Empowerment

2.33 The Commission in collaboration with the Department of Political Science of the University of Rajasthan organized the above National Conference in Jaipur on 3 and 4 March 2012.

National Seminar on Education, Society and Human Rights

2.34 The NHRC and Tezpur Central University, Assam jointly organized a two-day 'National Seminar on Education, Society and Human Rights' in Hindi at the University Campus on 12 and 13 March 2012.

Recommendations of NHRC for Monetary Relief and its Compliance

2.35 During the period from 1 April 2011 to 31 March 2012, the NHRC recommended ₹15,58,64,000 as payment of monetary relief to the victims/next of kin of the deceased in 592 cases. Compliance reports were received in 331 cases and a total amount of ₹6,93,54,000 was reportedly disbursed to the victims/next of kin of the deceased. The State/Union Territory-wise details of these cases are at **Annexure-4**.

2.36 The NHRC is awaiting compliance reports in 261 cases wherein monetary relief amounting to ₹ 8,65,10,000 has been recommended (**Annexure-5**).

2.37 As regards, compliance reports relating to cases pertaining to previous years, intimation has not been received in 56 cases (Annexures 6 & 7). The details of these cases have been reported in earlier Annual Reports of NHRC.

TRAINING PROGRAMMES AND WORKSHOPS

Important Programmes Organized by NHRC

2.38 Some important training programmes and workshops organized by NHRC during the period under review were: 'Basic Training Programme on Human Rights', 'Training of Trainers on Human Rights', 'Advanced Training on Human Rights', and 'Training Programme on Human Rights for Principals and Education Officers of Kendriya Vidyalaya Sangathan'. The NHRC also conducted a two-day attachment programme for Probationers of Indian Foreign Service. Besides, it conducted an 'In-house Training Programme' for newly recruited officials and staff of the Commission and 'Summer & Winter Internship Programmes' of one month duration each for college and university students and short-term attachment for students interested in the field of human rights. During the period under review, a total of 134 training programmes, workshops and seminars were organized by the Training Division of NHRC in collaboration with the Administrative Training Institutes, Police Training Institutes, State Human Rights Commissions, Universities, NGOs and other institutions/organizations across the country.

Training Programme on Human Rights and Custody Management of Undertrials

2.39 A three-day training programme on 'Human Rights and Custody Management of Undertrials' was organized in Chandigarh from 24-26 August 2011 by the Commission in collaboration with the Institute of Correctional Administration, Chandigarh for the police and prison officers of Northern States.

INTERNATIONAL ACTIVITIES

Afghanistan Independent Human Rights Commission, UNDP-Kabul Sign MoU with NHRC-India

2.40 NHRC-India, Afghanistan Independent Human Rights Commission (AIHRC) and UNDP-Kabul signed a Memorandum of Understanding (MoU) in New Delhi on 6 May 2011 under the National Institutions Building Project for public sector capacity development in Afghanistan. The MoU on behalf of NHRC-India was signed by its Chairperson, Justice Shri K.G. Balakrishnan. On behalf of AIHRC, it was signed by its Chairperson, Dr. Sima Samar.

Bangladesh Human Rights Commission Delegation Visits NHRC

2.41 A delegation from the Bangladesh Human Rights Commission led by Secretary, Md. Shamsuzzaman Bhuiyan visited NHRC-India on 25 May 2011 to understand its structure and functioning.

2.42 Later, in June 2011, Mr. Kazi Reazul Hoque, a full-time Member of Bangladesh Human Rights Commission visited NHRC-India to study its functioning.

International Coordinating Committee Meeting in Geneva

2.43 Justice Shri K.G. Balakrishnan, Chairperson, NHRC-India led a delegation comprising Shri P.C. Sharma, Member and Shri J.P. Meena, Joint Secretary (P&A) to participate in the 24th General Meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in Geneva, Switzerland from 16-19 May 2011. One of the agenda items discussed was the engagement of NHRIs in treaty bodies and follow-up of Universal Periodic Review (UPR).

2.44 A member of the delegation also participated in the workshop on the Role of Prevention in the Promotion and Protection of Human Rights on 20 May 2011. In addition, the delegation participated in the Regional Meeting of Asia Pacific Forum held parallel to the General Meeting of ICC 24.

16th Annual Meeting and Biennial Conference of APF

2.45 A delegation led by Justice Shri K.G. Balakrishnan, Chairperson, NHRC-India attended the 16th Annual Meeting and Biennial Conference of the Asia Pacific Forum of NHRIs (APF) held at Bangkok in Thailand from 6-8 September 2011.

ICC Bureau Meeting and APF Conference on Business and Human Rights

2.46 A delegation from NHRC-India led by its Chairperson participated in the ICC Bureau Meeting and APF Conference on Business and Human Rights held in Seoul, Korea from 10-13 October 2011.

NCHR of Oman Delegation visits NHRC-India

2.47 A six member delegation from the National Commission of Human Rights of Oman led by its Chairman visited NHRC-India on 25 November 2011 and interacted with the members and senior officers of the Commission.

Second Universal Periodic Review -- NHRC-India's Submission to UN Human Rights Council

2.48 NHRC-India submitted its report on the second Universal Periodic Review (UPR)

to the United Nations Human Rights Council on 25 November 2011. To prepare for this report, the NHRC held five regional consultations and a national consultation with NGOs, academics, officials and State Human Rights Commissions (SHRCs), even though its mandate and work involve a continuing dialogue with the Central and State Governments, whose performance on human rights it evaluates, and with civil society, from which the more serious complaints are received. It did so for two reasons: given the diversity of India, to ensure that regional priorities were captured, and to focus on the points on which the UPR will concentrate.

Member of European Parliament Visits NHRC-India

2.49 Ms. Krisztina Moroval, Member of the European Parliament, visited the Commission on 17 February 2012. She was briefed about functioning of NHRC and its area of intervention in cases of human rights violations, in her meeting with the NHRC Chairperson, Members and senior officers of the Commission.

International Coordinating Committee Meeting

2.50 Justice Shri K.G. Balakrishnan, Chairperson and Shri P.C. Sharma, Member represented the NHRC at the ICC 25th Annual General Meeting held in Geneva from 19-22 March 2012. During this meeting, NHRC-India was formally accorded 'A' status accreditation certificate. This status was awarded after a review of the NHRC's work by the ICC's Sub-Committee on accreditation. The 'A' status is effective from 2011 to 2016.

UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Visits NHRC-India

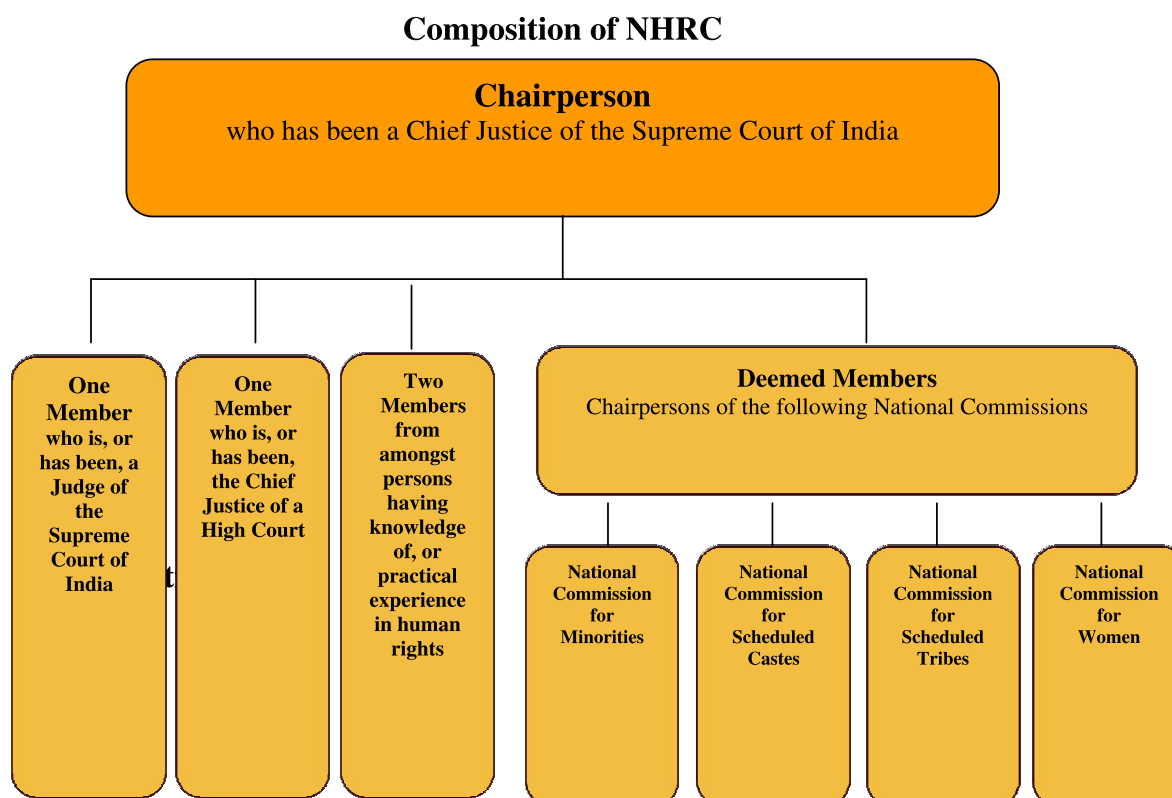
2.51 Mr. Christof Heyns, United Nations Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions visited NHRC-India and interacted with the Members and senior officials of NHRC on 22 March 2012.

NHRC : ORGANIZATION AND FUNCTIONS

3.1 The National Human Rights Commission (NHRC) was established on 12 October 1993. Its mandate is contained in the Protection of Human Rights Act, 1993 as amended vide the Protection of Human Rights (Amendment) Act, 2006 (PHRA). The constitution of NHRC is in conformity with the Paris Principles that was adopted at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights organized in Paris in October 1991, and endorsed by the General Assembly of the United Nations in Resolution 48/134 of 20 December 1993. The Commission is a symbol of India's concern for the promotion and protection of human rights.

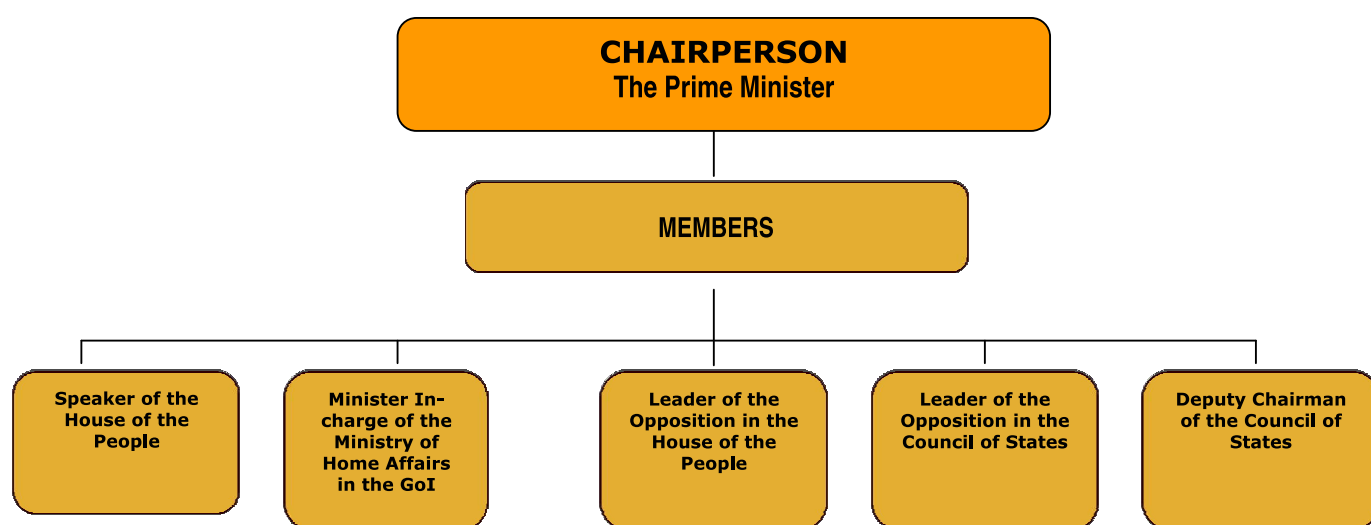
Composition

3.2 The Commission consists of a Chairperson, four full-time Members and four deemed Members. The statute lays down qualifications for the appointment of the Chairperson and Members of the Commission.



3.3 The Chairperson and the Members of the NHRC are appointed by the President of India, on the recommendations of a high-level Committee comprising the Prime Minister (as Chairperson), the Speaker of the Lok Sabha (House of the People), the Minister in-charge of the Ministry of Home Affairs in the Government of India, the Leaders of the Opposition in the Lok Sabha and Rajya Sabha (Council of States), and the Deputy Chairman of the Rajya Sabha.

Selection Committee for Appointment of Chairperson and Members of NHRC



3.4 The statutory requirements relating to the qualifications of the Chairperson and Members of the Commission, as well as their selection by a high-level and politically-balanced Committee ensures a high degree of independence and credibility to the functioning of the NHRC.

3.5 The Chief Executive Officer of the Commission is the Secretary-General, an officer of the rank of Secretary to the Government of India. The Secretariat of the Commission works under the overall guidance of the Secretary-General.

3.6 There are five Divisions in the Commission. These are the – (i) Law Division, (ii) Investigation Division, (iii) Policy Research, Projects and Programmes Division, (iv) Training Division, and (v) Administration Division.

3.7 The *Law Division* services the Commission in receipt and disposal of human rights violation cases based on either complaints received or registered *suo motu* or on the basis of information received. On receipt of a complaint, a case number and a file number is assigned to it. Thereafter, details of the complaint are entered into the computer, and an acknowledgement is mailed to the complainant. A complaint management and information system (CMIS) software has been especially devised for this purpose. All complaints are placed before the Commission for disposal. The Division also organizes Camp Sitzings in

State capitals to expedite disposal of pending complaints and sensitizes the State functionaries on human rights issues. The Division is headed by a Registrar (Law), who is assisted by Presenting Officers, a Joint Registrar, Deputy Registrars, Assistant Registrars, Section Officers and other secretarial staff.

3.8 The *Investigation Division* carries out spot investigations all over the country on behalf of the NHRC. Furthermore, it facilitates in collection of facts relating to varied complaints made to the Commission, in scrutinizing reports received from the police and other investigation agencies and in looking into reports of custodial violence or other misdemeanours. In addition, the Division analyzes the intimations and reports from the State authorities regarding deaths in police and judicial custody as well as deaths in police encounters. It also renders expert advice on other matters related to police or armed forces. The Division has set-up a Rapid Action Cell to attend to complaints that require immediate attention and action. Other than this, it facilitates the Training Division in spreading human rights literacy as envisaged in Section 12 (h) of the PHRA. Investigation Division is headed by an officer of the rank of Director General of Police, and is assisted by a Deputy Inspector General of Police, Senior Superintendents of Police, Deputy Superintendents of Police, Inspectors, Constables and other secretarial staff.

3.9 The *Policy Research, Projects and Programmes Division* (PRP&P Division) undertakes and promotes research on human rights and organizes conferences, seminars and workshops on important human rights issues. Whenever the Commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of importance, it is converted into a project/programme to be dealt with by the PRP&P Division. Besides, it reviews policies, laws, treaties and other international instruments in force for the protection and promotion of human rights. It assists in monitoring the implementation of the Commission's recommendations by Central and State/Union Territory authorities. It further aids the Training Division in spreading human rights literacy and in promoting awareness about the safeguards available for the protection of human rights. The work of the Division is handled by Joint Secretary (P&A) and Joint Secretary (Training), a Director/Deputy Secretary, a Senior Research Officer, Research Consultants, Research Associates, Assistants and other secretarial staff.

3.10 The *Training Division* is responsible for spreading human rights literacy among various sections of the society. As such, it trains and sensitizes various government officials and functionaries of the State and its agencies, non-government officials, representatives of civil society organizations and students on different human rights issues. Besides, it conducts internship programmes for college and university students. The Division is headed by a Joint Secretary (Training), who is supported by a Senior Research Officer (Trg.), an Under Secretary, an Assistant and other secretarial staff.

3.11 The *Administration Division* looks after the establishment, administrative and related requirements of the Chairperson and Members of the NHRC. Besides, it looks into

personnel, accounts, library and other requirements of the officers and staff of the NHRC. The work of the Division is handled by the Joint Secretary (P&A) who is assisted by a Director, Under Secretaries, Section Officers and other secretarial staff. The Information and Public Relations Unit under the Administration Division disseminates information relating to the activities of the NHRC through the print and electronic media. It brings out a bilingual monthly Newsletter 'Human Rights'. Furthermore, it looks into applications and appeals received under the Right to Information Act, 2005. The Publications Unit also looks after the publications of the Commission.

3.12 The reach of the Commission is considerably enhanced by the appointment of Special Rapporteurs and the constitution of Core and Expert Groups. Special Rapporteurs are senior officers who, prior to their retirement, have served as Secretaries to the Government of India or Directors General of Police or have done exemplary service in a human rights related field. They are either assigned specific subjects to deal with, such as bonded labour, child labour, custodial justice, disability, etc., or a zone comprising of a group of States/ Union Territories to look into human rights concerns and violations.

3.13 Core/Expert Groups consist of eminent persons or representatives of bodies working on human rights issues. These Groups render expert advice to the Commission on various issues. Some of the important Core/Expert Groups currently functioning in the NHRC are:

- Core Advisory Group on Health
- Core Group on Mental Health
- Core Group on Disability
- Core Group on NGOs
- Core Group on Legal Issues
- Core Group on Right to Food
- Core Group on Rights of Elderly Persons
- Expert Group on Silicosis

Functions

3.14 The Commission has a wide mandate. Its functions as laid down in Section 12 of the PHRA include:

- Inquire, suo motu or on a petition presented to it by a victim or any person on his behalf or on a direction or order of any court, into complaint of (i) violation of human rights or abetment thereof; or (ii) negligence in the prevention of such violation, by a public servant.

- Intervene in any proceeding involving any allegation of violation of human rights pending before a court, with the approval of such court.
- Visit, not with standing anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of inmates thereof and make recommendations thereon to the Government.
- Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- Study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- Undertake and promote research in the field of human rights.
- Spread human rights literacy among various sections of society and promote awareness about the safeguards available for the protection of these rights through publications, the media, seminars and other available means.
- Encourage the efforts of non-governmental organizations and institutions working in the field of human rights.
- Such other functions as it may consider necessary for the protection of human rights.

Powers

3.15 While inquiring into complaints under the PHRA, the Commission has all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908.

Special Features

3.16 The NHRC is fully compliant with the Paris Principles for National Human Rights Institutions adopted by the United Nations General Assembly in the year 1993. It has a very wide mandate and functions. The Commission has evolved transparent systems and procedures for discharging its functions. The Commission has laid down procedures to transact its own business by formulating regulations.

CIVIL AND POLITICAL RIGHTS

A. Custodial Violence and Torture

4.1 Custodial violence is a calculated assault on the dignity of the victim. The Commission remained continually engaged in efforts to end the egregious violations of human rights that result in custodial deaths. A concerted effort to curb custodial violence has been one of the main priorities of the Commission. In accordance with its guidelines, the agencies of the States have, by and large, been prompt in informing the Commission, within 24 hours, of any occurrence of death in custody. However, the subsequent reports like inquest report, post-mortem report, magisterial enquiry report, etc. are not being received promptly in many cases.

4.2 It is pertinent to note that not all the cases of custodial deaths can be attributed to custodial violence or medical negligence. In fact, many of these deaths are due to natural causes, such as illness and old age. In the remaining cases, there are a variety of reasons including illness aggravated by medical negligence, violence by public servants or clash between prisoners, suicide, etc.

4.3 During the year 2011-2012, NHRC received 1,302 intimations about deaths in judicial custody³, 129 intimations regarding deaths in Police custody and two intimations regarding deaths in para-military/defence forces custody. It disposed off 1,571 cases of custodial deaths – comprising 1,364 cases of deaths in judicial custody, 204 cases of deaths in Police custody and three cases of deaths in para-military/defence forces custody. Details of some of the important cases dealt with by the Commission are given below:

a) Custodial Deaths

Judicial Custody

1. *Death of Undertrial Prisoner due to Assault in Aska Sub-Jail, Odisha*
(Case No.1210/18/5/2010-JCD)

4.4 The Commission received intimation from the Superintendent of Aska Sub-Jail in District Ganjam, Odisha, regarding death of a 26 years old undertrial prisoner named Suresh Nayak on 24 August 2010 due to assault by other inmates of the jail. In response to show-cause notice issued by the Commission, the State authorities forwarded reports which

³ In the Annual Report, judicial custody means persons in jails as per the orders of the court.

indicated that the deceased had sustained 9 injuries on his body that resulted in his death. The magisterial enquiry conducted in the matter found the prison personnel negligent of their duties. The Commission was also informed that a criminal case had been registered in this regard and the matter is pending in the court.

4.5 The Commission upon consideration of all the facts observed that the deceased Suresh Nayak was in jail when he was assaulted by a rival group which resulted in his death. The State authorities had failed to protect his life thus violating his human rights. The State Government was asked to show-cause under Section 18 of the PHRA, 1993 as to why monetary relief should not be recommended for the payment to the next of kin of the deceased. In reply, the State Government contested that the events leading to the incident and attack on the inmate Suresh Nayak were sudden and incidental and therefore the Commission may not award any monetary compensation to the next of kin of the deceased.

4.6 The Commission observed that the judicial enquiry conducted in the case had concluded that the prison personnel did not handle the situation properly resulting in the death of the undertrial prisoner. The Commission thus recommended interim relief of ₹5 lakhs to be paid to the next of kin of the deceased. The State Government had submitted the compliance report informing the Commission that an amount of ₹5 lakhs, as recommended by the Commission, was paid on 24 September 2011 to the father of the deceased and that departmental action had also been initiated against the delinquent prison personnel.

4.7 The Commission vide its proceedings dated 29 November 2011 closed the case.

2. *Death of Undertrial Prisoner due to Medical Negligence in Sitamarhi Divisional Prison, Bihar*
(Case No.2808/4/36/08-09-JCD)

4.8 The Commission received intimation from the Superintendent of Sitamarhi Divisional Prison in Bihar regarding death of an undertrial prisoner Mohd. Rabhani on 31 December 2008 who was undergoing treatment in Sadar Hospital, Sitamarhi.

4.9 The Commission upon consideration of the matter sought the opinion of Forensic Experts on the panel of NHRC regarding the treatment given to the deceased due to which he died. In response, the forensic expert from All India Institute of Medical Sciences, New Delhi vide communication dated 13 April 2010, asked for the treatment record of the undertrial prisoner for the period 21 September 2007 to 3 November 2008 but the same could not be provided by the District Magistrate or the Superintendent of Sitamarhi Divisional Prison, Bihar.

4.10 The Commission vide its proceedings dated 28 December 2010 observed that the deceased was not given appropriate treatment and therefore the record was not forwarded to the Commission. Had regular and proper treatment been provided, the District

Magistrate would have forwarded the papers. The Commission concluded that the undertrial prisoner was not treated properly while in jail and was referred to the hospital only when his condition deteriorated. It hence directed that show-cause notice be issued to the Government of Bihar under Section 18 of the PHRA as to why compensation should not be recommended to be paid to the next of kin of the deceased Mohd. Rabhani. The Commission upon further consideration of the matter and response received from the State authorities recommended that an amount of ₹3, 00,000/- (Rupees three lakhs only) be paid as interim relief to the next of kin of the deceased.

4.11 The District Magistrate, Sitamarhi, Bihar had submitted the compliance report along with proof of payment which shows that an amount of 3 lakhs was paid to three minor children of the deceased on 7 September 2011. The Commission upon consideration of the compliance report closed the case on 18 October 2011.

3. *Death of Undertrial Prisoner due to Medical Negligence in Moradabad Jail, Uttar Pradesh (Case No.13311/24/56/2010-JCD)*

4.12 The Commission received intimation from Deputy Inspector General of Police, Moradabad regarding death of 26 years old undertrial prisoner Yusuf on 11 April 2010 in detention in District Jail, Moradabad, Uttar Pradesh. The Commission upon consideration of the reports received from the State authorities observed that there were three ante-mortem injuries on the body of the deceased including one on the head and blood was oozing out from the fractured suture line on the occipital bone. The cause of death as per the post-mortem report was due to shock and coma due to ante-mortem injuries. It was stated that the deceased had fallen down due to giddiness and in the process sustained injuries on his head. It was also stated that three prison personnel were found to be guilty of negligence in discharge of their duties and departmental action had been initiated against them.

4.13 The Commission's analysis of the event was that the deceased happened to be sound in health in the prison and there were no medical records which pointed to his illness which could have resulted in his fainting and falling as a result. On the other hand, it also emerged that the prison personnel were also found guilty of negligence and one of them had been suspended. The Commission, thus, concluded that the victim, who was in the care and custody of the State, died due to shock and coma on account of ante-mortem injuries. As a result, the human rights of the victim had been violated. Accordingly, the Commission, vide its proceedings dated 14 December 2010 directed that show-cause notice under Section 18 of the PHRA be issued to the Chief Secretary, Government of Uttar Pradesh asking him as to why monetary relief may not be recommended to be paid to the next of kin of the deceased. The State Government in its reply recommended that an amount of ₹3,00,000/- (Rupees three lakhs only) be paid to the next of kin of the deceased. Later, the Senior Superintendent of the District Jail, Moradabad also submitted the compliance report indicating that an amount of ₹3 lakhs had been paid to Sanjida w/o of the deceased Yusuf on 16 September 2011 along with the proof of payment. The Commission upon consideration of the compliance report and proof of payment closed the case on 29 November 2011.

4. *Death of Undertrial Prisoner in District Jail Hospital, Lucknow, Uttar Pradesh*
(Case No.23977/24/48/2011-AD)

4.14 The case relates to death of one undertrial prisoner named Dr. Yogendra Singh Sachan, Deputy Chief Medical Officer, Lucknow in District Jail Hospital, Lucknow.

4.15 Dr. Sachan was the main accused in the murder of Uttar Pradesh Chief Medical Officer, Dr. B.P.Singh and it was alleged that he had played an important role in misappropriation of funds to the tune of several crores in connection with the implementation of the National Rural Health Mission Scheme (NRHM) in the State.

4.16 The Commission took cognizance of the matter and directed to issue notice to the Chief Secretary, District Magistrate and Senior Superintendent of Police, Lucknow, Government of Uttar Pradesh calling for magisterial enquiry report (MER), inquest report, post-mortem report (PMR), viscera report, final cause of death and CD of the PMR. The Commission further called for an explanation from the District Magistrate and the Superintendent of Jail, Lucknow as to why the intimation of death was not given within 24 hours.

4.17 The Commission, thereafter, perused the reports submitted by the authorities and observed that the post-mortem report mentioned eight ante-mortem injuries and the cause of death was reported to be “shock and haemorrhage due to ante-mortem injuries.” The MER reveals that out of the nine injuries on the body of the deceased, eight were ante-mortem and one injury was post-mortem. All injuries seem to have been caused by a sharp edged weapon, which could be a knife or a surgical knife and that it could not be a case of suicide. The Inquiry Magistrate concluded that the deceased was murdered in the District Jail, Lucknow. The Magistrate too had raised questions on the role of jail officials.

4.18 The Commission further opined that Dr. Sachan had died in the District Jail, Lucknow and the jail authorities could not satisfactorily explain the injuries sustained by the deceased. The authorities of the District Jail thus failed to protect the life of a person in their custody, thereby violating the human rights of the deceased. For this, the State of Uttar Pradesh was vicariously liable. The Commission directed to issue show-cause notice to the Chief Secretary, Government of Uttar Pradesh as to why it should not make recommendation for payment of compensation to the next of kin of the deceased.

4.19 Pursuant to the directions of the Commission, the Additional Inspector General, Prison Administration and Correctional Services, Government of Uttar Pradesh vide communication dated 20 February 2011 submitted that the case had been referred to the CBI for inquiry and requested that the next of kin could not be compensated before the conclusion of the CBI inquiry.

4.20 The Commission thereby directed the Chief Secretary, Government of Uttar Pradesh to submit the inquiry report within six weeks. The report is awaited.

Police Custody

5. *Death of Bachole due to Alleged Torture*
[Case No. 11131/24/43/08-09 (L/F 11505/24/43/08-09-FC)]

4.21 The Commission received an intimation dated 12 June 2008 from the District Magistrate, Kanpur, Uttar Pradesh stating that one Bachole was tortured in Police custody by three Police personnel in P.S. Maharajpur, Kanpur City, Uttar Pradesh on 11 June 2008. Later, he was shifted to the hospital. Subsequently, he was released in the evening of the same day. On 12 June 2008, Bachole died.

4.22 On the basis of an enquiry, the Station House Officer and three other Police personnel of P.S. Maharajpur, Kanpur City were found guilty and placed under suspension. Accordingly, a notice u/s 18 of the PHRA was issued to the Chief Secretary, Government of Uttar Pradesh to show-cause as to why monetary relief be not recommended to the next of kin of the deceased.

4.23 In response, the Deputy Secretary (Home), Government of Uttar Pradesh submitted that in connection with the incident, a case u/s 304 IPC and u/s 3(2)/5 of Scheduled Castes and Scheduled Tribes (Protection of Atrocities) Act, 1989 (SC & ST (POA) Act) was registered against the Police officers and after investigation a charge-sheet too had been submitted in the Court. Besides, the errant Police personnel were removed from service, on conclusion of the departmental action against them.

4.24 It was further submitted that the Social Welfare Department had paid ₹1,50,000/- (Rupees one lakh fifty thousand only) as financial assistance to the next of kin of the deceased under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. Payment of interim relief to the next of kin of the deceased was not opposed by the State Government. Accordingly, having regard to the violation of human rights of the deceased on account of his death due to torture by the Police personnel, the Commission recommended to the Government of Uttar Pradesh that a sum of ₹3,50,000/- (Rupees three lakhs fifty thousand only) be paid to the next of kin of the deceased as monetary relief in addition to the amount that had already been paid to them.

4.25 The compliance report along with proof of payment from the Chief Secretary, Government of Uttar Pradesh is awaited.

6. *Death of Salim in Police Custody, Saharanpur, Uttar Pradesh*
[Case No. 25919/24/64/07-08-AD (L/F 31809/24/64/07-08-FC)]

4.26 The Commission received an intimation dated 3 September 2007 from Senior Superintendent of Police, Saharanpur, Uttar Pradesh regarding one Salim, son of Alibaz, who was wanted in criminal cases No. 1968/99 and 1412/99 registered under the Indian Forest Act, 1927 and a non-bailable warrant was also issued against him by the Court. On

arrest, he was brought to Mirzapur Police Station, Saharanpur on 30 August 2007. While being arrested, he sustained injuries. He was subsequently sent to District Hospital, Saharanpur for treatment. From there he was referred to PGI, Chandigarh where he died on 31 August 2007.

4.27 The relatives of deceased Salim alleged that he was assaulted by one Rashid and his associates in the presence of Policemen. A criminal case No.148/07 u/s 308/325/326 of IPC was registered against the Police personnel at Mirzapur Police Station on the basis of a complaint made by Awal Hadsan. Sub-Inspector Zile Singh and Head Constable Tejvir were arrested in the case and on completion of the investigation, they were charge-sheeted along with some other persons. After trial, the court found that Sub-Inspector Zile Singh was guilty u/s 302 of IPC, as he and his staff had caused fatal injuries to Salim.

4.28 Being a *prima facie* case of violation of human rights, the Commission issued a notice u/s 18 of the PHRA, 1993 to the Chief Secretary requiring him to show-cause why monetary relief be not given to the next of kin of Salim.

4.29 The Government of Uttar Pradesh, in their reply to the show-cause notice, admitted that the award of monetary compensation in this case would be justified. In view of that, the Commission recommended to the Government of Uttar Pradesh to pay a sum of ₹5 lakhs as monetary relief to the next of kin of Salim.

4.30 Compliance report with proof of payment is however awaited in the case.

7. *Alleged Death of Krishna Murthi in Police Custody*
(Case No. 2349/22/36/08-09-AD-FC)

4.31 Suhas Chakma, Director, National Campaign for Prevention of Torture, New Delhi submitted a complaint dated 4 February 2009 stating that one Krishna Murthi, a resident of Tiruchirapalli, Tamil Nadu, was arrested by the Police on 31 January 2009 in a case of theft and that he died in Police custody on 1 February 2009 as a result of torture by Police.

4.32 An intimation regarding the death of Krishna Murthi was also received from the District Collector, Tiruchirapalli. It was reported that Krishna Murthi was being taken to Tiruchirapalli in connection with the investigation of a theft case. On the way he was given food in a hotel at Tiruverumbur. After taking food, he complained of chest pain and difficulty in breathing. He was taken to Government Hospital Tiruchirapalli and after medical examination in the hospital, the doctor declared him brought dead at 0:45 a.m. on 2 February 2009.

4.33 The post-mortem revealed ante-mortem injuries in the form of abrasions, bruises and contusions. These wounds were not sufficient to enable the doctor to determine the cause of death. A histopathology report was then obtained. On consideration of the histopathology report, the doctor opined that the deceased appeared to have died due to blunt wounds on thorax and abdomen as well as liver, kidneys and heart pathology.

4.34 During the magisterial enquiry, the Sub-Divisional Magistrate and Revenue Divisional Officer, Tiruchirappalli found that the accused was beaten by the Police during interrogation on account of which he suffered blunt wounds on his chest, stomach and other parts of the body. He was already suffering from ailments of liver, kidney and heart. The blunt wounds inflicted by the Police further aggravated the condition, which led to his death.

4.35 On consideration of the post-mortem report and magisterial enquiry report, the Commission issued a notice to the Chief Secretary, Government of Tamil Nadu u/s 18 of PHRA to show-cause why monetary relief should not be granted to the next of kin of the deceased.

4.36 It was submitted by the State Government that the findings of the magisterial enquiry had been accepted by the State and a financial relief of ₹1 lakh was also sanctioned to be paid to the next of kin of the deceased Krishna Murthi.

4.37 The Commission, upon consideration of the material on record, observed that the State Government had candidly admitted that the Police officials were accountable for the death of Krishna Murthi and a financial relief of ₹1 lakh had also been sanctioned to the bereaved family. However, the amount of ₹1 Lakh was found to be grossly inadequate by the Commission for the loss of human life as did not commensurate with the loss suffered by the victim due to custodial torture which led to his death. As a result, the Commission recommended to the Government of Tamil Nadu to pay a sum of ₹5 lakhs as monetary relief to the next of kin of deceased Krishna Murthi, after adjusting the amount already paid.

4.38 Compliance report and proof of payment in the case is awaited.

8. *Death of Vinod in Police Custody of Megalgaon Jail, Khiri, Uttar Pradesh*
(Case No. 11729/24/2003-2004-CD-FC)

4.39 The Commission received intimation dated 19 July 2003 from the Superintendent of Police, Khiri in Uttar Pradesh stating that one Vinod aged 20 years was arrested on 17 July 2003 in a case of theft of a cycle. He was brought to P. S. Megalgaon in Khiri. In the Police Station, he was tortured which resulted in his death.

4.40 From the various reports received, it became apparent to the Commission that a criminal case No.470/2003 u/s 342/302/201 of IPC r/w section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against the delinquent Policemen at P.S. Megalgaon. Further, the investigation of the case had been transferred to Sitapur and on completion of the investigation, a charge-sheet was filed in the court.

4.41 The Commission was also informed that in accordance with the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, financial

assistance of ₹1.5 lakhs was sanctioned and disbursed to the mother of the deceased, and the balance amount of ₹50,000/- was to be paid after conclusion of the trial.

4.42 While considering the matter, the Commission observed that the financial assistance provided under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules is distinct from the monetary relief which the Commission is empowered to recommend for violation of human rights u/s 18 of the PHRA, 1993. Moreover, the financial assistance that had been given so far was not "compensation or damages" as envisaged under Section 18 of the PHRA. It was only financial assistance under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules.

4.43 Considering all the circumstances, the Commission recommended to the State Government to pay a sum of ₹1 lakh as monetary relief to the next of kin of deceased Vinod in addition to the financial assistance given under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules. As the compliance report and proof of payment was received by the Commission, it closed the case on 11 January 2012.

9. *Death of G. Rajendran in Police Custody in Kollam, Kerala*
(Case No.4/11/2005-2006-CD-FC)

4.44 The Commission received a message dated 8 April 2005 from the Superintendent of Police, Kollam, Kerala regarding the case of one G. Rajendran, aged 37 years, who was arrested from Sankar's Institute of Medical Sciences, Kollam on 6 April 2005. He had been accused by a patient, Shajahan, of stealing his mobile phone. He was brought to P.S. Kollam East. The accused complained of uneasiness and he was immediately taken to the District Hospital in Kollam for treatment. There, he was examined by the Medical Officer and declared dead. A complaint was also received from Kim Soo, Programme Coordinator, Asian Human Rights Commission alleging that Rajendran had died on account of torture by the Police in their custody.

4.45 The allegation made against the Police was substantiated in the report submitted by the Superintendent of Police, Crime Branch, CB-CID, Kollam. The Crime Branch found that Rajendran had been manhandled and tortured by two Constables and he had sustained injuries as a result of torture. The post-mortem report also revealed fifteen ante-mortem injuries. According to the Post-Mortem Surgeon, the death had occurred due to injuries sustained over the head and trunk. The Police was furthermore, indicted of custodial violence in the magisterial enquiry report.

4.46 On consideration of the post-mortem report, CB-CID report and magisterial enquiry report, the Commission *prima facie* found that G. Rajendran was a victim of Police torture. Accordingly, a show-cause notice u/s 18 of the PHRA was issued to the Government of Kerala through its Chief Secretary.

4.47 The State Government of Kerala informed the Commission that it had paid an amount of ₹1 lakh to the next of kin of the deceased. The Commission observed that the

amount of ₹ lakh was grossly inadequate for the loss of human life. There could be no justification for torture of G. Rajendran, aged 37 years by the Police. Considering all circumstances, the Commission recommended to the Government of Kerala to pay an additional amount of ₹4 lakhs to the next of kin of deceased G. Rajendran as monetary relief. The State Government also issued the necessary sanction for payment of the additional amount of monetary relief. However, the proof of payment is awaited by the Commission.

10. *Death of a Senior Citizen in Adampur Police Station, Uttar Pradesh*
(Case No. 19914/24/05-06-CD)

4.48 A message was received by the Commission from the Senior Superintendent of Police, Varanasi that one Puttan Majhi (70 years) was arrested on 6 September 2005 in a case for an offence punishable under Sections 332, 323, 504, and 506 of IPC by the Police of P.S. Adampur. He had fallen sick in the Police Station and was referred to the hospital for treatment and at the same time was released on bail. He, however, died on 14 September 2005 while undergoing treatment. It was further stated that on the complaint of Vitto Devi, daughter of the deceased, a case vide crime No.217/2005 was registered at P.S. Adampur under Sections 323 & 308 of IPC on 6 September 2005 against certain Police personnel. Later, Section 304 of IPC was added in the case and the delinquent Police personnel were placed under suspension.

4.49 The reports received in the matter indicated that no magisterial enquiry was ordered in the custodial death case and that a final report had been submitted in the court for want of evidence in the case registered against the Police personnel. The post-mortem report, however, indicated external ante-mortem injuries on the body of the deceased and the cause of death was due to head injury.

4.50 After examining the case, the Commission vide its proceedings dated 8 November 2007 directed the State Government to get the matter investigated by the CB-CID, Uttar Pradesh with the permission of the competent court, and also fix responsibility for not holding magisterial enquiry in the death of the victim in Police custody.

4.51 In reply, the State Government forwarded a copy of the magisterial enquiry conducted on 27 February 2009 as well as the report of CB-CID, Uttar Pradesh. According to the report of CB-CID, there was enough evidence to prosecute two Police personnel and one official of the Electricity Department for the offences punishable under Section 308, 323, 304 of IPC. The State Government also informed the Commission that a charge-sheet was being filed against the three accused in the court and that based on the findings of the State CB-CID, two more Police personnel including the then Station House Officer (SHO) of P. S. Adampur had been dealt with and punished by the department. According to the report, both these Police personnel were found guilty of releasing the deceased on forged bail and that they were also guilty of medical negligence. The deceased, in fact, was admitted in the hospital as an unknown person by the Police.

4.52 The Commission vide its proceedings dated 11 January 2011 directed issue of notice under Section 18 of the PHRA to the Chief Secretary of Uttar Pradesh calling upon him to show-cause as to why interim relief may not be recommended to be paid to the next of kin of the deceased. The State Government proposed that grant of interim relief was justified in the custodial death case and accordingly in compliance with the directions of the Commission, paid an amount of ₹3 lakhs to the next of kin of the deceased on 27 September 2011.

4.53 The Commission on receipt of the compliance report and proof of payment closed the case on 11 October 2011.

11. *Death of Seema Devi due to Torture Committed by Police Officials of Pratap Nagar Police Station, Jaipur, Rajasthan*
(Case No. 262/20/14/2011)

4.54 The General Secretary, People's Union for Civil Liberties, Rajasthan sent a complaint dated 23 February 2011 to the Commission regarding suicide attempt by one Seema Devi aged 24 years due to atrocities and torture committed on her by the SHO, Pratap Nagar Police Station along with other Police officials. The Commission also received a complaint from the victim who later on committed suicide.

4.55 In response to the notice given by the Commission, a letter dated 31 March 2011 was received from the Superintendent of Police, Human Rights and Weaker Sections Cell along with a report from the Additional Superintendent of Police, CB-CID, Rajasthan, Jaipur. On perusal of the same, it was revealed that prior to victim Seema Devi's attempt to commit suicide, she wrote a letter on the basis of which case Crime No.12/2011 was registered. During enquiry, the statement of Seema Devi was recorded u/s 164 Cr.P.C. and another case Crime No.51/11 u/s 330/376/511/354/323/348/34 of IPC was registered at P.S. Pratap Nagar. It was further revealed that Head Constable, Lal Chand was investigating a report lodged in the Police Station regarding missing of one Hina. During investigation, Yudhvair, Yugvir and victim Seema Devi were called to the Police Station. During the course of interrogation, Inspector Ram Niwas, Head Constable Lal Chand and other Police officials tortured them. Seema was let off at 10.00 p.m. whereas Yudhvair and Yugvir were detained at the Police Station. Seema was directed to come again to the Police Station on 24 January 2011. She felt humiliated and insulted. As a result, she attempted to commit suicide. In both these cases the investigation was in progress.

4.56 The Commission considered the report and observed that the victim Seema Devi along with two others was called at the Police Station where she was harassed, tortured and maltreated. Due to the torture and humiliation inflicted on the victim, she was forced to commit suicide as her human rights were violated. The Commission directed to issue notice u/s 18 of the PHRA to the Chief Secretary, Government of Rajasthan, Jaipur calling upon him to show-cause why interim relief may not be recommended to be paid to the next of kin of the deceased. He was also directed to apprise the Commission about the status of

case Crime No.21/11 and 51/11. In reply, a letter dated 5 May 2011 was received from the Deputy Secretary, Department of Home (HR), Government of Rajasthan, Jaipur. On examination, it was found that an amount of ₹10 lakhs had already been paid to the next of kin of Seema from Chief Minister's Relief Fund.

4.57 The Commission considered the report. Since compensation had been paid to the victim, the report was taken on record and the case closed.

12. *Death of Rajpal Bawaria due to Torture in Police Custody in Garhi Harsaru, District Gurgaon, Haryana*
(Case No. 2570/7/16/08-09-AD)

4.58 The Commission received a complaint dated 17 December 2008 from the Director, National Campaign for Prevention of Torture (NCPT), Janakpuri, New Delhi alleging that one Rajpal Bawaria, aged around 55 year, r/o Village-Garhi Harsaru, District Gurgaon in Haryana was tortured to death by the Criminal Investigation Agency (CIA) of Haryana Police, following his arrest in a case of theft on 7 December 2008. The Police claimed that the deceased was suffering from an old stomach ailment and died in the hospital as a consequence thereof. Medical examination was not conducted by the Police, though it was claimed that the deceased was injured at the time of arrest. The widow of the deceased also alleged that he was tortured to death by the Police.

4.59 As per directions given by the Commission, a team was sent from its Investigation Division for spot inquiry wherein it was found that the Police had conducted a raid at his home, three days prior to the death of the deceased and arrested him. The widow of the deceased, and his four unmarried daughters confirmed the arrest of the deceased from the house. Independent witnesses also confirmed his arrest from his house. The testimony of the village Sarpanch was also against the Police. The doctors who conducted the post-mortem confirmed that the death was caused by pre-existing heart disease which got aggravated by the inflicted injuries.

4.60 The Investigation Team too concluded that the Police had tortured the deceased which caused his death. The Team recommended registering a criminal case in connection with the death of Rajpal Bawaria against the delinquent Police officials of CIA, Rewari, and initiate departmental action for the illegal detention of Munna, son-in-law of the deceased. In addition, adequate monetary compensation, a house under Indira Awas Yojana, widow pension and BPL ration card to be given to the widow of the deceased were some of the other recommendations made by the Investigation Team.

4.61 On consideration of the facts collected by the Investigation Team, the Commission in its proceedings dated 30 November 2011 *prima facie* found that Rajpal had been kept in illegal detention for two days and he had become a victim of Police torture. Hence, the Commission directed to issue notice u/s 16 of the PHRA to Inspector Jagat Singh of CIA and also a show-cause notice u/s 18 of the PHRA to the Government of Haryana. Despite

reminder, the State Government had not yet responded to the show-cause notice of the Commission. Inspector Jagat Singh had, however, asked for copies of statements recorded by the Investigation Team during its enquiry and the same have been sent to him and he had been asked to submit further explanation, if any, in response to the notice of NHRC u/s 16 of the PHRA within a month. His response is still awaited by the Commission.

Para-Military/Defence Forces Custody

13. *Death of a Civilian in Army Action in Jammu & Kashmir*
(Case No. 153/9/8/07-08-AF)

4.62 The Commission received a complaint from one Suhas Chakma, running an NGO alleging killing of 26 years old teacher Abdul Rashid Mir on 19 October 2007 by army personnel in Kupwara area of Jammu & Kashmir. In response to notice given by the Commission, the Ministry of Defence, Government of India submitted a detailed report indicating, inter alia, that the 46 Air Defence Regiment was patrolling on the road from Chowkibal to Darangyari on 19 October 2007 when a civilian was stopped by army gunner Mohd. Tarique and asked to give his identity. The said civilian declined to follow the instructions and a scuffle ensued between them. At this, Mohd Tarique fired from his service-rifle which leads to the death of the civilian who was identified as Abdul Rashid Mir. A criminal case had since been registered and is under consideration by the competent court in Kupwara.

4.63 The Commission upon consideration of the matter observed that a civilian had died due to firing resorted to by Mohd. Tariq, army gunner, that resulted in violation of his human rights and thus a show-cause notice under section 18(c) of the PHRA was sent to the Secretary, Ministry of Defence, Government of India, as to why monetary relief may not be recommended to be paid to the next of kin of the deceased. In response the Ministry of Defence agreed to pay compensation to the next of kin of the deceased on humanitarian considerations. Accordingly, a compensation of 3 lakhs as recommended by the Commission was paid to the next of kin of the deceased on 12 July 2011. The Commission upon consideration of the compliance report closed the case on 27 October 2011.

b) Illegal Detention and Torture

14. *Unlawful Detention and False Implication of Pappu Jaiswal by Mirzapur Police, Uttar Pradesh*
(Case No. 11065/24/55/2011)

4.64 The Commission received a complaint on 29 March 2011 from Sanju Jaiswal, resident of Jaiswal Village, Mirzapur, Uttar Pradesh that on 28 March 2011 at about 2.00 p.m., her husband, Balram alias Pappu Jaiswal was picked up by some unknown persons and some Police officials. She apprehended false implication and prayed for Commission's intervention.

4.65 Taking cognizance of the matter, the Commission called for a report from the Superintendent of Police, Mirzapur, Uttar Pradesh. In response, a letter dated 6 July 2011 was received from the Superintendent of Police along with the copy of the report received from Circle Officer, Lalganj, Mirzapur. Perusal of the same revealed that Pappu Jaiswal, husband of the complainant was apprehended after a brief encounter on 29 March 2011 by the Police personnel of Rajapur Police Station as he was found in possession of illegal arms and ammunition. Accordingly, three cases – Crime No.211/11 for the offences punishable u/s 147/148/149/307 of IPC, Crime No.214/11 u/s 25 of the Arms Act and Crime No. Nil/11 u/s 41/411 of IPC had been registered against Pappu Jaiswal and he was in judicial custody. The complaint seems to have been sent by the complainant to save her husband from the cases registered against him.

4.66 While considering the matter on 24 August 2011, the Commission observed that the complaint was sent on 28 March 2011 at 8.15 p.m. through fax which was received in the Commission before 10.00 a.m. on 29 March 2011. The complaint received is belied by the fact that the complainant could not have anticipated that her husband would be arrested on 29 March 2011 in cases registered after sending the complaint to the Commission. In these circumstances, the Commission directed the Director General of Police, Government of Uttar Pradesh to depute an officer from the HQs. who should investigate and submit the report to the Commission within four weeks.

4.67 In response, the Inspector General of Police (Human Rights), Police Headquarters, Uttar Pradesh, vide communication dated 21 December 2011 submitted the requisite report. Perusal of the same revealed that enquiry into this matter was carried out by the Deputy Superintendent of Police (Human Rights), Police Headquarters, Uttar Pradesh which concluded that Balram alias Pappu Jaiswal, husband of the complainant was picked up by Chitrakoot District Police on 28 March 2011 at about 2.00 p.m. when Pappu was travelling with one Nizamuddin on his motorcycle No. UP 64K 7814. Nizamuddin was allowed to go but his motorcycle was taken in possession by the Police. Balram alias Pappu Jaiswal was thereafter brought to P.S. Rajapur and his arrest was shown on 29 March 2011 along with other persons in a stage-managed encounter. The Police personnel viz. Sub-Inspector Tika Ram Verma, the then SHO, P.S. Rajapur; Sub-Inspector Dina Nath Pandey, P.S. Rajapur; Sub-Inspector Nand Lal Singh, the then SHO, P.S. Pahari; Constables Budhiman Singh, Panna Lal, Govind Narain Pandey, Mahinder Kumar, and Driver Krishan Chandra Shukla, P.S. Rajapur; Constables Nitiraj Singh, Rajole Chaudhary, and Promod Tiwari, P.S. Pahari, Distt. Chitrakoot were prima facie responsible for keeping Balram alias Pappu Jaiswal in illegal detention.

4.68 The matter is still under consideration of the Commission.

15. *Unlawful Detention of a Woman by Ghaziabad Police, Uttar Pradesh*
(Case No. 517/24/31/2011)

4.69 The Commission received a complaint dated 15 December 2010 from Narendra, s/o late Badale Singh, Gautam Budh Nagar, Uttar Pradesh alleging that his sister Ravindri had been taken away by the Police of Sihanigate Police Station on 15 December 2010. He prayed for enquiry in the matter and release of his sister.

4.70 The Commission called for report from the Senior Superintendent of Police, Ghaziabad. In response, a letter dated 12 February 2011 was received from him along with the report of the Circle Officer, Nagar II, Ghaziabad. Perusal of the same revealed that Lallu alias Virender, husband of the complainant was wanted in case Crime No.1821/10 for the offence punishable u/s 302 IPC. It was further revealed that Ravindri along with Shakuntala appeared before Inspector In-charge on 16 December 2010 to enquire about the said case. After interrogation, she was let off. The entries have been made in the register.

4.71 The Commission considered the report. The complaint dated 15 December 2010 was sent through fax dated 16 December 2010 at 5.30 a.m. The report disclosed that Ravindri came to the Police Station at 2130 hours on 16 December 2010. The said report, according to the Commission is belied by the fact that complainant could not have anticipated on 16 December 2010 at 5.30 a.m. that his sister would be called at the Police Station for interrogation in case Crime No.1821/10 at 9.30 p.m. on 16 December 2010. Moreover, there is violation of Section 160 Cr.P.C. as no notice in writing was given and she being a woman was required to be interrogated at her place of residence. Copy of the General Diary entry had also not been sent to the Commission. The Senior Superintendent of Police, Ghaziabad had acted as a post office in forwarding the report to the Commission without verifying the true facts of the case. In the given circumstances, the Commission directed the Director General of Police, Government of Uttar Pradesh, to get the matter enquired from a Gazetted Officer of Headquarters and then forward the report to the Commission. He was also directed to forward the copy of General Diary No.50 dated 16 December 2010 to the Commission.

4.72 In response, a letter dated 23 August 2011 was received from the Inspector General of Police, Human Rights, Government of Uttar Pradesh in respect of Ravindri, wife of Lallu Gurjar alias Virender. Perusal of the same revealed that Ravindri was kept in illegal detention from 15 December to 20 December 2010 and the provisions contained under Section 160 Cr.P.C were also not followed. Baljit Singh, the then Inspector-in-Charge, P.S. Sihanigate, Ghaziabad hence appeared to be guilty.

4.73 The Commission opined that the human rights of the victim had definitely been violated. It issued a notice under Section 18 of the PHRA to the Chief Secretary, Government of Uttar Pradesh directing him to show-cause why interim relief may not be recommended to the victim. He was also directed to inform whether any departmental action had been taken against Baljit Singh, the then In-charge P.S. Sihanigate, Ghaziabad.

4.74 In reply to the show-cause notice, the Senior Superintendent of Police, Ghaziabad vide his communication dated 4 December 2011 submitted that Inspector Baljeet Singh was at fault in this matter and the matter was being dealt within the Department as well. It was further stated that there was no objection to grant of interim monetary relief to the victim. The Commission considered the matter and opined that since the State had no objection in granting of interim relief to the victim, a sum of ₹25,000/- (Rupees Twenty Five Thousand only) be paid to the victim. The Chief Secretary, Government of Uttar Pradesh was also directed to submit the proof of payment made to the victim. Besides, he should inform the Commission the outcome of the departmental action against the delinquent Police officer.

4.75 The compliance report is awaited and the matter is under consideration of the Commission.

16. *Torture of Khya Sonam Tara by Army Personnel in District Seppa, Arunachal Pradesh (Case No. 26/2/0/2010)*

4.76 Suhas Chakma, Director of the National Campaign for Prevention of Torture, informed the Commission that one Khya Sonam Tara was stopped by the IR Battalion Personnel on 15 September 2010 near Dewana Hotel in Tinali, District Seppa, Arunachal Pradesh, for not wearing helmet and was subjected to torture in full public view. The victim sustained serious injuries all over his body. The Commission called for a report from the Director General of Police, Arunachal Pradesh.

4.77 The Deputy Inspector General of Police (Crime), Arunachal Pradesh, forwarded the report on 30 November 2010 verifying the incident. It was further reported that FIR No. 99/10 u/s 341/325/427 IPC was registered at Police Station Seppa on 15 September 2010 and the District Administration had ordered a magisterial inquiry into the incident. It was confirmed that one Shri Khya Sonam Tara was assaulted by IR Battalion personnel on 15 September 2010 as a result of which he sustained injuries. Constables Ngamwang Tekwa, Logan Chinyang, and Tiro Lama were arrested on 17 September 2010. They were later released on bail by the Court. The investigation of the case was in progress.

4.78 Since it was established that the three Constables had assaulted Khya Sonam Tara, due to which he sustained injuries, the Commission issued a notice u/s 18 (a) (i) of the PHRA, to the Government of Arunachal Pradesh, through its Chief Secretary, to show-cause as to why the Commission should not recommend monetary relief for the victim.

4.79 Joint Secretary (Home), Government of Arunachal Pradesh responded to the show-cause notice requesting that monetary relief may not be recommended by the Commission as a magisterial inquiry in the incident had been ordered and the Police investigation was also in progress.

4.80 A copy of the magisterial enquiry report forwarded by the Deputy Commissioner, Seppa, also proved beyond doubt that the IR Battalion Jawans deployed for patrolling duty

at Bazar Line, Seppa, were guilty of misusing their powers and assaulting Khya Sonam Tara.

4.81 Upon consideration of the material on record and reply of the State Government to the show-cause notice, the Commission vide its proceedings dated 15 March 2012 observed that it was not bound to wait for completion of investigation by the Police as a criminal trial would only decide on criminal aspect of the case. The Commission held that the material before it was sufficient to hold, *prima facie*, that the IR Battalion Personnel violated the human rights of the victim by assaulting him in full public view and causing him grievous injuries and thus the State could not escape its liability to compensate the victim. Keeping in view the facts and circumstances of the case, the Commission recommended to the Government of Arunachal Pradesh, through its Chief Secretary, to pay monetary relief of ₹75,000/- (Rupees Seventy Five Thousand Only) to the victim Khya Sonam Tara. The Chief Secretary was also directed to submit a compliance report along with proof of payment within six weeks.

4.82 The compliance report from the State Government is awaited.

17. *Torture of Hannan Mondal by BSF Personnel in District Murshidabad, West Bengal (Case No. 868/25/13/2010-AF)*

4.83 Suhas Chakma, Director of Asian Centre for Human Rights, informed the Commission about the incident of torture of one Hannan Mondal by the personnel of Border Security Force (BSF) Battalion No. 92.

4.84 As per the BSF version, Hannan Mondal, one of the cattle smugglers was intercepted by the BSF personnel near the Indo-Bangla Border falling under the jurisdiction of Police Station Jalangi, District Murshidabad in West Bengal on 31 May 2010. Hannan Mondal had attempted to assault Constable V.R.C. Reddy. All the smugglers managed to cross the Outpost (OP) Point along with two buffaloes, leaving behind the remaining buffaloes and 50 bottles of Phensedyl. An FIR No. 344/10 dated 1 June 2010 under section 188/189/353/379/411 IPC, Section 12 of the Passport Act and Section 27 (a) (b) of Drugs and Cosmetics Act was registered at Police Station Jalangi. Scuffle between Hannan Mondal and BSF personnel was totally denied. The BSF further claimed that no FIR was found to have been lodged against the BSF Constables by Hannan Mondal.

4.85 Complainant's comments were invited by the Commission on the report submitted by the BSF. Suhad Chakma informed the Commission that the matter was reported to Police Station Jalangi where the same was recorded vide GDE No. 2088 dated 31 May 2010. He also forwarded a copy of the discharge certificate issued by the hospital in respect of Hannan Mondal to the Commission.

4.86 The Superintendent of Police, Murshidabad also forwarded a report of the Sub-Divisional Police Officer, Domkal, to the Commission. On the requisition of the Commission

he further sent copies of the GDEs No. 2088 and 2090 dated 31 May 2010 of Police Station Jalangi as well as a copy of the injury report of Hannan Mondal.

4.87 The report from Sub-Divisional Police Officer indicated that Hannan Mondal had reported to Police Station Jalangi on 31 May 2010 that BSF of Singhpara Border Outpost (BOP) had abused him verbally as he had protested against a quarrel between BSF and one Mashedul Mondal. This information was recorded in GDE No. 2088 as a non-cognizable offence and Hannan Mondal was advised to approach a Court. Assistant Sub-Inspector B.T. Paul, who was entrusted with the inquiry, approached the Court of the Chief Judicial Magistrate, Berhampore, Murshidabad, for necessary permission to conduct inquiry under section 155 (2) Cr. P.C. He also sent a prayer to the Company Commander of the Singhpara BOP to supply the particulars of the on-duty BSF personnel at OP No.2 on 31 May 2010. However, no response was received from him.

4.88 The injury report of Hannan Mondal showed that he had following injuries on his person:

- (i) Pain, tenderness, swelling and lacerated wound of the lower lip.
- (ii) Pain and tenderness, bruise over upper portion of left arm, right shoulder.
- (iii) Pain and tenderness of right temporal region, anterior chest, under surface of chin.

4.89 The Doctor opined that injuries were caused by a blunt weapon. The injury report further revealed that Hannan Mondal was admitted to the hospital on 31 May 2010 and was discharged on 03 June 2010.

4.90 The Commission observed that the report, prima facie, shows that Hannan Mondal was physically assaulted by the BSF personnel on 31 May 2010 in the jurisdiction of Police Station Jalangi and it definitely violated his human right to life and dignity. Hence, the Commission directed the Secretary, Ministry of Home Affairs, Government of India to show-cause as to why the Commission should not recommend monetary relief for the victim.

4.91 In response to the show-cause notice, the Deputy Inspector General (Operations), in the office of the Director General Border Security Force (Operations Directorate), Ministry of Home Affairs, Government of India submitted that the report of the case had been sought from field formations and the same would be submitted immediately to the Commission on its receipt.

4.92 Reply to the show-cause notice had so far not been received by the Commission.

c) Police High-Handedness

18. *Enquiry into Alleged Police Atrocities in Bhatta and Parsaul Villages, NOIDA, Uttar Pradesh*
(Case No. 16936/24/30/2011 & Linked Case Nos. 16946/24/30/2011 and 16954/24/30/2011)

4.93 The Commission received a complaint dated 9 May 2011 from Rajinder Singh Solanki, Ex-Member of Legislative Assembly, Sikandrabad and others, alleging that villagers of Bhatta and Parsaul of Gautam Budh Nagar were sitting on *dharna* against the acquisition of their land and demanded higher compensation. The villagers of nearby villages Parsaul, Mutaina, Achepur and Chandpur had also joined the *dharna*. As per the complaint, on 7 May 2011, the District Administration along with the Police and Provincial Armed Constabulary (PAC) reached the *dharna* spot and pressurized protesters to end the *dharna*. After some time, tear gas, lathi charge and firing was resorted to by the District Administration on the women, children and farmers, which resulted in injuries to more than 200 women, children and farmers besides death of many farmers and two Police men. Further, it was alleged that the District Administration and the Police started setting the houses on fire and also burnt wheat crop. In the night, PAC and Police entered the houses and molested the women. Most of the people fled from the village and women and the children who stayed back in the village were being humiliated. No one was being allowed to move out of her/his house and old people and children were starving. Cattle were also suffering due to non-availability of water and fodder.

4.94 Another complaint received from one Bhupender Choudhary also made similar allegations.

4.95 Dr. Lenin Raghuvanshi, Executive Director, People's Vigilance Committee on Human Rights (PVCHR), Varanasi, Uttar Pradesh, through an email, raised the issue related to land acquisition and compensation to the farmers in his complaint. Several other complaints with almost similar allegations were also received in the Commission and they were taken up along with this case.

4.96 A fact finding report dated 13 May 2011 from one Jagdish Yadav and others from Jan Hadtshep was also received. In the report, it was mentioned that the Police used teargas shells and fired without any warning due to which three villagers were killed. The Police beat the people mercilessly; damaged motorcycles, tractors, cars, TV sets, cow sheds and granaries and even set on fire crops in the fields. The report also gave specific details of some villagers beaten by the Police and injured in Police action. It was also alleged that the dead bodies of farmers were not handed over to their family members for their last rites and over 50 children and young men were missing. A number of photographs and a CD containing pictures of the village were submitted along with the report.

4.97 In one of the news items dated 15 May 2011 appearing in the news- paper 'Hindustan' it was mentioned that after the incident, Police harassed the women folk staying in the village. Fields were flooded with water from the canal due to which the wheat crop had been destroyed. There was no fodder for the cattle in the village. Some of the newspaper clippings further mentioned that a number of people had been burnt alive in the village and a number of villagers were missing.

4.98 The Commission vide proceedings dated 11 May 2011 directed its Director General (Investigation) to send a team for spot inquiry. Pursuant to the directions of the Commission a team from the Investigation Division headed by a Senior Superintendent of Police, visited District G. B. Nagar from 24 to 30 May 2011 for conducting the spot enquiry.

4.99 During the course of enquiry, the team visited Bhatta and Parsaul villages on 24 May 2011 and interacted with the villagers. In addition, the team visited the places where 'dharna' was said to have been organized by the villagers; houses in which household goods were allegedly damaged by the Police personnel; and fields where the 'bithoras', 'buggies', etc. were allegedly burnt by the Police personnel. The photographs of burnt 'bithoras' 'buggies' etc. and damaged houses were taken by the team.

4.100 On 25 May 2011, the Team again visited the two villages and recorded statements of the witnesses and victims. Identity of the witnesses and victims who came to depose before the Team was verified by examining the proof of identities such as voter I-card, ration card, etc. Medical records of those who claimed to have been injured in the Police action were also examined. In all, the Team from the Investigation Division of the Commission recorded statements of 118 victims and witnesses belonging to Bhatta, Parsaul and nearby villages.

4.101 On 26 May 2011 the Team visited Dasna Jail, Ghaziabad and recorded statements of 21 out of the 22 persons arrested by the Police in connection with the incident of 7 May 2011. The Team also visited Kailash Hospital in Greater Noida and recorded the statement of Police personnel who were injured in the incident and were undergoing treatment in the hospital.

4.102 On 27 May 2011 in the G. B. Nagar Collectorate, the Team recorded statements of government officials as well as the civilians who were allegedly harassed by the protesters, sitting on 'dharna' in village Bhatta since 19 January 2011 till the day of the incident on 7 May 2011. Further, on 27 May 2011 and on 30 May 2011, the Team made enquiries from the concerned civil/police authorities of the District G.B. Nagar and collected relevant documents/records besides recording their statements.

4.103 The Investigation Division Team made the following findings:

1. The twin villages of Bhatta and Parsaul fall under Dankaur Tehsil of District Gautam Budh Nagar, Uttar Pradesh. The villages, located at a distance of about 40 kms. from the city centre of Greater NOIDA, are on the proposed

Yamuna Expressway axis, linking Greater NOIDA to Agra. People in the two villages mostly depend on agriculture for their livelihood.

2. In the year 2010, land measuring 193.2340 hectares in village Bhatta in two phases, and land measuring 333.620 hectares in village Parsaul in two phases, was acquired by the Government of Uttar Pradesh invoking Section 6 (providing for land acquisition for a public purpose) and Section 17 (providing special powers for land acquisition in case of urgency) of the Land Acquisition Act, 1894 for the 'Planned Development in District Gautam Budh Nagar through Yamuna Expressway Industrial Development Authority'.
3. For the acquired land, compensation at the rate of ₹ 845.00 and ₹ 880.00 per sq. meter only was paid to the land owners by the Authority. A total of 1,964 land owners in the two villages of Bhatta and Parsaul were affected in the above land acquisition process out of which 1,136 land owners had accepted the payment while the rest did not accept the compensation, mainly due to disputes over title of ownership.
4. Out of the total of 526.8740 hectares of acquired land, 438.8435 hectares of land was transferred to 'Yamuna Expressway Industrial Development Authority' while rest of the acquired land could not be handed over to the Authority due to stay orders issued by the High Court of Uttar Pradesh.
5. Though the land was stated to be acquired for 'public purpose' of 'Planned Development' in District Gautam Budh Nagar, out of the 438.8435 hectares of acquired land transferred to the 'Yamuna Expressway Industrial Development Authority', only 53.5180 hectares of the land was used by the Yamuna Expressway Authority for 'construction of 120 meter wide sector road between Sector 18 and Sector 16'. Rest of the acquired land was utilized by the Authority for development of residential plots in Sector 18 and Sector 20 of the G. B. Nagar, invoking Section 6 (2) (c) of the Uttar Pradesh Industrial Area Development Act, 1976 which provides for 'development of sites for residential purposes' as one of the functions of the Authority.
6. The acquired land was subsequently allotted, at the rate of ₹ 4750/- per sq. meter, to the successful applicants under the 'Yamuna Expressway Industrial Development Authority Residential Plot Scheme 2009'. The said 'Residential Plot Scheme' provided for allotment of 5,000 plots of size 300 sq. meter; 2,000 plots of 500 sq meter; 1,000 of size 1,000 sq meter; 250 of size 2,000 sq. meter and 100 plots of size 4,000 sq. meter, to the general public.
7. Land owners in the twin villages of Bhatta and Parsaul, as well as in the nearby villages, whose land had been acquired, were aggrieved because though their

land was acquired at the meager rate of ₹845 - 880 per sq. meter, the same was sold by the Authority at a premium rate of ₹4,750/- per sq. meter to the outsiders, most of whom were apparently 'investors'.

8. Under the existing scheme of the Government, the land owners affected by the land acquisition process of the 'Authority' are given compensation for the acquired land; land in the developed sector in lieu of the acquired land that amounts to 7% (the minimum limit is 120 sq. meters, maximum limit is 2,500 sq. meters); and 17.50% reservation in the residential schemes of the Authority, besides benefits to the affected farmers as applicable under the National Rehabilitation Policy.
9. Farmers in the two villages of Bhatta and Parsaul, however, did not appear to be satisfied with the above benefits. They organized themselves against the land acquisition policy, primarily under leadership of one Manveer Singh Tewatia, and started the 'dharna' on the outskirts of village Bhatta on 17 January 2011 where they were joined by the people from nearby villages such as Mutaina, Achepur and Chandpur. Main demands of the land owners were formulation of a new Land Acquisition Act in place of the existing Land Acquisition Act, 1894; only half of the acquired land belonging to a landowner be utilized for development plans and remaining half to be handed back to the owner; compensation to the landowners at the rate of 80% of the final sale rate of the acquired land and 25% reservation for the landowners in the development schemes of the Government in respect of the acquired land.
10. The '*dharna*' by the farmers on the outskirts of village Bhatta which started on 17 January 2011 and continued up to the day of Police action on 7 May 2011, was not at all peaceful. On many occasions, the villagers were participating in the '*dharna*' and demonstration often equipped with 'lathis', 'farsas' and 'kattas'. During the period from 17 January 2011 to 7 May 2011, the villagers staging demonstration indulged in criminal activities and on a number of occasions indulged in provocative actions, which are as follows:
 - (i) They attacked the Police party on the intervening night of 19/20 January 2011.
 - (ii) They kept Doctors who had gone to the place of demonstration for treatment of villagers on 23 January 2011 as hostage.
 - (iii) They indulged in abduction of two Provincial Civil Services (PCS) officers on 18 February 2011 who had gone for talks with the farmers.
 - (iv) There was an attack on Police/PAC party on 18 February 2011 who had gone to arrest the accused persons.

- (v) This was followed by an attack on PAC personnel on 21 February 2011 while passing through the area.
 - (vi) Farmers who were going for talks with the District Administration were also assaulted.
 - (vii) They caused damage to Government property on 17 March 2011.
 - (viii) There were also assaults on farmers on 13 April 2011 and 19 April 2011 who refused to take part in the demonstration, and
 - (ix) There was an attack on the Deputy Chief Medical Officer, Hathras and his family besides damage to his vehicle while passing through the area on 30 April 2011.
11. The District Administration which apparently did not take effective action to contain the criminal activities except for registering FIRs, nevertheless made a number of attempts to negotiate with the farmers. These efforts by the District Administration, however, did not result lifting of the *dharna* by the farmers. The situation took a serious turn on 6 May 2011 at about 0930 hours. when the villagers sitting on *dharna* on the outskirts of village Bhatta, stopped a Uttar Pradesh Roadways Bus in which two Roadways employees along with the driver of the bus were deputed to conduct survey of the bus route through the village Bhatta and the adjoining villages. The villagers forced the bus to be parked inside the '*dharna- sthal*' and deflated the tyres of the bus. The villagers also did not let the three Roadways employees go and literally kept them as hostage. The three were not released even by the evening of 6 May 2011, despite negotiations by the District Administration and requests made by the relatives of the kidnapped employees to the villagers.
12. When the District Administration failed to secure release of the three kidnapped Uttar Pradesh Roadways employees through persuasion, they apparently decided to secure their release by force and accordingly a Police party led by the District Magistrate and the Senior Superintendent of Police, Gautam Budh Nagar reached the place of '*dharna*' in village Bhatta at about 2 p.m. on 7 May 2011. The Police party was however attacked by the agitating villagers who pelted stones on the civil and police officials. The villagers also fired upon the Police and District Administration officials resulting in gunshot injuries to the District Magistrate Gautam Budh Nagar and two Constables. Due to stone pelting by the villagers, eight Police personnel including the Senior Superintendent of Police, Gautam Budh Nagar, were injured. The two injured Constables, who sustained gunshot wounds, succumbed to their injuries later. Since the situation was becoming precarious, upon getting orders for use of force and subsequently orders for firing from the Additional Divisional

Magistrate who was the Magistrate I/C at the spot, the Police resorted to tear gas shelling, lathi charge and firing. This was done in order to disperse the mob of villagers and to secure release of the three State Roadways Transport Corporation employees, held as hostages by the villagers. After some time, the Police managed to trace the three kidnapped persons and took them in their protective custody. Use of force by the District Administration for the purpose of securing release of three Uttar Pradesh Roadways employees thus appeared to be justified.

13. Enquiries by the NHRC Team, however, revealed that after the incident of firing and stone pelting by the villagers resulting in death of two Police personnel and injuries to a number of civil and police officials including the District Magistrate and the Senior Superintendent of Police of the District, the policemen got infuriated and committed excesses in the process of dispersing the unlawful assembly of people near the site of the 'dharna' and tracing the three Roadways employees kept as hostages. Soon after getting injured both the District Magistrate and the Senior Superintendent of Police were taken away from the village for treatment in the hospital at Greater Noida. Thereafter, the policemen got out of control. They chased the villagers deep inside the village and in order to trace the three kidnapped Uttar Pradesh Roadways employees, they forcibly entered the houses of the villagers where they indiscriminately beat men and women present in the houses, causing injuries to a number of them. Even the elderly persons were not spared by the policemen. While carrying out searches in the houses, the Police misbehaved with the women present in the houses, used abusive language against them and even molested a few of them. The Police also damaged household goods, food grain stock, TV sets, refrigerators, as well as the motorcycles and four-wheelers parked in the premises. The enraged Policemen also burnt 'bitoras' (heap of dung cake), 'buggies' (carts), 'bongas' (fodder stock) and damaged the tractors and trolleys kept by the villagers in the open field, mostly near the site of the 'dharna'. They even burnt a portion of two houses in village Bhatta. The Police, for a second time, committed excesses in village Parsaul on 8 May 2011 by indiscriminately beating up the villagers, damaging the household goods and indulging in misbehaviour with the women folk, during search of the wanted accused persons, especially Manbir Tewatia and Neeraj Mallick who resided there.
14. Till the date of enquiry by the NHRC Team, 22 persons had been arrested by the Police in connection with their alleged involvement in the incident dated 7 May 2011. The NHRC Team recorded statements of 21 out of the 22 arrested persons, who had been lodged in Dasna jail, Ghaziabad. Most of the arrested persons deposed that they had been falsely implicated in the cases by the Police.

The NHRC Team, in order to ascertain the charges against them and grounds for their arrest requested the Senior Superintendent of Police Gautam Budh Nagar to give copies of the case diaries but he did not provide the same despite repeated requests, taking the plea of obtaining orders from the Court. Registration of the second FIR (case crime no. 176/11) five hours after registration of the first FIR (case crime no. 175/11) regarding the same continuing incident without any reasonable explanation, and naming of 26 persons in this FIR including the 22 arrested persons besides non-production of copies of case diaries before the NHRC Team gave credibility to the allegations of indiscriminate arrest by the local Police in the cases registered regarding the incident dated 7 May 2011.

15. During the course of enquiry, relatives of three persons, namely Surender Pal r/o Khad Baroli, Bulandshahar (living at village Parsaul for the last 2-3 yrs); Ajit Singh Dahalania r/o Parsaul and Kunwar Pal r/o Parsaul, gave statements about these persons being missing before the NHRC Team. The Police, however, reported that they were alive and staying with their relatives. Nevertheless, their present specific addresses needed to be ascertained and their whereabouts too needed to be confirmed by the Police.
16. After the incident, a Police contingent was stationed on the outskirts of the village Bhatta in order to keep the situation under control. The Police personnel had been regularly conducting patrolling in the village and were on the look out for the villagers, mostly youth, involved in the incident. Till the date of enquiry by the NHRC Team, 22 persons had been arrested by the Police in connection with the incident. Most of the youths in the village were absconding, fearing arrest by the Police.
17. Presence of a large Police contingent and their regular movement had been causing discomfiture to the villagers, particularly to the women. Though there is no shortage of food in the village, womenfolk in the village were facing difficulties in taking proper care of their cattle in the absence of men and due to shortage of fodder as large quantity of fodder stock was burnt by the Policemen after the incident.
18. District Administration had been making efforts to bring back normalcy in the village and return of those absconding. However, till the date of enquiry by the NHRC Team, no relief had been extended to those killed and injured or those who suffered damages of their household goods in the Police action on 7 May 2011. However, a survey had been conducted by the District officials to this effect.

4.104 On the basis of their findings, the NHRC Team submitted the following recommendations for consideration of the Commission:-

- (i) Enquiries by the NHRC Team revealed that though the land in the villages Bhatta and Parsaul was acquired at the rate of `845 - 880 per sq meter by the Government of Uttar Pradesh for 'public purpose' invoking the 'urgency' provisions of the Land Acquisition Act, 1894, the acquired land was mostly utilized for development of residential plots by the Yamuna Expressway Industrial Development Authority and sold to the private individuals, at the rate of `4,750/- per sq meter. Enquiries revealed that the root cause of the dispute was acquisition of the land of villagers against their will and low rate of compensation for the acquired land. During enquiry, most of the villagers expressed desire of getting back their land. The Government of Uttar Pradesh may, therefore, review the process of land acquisition in the villages Bhatta, Parsaul and the adjoining villages and work out a solution acceptable to the landowners.
- (ii) The Police deployed in the villages Bhatta and Parsaul committed atrocities on 7 May 2011 and on 8 May 2011, such as indiscriminate beating, damages to household goods, arson, misbehaviour with and molestation of the women, thereby violating the human rights of villagers. Therefore, criminal cases may be registered against the erring Police personnel under relevant provisions of the law and investigation thereof may be entrusted to the CB-CID.
- (iii) A number of villagers in Bhatta and Parsaul villages received injuries due to excesses committed by the Police on 7 May 2011 and 8 May 2011 and also suffered loss of their movable property due to high-handedness of the Police. Grant of suitable compensation may be considered to the victims for injuries and loss to property suffered by them.
- (iv) During the course of enquiry by the NHRC Team, three persons, namely, Surender Pal r/o Khad Baroli, Bulandshahar (living at village Parsaul for the last 2-3 yrs); Ajit Singh Dahalania r/o Parsaul and Kunwar Pal r/o Parsaul, were reported to be missing after the incident. Immediate action may be taken to ascertain and confirm their whereabouts
- (v) The allegations of indiscriminate arrest by the local Police in the cases registered with regard to the incident dated 7 May 2011 were found to have credibility. To ensure impartial investigation of these cases (case crime no. 173/11, 175/11, 176/11, 177/11, 178/11, 179/11 and 180/11 of P.S. Dankaur) investigation may be entrusted to the CB-CID.

4.105 After perusing the report of the Investigation Division, the Commission vide its proceedings dated 1 August 2011 directed that before coming to any conclusion in the

incidents which happened in the three villages of NOIDA, the enquiry report along with the recommendation made by the Director General (Investigation) be sent to the Government of Uttar Pradesh for comments.

4.106 Subsequently, the Special Secretary, Home (Human Rights) Department, Government of Uttar Pradesh forwarded a report stating that the matter is being investigated by CB-CID and it would be appropriate to take further action on the basis of findings arrived at by it.

4.107 The report of the CB-CID is awaited by the Commission.

19. *Violation of Human Rights Committed by Jharkhand Police and Para- Military Forces during Counter Insurgency Operation*
(Case No. 1206/34/18/2011)

4.108 The Commission received a complaint from Gladson Dungdung, General Secretary, Jharkhand Human Rights Movement, Ranchi, Jharkhand, also a member of the Core Group of NGOs of NHRC and an Advisor to the Planning Commission, alleging that Jharkhand Police and para-military forces committed violations of human rights during counter insurgency operation named 'Operation Anaconda' in the Saranda forest area of Jharkhand from 1 to 31 August 2011. The complainant alleged that 20 villages were taken over by force for a month by the Police and para-military forces during which the villagers were not allowed to collect forest products. Schools were closed and mid-day meal in schools was suspended. Twenty people died due to malaria as no medical facility was available and villagers migrated from the villages on account of persistent fear. The complainant further alleged that two persons, namely, Mangal Honhanga and Soma Guria were killed by the security forces and 33 innocent people including a teacher of a primary school were falsely implicated in cases related to involvement in naxal activities.

4.109 The Commission took cognizance of the complaint and vide its proceedings dated 15 September 2011, directed to send a team from its Investigation Division to the area for an enquiry. The Commission specifically directed verification of the following charges made in the complaint:-

- 20 villages, named in the complaint, were "taken over by the forces for a month", and the villagers were tortured by the Maoists by night and the Police in the daytime;
- In the villages of Tholkabad, Tirilposai, Baliba, Bitkilsoy and Karampada, the security forces destroyed food grains and the harvest, and did not let the villagers collect forest produce;
- In these five villages, schools had been closed and the mid-day meal suspended for a month;

- The residents, and particularly the youth, of Tholkabad, Tirilposai, Baliba, Samtha, Kaliyaposi and Jharbeda migrated due to the fear of security forces;
- No health facilities were available in a range of 30 kms;
- There were 20 deaths from malaria and lack of treatment during the operation, as the locals were not allowed to leave their villages;
- The security forces killed two villagers – Mangal Honhanga and Soma Guria;
- Thirty three innocent people had been arrested and sent to jail, though there was no proof of their involvement in Naxal activities;
- Among those arrested was Haris Mahto, who is a teacher in the Baliba Primary School;
- The forces took over the shop of Pator Gagrai, apparently also in Baliba, alleging that he was a Maoist;
- Anyone who protested was labeled a Maoist, or a supporter of the Maoists.

4.110 The Commission in its proceedings also mentioned that the complainant in his complaint had claimed killing of 550 Adivasis as Maoist and booking of 4,372 persons under Unlawful Activities Prevention Act (UAPA); Arms Act and Criminal Law Amendment Act (CLA), but it was not clear whether this referred to death and arrest only in the 'Operation Anaconda' in the forest of Saranda. The Commission, therefore, directed that the Investigation Team should seek a clarification, and details, including names and addresses, of those killed or arrested.

4.111 Besides, it directed that the Investigation Team should be accompanied not only by the representatives of the State but also of the civil society, and the complainant be associated in the enquiry. Further, the team should draw on the information and expertise of local journalists, especially of Ushinor Majumdar, who had covered the operation.

4.112 Pursuant to the directions of the Commission, a Team of the Investigation Division headed by the Deputy Inspector General of Police, conducted an extensive inquiry into the allegations made by the complainant and came to the following conclusions:-

- i) Firstly, the Police and the Central Reserve Police Force (CRPF) had conducted a month long operation in 20 villages and on arrival of forces a few villagers left their villages out of fear but majority of them remained in the villages. The allegations levelled by the complainant regarding torture of the villagers by the Police were not substantiated though some inhabitants of Baliba, Tholkabad, Bitkilsoy and Tirilposai villages alleged that the Police personnel beat them during operation and also damaged their utensils, mixed up variety

of grains in one. The Police forces did not misbehave with the women in these villages except in one case where a woman was allegedly slapped by the Police. The allegations of destroying crops and not permitting the villagers to collect forest produce were not substantiated.

- ii) Secondly, during the operation 112 persons suspected to be Naxals or their sympathizers were detained. Out of these, 79 persons were let off after questioning while 33 persons were sent to prison. The Team also found that five villagers picked up on 2 August 2011 were sent to jail on 12 August 2011. The provisions of law relating to their arrest and detention were not followed and they were detained for 10 days illegally.
- iii) Thirdly, the allegations of schools having been closed and mid-day meal having been suspended for a month due to operation were also not substantiated. In Tholkabad village, building of the school was demolished by Naxals few years back and there was no regular teaching in the school even before the operation. In Baliba village, functioning of the school was affected due to arrest of Harish Mahto, a teacher of the school on 14 July 2011, i.e. before the start of 'Operation Anaconda'. Since the mid-day meal scheme is implemented by the teachers, it remained suspended due to absence of teachers in the schools in the four villages.
- iv) Fourthly, the allegations that 20 persons died due to malaria during the period of operation was also not substantiated because no medical facility was available in these villages and the Health Centres were located at a long distance.
- v) Fifthly, as regard the allegation concerning the killing of Mangal Honhanga, it was revealed that his death had taken place in the month of June 2011, i.e. prior to the operation and there was no eyewitness of the incident. The forces reiterated their version that he was killed in cross-firing during encounter with the Naxalites. A sum of rupees two lakhs had been awarded as compensation to the next of kin of the deceased Mangal Honhanga.
- vi) Sixthly, as regards killing of civilian Soma Guria by the security forces during the operation was concerned, it was found that he was in the custody of the Police forces when he died in cross-firing between the Police forces and the Naxalites on 20 August 2011 at a place near Baliba. There was no eye-witness of this incident. As such, a case had been registered and was being investigated by the CB-CID.
- vii) Seventhly, the allegations regarding taking over the shop of one Pator Gagrai in village Baliba and taking away cereals and other items from his grocery shop could not be verified.

- viii) Eighthly, the claim of complainant regarding killing of 550 adivasis on the presumption of being Maoists and booking of 4,372 persons under Unlawful Activities Prevention Act, Arms Act, 17 under Criminal Law Amendment Act, could not be verified due to non-availability of information.
- ix) Ninthly, the District Administration furnished information that ever since 2002 only two civilians, namely, Soma Guria and Mangal Honhanga had died and a total of 159 persons including 33 during the operation had been arrested by the Police.

4.113 On considering the findings of the Investigation Team of the NHRC, the Commission vide its proceedings dated 20 January 2012 directed as under :-

- i) Let the District Magistrate of Chaibasa be asked to conduct a general survey assessing the loss to the villagers caused during the operation and submit a report to the Commission.
- ii) Let the District Magistrate, Chaibasa be also asked to resume the functioning of schools and provision of mid-day meals immediately in Tholkabad, Bitkilsoy, Tirilposai and Baliba villages.
- iii) Let the Director General of Police, Jharkhand be asked to verify whether there had been any illegal detention of those who were arrested or detained for questioning, beyond the time permitted by law, and send a report thereof.
- iv) Let the Chief Secretary, Government of Jharkhand be asked to ensure facility of health care and benefits of Public Distribution System (PDS), National Rural Employment Guarantee Scheme (NREGS) and other social welfare schemes of the State and the Central Government to the people of affected area at an early date.
- v) Let the Chief Secretary, Government of Jharkhand be also asked to send copies of the magisterial enquiry and CB-CID investigation with regard to the death cases of Soma Guria and Mangal Honhanga within six weeks.\
- vi) A copy of these proceedings along with a copy of the report of the Investigation Team of the Commission be sent to the complainant, for his comments, if any, to be sent within six weeks.

4.114 Reports from the Chief Secretary, the Director General of Police & the District Magistrate, Chaibasa are still awaited by the Commission. The complainant had also so far not given any comments.

20. *Torture of Unauthorized Water Bottle Seller Boy by RPF Constables in Moradabad, Uttar Pradesh*
(Case No. 6153/24/56/2011-PF)

4.115 The Commission on 28 February 2011 took suo-motu cognizance of a news report captioned "Phir Wardi ki Maar se Manavta Sharmsar", carried out by Hindi Daily 'Dainik Jagran', Moradabad edition, dated 1 January 2011. As per the report, on 31 December 2010 a 12-year-old boy, who had entered the railway platform of Moradabad to sell water bottles in an unauthorized way, was brutally beaten up by the Constables of Railway Protection Force (RPF). In the ensuing melee, his shirt was torn and removed from his body. He also became unconscious. Despite this, the RPF jawans dragged him on the platform in the harsh winter of December.

4.116 In response to the Commission's notice, a report was received from the Director Inspector General (R&T), Ministry of Railways, Railway Board. As per their report, the boy whose name was Farman sold used water bottles at Moradabad Railway Station and was arrested many times u/s 144 of the Railways Act. He was arrested again on 31 December 2010 and was produced in the court on 1 January 2011. As per the directions of the court, he was sent to Children's Observation Home.

4.117 The report further stated that Constables Ram Naresh and Ravinder Singh of the RPF, Moradabad, were found guilty of arresting Farman in a cruel manner and Crime No. 240/2011 u/s 23 of the Juvenile Justice (Care & Protection of Children) Act, 2000, was registered against them at General Railway Police Station, Moradabad. Both the Constables surrendered before the court on 5 February 2011 and were later released on bail on the same day. A charge-sheet against the guilty Constables was filed in the court as well.

4.118 The Commission observed that the forwarded report establishes that Master Farman was subjected to cruelty by the two Policemen of the RPF and this cruelty was visible in the two photographs carried by the news paper along with the news. He thus was entitled to be compensated as it was a case of gross violation of human rights of the victim. The Commission consequently served a notice u/s 18 (a) (i) of the PHRA to the Government of India, through the Secretary, Ministry of Railways, to show-cause as to why the Commission should not recommend suitable monetary relief for the victim.

4.119 The show-cause notice was responded to by C.S. Ray, Inspector General, RPF (Administration), Railway Board. He informed that the two offending Constables of the RPF had been dealt with departmentally and a criminal case against them was also pending in the court of the Additional Chief Judicial Magistrate, Moradabad. Opposing grant of any compensation, he suggested that instead of giving any compensation some good educational/vocational society may be entrusted the responsibility of this child to bring him up as a good citizen.

4.120 Upon consideration of the report, the Commission vide its proceedings dated 23 January 2012 observed that the fact that the two offending RPF Constables had been dealt with departmentally and they were also facing trial in a court only strengthens the Commission's finding that the human rights of Master Farman have been grossly violated in this case. The Commission opined that the victim was entitled to relief u/s 18 (a) of the PHRA and hence recommended to the Government of India, through the Secretary, Ministry of Railways, to pay a compensation of ₹ 25,000/- (Rupees Twenty Five Thousand only) to Master Farman. The Commission further directed that the victim being a minor, the compensation amount should be kept in a fixed deposit in any nationalized bank, which the victim would be entitled to withdraw on attaining the age of majority.

4.121 The District Magistrate, Moradabad, was also directed to inform the Commission as to how Master Farman could be rehabilitated.

4.122 Compliance report from the Ministry of Railways and response from the District Magistrate, Moradabad, are awaited by the Commission.

21. *Harassment and Torture of Vinay Kumar by Police in Agra, Uttar Pradesh*
(Case No. 13564/24/2002-2003)

4.123 The Commission received a complaint on 12 July 2002 from one Vinay Kumar, s/o Dal Chand r/o West Arjun Nagar, Agra. In his complaint, he stated that certain persons along with one Sub-Inspector and one Constable came to his house and enquired about the whereabouts of his brother-in-law, Laxman. In response, he informed them that Laxman came to his house on 16 May 2002 and stayed in the night and in the morning of 17 May 2002, left the house saying that he was going to Kerala. The Police party disbelieved Vinay's version and tortured him to the extent of causing fracture in his hand. On being medically examined by the Medical Officer on emergency duty on 8 June 2002, two injuries were found on his body. After X-ray examination, it was found that there was a fracture in his 3rd metacarpal bone. He contacted the Senior Superintendent of Police, Agra, but his report was not registered by the Police. Ultimately he sought the intervention of the Commission.

4.124 The Commission, upon consideration of the report of Agra Police and comments thereon of the complainant and other material on record, directed the Agra Police to consider the registration of FIR against the errant Police officials.

4.125 In response, the Additional Superintendent of Police & Nodal Officer (Human Rights), Agra informed that as per directions a case, Crime No. 421/07 u/s 147/342/325/323 IPC, had been registered against Bhudev Sharma and others and the case was under investigation. Pursuant to further directions, the Commission received a communication dated 18 June 2008 from the Additional Commissioner of Police & Nodal Officer (Human Rights), Agra informing that the Circle Officer, Lohamandi, Agra had forwarded his report in connection with the criminal case No. 421/07 which was lodged against the accused punishable under sections 147, 342, 325 and 323 of the IPC. According to it, in the absence

of evidence, final report was filed in the court on 28 March 2008 and the case was closed.

4.126 The Commission while considering the matter observed that it was apparent from the record that the complainant, Vinay Kumar had sustained injuries due to torture by the Police, thereby causing fracture in his hand. The X-ray report also showed that there was a fracture in the 3rd metacarpal bone of right hand. The FIR regarding the incident was registered at Police Station, Shahganj District, Agra under the directions of the Commission vide its proceedings dated 29 May 2007 which was registered as crime no. 421/07 u/s 147/342/325/323 against the named persons in the FIR and after investigation the final report was submitted by the Inquiry Officer. The copy of the final report and the copies of the statement of the complainant, Vinay Kumar and accused Bhudev Sharma were on record. Although the Investigating Officer had submitted the final report in the case but nothing was said regarding the injuries caused to the complainant, Vinay Kumar by the Police personnel resulting in fracture in his right hand which was clear from the X-ray report on record. The complainant sustained injuries due to Police atrocities and remained in hospital for 11 days due to the injuries and fracture. This apparently was a case of gross violation of human rights of the victim.

4.127 Under the circumstances, the Commission directed to issue a notice under section 18 of the PHRA to the State Government of Uttar Pradesh through its Chief Secretary to show-cause as to why monetary relief should not be recommended to be paid to the victim complainant, Vinay Kumar. In response, the Superintendent of Police, Agra informed that a case bearing Crime No.421/07 was registered against the Police officials but there was no evidence that the victim Vinay Kumar was beaten by the Police officials and as such the final report had been filed in the court. In these circumstances, grant of monetary relief was not justified. However, if any decision is taken at the administrative level, the Senior Superintendent of Police, Agra had no objection.

4.128 The Commission considered the reply and directed to issue notice to Senior Superintendent of Police, Agra calling upon him to apprise the Commission as to whether in case Crime No.421/07 the final report had been accepted by the court. If not, the status of the case should be informed to the Commission. While considering the matter on 29 April 2011, the Commission observed that a letter dated 26 March 2011 had been received from the Deputy Inspector General of Police, District Agra. Perusal of the same revealed that as per the orders passed by the court on 23 March 2011, the final report filed in case Crime No.421/07 had been rejected by the court and the court had ordered further investigation in the matter. The Commission considered the report. Since the final report submitted by the Police was not accepted by the court, it felt that grant of monetary relief to the victim Vinay Kumar is justified. The Commission thus recommended payment of monetary relief of ₹25,000/- (Rupees twenty-five thousand only) to the victim. It also directed the Chief Secretary, Government of Uttar Pradesh, Lucknow to send the proof of payment.

4.129 The Commission considered the matter on 28 September 2011 and observed that the Special Secretary, Home (Human Rights) Department, Government of Uttar Pradesh vide his communication dated 12 September 2011 had submitted the report. It was informed that in compliance with the directions given by the Commission, the complainant, Vinay Kumar, s/o Dal Chander had been paid a sum of ₹25,000/- (Rupees twenty-five thousand only) on 8 September 2011. Proof of payment had also been received.

4.130 Since no further action was required on the part of the Commission, it directed closure of the case.

22. *False Implication of Upendra Singh by Police and Non-registration of FIR of his Son in Bihar*
(Case No. 3637/4/2002-2003)

4.131 The Commission received a complaint from Rama Krishna Singh, an advocate from Jamui, Bihar, alleging that one Deepak Kumar was kidnapped by Vijay Kumar, Shambusharan Singh and others on 14 October 2002 but the case was not registered by the Police. It was further alleged that Upendra Singh, the father of Deepak, was arrested by the Police of P.S. Nawada and false case was registered against him in FIR No. 209/2002 u/s 364A, 120B of IPC. A prayer was made for enquiry into the matter and action against the errant Police officials.

4.132 The initial report received from the Superintendent of Police, Nawada stated that Deepak Kumar alias Dipu, was a notorious criminal involved in cases of kidnapping and murder and other offences. Based on the complaint of Vijay Kumar and investigations thereon, a case was registered against Deepak Kumar, his father Upendra Singh and others. It was also informed that Deepak alias Dipu had been killed in an encounter with the Police in Nalanda District along with another accomplice while committing extortion. However, it was noticed that intimation regarding the death of Deepak Kumar in the Police encounter was not made to the NHRC.

4.133 The Commission vide its proceedings dated 11 March 2004, directed the Director General of Police, Bihar to inform whether guidelines issued by the Commission relating to investigation of encounter deaths was followed in this case. Pursuant to the directions of the Commission, the Investigating Officer of CB-CID on 5 September 2008 requested the court for permission to re-investigate the case No. 54/2003 u/s 395/412/307/353 IPC and 25/27 of the Arms Act registered at P.S. Rahui, Nalanda with regard to the encounter killing of Deepak. The re-investigation endorsed the final report No. 16/04 dated 5 February 2004 submitted by the District Police in the instant case.

4.134 On further directions of the Commission, the Superintendent of Police, CB-CID, appeared before the Commission on 30 June 2011 and submitted the related files of case registered in connection with the death of Deepak alias Dipu. The Commission later directed the Investigation Division of NHRC to examine the cases and submit a report.

4.135 The analysis of the material on record by the Investigation Division revealed that the encounter death of two accused, Deepak Kumar alias Dipu and Naresh Kumar had taken place in broad daylight. About 7- 8 antisocial elements who had kidnapped one Brij Nandan Prasad were trapped at the time of accepting ransom. When challenged, they opened fire and 12 rounds were fired by the Police due to which two of criminals were killed. They were later identified as Deepak Kumar alias Dipu and Naresh Kumar. The ransom amount and firearms were recovered from the spot.

4.136 As per the report of Forensic Laboratory, Patna, the injuries on the two deceased criminals were due to firing from within the powder range (i.e, 5 feet). According to the case Diary No. 49 dated 14 September 2010 and the sketch map of encounter, there was a distance of about 40 feet between the Police and the criminals. This contradiction with other inconsistencies falsified the Police version of the encounter and led the Investigation Team to conclude that the encounter was fake.

4.137 Upon consideration of the material on record and findings of the Investigation Team, the Commission vide its proceedings dated 25 August 2011 issued a show-cause notice to the Government of Bihar as to why monetary relief should not be given to the next of kin of the deceased Deepak and Naresh.

4.138 The State Government opposed the grant of monetary relief to the next of kin of the deceased Deepak and Naresh on the ground that the encounter was a genuine one.

4.139 On the basis of reply of the State Government to the show-cause notice, the Commission observed that the version of the State could not be accepted as it had failed to address the crucial questions raised by it. Naresh Kumar and Deepak Kumar who sustained injuries were fired from a close range. The experts of the Forensic Science Laboratory, Bihar had indicated that the injuries with black marks noted in the two post-mortem reports were caused by fire arm within a range of 5 ft. and the other injuries (having no black marks) could have been caused by firing from a weapon beyond the range of 5 ft. Thus, the experts have relied on a scientific method and so far as the question of black marks was concerned, there was no answer from the State. The story narrated at the initial stage as well as the magisterial enquiry report in no way reveals that the firing was from a close range. Other than this, neither the gun-shot residue nor the finger prints were taken. Even the repercussion of each fired bullet had not been explained by the State. It is strange how other persons escaped un-hurt and managed to flee despite the presence of the Police force. As per the Police version, the firing took place when they were at a distance of about 40 ft.

4.140 The Commission, therefore, recommended to the Government of Bihar to pay a sum of ₹5 lakhs each to the next of kin of the two deceased namely Deepak and Naresh and directed the Chief Secretary to submit compliance report along with the proof of payment.

4.141 The compliance report is awaited in the case.

d) Death in Police Firing and Encounter

23. *Killing of Ranveer Singh in a Fake Police Encounter in Dehradun, Uttarakhand*
(Case No. 482/35/5/09-10-AFE-FC)

4.142 The Commission on 6 July 2009 took suo motu cognizance of a news report which appeared in 'Mail Today' under the caption 'C.O.P.S. shot him in cold blood'. According to the report, Ranveer Singh, a young MBA graduate was reportedly battered and then shot in cold blood by the Uttarakhand Police in the area of Raipur Police Station, District Dehradun on 3 July 2009. It was also reported that the Police attempted to cover up the killing insisting that Ranveer Singh was killed as he tried to flee from the Police during the course of cross firing.

4.143 The State Government informed the Commission that it had entrusted the investigation of the incident to CB-CID. Considering the gravity of the matter, however, the Commission felt that the matter should be enquired into by CBI which had the expertise and credentials to investigate such matters. The Commission, therefore, requested the Government of India to lend the services of CBI and convey its concurrence for CBI enquiry.

4.144 An investigation by CBI, however, brought out that the story of encounter was concocted by the Police to justify its action. The investigating agency recommended prosecution of seven Police officers involved in the incident. On consideration of investigation report of CBI, the Commission issued a notice u/s 18 of the PHRA to the Chief Secretary, Government of Uttarakhand requiring him to show-cause why the monetary relief to the next of kin of the victim may not be recommended.

4.145 Since the State Government had no objection to the award of monetary relief, the Commission recommended to the Government of Uttarakhand to pay a sum of 5 lakhs as monetary relief to the next of kin of Ranveer Singh.

4.146 As the compliance report with proof of payment was received, the case was closed on 30 November 2011.

24. *Death of Suspected ULFA Cadre during Encounter with Police in Tura, Meghalaya*
(Case No. 34/15/5/2010-ED-FC)

4.147 The Commission received an intimation dated 5 October 2010 from Deputy Commissioner, West Garo Hills, Tura in Meghalaya stating that during an encounter which took place on 4 October 2010 with the District Police at Salbaripara, one person suspected to be an ULFA cadre was killed.

4.148 The Commission called for and received various reports, namely, inquest report, post-mortem report and the magisterial enquiry report.

4.149 The Commission considered the account given by the Police about the presence of ULFA militants in the house of Sunil Biswas, which led to raid on the village, resulting in

firing by the militants and retaliatory firing by the Police causing injuries to and the death of a man later identified as Sadon Koch. From the sequence of events, it was not clear as to how the Police identified the house of Sunil Biswas and further how the residents were able to spot the Police approaching the house. The incident, as reported, was also brought out discrepancy in the different accounts given by the Police about the number of men they had faced and the arms and ammunition recovered, creating doubt that Sadon Koch was alone.

4.150 The Commission considering various depositions recorded by the Magistrate concluded that Sadon Koch was alone, and had not fired at the Policemen. The Commission also noted that none of the tests that are standard in a thorough criminal investigation were carried out. For instance-

- i) no ballistics tests were carried out on the gun or the cartridges to establish that the gun was in working order, that it had been fired recently, and that the spent cartridges recovered had been fired from it;
- ii) the fingerprints of Sadon Koch did not match with those found on the Country Made Pistol (CMP), and it was not established that he had handled it;
- iii) no swabs were taken from his fingers for gunshot residue and tested, so there was no proof that he had fired a weapon.

4.151 Considering the nature of injuries as mentioned in the post-mortem report, the Commission found that a grave violation of human rights was committed, for which reparations should be made by the State, and relief given to the next of kin of the victim.

4.152 The Commission thus directed the Government of Meghalaya to show-cause why it should not recommend relief for his next of kin, i.e. two children who had been left fatherless by his death.

4.153 The submissions made by the State Government in response to the show-cause notice were considered with reference to the material on record. The Commission examined the reasons put forward by the Government of Meghalaya, but was constrained to point out that these were not tenable. While it maintained that the killing of Sadon Koch was a grave violation of human rights, for which reparations should be made to the children he had from Mamuni Biswas, the Commission recommended that ₹5 lakhs be paid to the son and daughter of Mamuni Biswas, fathered by late Sadon Koch. Since they were minors, the money was directed to be deposited in two fixed deposits in their names, to be administered by their mother.

4.154 Compliance report and proof of payment is awaited from the Government of Meghalaya.

25. *Death of Ali Hussain Mondal during an Alleged Encounter with BSF in West Bengal
(Case No. 837/25/15/07-08-PF-FC)*

4.155 The Commission received a complaint dated 24 November 2007 from Kirity Roy, State Director, NPPTI and Manab Adhikar Suraksha Manch, Howrah, West Bengal stating that one Ali Hussain Mondal, s/o Babar Ali Mondal, r/o Tarnipur Village, P.S. Swaroop Nagar, 24 Parganas North, West Bengal was shot by BSF personnel on 18 May 2007 without any fault and later the victim succumbed to his injuries.

4.156 The BSF in its report claimed that in the encounter, they had arrested another smuggler, named Kabir Gaji, who later identified the dead man. However, the report received from the local Police made no reference to such an arrest.

4.157 The Commission thus asked the Superintendent of Police, 24 Parganas North, to send the status of the investigation of the case lodged against Kabir Gaji.

4.158 The Commission observed that the BSF had in its report claimed that at 11:30 p.m., Jaipal Singh, a member of a BSF picket of four constables positioned near a bridge, saw a group of 10-12 smugglers trying to cross the Ichamati river with some cattle. He challenged them but they attacked him with *dahs and lathis*. Two of them dragged him into water and assaulted him with the dahs. The Constable evaded the blows from the dahs by taking them on his rifle which was hit at two places. He "somehow managed to come out of water." However, fearing danger to his life and to protect his personal weapon, he fired two rounds on the smugglers in exercise of his right of self-defence. Constable Bhupinder Singh, who had joined him, also fired two rounds. The smugglers somehow managed to escape. When they searched the area, they recovered a dead body, together with some cattle, and caught the other smuggler, Kabir Gaji, who identified the dead man as Ali Hussain Mondal.

4.159 The Commission found on the other hand that the Superintendent of Police had reported that Kabir Gaji was not arrested in the case registered in connection with the late Ali Hussain Mondal. His report clarified that the Police had established the incident in which Ali Hussain Mondal was killed took place "between 6:18 p.m. and 6:23 p.m.", not at 11:30 p.m. as claimed by the BSF. On the morning of 19 May, two BSF Constables handed over Kabir Gaji with a written complaint to the effect that he had been arrested around 11:30 p.m. while trying to cross the border without a valid passport and visa.

4.160 The circumstances established by the testimony of BSF and the investigation conducted by the Police, showed that the account given by the Constables was false, and this was compounded by attempts to suppress the truth. The Commission thus found it likely that Ali Hussain Mondal was executed by the BSF patrol party. For this kind of grievous violation of human rights, the Commission directed the Secretary, Ministry of Home Affairs, Government of India, to show-cause why it should not recommend relief for the next of kin of the late Ali Hussain Mondal.

4.161 In response to the show-cause notice, the submissions made by the Ministry of Home Affairs were considered by the Commission in the light of the material on record. The

Commission observed that even if it is accepted that Ali Hussain Mondal was a cattle smuggler, the analysis of the evidence before the Commission indicated clearly that the claim made by the BSF Constable that he had been surrounded and attacked by a group of 12 armed men was false. Further, it was also clear that Ali Hussain Mondal was not armed, and Constable Jaipal Singh was under no threat when he shot Ali Hussain Mondal.

4.162 The Commission finally held that Ali Hussain Mondal was killed by the BSF patrol, not in the exercise of self-defence, but in an extra-judicial execution. This was a grave violation of human rights.

4.163 Accordingly, the Commission recommended to the Ministry of Home Affairs to pay ₹5 lakhs as relief to the next of his kin. As the compliance report in the case was received from the Ministry of Home Affairs, the case was closed by the Commission.

*26. Death of Yashvir Singh during Encounter with Delhi Police
(Case No. 4441/30/2006-2007-FC)*

4.164 The Commission received an intimation dated 21 December 2006 from Joint Commissioner of Police, Delhi about the killing of a man named Yashvir Singh alias Fauzi by Delhi Police during an encounter on 20 December 2006.

4.165 Upon consideration of the FIR, the final report, the death report, the report of the forensic laboratory, the post-mortem report as well as the fact that no magisterial enquiry was held, the Commission invoked its powers u/s 14 (1) of the PHRA. Consequently, it requested the Government of India to entrust the matter to the CBI for conducting of an inquiry. Accordingly, the CBI conducted an inquiry and submitted a detailed report.

4.166 For facilitating consideration of the findings in the CBI report, the Commission provided an opportunity of hearing to the Commissioner of Police, Delhi.

4.167 Submissions were made by the Commissioner of Police, Delhi in respect of the timings recorded by the Police and by the Doctor in the hospital including the description of the weapon given by the Sub-Inspector. It was also submitted that the ballistic report clearly indicated that the weapon alleged to have been recovered from the victim was used by him and the cartridges were fired from that weapon.

4.168 The CBI in its report pointed out that despite repeated requests, only a part of the relevant records, the criminal records like Police files, Daily Diaries, General Diaries and log books were made available by Delhi Police to them. The inquiry was based on the documents supplied by the Commission and some of the documents supplied by Delhi Police, few documents supplied by the wife of the deceased and photo copies of the documents submitted by Delhi Police in the complaint case which was pending before the Court of Metropolitan Magistrate, Delhi. According to the report, Delhi Police was given ample opportunity to explain their point of view and in respect of the concern raised by the Commission and other facts related to the case. Thirty-four officials were examined during the inquiry.

4.169 The CBI considered the deposition of witnesses, along with the reports of the forensic expert on the examination of the arms and ammunition and the nature of the injuries inflicted upon the deceased. It was found that the intention was not to incapacitate the criminal from the point of view of arresting him but to kill him by firing shots at his chest.

4.170 The CBI also recorded that the deceased was with his friend Yogesh and Navneet in the morning of 20 December 2006. However, when Navneet was taken away by the officers to Special Cell of Delhi Police, it was reasonable to presume that Delhi Police would take all the criminals present at one place instead of arresting the persons by pick and choose method. The CBI had come to the conclusion that the victim remained in the custody of the Police till the night of 20 December 2006 and was shown as killed in encounter in the night of 20 December 2006.

4.171 Upon consideration of the matter on 1 September 2011, the Commission recommended to the Government of NCT of Delhi, through its Chief Secretary, to pay a sum of ₹5 lakhs as monetary relief to the next of kin of the deceased Yashvir Singh alias Fauzi within a period of six weeks. As the compliance report was received, the case was closed on 3 November 2011.

27. *Death of Two Persons in an Alleged Encounter with Police in District Azamgarh, Uttar Pradesh*
(Case No. 32646/24/53/2010-AD)

4.172 The Commission received intimation about the death of two men, Shesnath Chouhan and Raj Srivastava in an alleged encounter with the Police on 25 October 2010 in District Azamgarh, Uttar Pradesh. Considering the circumstances of the case, the Commission directed its team from the Investigation Division to conduct a spot enquiry.

4.173 It was found by the team that there were several inconsistencies in the version of the Police. The Police, though aware of the identity of the deceased persons had got the body of Sheshanth Chouhan identified by his cousin after the post-mortem. However, it emerged from the report of the Circle Officer, that the Police was aware of the identity of the deceased, yet it did not inform the Doctors conducting the post-mortem. The post-mortem report thus revealed the body of Sheshanth Chouhan as unidentified. It was clear that the Police knew Sheshanth earlier but had concealed his identity from the Doctors to hide the fact that Sheshanth was in their custody. Thus, it appears that the encounter in which the two alleged criminals were shot was fake.

4.174 The statements of the Police personnel involved in the alleged encounter further described that at the time of the alleged encounter the two men were at a higher location than the Police and fired at the Police in a sitting position. The Police in retaliation fired upwards at the two men. However, the post-mortem report showed that the two bullets which hit the right eye and the right chest of Sheshanth travelled on a horizontal plane.

4.175 The Commission was also informed that the deceased were criminals and their crime was of serious nature and attracted rewards on being captured. However, it was found that the rewards were announced on the day the two men were killed and no record was found establishing the deceased persons were dreaded criminals.

4.176 Having considered the report of the Investigation Team and the material on record, the Commission held that the two men were abducted and killed by the Police in an extra-judicial execution. Accordingly, a show-cause notice was issued to the Government of Uttar Pradesh as to why relief should not be given to the next of kin of the families of the deceased. As it was alleged that the bodies of the two accused were not handed over to their families, the State Government was asked to submit a report for their denial to the families the right of performing the last rites of the deceased and that it was a violation of human rights. Despite reminders, no response was received from the State Government. Consequently the Commission vide its proceedings dated 1 March 2012 recommended to the Government of Uttar Pradesh to pay a sum of ₹5 lakhs each to the next of kin of both the deceased Sheshnath Chouhan and Raj Srivastava.

4.177 Compliance report and proof of payment is awaited by the Commission.

28. *Death of Three Dacoits in an Encounter with Police Near Bookharwar, P.S. Nayagaon, Satna, Madhya Pradesh*
(Case No. 1245/12/2005-2006-ED)

4.178 The Commission received an intimation from Satna Police informing about the death of three dacoits, including gang leader Gudda alias Maiyadeen Patel in an encounter with the Police on 29 September 2005, near Bookharwar, Police Station, Nayagaon, Satna, Madhya Pradesh.

4.179 The Commission after considering the Police report and the magisterial enquiry report did not agree with the conclusion of the reports and vide its proceedings dated 17 February 2010 directed CB-CID Madhya Pradesh to conduct an investigation. These investigations were required to be carried out on observations that the firearm entry wounds on all dead bodies were blackened indicating that they were shot from close range. Further, a sharp incision on the scalp of a dacoit indicated that weapons other than firearms were used at close range and that though over 250 rounds were fired, only three criminals were killed and over thirty others managed to escape in broad daylight when the Police had cordoned off the area from three sides. Besides, although there was heavy exchange of fire for a considerably long time, not a single Policeman was injured.

4.180 In addition, on receipt of report from the CB-CID, the Commission again directed it to clarify whether the clothes worn by the deceased at the time of encounter were seized and sent to ballistic expert to find whether there was black amorphous material and component of powder was present or not on the entrance of the gunshot wounds.

4.181 The reports of CB-CID were considered by the Commission and vide its proceedings dated 11 August 2011, the Investigation Division of NHRC was directed to examine the reports and submit comments.

4.182 The analysis of Investigation Division threw light on the ballistic report as it found that some of the firearm injuries were caused by short range firing, i.e. within 9 feet and some were from long range. The presence of nitrate and its absence in the firearm entry wounds were sufficient scientific proof to establish the range from which shots were fired.

4.183 The Commission, after considering all the reports concluded that it accepted that these men were criminals and that it was even possible that there was an exchange of fire. However, the autopsy reinforced by the examination of the clothes, confirmed that at the end of the encounter, the three men were executed from a close range. The Government of Madhya Pradesh was accordingly issued a show-cause notice as to why monetary relief should not be given to the next of kin of the three deceased dacoits.

4.184 The Commission received an endorsement of a letter dated 24 January 2012 issued by the Deputy Inspector General (Complaints) addressed to the Under Secretary (Home), in which it was argued that relief for the next of kin in this case was not justified for two reasons. Firstly, the magisterial enquiry had held that the Police action was justified and secondly, the Court subsequently sentenced two of the criminals who had been arrested.

4.185 Upon consideration of the above communication, the Commission vide its proceedings dated 01 March 2012 made the following observations:

“The Commission is unable to accept this as a substantive response. It had already explained in detail in its proceedings of 17 February 2010 why it was unable to accept the magisterial enquiry, which had not examined several critical points and it is for this reason that the Commission had asked the Government of Madhya Pradesh to have a further investigation carried out by the CB-CID.

As far as the sentencing of the two men is concerned, the Government of Madhya Pradesh will note, that in its proceedings, including others of 19 October 2011, the Commission had expected that the men here killed were indeed criminals and that it was also possible that there was an exchange of fire with the Police. Therefore, the fact that a Court had come to the same conclusion simply confirms a point already accepted by this Commission.

What the Commission had nevertheless found, after its initial examination and a subsequent clause analysis of the report of the CB-CID, was that at the end of a possible exchange of fire, three men were executed by the Police at a close range. This was not only illegal, but a grievous violation of human rights and it was for this reason that the Commission had

recommended to the Government of Madhya Pradesh that relief should be given to the next of kin of late Gudda alias Maiyadeen Patel and Bhullu.

The Government of Madhya Pradesh had not answered the substantive points on the basis of which the Commission made its recommendation. Therefore, the Commission sees no reason to reconsider its view that relief is indeed justified and necessary."

4.186 Thus, the Commission recommended to the Government of Madhya Pradesh to pay ₹ 5 lakhs each as relief to the next of kin of late Gudda alias Maiyadeen Patel and Bhullu.

4.187 Proof of payment is awaited by the Commission.

29. *Death of Sanjeev and his Two Friends in a Fake Encounter by Majhila Police Station, District Hardoi, Uttar Pradesh*
(Case No. 58153/24/36/07-08)

4.188 Ram Prasad Gupta resident of village Katuapur Mazra, District Hardoi made a complaint to the Commission alleging that the local Member of Legislative Assembly (MLA) nursed ill-will against him as he supported his rival in the election. At the behest of the MLA, the Police picked up his grandson Sanjeev and two others, namely, Mritranjan Pandit and Ramu Pandit from Sahabad on 7 March 2008 and later on killed them in a fake encounter near Banjaria Pul.

4.189 The Police version of the incident, on the other hand, was that on 8 March 2008 at about 1.30 p.m., some persons who were travelling in a tonga were robbed of cash and jewellery by three robbers on a motorcycle. Ramesh, one of the victims, gave telephonic information about the robbery to his brother Suresh who was in village Madwa. On that day, a meeting for allocation of quota was being held in the Panchayatghar and two Constables Mahesh Mishra and Ajit Singh were posted there. On hearing about the incident of robbery, the villagers rushed to the road leading to Shahbad. Constable Mahesh passed on the information to a Police party which was already present at Banjaria pul for checking of vehicles. When the robbers approached Banjaria pul, they turned back on seeing the Police party. They were however accosted by the villagers. One of them was lynched by the villagers; another robber got scared and shot himself. The third robber tried to run away. He fired at the villagers and Policemen who were chasing him. A bullet fired by him hit a boy named Faizan. The Police fired in self-defense. Ultimately he was overpowered and killed. Later on, the robber who was lynched by the villagers was identified as Mritranjan Pandit. The robber who committed suicide in panic by shooting himself was identified as Ramu alias Parveen. The third one who had tried to run away and fired at the Police was Sanjeev, grandson of the complainant Ram Prasad.

4.190 A criminal case No. 121/08 was registered at P.S. Majhila after the incident. The Commission requisitioned the case diary relating to the investigation of the case. It received

the injury sheet of Faizan and the complete record of the magisterial enquiry. The post-mortem reports of the three slain persons were also received by the Commission.

4.191 While Ram Prasad alleged in his complaint that his grandson Sanjeev had gone to Shahbad with Mritranjan and Ramu on 7 March 2008 and they were picked up by the Police on that date at the behest of the local MLA. Sitara Devi mother of Ramu alias Parveen deposed before the Magistrate that her son was taken away by two persons from the house at about 8.00 a.m. on the date of occurrence. She further stated that her son Ramu was hiding in wheat fields when he was shot dead by the Police. Mamta Mishra wife of deceased Mritranjan gave an entirely different story. She stated before the Magistrate that her husband had a hot exchange with some Policemen two or three days earlier. On the date of occurrence, four Policemen came to her house and took away her husband on the pretext of making a compromise. Thus, the relatives of the three deceased persons gave totally different and inconsistent versions.

4.192 The Police version, on the other hand, was corroborated by independent public witnesses, namely, Munni Devi, Ramesh, Sunil and Anita Devi who deposed during the magisterial enquiry that on the date of occurrence of the incident, while going in a Tonga from Devripurva to Medwa, they were robbed of ₹650/- in cash, some earrings and anklets, etc. by three persons on a motorcycle at pistol point. They further deposed that shortly after the robbery, they had gone to the place of encounter and there they identified the three robbers who were lying dead. The stolen jewellery in their possession was also identified by them. The Magistrate examined Irshad, Faizan and Vidhya Sagar from the village. They described as to how they rushed towards the road on hearing about the robbery and how the encounter took place. Sub-Inspectors Ashok Kumar and K.R. Dewakar who appeared before the Magistrate also gave details about the occurrence of the robbery. Some other Policemen were also examined. On consideration of evidence, the Magistrate endorsed the Police version.

4.193 Upon consideration of the material on record and the report submitted by the Investigation Division of the Commission as well as the reports received from the authorities, the Commission closed the case with the following observations:

“We have examined the post-mortem reports of Mritranjan, Ramu alias Parveen and Sanjeev. The post-mortem report of Mritranjan mentions only multiple lacerated wounds, abraded contusions and one incised wound on chin. No firearm injury is mentioned. This indicates that Mritranjan was lynched by the public. The post-mortem report of Ramu alias Parveen shows only one firearm entry wound on the right side of skull with blackening and tattooing around it. It supports the probability of suicide. The post-mortem of Sanjeev revealed two fire arm entry wounds and also some lacerated wounds and contusions. This implies that Sanjeev was shot dead by the Police and also assaulted by the villagers.

The injury sheet of Faizan is also before us. He was examined in District hospital Hardoi at 5.20 p.m. on 8 March 2008 and the Doctor observed one fire arm wound measuring 1.5x1.5 cms. on the left shoulder. The proximity of time between the incident and medical examination leaves no doubt that Faizan had received the bullet injury in the course of the incident. Faizan being an injured witness, his testimony before the Magistrate becomes all the more reliable.

Thus, on consideration of testimony of the victims of robbery and the villagers, the post-mortem reports of the three slain persons, the injury report of Faizan and the inconsistent stories given by the relatives of the three deceased persons, we are reasonably satisfied that the Police version is true. Ramprasad the complainant admitted in the complaint itself that Mritranjan, Ramu and Sanjeev were together on the date of occurrence. There is credible evidence to show that they had robbed Munni Devi and Ramesh, etc. of cash and jewellery. The stolen cash and jewellery were recovered from the deceased persons and the same were identified by the victims of robbery. There is also evidence of villagers who had seen the encounter. As a matter of fact one of the villagers was himself injured by a bullet fired by the robbers. There can be no reason to disbelieve his statement. In these circumstances, we are convinced that one of the three robbers was lynched by the public another one shot himself in panic and the third one was killed in encounter. We see no reason to hold the Police liable for their death. The case is closed."

30. *Death of Mohan Raj in Alleged Encounter with Coimbatore City Police, Kerala*
(Case No. 1349/22/5/2010-ED & L.F.1332/22/5/2010-AFE)

4.194 The Commission received an intimation dated 16 November 2010 from the Secretary, Public Law & Order, Government of Tamil Nadu, Chennai *inter alia* stating that one Mohan Raj alias Mohana Krishnana involved in a case of double murder of school children, snatched the revolver of one Sub-Inspector of Police and threatened his driver to take the vehicle to Palakad in Kerala. When T. Jyothi, the Sub-Inspector and his driver declined, the accused opened fire on the Sub-Inspector which led to bullet injury on his left hand. Another Sub-Inspector of Police S. Muthumalai also sustained bullet injury in the stomach when he tried to overpower the perpetrator. The Police personnel in the meantime opened fire on Mohan Raj due to which he sustained injury on his head and chest and when brought to the hospital, he was declared dead.

4.195 The magisterial enquiry report conducted in the matter concluded that "the Police officers, after having given sufficient warning to the accused, fired from their pistols in their right to private defense".

4.196 However, the Investigation Division in its report made the following observation:

"A study of the ballistic report revealed that six bullets were fired in all –

- (i) *3 fired bullets 9mm cartridge of those fired by Police officers were found. Viz. items, 9 October 2011 (Page 156/ Ballistic Report)*

- (ii) 2 bullets of 380 inch cartridge fired by the deceased from the revolver of SI Jothu, viz items 18 & 19 (p/157/ Ballistic report).
- (iii) One .380 inch metal jacketed cartridge, viz Item 21, fired from unknown weapon (p/ 157/ Ballistic Report).

But, from the FIR in this incident, the statements of the Police officers escorting the deceased accused and the MER, only 5 bullets were fired in total, i.e., two by the accused and three by the Police officials.

The ballistic report further stated that “the bullet item 21 is .380 calibers”. Its class characteristics are similar to those of the revolver of Sub-Inspector, Jyothi, snatched by the accused to fire two shots at Sub-Inspector Jyothi and Sub-Inspector Muthumalai, viz., but the bullet item 21 could not be (positively) identified with revolver of having been fired from revolver of Sub-Inspector Jyothi.

It is seen that only two shots were fired from the revolver of Sub-Inspector Jyothi by the accused when he snatched the revolver. The rounds from this were of .380 inch caliber. However instead of only two .380 inch caliber (ordinary) bullets, there is a third metal jacketed .380 inch bullet extra, which is also a fired bullet. The presence of this 6th fired bullet is not noted or explained in the FIR, MER and other reports.

It is mentioned in the ballistic report that this third .380 caliber bullet was “metal jacketed” where as the other .380 caliber bullets are not mentioned as being metal jacketed, indicating the possibility of firing of the metal jacketed .380 inch cartridge from revolver of unknown person/weapon. This fact casts doubt on the Police version.”

4.197 Upon consideration of the material on record and report of the Investigation Division, the Commission vide its proceedings dated 28 March 2012 closed the case with the following observations:

“The Magistrate conducted an inquiry and forwarded it to the Commission. There is PMR. Wound certificates of two Police officers have been forwarded to the Commission. On reading the same it appears that the two Police officers sustained bullet injuries and the Police was quite justified in opening the fire against the victim.

Under the circumstances, the Commission is of the opinion that it cannot be said to be a fake encounter and the case is closed.”

31. *Death of Ravi Kumar in Firing by CRPF Personnel*
(Case No.4056/4/2004-2005-FC)

4.198 The Commission received a complaint dated 13 February 2005 from Rajendra Prasad, a resident of District Gaya, Bihar stating that his son, Ravi Kumar, an Engineering student, died when he was accidentally hit by a bullet fired from the carbine of a CRPF Jawan on 19 January 2005.

4.199 The Commission, after considering the received reports, observed that the CRPF Jawan U.C. Laskhar was negligent, in as much as he had not cared to lock the carbine. A notice u/s 19 of the PHRA was issued to the Ministry of Home Affairs, Government of India to show-cause why monetary relief should not be given to the family of the innocent Engineering student who lost his life due to sheer negligence of the CRPF Jawan.

4.200 In response to the show-cause notice, the Ministry of Home Affairs forwarded a communication from the Directorate General, CRPF, stating that after completion of Police investigation, a crime u/s 304-A of IPC had been established against the CRPF Jawan and a charge-sheet, accordingly, had been filed in the Court. It was further stated that an ex-Havaldar was compulsorily retired from service at the culmination of the departmental proceedings.

4.201 The Commission observed that the jawans of Para-Military Forces are given instructions regarding safety of weapons used to them. As the Havaldar of CRPF did not care to lock the carbine being carried by him, it was obviously a breach of discipline. The Commission further observed that if a civilian suffers injury as a result of such breach of discipline, the State becomes vicariously liable. Considering the background and the age of the victim, the Commission recommended to the Ministry of Home Affairs, Government of India to pay a sum of 5 lakhs as monetary relief to the next of kin of the deceased.

4.202 On receipt of compliance report and proof of payment, the case was closed on 11 January 2012.

B. Conditions in Prisons

a) Visits to Jails

4.203 Improvement of working and living conditions in jails has been a continuous concern of the NHRC ever since it was constituted. As per Section 12 (c) of the PHRA, the Commission, in order to study the living conditions of the inmates, can visit any jail or other institution under the control of the State Government where persons are detained or lodged for purposes of detention, reformation or protection. Chairperson, Members and senior officers of the Commission, and the Special Rapporteurs appointed by the NHRC undertake visits to various jails in the country and their visit reports are forwarded to concerned authorities with appropriate suggestions/recommendations for compliance.

4.204 During the year the following visits were undertaken by the Commission:

S.No.	Name of Jail/ Institution	Date of visit	Visited by
1.	Dum Dum Central Correctional Home, Kolkata (West Bengal)	19-22 June 2011	Shri Damodar Sarangi, Special Rapporteur, NHRC

S.No.	Name of Jail/ Institution	Date of visit	Visited by
2	District Jail, Hardoi (Uttar Pradesh)	05 December 2011	Shri Sunil Krishna, DG (I), NHRC
3.	Central Jail Chennai (Tamil Nadu)	31 January - 01 February 2012	Justice Shri G.P. Mathur, Member, NHRC & Shri Kapilkumar C. Saratkar, SSP, NHRC
4.	Central Jail Puducherry	03 February 2012	Justice Shri G.P. Mathur, Member, NHRC & Shri Kapilkumar C. Saratkar, SSP, NHRC
5.	District Jail, Durg (Chhattisgarh)	04 October 2011	Team from Investigation Division of NHRC
6.	Central Jail, Raipur (Chhattisgarh)	29-30 August 2011	Team from Investigation Division of NHRC
7.	District Jail, Dasna (Uttar Pradesh)	11 September 2011	Smt. Mamta Singh, Deputy Inspector General and Dy. Superinten- dent of Police, NHRC

b) Analysis of Prison Population

4.205 The Commission compiles and analyzes statistics on prison population in the country in order to ascertain the problem of overcrowding in the jails and accordingly suggests measures for decongestion. This exercise is carried out by obtaining data from the Prison Headquarters of each State/Union Territory in a prescribed format every six months. During the period under review, the Commission compiled and analysed, prison statistics based on the information received up to December 2009.

4.206 The Table below gives a broad picture of prison capacity, prison population, proportion of undertrial prisoners to the total population, overcrowding and gender distribution of prisoners.

TABLE

Position as on	31.12.06	31.12.07	31.12.08	31.12.09
Authorized Prison Capacity	2,62,821	2,76,960	2,93,144	3,08,268
Total Prisoners (Convict+Undertrial)	3,68,355	3,73,948	3,86,791	3,76,534
Undertrial (%)	68.3	67.9	68.4	66.8
Overcrowding (%)	40.15	35.0	31.95	22.15
Women Prisoners (%)	4.1	4.0	4.13	4.1

4.207 The above Table indicates that there is a significant improvement in prison conditions from the year 2006 to 2009. For instance, there has been a regular enhancement in the authorized prison capacity on yearly basis from 2006 onwards to 2009. There is a reduction in the total number of prisoners in 2009 in contrast with 2008. The percentage of undertrial prisoners has decreased marginally. The percentage of overcrowding in the prisons has also declined substantially though the percentage of women prisoners remains to be somewhat static. However, as compared to 2008, the percentage of women prisoners has decreased slightly.

Status of Overcrowding in Prisons

4.208 The percentage of overcrowding has come down in 23 States/Union Territories since 2008. Out of these, in 10 States/Union Territories, the idle capacity has gone up. In other words, the overcrowding existing earlier in these 10 States/Union Territories has translated into idle capacity. These States/Union Territories are: Sikkim, West Bengal, Odisha, Andhra Pradesh, Tripura, Lakshadweep, Tamil Nadu, Andaman & Nicobar, Nagaland and Daman & Diu. In the remaining thirteen States where the percentage of overcrowding has shown a declining trend in comparison to 2008 are Chhattisgarh, Uttar Pradesh, NCT of Delhi, Gujarat, Madhya Pradesh, Jharkhand, Goa, Himachal Pradesh, Assam, Haryana, Bihar, Maharashtra and Karnataka. The decrease in the percentage of overcrowding in Chhattisgarh has been sharp. The decline in the percentage of overcrowding in prisons in 2009 could be the result of continuous monitoring by NHRC and allocation of requisite funds to the State Governments/Union Territory Administrations by the Ministry of Home Affairs, Government of India for improving the conditions of prisons, including construction of new blocks to accommodate the prisoners.

4.209 The States/Union Territories where there has been an increase in the percentage of overcrowding since 2008 are Dadra & Nagar Haveli, Uttarakhand, Punjab, Meghalaya, Rajasthan, Jammu & Kashmir, Puducherry, Chandigarh and Manipur. In Uttarakhand, for instance, overcrowding was the extent of 41.14% in 2008. In 2009, overcrowding has increased to 50.17%. Similarly, in Punjab, overcrowding has increased from 36.26% (2008) to 49.08% (2009). While in Meghalaya, it increased from 15.09% (2008) to 23.85% (2009).

The increase in overcrowding has been alarmingly high in Dadra & Nagar Haveli in 2009 as the same has gone up to 111.67% whereas in 2008 it had idle capacity of 58.33%. During 2009, no significant increase/decrease was noticed in the percentage of overcrowding in two States, namely, Kerala and Mizoram. In the case of Mizoram, the percentage of idle capacity had gone up further in comparison to 2008.

Idle Capacity

4.210 States/Union Territories having idle capacity in ascending order as on 31 December 2009 are Sikkim, West Bengal, Odisha, Andhra Pradesh, Jammu & Kashmir, Tripura, Puducherry, Lakshadweep, Tamil Nadu, Andaman & Nicobar, Mizoram, Chandigarh, Arunachal Pradesh, Nagaland, Manipur, and Daman & Diu. Out of these 16 States/Union Territories, 12 had shown idle capacity in the year 2008 itself⁴. This confirms the view that overall crowding in prisons is decreasing. In 2009, three States, namely, Sikkim, Odisha and Tripura have joined the category of States/UTs having idle capacity. In the State of Arunachal Pradesh, prisons became functional only in 2009 and they started with idle capacity.

Undertrials

4.211 At the all India level, with the exception of 2008 wherein a slight increase was noticed, there has been a marginal but continuous declining trend in the percentage of undertrials from the year 2005 onwards. This decline was also seen during 2009. In 2009, States/UTs in which the percentage of undertrials was found to be higher than the all India average of 66.85% were Manipur (91.25%), Lakshadweep (90.91%), Dadra & Nagar Haveli (88.19%), Meghalaya (84.78%), Jammu & Kashmir (83.73%), Bihar (83.59%), NCT of Delhi (79.41%), Andaman & Nicobar (76.59%), Nagaland (74.84%), Karnataka (71.92%), Uttar Pradesh (70.85%), Odisha (70.27%) and West Bengal (67.32%). The State of Arunachal Pradesh (94.12%) has started providing prison statistics from 2009 onwards only. Hence, it has not been compared with other States/UTs.

4.212 States/UTs having undertrials less than the all India average of 66.85% in 2009 were Maharashtra, Jharkhand, Andhra Pradesh, Sikkim, Punjab, Rajasthan, Tamil Nadu, Gujarat, Chandigarh, Chhattisgarh, Uttarakhand, Assam, Kerala, Haryana, Goa, Daman & Diu, Mizoram, Madhya Pradesh, Puducherry, Himachal Pradesh and Tripura.

4.213 There were altogether 11 States/UTs in which the percentage of undertrial prisoners came down in 2009 as compared to the preceding year 2008. The names of these States/UTs are Jharkhand, Lakshadweep, Dadra & Nagar Haveli, West Bengal, Sikkim, Chhattisgarh, Haryana, Goa, Daman & Diu, Mizoram and Puducherry. The percentage of undertrials had no significant increase or decrease in 19 States/UTs in 2009 when compared to 2008. These are Meghalaya, Jammu & Kashmir, Bihar, Delhi, Karnataka, Uttar Pradesh,

⁴These States/Union Territories are Andhra Pradesh, Jammu & Kashmir, Manipur, Mizoram, Nagaland, Tamil Nadu, West Bengal, Andaman & Nicobar, Chandigarh, Daman & Diu, Lakshadweep and Puducherry

Odisha, Maharashtra, Andhra Pradesh, Punjab, Tamil Nadu, Chandigarh, Uttarakhand, Assam, Kerala, Madhya Pradesh, Tripura, Manipur and Rajasthan. Himachal Pradesh, Andaman & Nicobar Islands, Nagaland and Gujarat, however, have shown an increase in the percentage of undertrial prisoners in 2009 as compared to 2008.

Female Prisoners

4.214 As per the national average, women account for 4.09% of the total prison population. Fifteen States/UTs which in 2009 had female population above the all India average of 4.09% were Arunachal Pradesh, Manipur, Mizoram, Goa, West Bengal, Andhra Pradesh, Maharashtra, Punjab, Tamil Nadu, Chhattisgarh, Gujarat, Haryana, Jammu & Kashmir, Chandigarh and Uttarakhand. The State of Arunachal Pradesh was found had highest percentage of females in its prisons.

Female Prisoners and Their Children in Prisons

4.215 Children upto the age of 5-6 years are permitted to live in prison with their mothers in the light of judgement given by the Supreme Court in W.P. No. 559 of 1994 in R.D. Upadhyay vs State of Andhra Pradesh (AIR 2006, SC 1946). As on 31 December 2009, a total number of 15,414 women prisoners in the country were found to be keeping 1,900 children with them in jails. Assuming that these mothers were having one child each with them in prison, 12.33% of women prisoners were thus keeping their children in prisons. Eight States where the percentage was found to be higher than the all India average of 12.33% in 2009 were West Bengal, Jharkhand, Jammu & Kashmir, Uttar Pradesh, Madhya Pradesh, Assam, Chhattisgarh and Maharashtra. At the all India level, in 2009, a decline was noticed in the percentage of women prisoners living with their children in prisons when compared with 2008 and the decline is much more when compared with the data of 2007. No single woman prisoner was found to take her children below the age of 5-6 years to prison in the States/UTs of Arunachal Pradesh, Meghalaya, Sikkim, Andaman & Nicobar, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Puducherry.

C. National Seminar on Prison Reforms

4.216 The Commission has been concerned about the living condition of prisoners and detention facilities, especially with regard to problems like overcrowding, understaffing, lack of adequate medical care, physical maltreatment of prisoners including custodial deaths, lack of basic infrastructure, poor administration and inadequate inter-agency communication, long detention of those awaiting trial, and inadequate opportunities for prisoners to communicate with their counsel, authorities and family were identified.

4.217 In order to discuss these and other issues, the Commission organized a National Seminar on Prison Reforms on 15 April 2011 at New Delhi. The seminar was inaugurated by Justice Shri K.G. Balakrishnan, Chairperson, NHRC. Speaking on the occasion, Justice Shri Balakrishnan pointed out that the laws in India reflect our belief in reformatory theory of prisoners. However, the reality is something else. Referring to the Mullah Committee report on prison reforms, he said that creation of a separate cadre for prison administration could resolve many problems relating to jail management, including over crowding, delayed trial of undertrial prisoners, lack of facilities in the jail premises, etc.

4.218 Besides Members and Special Rapporteurs, the seminar was attended by senior officers of the Commission and other National Commissions, State Human Rights Commissions, Ministry of Home Affairs, Director Generals/Inspector Generals (Prisons) of States/Union Territories, Bureau of Police Research and Development (BPR&D), Institutes of Correctional Administration, National Institute of Social Defence, Members of Core Group of Lawyers, and representatives of NGOs working in the field.

4.219 Based on the deliberations of the seminar, the following recommendations were adopted by the Commission on 'Prison Reforms' :-

I RIGHTS OF PRISONERS

Overcrowding

1. To reduce overcrowding, provisions in the statutes (in terms of parole, bail, furlough, short leave and appeal petitions etc) should be exercised liberally by the concerned officers in the jails.
2. A jail committee may be constituted, with representatives from among the inmates, to assist the jail authorities in the cases of paroles, completion of bail documents, release of the inmates who have completed punishments and filing of the bail applications by the inmates in the court.
3. Financial status of the prisoners should not go against them. Legal assistance to prisoners must be provided– particularly for those who are not in a position to bear the cost.
4. Availability of time for prisoners to discuss their cases with their lawyers must be ensured.
5. Repatriation of cross-border prisoners, especially in case of Bangladeshi Prisoners, should be ensured.

Skill Enhancement/Capacity Building

6. The energies of the prisoners should be channelized into constructive activities. Educational programmes could be upgraded for both male and female prisoners. Student prisoners may be encouraged to continue their studies and to take examinations.
7. Vocational training should be enhanced by imparting computer skills, training in horticulture, agriculture etc.
8. The model of skill training and campus placement of inmates, initiated by Tihar Jail Administration recently, may be replicated in other jails.

Health and Sanitation

9. Health care system of jails should be improved. There should be medical examination of the prisoners at the time of their entry in the jail in the prescribed format and thereafter, a regular check up may be undertaken by the jail authorities. The medical records of prisoners may be maintained properly.
10. Better sanitation facilities, hygiene and potable drinking water should be provided in all the prisons.
11. Prison conditions should be made more humane for the women, the aged and the mentally ill prisoners. Regular medical check-up should be ensured and provisions should be made so that the mentally ill prisoners and high risk prisoners are kept segregated.
12. Jails should be provided with mechanical cleaning, waste treatment and maintenance of sewage plants so that the septic tanks do not have to be manually cleaned by the prisoners.
13. Regular meditation and yoga may be conducted on a regular basis for the benefit of all prisoners. Assistance may be sought from NGOs in this regard.
14. Proper sanitation facilities should be ensured and new toilets may be constructed in overcrowded jails.

Rights of Women Prisoners

15. Women Prisoners should be escorted by women staff only.
16. Frequent opportunities may be provided for women prisoners to meet or unite with their families to address their concern.
17. The Guidelines of the Supreme Court for the children of women prisoners mentioned in the case of R.D. Upadhyay v/s State of Andhra Pradesh and Ors. should be followed strictly.

Prison Visits

18. Closing time for the prisoners may be advanced/increased, to allow them some time to spend in open.
19. Timings for supply of meals should also be revised as these are mostly based on the Old Prisons Act, 1894.
20. The Mulakat time may be fixed on phone, so that people may not have to come personally and wait for longer hours.



21. The family members of prisoners should be allowed to meet on Sunday so that they do not have to take an off, on working days.

II PRISON MANAGEMENT

22. Every jail must have an effective grievance redressal system.

23. Process of Modernization of prisons, as devised by BPR&D should be given the highest priority.

24. For an appropriate functioning of the prison administration and for the protection of the rights of the prisoners, it must be ensured that sanctioned posts (officers and medical staff) in the prisons are filled-up on priority.

25. Self-sufficiency of prisons should be encouraged by strengthening the prison industries. The model of Tihar Jail may be followed in this regard.

26. State Jail Manuals should be reviewed on a periodical basis to meet the new challenges.

27. Public private partnership model (in many countries) in prisons management may be encouraged and followed in jails across the country. However, the experiment should be exercised with caution in view of their profit making objective.

III PRISON SERVICE/OFFICERS

28. Creation of a National Cadre of jail service and training/refresher courses for the prison officers should be organized on priority.

IV NHRC SPECIFIC

29. NHRC may undertake review of the status of implementation of recommendations and guidelines issued by it on Prison Reforms, so far.

30. Micro studies may be conducted by organizations to unearth the ground reality and to procure evidence with the purpose of bringing about a change in the condition of prisons.

31. NHRC may re-initiate its interventions on prison-visits/Board of visitors'.

V MISCELLANEOUS

32. Arrests under NDPS Act, Section 498-A, and preventive detention should be exercised by the Police with restraint and with right intent, to reduce the further impact on already crowded prisons.

33. Classification of prisoners may be done in terms of age, type of crime committed and health, for better handling of prisoners and for improving prison management.
34. The nomenclature of the Prisons may be changed to Correctional Homes to emphasize that the focus is on reformation rather than punishment.
35. Sharing of best practices should be encouraged, to learn and emulate from each other, in terms of computerization of prison records, prison panchayats, mobility, infrastructure, education, connectivity, reorganization of jail industries, safety and security of prisoners, modernization and mechanization of kitchens and providing hygienic food, electronic surveillance, cultural programmes, fixing the mulakat time on phone, health care facilities etc.
36. Privatization of some of the duties like catering and escorting of prisoners may be considered to reduce the burden on prison staff. This is followed in advanced countries.
37. Presence of prisoners in courts may be done through Video-Conferencing.
38. Wages to the prisoners for the work done by them in prison industries be paid in accordance with the Minimum Wages Act.

4.220 The above recommendations on 'Prison Reforms' were forwarded to all the States and Union Territories for compliance. So far, the Commission has received responses from 14 States and 3 Union Territories. The names of these States and Union Territories are, Assam, Andaman & Nicobar Islands, Chandigarh, Chhattisgarh, Daman & Diu, Goa, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Manipur, Meghalaya, Mizoram, Rajasthan, Uttar Pradesh & West Bengal. The Commission trusts that these recommendations will be adhered to by the remaining States and Union Territories, who have so far not responded.

RIGHT TO HEALTH

5.1 Every human being is entitled to enjoyment of the highest attainable standard of health conducive to living a life of dignity. Health does not mean mere absence of disease but physical, mental, psychological and emotional well-being of an individual. This right is indispensable for the exercise of other human rights. It is the duty of the State to promote, protect and preserve the health of all individuals. The Constitution of India upholds ‘right to health’ as a Fundamental Right under Article 21.

5.2 The human right to health is recognized in numerous international instruments. Among them, the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the most comprehensive article on right to health in international human rights law. Article 12.1 of the Covenant affirms that the States Parties must recognize “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”, whereas Article 12.2 enumerates, by way of illustration, a number of “steps to be taken by the States Parties..... to achieve the full realization of this right”. Additionally, the right to health is recognized, *inter alia*, in Article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD), in Articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) and in Article 24 of the Convention on the Rights of the Child, 1989 (CRC).

5.3 The right to health has also been proclaimed in the Vienna Declaration and Programme of Action, 1993 as well as in the Programme of Action of the International Conference on Population and Development held at Cairo in 1994 and other international instruments like the Declaration and Programme of Action of the Fourth World Conference on Women held in Beijing in 1995.

5.4 Right to health is closely related to and dependent upon the realization of other human rights, including rights related to food, housing, work, education, human dignity, life, non-discrimination, equality, privacy and access to information. These rights and freedoms facilitate the availability of right to health.

5.5 The National Human Rights Commission (NHRC) represents India’s commitment to human rights. Ensuring the right to health to all is a quintessential aspect of this commitment. Hence, the Commission is closely monitoring right to health in terms of its accessibility, affordability and availability. The NHRC has consistently taken the view that the right to life with human dignity, enshrined in the Constitution and as interpreted by the Supreme Court, must result in strengthening of measures to ensure that the people of this

country, and particularly those belonging to economically disadvantaged sections of society, have access to better and more comprehensive health care facilities.

A. Silicosis

5.6 During the year 2010-2011, the NHRC focussed on health hazards posed by silicosis, an occupational disease. It also organized a National Conference on Silicosis in New Delhi on 1 March 2011. Through this Conference, the Commission reviewed the implementation of its recommendations on the issue besides interacting with technical, non-governmental and civil society organizations dealing with the issue of silicosis. The minutes of the National Conference were forwarded to the concerned Union Ministries, all State/Union Territory Governments and other stakeholders.

5.7 One of the major recommendations of the National Conference on Silicosis was to convene review meetings with concerned officials of States/Union Territories in groups every two months. Towards this end, the Commission during 2011-2012, organized three regional review meetings. The first regional review meeting was held in New Delhi on 10 June 2011 and covered the Northern States of Haryana, Gujarat, Madhya Pradesh, Rajasthan and N.C.T. of Delhi. The second regional review meeting covering the Southern States/Union Territory of Karnataka, Andhra Pradesh, Tamil Nadu, Kerala and Puducherry was organized in Bengaluru on 18 November 2011. The third regional review meeting covering the Eastern States of Bihar, Chhattisgarh, Jharkhand, Odisha and West Bengal was organized in the Commission on 14 February 2012.

5.8 Apart from the participation of State Government officials, the review meetings were attended by the representatives of technical institutions and civil society organizations.

5.9 In order to draw the attention of the Government and the parliamentarians towards the inhuman conditions faced by all those ailing from silicosis including their immediate family members, the Commission also prepared a Special Report on Silicosis and forwarded it to the Ministry of Home Affairs, Government of India for laying it in the Parliament.

B. Endosulfan

5.10 The Commission continues to monitor the steps taken by all concerned for providing compensation, treatment and rehabilitation of people affected by adverse effects of aerial spraying of endosulfan pesticide in Kasaragod District of Kerala. As reported in the Annual Report for the year 2010-2011, the Commission vide its proceedings dated 31 December 2010 recommended to the Government of Kerala to pay at least ₹ 5,00,000 each to the next of kin of all those who had died due to endosulfan as well as to those who were bed-ridden or mentally afflicted and ₹ 3,00,000 to those who had other kinds of disability on account of endosulfan. Commission also recommended to Government of India to take administrative and legislative action to ban the use of endosulfan, conduct a nation-wide survey of the problem and establish a palliative care centre/hospital in Kasaragod District of Kerala.

5.11 In 2011-2012, to review the steps being taken by all stakeholders, the Commission organized a series of meetings with the Secretaries of the concerned Union Ministries and Health Secretary of Government of Kerala. In these meetings, the Commission expressed its deep concern about the insensitive approach of the Government of Kerala towards the people affected by endosulfan. It was also reiterated that the responsibility to provide compensation and medical care to the affected victims lay with the State Government and stressed on expeditious action.

5.12 The Commission is continuously monitoring the steps taken by all concerned for providing relief to the affected population.

C. Fluorosis

5.13 Deeply concerned about the health dimensions of fluorosis, a painful, crippling malady, affecting multiple tissues, organs and system, the Commission continued to monitor the implementation of its recommendations on the issue. The Commission had recommended to the Union Ministry of Health and Family Welfare to give a directive to the Medical Council of India (MCI) to include 'fluorosis' in the training of medical interns, which in turn would enable MCI to send a circular to all medical colleges. It was brought to the notice of the Commission that even today, medical students are not aware of its identification, effect and treatment in the absence of the subject from the teaching curriculum of medical colleges. The Commission therefore asked the Union Ministry of Health and Family Welfare to direct the MCI to incorporate fluorosis in the teaching curricula of medical students so that the graduating doctors are fully aware of the severity, diagnosis and treatment of this painful and crippling disease.

D. Mental Health

5.14 As part of the mandate given to the Commission by the Supreme Court, the NHRC is monitoring the functioning of three Mental Health Hospitals in Agra, Gwalior and Ranchi. On receipt of the Channabasavanna report, it has on its own taken the responsibility of monitoring all the mental hospitals in the country. In this context, the Chairperson, Members, Special Rapporteurs and senior officers of the NHRC have been visiting mental hospitals all over the country to find out the state of condition of treatment and care for mentally-ill persons lodged there.

5.15 The Commission has been advocating for the harmonization of disability laws in the country ever since the United Nations Convention on the Rights of Persons with Disabilities was adopted in 2007. The Commission has reviewed the draft Mental Health Care Bill, 2011 proposed to replace the existing Mental Health Act, 1987 from the standpoint of human rights and forwarded its recommendations to the Ministry of Health & Family Welfare, Government of India.

5.16 From the perspective of highlighting the challenges pertaining to mental health issues and to sensitize people on the issue, the Commission organized a Seminar on 'Human

Rights and Mental Health Care' on 10 October 2011 as part of the observance of World Mental Health Day at India International Centre, New Delhi. The seminar was attended by Directors of mental health institutions, experts, medical and social work students, representatives of NGOs working in the field of mental health care.

5.17 The Commission has also been concerned about persons with mental illness found wandering on streets devoid of any kind of proper care and treatment. It is of the view that this is largely due to the poor implementation and limited understanding about the existence and provisions of the Mental Health Act, 1987 by the law-enforcement authorities. It thus asked the Directors General of Police and Chief Secretaries of all the States/Union Territories to take appropriate steps for ensuring proper implementation of the Mental Health Act, 1987. The NHRC has recommended implementation of Section 23 of the Mental Health Act, 1987, which lays down powers and duties of police officers in respect of certain mentally-ill persons. Under this section of the Mental Health Act, the police have an obligation to take into protective custody a wandering or neglected mentally-ill person, inform his/her relative and also produce such person(s) before the local Magistrate for issue of reception orders within a stipulated period of time.

5.18 Another area of concern for the NHRC has been the shortage of trained manpower in the area of mental health. This situation is due to the fact that the medical syllabus of the MBBS curriculum does not sufficiently cover the subject of Psychiatry. Therefore, neither the students nor the teachers are taking serious interest in the subject. As a result, the doctors produced are ill-equipped in the treatment of psychiatric cases.

5.19 In addition, it was brought to the notice of the NHRC that emphasis on training relating to the field of Psychiatry was extremely poor. It also observed that the training being provided to the students of MBBS was inadequate compared to the prevalence of mental disorders. Besides, there were other off-shoots of the problem like stigma and lack of awareness about mental illness in the community. The concerns of the Commission were conveyed to the MCI and the Union Ministry of Health and Family Welfare.

5.20 The MCI informed the Commission that in the light of NHRC's recommendations, the curriculum of MBBS was revised and requisite changes had been made including increase in teaching hours in Psychiatry from 20 to 40 hours. Furthermore, the questions in Psychiatry had been made compulsory in the theory paper of medicine, clinical posting in Psychiatry was increased from 2 weeks to 4 weeks, and internal assessment in Psychiatry was made mandatory for final examination along with 15 days of mandatory posting relating to the subject of Psychiatry during internship.

E. NHRC Statement on Proposed Taxes on Healthcare Services

5.21 It was brought to the notice of the Commission through media reports that the Government of India proposes to introduce a five per cent service tax on healthcare services

thereby bringing the diagnostic services and hospitals having twenty-five beds or more with centralized air conditioning system in the tax net.

5.22 It was also reported that the excise duty on the medicines is proposed to be increased from four to five per cent which may make the medicines costlier thus affecting the common man. In addition to this, for the first time, the traditional medicines were being proposed to be brought within the ambit of excise duty.

5.23 The media reports further quoted a WHO report on financial health systems that millions of people plunged into poverty every year due to illness and high medical costs.

5.24 In this backdrop, the NHRC hopes that the Government may not go ahead with any such proposal which would affect the healthcare of the common man. The Commission is of the view that any tax, adversely affecting the human rights of the poor and the needy should not be imposed.

F. Illustrative Cases on Health Dealt by NHRC

1. *Ban on Use of Pesticides by Punjab Government in Malwa Region*
(Case No.705/19/2/2011)

5.25 Responding to NHRC's directions, Government of Punjab has banned the manufacture, import and use of pesticides which are injurious to health. The State Government has also withdrawn registration of some such pesticides in addition to limited use of some other dangerous pesticides. It has further made arrangements for educating farmers on judicious use of pesticides and the importance of their health care.

5.26 These actions, among others, were taken by the Government of Punjab in response to NHRC's suo motu cognizance of a media report, published on 16 August 2011.

5.27 A press report captioned, "A Train Ride to Cancer Care - Punjab's Malwa Region Feeds the Nation but Farmers Here Fall Prey to Cancer Far too Often, They Take the 'Cancer Train' to Bikaner for Cheap Treatment" appeared in the 'Times of India' dated 16 August 2011. The news report alleged that the disease of cancer among farmers in Malwa region of Punjab is caused by excessive use of pesticides on the crops. Further, due to non-availability of cheap treatment of cancer in the region, about 70-100 cancer patients were going daily by train to Bikaner from Bhatinda for free treatment and economical medicines provided in the Acharya Tulsi Regional Cancer Trust. These patients were mostly small farmers from the southern districts of Punjab including Bhatinda, Faridkot, Moga, Muktsar, Ferozepur, Sangrur and Mansa coming under Malwa region.

5.28 On the directions of the Commission, two reports were received from the Government of Punjab on 20 September 2011 and 27 February 2012. The first report from the Director of Health and Family Welfare, Government of Punjab was not found satisfactory by the Commission as it did not address issues raised in the media report. The Commission

thus gave directions on 23 January 2012 for an overall comprehensive action taken report including banning carcinogenic pesticides, controlled use of less hazardous pesticides, education of farmers with regard to the use of pesticides, regular health check-ups of the farmers in the area and conducting a survey in the region to assess the magnitude of the problem.

5.29 In response, the second report forwarded by the Principal Secretary, Government of Punjab, Department of Health and Family Welfare accepted the fact that the consumption of pesticides was on the higher side in Malwa region on account of cultivation of cotton crop. However, during the last 4-5 years, there was reduction in the consumption of pesticides as the farmers had switched over to BT cotton, which requires use of only 20% of the pesticides in comparison to earlier varieties of cotton. The farmers, the report stated were being trained with regard to cautious use of pesticides. As regards provision of cheap treatment for cancer, the Government of Punjab has taken the following steps:-

- (i) Financial assistance under the State Illness Fund through Punjab Nirogi Society is being provided to cancer patients belonging to BPL families.
- (ii) A fund of 20 crores was earmarked by the Government of Punjab under the Chief Minister's Relief Fund for treatment of cancer patients. An amount upto ₹1.5 lakhs was given to every cancer patient for treatment.
- (iii) School children suffering from cancer were provided free treatment by the Health Department.
- (iv) Brach therapy Machine for treatment of cancer patients had been installed at the Government Medical College and Hospital in Patiala.
- (v) Radiotherapy machine and Cobalt Unit had been started at Sri Guru Gobind Singh Medical College, Faridkot.
- (vi) Cobalt Source for the treatment of cancer patients was installed at Sri Guru Ram Das Institute of Medical Sciences and Research Centre, Amritsar.
- (vii) Onconet service had been started at Civil Hospital, Bhatinda .
- (viii) Regional Cancer Centre in the Post-Graduate Institute, Chandigarh has been connected to all the districts of Punjab via Tele-Medicine facility.
- (ix) Free travel facility by Punjab Roadways and PRTC Buses was being provided for cancer patients for availing treatment.
- (x) State Government has executed an agreement with Max Health Care to set up Super Specialty Hospital for Cancer and Trauma Care in the premises of Civil Hospital, SAS Nagar (Mohali) and setting-up of Super Specialty Cancer

and Cardiac Hospital in the premises of Civil Hospital, Bhatinda . These hospitals are fully functional.

5.30 The Commission observed that the steps taken by the State Government had given some ray of hope to the victims. If these steps were taken forward in the right earnest they were likely to bear fruits in the future. Expressing the hope that the Government of Punjab would not leave any stone unturned to tackle the problem, the Commission closed the case.

2. *Water Scarcity Forces 2,800 Inhabitants to Leave a Village in District Mahoba, Uttar Pradesh*
(Case No. 19498/24/50/2011)

5.31 The Commission took cognizance of a press report captioned "Vanishing Water Sends People Packing" that appeared in 'The Hindustan Times' dated 23 May 2011. The press report alleged that there was no water for drinking or for washing in Dadhat Maaf, a village in Kabrai tehsil of Mahoba, about 250 kms. south of Lucknow in Uttar Pradesh. Further, 240 out of 250 wells had completely dried-up and the remaining 10 hardly had any water. The ground water level in the village had also receded to 120 ft whereas the average depth of a well in these areas was 60-70 ft. The entire region – consisting of seven districts in Uttar Pradesh and six in Madhya Pradesh – was under drought for the past seven years. All these factors forced the 2,800 inhabitants out of 3,000 to leave Dadhat Maaf village in Kabrai tehsil of Mahoba, about 250 kms. south of Lucknow in Uttar Pradesh.

5.32 The press report further mentioned that the Union Government had made an announcement of allocation of 200 crore for harnessing water resources in Bundelkhand region. However, this may be too little and too late since the summer had already peaked and migration from the parched lands had reached alarming levels.

5.33 The Commission called for a report from the Secretary, Ministry of Water Resources, Government of India and the Chief Secretaries of Governments of Uttar Pradesh and Madhya Pradesh.

5.34 The Commission has received reports from the Ministry of Water Resources, Government of India, and the Ministry of Public Health, Government of Madhya Pradesh. Despite a reminder, no report has yet been received from the State of Uttar Pradesh.

3. *Extremely Harmful Chemicals Found in Recycled Plastic Across Delhi*
(Case No. 76/90/0/2011)

5.35 The Commission took suo motu cognizance of a press report captioned "Toxic Plastic Makes Way Into Your Home" that appeared in the 'Times of India' dated 5 September 2011. The press report mentioned that a Delhi based NGO, Toxics Link, in its study found the presence of brominated flame retardants (BFR) in the recycled plastic across the city. BFR are used in electronic items to make them fire resistant but the chemicals are extremely harmful to humans. It was further mentioned in the report that about 7,000 plastic processing

units were functioning in Delhi for recycling of e-waste without following proper safety measures. Thousands of people were employed in these units and were constantly exposed to BFR. It was also alleged that plastic units in and around Delhi were handling both BFR laden and BFR free plastic in the same units without taking any precautions during its handling. Recycling in the unorganized sector was not only an occupational hazard but a major cause of environmental pollution. The study suggested that restrictions be placed on the use of halogen based flame retardants in electronic and electrical equipments and provide incentives to companies using BFR-free products.

5.36 The Commission called for reports from the Secretaries, Ministries of Health, Environment & Forests, Labour and Industry, Government of India, New Delhi as well as from the Chief Secretary, Government of NCT of Delhi.

5.37 The Commission has received a report from the Director (Environment), Department of Environment, Government of NCT of Delhi stating that the Department had taken a number of pro-active steps towards proper disposal of e-waste. Besides, the Government of Delhi was regularly interacting with the stakeholders to ensure compliance with the e-waste management and handling rules and also scientific management of electronic waste and its disposal.

5.38 The Commission has not received any report from the Secretaries of Ministries of Health, Environment and Forests, Labour and Industry, Government of India. The case is under consideration of the Commission.

4. *Twenty-five Lose Vision in a Surgery Camp in Chhattisgarh*
(Case No.533/33/5/2011)

5.39 It was reported in the media that one person died and twenty-five others lost their vision in one eye after surgery in a Government organized camp at Balod, District Durg in Chhattisgarh from 21 -31September 2011. These surgeries were conducted as part of a centrally sponsored scheme.

5.40 According to the media reports, a number of other people apprehended same fate as after removal of cataract from their eyes at the same camp, they contracted infection. During the camp 334 patients were operated upon. Reportedly, the patients, mostly farmers, were infected on account of lapses in the surgical procedure and lack of proper fumigation in the make-shift operation theatre.

5.41 The Commission issued a notice to the Chief Secretary of Chhattisgarh Government calling for a report with specific information on the following points:-

- i) The status of health of each of the 334 patients, who were operated upon at the Community Health Centre, Balod.
- ii) What medical aid had been provided to the victims by the State Government?

iii) Whether the Government proposed to grant any compensation to the victims?

5.42 The required report has so far not been received in the Commission from the Government of Chhattisgarh.

5. *Death of a Person due to Negligence of Ursula Hospital Staff in Kanpur, Uttar Pradesh (Case No. 31025/24/43/2011)*

5.43 The complainant, a human rights activist, stated that one Sikandar Khan was admitted to Ursula Hospital in Kanpur on 29 July 2011 with burn injuries caused by electric current. He alleged that on 30 July 2011 at about 3.30 a.m. some stray dogs entered the ward and attacked Sikandar Khan which led to his death.

5.44 Pursuant to the directions of the Commission, the Superintendent of Police (Rural), Kanpur, sent his report along with the report of the Circle Officer. These reports denied the allegation that death was caused by stray dogs. As per the reports, Sikandar Khan was admitted to the NB-I ward of the Ursula Hospital on 26 July 2011 in a serious condition. He died on 30 July 2011 at 6.30 a.m. After his death, Dr. Anil Shukla, who was on duty, instructed the Safai Karamchari Pankaj Kumar to place the dead body in the mortuary. However, Pankaj Kumar did not carry out the instructions given by the Doctor on duty. Some stray dogs entered the ward between 6.30 a.m. and 7.00 a.m. and caused damage to the dead body. Shankar Lal, the Chowkidar on duty, and the staff nurse Ram Murti Bajpai were found guilty of negligence and dereliction of their duties. Shankar Lal and Pankaj Kumar were removed from service and disciplinary action was recommended against Ram Murti Bajpai. The report further stated that the autopsy surgeon opined the cause of death was "due to shock and septicemia as a result of ante mortem burn injuries".

5.45 The Commission considered the material on record and observed that from the reports it was amply clear that the death of late Sikandar Khan was not caused by stray dogs, but his dead body was damaged by them. The hospital staff was found guilty of negligence and dereliction of duty as a result of which the dead body of late Sikandar Khan suffered indignity. As dignity in death is part of dignity in life, the Commission held that the State is liable to compensate the next of kin of the deceased as the right of the deceased and his next of kin were infringed in this case. Hence, the Commission issued a notice u/s 18 (a) (i) of the PHRA, 1993, to the Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief for the next of kin of the deceased. Response received from the State Government is under consideration of the Commission.

6. *Medical Negligence and Reproductive Rights (Case No. 341/33/7/2011)*

5.46 The Commission received a complaint dated 23 July 2011 from Dilip Singh Judev, Member of Parliament (Lok Sabha), Jashpur, Bilaspur, Chhattisgarh alleging that after four

years of operation of laparoscopy tubectomy, one blind girl was born to a couple on 4 January 2006. It was further alleged that due to the failure of the surgical operation, the birth of the child had taken place. The Commission after considering the matter called for an action taken report from the Chief Secretary, Government of Chhattisgarh.

5.47 In response, the Secretary, Government of Chhattisgarh, Social Welfare Department, Raipur vide letter dated 25 November 2011 stated that the child named Saraswati was born after the tubectomy operation. Presently, the age of the child was five years and 10 months and as soon as she is of 6 years, she would be admitted to some school and social security pension and other benefits would be extended to her. She was going to an Anganwadi as of now.

5.48 While considering the matter on 12 December 2011, the Commission inter alia observed that as per the report dated 25 November 2011, it has been admitted that Baby Saraswati was born after her mother underwent tubectomy operation. This had occurred due to negligence of doctors. Accordingly, the Commission issued a notice u/s 18 of the PHRA, 1993 to the Chief Secretary, Government of Chhattisgarh, Raipur calling upon to show-cause why monetary relief may not be recommended to be paid to Manpati, w/o Chandra Nath, who had undergone laparoscopy tubectomy operation on 21 December 2002. The Chief Secretary was also directed to inform whether any other benefits had been extended to the family of Manpati.

5.49 A show cause notice dated 15 December 2011 followed by reminder dated 8 February 2012 was sent to the Chief Secretary, Government of Chhattisgarh, Raipur. However, no response was received by the Commission.

5.50 The Commission next considered the matter on 6 March 2012 and observed that it appeared the State Government had nothing to say in the matter. It thus recommended payment of ₹ 1,00,000/- (Rupees one lakh only) as interim relief to the victim Manpati and directed the Chief Secretary, Government of Chhattisgarh, Raipur to send the proof of payment made to the victim.

5.51 The compliance report is awaited from the Chief Secretary, Government of Chhattisgarh and the matter is under consideration of the Commission.

7. *Chronic Mentally Challenged Persons Languishing in Chamatkarik Hanuman Mandir at Samvali, District Chhindwara, Madhya Pradesh*
(Case No. 590/12/11/2011)

5.52 Dr. Tapas Kumar Ray in a complaint dated 6 April 2011 drew the attention of the Commission towards the tragic death of a 11 year abandoned and mentally retarded girl, who had been languishing for the last two years at the Chamatkarik Hanuman Mandir at Samvali, District Chhindwara, Madhya Pradesh where a large number of mentally challenged persons are staying unattended.

5.53 The Commission sent a team from its Investigation Division to look into the matter. The team visited the temple between 4 to 8 May 2011 and suggested inter alia to:- (i) constitute a Trust under the control of the District Administration which could look after the temple; (ii) establish a dispensary with a psychiatrist and general physician near the temple; (iii) hold medical camps and arrange visits of psychiatrists from Nagpur Mental Hospital, Maharashtra; (iv) shifting of chronic patients languishing in the temple immediately to a Mental Hospital for better treatment; (v) develop appropriate hygienic and sufficient accommodation with cleanliness; and (vi) establish a counselling centre for the patients and relatives.

5.54 The NHRC, team further suggested that (a) the District Authorities should engage an NGO to look after the patients; and (b) a core group of doctors may be constituted to examine the patients at the temple and recommend the chronic patients for special treatment in nearby hospitals.

5.55 The Commission's view point was that mental health is a serious human rights issue as mentally ill patients are most vulnerable from the point of human rights violation and their right to live with dignity. As their right to get treatment was often denied, the Commission forwarded the recommendations submitted by its team to the Chief Secretary, Government of Madhya Pradesh and Secretary, Ministry of Health and Family Welfare, Government of India with the direction to give an action taken report about the action taken by them on this issue.

5.56 The matter is under consideration of the Commission.

8. *Usage of Women for Various Drug Trials in India*
(Case No. 765/1/7/2011)

5.57 IBN Live India telecast a programme under the caption "Women Are Guinea Pigs Here" on 18 June 2011, highlighting the misery of poor women who are being offered meager amount to lure them to undergo clinical trial for cancer drugs. Another story was published in the 'Mail Today' dated 18 June 2011 titled "Six Andhra Women Hospitalized After Unauthorized Drug Trial". The same newspaper carried out another story captioned "India an Easy Target for Cheap Drug Trials". It was reported that there is no law to effectively monitor clinical trials in India.

5.58 In this connection, a team from the Investigation Division of the Commission after ascertaining the facts made certain recommendations. The Commission also made the following queries from the Secretary, Health, Government of India; Secretary, Indian Council of Medical Research and the Drug Controller General of India:

- (a) What are the guidelines and regulations in place for conducting drug trials and for setting up Ethics Committees in hospitals to ensure patients safety?
- (b) What are the guidelines to be followed by Ethics Committees for approving drug trials after a proposal is cleared by the Drug Controller General of India?

- (c) What are the safeguards for ensuring that the Ethics Committees function properly?
- (d) Whether the infrastructure in the office of the Drug Controller General of India is sufficient to cope-up with the applications for approval of drug trials in India?
- (e) Whether studies have been undertaken by the authorities to find out the reasons and lapses, if any, in case of death of persons in various States of India during drug trials?
- (f) Whether there is any uniform policy for compensating the victims or the next of kin of the deceased, who die during drug trials – whether authorized or unauthorized.
- (g) What is the policy of the Government of India with regard to the nature of drugs being tested in the country keeping in view the fact that many of the drugs may be tested elsewhere?

5.59 The response to the above queries was not received by the Commission till 31 March 2012.

RIGHT TO FOOD

6.1 The right to food is a human right recognized under international law protecting the right of all human beings to have access to safe and nutritious food and the fundamental right to be free from hunger. It is clearly articulated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Besides, other International Declarations and Resolutions have focused on interpreting and strengthening the right to adequate food, including General Comment No.12 (GC12) of ICESCR and the Rome Declaration of World Food Security 1996.

6.2 The right to food is also inextricably linked to the realization of other human rights such as right to health, life, water and adequate housing. And yet, the right to food remains a distant dream for many, especially underprivileged and vulnerable sections of the society. The right to food is inherent in several provisions of the Constitution of India. Article 21, in Part III of the Fundamental Rights states that ‘No person shall be deprived of his life or personal liberty, except according to procedure established by law.’ However, the term ‘life’ in this Article has been judicially interpreted to mean the right to live with human dignity, and not merely to survive or exist. In the words of the Supreme Court, “Right to life includes the right to live with human dignity and all that goes with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter”. It thus includes all aspects which would make life meaningful and complete. Article 39(a), in Part IV of the Directive Principles of State Policy, provides that men and women equally have the right to an adequate means of livelihood. Furthermore, Article 47 states ‘The State shall consider raising the level of nutrition and standard of living of its people and the improvement of public health as among its primary duties’.

6.3 The National Human Rights Commission (NHRC) of India has given due importance to the issue of food security ever since it has come into existence. It has consistently maintained that right to food is an integral part of right to life as enshrined in Article 21 of the Constitution of India. Accordingly, it took cognizance of the starvation deaths in Kalahandi, Bolangir and Koraput (KBK) districts of Odisha as starvation constitutes a gross denial and violation of right to life. During the year 2011-12, the Commission called for a comprehensive report on the status of implementation of the long term action plan for KBK districts. The Commission directed one of its Special Rapporteurs, Shri Damodar Sarangi, to hold a meeting with the Chief Secretary and other officers in Odisha for identification of

the programmes which may be taken up on priority basis for amelioration of the condition of people living in KBK districts. This meeting was held on 10 October 2011. The Special Rapporteur submitted his report to the Commission on 16 December 2011 stating that after holding discussions with the Principal Secretaries of various Departments on 1 December 2011, it was agreed to focus attention on (i) social security schemes, including PDS; (ii) health services; (iii) school and mass education; (iv) agriculture; (v) development of scheduled castes and scheduled tribes; and (vi) employment generation. Report on the progress made in implementation of the various measures is however awaited from the Government of Odisha.

6.4 In order to ensure that every one is free from hunger, the Commission has constituted a Core Group on Right to Food, comprising experts from across the country. The Commission also requested the Ministry of Consumer Affairs, Food and Public Distribution, Government of India on 21 March 2011 to forward the draft Food Security Bill for its examination. Some of the other programmes covering right to food and undertaken by the Commission are given below.

A. Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India

6.5 In order to extend its reach to the remotest parts of the country so as to spread human rights awareness as well as monitor the implementation of social welfare programmes, including the flagship programmes, of Government of India like Sarva Shiksha Abhiyan, Mid-day Meal Scheme, Integrated Child Development Services (ICDS) Scheme, National Rural Health Mission, National Rural Employment Guarantee Scheme, etc. at district level, the Commission has embarked upon a programme of visiting some of the most backward districts in the country. For this purpose, it has identified 28 backward districts, one each from every State in the country.

6.6 The main objective of the programme is to spread understanding among the people in the identified districts on focused human rights issues like food security, education, custodial justice, health, hygiene and sanitation, etc. by undertaking field visits to the schools, primary health centres, community health centres, hospitals, police stations, prisons, panchayats, ration shops functioning under the public distribution system, district food office, various Departments working for the empowerment of children, women, scheduled castes, scheduled tribes and other vulnerable sections of the society, etc. and concurrently organize a Workshop on “Human Rights Awareness and Facilitating Assessment & Enforcement of Human Rights Programme at District Level Administration”. The basic purpose of organizing a Workshop in each selected District is to enlighten people about their rights and supervise the execution of the recommendations of the Commission, issued from time to time on specific human rights issues.

6.7 From 2008 to 2011, the Commission has visited 16 Districts. The names of these Districts are: Chamba (Himachal Pradesh), Ambala (Haryana), North Sikkim (Sikkim), Jalpaiguri (West Bengal), Dhalai (Tripura), South Garo Hills (Meghalaya), Sonbhadra (Uttar Pradesh), Dang (Gujarat), South Goa (Goa), Wayanad (Kerala), Jamui (Bihar), Hoshiarpur (Punjab), Kalahandi (Odisha), Saiha (Mizoram), Chatra (Jharkhand) and Tiruvannamalai (Tamil Nadu).

B. Ensuring Food Security

6.8 The National Human Rights Commission has been receiving complaints of irregularities in the public distribution system. It is alleged in many of these complaints that the eligible persons were deprived of BPL cards while many undeserving persons were able to procure such cards. As such, the Commission has constantly been reviewing the efforts of the Centre and States to ensure food security in the country through regular discussion in meetings of its Core Group on Right to Food and field visits by the Chairperson, Members, Special Rapporteurs and senior officers of the Commission.

6.9 In one of the meetings, the Commission opined that mere issuance of instructions to States/Union Territories was not enough. It was important to assess the implementation of various food security programmes at the ground level in order to know the real impact of overall efforts made by the Central and State Governments. As such, the Commission visited the State of Bihar to make an assessment of the food security situation prevalent there. A format for this purpose was accordingly devised and sent to the State Government for providing detailed information on various schemes implemented by it.

6.10 Thereafter, a delegation from NHRC led by Shri P.C. Sharma, Member visited District Ara on 18 February 2012 to assess the food security situation on the ground and review the efforts made by the Government of Bihar in implementing the schemes relating to food security.

6.11 The delegation, first and foremost, visited a Government middle school in Village Giddha, Block Koilwar in District Ara. At the time of the visit, the mid-day meal was being served to approximately 600 students. The menu for the mid-day meal on that day was rice, *dal* and *chokha* (potato dish). The Headmaster of the school informed that the grains and other items for mid-day meals were supplied to the school for 60% of the admitted students only. He also informed that an amount of 2.92 paise per day only had been sanctioned for each student of the school and that said amount was insufficient to provide a reasonably good quality meal to the students.

6.12 The delegation next visited the *Anganwadi* Centre located in Village Giddha. The *Anganwadi* worker informed that children coming to the *Anganwadi* Centre were served nutritious meal every day like *khichri*, *dalia* or *poha*. She also informed that an adequate supply of ration was given to the *Anganwadi*, to provide meals to children below six years of age as well as to the pregnant and lactating mothers.

6.13 The delegation also met the District officials of Ara on 18 February 2012. The District Magistrate of Ara briefly explained the schemes being implemented by the State Government in Ara. She also informed that the ration was being supplied to the beneficiaries through food coupons under the Public Distribution Scheme. In all, there were 1,400 Fair Price Shops in Ara. Later, the delegation along with the District Magistrate visited a Fair Price Shop in Ward No. 42 of Ara. The quality of the grains and the food coupons in the shop were examined by the NHRC team. It was informed by the owner of the Fair Price Shop that the functioning of the shop was regularly monitored by the Local Vigilance Monitoring Committee set up by the villagers.

6.14 Later, the NHRC's delegation held a meeting with the Principal Secretary, Department of Food & Consumer Protection as well as senior and middle level officers from other Departments like Rural Development and Self-Employment including those who were monitoring schemes like mid-day meal and ICDS in the State Government. The Principal Secretary gave a brief overview about various poverty alleviation programmes being implemented by the Government of Bihar and that the State had sufficient food stock which was stored in Government and private warehouses. He assured that no stock had been kept in the open area.

C. Illustrative Cases on Right to Food Dealt by NHRC

1. *School Children Falling Ill After Consuming Mid-Day Meal in Two Government Schools of Kurukshetra, Haryana*
(Case No. 1866/7/11/2011)

6.15 On the basis of news report in 'The Tribune' dated 15 July 2011 captioned "Lizard in mid-day meal, 42 school kids taken ill", the Commission on the very same day took cognizance of the matter. As per the news report, a lizard was found in the mid-day meal served to school children of two Government schools in Kurukshetra. The children after consuming the food were taken ill and started vomiting. The Commission directed the Secretary (Health), Government of Haryana to submit a factual report on the incident within four weeks.

6.16 Pursuant to the directions of the Commission, the Deputy Director (EPI) in the office of the Director General, Health Services, Haryana on 16 September 2011 forwarded a report stating that on 14 July 2011, around 50 school students in Thanesar block fell sick after taking mid-day meal provided by ISKON, Kurukshetra. All the students were brought to LNJP Hospital, Kurukshetra for treatment. Amongst them, 19 were admitted in the Emergency Ward and the rest were discharged after being given basic treatment. Later, Dr. D.P. Lochan, Directorate of Health Services, Haryana; Civil Surgeon, Kurukshetra along with other senior officers from Kurukshetra visited the hospital. By evening, all the students were discharged.

6.17 On 16 July 2011, around 238 school children in Pehowa Block fell sick after taking mid-day meal provided by ISKON, Kurukshetra. Out of these, 13 students were admitted at Community Health Centre, Pehowa. All of them were discharged in the evening.

6.18 The report further stated that in Thanesar Block on 14 July 2011, five samples of mid-day meal were collected. One sample was found to be contaminated on account of a dead lizard. The sample indisputably was unfit for human consumption. The report was sent to the Additional Deputy Commissioner, Kurukshetra for further necessary action.

6.19 In Pehowa Block too, three samples of mid-day meal were taken on 16 July 2011. One sample was found to be contaminated with two dead houseflies and was unfit for human consumption. The report again was sent to the Additional Deputy Commissioner, Kurukshetra for further necessary action.

6.20 In Ladwa Block, on 5 August 2011, two samples of mid-day meal were collected. One sample was found contaminated with one dead lizard. The report was again sent to the Additional Deputy Commissioner, Kurukshetra for further action.

6.21 All these reports, however, were silent about the action taken by the Health Department, Haryana against the errant public servants.

6.22 The Commission vide its proceedings dated 20 December 2011 thus held that it was an established fact that the school children of Thanesar, Pehowa and Ladwa Blocks fell sick after consuming the mid-day meal served by their respective schools and it was a fit case of violation of human rights of the school children.

6.23 Accordingly, the Commission directed to issue a notice under section 18(a)(i) of the PHRA to the Chief Secretary, Government of Haryana calling upon him to show-cause as to why the affected children be not granted interim monetary relief.

6.24 Chief Secretary, Government of Haryana was asked to submit a reply to the notice issued by the Commission and the Director General, Health Services, Government of Haryana too was directed to submit a report about the action taken against the errant public servants.

6.25 The response from the State Government on the above matter is awaited.

2. *Alleged Starvation Deaths in Cachar District, Assam*
(Case No.39/3/2/2012)

6.26 The Asian Human Rights Commission, an NGO drew the attention of the Commission towards alleged starvation deaths of 10 workers in October 2011 on closure of Bhuvan Valley Tea Estate in Cachar District of Assam. The complaint was based on information received by the NGO from Barak Human Rights Protection Committee (BHRPC), a human rights group based in Assam. As per the complaint, workers had died on account of starvation after their health deteriorated due to appalling work conditions that failed to guarantee them a life with dignity. It was alleged by the fact finding mission

of BHRPC that workers were forced to over-work, paid extremely low wages and not provided any kind of medical treatment while on work. It was further alleged that basic medical care and food distribution did not reach those workers who had lost their livelihood. Eight other complaints were also received in this matter and all of them were taken-up with this case.

6.27 The Commission took cognizance of the complaint vide its proceedings dated 27 February 2012 and called for a report from the Chief Secretary, Government of Assam. The report of the State Government is awaited.

3. *Alleged Irregularities in Distribution of Essential Commodities in East Khasi Hills District, Meghalaya*
(Case No.27/15/2011)

6.28 Dr. Mohal Lal Panda, Advisor, PVCHR made a complaint to the Commission about the irregularity in distribution of essential commodities at Dongrum Mawsinram Centre in East Khasi Hills District by the trader Asorda Marbaniang, wife of the Village Head. It was alleged in the complaint that 17 families of Mawsinram Village in East Khasi Hills District were not provided essential commodities from the fair price shop from 2002 to 2010. When they sought information under the RTI Act with regard to food grains supplied by the Government in the village, all of them were ostracized at the instance of the trader.

6.29 In this regard, the Additional Deputy Commissioner, East Khasi Hills District submitted a report stating that the Executive Committee of Dongrum Mawsinram had convened a meeting on 27 July 2011 and the matter was resolved. Asorda Marbaniang and A.W. Kharshandy (Traders) admitted their mistake in the distribution of essential commodities and promised to compensate the families for the loss incurred within seven days, to which all the complainants agreed. It was further stated in the report that the Executive Committee of Dongrum Mawsinram also agreed to lift the social boycott imposed on some of the members of the locality.

6.30 The case continues to be monitored by the Commission.

RIGHTS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER VULNERABLE GROUPS

7.1 Scheduled Castes and Scheduled Tribes have been, for centuries, the most neglected, marginalized and exploited people in India. The scourge of untouchability has been a blot on the Indian civilization. The scheme of the Constitution reflects a three-pronged strategy for changing the status of Scheduled Castes and the Scheduled Tribes based on the traditional social order. This consists of (a) protective measures – for enforcing equality and removing disabilities; providing strong punitive actions against physical violence inflicted on them; eliminating customary arrangements, which deeply hurt their dignity and setting up autonomous watch-dog institutions to safeguard interests, rights and benefits guaranteed to them; (b) compensatory discrimination – enforcing thereby reservation provisions in public services, representative bodies and educational institutions; and (c) development measures – to bridge the wide gap between the Scheduled Castes, Scheduled Tribes and other communities in their economic conditions and social status, covering allocation of resources and distribution of benefits.

7.2 This strategy was subsequently operationalized in the State Policy and the commitment to this Policy has been a feature of Indian State ever since. The Policy has been strengthened and revised and its ambit made wider from time to time.

7.3 As regards the protective arrangements, the Constitution itself provides an elaborate framework for eliminating those customs, practices, or institutional arrangements. Laws have been further made to operationalize the constitutional provisions like the Protection of Civil Rights Act, 1955; the Bonded Labour System (Abolition) Act, 1976; Equal Remuneration Act, 1976; Inter-State Migrant Workmen (Regulation of Employment & Conditions of Services) Act, 1979; Child Labour (Prohibition and Regulation) Act, 1986; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

7.4 The main objective of the Protection of Civil Rights Act, 1955 is to achieve equality. As such, under the Act, the preaching and practice of ‘untouchability’ or the enforcement of any disability arising therefrom and for matters connected therewith, is a cognizable and non-compoundable offence. The said Act, along with its Rules, lays down elaborate procedure for ensuring protection to the victims by providing for special courts, special prosecution, fixing period for investigation, etc. Similarly, the objective of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is to create deterrence

against physical violence inflicted on them. The Act and its Rules provide for special courts for trial of offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto as well as strong punishment and compensation to victims. In practice, however, the usage of these two laws is very limited. In majority of the cases, it has been observed that even today whenever the human rights of scheduled castes and scheduled tribes are violated, sections of Indian Penal Code are applied and not those relating to the two laws under reference. Besides, State Governments/Union Territory Administrations do not take cognizance of the matter under these legislations on their own, unless pointed out by the Commission.

7.5 The strategy relating to compensatory discrimination is reflected in making provisions for reservation of posts in public services through recruitment and promotions, reservation of seats in legislative bodies at the Central, State, Panchayati Raj Institutions and Municipal bodies, reservation of seats in admission to educational and professional institutions, including relaxation of eligibility qualifications. This was done with a view to ensure that members of these communities have their share in positions of power and decision making as also access to opportunities for higher education.

7.6 The third part of the strategy related to focused and comprehensive development of Scheduled Castes and Scheduled Tribes, which was operationalized through allocation of funds and earmarking of benefits under various development programmes for members of these communities, so that they improve their economic conditions as a route to upward mobility. This was sought to be achieved by creating a mechanism within the planning process through which a specified percentage of budgetary resources could be earmarked for the benefit of these communities. In respect of Scheduled Castes, this is known as the Special Component Plan, which lays down that the concerned agencies should prepare a separate plan for development of Scheduled Castes by allocating a percentage of resources that is at least equivalent to the percentage of their population in the State and the Centre, as the case may be. This provision was further strengthened by allocation of certain resources directly by the Central Government known as Special Central Assistance to be used for this purpose in addition to the earmarked funds under the Special Component Plan.

7.7 With the passage of time, laws were made to set up watchdog institutions to monitor whether benefits were reaching the targeted communities and safeguards for their protection were being ensured or not. Some of these institutions are the National Commission for Scheduled Castes, National Commission for Scheduled Tribes, National Human Rights Commission, National Commission for Women and National Commission for Protection of Child Rights. The latter three institutions cater to complaints of all sections of society within their specified mandate.

7.8 During the period under review, the Commission's activities in the area of protecting the rights of Scheduled Castes, Scheduled Tribes and other vulnerable sections of society, primarily focused on complaints and giving of relief to them. Other activities, which it undertook are outlined below.

A. Constitution of Cell in NHRC to Monitor Elimination of Bonded & Child Labour Issues

7.9 The NHRC has been undertaking State and Union Territory-wise reviews and concurrently conducting workshops to sensitize all stakeholders on issues of bonded and child labour. In August 2011, the NHRC constituted a Cell to monitor issues of bonded and child labour as well as review the action taken by public authorities on its recommendations.

7.10 Apart from monitoring, the Cell would follow-up a 10-point charter of activities which are as follows:-

1. Constitution of a Core Group on Bonded Labour to advise the Commission in chalking out and suggesting strategies to the Central and State Governments for elimination of bonded labour in the country.
2. Organizing a national level seminar on elimination of bonded labour system.
3. Organizing workshops in each of the bonded labour prone States and Union Territories.
4. Constitution of an NHRC team which would carry out surprise visits to bonded labour prone areas with the assistance of social action groups operating in such areas.
5. Organizing meetings with the State Governments and Union Territory Administrations to review the functioning of the Bonded Labour (Abolition) Act, 1976 in their respective jurisdictions.
6. Developing an Instruction Manual for the States and Union Territories spelling out a comprehensive check list for identification, release and rehabilitation of bonded labourers, issue of release certificates to freed bonded labourers, module for sensitizing District Magistrates, Vigilance Committees (blocks, subdivisions and districts), civil society functionaries and labour law enforcement machinery.
7. Designing of a simple format on bonded labour for monitoring of factual position in the districts.
8. Reviewing existing schemes of the Central and State Governments on bonded labour and suggest modifications to make them more practical and relevant to the prevailing situation. Recommending creation of a non-lapsable fund in each district for rehabilitation of freed bonded labourers.
9. Recommending to States and Union Territories to organize orientation training programme in each bonded labour prone district for sensitization of

all members of Vigilance Committee (sub-divisions and districts) and also for the field functionaries of labour law enforcement, in each calendar year.

10. Recommending States to constitute a State Level Monitoring and Coordination Committee under the chairmanship of Chief Secretary with Secretaries to Government of various Departments as Members. This Committee would hold regular meetings to take stock of bonded labour situation in the State and apprise the Commission every six months.

B. National Seminar on Elimination of Bonded Labour

7.11 In pursuance of the 10 point charter of activities mentioned above, the NHRC organized a one-day National Seminar on Elimination of Bonded Labour in New Delhi on 30 September 2011. Inaugurating the Seminar Justice Shri K.G. Balakrishnan, Chairperson, NHRC stated that the response of States was not very encouraging towards identification, release and rehabilitation of bonded and child labourers. This practice in all its forms should be eliminated from the society. There are laws in place including guidelines and recommendations that have been issued by the NHRC and a number of orders passed by the Supreme Court which, if implemented in letter and spirit by the concerned authorities, would go a long way in reducing incidents of bonded labour.

7.12 Addressing the delegates, Justice Shri B.C. Patel, Member, NHRC and In-charge of Bonded and Child Labour Issues in the Commission said that in most of the States, it has been found that the employers of labourers do not maintain proper records and surreptitiously shift them to other places to confuse the investigating authorities. He regretted that most of the District Magistrates and Collectors were overlooking this aspect and were submitting wrong reports to the Commission, thus making it difficult for identification, release and rehabilitation of bonded labourers. Shri Anil Swarup, Director General (Labour Welfare), Ministry of Labour and Employment, Government of India mentioned that the Ministry was committed to eradication of bonded labour for which it would need the cooperation of the administrative machinery of States and Union Territories and also the civil society. He highlighted the success of Ministry's pilot project being run in Tamil Nadu to tackle the menace of bonded labour.

7.13 Shri Chaman Lal, former Special Rapporteur, NHRC stated that the provision of minimum wages has to be enforced in the spirit to ensure payment of fair wages. There has to be a provision of fixing the accountability of the District Magistrates and Collectors in the implementation of Bonded Labour System (Abolition) Act. He stated that the political leadership should also be made accountable for elimination of bonded labour. Shri K.R. Venugopal, another former Special Rapporteur of the Commission pointed towards the need for psycho-social rehabilitation as being equally important as economic rehabilitation.

7.14 Justice Shri K. Ramaswamy, former Member, NHRC gave a vivid account of various Supreme Court judgments on the issue of elimination of bonded labour system. Dr.

Lakshmidhar Mishra, Special Rapporteur. NHRC spoke about the difficulties in identification of bonded labourers, their release and issue of certificates; role of vigilance committees and law enforcement agencies in eliminating the problem of bonded labourers. He said that during the course of extensive tours undertaken by him across the country and interactions with the State authorities, most of them, did not acknowledge the existence of bonded labour. He suggested that the format of release certificates should be simple so that the freed labourers are able to understand it as well as derive the stipulated benefits.

7.15 Shri Harsh Mander, Member of the National Advisory Council focussed on migration, distress migration, debt bondage and the dubious role played by contractors. He stated that in the absence of proper identity records, the benefits of public distribution system do not reach the bonded and migrant labourers.

7.16 The Seminar was attended by senior officers of States and Union Territories, representatives of State Human Rights Commissions and NGOs. A number of State representatives acknowledged that due to timely interventions made by NHRC, they were able to identify, release and rehabilitate several bonded labourers. It was unanimously felt that a more concerted effort was required at different levels of governance, in particular, for identification of diverse forms of bonded labour, and its abolition. Senior officers from the NHRC also attended the Seminar.

7.17 On the basis of extensive deliberations held in the Seminar, the recommendations given below were made and sent to all concerned for compliance. It is hoped that all these recommendations have been complied with in bonded and child labour prone States/Union Territories:-

1. Implement the existing laws on bonded labour and other related laws in letter and spirit. Timely disbursement of rehabilitation funds with participation from NGOs, Vigilance Committees, State and Union Territory Governments, monitoring bodies such as NHRC, apex government agencies and the civil society.
2. Provide training to the police and the judiciary at the State and district level in order to sensitize them on the issue of bonded labour.
3. Minimum Wages Act, the Workmen's Compensation Act, the Inter-State Migrant Workmen Act, Child Labour (Prohibition & Regulation) Act and the Bonded Labour System (Abolition) Act should be enforced to protect victims.
4. State and Union Territory Governments should adopt the Standing Operating Procedures (SOP) for developing mechanisms through the Labour Department for registration of brick kilns and procedures to be followed by the enforcement agencies.

5. Enforcement of the law on minimum wages and strengthening of public distribution system should be undertaken immediately to minimize the circumstances, which force the workers to fall into bondage. Minimum wages should be enforced in all sectors including the informal sector.
6. District Magistrates should have proactive approach towards abolition of bonded labour system and should exercise their powers under Section 10, 11 and 12 of the Bonded Labour System (Abolition) Act judiciously, diligently and with empathy and sensitivity. Convergence should be effected between the Government Departments and the NGOs. The Deputy Commissioners should be the centre of convergence efforts concerning all actions relating to bonded labour.
7. Vigilance Committees at the District and Sub-Division level should be constituted wherever not in place. These Vigilance Committees should be re-organized and activated and their meetings should be more frequent. The minimum number of meetings and the format for the deliberation by Vigilance Committees for drawing minutes and reporting information on a periodic basis have to be specified by separate notifications and these must be strictly followed.
8. With the assistance of NGOs and Social Action Groups, surveys in bonded labour prone areas to be undertaken by the Vigilance Committees. These Vigilance Committees must conduct field survey by adopting a non-formal, unorthodox and non-threatening approach.
9. All the pending cases filed under the Bonded Labour System (Abolition) Act, 1976, be disposed off expeditiously by taking recourse to summary trial and to issue release certificate in favour of those who are found to be under bondage. A release certificate to each of the bonded labourer so released must be issued forthwith by the concerned Collector/District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate vested with such powers. The certificate should be handed over to the person(s) so released in a language known to him or her.
10. Panchayati Raj Institutions should play an active role in the process of eliminating bonded labour system. Proper training for sensitization of Tehsildars, Gram Panchayat Secretaries, police officials and revenue officials may be given.
11. Adequate and timely release of funds to State Governments and Union Territory Administrations should be ensured by the Union Government. The Union Government may devise a new mechanism to ensure timely release of funds without any delay.

C. Constitution of Core Group on Bonded Labour

7.18 A Core Group on Bonded Labour consisting of nine Members was constituted in the Commission on 24 November 2011. The names of the Members are: Shri Vivek Vidyullata Pandit, Sharamjeevi Sangthan, Distt. Thane, Maharastra; Shri Kiran Kamal Prasad, Jeevika Vimukti Trust, Nagarbhavi Post, Bengaluru; Shri V.P. Yajurvedi, V.V. Giri National Labour Institute, Noida, Uttar Pradesh; Dr. I.S. Singh, Mahatama Gandhi Labour Institute, Ahmedabad, Gujarat; Dr. Pravin Sinha, National Labour Law Association, Karkardooma, Delhi; Shri Chaman Lal, IPS (Retd.), BSF Co-operative Housing Building Society, Gurgaon, Haryana; Shri K.B. Saxena, IAS (Retd.), Institutional Area, Janakpuri, New Delhi; Dr. B.N. Shukla, Mahatma Gandhi Nagar, Patna, Bihar and Shri B.K. Sahu, National Commission for Protection of Child Rights, Janpath, New Delhi. The Core Group has been constituted under the chairmanship of Justice Shri B.C. Patel, Member, NHRC.

7.19 The terms of reference of the Core Group are as under:-

- i. Review existing Government policies, Acts, Rules, etc. on bonded labour from the perspective of human rights and suggest modifications/amendments therein to meet the objective.
- ii. Identify voids and gaps in the policy, legal framework, implementation and suggest measures to remove the deficiencies.
- iii. Review the present schemes/programmes of the Central and State Governments on release and rehabilitation of bonded labour and suggest improvement therein.
- iv. Identify best practices with regard to identification, release and rehabilitation of bonded labour.

7.20 The first meeting of the Core Group was held in the Commission on 10 January 2012. The meeting was held under the chairmanship of Justice Shri B. C. Patel, Member, NHRC.

D. Elimination of Bonded and Child Labour System

7.21 In pursuance of the directions of the Supreme Court dated 11 November 1997 in Writ Petition (Civil No. 3922) 1985, the Commission continues to monitor the implementation of the Bonded Labour System (Abolition) Act, 1976 and the Child Labour (Prohibition & Regulation) Act, 1986, in the country. The Commission has insisting on constitution of Vigilance Committees in the Districts and Sub-divisions, periodical survey of bonded labour once in every two years and maintenance of records prescribed under the Minimum Wages Act, 1948 and other labour laws. During 2011-2012, it organized the following regional workshops on bonded and child labour:-

S.No.	Date of Workshop	Venue of Workshop
1.	08-09 Nov. 2011	Ahmedabad (Gujarat)
2.	17-18 Dec. 2011	Bengaluru (Karnataka)
3.	05-06 Jan. 2012	Aurangabad (Maharashtra)

7.22 In these regional workshops, the Commission explained to the concerned participants about the Bonded Labour System (Abolition) Act, 1976, which abolishes all agreements and obligations, including customary sanctions that allow bonded labour system in various forms. Besides, it sensitizes them about the various consequences of the Act, such as, release of all labourers, who are mostly scheduled castes and scheduled tribes, from these obligations and agreements. It further cancels their outstanding debts and prohibits creation of any new bondage agreement. It apprises them that the Act mandatorily provides for economic rehabilitation of freed bonded labourer by the State and constitution of Vigilance Committees at the district and sub-divisional level for identification and rehabilitation of bonded labourers.

7.23 Likewise, it informs the participants about the forms of child labour, sectors of the economy in which children work, constitutional and legal safeguards prohibiting employment of children and legislations that aim at elimination of child labour from hazardous industries and regulation of their conditions of employment in other non-hazardous occupations. It primarily focuses on the salient features of the Child Labour (Prohibition and Regulation) Act, 1986.

E. Organization of Zonal Workshops on Minimum Wages Act, 1948

7.24 It was reported in the Annual Report for the year 2010-2011, that the NHRC had received a complaint relating to denial of minimum wages to the workmen employed in brick kiln industries. Consequently, the Commission had called for information from all the States/Union Territories on notification of brick kilns as a scheduled employment, fixation of rates of wages for all categories, revision of rates of wages, mode of payment, weekly off, maintenance of records and settlement of claims, etc.

7.25 The responses received from the States were found to be unsatisfactory. As such, the Commission decided to organize five Zonal Workshops on Minimum Wages Act in the country. It organized three Workshops during 2010-2011. During the year under report, the Commission organized two Zonal Workshops under the chairmanship of Justice Shri B. C. Patel, Member, NHRC in coordination with the concerned State Governments :-

S.No.	Zonal Workshops	Date of the Workshop	Venue of Workshop
1.	Zonal Workshop on Minimum Wages for Northern States	08 April 2011	Chandigarh
2.	Zonal Workshop on Minimum Wages for North-Eastern States	14 October 2011	Shillong

7.26 In these workshops, the Commission explains to the participants about the various sections of the Minimum Wages Act, 1948, which provides for fixing of minimum rates of wages in different employments and fixes the norms of hours of work, rest and overtime rates. It also tells them about the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, which lays down the conditions of employment of migrant labour to protect them from exploitation by contractors, middlemen and employers.

F. Review of International Convention on Migrant Workers

7.27 The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW) is a significant advancement in the protection of the human rights of migrant workers and their families. It was adopted by the United Nations General Assembly in Resolution 45/158 on 18 December 1990. It came into force on 1 July 2003. The primary objective of the Convention is to foster respect for the human rights of the migrants who are not only workers, but also human beings. The Government of India has so far not signed the United Nations ICMW.

7.28 The Commission examined the ICMW and wrote to the Ministry of Labour in September 2011 with a view that the Convention should be signed and ratified by the Government of India in the interest of protection of the human rights of the migrant workers and their families.

G. Illustrative Cases Dealt by NHRC Concerning Scheduled Castes, Scheduled Tribes and Other Vulnerable Groups

1. *Forced Migration and Boycott of Dalits in Gujarat*
(Case No. 166/6/2/09-10-FC)

7.29 The Commission received a complaint dated 19 May 2009 from Kirit Rathod, Programme Director, Navsarjan, a Ahmedabad based NGO inviting attention of the Commission towards forced migration and social boycott of Dalit communities in 23 villages of Gujarat. While submitting the details of the social boycott and forced migration, a prayer was made by the complainant for directions to the concerned officers to visit the affected villages, consideration of the matter by the District Vigilance Committees, registration of

cases by the police under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the rules framed there under, payment of compensation and rehabilitation to the victims as per the law.

7.30 Pursuant to the directions dated 27 May 2009 of the Commission, the Under Secretary, Government of Gujarat, Department of Social Justice and Empowerment vide communication dated 13 August 2009 submitted a report stating that - (i) the concerned District Officers, that is, the Backward Class Welfare Officers, the Vigilance Officers, Project Officers of the concerned District had visited all the 23 villages and submitted their report. (ii) Social boycott was declared in two villages only, i.e. in Mithivavadi in Patan Taluka and in Vanthal in Viramgam Taluka, District Ahmedabad. The District Officers had visited both the villages and reported to the District Magistrate. (iii) Social boycott and forced migration was not declared in 21 villages but only in two villages by the District Backward Class Welfare Officer concerned and compensation in the above two cases was paid as per rules. (iv) FIRs were lodged under appropriate sections of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in all the cases of atrocities in 20 villages except 3 villages where such incidents had not occurred. (v) Compensation has been paid in 2 villages under appropriate sections of the aforementioned Act for social boycott. In Mithivadi Village of Patan Taluka, social boycott was declared for 183 days and 27 victimized persons were paid a total sum of 48,200/- by way of compensation as per rules. In Vanthal Village of Viramgam Taluka of Ahmedabad District, social boycott was declared for one month and 669 victimized persons were paid a compensation amounting to a total of 2,00,700/- as per rules. As forced migration had not occurred in any village, question of rehabilitation did not arise. Compensation was paid in 17 villages under various other sections of the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In 21 cases, FIRs were registered under appropriate sections of law against the accused. Most of these cases were found relating to insult of Scheduled Castes, stopping of their right to cultivate land, Panchayat elections, passing of road through Dalit locality, and refusal to give path to them.

7.31 The Commission considered the report and observed that there was forced migration and social boycott of a large number of people. Besides, the police had not registered cases under appropriate sections of the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Indian Penal Code. The affected parties also had not been given appropriate compensation. This was a serious case of violation of human rights. Since the amount of compensation paid was not in accordance with the relevant provisions contained in the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and its applicable Rules, the Commission directed the State Government of Gujarat to explain the deficiency that had occurred and to take steps so that the due amount to the victims is paid in accordance with the provisions of the relevant Act.

7.32 Compliance report from the State Government is awaited.

2. *A Dalit Boy Abused by Caste Names in Tamil Nadu*
(Case No. 649/22/5/2011)

7.33 The media carried a report on 14 June 2011 alleging that a Dalit boy, A. Vasanthakumar, of Chakkiliya community, residing in Nallichetty, was thrashed for fetching water from a public tap in nearby Karikkilipalayam village of Tamil Nadu. Allegedly, Vasanthakumar was also abused by caste names. According to the report, the Dalits were being prevented from getting their hair cut in the saloons and usage of mobile phones outside their huts in the area. It was reported that Vasanthakumar's village had been reeling under extreme water scarcity.

7.34 The Commission on 16 June 2011 took suo motu cognizance of the matter and issued a notice to the Chief Secretary, Government of Tamil Nadu calling for a report in the matter. He was asked to report to the Commission on the following points:-

- a) Whether any criminal case was registered against the accused;
- b) Whether any relief was given to the victim under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989;
- c) What steps were being taken to prevent such acts of discrimination against Dalits?

7.35 Pursuant to the directions of the Commission, the Secretary to the Government of Tamil Nadu, Department of Tribal Welfare, sent his report dated 19 July 2011. As per the report, the incident in question took place on 12 June 2011 at about 09:00 p.m. Crime No. 989/11 u/s 323, 506 (i) IPC r/w 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at P.S. Annur. One accused was also arrested. The three women accused had not been arrested. The report further stated that the District Collector of Coimbatore had reported that the proposal from the Police Department, Social Justice and Human Rights wing, had not been received and on receipt of the same, the first installment of the relief of ₹ 6,250/- out of the total relief amount of ₹ 25,000/- shall be released to the victim. In addition, the report stated that a Peace Committee meeting was convened by the Regional Development Officer, Coimbatore, on 23 June 2011 in which people from Nallichettipalayam and Kurukillyampalayam villages and their representatives had participated and it was decided that the people of Nallichettipalayam would be permitted to take drinking water from the public tap at Kurikiliyampalayam. The people of Nallichettipalayam were also warned that action under the law would be taken if any such complaint was received.

7.36 On examination of all the facts, the Commission observed that it appeared from the report that the Government had taken appropriate steps in the matter. Since relief of ₹ 25,000/- u/s 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act is required to be paid to the victim and payment of 25% is to be paid when charge sheet is filed in the Court and the rest on conviction, the Commission directed the District Collector, Coimbatore, to ensure that relief is paid to the victim as per law in two stages. With these observations, the Commission closed the case.

3. *Unlawful Detention of a Poor Dalit Boy by Police in Uttar Pradesh*
(Case No. 21677/24/2006-2007)

7.37 The Commission received a complaint dated 24 August 2006 from Mahgina Devi, w/o Anantu Chamar and r/o Sant Ravidas Nagar, Uttar Pradesh alleging harassment and false implication of Anantu Ram in various cases, detailed in the complaint at the behest of In-charge of the police station. It was alleged that the In-charge was misusing his official position and had purchased a house worth 50 lakhs.

7.38 In response to directions given by the Commission, the Deputy Inspector General (Human Rights), Office of the Director General of Police, Police HQs., Uttar Pradesh and Dy. Inspector General, Anti-Corruption Bureau, CID, Government of Uttar Pradesh submitted the requisite reports. Perusal of the same revealed that Anantu, husband of the petitioner had been acquitted in case crime Nos. 322/06 for the offence punishable u/s 8/20 Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and 398/06 for the offence punishable u/s 8/22 NDPS Act by the court by giving benefit of doubt on 10 April 2007 and 19 April 2007 respectively. Police enquiries further revealed that Anantu, husband of the petitioner was falsely implicated in both the above cases and therefore, all the police personnel had committed the offence u/s 167/220/467/468/471/120B IPC, Section 8/22 NDPS Act and Section 3(2)(2) the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Further action would be taken against the delinquent police personnel on registration of case under these sections. It was intimated that enquiries were still in progress against the Sub-Inspector for possessing assets disproportionate to his income.

7.39 The Commission upon consideration of the matter observed that the facts as brought out in the independent investigation were shocking and disturbing. The delinquent police personnel who were indicted in the report by way of abusing their power and authority had falsely implicated a poor Dalit by applying the sections of the NDPS Act. The acts of commissions on the part of these police personnel had led to serious violation of the human rights of the victim. The Commission thus issued a notice u/s 18(c) of the Protection of Human Rights Act 1993 to the Chief Secretary, Government of Uttar Pradesh to show cause as to why immediate monetary relief be not recommended to be given to the victim. The Director General of Police, Uttar Pradesh was also directed to apprise the Commission about the outcome of legal and departmental action initiated against the delinquent police personnel.

7.40 The Commission placed on record its appreciation for the Investigating Officers of this matter through the Office of the Director General of Police, Uttar Pradesh for conducting independent, impartial and fair inquiries. In response, a letter dated 18 March 2010 was

received from the Secretary, Government of Uttar Pradesh, Lucknow. Perusal of the same revealed that investigation in case registered against erring police officials was in progress. It further revealed that since *prima-facie* the police officials have been found guilty and as such grant of interim relief to the victim was justified.

7.41 The Commission while considering the reply to the show cause notice observed that the State Government had no objection in the grant of interim relief to the victim. The Commission recommended payment of ₹ 50,000/- (Rupees Fifty Thousand only) as monetary relief to the victim Anantu Ram. Chief Secretary, Government of Uttar Pradesh, Lucknow was directed to send proof of payment made to the victim and also directed to apprise the Commission about the status of criminal case registered against the erring police officials.

7.42 In response, a letter dated 21 July 2010 was received from Deputy Inspector General of Police (Human Rights), Police HQs., Government of Uttar Pradesh, Lucknow along with the report from Superintendent of Police, Anti-Corruption Cell CB-CID. Perusal of the same revealed that recommendations had been made for filing of charge sheet in case crime no 1968/09 against the erring police officials after completion of necessary formalities. The Under Secretary Government of Uttar Pradesh vide communication dated 18 April 2011 also informed that a sum of ₹ 50,000/- (fifty thousand only) had been paid to the victim Anantu Ram vide cheque no. BN- 573551 dated 5 March 2011, as interim relief.

7.43 A communication dated 24 October 2011 received from the Principal Secretary, Government of Uttar Pradesh, Lucknow further revealed that on receipt of the sanction from the State Government to prosecute the police officials, charge sheet was filed in the court of the Chief Judicial Magistrate, Sant Ravidas Nagar. A letter dated 16 December 2011 was also forwarded by the Superintendent of Policy, Sant Nagar (Bhadohi) along with the proof of payment of ₹ 50,000/- made to the victim Anantu Kumar.

7.44 The Commission upon consideration of the compliance report has closed the case.

4. *Release of 23 Bonded Labourers in Mohali, Punjab*
(Case No. 1014/19/0/2010-BL)

7.45 The Commission received a complaint dated 9 November 2010 from Yasin, a resident of Muzaffarnagar, Uttar Pradesh alleging that he along with 22 others including children were being held as bonded labour at the NTB Brick Kiln owned by Babbu Saheb situated at Village Rampur, P.S. Deravasi, Distt. Mohali, Punjab. They were forced to work, denied wages and other facilities. A prayer was made for release from bondage and payment of wages.

7.46 The Commission directed the District Magistrate, Mohali to depute a team of officials for an on the spot enquiry and to submit a report within four weeks with specific replies to the following queries:

1. Whether the labourers obtained advance from the owner of the brick kiln.
2. Whether the labourers were forced to work in consideration of the advance obtained, or for any economic consideration received by them.
3. Whether the wages of the labourers were less than the minimum wages fixed by the State Government.
4. Whether the labourers work/worked as contract labourers.
5. Whether the labourers in question were migrant workers.

7.47 In the meanwhile, on the basis of an additional complaint received, the Commission deputed a team from its Investigation Division for an on the spot enquiry. During the enquiry, the team visited the brick kiln at village Parol but none of the petitioners were found there. Ultimately, the team was able to trace five petitioners, namely, Sajid, Sanjida, Saina, Mumtaz and Mohseen in another brick kiln. These five labourers were kept in captivity at Harsimran at village Bindrakh, District Roopnagar.

7.48 Deputy Commissioner, SAS Nagar, and District Magistrate, Roopnagar respectively informed the Commission that six labourers, namely, Sanjida, Mirhasan, Mohseen, Yaseen, Sajid and Mumtaz, all residents of village Padasolly, Tehsil - Budana, District Muzaffarnagar, Uttar Pradesh, had been released and release certificates too were issued to them.

7.49 As the report was silent in respect of the other labourers mentioned in the complaint, in view of the inquiry report submitted by the Investigation Division, the Commission recommended to the Deputy Commissioner, SAS Nagar to issue release certificates in favour of the following petitioners as well:-

- (1) Yaseen s/o Mehardeen
- (2) Sopat s/o Mehardeen
- (3) Niyaz Ahmed
- (4) Ruksana w/o Niyaz Ahmed
- (5) Abdul s/o Mehfooz
- (6) Salim
- (7) Najma w/o Salim
- (8) Firoze s/o Mehfooz

7.50 It was further directed that the release certificates should be promptly issued in favour of the above mentioned eight labourers and sent to District Muzaffarnagar, Uttar Pradesh with a request to take steps for their rehabilitation.



7.51 Later, a report submitted by the District Magistrate, Roopnagar, Punjab stated that the matter was again inquired into and a team visited the Harsimran brick kiln at village Bindrakh, District Roopnagar. The team found that the previous labourers who were alleged to be working there had left the brick kiln, therefore, no release certificates could be issued in favour of those labourers.

7.52 The Commission on 26 March 2012 directed the Deputy Commissioner, SAS Nagar, Punjab to issue release certificates in favour of the eight labourers who were found by the Investigation Team of the Commission working in the brick kiln and send the same to District Magistrate, Muzaffarnagar, Uttar Pradesh for taking steps for their rehabilitation. He was also directed to submit a report to the Commission within six weeks.

7.53 Meanwhile with a view to monitoring the implementation of the Bonded Labour System (Abolition) Act, 1976, the Commission circulated a questionnaire to the Chief Secretaries of all the State Governments and Administrators of Union Territories seeking information about the status of bonded labourers in terms of their identification, release and rehabilitation from the concerned authorities and Districts. The States of Chhattisgarh, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Mizoram, Nagaland, Rajasthan, Sikkim, Uttar Pradesh, and Union Territories of Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Lakshadweep and Puducherry have submitted their response to the questionnaire up to 31 March 2012.

5. *Release of Nine Bonded Labourers in Haryana*
(Case No. 1447/7/8/2010-BL)

7.54 The Commission received a complaint from Shyam Singh, alleging that he along with his family members and others were held as bonded labourers and forced to work at R.B.T. Brick Kiln, situated at Village- Palwan, P.S. Uchana, Tehsil-Narwana, District Jind, Haryana, owned by one Rajendra. He also alleged that the owner of the kiln was not paying their wages and not allowing them to leave. The complainant apprehended that dignity of their women folk and lives of bonded labourers was in danger.

7.55 Pursuant to the directions dated 08 July 2010 issued by the Commission, the Deputy Commissioner, Jind, Haryana vide his communication dated 30 July 2010 forwarded a report of the Sub-Divisional Magistrate, Narwana. It was mentioned in the forwarding letter that a joint enquiry was conducted on 30 June 2010 by Tehsildar, Narwana; Naib Tehsildar, Narwana; Assistant Sub-Inspector, Uchana and an officer from the Food and Supply Department of Uchana. The team recorded the statements of Shyam Singh and others. As per the report, the labourers told the enquiry team that they were not kept as bonded labourers and that they left the brick kiln on 30 June 2010, after settlement of their accounts with the brick kiln owner and that nothing was due from the employer.

7.56 The Commission vide its proceedings dated 24 June 2011 noticed that the enquiry officers had not examined the records supposed to be maintained by the brick kiln owner. It

simply believed the statements of the alleged bonded labourers. It was also not clear from the record the amount of wages paid to them during the seven months and whether the wages paid to the labourers were in conformity with the provisions of Minimum Wages Act. Accordingly, the Deputy Commissioner, Jind, Haryana was directed to obtain books of accounts, including register of wages, muster-roll, etc., as required to be maintained under the Minimum Wages Act and the Payment of Wages Act and after examination of all the records, to submit a detailed report within four weeks whether the record was valid enough to refute the presumption of existence of bonded labour in the said brick kiln or not.

7.57 In response to the aforesaid directions, the Deputy Collector, Jind, Haryana vide his letter dated 25 August 2011 forwarded a joint report dated 26 July 2011 of the Naib Tehsildar, Uchana and Inspector, Food & Supply Department, Uchana. The report mentioned that no record was available with the brick kiln owner and in the absence of the same the Inspection Team could not verify any thing as directed by the Commission.

7.58 The Commission considered the report and observed that “the non-maintenance of records under the Labour Laws is a serious offence and calls for stern action against the employer. It also raises a presumption that the allegations made by the complainant with regard to non-payment of wages or confining the labourers against their wish are correct. In the instant case, neither the State Government nor the employer has chosen to rebut the said presumption by producing satisfactory material that the complainant and his companions were not bonded labourers. The plea taken for the first time by the employer that the complainant and his companions were engaged through a Sardar cannot be accepted since he was himself an aggrieved party in the complaint and hence he cannot be expected to maintain accounts, which is the sole responsibility of the employer. In these circumstances, the Commission holds that Shyam Singh and his wife, Munni Devi; Manoj and his wife Asha; Veer Pal and his wife Laxmi; Guddo, daughter of Suraj Pal and Sardar and his wife be declared by the Deputy Commissioner, Jind as bonded labourers. Accordingly, he is directed to issue release certificates to them and forward the same to District Magistrate, Badaun, Uttar Pradesh for necessary action under intimation to the Commission”.

7.59 The District Magistrate, Badaun, Uttar Pradesh was also directed to take appropriate steps for their rehabilitation within four weeks and report the status of rehabilitation to the Commission within six weeks. The Deputy Commissioner, Jind, Haryana was further directed to take legal action against the employer under appropriate provisions of Labour Laws including the Bonded Labour System (Abolition) Act, 1976, the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 and send the compliance report to the Commission within four weeks positively.

7.60 The Commission further noticed that the joint enquiry conducted by the Tehsildar, Narwana, Naib Tehsildar, Narwana, Assistant Sub-Inspector, Uchana and an officer of the Food & Supply Department, Uchana on 30 June 2010 was not in conformity with the provisions of the Bonded Labour System (Abolition) Act, 1976, the Minimum Wages Act

and the Payment of Wages Act in as much as the Inquiry Team failed in their statutory duty to examine the records being maintained by the employer at the time of their first visit on 30 June 2010. This had resulted in gross violation of human rights of the poor labourers. Had the team examined the records being maintained by the brick kiln owner at the time of the joint enquiry, this situation would not have arisen. Thus, the Commission, recommended appropriate disciplinary action against the members of the Inquiry Team for not discharging their duties vigilantly under the Bonded Labour System (Abolition) Act, 1976.

7.61 A copy of the Commission's directions was sent to the Chief Secretary, Government of Haryana for issuing necessary guidelines to all the District Magistrates in the State of Haryana for looking into enquiries relating to allegations of bonded labour strictly in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976 and other relevant Labour Laws.

7.62 In response to the aforesaid directions, a communication dated 03 December 2011 was received from the Deputy Commissioner, Jind, Haryana informing that the release certificates had been issued in favour of all the labourers mentioned in the proceedings of the Commission dated 18 October 2011 and that the same was sent to the District Magistrate, Badaun, Uttar Pradesh for further necessary action. He further informed that a fresh inspection was carried out at the R.B.T. Brick Kiln on 24 November 2011. However, the brick kiln owner did not produce any record. Hence, legal action has been initiated against him.

7.63 The Labour Commissioner, Haryana vide his communication dated 08 December 2011 informed that the Chief Secretary, Government of Haryana had issued guidelines to all the Deputy Commissioners in the State of Haryana to hold the enquiries into complaints of bonded labourers strictly in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976 and other relevant Labour Laws. He also forwarded a copy of the D.O. letter sent to all the Deputy Commissioners in this regard.

7.64 The Commission vide its proceedings dated 20 December 2011 directed the District Magistrate, Badaun, Uttar Pradesh to submit the status of rehabilitation in respect of the nine bonded labourers whose release certificates were issued and forwarded to him by the District Magistrate, Jind, Haryana.

7.65 The Deputy Commissioner, Jind, Haryana vide his letter dated 13 February 2012 informed to the Commission that disciplinary proceedings had been initiated against Basti Ram, the then Tehsildar, Narwana; Giani Ram, Inspector, Department of Food & Supplies, Uchana and legal action against the brick kiln owner. Another communication dated 05 December 2011 received from the Directorate of Food & Supplies mentioned that disciplinary action had been instituted against Giani Ram, Inspector, Uchana, who was also a member of the enquiry team.

7.66 The status of rehabilitation of bonded labourers, disciplinary action against the guilty officers and legal action against the brick kiln owner respectively is awaited.

6. *Maintenance of Records by Brick Kiln Owners in Uttar Pradesh for Better Enforcement of Bonded Labour System (Abolition) Act, 1976*
(Case No. 16893/24/31/2010-BL)

7.67 One Hari Singh in a complaint dated 30 April 2010 stated that he along with his family members had been kept as bonded labour by R. K. Eet Bhatta in District Ghaziabad. He alleged inter alia non-payment of wages, illegal detention and implication in false cases.

7.68 The Commission took cognizance and directed the District Magistrate, Ghaziabad to submit an action taken report. The Commission further directed the District Magistrate, Ghaziabad to give (a) details of the records/registers maintained in the brick kiln, (b) action taken for non- maintenance of records, and (c) whether the District Vigilance Committee had been constituted in the District.

7.69 District Magistrate, Ghaziabad submitted a report informing that the complainant had not been residing in the village of his last disclosed home address for the last six years. Vigilance Committee had been constituted in the District Ghaziabad and 114 brick kilns out of 442 brick kilns in the District were inspected and all the 114 brick kilns inspected were charge-sheeted under the Minimum Wages Act and 110 brick kiln owners were charge-sheeted under Payment of Wages Act.

7.70 It was observed by the Commission that the District Magistrate, Ghaziabad was casual in his approach as he had not intimated the number of brick kilns maintaining registers/records under the labour laws. The Commission thus directed the District Magistrate, Ghaziabad to appear before the Commission along with the required reports. He appeared before the Commission on 13 June 2011 and submitted that under the labour laws a large number of registers/records are to be maintained, hence simplification and rationalization of records was undertaken by the Labour Commissioner, Kanpur, Government of Uttar Pradesh who has finalized seven proformae for the owners of brick kilns.

7.71 The District Magistrate, Ghaziabad also submitted that during April 2009 to March 2010 after inspection of the kilns, 123 brick kiln owners had been charge-sheeted under the Payment of Wages Act, 1936 and 127 owners were charge-sheeted under Minimum Wages Act, 1948 and during April 2010 to March 2011, 131 brick kiln owners were charge-sheeted under the Payment of Wages Act, 1936 and 86 brick kiln owners were charge-sheeted under the Minimum Wages Act, 1948.

7.72 Further, the District Magistrate, Ghaziabad vide a report dated 20 April 2012 submitted that out of 289 brick kilns inspected, 195 brick kiln owners had started maintaining their records. In 85 cases, trial had begun in the appropriate Court for non-maintenance of records and nine brick kilns were found closed.

7.73 The Commission appreciated the efforts made by the District Administration and Labour Department, Ghaziabad. The case was closed with the direction to the Labour

Commissioner, Kanpur to follow the steps taken by the District Administration and Labour Department of Ghaziabad.

7. *Rescue, Release and Rehabilitation of Bonded Labourers in Haryana and Rajasthan (Case No.813/7/03-04-BL)*

7.74 A complaint was received in the Commission on 9 July 2003 from one Rajinder Kumar, resident of District Sikar in Rajasthan stating that one Ranbir Singh, resident of Jhajar, Haryana along with one Kishan Lal, resident of District Sikar had brought him and his members of the family from their native village in Rajasthan to District Bhiwani in Haryana and engaged them for labour work at the J.S. Brick Kilns in Village Imleta and promised them to pay good wages. It was further alleged that when they demanded their wages, the employers harassed, tortured and physically assaulted them. Somehow the complainant managed to escape but his family members were detained as bonded labourers and they continued to be tortured by the employers. He requested the Commission to intervene in the matter.

7.75 In response, the report received from the State authorities revealed that an enquiry into the matter was entrusted to the Sub-Divisional Magistrate, Charkhi Dadri and the same revealed that the complainant and his family members have already been sent to their native village in the month of May 2003 and as such no further action was called for.

7.76 The Commission upon consideration of the matter while expressing its displeasure on the report inter alia observed and directed as under:

“From the cryptic report forwarded by the officers without applying mind, it becomes clear that these amount to (a) ignorance of the provisions of law, (b) ignorance of the procedure established by law, (c) dereliction of duty. It was established that the persons named in the complaint were working with the employer(s) and they have been relieved then, why detailed enquiry has not been conducted by the District Magistrate and without passing a speaking order particularly, so as to satisfy whether breach of the Act is committed or not, the order is made.

Under the circumstances, the Chief Secretary, State of Haryana is directed to see that a detailed report is sent to the Commission. These officers should also remember that in bonded labour matters, if immediate actions are not taken, the object cannot be achieved. By merely releasing them from the place they were working, the problem will not be solved. They should know that these poor people have no shelter or food to eat and therefore they are likely fall in trap of employers, who are in habit of exploiting these poor citizens of the country. They should know that the legislature has entrusted the duty on the District Magistrates to see that the poor citizens do not remain poor and in case they are found as bonded, they are not only to be released but are to be rehabilitated. It is the duty of the Collector to see that their wages as per entitlement are paid to them.”

7.77 The Commission upon further consideration of the reports vide its proceedings dated 1 November 2010 directed the District Magistrate, Bhiwani, Haryana to declare all the persons mentioned in the complaint as bonded labourers, issue to them release certificates and forward the same to the District Magistrate, Sikar, Rajasthan for their rehabilitation.

7.78 In response, a letter dated 14 December 2010 was received in the Commission from the District Magistrate, Bhiwani along with the Release Certificates issued by him. It was also revealed that copies of the Release Certificates had been sent to the District Magistrate, Sikar. Thereafter, a communication dated 17 July 2011 was received from the District Magistrate, Sikar informing the Commission that an amount of ₹ 20,000/- (Rupees twenty thousand only) each had been paid to both the released bonded labourers, viz. Rajinder Kumar alias Pappu and Mamta on 9 July 2011 along with the proof of payment. It was further informed that the process of their rehabilitation under the provisions of Swarna Jayanti Shahri Rozgar Yojna had been initiated. In addition, the State Bank of Bikaner & Jaipur, Neemkathana Branch, had sanctioned a loan to Rajinder Kumar for a garment shop while Mamta was sanctioned a loan by the same bank for establishing a small flour mill (atta chakki) as rehabilitation package.

7.79 The Commission upon consideration of the matter vide its proceedings dated 31 October 2011 observed that as financial assistance had been paid to the labourers and loans sanctioned in their names, no further action on their part was called for and the case was closed.

RIGHTS OF WOMEN AND CHILDREN

8.1 India is home to the largest number of children in the world. Nearly every fifth child in the world lives in India. There are about 43 crore children in the age group of 0-18 years; 16 crore children are in the age group of 0-6 years, of this there are 8.5 crore males and 7.88 crore females. In the age group of 6-18 years, there are about 27 crore children. It is estimated that about 40 per cent of children are disadvantaged or vulnerable. This includes children without family support, children forced into labour, abused and trafficked children, children on the streets, children affected by substance abuse, by armed conflict, civil unrest, natural calamity, etc. Survival, growth, development and protection of these very large numbers therefore need priority focus and attention⁵.

8.2 As per 2011 Census, women constitute about 48.5% of the country's total population. According to the Constitution of India, all persons, including those below the age of 18, are entitled to certain inherent and inalienable rights. India's commitment to international instruments on children and women such as the 1989 United Nations Convention on the Rights of the Child (CRC) and the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), is reflected in numerous policies, laws and programmes being implemented by the Government of India. In September 2000, India joined 191 other States participating in the United Nations Millennium Summit in accepting the challenge of meeting the Millennium Development Goals (MDGs), many of which have direct implication for the well-being of children and women. In the year 2005, the Government of India ratified the two Optional Protocols to the CRC, viz., the Optional Protocol to the Convention on Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography; and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Prior to this, in the year 2002, the Government of India also signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, 2000. Besides, in 2002, the Government of India endorsed the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia. The Government of India's 2001 National Policy for Empowerment of Women and 2005 National Plan of Action for Children comprehensively commit itself to ensure all rights for women and children.

⁵ Ministry of Women and Child Development (MWCD), *Report of the Working Group on Child Rights for the 12th Five Year Plan (2012-2017)*, MWCD, Government of India, New Delhi, 2011.

8.3 The Ministry of Women and Child Development (MWCD) is the nodal ministry to look into issues relating to women and children. Other significant Ministries looking into their concerns are Health & Family Welfare (MHFW), Social Justice & Empowerment (MSJ&E), Human Resource Development (MHRD) and Labour. Apart from these Ministries, the institutional mechanism for empowerment of women and children includes institutions of different types set up by the Central Government, State Governments, Local Governments including independent/autonomous organizations and those run by non-governmental or community-based organizations. At the State level too, there are departments dealing with issues relating to women and children. In some of the States/Union Territories, the concerned department is known by the nomenclature of Department of Women and Child Development or Department of Social Welfare or Department of Social Justice and Empowerment. Similarly, other Departments like Health and Education also work for rights of women and children and their overall empowerment. In 1992, the National Commission for Women (NCW) was set-up and in 2007, the National Commission for the Protection of Child Rights (NCPCR) was constituted by the Government of India. Likewise, there are State Commissions for Women and State Commissions for Protection of Child Rights. NHRC and the State Human Rights Commissions also act as vanguards of women and children. The MWCD, MHFW, MSJE, NHRC, NCW, NCPCR and other concerned departments/commissions at the State level work in partnership with bilateral, multilateral and UN agencies on women and child related projects.

8.4 During the period under review, the NHRC undertook a number of activities with regard to rights of women and children. Few of the important activities are given below.

A. National Colloquium on Right to Health – with Special Reference to Women’s Right to Reproductive Health : A Human Rights Perspective

8.5 The Commission in collaboration with the Faculty of Law, Mody Institute of Technology & Science in Lakshmangarh, District Sikar, Rajasthan organized the above mentioned National Colloquium on Women’s Right to Reproductive Health on 16 & 17 April 2011. More than 50 papers were presented in the Colloquium by legal fraternity, academicians; social scientists; political thinkers; activists; experts; research scholars; representatives of Government Departments, technical institutions, non-governmental and civil society organizations. The broad themes on which the delegates presented their papers were as follows:

- Human rights, and women’s health - an international perspective
- All women’s rights are human rights - a national perspective
- Protective discrimination – an endeavour for women’s emancipation
- Right to health and environmental law

- Right to reproduction and surrogated motherhood
- Women with disability and motherhood
- Sexual, caste and religious harassment of women in matters of employment and workplace
- Single motherhood, sex workers, other socially ostracized women and their rights
- Female foeticide, social taboos and discriminatory treatment, and
- Any other theme related or incidental to the main theme

B. National Conference on Rethinking Feminism: Human Rights Approach to Women's Empowerment

8.6 As part of International Women's Day, the Commission in collaboration with the Department of Political Science, University of Rajasthan organized a two-day conference on the above subject on 3 and 4 March 2012 in Jaipur. The main aims of the conference were as follows:

- Work towards holistic development of women at all levels for their overall empowerment including effective implementation of their human rights.
- Create awareness and sensitization on human rights of women.
- Look into challenges being faced by women and explore the mechanisms to deal with them.

8.7 The Conference was inaugurated by Hon'ble Shri Brij Kishore Sharma, Minister of Education, Government of Rajasthan. The keynote address in the session was delivered by Prof. Chandrakala Padia, Department of Political Science and Dean of Social Sciences, Banaras Hindu University, Varanasi, Uttar Pradesh. Prof. Damyanti Gupta, Dean of Social Sciences, University of Rajasthan presided over the function. The theme of the conference was introduced by Dr. Rajesh Kumar Sharma, Convenor of the National Conference. In all, more than 60 papers were presented by the academic fraternity belonging to different Universities and Institutions of the country. The chief guest for the valedictory session was Dr. Girija Vyas, Member of Parliament and former Chairperson of the National Commission for Women.

C. Children Speak for Their Rights & Colloquium on Human Rights Principles, Guiding Policy and Reporting on Child Rights

8.8 As part of Children's Day, which is celebrated all over the country every year on 14 November, the Commission in collaboration with India Alliance for Child Rights, New Delhi

organized an interaction with children on the lawns of NHRC on 11 November 2011. This was followed by a Colloquium on Human Rights Principles, Guiding Policy and Reporting on Child Rights in the Court Room of the Commission on 12 November 2011.

8.9 The interaction with children on 11 November 2011 took place from 11.30 a.m. to 3.30 p.m. After the interaction, Chairperson of the Commission interacted with them. Subsequently, the children were divided into four groups to discuss their rights; existing reality; promises and entitlements, which the Government of India should owe them as children. In this exercise, they were assisted by facilitators from partner organizations of India Alliance working for children's rights.

8.10 The reporting of the exercise by different groups of children was conducted in the form of a 'Sunvai : Children's Hearing' which was presided over by Dr. Shanta Sinha, Chairperson, National Commission for Protection of Child Rights.

8.11 The Colloquium held on 12 November 2011, focussed on 'The Child's Special Claim on National Attention in Policy and Assessment', 'The Evolution of National Policy Perspective and Positioning', 'The Case for Independent Reporting : UPR Opportunities and Challenges' and 'Agreement on Way Forward'.

D. Comments of NHRC on 2011 Draft National Policy for Children

8.12 The Constitution of India entitles all persons, including those below the age of 18 to certain inherent and inalienable rights. Article 15 (3) of the Constitution empowers the State to make special provisions for women and children. Further, the Directive Principles of the State Policy, which are fundamental to governance, also strive for opportunities and facilities to be given to children so that they develop in a healthy manner and in conditions of freedom and dignity.

8.13 The need to extend care to children has been recognized in the 1948 Universal Declaration of Human Rights and in the Declaration of the Rights of the Child that was adopted by the United Nations General Assembly in 1959. This was followed by adoption of the Convention on the Rights of the Child (CRC) by the United Nations General Assembly in 1989. The CRC was ratified by the Government of India on 11 December 1992. The CRC is particularly noteworthy as it requires the State Parties to give focused attention to right to life with dignity, survival and development; protection against all forms of discrimination; to work for the best interest of children by involving and seeking their participation; and respect for the views of children in accordance with their age and level of maturity.

8.14 The National Policy for Children (NPC) was initially adopted by the Government of India in 1974. This Policy describes children as a supremely important asset and makes the State responsible to provide basic services to children, both before and after birth, and during their growing years and different stages of development.

8.15 With the advent of liberalization, globalization and information technology, new challenges have emerged, which impacts on children's lives, health, security and their overall development. The recognition of the child as a person with inherent and inalienable rights, which are inter-related and inter-dependent, necessitated the review and consequent updating of the 1974 NPC. The framing of a revised policy, which reaffirms the Government's commitment to its children, addresses continuing new challenges and aims to realize the full range of child rights for all children in the country, was thus taken up by the MWCD, the nodal Ministry in the Government of India looking after issues of women and children.

8.16 The review of the 1974 NPC was initiated by the MWCD in 2008. It adopted a participatory process by involving all stakeholders like State Governments/Union Territory Administrations, Line Ministries, experts and civil society organizations. A draft working paper prepared by the MWCD was discussed in five regional consultations held from September 2010 to January 2011.

8.17 The revised working paper was later discussed in a national consultation held in December 2011 with key Government Ministries and Departments, State Governments and Union Territory Administrations, technical institutions, academicians, experts, non-governmental and civil society organizations. The revised working paper was further modified with inputs from participants.

The Commission gave the following comments:-

'Introduction'

1. A Policy must declare and assert the vision and overall commitment of the State. It is a declaration made on behalf of the Indian State and all its organs and all segments of the society have a responsibility to respect it. The 2011 draft National Policy for Children (NPC) does not succeed in meeting this objective.
2. The NPC should recognize the child as a rights holder and it should reaffirm the commitment made earlier in the 1974 National Policy for Children that "The nation's children are a supremely important asset". Besides, it should also reiterate that "the best interests of the child shall be a primary consideration of the State for his or her well-being". In other words the NPC should emphasize that it is a rights-based policy in all actions concerning children, be it five-year plans, legislations, programmes, schemes, plan of action, other policies whether undertaken by public or private institutions or NGOs, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be of paramount importance.
3. In view of the above, it would be proper for the NPC to have a 'Preamble'. The Preamble should invariably highlight the constitutional provisions for

children given in the Fundamental Rights and the Directive Principles of State Policy. It would be in the best interest of children to anchor NPC in the Constitution.

4. The Preamble should further invoke the international laws to which India is a Party, such as the UNCRC, the Optional Protocols to the CRC, Convention on the Rights of Persons with Disabilities and other human rights and humanitarian law treaties impacting on children. Similarly, the General Comments given by the CRC Committee from time to time could also be reflected in the Preamble. So far, the CRC Committee has given 13 General Comments.

5. It is desirable to have a high-level monitoring and review committee at the Central and State level to oversee the implementation of the Policy. This will give due weightage and importance to children for whom the policy is being made. It would be in the best interest of children if the NPC is accorded legal status, backed by the Parliament.

‘Vision’ of NPC

6. The vision of the NPC could also be incorporated in the ‘Preamble’, and it should primarily focus on ‘non-discrimination’, ‘best interests of the child’, ‘right to life, survival and development’ and ‘the views of the child’. These are the four universal and forward-looking general principles enshrined in the CRC. These principles facilitate in understanding and interpretation of the CRC as a whole and thereby guide implementation of the national policy/ programmes/ schemes/ plans of actions concerning children.

7. While referring to ‘non-discrimination’, it would be ideal to elaborate ‘non-discrimination’ in simple terms like ‘no child shall suffer discrimination on grounds of sex, place of birth, religion, caste, class, culture, language, social origin, disability or on any other ground’. The essential message is equality of opportunity to all children.

8. Likewise, the principle of ‘best interests of the child’ relates to decisions by courts of law, administrative authorities, legislative bodies and both public and private social welfare institutions. This is a fundamental message of the CRC, the implementation of which is a major challenge. This needs to be reflected in the NPC.

9. The ‘right to life, survival and development’ includes formulations about the right to survival and to development. This should be ensured for all children as per their age-specific requirements. In no way, it should only be restricted to physical health, but also encompass mental, emotional, social and cultural development.

10. The 'views of the child' means that children should be free to have opinions in all matters affecting them, and those views should be given due weightage in 'accordance with the age and maturity of the child'. The underlying idea is that children have the right to be heard and to have their views taken seriously, including any judicial or administrative, proceedings affecting them.

11. All the above principles need to be reflected in the NPC.

'Guiding Principles' of NPC

12. The portion relating to 'Guiding Principles' in the NPC needs to be condensed and should be reflected in the 'Preamble' itself.

'Strategic Objectives' of NPC

13. The 'strategic objectives' are again too generic. These need to be revisited and reframed in simple language. For example, while talking about ensuring "free, compulsory, quality education and development for all children" in sub-para 4.6, there is a need to briefly mention, in one sentence or so, the manner in which this will be carried out.

'Priority Areas'

14. The 'priority areas' spelt out in para 5 are again too broad. These need to be fine-tuned and the period during which each priority area is to be accomplished also needs to be spelt out. Besides, there are other 'priority areas' which are not featured in the NPC. For example, universalization of quality health services to all children.

15. In para 5.1.2, usage has been made of the term 'female foeticide'. The terminology currently used for 'female foeticide' is pre-natal sex selection. Further, in 5.1.4, one more sub-section needs to be added stating that there is a need to create awareness among parents towards small families as this would ensure the best interests of all children in terms of their survival, health, childcare, nutrition, development, education, protection and participation.

Other Comments

16. The 2011 NPC does not spell out any kind of 'Goal/Goals'.

17. Unlike the 1974 Policy, the 2011 NPC, is silent about the 'role of voluntary organizations' and 'people's participation'. It would be practical to highlight the role of voluntary organizations as well as that of civil society in protecting the rights of children.

18. The NPC should stress on strengthening the implementation of child protection monitoring mechanisms with the help of NHRC, NCPCR, SHRCs, SCPCR, Child Welfare Committees, etc.”

8.18 The Commission hopes that the comments given by it on 2011 draft National Policy for Children will be suitably incorporated in the final revised Policy by the Ministry of Woman and Child Development, Government of India.

E. Comments of NHRC on MWCD’s Final Draft Concerning Fourth and Fifth Combined Periodic Report on CEDAW

8.19 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was signed by the Government of India on 30 July 1980 and ratified on 9 July 1993. As per Article 18 of CEDAW, to give effect to the provisions contained in the convention, the ratifying countries are required to submit a periodic report on the measures taken by them every four years to the CEDAW Committee. The Government of India submitted its Initial Periodic Report to the CEDAW Committee in August 1998. This report was reviewed by the Committee in its 22nd session in January 2000. Thereafter, a combined Second and Third Periodic Reports were submitted in October 2005 which was reviewed by the Committee in its 37th session in January-February 2007. The CEDAW Committee sought a follow-up report on the impact of the 2002 Gujarat incident on women. The follow-up report was submitted in 2009 and considered by the CEDAW Committee in its 47th session in October 2010. Accordingly, MWCD, the nodal Ministry dealing with issues concerning women and children in the Government of India, prepared the Fourth and Fifth Combined Periodic Report covering measures adopted by it to give effect to the provisions of CEDAW and progress made during the period from 2006 to 2011. For this purpose, the MWCD adopted a wide-ranging process of inter-ministerial consultations, followed by a national consultation with civil society partners and organisations. The NHRC-India also participated in these consultations as an observer.

8.20 Later, the draft of the final Fourth and Fifth Combined Periodic Report was forwarded to NHRC-India for comments as well. The Commission examined the portions relating to its area of concern and highlighted the work relating to promotion and protection of rights of women in the country. In addition, it raised issues relating to women’s health and the work undertaken by it in this area. A special reference was made by the Commission regarding a collaborative research project it undertook with UNFPA entitled “Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act’s Implementation Across Key States” and the programme entitled “Human Rights Awareness and Facilitating Assessment & Enforcement of Human Rights Programme in Selected 28 Districts of India”. The details of the research study mentioned above are posted on NHRC’s website www.nhrc.nic.in. Details about the other programme have been highlighted in Chapter - 6 of this Annual Report.

8.21 The Commission trusts that the issues relating to promotion and protection of rights of women highlighted by it would be duly reflected in the final Fourth and Fifth Combined Periodic Report on CEDAW and the Ministry of Women and Child Development would also submit the report on time to the CEDAW Committee.

F. Illustrative Cases Dealt by NHRC Relating to Rights of Women and Children

1. *Outraging the Modesty of Women in Village Dhannideeh, District Shravasti, Uttar Pradesh*
(Case No. 15143/24/66/07-08-WC)

8.22 'The Indian Express' of 14 July 2007 carried a news report captioned as "Gang Rape Allegations Catch Maya Government off Guard". The news pertained to an incident which had occurred in village Dhannideeh, District Shravasti in Uttar Pradesh. The genesis of the occurrence lay in the alleged elopement of a Hindu girl with a Muslim boy. It was reported that on 10 July 2007, a mob descended on village Dhannideeh and ransacked the house of the boy's father and some other families. Some members of the mob also beat up elderly women. Some women were paraded naked in the village and some were gang raped.

8.23 The Commission took *suo-motu* cognizance of the media report and deputed its own team for spot inquiry. Complaints on this incident were also received from two human rights activists Teesta Setalvad, Niti Saxena and twenty Muslim women, who had suffered during the violence.

8.24 On examination of the report submitted by the Investigation Division, the Commission recommended that the investigation in FIR No. 316/07 of Sirsia police station, registered in respect of the incidents, should be conducted by the CB-CID. The CB-CID was asked to cover the following points :

- (i) Whether Chunnu, father of the Muslim boy in question and four other Muslims of village Dhannideeh were kept in illegal detention by the police? If so, for what period.
- (ii) Whether any damage was caused to the property of the residents of village Dhannideeh in the incident that occurred on 10 July 2007?
- (iii) The victims of molestation or rape should be identified. If some evidence of rape is found, steps should be taken to initiate appropriate legal action.
- (iv) The responsibility of police officers who were either negligent or had otherwise connived with the mischief makers, should be fixed.

8.25 An inquiry on the incident was also conducted by the Divisional Commissioner of Devipattan.

8.26 On consideration of the reports submitted by the CB-CID and Divisional Commissioner, the Commission observed that there was no dispute regarding outraging the modesty of 25 women and illegal detention of seven persons. It thus directed to issue a notice u/s 18 (a) (i) of the PHRA to the Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why monetary relief should not be paid to the women whose modesty was outraged and who were injured in the incident and to seven other persons who were illegally detained.

8.27 Grant of compensation was not opposed by the State Government. The Commission then recommended to the Government of Uttar Pradesh, through its Chief Secretary, to pay a compensation of ₹ 15,000/- (Rupees Fifteen Thousand only) each to the 25 women whose modesty was outraged during the incident. The Home Secretary, Government of Uttar Pradesh, was also directed to send proof of payment of compensation to the persons whose properties were damaged. The Commission also recommended a compensation of ₹ 25,000/- (Twenty five Thousand only) each to six women who sustained injuries in the incident. The compliance report is awaited in the case.

2. *Indignity Inflicted on a Woman in Sadar Hospital, Garhwa, Jharkhand*
(Case No. 1412/34/7/2010)

8.28 This case is based on a news report carried by a Hindi Daily dated 27 October 2010. As per the report, one Anisha Parveen came to the Sadar Hospital for delivery, but she was turned away without any check-up. As the poor woman was denied medical assistance, she delivered a baby in the open ground in front of the OPD and only thereafter the mother and the child were admitted in the hospital.

8.29 The report of the Deputy Commissioner, Garhwa, and the inquiry report of the Civil Surgeon and Chief Medical Officer, Garhwa confirmed the allegation. The inquiry officer found the conduct of Dr. Saroj in refusing to examine Anisha Parveen and her improper behaviour unjustified. The doctor was reported to have tendered her resignation.

8.30 The Commission held that Anisha Parveen had to suffer indignity of delivering a child in the open due to the negligence and improper behaviour of Dr. Saroj of the Sadar Hospital, Garhwa. The conduct of Dr. Saroj had breached Anisha Parveen's right to dignity and life. While holding the State liable to compensate the victim, the Commission issued notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Jharkhand, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief to the victim Anisha Parveen.

8.31 Responding to the show cause notice, the State Government conveyed its willingness to pay compensation to the victim.

8.32 Hence, the Commission recommended to the Government of Jharkhand to pay a compensation of ₹25,000/- (Rupees Twenty-five Thousand only) to the victim Anisha Parveen.

8.33 Compliance report is awaited in the case.

3. *Violation of Rights of a Beggar Woman*
(Case No. 1717/30/0/2011)

8.34 A Member of Parliament (Rajya Sabha) forwarded to the Commission a news report carried by 'The Times of India' dated 01 February 2011 under the caption "Homeless woman chased by cops, delivers in park". As per the report, one pregnant woman named Priya was sitting in the park with her mother-in-law when suddenly the police arrived and chased all the beggars away including hawkers selling balloons and other nick nacks at the traffic signal. One of the policemen tried to chase Priya out of the park. In the ensuing melee, she was hit by him on her leg. This shocked her and precipitated the labour pain, whereby she delivered her child in the park within minutes.

8.35 The Commission took cognizance of the matter on 27 April 2011 and called for reports from the Chief Secretary, Government of NCT of Delhi and Commissioner of Police, Delhi.

8.36 The report received from the Additional Commissioner of Police, Vigilance, Delhi stated that a vigilance inquiry in the matter was conducted by the Joint Commissioner of Police, Vigilance. It was found that Delhi Home Guard Mukesh Kumar had beaten up and chased the victim in the presence of Assistant Sub-Inspector Satyanarayan and other policemen. These policemen had concealed the facts of the incident till their identity was revealed during the inquiry. Delhi Home Guard Mukesh Kumar had since been discharged from duty.

8.37 After having found that Delhi Home Guard Mukesh Kumar had beaten up and chased the pregnant victim Priya in the presence of Assistant Sub-Inspector Satya Narayan and other policemen of Delhi Police, the Commission vide its proceedings dated 29 August 2011 issued a show cause notice u/s 18 (a) (i) of the PHRA, to the Government of NCT of Delhi.

8.38 The show cause notice was responded to by a Deputy Secretary (Home), Government of NCT of Delhi. He simply forwarded a copy of the report dated 14 December 2011 of the Additional Commissioner of Police, Vigilance, Delhi. No categorical stand of the Government of Delhi on monetary relief for the victim was conveyed to the Commission. While presuming that the Government of NCT of Delhi had nothing to say on the subject, the Commission vide its proceedings dated 24 March 2012 recommended to the Government of NCT of Delhi, through its Chief Secretary, to pay a compensation of ₹ 1,00,000/- (Rupees one lakh), to the victim Priya. The Chief Secretary was also directed to submit a compliance report along with proof of payment within six weeks. The compliance report is awaited.

4. *Suo motu Cognizance of a News Report on Child Labour in Jharkhand*
(Case No. 389/34/11/2011)

8.39 A news report under the caption “In Jharkhand, children slog it out in ‘rat holes’ to make a living” appeared in the English daily ‘The Hindu’ of 05 April 2011. As per the report, illegal coal mines existed in the District of Hazaribagh, Jharkhand, which employed child labour and were not provided any safeguards or other facilities.

8.40 The Commission took *suo motu* cognizance of the news report and asked the Chief Secretary, Government of Jharkhand, to submit a report in the matter. He was also asked to send his comments on the following issues:-

- a) How many coal mines - legal or illegal are functional in Hazaribagh district and its adjoining areas?
- b) What steps have been taken by the State Government for stopping illegal coal mines?
- c) What safeguards have been provided to the workers working in legal/ and or illegal coal mines?
- d) Whether there is any scheme of the State Government, which ensures health safety of the workers.
- e) Whether Mahatma Gandhi National Rural Employment Guarantee Scheme has been extended to Hazaribagh district. And, if so, the number of beneficiaries.
- f) What steps have been taken by the State Government to prohibit child labour in coal mines?
- g) Whether there are sufficient schools in Hazaribagh district and adjoining areas for imparting education to children between the ages of 6 to 14 years. If not, what steps are being taken by the State Government in this direction under the Right of Children to Free & Compulsory Education Act, 2009.

8.41 The Additional Principal Secretary, Department of Mining and Geology, Government of Jharkhand, forwarded copies of reports collected from different Departments of the State Government, without making his own comments. As per the reports, illegal coal mines did not exist in the District of Hazaribagh. Hence, there was no child labour.

8.42 The Commission in its proceedings dated 17 January 2012 observed that the Additional Principal Secretary, Mining and Geological Department, Government of Jharkhand, had forwarded a report containing only answers to the specific queries raised by the Commission. The Chief Secretary, who was also required to submit a detailed report

on the matter under consideration, did not submit any report. The Commission thus directed the Principal Secretary, Mining and Geological Department, Government of Jharkhand to submit a detailed report in the matter. The report is awaited from the State Government.

5. *Children Suffering from Thalessemia Tested HIV Positive at Civil Hospital in Junagarh, Gujarat*
(Case No. 920/6/12/2011)

8.43 The Commission took cognizance of a news report captioned "23 thalassemic kids test HIV+" which appeared in 'The Hindustan Times' dated 12 September 2011. As per the report, 23 children suffering from thalessemia had tested positive for HIV at the Civil Hospital in Junagarh, Gujarat. Parents of the children blamed the government health authority for the deadly infection allegedly caused due to blood transfusion at the hospital. The State Health Department was reported to have launched an enquiry to find out how the children contacted the infection.

8.44 The Commission called for a factual report in the matter from the Chief Secretary, Government of Gujarat.

8.45 Dr. K.K. Shah, Additional Project Director, Gujarat State AIDS Control Society forwarded to the Commission a preliminary investigation report on the subject carried out by a team of experts. As per the report, 12 patients were found to be irregular at Junagarh Civil Hospital for blood transfusion. One of them was having positive parental history and eight patients, who were regular, needed detailed investigations about past history prior to January 2010. He also submitted that detailed clinical history of all the 20 cases needed to be investigated.

8.46 The Government of Gujarat constituted an Investigation Team of Doctors for detailed investigation in the matter and forwarded a copy of its report to the Commission. The Investigation Team came with the following facts:

- (i) The authorized personnel as per blood bank license were not present in the Civil Hospital, Junagarh anymore.
- (ii) Investigations related to Biochemistry/Pathology/ICTC/ PPTCT not pertaining to blood bank were being performed in the premises of the blood bank and equipments for the same were also installed in the blood bank.
- (iii) Blood bank donor room procedure, medical examination, counseling and collection were not as per defined standards.
- (iv) HIV ELISA for donors was being put up along with patient sample ICTC / PPTCT (high risk) in the same plate in a common area.
- (v) Interpretation of the result assessment was not conforming to instructions in the kit insert.

- (vi) Waste management practices were sub-optimal and washing was being done in the testing area.
- (vii) Sterility of blood bag was being compromised during various stages of processing of blood before transfusion.
- (viii) Available technical staff was not appropriately trained.
- (ix) Documentation showed frequent overwriting without initials of authorized personnel.
- (x) Some of the equipment were non-functional and some new machines were not in use.
- (xi) As per interviews and presentations of documents by the parents / guardians of 11 infected children, 5 of them received blood transfusion from places other than the Civil Hospital, Junagarh, out of which one blood bank was currently closed. The possibility of other children receiving transfusion from un-licensed laboratories could not be ruled out.
- (xii) As per records available in the Civil Hospital almost all HIV infected thalassemic children were found to be irregular in transfusion at Civil Hospital, Junagarh, and the disease clearly requires regular/periodic blood transfusion for sustainability of life.
- (xiii) In view of the thalassemic belt and its high prevalence in this region and large distances to avail health care facilities some patients undertook medical care, I/V, I/M, surgical treatment and unauthorized blood transfusions from nearby providers who may not be adhering to prescribed safety practices.
- (xiv) All the 20 patients had been counselled at ICTC and were referred for antiretroviral therapy (ART). Out of these, ART treatment had already started for six patients.
- (xv) As each child had multiple transfusions up to more than 100 units and some were over 10-12 years, tracing and confirming the source of infection was not feasible.

8.47 The Investigation Team concluded that as a large number of cases were of irregular / non-periodic transfusions, transmission of HIV infection could have occurred due to receipt of infected blood from unauthorized sources. Besides, unsafe practices for providing medical care / surgical intervention may be responsible for HIV infection. High risk samples being handled and processed in the common area shared with blood bank could be a source of high risk of contamination of blood bags.

8.48 The Investigation Team made the following recommendations :

- (i) All efforts should be made to strengthen the voluntary non-remunerated system of blood donation in the Junagarh District in order to ensure availability of safe blood.
- (ii) The blood bank premises must be segregated from other laboratory testing premises with immediate effect.
- (iii) As per the requirements of the Drugs and Cosmetics Act; competent, dedicated, technical manpower in adequate numbers should be provided.
- (iv) Blood bank should be equipped with measures to prevent disruption of closed system of blood bag before transfusion.
- (v) Thalessemia screening for antenatal mothers and also screening of children with thalessemia for TTI must be done as a routine practice and all efforts must be made to ensure the same.
- (vi) The staff in pediatrics and blood bank should be increased in order to support care for these patients.
- (vii) State Government should ensure IEC activities for prevention of thalessemia in this region.

8.49 Dr. K.K. Shah also forwarded an Action Taken Report which showed that appropriate action in terms of the recommendations made by their Investigation Team was taken by the State Government.

8.50 The Commission vide its proceedings dated 02 March 2012 closed the case while expressing hope that this would go a long way in stopping recurrence of such incidents.

6. *Custodial Rape of a Woman in Police Post in District West Champaran, Bihar*
(Case No.565/4/9/2011-AR)

8.51 The Commission received a complaint from one Prabir Kumar Das, Advocate alleging that a 25 year old woman was raped by a Home Guard jawan Munna Khan in the premises of Patkholia Police outpost in District West Champaran of Bihar on the night of 4 March 2011 and prayed for justice for the victim.

8.52 In response to NHRC's notice, the Superintendent of Police, Bagah submitted a report, which revealed that on the complaint made by the victim, a case vide FIR No.88/2011 for the offence punishable under Section 376(2)(a)(b), IPC was registered at Police Station Patkholi, Bagah on 5 March 2011 and the accused policeman was arrested. It was also reported that upon investigation, the allegations were found true and a challan was

filed against the accused on 24 March 2011 and the trial of the case was in progress in the fast track court. The aforesaid incident had taken place due to carelessness on the part of the then In-charge of P.S. Patkholi, who has since been placed under suspension and that departmental proceedings were initiated against him. It was further reported that the process for termination of the services of the accused was under progress.

8.53 The Commission upon consideration of the aforesaid reports vide its proceedings dated 16 September 2011 observed that the protectors of law had become perpetrators of offence, as they had violated the human rights of the victim. It thus directed for issuance of show cause notice under section 18 of the Protection of Human Rights Act, 1993, calling upon the Chief Secretary, Government of Bihar to show cause as to why interim relief should not be recommended to the victim. The State Government, however, did not submit any response to the show cause notice.

8.54 The Commission upon further consideration of the matter vide its proceedings dated 13 January 2012, *inter alia*, observed and directed as under:

“The offence of rape was committed by Home Guard Munna Khan and charge sheet has been filed against him in case crime No.88/11. It is further revealed that the alleged offence has been committed due to carelessness on the part of ASI Roshan Kumar against whom departmental action has been initiated. The protector has become perpetrator of offence thus violating the human rights of victim. Despite issuance of show cause notice and reminder no reply on merit has been received. It appears that the Government has nothing to say in the matter. In this case the offence of rape has been committed by Home Guard Munna Khan who is a police officer. Section 376 (2) reads as follows:-

Whoever -

- (a) being a police officer commits rape-
 - (i) within the limits of the police station to which he is appointed; or
 - (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
 - (iii) on a woman in his custody or in the custody of a police officer subordinate to him; or
- (b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or
- (c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and

- commits rape on any inmate of such jail, remand home, place or institution;
or
- (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or
 - (e) commits rape on a woman knowing her to be pregnant; or
 - (f) commits rape on a woman when she is under twelve years of age; or
 - (g) commits gang rape.

In this case the offence has been committed by a Home Guard which amounts to not less than murder. Charge sheet has been filed against the offender Munna Khan. In these circumstances, the Commission feels that grant of interim relief to the victim is justified. An amount of ₹ 5,00,000/- (Rupees five lakhs only) is recommended to be paid as interim relief to the victim. Chief Secretary, Government of Bihar, Patna is directed to send the proof of payment made to the victim to the Commission within four weeks”.

8.55 In response, the Chief Secretary, Government of Bihar vide his communication dated 5 February 2012 has informed that the amount of interim relief of ₹5,00,000/- (Rupees five lakh only) as recommended by the Commission has been paid to the victim and proof of payment has also been forwarded.

8.56 The matter is still under consideration of the Commission.

7. *Sexual Harassment of a Woman Police Officer at Work Place in Mumbai, Maharashtra (Case No. 123/13/2002-2003)*

8.57 The Commission received a complaint on 16 April 2002 from women police employees of Mumbai alleging outraging the modesty of one woman Sub-Inspector of Police by the then Deputy Commissioner of Police (Narcotics), Mumbai, an IPS officer, at the work place. The complainants had also enclosed press clippings of various newspapers in support of their allegations. It was alleged that though the matter has been reported to the superior authorities yet no action was being taken against the delinquent IPS officer.

8.58 In response to notice of NHRC, the State Government informed that enquiry into the matter has revealed that the Deputy Commissioner of Police did make some utterances in his chamber to the woman police Sub-Inspector by which she felt offended and disturbed and that matter has been referred to the State level Women’s Grievances Redressal Committee for further action in the matter.

8.59 The Commission upon consideration of the report submitted by the State authorities and in response to the show cause notice issued u/s 18 of the Protection of Human Rights Act, 1993, vide its proceedings dated 30 June 2011, *inter alia*, observed and directed as under:

“Registry is directed to transmit the copy of the proceedings dated 14.2.2011 along with the copy of report dated 20.3.2002 to Chief Metropolitan Magistrate, Esplanade, Mumbai. Women police employees sent this complaint referring to newspaper clipping of ‘Daily Samna’ and Marathi Daily ‘Lokmat’ alleging that Dy. Commissioner of Police, Narcotic Branch, Mumbai outraged the modesty of the woman Sub-Inspector. The matter was reported to Commissioner of Police but he did not order registration of FIR u/s 354 IPC.

State Level Women Grievances Redressal Committee held a meeting on 27.1.2011 and the victim was also examined. The victim in her statement before the Committee reiterated the allegations but stated that since she has been transferred to Pune and for the happiness of her family and for the future of her children and after consulting her husband she of her own will and without any pressure from anyone stated that she does not want any action on her earlier complaint. The Committee on the basis of this statement did not proceed further and discontinued the enquiry. The victim has been undergoing mental torture for the last more than 9 years and due to her family circumstances, she withdrew from further action of her own. The then IPS officer violated human rights of the victim. The Commission feels that grant of monetary relief to the victim is justified as it will be an eye opener for others not to indulge in such like activities in future. In these circumstances, an amount of ₹ 50,000/- (Rupees fifty thousand only) is recommended to be paid as interim relief to the victim. Chief Secretary, Government of Maharashtra, Mumbai is directed to send proof of payment made to the victim to the Commission within four weeks.”

8.60 In response, the Chief Metropolitan Magistrate, Esplanade, Mumbai vide his communication dated 6 June 2011 has informed the Commission that the court of Additional Chief Metropolitan Magistrate (37th Court), Esplanade, Mumbai has treated the proceedings of the Commission as a complaint and the same has been registered as 3700344/PS/2011 and the order for issuance of process has been passed against the concerned accused. The State Government vide its communications dated 20 September 2011 and 8 November 2011 has submitted the compliance reports. Perusal of the same reveals that an amount of ₹ 50,000/- as recommended by the Commission as an interim relief has been paid to the victim, the woman police officer (now Police Inspector) on 14 November 2011. The proof of payment was also forwarded. The compliance report reveals that the amount will be recovered from the delinquent police officer now holding the post of an Inspector General of Police.

8.61 The Commission upon consideration of the matter vide its proceedings dated 16 December 2011 observed that legal action against the delinquent IPS officer has already been initiated by the competent court. The woman police officer who was subjected to sexual harassment by her senior officer was paid compensation of ₹ 50,000/- as recommended by the Commission. No further action was therefore called for. The compliance report was taken on record and the case was closed.

8. *Sexual Harassment of a Woman Government Staff at Work Place*
(Case No. 1943/13/2002-2003-WC)

8.62 The Commission received a complaint dated 25 February 2003 from the General Secretary of John F. Kennedy Memorial Education and Social Welfare Organization, Mumbai alleging sexual harassment by the Welfare Commissioner, Maharashtra Labour Welfare Board of a woman Junior Clerk (30 years) working in the same office and that the State Government was not taking any action against the offender.

8.63 The Commission upon consideration of the matter passed certain orders vide proceedings dated 12 March 2003 and 28 May 2006 to the State authorities calling for reports. When no response was received, the Commission vide proceedings dated 25 April 2008 directed for issuance of conditional summons. In response, a communication dated 9 September 2008 was received from the State authorities indicating, *inter alia*, that the Chief Secretary, Government of Maharashtra had ordered a high-level probe into the matter and the same was referred to a Sub-Committee headed by the Principal Secretary. Pursuant to the findings of this Committee, the Commission was again informed vide communication dated 10 September 2008 that the departmental enquiry report was submitted to the State Government on 5 September 2006 and that the final orders would be passed shortly.

8.64 The Commission thereafter called upon the State Government to submit a copy of the departmental enquiry report along with the Action Taken Report and when the reports were not received, the Commission was constrained to issue conditional summons to the Deputy Secretary, Department of Industries, Energy and Labour, Government of Maharashtra, Mumbai. In response, a communication dated 14 June 2010 was received from the Desk Officer of the concerned Department informing the Commission that the proposal for giving punishment to the delinquent officer has been sent to the concerned Minister on 8 December 2009 for approval. Thereafter, a communication dated 16 September 2011 was received from the Deputy Secretary Industries, Energy and Labour Department, Government of Maharashtra, Mumbai, indicating that the woman victim who was a Junior Clerk in the office of Welfare Commissioner had made a complaint regarding sexual exploitation by her superior, a Welfare Commissioner in Maharashtra Labour Welfare Board and the said complaint was investigated by the then Principal Secretary in detail and it was found that there was substance in the complaint made against the delinquent officer. The Labour Department subsequently sent a proposal for termination of services of the officer but the file was pending approval of the competent authority. It was further stated that the victim had again made a complaint on 25 October 2010 alleging that she was being victimized by her superior officer and was even demoted.

8.65 It was also stated that apart from the aforesaid complaints of sexual harassment there were other serious charges against the Welfare Commissioner relating to irregular recruitments and financial manipulation, which were also under consideration of the Government. According to the report, the conduct of delinquent officer was damaging the

image of both the Department and the Government and that the State Government was keen to terminate the services of the delinquent officer on getting clearance from the competent authority.

8.66 The Commission upon consideration of the matter vide its proceedings dated 9 October 2011 inter alia observed and directed as under:

“Serious allegations have been made against the officer, which were found true upon enquiry yet the State Government has not taken any action in this matter till date. The victim is running from pillar to post to get justice since last many years and the lackadaisical approach of the Government has further added to her woes. It shows that the persons at the helm of affairs are not sensitive for the cause of human rights and have failed to discharge their obligation in safeguarding and protecting dignity of a woman at the work place. More disturbing is the fact that the victim is still being victimized and even after the charges are proved no action whatsoever has been taken against the offender. Under these circumstances, the Commission directs for issuance of summons requiring the personal appearance of the Chief Secretary, Government of Maharashtra, Mumbai before the Commission along with the Action Taken Report.”

8.67 The State Government vide its communication dated 31 December 2011 stated that the whole matter had been processed and approvals/recommendations of the Chief Secretary and the Hon’ble Minister of Labour had been taken and that the file was sent to the Hon’ble Chief Minister of Maharashtra for a decision. A prayer for grant of one month extension was made to the Commission for submission of the action taken report, which was agreed to by the Commission on 3 January 2012.

8.68 Pursuant to the said directions, a letter dated 4 January 2012 was sent to the Principal Secretary, Department of Industries, Energy and Labour, Government of Maharashtra, Mumbai, which reiterated that the action taken report be sent to the Commission on or before 2 February 2012 failing which the Chief Secretary will be summoned to the Commission.

8.69 In response, the Chief Secretary, Government of Maharashtra, Mumbai vide his communication dated 1 February 2012 submitted a report to the Commission. The report revealed that an enquiry was conducted by the then Chairperson of the State Women Commission, who was appointed as “Inquiry Officer” to look into the complaint of sexual harassment of woman Junior Clerk. The inquiry confirmed that there was substance in the complaint against the Officer. Considering the serious inferences in the report of the inquiry, the State Government vide its orders dated 31 January 2012 had dismissed the Labour Welfare Commissioner from the services of Maharashtra Labour Welfare Board.

8.70 The Commission upon further consideration of the matter vide its proceedings dated 7 March 2012 inter alia observed and directed as under:-

“According to the report, the victim was subjected to sexual harassment at workplace by her superior and the delinquent officer charged with sexual harassment at workplace has been punished by being dismissed from the Government service. The human rights of the victim have been violated in this matter. Let a ‘Show Cause Notice’ be sent to the Chief Secretary, Government of Maharashtra under Section 18 of the Protection of Human Rights Act, 1993, as to why monetary relief may not be recommended to be paid to the victim. Response in four weeks”

8.71 The response of the State Government is awaited. The matter is under consideration of the Commission.

9. *Sexual Abuse of a 4th Standard Girl Student by Head Master*
(Case No. 2740/18/8/2011-WC Link File 2891/18/8/2011-WC& 2952/18/8/2011-WC)

8.72 The Commission received an email dated 09 November 2011 from the office of the Asian Human Rights Commission located in India alleging that in the night of 15 October 2011, a 13 year old girl student of Sevashram School, Sunabeda, District Koraput, Odisha was raped by her headmaster Tarakanta Pani. The complainant also alleged that although the matter was reported to higher officials of the District but no action was taken and the accused was threatening and pressurizing the victim's family and other witnesses to withdraw the complaint. In addition, the Commission received two complaints in the matter from Dushmant Padhi and Bidyut Mohanti and others which were registered as linked cases.

8.73 Vide proceedings dated 27 January 2012, the Commission considered the report received in the matter from the Superintendent of Police, Koraput, Odisha which revealed that an FIR No. 94 dated 01 November 2011 u/s 376(2)(c)/506/294 IPC read with Sec. 3(1)(xii)/3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act had been registered in P.S. Sunabeda and the accused was arrested.

8.74 The Commission further received a report dated 12 April 2012 from the Superintendent of Police, Koraput enclosing comprehensive guidelines for proper management of the hostel. The report mentioned that Sevashram Residential School at Sunabeda was a government residential school and charge sheet had been filed in case No. 94/2011 which was pending trial.

8.75 The Commission after considering the material placed on record observed that the human rights of the victim were violated by a public servant, the headmaster of Sevashram Residential School at Sunabeda which was a government residential school. The Commission thus directed a notice under Section 18(a)(i) of the Protection of Human Rights Act, 1993 be issued to the Government of Odisha, through its Chief Secretary, as to why monetary compensation should not be recommended to be paid to the victim.

8.76 In response to show cause notice, the Commissioner-cum-Secretary to the Government of Odisha, Scheduled Castes and Scheduled Tribes Development Department

sent a report stating that Odisha State Human Rights Commission had taken cognizance of this issue in case No. 2690/2011. The report further stated in compliance with the directions of Odisha State Human Rights Commission, Bhubaneswar, an amount of ₹ 25,000/- was disbursed to the victim, in the presence of her father as monetary relief and an explanation had been called for from the Welfare Extension Officer of Semiliguda Block.

8.77 Upon consideration of the report, the case was closed by the Commission on the ground that Odisha State Human Rights Commission had already taken action on it.

10. *Sexual Abuse and Harassment of a Woman*
(Case No. 18627/24/46/08-09-WC)

8.78 The Commission received a complaint dated 31 July 2008 from a woman, r/o Chakmanohar, P.S. Pasgawan, District Khiri, Uttar Pradesh stating that she was raped on 31 July 2008 by one Ram Singh. She also stated that the accused threatened her and her husband with dire consequences, if they reported the incident to the police and that the police officials of P.S. Pasgawan had not registered her complaint. She requested the Commission to help in registering the FIR and take appropriate action.

8.79 Pursuant to the directions given by the Commission on 12 August 2008, the Superintendent of Police, Khiri, Uttar Pradesh sent a report dated 08 September 2008 of Circle Officer, Mohammadi, Khiri. The report disclosed that the complainant had filed an application in the Court under Section 156(3) Cr.P.C. for registration of the FIR and on the directions of the Court, a crime case No. 1004/08 under Section 376/504/506 IPC and 3(1) 12 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at Police Station Pasgawan against Ram Singh. The investigation of the case was being conducted by the Circle Officer, Mohammadi, Khiri, Uttar Pradesh.

8.80 The Commission considered the matter on 06 May 2010 and found that the police report did not explain why an FIR was not registered by the Police of Pasgawan P.S. for a heinous crime like rape, when the complainant approached them on the same day and even after she made a complaint to the Superintendent of Police, Lakhimpur Khiri. The Commission also noticed that a case u/s 376/504/506 IPC and 3(1) 12 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against the accused only after directions of the Court. As such there was a possibility that crucial evidence would have been lost due to passage of more than a month, because of the tardiness of the police. It is a known fact, the Commission observed that crucial evidence confirming rape must be collected within a few hours of the offence. In refusing to act on her complaint, the police was complicit with the accused and may have deliberately made it difficult for the victim to get justice. The police officials also failed to take action according to Rule 5 (1), (2) & (3) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

8.81 The Commission asked the Director General of Police, Government of Uttar Pradesh to initiate action against the errant police officials including the then Superintendent of

Police, Lakhimpur Khiri, *inter alia*, under the provisions of Section 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

8.82 Pursuant to the directions of the Commission, the Director General of Police, Lucknow vide communication dated 16 September 2010 forwarded the reports of Superintendent of Police, Khiri and Inspector General of Police, Lucknow Range, Lucknow. It was mentioned in the reports that during investigation crime u/s 354/504/506 IPC was found substantiated and the accused Ram Singh and Salig Ram were sent to jail. The report further stated that application of the victim was received in the Office of the Superintendent of Police, Khari on 02 August 2008, on which an enquiry was conducted by the then SO, Pasgawan, Naresh Chandra Jouhari and Sub-Inspector Ganga Ram Arya. Both were found guilty for submitting false investigation report. Departmental action had thus been initiated against them.

8.83 District Magistrate vide communication dated 04 October 2010 moreover informed that Government of Uttar Pradesh had sanctioned ₹ 25,000/- in favour of the victim, out of which first installment of ₹ 6, 225/- had been paid.

8.84 The Commission observed vide proceedings dated 24 December 2010 that the crime u/s 376 IPC could not be substantiated probably due to losing crucial evidence on account of passage of more than one month due to tardiness of the Police. Two police officials had been found guilty, and departmental action was being taken against them. Thus the victim, who belonged to an indigent class, had been deprived of her human rights to justice due to negligence on the part of the State Officials. Accordingly, the Commission issued a show cause notice to the Government of Uttar Pradesh asking as to why the victim should not be compensated for violation of her human rights due to the omission and commission of the Government officials.

8.85 The Commission also observed that only an amount of ₹ 25,000/- was sanctioned, of which only 25% had been paid to the victim. Annexure 1 of the Schedule of rule 12 (4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 stipulates payment of a minimum amount of ₹ 50,000/- to each victim of the offence u/s 3(1) xi, in which 50% may be paid after medical examination and remaining 50% at the conclusion of the trial. The District Administration was asked to reply why the due amount had not been paid to the victim when the charge sheet u/s 3(1) xi of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 had already been submitted in this case.

8.86 The Commission vide its proceedings dated 27 April 2011 again directed the District Magistrate, Khiri to make payment of the balance amount i.e. ₹18,750/- immediately and remaining ₹25,000/- on conclusion of the trial.

8.87 The Commission next considered the matter on 12 January 2012 and observed that a report regarding interim relief had been received but the notice u/s 18(a) (i) of the Protection of Human Rights Act, 1993 was not addressed. The Commission further noticed that the District Social Welfare Officer had not acted in accordance with the relevant

provisions of the G.O. referred and the Schedule of Rule 12(4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, serial no. 11 thereof which provides for payment of ₹25,000/- after medical examination and rest ₹25,000/- after conclusion of trial. The Commission expected that the District Magistrate, Khiri would act in accordance with law and provides adequate statutory relief to the victim under intimation to it. In addition, the Commission observed that inaction on the part of the police had violated the human rights of the victim for which she should be compensated. Accordingly, the Commission recommended to the Government of Uttar Pradesh to pay a sum of ₹50,000/- as monetary compensation to the victim. The Chief Secretary, Government of Uttar Pradesh was asked to send the proof of payment within six weeks. The compliance report is awaited in the case.

11. *Harassment of a Widow by BCCL Authorities*
(Case No. 636/34/4/2010)

8.88 The complainant Lilu Devi, a tribal woman, in her complaint dated 19 May 2010 stated that her husband was working in Colliery Area No. 5, Basdevpur, under Bharat Coking Coal Ltd. (BCCL), Koyala Bhavan, Dhanbad (Jharkhand) and died on 28 November 2002. She further stated in the complaint that pension, other retirement benefits of her late husband and appointment of her son on compassionate grounds had not been taken up by the BCCL.

8.89 The Commission vide proceedings dated 05 July 2010 directed that a notice be issued to the Managing Director, BCCL calling for a report within four weeks.

8.90 The report received in the matter was sent to the complainant for her comments, if any.

8.91 In response, the complainant informed the Commission that she received payment of provident fund of her late husband after the intervention of the Commission. The payment of gratuity was under process by the BCCL. She prayed for payment of family pension and compassionate appointment of her son Rishadhar Kant Tudu.

8.92 The Area Personnel Manager, BCCL, Suua area, District Dhanbad informed vide letter dated 13 January 2011 that CMPF amount comprising ₹ 6,06,609/- had been paid to the complainant vide cheque dated 02 December 2010. It was also informed that as no nomination was available as per the Gratuity Act therefore the gratuity amount ₹1, 58, 927/- had been deposited with the controlling authority, i.e. ALC (C) Dhanbad vide cheque dated 09 March 2005. Regarding compassionate appointment of the complainant's son, it was informed that he had been asked to undergo a medical examination but the Apex Medical Board sought some clarification which had been replied to by the Unit.

8.93 The Commission observed that though the complainant's husband died on 28 December 2002, there had been an unacceptable delay in the payment of provident fund, gratuity, family pension, and the compassionate appointment of the complainant's son. The complainant had received the PF amount in December 2010, only after intervention of the Commission, while other benefits were under process.

8.94 Pursuant to the Commission's summons dated 29 August 2011, General Manager (P&IR), Koyala Bhavan, Dhanbad transmitted letters dated 13 January 2011 & 23/24 August 2011 addressed to the Commission. The relevant part of the letter dated 23/24 August 2011 read as under:-

"On death of Mathura Manjhi, Lilu Devi applied for compassionate employment, but the same could not be considered under the provisions of National Coal Wage Agreement (NCWA) as she had crossed 45 years. Subsequently, wife of deceased employee applied for payment of monetary compensation for herself and for keeping the name of her son in the live roster of the company. As per available records, the deceased employee had not declared the name of the claimant son Rishadar Kant Tadu before the management.

Gratuity amounting to ₹1,58,927/- has been deposited in the office of controlling authority/ALC(C) Dhanbad vide letter no BSP/PD/05/542 dated 13 July 2005 as deceased employee had not nominated any of his family member as nominee in Nomination Form – F under the provisions of the Payment of Gratuity Act 1972. Order for disbursement of gratuity amount of Lilu Devi and other heirs have already been passed by the Controlling Authority on 07 July 2011.

Provident fund amount to ₹6,06,609/- has already been paid to Lilu Devi vide cheque No. 927578 dated 02 December 2010 on receipt of her claim made on 17 May 2010 before intervention of CMPF Commissioner. Provident Fund Share has already been settled by CMPF Authority of the legal heir on submission of application by claimant on 09 February 2011 and 22 February 2011 respectively. The pension claim of Lilu Devi forwarded to CMPF office has also been settled.

In the view of above facts it will be evident that delay in settling the claim of Lilu Devi occurred due to non-submission of required documents by the deceased employee during his life time as well as due to delay in submission of claim by dependent of the family members.

As regards employment, Lilu Devi has now submitted application/affidavit for providing employment to her son, Rishadar Kant Tudu, on 13 July 2011 at the Unit. Proposal is being examined for employment as per provisions of NCWA, which will be communicated to the claimant within a month."

8.95 The Commission considered the report and vide proceedings dated 14 November 2011 observed as under:-

"Regarding payment of the Provident Fund it has been reported that an amount ₹ 6,06,609/- has been paid to Lilu Devi vide cheque dated 02 December 2010. However, it is still not clear whether due interest has been paid along with the PF amount and why sufficient efforts were not made for such payment by the employer immediately after the death of the employee though it is on record that wife of the deceased employee had applied for payment of monetary compensation for herself and for keeping the name of her son in the live roster of the company.

Regarding payment of the Gratuity it has been reported that an amount ₹1,58,927/- was deposited in the office of controlling authority/ALC(C) Dhanbad vide letter no. BSP/PD/05/542 dated 13 July 2005 as the deceased employee had not nominated any of his family member as nominee in the Nomination Form – F under the provisions of the Payment of Gratuity Act, 1972, but now the order for disbursement of gratuity amount of Lilu Devi and other heirs have been passed by the Controlling Authority on 07 July 2011. The Commission notices that Section 4 (c) of the Payment of Gratuity Act, 1972 states that ‘in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority’. As such, it is also not clear that ignoring claim of the wife of the deceased why the gratuity amount was deposited with the controlling authority/ALC(C) Dhanbad for an indefinite period and whether any interest has been paid for the gratuity amount against the delayed payment.

Regarding the payment of the pension it has been informed that claim of Lilu Devi forwarded to CMPF office has also been settled. However, the authorities have not clarified why the matter of the family pension was not taken up by the employer for about eight years till the intervention of the Commission. Nothing has been said regarding payment of arrears of the pension and interest thereon.

In reference to the matter of compassionate appointment it has been reported that ‘on death of Mathura Manjhi, Lilu Devi applied for compassionate employment, but the same could not be considered under the provisions of National Coal Wage Agreement (NCWA) as she had crossed 45 years. Subsequently, the wife of deceased employee applied for payment of monetary compensation for herself and for keeping the name of her son in the live roster of the company.’ In contradiction to this, it has further been reported in the letter of the General Manager (P&IR), Koyala Bhavan, Dhanbad that “Smt. Lilu Devi has now submitted application/affidavit for providing employment to her Son, Shri Rishadar Kant Tudu on 13 July 2011 at Unit. Proposal is being examined for employment as per provisions of NCWA, which will be communicated to the claimant within a month.’ The Commission is astonished that the Area Personnel Manager, Bharat Coking Coal Limited, Suua area, District Dhanbad has already informed the Commission vide letter dated 13 January 2011 that the complainant's son Rishadhar Kant Tudu was sent for medical examination. Thus, claim of the General Manager (P&IR), Koyala Bhavan, Dhanbad that wife of the deceased submitted application/affidavit for providing employment to her son, Rishadar Kant Tudu on 13 July 2011, appears to be misleading.

From the above it is apparent that the public authorities have grossly violated human rights of the family members of the deceased employee by not providing legitimate relief for a long period, for which the Company must bear its responsibility and some compensation ought to be provided to the wife of the deceased employee.”

8.96 Accordingly, the Commission directed to issue a notice u/s 18 (c) of the Protection of Human Rights Act, 1993 to the Chairman-cum-Managing Director, BCCL, Dhanbad, Jharkhand, requiring him to show cause as to why monetary relief be not recommended to the victim Lilu Devi, wife of the deceased employee Mathura Manjhi. The Chairman-cum-Managing Director, BCCL, was also asked to have the matter of inordinate delay in providing family pension, gratuity, PF and compassionate appointment to the dependent of the deceased employee Mathura Manjhi enquired thoroughly and appropriate punitive and corrective measures be ensured in all such matters. In addition, it was directed that the final report regarding payment of family pension, gratuity, PF amounts along with due interest and arrears, and a report regarding compassionate appointment of Rishadhar Kant Tudu, son of deceased Mathura Manjhi be submitted within ten weeks.

8.97 The Commission also asked the Secretary, Ministry of Labour, Government of India to enquire into the matter that under what circumstances the gratuity amount of the deceased employee Mathura Manjhi was withheld by the ALC(C) Dhanbad for a long period without any appropriate reason and whether any interest was paid for the same.

8.98 Consequently, the General Manager, BCCL, Dhanbad vide his letter dated 30 January 2012 informed that monthly pension to Lilu Devi at the rate of ₹599/- per month was sanctioned and an amount of ₹61,945/- including arrears of ₹56,945/- had been paid in October 2010. CMPF amount ₹2,02,203/- to each of the son and daughter of the deceased employee had been paid vide cheque dated 09 February 2011 along with accrued statutory interest on CMPF. An amount of ₹4,51,600/- was also paid as monetary compensation in lieu of employment to Lilu Devi vide cheque No. 50946 dated 17 January 2012. It was further informed that compassionate appointment to Rishadar Kant Tudu, s/o late Mathura Manjhi was provided vide office order dated 16 January 2012.

8.99 In response to the Commission's show cause notice dated 24 November 2011, a communication dated 02 February 2012 was received from the Chairman/ Managing Director, BCCL vide which it was stated that number of remedial measures to ensure timely payment of death-cum-retirement benefits were taken and punitive actions had been ordered against the concerned officials. Steps had been taken to ensure that such lapses did not occur.

8.100 The Commission, after considering the matter asked the Chairman- cum-Managing Director, BCCL to make a payment of additional amount of ₹1,00,000/- as reparation for the victim Lilu Devi for violation of the human rights of the family. The case is under examination of the Commission.

12. *Death of a Girl Student and Injury to Others due to Negligence*
(Case No.: 849/35/5/2010)

8.101 The Commission received an intimation from the District Magistrate, Dehradun, Uttarakhand on 07 May 2010 about the death of a girl student, namely, Kumari Shruti, aged 16 years, d/o Shri Deepak and r/o 99, Mannu Ganj, Dehradun during the course of a marathon race.

8.102 Pursuant to the directions dated 23 June 2010 issued by the Commission, the requisite reports were obtained.

8.103 The magisterial enquiry report conducted in this matter found that the deceased died as a result of shock and haemorrhage due to a wayside tree falling on her and some other students during the marathon race. It was concluded that the organizers of the marathon race and the school administration were negligent and careless, as they should have ensured the safety and security of the school students who participated in the marathon race. It was also found that the said tree caught fire on the same day at 03:00 a.m. and the fire department officials did not douse the fire completely. The officials of fire department were held negligent for not reporting the matter to the concerned department to ensure prevention of any accident.

8.104 The Commission observed that the demise of a 16 year old girl could have been averted if the organizer, the school, and fire department had exercised due care and attention in ensuring the safety of the route of the marathon run.

8.105 Accordingly, the Commission directed the Chief Secretary, Government of Uttarakhand to initiate disciplinary action against the fire department officials found negligent in the magisterial enquiry and to take appropriate action against the negligent organizers of the marathon race and the school management. The Commission also directed to issue notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Uttarakhand, through its Chief Secretary, requiring him to show cause why monetary relief be not recommended to the next of kin of the deceased Kumari Shruti, d/o Deepak and the other persons reported injured in the FIR.

8.106 In response, the Additional Director General of Police (Crime & Law Order) informed vide letter dated 08 May 2011 that punitive action against Sukhpal Singh (Fire Service Driver), Rahul Gusain and Dhrendra Singh (Firemen) was in progress. The response also stated that disciplinary action against the organizers of the marathon race and the school management was to be taken by the concerned Head of Department. As per the letter, the Government agreed for payment of interim relief to the victims as decided by the Commission.

8.107 Accordingly, the Commission recommended to the Government of Uttarakhand to pay an amount of ₹3,00,000/- (Rupees three lakh only) to the next of kin of the deceased Kumari Shruti and an amount of ₹ 50,000/- to each of the 5 injured persons as indicated in the General Diary Entry dated 18 April 2010 of P.S. Rajpur, in the matter.

8.108 In response, the Inspector General of Police, (Crime & Law Order), Uttarakhand, Dehradun vide letter dated 02 September 2011 sent a copy of proof of payment of the recommended amount 5,50,000/- in the matter.

8.109 As the recommendations made by the Commission were complied with, the case was closed.

RIGHTS OF ELDERLY PERSONS

9.1 Over the years, with better health coverage and awareness, average life of people in India has increased. Expectation of life at birth for males has shown a steady rise from 42 years in 1951-1960 to 58 years in 1986-1990; it is projected to be 67 years in 2011-2016, an increase of about 9 years in a twenty-five year period from 1986-1990 to 2011-2016. In the case of females, the increase in expectation of life has been higher, about 11 years, during the same period, from 58 years in 1986-1990 to 69 years in 2011-2016. At the age of 60 too, the expectation of life shows a steady rise and is a little higher for women. Increased life expectancy has contributed to an increase in the number of persons who are 60+ from only 12 million persons (60+) in India in 1901, the number seems to have crossed 204 million in 1951 and 57 million in 1991. Population projections for 1996-2016 made by the Technical Group on Population Projections (1996) indicate that the 100 million mark is expected to be reached in 2013. Projections beyond 2016 made by the United Nations has also indicated that India will have 198 million persons in the age bracket of 60+ in 2030 and 326 million in 2050. The percentage of persons of 60+ in the total population has seen a steady rise from 5.1 per cent in 1901 to 6.8 per cent in 1991. It is expected to reach 8.9 per cent in 2016. Projections beyond 2016 made by the United Nations indicate that 21 per cent of India's population will be 60+ by 2050⁶.

9.2 Industrialization, urbanization, globalization, information technology, spread of education and exposure to other means has brought in enormous changes in values and life styles of Indian people. Due to shortage of space in dwellings in urban areas coupled with high rents, families prefer to leave their parents in the native place itself. Changing roles and expectations of women, their demand for private space, desire not to be encumbered by caring responsibilities of old people for long periods, career ambitions, and employment outside the home implies considerably reduced time for care of the elderly persons. The position of single persons, particularly females, is more vulnerable in old age as few persons are willing to take care of non-linear relatives. So also is the situation of widows.

9.3 Although current estimates of poverty among the elderly are not available, it can reasonably be assumed that there are millions of elderly persons below the official poverty line and majority of elderly people are living in the rural areas. The facilities created for them such as old age homes are mainly in the urban areas. Dependency, living

⁶ Ministry of Social Justice and Empowerment (MSJE), National Policy on Older Persons-1999, MSJE, Government of India, New Delhi, 1999.

arrangements, health problems and physical disabilities are more in the rural areas as no care givers, institutional support, health facilities are generally available there. Almost all the States/Union Territories have a Social Welfare Department to look after elderly persons. Today, there are corporate houses, civil society organizations and NGOs who are extending support to protect and promote the welfare of elderly persons. However, elderly people in the rural areas are the worst sufferers in comparison to urban people.

9.4 The Commission's involvement in respect of rights of the elderly persons initially began with acting upon complaints received from them. However, its involvement increased substantially in 2000 when it participated in the work of the National Council for Older Persons constituted by the Ministry of Social Justice & Empowerment and commented on its Action Plan (2000-2005) in relation to the implementation of the National Policy on Older Persons. From that year onwards, the Commission has kept close contact with groups and organizations working for the rights of elderly persons and has been forwarding suggestions to the Union Government as and when necessary. For example, the Commission sought the response of Ministry of Health & Family Welfare with regard to provision of separate queues for older persons in hospitals. The concerned Ministry, on its part, circulated the recommendation for the provision of separate queues for older persons in hospitals to all States and Union Territories. The Commission has also expressed its concern over the plight of elderly persons belonging to economically weaker sections of society in the unorganized sector.

A. Organization of Health Awareness Events for Elderly Persons

9.5 The Commission in collaboration with HelpAge India organized a health awareness event in Mathura and Bikaner in January and February 2012. The event in Mathura included organization of a health awareness lecture and camp which focussed on different ailments affecting people in old age. Some of the doctors, expressed to give free services to the elderly for cataract surgeries, other vision related problem and prostrate related problem. The HelpAge, on its part, issued referral slips to elderly persons so that they could visit respective doctors for free treatment.

9.6 Likewise, in Bikaner a health awareness camp was organized in which 1,041 elderly persons participated. In the camp, free check-up of elderly persons was carried out with regard to different ailments like cataract, hypertension, diabetes and other diseases.

B. Illustrative Cases Dealt by NHRC on Rights of Elderly Persons

1. *Non-payment of Special Pension to Widow of a Deputy Jailor in Mirzapur, Uttar Pradesh (Case No. 23002/24/2002-2003)*

9.7 The Commission received a complaint dated 27 August 2002 from one Savitri Devi, resident of Mirzapur in Uttar Pradesh wherein she stated that her husband Brij Bhushan who was working as Deputy Jailor was murdered in 1977 while on official duty. She was

later given family pension. Her case, however, was recommended for special pension on the basis of last pay drawn by her deceased husband but no action was taken. She thus requested the Commission to look into the matter.

9.8 The Commission forwarded her complaint to the Director General of Prisons, Uttar Pradesh and called for a report. In response, the Director General Prisons Administration and Reform Services, vide its letter dated 25 June 2007 informed that grant of special family pension to the complainant was pending with the State Government. It further informed that the complainant has been asked to send certified copies of certain documents, so that the same can be forwarded to the Accountant General in Allahabad, Uttar Pradesh.

9.9 The Commission was distressed to note that the Deputy Jailor was murdered in 1977 while on duty. Almost 31 years had lapsed, yet the special family pension had not been sanctioned to the widow of the deceased. The Commission directed to issue a notice to the Chief Secretary, Government of Uttar Pradesh, Lucknow to look into the matter personally and apprise the Commission about the outcome of the case.

9.10 In response, the Special Secretary, Government of Uttar Pradesh, Lucknow informed that the complainant had sent her complaint for the first time to the State Government in September 2006. Accordingly, the Head of the Department, i.e. the Director General of Prisons was instructed to take necessary steps. Ordinarily grant of extraordinary pension falls within the jurisdiction of Accountant General, Allahabad and action is taken on the basis of the record submitted to him/her. The Director General, Prison Administration, Lucknow was thus directed to provide necessary information desired by the Accountant General, Allahabad so that the case of the complainant could be processed expeditiously.

9.11 The Commission issued notice to the Director General, Prison Administration and Reform Services, Lucknow, asking him to apprise whether documents and information asked for by the Accountant General, Allahabad had been sent, if not, the reasons thereof. He was also directed to personally look into the matter.

9.12 In response, the Additional Inspector General (Administration), Prison Administration and Correctional Services, Lucknow reported that after completion of all the formalities, the Governor of Uttar Pradesh was approached and requested for necessary sanction. The Prison Administration vide its letter dated 24 August 2011 informed that late Brij Bhushan Dubey was not performing any duty at the time of his death and in view of Rule 6 (11) Uttar Pradesh Civil Services (Extraordinary) Pension Rules 1941, extraordinary pension could not be awarded after 7 years of death. In view of this, the widow of the deceased was not entitled to special pension.

9.13 The Commission upon consideration of the matter, observed that if the authorities would have acted on this earlier, the plea that the matter was more than 7 years old and as such extraordinary pension could not be sanctioned in favour of the complainant would not have arisen. Other than this, the claim that at the time of the death of late Brij Bhushan

Dubey, he was not performing official duty is also belied by another letter dated 16 August 1978 issued by the Deputy Inspector General, Special Jail wherein it is specifically stated that on 30 April 1977 when the deceased was killed by goons he happened to be on duty and it was only after that the recommendation was made for sanction of extraordinary pension to the widow of the deceased. Keeping these facts in view, the Commission directed the Chief Secretary, Government of Uttar Pradesh to personally look into the matter and take appropriate and sympathetic action in the matter so as to help the widow of deceased Brij Bhushan Dubey.

9.14 The Commission further observed that in this country, the poor and uneducated have no base for pushing their files in government offices. The files, by and large, were not attended to and evasive replies given with a view to avoid the obligation cast on the public servants. When on 16 August 1978, the Deputy Inspector General (Prisons) addressed a letter to the Accountant General, why the same was not responded to by anyone. Stern action was thus required to be taken in this case. The Commission further pointed out that in this case Savitri Devi, the widow of deceased Brij Bhushan Dubey, addressed letters to the Chief Minister, Secretary concerned and the Accountant General, but when nobody responded favorably, she was constrained to approach the Commission vide letter dated 27 August 2002.

9.15 In response, a letter dated 15 February 2012 was received from Inspector General, Prison Administration and Correctional Services, Lucknow informing that sanction had been accorded by the Governor of Uttar Pradesh to pay extra-ordinary pension to Savitri Devi, widow of late Brij Bhushan Dubey. It was also informed that copies of the order had been sent to the Accountant General and PPO and GPO with a request to pay arrears at the earliest.

9.16 The Commission considered the report on 5 March 2012 and directed to issue notice to the Inspector General, Prison Administration and Correctional Services, Government of Uttar Pradesh calling upon him to send the proof of payment of arrears to the complainant. The Commission further directed that a letter be written to the complainant asking her to inform the Commission whether she had received the arrears.

9.17 The response is awaited from the State Government and the matter is under consideration of the Commission.

2. Denial of CGHS Health Facility to Elderly Pensioners Residing in Ranjhi Suburban Area, Jabalpur, Madhya Pradesh
(Case No. 1936/12/22/2011)

9.18 J.P. Sethi & 56 others in their complaint dated 21 September 2011 addressed to the Commission alleged that approximately 20,000 elderly pensioners residing in Ranjhi Suburban area of Jabalpur in Madhya Pradesh were deprived of medical facilities. They further stated that the old ailing pensioners were compelled to travel about 15-20 Kms. for

their medical check-up to the nearby city of Jabalpur where only three CGHS dispensaries existed, which was quite insufficient to cater to health needs of about 45,000 pensioners residing in that area. The matter was reported to the concerned authorities but no action was taken to address the grievances of the elderly pensioners. The complainants enclosed various news paper clippings in support of their claim.

9.19 Pursuant to the directions dated 13 October 2011 issued by the Commission, a report was sent by the Ministry of Health & Family Welfare, Government of India, New Delhi, for information and consideration of the Commission.

9.20 The matter is under consideration of the Commission.

3. *Non-payment of Pension and Retirement Benefits to an Elderly Person*
(Case No. 466/35/8/09-10)

9.21 The Commission received a complaint from one Pareshwari Bisht, w/o Mahabir Singh Bisht, r/o Village Bunga, P.O. Banghat, Pauri Garhwal, Uttaranchal alleging that the retirement benefits of her husband were not paid by the Education Department, Government of Uttarakhand, though he retired on 30 November 2006. She requested for intervention of the Commission.

9.22 Pursuant to the directions issued by the Commission, on 07 July 2009 the Secretary, Education Department, Government of Uttarakhand, Dehradun vide communication dated 18 November 2009 informed that the husband of the complainant, Mahaveer Singh Bisht, was endorsed a copy of a communication for furnishing of certain information but he did not forward the same in time and therefore his case could not be finalized.

9.23 The Commission in its proceedings dated 17 December 2009 directed the State Government to send the report along with its enclosures to the complainant for comments, if any, through speed post, within a period of six weeks.

9.24 In response, the complainant Pareshwari Bisht submitted that her husband was relieved on 03 March 2004 without any transfer order, by a wrong administrative decision and he was given a new posting only on 07 February 2005. During this period her husband remained present at Divisional Headquarters representing against the action of relieving him against the rules. As such her husband could not be forced to give consent for sanction of Earned Leave or other leave for the period from 04 March 2004 to 06 February 2005 because he was a victim of wrong administrative order and he could not work during the said period as he did not hold any office to work.

9.25 The Commission considered the material placed on record and vide proceedings dated 22 March 2010 asked the Secretary, Government of Uttarakhand, to explain as to how the husband of the complainant, Mahabir Singh Bisht was responsible for waiting for orders from the competent authority for his posting w.e.f. 04 March 2004 to 06 February 2005 and if he was not responsible, why his Earned Leave should be deducted for this period of forced leave. The copy of comments of complainant was also sent for his reference.

9.26 In response, the Director, School Education, Uttarakhand, Nanoorkheda, Dehradun informed that the matter of Mahabir Bisht could not be forwarded to the administration because he did not submit his consent for other leave to fulfill the interval of interruption within the stipulated period.

9.27 The Commission considered the matter and observed that the reply given by the Director, School Education, Uttarakhand, does not clarify the query made by the Commission. Thus, in its proceedings dated 17 June 2010, the Commission directed the Director, School Education, Uttarakhand to tender explanation on or before 20 August 2010, as to how complainant's husband Mahabir Singh Bisht was responsible for waiting for orders from the competent authority for his posting w.e.f. 04 March 2004 to 06 February 2005 and if he was not responsible, why his Earned Leave should be deducted for this period of forced leave.

9.28 However, the Director, School Education, Uttarakhand vide communication dated 19 August 2010 expressed inability to clear the payment of pension and other retirement benefits without adjustment of any leave against the break in service with effect from 04 March 2004 to 06 February 2005. He held the complainant's husband responsible for non-compliance of direction of the competent authority.

9.29 The Commission further considered the matter on 01 April 2011 and observed that the Education Department itself treated Mahabir Bisht as Assistant District Education Officer (Basic), Pauri Garhwal as on 05 February 2005 as was mentioned in letter No. 109/XXIV-2/2005 dated 05 February 2005 vide which he was transferred to Rudra Prayag. There was another correspondence from the State treating him as continuing as Assistant District Education Officer (Basic), Pauri Garhwal during the disputed period. No explanation was also called for from Mahabir Bisht in the said period of interruption. Accordingly, the Commission directed the Chief Secretary, Government of Uttarakhand to personally get the matter examined and ensure that the pension of Mahabir Singh Bisht was processed expeditiously and the pension along with all pending dues was paid to him without any further loss of time. The Chief Secretary was also directed to submit a report as to whether according to him there was a break in service of complainant's husband from 04 March 2004 to 06 February 2005 to justify the delay in grant of pension to him.

9.30 In response, the Principal Secretary, Government of Uttarakhand vide letter dated 21 February 2012 informed that 'Badhya Pratiksha Avakash' had been sanctioned to Mahabir Singh Bisht for the period from 04 March 2004 to 06 February 2005 vide order dated 08 August 2011 and all the retirement dues including pension were paid to him on 29 October 2011 and 27 January 2012. The Principal Secretary also enclosed orders dated 08 August 2011 along with a pension certificate which showed an amount ₹12,21,220/- as pension from 01 December 2006 to 31 December 2011, ₹5,52,189/- as gratuity and ₹6,45,228/- as leave commutation, i.e. a total amount of ₹24,18,637/-. It was written in the order dated 08 August 2011 that 'Badhya Pratiksha Avakash' had been sanctioned under the provisions of

rule 6 (b) (2) of the Financial Rule Code to Mahabir Singh Bisht for the period from 04 March 2004 to 06 February 2005 as he was compelled to stay in 'Badhya Pratiksha' during this period due to technical errors in the orders dated 19 November 2003.

9.31 The Commission noted that the complainant's husband Mahabir Singh Bisht, retired as District Education Officer, Pauri Garhwal on 30 November 2006, and was deprived of his retirement benefits, i.e. pension, gratuity, and leave commutation etc. for a long period without any reasonable cause. As such, Mahabir Singh Bisht along with his dependents suffered financial crisis and mental agony for about five years after his retirement due to lapses on the part of officials of the State for which the victims must be compensated. Accordingly, the Commission directed to issue a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 to the Government of Uttarakhand, through its Chief Secretary, requiring him to show cause as to why monetary relief be not recommended to Mahabir Singh Bisht for violation of his human rights by the public servants. The Chief Secretary, Government of Uttarakhand was also asked to inform of the punitive action taken against the erring officials in the matter and details of the interest paid on the dues which have been given to Mahabir Singh Bisht after a considerable delay without any fault on his part.

9.32 Response of Chief Secretary is awaited.

4. *Extreme Delay in Payment of Retirement Benefits to Widow of a Deceased Employee by Social Welfare Department, Government of Uttar Pradesh*
(Case No.20804/24/24/2010)

9.33 The case pertains to non-payment of terminal dues to the family of one Puttu Lal, a Class-IV employee of Social Welfare Department, Government of Uttar Pradesh even after 31 years of his death, which took place on 8 November 1979.

9.34 The Commission on examining the matter issued a notice to the Chief Secretary, Government of Uttar Pradesh calling for a report.

9.35 The Social Welfare Department of Government of Uttar Pradesh submitted a report. The report stated that the State Government had paid ₹27,390/- as GPF, 115.30 as security deposit and ₹3,835/- as medical reimbursement to the family of the deceased employee, in May 2011 but the gratuity and pension though sanctioned had not yet been paid to the family of the deceased employee.

9.36 The apathy on the part of the Social Welfare Department of Government of Uttar Pradesh was noted by the Commission and it directed the State to make immediate payment of gratuity and pension to the family of the deceased employee. It was later informed to the Commission that the Social Welfare Department of Government of Uttar Pradesh had paid ₹ 5,72,259/- towards gratuity and arrear of pension to the family of the deceased government employee.

9.37 The Commission thereafter issued a notice u/s 18 of the PHRA calling to show cause as to why compensation should not be recommended for the human rights violation of the family of the deceased employee.

9.38 In response to show cause notice issued by the Commission, the Government of Uttar Pradesh submitted that they have sent a proposal to Department of Finance for payment of interest on the delayed payment of arrears, due to the deceased employee since 1979.

9.39 The matter is under consideration of the Commission.

RIGHTS OF PERSONS WITH DISABILITIES

10.1 The National Human Rights Commission (NHRC) is involved in the protection and promotion of rights of persons with disabilities. Commission is of the view that persons with disabilities should enjoy all human rights on equal basis at par with others. Towards this end, the Commission continuously urged for proper implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act, 1995).

10.2 During the period under report, the Commission adopted a multi-pronged approach to deal with rights of persons with disabilities, which included redressal of individual complaints, legislative and policy reforms, and spreading of awareness regarding the rights among disabled persons.

A. Socio-economic Census

10.3 Persons with disability routinely face violation with regard to their basic rights such as food, housing, education, health and work. As a consequence, they suffer from poverty, malnutrition and chronic illness. It is an established fact that poverty and disability are closely inter-related. Persons with disabilities have to incur higher expenses in terms of assistive devices, medical, transport and other expenses to carry out their routine activities, which has a negative impact on their disposable income.

10.4 It was brought to the notice of the Commission that in the Socio-economic Census conducted by the Ministry of Rural Development, Government of India, the methodology used to identify Below Poverty Line (BPL) families, encompassed all those households having any disabled member and no able-bodied adult member. The adopted methodology, the Commission felt, made use of a deprivation indicator for inclusion of a household. The Commission's viewpoint was that if the head of the family is found to be disabled, the family could be included in the BPL category, provided the income ceiling is raised slightly than the recommended level under the exclusion criteria of BPL families. It is accordingly recommended to the Union Ministry of Rural Development to consider the suggestion made by the Commission and revise the BPL criteria to protect the rights of persons with disabilities.

B. Monitoring Preparation of Country Report on Rights of Persons with Disabilities

10.5 Under the United Nations Convention on Rights of Persons with Disabilities (UNCRPD), the Government of India has an obligation to submit its first Country Report before the United Nations Committee on the Rights of Persons with Disabilities. As reported in the Annual Report for the year 2010-2011, the Commission has been following-up with the Union Ministry of Social Justice and Empowerment to submit the Country Report to the Committee on Rights of Persons with Disabilities. Simultaneously, the Commission enquired from the Union Ministry whether persons with disabilities were consulted and involved in the preparation of the Country Report.

10.6 In the year under review, the Commission was also asked to give its comments on the draft of the first Country Report prepared by the Government of India. Besides, it was invited to participate in a two-day conference especially organized by the Union Ministry of Social Justice and Empowerment on the given issue. The Commission, on its part, reviewed the Country Report and conveyed its observations to the Ministry. The Commission trusts that the observations made by it would be included in the Country Report being prepared by the Ministry of Social Justice and Empowerment, Government of India.

C. Meeting of NHRC's Core Group on Disability

10.7 The NHRC organized a meeting of its reconstituted Core Group on Disability on 3 June 2011. The meeting was chaired by Shri P.C. Sharma, Member, NHRC. Some of the important issues discussed during the meeting were as follows:

- i) The new draft law on disability, which was under preparation and would replace the existing 'Persons with Disabilities Act, 1995';
- ii) Harmonization of the new draft Mental Health Care Bill with the UNCRPD;
- iii) Proposed amendments in the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 from the point of view of synchronizing it with the UNCRPD ;

D. Illustrative Cases Dealt by NHRC Relating to Rights of Persons with Disabilities

1. *Pathetic Condition of Mentally Challenged Persons in Rajasthan*
(Case No. 1023/20/0/2010)

10.8 The complainant Vimal Kumar Aameta alleged that many mentally challenged persons were roaming around in pathetic condition on the streets of Rajasthan which violated the provisions of the Mental Health Act, 1987, wherein it is provided that such persons should be given protection by the police under whose jurisdiction such persons are found.

10.9 Pursuant to the directions of the Commission, the Government of Rajasthan informed that the identified mentally challenged persons were admitted in mental hospitals with the permission of the Court and treatment was being provided to them. Action for rehabilitation of mentally challenged persons who did not have a family was also being taken.

10.10 The Commission observed that Rajasthan Police had taken action to locate and rehabilitate mentally challenged persons in terms of the provisions of the Mental Health Act, 1987. The Commission further observed that such issues could be better dealt with by the concerted efforts of all concerned. It thus felt that it would be pragmatic on the part of the Government of Rajasthan to organize training/sensitization programmes on socially relevant issues and ensure participation of State functionaries/ NGOs/media etc. in these programmes.

10.11 The said case was closed with the directions to the Chief Secretary, Government of Rajasthan to ensure compliance of the provisions of Mental Health Act, 1987 by all State functionaries and action be taken on the observations made by the Commission.

2. *Problems Being Faced by a Disabled Girl in Pursuing Her Studies*
(Case No. 4353/30/4/2010)

10.12 The Commission received a complaint from one Geetha Subramanian wherein she complained that her daughter, Nivya, suffering from 75% disability was not able to pursue her studies on account of disability, which hindered her performance. The Chief Commissioner for Persons with Disabilities was also approached who further referred the matter to the Ministry of Human Resource Development (MHRD), Government of India to issue guidelines on the subject. The petitioner requested the National Human Rights Commission to issue directions to the concerned Department in the MHRD.

10.13 The Commission after examining all the facts directed the Secretary, MHRD to submit a report in the matter. MHRD reported that the centrally funded educational institutions were conveyed the recommendations of the Chief Commissioner for Persons with Disabilities that suggested measures to help the disabled, like the daughter of the complainant.

10.14 The Commission further directed the Registrar, University of Delhi to apprise it about the action taken by the University of Delhi on the order of the MHRD. The Commission felt that maximizing facilities by adopting a humane approach towards students with disabilities would go a long way in instilling confidence amongst them and thus make them a productive human resource. Besides, educational institutions should evolve policies/ methods to facilitate students like the daughter of the complainant so that they are able to optimally utilize information technology, its infrastructure, etc.

10.15 In compliance of the directions of the Commission, the University of Delhi approved a revised policy for persons with disabilities vide notification dated 9 November 2011. The Commission forwarded a copy of the notification to the complainant and closed the case.

HUMAN RIGHTS EDUCATION, TRAINING AND AWARENESS

11.1 Section 12 (h) of the Protection of Human Rights Act, 1993 (PHRA) mandates the Commission the responsibility to “spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means”. A similar duty has been assigned to the State Human Rights Commissions (SHRCs) in respective States as per Section 29 of the PHRA.

11.2 During the period under review, the National Human Rights Commission (NHRC) undertook various activities to promote human rights education, training and awareness in the country.

A. Training Programmes Organized by NHRC

11.3 As part of its mandate, during the year 2011-2012, the Commission had approved 194 training programmes relating to various aspects of human rights. Out of these, 125 training programmes were successfully organized by 50 institutions/universities/NGOs. In addition, 09 training programmes for the year 2010-2011 were also conducted during 2011-2012 thus taking the overall total of training programmes to 134. The details of the training programme organized by the Training Division of NHRC are at Annexure 8.

B. Summer and Winter Internship Programmes

11.4 The NHRC has been regularly conducting two internship programmes of one month duration each every year. During 2011-2012, the Summer Internship Programme (SIP) was held from 18 May to 16 June 2011 in which 38 interns consisting of 26 females and 12 males from 27 universities/colleges of 12 States and Union Territories of India participated. The Winter Internship Programme (WIP) was held from 3 January to 1 February 2012 in which 48 students consisting of 21 females and 27 males from 31 universities/colleges of 19 States and Union Territories of India participated. From the point of view of giving hands-on experience to the participants of the internship programmes, they were taken for field visits to NGOs and district jail. The interns were also attached with different Divisions of the Commission and given project assignments on various aspects of human rights situation in the country on which they worked and later submitted reports. Based on the overall performance of the students during the course of two internship programmes, four students shared the ‘Best Internship Award’. Besides, an interactive session with Delhi Police Officers was specially arranged for the interns during the WIP.

C. Short-term Internship Programmes

11.5 In addition to the Summer and Winter Internship programmes, the NHRC also conducts short-term internship programmes for a period of 15 days to one month. This programme is open throughout the year for students pursuing various disciplines, especially Law. During the short-term attachment, students are exposed to the functioning of various Divisions of the Commission as they are made to work for a few days in each Division. These interns are also placed in the Facilitation Centre (MADAD) of the NHRC where they get hands on experience of interacting with victims of human rights violations. Besides, these interns are taken for field visit to Tihar/District Jail, whereby they learn it's functioning and the treatment meted to the inmates therein. During 2011-2012, approximately 304 students from different law universities/colleges/institutes attended the short-term internship with the NHRC.

D. Training Programme for Indian Foreign Service Probationers

11.6 The NHRC from 2006 onwards has been collaborating with the Foreign Service Institute (FSI) of the Ministry of External Affairs, New Delhi in organizing a two-day 'Attachment Programme for the Indian Foreign Service Probationers'. The main objective of the attachment programme is to sensitize the probationers on various human rights issues. During 2011-2012, 13 Indian Foreign Service Probationers of 2010 batch were attached with the NHRC on 22 & 23 November 2011. The probationers were given an over all view about the functioning of various Divisions in the Commission including an orientation about the complaint management system. They also interacted with the Chairperson, Members, Secretary General and other senior officers of the NHRC.

E. Interaction with Visiting Students/Trainees from Various Colleges/Universities of India

11.7 In view of the mandate entrusted to the NHRC, it is approached regularly by various colleges, universities, educational institutions, etc. for allowing their students to visit the Commission so as to get direct information about its organizational structure, functioning and the manner in which complaints are dealt with. The Commission on its part views these participants as emissaries of human rights who, on acquiring knowledge, would zealously spread it to people in their vicinity. During 2011-2012, approximately 765 students from different colleges/universities/educational institutions along with their senior faculty members visited the NHRC.

F. Online Training Programme on Human Rights for Police Personnel

11.8 The NHRC collaborated with Indira Gandhi National Open University (IGNOU), New Delhi to conduct online training on human rights issues for police personnel. A Memorandum of Understanding (MoU) was accordingly signed between NHRC and IGNOU

for conducting three different types of online programmes for police personnel. These were – Basic Course for Constables and Sub-Inspectors; Advance Course for Middle Level Police Officers and Training of Trainers Course.

11.9 The online training programme was launched with the Basic Course for Constables and Sub-Inspectors in three Police Training Institutes of N.C.T. of Delhi, Haryana and Uttar Pradesh. During 2011-2012, three Training of Trainers programmes were organized from 13-15 July 2011, 16-18 July 2011 and 19-21 March 2012. The main objective of these programmes was to prepare a team of resource persons to train police personnel online. Besides, it organized a Basic Course of five-days from 9-13 January 2012 wherein 115 police personnel from Police Training Institutes of STC, Rajendra Nagar (Delhi), Madhuban (Haryana) and Police Training College of Himachal Pradesh participated.

G. Training of Trainers on Empowerment of Women and Village Development

11.10 The NHRC organized a three-day Training of Trainers Programme on Empowerment of Women and Village Development at Block Dataganj, District Budaun, Uttar Pradesh from 18-20 March 2012. The aim of the programme was to train school teachers and college professors as well as students pursuing higher education as master trainers in human rights so that they could supplement the NHRC's efforts in spreading awareness amongst school children on various aspects of human rights including the rights of women and girl child. About 130 participants attended the training programme.

H. Sensitization Programme for Human Rights Defenders

11.11 A one-day sensitization programme for human rights defenders was organized in Odisha on 21 March 2012. Joint Registrar (Law) who is also the Focal Point for Human Rights Defenders represented the Commission in the programme.

I. Foundation Day Celebrations

11.12 The NHRC celebrated its 18th Foundation Day on 12 October 2011. As part of the Foundation Day Celebrations, a blood donation camp was organized in the Commission by the NHRC Employees Welfare, Sports and Cultural Association in collaboration with the Indian Red Cross Society on 3 October 2011. The camp was inaugurated by the Joint Secretary (P&A), NHRC. A large number of officers and staff donated blood.

11.13 A painting competition was also organized for the children of NHRC employees. For purposes of the painting competition, the children were divided into three age groups – 5-10 years; 11-15 years and 16-17 years. Two prizes in each category were awarded to the best painting.

11.14 The celebrations ended with a spectacular cultural programme that was organized in the evening of 12 October 2012 at Mavlankar Hall, New Delhi. In the cultural programme, the officers and staff of NHRC, members of their families, renowned Kathak dancers and

singers performed. Justice Shri B.C. Patel, Member, NHRC presided over the function. Speaking on the occasion, Justice Shri Patel recalled the efforts of the Commission in ensuring justice to the victims of human rights violations. He further emphasized that there was a need for every individual to become an active human rights activist, so that nobody was deprived of their fundamental rights guaranteed by the Constitution. He had a special word of appreciation for the staff and officers of the Commission in adopting a human rights approach and in protecting and promoting human rights of the people in the country.

11.15 On this occasion, Justice Shri Patel along with other Members of the Commission, namely, Shri Satyabrata Pal and Shri P.C. Sharma gave away prizes to the winners of the children's painting competition.

J. Human Rights Day Celebrations

11.16 The NHRC celebrated the Human Rights Day on 10 December 2011 at a function organized in Teen Murti Bhawan, New Delhi.

11.17 Addressing the gathering on the occasion, Justice Shri G.P. Mathur, Member, NHRC described the Universal Declaration of Human Rights as a milestone document in the history of mankind. He added that Human Rights Day gave an opportunity to the NHRC to take stock of its activities in promotion and protection of human rights in the country and thereby introspect to gear itself for challenges ahead. He said that the NHRC had been playing the role of a catalyst in promotion and protection of human rights and sought cooperation of all stakeholders, including government functionaries, NGOs and civil society in this endeavour.

11.18 On the occasion, the message of the UN Secretary General, Mr. Ban Ki-moon was read out by Shri Rajiv Chandran, National Information Officer, UNIC. In the message, the UN Secretary General emphasized that "human rights belong to every one of us without exception. But unless we know them, unless we demand they be respected, and unless we defend our right – and the right of others – to exercise them, they will be just words in a decades-old document".

11.19 Earlier, Dr. Rajiv Sharma, Secretary General, NHRC welcomed all the guests and dignitaries assembled to observe Human Rights Day with the Commission.

11.20 NHRC Members, Justice Shri G.P. Mathur, Justice Shri B.C. Patel, Shri. Satyabrata Pal, and Shri P.C. Sharma released six NHRC publications which included '*Nai Dishayein*' in Hindi and the annual '*Journal*' in English; three booklets of '*Know Your Rights*' series in English titled '*Right to Work*', '*Right to Adequate Shelter*' and '*Elderly People*', and the '*Manual on Human Rights for Police Officers*'. The Annual English '*Journal*' of 2011 contained articles on '*Development and Displacement – Human Rights Issues*'; '*Human Rights and Good Governance*'; '*Education and Human Rights*' and other topics.

K. Inter-Central Para-Military Forces Debate Competition

11.21 In order to promote human rights awareness among the personnel of Central Police Organizations, the NHRC has been regularly organizing a debate competition on human rights issues every year since 1996. The debate is initially conducted at zonal levels whereby it short-lists debaters for the semi-final and final round. The responsibility to hold the semi-final and final round is entrusted to one of the para-military forces organization on rotation basis. During the period under review, the Commission organized an All-India Debate Competition of Inter-Central Para-Military Forces in Hindi & English in collaboration with the National Security Guards (NSG) at Manesar in Haryana on 18 November 2011.

11.22 The topic of the debate competition was “Adherence to Human Rights Norms, Compromises and Effectiveness of the Security Forces”. The first prize for debate in Hindi was awarded to Shri Gajendra Kumar, Rifleman, Assam Rifles and in English to Shri Navdeep Singh Heera, Assistant Commandant, CISF. The second prize in Hindi was given to Shri Puran Singh, Havaldar, Assam Rifles and in English to Major Shankar Das, NSG. The third prize in Hindi was awarded to Shri Suwalakhia, Inspector, CISF and in English to Ms. Rajbir Kaur, Constable, Border Security Force. The overall best team rolling trophy was given to Assam Rifles.

11.23 The winners were selected by a three-member panel headed by Shri Satyabrata Pal, Member, NHRC. Congratulating the winners, Shri Pal said that despite the challenges of their duties, the Security Forces need to be sensitive towards human rights. Earlier, welcoming the participants and guests, Shri R.K. Medhekar, Director General, NSG stated that the debate competition was useful in spreading awareness about human rights among the Central Para-Military Forces.

11.24 Shri Sunil Krishna, Director General (Investigation), NHRC, in his concluding remarks appreciated the valued inputs of all the participants and congratulated the winners. He also thanked the jury and the NSG for making the event successful.

L. Hindi Fortnight at NHRC

11.25 The NHRC’s Annual Hindi Fortnight Event, to promote the use of official language in its day-to-day working, was organized from 14 to 28 September 2011. The officers and staff of the NHRC actively participated in the debate, quiz programme and essay competition as well as in other programmes organized on the occasion for the promotion of Hindi language.

HUMAN RIGHTS DEFENDERS

12.1 “Human rights defender” is a term used to describe people who, individually or with others, act to promote or protect human rights. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights. Human rights defenders address human rights concerns, which can be as varied as, for example, summary executions, torture, arbitrary arrest and detention, female genital mutilation, discrimination, employment issues, forced evictions, access to health care, and toxic waste and its impact on the environment.

A. United Nations Declaration on Human Rights Defenders

12.2 In December 1998, after fourteen years of negotiations, the Declaration on Human Rights Defenders was adopted by the General Assembly of the U.N.

Legal Character

12.3 The Declaration is not, in itself, a legally binding instrument. However, it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding – such as the International Covenant on Civil and Political Rights. Moreover, the Declaration was adopted by consensus by the General Assembly and therefore represents a very strong commitment by States to its implementation. States are increasingly considering adopting the Declaration as a binding national legislation.

The Provisions of the Declaration

12.4 The Declaration provides for the support and protection of human rights defenders in the context of their work. It does not create new rights but instead articulates existing rights in a way that makes it easier to apply them to the practical role and situation of human rights defenders. It gives attention, for example, to access to funding by organizations of human rights defenders and to the gathering and exchange of information on human rights standards and their violation. The Declaration outlines some specific duties of States and the responsibilities of everyone with regard to defending human rights, in addition to explaining its relationship with the national law. It is important to reiterate that human rights defenders have an obligation under the Declaration to conduct peaceful activities.

Role of the State

12.5 States have a responsibility to implement and respect all the provisions of the Declaration. In particular, States have the duty to protect human rights defenders against any violence, retaliation and intimidation as a consequence of their mandate to promote human rights. The duty to protect is not limited to actions by State bodies and officials but extends to the actions of non-State actors, including corporations, "fundamentalist" groups and other private individuals.

B. Focal Point for Human Rights Defenders in NHRC

12.6 Acting on one of the recommendations of the Workshop on Human Rights Defenders that was organized by the Commission on 12 October 2009 in New Delhi, a Focal Point for Human Rights Defenders has been set-up in the NHRC to deal with complaints alleging harassment of human rights defenders by or at the instance of public authorities. The designated contact person at the Focal Point is Shri A. K. Parashar, Joint Registrar (Law). The Focal Point is accessible to human rights defenders round the clock through (i) Mobile No. 9810298900, (ii) Fax No. 23384012, and (iii) E-mail: hrd-nhrc@nic.in. The Focal Point ensures that the directions of the Commission in every case of alleged harassment of human rights defenders are complied with on priority and conveyed to the concerned human rights defender. The update of the complaints of alleged harassment of human rights defenders is also posted on the website of the Commission.

12.7 The Focal Point for Human Rights Defenders during the year 2011-2012 travelled to many places in the country, that is, Uttar Pradesh, Odisha, Punjab, Tamil Nadu and Haryana, and interacted with villagers, human rights defenders, representatives of non-governmental organizations and officials of the concerned State Government to understand the status of human rights at the grassroot level and sensitized them on various issues concerning the human rights of people. The visit reports and the complaints received during the visits were placed before the Commission and immediate action was taken thereon.

C. NHRC's Course of Action for Protection of Human Rights Defenders

12.8 The Commission has always extended its support for the cause of promotion and protection of human rights and has denounced the acts of reprisal, harassment, etc. against persons who fight for this cause. In fact, one of the most important aspects of civilian safeguard that has been taken up by the Commission is the protection of the rights of human rights defenders (HRD), which it will continue to pursue.

12.9 Some of the important steps initiated by NHRC for protection of HRDs are given below:

- It sends a strong message to the State not to victimize HRDs.

- Sensitizes the State functionaries about the valuable role played by HRDs.
- Takes proactive steps to protect the cause of HRDs by recommending prosecution of erring public servants, compensation to the victims of human rights violation, etc.
- Organized workshops on HRDs and extended invitation to high-level State functionaries to know their problems and accordingly facilitate redressal to them.
- Recommendations of all the activities concerning HRDs are forwarded to all States/Union Territories for information and compliance.
- Cases reported to NHRC by HRDs are posted on its website.
- Inclusion of this chapter in the Annual Report is also a part of the steps for spreading awareness.
- The NHRC also released a Message on 9 December 2011 with regard to continued support to HRDs. The text of the Message is at **Annexure 9**.

D. Illustrative Cases Dealt by NHRC Relating to Human Rights Defenders

12.10 During the period under review, the Commission received 63 complaints concerning alleged harassment of HRDs. Seventeen cases pertaining to HRDs were finally disposed off by the Commission during the year. The details of pending cases along with action taken by the Commission are available on its website. Some of the important cases dealt by it during 2011-2012 are as under:-

1. *Alleged Abuse of Police Authority*
(Case No.634/22/13/2010)

12.11 Sakhi Prabhavati, Secretary, World Human Rights Commission & Rescue Centre, New Delhi vide her complaint dated 3 April 2010 alleged that being irked on a complaint made by her to the Commission in a case of violence at Dr. Ambedkar Law College, Chennai, Tamil Nadu, the police trespassed into her premises in Delhi, taking away her lap-top, pen-drive, cheque books, keys of the car, etc. She was also allegedly falsely implicated and taken into police custody and tortured physically.

12.12 In response to the Commission's directions, the Director General of Police, Tamil Nadu reported that the documents concerning her case did not reveal any breach of human rights relating to one Saravanan Karuppasamy and Sakhi Prabhavati when the two were arrested by Tamil Nadu police.

12.13 The report was sent to the complainant for her comments. Comments have been received and the same are under consideration of the Commission.

2. *Alleged Unlawful Detention of a Human Rights Defender by Police*
(Case No. 10558/24/37/2011)

12.14 The Commission received a complaint from one Bhoopendra Dayal, a human rights defender, alleging that he was unlawfully detained for five days and tortured by the police at the instance of his opponent. He further alleged that the opponents set his shop on fire in collusion with the police and deprived him of livelihood. Since he continued to receive threats, he alleged that the police had taken no action on his complaints.

12.15 The Commission issued a notice to the Superintendent of Police, Mahamayanagar, Uttar Pradesh calling for a report within four weeks. Report has been received and is under consideration of the Commission.

3. *Alleged Threat to Human Rights Defender Opposing Illegal Mining in Mahoba District, Uttar Pradesh*
(Case No. 15733/24/50/2011 LF 18494/24/50/2011)

12.16 A human rights activist, through his complaint dated 30 April 2011 brought to the notice of the Commission that there existed a threat to the lives of human rights defenders who were opposing the issue of illegal mining in Kabari Nagar, Mahoba District of Uttar Pradesh.

12.17 During the course of the proceedings, it was reported by the State functionaries that one Mangal Singh had approached the High Court of Allahabad on the subject of closure of stone crushers and asked for security cover for himself. The Commission taking note of this fact directed the Superintendent of Police and District Magistrate Mahoba to submit a report regarding the proposal for providing a Security Guard to Mangal Singh in compliance of the orders of the Court.

The report has been received and is under consideration of the Commission.

4. *Alleged Exploitation of Labourers Exposed by a Human Rights Defender*
(Case No. 21867/24/72/2011)

12.18 A human rights activist brought to the notice of the Commission that he was approached by the labourers alleging their exploitation as bonded labourers. He raised the issue with the district authorities who deputed a Tehsildar along with officers of Labour Department to raid the brick kiln where the labourers were allegedly kept as bonded labourers. The complainant alleged irregularities in the action taken by the authorities who threatened the labourers.

12.19 The Commission called for a report from the District Magistrate, Varanasi, Uttar Pradesh in this case. Despite reminders, the report has not yet been received.

12.20 The Commission has given one last opportunity to the District Magistrate, Varanasi for submitting his report, failing which, the Commission would be constrained to take steps u/s 13 of the PHRA, 1993.

5. *Alleged Unlawful Detention of a Human Rights Defender by Police*
(Case No. 36808/24/72/2011)

12.21 The Commission received a complaint from Dr. Lenin Raghuvanshi, Executive Director, People's Vigilance Committee on Human Rights, Varanasi, Uttar Pradesh, regarding alleged detention of Mehajabi, a human rights activist at police station Bhelupur, District Varanasi at the instance of her father as she married a Muslim youth against the wishes of her parents. It was further alleged that the police did not produce her before the Magistrate for recording her statement u/s 164 Cr.P.C.

12.22 The Commission vide its proceedings dated 16 September 2011 issued notice to the Senior Superintendent of Police, Varanasi, Uttar Pradesh calling for a report within four weeks.

12.23 Since no report was received within the stipulated time, the Commission directed to issue a reminder to the Senior Superintendent of Police, Varanasi to submit the report within the stipulated time failing which the Commission would be constrained to take steps u/s 13 of the PHRA, 1993.

6. *Alleged Inaction by Police After Attack on a Human Rights Defender*
(Case No. 1988/18/27/2011)

12.24 The complainant alleged that one human rights defender named Rabindranath Panda was attacked and injured by a sharp weapon by some miscreants on 30 August 2011. A case was registered by the police but all the accused were still at large. It was further alleged that the miscreants of village Karandia Patana belonging to upper class families harassed and exploited the families of Dalit Pana community. The petitioner thus requested for protection of human rights of the Dalit families and action against the Collector and Superintendent of Police, Kendrapara for negligence in prevention of such violation.

12.25 In pursuance of the Commission's directions, a detailed report was received from the Deputy Inspector General of Police, Cuttack, Odisha wherein it was reported that an investigation was being conducted as per the law. A copy of the report was sent to the complainant for his comments.

12.26 On receipt of comments from the complainant, the Commission directed the Chief Secretary and the Director General of Police, Government of Odisha to give their report on the objections raised by the complainant.

12.27 The requisite reports are still awaited from the Government of Odisha.

7. *Alleged Inaction and Threatening by Police*
(Case No. 11939/24/73/2010)

12.28 A human rights defender, vide complaint dated 1 April 2010 informed that he had lodged a complaint against some police officials of Gopiganj Police Station, District Sant Ravidas Nagar, Uttar Pradesh on which the Commission registered a case (No. 224/24/73/09-10) and called for report from the concerned District authorities. The complainant had alleged that the Additional Superintendent of Police, Sant Ravidas Nagar, Uttar Pradesh called him and asked him to withdraw his statement. He further alleged that when the complainant showed reluctance, the Additional Superintendent of Police, Sant Ravidas Nagar, threatened to register an FIR against him. The complainant apprehended that the Additional Superintendent of Police, Sant Ravidas Nagar, may implicate him in some false case or kill him in a fake encounter.

12.29 After a detailed inquiry in the matter, the Commission observed that Nand Lal Shukla, a human rights activist, was intimidated and harassed by Ruchita Chaudhari, Additional Superintendent of Police on the pretext of a pseudonymous complaint because he exposed police malpractices. The Commission vide its proceedings dated 4 February 2010 directed to issue a show cause notice u/s 18 (a) (i) of PHRA and take action against the guilty police officials in the matter.

12.30 Accordingly, a show cause notice was issued by the Commission to the Chief Secretary, Government of Uttar Pradesh as to why compensation be not recommended to the victim and directed to initiate suitable punitive action against Ruchita Chaudhari for intimidation and harassment of Nand Lal Shukla, a human rights activist, on the pretext of a pseudonymous complaint. The Commission further directed to inquire why and how many times police officials were sent to Mumbai in this matter and whether the letter dated 18 March 2010 said to be signed and issued by the then Director General of Police, Government of Uttar Pradesh was genuine or not.

12.31 Keeping in view the security concern of Nand Lal Shukla, the Commission directed the Director General of Police, Uttar Pradesh to ensure his security and submit an action taken report.

12.32 The reply to the show cause notice has been received and is under consideration of the Commission.

8. *Alleged Acid Attack and Assault on a Human Rights Defender for Exposing Corruption*
(Case No. 881/6/12/2011)

12.33 Henri Tiphange, National Coordinator of an NGO, vide complaint dated 26 August 2011 alleged that on 21 August 2011 a HRD by the name of Jaysukh Bambhania was attacked and assaulted by some unidentified persons with weapons like swords and rods followed by an acid attack because he had sought information under the Right to Information Act, 2005 (RTI Act) regarding construction of an illegal restaurant and bogus licenses issued by

the Road Transport Office. The complainant stated that the victim was attacked by a politician in connivance with some Government officials and he sustained serious burnt injuries resulting in 27 stitches on his body. The complainant requested that necessary steps be taken to ensure physical and psychological security of RTI activists functioning in the country.

12.34 The Commission on 5 September 2011 directed to issue a show cause notice to the Chief Secretary and the Director General of Police, Government of Gujarat calling for a report in the matter within four weeks.

12.35 Pursuant to the directions of the Commission, the Superintendent of Police, Junagadh, Gujarat vide communication dated 19 October 2011 informed that a case had been registered vide Una Police Station C.R. No. 134/2011 u/s 143/147/148/149/326/323 of IPC and Section 35 of Gujarat Police Act on 20 August 2011 against (1) Haresh Bavabhai Jethva, (2) Vinod Premjibhai Solanki, (3) Shamjibhai Premjibhai Solanki, (4) Nanjibhai Pithabhai Makwana, (5) Vashrambhai Bhaimabhai Solanki, and (6) Bhaidas Baraiya. It was further informed that the investigation of the case had been transferred to the C.I.D. Crime & Railways, Gujarat State, Gandhinagar.

12.36 The Commission considered the matter on 16 November 2011 and directed the Chief Secretary and Director General of Police, Government of Gujarat to send the final outcome of the investigation in the said case within six weeks.

12.37 The Superintendent of Police, Junagadh, Gujarat vide communication dated 23 November 2011 informed that the investigation of Una P.S. Crime No. 134/2011 u/s 143/147/148/149/326/323 of IPC and section 135 of Bombay Police Act was handed over to C.I.D. Crime Investigation Cell, Junagadh on 12 October 2011.

12.38 The Commission considered the matter and directed the Director General of Police, Gujarat and the Superintendent of Police, Junagadh, to send the final outcome of investigation of Una P.S. Crime No. 134/2011 within six weeks. The report is awaited from the Government of Gujarat.

9. *Alleged Killing of a Human Rights Defender Exposing Corruption*
(Case No. 1529/34/0/2011)

12.39 The complainant, an office bearer of an NGO named Manab Human in Jharkhand, alleged that one HRD Niyamat Ansari was killed by miscreants when he tried to expose corruption by seeking information under the RTI Act. The family of the deceased Niyamat Ansari is now facing starvation. It was further stated that another RTI activist, Bhukan Singh along with his family was also victimized by the culprits and there was an attempt to murder him when he exposed large sums of Government money allotted for social sector schemes being embezzled by the Government officials and middlemen. The complainant requested the Commission to intervene and take appropriate action in the matter so as to ensure adequate security for the two victims and their families.

12.40 The Commission considered the matter on 24 November 2011 and directed to issue a show cause notice to the Chief Secretary and Director General of Police, Government of Jharkhand calling for a report in the matter within four weeks.

12.41 The Commission considered the report on 24 February 2012 and directed to obtain the comments of the complainant on the report.

*10. Alleged Inaction by Police After Attack on RTI Activist
(Case No. 6029/30/1/2011)*

12.42 The complainant vide e-mail dated 11 October 2011 alleged that an RTI activist Sheeba Fehmi and her husband Arshad were attacked by a mob who forcibly entered their house/office in Jama Masjid, Delhi and damaged the electronic and other items. The matter was reported to the police but no arrest was made. The complainant requested action against the mob for attacking the victims and the police for not taking appropriate action.

12.43 The Commission considered the matter on 15 November 2011 and directed to issue a show cause notice to the Commissioner of Police, Delhi calling for a report within four weeks.

12.44 The Commission on 16 February 2012 considered the matter again and directed to issue final reminder to the concerned authority calling for the report, failing which the Commission shall be constrained to invoke the provisions of Section-13 of the PHRA.

*11. Alleged Killing of RTI Activist and Whistleblower in Bihar
(Case No. 2621/4/19/2011 LF 2623/4/19/2011 LF2658/4/19/2011)*

12.45 The Commission took cognizance in the matter on 14 December 2011 wherein it was alleged that on 9 December 2011 an RTI activist and whistleblower Ram Vilas Singh had been killed by unidentified assailants at Bavangavan Village in Lakhisarai District of Bihar. The Commission directed to issue a show cause notice to the Superintendent of Police, Lakhisarai, Bihar calling for a report within four weeks.

12.46 In response to the Commission's directions, a report dated 16 January 2012 from the Superintendent of Police, Lakhisarai was received. The report mentioned that on the statement of one Abhisekh Kumar alias Sonu, the deceased's son, an FIR No. 522/11 dated 8 December 2011 u/s 302/34 of IPC read with section 207 of Arms Act was registered at P.S. Lakhisarai against the three accused and two others. In the FIR it was alleged that the wife of one of the accused Rakesh Singh alias Bambam Singh had lost the last Panchayat elections and in order to take revenge Bambam Singh and others murdered Ram Vilas Singh. A charge sheet No. 6/12 dated 13 January 2012 u/s 302/120B/34 of IPC read with section 27 of the Arms Act was filed. The other accused were absconding and an effort to arrest them was being made.

12.47 The Commission considered the report on 27 March 2012 and directed the Superintendent of Police, Lakhisarai to submit a report with regard to the status of investigation in FIR No. 522/11 within four weeks.

12.48 The report has been received and is under consideration of the Commission.

12. *Alleged Threat to a Human Rights Defender Exposing Corruption*
(Case No. 3017/18/2/2011)

12.49 The complainant, an office bearer of an NGO, Human Rights Defenders Alert - India, alleged that on 18 October 2011 one HRD namely Gopalbandhu Chhatria, r/o Deogan Block in Bolangir District, Odisha was threatened by Birendra Tripathy, Sub-Divisional Officer, Rural Works, Bolangir as the victim attempted to expose him through RTI regarding a newly constructed building in the Tehsil office. The complainant requested that appropriate action be taken in the matter to ensure adequate security of the victim and his family.

12.50 The Commission took cognizance in the matter on 14 December 2011 and directed to issue a show cause notice to the Director General of Police, Government of Odisha calling for a report in the matter within four weeks.

12.51 The Commission has received a report which has been sent to the complainant for his comments.

INTERNATIONAL COOPERATION

A. Cooperation with the Asia Pacific Forum of National Human Rights Institutions

13.1 The Asia Pacific Forum of National Human Rights Institutions (APF) is the leading regional human rights organization in the Asia Pacific region established in 1996. It is a member-based organization that supports the establishment and strengthening of independent national human rights institutions in the region. Its goal is to protect and promote human rights of people of the Asia Pacific region through network of member institutions. At the time of writing of the Annual Report, APF had 15 full members and three associate members. These members represent a diverse range of countries across the region. The National Human Rights Commission of India (NHRC-India) is one of its founding members. Any national human rights institution in the Asia Pacific can apply to become a member of the APF. Decisions about membership are made by the Forum Council, the APF's governing body.

13.2 To be admitted as a full member, a national human rights institution must comply with the minimum international standards set out in the Paris Principles⁷. In addition, the Forum adopts the accreditation decisions of the International Coordinating Committee of National Human Rights Institutions to determine APF membership status. National human rights institutions which are considered to fully comply with the Paris Principles are accredited as 'A status', while those that partially comply are accredited as 'B' status. 'A status' national human rights institutions are allowed to participate in the work and discussion of the United Nations Human Rights Council and its subsidiary bodies.

13.3 The 16th Annual Meeting and Biennial Conference of APF took place in Bangkok, Thailand from 6 to 8 September 2011. It brought together around 150 representatives from national human rights institutions, governments, civil society organizations and UN agencies from across the Asia Pacific region. The delegation of NHRC-India was led by Justice Shri K.G. Balakrishnan, Chairperson.

⁷ The Paris Principles ('Principles Relating to the Status and Functioning of National Institutions') prescribe the minimum standards required by national human rights institutions for their effective operation. The Principles identify six criteria that national human rights institutions should meet in order to be effective, including – a clearly defined and broad-based mandate based on universal human rights standards; autonomy from government; independence guaranteed by legislation or the constitution; pluralism, including membership that broadly reflects their society; adequate resources; and adequate powers of investigation.

13.4 The 2011 Conference focused on progress and challenges in implementing the right to development. Participants shared examples of good practice involving national human rights institutions and their role in monitoring implementation of the Declaration on the Right to Development in their respective countries. A series of parallel discussions drew on the expertise of national and regional non-governmental organizations on a range of related topics, including -- human rights defenders and the right to development; the role of the media and development; and natural resources and development.

13.5 Prior to the 16th Annual Meeting and Biennial Conference held in Bangkok, the Deputy Inspector General of Police (Investigation Division) and Director (PRP&P Division) of NHRC-India participated in the APF-UNFPA Regional Consultation on the Role of National Human Rights Institutions in Protection of Reproductive Rights held at Kuala Lumpur, Malaysia on 20 & 21 June 2011. The key goal of the Regional Consultation was to build greater knowledge and understanding around reproductive rights, what they are, how they are protected in international law and the critical role that NHRIs can play to advance these rights. The Regional Consultation was co-sponsored and organized by the APF and UNFPA and hosted by the National Human Rights Commission of Malaysia.

13.6 Another on-line training programme organized by the APF in collaboration with the Association for Prevention of Torture, Geneva was on 'Torture Prevention'. It was held from 11 July to 13 August 2011. Four middle level officers from NHRC-India participated in the programme. On completion of their on-line training programme, the four officers later participated in the Sub-regional Workshop for NHRIs in South Asia that was organized by the APF at Kathmandu, Nepal from 19 to 23 September 2011.

13.7 The APF in association with Raoul Wallenberg Institute of Human Rights & Humanitarian Law and NHRC-India also hosted a "Blended Learning Course on National Inquiries for NHRIs in South Asia". This course was organized in Thiruvananthapuram, Kerala from 14-18 November 2011. Officers from NHRIs of six countries including India attended the course. The officers attended this programme after completion of a month-long online course.

13.8 NHRC-India remitted an amount of one lakh dollars to APF towards its annual contribution for the year 2011-2012, as per the Memorandum of Understanding (MoU) signed between NHRC-India and APF.

B. Engagement with International Coordinating Committee of National Human Rights Institutions and Human Rights Council

13.9 The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) is a representative body of national human rights institutions (NHRIs) from all parts of the world. Its aim is to assist in establishing and strengthening independent and effective NHRIs which meet the international standards set out in the Paris Principles. It also encourages joint activities and cooperation among

NHRIs; organizes international conferences; liaises with the United Nations and other international organizations; assists NHRIs under threat; and, where requested, assists governments to establish NHRIs.

13.10 The APF and its member institutions continue to make a significant contribution to the operations and human rights initiatives of the ICC. The organization is incorporated as a non-profit organization under Swiss law. The ICC Statue, adopted in March 2009, sets out its objectives and operation.

13.11 NHRIs which comply fully with the Paris Principles – and which have been granted ‘A status’ by the ICC Bureau – are eligible to become voting members of the ICC and to hold governance positions. NHRIs which partially comply with the Paris Principles – and which have been granted ‘B status’ by the ICC Bureau – can participate in meetings of the ICC but are not eligible to cast vote or to hold governance positions.

13.12 The operations of the ICC are managed by the ICC Bureau, which consists of representatives from each of the four regional groupings : Africa, Americas, Europe and the Asia Pacific. Each regional grouping is represented by elected representatives from four ‘A status’ NHRIs. The APF is currently represented on the ICC Bureau by India, Jordan, Malaysia and New Zealand.

13.13 A key role of the ICC Bureau is to assess applications for membership of the ICC. It furthermore reviews and determines the accreditation status of NHRIs, following a recommendation from the Sub-Committee on Accreditation.

13.14 In addition, the ICC Bureau collaborates with the Office of the High Commissioner for Human Rights (OHCHR), in particular the National Institutions and Regional Mechanisms Unit, to facilitate the participation of NHRIs in the UN Human Rights Council. The National Institutions and Regional Mechanisms Unit of the OHCHR acts as the Secretariat of ICC. The ICC has a permanent representative in Geneva to support and facilitate the participation of NHRIs in the UN Human Rights Council and its human rights mechanisms.

13.15 ICC meetings are usually held twice a year, the first in conjunction with the first quarter session of the UN Human Rights Council and the second in conjunction with one of the NHRI regional network meetings. A meeting is also held in conjunction with the bi-annual ICC International Conference. The latter involves NHRIs as well as representatives of United Nations agencies, international organizations and civil society. The purpose of the International Conference is to strengthen cooperation between NHRIs, to discuss human rights issues of shared concern and to ensure follow-up at the national level.

13.16 The NHRC-India, as mentioned above, is a member of ICC. It is one of the 16 voting Members of the ICC Bureau. As such, it took part in the Bureau Meeting of ICC, the Annual Meeting of ICC (ICC 24) and the workshop on the Role of Prevention for the Promotion and

Protection of Human Rights held at UN Palais des Nations in Geneva from 16 to 20 May 2011. Justice Shri K.G. Balakrishnan, Chairperson; Shri P.C. Sharma, Member and Shri J.P. Meena, Joint Secretary (P&A) attended these meetings from NHRC-India.

13.17 A delegation from NHRC-India led by Justice Shri K.G. Balakrishnan, Chairperson also participated in the ICC Bureau Meeting held on 10 October 2011 and the Asia Pacific NHRI Conference on Business and Human Rights in Seoul, Korea from 11 to 13 October 2011.

13.18 NHRC-India has remitted an amount of 5000 Swiss Francs to the ICC towards its membership fee for the year 2011-2012.

C. Second Universal Periodic Review -- NHRC-India's Submission to UN Human Rights Council

13.19 NHRC-India submitted its report on the second Universal Periodic Review (UPR) to the United Nations Human Rights Council on 25 November 2011. The UPR is a unique process which involves a review of the human rights records of all 193 United Nations Member States once every four years. The UPR is a significant innovation of the Human Rights Council. It provides an opportunity to each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations. Currently, no other mechanism of this kind exists.

13.20 The UPR was established when the Human Rights Council was created on 15 March 2006 by the UN General Assembly in resolution 60/251. This mandated the Council to "undertake a universal periodic review, based on objective and reliable information, of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States". On 18 June 2007, one year after its first meeting, members of the new Council agreed to its institution-building package vide its resolution 5/1. This resolution provides a road map for guiding the future work of the Council. One of the key elements of this package is the UPR mechanism.

13.21 The ultimate goal of UPR is to improve the human rights situation of each and every country. It is thus designed to prompt, support and expand the promotion and protection of human rights on the ground. To achieve this, the UPR process involves assessment of the human rights records of all the Member States and deal with human rights violations wherever they occur. The UPR also aims to provide technical assistance to States whereby they can enhance their capacity to work effectively with human rights challenges as well as share best human rights practices among States and other stakeholders.

13.22 The review of each Member State is conducted by the UPR Working Group which consists of 47 members of the Council. However, any UN Member State can take part in the

discussion/dialogue with the reviewed States⁸. The documents on which the reviews are based relate to : (i) information provided by the State under review, which can take the form of a “national report”; (ii) information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities; (iii) information from other stakeholders including non-governmental organizations and national human rights institutions.

13.23 As part of the UPR mechanism, during the first four-year cycle (2008-2011) India was reviewed on 10 April 2008. In accordance with paragraph 15 (a) of the Annex to Human Rights Council Resolution 5/1, the Government of India for review purposes submitted a national report. Para 15 (c) of the Annex to Human Rights Council Resolution 5/1 on ‘Institution Building’ states that other additional, credible and reliable information provided by other relevant stakeholders to the UPR should also be taken into consideration by the Council in the review. As such, the report of the Commission titled ‘NHRC-India Paper for Universal Periodic Review’ submitted to the Office of the UN High Commissioner for Human Rights in January 2008 was taken into consideration along with reports of other relevant stakeholders. The Working Group made 18 recommendations on the national report submitted by the Government of India.

13.24 The second cycle of the UPR commences in June 2012. The review, *inter alia*, will focus on the implementation of the accepted recommendations and the developments of the human rights situation in the Member State under review. To prepare for this report, the NHRC held five regional consultations and a national consultation with NGOs, academics, officials and State Human Rights Commissions (SHRCs), even though its mandate and work involve a continuing dialogue with the Central and State Governments, whose performance on human rights it evaluates, and with civil society, from which the more serious complaints are received. It did so for two reasons: given the diversity of India, to ensure that regional priorities were captured, and to focus on the points on which the UPR will concentrate. The report submitted by the Commission to the United Nations Human Rights Council is posted on its website (www.nhrc.nic.in).

13.25 Broadly speaking, while there have been many successes, much remains to be done, including on the 18 recommendations made at the first UPR to the Government of India. The NHRC, on its part, will continue to monitor the full range of human rights on the basis of complaints received and on *suo motu* cognizance. The issues it monitors and the recommendations it makes go well beyond those of the first UPR, which addressed a narrow band of problems. However, since the second UPR will assess the Government’s performance on those, NHRC-India’s submission to UNOHCHR focuses on them, which the United Nations should not ignore.

⁸ Each State review is assisted by a group of three States, known as “troikas”, who serve as Rapporteurs. The selection of the troika for each State review is done through a drawing of lots prior to each Working Group session.

D. Technical Support Rendered by NHRC-India to NCHR of Rwanda

13.26 The Joint Registrar (Law), NHRC and Technical Director, National Informatics Centre (NIC) visited the National Commission for Human Rights (NCHR) of Rwanda from 19 to 30 September 2011 for installation of complaint management system (CMS) there.

E. NHRC-India Participation in International Meetings, Seminars and Workshops

13.27 During the year 2011-2012, the Commission and its officials participated in the following meetings, seminars and workshops:

13.28 An officer participated in the 18th South Asia Teaching Session (SATS) on International Humanitarian Law (IHL) held in Nepal from 19 to 27 April 2011.

13.29 A delegation headed by Member of NHRC-India and comprising Members of other National Commissions participated in the IXth International Conference of Ombudsman on 'Cultural Rights of National Minorities and Migrants: Legal Aspects and Implementation' in Baku, Azerbaijan from 16 to 18 June 2011.

13.30 The Joint Secretary (P&A), attended a Validation Workshop to finalize the Handbook on Reproductive Rights for NHRIs prepared by the Danish Institute for Human Rights and supported by the United Nations Population Fund (UNFPA) at New York, U.S.A. from 27 to 28 September 2011.

13.31 A Senior Superintendent of Police participated in the Regional Training Workshop on the Rights of Migrant Workers from 17 to 21 October 2011 in Bangkok, Thailand.

13.32 The Joint Secretary (Training) participated in a Seminar on Universal Periodic Review for Commonwealth Member States held at Marlborough House in London, United Kingdom on 24 & 25 October 2011.

13.33 The Joint Secretary (P&A) attended the Experts International Seminar on Relationship between National Human Rights Institutions and Parliaments held at Belgrade, Serbia on 22 and 23 February 2012.

F. Interaction with Foreign Delegates in the Commission

13.34 The following individuals/delegations visited NHRC-India during 2010-2011:

- Mr. Jaime Nualart, the Ambassador of Mexico and Mr. Vladimir Vaggner, Second Secretary of Mexico visited NHRC-India on 11 April 2011 and held a discussion on the role of human rights and the strengthening of the rule of law in democratic regimes.
- A delegation from Afghanistan Independent Human Rights Commission (AIHRC) visited the Commission on 6 May 2011 for signing a Memorandum of Understanding with the National Human Rights Commission of India and

the United Nations Development Programme on capacity building and technical assistance pertaining to specific areas of interest in Afghanistan.

- A delegation from Bangladesh National Human Rights Commission, comprising the Chairperson, one full-time Member and five Honorary Members visited NHRC-India from 25 to 27 May 2011 and exchanged views on common areas of concern especially on issues relating to human rights and information on the role, function and activities of NHRC-India.
- A delegation from Myanmar consisting of human rights activists visited NHRC-India on 30 August 2011 as part of their tour to NHRIs in the Asia Pacific region for garnering support to constitute a Commission of Inquiry in Myanmar on account of excessive violations of human rights committed on its people.
- A five-member delegation from Ethiopian Human Rights Commission visited NHRC-India on 22 and 23 September 2011 to gain knowledge about investigation skills, monitoring and research issues.
- A delegation from China consisting of lawyers, legal researchers, academicians and professors along with Justice Shri D.K. Basu, Chairman, National Committee for Legal Services and two senior programme officials from the Danish Institute of Human Rights, Copenhagen visited NHRC-India as part of a study tour on 22 October 2011.
- Ms. Krisztina Morval, Member of European Parliament visited NHRC-India on 17 February 2012.

STATE HUMAN RIGHTS COMMISSIONS

14.1 Section 21 of the Protection of Human Rights Act, 1993 (PHRA) provides for constitution of State Human Rights Commissions (SHRCs) in all the States. The existence and functioning of SHRCs along with the NHRC will definitely go a long way in 'better' protection and promotion of human rights. It is now an accepted fact that good governance and human rights go hand in hand. There is, therefore, an inherent need to foster closer interaction between the NHRC and SHRCs as well as evolving joint strategies by them to achieve the common objective of protection and promotion of human rights. There is also a need to coordinate and converge the efforts of not only the NHRC and SHRCs but also the local bodies such as Panchayats and civil society organizations to create a culture of human rights in the country. Accordingly, it is important that all the State Governments should take suitable steps to strengthen their respective SHRCs. Merely setting-up of SHRCs would not serve the desired purpose unless they are provided adequate manpower and infrastructure to facilitate their functioning.

A. Status of SHRCs

14.2 So far, 21 States have set-up their own SHRCs. The names of these States are – Assam, Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Karnataka, Kerala, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh and West Bengal. The Government of Uttarakhand has issued a notification to establish SHRC in the State. In Himachal Pradesh, except for a Secretary; Chairperson and Members have not been appointed. Information has been received from the Government of Sikkim about the constitution of the SHRC along with notification of the appointment of Chairperson and Secretary. Chairperson of NHRC has written to the Chief Minister of Himachal Pradesh and Chief Ministers of all those States where either SHRC has not been set-up or fully constituted.

14.3 NHRC is keen that SHRCs are set up in each State so that the people of these States have easy access to justice as SHRCs can play a vital role in assisting the State Governments in fulfilling their constitutional obligations. The Commission has urged all those States which have not yet constituted SHRCs to do so at the earliest in the interest of better protection and promotion of human rights.

14.4 On its part, the Commission has taken the initiative to hold regular interactions and meetings with the SHRCs for exploring future possibilities of cooperation and partnership in improving the human rights scenario of the country. For instance, the NHRC

has been assisting SHRCs in providing material and resource persons for the training of their personnel in the area of human rights. In addition, it is facilitating the SHRCs to streamline their complaint management system for expeditious disposal and effective tracking of complaints. For this purpose, the NHRC has provided financial assistance to the SHRCs.

B. Constitution of a Committee by NHRC for Better Functioning of SHRCs

14.5 In order to look into key issues of concern pertaining to SHRCs, a Committee on SHRCs has been constituted by the NHRC. Its first meeting was held in the Commission on 22 July 2011. In this meeting, three key issues of concern were discussed – infrastructure, manpower and financial requirements of SHRCs. The recommendations of the Committee are as follows:

i) Infrastructure

14.6 Each SHRC must be provided by the concerned State Government minimum essential infrastructural facilities consisting of an independent building; with adequate space to meet present as well as future requirements; it should be centrally located and well-connected by public transport; easily accessible to public; and should be disabled-friendly with provision for ramps, lifts and other facilities to enable easy access to those with disabilities.

14.7 Each SHRC should further have a uniform minimum organizational structure, such as an Administration Division, Law Division, Investigation Division, and Training & Research Division, for effective discharge of its mandate under the PHRA.

ii) Manpower

14.8 Every SHRC should have a basic, standardized, minimum staff structure for each of the four Divisions mentioned above. For example, the PHRA provides for the post of the Secretary to the State Government who shall be the Secretary of the State Commission. In addition, there should be a post of a Joint Secretary, Under Secretaries (2), Section Officers (3), Assistants (8), Multi-Tasking Staff (8), Stenographers (3), and one Private Secretary to Joint Secretary. The Accounts Section should be a part of the Administration Division and should consist of a Senior Accounts Officer, Accountants (2), and Multi-Tasking Staff (2). Correspondingly, the Law Division should have a Registrar, Deputy Registrars (2), Assistant Registrars (4), Assistants (8), Multi-Tasking Staff (8), and Stenographers (7). The Investigation Division should be headed by an officer not below the rank of Inspector General of Police. Besides, there should be Superintendents of Police (2), Deputy Superintendents of Police (4), Inspectors (8), Police Constables (16), Stenographers (3), and Multi-Tasking Staff (4). The Training and Research Division should be headed by a Joint Secretary, Senior Research Officers (2), Research Officers (4), Assistants (8), Multi-Tasking Staff (8) and Stenographers (3). The Library consisting of a Librarian, an Assistant Librarian and Multi-Tasking Staff (2) should be part of the Training and Research Division.

iii) Financial Requirements

14.9 The State Government must make a budgetary allocation covering the total salary expenses of the SHRC for all the posts, including provisions for likely annual hikes in Dearness Allowance, etc. Moreover, to help SHRC discharge its functions as assigned under Section 12 of PHRA, the State Governments must provide an amount, at least the equivalent of the salary outlay to the SHRCs.

C. Collaborative Programmes between NHRC and SHRCs

14.10 During the period under review, the NHRC organized four regional consultations in partnership with the SHRCs of Punjab, Rajasthan, West Bengal and Assam with the objective of evolving a broad consultation process with all relevant stakeholders about the existing human rights situation in the country and in the process know from them about the progress of the follow-up action to the preceding Universal Periodic Review (UPR), before it finally prepared and submitted its paper to the UN Human Rights Council for India's second UPR. It also extended invitation to SHRCs for participation in other national level seminars, conferences and workshops on different themes organized by the Commission.

OTHER MECHANISMS

A. Special Rapporteurs

15.1 The system of having Special Rapporteurs is to facilitate the NHRC in discharging responsibilities mandated to it. This continued during the period under report. Special Rapporteurs are senior officers who, prior to their retirement, have served as Secretaries to the Government of India or Directors General of Police or have done exemplary service in a human rights related field. They are either assigned specific subjects to deal with, such as bonded labour, child labour, custodial justice, disability, etc., or a zone comprising of a group of States/Union Territories to look into human rights concerns and violations.

15.2 During 2011-2012, Shri Damodar Sarangi, Special Rapporteur, East Zone – I visited Dum Dum Central Correctional Home in Kolkata (West Bengal) from 19 to 22 June 2011. The detailed report of his visit is posted on NHRC's website – www.nhrc.nic.in, under the head 'Reports'. Similarly, Shri P.K. Pincha, Special Rapporteur on Disability visited the States of Gujarat from 25-28 May 2011 and Odisha from 17-20 August 2011 to monitor the implementation of "Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995". The detailed reports of his visits are also posted on the Commission's website - www.nhrc.nic.in, under the head 'Reports'.

15.3 Likewise, Dr. L. Mishra, Special Rapporteur, NHRC visited the Institute of Mental Health, S.C.B. Medical College, Cuttack from 4 to 5 July 2011 to review its functioning. A copy of his visit report along with observations was forwarded to the State Government on the directions of the Commission.

B. Core and Expert Groups

15.4 Core and Expert Groups consist of eminent persons or representatives of bodies working on different human rights issues, who voluntarily agree to serve, in an honorary capacity, as Members of such Groups. These Groups render expert advice to the Commission. Some of the important Core and Expert Groups currently functioning in the Commission are:

- Core Advisory Group on Health
- Core Group on Mental Health
- Core Group on Disability

- Core Group of NGOs
- Core Group on Legal Issues
- Core Group on Right to Food
- Core Group on Rights of Elderly Persons
- Expert Group on Silicosis

15.5 The details of meetings convened by some of the above Core and Expert Groups have been given in preceding chapters of the Annual Report under the related human rights issue. These details can also be seen on the Commission's website – www.nhrc.nic.in under the head 'Core Groups'.

C. Non-Governmental Organizations

15.6 In pursuance of Section 12 (i) of the PHRA, 1993, as amended in 2006, the NHRC since its inception has been encouraging the efforts of non-governmental organizations (NGOs) and civil society organizations working in the field of human rights. The NHRC in association with credible NGOs and civil society organizations has undertaken many projects including human rights awareness programmes. It is of the firm view that the promotion and protection of human rights cannot gain momentum without the full cooperation between the Commission, NGOs and civil society organizations. The Commission regards them as its important allies and honest critics. This cooperation has proven to be extremely valuable, both for the Commission and for the NGOs, reinforcing mutual understanding and building their capacity to work together in furtherance of human rights across the country. Together with the Special Rapporteurs appointed by the Commission, the NGOs have provided a "multiplier effect" to the efforts of the NHRC, increasing its visibility and reach.

15.7 In order to facilitate its interaction with the NGOs and civil society organizations, the Commission constituted a Core Group of NGOs in July 2001. This Core Group was reconstituted in October 2006 and some new members were subsequently included in November 2006, August 2008 and September 2008. The members of the Core Group are representatives of leading NGOs and civil society organizations working primarily in the field of human rights. The Core Group of NGOs was again reconstituted in the Commission on 16 September 2011 with 11 members.

15.8 During the period under review, the NHRC organized a meeting of its NGO Core Group on 10 February 2012 in New Delhi under the chairmanship of Justice Shri K.G. Balakrishnan, Chairperson NHRC. Speaking on the occasion, he said that the Commission was committed to further improve its work with a renewed focus towards realization of economic, social and cultural rights within the scope of PHRA and was open for constructive criticism.

15.9 The Members of the Core Group appreciated the work being done by the Commission. They said that NHRC-India was, perhaps, the only institution in the world which was recommending much monetary relief to the victims of violation of human rights and compliance with its recommendations by public authorities was also very good. This achievement needed to be properly projected. Several issues relating to various aspects of human rights and awareness thereof, strengthening of SHRCs, complaint redressal system, hunger strike of Ms. Irom Chanu Sharmila, a Manipuri activist, right of rehabilitation of victims of torture and implementation of UN Convention on the Rights of Persons with Disability, hereditary and caste bondage, untouchability, child's right to quality care, ratification of the UN Convention against Torture by the Government of India and NHRC's role in promoting human rights education in schools were discussed during the meeting.

D. NHRC-India Statement on Media Release of AiNNI Report

15.10 NHRC-India was not happy to notice that a group of NGOs, under the banner of All India Network of NGOs and individuals, AiNNI, on account of some misconceptions had lowered the prestige of the country in the eyes of the world community by asking the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) to downgrade a national institution like NHRC-India which has "A" accreditation status for its credibility as a human rights organization. This was propagated despite the fact that NHRC-India is the most empowered autonomous and independent statutory NHRI in the world and is also recognized as such globally.

15.11 The report prepared by these NGOs on NHRC-India and released in New Delhi at a press conference by Justice Shri J.S. Verma, former Chairperson, NHRC and in Mumbai by Justice Shri H. Suresh, a former High Court Judge, and also reported in a section of media was misleading as it misrepresented the facts. The Commission was disappointed to see that its former Chairperson associated himself with the release of a report on NHRC-India which criticized his period of tenure as well for not doing enough to protect human rights.

15.12 The NHRC-India scrupulously adheres to the provisions of section 12 (i) of the Protection of Human Rights Act, 1993 and has a mechanism in place for having periodical consultations with the NGOs on vital human rights issues in not only generating awareness, but also in assessing human rights scenario. The Commission organizes meetings with its NGO Core Group members more frequently than ever before despite a lukewarm response from them. It has also been taking steps to ensure the safety of human rights defenders, who mostly include active members of the civil society and has set-up a focal point for them within the Commission.

15.13 It is strange that some people behind AiNNI and criticizing NHRC-India are also Members of its NGO Core Group. They have been repeatedly requested to contribute for developing a National Human Rights Action Plan on which the NHRC-India is working, but none of them have made any significant contribution. Despite invitations from NHRC-

India on many occasions, these NGOs failed to turn up to its national level seminars, workshops and consultations on many important human rights issues. This shows that they are only interested in criticizing NHRC-India in order to distort public perception and faith in it.

15.14 During the last 17 years of its existence since 1993, the NHRC-India has emerged as one of the leading institutions in the Asia Pacific Region by virtue of its interventions, recommendations and proactive approach in matters of human rights violations. This fact well recognized by the international bodies, including the ICC which accredited NHRC-India with 'A' status in 2006. The U.N. High Commissioner for Human Rights, Ms. Navanethem Pillay, during her visit to India recently, also appreciated the NHRC-India for its work.

15.15 The Commission has succeeded in getting human rights education included in the curriculum of universities, colleges and schools and also in government training institutes. This is an ongoing effort, which is being pursued with vigour and commitment.

15.16 The rising number of complaints on human rights violations only proves the fact that awareness is growing about NHRC-India's work and the faith the people have in it. Most of the recommendations made by NHRC-India are implemented by the public authorities. Its recommendations on issues like bonded and child labour, torture, narco-analysis, mental health, manual scavenging, silicosis, endosulfan, rights of physically challenged, displacement of people due to riots or industrialization, encounter and custodial deaths, etc., have made significant impact. The Government of Odisha on the recommendations of the Commission recently abolished age old 'Bartan' system which is a kind of bonded labour.

15.17 The Commission also resorted the practice of camp sitting during 2010-2011 and held two sittings for Southern States of Karnataka at Bengaluru and for Odisha at Bhubaneswar for on the spot disposal of long pending cases.

15.18 During the year 2010-2011, the Commission disposed off 87,568 cases, out of which in 583 cases monetary relief to the tune of ₹19, 86, 55,500 was recommended for payment to the victims or next of kin of the deceased. During the year 2009-2010, the Commission had disposed off 85,587 cases, out of these in 398 cases, monetary relief to the tune of ₹ 6,29,33,000 was recommended as payment to the victims/next of kin of the deceased. During the year 2008-2009, the Commission disposed off 1,03,996 cases, out of which in 373 cases, it recommended monetary relief amounting to ₹ 5,02,49,000 to the victims or next of kin of the deceased.

15.19 The Commission has been instrumental in persuading States to set-up Human Rights Commissions and twenty States have set-up their State Human Rights Commissions. The Commission functions and acts as per its mandate and powers conferred upon it by the Protection of Human Rights Act, 1993 passed by the Parliament. However, dispelling the

perception that the complaints on human rights violations in Jammu & Kashmir do not fall in the purview of the NHRC, the Commission, for the first time, recently gave a clear interpretation to the Act explaining that NHRC-India has a role in facilitating good governance in the State for protection and promotion of human rights and to that extent it has jurisdiction in the State of Jammu & Kashmir also.

15.20 The Commission is making efforts to impress upon the Government to have in place a new Act for the people with disabilities conforming to the UNCRPD.

ADMINISTRATION AND LOGISTIC SUPPORT

A. Staff

16.1 As on 31 March 2012, 301 employees were in position against the total sanctioned strength of 343 comprising all ranks. NHRC over the years has taken recourse to several methods for selection of personnel and for developing and building a cadre of its own. These methods include direct recruitment, re-employment, deputation and contractual appointment.

B. Use of Official Language

16.2 The Official Language Section of the Commission is assigned the work of translation of the monthly newsletter, Annual Report, budget report, budget documents, RTI applications, publications of the Commission apart from circulars, notices issued in the NHRC. In addition, Hindi Section of the Commission has been undertaking other activities for increasing awareness of Human Rights using the medium of official language, Hindi.

16.3 In its efforts towards creating awareness of human rights among the masses in Hindi, the Commission has been organizing National Seminars in Hindi in different parts of the country. In continuation of this tradition, three National Seminars of two-day duration each were organized in Mysore Kolkata and Tezpur on 03 - 04 October, 26 - 27 December 2011 and 12 - 13 March 2012 respectively. The theme of the Seminar organized in Mysore was “Good Governance, Human Rights and Judiciary”, that organized in Kolkata was “Development, Human Rights and Executive” and the one organized in Tezpur was on “Education, Society and Human Rights”. These seminars were attended by distinguished personalities, academicians, officials of State Governments, SHRCs and representatives of non-governmental organizations. Further, to promote the use of Hindi language in the Commission in its day to day working, the Section organized an Annual Hindi Fortnight from 1 to 14 September 2011. The officers and staff of the Commission actively participated in the debate, quiz, essay competition and other programmes organized on the occasion for the promotion of Hindi language.

16.4 The Section has also introduced the scheme of ‘Biennial Award on Human Rights in Hindi’. The main objective of the scheme is to encourage original writing in Hindi on various subjects of Human Rights. Under the scheme, on 14 September 2011, awards were presented to six authors for original books/manuscripts in Hindi on Human Rights for the year 2008 and 2009. An award was also given to one translator for translation of a book in Hindi from other Indian language.

16.5 The Section is responsible for bringing out a Hindi journal 'Nai Dishayain' every year. The eighth edition of the Hindi journal prepared by the Section was released on 10 December 2011.

C. NHRC Library

16.6 The NHRC Library was established in the year 1994 to facilitate research and provide a base for reference primarily for the Members and the officials of the Commission. With the passage of time, NHRC has upgraded its Library by creating a specialized Documentation Centre. This Centre has facilitated in enhancing and retrieving information through computer and internet facility. Database of books, documents and articles is available on INTERNET & INTRANET for wider use of readers. On account of its rich collection of books and journals, the NHRC Library is very popular with students, research scholars and other readers working in the area of human rights.

16.7 The Library has about 21,030 books and back issues of important national and international journals. It also has a collection of 341 CDs, DVDs and Cassettes. It subscribes to 53 journals, 105 serial publications, 32 magazines and 23 national & regional newspapers. The library thus has an extensive assortment of books and documents covering a wide spectrum of human rights and related subjects.

16.8 During 2011-2012, a total of 812 books on human rights were added to the collection of the Library. The new acquisition covers a wide range of subjects that includes human rights, rights of women, rights of children, bonded and child labour, terrorism, torture, reproductive rights, tribes and dalits, poverty, displaced persons & their rehabilitation and other related subjects.

16.9 The Library is also equipped with SCC Online Supreme Court Case Finder CD-ROM with Central Legislation), AIR InfoTech containing AIR Supreme Court Cases from 1950 to 2011; AIR Cases High Courts from 1950-2011; AIR Privy Council 1914-1950 and Criminal Law Journal from 1950-2011. Besides, the NHRC Library is equipped with Library Management System Software Package (E-Granthalaya) developed by National Informatics Centre (NIC), New Delhi.

16.10 E- Granthalaya Open Public Access Cataloguing has been specially designed for quickly ascertaining the availability and location of any available book or document in the Library through access for retrieval on the basis of 'Author, Title, Subject, Keyword and Publisher'.

16.11 The Library is an institutional Member of British Council Library and DELNET (Developing Library Networking, New Delhi) which facilitates resource sharing amongst the libraries. NHRC Library has close cooperation with others Libraries through Inter-Library Loan facilities whereby books, documents and journals can be borrowed.

16.12 A new 'Indexing Service' was initiated by the Library in 2007-2008 known as "Current Contents". It gives details of articles from journals received in the Library. Software DOCLIB is also being used in the Library. Usage of this software has enabled the Members, Senior Officers of the Commission and others who visit the Library to access information which is being published on issues relating to Social Sciences and Human Rights.

16.13 Bibliographic service has also been introduced in the Library covering international covenants, centre/state legislations, judicial cases (Supreme Court and High Courts), cases pertaining to NHRC and guidelines given by it from time to time. Bibliography on bonded labour, child labour, disability, mental health, juvenile delinquency, migrant workers, manual scavenging, older persons, prisons and prisoners, refugees, right to food, right to development, terrorism, torture, trafficking in women & children and transplantation of human organs has also been prepared and posted on the webpage of the Commission (<http://www.nhrc.nic.in>) for the readers with related links.

D. Right to Information

16.14 The National Human Rights Commission has institutional arrangement for answering RTI queries since the implementation of the Right to Information Act in the year 2005. The Information and Public Relations Officer of the Commission is the Public Information Officer and the Joint Secretary (P&A) is the 1st Appellate Authority under the RTI Act.

16.15 Details of applications and appeals received under the RTI Act during the period 1 April 2011 to 31 March 2012 are indicated below:

1.	No. of applications received	2,470
2.	No. of applications disposed off within 30 days	2,431
3.	No. of applications pending but disposed of beyond one month	----
4.	No. of applications pending but are within one month	39
5.	No. of applications transferred to other Ministries/ Departments/Organizations	175

Details of 1st Appeals

1.	No. of appeals received by the Appellate Authority	112
2.	No. of such appeals disposed off within one month	112
3.	No. of appeals pending	--

Details of 2nd Appeals with C.I.C.

1.	No. of notices received from C.I.C.	03
2.	No. of hearings attended by C.P.I.O./Appellate Authority	03
3.	No. of hearings in respect of which compliance report submitted to C.I.C.	03
4.	No. of hearings in respect of which compliance report not submitted to C.I.C.	Nil

SUMMARY OF PRINCIPAL RECOMMENDATIONS AND OBSERVATIONS

17.1 Ever since the NHRC came into existence on 12 October 1993, the protection and promotion of civil and political rights as well as economic, social and cultural rights has remained the focus of the Commission. On all of these matters, the Commission has been making determined efforts to prevent violation or neglect of human rights occurring anywhere in the country. The enormous increase in the number of complaints indicates the awareness of human rights among the people and the confidence they have in the Commission (**para 1.6**).

17.2 During the period under review, the NHRC as a national institution continued to address all these rights and related challenges. The action taken by the Commission on various human rights related issues have been detailed in the chapters that follow. These chapters deal, *inter alia*, with range of civil liberties, including protection of human rights in areas affected by terrorism and militancy; custodial violence and torture including deaths in custody and ‘encounter’; and conditions in prisons. The report also deals with issues such as the right to health; the right to food; the right to education; the rights of Scheduled Castes, Scheduled Tribes and other vulnerable groups like rights of women and children or the rights of elderly persons; the effort to inculcate human rights awareness and literacy; and role played by it to encourage the efforts of State Human Rights Commissions and non-governmental organizations. The report also focuses on human rights defenders. Each of the above issues dealt with in the present Annual Report covers cases of human rights violation reported to the Commission for adjudication (**para 1.7**).

Number and Nature of Complaints

17.3 As in the past, the Commission received a wide range of complaints relating to human rights violations from different parts of the country. These complaints included cases alleging custodial deaths, torture, fake encounters, police high-handedness, violations committed by security forces, conditions relating to prisons, atrocities committed on women and children and other vulnerable sections, bonded and child labour, negligence by public authorities, etc. The Commission also took *suo motu* cognizance of incidents pertaining to violation of human rights based on reports in print and electronic media as well as visits undertaken by its Chairperson, Members and Special Rapporteurs (**para 2.4**).

Human Rights Violation Cases

17.4 During 2011-2012, 95,174 cases were registered in the Commission (Annexure-1), 92,942 cases including cases of previous years were disposed off during the period under

review. Of the total number of cases disposed off by the Commission, 48,913 were dismissed '*in limini*' while 13,214 were disposed off with directions to the concerned authorities for taking remedial measures. A total of 24,055 cases were transferred to the State Human Rights Commissions (SHRCs) for disposal in accordance with the provisions of the PHRA. The details of State/Union Territory-wise cases disposed off by the NHRC are given in Annexure-2. At the end of the reporting period, i.e. on 31 March 2012, the total number of cases pending with the Commission was 15,090 which included 1,533 cases awaiting preliminary consideration and 13,557 cases in respect of which reports were either awaited from the authorities concerned or the reports had been received but were pending further consideration of the Commission (Annexure-3) **(para 2.5).**

Preventing Custodial Violence

17.5 The NHRC received 1,302 intimations about deaths in judicial custody⁸, 129 intimations regarding deaths in police custody and two intimations regarding deaths in para-military/defence forces custody during the period under review. It disposed off 1,571 cases of custodial deaths – comprising 1,364 cases of deaths in judicial custody, 204 cases of deaths in police custody and three cases of deaths in para-military/defence forces custody. These figures also include cases of previous years (para 2.10).

Inspection of Jails and Correctional Homes

17.6 A Member, one of the Special Rapporteurs, Director General (Investigation), Joint Secretary (P&A) and officers from the Investigation Division of the Commission visited District Jail Durg in Chhattisgarh; Dum Dum Central Correctional Home in Kolkatta, West Bengal; Raipur Central Jail in Chhattisgarh; Dasna Jail in District Ghaziabad and District Jail Hardoi in Uttar Pradesh; Central Jail in Chennai, Tamil Nadu and Central Jail in Puducherry. The main objective of the visits was to inspect the functioning of these institutions and study the human rights situation of the inmates therein **(para 2.11).**

Spot Investigations

17.7 During the period, the Commission directed its Investigation Division to conduct spot investigations in 60 cases of alleged violations of civil and political rights and economic, social & cultural rights. These cases related to custodial deaths/rapes; sexual harassment by policemen; custodial torture; false implication; illegal detention; bonded and child labour; atrocities on scheduled castes, scheduled tribes, and other disadvantaged groups; medical negligence and lack of proper medical facilities in Government hospitals, death due to negligence of various State authorities; inhuman conditions in jails and homes for children **(para 2.12).**

⁸ In the Annual Report, judicial custody means persons in jails as per the orders of the court.

Recommendations of NHRC for Monetary Relief and its Compliance

17.8 During the period from 1 April 2011 to 31 March 2012, the NHRC recommended ₹15,58,64,000 as payment of monetary relief to the victims/next of kin of the deceased in 592 cases. Compliance reports were received in 331 cases and a total amount of ₹6,93,54,000 was reportedly disbursed to the victims/next of kin of the deceased. The State/Union Territory-wise details of these cases are at Annexure-4 (**para 2.35**).

17.9 The NHRC is awaiting compliance reports in 261 cases wherein monetary relief amounting to ₹8,65,10,000 has been recommended (Annexure-5) (**para 2.36**).

17.10 As regards, compliance reports relating to cases pertaining to previous years, intimation has not been received in 58 cases (**Annexures 6 & 7**). The details of these cases have been reported in earlier Annual Reports of NHRC (**para 2.37**).

Custodial Violence and Torture

17.11 Custodial violence is a calculated assault on the dignity of the victim. The Commission remained continually engaged in efforts to end the egregious violations of human rights that result in custodial deaths. A concerted effort to curb custodial violence has been one of the main priorities of the Commission. In accordance with its guidelines, the agencies of the States have, by and large, been prompt in informing the Commission, within 24 hours, of any occurrence of death in custody. However, the subsequent reports like inquest report, post-mortem report, magisterial enquiry report, etc. are not being received promptly in many cases (**para 4.1**).

17.12 It is pertinent to note that not all the cases of custodial deaths can be attributed to custodial violence or medical negligence. In fact, many of these deaths are due to natural causes, such as illness and old age. In the remaining cases, there are a variety of reasons including illness aggravated by medical negligence, violence by public servants or clash between prisoners, suicide, etc. During the year 2011-2012, NHRC received 1,302 intimations about deaths in judicial custody, 129 intimations regarding deaths in Police custody and two intimations regarding deaths in para-military/defence forces custody. It disposed off 1,571 cases of custodial deaths – comprising 1,364 cases of deaths in judicial custody, 204 cases of deaths in Police custody and three cases of deaths in para-military/defence forces custody (**paras 4.2 & 4.3**).

National Seminar on Prison Reforms

17.13 The recommendations on 'Prison Reforms' were forwarded to all the States and Union Territories for compliance. So far, the Commission has received responses from 14 States and 3 Union Territories. The names of these States and Union Territories are, Assam, Andaman & Nicobar Islands, Chandigarh, Chhattisgarh, Daman & Diu, Goa, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Manipur, Meghalaya, Mizoram,

Rajasthan, Uttar Pradesh & West Bengal. The Commission trusts that these recommendations will be adhered to by the remaining States and Union Territories, who have so far not responded (**para 4.220**).

Silicosis

17.14 In order to draw the attention of the Government and the parliamentarians towards the inhuman conditions faced by all those ailing from silicosis including their immediate family members, the Commission also prepared a Special Report on Silicosis and forwarded it to the Ministry of Home Affairs, Government of India for laying it in the Parliament (**para 5.9**).

Endosulfan

17.15 The Commission continues to monitor the steps taken by all concerned for providing compensation, treatment and rehabilitation of people affected by adverse effects of aerial spraying of endosulfan pesticide in Kasaragod District of Kerala. In 2011-2012, to review the steps being taken by all stakeholders, the Commission organized a series of meetings with the Secretaries of the concerned Union Ministries and Health Secretary of Government of Kerala. In these meetings, the Commission expressed its deep concern about the insensitive approach of the Government of Kerala towards the people affected by endosulfan. It was also reiterated that the responsibility to provide compensation and medical care to the affected victims lay with the State Government and stressed on expeditious action (**paras 5.10 & 5.11**).

Fluorosis

17.16 Deeply concerned about the health dimensions of fluorosis, a painful, crippling malady, affecting multiple tissues, organs and system, the Commission continued to monitor the implementation of its recommendations on the issue. The Commission had recommended to the Union Ministry of Health and Family Welfare to give a directive to the Medical Council of India (MCI) to include 'fluorosis' in the training of medical interns, which in turn would enable MCI to send a circular to all medical colleges. It was brought to the notice of the Commission that even today, medical students are not aware of its identification, effect and treatment in the absence of the subject from the teaching curriculum of medical colleges. The Commission therefore asked the Union Ministry of Health and Family Welfare to direct the MCI to incorporate fluorosis in the teaching curricula of medical students so that the graduating doctors are fully aware of the severity, diagnosis and treatment of this painful and crippling disease (**para 5.13**).

NHRC Statement on Proposed Taxes on Healthcare Services

17.17 It was brought to the notice of the Commission through media reports that the Government of India proposes to introduce a five per cent service tax on healthcare services

thereby bringing the diagnostic services and hospitals having twenty-five beds or more with centralized air conditioning system in the tax net. It was also reported that the excise duty on the medicines is proposed to be increased from four to five per cent which may make the medicines costlier thus affecting the common man. In addition to this, for the first time, the traditional medicines were being proposed to be brought within the ambit of excise duty. The NHRC hopes that the Government may not go ahead with any such proposal which would affect the healthcare of the common man. The Commission is of the view that any tax, adversely affecting the human rights of the poor and the needy should not be imposed (**paras 5.21, 5.22 & 5.24**).

National Seminar on Elimination of Bonded Labour

17.18 On the basis of extensive deliberations held in the Seminar, 11 recommendations were made and sent to all concerned for compliance. The Commission is hopeful that all its recommendations have been complied with in bonded and child labour prone States/Union Territories (**para 7.17**).

Review of International Convention on Migrant Workers

17.19 The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW) is a significant advancement in the protection of the human rights of migrant workers and their families. It was adopted by the United Nations General Assembly in Resolution 45/158 on 18 December 1990. It came into force on 1 July 2003. The primary objective of the Convention is to foster respect for the human rights of the migrants who are not only workers, but also human beings. The Government of India has so far not signed the United Nations ICMW. The Commission examined the ICMW and wrote to the Ministry of Labour in September 2011 with a view that the Convention should be signed and ratified by the Government of India in the interest of protection of the human rights of the migrant workers and their families (**paras 7.27 & 7.28**).

Comments of NHRC on 2011 Draft National Policy for Children

17.20 The Commission hopes that the comments given by it on 2011 draft National Policy for Children will be suitably incorporated in the final revised Policy by the Ministry of Woman and Child Development, Government of India (**para 8.18**).

Comments of NHRC on MWCD's Final Draft Concerning Fourth and Fifth Combined Periodic Report on CEDAW

17.21 The Commission trusts that the issues relating to promotion and protection of rights of women highlighted by it would be duly reflected in the final Fourth and Fifth Combined Periodic Report on CEDAW and the Ministry of Women and Child Development would also submit the report on time to the CEDAW Committee (**para 8.21**).

Rights of Elderly Persons

17.22 The Commission's involvement in respect of rights of the elderly persons initially began with acting upon complaints received from them. However, its involvement increased substantially in 2000 when it participated in the work of the National Council for Older Persons constituted by the Ministry of Social Justice & Empowerment and commented on its Action Plan (2000-2005) in relation to the implementation of the National Policy on Older Persons. From that year onwards, the Commission has kept close contact with groups and organizations working for the rights of elderly persons and has been forwarding suggestions to the Union Government as and when necessary. For example, the Commission sought the response of Ministry of Health & Family Welfare with regard to provision of separate queues for older persons in hospitals. The concerned Ministry, on its part, circulated the recommendation for the provision of separate queues for older persons in hospitals to all States and Union Territories. The Commission has also expressed its concern over the plight of elderly persons belonging to economically weaker sections of society in the unorganized sector (**para 9.4**).

Socio-economic Census

17.23 Persons with disability routinely face violation with regard to their basic rights such as food, housing, education, health and work. As a consequence, they suffer from poverty, malnutrition and chronic illness. It is an established fact that poverty and disability are closely inter-related. Persons with disabilities have to incur higher expenses in terms of assistive devices, medical, transport and other expenses to carry out their routine activities, which has a negative impact on their disposable income. It was brought to the notice of the Commission that in the Socio-economic Census conducted by the Ministry of Rural Development, Government of India, the methodology used to identify Below Poverty Line (BPL) families, encompassed all those households having any disabled member and no able-bodied adult member. The adopted methodology, the Commission felt, made use of a deprivation indicator for inclusion of a household. The Commission's view was that if the head of the family is found to be disabled, the family should be included in the BPL category, provided the income ceiling is raised slightly than the recommended level under the exclusion criteria of BPL families. It is accordingly recommended to the Union Ministry of Rural Development to consider the suggestion made by the Commission and revise the BPL criteria to protect the rights of persons with disabilities (**paras 10.3 & 10.4**).

Monitoring Preparation of Country Report on Rights of Persons with Disabilities

17.24 Under the United Nations Convention on Rights of Persons with Disabilities (UNCRPD), the Government of India has an obligation to submit its first Country Report before the United Nations Committee on the Rights of Persons with Disabilities. In the year

under review, the Commission was asked to give its comments on the draft of the first Country Report prepared by the Government of India. Besides, it was invited to participate in a two-day conference especially organized by the Union Ministry of Social Justice and Empowerment on the given issue. The Commission, on its part, reviewed the Country Report and conveyed its observations to the Ministry. The Commission trusts that the observations made by it would be included in the Country Report being prepared by the Ministry of Social Justice and Empowerment, Government of India (**paras 10.5 & 10.6**).

NHRC's Course of Action for Protection of Human Rights Defenders

17.25 The Commission has always extended its support for the cause of promotion and protection of human rights and has denounced the acts of reprisal, harassment, etc. against persons who fight for this cause. In fact, one of the most important aspects of civilian safeguard that has been taken up by the Commission is the protection of the rights of human rights defenders (HRD), which it will continue to pursue (**para 12.8**).

Second Universal Periodic Review -- NHRC-India's Submission to UN Human Rights Council

17.26 Broadly speaking, while there have been many successes, much remains to be done, including on the 18 recommendations made at the first UPR to the Government of India. The NHRC, on its part, will continue to monitor the full range of human rights on the basis of complaints received and on suo motu cognizance. The issues it monitors and the recommendations it makes go well beyond those of the first UPR, which addressed a narrow band of problems. However, since the second UPR will assess the Government's performance on those, NHRC-India's submission to UNOHCHR focuses on them, which the United Nations should not ignore (**para 13.25**).

State Human Rights Commissions

17.27 Section 21 of the Protection of Human Rights Act, 1993 (PHRA) provides for constitution of State Human Rights Commissions (SHRCs) in all the States. The existence and functioning of SHRCs along with the NHRC will definitely go a long way in 'better' protection and promotion of human rights. It is now an accepted fact that good governance and human rights go hand in hand. There is, therefore, an inherent need to foster closer interaction between the NHRC and SHRCs as well as evolving joint strategies by them to achieve the common objective of protection and promotion of human rights. There is also a need to coordinate and converge the efforts of not only the NHRC and SHRCs but also the local bodies such as Panchayats and civil society organizations to create a culture of human rights in the country. Accordingly, it is important that all the State Governments should take suitable steps to strengthen their respective SHRCs. Merely setting-up of SHRCs would not serve the desired purpose unless they are provided adequate manpower and infrastructure to facilitate their functioning (**para 14.1**).

17.28 So far, 21 States have set-up their own SHRCs. The names of these States are – Assam, Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Karnataka, Kerala, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh and West Bengal. The Government of Uttarakhand has issued a notification to establish SHRC in the State. NHRC is keen that SHRCs are set up in each State so that the people of these States have easy access to justice as SHRCs can play a vital role in assisting the State Governments in fulfilling their constitutional obligations. The Commission has urged all those States which have not yet constituted SHRCs to do so at the earliest in the interest of better protection and promotion of human rights (**paras 14.2 & 14.3**).

17.29 On its part, the Commission has taken the initiative to hold regular interactions and meetings with the SHRCs for exploring future possibilities of cooperation and partnership in improving the human rights scenario of the country. In order to look into key issues of concern pertaining to SHRCs, a Committee on SHRCs has been constituted by the NHRC. Its first meeting was held in the Commission on 22 July 2011. In this meeting, three key issues of concern were discussed – infrastructure, manpower and financial requirements of SHRCs (**paras 14.4 & 14.5**).

17.30 Each SHRC must be provided by the concerned State Government minimum essential infrastructural facilities consisting of an independent building; with adequate space to meet present as well as future requirements; it should be centrally located and well-connected by public transport; easily accessible to public; and should be disabled-friendly with provision for ramps, lifts and other facilities to enable easy access to those with disabilities (**para 14.6**).

17.31 Each SHRC should further have a uniform minimum organizational structure, such as an Administration Division, Law Division, Investigation Division, and Training & Research Division, for effective discharge of its mandate under the PHRA. Every SHRC should have a basic, standardized, minimum staff structure for each of the four Divisions mentioned above. The State Government must make a budgetary allocation covering the total salary expenses of the SHRC for all the posts, including provisions for likely annual hikes in Dearness Allowance, etc. Moreover, to help SHRC discharge its functions as assigned under Section 12 of PHRA, the State Governments must provide an amount, at least the equivalent of the salary outlay to the SHRCs (**paras 14.7, 14.8 & 14.9**).

ANNEXURES

Annexure-1

Para 2.5

STATEMENT SHOWING NUMBER OF CASES REGISTERED FROM 01/04/2011 TO 31/03/2012

Name of the State/Union Territory	Complaints	Suo-Motu Cognizance	Intimation Received about Custodial Deaths/Rapes			Intimation Received about Encounter Deaths	Total
			Police Custodial Deaths/Rapes	Judicial Custodial Deaths/Rapes	Para-Military/Defence Cutody Deaths/Rapes		
All India	171	2	0	0	0	0	173
Andhra Pradesh	1461	0	13	77	0	8	1559
Arunachal Pradesh	28	0	0	2	0	1	31
Assam	209	65	4	20	0	87	385
Bihar	3197	1	8	95	0	2	3303
Chhattisgarh	724	3	5	41	0	3	776
Goa	85	0	0	1	0	0	86
Gujarat	1044	4	5	53	0	2	1108
Haryana	4117	4	3	49	0	2	4175
Himachal Pradesh	170	0	3	7	0	0	180
Jammu & Kashmir	365	0	3	3	0	0	371
Jharkhand	1749	3	4	46	0	9	1811
Karnataka	1301	2	2	13	0	1	1319
Kerala	525	0	1	37	0	0	563
Madhya Pradesh	2597	4	8	86	0	5	2700
Maharashtra	2267	2	20	95	0	1	2385
Manipur	143	0	1	1	0	17	162
Meghalaya	44	0	0	1	0	5	50
Mizoram	17	0	1	0	0	0	18
Nagaland	12	0	0	0	0	0	12
Odisha	3337	1	4	33	0	5	3380
Punjab	1149	1	6	115	0	0	1271
Rajasthan	2806	2	3	70	0	3	2884
Sikkim	14	0	0	0	0	0	14
Tamil Nadu	1862	1	7	58	0	2	1930
Tripura	67	0	0	2	0	1	70
Uttarakhand	2008	1	1	12	0	0	2022
Uttar Pradesh	51909	11	17	260	0	19	52216
West Bengal	1512	1	5	89	2	5	1614
Andaman & Nicobar	42	1	1	4	0	1	49
Chandigarh	208	0	0	4	0	0	212
Dadra & Nagar Haveli	14	0	0	0	0	0	14
Daman & Diu	15	0	0	1	0	0	16
Delhi	7830	7	1	27	0	0	7865
Lakshadweep	8	0	0	0	0	0	8
Puducherry	73	0	3	0	0	0	76
Foreign Countries	366	0	0	0	0	0	366
Grand Total	93446	116	129	1302	2	179	95174



Annexure-2

Para 2.5

STATEMENT SHOWING DISPOSAL OF CASES DURING 2011-2012

Name of the State/Union Territory	Dismissed with Limini	Disposed with Directions	Transferred to SHRC	Concluded after Receipts of Reports			Total
				Complaints Sou-Motu Cases	Custodial Deaths/ Rapes	Intimation Received about Encounter Deaths	
All India	146	18	0	0	0	0	164
Andhra Pradesh	820	227	297	74	142	15	1575
Arunachal Pradesh	16	5	0	11	0	0	32
Assam	103	37	25	51	36	30	282
Bihar	1471	380	831	159	118	0	2959
Chhattisgarh	380	66	131	38	35	3	653
Goa	44	23	0	7	4	0	78
Gujarat	630	158	120	105	61	0	1074
Haryana	1956	1464	0	448	66	5	3939
Himachal Pradesh	100	25	21	18	5	0	169
Jammu & Kashmir	113	59	32	38	4	0	246
Jharkhand	982	363	160	144	83	7	1739
Karnataka	423	102	706	33	61	10	1335
Kerala	263	88	64	46	35	0	496
Madhya Pradesh	1492	290	544	121	73	6	2526
Maharashtra	1403	285	400	86	177	13	2364
Manipur	38	35	5	32	0	1	111
Meghalaya	17	11	0	11	8	1	48
Mizoram	7	5	0	7	2	0	21
Nagaland	5	2	0	2	3	0	12
Odisha	833	1231	798	157	34	2	3055
Punjab	580	208	242	73	100	1	1204
Rajasthan	1430	368	697	124	41	1	2661
Sikkim	8	4	0	0	1	0	13
Tamil Nadu	997	303	374	72	56	5	1807
Tripura	22	14	0	17	3	0	56
Uttarakhand	1289	559	0	214	24	10	2096
Uttar Pradesh	27472	4629	18323	1931	275	112	52742
West Bengal	752	171	285	95	93	1	1397
Andaman & Nicobar	18	5	0	2	1	0	26
Chandigarh	82	84	0	19	2	0	187
Dadra & Nagar Haveli	13	1	0	0	0	0	14
Daman & Diu	8	8	0	0	0	0	16
Delhi	4702	1861	0	813	23	6	7405
Lakshadweep	3	4	0	1	0	0	8
Puducherry	33	25	0	6	5	0	69
Foreign Countries	262	96	0	5	0	0	363
Grand Total	48913	13214	24055	4960	1571	229	92942

Annexure-3

Para 2.5

STATEMENT SHOWING NUMBER OF CASES PENDING AS ON 31/03/2012

Name of the State/Union Territory	Cases Awaiting Preliminary Consideration				Pendency of Cases Where Reports have either been Received or Awaited from State Authorities				Grand Total
	Complaints Suo-Motu	Custodial Rapes/Deaths	Encounter Deaths	Total	Complaints Suo-Motu	Custodial Rapes/Death	Encounter Deaths	Total	
All India	6	0	0	6	10	0	0	10	15
Andhra Pradesh	19	2	0	21	180	145	28	353	374
Arunachal Pradesh	6	0	0	6	10	5	2	17	23
Assam	1	0	0	1	156	30	159	345	346
Bihar	57	2	0	59	633	156	12	801	860
Chhattisgarh	11	0	0	11	195	55	9	259	270
Goa	1	0	0	1	16	4	0	20	21
Gujarat	50	1	0	51	236	110	4	350	401
Haryana	41	0	0	41	681	69	7	757	798
Himachal Pradesh	3	0	0	3	29	12	0	41	44
Jammu & Kashmir	9	0	0	9	224	8	1	233	242
Jharkhand	16	2	0	18	315	78	20	413	431
Karnataka	12	1	0	13	107	35	15	157	170
Kerala	5	0	0	5	144	52	1	197	202
Madhya Pradesh	32	0	0	32	354	118	14	486	518
Maharashtra	45	3	1	49	225	234	45	504	553
Manipur	1	0	0	1	142	4	25	171	172
Meghalaya	0	0	0	0	29	1	11	41	41
Mizoram	0	0	0	0	11	3	0	14	14
Nagaland	0	0	0	0	7	2	0	9	9
Odisha	59	0	0	59	970	34	14	1018	1077
Punjab	15	2	0	17	176	74	1	251	268
Rajasthan	67	0	0	67	314	104	8	426	493
Sikkim	2	0	0	2	2	0	0	2	4
Tamil Nadu	33	0	0	33	276	118	12	406	439
Tripura	1	0	0	1	38	7	2	47	48
Uttarakhand	48	1	0	49	181	25	14	220	269
Uttar Pradesh	820	4	0	824	3786	399	232	4417	5241
West Bengal	49	1	0	50	372	62	17	451	501
Andaman & Nicobar	2	0	0	2	21	4	1	26	28
Chandigarh	1	0	0	1	41	5	0	46	47
Dadra & Nagar Haveli	0	0	0	0	1	0	0	1	1
Daman & Diu	0	0	0	0	0	1	0	1	1
Delhi	93	1	0	94	949	53	16	1018	1112
Lakshadweep	0	0	0	0	1	0	0	1	1
Puducherry	1	0	0	1	18	4	0	22	23
Foreign Countries	6	0	0	6	26	0	0	26	32
Grand Total	1512	20	1	1533	10874	2012	671	13557	15090

Annexure-4

Para 2.35

TOTAL NUMBER OF CASES WHERE NHRC RECOMMENDED MONETARY RELIEF/DISCIPLINARY ACTION DURING 2011-2012

Sl. No.	Name of the State/UT	No. of cases in which recommendations were made	Amount recommended for Victims/ Next of Kins	No. of cases in where recommendations have been complied with	Amount paid (₹)	No. of cases pending for compliance	Amount recommended in the cases pending for compliance
1	Andhra Pradesh	28	60,05,000	22	32,05,000	6	28,00,000
2	Arunachal Pradesh	2	5,75,000	1	5,00,000	1	75,000
3	Assam	21	83,50,000	14	45,50,000	7	38,00,000
4	Bihar	43	1,76,11,000	23	73,11,000	20	1,03,00,000
5	Chhattisgarh	13	53,00,000	11	32,00,000	2	21,00,000
6	Goa	1	5,00,000	1	5,00,000	0	0
7	Gujarat	21	42,00,000	16	29,00,000	5	13,00,000
8	Haryana	19	26,24,000	12	11,44,000	7	14,80,000
9	Himachal Pradesh	2	1,50,000	0	0	2	1,50,000
10	Jammu & Kashmir	5	23,00,000	3	17,00,000	2	6,00,000
11	Jharkhand	35	80,45,000	20	52,10,000	15	28,35,000
12	Karnataka	13	16,90,000	11	15,70,000	2	1,20,000
13	Kerala	5	9,70,000	1	1,00,000	4	8,70,000
14	Madhya Pradesh	17	49,82,000	9	11,07,000	8	38,75,000
15	Maharashtra	42	1,05,85,000	14	24,75,000	28	81,10,000
16	Manipur	4	16,75,000	2	5,75,000	2	11,00,000
17	Meghalaya	5	14,00,000	3	8,00,000	2	6,00,000
18	Mizoram	2	5,50,000	2	5,50,000	0	0
19	Nagaland	2	2,00,000	1	1,00,000	1	1,00,000
20	Orissa	8	25,35,000	4	9,35,000	4	16,00,000
21	Punjab	7	19,00,000	1	1,00,000	6	18,00,000
22	Rajasthan	16	29,70,000	9	11,70,000	7	18,00,000
23	Sikkim	1	1,00,000	1	1,00,000	0	0
24	Tamil Nadu	12	21,30,000	6	7,80,000	6	13,50,000
25	Tripura	4	9,00,000	1	1,00,000	3	8,00,000
26	Uttarakhand	18	64,95,000	12	36,95,000	6	28,00,000
27	Uttar Pradesh	205	5,42,37,000	108	2,06,12,000	97	3,36,25,000
28	West Bengal	14	24,65,000	7	14,15,000	7	10,50,000
29	Chandigarh	5	5,75,000	3	4,25,000	2	1,50,000
30	Delhi	21	35,45,000	12	22,50,000	9	12,95,000
31	Puducherry	1	3,00,000	1	3,00,000	0	0
		592	15,58,64,000	331	6,93,54,000	261	8,65,10,000

Annexure-5

Para 2.36

DETAILS OF CASES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING 2011-2012 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
1	Andhra Pradesh	1147/1/18/2010-AD	Alleged Custodial Deaths In Police Custody	1,00,000.00	12/03/2012	Proof of payment awaited
2	Andhra Pradesh	13/1/18/2011-JCD	Custodial Death (Judicial)	1,00,000.00	24/03/2012	Proof of payment awaited
3	Andhra Pradesh	1439/1/9/07-08	Death In Police Encounter	10,00,000.00	04/01/2012	Proof of payment awaited
4	Andhra Pradesh	484/1/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	25/01/2012	Proof of payment awaited
5	Andhra Pradesh	64/1/17/07-08	Death In Police Encounter	5,00,000.00	24/11/2011	Proof of payment awaited
6	Andhra Pradesh	979/1/23/2010-ED	Death In Police Encounter	10,00,000.00	01/02/2012	Proof of payment awaited
7	Arunachal Pradesh	26/2/0/2010	Abuse Of Power	75,000.00	15/03/2012	Proof of payment awaited
8	Assam	104/3/24/08-09-ED	Death In Police Encounter	5,00,000.00	19/01/2012	Proof of payment awaited
9	Assam	113/3/4/09-10-ED	Death In Police Encounter	5,00,000.00	23/02/2012	Proof of payment awaited
10	Assam	116/3/16/2010-ED	Death In Police Encounter	10,00,000.00	01/03/2012	Proof of payment awaited
11	Assam	130/3/9/09-10-AF	Death In Army Encounter	5,00,000.00	07/12/2011	Proof of payment awaited
12	Assam	136/3/24/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	16/02/2012	Proof of payment awaited
13	Assam	144/3/16/2010-ED	Death In Police Encounter	5,00,000.00	11/01/2012	Proof of payment awaited
14	Assam	270/3/19/2010-ED	Death In Police Encounter	5,00,000.00	01/03/2012	Proof of payment awaited
15	Bihar	1228/4/2004-2005-CD	Custodial Death (Judicial)	1,00,000.00	31/05/2011	Proof of payment awaited
16	Bihar	1430/4/28/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	08/12/2011	Proof of payment awaited
17	Bihar	1460/4/32/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	05/12/2011	Proof of payment awaited
18	Bihar	1508/4/29/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	23/08/2011	Proof of payment awaited
19	Bihar	1548/4/27/07-08	Abuse Of Power	5,00,000.00	01/03/2012	Proof of payment awaited
20	Bihar	166/4/2001-2002	Death In Police Encounter	10,00,000.00	08/02/2012	Proof of payment awaited
21	Bihar	1683/4/8/2010	Children	2,00,000.00	24/03/2012	Proof of payment awaited
22	Bihar	1758/4/20/2010	Death In Police Firing	2,00,000.00	30/11/2011	Proof of payment awaited
23	Bihar	2301/4/2005-2006	Inaction By The State Government / Central Govt. Officials	37,50,000.00	30/01/2012	Proof of payment awaited
24	Bihar	3335/4/26/08-09-JCD	Custodial Death (Judicial)	3,00,000.00	01/03/2012	Proof of payment awaited
25	Bihar	3402/4/2002-2003	Miscellaneous	1,00,000.00	08/02/2012	Proof of payment awaited
26	Bihar	3605/4/2005-2006-CD	Custodial Death (Judicial)	3,00,000.00	03/01/2012	Proof of payment awaited
27	Bihar	3637/4/2002-2003	Failure In Taking Lawful Action	10,00,000.00	11/01/2012	Proof of payment awaited
28	Bihar	364/4/2003-2004	Inaction By The State Government / Central Govt. Officials	2,00,000.00	25/07/2011	Proof of payment awaited
29	Bihar	366/4/25/2011-JCD	Custodial Death (Judicial)	5,00,000.00	22/09/2011	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
30	Bihar	516/4/10/08-09-JCD	Custodial Death (Judicial)	50,000.00	17/02/2012	Proof of payment awaited
31	Bihar	565/4/9/2011-AR	Alleged Custodial Rape In Police Custody	5,00,000.00	13/01/2012	Proof of payment awaited
32	Bihar	651/4/2006-2007-CD	Custodial Death (Judicial)	3,00,000.00	20/04/2011	Proof of payment awaited
33	Bihar	827/4/8/07-08-JCD	Custodial Death (Judicial)	3,00,000.00	10/01/2012	Proof of payment awaited
34	Bihar	831/4/3/2011-DH	Death In Judicial Custody	3,00,000.00	14/02/2012	Proof of payment awaited
35	Chhattisgarh	217/33/14/2011	Atrocities On SC/ST/OBC	1,00,000.00	16/02/2012	Proof of payment awaited
36	Chhattisgarh	236/33/3/09-10-AFE	Alleged Fake Encounters	20,00,000.00	16/02/2012	Proof of payment awaited
37	Gujarat	133/6/2006-2007-CD	Custodial Death (Police)	1,00,000.00	07/10/2011	Proof of payment awaited
38	Gujarat	40/6/2005-2006-CD	Custodial Death (Police)	5,00,000.00	18/01/2012	Proof of payment awaited
39	Gujarat	411/6/21/08-09-PCD	Custodial Death (Police)	1,00,000.00	08/12/2011	Proof of payment awaited
40	Gujarat	419/6/2006-2007-CD	Custodial Death (Police)	5,00,000.00	09/06/2011	Proof of payment awaited
41	Gujarat	94/6/23/07-08-PCD	Custodial Death (Police)	1,00,000.00	21/09/2011	Proof of payment awaited
42	Haryana	1052/7/8/09-10	Failure In Taking Lawful Action	2,00,000.00	27/02/2012	Proof of payment awaited
43	Haryana	1294/7/5/2010	Abduction/Kidnapping	60,000.00	16/02/2012	Proof of payment awaited
44	Haryana	2146/7/2/08-09-AFE	Alleged Fake Encounters	7,50,000.00	15/12/2011	Proof of payment awaited
45	Haryana	2336/7/17/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	14/03/2012	Proof of payment awaited
46	Haryana	2532/7/8/2010	Children	1,70,000.00	09/11/2011	Proof of payment awaited
47	Haryana	581/7/2006-2007	Alleged Death In Home	1,00,000.00	19/10/2011	Proof of payment awaited
48	Haryana	850/7/19/2010-JCD	Custodial Death (Judicial)	1,00,000.00	10/02/2012	Proof of payment awaited
49	Himachal Pradesh	124/8/4/2010-JCD	Custodial Death (Judicial)	50,000.00	07/03/2012	Proof of payment awaited
50	Himachal Pradesh	39/8/12/09-10-PCD	Custodial Death (Police)	1,00,000.00	03/08/2011	Proof of payment awaited
51	Jammu & Kashmir	25/9/4/07-08-PCD	Custodial Death (Police)	5,00,000.00	27/07/2011	Proof of payment awaited
52	Jammu & Kashmir	5/9/0/08-09-PF	Death In Firing	1,00,000.00	18/07/2011	Proof of payment awaited
53	Jharkhand	1077/34/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	15/12/2011	Proof of payment awaited
54	Jharkhand	1375/34/6/2010	Unlawful Detention	20,000.00	20/01/2012	Proof of payment awaited
55	Jharkhand	1412/34/7/2010	Malfunctioning of Medical Professionals	25,000.00	08/08/2011	Proof of payment awaited
56	Jharkhand	159/34/16/2011	Abuse Of Power	1,25,000.00	02/02/2012	Proof of payment awaited
57	Jharkhand	213/34/18/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	24/06/2011	Proof of payment awaited
58	Jharkhand	334/34/5/2010-WC	Gang Rape	5,00,000.00	18/07/2011	Proof of payment awaited
59	Jharkhand	419/34/4/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	25/11/2011	Proof of payment awaited
60	Jharkhand	490/34/5/2011-JCD	Custodial Death (Judicial)	3,00,000.00	16/12/2011	Proof of payment awaited
61	Jharkhand	540/34/12/2011	Unlawful Detention	15,000.00	29/02/2012	Proof of payment awaited
62	Jharkhand	565/34/17/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	07/03/2012	Proof of payment awaited
63	Jharkhand	684/34/2006-2007-CD	Custodial Death (Judicial)	2,00,000.00	27/06/2011	Proof of payment awaited
64	Jharkhand	75/34/16/2010-JCD	Custodial Death (Judicial)	2,00,000.00	19/12/2011	Proof of payment awaited
65	Jharkhand	766/34/6/09-10-DH	Death In Judicial Custody	50,000.00	11/08/2011	Proof of payment awaited
66	Jharkhand	844/34/10/07-08-AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	14/12/2011	Proof of payment awaited
67	Jharkhand	956/34/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	05/08/2011	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
68	Karnataka	1170/10/11/07-08-WC	Sexual Harassment At Workplace (Govt. Offices)	20,000.00	01/07/2011	Proof of payment awaited
69	Karnataka	258/10/2006-2007-CD	Custodial Death (Police)	1,00,000.00	11/05/2011	Proof of payment awaited
70	Kerala	302/11/2/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	31/01/2012	Proof of payment awaited
71	Kerala	4/11/2005-2006-CD	Custodial Death (Police)	4,00,000.00	02/06/2011	Proof of payment awaited
72	Kerala	50/11/2006-2007-CD	Custodial Death (Judicial)	2,70,000.00	02/03/2012	Proof of payment awaited
73	Kerala	84/11/8/2010-JCD	Custodial Death (Judicial)	1,00,000.00	02/02/2012	Proof of payment awaited
74	Madhya Pradesh	1245/12/2005-2006	Illegal Arrest	10,00,000.00	01/03/2012	Proof of payment awaited
75	Madhya Pradesh	2358/12/2005-2006	Death In Police Encounter	5,00,000.00	05/10/2011	Proof of payment awaited
76	Madhya Pradesh	416/12/5/09-10-PCR	Custodial Rape (Police)	3,00,000.00	16/09/2011	Proof of payment awaited
77	Madhya Pradesh	441/12/2003-2004-CD	Custodial Death (Police)	5,00,000.00	07/09/2011	Proof of payment awaited
78	Madhya Pradesh	652/12/22/08-09-JCD	Custodial Death (Judicial)	50,000.00	23/03/2012	Proof of payment awaited
79	Madhya Pradesh	914/12/18/2010-JCD	Custodial Death (Judicial)	1,00,000.00	24/02/2012	Proof of payment awaited
80	Madhya Pradesh	921/12/2/09-10	Malfunctioning of Medical Professionals	13,25,000.00	05/07/2011	Proof of payment awaited
81	Madhya Pradesh	923/12/22/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	03/11/2011	Proof of payment awaited
82	Maharashtra	1110/13/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	26/04/2011	Proof of payment awaited
83	Maharashtra	1120/13/2005-2006	Death In Police Encounter	5,00,000.00	02/02/2012	Proof of payment awaited
84	Maharashtra	1340/13/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	24/02/2012	Proof of payment awaited
85	Maharashtra	1386/13/17/09-10-PCD	Custodial Death (Police)	1,00,000.00	20/06/2011	Proof of payment awaited
86	Maharashtra	15/13/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	19/03/2012	Proof of payment awaited
87	Maharashtra	164/13/2006-2007-CD	Custodial Death (Police)	3,00,000.00	24/11/2011	Proof of payment awaited
88	Maharashtra	1717/13/16/09-10-AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	19/01/2012	Proof of payment awaited
89	Maharashtra	1734/13/4/2010-PCD	Custodial Death (Police)	5,00,000.00	06/03/2012	Proof of payment awaited
90	Maharashtra	1789/13/28/09-10-PCD	Custodial Death (Police)	1,00,000.00	27/02/2012	Proof of payment awaited
91	Maharashtra	1806/13/21/08-09-PCD	Custodial Death (Police)	1,00,000.00	08/12/2011	Proof of payment awaited
92	Maharashtra	1871/13/14/08-09-JCD	Custodial Death (Judicial)	3,00,000.00	17/08/2011	Proof of payment awaited
93	Maharashtra	1882/13/3/08-09-PCD	Custodial Death (Police)	1,00,000.00	22/06/2011	Proof of payment awaited
94	Maharashtra	1953/13/16/08-09-PCD	Custodial Death (Police)	5,00,000.00	02/02/2012	Proof of payment awaited
95	Maharashtra	2010/13/2/07-08-PCD	Custodial Death (Police)	3,00,000.00	02/11/2011	Proof of payment awaited
96	Maharashtra	2139/13/23/08-09-JCD	Custodial Death (Judicial)	3,00,000.00	23/02/2012	Proof of payment awaited
97	Maharashtra	2152/13/10/2010-PCD	Custodial Death (Police)	5,00,000.00	02/11/2011	Proof of payment awaited
98	Maharashtra	2155/13/30/2010	Custodial Torture	10,000.00	30/01/2012	Proof of payment awaited
99	Maharashtra	244/13/1/07-08-PCD	Custodial Death (Police)	5,00,000.00	29/06/2011	Proof of payment awaited
100	Maharashtra	2531/13/17/07-08-PCD	Custodial Death (Police)	3,00,000.00	26/03/2012	Proof of payment awaited
101	Maharashtra	352/13/2005-2006-CD	Custodial Death (Police)	5,00,000.00	29/09/2011	Proof of payment awaited
102	Maharashtra	374/13/2/08-09-WC	Immoral Trafficking on Women	1,00,000.00	09/01/2012	Proof of payment awaited
103	Maharashtra	436/13/30/08-09-ED	Death In Police Encounter	5,00,000.00	22/03/2012	Proof of payment awaited
104	Maharashtra	51/13/16/2011-PCD	Custodial Death (Police)	5,00,000.00	06/03/2012	Proof of payment awaited
105	Maharashtra	570/13/16/2011-JCD	Custodial Death (Judicial)	1,00,000.00	14/02/2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
106	Maharashtra	747/13/24/07-08-PCD	Custodial Death (Police)	1,00,000.00	12/05/2011	Proof of payment awaited
107	Maharashtra	913/13/16/08-09-ED	Death In Police Encounter	5,00,000.00	16/11/2011	Proof of payment awaited
108	Maharashtra	941/13/2004-2005	Death In Police Encounter	5,00,000.00	12/01/2012	Proof of payment awaited
109	Maharashtra	976/13/28/2010-PCD	Custodial Death (Police)	1,00,000.00	01/12/2011	Proof of payment awaited
110	Manipur	2/14/2001-2002-PF	Victimization	5,00,000.00	13/02/2012	Proof of payment awaited
111	Manipur	2/14/4/08-09-ED	Death In Police Encounter	6,00,000.00	09/02/2012	Proof of payment awaited
112	Meghalaya	16/15/2002-2003	Death In Police Firing	1,00,000.00	29/06/2011	Proof of payment awaited
113	Meghalaya	34/15/5/2010-ED	Death In Police Encounter	5,00,000.00	24/11/2011	Proof of payment awaited
114	Nagaland	9/17/3/09-10-PCD	Custodial Death (Police)	1,00,000.00	28/07/2011	Proof of payment awaited
115	Odisha	1217/18/26/2010	Failure In Taking Lawful Action	5,00,000.00	14/03/2012	Proof of payment awaited
116	Odisha	135/18/2005-2006	Failure In Taking Lawful Action	5,00,000.00	15/02/2012	Proof of payment awaited
117	Odisha	176/18/6/2011	Inaction By The State Government/Central Govt. Officials	3,00,000.00	05/01/2012	Proof of payment awaited
118	Odisha	334/18/13/09-10-WC	Rape	3,00,000.00	12/12/2011	Proof of payment awaited
119	Punjab	254/19/1/09-10-JCD	Custodial Death (Judicial)	5,00,000.00	05/12/2011	Proof of payment awaited
120	Punjab	363/19/2/08-09-PCD	Custodial Death (Police)	5,00,000.00	04/01/2012	Proof of payment awaited
121	Punjab	590/19/2004-2005	Death In Police Firing	5,00,000.00	05/04/2011	Proof of payment awaited
122	Punjab	648/19/2005-2006-CD	Custodial Death (Judicial)	1,00,000.00	08/07/2011	Proof of payment awaited
123	Punjab	921/19/2001-2002-CD	Custodial Death (Judicial)	1,00,000.00	23/08/2011	Proof of payment awaited
124	Punjab	982/19/9/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	10/05/2011	Proof of payment awaited
125	Rajasthan	1014/20/14/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	13/05/2011	Proof of payment awaited
126	Rajasthan	2159/20/18/08-09-PCD	Custodial Death (Police)	1,00,000.00	07/04/2011	Proof of payment awaited
127	Rajasthan	2266/20/21/07-08-JCD	Custodial Death (Judicial)	3,00,000.00	05/12/2011	Proof of payment awaited
128	Rajasthan	457/20/11/09-10	Failure In Taking Lawful Action	2,00,000.00	14/12/2011	Proof of payment awaited
129	Rajasthan	865/20/24/2011-WC	Abduction, Rape And Murder	3,00,000.00	23/02/2012	Proof of payment awaited
130	Rajasthan	867/20/14/2010-JCD	Custodial Death (Judicial)	5,00,000.00	01/02/2012	Proof of payment awaited
131	Rajasthan	918/20/19/08-09-JCD	Custodial Death (Judicial)	3,00,000.00	22/03/2012	Proof of payment awaited
132	Tamil Nadu	2349/22/36/08-09-AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	16/11/2011	Proof of payment awaited
133	Tamil Nadu	2594/22/13/08-09	Police	5,00,000.00	11/08/2011	Proof of payment awaited
134	Tamil Nadu	328/22/13/2011-JCD	Custodial Death (Judicial)	1,00,000.00	22/12/2011	Proof of payment awaited
135	Tamil Nadu	534/22/37/07-08	Unlawful Detention	50,000.00	10/05/2011	Proof of payment awaited
136	Tamil Nadu	903/22/5/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	31/05/2011	Proof of payment awaited
137	Tamil Nadu	982/22/46/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	21/02/2012	Proof of payment awaited
138	Tripura	10/23/2005-2006-CD	Custodial Death (Police)	1,00,000.00	09/11/2011	Proof of payment awaited
139	Tripura	38/23/4/2010-PCD	Custodial Death (Police)	1,00,000.00	15/02/2012	Proof of payment awaited
140	Tripura	8/23/4/09-10-AR	Alleged Custodial Rape In Police Custody	6,00,000.00	26/07/2011	Proof of payment awaited
141	Uttarakhand	103/35/6/2010-JCD	Custodial Death (Judicial)	3,00,000.00	02/02/2012	Proof of payment awaited
142	Uttarakhand	1525/35/8/2010	Irregularities In Govt. Hospitals/ Primary Health Centres	1,00,000.00	23/02/2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
143	Uttarakhand	205/35/2006-2007	Death In Police Encounter	10,00,000.00	29/03/2012	Proof of payment awaited
144	Uttarakhand	42/35/6/2011-PCD	Custodial Death (Police)	3,00,000.00	04/10/2011	Proof of payment awaited
145	Uttarakhand	522/35/2006-2007	Death In Police Encounter	6,00,000.00	23/11/2011	Proof of payment awaited
146	Uttarakhand	805/35/2006-2007	Death In Police Encounter	5,00,000.00	30/06/2011	Proof of payment awaited
147	Uttar Pradesh	10186/24/1/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	28/11/2011	Proof of payment awaited
148	Uttar Pradesh	11131/24/43/08-09	Abuse Of Power	3,50,000.00	22/09/2011	Proof of payment awaited
149	Uttar Pradesh	11880/24/35/2010-WC	Indignity Of Women	3,00,000.00	08/07/2011	Proof of payment awaited
150	Uttar Pradesh	1235/24/2006-2007	Death In Police Encounter	5,00,000.00	08/02/2012	Proof of payment awaited
151	Uttar Pradesh	13195/24/31/2010-PCD	Custodial Death (Police)	1,00,000.00	07/02/2012	Proof of payment awaited
152	Uttar Pradesh	13396/24/27/2010-JCD	Custodial Death (Judicial)	5,00,000.00	22/02/2012	Proof of payment awaited
153	Uttar Pradesh	1340/24/67/2010	Custodial Torture	10,000.00	13/02/2012	Proof of payment awaited
154	Uttar Pradesh	14152/24/2004-2005	Alleged Fake Encounters	5,00,000.00	03/11/2011	Proof of payment awaited
155	Uttar Pradesh	144/24/4/2010	Disappearance / Missing	50,000.00	06/01/2012	Proof of payment awaited
156	Uttar Pradesh	14811/24/7/07-08-JCD	Custodial Death (Judicial)	1,00,000.00	17/08/2011	Proof of payment awaited
157	Uttar Pradesh	14957/24/52/2011	Non-Payment Of Pension/ Compensation	50,000.00	22/02/2012	Proof of payment awaited
158	Uttar Pradesh	15141/24/2005-2006	Death In Police Encounter	5,00,000.00	01/09/2011	Proof of payment awaited
159	Uttar Pradesh	15143/24/66/07-08-WC	Rape Of Minorities Woman	5,25,000.00	07/10/2011	Proof of payment awaited
160	Uttar Pradesh	15943/24/31/07-08	Death In Police Encounter	5,00,000.00	21/03/2012	Proof of payment awaited
161	Uttar Pradesh	16341/24/2005-2006	Alleged Fake Encounters	10,00,000.00	29/03/2012	Proof of payment awaited
162	Uttar Pradesh	1708/24/2005-2006	Prolonged Trial	30,000.00	04/08/2011	Proof of payment awaited
163	Uttar Pradesh	17156/24/43/09-10-PCD	Custodial Death (Police)	5,00,000.00	03/11/2011	Proof of payment awaited
164	Uttar Pradesh	17917/24/31/2010-ED	Death In Police Encounter	5,00,000.00	22/02/2012	Proof of payment awaited
165	Uttar Pradesh	17924/24/4/2010-JCD	Custodial Death (Judicial)	3,00,000.00	13/03/2012	Proof of payment awaited
166	Uttar Pradesh	18510/24/2002-2003	Death In Police Encounter	5,00,000.00	09/02/2012	Proof of payment awaited
167	Uttar Pradesh	18627/24/46/08-09-WC	Gang Rape	50,000.00	12/01/2012	Proof of payment awaited
168	Uttar Pradesh	19241/24/64/2010	Inaction By The State Government / Central Govt. Officials	12,00,000.00	10/08/2011	Proof of payment awaited
169	Uttar Pradesh	19327/24/2006-2007	Abduction / Kidnapping	25,000.00	19/09/2011	Proof of payment awaited
170	Uttar Pradesh	19732/24/2006-2007	Inaction By The State Government / Central Govt. Officials	3,00,000.00	12/05/2011	Proof of payment awaited
171	Uttar Pradesh	19842/24/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	26/03/2012	Proof of payment awaited
172	Uttar Pradesh	19885/24/2005-2006-DH	Death In Judicial Custody	50,000.00	31/01/2012	Proof of payment awaited
173	Uttar Pradesh	1998/24/56/09-10	Inaction By The State Government / Central Govt. Officials	50,000.00	13/04/2011	Proof of payment awaited
174	Uttar Pradesh	20304/24/2004-2005-AD	Alleged Custodial Deaths In Police Custody	3,00,000.00	27/07/2011	Proof of payment awaited
175	Uttar Pradesh	20513/24/12/07-08	Illegal Arrest	5,000.00	17/08/2011	Proof of payment awaited
176	Uttar Pradesh	20645/24/40/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	26/08/2011	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
177	Uttar Pradesh	20772/24/46/07-08-JCD	Custodial Death (Judicial)	1,00,000.00	18/08/2011	Proof of payment awaited
178	Uttar Pradesh	21264/24/31/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	19/12/2011	Proof of payment awaited
179	Uttar Pradesh	21313/24/52/2010-AFE	Alleged Fake Encounters	10,00,000.00	23/06/2011	Proof of payment awaited
180	Uttar Pradesh	2172/24/54/2011	Illegal Arrest	10,000.00	28/02/2012	Proof of payment awaited
181	Uttar Pradesh	23018/24/54/2010-PCD	Custodial Death (Police)	5,00,000.00	27/10/2011	Proof of payment awaited
182	Uttar Pradesh	235/24/54/2010-JCD	Custodial Death (Judicial)	3,00,000.00	31/01/2012	Proof of payment awaited
183	Uttar Pradesh	23712/24/14/09-10	Abuse Of Power	20,000.00	04/01/2012	Proof of payment awaited
184	Uttar Pradesh	2400/24/2005-2006	Death In Police Encounter	10,00,000.00	07/12/2011	Proof of payment awaited
185	Uttar Pradesh	24411/24/2005-2006	Alleged Fake Encounters	5,00,000.00	20/07/2011	Proof of payment awaited
186	Uttar Pradesh	25020/24/68/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	21/02/2012	Proof of payment awaited
187	Uttar Pradesh	26628/24/2005-2006	Death In Police Encounter	5,00,000.00	01/03/2012	Proof of payment awaited
188	Uttar Pradesh	27143/24/12/07-08-AD	Alleged Custodial Deaths In Police Custody	1,00,000.00	23/06/2011	Proof of payment awaited
189	Uttar Pradesh	2727/24/4/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	31/10/2011	Proof of payment awaited
190	Uttar Pradesh	2756/24/54/2010	Illegal Arrest	20,000.00	23/02/2012	Proof of payment awaited
191	Uttar Pradesh	27848/24/70/09-10	Illegal Arrest	20,000.00	14/11/2011	Proof of payment awaited
192	Uttar Pradesh	29354/24/43/07-08	Abuse Of Power	50,000.00	05/08/2011	Proof of payment awaited
193	Uttar Pradesh	30444/24/48/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	13/03/2012	Proof of payment awaited
194	Uttar Pradesh	30824/24/48/09-10-ED	Death In Police Encounter	5,00,000.00	08/02/2012	Proof of payment awaited
195	Uttar Pradesh	30962/24/36/09-10-AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	24/10/2011	Proof of payment awaited
196	Uttar Pradesh	31299/24/52/2010	Attempted Murder	3,00,000.00	02/03/2012	Proof of payment awaited
197	Uttar Pradesh	31374/24/7/07-08	Unlawful Detention	10,000.00	13/03/2012	Proof of payment awaited
198	Uttar Pradesh	32604/24/2005-2006	Abduction/Kidnapping	20,000.00	04/08/2011	Proof of payment awaited
199	Uttar Pradesh	32646/24/53/2010-AD	Alleged Custodial Deaths In Police Custody	10,00,000.00	01/03/2012	Proof of payment awaited
200	Uttar Pradesh	32803/24/2006-2007	Death In Police Encounter	5,00,000.00	01/06/2011	Proof of payment awaited
201	Uttar Pradesh	33489/24/2005-2006-CD	Custodial Death (Judicial)	1,00,000.00	26/04/2011	Proof of payment awaited
202	Uttar Pradesh	33785/24/3/09-10	Abuse Of Power	20,000.00	21/03/2012	Proof of payment awaited
203	Uttar Pradesh	34653/24/2005-2006	Death In Police Encounter	5,00,000.00	25/01/2012	Proof of payment awaited
204	Uttar Pradesh	34804/24/19/07-08	Irregularities In Govt. Hospitals/ Primary Health Centres	40,000.00	15/06/2011	Proof of payment awaited
205	Uttar Pradesh	35292/24/70/09-10	Illegal Arrest	15,000.00	08/02/2012	Proof of payment awaited
206	Uttar Pradesh	35715/24/2004-2005	Alleged Fake Encounters	5,00,000.00	15/12/2011	Proof of payment awaited
207	Uttar Pradesh	3583/24/2002-2003	Lack Of Proper Medical Facilities In The State	44,20,000.00	28/09/2011	Proof of payment awaited
208	Uttar Pradesh	35837/24/2005-2006	Abduction/Kidnapping	5,00,000.00	30/06/2011	Proof of payment awaited
209	Uttar Pradesh	3644/24/54/2010	Unlawful Detention	10,000.00	29/02/2012	Proof of payment awaited
210	Uttar Pradesh	36496/24/48/2010	Malfunctioning of Medical Professionals	2,00,000.00	30/06/2011	Proof of payment awaited
211	Uttar Pradesh	37510/24/36/09-10-AD	Alleged Custodial Deaths In Police Custody	3,00,000.00	22/02/2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
212	Uttar Pradesh	38867/24/2006-2007	Death In Police Encounter	5,00,000.00	07/12/2011	Proof of payment awaited
213	Uttar Pradesh	3915/24/1/2011	Illegal Arrest	10,000.00	01/02/2012	Proof of payment awaited
214	Uttar Pradesh	39207/24/2006-2007	Death In Police Encounter	5,00,000.00	20/10/2011	Proof of payment awaited
215	Uttar Pradesh	3937/24/56/2010-JCD	Custodial Death (Judicial)	1,00,000.00	11/11/2011	Proof of payment awaited
216	Uttar Pradesh	39448/24/2005-2006	Death In Police Encounter	14,00,000.00	19/01/2012	Proof of payment awaited
217	Uttar Pradesh	39486/24/43/07-08	Irregularities In Govt. Hospitals/Primary Health Centres	6,00,000.00	15/06/2011	Proof of payment awaited
218	Uttar Pradesh	39631/24/1/2011	Illegal Arrest	25,000.00	20/03/2012	Proof of payment awaited
219	Uttar Pradesh	39951/24/31/07-08	Illegal Arrest	50,000.00	15/04/2011	Proof of payment awaited
220	Uttar Pradesh	39983/24/3/07-08	Death In Police Encounter	5,00,000.00	16/11/2011	Proof of payment awaited
221	Uttar Pradesh	41124/24/2006-2007	Unlawful Detention	50,000.00	29/04/2011	Proof of payment awaited
222	Uttar Pradesh	42599/24/20/2010-ED	Death In Police Encounter	15,00,000.00	02/02/2012	Proof of payment awaited
223	Uttar Pradesh	42681/24/2005-2006	Death In Police Encounter	5,00,000.00	08/02/2012	Proof of payment awaited
224	Uttar Pradesh	43035/24/2004-2005	Death In Police Encounter	5,00,000.00	12/01/2012	Proof of payment awaited
225	Uttar Pradesh	43305/24/2004-2005-CD	Custodial Death (Police)	5,00,000.00	05/01/2012	Proof of payment awaited
226	Uttar Pradesh	4337/24/2006-2007	Death In Police Encounter	5,00,000.00	16/02/2012	Proof of payment awaited
227	Uttar Pradesh	4381/24/72/2010-JCD	Custodial Death (Judicial)	3,00,000.00	13/03/2012	Proof of payment awaited
228	Uttar Pradesh	4446/24/2006-2007	Abduction/Kidnapping	10,000.00	20/01/2012	Proof of payment awaited
229	Uttar Pradesh	44714/24/48/07-08	Death In Police Encounter	10,00,000.00	07/12/2011	Proof of payment awaited
230	Uttar Pradesh	49073/24/1/2010	Illegal Arrest	15,000.00	13/02/2012	Proof of payment awaited
231	Uttar Pradesh	4922/24/4/07-08-WC	Dowry Death Or Their Attempt	10,000.00	14/11/2011	Proof of payment awaited
232	Uttar Pradesh	50964/24/40/07-08-JCD	Custodial Death (Judicial)	1,00,000.00	06/09/2011	Proof of payment awaited
233	Uttar Pradesh	51676/24/2006-2007	Unlawful Detention	10,000.00	04/10/2011	Proof of payment awaited
234	Uttar Pradesh	51743/24/30/07-08	Abuse Of Power	20,000.00	25/01/2012	Proof of payment awaited
235	Uttar Pradesh	52494/24/56/07-08	Custodial Torture	20,000.00	03/01/2012	Proof of payment awaited
236	Uttar Pradesh	5981/24/17/09-10	Failure In Taking Lawful Action	10,000.00	27/03/2012	Proof of payment awaited
237	Uttar Pradesh	6153/24/56/2011-PF	Abuse Of Power	25,000.00	23/01/2012	Proof of payment awaited
238	Uttar Pradesh	6752/24/2004-2005	Alleged Fake Encounters	5,00,000.00	01/06/2011	Proof of payment awaited
239	Uttar Pradesh	6916/24/2005-2006	Alleged Fake Encounters	5,00,000.00	04/01/2012	Proof of payment awaited
240	Uttar Pradesh	7697/24/1/08-09-ED	Death In Police Encounter	5,00,000.00	29/09/2011	Proof of payment awaited
241	Uttar Pradesh	8039/24/14/09-10	Custodial Torture	10,000.00	02/09/2011	Proof of payment awaited
242	Uttar Pradesh	9668/24/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	28/04/2011	Proof of payment awaited
243	Uttar Pradesh	9833/24/63/2010-WC	Dowry Death Or Their Attempt	10,000.00	08/02/2012	Proof of payment awaited
244	West Bengal	1011/25/5/07-08-JCD	Custodial Death (Judicial)	3,00,000.00	11/01/2012	Proof of payment awaited
245	West Bengal	1068/25/4/2010	Attempted Murder	2,00,000.00	19/03/2012	Proof of payment awaited
246	West Bengal	511/25/13/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	11/10/2011	Proof of payment awaited
247	West Bengal	578/25/2002-2003	Children	50,000.00	20/04/2011	Proof of payment awaited
248	West Bengal	624/25/15/07-08	Unlawful Detention	50,000.00	23/02/2012	Proof of payment awaited
249	West Bengal	646/25/2/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	23/02/2012	Proof of payment awaited
250	West Bengal	901/25/2006-2007	Arbitrary Use Of Power	50,000.00	03/01/2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
251	Chandigarh	25/27/0/09-10-AD	Alleged Custodial Deaths In Police Custody	1,00,000.00	10/08/2011	Proof of payment awaited
252	Chandigarh	43/27/0/2010	Irregularities In Govt. Hospitals/Primary Health Centres	50,000.00	19/03/2012	Proof of payment awaited
253	Delhi	1559/30/8/2010	Inaction By The State Government/Central Govt. Officials	6,00,000.00	30/11/2011	Proof of payment awaited
254	Delhi	1681/30/0/2010	Children	50,000.00	13/02/2012	Proof of payment awaited
255	Delhi	1717/30/0/2011	Abuse Of Power	1,00,000.00	24/03/2012	Proof of payment awaited
256	Delhi	209/30/6/09-10	Irregularities In Govt. Hospitals/Primary Health Centres	10,000.00	05/03/2012	Proof of payment awaited
257	Delhi	2843/30/1/2010	Inaction By The State Government/Central Govt. Officials	1,00,000.00	20/01/2012	Proof of payment awaited
258	Delhi	4528/30/9/07-08-JCD	Custodial Death (Judicial)	1,00,000.00	04/01/2012	Proof of payment awaited
259	Delhi	4951/30/8/2010	Labour	3,00,000.00	01/09/2011	Proof of payment awaited
260	Delhi	5031/30/2/08-09	Unlawful Detention	10,000.00	22/03/2012	Proof of payment awaited
261	Delhi	5749/30/8/2010	Unlawful Detention	25,000.00	24/03/2012	Proof of payment awaited

Annexure-6

Para 2.37

DETAILS OF CASES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING 1993-1994 TO 2009-2010 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
1	Bihar	838/4/2006-2007 M-2 (intimation)	Death in judicial custody	100000 + disciplinary action	29.02.08	The amount of monetary relief to the next of kin of the deceased prisoner has not yet been made as he/she could not be traced out. Report regarding disciplinary action is still awaited
2	Bihar	3413/4/2006-2007 FC	Death in Judicial custody (Intimation)	100000	23.11.2009	Proof of payment awaited
3	Jammu & Kashmir	55/9/2003-2004-ad FC	Alleged death in the custody of Jammu Police (Complaint)	500000	19.08.2009	The State Govt. has challenged the recommendation of the Commission in the J & K High Court.
4	Jammu & Kashmir	206/9/2003-2004 M-4	Damage of House by the Govt. (Complaint)	200000	23.11.09	The State Govt. has challenged the recommendation of the Commission in the J & K High Court.
5	Kerala	235/11/98-99 FC	Alleged false implication	10000	14.03.01	The State Govt. has preferred Writ Appeals against the recommendations of the Commission, which is pending consideration.
6	Kerala	95/11/1999-2000 FC	Death of a head constable while on duty, for a want of timely medical care	50000	29.08.07	Compliance report not received due to challenge in the High Court of Kerala on the grounds of non-compliance with the provisions of protection of Human Rights Act, 1993. Orders of WP No.36890/07 awaited from High Court of Kerala.-

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
7	Kerala	43/11/2002-2003-cd M-1	Death in judicial custody	150000	12.09.08	The Government of Kerala filed a Writ Petition No. 21305/09 in the High Court of Kerala against the recommendation made by the Commission and the High Court. Outcome of the writ petition is awaited
8	Orissa	123/18/1999-2000 FC	Alleged physical torture & illegal detention by police	Disciplinary action		The State Govt. has preferred writ petition No. O.J.C.No. 8776/2000 in the High Court of Orissa, against the recommendations of the Commission, which is pending consideration.
9	Uttar Pradesh	30217/24/2002-2003-cd FC	Death in judicial custody (intimation)	10000	20.02.08	Compliance report is awaited.
10	Uttar Pradesh	24507/24/2004-2005-cd FC	Death in judicial custody (intimation)	100000	16.02.09	Compliance report is awaited.
11	Uttar Pradesh	20992/24/2006-2007-CD FC	Death in Judicial Custody (Intimation)	100000	02.12.2009	Proof of payment awaited
12	Uttar Pradesh	12969/24/2002-2003 FC	Death in police encounter (Complaint)	300000	27.05.2009	Proof of payment awaited
13	Uttar Pradesh	39058/24/2003-2004 FC	Killing of by police in Fake Encounter (Complaint)	600000 (3,00,000/- each 2 persons)	27.07.2009	Proof of payment awaited
14	Uttar Pradesh	37802/24/2006-2007 M-5	Alleged torture by police (Complaint)	25000	24.08.2009	Proof of payment awaited
15	Uttar Pradesh	38166/24/2006-2007-cd M-5	Death in Judicial Custody (Intimation)	100000	31.10.2009	Proof of payment awaited
16	Uttar Pradesh	14303/24/2006-2007 M-5	Victimization and harassment of a press reporter by police on behest of then S.P. Lakhimpur Khiri, against whom he had reported in the press (Complaint)	500000	04.02.10	Proof of payment awaited
17	Uttar Pradesh	13285/24/48/09-10 M-5	Death of a child due to falling down in a manhole at Gomti Nagar, Lucknow (Complaint)	300000	10.03.2010	Proof of payment awaited
18	Delhi	102/30/2005-2006 FC	Severe health problems suffered by a girl due to supply of wrong medicine by CGHS Dispensary	100000	30.07.07	Compliance report not received due to challenge in the High Court of Delhi on the grounds of denial of medicines by the complainant; denial of opportunity to the petitioner to explain his stand; and condition of patient had worsened by administration of wrong medicine Orders of WP No.9776/07 pending in the High Court of Delhi.

Annexure-7

Para 2.37

DETAILS OF CASES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING 2010-2011 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
1.	Andhra Pradesh	1085/1/6/07-08-JCD	Death In Judicial Custody (Intimation)	100000	18/02/2011	Proof of payment awaited
2.	Andhra Pradesh	444/1/2006-2007-CD	Death In Judicial Custody (Intimation)	100000	09/12/2010	Proof of payment awaited
3.	Arunachal Pradesh	1/2/4/08-09-PCD	Death In Police Custody (Intimation)	100000	21/10/2010	Proof of payment awaited
4.	Arunachal Pradesh	3/2/14/08-09-PCD	Death In Police Custody (Intimation)	100000	12/11/2010	Proof of payment awaited
5.	Assam	32/3/2006-2007-CD	Death In Judicial Custody (Intimation)	100000	24/02/2011	Proof of payment awaited
6.	Bihar	1358/4/26/08-09-JCD	Death In Judicial Custody (Intimation)	100000	22/11/2010	Proof of payment awaited
7.	Bihar	2491/4/7/08-09-JCD	Death In Judicial Custody (Intimation)	100000	31/03/2011	Proof of payment awaited
8.	Bihar	2602/4/2006-2007-CD	Death In Judicial Custody (Intimation)	100000	02/02/2011	Proof of payment awaited
9.	Gujarat	259/6/2004-2005-CD	Death In Judicial Custody (Intimation)	500000	01/04/2010	Proof of payment awaited
10.	Gujarat	300/6/25/07-08	Hazardous Employments	71400000	12/11/2010	Proof of payment awaited
11.	Kerala	112/11/10/2010-PCD	Death In Police Custody (Intimation)	500000	10/11/2010	Proof of payment awaited
12.	Kerala	46/11/2006-2007-CD	Death In Judicial Custody (Intimation)	100000	23/06/2010	Proof of payment awaited
13.	Kerala	49/11/2006-2007-CD	Death In Judicial Custody (Intimation)	300000	27/09/2010	Proof of payment awaited
14.	Madhya Pradesh	130/12/13/2010-PCD	Custodial Death (Police)	200000	09/03/2011	Proof of payment awaited
15.	Madhya Pradesh	2138/12/38/07-08	Alleged Fake Encounters	200000	14/07/2010	Proof of payment awaited
16.	Maharashtra	1122/13/2005-2006-CD	Death In Judicial Custody (Intimation)	300000	05/01/2011	Proof of payment awaited
17.	Maharashtra	1476/13/2006-2007-CD	Death In Judicial Custody (Intimation)	100000	06/01/2011	Proof of payment awaited
18.	Maharashtra	2103/13/2003-2004	Death In Police Firing	500000	05/01/2011	Proof of payment awaited
19.	Maharashtra	511/13/2003-2004	Failure In Taking Lawful Action	1430000	06/01/2011	Proof of payment awaited
20.	Orissa	256/18/2/09-10	Atrocities By Custom/Excise/ Enforcement/Forest/Income Tax Deptt., Etc. of Central/ State Govts.	700000	31/03/2011	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins	Date of recommendation	Remarks
21.	Orissa	613/18/2002-2003-AF	Victimization	240000	19/10/2010	Proof of payment awaited
22.	Tripura	28/23/2004-2005-CD	Death In Judicial Custody (Intimation)	300000	21/06/2010	Proof of payment awaited
23.	Uttar Pradesh	12677/24/2000-2001	Discrimination Of SC/ST/OBC	120000	25/11/2010	Proof of payment awaited
24.	Uttar Pradesh	14927/24/2003-2004	Death In Police Encounter	500000	17/03/2011	Proof of payment awaited
25.	Uttar Pradesh	16176/24/12/07-08	Illegal Arrest	2000	22/12/2010	Proof of payment awaited
26.	Uttar Pradesh	20170/24/2006-2007	Failure In Taking Lawful Action	100000	17/02/2011	Proof of payment awaited
27.	Uttar Pradesh	20640/24/2003-2004	Victimization	200000	02/07/2010	Proof of payment awaited
28.	Uttar Pradesh	21872/24/2006-2007-CD	Death In Judicial Custody(Intimation)	100000	08/09/2010	Proof of payment awaited
29.	Uttar Pradesh	23226/24/1/07-08	Illegal Arrest	10000	18/10/2010	Proof of payment awaited
30.	Uttar Pradesh	23917/24/2006-2007	Abduction/Kidnapping	20000	14/02/2011	Proof of payment awaited
31.	Uttar Pradesh	24409/24/43/07-08-JCD (Intimation)	Death In Judicial Custody	500000	19/04/2010	Proof of payment awaited
32.	Uttar Pradesh	34100/24/2006-2007	Inaction By The State Government/Central Govt. Officials	200000	27/01/2011	Proof of payment awaited
33.	Uttar Pradesh	38543/24/2005-2006	Children	200000	03/12/2010	Proof of payment awaited
34.	Uttar Pradesh	41093/24/2005-2006	Inaction By The State Government/Central Govt. Officials	2600000	14/03/2011	Proof of payment awaited
35.	Uttar Pradesh	42474/24/2006-2007	Unlawful Detention	50000	25/05/2010	Proof of payment awaited
36.	Uttar Pradesh	42526/24/2005-2006-CD	Death In Judicial Custody (Intimation)	100000	12/01/2011	Proof of payment awaited
37.	Uttar Pradesh	6384/24/2003-2004	Death In Police Encounter	500000	05/05/2010	Proof of payment awaited
38.	Uttar Pradesh	9085/24/48/08-09-JCD	Death In Judicial Custody (Intimation)	100000	11/02/2011	Proof of payment awaited

Annexure-8

Para 11.3

HUMAN RIGHTS TRAINING PROGRAMMES CONDUCTED DURING 2011-2012

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
1.	Assam Administrative Staff College, Khanapara, Guwahati-22, Assam	One TOT (Three-Days) Programme on Human Rights	Assam Administrative Staff College, Guwahati	19-21 December 2011 22 participants
2.	Chhattisgarh Academy of Administration, Indravati Khand, Mantralaya Parisar, Raipur Chhattisgarh	Three TOT (Three-Days) Programmes on Human Rights	Room No. 2, Chhattisgarh Academy of Administration	15-17 November 2011 15 participants 07-09 December 2011 19 participants 27-29 December 2011 21 participants
3.	Administrative Training Institute, Mizoram, Aizawl	Four (Two-Days) Advanced Level Training Programmes on Human Rights	SIRD Training Hall, R.D. Block, Thingsulthliah Aibawk Community Hall Conference Hall, Thingdawl, R.D. Block Community Hall, Reiek R. D. Block	5-6 October 2011 39 participants 10-11 October 2011 50 participants 13-14 October 2011 43 participants 19-20 October 2011 40 participants
4.	HCM Rajasthan State Institute Of Public Administration, Jawaharlal Nehru Marg, Jaipur-302 017	(I) One (One -Day) Basic Training Programme on Human Rights (II) One (Two -Days) Advanced Training Programme on Human Rights (III) One (Three-Days) TOT Programme on Human Rights	HCM Rajasthan State Institute of Public Administration – Premises	6 February 2012 17 participants 13-14 March 2012 11 participants 27-29 February 2012 10 participants
5.	Anna Institute of Management, Mahizhampoo, 163/1, PS Kumarasamy Raja Salai (Greenways Road) Chennai-600 028	One TOT (Three Days) Programme on Human Rights	Anna Institute of Management Campus	12-14 December 2011 24 participants
6.	Youth Technical Training Society, 13 (GF) Karuna Sadan, Sector-11, Chandigarh	Three TOT (Three days) programme on Human Rights issues	Army Public School, Tarapore Enclave, Bhatinda Road, Patiala, Punjab Guru Nanak Library, Jalandhar S.D. College, Ambala	16-18 August 2011 66 participants 12-14 March 2012 50 participants 16-18 March 2012 54 participants

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
7.	All India Disaster Mitigation Institute, 411, Sakar Five, Near Natraj Cinema, Ashram Road, Ahmedabad-380 009	One (Two-Days) Training Programme on Human Rights	Nandakumarpur, Sunderbans, West Bengal	3-4 November 2011 54 participants
8.	Uttar Pradesh State Human Rights Commission, Manav Adhikar Bhawan, TC/34 V-1, Vibhuti Khand, Gomti Nagar, Lucknow – 226 010	Three (One Day) Workshop on Human Rights	Faizabad Mirzapur Bareilly	25 August 2011 50 participants 17 October 2011 68 participants 10 December 2011 70 participants
9.	Maharashtra State Human Rights Commission, 9, Hajarimal Somani Marg, Opp. CST Station, Mumbai	One (2 days) programme on Human Rights Awareness through Training and Education of University Students	New Zealand Hostel, Aarey Colony, Goregaon (E), Mumbai.	23-24 February 2012 109 participants
10.	Institute of Correctional Administration, Sector-26, Chandigarh	One TOT (Three-Days) Programme on Human Rights and Custody Management of Undertrials	Institute of Correctional Administration Chandigarh	24-26 August 2011 40 participants
11.	Yashwantrao Chavan Academy of Development Administration, Raj Bhawan Complex, Baner Road, Pune.	Five (Two Days) Advanced Level Training Programmes on Human Rights	Satara Kolhapur Ahmednagar Buldabna Solapur	28-29 December 2011 66 participants 05-06 January 2012 50 participants 20-21 January 2012 42 participants 28-29 February 2012 43 participants 03-04 February 2012 53 participants
12.	Administrative Training Institute Govt. of Arunachal Pradesh, Naharlagun	One Day Basic Training Programme on Human Rights	Institute Campus	09 March 2012 44 participants
13.	Administrative Training Institute, Lalitha Mahal Road, Mysore	One-Day Basic Programme on Human Rights One Advanced Level (2-Days) Programme on Human Rights One TOT (3-Days) Programme on Human Rights	ZP Meeting Hall Koppala ZP Meeting Hall Davangere ATI, Mysore	09 November 2011 85 participants 20-21 December 2011 68 participants 23-25 January 2012 18 participants

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
14.	Mahatama Gandhi State Institute of Public Administration, Institutional Area, Sector-26, Chandigarh-160 019.	Four (One-Day) programme on Human Rights Four (Two Days) Advanced Level Programme on Human Rights	Patiala Jalandhar Chandigarh Bhatinda Patiala Jalandhar Chandigarh Bhatinda	03 October 2011 40 participants 18 October 2011 40 participants 21 November 2011 40 participants 25 November 2011 58 participants 04-05 October 2011 30 participants 24-25 October 2011 30 participants 22-23 November 2011 30 participants 29-30 November 2011 34 participants
15.	Andhra Pradesh Police Academy, Himayat Sagar, Hyderabad-500 008	Two (Two Days) Advanced Level Programme on Human Rights One (Five Days) TOT Programme on Human Rights	Andhra Pradesh Police Academy	19-20 December 2011 16 participants 22-23 December 2011 17 participants 28 November – 02 December 2011 51 participants
16.	Police Training College, Daroh, Kangra, Himachal Pradesh	One (Two Days) Advanced Level Training Programme on Human Rights	Main Conference Hall, PTC, Daroh	15-16 December 2011 50 participants
17.	Punjab Police Academy, Phillaur, District Jalandhar, Punjab	One Advanced Level (2-Days) Training Programme on Human Rights Two TOT (3-Days) Training Programme on Human Rights	Punjab Police Academy, Phillaur	20-21 March 2012 33 participants 03-05 January 2012 50 participants 21-23 February 2012 50 participants
18.	Police Headquarters, Jehangirabad, Bhopal, Madhya Pradesh.	Forty Five One-day Workshop One ToT (Three Days)	PTS Tighra Gwalior (8) PTS Indore (4) Panchmarhi (8) PTS Umariya (8) IG Zone GWL (1) PTS Makroniya (8) Reva (8) PTS Indore	20-27 November 2011 600 participants 3-6 November 2011 1-4 December 2011 8-11 December 2011 493 participants 1-4 December 2011 8-11 December 2011 497 participants 21 November 2011 26 December 2011 - 2 January 2012 539 participants 4 - 11 January 2012 545 participants 5-7 November 2011

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
19.	Tata Institute of Social Sciences, V.N. Purav Marg, Deonar, Mumbai	Three Regional Seminars (Advanced Level Training Programme) on Human Rights in Prison Management: Challenges & Remedies	APCA, Vellore T.I.S.S. Mumbai KIIT University, Bhubaneswar.	7-8 January 2012 100 participants 4-5 February 2012 115 participants 25-26 February 2012 100 participants
20.	Institute of Human Rights Advocacy, No.24, Shivanand Nagar, Navanagar, Hubli-580 025, Karnataka.	Two (One Day) Basic Training Programme on Human Rights	Samskruti Samuchhya Bhavan, College Road, Dharwad, Dist. Dharwad, Karnataka Chamber of Commerce, APMC Yard, Gadag, Dist.Gadag, Karnataka	21 January 2012 109 participants 10 March 2012 105 participants
21.	School for Legal Studies, Babasaheb Bhimrao Ambedkar University, Lucknow-226 025	One (One Day) National Seminar on Human Rights	Conference Hall, School for Legal Studies, BBA University, Lucknow	14 November 2011 193 participants
22.	Manipur University, Canchipur, Imphal-795003	One (Two Days) Seminar on Human Rights	Manipur Police Training College, Pangei	11-12 February 2012 413 participants
23.	Mizoram University, Department of Economics, Tanhril, Post Box No.190, Aizawl	One (One Day) Workshop on Human Rights	Information & Public Relations Hall, Aizawl.	28 November 2011 100 participants
24.	Equal Opportunity Cell, Tezpur University, Tezpur - 784 028, Assam	One (One Day) Workshop on Human Rights	Tezpur University	12 November 2011 100 participants
25.	Sohra Government College, Sohra, East Khasi Hills, Meghalaya	One (One Day) Seminar on Human Rights	College premises	05 December 2011 65 participants
26.	Indian Institute of Mass Communication, Sanchar Marg, Dhenkanal-759 001, Orissa	One (One Day) Seminar on Human Rights	Spandan (Auditorium) IIMC, Dhenkanal Campus	08 December 2011 94 participants
27.	Samaja Seva Samithi (R) No.60, 3rd Cross, Gavipuram Extn. BANGALORE	One (One Day) Workshop on Human Rights	University of Agricultural Sciences Premises Raichur	11 February 2012 103 participants
28.	Lakshmibai College, University of Delhi, Ashok Vihar-III, New Delhi	One (2-Days) National Seminar on Human Rights	College Premises	28-29 February 2012 50 participants
29.	Department of Political Science, Mizoram University, Tanhril, Aizawl	One (One Day) Workshop on Human Rights	Mizoram University, Aizawl	28 February 2012 90 participants
30.	Union Christian College, Umiam Khwan R-Bhoi District- 793 122 Meghalaya	One (One Day) Seminar on Human Rights	College Auditorium Union Christian College, Meghalaya	10 December 2011 261 participants
31.	Education Department Mizoram University Tanhril, Aizawl	One (One Day) Seminar on Human Rights	Academic Conference Hall	29 February 2012 70 participants

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
32.	Indian Institute of Public Administration, Budaun Branch, U.P.	Two (One-Day) Basic Training Programme One (ToT) on Human Rights	BIMT College, Kakrala Road, Budaun, U.P. Govt. Degree College, Kachhla, Budaun, U.P. Block office, Dataganj, Dist. Budaun, U.P.	03 December 2011 Approx. 80 participants 22 December 2011 Approx. 100 participants 18-20 March 2012 75 participants
33.	Regional College of Higher Education, Dargah Road, Hatigaon, Guwahati, Assam	One (One Day) Seminar on Human Rights	RIST Conference Hall	12 February 2012 116 participants
34.	Bhaskaracharya College of Applied Sciences, (University of Delhi), Sector-2, Phase-I, Dwarka, New Delhi	One (One Day) Seminar on Human Rights	College premises	13 March 2012 150 participants
35.	Human Rights Cell, Law School, Banaras Hindu University, Varanasi	One (One Day) Seminar on Human Rights	Law School, BHU.	04 March 2012 279 participants
36.	Kendriya Vidyalaya Sangathan, New Delhi	Two (Three Days) Training Programme on Human Rights	Kendriya Vidyalaya, Pragati Vihar, Lodhi Road, New Delhi	03-05 May 2011 45 participants 8-10 August 2011 48 participants
37.	Central University of Himachal Pradesh, Dharamshala, Kangra, H.P.	One (Three Days) International Conference on Sociology of Law on a general theme of 'Justice, Peace and Sustainable Development'	Dharamshala, Kangra	10-12 September 2011 107 participants
38.	Inspector General Ftr HQ BSF South Bengal Kolkata	Two (One-Day) Human Rights Sensitization Programme	Kolkata	16 & 17 February 2012 41 participants
39.	Inspector General Ftr HQ BSF North Bengal Kolkata	One-Day Training Programmes	Siliguri	28 February 2012 47 participants
40.	Human Rights Front, 298, Ganga Nagar, Unit-VI, Bhubaneswar, Odisha	1. One day Programme for Media Persons on Human Rights. 2. One day Programme on Human Rights Defenders	CYSD-DRTC, Bhubaneswar, Odisha	19 March 2012 73 participants 21 March 2012 85 participants
41.	Shri Mokshagundam Vishweshwaraiah Cultural Society, H. No. 1-30, B. Settypalli Village & Post Chilamathur Mandal, Hindupur Taluk, Anantapur District	One (One-Day) Basic Training programme on Human Rights	Sri Sathya Sai Resource Bhawan, Anantapur District, Andhra Pradesh	18 March 2012 100 participants
42.	Sri Guru Ayyappa Swamy Educational Trust, Chittguppa Post, Taluk: Humunabad, District: Bidar, Karnataka.	One (One-Day) Basic Training programme on Human Rights	College Campus	25 March 2012 102 participants

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
43.	University Institute of Technology, University of Kerala, Neyyattinkara Centre, Aralumoodu P.O. Thiruvananthapuram	One (1 day) Training Programme on Human Rights	University Senate Chamber, Palayam, Thiruvananthapuram	30 March 2012 191 participants
44.	Bareilly College, Bareilly, Uttar Pradesh.	One (One-Day) Basic Training programme on Human Rights	Bareilly College	21 March 2012 130 participants

HUMAN RIGHTS TRAINING PROGRAMMES APPROVED DURING 2010-11 BUT CONDUCTED IN 2011-12

Sl. No.	Name of the Institution	Theme of Training & No. of Programmes	Venue	Programme Date & Nos. of Participants
45	Sardar Patel Institute of Public Administration Opposite ISRO, Satellite Road Ahmedabad, Gujarat	One TOT (3-Days) on Human Right for Good Governance	Bhadar Hall SPIPA, Ahmedabad	14-17 July 2011 *Number of participants not available
46	Assam State Human Rights Commission, GMC Road, Bhangagarh Guwahati-781 005	Two (One Day) Training programme on Human Rights	Sonari Doomdooa	13 June 2011 67 participants 15 June 2011 80 participants
47	University Institute of Legal Studies (H.P.U.), AVA - Lodge Campus, Chaura-Maidan Shimla-171 004.	One (1-Day) Training Programme on Human Rights of Children, Women & Vulnerable group of SC/ST	University Institute of Legal Studies, Shimla	31 March 2012 Over 100 participants
48	Rajasthan State Human Rights Commission, Jaipur, Rajasthan	Three (One Day) Basic Training Programmes	Udaipur Sirohi Kishangarh, Ajmer	11 August 2011 45 participants 16 August 2011 42 participants 18 August 2011 40 participants
49	Department of Comparative Dravidian Literature & Philosophy, Dravidian University, Kuppam-517 425 (Andhra Pradesh)	One (One-Day) Basic Training programme on Human Rights	Dravidian University Campus.	21 January 2012 150 participants
50	Administrative Training Institute Government of West Bengal, Salt Lake City, Sector-III, FC-Block Calcutta-700 091	One TOT (5-Days) on Human Rights	Institute premises	20-24 June'2011 34 participants

Annexure-9

Para 12.9

MESSAGE

The national as well as international community around the world are increasingly realizing and acknowledging the role and contribution of Human Rights Defenders (HRDs) in strengthening the human rights regime throughout the globe. NHRC considers the HRDs as its partner in the endeavour to fulfill its role as an institution for promotion and protection of rights of common man.

NHRC understands that there are many security risks for human rights defenders and they have to tread a very risky and difficult path to perform their duties/tasks as a Human Rights Defender. The problems and harassment of the HRDs are in the knowledge of NHRC and NHRC has always made sincere efforts to ameliorate the problems. Measures like Focal Point for Human Rights Defenders, dedicated website space for HRDs and sensitization of functionaries of both State and non state actors, through workshops/ trainings/ seminars/ meetings, have gone a long way in making the voice of the HRDs heard and restoration of their identity as promoter and protector of human rights.

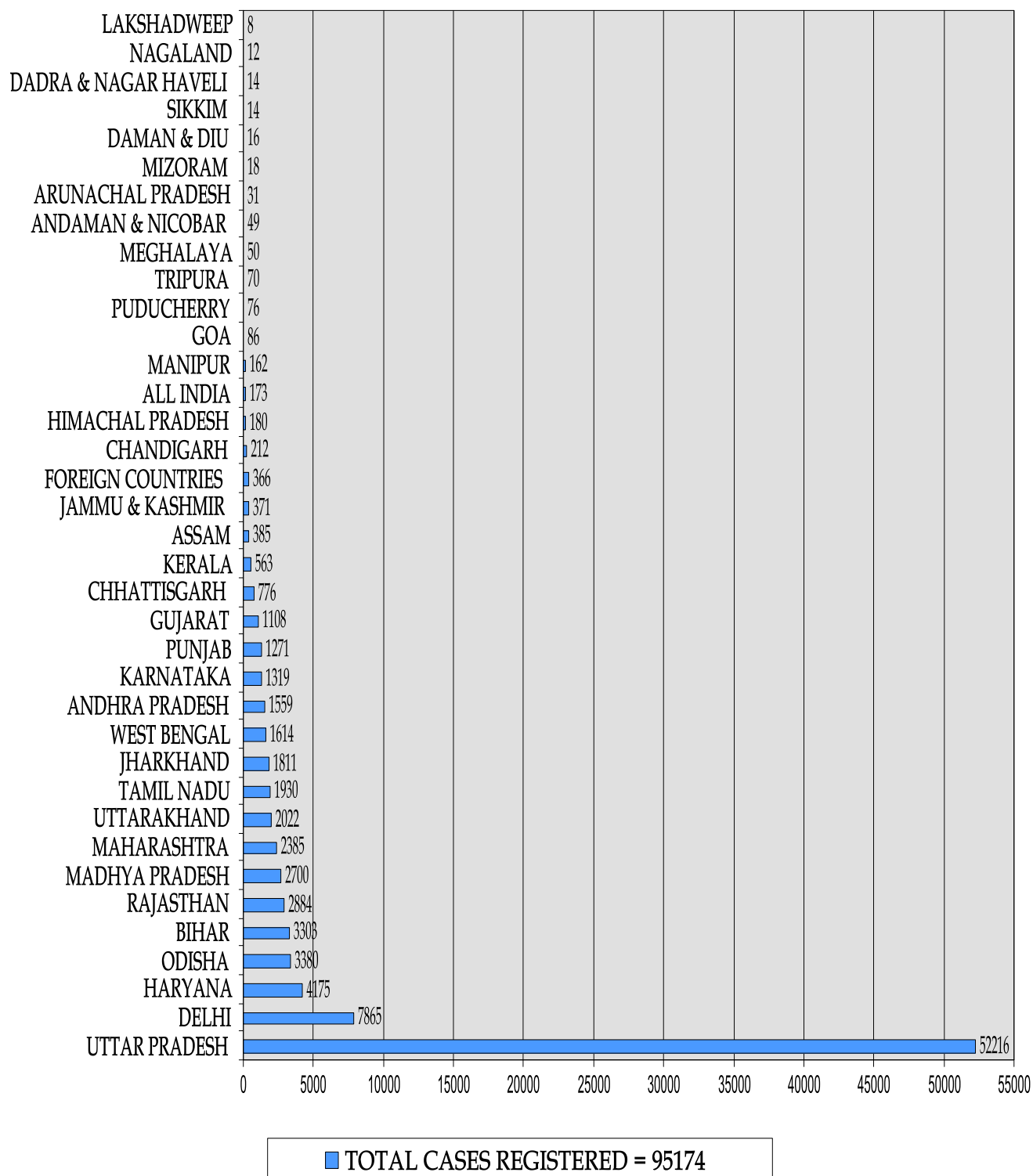
The Commission believes that 9 December, which is the day when the Declaration on Human Rights Defenders was adopted by United Nations on 9 December 1998, be declared as Human Rights Defenders Day to acknowledge and pledge continued support to the HRDs who are working for the creation and sustenance of a rights aware and rights respecting civil society.

CHARTS & GRAPHS



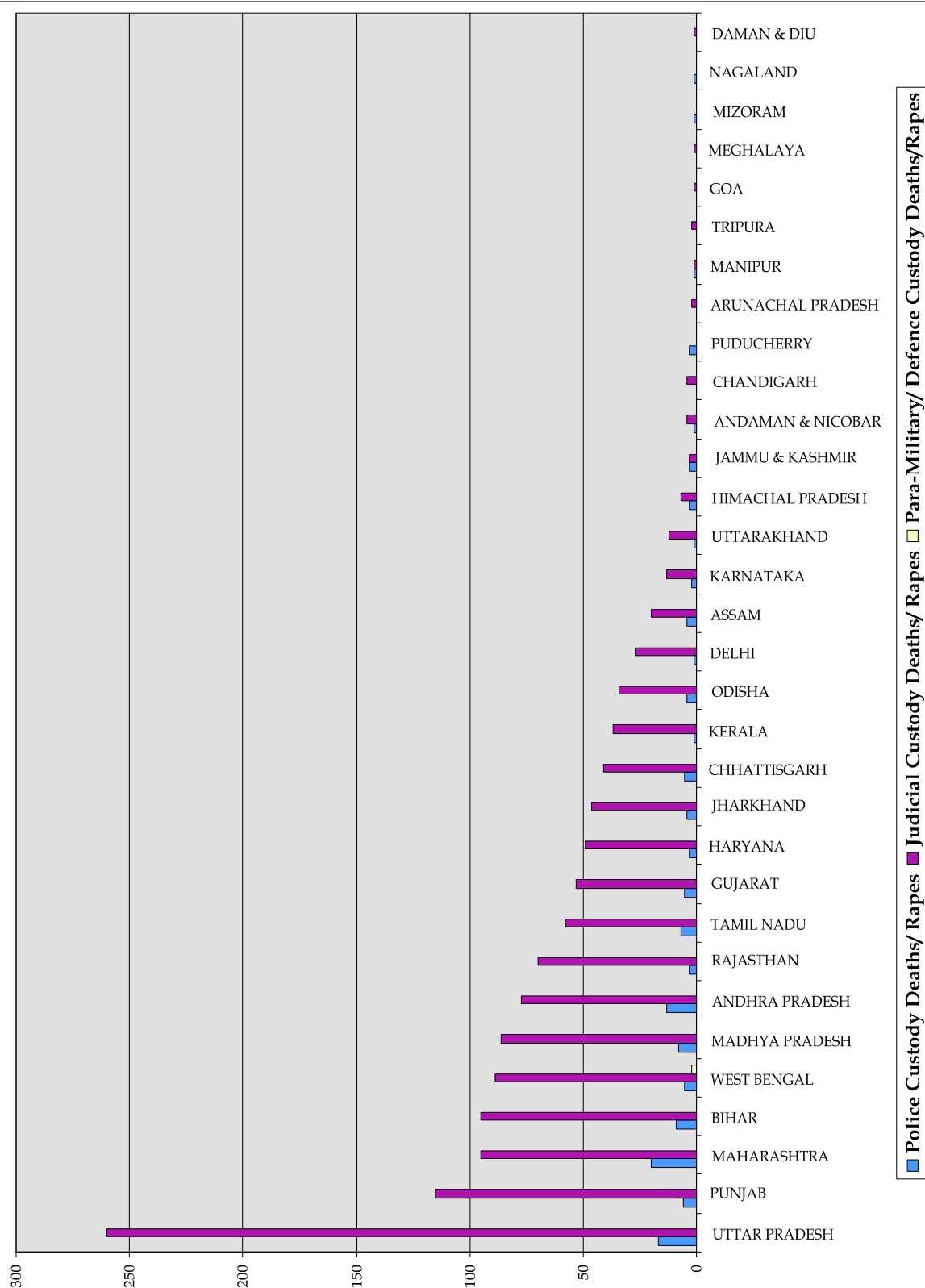
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STATE/UT-WISE NUMBER OF CASES REGISTERED IN NHRC DURING 2011-2012



STATE/UT-WISE INTIMATIONS REGISTERED IN NHRC RELATING TO CUSTODIAL DEATHS DURING 2011-2012 TOTAL CASES = 1436

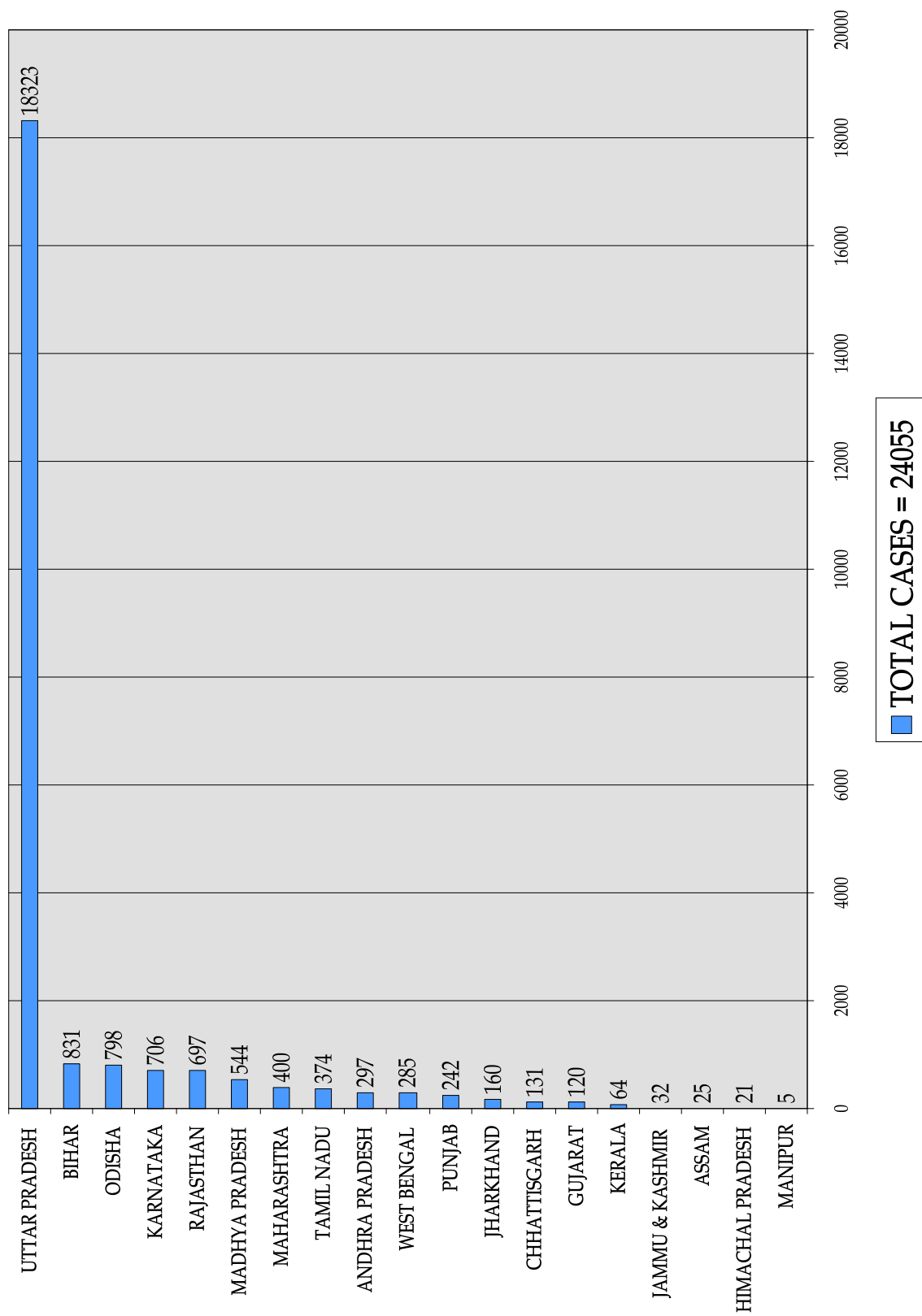
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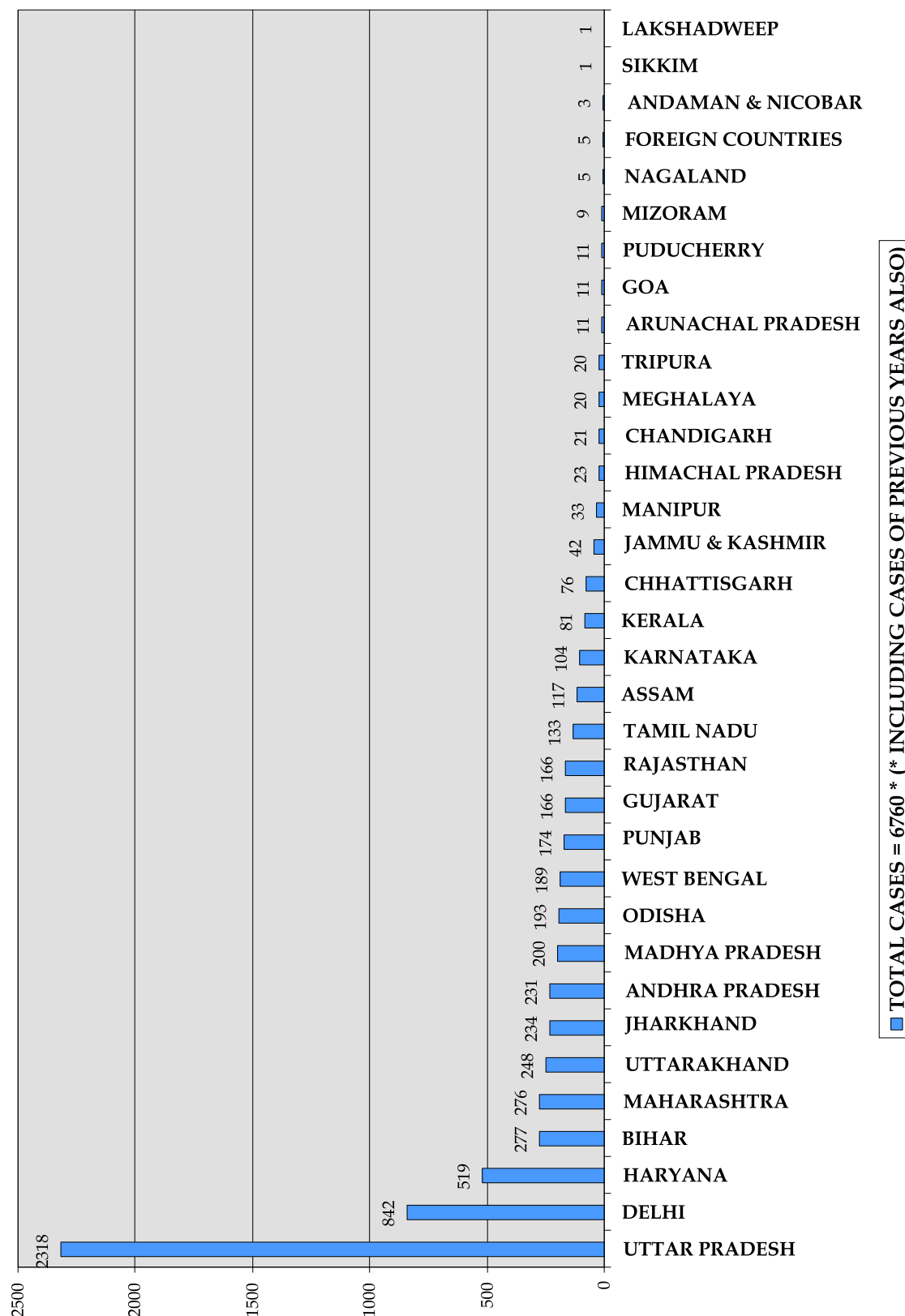


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CASES TRANSFERRED BY NHRC TO SHRCs DURING 2011-2012



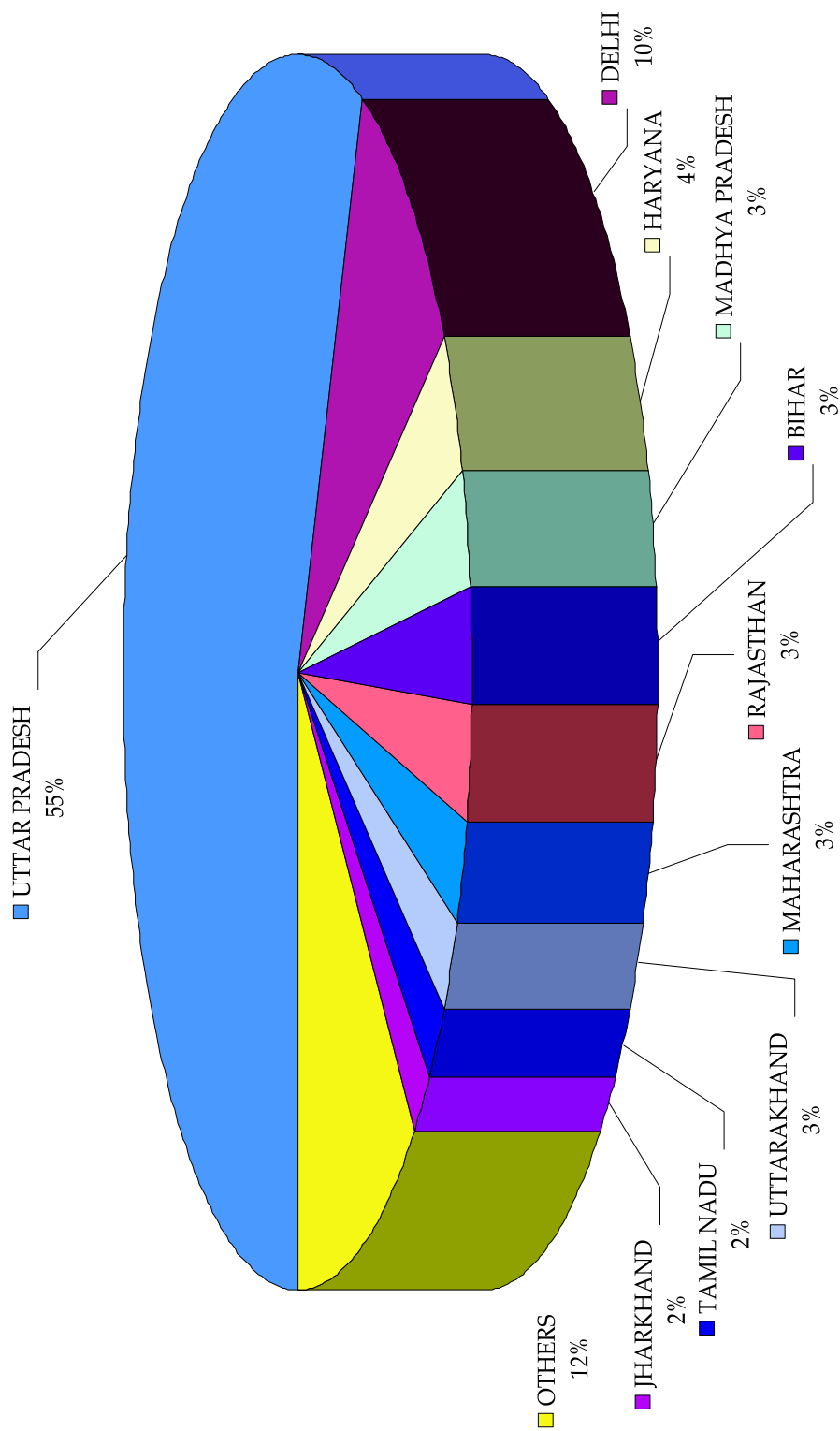
4 NATURE & CATEGORIZATION OF REPORT CASES* DISPOSED OF BY THE NHRC DURING 2011-2012



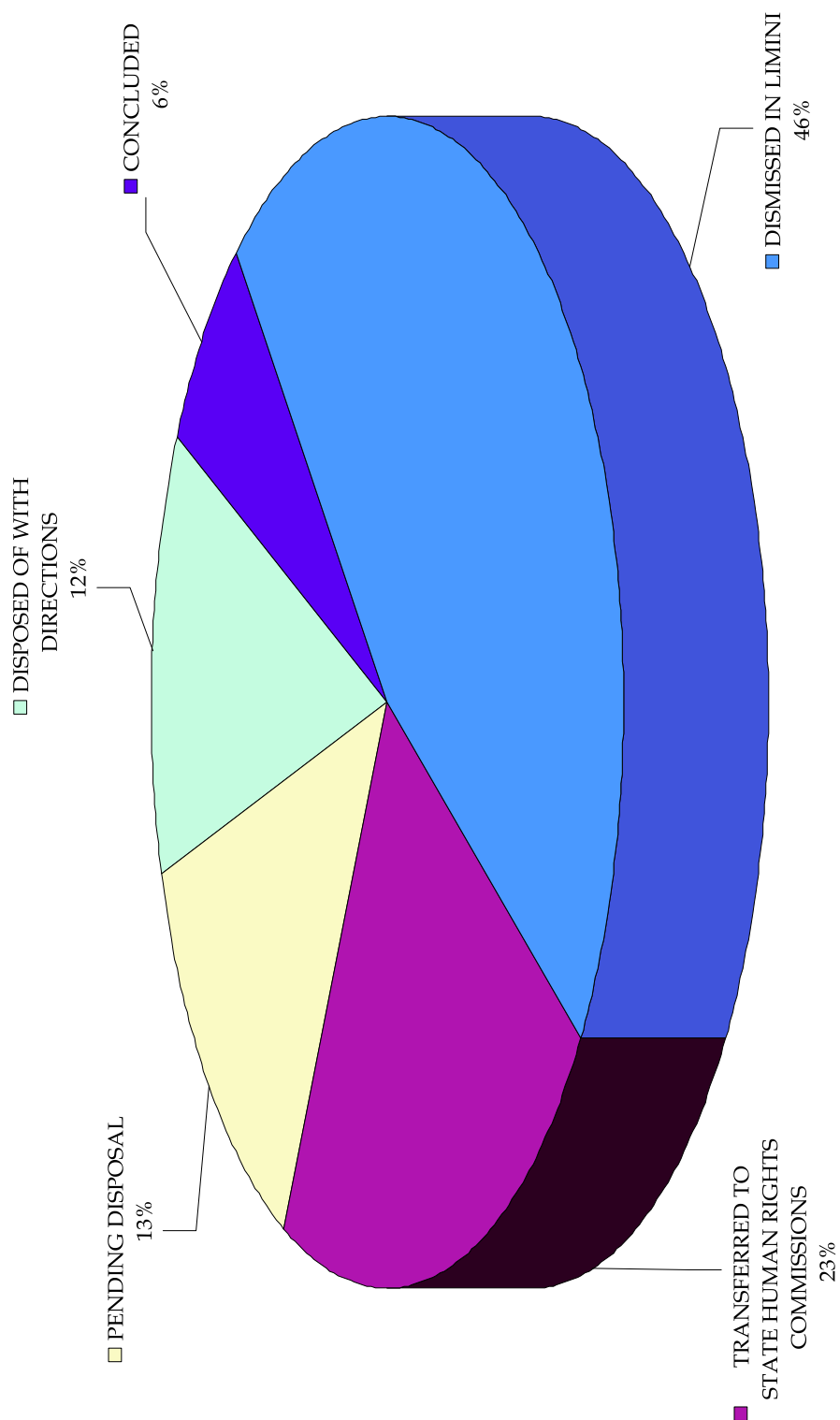


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CASES DISMISSED 'IN LIMINI' BY NHRC DURING 2011-2012 IN STATES/UTs WITH A DISMISSAL RATE OF MORE THAN 2%



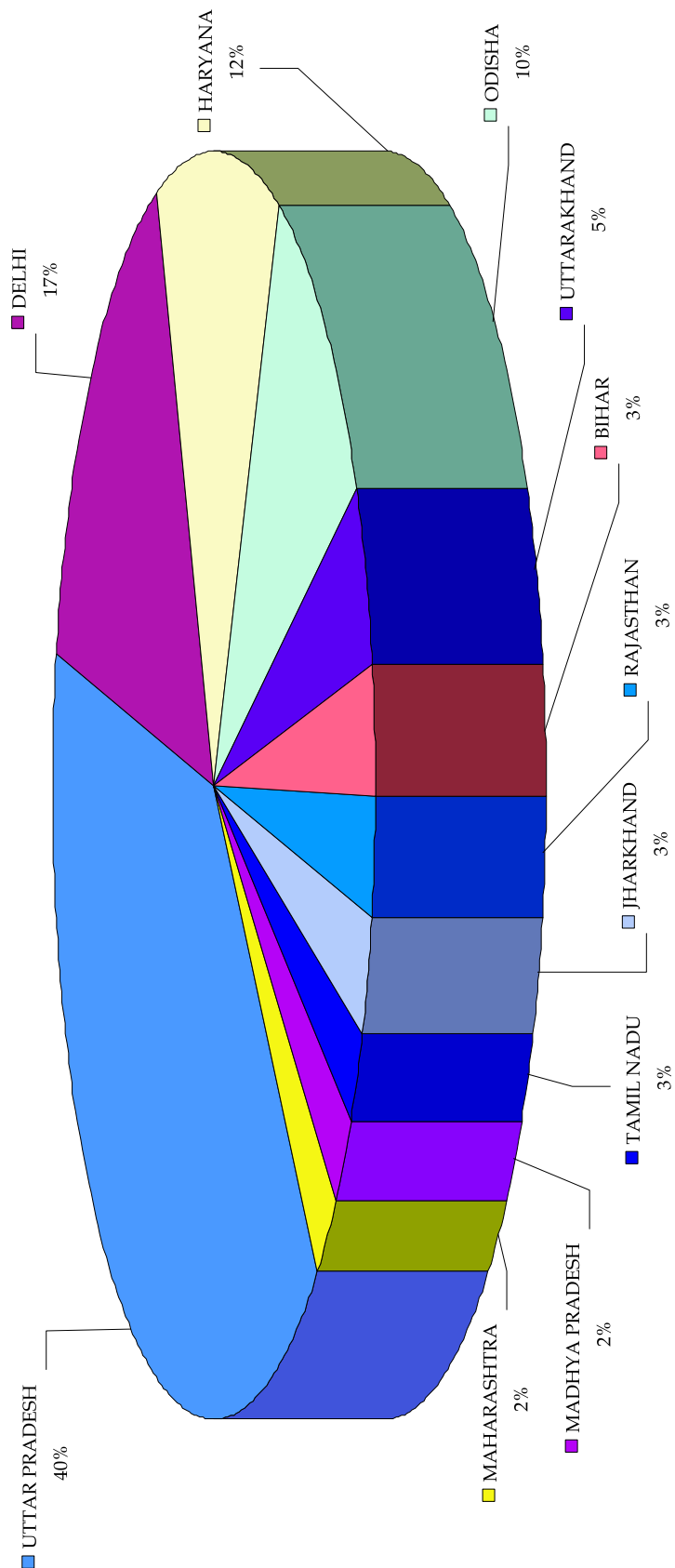
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**CASES DISPOSED OF/PENDING DISPOSAL BY NHRC DURING
2011-2012**



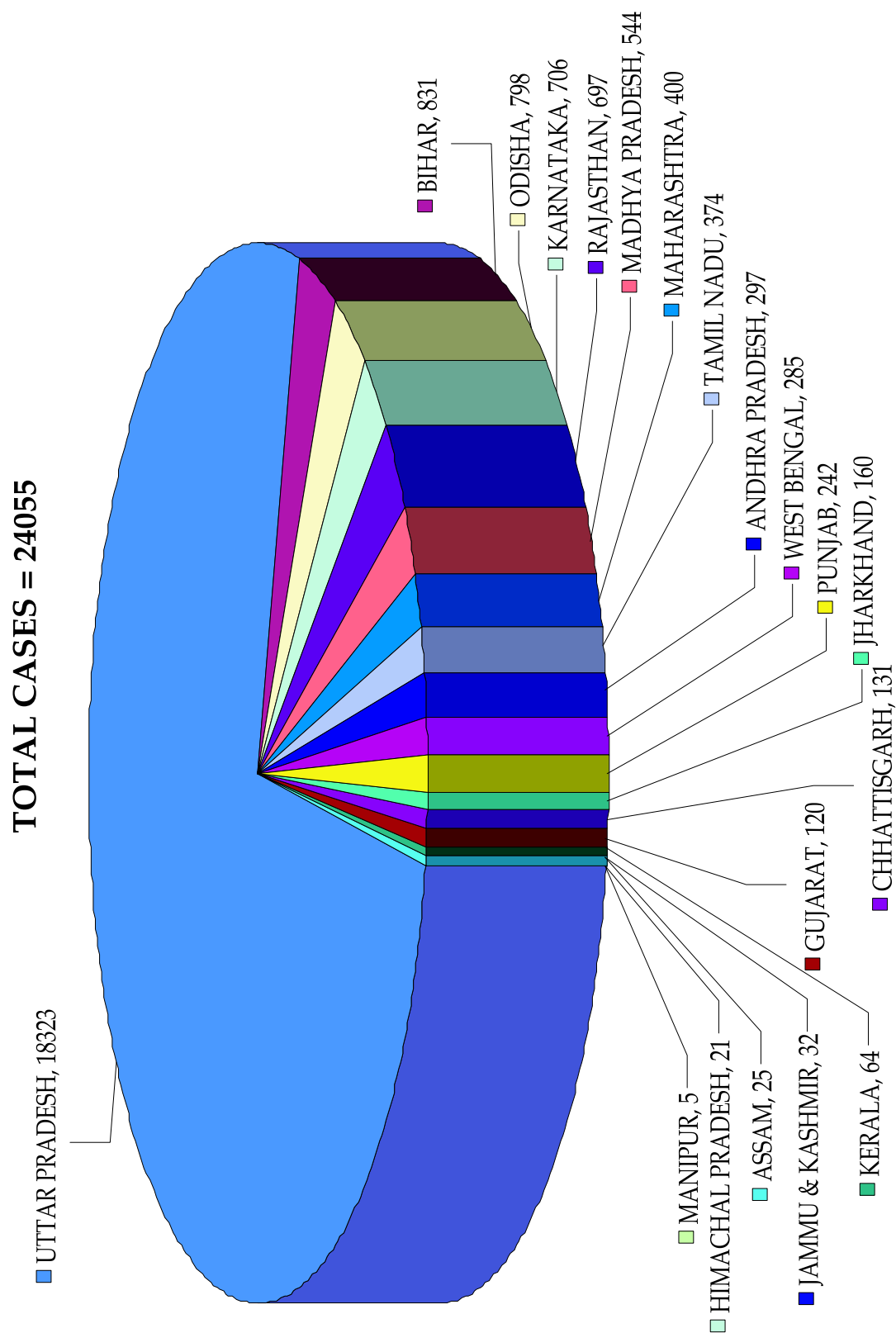
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CASES DISPOSED OF WITH DIRECTIONS BY NHRC DURING 2011-2012 IN STATES/UTs WITH A DISPOSAL RATE OF MORE THAN 2%



8

CASES TRANSFERRED TO SHRCs BY NHRC DURING 2011-2012





ABBREVIATIONS

APF	Asia Pacific Forum
ASI	Assistant Sub-Inspector
BPL	Below Poverty Line
CB-CID	Crime Branch-Criminal Investigation Department
CID	Central Investigation Department
Cr. P.C.	Criminal Procedure Code
CPIO	Central Public Information Officer
CRPF	Central Reserve Police Force
DG(I)	Director General (Investigation)
DGP	Director General of Police
DIG	Deputy Inspector General
DM	District Magistrate
FIR	First Information Report
GoI	Government of India
JS (P&A)	Joint Secretary (Programme & Administration)
HR	Human Rights
I/C	In-charge
ICC	International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights
IPC	Indian Penal Code
MER	Magisterial Enquiry Report



NCT	National Capital Territory
NGO	Non-Governmental Organization
NHRI	National Human Rights Institutions
NOK	Next of Kin
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
PCS	Provincial Civil Services
PHRA	Protection of Human Rights Act, 1993, as amended by the Protection of Human Rights (Amendment) Act, 2006
PMR	Post-mortem Report
P.S.	Police Station
r/o	resident of
SI	Sub-Inspector
SHO	Station House Officer
s/o	son of
SSP	Senior Superintendent of Police
u/s	under section



Photographs :
A.K. Shrivastava

*"We need to promote development that does not destroy our environment."
- Wangari Maathai*



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