



NATIONAL HUMAN RIGHTS COMMISSION



Annual Report 2007-2008



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ABBREVIATIONS 247



1.1 This is the fifteenth Annual Report of the National Human Rights Commission (NHRC). It covers the period from 1 April 2007 to 31 March 2008.

1.2 The fourteenth Annual Report of the Commission, for the period 1 April 2006 to 31 March 2007, was submitted to the Central Government on 20 September 2007 for preparing the Memorandum of Action Taken and placing the same before each House of Parliament in consonance with the procedure envisaged under Section 20(2) of the Protection of Human Rights Act, 1993 and its amendment in September 2006.

1.3 Accordingly, the fourteenth Annual Report of the Commission was tabled in the Lok Sabha and the Rajya Sabha on 26 February 2009 along with the Memorandum of Action Taken Report. The Commission has also forwarded copies of the fourteenth Annual Report to all the State Governments/Union Territory Administrations as required under Section 20(2) of the Protection of Human Rights Act, 1993, for tabling it in their concerned Legislatures, along with a Memorandum of Action Taken or proposed to be taken on the recommendations of the Commission and the reasons for non-compliance of the recommendations, if any.

1.4 The year under review witnessed changes at the helm of the Commission. Justice Shri S. Rajendra Babu, former Chief Justice of the Supreme Court of India, assumed office as the fifth Chairperson of the Commission on 2 April 2007. The year also saw the departure of Dr. Justice Shivaraj V. Patil, Member, who prematurely demitted office on 4 February 2008. Justice Shri Y. Bhaskar Rao, Shri R.S. Kalha and Shri P.C. Sharma continued to serve as Members of the Commission.

1.5 As regards deemed Members of the Commission, under Section 3(3) of its statute, Shri Mohamed Shafi Qureshi assumed duties on 3 September 2007 as Chairperson of the National Commission for Minorities; Dr. Buta Singh assumed office as Chairperson of the National Commission for Scheduled Castes on 25 May 2007; and Smt. Urmila Singh assumed office on 18 June 2007 as Chairperson of the National Commission for Scheduled Tribes. Dr. Girija Vyas continued to serve as Chairperson of the National Commission for Women.

1.6 Shri Akhil Kumar Jain, IAS (WB:73) succeeded Shri Ravi Kamal Bhargava, IAS (MH:72) as Secretary-General and Chief Executive Officer of the Commission on 30 November 2007 upon the

retirement of the latter. Shri Damodar Sarangi, IPS (WB:72) retired as Director General (Investigation) of the Commission on 31 December 2007.

1.7 The Annual Reports of the Commission serve as essential sources of information on the human rights situation in the country. The present Annual Report too gives an account of the actions taken by the Commission on various human rights issues including individual complaints, as also its concerns and accomplishments. With every passing year, a conviction has grown in the Commission that the right to life with dignity requires respect for the totality of the human person. This has further led to reaffirmation of the fact that it is essential for the Commission to focus, in equal measure, on economic, social and cultural rights, just as it does on civil and political rights. The indivisibility and inter-related nature of rights is an indisputable reality as there is a symbiosis between them. This precisely is the reason that the Commission during the year under review made all out efforts to focus on all rights, as the current report narrates.

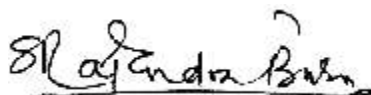
1.8 There is no denial of the fact that despite having an impressive constitutional, legislative and institutional framework and a record of achievements by NHRC, the Government and its agencies, as well as the civil society at large, the protection and promotion of human rights in India continues to be a formidable challenge even after more than half a century of freedom. The old and new obstacles to be surmounted for the full realization of human rights include poverty, illiteracy, corruption, increase in acts of terrorism and lack of a consistent political and administrative will in implementing many existing laws which concern human rights. The challenge before us today is to tackle these problems and endeavour for scrupulous implementation of the constitutional guarantees, international commitments and domestic laws relating to human rights. The efforts of the Union and all State Governments/Union Territory Administrations, autonomous bodies, civil society and citizenry should be directed towards this end.

1.9 The Commission is not alone in its mission of protecting and promoting human rights. In recent years, several non-governmental organizations (NGOs) have been fighting for the human rights of citizens, especially of disadvantaged groups. The Government Departments also have undertaken initiatives and launched programmes aimed at guaranteeing various human rights -- be it education, health or the empowerment of the vulnerable.

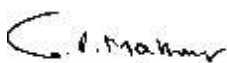
1.10 However, the Commission is constrained to point out the reverse image of this situation too. Several State Governments/Union Territory Administrations and Ministries/Departments of the Central Government have delayed — if not effectively undone — the work of the Commission by their inaction towards its inquiries, notices and recommendations. It is disheartening to note that several cases before the Commission have not been resolved because the office of the concerned State Government/Union Territory Administration has not filed its reply or not complied with the Commission's orders in a case or submitted an action taken report.

1.11 The combined result of this is not to be measured by the backlog of cases in the Commission but in terms of the number of individuals who have been deprived of their rights and the number of those accused of violating human rights who have so far not been punished. It is indeed sad for all this to happen when India has laws granting and guaranteeing human rights, a system in place to protect those rights and an institution like the Commission acting as a guardian of the people.

1.12 The Commission would like to take the forum offered by this Annual Report to once again urge all stakeholders to give this issue the urgency it deserves. All Government Ministries/Departments and State Governments/Union Territory Administrations must wholeheartedly focus their attention on the Commission's recommendations, orders and inquiries that are still pending in their forgotten files and ensure speedy action so that relief is given to all those who have been deprived of their rights. When the right of any individual is restored which he or she has been deprived of or for that matter the person has been compensated for the violation perpetrated on him/her, it is humanity that ultimately wins.



(S. Rajendra Babu)
Chairperson



(G.P. Mathur)
Member



(B.C. Patel)
Member



(Satyabrata Pal)
Member



(P.C. Sharma)
Member

27 May, 2009
New Delhi



2.1 For the Commission, the protection and promotion of human rights means protecting democracy itself, a democracy that is inclusive in character and caring in respect of its citizens. The Commission has never hesitated in drawing the attention of the State and its agencies to those acts of commission, omission, abetment or negligence which result or may result in violation of human rights. In approaching diverse human rights concerns, including vexed issues such as the protection of human rights in the face of terrorism, the Commission has always been guided by the principles laid down in the Constitution which, in its Preamble, has *inter alia* propounded two core values that must always be protected and advanced: the life, liberty and dignity of the individual, and the unity and integrity of the nation. There is, in fact, no incompatibility between the two; instead, they reinforce each other. A strong nation requires, as a *sine qua non*, the strong protection of human rights of its citizens. To act otherwise, is to injure both.

2.2 In fact, if the social, political and economic strength of the nation is to be assured and its unity and peace is to be guaranteed, it is essential to ensure the protection of human rights including dignity of all especially those who are vulnerable and marginalized. This is a precondition for good governance. Protection of human rights and good governance are two sides of the same coin. This is the prime reason that has propelled the Commission to give focused attention to economic, social and cultural rights, especially of vulnerable sections, namely, women, children, Scheduled Castes, Scheduled Tribes, minorities, disabled and those living in penury, including displaced persons. It is for this segment of the population that doors of opportunity must be widely opened so that their basic rights, such as the right to education, health, food, nutrition, shelter and sanitation, etc., are ensured.

2.3 The ensuing paragraphs give an overview of the activities of the Commission during the period April 2007 to March 2008.

New Chairperson

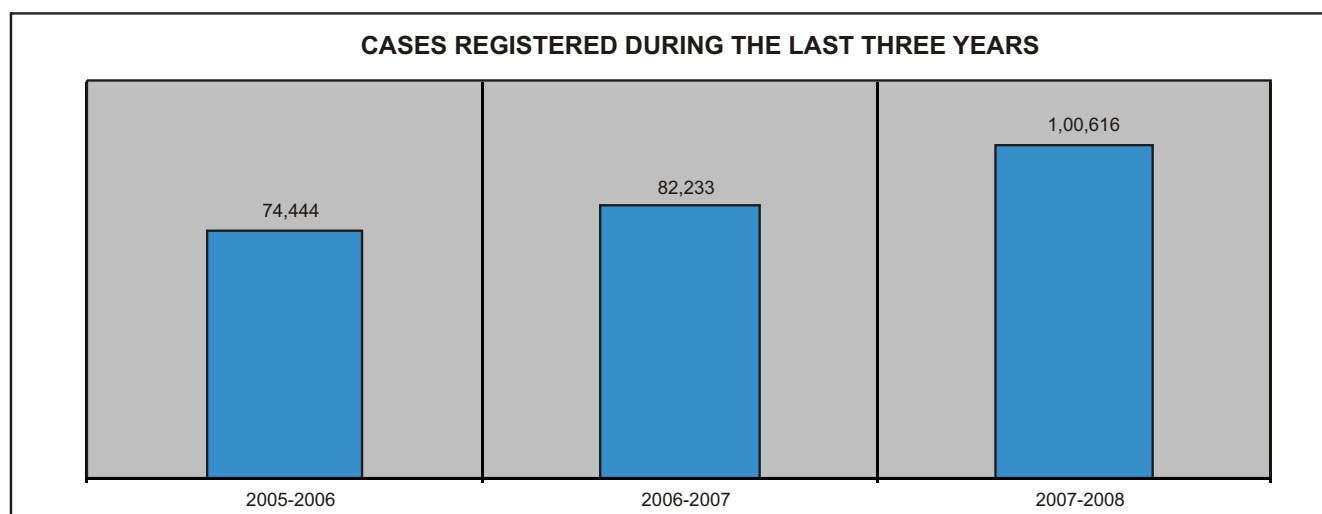
2.4 Justice Shri S. Rajendra Babu assumed office as the fifth Chairperson of the Commission on 2 April 2007. He succeeded Dr. Justice A.S. Anand who demitted office on 31 October 2006.

Commission's Meetings

2.5 During the year under review, the Full Commission comprising the Chairperson and four Members deliberated upon and decided various cases of human rights violations in 96 meetings and other programme and administrative agenda items in 33 meetings. The Statutory Full Commission, which includes deemed Members, also met on 20 July 2007.

Disposal of Human Rights Violation Cases

2.6 There has been a steady increase in the number of human rights violation cases registered in the Commission, as reflected in the Graph below. During the year under review, 1,00,616 cases were registered and 1,02,848 disposed off by the Commission. The computerized Complaint Management System (CMS) developed by the Commission has facilitated disposal of cases.



Organization of Camp Sitting

2.7 A Camp Sitting of the Commission was held at Patna in Bihar from 17 to 19 May 2007. Its main aim was to expedite disposal of pending complaints as well as review the progress made by the State functionaries with regard to the recommendations made by the Commission on various human rights issues. During the Camp Sitting, the Commission disposed off 155 cases. The State Government submitted proof of payment of Rs. 7, 60,000 in six cases to the concerned victims whose human rights had been violated. The Commission also recommended payment of monetary relief amounting to Rs. 14,25,000 in ten cases which included eight cases of custodial deaths.

2.8 A Review Meeting with senior Officers of the State was also held on 19 May 2007 to draw their attention towards various issues relating to conditions in prisons, violence in custody,

custodial deaths, trafficking in women and children, juvenile justice, health concerns, education, manual scavenging, etc. The Commission also impressed upon them the need to appoint Nodal Officer(s) for coordinating human rights issues at the State level.

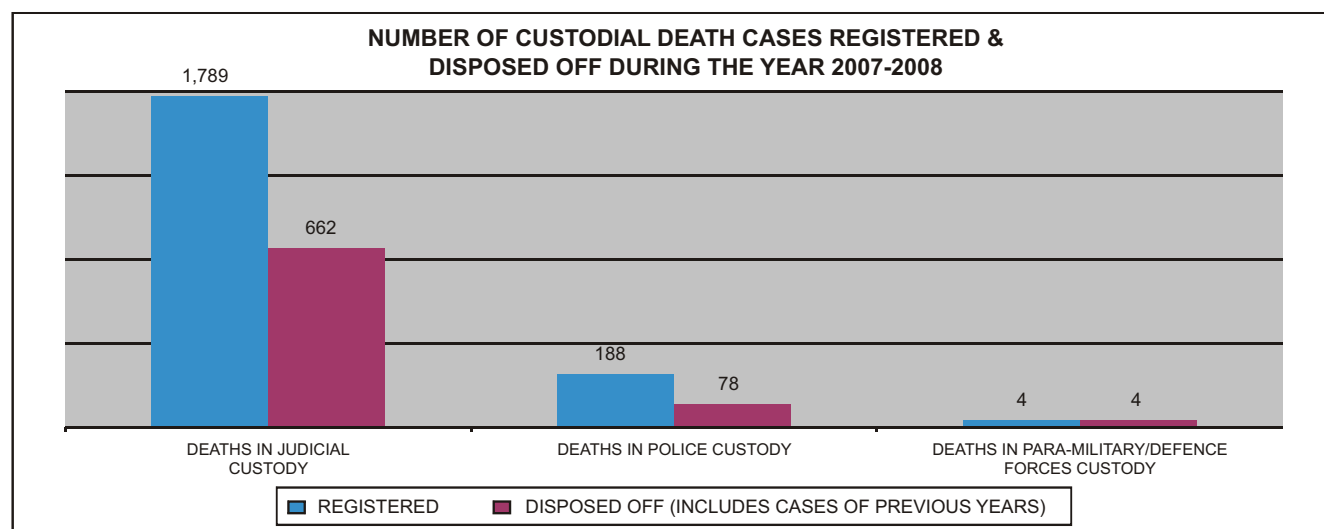
Upgradation of Complaint Management System

2.9 The CMS software installed in the Commission to facilitate the complaint handling mechanism with the help of the National Informatics Centre (NIC) was upgraded. As on 31 March 2008, the CMS application software had information about 7,74,564 cases.

CIVIL AND POLITICAL RIGHTS

Preventing Custodial Violence

2.10 The Commission received 1,789 cases of death in judicial custody,* and 188 cases of death in police custody and 4 cases of death in para-military/defence forces custody during the year under review. It disposed off 744 cases of custodial deaths, comprising 662 cases of death in judicial custody, 78 cases of death in police custody and 4 cases related to death in para-military/defence forces custody. The disposal figures include cases pending from previous years.



Inspection of Jails

2.11 A Member of the Commission visited the Buraill Model Jail in Chandigarh on 27 March 2008. An investigation team visited the capital's high security Tihar Jail on 14 June 2007 and one of the Special Rapporteurs visited Orissa to assess the conditions in the jails there.

*In the Annual Report, judicial custody means persons in jails as per the Court's Orders.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Preventing and Combating Sexual Harassment of Women at the Work Place

2.12 The Commission has played an active role in the implementation of the Supreme Court guidelines relating to the prevention and combating of sexual harassment of women at the workplace, popularly known as the Vishaka guidelines. In pursuance of Commission's efforts, all the State Governments and Union Territory Administrations have made necessary amendments in their Conduct Rules for employees and have informed the Commission about the constitution of Complaint Committees in the Ministries and Departments.

Elimination of Child Labour and Bonded Labour System

2.13 The Commission's concern for children is evident in its relentless efforts to put an end to the practice of child labour and to ensure that all children are in schools and not part of the workforce. The NHRC held a National Level Workshop on Bonded and Child Labour issues in New Delhi on 27 June 2007 for senior officials of the Central Government, State Governments and Union Territory Administrations. It also undertook in-depth reviews of the bonded labour and child labour situation in the States of Karnataka, Orissa, Jharkhand, Punjab and Chhattisgarh. Based on these, specific recommendations were made to all the concerned authorities.

Right to Health

2.14 In order to address the issue of shortage of doctors and nurses in rural areas, the Commission held a meeting with the Medical Council of India, the Indian Nursing Council and the Ministry of Health and Family Welfare in New Delhi on 30 August 2007 and made a number of recommendations which included one year of compulsory rural service for doctors and introduction of 'Emergency Medicine' as a specialty.

Mental Health

2.15 The reconstituted Core Group on Mental Health met on 21 August 2007 at NHRC and reiterated that the basic needs of mentally ill persons, such as food, nutrition, health, sanitation and recreation, etc., should be fulfilled so that they are treated with dignity. The Core Group also suggested that mentally ill persons should be entitled to benefits like old age pension and other social security schemes. Besides, it stressed the need to involve non-governmental organizations in rehabilitating mentally ill persons.

Leprosy and Human Rights

2.16 The Commission convened a meeting in New Delhi on 3 January 2008 to address the issue of leprosy related discrimination and made a number of recommendations including the

amendment/ deletion of discriminatory provision(s) in various Acts impacting on the rights of persons affected by leprosy.

HIV/AIDS and Human Rights

2.17 The Commission made a film and a video spot on the rights of persons infected/ affected by HIV/AIDS. These were telecast by Doordarshan and a few private channels and also shown during various awareness programmes.

Right to Food

2.18 NHRC has been looking into the issue of right to food since 1997 and has set up a Core Group for this purpose that was later reconstituted. A meeting of the reconstituted Core Group on 9 August 2007 (the third meeting in series) emphasized the need for constitution of watch committees at various levels to oversee that right to food is ensured. In addition, NHRC is continuously monitoring the implementation of various schemes relating to food security in the country. In this context, it has taken up a programme of Human Rights Awareness & Facilitating Assessment of Enforcement of Human Rights Programme in 28 districts, with one district selected from each State.

Rights of Displaced Persons

2.19 NHRC organized a National Conference on “Relief and Rehabilitation of Displaced Persons” from 24 to 25 March 2008 at New Delhi which was inaugurated by the Union Home Minister Shri Shivraj V. Patil. It made several recommendations for amendment to the proposed Land Acquisition (Amendment) Bill, 2007 and the Rehabilitation and Resettlement Bill, 2007.

Issue of Female Foeticide

2.20 NHRC and the United Nations Population Fund undertook a collaborative project entitled "Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation Across Key States". The main objective of the research project is focussing on the impediments in the implementation of the Act by reviewing the cases registered by the States/Union Territories under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, identifying the hurdles in filing of such cases and studying the final orders passed on these cases.

2.21 The Commission also sent an investigation team to Pataudi village in Gurgaon District of Haryana, to enquire into the case relating to the recovery of half-burnt fetuses from a well near a nursing home, which was allegedly involved in sex determination tests and female foeticide for many years.

Human Rights Education and Awareness

2.22 A National Consultation on “Incorporating Human Rights Education in School and University Education System” was held on 6 July 2007 at Vigyan Bhawan, New Delhi. On this occasion two modules – 'Recommendations of National Human Rights Commission - Human Rights Education at the University and College Levels' and 'Recommendations of National Human Rights Commission - Module on Human Rights Education for Teaching Professionals Imparting Education in Primary, Secondary, Higher Secondary Levels' were released by Shri Arjun Singh, Minister for Human Resource Development, Government of India. These modules were sent to all the stakeholders for implementation at various levels in the educational system.

Strengthening of Partnership with Non-Governmental Organizations

2.23 A two-day National Conference on the “Role of NGOs in Support of NHRC for Better Promotion and Protection of Human Rights” was organized at Karnataka State Judicial Academy in Bangalore from 28 to 29 April 2007. The main objective of the Conference was strengthening the partnership between the Commission and NGOs for better protection and promotion of human rights. The Conference made some useful recommendations/ suggestions towards this goal.

Missing Children Case of NOIDA

2.24 Following the horrifying revelations of sexual abuse and killing of children who were reported to be “missing” from Nithari village in NOIDA, Uttar Pradesh, the Commission set-up a Committee to look into the matter. After examining the entire issue, the Committee submitted a detailed report along with recommendations/suggestions to the Commission. These recommendations/suggestions were accepted by the Commission and forwarded to all the stakeholders for taking remedial steps like mandatory reporting of all missing children within 24 hours to the National Commission for Protection of Child Rights.

Speedy Disposal of Child Rape Cases

2.25 In July 2007, the Commission circulated guidelines for speedy disposal of child rape cases to all States/Union Territories as well as other stakeholders so that no victim of such a heinous crime is left without adequate relief.

Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women

2.26 For facilitating preparation of a draft Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women, the Commission constituted a

Task Force with representatives from the Ministries of Labour and Employment (Chairperson), External Affairs, Home Affairs, Women and Child Development, and Panchayati Raj; National Commission for Women, National Human Rights Commission, UNICEF and a few NGOs working for prevention of trafficking.

TRAINING PROGRAMMES AND WORKSHOPS

National

2.27 Some important workshops and training programmes organized during the period under review were : workshop on bonded and child labour for senior officials of Central and State Governments/Union Territories; and Training of Trainers on Human Rights. The Commission also conducted a two-day attachment programme for Probationers of Indian Foreign Service during which they were briefed about 'Human Rights'. Besides, it conducted Summer and Winter Internship programmes of one-month duration for university and college students and short-term attachment of students interested in the field of human rights. During the period under review, 65 training programmes were organized by the Training Division of the Commission in collaboration with Administrative Training Institutes, Police Training Institutes, State Human Rights Commissions, NGOs and other institutions across the country.

International

2.28 A three-day Asian Sub-Regional Workshop on “Using Indicators to Promote and Monitor the Implementation of Human Rights” was organized from 26 to 28 July 2007 by NHRC in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Institute for Human Development at New Delhi. The Workshop brought together human rights stakeholders such as National Human Rights Institutions, policy makers, national statistical agencies and civil society representatives from South Asia.

2.29 The Commission also organized a four-day Sub-Regional Workshop on "National Inquiries" in association with Asia-Pacific Forum of National Human Rights Institutions and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law from 29 October to 1 November 2007 at New Delhi.

Other Meetings

2.30 The year under review also saw several important meetings to discuss and evolve consensus on ongoing issues such as action and advocacy for the rights of the disabled; incentives/disincentives in the population policies of State Governments vis-à-vis the National Population Policy 2000; right to environment; and better coordination with the State Human Rights Commissions.

INTERNATIONAL ACTIVITIES

Universal Periodic Review

2.31 Based on the Human Rights Council Resolution 5/1 which encourages States to prepare information for Universal Periodic Review (UPR) through a broad consultation process at the national level with all stakeholders, the Commission actively coordinated with the Government of India and played a key role in the preparation of the India Country Paper. The Commission also arranged a meeting in this regard with stakeholders in its office on 23 January 2008 which was attended by senior officials of various Government Ministries, Chairpersons of a few State Human Rights Commissions, academicians, lawyers and other experts. The Commission also prepared a brief paper and submitted it to the OHCHR separately.

2.32 The Commission participated in the three-day Conference of National Human Rights Institutions of Commonwealth countries held at London; International Coordinating Committee Meeting of National Institutions in Geneva; UN Human Rights Council Meeting at Geneva; Twelfth National Meeting of the Asia-Pacific Forum at Sydney and Expanded Bureau Meeting of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights in Geneva.





PERSPECTIVES ON HUMAN RIGHTS IN INDIA

3.1 Human rights are deeply rooted in the cultural ethos and values in India. Maxims like “*Sarve Bhavantu Sukhinah*” (Let all beings be happy), “*Vasudev Kutumbakam*” (The whole world is one family), and “*Jio aur Jine Do*” (Live and let live) are values which Indian society has cherished throughout and they are also reflected in all the religions practised in India.

3.2 India's struggle for freedom was essentially a struggle for the attainment of human rights, with the objective that every Indian should be able to live with dignity and honour. Therefore, the principles of human rights are an intrinsic part of the Constitution of India. The Preamble to the Constitution itself underlines the commitment towards securing for all its citizens justice, liberty, equality and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the nation.

3.3 The establishment of the United Nations was an important step in the backdrop of human rights violations in many countries under colonial rule and during the two World Wars. The international community reaffirmed its commitment to human rights and fundamental freedoms in the United Nations Charter and the Universal Declaration of Human Rights. The United Nations Charter seeks to achieve cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. The aspirational goals of the Universal Declaration of Human Rights find their resonance in the Constitution of India.

3.4 The Constitution of India strongly reflects the country's deep commitment to human rights and provides the basic framework for their protection and promotion. It guarantees basic human rights and fundamental freedoms to all citizens, irrespective of religion, race, caste, sex, place of birth or any of them. Institutions have been created for the enforcement of these rights. The basic legal framework for human rights is enshrined in three parts of the Constitution. Part III deals with Fundamental Rights which constitute the basic freedoms and rights available to all persons/citizens of the country. These are judicially enforceable and are primarily civil and political in nature. Part IV deals with Directive Principles of State Policy, which constitute directions to the State for the development of its citizens. These directives are mainly socio-economic in character and relate to right to work, just and humane conditions of work, raising the level of nutrition, improvement of public health, etc. Part IV A of the Constitution deals with

Fundamental Duties, strongly affirming the view that both the State and its citizens have duties to perform and strive towards excellence.

3.5 The basic framework for a rights-based regime as enshrined in the Constitution is supplemented by a series of laws enacted by the Parliament. These *inter alia* include specific legislations for marginalized groups, like women, children, Scheduled Castes, Scheduled Tribes, persons with disabilities, etc. In addition to constitutional provisions and domestic laws, the international covenants to which India is a party, also form the basis of protection and promotion of human rights.

3.6 The most significant human rights legislation in the country is the Protection of Human Rights Act, 1993 as amended vide the Protection of Human Rights (Amendment) Act, 2006. It provides for the establishment of the National Human Rights Commission, State Human Rights Commissions and Human Rights Courts. The enactment of this Act is the strongest reaffirmation by Parliament that respect for the rights of people of India is central to the nation's well being, progress and integrity. Section 2(d) of the Protection of Human Rights Act defines "human rights" as the rights "relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India". Section 2(f) of the Act defines "International Covenants" as the "International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify."

3.7 The human rights framework in India has been further strengthened by the judiciary, especially where rights have not been clearly spelt out in the Constitution or the laws. For example, Article 21 in Part III (Fundamental Rights) of the Constitution merely states: "Protection of life and personal liberty. — No person shall be deprived of his life or personal liberty except according to procedure established by law." But the Supreme Court's jurisprudence on Article 21 has expanded its scope to cover a range of rights necessary for leading a life with dignity, namely, right to health, education, clean environment, speedy trial, privacy, etc.

Challenges

3.8 Challenges to human rights in India are to be viewed in the backdrop of the unparalleled linguistic, religious and cultural diversity of the country. It is this diversity that is India's greatest strength as well as its greatest challenge in terms of planning and implementing development imperatives. Moreover, in some parts of the country, the scourge of militancy and terrorism has made the task of protecting the basic human rights of people difficult.

3.9 The deep rooted structural inequalities in the Indian society, like caste and gender based discrimination, are a major impediment to the realization of human rights by all. There are numerous instances of human rights violation of women, children and persons belonging to Scheduled Castes and Scheduled Tribes. Lack of education and awareness is another major hurdle in the attainment of human rights. The absence of formal laws concerning certain human rights issues add to the problem.

3.10 In addition to social inequalities, economic inequalities also disempower certain sections by creating disparities in access to political power, justice, basic goods and services, all of which are essential for the full realization of human rights. The process of development must strive to realize all human rights entitlements of all rights holders. This is particularly relevant for the poor and the marginalized. The right to development is an important requisite for the promotion and protection of human rights. The objective of this right is to reduce disparities, promote freedom and dignity and overall improvement of living conditions. But neither of these objectives is possible under conditions of poverty. Moreover, the class inequalities turn the power structure in favour of a small elite, which leads to exploitation of weaker sections, resulting in their marginalization further.

3.11 The bureaucracy and police play a significant role in the protection of human rights of citizens. Effective implementation of legislations and prompt and compassionate action on the part of the administrative and the police forces can contribute immensely towards the realization of the fundamental rights of the people. The police force must realize that protection of human rights is essential for better and efficient policing and maintenance of law and order.

3.12 The media too can play a significant and positive role by acting with sensitivity and in a responsible manner on human rights issues. A sensitive and responsible media can go a long way in protecting human rights on the one hand, and enhancing human rights awareness on the other. It is also important to remember that human rights are not the concern of only the human rights agencies and the State, but also of the public at large. This calls for sensitization, awareness and vigilance on the part of the people themselves. Non-governmental organizations play a major role in this sphere.

3.13 In addition, the present situation also demands that political commitment be translated into practice. Development with social justice cannot be achieved in the absence of respect for human rights. This calls for an enabling environment – legal political, economic and social – that is sensitive to the local context in promoting the overall right to development. The Commission acts as a facilitator to trigger this process for realization of all human rights for all.



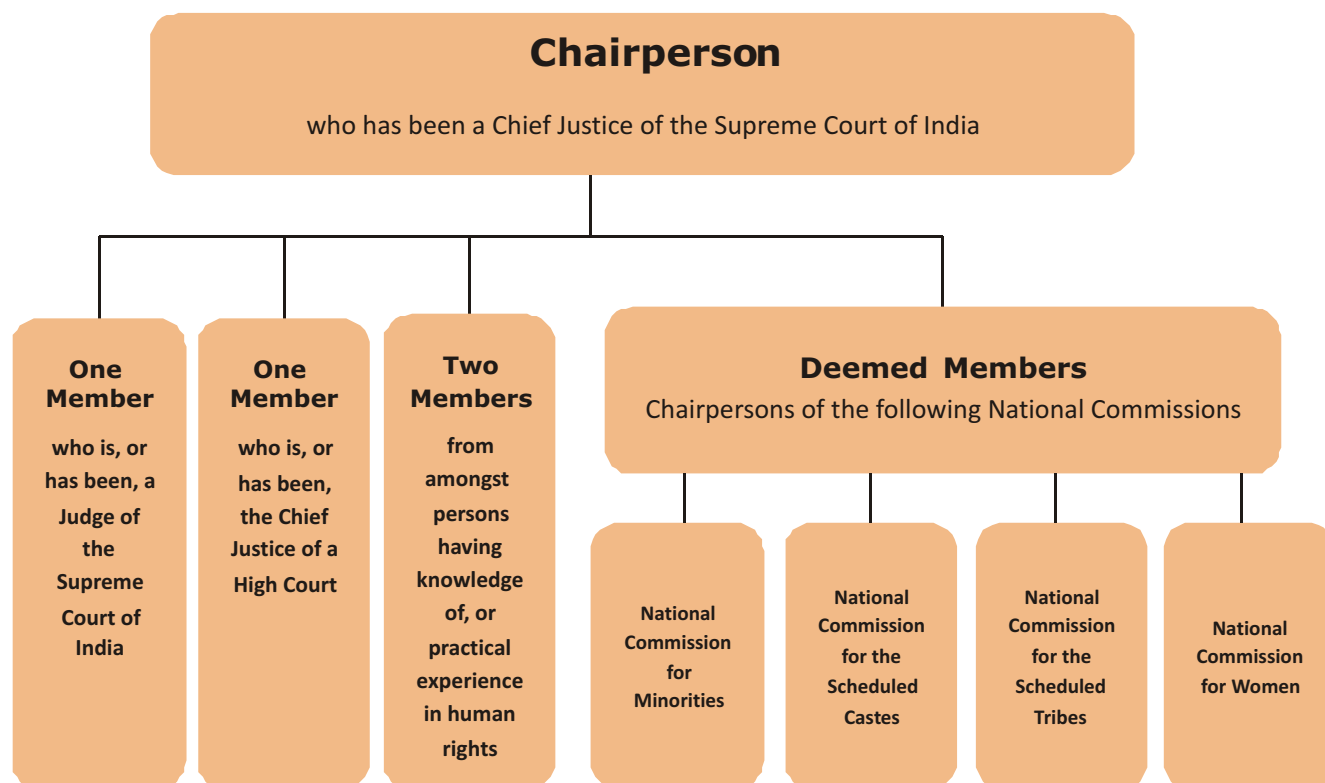


4.1 The NHRC was established on 12 October 1993. Its statute is contained in the Protection of Human Rights Act, 1993 as amended vide the Protection of Human Rights (Amendment) Act, 2006. The constitution of NHRC is in conformity with the Paris Principles that were adopted at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights held 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 an embodiment of India's concern for the promotion and protection of human rights.

Composition

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

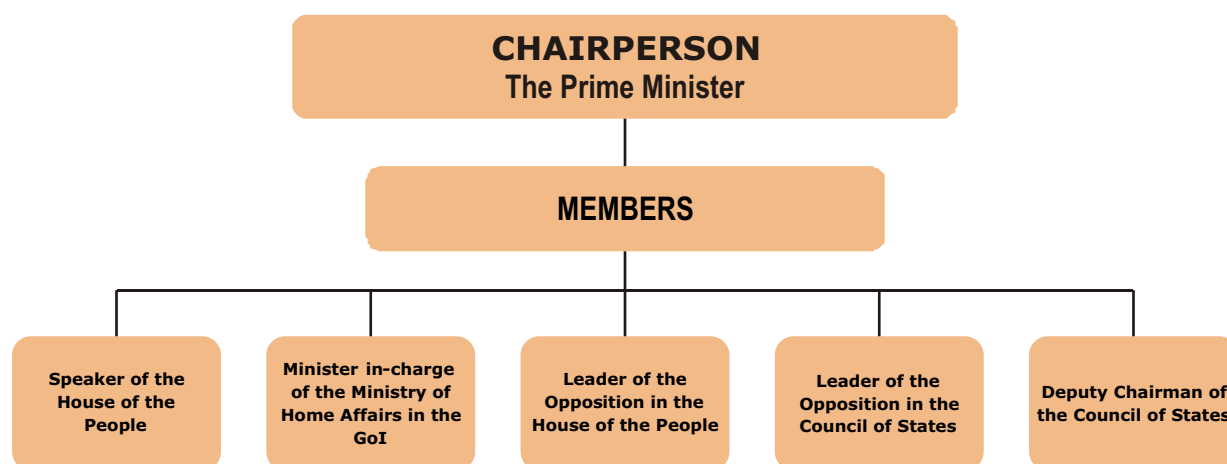
COMPOSITION OF NHRC



Appointment

4.3 The Chairperson and the Members of the Commission 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



4.4 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 in the functioning of the Commission.

4.5 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.

4.6 There are six Divisions in the Commission. These are – (i) Law Division, (ii) Investigation Division, (iii) Policy Research, Projects and Programmes Division, (iv) Training Division, (v) Information and Public Relations Division, and (vi) Administration Division.

4.7 The *Law Division* services the Commission in the receipt and disposal of human rights violation cases based on either complaints or registered *suo motu* or on the basis of information received. The *Investigation Division* conducts independent inquiries in specific cases whenever ordered by the Commission. It also assists in rendering expert advice in scrutinizing custodial death and police encounter cases and any other matter related to police or armed forces. The *Policy*

Research, Projects and Programmes Division undertakes and promotes research in human rights and organizes seminars, workshops and conferences on important human rights issues. It also assists in monitoring the implementation of the Commission's recommendations by Central and State/Union Territory authorities. The *Training Division* is responsible for training and sensitizing various officials and functionaries of the State and its agencies, NGOs, students and the civil society, etc., about human rights concerns. The *Information and Public Relations Division* disseminates information relating to the activities of the Commission through the print and electronic media. It brings out the monthly Human Rights Newsletter and other publications of the Commission. The *Administration Division* looks after the establishment, administrative, personnel, accounts, library and other requirements of the Commission.

4.8 The reach of the Commission is greatly enhanced by the appointment of Special Rapporteurs and the constitution of Core and Expert Groups. Special Rapporteurs are very 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 a group of States to look into human rights concerns and violations.

4.9 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 constituted in the Commission are:

- Core Group of NGOs
- Core Group on Right to Food
- Core Group on Mental Health
- Core Advisory Group on Health
- Core Group on Disability

Functions

4.10 The Commission has a wide mandate. Its functions as laid down in Section 12 of the Protection of Human Rights Act (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, notwithstanding 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

4.11 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

4.12 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 fairly transparent systems and procedures for discharging its functions.

4.13 In the experience of the Commission, there is no conflict between the reforms required for

the better protection of human rights and those required to ensure good governance. To argue otherwise, is to create a false dichotomy between human rights and good governance and to misread the intrinsic relationship between them. A central purpose of good governance, in the scheme of our Constitution, is to protect the Fundamental Rights contained in Part III, to observe the Directive Principles of State Policy contained in Part IV, to uphold the laws enacted by Parliament and to fulfill in good faith the treaty obligations entered into by the State.





A. Terrorism and Militancy

5.1 The issue of civil liberties and human rights has become increasingly complex in recent years especially in countries like India which are facing the scourge of terrorism and militancy. In its previous Annual Reports, the Commission has consistently pointed out that terrorism and militancy aim at destabilization of the society and the State. It is therefore essential that they must be fought and defeated in all their forms and manifestations. This is of paramount importance for the protection of human rights. However, this must be done in a manner that upholds the Constitution of the Republic and the rule of law.

5.2 The anti-terrorism and anti-militancy measures must be directed only against perpetrators or abettors of these acts and not against innocent citizens. The Commission has over the years unequivocally condemned the infringement of human rights of innocent citizens by State agencies in their measures to combat terrorism and militancy. These infringements often take the form of unlawful arrests, custodial violence, torture and abuse of power by the police and other law-enforcement agencies. There is no denial of the fact that systemic human rights violations over a period of time often take the form of unrest and conflicts. Such situations, if ignored, become fertile grounds for breeding terrorism and militancy. The existence of social, economic and political disparities, to a large extent, contributes to unrest and conflicts within the State and beyond. Since terrorism and militancy have deep-rooted socio-economic dimensions, the Commission is of the view that effective enforcement of laws and good governance are both vital for the prevention and elimination of terrorism and militancy in the country.

5.3 Accordingly, the Commission has consistently been advocating for several measures that would enable State functionaries to effectively combat terrorism and militancy without infringing upon the human rights of innocents. It has issued guidelines to the States on following "due procedures", adhering to the rule of law and functioning within the ambit of existing laws while combating terrorism and militancy. The Commission, which regularly seeks reports from the Centre and the States on custodial deaths and allegations of other human rights violations, has all along stressed the need to ensure transparency in and accountability for the actions taken by various agencies of the State in the name of combating terrorism and militancy. It has also made a special endeavour to sensitize all those engaged in combating this menace through human rights awareness programmes.

B. Custodial Violence and Torture

5.4 The Commission has always held the view that whenever a person is deprived of his/her liberty and is taken into custody by the concerned authority as per procedure established by the law, it becomes obligatory on the part of that authority to ensure protection to that person, including fulfilment of all his/her basic rights, such as, right to life, right to food, right to health, etc. Custodial violence, including torture, undermines the rule of law. The mere fact that a person is perceived to be a dreaded criminal or threat to the society, does not permit the police or other authorities to deprive the person of his/her basic human rights other than those provided by the law. It also does not give any license to the police to torture him/her for extracting information.

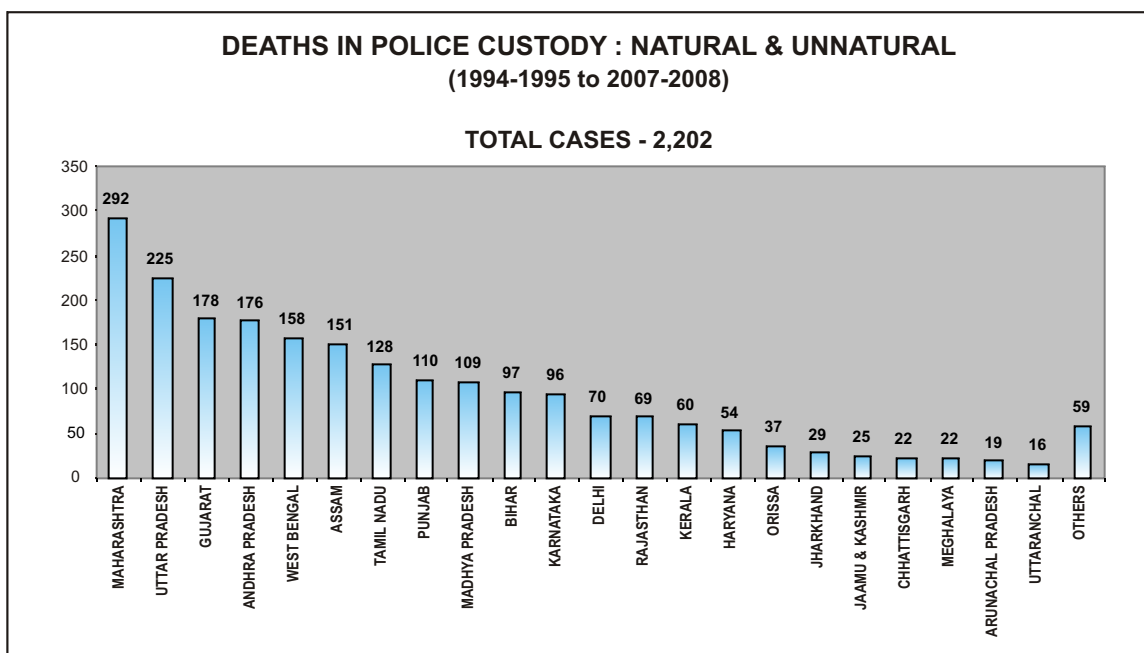
Custodial Deaths

5.5 In an important step aimed at curbing custodial violence, the Commission in 1993 issued guidelines to all the States and Union Territories, that all deaths in police and judicial custody – natural or unnatural should be reported to it within 24 hours of the occurrence. These instructions are being strictly insisted upon and authorities are held accountable for any breach. NHRC has further directed that in cases of death in police custody, the post-mortem is to be video-graphed and the videotape sent to the Commission. These measures enable the Commission to exercise checks on custodial torture and violence by the police and other public servants. The Commission has cautioned against custodial deaths/violence, pointing out that the hostile attitude of law enforcement agencies in turn breeds lawlessness and contempt for the enforcing authorities. The NHRC believes that one way of ensuring reduction in custodial crimes is to ensure stern action, including prosecution, against the perpetrators of all forms of custodial violence even those relating to torture and assault. In several such cases, the Commission has recommended disciplinary action against the delinquent officials and granted monetary relief to the victims or their next of kin. However, in many cases, punishment awarded by the authorities in departmental actions is not commensurate with the offence committed.

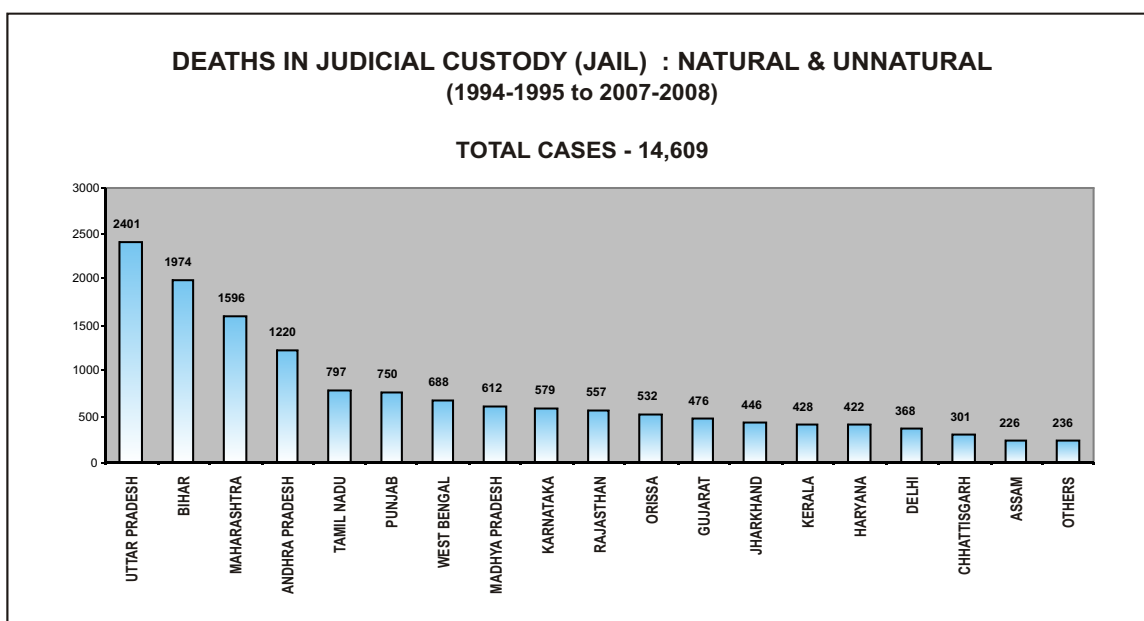
5.6 During the period 2007-2008, the Commission received 1,789 cases of deaths in judicial custody, 188 cases of deaths in police custody and 4 cases of deaths in para-military/defence forces custody. It disposed off 744 cases of custodial deaths – comprising 662 cases of deaths in judicial custody, 78 cases of deaths in police custody and 4 cases of deaths in para-military/defence forces custody. These figures also include cases of previous years.

5.7 The number of cases of deaths in police and judicial custody registered by the Commission during 1993-1994 was 34. From 1994-1995 till 2007-2008, the Commission registered 2,202 cases of deaths in police custody and 14,609 cases of deaths in judicial custody. The statement showing State/Union Territory-wise and year-wise details of cases registered in the Commission relating to deaths in police and judicial custody from 1993-1994 to 2007-2008 is given at **Annexure - 1**. The

highest number of deaths during 1994-1995 to 2007-2008 in police custody were reported from the State of Maharashtra (292), followed by Uttar Pradesh (225), Gujarat (178), Andhra Pradesh (176) and West Bengal (158) as indicated in the Graph below.



5.8 The highest number of deaths in judicial custody during 1994 -1995 to 2007-2008 were reported from the State of Uttar Pradesh (2,401), followed by Bihar (1,974), Maharashtra (1,596), Andhra Pradesh (1,220) and Tamil Nadu (797).



C. Conditions in Prisons

5.9 As per the PHRA, one of the functions of the Commission is to visit jails under the control of the State Governments where persons are detained or lodged for purposes of treatment, reformation or protection, so as to assess the living conditions prevalent therein and make recommendations thereon to the Government.

5.10 The Commission has repeatedly emphasized that human rights of prisoners are inviolable and the fact of being detained or imprisoned does not take away their rights as human beings. They have been temporarily deprived – by due process of law – only of their liberty on account of their involvement in the commission of certain offences (alleged or proven, as the case may be). They are kept in prison not only to undergo punishment as a deterrent against crime, but also for reformation.

5.11 The Commission has always laid emphasis on total prohibition of torture or any kind of cruel, inhuman and degrading treatment. It also underlines that though the prisoner's right to family contact may be restricted by procedure established by law, it cannot be completely taken away. At the same time, it has also stressed that special consideration must be given to women prisoners.

5.12 Over the years, the Commission has issued several guidelines, made observations after conducting spot investigations and taken several other steps to improve the conditions in prisons so that prisoners can lead their lives with dignity and enjoy their rights even as they await judgement or complete their sentence.

5.13 In consonance with the functions elucidated under the PHRA, a Member, a Special Rapporteur and officers of the Commission visited jails in different parts of the country, during 2007-2008.

Visit to Jails

5.14 A visit to the capital's high security Tihar Jail was undertaken on 14 June by a team from the Investigation Division of the Commission to probe into a string of deaths that took place there. The Commission had earlier issued a notice to the jail administration concerning the deaths of six inmates and a jail warden.

Visit of a Member to Burail Model Jail in Chandigarh

5.15 A Member of the Commission visited the Burail Model Jail in Chandigarh on 27 March 2008 to examine the functioning of the jail and to study the human rights situation of the inmates. The Member made the following observations:

- The jail department must have an independent Inspector General (Prisons).
- Ensure that legal advisors interact with the inmates in the presence of a responsible member of the jail staff or a representative of an NGO.
- The Jail Superintendent may also examine the feasibility of providing counselling facilities to prisoners.
- Inspector General (Prisons) may conduct a study to examine the patterns of adjournments during trial in different kinds of cases. Subsequently, the legal service authority could be requested to take up selected long-pending cases and initiate measures for their speedy disposal.
- Arrange for video conferencing to expedite trials.

5.16 During 2007-2008, the Commission also carried out a review of prison reforms, correctional administration and modernization of prisons in the State of Orissa.

5.17 One of the Special Rapporteurs visited Special Jail, Bhubaneswar; Circle Jail, Chowdwar; sub-jail Nayagarh; and Biju Patnaik Open Air Ashram, Jamuhari, Khurda from 28 to 31 January 2008. Prior to the visits, an elaborate questionnaire incorporating various human rights dimensions in custodial justice and correctional administration was circulated to all concerned. The reviews covered adequacy of physical and social infrastructure; overcrowding; issues related to right to food, water, health, personal hygiene, sanitation, lighting, ventilation, protective clothing, linen, diet, medical care including specialized treatment; vocational skill training programmes; after-care and rehabilitation of released labourers; special problems of children (0-6 age group) staying with convict mothers; terms and conditions of service of custodial staff and measures for their human resource development; issues relating to trial, bail, premature release, parole, furlough, interviews with relatives; literacy programmes inside the jail for the inmates; avenues of recreation (including games, sports, *bhajan*, yoga, meditation) for inmates; record keeping; and the role of NGOs in prison reforms.

5.18 These visits concluded with a wrap-up meeting with the Chief Secretary during which the Special Rapporteur drew his attention to the areas which required urgent attention. Some of these included expeditious disposal of long-pending issues pertaining to hearing of several undertrial prisoners; repair and maintenance of dangerously defective buildings; action on unhygienic and insanitary conditions in prisons; addressing the practical difficulties in arranging sureties for bail; and sorting out the problem of State-appointed defence lawyers not evincing interest in the cases on account of low honorarium.

5.19 The Commission made a number of observations and recommendations to the Government of Orissa. These included the following: (a) Nearly five years have passed since the

provisions of the Model Prison Manual for the Superintendence and Management of Prisons in India were formulated by the Bureau of Police, Research and Development, Ministry of Home Affairs in 2003. However, these are yet to be adopted and implemented for the 70 prisons of Orissa. The Committee formulated for this purpose has never met. The work of the Committee needs to be expedited and a firm time schedule laid down for commencement and completion of its mandated tasks. (b) A State-level custodial/correctional Advisory Committee may be constituted with the Chief Secretary to the Government of Orissa as Chairperson and the Secretaries to Government in Home, Finance, Law, Education, Health, Industry, Revenue, Women and Child Development and Registrar, High Court as Members. Simultaneously, and as recommended by the Model Prison Manual, a high-powered Prison Development Board may be set up with the Chief Minister as the Chairman, Minister In-charge of Prisons as the Vice-Chairman and the Secretaries to the Government in Home, Finance, Revenue and Law as Members.

Analysis of Prison Population

5.20 The Commission compiles and analyses prison statistics bi-annually. During the period under report, it analyzed prison statistics up to 30 June 2006. The total prison population of the country was 3,65,431, indicating an increase of 4 per cent over 3,50,346 in the corresponding earlier period (as on 30 June 2005). Given the authorized capacity of all jails and sub-jails at 2,57,348, there is an overcrowding to the extent of 42 per cent for the country as a whole, as compared to 42.9 per cent as on 30 June 2005 (when the capacity was somewhat lesser). Ten States — the National Capital Territory (NCT) of Delhi, Sikkim, Gujarat, Andaman & Nicobar Islands, Jharkhand, Bihar, Chhattisgarh, Uttar Pradesh, Madhya Pradesh and Orissa — had overcrowding ranging from 53 per cent to 128 per cent, that is above the authorized capacity.

5.21 Among these States, the State of Jharkhand has made remarkable progress in reducing overcrowding in jails. It was able to accomplish this feat by increasing the number of its jails from 5,814 (as of 30 June 2005) to 9,508. Being one among the list of 'top 10' States having overcrowded jails, it substantially reduced its overcrowding from 221.2 per cent to 93.3 per cent. Delhi too, being in the list of 'top 10', as of June 2006, has consistently reduced its overcrowding from 217.4 per cent to 128 per cent. Sikkim (105.8%), Gujarat (103.1%), Andaman & Nicobar Islands (96.8%), Bihar (92.5%), Chhattisgarh (86.8%), Uttar Pradesh (75.8%), Madhya Pradesh (68.2%) and Orissa (53.3%) are the other States with overcrowding above the all-India level of 42 per cent.

5.22 Seven States and four Union Territories — Manipur, Jammu & Kashmir, Nagaland, Mizoram, Rajasthan, West Bengal, Karnataka, Chandigarh, Daman & Diu, Dadra & Nagar Haveli and Puducherry — have an idle capacity in their jails.

5.23 Undertrial prisoners (UTPs) constituted 69.2 per cent of the total prison population in the country as on 30 June 2006, a slight improvement from the previous year's 70.6 per cent. The

proportion of UTPs was more than 80 per cent of the total prison population in nine States/ Union Territories: Dadra & Nagar Haveli (100%), Lakshadweep (100%), Meghalaya (93.0%), Manipur (90.3%), Daman & Diu (87.5%), Jammu & Kashmir (85.7%), Bihar (85.7%), NCT of Delhi (81.8%) and Chandigarh (80.1%). The State of Uttar Pradesh was able to reduce the proportion of its UTPs to less than 80 per cent of the total prison population during the period under review.

5.24 The percentage of women prisoners in relation to the total prison population in the country remained the same as in the preceding year — 3.9 per cent. In this regard, Mizoram (15.3%) has consistently held the 'top slot' in all the five analysis since 2002. It is followed by Daman & Diu (10.2%), Tamil Nadu (8%), Chandigarh (6.7%), West Bengal (6.2%), Punjab and Andhra Pradesh (5.2% each).

5.25 There were 1,732 children (up to the age of 6 years) staying with their mothers in jails across the country. Uttar Pradesh with 323 accounted for the largest number, followed by West Bengal (264), Madhya Pradesh (184), Maharashtra (152) and Jharkhand (141).





A. Number and Nature

6.1 As in the previous years, the Commission received a wide range of complaints relating to human rights violation from various parts of the country. These included cases related to custodial deaths, torture, police high-handedness, violations committed by security forces, prison conditions, negligence of public authorities, and denial of rights to women, children and other vulnerable sections. The Commission also took up *suo motu* cognizance of many incidents of violation of human rights based on reports in newspapers, television and visits undertaken by the Chairperson/Members of the Commission. The following paras summarize the number and nature of complaints and also observations made by the Commission in some important cases.

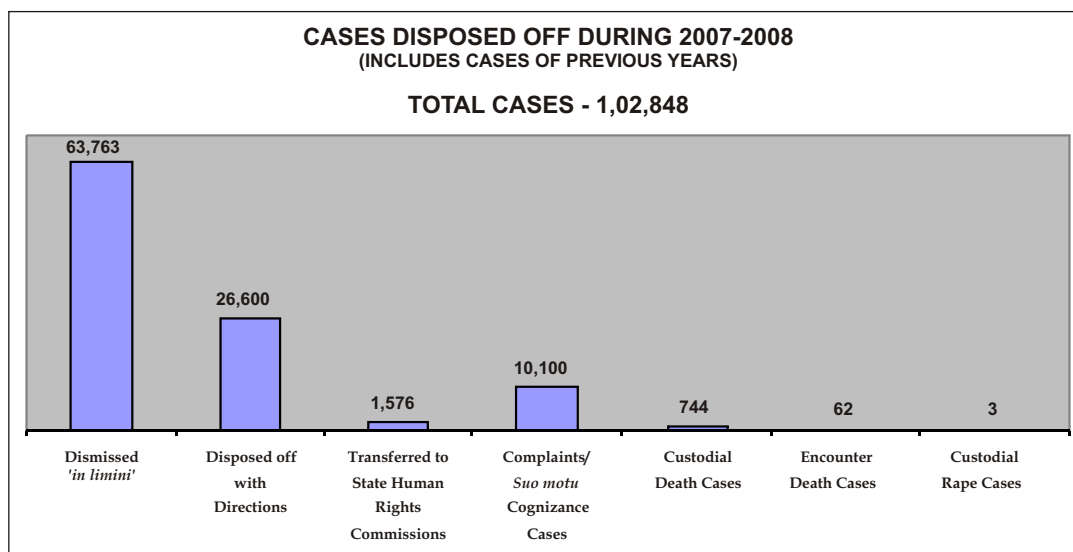
6.2 During the year under review, the Commission had a total of 1,32,497 cases to examine (including cases brought forward from preceding years). The Commission disposed off 1,02,848 cases between 1 April 2007 and 31 March 2008. As on 31 March 2008, the total number of cases pending with the Commission were 29,649. The State-wise and category-wise details of cases are given at **Annexures 2 to 5**.

6.3 A record number of 1,00,616 cases were registered in the Commission during 2007-2008, while the corresponding figure for the year 2006-2007 was 82,233. Of the cases registered during the year under review, 98,332 cases were complaints, 108 cases relate to *suo motu* cognizance taken by the Commission, 188 cases of death in police custody, 1,789 cases of death in judicial custody, 4 cases of death in the custody of defence/para-military forces, 18 pertained to custodial rapes and 177 concerning police encounters (**Annexure 3**).

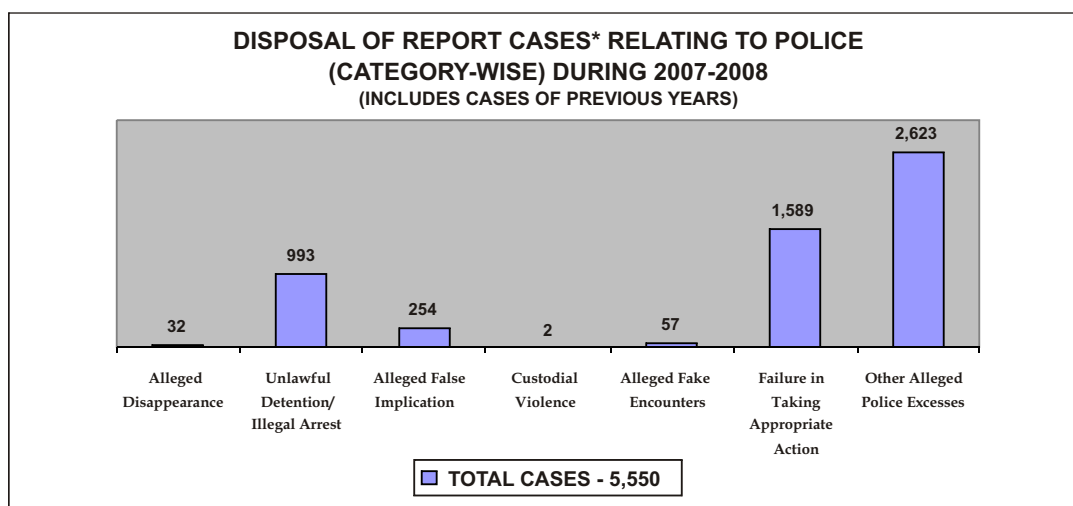
6.4 As in the past, the largest number of complaints registered was from the State of Uttar Pradesh — 58,865, i.e. 58.50 per cent. NCT of Delhi and Bihar followed, with 6,210 and 4,595 complaints respectively. NCT of Delhi and Bihar had no State Human Rights Commissions during the period being reported. The State Human Rights Commission in Uttar Pradesh was not functional for want of appointment of Chairperson and filling up of vacant posts of Members (**Annexure 3**).

6.5 Of the 1,02,848 cases disposed off during 2007-2008, 63,763 were dismissed '*in limini*', while 26,600 were disposed off with directions to the appropriate authorities. 1,576 cases were transferred to State Human Rights Commissions, in accordance with the provisions of the PHRA.

The Commission also disposed off 747 intimations relating to custodial deaths including 3 cases of rape, 62 cases of encounter deaths and 10,100 other cases after calling for reports from the concerned authorities. See **Graph** below. The State/UT-wise details are given in **Annexure - 4**.

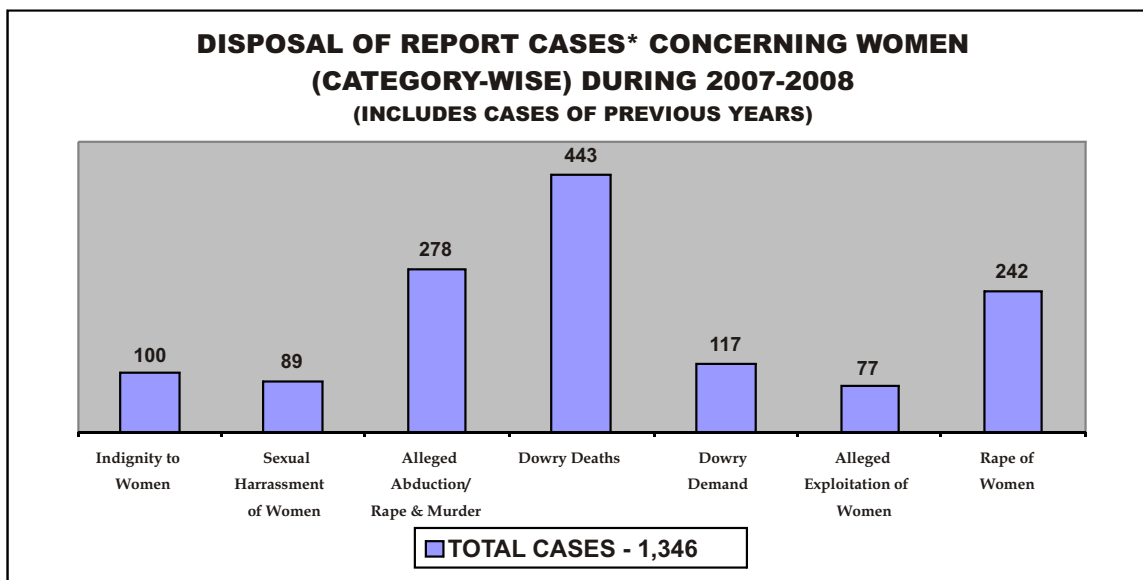


6.6 The last category included alleged disappearances (32), unlawful detention (675), illegal arrest (318), alleged false implication (254), custodial violence (2), alleged fake encounters (57), failure to take appropriate action (1,589) and other alleged police excesses (2,623). The State/UT-wise details are given in **Annexure - 6**.



6.7 The Commission received several complaints related to denial of rights to women. It disposed off cases relating to allegations of violating the dignity of women (100); sexual harassment (89); abduction, rape and murder (278); exploitation (77); rape (242); dowry deaths (443); and demand for dowry (117). The State/UT-wise details are given in **Annexure-6**.

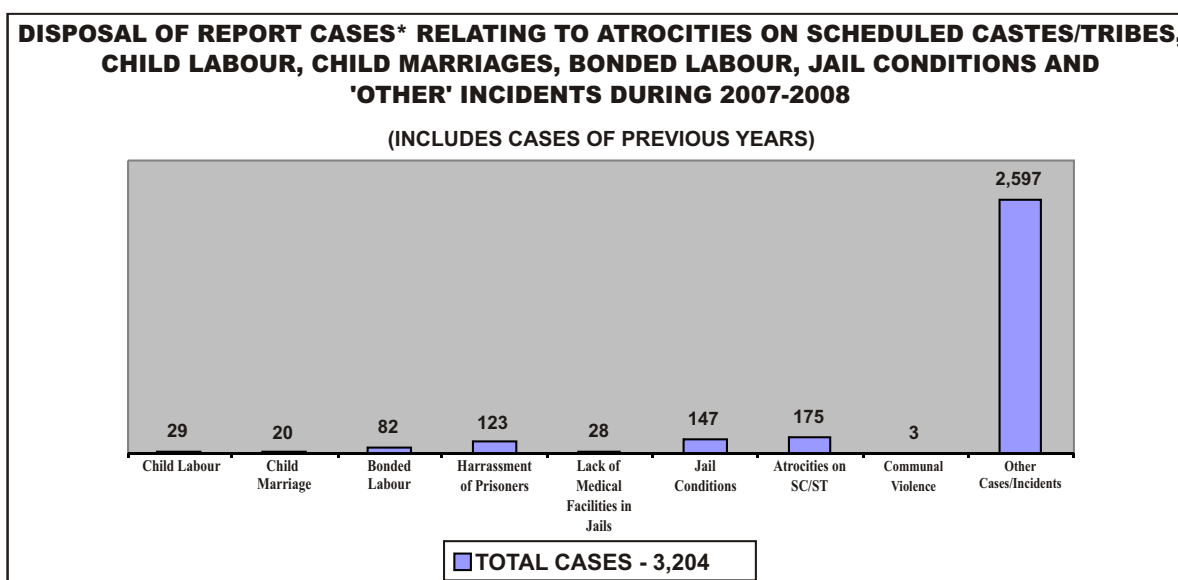
* Report cases are the cases other than those dismissed 'in limini' or disposed off with directions or transferred to SHRCs.



6.8 The Commission also disposed off 29 cases concerning child labour, 20 related to child marriages and 82 pertaining to bonded labour. The State/UT-wise details are given in **Annexure -6**.

6.9 Of the complaints relating to conditions in prisons, the Commission disposed off with appropriate recommendations, 123 cases alleging harassment of prisoners, 28 alleging lack of medical facilities in jails and 147 referring to other aspects of conditions in jails. The State/UT-wise details are given in **Annexure -6**.

6.10 The Commission disposed off 175 cases alleging atrocities against members of the Scheduled Castes/Scheduled Tribes, 3 cases of communal violence and 2,597 cases relating to 'other' incidents. The State/UT-wise details are given in **Annexure -6**.



* Report cases are the cases other than those dismissed '*in limini*' or disposed off with directions or transferred to SHRCs.

6.11 The Supreme Court of India, vide its order dated 12 December 1996, had remitted Punjab Mass Cremation case to NHRC. The case relates to the disappearance of people allegedly due to police abductions in some parts of Punjab, culminating in the alleged secret cremation of 2,097 bodies by Punjab Police in the districts of Amritsar, Majitha and Tarn Taran between 1984 and 1994. The earlier Annual Reports of the Commission have provided full details of the proceedings conducted by the Commission in respect of this case.

6.12 The Commission vide its proceedings dated 11 November 2004 had awarded compensation of Rs. 2,50,000 to the next of kin of each of the deceased persons who were in the custody of Punjab Police at the time of their death. Subsequently, vide its order dated 10 October 2006, the Commission awarded Rs. 1,75,000 to the next of kin of each of the deceased whose bodies were surreptitiously cremated by the State of Punjab without following the Punjab Police Rules, guidelines, practices and humanitarian law. Till 31 March 2008, the Commission had awarded Rs. 4,87,50,000 to the next of kin of 195 deceased persons at the rate of Rs. 2,50,000 each and Rs. 20,87,75,000 to the next of kin of 1,193 deceased persons at the rate of Rs. 1,75,000 each. A total amount of Rs. 25,75,25,000 was thus recommended by the Commission for payment to the next of kin of 1,388 deceased persons.

6.13 Since the establishment of the Commission in October 1993, it has recommended monetary relief to the victims/next of kin of deceased victims in appropriate cases, details of which have already been elucidated in the previous Annual Reports. During 2007-2008, the Commission recommended monetary relief amounting to Rs. 3,20,00,000 in 199 cases, including 81 cases of custodial deaths. Out of these 199 cases, the Commission recommended disciplinary action in 9 cases and prosecution of errant public servants in 2 cases. Besides, only disciplinary action was recommended in 2 cases (**Annexure-7**).

6.14 The Commission has come across a large number of complaints relating to allegations of avoidance on the part of the officers of the police stations to register complaints of cognizable offence or a tendency to minimize the gravity of the offence while registering a case. It is a serious violation of the statutory obligations imposed on the in-charge of the police station under the provisions of Chapter XII, Code of Criminal Procedure, in particular, Section 154 of Cr.P.C. This has an adverse effect on the criminal justice delivery system. The Commission recommends that all the States and Union Territories issue necessary instructions to all the concerned police personnel to meticulously adhere to the provision of Section 154 of Cr.P.C in matters relating to registration of cases.

6.15 The Commission through this Annual Report once again urges the Central and State Governments to respond promptly to requests for reports and other documents and to act without any further delay on its varied recommendations in individual cases. The Commission also repeats its recommendation that the Central and State Governments should adhere more carefully to the guidelines issued by it, as this would facilitate the Commission in prompt disposal of cases

and thus fulfill the responsibilities entrusted to it under the PHRA. The Commission, on its part, is constantly seeking to refine and improve its system of complaint management.

B. Illustrative Cases of 2007-2008

a) Custodial Deaths

1. *Death of Kaluji alias Kaliyo Bhaguji Sorthi in District Prison, Junagarh, Gujarat* (Case No. 653/6/2002-2003-CD)

6.16 The Commission received information from the Superintendent, District Prison, Junagarh, about the death of one Kaluji alias Kaliyo Bhaguji Sorthi, who was admitted in District Prison, Junagarh in Gujarat. On 31 January 2003 after he was assaulted by three co-prisoners, he was taken to the Civil Hospital, Junagarh for treatment where he was declared dead.

6.17 The Superintendent informed to the Commission that on inquiry six members of the jail staff were found to be negligent in their duty and had been punished by having their increments stopped. The Commission observed that "it was the duty of the State Government to protect the life of the prisoner and save him from assault by co-prisoners. The State had failed in the discharge of duty and so it must compensate the next of kin of the deceased."

6.18 Considering that the deceased was only 22 years of age, the Commission recommended that the State of Gujarat pay an amount of Rs. 2,00,000 as monetary relief to the next of kin.

6.19 The compliance report, along with proof of payment, is awaited.

2. *Killing of Kodati Venkata Krishna alias Zinnah in Police Custody in Nalgonda, Andhra Pradesh* (Case No. 489/1/2002-2003)

6.20 The Commission received information from the General Secretary, People's Union for Civil Liberties (PUCL), that Kodati Venkata Krishna alias Zinnah was a victim of an encounter conducted by the Nalgonda District Police on 19 October 2002 at the outskirts of Cudappah District, Andhra Pradesh. The complaint also stated one Nagesh, who was in police custody, was likely to meet the same fate.

6.21 On consideration of the report received from the Superintendent of Police as well as the Magisterial Enquiry Report (MER), the Commission noted that while the MER stated that Zinnah had fired one round and the police party 11 rounds in retaliation, there was no mention about Zinnah having fired any round in the report submitted by the Superintendent of Police. Thus, the factum of Zinnah having fired any round at the police party appeared to be very doubtful. Other than this, there was no justification for the police to fire 11 rounds. Thus, in view of the Commission, it cannot be ruled out that Zinnah was deprived of life other than in accordance with the procedure established by law.

6.22 In response to the notice u/s 18(c) of the PHRA issued to the Chief Secretary, Andhra

Pradesh, requesting him to show-cause as to why immediate monetary relief should not be recommended to be paid to the next of kin of Zinnah, the Principal Secretary to the Government of Andhra Pradesh stated that Rs. 20,000 had been paid to his next of kin. The Commission observed that this amount was grossly inadequate and recommended that the State must pay Rs. 2,00,000 as monetary relief, which has been complied with.

3. *Death of Remand Prisoner Chinna Purapu Ramesh in Judicial Custody in Rajamundry, Andhra Pradesh (Case No. 531/1/2005-2006-CD)*

6.23 The Superintendent, Sub-Jail, Bhimavaram, Andhra Pradesh, reported to the Commission that remand prisoner Chinna Purapu Ramesh, aged about 27 years, who was admitted to the jail on 8 August 2005 in Crime No. 41/03 u/s 448/354 IPC, died on 14 November 2005 on the way to the Government Hospital.

6.24 The Magisterial Enquiry concluded that the death was due to the negligence of G. Ravi Babu, Superintendent Sub-Jail, Bhimavaram; Dr. T. Chandra Rao, Assistant Surgeon, Community Health Centre, Bhimavaram; and N. Chiranjeevi, Sub-Inspector of Police Station, Akividu, as they failed to provide timely medical treatment.

6.25 In response to the Commission's show-cause notice, the Collector and the District Magistrate, West Godavari, Eluru, submitted that departmental action has been recommended against all of those found guilty in the MER in performing their duties.

6.26 The Commission observed that "a prisoner who is in the custody of the State, continues to enjoy the right to life and the State is fully liable to protect and safeguard his rights. Mere departmental action against the erring public servants will not meet the requirement of justice."

6.27 The Commission further observed that the concerned officers failed in their duty to take care of the prisoner. If proper medical care had been given to the prisoner on time, his life might have been saved. Considering that the deceased was only 27 years of age, the Commission on 10 September 2007 recommended that the State of Andhra Pradesh pay Rs. 2,00,000 as monetary relief to the next of kin of the deceased. The compliance report, along with proof of payment, is awaited.

4. *Death of Chandrakant in Police Custody at Beed, Maharashtra (Case No. 1287/13/2002-2003-CD)*

6.28 The Commission received a copy of the provisional post-mortem report on 11 October 2002 regarding the death of Chandrakant alias Kantrao Bhagwanrao Katmande who had been taken into custody on 10 October 2002 by Kaij Police Station, District Beed.

6.29 The Magisterial Enquiry Report dated 17 May 2003 concluded that Chandrakant died due to intensive and severe beating by police officials during police custody.

6.30 The matter was also enquired into by the State CID, Aurangabad and based on it a Case No. 6/2003 at Police Station Kaij u/s 302/330 IPC was registered. After the investigation Police Sub-Inspectors S.D. Sanap, G.S. Kanade and Dr. S.K. Goli were charge-sheeted u/s 302/323/218 IPC in the Court of Judicial Magistrate, Kaij. The State Government accorded sanction for prosecution of Police Sub-Inspectors S.D. Sanap and G.S. Kanade as well as Dr. Goli.

6.31 While considering the matter on 18 June 2007, the Commission recommended to the Chief Secretary, Government of Maharashtra, that the State must pay Rs. 2,00,000 as monetary relief to the next of kin of the deceased within six weeks and submit a compliance report along with proof of payment. The compliance report, along with proof of payment, is awaited.

5. *Death of Undertrial Prisoner Anil Kumar Tyagi in Judicial Custody in Tihar Jail, New Delhi (Case No. 2746/30/2000-2001-CD)*

6.32 Taking cognizance of an intimation dated 13 November 2000, received from the Deputy Superintendent of Central Jail No. 3, Tihar, New Delhi, about the death of undertrial prisoner Anil Kumar Tyagi s/o Shri Chuttan Singh, on 13 November 2000, the Commission called for the requisite reports.

6.33 Based on various reports received, the Commission on 16 September 2005 observed that the concerned jail officials were *prima facie* responsible for the death of Anil Kumar Tyagi, resulting in violation of his human rights.

6.34 In response to the Commission's show-cause notice, the Deputy Secretary (Home), Delhi reported that the matter was under investigation and that the sanction had already been granted by the Lt. Governor of Delhi for prosecution of concerned jail officials. It was further stated that since the matter was *sub judice*, the decision for payment of monetary relief can only be taken after the final verdict of the Hon'ble Court.

6.35 The Commission, in its final consideration of the matter on 18 April 2007 did not find any merit in the contention. It observed that "the proceedings before the Commission are independent of any other proceedings which may be pending in any Court. After the Commission finds *prima facie* evidence of violation of human rights, there can be no bar on its power to grant relief to the victim or his next of kin. It is the legal obligation of the State to protect the life of citizens. Registration of FIR u/s 304 of IPC against jail officials and grant of sanction for their prosecution by the Lt. Governor shows *prima facie* that the State failed in its duty to afford protection to the deceased prisoner".

6.36 The Commission thus recommended that the Government of NCT of Delhi pay Rs. 1,00,000 as monetary relief to the next of kin of deceased Anil Kumar Tyagi and submit a compliance report with proof of payment within eight weeks. The compliance report and proof of payment have been received from the Director General (Prisons), Delhi and the case was closed by the Commission on 8 October 2007.

6. *Death of Kishan Singh in Police Custody in Delhi*
(Case No. 5060/30/2004-2005-CD)

6.37 The Commission received an intimation dated 17 March 2005 from the Deputy Commissioner of Police, North-East District, Delhi about the death of Kishan Singh s/o Shri Ram Nath, a driver of a commercial vehicle, in police custody on 17 March 2005. The deceased was reportedly brought to police station Shahdara on 16 March 2005 for interrogation on a complaint of one Shakti Singh. He complained of being unwell at the police station and was taken to a private nursing home in the area. He was referred to GTB Hospital, where he was declared brought dead. An FIR No. 89/05 u/s 342/302/34 IPC was registered on 17 March 2005 in Police Station Shahdara on the complaint of Sanjeev, son of the deceased. Sub-Inspector Ram Kumar and Assistant Sub-Inspector Ramesh Chand of Police Station Shahdara were arrested as the deceased died in their custody. Three other accused persons were also arrested. Inspector Narendra Pal Singh of Police Station Shahdara, was put under suspension on the charge of laxity in supervision.

6.38 Although the Government of NCT of Delhi took the plea that the personnel charged of torture have been found innocent by the Court and, therefore, the grant of monetary relief cannot be justified, the Commission observed that “merely because the police personnel have been acquitted by the Court, the Government cannot evade its liability to compensate the victim. The fact remains that deceased Kishan Singh sustained fatal injuries while he was in police custody. The acquittal of the accused simply means that the identity of the assailants has not been established. It does not efface the factum of death being caused as a result of beating given in police custody. The police is required by law to protect the life of the person in their custody. If it resorts to torture tactics and thereby causes death of the detainee, it is a matter of serious concern for the society.” Therefore, considering all the circumstances of the case, the Commission recommended that the Government of NCT of Delhi pay Rs. 2,00,000 as monetary relief to the next of kin of Kishan Singh. The compliance report from the Chief Secretary, Government of NCT of Delhi, along with proof of payment is awaited.

7. *Death of Undertrial Prisoner Surendra in Judicial Custody in District Jail, Kheri, Uttar Pradesh*
(Case No. 24185/24/2001-2002-CD)

6.39 The Commission received an intimation dated 26 October 2001 from the Superintendent, District Jail, Kheri, Uttar Pradesh stating that one undertrial prisoner, Surendra Pasi s/o Shri Shyam Lal Pasi, wanted in Cr. Case Nos. 171/2001 u/s 307/332 IPC and 172/2001 u/s 25 Arms Act, Police Station Neemgaon, was admitted in District Jail, Kheri by his police escort on 26 October 2001 at 6.20 p.m. in a serious condition. On the advice of the Medical Officer of the Jail, he was sent under the same police escort to the District Hospital at 6.30 p.m. where he expired while undergoing treatment at 7.45 p.m. on 26 October 2001.

6.40 Based on reports, the Commission monitored the prosecution of errant police personnel and payment of compensation. A report from the Secretary, Home (HR) Department, Government

of Uttar Pradesh, Lucknow on 17 November 2006, indicated that an amount of Rs.1,50,000 as compensation under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act had been paid to Smt. Bundela Devi, wife of the deceased Surendra Pasi, and as such payment of additional sum as monetary relief was not justified.

6.41 However, the Commission observed that "the financial assistance of Rs. 1,50,000 had been given according to the statutory requirement of Rules framed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The reason for grant of such financial assistance was that the deceased belonged to a particular caste. For violation of human right the monetary relief shall have to be given separately." Therefore, considering all the circumstances of the case, the Commission recommended to the State of Uttar Pradesh to pay an amount of Rs. 2,00,000 as monetary relief to the next of kin, in addition to what may have been already paid in compliance with the statutory requirement. As the compliance report along with proof of payment was received, the case was closed.

8. *Death of Olik Tayeng in Police Lock-up at Itanagar, Arunachal Pradesh*
(Case No. 14/2/2003-2004-CD)

6.42 The DIG (Police HQs.), Arunachal Pradesh vide intimation dated 22 October 2003 informed the Commission that one Olik Tayeng, aged 19 years, who had been arrested on 21 October 2003 in Cr. case No.12/03 registered at Police Station Dambuk, had committed suicide in the morning of 22 October 2003 by hanging himself in the toilet of the police lock-up with a piece of blanket.

6.43 Upon perusal of the report received from the State authorities stating that Sub-Inspector has been found negligent and has been punished with withdrawal of two increments permanently with cumulative effect, the Commission observed that the police officials were found negligent in prevention of violation of human rights of the deceased and have been punished in departmental proceedings. Therefore, it is felt that grant of monetary relief is justified. The Commission recommended to the Chief Secretary, Arunachal Pradesh a payment of Rs. 1,00,000 u/s 18(3) of the PHRA, to the next of kin of the deceased. The compliance report, along with proof of payment, is awaited.

9. *Death of an Undertrial Prisoner Abhishek Sahu due to Lack of Treatment in Judicial Custody at Special Jail, Bhubaneswar, Orissa* (Case No. 42/18/2003-2004-CD)

6.44 The Commission received an intimation on 28 April 2003 from the Superintendent of Special Jail, Bhubaneswar, Orissa regarding the death of undertrial prisoner Abhishek Sahu, aged about 25 years, in judicial custody. It was stated that he died on 26 April 2003 while undergoing treatment in the Capital Hospital, Bhubaneswar.

6.45 The Commission considered the reports received and observed that the prisoner was neither given an opportunity to arrange for his treatment on his own nor did the jail authorities

provide timely and proper medical treatment to him. The authorities should have made arrangements for open-heart surgery of the victim urgently. The Commission recommended to the Chief Secretary, Orissa that the State Government should fix responsibility for the delay in treatment of the patient and take appropriate action against the officials found guilty. Since violation of human rights of the victim Abhishek Sahu was proved, the Commission recommended Rs. 1,00,000 as monetary relief to the next of kin of the deceased u/s 18(a)(i) of the PHRA. The State of Orissa, has informed the Commission that an amount of Rs. 1,00,000 has been sanctioned, to be paid to the next of kin of the deceased. However, proof of payment is awaited.

10. *Alleged Custodial Death of Mugalia in Satna, Madhya Pradesh*
(Case No. 1996/12/1999-2000-CD)

6.46 In a complaint to the Commission, Smt. Sheela stated that her husband, Mugalia, was arrested by the local police on 20 December 1999 at 4.00 a.m. and was produced before Sub-Divisional Magistrate, Mehar on the same day in a case u/s 109 Cr.P.C. He was sent to jail but was released on bail the same evening and sent home. Next day he died at about 7.00 p.m.

6.47 The complainant alleged that her husband was canvassing for Shri Bhola Prasad Chaurasia, who was contesting a Municipal Election. He was picked up by the Police from the Election Office and beaten up severely. Although he was entitled to bail as a matter of right, the Sub-Divisional Magistrate did not release him and sent him to Sub-Jail Mehar. The jailor, however, did not, admit him because he had several injuries on his body. Therefore, the police came to the house of the complainant in the evening and asked her to furnish bail papers. When she went to the jail, she found her husband lying there in a critical condition. She brought him home in a rickshaw and arranged whatever treatment was possible. He could not, however, survive and died the next day.

6.48 Upon consideration of the post-mortem report, MER and the reply to the show-cause notice, the Commission, recommended that the State of Madhya Pradesh pay Rs. 3,00,000 to the next of the kin of the deceased Mugalia. The compliance report, along with proof of payment, is awaited.

11. *Death of Convict Padum Sorren in District Jail, Bhagalpur, Bihar*
(Case No. 2848/4/2002-2003-CD)

6.49 Taking cognizance of an intimation received from the Superintendent, Central Jail, Bhagalpur, Bihar, regarding the death of Padum Sorren, a convict, aged 65 years, in the jail on 1 December 2002, the Commission called for the requisite reports.

6.50 In response to the show-cause notice issued by the Commission, the Under Secretary (Home), Government of Bihar on 28 September 2007, stated that the prisoner sustained the fatal injury by accident, when a branch of a tree fell on his head. According to the Under Secretary's

note, another prisoner named Phirangi was cutting the tree and a branch fell on the head of Padum Soren when he was passing under the tree.

6.51 Upon perusal of various reports, the Commission observed that even if it was assumed that the tree branch incident is true, the jail administration cannot be exonerated of the charge of negligence. If a prisoner was given the task of cutting a tree, jail officials should have taken precautions to prevent other prisoners from going in the direction of the tree.

6.52 Considering all the circumstances, the Commission found no reason why monetary relief should not be given to the bereaved family. The Commission on 2 January 2008, therefore, recommended that the Government of Bihar pay an amount of Rs.1,50,000 to the next of kin of the deceased Padum Sorren. The compliance report, along with proof of payment, is awaited.

12. *Alleged Custodial Death of Shanti Dashrath Naik due to Police Beating in Mumbai, Maharashtra (Case No.2021/13/2000-2001-CD)*

6.53 The General Secretary of Vishwa Manav Ekta Parishad referred an incident, reported by 'Hamara Mahanagar' dated 27 December 2000, to the Commission about Shanti Dashrath Naik, 35, a hawker selling handkerchiefs and hairpins, who was picked up from a local train of Mumbai on 14 December 2000. At Dadar Railway Station, the police severely beat her up and reportedly snatched Rs. 9,000 before letting her off the same night. She was admitted to Sion Hospital, where she succumbed to injuries sustained during the police beating.

6.54 After a preliminary enquiry, FIR No. 159/2202 u/s 347/348/384/385/217/323/ 34 IPC was registered against the delinquent police officials and all of them were suspended.

6.55 While considering the matter, the Commission observed that since the investigation by the State CID substantiated the allegation that Shanti Dashrath Naik died as a result of severe beating given by police officials, there was no reason why monetary relief should not be given to her next of kin. The Commission thus recommended that the State of Maharashtra pay an amount of Rs. 2,00,000 as monetary relief to the next of kin of the deceased Shanti Dashrath Naik. The compliance report, along with proof of payment, is awaited.

13. *Death of Ram Chander in Police Custody at PS Sehramau, District Shahjahanpur, Uttar Pradesh (Case No. 12975/24/1999-2000-CD)*

6.56 The case relates to the custodial death of Ram Chander at Police Station Sehramau, District Shahajahanpur, Uttar Pradesh, on 18 June 1999. The Superintendent of Police, Shahajahanpur sent the intimation regarding the death of Ram Chander on 4 July 1999 and the deceased's wife Smt. Kalawati lodged a complaint on 11 August 1999. While the police claimed that it was a case of suicide, Smt. Kalawati alleged that her husband was a victim of police torture. She stated that her husband had been picked up on 10 June 1999 by the Police personnel of Ramachandra Mission Police Station and was later handed over to Sehramau Police Station. On 18 June 1999, the police came to her house and informed about the death of her husband.

6.57 The post-mortem report showed two ligature marks as the cause of death. According to the autopsy surgeon, it was "asphyxia" resulting from suicidal hanging. The medical evidence thus pointed out that Ram Chander's death was on account of suicide. The material question, which arose – why Ram Chander took such an extreme step to end his life?

6.58 In response to the show-cause notice issued by the Commission, the Secretary to the Government of Uttar Pradesh, vide communication dated 20 July 2007, submitted that a charge sheet against the delinquent police officers had been submitted in the Court and that an ex-gratia payment of Rs. 2,000 was made to the widow of the deceased.

6.59 While considering the matter the Commission held that "the amount of Rs. 2,000 was grossly inadequate to compensate for the loss of human life, and amounts to adding insult to injury. The purpose of giving monetary relief is to bring some solace to the aggrieved family. While determining the amount of relief, regard must always be had to the circumstances of the case and the requirements of the dependents of the deceased." Considering all the circumstances, the Commission recommended to the State of Uttar Pradesh to pay an amount of Rs. 3,00,000 as monetary relief to the next of kin of the deceased Ram Chander. The State Government, vide communication dated 5 March 2008, has reported that Rs. 3,00,000, as per recommendation of the Commission, has been sanctioned. However, proof of payment is awaited.

14. *Death of Undertrial Prisoner Vishal Krishna Madekar in Central Jail, Bangalore, Karnataka (Case No. 671/10/2001-2002-CD)*

6.60 The Commission took cognizance of an intimation dated 16 March 2002, received from Superintendent, Central Jail, Bangalore, Karnataka, regarding the death of an undertrial prisoner Vishal Krishna Madekar in the jail, and asked the State Government for the relevant reports. Meanwhile, Shri Krishna Baburao Madekar, father of the deceased, also made a complaint that his son had died as a result of brutal assault by the police.

6.61 On consideration of various reports, the Commission noted that the 42 ante-mortem injuries observed in the post-mortem indicate that the deceased was subjected to brutal assault. This *prima facie* established violation of human rights of the deceased.

6.62 The Commission thus recommended payment of Rs. 3,00,000 as compensation to the next of kin of the deceased u/s 18(a) (i) of PHRA. The compliance report, along with proof of payment, is awaited.

15. *Unlawful Arrest/Detention of Mohammed Harish Ali in Judicial Custody in Karimganj, Assam (Case No. 15/3/2000-2001)*

6.63 The complainant, Mohammed Harish Ali, a rickshaw puller and a resident of village Fulbari, was arrested in execution of a warrant issued by the Court against another person of the same name. The complainant protested at the time of arrest that he was not the person wanted by the Court, but the executing officer did not listen to him. Although, the Superintendent of Police,

North Tripura claimed in the first instance vide letter dated 7 December 2005, that the arrest was rightly made, he admitted in his subsequent report dated 12 July 2007, that the complainant had been arrested under mistaken belief of identity. As a matter of fact, the complainant had raised the dispute of identity during the trial also and the Court had decided in his favour.

6.64 The Commission observed that in the face of the judicial verdict, the State Government can probably have no plea to justify the wrongful act of the police official. Therefore, the complainant had to be compensated for deprivation of liberty. Considering the duration of incarceration and other circumstances, the Commission recommended that the State of Tripura pay Rs. 2,00,000 as monetary relief to the complainant. The compliance report, along with proof of payment, is awaited.

b) **Illegal Detention & Torture**

16. *Death of Devendra Nath Deka at Gauripur Outpost, Kamrup, Assam*
(Case No. 25/3/2002-2003-CD)

6.65 The Deputy Commissioner, Kamrup, Guwahati, sent a fax message to the Commission that a retired police officer of Meghalaya, Devendra Nath Deka, died at Gauripur outpost of police on 13 May 2002 due to a brutal assault caused by the Officer In-charge of the Police outpost and other police personnel subordinate to him.

6.66 The Government of Assam informed the Commission that a Crime Case No.73/2000 u/s 302, 34 IPC against the said police personnel was registered at the Police Station. All the three accused persons, Officer In-charge S.L Mukul Kakoti, Constables Anup Sarma and Manab Kalita were put under suspension. The Constables were sent to judicial custody but Mukul Kakoti absconded.

6.67 The Commission on 27 December 2006 considered the matter and found that there was violation of human rights of the deceased. Vide proceedings dated 27 August 2007, it recommended monetary relief of Rs. 1,00,000 to the mother of the deceased u/s 18(c) of the PHRA. The State of Assam has sanctioned Rs. 1,00,000 to the mother of the deceased, as per recommendation of the Commission. Proof of payment is awaited.

17. *Illegal Detention and Torture of Azad Hussain by Police in Pilibhit District, Uttar Pradesh*
(Case No.3829/24/2001-2002)

6.68 The Commission took cognizance of a complaint dated 7 April 2001 received from Azad Hussain, s/o Late Garibullah, r/o Kasba falling under the jurisdiction of Police Station Amaria in Pilibhit District of Uttar Pradesh, alleging physical torture on the night of 2 June 2000, at the police station, where he was called for interrogation in connection with the murder of his father Garibullah and their servant Rais Ahmad. He alleged that he was illegally detained in order to force him to confess to the murder. He was tied with ropes and a lit-candle was used to burn his feet. He was let off only on 4 April 2001. He approached the Commission seeking justice.

6.69 Upon perusal of reports from the State Government, the Commission observed "that the fact of torturing the complainant in police custody has been admitted..... . Therefore, it is a gross violation of human rights. Merely because the concerned police officials were exonerated in the departmental inquiry, it cannot be said that human rights of the complainant are not violated, especially in the face of the earlier admission of Police, after inquiry. Therefore, this appears to be a fit case for recommending grant of immediate monetary relief."

6.70 Thus, the Commission recommended that the State of Uttar Pradesh pay Rs.50,000 as monetary relief to the complainant Azad Hussain and to submit the compliance report along with proof of payment. The State Government was also asked to submit an explanation for not taking disciplinary action against the Station House Officer O.P. Singh despite the recommendation of Inspector General of Police (Human Rights), Uttar Pradesh.

6.71 In response, the Secretary to the Government of Uttar Pradesh, vide letter dated 14 December 2007, informed the Commission that the amount of monetary relief of Rs. 50,000 had been paid to the complainant. The proof of payment was also sent to the Commission. The Commission finally considered the matter on 4 February 2008, and in view of the compliance of the Commission's directions, closed the case.

18. *Beating up of Susheel Kumar and his Wife by the Police of Gautam Budh Nagar, Uttar Pradesh (Case No. 28117/24/2006-2007)*

6.72 The Commission took *suo motu* cognizance of a news report published in the 'Times of India' on 16 September 2006 under the headline: "Brutal cops batter Noida couple". According to the report, Sushil Kumar and his wife were going to hospital in the early hours of the morning. They were approached by a police party. The husband was beaten and an attempt was made to outrage the modesty of the wife.

6.73 Pursuant to the directions of the Commission, an inquiry was conducted by the Additional Superintendent of Police (Rural), Gautam Budh Nagar. The inquiry report revealed that the allegations made in the press report were true. FIR No. 309/2006 u/s 354/323/504 IPC was registered at Police Station Kasna against the police party. After investigation, the concerned police officials were arrested and sent for trial.

6.74 The Commission recommended to the State of Uttar Pradesh to pay Rs.25,000 as compensation to victim Sushil and Rs.50,000 to his wife within eight weeks. The compliance report, along with proof of payment, is awaited.

19. *Illegal Detention and Physical Torture of Jaswant Singh Patel by the Police of Jahanabad, Uttar Pradesh (Case No. 5782/24/2003-2004)*

6.75 In a complaint dated 8 May 2003, the complainant alleged that his brother Jaswant Singh Patel was picked up on 20 April 2003 by the police personnel of Jahanabad Police Station and

allegedly detained and subjected to severe physical torture for seven days. After that, he was handed over to Police Station Chandpur, where again he was physically tortured. A harassed Patel set himself on fire on 2 May 2003, in the lock-up of Police Station Chandpur. He was initially taken to a pharmacist for treatment of burns and subsequently admitted to the Emergency Ward of Orsala Hospital, Kanpur. As per the doctors, he had 65 per cent burns. The complainant requested the Commission to intervene in the matter.

6.76 The Superintendent of Police, Fatehpur reported that Sub-Inspector Nisar Ahmad, Head Constable Ishwar Chandra and Constable Chhote Lal Pandey were found guilty of dereliction of their duties, and they were suspended with effect from 5 May 2003.

6.77 Upon consideration of the report, the Commission observed and directed as under: "The reports are not satisfactory. It is admitted in the police report that the victim was brought to police station and kept in police lock up, without any entry in police record. Though the police report is silent about the allegation of physical torture by the police, the fact that the victim had attempted to commit suicide in the police lock-up, leads to an inference that he was tortured to such extent that he desperately took steps to end his life, and hence a case u/s 306 IPC for abetment of suicide appears against the errant police personnel but as reported the errant police personnel have been booked u/s 342 and 323 IPC only. The report is silent about the disciplinary action against the errant police personnel."

6.78 The Commission further observed that "In view of facts and circumstances of the case, as brought out in the reports on records, human right violation of victim Jaswant Singh Patel, who was illegally detained and physically tortured in the police lock-up, has been established."

6.79 The Commission monitored the action initiated against the errant police personnel. The Commission recommended to the Government of Uttar Pradesh to pay within six weeks a sum of Rs. 1,00,000 as immediate monetary relief to the victim. The compliance report, along with proof of payment, has not been received, despite a reminder having been sent by the Commission.

20. *Illegal Detention of Ramesh, Santosh and Ram Gopal at PS Rajakhera, Dholpur, Rajasthan (Case No.1635/20/2002-2003)*

6.80 One Shri Dwarka Prasad in his telegraphic complaint dated 13 November 2002 stated that on 6 November 2002, Babu Lal Meena, Station House Officer of Rajakhera Police Station took away his son Ramesh, grandson Santosh and son-in-law Ram Gopal and they were neither produced in any Court nor released till then.

6.81 Based on reports received from the Government of Rajasthan, the Commission observed that in view of the admitted fact of illegal detention of victims by the police, it recommended a sum of Rs. 10,000 to each of the victims of wrongful detention, to be paid by the State of Rajasthan as monetary relief. The State of Rajasthan has complied with the recommendation of the Commission. However, proof of payment is awaited.

c) Police Firing

21. *Death of Nishu Sharma and Injuries to Rakesh Sharma during Police Firing at Domana, Jammu & Kashmir (Case No. 97/9/2005-2006)*

6.82 Director, Asian Centre for Human Rights, New Delhi, in his complaint dated 31 August 2005 to the Commission, referred to an incident of 28 October 2005, in which a young boy named Nishu Sharma, a resident of Roop Nagar Colony in Jammu, was killed and his friend Rakesh Sharma critically wounded in police firing at Domana township on the outskirts of Jammu.

6.83 The Commission considered the reports submitted by the Government of Jammu & Kashmir. Taking note of the fact that the functionaries of the State Government were themselves convinced that the grant of compensation in this case was justified, the Commission recommended that the State of Jammu & Kashmir pay Rs. 2,00,000 to the next of kin of Nishu Sharma and Rs.50,000 to injured Rakesh Sharma as monetary relief. The compliance report, along with proof of payment, is awaited.

22. *Severe Injuries to Kamleshwar Prasad Jaiswal due to Indiscriminate Police Firing in East Champaran, Bihar (Case No. 4112/4/2000-2001)*

6.84 One Kamleshwar Prasad Jaiswal submitted his complaint to the Commission on 26 December 2000 while he was breathing with the aid of an apparatus fitted to his neck. The unfortunate incident which brought him to this situation occurred three years earlier. On 17 July 1997 at about 12 noon the complainant was passing by the police post situated in Motihari on his scooter. Suddenly, the police started firing indiscriminately. The complainant received a bullet injury on his face. He was rushed to Sadar Hospital Motihari and then to Apollo Burn Hospital, Patna. His jaw had been completely destroyed and his face totally disfigured. Doctors at Patna, referred him to CMRI, Calcutta where he remained admitted till 1 September 1998. Thereafter too, he had to be re-admitted in CMRI for intermittent periods till 30 September 2000. During this period he had to undergo 22 operations and even then his condition could not become normal. According to the averments made in the complaint, ten more operations were required for restoration of his normal health.

6.85 The Superintendent of Police, East Champaran District claimed in his letter that the police had resorted to firing to control a violent mob which was protesting against a murder in the area. Acknowledging that Kamleshwar Prasad had to spend a huge amount on treatment, the Superintendent of Police further informed the Commission that a recommendation of financial aid to the complainant had also been submitted to the District Magistrate.

6.86 The local police tried to justify the firing on the ground that the mob had become violent and uncontrollable. At the same time, the police accepted the fact that the complainant was not a

part of the mob. He happened to be passing by and received a bullet injury on his face. The locus of injury sufficiently indicates that the police neither exercised caution nor abided by the norms which should have ordinarily been followed. The Commission was hence convinced that the State must redress the suffering caused to the complainant.

6.87 The Commission was aware of the fact that the complaint was not made within one year of the date of the violation of human rights. However, it was also aware of the vital fact that the complainant remained hospitalized virtually throughout the entire period up to 30 September 2000. He made the complaint within three months after discharge from CMRI and even at that time, he was not in a normal state of health and was breathing with the help of an apparatus.

6.88 Taking all these facts into account, the Commission felt that the complainant definitely had a cause to claim monetary relief from the Government and even if his claim is not overtly refused, any inaction itself will give rise to violation of human rights reckoned from the time relief was not granted. The claim thus should not be treated as belated. Infact, it would seem inhumane to say that the complaint was not made within time. The local police appear to be aware of the gravity of the situation and did not raise the objection of time limitation at any stage. Moreover, denial of monetary relief at this stage will be a negation of the very concept of human rights and it will defeat the purpose of the Protection of Human Rights Act.

6.89 Considering the details of the case, the nature of injury, the magnitude of suffering and the expenses incurred on treatment, the Commission recommended that the State of Bihar pay Rs. 7,00,000 as monetary relief to the complainant. The Chief Secretary, Government of Bihar was directed to submit the compliance report, along with proof of payment, within eight weeks. The compliance report and proof of payment are awaited by the Commission.

23. *Death of Sunil Mandal due to Police Firing in Balasore, Orissa*
(Case No. 837/18/2001-2002)

6.90 The complainant drew attention of the Commission to a news item in the English daily 'Pioneer' dated 8 February 2002. The news item stated that at Balasore in Orissa, the Police, in a desperate bid to halt a bus, opened fire which resulted in the death of one innocent passenger, Sunil Mandal. The State Government ordered an inquiry into the incident and announced an ex-gratia compensation of Rs.1,00,000 to the family of the deceased. The two policemen involved were suspended and a case u/s 304 IPC was also registered.

6.91 The Superintendent of Police reported that a total of Rs. 5,00,000 had been paid by the State of Orissa to the family members of Sunil Mandal, of which Rs. 1,00,000 was paid from the Chief Minister's Fund and Rs. 4,00,000 as per the directions of the High Court of Orissa.

6.92 As the State of Orissa has submitted proof of payment and action against the delinquent policemen was taken, the Commission closed the case on 11 March 2008.

d) Illegal Detention, Torture or Firing by Military or Para-military Forces

24. *Illegal Detention and Torture by CRPF Personnel in Thinguchingjin, Manipur (Case No.38/14/1999-2000-AF)*

6.93 The Commission received a complaint from one Nimai Chand Singh, a resident of Manipur, alleging illegal detention and torture on 20 November 1999, following a bomb explosion, which caused injuries to five personnel of a convoy of 25 Battalion CRPF who were, returning to their Headquarters at Thinguchingjin. Six persons working in the brick field (including the complainant), who on hearing the sound of explosion ran for safety, were allegedly chased and rounded up by the CRPF personnel and beaten.

6.94 Upon consideration of the reports received from the Ministry of Home Affairs and the Superintendent of Police, Imphal, the Commission on 3 September 2007 observed that it was evident that the six persons were rounded up by CRPF personnel and injuries were caused to them. It was also not in dispute that the detainees were innocent. The human rights of these six persons were obviously infringed upon and they deserved to be suitably compensated by the State.

6.95 Considering that the injuries were simple in nature, the Commission recommended to the Union Ministry of Home Affairs to pay an amount of Rs.10,000 each to the six victims. With the compliance report still pending, the Commission on 14 January 2008, reiterated its previous recommendations and directed the Secretary, Ministry of Home Affairs (Central Government) to submit the compliance report, along with proof of payment, within six weeks. The compliance report and the proof of payment are awaited.

25. *Abduction and Killing of Three Civilians, Mohammed Khadam, Mohammed Rayaz and Mohammed Rashid by Army Personnel in Poonch, Jammu & Kashmir (Case No.179/9/2002-2003-AD)*

6.96 The three complainants, vide their complaint which was received in the Commission on 21 March 2003, stated that on 28 June 2002, army personnel from 7 Jat Regiment, Dehari Dabsi picked up their husbands Mohammed Khadam s/o Shri Bagga, Mohammed Rayaz s/o Shri Khadam Hussain and Mohammed Rashid s/o Shri Kalu from their village and killed them in the night. Their dead bodies were handed over to the wives the next day.

6.97 The Commission considered the received reports and *inter alia* observed as follows: "Since, the allegation of abduction and killing of three persons by the Army personnel has been substantiated after investigation by local police and the Ministry of Defence has confirmed that the trial is pending in the Court, the Commission is of the opinion that it must apply balm to the aggrieved hearts without waiting for the judicial verdict. The proceedings before the Commission are independent of criminal trial and the standard of proof required by the Commission is not as

rigorous as required in a criminal trial. Therefore, considering all the circumstances, the Commission recommends to the Government of India to pay an amount of Rs.2,00,000 each to the next of kin of deceased Mohammed Khadam Hussain, Mohammed Rayaz and Mohammed Rashid, all residents of village Dehari Dabsi, Tehsil Mendhar, District Poonch”.

6.98 In response, a communication was received from the Ministry of Defence, requesting the Commission to reconsider its decision in view of the fact that the culpability of the Army must be clearly established through the due process of law before a decision is taken on the payment of compensation to the next of kin of the deceased. It was stated that the case being *sub judice*, the decision of payment of compensation would be premature at this stage.

6.99 The Commission considered the matter on 11 October 2007 and *inter alia* observed and directed: “The argument advanced on behalf of the Ministry can not be countenanced. The function and jurisdiction of a criminal court is entirely distinct and separate from that of the Commission. While the Court fixes culpable liability and punishes the guilty, the Commission makes its recommendation with a view to wipe tears from the eyes of the aggrieved by giving him/her monetary compensation. The standard of proof in a criminal trial is quite rigorous and the guilt has to be established beyond all reasonable doubt, but immediate monetary relief can be awarded on the basis of overall probability and only a *prima facie* case has to be made out. It will be in the fitness of things that the issue of immediate monetary relief is not confused with criminal liability. The Government of India is, therefore, advised to comply with the recommendation made by the Commission vide proceedings dated 3 August, 2007.” The compliance report is awaited.

26. *Custodial Torture of Uttam Saha by BSF Personnel in West Bengal*
(Case No. 529/25/2000-2001-PF)

6.100 The Secretary, Organization for Protection of Democratic Rights, West Bengal, in his complaint dated 27 December 2000 stated that on 23 July 2000 at about 8 a.m. one Uttam Saha, aged about 40 years, was tortured brutally by BSF personnel of 48 Battalion and was even administered 500 ml. of alcoholic substance which resulted in methyl alcohol poisoning and led to complete loss of vision in both his eyes. Apprehending his serious condition, Uttam Saha was admitted to Uttar Dinajpur District Hospital and was thereafter transferred to SSKM Hospital in Kolkata.

6.101 The Commission on perusal of the record found that the allegations of torture by BSF officials, which resulted in the loss of eyesight of Uttam Saha were true. The victim Uttam Saha had suffered physical and mental harassment. His human rights had been violated and it is a fit case for grant of monetary relief. The Commission, therefore, recommended a sum of Rs. 50,000 as monetary relief to be paid to the victim. The Secretary, Ministry of Home Affairs, New Delhi was directed to submit the proof of payment in four weeks. As the compliance report was received, the Commission closed the case.

27. *Killing of Ranjen Singh during Firing by Security Forces at Indo-Bangla Border, Malda, West Bengal (Case No. 128/25/1998-1999-AD)*

6.102 On receiving a complaint from the Association for Protection of Democratic Rights, Malda, regarding the killing of an Indian national at the Indo-Bangla border by the security forces and subsequent tampering with the dead body in order to destroy evidence of identity, the Commission called for a report from the Ministry of Home Affairs.

6.103 The Enquiry report of Commandant of 11 BN BSF revealed that victim Ranjen Singh hailed from village Morcha. He was killed by the security forces in exercise of the right of self-defence at the Indo-Bangla border near village Kistopur which is situated at a distance of 82 kms. from village Morcha. Thus, on careful examination of the report submitted by the Commandant of the 11 BN BSF, the Commission is of the opinion that "the Observation Team which was involved in the incident cannot be exonerated. It is not the case of any one that the deceased or any of his companions was having a fire arm. According to the report they only had a sharp-edged weapon. So there was perhaps no need to open fire and the miscreants could have been otherwise captured. Even if the plea of self-defence is taken to be true, there could be no justification for tampering with the dead body and erasure of the tattooed name from its wrist. Erasure of the tattoo-mark amounted to violation of the dignity of the dead."

6.104 Considering all the circumstances, the Commission was convinced that the Ministry of Home Affairs must compensate the family of the deceased Ranjen Singh. The Commission therefore directed the Ministry of Home Affairs, Government of India, to pay an amount of Rs. 3,00,000 as monetary relief to the next of kin of the deceased Ranjen Singh. The Ministry of Home Affairs informed the Commission that the sanction for the payment had been issued. However, proof of payment is awaited.

e) Communal Violence

28. *Violence Against Christians in Kandhamal District of Orissa*
(Case No 825/18/26/2007-2008 Linked File No. 923/18/26/2007-2008)

6.105 The Commission received a complaint from the spokesperson of the Catholic Bishops Conference of India (CBCI) regarding violence in the Kandhamal District of Orissa on 24 and 25 December 2007. Some churches and Christian institutions were destroyed and several houses and other properties were damaged. The CBCI stated that these attacks seemed to be a planned effort to disturb communal peace by some misguided fundamentalists and anti-social elements. The incident was highlighted by media and the Commission also received representations in the matter from many individuals and organizations, including Global Council of Indian Christians, Synodical Board of Social Services, Public Interest Legal Support Research Centre and Passion for Global Peace and World Vision. Further, the National Campaign on Dalit Human Rights also sent a representation, raising the issue of victimization and discrimination against the Pana community.

6.106 Pursuant to the Commission's directions, the Director General (Investigation), NHRC and the Inspector General of Police, Orissa submitted a report and also forwarded the enquiry report of the High Level Committee set up by the Government to go into various aspects of the incident. The analysis of the enquiry report revealed that communal tension had been rising in the area due to the changing socio-economic equations of the Kandhas tribe (who are numerically the most dominant tribe in the State as well as in the district of Kandhamal) and the Kui-speaking Panas, who have the status of Scheduled Caste and used to work on farms of the Kandhas. With the passage of time, the Panas progressed faster vis-a-vis the Kandhas. A substantial number of Panas converted into Christianity but wanted to retain the benefits of reservation as a Scheduled Caste. Some Panas formed an association and demanded Scheduled Tribe status for Kui-speaking Panas. The tribal communities under the banner of Kandhamal District Kui Samaj Coordination Committee gave a call for a 36-hour bandh in the district. The bandh coincided with communal violence at Bramanigaon where some people of the Hindu community protested against erection of arches by the Christians to celebrate Christmas. The situation further flared up when Swami Laxmnanad Saraswati of the Vishwa Hindu Parishad (VHP) was allegedly detained and assaulted by the mob belonging to the Christian community when he was proceeding to Bramanigaon. The district administration found it difficult to handle the situation effectively because of its limited resources. Mobs from both the communities indulged in violence. The maximum destruction of property took place at Barakhama where houses of Christians and their properties were destroyed by some Hindus. Violence also erupted at Bramanigaon where Hindus who were in a minority, became victims.

6.107 The High Level Committee concluded that the incidents were part of a sudden flare up of communal passions and denied allegations of it being a planned effort by anti-social and fundamentalist elements to disturb communal peace. The report stated that all possible measures were taken to control the situation. Adequate forces, including platoons of Orissa, Special Armed Police, CRPF, RAF and Special Operation Groups, were deployed. Till 15 January 2008, 123 cases were registered and 162 persons, including 137 Hindus, were arrested. The State Government announced a relief package for the victims. This included three months ration for the affected families, Rs. 2,00,000 to all riot-affected institutions, ex-gratia payment of Rs. 20,000 and Rs. 50,000, respectively, for partly and fully-damaged houses.

6.108 The report and findings of NHRC's investigation team are more or less on the same lines as those of the High Level Committee. The team also noticed a great resentment against the activities of one NGO. These observations of the team indicate that the violence was primarily stroked by communal passions and ethnic consideration played a secondary role.

6.109 Meanwhile, the President of the Global Council of Indian Christians sent another complaint, dated 6 March 2008, reporting several incidents of inaction against the perpetrators of violence towards Christians. The Council also alleged that Christians were being falsely implicated, accused of being Naxalites and arrested; in the Barakhama Relief Camp, women were being forced to give-up Christianity by the armed police of the State Government; and the District

Administration was found to be persuading the Christians, whose houses had been destroyed in the communal violence, to move to other areas.

6.110 Taking cognizance of the complaint, the Commission issued a notice to the Chief Secretary, Government of Orissa, calling for a report within four weeks. The report received recently from the Superintendent of Police, Kandhamal is under consideration of the Commission.

29. *Suo motu Cognizance of Programme “Operation Kalank” on 'Aaj Tak' on Post-Godhra Violence (Case No. 426/6/18/2007-2008)*

6.111 The Commission took *suo motu* cognizance of a programme, “Operation Kalank” telecast on TV channel 'Aaj Tak' on 25 October 2007, accusing the State functionaries of Gujarat, including the Chief Minister, the Minister of State for Home Affairs and the police officers, for abetment of killing of innocent citizens in the wake of post-Godhra violence in Gujarat. The Commission also received a complaint from Shri Abdur Rahman Mohammad Yusuf Anjaria in the matter.

6.112 The Commission directed the Government of Gujarat to communicate their consent for a CBI investigation into the authenticity of the tapes and allegations made therein to it and the Central Government within two weeks.

6.113 In response, the Government of Gujarat expressed its inability to give its consent for a CBI investigation on the ground that the Commission of Inquiry, under the provisions of the Commission of Inquiry Act, 1952, headed by Justice Shri G.T. Nanavati, former Judge of the Supreme Court, and Justice Shri K.G. Shah, former Judge of the High Court of Gujarat and High Court of Mumbai, had already been appointed to enquire into various aspects of the post-Godhra violence, including the role and conduct of the Chief Minister/other Minister(s) in his Council of Ministers, Police Officers and other individuals and organizations.

6.114 It was also contended on behalf of the State Government that no investigation by an agency like CBI into the alleged exposure by the telecast of "Operation Kalank" is required as necessary actions have already been taken and the trials are pending. In the meantime, if any further material is made available, it can very well be placed before the concerned Courts.

6.115 The Commission thoroughly deliberated on the submissions made by the State Government of Gujarat and all aspects of the issue. The Commission noted that the “PHRA, 1993 mandates the Commission to enquire into any violation of human rights or negligence in preventing such violation. The status of the Commission conducting the inquiry under the Act is that of a Civil Court. It is not an administrative or fact-finding Commission such as those constituted under the Commission of Inquiry Act 1952, but a quasi-judicial body whose jurisdiction cannot be easily ousted.”

6.116 As per Section 36(1), the Commission is barred to inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time

being in force. Under Section 36 (1) of the Act, the phrase 'any other Commission' follows the words 'State Commission'. This scheme of the Section makes the intention of the Legislature clear. 'Any other Commission' contemplated by Section 36 (1) has to be akin to State Commission or National Human Rights Commission and it must have functions and powers similar to the State Commission or NHRC. A Commission constituted under the Commission of Inquiry Act shall obviously not fall in that category because such a Commission is in the nature of an administrative body and its role is not that of a quasi-judicial body, such as the NHRC or State Commissions.

6.117 Further, there is a fundamental difference between the National Human Rights Commission and a Commission appointed under the Commission of Inquiry Act (for short "the Inquiry Commission") in the matter of constitution, tenure, functions and powers. As such, the jurisdiction of NHRC is not ousted merely because Justice Nanavati Commission and Justice Shah Commission are seized of cognate issues.

6.118 The pendency of criminal cases in the Courts and transfer petitions in the Supreme Court can also not operate as a bar to the jurisdiction of NHRC.

6.119 NHRC has the discretion whether or not to assume jurisdiction when a matter is *sub-judice*. It may well be that after investigation or inquiry into the matter, the Commission may decide to intervene in a judicial proceeding u/s 12(b) of the Act.

6.120 Section 12 (a) of the PHRA casts a duty on NHRC to inquire into complaints of violation of human rights or abetment thereof or negligence in the prevention of such violation by a public servant.

6.121 Further, as per Section 14(1) of the Act, NHRC may, for the purpose of conducting investigation pertaining to the inquiry, utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

6.122 The term 'investigation' u/s 14 (1) of the Act is different from police investigation under Cr. P.C. It is an investigation in aid of the inquiry u/s 12 of the Act. An investigation contemplated by Section 14 (1) of the Act does not result in a Final Report or a challan, as in the case of police investigation, but yields a report which is subject to the scrutiny of NHRC.

6.123 CBI is an independent investigative agency under the Delhi Special Police Establishment Act. While investigating criminal offences under Delhi Special Police Establishment Act, the CBI discharges the investigative functions of police and it exercises powers and jurisdiction under Cr. P.C. Since the police or policing is within the exclusive jurisdiction of the State (Entry 2, List II, Schedule VII of the Constitution of India), Section 6 of the Delhi Special Police Establishment Act provides that the consent of the Government of the State, in which the investigation is to be conducted, shall be necessarily obtained before commencement of CBI investigation in that State.

The position is, however, different when CBI conducts investigation under the provisions of Section 14 of the PHRA. While making investigation u/s 14 of the Act, CBI works under the direction of NHRC and it exercises limited powers enumerated in Sub-section 2 of Section 14. Therefore, the term 'concurrence' in Section 14 (1) of the Act has a different connotation. It simply means concurrence in respect of borrowing and utilizing the services of any officer or investigation agency.

6.124 Since CBI is an investigation agency of the Central Government, NHRC was only required to ask the Central Government to give its concurrence to lend the services of CBI and it was not legally bound to obtain the concurrence of the State Government of Gujarat before requisitioning the services of CBI for investigating the authenticity of the tapes of "Operation Kalank" and the allegations contained therein. The concurrence of the State Government was requested as a matter of courtesy only.

6.125 NHRC found the State Government's reservations concerning its jurisdiction as untenable and misplaced. Therefore, NHRC reiterated its earlier decision to direct a CBI investigation and also directed that the Government of India be asked to communicate its concurrence to lend the services of CBI for investigating the authenticity of the tapes of the sting operation telecast by 'Aaj Tak' under the caption "Operation Kalank" and the revelations made therein. The report of CBI is awaited.

f) Development-Induced Displacement

30. *Villagers Killed and Injured during Police Firing in Nandigram, West Bengal (Case No. 725/25/12/2007-2008)*

6.126 On the basis of newspaper reports dated 15 March 2007, the Commission took *suo motu* cognizance of the incidents at Nandigram in March, 2007. Later, Shri Sanjay Parikh, Advocate, drew the attention of the Commission towards disturbed and volatile conditions, prevailing in and around Nandigram, West Bengal from 6 November 2007 onwards through a petition. He also forwarded to the Commission a message received from Smt. Medha Patekar and requested for urgent intervention. The Commission took cognizance of the petition and the aforementioned case was registered.

6.127 The Chief Secretary, Government of West Bengal was directed to submit a factual report within ten days. A team from the Investigation Division of the Commission was also deputed to visit the disturbed areas in Nandigram and examine the situation. The Secretary, Ministry of Home Affairs, Government of India was simultaneously requested to take such steps as may be necessary to retrieve the situation in Nandigram.

6.128 The Chief Secretary, Government of West Bengal submitted a report dated 3 December 2007 revealing that 560 houses were completely damaged and 399 houses were partially damaged

in the incidents which occurred from 6 to 12 November. The report further stated that the State Government has decided to pay Rs. 10,000 for each fully damaged house, Rs. 5,000 for each partially damaged house and Rs. 1,000 per affected family for utensils and household goods. It was also stated in the report that sanction for ex-gratia payment in accordance with the orders of the High Court, is currently under process.

6.129 On the basis of factual report submitted by the Investigation team, the Commission made a few general observations for the unfortunate incidents of Nandigram for which neither the concerned political parties nor NGOs involved could escape their share of responsibility:

- The police and the bureaucracy should keep themselves aloof from political influence. Alignment with the party in power results in erosion of public trust which leads to unavoidable misery.
- The party in power should always be alive to its constitutional obligation to rule without favour and prejudice. It should never encourage or connive with the illegal activities of its supporters.
- The opposition has a right to highlight the failures of the Government and to educate the people about the policies which it considers harmful. While it may take recourse to peaceful agitation, it should in no case encourage people to indulge in unlawful activities.
- There should be a continuous dialogue between the party in power and the opposition and such dialogue should always be motivated by a concern for the good of the people at large.
- The press has a pivotal role to play in a democratic set up, therefore, it should always adopt a balanced and unbiased approach in reporting the events. In the case of Nandigram, the Press did a commendable job by highlighting the atrocities on people but it failed in its duty to emphasize that the blockade of a large area of Nandigram by the agitators was unconstitutional.
- Whether agricultural land should be acquired or not for industry or projects like SEZ is a moot question. Agriculture being the only source of livelihood for the farmers, compensation in terms of money for acquisition of their land may not be adequate. In the process of rehabilitation of such displaced people as a result of acquisition of land, the Government should take the local people into confidence and it should also ensure alternative means of livelihood and shelter for the displaced. Whether in addition to monetary compensation, any other land can be given to relocate or can be linked to the project for which the land is acquired by allocating adequate number of shares and providing employment to at least one

member of each affected family and similar other measures may be considered. The agriculturists may not be in a position to appropriately or wisely invest the money received by way of compensation. Necessary steps may have to be taken by the Government to appoint advisors for making right investment.

6.130 The Commission also considered it necessary to appoint an in-house Committee to look into the matter and suggest compensation regarding damage that occurred as well as ensure that the monetary relief reaches genuine persons. The Committee constituted consisted of the Secretary General, Special Rapporteur and Registrar (Law) NHRC.

6.131 The Committee submitted its report to the Commission with the following recommendations:

- 1) Instructions may be issued to the State Government to publish a complete list of persons whose houses were damaged in the incidents from 14 March to November 2007, related to the SEZ issue in Nandigram area, giving details like address, nature of construction (*pucca/kutchha*), extent of damage (fully/partially), ex-gratia amount paid or proposed to be paid, etcetera.
- 2) Publish the list of applications received so far in this regard and their status.
- 3) The recommendations mentioned at Sl. No. 1 and 2 above, may be published in at least two local Bengali newspapers having a wide circulation in the area.
- 4) A date may be indicated in the publication by which time anyone who wants to make an application or submit a representation can do so. Three weeks or one month's time from the date of publication in the newspapers would be considered reasonable for receipt of applications. Receipts should be given to the individuals making the applications.
- 5) The lists may also be displayed on the notice boards in Gram Panchayat and Block Offices and copies may be given to the district level representatives of all recognized political parties in the State. Copies may also be given to representatives of BUPS (Bhumi Ucched Pratirodh Samity). Receipts must be obtained.
- 6) All fresh applications or representations must be duly enquired into and decision taken subject to confirmation by the NHRC.
- 7) The Committee considers that for damaged houses/shops, following amounts of ex-gratia is reasonable:-
 - *Pucca* houses – Rs. 20,000 for fully damaged and Rs. 10,000 for partially damaged.

- *Kutcha* houses – Rs. 12,000 for fully damaged and Rs. 6,000 for partially damaged.
 - Shops at the same rate as *kutcha* houses.
- 8) On the lines of ex-gratia to the next of kin of the persons who died in the incidents of 14 March, payment may also be made to the next of kin of those who died in other incidents related to the issue.
 - 9) State Government should immediately take a decision about payment of ex-gratia amount to injured persons and inform the Commission.

6.132 The Commission approved the report of the Committee and suggested that the following two recommendations should also be added and forwarded to the State Government:-

- i) "SP, East Midnapore District should ensure that appropriate action is taken on all the complaints received at the police stations in the District. If the allegations made in the complaint disclose a cognizable offence, the provisions of Section 154 Cr.P.C. should be complied with, and
- ii) all persons who have been arrested in connection with police cases regarding incidents of clashes and riots should be provided legal aid, if required."

6.133 The proceedings of the case are still continuing.

g) Violation of Rights of Scheduled Castes and Scheduled Tribes

31. *Rape and Other Atrocities on Scheduled Caste Woman (Name Withheld) in Araria, Bihar (Case No. 431/4/2001-2002)*

6.134 The President of Santhal (Adivasi) Scheduled Castes Vikas Samittee, District Araria, vide letter dated 30 April 2001, forwarded the complaint of a woman (name withheld) alleging that on 21 April 2001, one Manoj Yadav along with five others came to her house and demanded liquor. When it was denied, Manoj Yadav forcibly entered the house and raped the victim, who was seven months pregnant. Thereafter, he entered the house of Shri Gopal Hembram and outraged the modesty of his wife. The police demanded Rs. 500 to initiate action.

6.135 The District Magistrate, Araria submitted that the victim had been paid Rs. 25,000 as compensation as per the directives of the Commission and the provisions of Section 3(1)(XI) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Annexure-I Schedule 11 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. He further mentioned that since the trial is not over, only 50 per cent of the compensatory amount had been paid as per the provisions of the Act. The remaining amount will be paid after the conclusion of the trial.

6.136 The Superintendent of Police Araria submitted a copy of the FIR and filed charge sheet against accused Narayan Yadav, Yogendra Yadav, Narayan Kahar, Bholua Yadav, Panchu Yadav and Manoj Yadav. A communication dated 18 June 2007 received from the District Magistrate Araria confirmed that the other victim had also been paid Rs. 25,000 and the balance amount shall be paid to her after completion of the trial as per rules.

6.137 Since financial assistance, as per rules, has already been given to both the victims and the prosecution of the offenders is going on in the Court, no further action was considered necessary by the Commission. The case was thus closed on 16 July 2007.

32. *Refusal to Register Case of Shooting of 21 Scheduled Castes in Land Dispute in Allahabad, Uttar Pradesh (Case No. 8277/24/4/2007-2008)*

6.138 The Commission came across a distressing report captioned "21 SCs Shot due to Land Dispute", which appeared in Jury Kit (Case Briefs Vol. I) published by the Indian People's Tribunal on Untouchability. It was reported that on 11 October 2006 at around 2.30 p.m., one Lal Bahadur, s/o Mahadev of Yadav Community and his family members belonging to Chamalpur village, Police Station Bahariya, Allahabad started erecting a house on the land allotted to 7 Scheduled Castes (SCs). When the SCs came to know about this, they rushed to the Sikandrabad Police Station to lodge a report. The police officials discouraged them from doing so and demoralized them. From there, the SCs came to the land in question and requested the perpetrators to stop the construction work. They also showed them the stay order of the Court but the members of the Yadav community started abusing and threatening the SCs by firing gunshots at them, injuring 21 SCs, out of which 6 were serious.

6.139 It was further alleged that no police official came to their help. The administration gave them neither compensation nor protection. The victims said they were still receiving threats from the perpetrators.

6.140 While taking *suo motu* cognizance of the incident, the Commission issued notice to the Senior Superintendent of Police, Allahabad & the Director General of Police, Uttar Pradesh and called for a report. In response, the Senior Superintendent of Police, Allahabad vide communication dated 26 July 2007 reported that in respect of the said incident, a case No. 48A/06 u/s 147/148/149/323/336/504/307 IPC & 3(2)5 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at Police Station Phoolpur against 15 persons and charge sheet No. 4/07 was filed on 18 March 2007 against the accused. In view of the appropriate action taken by the State authority, the case was closed by the Commission.

h) Atrocities on Women and Children

33. *Harassment of School Children in Kanpur, Uttar Pradesh (Case No. 23464/24/2005-2006)*

6.141 The Commission received a complaint dated 11 October 2005 from Ms. Nivedita Sharma, Advocate, New Delhi, alleging inhuman and irresponsible conduct on the part of the organizers of

the Gandhi Jayanti Programme in Kanpur, causing tremendous hardship to the participating school children. At the function arranged by the City Administration of Kanpur on 2 October 2005, the chief guest reached the venue three hours late. The children were forced to sit in the scorching heat without any food or water from 6 a.m. to 1 p.m. They were severely dehydrated and many started fainting. There was no first-aid, doctor or transport available at the venue to help the children. Those who needed immediate hospitalization were rushed in private cars to some government hospitals without any assistance from the concerned authorities.

6.142 The complaint also alleged that even as a large number of students were found to be in critical condition, the authorities continued with the programme without providing food and water to the remaining children. The complainant sought the intervention of the Commission for taking action against the authorities responsible for such blatant violation of children's rights.

6.143 While considering the matter, the Commission observed that the report submitted by the Senior Superintendent of Police, Kanpur accepted that 10,000 children had gathered in the open ground and that some of them became unwell at 10.50 a.m., yet no steps were taken to protect the other children from the scorching sun. The administration should have taken immediate measures to give some relief to the other children. The fact that the children were kept waiting under the scorching sun for the chief guest for another three hours indicates a total lack of concern on the part of the administration for the health of children. In the opinion of the Commission, this is a case of blatant violation of the human rights of children.

6.144 The Commission strongly condemned the practice of using small children as showpieces during a VIP's visit. It further observed that the administration must appreciate that children are valuable assets of the nation and they must be handled with care and affection. Forcing children to sit under the scorching sun for six long hours is a blatant violation of their human rights and the Government must be made to pay some token monetary relief to the affected children so that such incidents do not recur in future.

6.145 Accordingly, the Commission recommended that the State of Uttar Pradesh pay an amount of Rs. 5,000 each to all the 49 children who had to be taken to the hospital after becoming unwell.

6.146 As the proof of payment was received by the Commission, the case was closed on 2 January 2008.

34. *Attempt to Rape a Woman (Name Withheld) by the Local Police of Lucknow, Uttar Pradesh (Case No. 5485/24/1998-1999)*

6.147 The Commission received a complaint from one Ram Bhajan, stating that in his absence, a police party headed by Jagram Verma, Station House Officer of one of the Police Stations in Lucknow, forcibly entered his house in the night of 30 May 1998 and tried to rape his sister-in-law. Thereafter, the victim was taken forcibly to the police station where she was implicated in a false case under the NDPS Act.

6.148 A report from the Senior Superintendent of Police, Lucknow, disclosed that Jagram Verma along with Constables Arun Kumar and Dharminder Singh were censured and a warning was given to them. After perusing the reports received from the State Government, the Commission directed payment of Rs. 10,000 to the victim as immediate monetary relief by the State of Uttar Pradesh within six weeks. The State of Uttar Pradesh has complied with the recommendations of the Commission.

35. *Severe Injuries Caused to Subham Das (Four Years) by 12 Bore Gun of Security Guard of North Searsole Colliery in West Bengal (Case No. 589/25/2002-2003)*

6.149 The father of four-year-old Subham Das approached the Commission to ensure appropriate relief for his son who was hit by the pellets of a security guard's gun on 19 January 2000. On that day at about 1.30 p.m., the little boy was standing in front of a stationery shop along with his mother. A security guard of North Searsole Colliery came along with a cash escort team to a nearby bank. He had a loaded 12 bore gun which suddenly went off and several pellets hit the boy. Subham was taken to the hospital. Some of the pellets were removed after surgery but many pellets still remained embedded in the body. A Cr. Case No. 12/2000 u/s 326 IPC was registered against the guard.

6.150 The Commission obtained a report from the Ministry of Coal and Mines, which confirmed the incident. It further stated that the accident had taken place due to some mechanical fault in the gun and that the security guard had been charge-sheeted and a departmental enquiry had also been initiated against him.

6.151 The medical report clearly showed that the incident has brought a life-long agony to the child. In future, whenever the symptoms occur, the boy will require surgery in multiple sittings involving intra-operative imaging that may be hazardous. As a matter of fact, the health scenario for the child is so uncertain that the doctors found it difficult to give an idea of the expenses which would be required for treatment. All these problems have arisen for the child simply because the security guard of ECL was negligent. Even if one assumed that there was a mechanical defect in the double barrel gun carried by the security guard, the liability for damage caused to the child will still rest with the company which is admittedly owned by the State.

6.152 Considering the above mentioned circumstances, the Commission observed that it becomes imperative that adequate monetary provision for the child should be made so that he or his parents may draw upon it as and when the need arises. Keeping in mind the various possibilities mentioned in the medical report, the Commission thus recommended that the Ministry of Coal and Mines, Government of India deposit an amount of Rs. 10,00,000 (Rupees ten lakhs) in the name of Subham Das under the guardianship of his father Shri Surjit Das in a nationalized bank. The money will remain as a deposit in the bank till the child attains the age of majority. The father of the child may make withdrawals from the bank account from time to time as and when the need arises after obtaining prior permission from the Commission.

6.153 The Ministry of Coal and Mines has complied with the recommendations made by the Commission. However, the Commission felt that the case should be kept alive and a six-monthly periodical report be called from the Secretary, Ministry of Coal and Mines.

36. *Discovery of Half-Burnt Foetuses from a Well in Pataudi Town, Gurgaon, Haryana (Case No. 795/7/5/2007-2008)*

6.154 On 15 June 2007, 'Amar Ujala' carried a news item highlighting the malpractices in Beaula Maternity and Nursing Home in Pataudi town of Gurgaon District, Haryana. According to the report, a Health Department raid on the nursing home resulted not just in the recovery of an ultrasonic machine and instruments for medical termination of pregnancy (MTP), but also remains of aborted foetuses from a well near the nursing home.

6.155 The Commission took *suo motu* cognizance of the news report and called for comments from the Chief Secretary and the Director General of Police, Haryana. A team from the Investigation Division of NHRC was also deputed to make on-the-spot enquiry.

6.156 The investigation team reported that the nursing home was being run by one Arvind Kumar Singh, a retired Medical Assistant who had masqueraded as a qualified doctor. He was using the ultrasonic machine and MTP instruments for termination of pregnancies in violation of the provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act). Dr. Jai Narayan, Senior Medical Officer had willfully helped A.K. Singh in this unlawful activity. Dr. M.D. Sharma, District Family Welfare Officer, Gurgaon was also found guilty of dereliction of duty by the investigation team, since he failed to conduct periodical inspection of the nursing home as required under the law.

6.157 The report of the investigation team was transmitted to the Chief Secretary and the Director General of Police, Haryana for necessary action and for seeking their response to the following specific questions: "What action, if any, has been initiated against the CMO, the DFWO and the SMO for their failure to take timely action against the Nursing Home? What action is the State Government taking to check such malpractices in other parts of the State?"

6.158 The Director General of Police, Haryana submitted a report dated 28 December 2007 stating that FIR No. 101/2007 u/s 420/417/312/313 IPC and Section 15 of PCPNDT Act 1994 had been registered at Police Station Pataudi. During the investigation of the case, A.K. Singh was arrested but his wife Beaula Singh obtained anticipatory bail from the Court. After completion of the investigation, a charge sheet was also submitted in the Court against both the accused.

6.159 As no report was received from the Director General (DG), Health Services, Haryana, the Commission issued conditional summons for his personal appearance on 30 April 2008 along with the requisite reports. Further proceedings are going on in the case.

i) Protection of Labourers from Exploitation

37. *Child Labourers in M/s. Salguti Plastic Limited at Mahabubnagar, Andhra Pradesh (Case No. 401/1/2006-2007)*

6.160 The Commission received a complaint dated 17 September 2006 alleging that 50 child labourers were working 10 hours per day at a paltry amount of Rs.50 in Salguti Plastics Limited, Muddireddypalli village, District Mahabubnagar, Andhra Pradesh. They were kept in captivity under the tight security of hired private goondas. It was further alleged that one of the workers, Venkataiah, lost his legs in an accident.

6.161 Pursuant to the Commission's direction, the Secretary to the Government of Andhra Pradesh, Department of Education (PROG.II) sent a report revealing that on the instruction of the Collector & District Magistrate, he along with the Factories Inspector, Mahabubnagar, District Labour Officer, Mahabubnagar and MRO Balanagar visited Muddireddypally to inspect the premises of Salguti Plastics and verify their records. They found no child labourers working there as alleged. There were a few adolescent children working but they did not fall within the definition of child labour and that their employment did not attract the provisions of the Child Labour (Prohibition & Regulation) Act, 1986. But it did violate some other laws.

6.162 A charge sheet was filed by the Director of Factories on 14 December 2006 in the Court of the Judicial Magistrate First Class at Jadeherla, u/s 68 & 69 of the Factories Act, 1948, i.e., employing adolescent workers without possessing the certificates of fitness and Section 32 read with Section 41 Rule 61 F (1) & (3) and Section 7 A (2), i.e., safety violation leading to the occurrence of serious accident of Venkataiah s/o Shri K. Chennaiah, along with some other violations under the Factories Act, 1948 and Andhra Pradesh Factory Rules, 1950.

6.163 Subsequently, the occupier-cum-manager of the said factory was convicted and fined Rs.10,000 on 20 April 2007 in S.T.C. No.8/07 of Judicial Magistrate First Class, Jadeherla for the above violations.

6.164 The Commission considered the case on 22 January 2008 wherein it observed that it had not yet been informed if any compensation was awarded to the injured person who had lost his legs. Accordingly, the Commission directed the Secretary, Department of Education to submit the latest report with regard to this aspect. The report is awaited.

j) Bonded Labour

38. *Dharampal and 28 Others Kept as Bonded Labourers along with their Families at District Meerut, Uttar Pradesh (Case No. 36851/24/2006-2007)*

6.165 The Commission received a complaint stating that the complainant along with 28 poor labourers employed at the brick kiln industry of one Surendra Sharma in Meerut District were being tortured by the cashier, contractor and other employers of the brick kiln.

6.166 Pursuant to the Commission's direction, the District Magistrate, Meerut sent a report dated 4 April 2007 along with a copy of a report dated 17 March 2007 submitted by Deputy Labour Commissioner, Meerut region. The reports revealed that during investigation the labourers present on the spot did not have any complaint against the brick kiln owner. The labourers who wanted to go home were duly escorted by Constable Satyapal Singh and sent along with their families to their village Dinkarpur in District Muzaffar Nagar. The dispute between the owner Surendra Sharma and the complainant Dharmपाल and other labourers, about payment was settled. Full payment of wages had been made to those labourers who left the brick kiln. The report concluded that there were no bonded labourers in the brick kiln.

6.167 On perusal of the report, the Commission requested one of its Special Rapporteurs to examine the record and suggest further course of action. He recommended that:

1. All the 29 persons be treated as bonded labourers.
2. They be formally released from bondage, if this has not been done already.
3. Release certificates be handed over to them individually by the Magistrate in Meerut District appointed u/s 21 of the Bonded Labour System (Abolition) Act.
4. A sum of Rs. 5,80,000 at the rate of Rs. 20,000 each be sanctioned and released in their favour towards rehabilitation assistance and they be rehabilitated at their native place in Muzaffarpur District according to their preferences, felt needs and interests; and
5. Additionally, they be paid Rs. 43,800 towards minimum wages which was outstanding against the employer.

6.168 The Commission directed that the Special Rapporteur's recommendations be conveyed to the District Magistrate, Meerut for comments/clarification and an action taken report be submitted to the Commission within eight weeks. The response is awaited.

k) Right to Health

39. *Death of Waiter due to Denial of Medical Care*
(Case No. 2272/30/2005-2006)

6.169 The Commission took *suo motu* cognizance of a newspaper report published in the 'The Hindustan Times' dated 19 August 2005, captioned "Hospital snuffs out patient". Ravinder, a poor Waiter in Delhi, had complained of breathlessness on 16 August 2005. He was taken to St. Stephen's Hospital but told there that he would not be able to bear the expenses of treatment and was advised to go to a Government Hospital. He went to the Lok Nayak Jai Parkash (LNJP) Hospital, where he was examined by a junior doctor who diagnosed him as a patient of T.B. He was, however, not admitted and advised to go to a T.B. Centre. He was thus taken to Rajan Babu T.B. (RBTB) Hospital at GTB Nagar, Delhi. There also he was refused admission and he died the next morning without receiving any treatment.

6.170 The Commission sought reports from the hospitals he had visited that night. The Commission observed that the LNJP report was not at all convincing. It quoted guidelines of the Medicine Department according to which every case of T.B. is to be referred to concerned T.B. Centre if the condition of the patient is stable. However, the guidelines are not to be compulsorily adhered to in every case. According to the protocol, the condition of the patient has to be kept in mind while making the reference to a T.B. Centre. If the patient is brought to the hospital at an odd hour of the night with a complaint of fever and cough with expectoration, it is inhumane on the part of the doctor to turn him away on the ground of protocol. In the opinion of the Commission it was a fit case for issue of notice u/s 18(c) of the PHRA.

6.171 While considering the matter, the Commission observed: "A doctor's profession is not only pious but it also demands a profound sense of responsibility. The Hippocratic Oath must be upper-most in the doctor's mind. His conduct should always be characterized by compassion for the patient. The poor and the resourceless should always have the first claim on his attention. If a poor patient is turned away from the hospital it not only brings the medical profession to disrepute but is also an affront to human rights of the patient."

6.172 The Commission gave its reasons to feel sceptical about the claims made by the Government: "When Dr. K.D. Mehta, Additional Medical Superintendent, LNJP Hospital submitted his report dated 20.4.2007, there was not a word in it about the admission of the patient or his treatment as detailed in the communication dated 2.8.2007. The administration claims to have administered five bottles of intravenous fluids to the patient. Administration of five bottles would take quite some time and in that case it could not have been possible to discharge the patient on the same night. More over, the administration itself admits that Ravinder had come to the hospital in the night with complaints of fever, pain in abdomen and cough with expectoration. Once the patient was admitted, there could have been no justifiable reason for hurry and the discharge of the patient on the same night appears to be quite unjustified. In these circumstances, the Commission comes to the irresistible conclusion that patient Ravinder was not given the attention and care that he ought to have received in the hospital. Discharge of the patient on the same night appears to have resulted in his untimely death."

6.173 The Commission therefore, recommended that the Government of NCT of Delhi to pay an amount of Rs. 50,000 as monetary relief to the next of kin of the deceased Ravinder. The compliance report is awaited.

40. *Death of Venugopalan Nair in Thiruvananthapuram, Kerala, due to Denial of Medical Treatment (Case No. 95/11/1999-2000)*

6.174 The Commission received a complaint dated 22 April 1999 from Smt. S. Radhamma alleging that her husband Venugopalan Nair had died due to denial of medical treatment by the

Duty Officer of City Police Control Room. Venugopalan Nair was a Head Constable Driver attached to the Armed Reserve Camp, Thiruvananthapuram City. On 20 March 1999 he felt a severe chest pain. He contacted the Duty Officer of City Police Control Room and requested him to arrange conveyance to take him to the hospital. The Duty Officer Shri Mohammed Sali, however, did not arrange for a vehicle, as a result of which Venugopalan Nair could not be taken to hospital on time and thus died on the way to the hospital.

6.175 The Commission was informed that the enquiry against the Duty Officer had been dropped because he had retired from service before the conversion of the non-oral enquiry into a formal enquiry.

6.176 While considering the matter, the Commission observed that “even though the Government of Kerala may not be able to proceed with the disciplinary action against the delinquent Duty Officer, but it continues to be vicariously liable for his negligence which caused Nair's death”. The Commission, therefore, found it a fit case for issue of notice u/s 18 (c) of the PHRA. The Commission observed "...It is evident that precious time was lost on account of the negligence of the Duty Officer and the life of the complainant's husband could not be saved. Venugopalan Nair was in active service and in his death, the complainant Smt. Radhamma has lost the bread-earner of the family. It is the obligation of the State to compensate her for the loss and provide relief to her.” The Commission recommended that the Government of Kerala pay Rs. 50,000 as monetary relief to Smt. Radhamma. The Commission further considered the matter on 16 January 2008, when it noted that a Writ Petition has been filed in the High Court of Kerala, Ernakulam against the petitioner Smt. Radhamma and the NHRC. The High Court has granted interim stay to the Government of Kerala for three months. The matter is *subjudice*.

41. *Suffering Faced by Sunita due to Negligence by CGHS Dispensary, Pushp Vihar, Delhi (Case No. 102/30/2005-2006)*

6.177 The Commission received a complaint dated 14 March 2005 from Smt. Susheela Mathai stating that her daughter Sunita was undergoing treatment for cerebral seizure at Ram Manohar Lohia (RML) Hospital, New Delhi. The Doctor prescribed a medicine "Tab. THAI (75 mg)". However, the CGHS dispensary at Pushpa Vihar procured and issued a wrong medicine namely "THIORIL-50". As a result of taking the wrong medicine, the condition of the complainant's daughter deteriorated and she had fits of severe depression and violent behaviour.

6.178 The Director, CGHS submitted that the omission and commission on the part of the concerned employee was inadvertent and unintentional. He tendered an apology and requested the Commission to drop the case.

6.179 While considering the matter the Commission observed: “The responsibility of a professional as to care with which medicines/drugs are to be dispensed is of a very high degree

and absence of care in such a matter is not mitigated by realization of mistake.... apology by CGHS cannot bring relief to the complainant whose daughter had to pass through a trauma as a result of administration of wrong medicine. The girl has still not fully recovered. The complainant being a working woman cannot leave her daughter unattended at home and she has apprised the Commission of her decision to admit her daughter in a hostel for mentally retarded persons at Ahmedabad. She has also produced many cash memos and vouchers showing the expenses which she had incurred on medicines and investigations after deterioration in the health of her daughter. She has produced investigation reports and she states that the corresponding vouchers were torn by her daughter in a fit of anger."

6.180 The Commission observed that the complainant should be appropriately compensated for the expenses incurred by her and also for the suffering she and her daughter had to pass through. Therefore, the Commission recommended to the Director of CGHS to pay an amount of Rs. 1,00,000 to the complainant.

6.181 The Government has filed CWP 9776/2007 in the High Court of Delhi against this recommendation. The matter is *sub judice*.

42. *Infants Die due to Bacterial Infections in Sree Avittam Thirunal Hospital in Thiruvananthapuram, Kerala (Case No. 14/11/12/2007-2008)*

6.182 The Commission took *suo motu* cognizance of a news item in the 'Deccan Herald' dated 2 March 2007, titled "Hospital rocked by infants' deaths". It was reported that 23 newborn children at the Government run Sree Avittam Thirunal Hospital for children had died within a month after contracting bacterial infections. The revelation was the outcome of an inquiry conducted by the paediatrics wing of the hospital after it noticed the abnormal number of infant deaths. It was also reported that 18 of the 23 children died in April 2007 due to infection by klebsiella bacteria and four others from staphylococcus.

6.183 The Commission forwarded the news item on 9 May 2007 to Secretary, Department of Health and Family Welfare, Government of Kerala for a factual report, which is still awaited.

1) Starvation Deaths

43. *Starvation Forcing People to Eat Rock in Nuapada District, Orissa (Case No. 232/18/30/2007-2008)*

6.184 The Commission came across a distressing news item in 'The Assam Tribune' dated 2 June 2007 titled "Starvation forcing people to eat rock in Orissa". It stated that the people in backward Nuapada District are forced to eat rocks to fend off hunger. The electronic media also covered this news.

6.185 Taking *suo motu* cognizance of the press report, the Commission forwarded a copy of the press report to the Chief Secretary, Government of Orissa and called for a factual report.

6.186 In response, a report received from the State authorities disclosed that during inquiry contents of the press report were not found to be based on facts. The report further disclosed that the issue was also discussed in the Orissa Legislative Assembly and a House Committee had been constituted on the subject matter under the chairmanship of the Minister of Revenue and Disaster Management.

6.187 Since the State Legislature was seized of the matter, the Commission did not proceed further and closed the case.

m) Electrocution Case

44. *Death of Ravikant Puri due to Electrocution in Alamganj, Patna, Bihar*
(Case No. 1902/4/2000-2001)

6.188 The Commission received a complaint from one Smt. Sarita Puri, a resident of Alamganj, Bihar that on 24 May 1999 her son Ravikant Puri came in contact with a live electric wire lying on the road he was passing by and instantly died of electrocution. Stating that her son died due to negligence on the part of the Bihar State Electricity Board (BSEB), Smt. Puri approached the higher authorities for compensation but the same was denied to her. She thus fervently prayed to the Commission that the BSEB be directed to pay her compensation of Rs. 2,00,000 for negligence on its part.

6.189 On a complaint made by the Assistant Electrical Engineer, an FIR was registered at Police Station Alamganj. On enquiry, the BSEB claimed that a truck had hit and damaged an electric pole which led to the death of Ravikant Puri and that they in no way were negligent. The complainant, according to them, was not entitled to any compensation.

6.190 The Commission observed that "it is a settled law that in case of electrocution death, the liability of the electric supply company is absolute. The Board may have a remedy in law to recover the amount from the truck owner or Transport Company, but it must discharge its obligation to those who lost their lives after coming into contact with the live wire. The Commission also observed that even though the mother of only one of the 5 victims who died of electrocution had approached the Commission for relief, equity demands that all the five victims should receive compensation from the Electricity Board. Four of the victims have so far been identified. The Commission observed that the BSEB has itself framed rules which provide for immediate payment of Rs. 50,000 each in case of electrocution death. It therefore recommended the BSEB to pay an amount of Rs. 50,000 to the next of kin of Satya Narayan Beldar, Rameshwara Prasad, Umesh Kumar and Ravikant Puri." Compliance report along with proof of payment is awaited.

n) Other Cases

45. *Five Innocents Spend 15 Years in Jail due to Miscarriage of Justice in Ghaziabad, Uttar Pradesh (Case No. 44373/24/2005-2006)*

6.191 The Commission came across a distressing news report in 'The Tribune' dated 21 March 2006 – “Five innocents spend 15 years in jail due to miscarriage of justice”. The press report *inter alia* alleged that Babu Singh, Zile Singh, Mangte, Gajraj Singh and Samay Singh, who were imprisoned in the case of kidnapping and murder of a boy Sonu at Sambhawali District Ghaziabad, had been languishing in jail for 15 years.

6.192 On 24 April 1990, the Police Station Sambhawali in Ghaziabad District received an information that a dead body in a gunny bag was lying in the jungle near village Kudalia. Cr. Case No. 72/90 u/s 302/201 IPC was registered and Inspector V.S. Yadav, the then Officer In-charge of the Police Station took up the investigation. The dead body was identified as that of Sonu alias Satinder by Smt. Lajjawati. Subsequently, the investigation was taken over by Sub-Inspector S.K. Singh of Police Station Garh Mukteshwar. Five persons – Babu Singh, Mangte, Zile Zingh, Samay Singh and Gajraj Singh were arrested and charge-sheeted. Later on, Sonu alias Satinder, the alleged victim of abduction and murder, surfaced before the police and the whole case collapsed. The five persons who were arrested were acquitted on 10 March 2006 and released.

6.193 The Commission took cognizance of the press report and called for comments from the Chief Secretary and the Director General of Police, Uttar Pradesh. In a communication dated 17 July 2006 the Inspector General of Police (HR), Uttar Pradesh, reported that Inspector V.S. Yadav and Sub-Inspector S.K. Singh had both been found guilty of dereliction of duty because they had not properly investigated the case. Disciplinary proceedings had been initiated against both the officers.

6.194 On consideration of the above report, the Commission issued notice under section 18(3) of the Protection of Human Rights Act, 1993 requiring the State of Uttar Pradesh to show-cause against grant of monetary relief to the victims. The Inspector General of Police (HR), Uttar Pradesh responded to the show-cause notice, vide communication dated 20 March 2007. He submitted that the five persons had to remain in jail for nearly one month as they were enlarged on bail by the Court about one month after their arrest. The Commission recommended to the State of Uttar Pradesh to pay Rs. 50,000 each to all the five victims who remained incarcerated for no fault of theirs. In response, the Secretary to Government of Uttar Pradesh informed the Commission that the amount of monetary relief has been disbursed to the four persons. The fifth person, namely, Babu Singh was reported to be untraceable. He had not visited the village for the last four years and his fields were lying uncultivated. The case was closed with a direction to the State Government to pay the amount of Rs. 50,000 to Babu Singh as and when he turns up to claim it.

46. *Eleven Workers Killed due to an Explosion in a Cracker Factory at Saharanpur, Uttar Pradesh (Case No. 33497/24/2004-2005)*

6.195 An explosion occurred on 18 October 2004 in a cracker factory which was being run in the godown of Om Babu Transport Company at Rakesh Cinema Road in Saharanpur, Uttar Pradesh. Eleven workers lost their lives in the occurrence and two were injured. The incident was brought to the notice of the Commission by the Convenor of Campaign Against Child Labour and a plea was made for action against the guilty and compensation to the victims.

6.196 A police report forwarded to the Commission by the District Magistrate, Saharanpur and a report from the Labour Commissioner, Uttar Pradesh, disclosed that an FIR was registered against the proprietor/ manager of the factory and the owner of the godown had paid Rs. 50,000 each to the next of kin of those who had died in the accident.

6.197 The police report revealed that the factory did not have adequate fire extinguishing equipment. From the report of the Labour Commissioner it transpired that the factory had started functioning two months before the accident and it was not registered under the Shop and Establishment Act. The employer did not deposit compensation under the Workmen's Compensation Act and therefore dependents of the victims were advised to file claims. The Labour Commissioner explained that the Inspector system was not in vogue at the time of occurrence and therefore it was not possible to initiate any action against the employer.

6.198 The Commission observed that "the State is under a substantive protective obligation to ensure the safety of workers engaged in hazardous occupations and provide proper relief to the affected persons in the event of mishap. The Law confers sufficient powers on the State to enable it to discharge the obligation."

6.199 In this case the District Magistrate as well as the Commissioner for Workmen's Compensation appears to have forgotten the obligation to protect the workmen and give relief to their families. They left the workers at the mercy of the employer. The illiterate workers and their families may not have even known that they were entitled to compensation and how to enforce it.

6.200 Since the concerned authorities were negligent in preventing the violation of human rights of the workers, the State becomes accountable for failure of obligation and it must give monetary relief to the eleven families which lost their bread earners in the explosion.

6.201 Accordingly, the Commission directed issue of notice u/s 18(a) (i) of PHRA, 1993 to the Chief Secretary Government of Uttar Pradesh requiring him to show-cause as to why the State Government should not be asked to give monetary relief to the families of the workers who died in the occurrence. The response is awaited.

47. *Sochan Dies Waiting for His Retirement Benefits Held by North Eastern Railways, Varanasi (Case No.37757/24/2000-2001)*

6.202 On 13 February 2001, Sochan made a complaint to the Commission about non-payment of retirement benefits from North Eastern Railways. The Commission directed transmitting of the complaint to the Chairman, Railway Board, New Delhi to look into the grievance, take appropriate action and submit an action taken report. No report was received despite reminders. Meanwhile Sochan passed away.

6.203 Upon perusal of reports, the Commission observed that an employee not getting his legitimate dues in his lifetime is a serious matter. In this case the complainant died still waiting. The Commission held that the Railway Department had violated the human rights of the complainant by delaying payment of his dues and issued notice u/s 18(a) (i) of the PHRA, calling upon the Chairman, Railway Board to show-cause as to why the Commission should not recommend compensation to the next of kin of the complainant (now dead) for violation of his human rights. The Commission further directed Chairman, Railway Board to initiate departmental inquiry against all those officers/officials responsible for the delay in release of the legitimate dues of the complainant and also to re-examine whether all the dues have been paid to the widow as per the Rules. He was also asked to report clearly whether any interest has been paid to the widow of the deceased on delayed payments and the amount thereof. The matter is under consideration of the Commission.

C. Commission's Camp Sitting at Patna, Bihar

6.204 A Camp Sitting was held by the Commission at Patna in Bihar from 17 to 19 May 2007. In three days, 44 cases of Full Commission and 341 cases related to single Members were considered. 30 cases of Full Commission and 125 cases relating to Single Members were disposed off. As a result of the decisions taken, the State Government paid Rs. 7,60,000 to six victims whose human rights had been violated. It submitted proof of payment of Rs. 1,00,000 each to the next of kin of two victims of custodial deaths. The State Government, further, undertook to file proof of payment in four cases.

6.205 The Commission also recommended monetary relief amounting to Rs. 14, 25,000 in 10 cases, which included eight cases of custodial deaths, in which the total recommended payment to the next of kin of the deceased was Rs. 11,25,000.

6.206 In 19 other cases, the Commission, after considering the reports and giving a hearing to the representatives of the State Government at Patna, was *prima facie* of the view that human rights of citizens had been violated. The Commission proposed to issue notices to the Chief Secretary/Director General of Police for monetary relief in these cases.

6.207 During the course of the Camp Sitting at Patna, the Commission received complaints and reports regarding several other cases of human rights violations (including both custodial and

non-custodial deaths), pending with the Commission. The Commission also used the opportunity provided by the Camp Sitting to call for additional information in 50 cases.

6.208 After the Camp Sitting, the Commission held a regional review meeting with the Chief Secretaries and the Directors General of Police from the States of Bihar, West Bengal, Orissa and Jharkhand on 20 May. The meeting focussed on the status of each State's compliance with the recommendations made by the NHRC. The Commission expressed its concern on poor compliance by the States of West Bengal and Orissa and the need for micro-level monitoring in Kalahandi, Bolangir and Koraput districts in Orissa. The Commission also used the opportunity to sensitize the public authorities on the need to discourage human rights violations.

D. Follow-up

a) Action Taken on Cases Reported in the Annual Reports of 2004 - 2005 & 2005 - 2006

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

(Reported in the Annual Report of 2004-2005)

6.209 The case relates to the death of 16 Adivasis and injuries to many others, including women and children during firing by Kerala Police on 19 February 2003. On the recommendations of the Commission, a CBI enquiry was conducted which did not substantiate the allegations and its recommendations were accepted by the State Government. In the meantime, the High Court of Kerala was also seized of the matter in Writ Petition (Civil) 35533 of 2004 at the instance of some persons.

6.210 The Commission closed the matter with the observation that it was not in a position to examine the report of the CBI as the same was before the High Court of Kerala for consideration.

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

(Reported in the Annual Report of 2004-2005)

6.211 On 7 January 2008, while considering the matter of suicide by farmers in Andhra Pradesh and Kerala, the Commission found it expedient and necessary to have a study undertaken by experts in the field in order to ascertain to what extent the steps taken by the State Governments would result in ventilating the grievances of the farmers in the States and also stem this trend.

6.212 The issue of farmers suicide is under the consideration of the Supreme Court in Writ Petition No. 359/2006 — Sanjeev Bhatnagar vs. Union of India. The Commission had also made an application for intervention in the said case. Since, the Supreme Court was already seized of the issue, the Commission closed the case. It, however, observed that it would place its viewpoint before the Supreme Court as and when required to do so.

3. *Devastation Caused by Tsunami in Coastal Areas of South India (Case No. 1054/22/2004-2005)*

(Reported in the Annual Report of 2004-2005)

6.213 On 20 January 2007, the Commission had called for the status reports from the Chief Secretaries of Andhra Pradesh, Kerala, Tamil Nadu, and the Administrator of Puducherry. It received the said status reports and observed that no person had approached the Commission with any grievance or petition even after receipt of the reports. The Commission on its part, thus, presumed that the concerned State Governments / Union Territory Administration had taken sufficient steps for rehabilitation and relief of the affected persons. Accordingly, the case was closed by the Commission.

4. *Alleged Abduction and Killing of Jalil Andrabi, Jammu & Kashmir (Case No. 9/123/95-LD)*

(Reported in the Annual Report of 2004-2005)

6.214 The matter relates to alleged abduction and subsequent killing of Jalil Andrabi, an Advocate of Srinagar by the Security Forces. The Commission had directed the Ministry of Defence, Government of India and the Secretary to the Chief of the Army Staff to ensure that Major Avtar Singh appears in the Court of Chief Judicial Magistrate, Budgam for undergoing trial in case FIR No. 139 of 1996 under Section 302/365/364/201 RPC. In response, the Ministry of Defence communicated that the Court of Enquiry has declared TA-42277 Major Avtar Singh a deserter and as such the Army was not in a position to produce the officer in the Court. The matter is under consideration of the Commission.

5. *Displacement of Farmers and Agricultural Labourers by Construction of a Barrage Across River Nagavalli (Case No. 667/1/2002-2003)*

(Reported in the Annual Report of 2004-2005)

6.215 This matter relates to the violation of human rights of the farmers and agricultural labourers due to construction of a barrage across the river Nagavalli. Upon consideration of a report received from the State authorities, the Commission has closed the case.

6. *Attack on Woman Campaigning Against Child Marriages in Madhya Pradesh (Case No. 165/12/2005-2006-WC)*

(Reported in the Annual Report of 2005-2006)

6.216 The matter relates to an attack on Shakuntala Verma while she was campaigning against child marriages in Madhya Pradesh. As the Commission was satisfied that the State Government had extended all possible help to the victim, the case was closed.

7. *Panchayat's Decision in Saharanpur, Uttar Pradesh and in Sarguja District, Chhattisgarh Leads to Violation of Human Rights of Women (Case No. 16173/24/2005-2006-WC Linked File 232/33/2005-2006-WC)*

(Reported in the Annual Report of 2005-2006).

6.217 The matter relates to Panchayat's decision to let off a person who had attempted to commit rape on a Scheduled Caste woman in Saharanpur (Case No. 16173/24/2005-2006-WC) and a woman directed by Panahayat in Sarguja District of Chhattisgarh to be yoked like a bullock and made to plough the agriculture field five times as she had touched the *Nangar* (a wooden plough), an act considered inauspicious by the people of the region and regarded as the cause for scanty rains (Case No. 232/33/2005-2006-WC). As the Commission was satisfied with the action taken report submitted by the State authorities, the case was closed.

8. *Violation of Human Rights by Panchayat in Baghpat and Muzaffarnagar, Uttar Pradesh (Case No. 16755/24/2005-2006-WC)*

(Reported in the Annual Report of 2005-2006).

6.218 The case relates to settlement and hushing up of a case of rape and murder by a caste Panchayat in Baghpat, Uttar Pradesh. The Superintendent of Police, Baghpat informed the Commission that criminal cases had been registered in respect of an incident of murder and rape. Regarding the social boycott of the villager who had solemnized the marriage of his daughter against the dictates of the caste panchayat, the decision was reversed by the Panchayat and the aggrieved family is living happily. A similar incident of one rape and one murder was reported to the Commission from Muzaffarnagar District. The allegations, however, could not be substantiated. The Commission directed the State of Uttar Pradesh to apprise it of the steps, if any, being taken by the State Government to prevent the interference of caste panchayats in the criminal justice delivery system. The response is awaited.

9. *Auction of Scheduled Caste Woman in Palamu District, Jharkhand (Case No. 712/34/2005-2006-WC)*

(Reported in the Annual Report of 2005-2006)

6.219 The Commission had called for a report from the Director General of Police, Jharkhand with regard to a case of alleged auction of a Scheduled Caste woman. A report dated 12 November 2005 from the Superintendent of Police, Latehar disclosed that (i) a criminal case No. 81/2005 u/s 376 G IPC and Section 3 (12) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act was registered against the rapists; (ii) financial assistance of Rs.25,000 was given to the victim, as required by law; and (iii) the woman was married to a 27-year-old man according to customary rites and is leading a happy married life. The Commission thus closed the case.

10. *Kidnapping of Minor Girls from Outside BSF Camp in Kishanganj District, Bihar (Case No. 2610/4/2005-2006-WC)*

(Reported in the Annual Report of 2005-2006)

6.220 Smt. Shiv Devi, r/o of District Kishanganj, Bihar complained to the Commission alleging drugging and kidnapping of her two minor daughters on 13 July 2005 from Kishanganj by Parminder alias Monu, his cousin Pawan, sister Meena, mother Usha and Constable Keshao Deo Pathak of Border Security Force (BSF) Headquarters Hospital, Amritsar. The girls were then sold to Qadar Ali, Manisha and Sadagi in Mumbai for Rs. 70,000. Both the sisters were raped by them repeatedly and the police did not take action despite her lodging an FIR. In response to the Commission's direction, the Director General of Police, Bihar submitted a report. The Commission on 18 May 2007 directed the Chief Secretary, Bihar to get the complaint inquired through CB-CID and submit a compliance report within six weeks. The report is still awaited.

11. *Rape of a Dancing Girl by Sub-Inspector in Bihar (Case No. 660/4/2003-2004-WC)*

(Reported in the Annual Report of 2005-2006)

6.221 The matter relates to rape of a dancing girl by a Sub-Inspector in Bihar. The State Government of Bihar has since complied with the directions of the Commission for payment of monetary relief of Rs. 50,000 to the victim. The case was closed on 27 September 2007.

12. *Illegal Detention and Torture of a Minor by Haryana Police (Case No. 1453/7/2005-2006)*

(Reported in the Annual Report of 2005-2006)

6.222 The Commission after perusing a news item about the illegal detention and torture of a 12 year old child by Haryana policemen, who allegedly tied his hands, hung him from a tree and beat him up, sent the news item to the Director General of Police, Government of Haryana for his comments. In response, the Director General of Police, Haryana submitted a report that an FIR No. 473 dated 9 October 2005 u/s 323, 342 of IPC read with Section 34 IPC was registered against the accused Jagmal Singh of Criminal Investigation Agency staff who was arrested in the case on 16 October 2005 but released on bail by the Court. A charge sheet was also filed against him. The report further informed that the Supreme Court of India is also seized of the matter. The Commission also observed that there was discrepancy regarding the name of the victim. Hence, the Commission directed the Director General of Police, Haryana to clarify the discrepancy regarding the name of the victim and the circumstances as to how the Supreme Court became seized of the matter. The report is awaited.

13. *Killing of Innocent Persons by Meghalaya Police (Case No. 11/15/2005-2006)*

(Reported in the Annual Report of 2005-2006)

6.223 The case relates to the gunning down of five suspected NSCN (IM) cadres by a Special

Operation Team of the Meghalaya Police at Mawlyngade, Sohryngkhan, East Khasi Hills District. The Commission has received the requisite reports from the Director General of Police, Meghalaya. The matter is under consideration of the Commission.

14. *Assault on Agitating Workers of Honda Factory by Haryana Police (Case No. 681/7/2005-2006-FC Linked File 741/7/2005-2006)*

(Reported in the Annual Report of 2005-2006)

6.224 The matter relates to the assault on agitating workers of Honda Factory by Haryana Police. Vide its direction dated 20 February 2008, the Commission sought information in respect of the completion of inquiry or otherwise by the one-man Commission headed by Justice Shri G. C. Garg. The Commission received the Report of the Commission of Inquiry and found that the force used by the police was justified and not excessive in any way and in view of the findings of the Inquiry Commission, closed the case.

15. *Detention of Undertrial Prisoner for 33 Years in Tezpur Mental Hospital, Assam (Case No. 26/3/2005-2006)*

(Reported in the Annual Report of 2005-2006)

6.225 The case relates to the prolonged detention of an undertrial Anil Kumar Burman for almost 33 years though he was acquitted of his charges, vide judgment dated 15 July 1969 and also declared fit to be discharged in 1972. He somehow was not discharged from the hospital till 2005. In response to a notice, the State Government informed the Commission that a rehabilitation grant of Rs. 3,00,000 could not be handed over to Anil Kumar Burman because he expired on 30 April 2006. The Commission was requested to approve the proposal to handover the amount to his only surviving heir, his daughter Gadu Burman. The Commission approved the proposal and subsequently received the proof of payment. The case has been closed.

16. *Death of Chityala Sudhakar in Police Custody at Karimnagar, Andhra Pradesh (Case No. 381/1/1998-1999)*

(Reported in the Annual Report of 2005-2006)

6.226 The case relates to the death of Chityala Sudhakar in police custody on 28 September 1998 at Police Station Hasanparthy, District Warrangal, Andhra Pradesh. The Commission, vide proceedings dated 3 August 2005 had recommended that the Government of Andhra Pradesh pay Rs. 50,000 to his mother Smt. Chityala Venkatamma. In response, the State Government informed the Commission that as she had expired, the amount has been paid in equal shares to her two surviving sons. The case has been closed.

17. *Death of Two Employees of Delhi Jal Board while Working in a Sewer (Case No. 716/30/2005-2006)*
(Reported in the Annual Report of 2005-2006)

6.227 The Commission, vide proceedings dated 26 May 2005, directed the Chief Secretary, Delhi and the Chairman, Delhi Jal Board to look into the allegations of the death of two employees while working in a sewer and submit their comments within two weeks. The Commission received a detailed report which also mentioned that the Department had released an amount of Rs. 1 lakh to the next of kin of Junior Engineer and Rs. 50,000 to the Beldar's family. The Commission considered the report and found the amount of relief inadequate and thus issued a show-cause notice to Delhi Jal Board to respond as to why monetary relief should not be awarded to the next of kin of the two deceased employees.

18. *Protection of Rights of the Disabled, Case of Shyam Saxena (Case No. 4/0/2005-2006)*
(Reported in the Annual Report of 2005-2006).

6.228 The matter relates to a complaint by Shyam Saxena, alleging that Maruti Udyog Limited is not manufacturing disable-friendly cars. Comments from the Ministry of Heavy Industries and Public Enterprises were called for on a report submitted by the Special Rapporteur of the Commission. Upon consideration of the report, the case was closed by the Commission on 11 March 2008.

19. *Levy of Charges by AIIMS, New Delhi (Case No. 3153/30/2005-2006)*
(Reported in the Annual Report of 2005-2006)

6.229 As a result of intervention by the Commission, the increase in the levy of charges was withdrawn by AIIMS and the case was closed on 10 September 2007.

20. *Prolonged Detention of Undertrial Prisoner Jag Jeevan Ram in Uttar Pradesh (Case No. 35741/24/2005-2006)*
(Reported in the Annual Report of 2005-2006)

6.230 The matter relates to the prolonged detention of an undertrial prisoner, Jag Jeevan Ram Yadav in Uttar Pradesh. He had been undergoing imprisonment for the last 38 years and had been rotting in a mental asylum since all the records relating to the murder committed by him way back in 1968 were missing. The State Government while stating that the accused Jag Jeevan Ram had been released on personal bond by Additional Sessions Judge, Faizabad on 14 February 2006, informed that the police had filed all the documents in the Court where they were weeded out from the judicial records. The report further mentioned that the erring employee had been punished. The Commission has further called upon the Chief Secretary, Government of Uttar Pradesh to apprise as to how long the victim remained in the hospital after being declared fit and sent to jail on 21 September 2005. The report is awaited.

21. *Detention of Undertrial Prisoner Shankar Dayal for 44 Years in Unnao Jail, Uttar Pradesh (Case No. 37484/24/2005-2006)*

(Reported in the Annual Report of 2005-2006)

6.231 The Commission took *suo motu* cognizance of news reports about Shankar Dayal, an undertrial prisoner, having spent 44 years in jail (including 43 years in an asylum for treatment). Prisoner Shankar Dayal was granted bail on 11 December 1961 but could not be released as his family could not fulfill the formalities. Later he was sent to Mental Hospital, Varanasi by District Jail, Unnao on the order of the Court. The Commission asked the Directorate General Health Services (DGHS), Government of Uttar Pradesh to examine whether there have been some lapses on the part of the authorities of the Mental Hospital as they have taken 43 years for the treatment of the victim. The reply of DGHS, Uttar Pradesh is awaited. The matter is under consideration of the Commission.

22. *Starvation Deaths of Children in Sonebhadra, Uttar Pradesh (Case No. 21997/24/2003-2004)*

(Reported in the Annual Report of 2005-2006)

6.232 The case relates to allegations of starvation deaths of children in Sonebhadra, Uttar Pradesh. The Commission obtained a report from Collector, Sonebhadra. The report denied the allegation of starvation deaths. The Commission after receiving comments of the complainant on the said report, observed that the District Administration had taken sufficient measures to ensure that no tribal died of hunger. The Commission further observed that the District Administration is alive to its responsibility of ensuring adequate food supply. Accordingly, the Commission closed the matter.

23. *Earthquake in Jammu & Kashmir (Case No. 76/9/2005-2006)*

(Reported in the Annual Report of 2005-2006)

6.233 The case relates to relief and rehabilitation measures for the victims of an earthquake in Jammu & Kashmir. The Commission obtained an action taken report from the Divisional Commissioner, Jammu Division on the recommendations made by the Commission earlier. It observed that its recommendations had been substantially complied with and the relief work was progressing at a satisfactory pace. Subsequently, it came to know that a Public Interest Litigation for monitoring the relief work had been filed in the Jammu & Kashmir High Court. Accordingly, the Commission closed the case.

b) Action Taken on Cases Reported in the Annual Report of 2006-2007

1. *Death of Arun Kumar Upadhyaya in Police Custody while in Transit from Sultanpur Jail to Lucknow, Uttar Pradesh (Case No. 32757/24/2002-2003-AD Linked with Case No. 32539/24/2002-2003-CD)*

6.234 The Commission, vide direction dated 12 June 2006 recommended that the Government of

Uttar Pradesh pay a monetary relief of Rs. 50,000 to the next of kin of the deceased. The Commission closed the case after the compliance report was received.

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

6.235 As the Government of Punjab has complied with the direction of the Commission dated 19 July 2006 to pay Rs. 1,00,000 as monetary relief to the next of kin of the deceased, the case was closed on 18 April 2007.

3. *Death of Undertrial Prisoner Sharma in Judicial Custody in Sitapur, Uttar Pradesh (Case No. 38895/24/2001-2002-CD)*

6.236 As the Government of Uttar Pradesh has complied with the direction of the Commission dated 1 February 2006 to pay Rs. 50,000 as monetary relief to the next of kin of the deceased, the case was closed on 25 June 2007.

4. *Death of Prithvi in Police Custody at PS Mukherjee Nagar, Delhi (Case No. 1112/30/1997-1998-CD)*

6.237 As the Government of NCT of Delhi has complied with the direction of the Commission dated 15 November 2006 to pay Rs. 50,000 as monetary relief to the next of kin of the deceased, the case was closed on 16 April 2007.

5. *Death of Bhan Das in Police Custody in Balaghat, Madhya Pradesh (Case No. 145/12/2000-2001-CD)*

6.238 The Commission, vide proceedings dated 24 April 2007 closed the case following receipt of a copy of the appointment letter (as a Class IV Government employee) issued to the wife of the deceased by the Police Department and a copy of the sanction order dated 16 May 2000 for a grant of Rs. 1,50,000 to her (Rs. 1,20,000 deposited in the Monthly Income Scheme of the Post Office, Rs. 25,000 in the Nazir Shakha Samayojan and Rs. 5,000 by Draft).

6. *Death of Munna Kumar Soni in Police Custody in Indore, Madhya Pradesh (Case No. 50/12/2001-2002-CD)*

2.239 The Commission, vide direction dated 22 November 2006, recommended that the Government of Madhya Pradesh pay Rs. 50,000 as monetary relief to the next of kin of the deceased. In response, the Under Secretary, Home, Government of Madhya Pradesh, informed the Commission that Rs. 50,000 had been sanctioned by the State Government. However, the next of kin of the deceased were not traceable in spite of the best efforts made by Indore Police to trace them. The Commission closed the case with a direction to the State Government to disburse the recommended amount as and when the eligible persons turn up to claim it.

7. *Death of Undertrial Prisoner Manna Singh in Judicial Custody in Kanpur, Uttar Pradesh (Case No. 17979/24/2000-2001-CD)*

6.240 The Government of Uttar Pradesh has complied with the directions of the Commission dated 8 January 2007 for payment of monetary relief of Rs. 2,00,000.

8. *Death of Dalip Sitaram Chaudhari in Judicial Custody in Jalgaon, Maharashtra (Case No. 531/13/2002-2003-CD)*

6.241 As the Government of Maharashtra has complied with the directions of the Commission dated 15 February 2007 to pay Rs. 1,00,000 as monetary relief to the next of kin of the deceased, the case was closed on 10 September 2007.

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

6.242 The Commission vide proceedings dated 22 October 2006 recommended payment of Rs. 10,000 as monetary relief to the victim Lyek Anwar and vide letter dated 29 November 2006 asked the Chief Secretary to send to the Commission the proof of payment. The Commission closed the case after the receipt of proof of payment.

10. *Illegal Detention of Santosh by Chandigarh Police in Alleged Case of Mistaken Identity (Case No. 72/27/2006-2007-WC)*

6.243 The case relates to the illegal arrest of an innocent woman named Santosh by the Police in place of an accused woman whose name was also Santosh, wife of Surjeet Kumar in case FIR No. 418 of 2000 u/s 61/1/14 of Excise Act. She had been declared a proclaimed offender by the Court of JMFC, Chandigarh. The Commission obtained a report which substantiated the allegation of arrest of an innocent woman by the police. The report further mentioned that departmental enquiry has been ordered against the erring police officials. The Commission directed the Secretary, Home, Chandigarh Administration to inform the Commission about the status of departmental enquiry as well as the outcome of the report of Forensic Expert regarding thumb impression for ascertaining the identity of the actual accused. The report is awaited.

11. *Police Atrocities on Farmers in Chabba, Amritsar, Punjab (Case No. 640/19/2006-2007)*

6.244 The case relates to the alleged atrocities committed on farmers in Amritsar District. The Commission on receipt of a report from the Senior Superintendent of Police, Amritsar justifying the use of force and further informing that a case FIR No. 169 of 2006 u/s 307, 232, 353, 186, 427, 283, 148, 149 IPC at Police Station Sultanwind was registered against the mob who had attacked the police. The Commission has directed the Deputy Superintendent of Police, Jandiala, Amritsar, Punjab to submit the status of the criminal case which is awaited.

12. *Illegal Detention and Torture of Raju by Police at Pahwa, Unnao, Uttar Pradesh (Case No. 23139/24/2001-2002)*

6.245 As directed by the Commission on 29 December 2006, the Government of Uttar Pradesh has sanctioned payment of Rs. 5,000 as immediate monetary relief to the victim. The Commission closed the case on receipt of proof of payment.

13. *Death of Ganshyam due to Electrocution in Bareilly, Uttar Pradesh (Case No. 20385/24/2000-2001)*

6.246 The Commission had received a complaint dated 10 September 2000 from Shri Anil Sawhney, Secretary, Nav Shrishti, an NGO, alleging negligence by the Electricity Department leading to the death of Ganshyam after stepping on a broken live wire. The Commission vide proceedings dated 10 February 2006, directed the Chairman, Uttar Pradesh Power Corporation (UPPC) Ltd., to grant adequate relief to the next of kin of the victim and also to rationalize the rules for grant of compensation in electrocution cases. Vide letter dated 19 April 2006, UPPC informed the Commission that the compensation payable to electrocution victims had been enhanced from Rs. 20,000 to Rs. 50,000 and that orders had been passed for payment of Rs. 50,000 to the next of kin of victim Ganshyam. The Commission closed the case on receipt of proof of payment.

14. *Violation of Rights of Farmers by Acquisition of Land for Mega Projects in Ghaziabad, Uttar Pradesh (Case No. 13218/24/2006-2007)*

6.247 Justice Shri Rajendra Sachar (Retd.) former President, People's Union for Civil Liberties and some others submitted a petition to the Commission, raising the issue of basic human rights of farmers and farm labourers, affected due to acquisition of their lands and habitats in the name of mega-development projects. Along with it, they annexed a report, prepared by Justice Shri Sachar, Ms. Medha Patkar and others on the violence perpetrated by the State authorities on innocent villagers sitting on a protest dharna at village Bajhera against the low compensation given to them and the non-fulfillment of the Chief Minister's promise to raise it.

6.248 The Commission on 20 September 2006 directed the Director General of Police of Uttar Pradesh, District Magistrate of Ghaziabad and the Senior Superintendent of Police concerned, to look into the matter personally and submit a detailed report. It also directed the Chief Secretary, Government of Uttar Pradesh to report on the State's compensation, rehabilitation and relocation policy for persons dislocated from their habitats/lands for mega development projects.

6.249 The Secretaries Administration Home (HR) and Power Department, Government of Uttar Pradesh, vide their letters dated 13 January 2007 and 17 January 2007 respectively, have submitted reports, detailing the scheme for resettlement and rehabilitation. The reports further mentioned that the High Court of Allahabad is also seized of the matter. In view of this, the Commission did not proceed further and closed the case.

15. *Deaths in Fire Tragedy during a Fair at Meerut, Uttar Pradesh (Case No. 521/24/2006-2007)*

6.250 As the Commission was satisfied with the action taken report submitted by the State authority, the case was closed on 24 October 2007.

16. *Condition of Children in Children's Home at Meerut, Uttar Pradesh (Case No. 19884/24/2005-2006)*

6.251 As the Government of Uttar Pradesh has complied with the recommendations made by the Commission on 30 May 2007, the case was closed.

17. *Violation of Human Rights of Children in Ghaziabad, Uttar Pradesh (Case No. 35707/24/2006-2007-WC)*

6.252 The matter relates to the violation of human rights of children at Balaknath Ashram, Ghaziabad, Uttar Pradesh. The matter was referred to the Commission by the Supreme Court for investigation and submission of a report. Upon consideration of the Commission's report, the Supreme Court disposed off the writ petition. Since no further action remains to be taken in the matter, the case was closed by the Commission on 17 September 2007.

18. *Killing of Four Scheduled Castes by a Crowd in Police Presence in Ara, Bihar (Case No. 1099/4/2006-2007)*

6.253 Pursuant to the Commission's direction dated 27 December 2006 and 4 June 2007, the Superintendent of Police, Bhojpur, Ara vide letter dated 12 August 2007 submitted that necessary directions have been issued for the security of witnesses of the incident and family members of the deceased. The report was singularly silent about the monetary relief to be given to the families of the deceased and the outcome of the crime case. The matter is under consideration of NHRC.

19. *Auction of Scheduled Caste Woman Panchayat President in Madurai, Tamil Nadu (Case No. 802/22/2006-2007-WC)*

6.254 On 20 November 2006, the Commission took *suo motu* cognizance of a news item that appeared in 'Indian Express' claiming that Balamani, a Scheduled Caste woman Panchayat President of Kodikulam village, was auctioned for Rs. 2.16 lakhs after the village decided that the highest bidder could use her as a "rubber stamp" for signing agreements and contracts for the village. The Commission directed the District Collector, Madurai to look into the matter and send a factual report to the Commission.

6.255 Pursuant to Commission's directions, the Director General of Police, Tamil Nadu, vide communication dated 6 March 2007, forwarded a copy of the report of the Superintendent of Police, Madurai, to the Commission, revealing that there was not an iota of truth in the news item. In Kodikulam Panchayat there was already an elected Panchayat President and Vice-President.

There had not even been an announcement about the elections to fill in any vacancies in the Panchayats and that there was no question of any non-member controlling the Panchayat President. The report additionally pointed out that the post of Vice-President of any Panchayat was always filled-up through indirect elections from the elected ward members.

6.256 The Sub-Divisional Officer and adequate police personnel were deployed in the Kodikulam Panchayat to avert any untoward incident. District Special Branch staff was also instructed to closely monitor and report the situation. The Commission considered the report and closed the case on 31 May 2007.

20. *Rape of Four Scheduled Caste Women in Lakhisarai, Bihar (Case No.1375/4/2006-2007-WC)*

6.257 The Commission took cognizance of a complaint submitted by a delegation of Members of Parliament led by Smt. Kanti Singh, Minister of State, Government of India pertaining to rape committed on four Scheduled Caste women at Ram Nagar, Suryagarh, District Lakhisarai. Upon consideration of the report received from the concerned authorities, the Commission directed the District Magistrate, Lakhisarai to submit status of case Nos. 208-211/06 dated 23 August 2006, registered at Police Station Suryagarh. The requisite report has been received from the District Magistrate, Lakhisarai.

21. *Atrocities on Scheduled Caste Women in Bhandara, Maharashtra (Case No. 1107/13/2006-2007-WC)*

6.258 The Commission took cognizance of a complaint filed by an NGO drawing attention of the Commission towards a shocking incident of gang rape and murder of four members of a Buddhist family of Khairlanji Village, District Bhandara, Maharashtra on 29 September 2006 by people of higher caste of the village. The Commission directed the Chief Secretary and the Director General of Police, Maharashtra to look into the contents of the allegations made therein and to take necessary action and submit their comments. Despite reminders, the report is still awaited.

22. *Attempt to Rape a Widow, Killings and Injuries to 7 Persons by a Policeman in Begusarai, Bihar (Case No. 3618/4/2004-2005-WC)*

6.259 As the Government of Bihar complied with the directions of the Commission for payment of Rs. 1,00,000 each to the next of kin of the deceased and Rs.25,000 each to the injured as monetary relief, the case was closed on 17 May 2007.

23. *Missing Children and their Murder in Nithari, Uttar Pradesh (Case No. 39250/24/2006-2007)*

6.260 In this case, apart from giving specific directions in the matter which culminated in registration of 19 criminal cases in respect of various cases of kidnapping/rape in Nithari, the Commission also constituted an in-house five-member Committee under the Chairmanship of a Member, to study the issue and to give recommendations and suggestions for dealing with the

problem. The Committee gave its recommendations/suggestions which were accepted by the Commission. These recommendations were later circulated to the Chief Secretaries/ Administrators of all the States/ Union Territories. The case was closed on 2 July 2007.

24. *Rescue of 55 Child Labourers from Embroidery Units in South Delhi (Case No.364/30/2006-2007)*

2.261 While taking *suo motu* cognizance of newspaper reports regarding rescue of 55 child labourers published in several national dailies, the Commission called for a factual report from the Commissioner of Delhi Police and the Secretary, Labour, Government of NCT of Delhi. The Chief Secretary, Government of NCT of Delhi was also directed to inform the Commission of the steps taken to rehabilitate the rescued children. Pursuant to the directions of the Commission, the Sub-Divisional Magistrate, Defence Colony, vide communication dated 26 June 2006 sent a report stating that an FIR No. 23/2006 dated 6 January 2006 was lodged at Police Station Lajpat Nagar u/s 26 of the Juvenile Justice Act and Sec. 3/14 of the Child Labour (Prohibition and Regulation) Act, 1986. Later, on the basis of statements of the rescued children, the Station House Officer, Police Station Lajpat Nagar was directed to lodge an FIR for violations under the Bonded Labour System (Abolition) Act, 1976. According to the report, a letter dated 23 March 2006 was received from the President, Bonded Labour Liberation Front informing that the children have been safely handed over to their respective parents/ guardians after taking police protection on the train journey from Delhi. The Commission was satisfied with the steps taken by the authorities to rehabilitate the rescued children and thus closed the case.

25. *Atrocities Committed by Joint Special Task Force of Karnataka & Tamil Nadu Set Up for Apprehending Veerappan (Case No.795/22/1997-1998)*

6.262 With the Governments of both States agreeing to accept and abide by its decisions in the matter, the Commission on 7 November 2007 recommended monetary relief amounting to a total of Rs. 2 crore and 80 lakhs to 89 victims or their families. The Commission also asked the State Governments to consider developmental activities in the affected tribal and border areas of both the States. The Commission closed the matter after receipt of compliance reports from the States of Karnataka and Tamil Nadu.

26. *Death of Professor due to Beating by Students in Ujjain, Madhya Pradesh (Case No. 886/12/2006-2007)*

6.263 On 5 September 2006, the Commission had taken *suo motu* cognizance of a news item in 'The Times of India' about the beating and subsequent death of Professor H.K.Sabharwal in the presence of policemen when elections for college President in Madhav College, Ujjain, took a violent turn. In response to notices from the Commission, the State's Inspector General of Police and Additional Secretary (Home) confirmed that cases had been registered, negligent police officers suspended and inquiries ordered. On 20 December 2006, the Commission issued a show-cause notice to the Chief Secretary, Government of Madhya Pradesh, as to why monetary relief

should not be granted to the next of the kin of the deceased u/s 18 (c) of the PHRA. It also directed the Director General of Police, Madhya Pradesh to submit the status of the administrative proceedings initiated against the negligent police officers. Upon consideration of the reply to the show-cause notice, the Commission directed the District Magistrate, Ujjain to furnish a copy of the MER and the Director General of Police, Madhya Pradesh to inform the Commission about the outcome of disciplinary proceedings taken against the delinquent police officers. Their response is awaited.

27. *Indiscriminate Firing by Constable of Railway Protection Force Kills 3 and Injures 11 in Madhya Pradesh (Case No. 2252/12/2001-2002)*

6.264 The case pertains to the death of H.C. Mahveer Prasad Singh and Satya Narayan who lost their lives as a result of indiscriminate firing by a Constable of Railway Protection Force (RPF). On 26 July 2006, the Deputy Director (Security), Railway Board appeared on behalf of the Railway Board and undertook to pay Rs. 5 lakhs each to the next of kin of the two deceased. The proof of payment in respect of payment to Smt. Pushpa Verma, widow of Satya Narayan has been received. As regards the other victim, namely, Mahveer Prasad, the legal heir is yet to be identified and the matter is *sub judice* as two women are claiming to be his wife. The case has been closed by the Commission.

28. *Mass Cremation by Punjab Police (Case No. 1/97/NHRC)*

6.265 Details of this case have been reported in the earlier Annual Reports of NHRC. The Commission's enquiries clarified the numbers: there were 38 duplicate names in the list; 1,245 bodies had been identified. In its proceedings of 10 October 2006, the Commission held that for the violation of human rights of 194 persons who were admittedly in police custody immediately prior to their death and their cremation, their next of kin were entitled to monetary compensation of Rs. 2,50,000. As regards 1,051 persons who were not in police custody but cremated by the State of Punjab without following the Punjab Police Rules, guidelines, practice and humanitarian law, the Commission awarded monetary relief of Rs. 1,75,000 to the next of kin of each of the deceased. For the identification of the remaining 814 bodies, the Commission appointed a Commissioner (Justice Shri K.S. Bhalla, retired judge of Punjab and Haryana High Court) for receiving evidence and conducting an inquiry to fix the identity of as many dead bodies as possible.

6.266 Vide proceedings dated 15 February 2007, the Commission considered an application submitted by the State of Punjab regarding 54 more identified bodies. The Commission was satisfied about the identity of 53 persons. In respect of one person in deemed custody, the Commission awarded monetary relief of Rs. 2,50,000 to the next of kin of the deceased and regarding other 52 bodies identified, it awarded a relief of Rs. 1,75,000 to the next of kin of each of the deceased.

6.267 Justice Shri K.S. Bhalla's one man Commission of Inquiry report dated 30 June 2007

identifies 143 deceased persons. Since the Commission had already awarded compensation in 53 cases, it recommended monetary relief of Rs. 1,75,000 to the next of kin of each of the remaining 90 identified deceased. Thus, by 31 March 2008, the Commission had awarded monetary relief to the next of kin of 1,388 identified deceased.

29. *76 Army Men Punished for Human Rights Violations in Kashmir (Case No. 122/9/2006-2007-AF)*

6.268 The Commission on 21 December 2006 had taken *suo motu* cognizance of a newspaper report published in the 'Kashmir Times' that while the higher authorities in the army had given instructions to make the anti-insurgency operations people-friendly and minimize civilian losses during these operations, 76 army personnel were awarded punishment that included dismissal from services during the last couple of years on account of charges of human rights violations against them.

6.269 The Commission called for information from the Defence Secretary, Ministry of Defence, Government of India and the Chief Secretary, Jammu & Kashmir about ex-gratia relief, if any, awarded to the victims/next of kin of the victims of such human rights violations by armed forces personnel in Jammu & Kashmir. The report has not been received by NHRC, despite a reminder.

30. *Delay in Provision of Medicines to CGHS Pensioners in Delhi and Neighbouring Areas (Case No.418/30/2006-2007)*

6.270 The Commission had last year called for comments from the Secretary, Ministry of Health and Family Welfare and the Director General, Health Services regarding complaints from Central Government pensioners in NOIDA, Uttar Pradesh, Krishna Nagar and other dispensaries in Delhi relating to delay in supply of medicines.

6.271 The Additional Director (HQS.), CGHS, vide communication dated 4 July 2006 submitted a report, detailing the problems faced in the supply of medicines as well as the steps taken for improvement in the supply.

6.272 The Commission considered the report on 20 December 2006 and directed that a copy of the report be sent to the complainant for comments. However, no comments were received from the complainant within the stipulated time. The Commission on 5 October 2007 took the report on record and closed the case.

31. *Denial of Right to Health for Tribals in Hakeerpeta Mandal, Vishakhapatnam, Andhra Pradesh (Case No. 513/1/2006-2007)*

6.273 The Commission had called for factual reports from the Secretary, Health and Family Welfare and the Principal Secretary, Panchayati Raj and Rural Water Supply, Government of Andhra Pradesh after taking *suo motu* cognizance on 14 December 2006 of a telecast on Telugu news channel 'TV-9' on the 'Agony of Tribals living in Village of Hakeerpeta Mandal,

Vishakhapatnam". The report revealed that 100 tribals had died due to a peculiar fever; that there was no treatment or medical help available; the villagers had to fetch water from far off places; and that the water was not safe for drinking. The Commission has obtained reports from the State authorities, which do not substantiate the allegations. Accordingly, the case has been closed.

32. *Abuse of Power by Police in Gurgaon, Haryana (Case No.1906/7/2006-2007-WC)*

6.274 The Commission took *suo motu* cognizance of a news item in 'The Times of India' dated 17 November 2006 about the humiliation and beating suffered by Jitender Singh Sandhu who was accosted by two policemen when he was taking a walk with his 21-year-old daughter. On protesting, he was taken to the police station and beaten with belts and batons. The report mentioned that three policemen had been suspended pending a departmental enquiry.

6.275 After detailed proceedings, the Assistant Sub-Inspector Karan Singh was found guilty of charges whereas other police officials were exonerated. A show-cause notice was issued for stoppage of five future annual increments with permanent effect. However, no report regarding grant of monetary relief was received from the Chief Secretary.

6.276 The Commission vide proceedings dated 29 February 2008 recommended to the Government of Haryana through its Chief Secretary to pay Rs.20,000 as monetary relief to Jitender Singh Sandhu. The compliance report along with proof of payment has been received by NHRC.

33. *Death of a Child due to Beating by Teacher in Amritsar, Punjab (Case No.621/19/2006-2007-WC)*

6.277 While taking *suo motu* cognizance of a news item published in 'The Tribune' about the death of Simran, a Class I student of a school in Amritsar, Punjab after severe beating by her teacher, the Commission called for a factual report along with comments from the Director General of Police, Punjab. Upon consideration of the report received from the Additional Director General of Police, Punjab, the Commission directed the Director General of Police, Punjab to file the report about the final cause of the death of the victim. The report is still awaited.

34. *Selling of Girls by Parents in Rajamundry, Andhra Pradesh (Case No. 658/1/2006-2007-WC)*

6.278 Taking *suo motu* cognizance of a news report captioned "Parents turn pimps, sell girls in A.P." telecast by CNN-IBN, the Commission called for a factual report from the Chief Secretary and the Director General of Police, Andhra Pradesh.

6.279 In response, a report was received from the Director General of Police, Hyderabad, Andhra Pradesh. The report revealed that three cases were registered on the basis of a report given by Sravanti, a voluntary organization. During investigation, 16 accused were arrested and 11 girls forced into prostitution, of which 5 minors were rescued. Chinna Rao, named in the telecast, forced his brother's daughter into prostitution. It was further revealed that the victims were poverty-stricken and forced into prostitution. None of the sex workers were arrested as they had

been forced into the flesh trade. All the minor girls were sent to a rehabilitation centre. Almost all the prominent pimps were arrested, including the persons involved in trafficking. Every effort was made to nab the offenders in flesh trafficking and rescue innocent girls. Since the problem of prostitution has its moorings in poverty, efforts were being made to address the socio-economic problem. The assistance of NGOs and other Departments was also being taken in mitigating the menace.

6.280 Upon consideration of the report received from the Superintendent of Police, East Godavari, Kakinada, the Commission has directed him to submit an up-to-date report about the action taken for the rehabilitation of the victims of the flesh trade. The report is awaited.

35. *Denial of Education to HIV Positive Children in Kerala (Case No. 143/11/2006-2007)*

6.281 The Commission took *suo motu* cognizance of a news item that appeared in the 'Hindustan Times' dated 8 December 2006 about five HIV positive children in the 4-10 age group being thrown out of their school in Kottayam after parents of other children threatened to pull their children out of the school. The children were then shifted to an orphanage where their status was kept under wraps. But their trauma was further enhanced when newspapers splashed their photographs after their participation in a programme on World AIDS Day. They were then confined to their rooms in the orphanage.

6.282 The State Government sent a report stating therein that at present there are no such issues related to stigma and discrimination towards HIV infected students studying in the Mar Dionysius LP School, Pambadi, Kerala, and after the incident earnest and urgent steps have been taken to solve the problem and as a result of this, the management of the school has allowed the students in question to continue in the same school. The report further stated that two of the HIV infected children are still studying in the same school while the remaining three children sought transfer from the school for higher studies/family reunion/shifting of family. The Commission found the report to be satisfactory and closed the case.

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

6.283 The Commission took *suo motu* cognizance of the news item captioned "3,000 missing children: number of staff in the Gujarat missing Cell : 2" which appeared in 'The Indian Express' dated 5 February 2007. As per the report, 1,054 children in the age group of 6 months to 18 years were reported missing from 2002 to 2005. The report further mentioned about the inadequacy of staff in the Missing Persons Cells in various cities in the State of Gujarat. In response, the Commission received reports from the Additional Director General of Police, and the Deputy Inspector General of Police (Mahila Cell), CID, Crime & Railways, Gujarat. Upon consideration of the reports, the Commission found them to be satisfactory and observed that the Government of Gujarat was taking adequate steps in tracing missing children and it hoped that consistent efforts shall be made by the State Police to further improve the situation. With these observations, the Commission closed the case.

E. Commission's Recommendations on Grant of Monetary Relief to Victims of Human Rights Violations/ Next of Kin of the Deceased/ Disciplinary Action Against Errant Public Servants/ Prosecution

6.284 During 2007-2008, the Commission recommended monetary relief amounting to Rs. 3,20,00,000 in 199 cases including 81 cases of custodial deaths. Out of these 199 cases, the Commission also recommended disciplinary action in 9 cases and prosecution of errant public servants in 2 cases. Besides, only disciplinary action was recommended in 2 cases (**Annexure 7**).

6.285 The Commission received compliance report in 112 cases and a total amount of Rs. 1,95,10,000 was paid to the victims/next of kin of the victims as monetary relief. Compliance report was also received in 5 cases relating to disciplinary action recommended against the delinquent public servants. The compliance reports were awaited in 89 cases (**Annexure 8**).

6.286 The Commission's recommendations were also challenged in the High Court in 2 out of 89 cases. The details of the two cases are given below:

- (1) Case No. 95/11/99-2000 – Smt. S. Radhamma alleged that her husband Venugopalan Nair, Head Constable Driver attached to the Armed Reserve Camp, Thiruvananthapuram City, had died due to denial of medical treatment by the Duty Officer of City Police Control Room. Vide proceedings dated 29 August 2007, the Commission recommended that the Government of Kerala should pay Rs. 50,000 as monetary relief to Smt. Radhamma on the ground that the State failed to provide timely medical help and consequently, the complainant lost the bread-winner of the family. The State Government has challenged the recommendation of the Commission in a Writ Petition No. 36890/07 in the High Court of Kerala. The High Court, vide order dated 13 December 2007, has granted interim stay to the Government of Kerala for three months. The matter is still under consideration of the High Court.
- (2) Case No. 102/30/2005-06 – Smt. Shiela Mathai alleged that her daughter Sunita, a CGHS beneficiary, who was undergoing treatment for 'cerebral seizure' at Ram Manohar Lohia Hospital (RMLH), New Delhi suffered fits of severe depression and violent behaviour because of negligence of the CGHS Dispensary at Pushp Vihar as it issued a wrong medicine namely “THIORIL-50” in place of medicine “THAI (70mg)”, that was prescribed by the Doctor of RMLH. The wrong medicine was taken by her daughter believing it to be the correct medicine.

In response to the notice issued by the Commission, the Additional Director, CGHS admitted that wrong medicine had been indented and given to the patient.

However, it was pleaded that the omission and commission on the part of the CGHS's employee was inadvertent and unintentional. He tendered an apology and requested the Commission to drop the case.

The Commission, vide proceedings dated 30 July 2007 recommended to the Director, CGHS to pay an amount of Rs. 1 lakh to the complainant as the allegations of omission/commission on the part of CGHS employees were admitted by the Directorate, in response to the show-cause notice. The Government has preferred a CWP No. 9776/2007 in the High Court of Delhi against this recommendation and the matter is under consideration of the Court.

6.287 Further, in case No. 653/6/2002-2003-CD, a convict named Kaluji, aged 22 years, was undergoing a sentence in jail. He was killed by co-prisoners on 31 January 2003. The Commission, vide its proceedings dated 3 September 2007, recommended monetary relief of Rs. 2 lakhs to the next of kin of the deceased on the ground that the State had failed to protect the life of the prisoner. In response to the said recommendations, the State Government requested the Commission to defer the matter since the father of the deceased had filed a petition in the High Court of Gujarat. Hence, the Commission thought it proper to await the outcome of the case in the High Court and as such the compliance has been held up.

6.288 In addition to the above, compliance reports have not been received in 12 cases for the period from 1999-2000 to 2006-2007 (**Annexure 9**). The details of these cases have been reported in the previous Annual Reports of the Commission.

6.289 Out of these 12 cases, the respective State Governments have challenged the recommendations in 3 cases (**Annexure 10**). These cases are pending before the respective High Courts.





7.1 The Constitution of India elucidates certain Directive Principles of State Policy that are fundamental to the governance of the country. It is the duty of the State to ensure the implementation of these Directive Principles for the overall development of its citizens. These are essentially related to economic, social and cultural rights. They include, among others, the right to work; right to education; raising the level of nutrition, and improvement of public health. The International Covenant on Economic, Social and Cultural Rights (ICESCR) that was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 3 January 1976 is the main treaty on economic, social and cultural rights at the international level. It recognizes the right to work and favourable conditions of work; form and join trade unions; social security including social insurance; the widest possible protection and assistance for the family, mothers and children; an adequate standard of living including adequate food, clothing and housing; the highest attainable level of health and health care; and education. The Committee on Economic, Social and Cultural Rights is responsible for monitoring compliance of rights recognized under the Convention by the States Parties. India is a party to this Convention.

7.2 The focus of this chapter is on 'Right to Health', 'Right to Food', 'Right to Education' and 'Rights of Women and Children'.

A. Right to Health

7.3 The 'right to health' is indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life of dignity. The human right to health is recognized in numerous international instruments. For instance, Article 25 of the Universal Declaration of Human Rights states that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age.....Motherhood and childhood are entitled to special care and assistance.....". ICESCR provides the most comprehensive article on the 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", while 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".

7.4 Given the mandate of the Commission, its responsibility is to oversee the steps taken by the Government in fulfilling this obligation and concurrently take required action if the State has digressed from the committed path. As such, the Commission has consistently been impressing upon the State functionaries that they are duty bound to do their utmost in order to fully realize these rights. It has continuously held meetings, initiated discussions and made recommendations on the key factors that affect the right to health.

Availability of Medical Care

7.5 In the previous Annual Report, it was reported that a National Review Meeting on Health was organized by the Commission on 6 March 2007. In the meeting it was stated that although there are sufficient number of doctors and paramedical staff all over the country, there are still innumerable pockets, in the rural and remote areas, where their shortage is felt. As a result, majority of the population is at the mercy of quacks. The Commission has repeatedly expressed its apprehension concerning the existing inadequacies in the public health system in the country as a whole, particularly in rural areas. It therefore made several recommendations to resolve this problem.

7.6 One of the recommendations was that the Medical Council of India (MCI) should design a three-year course for training doctors on basic preventive and curative health services, so that the paucity or non-availability of manpower is taken care of. Another alternative is to have a one-year bridge course for doctors of Indian System of Medicine and post them at Community Health Centres (CHCs) and Primary Health Centres (PHCs).

7.7 The NHRC had also recommended that there is a need to have a recognized course for nurse practitioners to ensure availability of independent treatment and specialists like Nurse Anaesthetists and Gynaecologists in rural parts of the country. Such a step, the Commission felt, would definitely bring about a reduction in the infant mortality and maternal mortality rates.

7.8 Consequently, the Commission held a meeting with the MCI, the Indian Nursing Council (INC) and the Ministry of Health and Family Welfare on 30 August 2007 in New Delhi to review the implementation of prior recommendations made by it on the issue. After extensive deliberations, the Commission listed the following action points to overcome the shortage of doctors and nurses in rural and remote areas:

- The Government should make necessary changes in the Indian Medical Council Act to make it compulsory for MBBS students to have one year of compulsory rural attachment before their registration. The word 'rural' should also be clearly defined in the Act.
- All State Governments/Union Territory Administrations should adopt, with suitable modifications, the Chhattisgarh Rural Health Act or the Assam Rural Health Act or pass a similar legislation which provides diploma holders of three years course in Medicine and

Public Health to practice in the State/Union Territory so as to overcome the dearth of manpower of doctors in rural areas.

- The Ministry of Health and Family Welfare will explore the possibility of diluting/relaxing their norms to make way for Public-Private Partnership between Government Hospitals and Private Medical Colleges.
- All district hospitals in the country should have nursing colleges to address the shortage of nurses, especially in remote areas. The Commission also recommends to the Planning Commission to provide more funds to the Ministry of Health and Family Welfare for the establishment of 230 nursing colleges at the district level.
- The Nursing Council has listed 14 specialties for the 'Nurse Practitioners Course', out of which syllabi for nine have been finalized. The Council should finalize the syllabi of the remaining specialties to ensure availability of specialists like Nurse Anaesthetists and Gynaecologists in rural areas.
- MCI will create more awareness among medical colleges about the need for Post-Graduate courses in Psychiatry to cover the lack of manpower in the field.

7.9 Subsequently, the Commission elaborated on the issue of rural attachment to the Ministry of Health and Family Welfare as follows: MBBS doctors should undergo one year of compulsory rural service at Primary Health Centres, in addition to their regular internship. In order to facilitate this process, they should be given provisional registration to practice after they have completed their MBBS. The permanent registration and degree should be given to them only after they have completed their one year of compulsory rural service. From the point of ensuring that there is no increase in the number of years of MBBS course, the compulsory rural service should be made one of the essential pre-requisites to qualify for post-graduation. The Commission also recommended that to improve the emergency medical services in the country, there is a need to develop 'Emergency Medicine' as a specialty.

Follow-up of NHRC Recommendations

7.10 The Ministry of Health and Family Welfare informed the Commission that it had initiated steps to address the lack of manpower in the Health sector. Hospitals/health centers could now take the services of doctors on a contract basis and the number of staff nurses had been increased to three at PHCs.

7.11 The Ministry also informed the NHRC that there is a special focus on training MBBS students in Anaesthesia and Gynaecology. And that there are now specifically designed six-month training courses on 'emergency handling and anaesthesia'. In consonance with the recommendations of the Commission, the Planning Commission too has approved a sum of Rs. 15,000 crores to strengthen

medical education during the Eleventh Five Year Plan. In addition, a proposal is being sent to the Planning Commission to provide more funds for opening 230 nursing colleges in district hospitals.

7.12 In January 2008, the INC informed the Commission that, as per its recommendation, the Council has approved the syllabus for 'Nurse Practitioners in Midwifery' and the syllabus for 'Nurse Anaesthetists' is under preparation. The nurse practitioners qualifying in the 'Nurse Practitioners in Midwifery' Course will be responsible for the promotion of health of women throughout their life cycle, with special focus on their child-bearing years and newborn babies. They will also be responsible for providing care to women prior to their pregnancy, during pregnancy, child birth, after child birth and in taking care of their newborn babies. The trained nurse practitioners will be posted at a facility where there is no obstetrician posted or available. Any registered nurse and registered midwife possessing a minimum of one year's experience could seek admission to this course. The entire course would be of one year's duration.

7.13 The Commission had also recommended that there was a need for the MCI and the INC to re-look into the courses for Nurse Practitioners and work out a methodology for its recognition.

7.14 Responding to the Commission's suggestion for an in-built compulsory rural attachment as part of the medical training, the Ministry of Health and Family Welfare stated that they were considering a proposal for one year compulsory rural attachment. The doctors would be registered only on completion of the rural attachment.

7.15 The MCI further informed NHRC that it had accepted their recommendation to develop 'Emergency Medicine' as a specialty and the same would be started shortly.

7.16 While welcoming this decision, the Commission would like to point out that the MCI has yet to take action on their other crucial recommendations such as granting of recognition to 'Nurse Practitioner Courses'; three-year Diploma Course on 'Basic Preventive and Curative Health Services'; and relaxation of norms so as to allow more students to opt for Psychiatry to meet the shortage of psychiatrists in the country. The Commission reiterates that these are burning human rights issues, related as they are to guaranteeing the right to health. Therefore, the Commission urges MCI to comply with these positive and proactive recommendations of the Commission at the earliest.

7.17 Regarding the prevailing shortage of psychiatrists in the country, the MCI informed the Commission that it would create awareness to promote the subject in Medical Colleges. The Commission also urged the MCI to relax its norms so as to attract more students for Psychiatry courses.

7.18 The INC informed the Commission about the steps taken on the recommendation to promote the establishment of more nursing colleges in the country. According to it, a nursing college could now be opened by stipulating a minimum carpet area of 54,000 sq. feet. And that a minimum of only two M.Sc. nursing teachers would be required to start a nursing college. The Council further stated that it had reduced the ratio of five patients per student to three patients per student.

Silicosis

7.19 Silicosis is a serious lung disease caused by inhalation of dust containing free crystalline silica, a major component of sand, rock, and mineral ores. It is a disabling, non-reversible and sometimes fatal lung disease, which progresses even when contact with silica stops. Lakhs of workers in India encounter high-risk silica exposures. The majority of them are in the unorganized sector like slate and pencil cutting, stone cutting and the agate industry.

7.20 The Commission has been deeply concerned about silicosis and its adverse effects on the enjoyment of human rights. At the National Review Meeting on Health convened on 6 March 2007, the Commission had pointed out that silicosis is an occupational hazard that needs necessary intervention and convergence of the Ministries of Industry, Labour and Health; the National Institute of Occupational Health (NIOH); and the National Institute of Miner's Health (NIMH). It therefore recommended comprehensive legislation and an effective operational mechanism to ensure both care for all affected persons and prevention of further cases.

7.21 Following-up its recommendations for convergence, the Commission organized a meeting of various stakeholders on 24 April 2007. The participants in this meeting included representatives from the Ministry of Labour and Employment; Directorate General of Mines Safety, Dhanbad; Directorate General, Factory Advice Service and Labour Institutes, Mumbai; National Institute of Occupational Health, Ahmedabad and the Ministry of Health and Family Welfare. The meeting expressed its concern over the fact that even though silicosis is a "notified disease" under the Factories Act 1948, there is no authentic reporting system or statistics of the affected people.

7.22 After extensive deliberations, the following short-term and long-term recommendations were made:

Short-Term Recommendations

- Carry out vigorous publicity campaigns by making use of the electronic and print media at all levels in order to create awareness among workers, employers and medical practitioners about silicosis being a health hazard.
- Identify and monitor States/Union Territories with high number of silicosis cases.
- The identified States/ Union Territories should issue a notification under Section 85 of the Factories Act so that the law is applicable also to entrepreneurs employing less than 10 labourers and they along with their employees become aware about their vulnerability to silicosis.
- The case study pertaining to Madhya Pradesh should be thoroughly studied and analyzed in order to comprehend the steps taken by the State with regard to the issue of silicosis prevention, health care and insurance in a convergent and comprehensive manner.

- Collect survey reports already available with different agencies to identify and map pockets with incidence of silicosis. The concerned State Government officials be summoned by NHRC to monitor effective steps being taken by them.
- Work towards removal of existing deficiencies in the context of silicosis prevention in the States/Union Territories including the enforcement machinery so as to ensure their overall efficacy.
- The Ministry of Labour to prepare a background paper for launching a national programme for eradication of silicosis.
- Work out a compensation package for victims or next of kin as well as its modalities.
- Invite select NGOs to share their experiences of combating the problem of silicosis.

Long-Term Recommendations

- Deliberate on the adequacy of existing laws and whether there is a need for separate/specific legislation on the issue.
- Constitute a National Working Group or a National Task Force or a National Core Group on Silicosis. The concerned Group or Task Force must work within the given time-frame and make recommendations which in turn may be taken up with the Central/State Governments, as the case may be.

National Task Force

7.23 In response to the above recommendations, NHRC constituted a National Task Force on Silicosis. The Task Force convened its first meeting in the Commission on 6 September 2007.

7.24 The Task Force recognized the inadequacy of information base on silicosis and the need to create a sound database on it through a survey. Migration of labour was considered to be the main cause for lack of authentic information/data. During the course of the meeting, the situation regarding notification of silicosis under Section 85 of the Factories Act was also reviewed. After extensive deliberations and detailed discussions, the following action points were identified:

- Emphasize to all stakeholders that States have to assume primary responsibility for this issue.
- The Ministry of Labour to follow-up with those States which have not yet issued notifications under Section 85 of the Factories Act.
- The Ministry of Labour to devise a proforma for collecting information from 26 major States for identification of pockets affected by silicosis, to make a realistic assessment of the gravity of the problem.

- All State Governments to undertake a survey either themselves or by engaging a public or private research institution.
- The Ministry of Labour to make available to NHRC a comprehensive survey form which covers all information required on silicosis and focuses on the preventive mechanisms of State Governments.
- The meeting recognized the importance of consultation with State Governments before commencing the survey. It was suggested that the pre-survey meeting could be used as a forum to discuss issues related to safety, machinery, shortage of staff and spreading of awareness so as to sensitize the State Government officials on the issue of silicosis.
- Consider involving Panchayats in monitoring health-related aspects of silicosis.

7.25 Thereafter, a meeting on silicosis was held in the Commission on 29 October 2007 to work out the details regarding the format of the survey and pre-survey meetings with all the State Governments. It was suggested that along with giving the tolerable limits of dust level, the proforma should indicate a list of engineering measures to minimize dust level and should enclose a list of preventive methods. In this meeting the Directorate General, Factory Advice Service & Labour Institutes (DGFASLI) was asked to provide a list of confirmed cases of silicosis, which the Commission could take up as individual complaints.

Availability of Anti-Rabies Vaccine : Success Story of NHRC Intervention

7.26 The Commission had recommended to the Ministry of Health and Family Welfare to approve Intradermal Rabies Vaccination, as it would reduce the cost by one-fifth. The Ministry accepted the above recommendation of NHRC.

7.27 In a communication to NHRC on 1 August 2007, the Ministry stated that it has granted approval to the use of Anti-Rabies Vaccine (ARV) in the country through Intradermal (ID) route, as recommended by NHRC. The communication also stated that the Directorate General of Health Services (DGHS) had rescinded its earlier order that ARV would only be provided to those hospitals, which received at least 50 dog-bite cases per day. The Commission also impressed upon the Ministry the need to convey instructions to all States and Union Territories.

Filariasis

7.28 The Commission received a representation to include chronic patients of filariasis as disabled in the category of “locomotor disability” under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Commission requested the Ministries of Health and Social Justice & Empowerment to examine the issue. The Ministry of Health recommended the inclusion of chronic cases of lymphatic filariasis (Grade III) under the provision of the Act. The Ministry of Social Justice & Empowerment informed the Commission that it is in the process of amending the Act as recommended by the Commission.

Leprosy and Human Rights

7.29 The Commission has been deeply concerned about the human rights of people affected by leprosy. It has noted that though leprosy is easily curable, the stigma and discrimination faced by victims, even those who have been cured of it continues. As a result, those afflicted with leprosy, as well as those cured, often spend their lives in isolation. Of more serious concern are provisions in the present laws which discriminate against such people. The issue thus requires focused attention, interventions and convergence of the efforts of various Departments of the Government, both at the Centre and State level.

7.30 The Commission convened a meeting on 3 January 2008 under the chairmanship of its Chairperson, which was attended by senior representatives of the Ministries concerned and NGOs working in the field. The meeting suggested that the Ministry of Health and Family Welfare should –

- a) work out a monitoring mechanism under the National Rural Health Mission (NRHM) to ensure detection of leprosy patients and availability of treatment to them; and
- b) frame guidelines to avoid discrimination against leprosy patients and their families (on the lines of those for HIV/AIDS affected persons, issued by the Human Rights Council). The meeting also suggested that the Ministries of Social Justice & Empowerment and Law & Justice should pursue the matter of amendment/deletion of discriminatory provisions in various Acts concerning people affected by leprosy.

HIV/AIDS and Human Rights

7.31 The Commission has been concerned about the discrimination faced by persons infected/affected by HIV/AIDS. In this regard, detailed recommendations made by the Commission have already been reported in its earlier Annual Reports. The Commission considers it regrettable that the Government has still not enacted legislation that prohibits discrimination against those infected/affected by HIV/AIDS with regard to their access to medical care and education.

7.32 During the year under review, the Commission made a film and a video spot on the rights of persons infected/affected by HIV/AIDS, which were telecast by Doordarshan and some private channels and also shown during various awareness programmes. Several NGOs have appreciated this endeavour of the Commission towards creating awareness among the masses about HIV/AIDS and human rights.

7.33 The Commission urges all State AIDS Control Societies, National AIDS Control Organization and the Ministry of Health and Family Welfare to take necessary steps to ensure the infected people's right to medical care, shelter and livelihood.

B. Mental Health

7.34 As part of the mandate given to it by the Supreme Court, the Commission is currently monitoring the functioning of three Mental Health Hospitals at Agra, Gwalior and Ranchi. The Special Rapporteur of the Commission visited these three hospitals. In addition, he visited the Institute of Mental Health at Cuttack, the Institute of Mental Health at Dharwar and NIMHANS at Bangalore. A Member of the Commission also visited Varanasi Mental Health Hospital during the period under review.

7.35 On the basis of visits undertaken, the Special Rapporteur presented a background paper during the first meeting of the reconstituted Core Group on Mental Health convened on 21 August 2007 at NHRC. The paper aimed at preparing a perspective plan to improve the functioning of these hospitals. The representatives of the Ministry of Health and Family Welfare also presented the Ministry's view point in promoting Mental Health. The meeting was also attended by the representatives of Gwalior Mansik Arogyashala; Institute of Mental Health & Hospital, Agra; Ranchi Institute of Neuro-psychiatry and Allied Sciences (RINPAS); and the Ministry of Social Justice & Empowerment.

7.36 Based on the deliberations that followed later, the Core Group made the following recommendations:

- The mentally ill person's basic needs — such as food, nutrition, hygiene and sanitation — should be met.
- All the entitlements — such as old age pension — which are available to ordinary citizens must also be made available to mentally ill patients.
- There is a need to rehabilitate Long Stay Patients (LSPs) by evolving a separate scheme for them.
- Norms governing social security schemes should be relaxed for mentally ill patients.
- There is a need to focus on the employment strategy and financial autonomy of mental health institutions.
- The specific task of carrying out surveys/studies of mental health institutions need to be entrusted to credible NGOs.
- Explore the option of involving NGOs in developing occupational therapy for the patients.
- There should be a 'Mortality Analysis' to reveal the magnitude of deaths in mental institutions and promote sensitivity towards them.

- NHRC should hold an annual meeting with the Secretaries of State Health Departments to forge better coordination on the issue.
- A fresh proposal regarding Half-way Homes should be formulated more systematically.
- To meet the shortfall of manpower, the existing Post-Graduate norm of 'one Professor for one student' in Psychiatry should be relaxed in consultation with the MCI.
- More mental health institutions should be established to cater to the growing number of patients.
- Drugs for mentally ill persons must be subsidized.
- A thorough study/survey of each mental institution should be carried out to understand its specific problems.
- The media needs to play a key and active role in sensitizing the families of mentally ill persons and the community at large.
- There should be a concerted attempt to replicate the best practices of various mental institutions.

C. Right to Food

7.37 The NHRC has consistently maintained that the 'right to food' is intrinsic to living a life with dignity. The right to food is a natural implication of the fundamental 'right to life' as enshrined in Article 21 of the Constitution. The Constitution also highlights other crucial aspects concerning the responsibility of the State towards ensuring the realization of this right. Article 38, a Directive Principle of State Policy, requires the State to secure a social order for the promotion of the welfare of the people, in which justice – social, economic and political – shall inform all the institutions of the national life. Article 39 (a), another Directive Principle of the Constitution, requires the State to direct its policy towards securing an adequate means of livelihood for all its citizens. Article 47, one of the other Directive Principles, also states that it is the duty of the State to raise the level of nutrition and the standard of living of its people including improvement in public health. Article 21, when read with the obligations placed on the State by Articles 38, 39 (a) and 47, underlines the importance of right to food in a holistic manner, encompassing thereby livelihood security, employment security and food security. The provisions mentioned in the Constitution are in consonance with the 1966 International Covenant on Economic, Social and Cultural Rights to which India is a party. The Covenant, in Article 11, expressly recognizes the right of each individual to an adequate standard of living, including adequate food. The United Nations Convention on the Rights of the Child that has been ratified by the Government of India also recognizes the right of every child to a standard of living adequate for his or her physical, mental, spiritual, moral and social development.

7.38 Keeping the above in view, the Commission in its Annual Report for the year 2006-2007 had expressed that the right to food includes appropriate level of nutrition. And that the quantum of relief to those in distress must meet those levels in order to ensure that the right to food is actually secured and does not remain a theoretical concept. The Commission is of the view that only mortality alone should not be considered an indicator of starvation. It is destitution and the continuum of distress that should be taken into account to demonstrate the prevalence of starvation. There is thus an accompanying need for a paradigm shift in public policies and relief codes in this respect.

7.39 The Commission moreover believes that the denial of this right and the prevalence of starvation are basically the outcome of mis-governance due to the acts of omission and commission by public servants. In the previous Annual Report of the Commission, it was reported that the Core Group on right to food was reconstituted in the Commission on 2 January 2006 and that the Core Group had convened two meetings, the first one on 13 January 2006 and the second one on 15 September 2006. During the course of these meetings the Core Group formulated some recommendations which were also approved by the Commission. These recommendations ranged from proper distribution of food grains and proper implementation of government schemes including improvement of food quality and nutrition norms. These recommendations were communicated to all the States/Union Territories for compliance and its implementation.

7.40 The third meeting of the reconstituted Core Group on right to food was convened in the Commission on 9 August 2007. In this meeting, it was recommended that there is a need for constituting watch committees at village/block/district levels in each State/Union Territory, which will monitor the access and availability of food grains to the eligible, and most vulnerable, in particular. The committees will be independent of vertical monitoring system to ensure that relevant schemes are properly implemented and food grains are available and distributed properly. These committees could report to the concerned authorities in the State/Union Territory or to the NHRC directly.

7.41 The Core Group also outlined the guidelines for constitution of independent committees across the States/Union Territories for ensuring right to food.

D. Right to Education

7.42 The National Human Rights Commission's advocacy for the 'right to education' is based on significant constitutional, legislative and judicial pronouncements that relate to this right. It has been advocating for the cause of right to education since 1994. The Commission has also been deeply concerned about the equity and quality of education as there are significant gaps between the quality of education imparted in schools in urban, rural and tribal areas.

7.43 Article 26 (1) of the Universal Declaration of Human Rights proclaims: “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.” Article 26(2) further states: “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

7.44 The right to education has also been recognized by the International Covenant on Economic, Social and Cultural Rights as well as by the United Nations Convention on the Rights of the Child to which India is a party. Hence India is under an obligation to implement the provisions ingrained therein.

7.45 Ever since India became independent, there has been a demand for legislation for free and compulsory education (FCE) in the country. There have been several legislative attempts towards this end too but none of them have borne any fruitful results. Prior to the Eighty-sixth Constitution Amendment Act in the year 2002, provision for free and compulsory education for children was taken care of by Article 45 under the Directive Principles of State Policy. It stated that “the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years”. The Eighty-sixth Constitution Amendment Act of 2002 made right to education a Fundamental Right by inserting Article 21A, 51A (k) and amending Article 45. The inserted Article 21A proclaims that “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.” Article 51A (k) states that it shall be the duty of every citizen of India “who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years”. Correspondingly, the amended Article 45 provides for “early childhood care and education for all children until they complete the age of six years”.

7.46 In the light of the globally accepted Millennium Development Goals (MDGs)*, and for fulfillment of the constitutional mandate and the obligations arising out of international covenants including the Convention on the Rights of the Child, there is a clear requirement for –

- notification by the Central Government in the official gazette concerning the date of its enforcement; and
- the enactment of a legislation which will set out the method in which free and compulsory education will be provided.

*The MDGs aim to achieve, among other things, universal primary education and eliminate gender disparity in primary and secondary education by 2015. Few of the indicators to monitor the attainment of educational goals are enrollment rate of boys and girls in primary, secondary and higher secondary schools, their drop out rates at different levels, literacy rate, etc.

7.47 In an attempt to implement the Eighty-sixth Constitution Amendment Act, a Right to Education Bill was drafted in the year 2005, but the same was not discussed in the Parliament. Thereafter, the Model Right to Education Bill was circulated to the States/Union Territories in June 2006. This Bill also did not see the light of the day. As a result, till date, the country has no central legislation relating to right to education.

7.48 During the year 2007-2008, the Commission convened a number of in-house meetings so as to chalk out its future course of action whereby the right to education of every child is fulfilled. The Commission has also time and again reminded the States /Union Territories of their obligation to provide primary education to children, emphasizing thereby that development is possible only when this right reaches everyone including children in difficult circumstances, such as child labourers, bonded child labourers, street children and other children in need of care and protection. The Commission resolutely believes that all children should be in schools – not toiling in factories, or on streets, or working in eating establishments or slog in other people's homes, earning for themselves or their families.

E. Rights of Women and Children

7.49 During the period under review, the Commission's activities in the area of protecting and promoting the rights of women and children primarily focussed on preventing and combating gender-based violence including sexual harassment of women at the workplace, the issue of incentives/disincentives in the population policies framed by States/Union Territories vis-à-vis the National Population Policy 2000, speedy disposal of child rape cases, the problem of missing children, averting trafficking in women and children, monitoring the status of juvenile justice system and rehabilitation of widows in Vrindavan.

a) Rights of Women

Combating Sexual Harassment of Women at the Workplace : Compliance Reports on Vishaka Guidelines

7.50 The Commission has taken a keen interest with regard to the implementation of the guidelines and norms prescribed by the Supreme Court on preventing and combating sexual harassment of women at the workplace (AIR 1997 SC 3011), popularly known as the Vishaka guidelines. The Commission is pleased to note that due to its persistent perseverance and supervision, all the States and Union Territories have forwarded their compliance reports confirming thereby the constitution of complaints mechanism and the required amendments in the Conduct Rules for their employees.

Issue of Incentives/Disincentives in the Population Policies of State Governments vis-à-vis the National Population Policy 2000

7.51 It was reported in the preceding Annual Reports of the Commission that population policies framed by some of the State Governments have adopted a coercive approach through the use of incentives/disincentives that is inconsistent with the spirit of the National Population Policy 2000 (NPP). Such an approach undoubtedly violates the rights of a large section of population, especially the marginalized and the vulnerable, including women and children.

7.52 The Commission is of the view that the coercive measures should be removed from the population policies framed by the State Governments/Union Territories. In the year 2005-2006, the Commission constituted a Working Group to examine the issue, particularly with reference to incentives and disincentives from a 'rights perspective' keeping in view the sequel of events that had taken place since the organization of the 'Colloquium on Population Policy – Development and Human Rights' in 2003. The Commission asked the Working Group to look into issues intrinsic to women's empowerment and the empowerment of the marginalized sections of society including the issue of dwindling sex ratio among children in the age group of 0-6 as well as concerns of minority communities. The meetings of the Working Group were conducted during the year 2006-2007. In April 2007, it submitted its report to the Commission.

7.53 The report submitted by the Working Group was thoroughly examined by the Commission and it made the following two recommendations:

- solicit comments and suggestions on the implementation reports submitted by the State Governments and Union Territories from different stakeholders; and
- select a few States every year for detailed discussions on the implementation of their health and population policies (using as a basis the implementation report submitted by the State Government) in order to ensure that in practice the policies enforced do not violate the dignity of women and the rights of individuals.

7.54 These were also noted by the Statutory Full Commission. The report submitted by the Working Group included a reporting format for ascertaining information from each State/Union Territory with regard to the status concerning the implementation of their respective population policy. The Commission circulated this reporting format to the Chief Secretaries/ Administrators of all States and Union Territories, with a request to submit the required information so as to enable it to take further necessary action in the matter.

Formulation of an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women

7.55 As mentioned in the Annual Report for the year 2006-2007, the National Human Rights Commission, Ministry of Home Affairs, Ministry of Women and Child Development, National

Commission for Women and UNICEF, took a collective decision in September 2006 to work in unison and draw up an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women. Correspondingly, based on the field experiences of all concerned, a draft Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women was evolved and it was collectively decided that before it was finalized, it needed to be discussed with all the stakeholders in the field. For this purpose, it was decided to organize three Regional Workshops at Guwahati, Hyderabad and Goa and one National Level Workshop at New Delhi. The three Regional Workshops were organized during the year 2006-2007 and the National Level Workshop was organized in August 2007. These Workshops helped to identify qualitative and quantitative targets that would enable implementation of the Integrated Plan of Action, once finalized.

7.56 The Commission thereafter convened a meeting on 18 September 2007 with concerned representatives of the Ministries of Home Affairs, External Affairs, Labour & Employment, Women & Child Development, National Commission for Women, UNICEF and a few NGOs to look into the gaps of the proposed Integrated Plan of Action and finalize it. In the meeting it was deliberated that since trafficking takes place for labour also, the view point of the Ministry of Labour & Employment needs to be incorporated in the proposed Integrated Plan of Action. Another decision taken in the meeting was to constitute a Task Force that would take up the responsibility of rectifying the gaps in the proposed Integrated Plan of Action as well as finalize the entire document which could then be circulated to all the concerned stakeholders for their comments.

7.57 A Task Force was thus constituted with representatives from the Ministries of Labour and Employment (Chairperson), External Affairs, Home Affairs, Women and Child Development, Panchayati Raj, National Commission for Women, National Human Rights Commission, UNICEF and two NGOs working for prevention of trafficking. The Task Force was requested to submit the final Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women by 15 November 2007. As the Task Force could not finalize the Integrated Plan of Action on the listed date, a meeting was again convened by the Commission on 30 January 2008 to deliberate on the matter with the members of the Task Force. In the meeting, a decision was taken that the Task Force should complete its task by the end of February 2008 so that approval of all the Secretaries dealing with issues pertaining to children and women is taken when they meet in New Delhi for their scheduled meeting in March 2008 with the Ministry of Women and Child Development, Government of India. At the time of writing of this Annual Report, as the Task Force had not finalized the Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women, the Commission on its part approved the draft Integrated Plan of Action and forwarded it to the Ministry of Women and Child Development, Government of India for taking further necessary action in the matter. A copy of the same was also forwarded to the National Commission for Women, the National Commission for Protection of Child Rights and the Ministry of Labour, Government of India, for appropriate action.

Rehabilitation of Destitute Women in Vrindavan

7.58 The Commission, since 2000, has been monitoring the implementation of its recommendations for the rehabilitation of destitute women residing in Vrindavan, Mathura District of Uttar Pradesh. In this context, it had also directed the concerned officials of the Government of Uttar Pradesh to regularly apprise the Commission about the overall progress made towards improving the condition of these women.

7.59 In order to have first-hand information, Members and senior officials of the Commission, have been visiting Vrindavan from time to time. During the year under review, a three-member team from the Commission once again visited Vrindavan on 13 March 2008 to review the status of implementation of its recommendations. The team noted enormous discrepancies with regard to the implementation of recommendations made by the Commission. It reiterated the Commission's directions regarding grant of pension, accommodation, LPG connections, ration cards, health care and sanitation, cremation fund, vocational training, social security cards and recreational facilities, to the concerned officials, for rehabilitation of destitute women in Vrindavan, and urged them to expedite taking follow-up action.

7.60 A report, elucidating the team's observations concerning the prevalent status of the implementation of recommendations was forwarded to the Chief Secretary, Government of Uttar Pradesh so that expeditious action is taken in the matter.

b) Rights of Children

Guidelines for Speedy Disposal of Child Rape Cases

7.61 The Commission in its meeting convened on 28 June 2007 relating to programmes undertaken in pursuance of its statutory responsibilities, approved the 'guidelines for speedy disposal of child rape cases'. The task of evolving guidelines was taken by the Commission when it was apprised about three incidents of sexual assault and rape of minor girls in Kerala by an NGO in Thiruvananthapuram. The Commission was facilitated in the task of preparing these guidelines by Home Secretaries and Directors General of Police of all the States/Union Territories. The final guidelines approved by the Commission are detailed below. They have been forwarded to the Home Secretaries and Directors General of Police of all the States/Union Territories for information and compliance.

7.62 Complaints relating to child rape cases shall be recorded promptly and accurately. The complaint can be filed by anyone — the victim, an eyewitness or a representative of an NGO, which has received information about the offence. The case should be taken up as per the following guidelines:

- The Officer (Recording Officer) should not be below the rank of Sub-Inspector (S.I.) and should preferably be a woman police officer.

- The recording should be verbatim.
- Person recording to be in civil dress.
- There should be no insistence on recording at the police station; it can be carried out at the residence of the victim also.
- If the complainant is a child victim, then it is of vital importance that the Reporting Officer must ensure that she is made comfortable before proceeding to record the complaint. This would help in ensuring accurate narration of the incident. If feasible, assistance of a Psychiatrist should be taken.
- The Investigation Officer shall ensure that medical examination of the victim of sexual assault and the accused is done preferably within 24 hours in accordance with Section 164 A of the Cr. PC. Instructions should be issued that the Chief Medical Officer must ensure that the examination of the victim is done immediately on receiving the request from the Investigation Officer. The Gynaecologist, while examining the victim, should ensure recording the history of incident.
- Immediately after the registration of the case, the investigation team shall visit the scene of crime to secure whatever incriminating evidence is available there.
- The Investigation Officer shall secure the clothes of the victim as well as the clothes of the accused, if arrested, and send them within 10 days for forensic analysis.
- The forensic laboratory should analyze on priority basis and send their report immediately.
- The investigation of the case shall be taken up by an Officer not below the rank of S.I. on priority basis and, as far as possible, investigation shall be completed within 90 days of registration of the case. Periodical supervision should be done by senior officers to ensure proper and prompt investigation.
- Wherever desirable, the statement of the victim under section 164 Cr. PC shall be recorded expeditiously.
- Identity of the victim and the family shall be kept secret and their protection must be ensured. Investigation Officers/NGOs must exercise utmost caution on the issue.

Guidelines for Trial Court

- Fast Track Courts, preferably presided over by a woman judge.
- Trial to be held in camera.
- Atmosphere in the court should be child-friendly.

- If possible, the recordings should be done by video conferencing and/or in a conducive manner so that the victim is not subjected to the trauma of being in close proximity of the accused.
- The Magistrate should commit the case to session within 15 days after the filing of the charge sheet.

Issue of Missing Children

7.63 In its Annual Report for the year 2006-2007 the Commission had informed that it constituted a Committee on 12 February 2007 to look into the issue of missing children in depth and give its recommendations/suggestions so as to facilitate tracing and restoring of missing children back to their families or to agencies/support system where they could be taken care of and protected. The Committee was directed to submit its report within a period of eight weeks. As stipulated, the Committee submitted a detailed report along with recommendations/suggestions to the Commission.

7.64 The recommendations/suggestions put forth in the report by the Committee were subsequently endorsed by the Commission and forwarded to the Chief Secretaries and Directors General of Police of all the States/Union Territories, as well as to the National Commission for Women, National Commission for Protection of Child Rights and the Ministry of Women and Child Development, Government of India for their compliance. A copy of the report is enclosed at **Annexure-11**.

Monitoring of Juvenile Justice System in India

7.65 The Commission had organized a two-day National Conference on Juvenile Justice System in India on 3 and 4 February 2007. The Conference made a number of recommendations/suggestions to improve the functioning of the juvenile justice system in the country. It laid stress on the implementation of the Juvenile Justice Act in both letter and spirit, urging the States/Union Territories to establish the required infrastructure under the juvenile justice system to ensure that there is zero pendency and that the inquiry is completed within the stipulated period of four months. It also emphasized on providing requisite care to ensure protection, growth and development of children, both in conflict with law and in need of care and protection.

7.66 These recommendations were later endorsed by the Commission and forwarded to the Secretaries of Departments of Social Welfare/ Social Defence/ Social Justice in all States/Union Territories for compliance so as to bring about quality improvement in the juvenile justice system.





ELIMINATION OF BONDED LABOUR SYSTEM AND CHILD LABOUR



CHAPTER

8

A. Bonded Labour System

8.1 The Commission has been organizing a number of workshops on Bonded and Child Labour in association with the Ministry of Labour and concerned State Governments for District Magistrates and other State and District level officials since 2003. Recommendations made in these workshops include: immediate financial relief to each of the identified and released bonded labourers, launching prosecution in all cases of bondage with a view to inflicting severe punishment to brokers and middlemen who traffic in child labour, convergence of work done by Government Departments and NGOs, constitution of district and sub-divisional level Vigilance Committees, and comprehensive physical, economic and psychological rehabilitation of the families of bonded labourers released from bondage.

8.2 NHRC has expressed concern at the attitude of some State Governments who, without any survey to back their claim, have declared that a bonded labour system does not exist in their region. Consequently, they refuse to have a budget provision for such a survey or for awareness generation and for rehabilitation of released bonded labourers. When instances of bonded labour system are exposed, they seldom go in for a summary trial of the offenders under the Bonded Labour System (Abolition) Act, 1976 (BLSA Act). Furthermore, many of them do not follow the requirement that simultaneous action must be taken for release and rehabilitation of bonded labourers, without waiting for the offender to be convicted. Failure to do this results in a huge time gap between identification, release and rehabilitation. This often leads to bonded labourer relapsing to his erstwhile bondage.

8.3 In discharging its responsibility, NHRC has undertaken State-wise reviews and has also been organizing workshops for sensitizing and creating awareness among all stakeholders on concerned issues all over the country.

State Reviews

8.4 During 2007-2008, one of the Special Rapporteurs of NHRC conducted a review of the status of implementation of the BLSA Act in the State of Karnataka (May 2007) followed by Orissa (December 2007), Jharkhand (March 2008), Punjab (March 2008) and Chhattisgarh (March 2008).

8.5 A gist of the Special Rapporteur's observations and recommendations, as contained in his reports are given below:

Karnataka

8.6 Between 1977-1978 and May 2007 barely 2000 bonded labourers have been identified afresh. One reason for the low reporting is the misconception among most Government functionaries that *jeetah* – attached agricultural labour – does not come within the purview of the definition of bonded labour system as defined in Section 2(g) of BLSA Act. Vigilance Committees have outlived their life and proposals for their reconstitution are waiting for Government approval. Pending reconstitution, the old Committees are not meeting nor discharging their statutory duties, which is contrary to the provisions of Rule 4 of the Bonded Labour System (Abolition) Rules.

8.7 The State Government vested the powers of a Judicial Magistrate First Class in the District Magistrates as early as 1975, but the latter, without authority, have delegated the powers to Sub-District Magistrates which is contrary to the provisions of the law. The Sub-District Magistrates have failed to ensure release of identified bonded labourers while acquitting the bonded labour-keepers.

8.8 The State Government should notify all Executive Magistrates and vest them with powers of a Judicial Magistrate, first or second class, as the case may be, and organize intensive orientation and training for them on the provisions of the BLSA Act.

8.9 In certain parts of the State there is no vigilance and surveillance by the District and Sub-Divisional Officers nor a monitoring mechanism to check the prevalence of bonded labour system or to oversee if the statutory mechanisms are functioning.

8.10 The denial of payment of the notified minimum wage constitutes forced labour according to the judgment of the Supreme Court in W.P. No. 8143 of 1981, PUDR vs. Union of India (AIR 1982 SC 1473) dated 18 September 1982. The spirit of this important case law has not been applied in Karnataka even though there is evidence that (a) notified minimum wages are not being paid; (b) women and men do not receive the same wages for same or similar nature of work; and (c) demand for payment of minimum wages results in severe reprisals.

Orissa (Koraput, Bolangir and Kalahandi Districts)

8.11 This was the second review in these areas, the first review having been conducted by the Special Rapporteur in December 2006. The review was done with senior officials of Panchayati Raj Department and concluded with a wrap-up meeting with the Chief Secretary.

8.12 The principal observations and recommendations were:

- NHRC noted that the first review report on the elimination of bonded labour in 8 Koraput, Bolangir and Kalahandi (KBK) districts, sent to the State Government in May 2007 has not yet been sent to the Collectors/DMs of those districts. Therefore, there has been no compliance with the observations/suggestions/ directions given.
- Even though these eight predominantly tribal districts are considered highly vulnerable to the bonded labour system, no serious efforts have been made either to conduct a fresh survey for identification of bonded labourers or to draw up a perspective plan to meet the challenge. No planned, coordinated and concerted effort seems to have been put in place to either prevent the incidence of debt bondage or to identify, release and rehabilitate victims of debt bondage on a permanent basis.
- At times, instead of making efforts towards elimination of the bonded labour system, efforts are being made to work out a compromise between bonded labour-keepers (landlords) and bonded labourers, in spite of the fact that the Act does not provide any scope for such compromise.
- A stand is being taken that no release and rehabilitation of bonded labourers should take place until and unless the bonded labour-keeper has been convicted. This is a retrograde step. The Supreme Court has clarified beyond doubt that release and rehabilitation of bonded labourers are the primary objectives of the law and are not to be made conditional to the prosecution/conviction of bonded labour-keepers. Even if the bonded labour-keeper is eventually acquitted that should not withhold the process of release and rehabilitation.

Jharkhand

8.13 There is no State-level Monitoring Committee to oversee and review the functioning of Vigilance Committees. Vigilance Committees have completely failed to discharge an important statutory responsibility cast on them u/s 14 of the Act to identify cases under bonded labour system through a survey.

8.14 No systematic and step-by-step approach to rehabilitation of freed bonded labourers has been adopted, far less being implemented, in Jharkhand. No efforts have been made to contact the rehabilitated bonded labourers to ascertain their avenues of employment; extent of earnings; linkage with public distribution system; access to education for children; access to health and medical care of all family members; whether there has been proper upkeep and maintenance of milch animals of the beneficiaries with the involvement of officers of the animal husbandry and veterinary department; and if they have got training in acquiring new skills and developing existing skills.

8.15 A large number of persons are migrating to other States from Jharkhand and are getting into debt bondage of the employers/recruiting agents/middlemen at the destination points. In all such contingencies special teams comprising officers of labour, revenue and police departments should have been constituted and deputed to the destination points for interaction with these migrant workers so that their problems and grievances could be addressed by the officials of the recipient State on time. If the migrant workers are working under conditions akin to bondage they are statutorily required to be released by taking up the matter with the competent authority at the destination point so that release certificates are promptly issued, the bonded labourers repatriated back to the home State and rehabilitated in a permanent, meaningful and effective manner. None of this is being done.

Punjab

8.16 During the last 32 years since the BLSA Act was enacted, the Government of Punjab has consistently taken a stand that — (a) the problem of bonded labour in Punjab is not as serious as in some other States, (b) there is a peculiar creditor-debtor relationship between agricultural farm households/brick kiln establishments and labourers who have migrated from other States and are working in those establishments, which needs to be understood in the peculiar context in which it occurs and recurs.

8.17 Keeping in view surveys conducted by two eminent institutions of social science and research, the State Government was advised to organize a meeting with them for a threadbare discussion on the findings of the surveys; arrive at specific conclusions about the status of persons working in agriculture and brick kilns coming within the purview of Section 2(g) of BLSA Act; take executive action for their release, repatriation and rehabilitation in their home State if their status conforms to the definition of bonded labour system under the Act.

8.18 NHRC also advised the State Government to initiate the following course of action: constitute and reconstitute (wherever such reconstitution is due) Vigilance Committees at the district and sub-divisional level with women and men of character and integrity having a commitment to the elimination of the bonded labour system; undertake a programme of orientation and training for sensitization of all members of Vigilance Committees as also for all field functionaries of labour law enforcement machinery; launch campaigns for generating awareness among both landlords/moneylenders and the labourers about constitutional and legal provisions and judgments of the Supreme Court; and activate the State and District Legal Aid Authorities to launch a dynamic legal service programme.

Chhattisgarh

8.19 Chhattisgarh has a high incidence of migration, which is as much responsible for bondage

and poverty, and these two factors together have paved the way for indebtedness, loss of freedom and resultant bondage.

8.20 The Vigilance Committees have been mandated to conduct survey u/s 14 of the BLSA Act. The Supreme Court has directed that social action groups operating at the grass root level should be fully involved with the task of identification and release of bonded labourers. But contrary to the statutory provisions and directions of the Supreme Court, officers of Revenue, Rural Development and Social Welfare Departments, without prior orientation and training, are being engaged to conduct surveys.

8.21 586 bonded labourers belonging to Bilaspur district have been released from different destination points at different points of time. They have been awaiting rehabilitation between 1999 and 2007 which is violative of the principle of simultaneity in identification, release and rehabilitation as laid down by the Supreme Court. The process of rehabilitation has been inordinately delayed and inhibited due to procedural wrangles, i.e. absence of budget provision on the part of the State Government and consequent delay in sanction of funds by the Ministry of Labour under the Centrally Sponsored Scheme, 1978 (as revised up to date).

8.22 The State Government should without further loss of time constitute and depute teams of officers to different parts of Bilaspur district where the bonded labourers have been repatriated and where they are awaiting rehabilitation for between 1 to 9 years; meet and interact with them and find out the quality of life that they are leading and if it is one of freedom.

8.23 Additionally, the State Government was advised to take among others, the following steps for a meaningful, effective and permanent rehabilitation: provision of employment on priority basis under all ongoing work programmes including NREG work; provision of financial assistance (Rs. 28,000) for construction of a low cost dwelling unit under Indira Awas Yojana on priority basis; imparting of skills under TRYSEM (since subsumed in Swarnjayanti Gram Swarajgar Yojana); launching a drive for enforcement of minimum wages, etc.

B. Child Labour

8.24 The Commission is of the firm view that children of the school going age (6-14) should be in schools and not work for their livelihood and that there should be stricter enforcement of protective provisions in the Constitution and in the laws. The Commission regularly monitors the measures towards elimination of the practice of child labour in hazardous work through its Special Rapporteurs and issues recommendations for compensation as well as penal action.

State Reviews

8.25 The Commission has been making State-wise status reviews on this issue since 2000. In

2007-2008, NHRC, through its Special Rapporteur focused its attention on Karnataka, Orissa, Jharkhand, Punjab and Chhattisgarh. The observations and recommendations contained in Special Rapporteur's report are summarized below:

Karnataka

8.26 The occupations in which children are employed in large numbers in Karnataka are: spinning / weaving; building and construction; beedi rolling, labelling and packaging; auto workshop / vehicle repairs; agarbatti, soap and detergent making; puffed rice making; and working in dhabas / restaurants / hotels / motels / recreation centres as domestic help. NHRC advised to the State Government to concentrate in order of priority on these occupations/ processes where employment of children has been specifically prohibited by notifications issued by the Ministry of Labour so that children employed therein can be withdrawn from work and rehabilitated through education, nutrition, skill training and health check-ups.

8.27 The State Government was unable to throw any light on various aspects relating to the age/ growth/ education status of children. NHRC, therefore, advised the Department of Labour to prepare and maintain, with reference to the findings of decennial Census data, a computerized data base covering details such as break-up between urban and rural areas; boys and girls in different age groups; those enrolled in anganwadi centres under ICDS; those enrollable in primary and upper primary levels and those actually enrolled; those out of school; those enrolled in Non-formal Education Centres; those withdrawn from work and enrolled in Special Schools of the National Child Labour Project (NCLP) and State Child Labour Project (SCLP). Such a computerized data base will constitute a credible tool for future planning and an effective tool for monitoring.

8.28 The State Government has so far not notified any prescribed medical authority, who is a quasi-judicial authority vested with powers under the law to adjudicate disputes which may arise in the realm of determination of the age of a child. This is required u/s 10 of the Child Labour (Prohibition and Regulation) Act. The State Government was, therefore, advised to constitute a prescribed medical authority without any further delay and issue a notification accordingly.

8.29 Between 2002-2003 and 2003-2004 there was a progressive increase in the number of inspections and prosecutions. The number, however, came down in 2004-2005 and 2005-2006. The resultant effect of all this has been that less number of convictions have taken place as most of the cases have ended up in acquittals.

8.30 There are cases of offending employers who are committing the same offence again and again but getting away with some paltry fines. According to the directions of the Supreme Court, such offending employers deserve to be dealt with utmost judicial severity which their offence

warrants. NHRC advised the State Government to launch an advocacy campaign for education, awareness- generation and sensitization of offending employers in consultation with the Central Employer's Organizations.

8.31 The Commission noted that the 400 *mandaki batti* (puffed rice making) units of Davangere, where a large number of children are employed, present a picture of polluted and dehumanized work environment. The *battis* are continuing despite raids conducted by the Deputy Commissioner, Davangere. The State Government needs to order permanent closure of all the *battis*.

8.32 With regard to compliance with directions of the Supreme Court the State has taken some positive steps. Karnataka is the only State where there is no distinction between children employed in hazardous and those employed in non-hazardous work. It has adopted a policy of universal abolition of child labour in all sectors. Within the framework of Article 21A of the Constitution, the State has fully accepted its responsibility to provide free and compulsory education to all children in 6-14 age group as a matter of their guaranteed fundamental human right.

8.33 The grey areas are: in the State-wise survey conducted in 1997 in pursuance of the directions of the Supreme Court, only 96,267 working children could be found, which is barely 10 per cent of the total number of working children. In 2001 a repeat survey found 39,300 working children, which is less than 5 per cent of the total number of working children. Majority of the working children were found to be working in non-hazardous occupations and processes and a negligible number in hazardous ones.

8.34 NHRC advised the State Government to draw up a short-term and long-term action plan to withdraw 8.22 lakh children from work and to complete the process of their rehabilitation through access to education, health, nutrition and skill training.

Orissa (Koraput, Bolangir and Kalahandi Districts)

8.35 This review, conducted in December 2007, is the second one conducted by the Special Rapporteur in these areas. It was necessitated as no compliance to the first review was received for almost a year.

8.36 The report lists the silver linings and the grey areas in the efforts made to eliminate child labour by the Government of Orissa.

Silver linings: The State Government has perceived the importance of a scheme like Transit Home and has requested the Centre for financial assistance. Surveys are regularly being conducted to identify and enumerate working children in both NCLP and non-NCLP districts

(including KBK districts). 24 out of 30 districts have been covered by NCLPs so far. There are three institutional mechanisms to monitor, coordinate and oversee NCLP's functioning — a State Level Task Force, a State Level Coordination Committee, and a State Level Monitoring Committee for supervision, monitoring and evaluation of NCLPs. Soon after the Ministry of Labour notification dated 10 October 2006 prohibiting employment of children as domestic help as well as in hotels and other such establishments, the Chief Minister of Orissa convened a meeting which detailed the steps to be taken to comply with the order. These covered identification of such places with help from all sources including NGOs; computerization of the collected information; organizing raids, taking care to maintain total secrecy and confidentiality about the raids and to select a team of good, reliable and committed officers; withdrawal of children from such establishments and placing them in Transit Homes to be opened; initiating simultaneous legal and penal action (including recovery of Rs. 20,000 per child) against all offenders of law strictly as per the directions of the Supreme Court; operationalizing a child helpline with the active involvement of one of the NGOs in the State having an outstanding track record of performance in the domain of elimination of child labour.

Grey areas and specific suggestions to remove them: It is unnecessary to have a plethora of bodies for the same purpose of monitoring, coordination and supervision. They should be merged into one by drawing persons of eminence from each group. The reconstituted body may set up a number of sub-committees or task forces to deal with specific aspects of elimination of child labour such as registration of all children after birth, management of NCLPs and mainstreaming children through special schools of NCLP to formal school system, identification/release/rehabilitation of children working as bonded labourers and those trafficked, identification of new sectors of hazardous work peculiar to Orissa and recommending such sectors for issue of prohibitory notification by the Ministry of Labour.

8.37 Regarding enforcement of laws relating to elimination of child labour, NHRC recommended to the State Government that the list of 15 occupations and 57 processes in which employment of children is prohibited should be translated into Oriya and displayed prominently in all districts, sub-divisional tehsils, blocks and Panchayat offices. The implications of employing children in these prohibited categories in terms of legal and penal action should be brought out clearly in all these displays.

Jharkhand

8.38 According to the decennial Census Operation (2001) the total number of working children in Jharkhand comes to 4,07,200. However, according to the survey conducted in the wake of the Supreme Court judgment in *M.C. Mehta vs. State of Tamil Nadu and Others* in 1996-1997, only 4,644 children were found to have been employed in hazardous occupations/processes. (Details

of the methodology adopted for carrying out the survey are not available.) Of them only 412 children were withdrawn from work.

8.39 At the rate of Rs. 20,000 per child, Rs. 82,40,000 should have been collected from offending employers but only Rs. 1,20,000 has been recovered.

8.40 The State Government has not deposited any amount in the corpus of District Child Labour Welfare-cum-Rehabilitation Fund which they were required to deposit in addition to Rs. 20,000 per child employed in hazardous work and Rs. 5,000 per child for failure to provide a job to one able-bodied adult member of the family.

8.41 Given this track record of performance in the arena of elimination of child labour, the Commission advised the State Government to initiate the following course of action:

- The State Labour Department should take out relevant extracts of information pertaining to working children in rural and urban areas, in different occupations and processes from the decennial Census, 2001 and analyze the said information with a view to using it as a tool for further planning in the direction of elimination of child labour.
- Survey teams need to be properly constituted in every district and they need to be given orientation and training so that they acquire the desired expertise to address a set of simple and intelligible questions to the households and establishments and are able to elicit proper responses. These need to be compiled and analyzed before reaching definite conclusions. The findings of the survey should be computerized.
- Children withdrawn from hazardous work should be either enrolled in the formal school system or enrolled in the special schools under the NCLP. The first flows from the direction of the Supreme Court while the second flows from the national policy. The central objective of both is rehabilitation of children withdrawn from hazardous work, the only difference being that there is a provision for vocational skill training in the second (the common provisions are nutrition through mid-day meals; health check-ups; and acquisition of minimum levels of learning).

Punjab

8.42 In the wake of the 1996 judgment of the Supreme Court, a survey conducted in February-March, 1997 found 3,614 working children in 1,681 establishments. However, according to the decennial Census, 2001 Punjab has a total number of 1,77,268 working children.

8.43 The Supreme Court on 10 December 1996 noticed that child labour in brick kilns, hotels, restaurants, dhabas, tea stalls including those working as 'domestic help' was not prohibited.

Now that such engagement of children has been prohibited, the State Government is advised that it may be useful to repeat a survey for identification and enumeration of working children. NHRC has outlined a detailed strategy and methodology for such a survey.

8.44 No disaggregated information between urban and rural areas, boys and girls, children employed in hazardous and non-hazardous work is available. NHRC advised the State Government to cull out such information from the Census and have the same disaggregated data district-wise. This should be stored in the computer in the office of Principal Secretary, Labour, Labour Commissioner, Director of Factories and offices of all other subordinate field formations, so that it can be a useful tool of planning.

8.45 The officers of the State's labour law enforcement machinery have been carrying out inspection of establishments to identify and enumerate working children. While the number of inspections conducted between 2003 and 2007 appears to be appreciable, the number of prosecutions launched is negligible and number of convictions secured is fewer still. This gives an impression that all is well in terms of compliance with the provisions of the law but in effect that is not the case.

8.46 The Commission impressed on the State Government that the primary purpose of inspection should be to withdraw children from work (if children continue to be employed in prohibited categories) and subsequently rehabilitate them through education, nutrition and skill training.

8.47 The purpose of inspection of establishments where children are permitted to work (in non-prohibited categories) should also be to ensure that the working hours should not exceed 4½ hours a day. For work in excess of stipulated working hours, they should be entitled to payment of overtime at double the ordinary wages. They should also be entitled to the benefit of weekly off. Claims u/s 20 of the Minimum Wages Act should be filed before competent claims authority if wages as notified under the Minimum Wages Act are not being paid. Children are fully entitled to receive workmen's compensation if they meet with accidents causing injury, resulting in death or disablement.

8.48 The track record of performance of the State Government in terms of securing compliance with the directions of the Supreme Court in *M.C. Mehta vs. State of Tamil Nadu* has not been very encouraging. In the survey conducted in February-March 1997 in the wake of directions of the Supreme Court, only 91 children were found to be employed in hazardous work. Even at that figure, at the rate of Rs. 20,000 per child from every offending employer, a total sum of Rs. 18,20,000 was recoverable as against which only Rs. 1,20,000 could be recovered. The State Government has failed to provide a job to one able-bodied adult member in a family which sends its children to work. It has also failed to deposit Rs. 5,000 per child to the District Child Labour

Welfare-cum-Rehabilitation Fund. All the 91 children who were found employed in hazardous work have been disengaged but none of them has been enrolled in the formal school system despite clear directions of the Supreme Court. Similarly all the 3,523 children found employed in non-hazardous work have been disengaged by the employers but they have not yet been provided access to non-formal education at the cost of the employers concerned despite clear directions of the Supreme Court. A Cell has been opened in the Labour Department but no clear and complete picture of activities undertaken by the Cell was available. Even though Punjab has 20 districts and the incidence of child labour is common to almost all districts, currently only three NCLPs are operational in the three districts of Amritsar, Jalandhar and Ludhiana with 40, 27 and 20 Special Schools and 1,970; 1,176 and 899 enrolled children respectively.

Chhattisgarh

8.49 The number of working children in Chhattisgarh as reported in 2001 decennial Census is 3,64,572.

8.50 The State Labour Department was advised to cull disaggregated information from the Census, relating to number of working boys and girls, break-up between urban and rural areas and between hazardous and non-hazardous occupations/processes. This could be used as a base for working out future strategies for elimination of child labour in the State.

8.51 Almost 50 per cent of the Inspectorial positions are lying vacant which could be detrimental to labour law enforcement.

8.52 A State Level Committee with the Chief Secretary to Government as the Chairman and Secretary, Labour; Secretary, Women and Child Development; Secretary, School Education; Secretary, Panchayati Raj and Rural Development and NGOs as members has been constituted since August 2007 but not a single meeting has been held so far. Consequently there has not been a single State level review of the activities of the Labour Department regarding elimination of child labour.

8.53 The performance of the Department of Labour in terms of identification and enumeration of working children appears to be very discouraging in as much as only 17 children have been found in hazardous occupations and processes. It is evident that this is a gross under-estimation.

8.54 The Commission advised the State Government to adopt the following strategy for planned, coordinated and concerted efforts to unearth and withdraw children from work:

- Constitute teams of officers from Labour, Health, Education, Women and Child Development to conduct raids on individual establishments (hotels, motels, dhabas, recreation centres, etc.).

- All such raids should be discretely conducted and there should be an element of total secrecy and confidentiality about them.
- Camp courts should be organized to punish the guilty on the spot to create the desired impact.

8.55 As regards compliance with the directions of the Supreme Court, the State Government appears to be unclear and uncertain about the strategy and methodology adopted to conduct a survey of establishments/households in pursuance of the directions of the Supreme Court. At the rate of Rs. 20,000 per child employed in hazardous work, a sum of Rs. 1,98,40,000 should have been recovered from offending employers in respect of 992 children withdrawn from hazardous work, but only Rs. 4,40,000 has been recovered. The State Government has provided jobs to 400 parents so far which is quite low compared to the actual number of Below Poverty Line (BPL) parents who are sending their children to work. The names of only 198 out of 992 children were sent for enrolment in the formal school system. No information is available with regard to the children who were found to have been employed in non-hazardous work and who were to receive non-formal education at the cost of the employers concerned. Though the Department, in response to the questionnaire, has confirmed that a Cell has been created, in effect, no Cell has been created as no full-time functionary has been posted therein.

C. Workshop on Bonded Labour and Child Labour

8.56 NHRC held a National Level Workshop on Bonded Labour and Child Labour under the chairmanship of its Chairperson on 27 June 2007 with the objective of establishing conceptual and definitional clarity on bonded and child labour, as also about the strategy and methodology of identification, release and rehabilitation of bonded labourers/working children and also exchange of ideas and experiences amongst different States.

8.57 The workshop's recommendations included the following:

- An intensive survey of the areas which have been traditionally prone to the system of debt bondage should be undertaken by the Vigilance Committees.
- Social action groups operating at the grass root level should be fully involved with the task of identification and release of bonded labourers.
- Officers who are posted at different levels to deal with the problem of bonded labour should be properly trained and sensitized so that they may develop a sense of involvement with the miseries and sufferings of the poor.
- Each of the released bonded labourers would be handed a release certificate issued by the concerned Collector/District Magistrate or the Sub-District Magistrate or the

Executive Magistrate, as the case may be, vested with powers of a Judicial Magistrate u/s 21 of the BLSA Act.

- The State Government must rehabilitate the released bonded labourers on a permanent basis. Rehabilitation must follow in the quick footsteps of identification and release to ensure that the released bonded labourers are not again driven into serfdom by poverty, helplessness and despair.
- Adequate funds should be released under the centrally sponsored scheme framed under the BLSA Act for rehabilitation of all released bonded labourers. The Collector and such other officers, who have been assigned the responsibility of supervising implementation of the rehabilitation scheme, shall ensure that the full amount intended for the freed bonded labourers is utilized for the purpose for which it is sanctioned.
- Prosecution should invariably be launched in all cases of bondage and pursued vigorously so as to affirm and publicize the determination of the Government to eliminate this social scourge. This need not, however, be linked with release of the bonded labourer from bondage and his/ her rehabilitation, which will have to proceed independently as a matter of high priority.
- Record of the released labourers should be maintained as required under Rule 7 of BLSA Rules, 1976.
- The high drop-out rate in some of the NCLPs needs to be assessed and critically analyzed, in the context of the facilities provided in these schools and the high investment made in them. The multi-disciplinary rehabilitation effort includes education, nutrition, vocational skill training and health check-ups.
- Children belonging to migrant families are not to be left in the lurch. They are also required to be rehabilitated along with other children in the general category. In case they want to be rehabilitated at the destination point they should be rehabilitated there according to the directions of the Supreme Court.
- Similarly migrant workers, according to the spirit of the directions given by the Supreme Court in a series of judgements, are to be asked where they would like to be rehabilitated, i.e. at the originating point or at the destination State. They cannot just be despatched to their native States and left in lurch there, which would be violative of the letter and spirit of the Supreme Court judgments.
- A comprehensive list may be prepared in respect of those bonded labourers who

were identified in the State, but were sent to their parent State for rehabilitation — it should show details such as residential address of the State of origin. A copy of the list may be forwarded to the Labour Commissioners of the States to which they originally belonged.

- Convergence should be effected between all concerned Government Departments such as Home, Labour, Law, Revenue, Panchayati Raj & Rural Development, Food & Civil Supply, Women & Child Development, including other Departments looking after the welfare of Scheduled Castes, Scheduled Tribes & Other Backward Classes, Housing, Industry, Finance (for micro credit), Co-operatives, etc., and also with NGOs.
- The constitution of District and Sub-Division level Vigilance Committees will have to be taken up wherever those are not in place. Periodic meeting of these Committees should be conducted within the stipulated time-frame.





9.1 In India there are, unfortunately, several groups that come under the category of people who are at the highest risk of being discriminated against or simply ignored. Apart from women and children whose rights are dealt with elsewhere in this Annual Report – the most vulnerable include persons with disabilities, manual scavengers, the elderly, people belonging to the Scheduled Castes and Scheduled Tribes, minority communities, displaced persons, as well as those living in abject poverty.

9.2 Ever since its inception, NHRC has been expressing concern that despite constitutional provisions for equal rights and a slew of laws aimed at protecting the groups mentioned above, their discrimination and exploitation still continues. The Commission has, therefore, made special efforts to protect them and guarantee them their rights.

A. Rights of Persons with Disabilities

9.3 The approach to people with disabilities, both nationally and internationally, for a long time was built on a model of charity. The disabled, in such a model, were not seen as capable enough of enjoying their rights despite their other capabilities. The overall approach towards them started changing about four decades ago when the disabled themselves started demanding recognition and protection of their human rights. As disability became an emerging area in the field of human rights, the advocacy heightened from within the community as well as outside.

9.4 In India it resulted in a landmark legislation for them with the enactment of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. This was followed by the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

9.5 Despite all these developments, the Commission noted that the discrimination being faced by persons with disabilities still continues. As the Commission is committed towards creating conditions in which persons with disabilities can enjoy their human rights and fundamental freedoms on an equal basis, it has over the years, issued several directives towards this end. These directions have been elaborated by the Commission in its earlier Annual Reports.

9.6 In this endeavour, the Commission has adopted a multi-pronged approach for the protection and promotion of rights of persons with disabilities. This includes redressal of

individual complaints, legislative and policy reform, providing requisite infrastructure and services, encouraging the efforts of NGOs, research, training and spreading awareness.

9.7 The Convention on the Rights of Persons with Disabilities was adopted by the United Nations General Assembly in December 2006, and opened for signature in March 2007. The Convention aims to ensure that persons with disabilities enjoy human rights on an equal basis with others. The Commission played a major role in the drafting of the Convention on the Rights of Persons with Disabilities (CRPD) as it persistently advocated for inserting Article 33 that relates to national implementation and monitoring mechanisms. It also advocated to the Government of India for early ratification of the CRPD, and the Government on its part ratified the same in October 2007.

9.8 Article 33 of the CRPD deals with national implementation and monitoring mechanisms. The Article directs the States to designate one or more focal points within the Government for matters relating to implementation of the Convention; establish a coordination mechanism; maintain, strengthen, designate or establish a framework to promote, protect and monitor implementation; and involve the civil society, in particular persons with disabilities and their representative organizations, in the monitoring process.

9.9 As a follow-up action, the Commission on its part appointed a Special Rapporteur on women, children and disability related issues and also constituted a Core Group on Disability comprising experts, including activists who have made significant contributions for empowering the disabled. The Core Group on Disability was constituted with the following terms of reference:

- To advise NHRC on matters connected with and incidental to the promotion, protection, and monitoring of rights mentioned in the Indian Constitution; laws for persons with disabilities; and also monitoring rights as envisaged in Article 33 (2) of the CRPD.
- To support NHRC in building the capacity of stakeholders who are strategically important on the rights of persons with disabilities and to monitor recommendations made by NHRC.
- To study the functioning of focal points/coordination mechanisms set up by the Centre and States and to suggest improvements for greater effectiveness to the Commission.
- To bring cases of violation of rights of persons with disabilities to the notice of NHRC.

- To advise the Commission on the changes to be brought about in Indian laws and policies in the wake of India signing and ratifying the CRPD, for onward recommendation to the Government.

9.10 In keeping with its role as envisaged in Article 33 of CRPD, the Commission decided to organize five regional workshops during 2008-2009. The Commission proposes to involve all stakeholders including persons with disabilities and their representative organizations in this endeavour.

Sign Language

9.11 The Commission has been deeply concerned about the discrimination being faced by persons with hearing impairment, especially children who generally do not receive education through the medium of sign language. The reason for this is non-availability of a child-centred sign language in the country and the absence of sign language training for teachers.

9.12 In 2003, in response to a representation from the Delhi Association of the Deaf and observations of the Special Rapporteur, the Commission, in consultation with the Ministry of Social Justice and Empowerment, the Ali Yavar Jung National Institute of Hearing Handicapped (AYJNIHH), and other institutions and NGOs, developed a project entitled "Indian Sign Language for Deaf Persons". The Commission's role in the project is that of a facilitator.

9.13 After a series of meetings between NHRC, potential partners and stakeholders, AYJNIHH during the year being reported upon organized a workshop at which the modules prepared under the project were presented. These modules were subsequently field tested on children with hearing impairment. The Commission has urged AYJNIHH to involve all stakeholders in this effort.

B. Rights of Displaced Persons

9.14 Displacement can occur due to various reasons, including, acquisition of land for development projects, conflicts and natural disasters. It often leads to severe human rights violations, including violation of right to food, right to livelihood, right to housing, right to health and rights against discrimination. NHRC has intervened in several cases of displacement and its recommendations have covered a gamut of issues, including equitable distribution of relief, provision of temporary shelters, and preparing computerized lists of orphaned children, widows and girls.

9.15 NHRC is well aware of the fact that it is the most vulnerable who often have to pay the price of development. In the past one year, there has been a frenzied spurt of land acquisition for mega industrial projects and construction of Special Economic Zones (SEZ) in several parts of the

country. The Commission is fully alive to the 'rights' dimension of these economic moves and accordingly it has heightened its vigilance in affected places. It has not only taken up individual complaints but also law and policy matters for an in-depth examination.

National Rehabilitation and Resettlement Policy

9.16 The Commission is happy to note that the amended National Rehabilitation and Resettlement Policy was notified by the Government on 31 October 2007. Two Bills on the subject, the Land Acquisition (Amendment) Bill, 2007 and the Rehabilitation and Resettlement Bill, 2007 were before the Parliamentary Standing Committee on Rural Development which invited views from stakeholders on the provisions of these Bills.

9.17 Given this important development, the Commission organized a conference on "Relief and Rehabilitation of Displaced Persons" on 24 and 25 March 2008 at New Delhi. The conference was inaugurated by the Union Minister for Home Affairs. The participants included members from sister Commissions, officials from Central and State Governments, officials from the National Disaster Management Authority, and representatives of UN agencies and NGOs. The conference made several recommendations on land acquisition, human rights of displaced people and their relief and rehabilitation. These were being examined at the end of the reporting period under review.

C. Rights of Scheduled Castes and Scheduled Tribes

9.18 Since its inception, the Commission has been actively engaged in protection and promotion of the rights of Scheduled Castes and Scheduled Tribes. Apart from acting *suo motu* and on complaints related to atrocities against Scheduled Castes and Scheduled Tribes, the Commission has also engaged with key stakeholders on the issue; published booklets; and held training programmes and workshops aimed at sensitizing various stakeholders on the issue so as to eliminate atrocities, discrimination, and any other form of violation of their human rights.

9.19 The last Annual Report had referred to a decision of the Commission to launch awareness campaigns in four districts which had a high record of atrocities against Scheduled Castes. In this connection, senior officials from the Commission went to Bharatpur in Rajasthan and Faridabad in Haryana and a NHRC Member visited Jaipur and Ajmer in Rajasthan.

9.20 The Commission also co-organized a National Consultation on "Strengthening Civil Society Initiatives for Scheduled Castes" with the National Campaign on Dalit Human Rights on 3 and 4 December 2007 at New Delhi.

D. Rights of Denotified and Nomadic Tribes

9.21 The Commission has been concerned about the violation of human rights of communities designated as Denotified Tribes (DNT) and Nomadic Tribes (NT). The prejudice against them

dates back to pre-independence India, when they were officially identified as “Criminal Tribes”. Though the Criminal Tribes Act, 1871 was annulled soon after independence, the police, as well as the public at large, continue to frequently treat persons belonging to these communities as “born/habitual criminals”.

9.22 In 1998 the Commission's Advisory Group on this issue made several recommendations to improve the condition of these communities. During the period under review, the Commission was engaged in monitoring the response from the States/Union Territories on these recommendations.

E. Eradication of Manual Scavenging

9.23 NHRC has been actively pursuing the objective of completely eradicating the degrading practice of manual scavenging, which it considers a severe violation of human dignity and an infringement of the human rights of those engaged in this task. Manual scavenging strikes at the heart of respect for human beings, which is the cornerstone of all human rights.

9.24 The Commission has held a number of review meetings over the past several years with the State Governments. The last such meeting was held on 18 March 2007 on eradication of manual scavenging, as reported in the previous Annual Report of the Commission. It was chaired by the Chairperson, NHRC and senior representatives of the Central and State Governments and other stakeholders attended it.

9.25 NHRC has been vigorously urging the States to adopt the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (notified by the Central Government in 1997).

9.26 The National Action Plan for Total Eradication of Manual Scavenging had set a target date of December 2007, even though it was contemplated that the date may be extended to March 2009, which was also the date set for rehabilitation of the scavengers and their dependents.

9.27 The States that have adopted the Act are Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh (its own Municipal Act), Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa, Punjab (implemented Integrated Scheme of Liberation of Scavengers and Improvement in Sanitation in 77 towns), Rajasthan, Jammu & Kashmir, Tripura, Uttar Pradesh, Uttarakhand, West Bengal and Union Territory of Andaman & Nicobar Islands.

9.28 The States/Union Territories which have informed the Commission that they are manual scavenging-free/ do not have dry latrines are: Andaman and Nicobar Islands, Tripura, Arunachal Pradesh, Sikkim, Goa, Manipur, Mizoram, Meghalaya, Nagaland, Haryana, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Chandigarh and Kerala.

9.29 The States/Union Territories which have not yet adopted the Central Act as per information available with NHRC are: Manipur, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Puducherry and Nagaland. The Commission considers it extremely unfortunate that so many regions of the country have not shown requisite will in addressing this issue. The Commission firmly believes that full and complete eradication of this practice can be achieved only with the concerted efforts of all stakeholders, including concerned ministries, government agencies, financial institutions, human rights institutions, NHRC, SHRCs and civil society groups. The Commission notes with regret that instead of working together, most stakeholders are blaming each other without examining how each can contribute to eradicate this practice and how the failures can be rectified. The Commission once again urges all States/Union Territories to maximize their efforts to implement the Act in true spirit.





10.1 The promotion of 'Human Rights Education' has assumed tremendous significance today. The endeavour of creating, assimilating and disseminating knowledge and awareness is a robust way of bringing about an attitudinal change among the people from all walks of life especially with regard to their archaic perceptions and thoughts. During the period under review, the Commission undertook various initiatives to promote the cause of human rights education.

i) *National Consultation on Incorporating Human Rights Education in School and University Education System*

10.2 A National Consultation "Incorporating Human Rights Education in School and University Education System" was organized at New Delhi on 6 July 2007. The consultation was inaugurated by Shri Arjun Singh, Minister for Human Resource Development, Government of India. On this occasion, the Minister released two modules – 'Recommendations of National Human Rights Commission - Human Rights Education at the University and College Levels' and 'Recommendations of National Human Rights Commission - Module on Human Rights Education for Teaching Professionals Imparting Education in Primary, Secondary, Higher Secondary Levels'. Dr. S.K. Thorat, Chairman, University Grants Commission was the Guest of Honour.

ii) *Sensitization Workshop for Judicial Officers on Human Rights*

10.3 During the year 2006-2007, the Commission in collaboration with the National Law School of India University, Bangalore had organized two sensitization workshops for judicial officers on human rights.

10.4 In continuation of these workshops, one more workshop was conducted by the Andhra Pradesh Judicial Academy at Hyderabad for judicial officers on 6 and 7 April 2007.

iii) *Workshop on Using Indicators to Promote and Monitor Human Rights*

10.5 An Asian Sub-regional Workshop on "Using Indicators to Promote and Monitor the Implementation of Human Rights" was organized by the Commission in collaboration with the Office of the UN High Commissioner for Human Rights and the Institute for Human Development at New Delhi from 26 to 28 July 2007. The workshop brought together human rights stakeholders, such as, National Human Rights Institutions, policymakers, national statistical agencies and some civil society representatives from Afghanistan, Bangladesh, Bhutan, Indonesia, Islamic Republic of Iran, Malaysia, Maldives, Nepal, Pakistan, Philippines, Sri Lanka and India.

10.6 During the three-day workshop, the participants specifically focused their attention in identifying pertinent areas/issues of human rights for which universal indicators could be evolved for monitoring, protection and promotion.

iv) National Seminar on the Role of Languages

10.7 The NHRC organized a two-day National Seminar at Hyderabad on the "Role of Hindi and South Indian Languages in the Protection and Promotion of Human Rights" on 31 May and 1 June 2007. On this occasion, Chairperson, NHRC released a glossary of human rights terms in hindi and english.

v) Summer and Winter Internship Programmes

10.8 The Commission organized its one-month Summer Internship Programme from 15 May to 14 June 2007 at its premises in New Delhi. Thirty-six students from 12 universities of ten States attended this programme. It organized its Winter Internship Programme from 17 December 2007 to 16 January 2008. Forty-six students from 17 universities of seven States attended this programme. Both the programmes threw light on various human rights issues. In order to give first hand information, the Interns were taken for field visits to the SOS Children's Village in Faridabad (Haryana), Tihar Jail, Government Hospitals and Railway Stations in New Delhi. As part of the Internship Programme, Interns were given project assignments and were required to make presentations on them as well.

vi) Training Programmes Organized by the Commission

10.9 As part of its mandate, the Commission approved 93 training programmes of 35 institutions/NGOs on various human rights issues to be organized during the year 2007-2008 all over the country focusing specifically on the North Eastern States and other backward States/UTs. Out of these, 65 training programmes were organized. For details see **Annexure 12**.

vii) Training Programme for Indian Foreign Service Probationers

10.10 The Commission organized a two-day attachment programme for 20 Indian Foreign Service Probationers of the 2006 batch on 17 and 18 September 2007. During this attachment programme, Chairperson, Members and senior officials of the Commission interacted with the Probationers.

viii) Visit of Officers to NHRC from Different Services/Institutions

10.11 Officer trainees and Officers of different ranks from Customs, Revenue, Excise, Defence, Central and Paramilitary Forces, Narcotic Control Bureau and L.N.J.N. National Institute of Criminology and Forensic Sciences visited the Commission on 1 August 2007. The Chairperson of the Commission also interacted with them.

ix) *In-house Training Programme*

10.12 A one day in-house training programme was organized in April 2007 by the Commission for its newly recruited officers and staff. In all 25 officials/staff were trained.

x) *Interaction with Visiting Students/Trainees from Various Colleges/Universities of India*

10.13 During 2007-2008, the Commission interacted with 564 students/trainees who visited the Commission from 17 different colleges/universities across the country. These students were pursuing different disciplines like law, social science, political science, human rights, journalism, etc.

xi) *Participation of NHRC in Programmes Organized by Various Institutions Including NGOs*

10.14 Officials of NHRC were deputed to deliver lectures on human rights issues in different institutions/academies as also in training programmes organized by various institutions including NGOs across the country.

10.15 A Member from the Commission visited Port Blair to be part of the "Advocacy Training Workshop for Child Rights" organized by an NGO from 29 to 31 May 2007.

xii) *Hindi Fortnight at the Commission*

10.16 The Commission's annual Hindi-Fortnight, to promote the use of official language in its day-to-day working, was held from 14 to 28 September 2007. The employees of the Commission actively participated in debates, quiz programme, *Kavi Sammellan* and creative writing competitions that were based on different themes relating to human rights.

xiii) *Foundation Day Function*

10.17 The NHRC marked the completion of its 14th year on 12 October 2007 with a Foundation Day function organized at the FICCI Golden Jubilee Auditorium in New Delhi. The Chief Justice of India, Shri K.G. Balakrishnan, was the Chief Guest. On this occasion, he released four films on 'HIV-AIDS'; 'Manual Scavenging'; 'Trafficking in Women and Children'; and 'Female Foeticide'. All these films were made from the perspective of human rights. An NHRC publication on 'Old Age Pension Scheme' was also released on the occasion.

xiv) *Human Rights Day*

10.18 The NHRC celebrated 'Human Rights Day' on 10 December 2007 at a function organized at Vigyan Bhawan in New Delhi. Her Excellency, Smt. Pratibha Devisingh Patil, President of India, was the Chief Guest on the occasion. The President released four publications of the Commission: 'Human Rights Best Practices Relating to Criminal Justice in a Nutshell'; 'Human Rights Manual for District Magistrate'; NHRC Journal (English), Vol. No. 6, 2007; and NHRC Journal (Hindi) *Nai*

Dishayein. She also unveiled the logo of the 60th anniversary of Universal Declaration of Human Rights. During the function, the President gave awards to the winners of the inter-collegiate debate competition, para-military debate competition and painting competition, organized by the Commission earlier. The message of UN Secretary-General Mr. Ban Ki-moon was also read out by Ms. Shalini Dewan, Director, United Nations Information Centre, New Delhi.

xv) Painting Competition for Vulnerable Children

10.19 To commemorate Human Rights Day, the Commission organized a Painting Competition at New Delhi on the theme of 'Environment' on 1 December 2007 in coordination with an NGO, for vulnerable children. Forty-eight vulnerable children including street children representing different NGOs in Delhi participated in this Painting Competition.





11.1 In June 2007, the United Nations Human Rights Council (which replaced the Commission on Human Rights as the main UN body in charge of monitoring and protecting human rights in June 2006) adopted a Resolution for the Universal Periodic Review Mechanism at a meeting in Geneva. The Universal Periodic Review (UPR) is a new mechanism under which the Human Rights Council (HRC) will examine the human rights situation in every Member State of the United Nations. Each State will be examined once in every four years. The National Human Rights Commission of India has advocated for the effective participation of National Human Rights Institutions (NHRIs) in the Human Rights Council and in the UPR mechanism. As a result, the participation of NHRIs was strongly positioned in the Human Rights Council Resolution 5/1 on “Institution-Building”.

A. Process Adopted by the Commission Regarding Universal Periodic Review

11.2 Based on the Human Rights Council Resolution 5/1 which encouraged States to prepare the information through a broad consultation process at the national level with all relevant stakeholders, the Commission actively coordinated with the Government of India and played a key role in the preparation of the India country paper.

11.3 As the National Human Rights Commission of India is in a unique position and has intimate knowledge of ground realities regarding human rights situation, the Ministry of External Affairs, Government of India requested the Commission to assist in preparation of India country paper for the UPR mechanism.

11.4 The Commission held a meeting with the officials of Ministry of External Affairs and based on the discussions, identified certain important issues which needed to be flagged in India country report.

11.5 The Commission participated in India National Consultation for the preparation of stakeholders' report under the Universal Periodic Review held in New Delhi on 13 and 14 November 2007 which was organized by the Asian Forum for Human Rights and Development (FORUM ASIA), Bangkok and the Asian Centre for Human Rights, New Delhi. It also obtained the reports of People's Forum for UPR.

11.6 The Commission also arranged a meeting with representatives of various Government Ministries/State Human Rights Commissions, experts and all other stakeholders in its office on 23 January 2008. The participants included senior representatives of various Ministries — Home Affairs, External Affairs, Social Justice and Empowerment, Minority Affairs, Consumer Affairs,

Food and Public Distribution, Health and Family Welfare, Housing and Urban Poverty Alleviation, Human Resource Development, Labour and Employment, Law and Justice, Rural Development, Tribal Affairs, and Women and Child Development. Others who attended were Chairpersons of a few State Human Rights Commissions, academicians, lawyers and experts from different fields. Their inputs were incorporated in the draft India country paper and thereafter it was forwarded to the Ministry of External Affairs.

11.7 The Commission requested the Ministry of External Affairs to consult NGOs before finalizing the India country paper, which it did on 18 February 2008.

NHRC, India Paper for Universal Periodic Review

11.8 Para 15 (c) of the Human Rights Council Resolution on 'Institution Building' requires other relevant stakeholders to provide additional, credible and reliable information for the Universal Periodic Review. Accordingly, the Commission submitted a brief paper to the Office of the UN High Commissioner for Human Rights in January 2008. A copy of the NHRC, India Paper for Universal Periodic Review is at **Annexure 13**.

11.9 In its paper, the Commission gave an overview of its work, significant interventions made by it including some important complaints redressed by it. It also flagged important human rights challenges regarding right to education, health and food; rights of children; rights of persons with disability; and corruption. While reviewing international human rights commitments, the Commission stressed the need to ratify the 1951 UN Convention relating to the Status of Refugees and the Convention against Torture.

B. NHRC, India Participation in International Meetings

11.10 The Chairperson and the Secretary-General of the National Human Rights Commission of India attended the International Coordination Committee meeting at Geneva from 17 to 23 June 2007.

11.11 The Joint Secretary of the Commission attended a Regional Workshop for the Asian Region on the "Establishment of National Human Rights Institutions" at Manila, Philippines from 15 to 17 October 2007. The aim of the workshop was to strengthen the capacity of Member States to establish NHRIs by providing relevant methodological tools developed by the United Nations as well as through lessons learnt from NHRIs at the international and regional level.

11.12 A high-level delegation from NHRC of India, headed by the Chairperson, participated in the Twelfth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions held at Sydney, Australia from 24 to 28 September 2007.

11.13 The expanded Bureau Meeting of the International Coordination Committee of National Human Rights Institutions was held from 12 to 14 December 2007 in Geneva. The Chairperson headed the NHRC, India delegation which participated in it.

C. Commonwealth Conferences

11.14 The Senior Superintendent of Police of NHRC, India attended the Commonwealth Asia Colloquium on Gender, Culture and Law at Dhaka, Bangladesh on 30 and 31 October 2007.

11.15 The Secretary-General of NHRC, India attended the Commonwealth National Human Rights Institutions Forum meeting at Kampala, Uganda on 19 and 20 November 2007.

11.16 The Joint Secretary of the Commission attended a meeting on the Universal Periodic Review organized by the Commonwealth Secretariat at London, United Kingdom on 17 and 18 March 2008.

D. Cooperation with National Human Rights Institutions

11.17 Earlier, the National Human Rights Commission of India had put in place an effective and advanced Complaint Management System (CMS) in Nepal National Human Rights Commission, Kathmandu and National Centre for Human Rights, Amman, Jordan, with the technical assistance of the National Informatics Centre (NIC), Government of India. After the customization and implementation of the CMS application software, a well-organized and fully computerized database management of complaints was established in these Commissions for various purposes.

11.18 This complaint handling software was further customized, tested and implemented in three more countries under the auspices of the UNDP coordinated Capacity Development Project :

- **Uganda Human Rights Commission:** Two officials of the Commission were deputed to Uganda Human Rights Commission for developing their 'Complaint Handling System' from 12 to 26 February 2007.
- **Maldives Human Rights Commission:** Two NHRC, India officials visited the Maldives Human Rights Commission in April 2007. The CMS was made operational as per requirements in their local language.
- **Rwanda Human Rights Commission:** An official of NHRC, India along with Technical Director, NIC visited Rwanda Human Rights Commission at Kigali from 25 November to 10 December 2007. They made their CMS operational in Kenya-Rwanda and English fonts.

E. Meetings and Workshops

i) *Sub-Regional Workshop on National Inquiries*

11.19 A four-day Sub-Regional Workshop on “National Inquiries” was hosted by the NHRC of India at New Delhi from 29 October to 1 November 2007, in association with the Asia Pacific Forum of National Human Rights Institutions and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, University of Lund, Sweden. The Workshop provided participants with a step-by-step understanding of the process of conducting National Inquiries.

ii) *Workshop on Strengthening Advisory Council of Jurists*

11.20 NHRC, India organized a Workshop on “Strengthening the Advisory Council of Jurists” in collaboration with the Asia Pacific Forum of NHRIs in New Delhi on 27 and 28 February 2007.

11.21 The workshop brought together a representative group of Forum Councillors and Jurists to consider the most effective ways to utilize the expertise of the Advisory Council of Jurists; improve procedures for the selection and development of references and the implementation and monitoring of their recommendations; clarify and strengthen the relationship between the Forum Council and the Advisory Council of Jurists (ACJ), and between NHRIs and their ACJ nominees.

F. Visits, Seminars and Workshops Abroad

11.22 NHRC, India officials attended various seminars/workshops/conferences/programmes during the year under review. These included:

- 7th Disabled People's International (DPI) World Assembly from 5 to 8 September 2007 at Seoul, South Korea.
- A Workshop on “Basics of International Humanitarian Response” at Bangkok, Thailand from 2 to 9 October, 2007.
- A 'placement programme' with the National Human Rights Commission at Seoul, South Korea from 9 to 17 October 2007.
- Training Programme on “Human Rights and Migrant Workers in the Asia Pacific Region” at Phnom Penh, Cambodia from 15 to 19 October 2007.
- Regional Training Programme on “Human Rights” at Bangkok, Thailand from 19 to 28 November 2007.
- Sensitization Course on “Trafficking and Migration of Children for Labour” organized by the International Labour Organization at its International Training Centre in Turin, Italy from 21 to 25 January 2008.

G. Exchanges and Other Interactions

11.23 The following individuals/delegations visited the Commission in 2007-2008:

- i. Three-member delegation of Iranian Women Members of Parliament – 16 April 2007.
- ii. Acting Chief Justice of Fiji Mr. Anthony Gates – 22 May 2007.
- iii. Delegation from HURON (Human Rights Organisation of Nepal) – 18 July 2007.
- iv. Four-member delegation from the United States Department of State – 18 September 2007.
- v. Delegation from Lutyens Trust, United Kingdom – 9 October 2007.
- vi. Members of the Royal College of Defence Studies, United Kingdom – 10 October 2007.

- vii. Mr. Brad Adams, Executive Director, Human Rights Watch, United Kingdom – 16 October 2007.
- viii. A field mission team from China on a study tour to India, along with officials of the All India Women's Federation – 14 November 2007.
- ix. Mr. Paul Hunt, UN Special Rapporteur on “Right to Environment to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health” – 23 November 2007.
- x. A delegation from Mongolia on “Access to Justice and Human Rights” – 23 November 2007.
- xi. Prof. Michael Stein, Executive Director, Harvard Project on Disability, Harvard Law School, Cambridge, Massachusetts, USA – 18 and 19 February 2008.
- xii. Ms. Asma Jahangir, UN Special Rapporteur on “Freedom of Religion and Belief” – 3 March 2008.
- xiii. Mr. Pierre Sane, Assistant Director General, Social and Human Sciences Sector, UNESCO, Paris – 4 February 2008.
- xiv. A delegation from Irish Parliament's Joint Committee – 11 March 2008.
- xv. A delegation from National Human Rights Commission, Rwanda – 29 March to 9 April 2008.
- xvi. Mr. Erik Kurweil, Political Consular, German Embassy, New Delhi – 11 March 2008.





Non-Governmental Organizations

12.1 The promotion and protection of human rights cannot gather momentum without the full cooperation between the Commission and non-governmental organizations (NGOs). Encouraging the efforts of NGOs working in the field of human rights is a statutory responsibility of the Commission. It continues to receive complaints relating to serious violations of human rights from NGOs, which have acted as the eyes and ears of the Commission in the remotest corners of the country. A Core Group of NGOs has been constituted in the Commission to encourage the efforts of NGOs and other civil society organizations engaged in the field of human rights.

12.2 A meeting of the Core Group of NGOs was convened on 12 September 2007 to discuss the 'Rights of Persons with Disabilities' and the 'Right to Environment'.

12.3 On the subject of implementation and monitoring of the rights of the disabled, the suggestions for action and advocacy included – involving Panchayats and civil society in identification of the disabled; creation of public awareness on the 'Rights of Persons with Disabilities'; rehabilitation of mentally ill persons and making State Governments aware of their responsibilities in this regard; making public places such as banks and public transport (buses, trains, etc.) accessible for the physically challenged; improving infrastructure in cities and villages to make them more disabled-friendly, with special attention to gender differences.

12.4 Discussing the issue of 'Right to Environment', the Core Group expressed concern over the poor implementation of the recommendations of the M.G.K. Menon Committee Report on 'Management of Hazardous Wastes'. The problems discussed in this context included asbestos poisoning; non-compliance with protocols on genetically modified seeds and in particular, those dealing with their use in rain-fed areas, leading to farmers suicide; poaching by new settlers in forest reserves; and damage to coasts by illegal sand mining and building of new hotels and resorts.

12.5 The Commission also organized a two-day Conference on the “Role of NGOs in Support of NHRC for Better Promotion and Protection of Human Rights” in Bangalore on 28 and 29 April 2007.





13.1 In accordance with Section 21 of the Protection of Human Rights Act, 1993, State Human Rights Commissions (SHRCs) have been set up in 18 States – Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

13.2 The National Human Rights Commission is keen that every State sets up a State Human Rights Commission. The Commission recommends to all those States which have not yet constituted their Commissions to do so at the earliest. Further, the Commission has taken the initiative to hold regular interactions with the SHRCs to explore and further strengthen areas of cooperation and partnership.

13.3 A meeting of NHRC and the SHRCs was held on 19 November 2007 in New Delhi. In this meeting the Chairperson expressed that the earlier meetings between the two sides had laid a sound foundation for collaboration in finding joint strategies for addressing emerging challenges. Articulating his concern about the infrastructural difficulties faced by the SHRCs, he stated that the Commission had made a special provision in its own budget to strengthen the SHRCs. Pointing to the fact that with the amendment in the PHRA, 1993, the Commission could now transfer cases to SHRCs, he assured that NHRC on its own would improve the capacity of SHRCs with regard to complaints handling system as well as protection and promotion of human rights relating to economic, social, cultural, civil and political rights.

13.4 Subsequently, a meeting with the Secretaries of the SHRCs and Nodal Officers of the States where no SHRCs have been set up was held on 4 March 2008 in New Delhi.

13.5 The SHRCs also have independent meetings with the Commission. A delegation consisting of Chairperson, Member, Secretary and Assistant Registrar from Karnataka State Human Rights Commission visited the Commission on 26 and 27 December, 2007.

13.6 Demonstrating the mutual cooperation between the NHRC and the State Human Rights Commissions, NHRC had a Complaints Management System implemented at Maharashtra State Human Rights Commission, Mumbai in April 2007.





REVIEW OF LAWS, IMPLEMENTATION OF TREATIES & OTHER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS



CHAPTER

14

14.1 The Commission has a statutory responsibility to review the safeguards provided in the Constitution or any law for the protection of human rights and recommend measures for their effective implementation. In addition, it also reviews treaties and other international instruments on human rights and makes recommendations for their effective implementation.

A. The Protection of Human Rights Act, 1993

14.2 In the Annual Report of 2006-2007 the Commission had reported that the Government of India has finally notified the Protection of Human Rights (Amendment) Act, 2006. It had also commented that the amendments carried out by the Government of India to the Protection of Human Rights Act, 1993 fall short of its recommendations and expectations as several clauses have been inserted which limited the Commission's mandate concerning international conventions. The Commission wishes to point out that Article 51 of the Constitution provides that the State shall endeavour to foster respect for international law and treaty obligations in the dealings of organized people with one another. The Supreme Court has held that the Courts shall respect the international treaties or agreements entered into by India, in the absence of domestic legislation. If there are any express legislation, the Courts shall give effect to the domestic legislation.

14.3 It noted that while Section 2(1)(d) defines human rights as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India", as per Section 2(1)(f) all international conventions (other than ICCPR or ICESCR), even though ratified by the Government and enforceable by courts in India, would still have to be notified. The Commission therefore approached the Ministry of Home Affairs in December 2007 and February 2008 pointing out this anomaly and urged it to examine the matter and get the appropriate notification issued, so that this contradiction can be rectified. The Commission has been informed by the Ministry of Home Affairs that it has referred the matter to the Ministry of External Affairs. The Commission is awaiting a response from both the Ministries.

B. Convention Relating to the Status of Refugees, 1951 and the 1967 Protocol

14.4 The Commission has advocated for the ratification of the Convention relating to the Status

of Refugees, 1951 and the 1967 Protocol thereto and the enactment of a national law in this regard. In the past year, the Commission had engaged the concerned Ministries towards the enactment of a national law on refugee protection. Based on a detailed exchange of views with the highest echelons of the Government, the Commission asked the Ministry of Home Affairs and the Ministry of External Affairs to formulate necessary proposals and send them to the Commission at the earliest. Their response is awaited.

C. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

14.5 Pursuant to the Commission's efforts, India signed the Convention against Torture in 1997. The Commission has been advocating for the early ratification of the Convention against Torture for the past several years. In its earlier Annual Reports too, the Commission had expressed its deep concern about the delay in ratification, and urged the Government to ratify it expeditiously.

14.6 As mentioned in the last Annual Report, the Commission had conveyed its comments on a draft Bill in this regard to the Ministry of Home Affairs. In August 2007, the Ministry responded that the comments of the Commission and other Ministries/agencies have been sent to the Ministry of External Affairs. The Commission took up the matter with the Ministry of External Affairs, which replied that it has sent its comments to the Ministry of Home Affairs vide letter dated 7 September 2007. In October 2007, the Commission requested the Ministry of Home Affairs to inform it of the status of the ratification. A response is awaited.

14.7 The Supreme Court has already issued a number of orders in this regard. Torture has been criminalized in the Indian Penal Code and other legislations. NHRC has been recommending immediate monetary relief in instances where torture has been established. In the interest of protection and promotion of human rights, the Commission once again urges the Government of India to ratify the Convention at the earliest.

D. The 1977 Protocols Additional to the Geneva Conventions of 1949

14.8 Protocol I to the Geneva Conventions 1949 provides for new rules on international armed conflicts and Protocol II develops international humanitarian law on non-international armed conflicts.

14.9 In response to the Commission's request for comments on both the Protocols, the Ministry of External Affairs referred to the changing nature of armed conflict and the need to hold detailed consultations with other agencies in this regard.

E. Convention on the Rights of Persons with Disabilities, 2006

14.10 The Commission played an important role in the drafting of the Convention on the Rights of Persons with Disabilities which was adopted by the United Nations General Assembly in December 2006. During the period under review, the Commission recommended ratification of this Convention by the Government of India. As mentioned earlier in this Annual Report, the Commission is pleased to note that this Convention was ratified by the Government of India on 1 October 2007.





15.1 Section 12(g) of the Protection of Human Rights Act, 1993, entrusts the Commission with the statutory responsibility to undertake and promote research in the field of human rights. In pursuance, the Commission has been taking up research studies and projects ever since it was constituted. The details of all studies undertaken and completed by the Commission are available on its website (www.nhrc.nic.in). The research studies completed and initiated during the year 2007-2008 are given below:

A. Completed Research Study

A Study of the Human Rights Status of Denotified and Nomadic Communities of Delhi, Gujarat and Maharashtra

15.2 The above study was entrusted by the Commission to Bhasha Research and Publication Centre (BRPC), Baroda in March 2004. The objectives of the research were to study the economic status and occupational patterns of the selected communities in the States identified; the patterns of encounter with the police department; incidents of custodial deaths of persons belonging to these communities; the level of legal awareness and legal literacy among them; and their engagement with the electoral processes.

15.3 At the time of writing of this Annual Report, BRPC had just submitted the complete report to the Commission.

B. New Research Project

Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation Across Key States

15.4 As per the 2001 Census, India's declining child sex ratio (927 girls per 1000 boys) is a cause of great concern. It signifies the emergence of an altogether different pattern, especially during the last two decades, where girls are being discriminated even before birth. The practice of pre-natal sex selection by couples due to easy access to sex detection tests has adversely affected the sex ratio at birth and recent estimates show that in some prosperous States like Haryana, Punjab, Himachal Pradesh, Gujarat, NCT of Delhi and Union Territory of Chandigarh the ratio has declined to less than 900 girls per 1000 boys. A stage may therefore soon come when it would become extremely

difficult, if not impossible, to make up for the 'missing' girls. This discrimination needs to be recognized by all sections of the society that girls have as much a right to live just as boys do. Moreover, missing numbers of both sex, and the resulting imbalance, can destroy our social and human fabric. In order to address the problem, the Pre-conception & Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act) has been passed but the law continues to be flouted with impunity.

15.5 During the period under review, the Commission and the United Nations Fund for Population (UNFPA) undertook a collaborative research project entitled "Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation Across Key States". The main objective of the research project is to review the cases registered by the States/Union Territories under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act and identify the hurdles in filing of such cases and the final orders passed on these cases, thus focussing on the impediments in the implementation of the Act. The study will cover 18 States in the country. These States are Andhra Pradesh, Assam, Bihar, Goa, Gujarat, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh, West Bengal and NCT of Delhi.





16.1 The total approved strength of the staff of the Commission remained at the level of 343 posts. As on 31 March 2008, 325 officers and staff were in position and there were 18 vacancies.

A. Special Rapporteurs

16.2 The Commission continued with the scheme for engaging eminent persons as Special Rapporteurs to function as representatives of NHRC for the concerned State(s) in the area of civil and political rights; economic, social and cultural rights; human rights violations; and to provide guidance to citizens regarding the provisions of the Protection of Human Rights Act, for seeking redressal from the Commission.

B. Core Groups

16.3 The Core Groups of experts set up by the Commission continued to function and advise the Commission on complex technical issues. The Members of the Core Groups showed their concern for the cause of human rights by sparing their valuable time to advise on the issues referred to them by the Commission.

C. Use of Official Language

16.4 The Official Language section is responsible for translation of the Annual Report, Monthly Newsletter and Budget documents of the Commission in Hindi. The section also translates complaints/reports received in hindi/regional languages into english language.

D. Library

16.5 The Library of the Commission, which was established for research and reference in 1994, is in the process of graduating to a Documentation Centre, with computer and internet facilities. Adding to the worth of the library, a new indexing service was initiated in 2007-2008 – “Current Contents,” which indexes articles from journals received in the library under broad subject headings and key words used in the text of the articles. During the year under review, 1,071 books on human rights were added to the library's collection.





RIGHT TO INFORMATION ACT, 2005



CHAPTER

17

17.1 The Commission has appointed Information and Public Relations Officer as its Central Public Information Officer and the Joint Secretary (Personnel & Administration) as Appellate Authority under the Right to Information Act, 2005 (RTI Act).

17.2 The details of applications and appeals received under the RTI Act during the period from 1 April 2007 to 31 March 2008 are indicated below:

1.	No. of applications received	872
2.	No. of applications disposed off within 30 days	872
3.	No. of applications pending but disposed off beyond one month	Nil
4.	No. of applications pending but are within one month	Nil
5.	No. of applications transferred to other Ministries/ Departments/Organizations	13

Details of 1st Appeals

1.	No. of appeals received by the Appellate Authority	12
2.	No. of such appeals disposed off within one month	12
3.	No. of appeals pending	Nil

Details of 2nd Appeals with C.I.C.

1.	No. of notices received from C.I.C.	Nil
2.	No. of hearings attended by C.P.I.O./Appellate Authority	Nil
3.	No. of hearings in r/o which compliance reports submitted to C.I.C.	Nil
4.	No. of hearings in r/o which compliance reports not submitted to C.I.C.	Nil





SUMMARY OF PRINCIPAL RECOMMENDATIONS AND OBSERVATIONS



CHAPTER

18

18.1 There is no denial of the fact that despite having an impressive constitutional, legislative and institutional framework and a record of achievements by NHRC, the Government and its agencies, as well as the civil society at large, the protection and promotion of human rights in India continues to be a formidable challenge even after more than half a century of freedom. The old and new obstacles to be surmounted for the full realization of human rights include poverty, illiteracy, corruption, increase in acts of terrorism and lack of a consistent political and administrative will in implementing many existing laws which concern human rights. The challenge before us today is to tackle these problems and endeavour for scrupulous implementation of the constitutional guarantees, international commitments and domestic laws relating to human rights. The efforts of the Union and all State Governments/Union Territory Administrations, autonomous bodies, civil society and citizenry should be directed towards this end (**Para 1.8**).

18.2 Several State Governments/Union Territory Administrations and Ministries/Departments of the Central Government have delayed – if not effectively undone – the work of the Commission by their inaction towards its inquiries, notices and recommendations. It is disheartening to note that several cases before the Commission have not been resolved because the office of the concerned State Government/Union Territory Administration has not filed its reply or not complied with the Commission's orders in a case or submitted an action taken report (**Para 1.10**).

18.3 The combined result of this is not to be measured by the backlog of cases in the Commission but in terms of the number of individuals who have been deprived of their rights and the number of those accused of violating human rights who have so far not been punished. It is indeed sad for all this to happen when India has laws granting and guaranteeing human rights, a system in place to protect those rights and an institution like the Commission acting as a guardian of the people (**Para 1.11**).

18.4 The Commission would like to take the forum offered by this Annual Report to once again urge all stakeholders to give this issue the urgency it deserves. All Government Ministries/Departments and State Governments/Union Territory Administrations must wholeheartedly focus their attention on the Commission's recommendations, orders and inquiries that are still pending in their forgotten files and ensure speedy action so that relief is given to all those who have been deprived of their rights. When the right of any individual is restored which he or she has been deprived of or for that matter the person has been compensated for the violation perpetrated on him/her, it is humanity that ultimately wins (**Para 1.12**).

Terrorism and Militancy

18.5 The issue of civil liberties and human rights has become increasingly complex in recent years especially in countries like India which are facing the scourge of terrorism and militancy. In its previous Annual Reports, the Commission has consistently pointed out that terrorism and militancy aim at destabilization of the society and the State. It is therefore essential that they must be fought and defeated in all their forms and manifestations. This is of paramount importance for the protection of human rights. However, this must be done in a manner that upholds the Constitution of the Republic and the rule of law (**Para 5.1**).

18.6 The anti-terrorism and anti-militancy measures must be directed only against perpetrators or abettors of these acts and not against innocent citizens. The Commission has over the years unequivocally condemned the infringement of human rights of innocent citizens by State agencies in their measures to combat terrorism and militancy. These infringements often take the form of unlawful arrests, custodial violence, torture and abuse of power by the police and other law-enforcement agencies. There is no denial of the fact that systemic human rights violations over a period of time often take the form of unrest and conflicts. Such situations, if ignored, become fertile grounds for breeding terrorism and militancy. The existence of social, economic and political disparities, to a large extent, contributes to unrest and conflicts within the State and beyond. Since terrorism and militancy have deep-rooted socio-economic dimensions, the Commission is of the view that effective enforcement of laws and good governance are both vital for the prevention and elimination of terrorism and militancy in the country (**Para 5.2**).

18.7 Accordingly, the Commission has consistently been advocating for several measures that would enable State functionaries to effectively combat terrorism and militancy without infringing upon the human rights of innocents. It has issued guidelines to the States on following “due procedures”, adhering to the rule of law and functioning within the ambit of existing laws while combating terrorism and militancy. The Commission, which regularly seeks reports from the Centre and the States on custodial deaths and allegations of other human rights violations, has all along stressed the need to ensure transparency in and accountability for the actions taken by various agencies of the State in the name of combating terrorism and militancy. It has also made a special endeavour to sensitize all those engaged in combating this menace through human rights awareness programmes (**Para 5.3**).

Custodial Violence and Torture

18.8 The Commission has always held the view that whenever a person is deprived of his/her liberty and is taken into custody by the concerned authority as per procedure established by the law, it becomes obligatory on the part of that authority to ensure protection to that person, including fulfilment of all his/her basic rights, such as, right to life, right to food, right to health, etc. Custodial violence, including torture, undermines the rule of law. The mere fact that a person

is perceived to be a dreaded criminal or threat to the society, does not permit the police or other authorities to deprive the person of his/her basic human rights other than those provided by the law. It also does not give any license to the police to torture him/her for extracting information (Para 5.4).

Custodial Deaths

18.9 In an important step aimed at curbing custodial violence, the Commission in 1993 issued guidelines to all the States and Union Territories, that all deaths in police and judicial custody – natural or unnatural should be reported to it within 24 hours of the occurrence. These instructions are being strictly insisted upon and authorities are held accountable for any breach. NHRC has further directed that in cases of death in police custody, the post-mortem is to be video-graphed and the videotape sent to the Commission. These measures enable the Commission to exercise checks on custodial torture and violence by the police and other public servants. The Commission has cautioned against custodial deaths/violence, pointing out that the hostile attitude of law enforcement agencies in turn breeds lawlessness and contempt for the enforcing authorities. The NHRC believes that one way of ensuring reduction in custodial crimes is to ensure stern action, including prosecution, against the perpetrators of all forms of custodial violence even those relating to torture and assault. In several such cases, the Commission has recommended disciplinary action against the delinquent officials and granted monetary relief to the victims or their next of kin. However, in many cases, punishment awarded by the authorities in departmental actions is not commensurate with the offence committed (Para 5.5).

Conditions in Prisons

18.10 The Commission has repeatedly emphasized that human rights of prisoners are inviolable and the fact of being detained or imprisoned does not take away their rights as human beings. They have been temporarily deprived – by due process of law – only of their liberty on account of their involvement in the commission of certain offences (alleged or proven, as the case may be). They are kept in prison not only to undergo punishment as a deterrent against crime, but also for reformation (Para 5.10).

18.11 The Commission has always laid emphasis on total prohibition of torture or any kind of cruel, inhuman and degrading treatment. It also underlines that though the prisoner's right to family contact may be restricted by procedure established by law, it cannot be completely taken away. At the same time, it has also stressed that special consideration must be given to women prisoners (Para 5.11).

18.12 Over the years, the Commission has issued several guidelines, made observations after conducting spot investigations and taken several other steps to improve the conditions in prisons so that prisoners can lead their lives with dignity and enjoy their rights even as they await judgement or complete their sentence (Para 5.12).

18.13 During 2007-2008, the Commission also carried out a review of prison reforms, correctional administration and modernization of prisons in the State of Orissa. The Commission made a number of observations and recommendations to the Government of Orissa. These included the following: (a) Nearly five years have passed since the provisions of the Model Prison Manual for the Superintendence and Management of Prisons in India were formulated by the Bureau of Police, Research and Development, Ministry of Home Affairs in 2003. However, these are yet to be adopted and implemented for the 70 prisons of Orissa. The Committee formulated for this purpose has never met. The work of the Committee needs to be expedited and a firm time schedule laid down for commencement and completion of its mandated tasks. (b) A State-level custodial/correctional Advisory Committee may be constituted with the Chief Secretary to the Government of Orissa as Chairperson and the Secretaries to Government in Home, Finance, Law, Education, Health, Industry, Revenue, Women and Child Development and Registrar, High Court as Members. Simultaneously, and as recommended by the Model Prison Manual, a high-powered Prison Development Board may be set up with the Chief Minister as the Chairman, Minister In-charge of Prisons as the Vice-Chairman and the Secretaries to the Government in Home, Finance, Revenue and Law as Members (**Paras 5.16 & 5.19**).

Analysis of Prison Population

18.14 The Commission compiles and analyses prison statistics bi-annually. During the period under report, it analyzed prison statistics up to 30 June 2006. The total prison population of the country was 3,65,431, indicating an increase of 4 per cent over 3,50,346 in the corresponding earlier period (as on 30 June 2005). Given the authorized capacity of all jails and sub-jails at 2,57,348, there is an overcrowding to the extent of 42 per cent for the country as a whole, as compared to 42.9 per cent as on 30 June 2005 (when the capacity was somewhat lesser). Ten States – the National Capital Territory (NCT) of Delhi, Sikkim, Gujarat, Andaman & Nicobar Islands, Jharkhand, Bihar, Chhattisgarh, Uttar Pradesh, Madhya Pradesh and Orissa – had overcrowding ranging from 53 per cent to 128 per cent, that is above the authorized capacity (**Para 5.20**).

18.15 Undertrial prisoners (UTPs) constituted 69.2 per cent of the total prison population in the country as on 30 June 2006, a slight improvement from the previous year's 70.6 per cent. The proportion of UTPs was more than 80 per cent of the total prison population in nine States/Union Territories: Dadra & Nagar Haveli (100%), Lakshadweep (100%), Meghalaya (93.0%), Manipur (90.3%), Daman & Diu (87.5%), Jammu & Kashmir (85.7%), Bihar (85.7%), NCT of Delhi (81.8%) and Chandigarh (80.1%). The State of Uttar Pradesh was able to reduce the proportion of its UTPs to less than 80 per cent of the total prison population during the period under review (**Para 5.23**).

18.16 The percentage of women prisoners in relation to the total prison population in the country remained the same as in the preceding year – 3.9 per cent. In this regard, Mizoram (15.3%) has consistently held the 'top slot' in all the five analysis since 2002. It is followed by Daman & Diu (10.2%), Tamil Nadu (8%), Chandigarh (6.7%), West Bengal (6.2%), Punjab and Andhra Pradesh (5.2% each) (**Para 5.24**).

18.17 There were 1,732 children (up to the age of 6 years) staying with their mothers in jails across the country. Uttar Pradesh with 323 accounted for the largest number, followed by West Bengal (264), Madhya Pradesh (184), Maharashtra (152) and Jharkhand (141) **(Para 5.25)**.

Human Rights Violation Cases

18.18 During the year under review, the Commission had a total of 1,32,497 cases to examine (including cases brought forward from preceding years). The Commission disposed off 1,02,848 cases between 1 April 2007 and 31 March 2008. As on 31 March 2008, the total number of cases pending with the Commission were 29,649 **(Para 6.2)**.

18.19 A record number of 1,00,616 cases were registered in the Commission during 2007-2008, while the corresponding figure for the year 2006-2007 was 82,233. Of the cases registered during the year under review, 98,332 cases were complaints, 108 cases relate to *suo motu* cognizance taken by the Commission, 188 cases of death in police custody, 1,789 cases of death in judicial custody, 4 cases of death in the custody of defence/para-military forces, 18 pertained to custodial rapes and 177 concerning police encounters **(Para 6.3)**.

18.20 As in the past, the largest number of complaints registered was from the State of Uttar Pradesh — 58,865, i.e. 58.50 per cent. NCT of Delhi and Bihar followed, with 6,210 and 4,595 complaints respectively. NCT of Delhi and Bihar had no State Human Rights Commissions during the period being reported. The State Human Rights Commission in Uttar Pradesh was not functional for want of appointment of Chairperson and filling up of vacant posts of Members **(Para 6.4)**.

18.21 Of the 1,02,848 cases disposed off during 2007-2008, 63,763 were dismissed '*in limini*', while 26,600 were disposed off with directions to the appropriate authorities. 1,576 cases were transferred to State Human Rights Commissions, in accordance with the provisions of the PHRA **(Para 6.5)**.

18.22 The Commission also disposed off 747 intimations relating to custodial deaths including 3 cases of rape, 62 cases of encounter deaths and 10,100 other cases after calling for reports from the concerned authorities. The last category included alleged disappearances (32), unlawful detention (675), illegal arrest (318), alleged false implication (254), custodial violence (2), alleged fake encounters (57), failure to take appropriate action (1,589) and other alleged police excesses (2,623) **(Paras 6.5 & 6.6)**.

18.23 The Supreme Court of India, vide its order dated 12 December 1996, had remitted Punjab Mass Cremation case to NHRC. The case relates to the disappearance of people allegedly due to police abductions in some parts of Punjab, culminating in the alleged secret cremation of 2,097 bodies by Punjab Police in the districts of Amritsar, Majitha and Tarn Taran between 1984 and 1994. The earlier Annual Reports of the Commission have provided full details of the proceedings conducted by the Commission in respect of this case. The Commission vide its proceedings dated

11 November 2004 had awarded compensation of Rs. 2,50,000 to the next of kin of each of the deceased persons who were in the custody of Punjab Police at the time of their death. Subsequently, vide its order dated 10 October 2006, the Commission awarded Rs. 1,75,000 to the next of kin of each of the deceased whose bodies were surreptitiously cremated by the State of Punjab without following the Punjab Police Rules, guidelines, practices and humanitarian law. Till 31 March 2008, the Commission had awarded Rs. 4,87,50,000 to the next of kin of 195 deceased persons at the rate of Rs. 2,50,000 each and Rs. 20,87,75,000 to the next of kin of 1,193 deceased persons at the rate of Rs. 1,75,000 each. A total amount of Rs. 25,75,25,000 was thus recommended by the Commission for payment to the next of kin of 1,388 deceased persons (**Paras 6.11 & 6.12**).

18.24 The Commission has come across a large number of complaints relating to allegations of avoidance on the part of the officers of the police stations to register complaints of cognizable offence or a tendency to minimize the gravity of the offence while registering a case. It is a serious violation of the statutory obligations imposed on the in-charge of the police station under the provisions of Chapter XII, Code of Criminal Procedure, in particular, Section 154 of Cr.P.C. This has an adverse effect on the criminal justice delivery system. The Commission recommends that all the States and Union Territories issue necessary instructions to all the concerned police personnel to meticulously adhere to the provision of Section 154 of Cr.P.C in matters relating to registration of cases (**Para 6.14**).

18.25 During 2007-2008, the Commission recommended monetary relief amounting to Rs. 3,20,00,000 in 199 cases including 81 cases of custodial deaths. Out of these 199 cases, the Commission also recommended disciplinary action in 9 cases and prosecution of errant public servants in 2 cases. Besides, only disciplinary action was recommended in 2 cases (**Para 6.284**).

18.26 The Commission received compliance report in 112 cases and a total amount of Rs. 1,95,10,000 was paid to the victims/next of kin of the victims as monetary relief. Compliance report was also received in 5 cases relating to disciplinary action recommended against the delinquent public servants. The compliance reports were awaited in 89 cases (**Para 6.285**).

Availability of Medical Care

18.27 The Commission held a meeting with the MCI, the Indian Nursing Council (INC) and the Ministry of Health and Family Welfare on 30 August 2007 in New Delhi to review the implementation of prior recommendations made by it on the issue. The Commission listed the following action points to overcome the shortage of doctors and nurses in rural and remote areas:

- The Government should make necessary changes in the Indian Medical Council Act to make it compulsory for MBBS students to have one year of compulsory rural attachment before their registration. The word 'rural' should also be clearly defined in the Act.

- All State Governments/Union Territory Administrations should adopt, with suitable modifications, the Chhattisgarh Rural Health Act or the Assam Rural Health Act or pass a similar legislation which provides diploma holders of three years course in Medicine and Public Health to practice in the State/Union Territory so as to overcome the dearth of manpower of doctors in rural areas.
- The Ministry of Health and Family Welfare will explore the possibility of diluting/relaxing their norms to make way for Public-Private Partnership between Government Hospitals and Private Medical Colleges.
- All district hospitals in the country should have nursing colleges to address the shortage of nurses, especially in remote areas. The Commission also recommends to the Planning Commission to provide more funds to the Ministry of Health and Family Welfare for the establishment of 230 nursing colleges at the district level.
- The Nursing Council has listed 14 specialties for the 'Nurse Practitioners Course', out of which syllabi for nine have been finalized. The Council should finalize the syllabi of the remaining specialties to ensure availability of specialists like Nurse Anaesthetists and Gynaecologists in rural areas.
- MCI will create more awareness among medical colleges about the need for Post Graduate courses in Psychiatry to cover the lack of manpower in the field (**Para 7.8**).

18.28 Subsequently, the Commission elaborated on the issue of rural attachment to the Ministry of Health and Family Welfare as follows: MBBS Doctors should undergo one year of compulsory rural service at Primary Health Centres, in addition to their regular internship. In order to facilitate this process, they should be given provisional registration to practice after they have completed their MBBS. The permanent registration and degree should be given to them only after they have completed their one year of compulsory rural service. From the point of ensuring that there is no increase in the number of years of MBBS course, the compulsory rural service should be made one of the essential pre-requisites to qualify for post-graduation. The Commission also recommended that to improve the emergency medical services in the country, there is a need to develop 'Emergency Medicine' as a specialty (**Para 7.9**).

Follow-up of NHRC Recommendations

18.29 The Commission had also recommended that there was a need for the MCI and the INC to re-look into the courses for Nurse Practitioners and work out a methodology for its recognition (**Para 7.13**).

18.30 Responding to the Commission's suggestion for an in-built compulsory rural attachment as part of the medical training, the Ministry of Health and Family Welfare stated that they were considering a proposal for one year compulsory rural attachment. The doctors would be registered only on completion of the rural attachment. The MCI further informed NHRC that it had accepted their recommendation to develop 'Emergency Medicine' as a specialty and the same

would be started shortly (**Paras 7.14 & 7.15**).

18.31 While welcoming this decision, the Commission would like to point out that the MCI has yet to take action on their other crucial recommendations such as granting of recognition to 'Nurse Practitioner Courses'; three-year Diploma Course on 'Basic Preventive and Curative Health Services'; and relaxation of norms so as to allow more students to opt for Psychiatry to meet the shortage of psychiatrists in the country. The Commission reiterates that these are burning human rights issues, related as they are to guaranteeing the right to health. Therefore, the Commission urges MCI to comply with these positive and proactive recommendations of the Commission at the earliest. Regarding the prevailing shortage of psychiatrists in the country, the MCI informed the Commission that it would create awareness to promote the subject in Medical Colleges. The Commission also urged the MCI to relax its norms so as to attract more students for Psychiatry courses (**Paras 7.16 & 7.17**).

Silicosis

18.32 Following-up its recommendations for convergence, the Commission organized a meeting of various stakeholders on 24 April 2007. After extensive deliberations, the following short-term and long-term recommendations were made:

Short-Term Recommendations

- Carry out vigorous publicity campaigns by making use of the electronic and print media at all levels in order to create awareness among workers, employers and medical practitioners about silicosis being a health hazard.
- Identify and monitor States/ Union Territories with high number of silicosis cases.
- The identified States/ Union Territories should issue a notification under Section 85 of the Factories Act so that the law is applicable also to entrepreneurs employing less than 10 labourers and they along with their employees become aware about their vulnerability to silicosis.
- The case study pertaining to Madhya Pradesh should be thoroughly studied and analyzed in order to comprehend the steps taken by the State with regard to the issue of silicosis prevention, health care and insurance in a convergent and comprehensive manner.
- Collect survey reports already available with different agencies to identify and map pockets with incidence of silicosis. The concerned State Government officials be summoned by NHRC to monitor effective steps being taken by them.
- Work towards removal of existing deficiencies in the context of silicosis prevention in the States/ Union Territories including the enforcement machinery so as to ensure their overall efficacy.

- The Ministry of Labour to prepare a background paper for launching a national programme for eradication of silicosis.
- Work out a compensation package for victims or next of kin as well as its modalities.
- Invite select NGOs to share their experiences of combating the problem of silicosis.

Long-Term Recommendations

- Deliberate on the adequacy of existing laws and whether there is a need for separate/specific legislation on the issue.
- Constitute a National Working Group or a National Task Force or a National Core Group on Silicosis. The concerned Group or Task Force must work within the given time-frame and make recommendations which in turn may be taken up with the Central/State Governments, as the case may be (**Paras 7.21 & 7.22**).

National Task Force

18.33 In response to the above recommendations, NHRC constituted a National Task Force on Silicosis. The Task Force convened its first meeting in the Commission on 6 September 2007 (**Para 7.23**).

18.34 The Task Force recognized the inadequacy of information base on silicosis and the need to create a sound database on it through a survey. Migration of labour was considered to be the main cause for lack of authentic information/data. After extensive deliberations and detailed discussions, the following action points were identified:

- Emphasize to all stakeholders that States have to assume primary responsibility for this issue.
- The Ministry of Labour to follow-up with those States which have not yet issued notifications under Section 85 of the Factories Act.
- The Ministry of Labour to devise a proforma for collecting information from 26 major States for identification of pockets affected by silicosis, to make a realistic assessment of the gravity of the problem.
- All State Governments to undertake a survey either themselves or by engaging a public or private research institution.
- The Ministry of Labour to make available to NHRC a comprehensive survey form which covers all information required on silicosis and focuses on the preventive mechanisms of State Governments.
- The meeting recognized the importance of consultation with State Governments before commencing the survey. It was suggested that the pre-survey meeting could be used as a forum to discuss issues related to safety, machinery, shortage of staff and spreading of awareness so as to sensitize the State Government officials on the issue of silicosis.

- Consider involving Panchayats in monitoring health-related aspects of silicosis (**Para 7.24**).

18.35 Thereafter, a meeting on silicosis was held in the Commission on 29 October 2007 to work out the details regarding the format of the survey and pre-survey meetings with all the State Governments. It was suggested that along with giving the tolerable limits of dust level, the proforma should indicate a list of engineering measures to minimize dust level and should enclose a list of preventive methods. In this meeting the Directorate General, Factory Advice Service & Labour Institutes (DGFASLI) was asked to provide a list of confirmed cases of silicosis, which the Commission could take up as individual complaints (**Para 7.25**).

Availability of Anti-Rabies Vaccine : Success Story of NHRC Intervention

18.36 The Commission had recommended to the Ministry of Health and Family Welfare to approve Intradermal Rabies Vaccination, as it would reduce the cost by one-fifth. The Ministry accepted the above recommendation of NHRC (**Para 7.26**).

18.37 In a communication to NHRC on 1 August 2007, the Ministry stated that it has granted approval to the use of Anti-Rabies Vaccine (ARV) in the country through Intradermal (ID) route, as recommended by NHRC. The communication also stated that the Directorate General of Health Services (DGHS) had rescinded its earlier order that ARV would only be provided to those hospitals, which received at least 50 dog-bite cases per day. The Commission also impressed upon the Ministry the need to convey instructions to all States and Union Territories (**Para 7.27**).

Filariasis

18.38 The Commission received a representation to include chronic patients of filariasis as disabled in the category of “locomotor disability” under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Commission requested the Ministries of Health and Social Justice & Empowerment to examine the issue. The Ministry of Health recommended the inclusion of chronic cases of lymphatic filariasis (Grade III) under the provision of the Act. The Ministry of Social Justice & Empowerment informed the Commission that it is in the process of amending the Act as recommended by the Commission (**Para 7.28**).

Leprosy and Human Rights

18.39 The Commission convened a meeting on 3 January 2008 under the chairmanship of its Chairperson, which was attended by senior representatives of the Ministries concerned and NGOs working in the field. The meeting suggested that the Ministry of Health and Family Welfare should –

- a) work out a monitoring mechanism under the National Rural Health Mission (NRHM) to ensure detection of leprosy patients and availability of treatment to them; and

- b) frame guidelines to avoid discrimination against leprosy patients and their families (on the lines of those for HIV/AIDS affected persons, issued by the Human Rights Council). The meeting also suggested that the Ministries of Social Justice & Empowerment and Law & Justice pursue the matter of amendment/deletion of discriminatory provisions in various Acts concerning people affected by leprosy (**Para 7.30**).

HIV/AIDS and Human Rights

18.40 The Commission has been concerned about the discrimination faced by persons infected/affected by HIV/AIDS. In this regard, detailed recommendations made by the Commission have already been reported in its earlier Annual Reports. The Commission considers it regrettable that the Government has still not enacted legislation that prohibits discrimination against those infected/affected by HIV/AIDS with regard to their access to medical care and education (**Para 7.31**).

18.41 The Commission urges all State AIDS Control Societies, National AIDS Control Organization and the Ministry of Health and Family Welfare to take necessary steps to ensure the infected people's right to medical care, shelter and livelihood (**Para 7.33**).

Mental Health

18.42 The first meeting of the reconstituted Core Group on Mental Health was convened on 21 August 2007 at NHRC. Based on the deliberations that followed later, the Core Group made the following recommendations:

- The mentally ill person's basic needs — such as food, nutrition, hygiene and sanitation — should be met.
- All the entitlements — such as old age pension — which are available to ordinary citizens must also be made available to mentally ill patients.
- There is a need to rehabilitate Long Stay Patients (LSPs) by evolving a separate scheme for them.
- Norms governing social security schemes should be relaxed for mentally ill patients.
- There is a need to focus on the employment strategy and financial autonomy of mental health institutions.
- The specific task of carrying out surveys/studies of mental health institutions need to be entrusted to credible NGOs.
- Explore the option of involving NGOs in developing occupational therapy for the patients.
- There should be a 'Mortality Analysis' to reveal the magnitude of deaths in mental institutions and promote sensitivity towards them.

- NHRC should hold an annual meeting with the Secretaries of State Health Departments to forge better coordination on the issue.
- A fresh proposal regarding Half-way Homes should be formulated more systematically.
- To meet the shortfall of manpower, the existing Post-Graduate norm of 'one Professor for one student' in Psychiatry should be relaxed in consultation with the MCI.
- More mental health institutions should be established to cater to the growing number of patients.
- Drugs for mentally ill persons must be subsidized.
- A thorough study/survey of each mental institution should be carried out to understand its specific problems.
- The media needs to play a key and active role in sensitizing the families of mentally ill persons and the community at large.
- There should be a concerted attempt to replicate the best practices of various mental institutions (**Paras 7.35 & 7.36**).

Right to Food

18.43 There is an accompanying need for a paradigm shift in public policies and relief codes. In the previous Annual Report of the Commission, it was reported that the Core Group on right to food was reconstituted in the Commission on 2 January 2006 and that the Core Group had convened two meetings, the first one on 13 January 2006 and the second one on 15 September 2006. During the course of these meetings the Core Group formulated some recommendations which were also approved by the Commission. These recommendations ranged from proper distribution of food grains and proper implementation of government schemes including improvement of food quality and nutrition norms. These recommendations were communicated to all the States/Union Territories for compliance and its implementation (**Paras 7.38 & 7.39**).

18.44 The third meeting of the reconstituted Core Group on right to food was convened in the Commission on 9 August 2007. In this meeting, it was recommended that there is a need for constituting watch committees at village/block/district levels in each State/Union Territory, which will monitor the access and availability of food grains to the eligible, and most vulnerable, in particular. The committees will be independent of vertical monitoring system to ensure that relevant schemes are properly implemented and food grains are available and distributed properly. These committees could report to the concerned authorities in the State/Union Territory or to the NHRC directly. The Core Group also outlined the guidelines for constitution of independent committees across the States/Union Territories for ensuring right to food (**Paras 7.40 & 7.41**).

Right to Education

18.45 In the light of the globally accepted Millennium Development Goals (MDGs), and for fulfillment of the constitutional mandate and the obligations arising out of international covenants including the Convention on the Rights of the Child, there is a clear requirement for –

- notification by the Central Government in the official gazette concerning the date of its enforcement; and
- the enactment of a legislation which will set out the method in which free and compulsory education will be provided (**Para 7.46**).

18.46 In an attempt to implement the Eighty-sixth Constitution Amendment Act, a Right to Education Bill was drafted in the year 2005, but the same was not discussed in the Parliament. Thereafter, the Model Right to Education Bill was circulated to the States/Union Territories in June 2006. This Bill also did not see the light of the day. As a result, till date, the country has no central legislation relating to right to education. During the year 2007-2008, the Commission convened a number of in-house meetings so as to chalk out its future course of action whereby the right to education of every child is fulfilled. The Commission has also time and again reminded the States /Union Territories of their obligation to provide primary education to children, emphasizing thereby that development is possible only when this right reaches everyone including children in difficult circumstances, such as child labourers, bonded child labourers, street children and other children in need of care and protection. The Commission resolutely believes that all children should be in schools – not toiling in factories, or on streets, or working in eating establishments or slog in other people's homes, earning for themselves or their families (**Para 7.47 & 7.48**).

Issue of Incentives/Disincentives in the Population Policies of State Governments vis-à-vis the National Population Policy 2000

18.47 It was reported in the preceding Annual Reports of the Commission that population policies framed by some of the State Governments have adopted a coercive approach through the use of incentives/disincentives that is inconsistent with the spirit of the National Population Policy 2000 (NPP). Such an approach undoubtedly violates the rights of a large section of population, especially the marginalized and the vulnerable, including women and children. The Commission is of the view that the coercive measures should be removed from the population policies framed by the State Governments/Union Territories. In the year 2005-2006, the Commission constituted a Working Group to examine the issue, particularly with reference to incentives and disincentives from a 'rights perspective' keeping in view the sequel of events that had taken place since the organization of the 'Colloquium on Population Policy – Development and Human Rights' in 2003. The Commission asked the Working Group to look into issues intrinsic to women's empowerment and the empowerment of the marginalized sections of society including the issue of dwindling sex ratio among children in the age group of 0-6 as well as concerns of minority communities. In April 2007, it submitted its report to the Commission (**Paras 7.51 & 7.52**).

18.48 The report submitted by the Working Group was thoroughly examined by the Commission and it made the following two recommendations:

- solicit comments and suggestions on the implementation reports submitted by the State Governments and Union Territories from different stakeholders; and
- select a few States every year for detailed discussions on the implementation of their health and population policies (using as a basis the implementation report submitted by the State Government) in order to ensure that in practice the policies enforced do not violate the dignity of women and the rights of individuals (**Para 7.53**).

18.49 The report submitted by the Working Group included a reporting format for ascertaining information from each State/Union Territory with regard to the status concerning the implementation of their respective population policy. The Commission circulated this reporting format to the Chief Secretaries/ Administrators of all States and Union Territories, with a request to submit the required information so as to enable it to take further necessary action in the matter (**Para 7.54**).

Formulation of an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women

18.50 The National Human Rights Commission, Ministry of Home Affairs, Ministry of Women and Child Development, National Commission for Women and UNICEF, took a collective decision in September 2006 to work in unison and draw up an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women. Correspondingly, based on the field experiences of all concerned, a draft Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women was evolved and it was collectively decided that before it was finalized, it needed to be discussed with all the stakeholders in the field. For this purpose, it was decided to organize three Regional Workshops at Guwahati, Hyderabad and Goa and one National Level Workshop at New Delhi. The three Regional Workshops were organized during the year 2006-2007 and the National Level Workshop was organized in August 2007. These Workshops helped to identify qualitative and quantitative targets that would enable implementation of the Integrated Plan of Action, once finalized (**Para 7.55**).

18.51 The Commission thereafter convened a meeting on 18 September 2007 with concerned representatives. A decision taken in the meeting was to constitute a Task Force that would take up the responsibility of rectifying the gaps in the proposed Integrated Plan of Action as well as finalize the entire document. A Task Force was thus constituted with representatives from the Ministries of Labour and Employment (Chairperson), External Affairs, Home Affairs, Women and Child Development, Panchayati Raj, National Commission for Women, National Human Rights Commission, UNICEF and two NGOs working for prevention of trafficking. The Task Force was requested to submit the final Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women by 15 November 2007. As the Task Force could not

finalize the Integrated Plan of Action on the listed date, a meeting was again convened by the Commission on 30 January 2008 to deliberate on the matter with the members of the Task Force. In the meeting, a decision was taken that the Task Force should complete its task by the end of February 2008. At the time of writing of this Annual Report, as the Task Force had not finalized the Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women, the Commission on its part approved the draft Integrated Plan of Action and forwarded it to the Ministry of Women and Child Development, Government of India for taking further necessary action in the matter. A copy of the same was also forwarded to the National Commission for Women, the National Commission for Protection of Child Rights and the Ministry of Labour, Government of India, for appropriate action **(Paras 7.56 & 7.57)**.

Rehabilitation of Destitute Women in Vrindavan

18.52 A three-member team from the Commission once again visited Vrindavan on 13 March 2008 to review the status of implementation of its recommendations. The team noted enormous discrepancies with regard to the implementation of recommendations made by the Commission. It reiterated the Commission's directions regarding grant of pension, accommodation, LPG connections, ration cards, health care and sanitation, cremation fund, vocational training, social security cards and recreational facilities to the concerned officials, for rehabilitation of destitute women in Vrindavan and urged them to expedite taking follow-up action. A report, elucidating the team's observations concerning the prevalent status of the implementation of recommendations was forwarded to the Chief Secretary, Government of Uttar Pradesh so that expeditious action is taken in the matter **(Paras 7.59 & 7.60)**.

Guidelines for Speedy Disposal of Child Rape Cases

18.53 The Commission in its meeting convened on 28 June 2007 relating to programmes undertaken in pursuance of its statutory responsibilities, approved the 'guidelines for speedy disposal of child rape cases'. The Commission was facilitated in the task of preparing these guidelines by Home Secretaries and Directors General of Police of all the States/Union Territories. The final guidelines approved by the Commission have been forwarded to the Home Secretaries and Directors General of Police of all the States/Union Territories for information and compliance **(Para 7.61)**.

Issue of Missing Children

18.54 In its Annual Report for the year 2006-2007 the Commission had informed that it constituted a Committee on 12 February 2007 to look into the issue of missing children in depth and give its recommendations/suggestions so as to facilitate tracing and restoring of missing children back to their families or to agencies/support system where they could be taken care of and protected. The Committee submitted a detailed report along with recommendations/ suggestions to the Commission. The recommendations/suggestions put forth in the report by the Committee were subsequently endorsed by the Commission and forwarded to the Chief Secretaries and Directors

General of Police of all the States/Union Territories, as well as to the National Commission for Women, National Commission for Protection of Child Rights and the Ministry of Women and Child Development for their compliance (**Paras 7.63 & 7.64**).

Monitoring of Juvenile Justice System in India

18.55 The Commission had organized a two-day National Conference on Juvenile Justice System in India on 3 and 4 February 2007. The Conference made a number of recommendations/suggestions to improve the functioning of the juvenile justice system in the country. It laid stress on the implementation of the Juvenile Justice Act in both letter and spirit, urging the States/ Union Territories to establish the required infrastructure under the juvenile justice system to ensure that there is zero pendency and that the inquiry is completed within the stipulated period of four months. It also emphasized on requisite care to ensure protection, growth and development of children, both in conflict with law and in need of care and protection. These recommendations were later endorsed by the Commission and forwarded to the Secretaries of Departments of Social Welfare/ Social Defence/ Social Justice in all States/Union Territories for compliance so as to bring about quality improvement in the juvenile justice system (**Paras 7.65 & 7.66**).

Bonded Labour

18.56 NHRC has expressed concern at the attitude of some State Governments who, without any survey to back their claim, have declared that a bonded labour system does not exist in their region. Consequently, they refuse to have a budget provision for such a survey or for awareness generation and for rehabilitation of released bonded labourers. When instances of bonded labour system are exposed, they seldom go in for a summary trial of the offenders under the Bonded Labour System (Abolition) Act, 1976 (BLSA Act). Furthermore, many of them do not follow the requirement that simultaneous action must be taken for release and rehabilitation of bonded labourers, without waiting for the offender to be convicted. Failure to do this results in a huge time gap between identification, release and rehabilitation. This often leads to bonded labourer relapsing to his erstwhile bondage. In discharging its responsibility, during 2007-2008, one of the Special Rapporteurs of NHRC conducted a review of the status of implementation of the BLSA Act in the State of Karnataka (May 2007) followed by Orissa (December 2007), Jharkhand (March 2008), Punjab (March 2008) and Chhattisgarh (March 2008). NHRC has also been organizing workshops for sensitizing and creating awareness among all stakeholders on concerned issues all over the country (**Paras 8.2, 8.3 & 8.4**).

18.57 A gist of the Special Rapporteur's observations and recommendations, as contained in his reports, have been detailed out in Chapter 8 of this Annual Report from **paras 8.5 to 8.23**.

Child Labour

18.58 The Commission is of the firm view that children of the school going age (6-14) should be in schools and not work for their livelihood and that there should be stricter enforcement of

protective provisions in the Constitution and in the laws. The Commission regularly monitors the measures towards elimination of the practice of child labour in hazardous work through its Special Rapporteurs and issues recommendations for compensation as well as penal action. The Commission has been making State-wise status reviews on this issue since 2000. In 2007-2008, NHRC, through its Special Rapporteur focused its attention on Karnataka, Orissa, Jharkhand, Punjab and Chhattisgarh (**Paras 8.24 & 8.25**).

18.59 The observations and recommendations contained in Special Rapporteur's report have been summarized in Chapter 8 of this Annual Report from **paras 8.26 to 8.55**.

Rights of Persons with Disabilities

18.60 The Commission has noted that the discrimination being faced by persons with disabilities still continues. In this endeavour, the Commission has adopted a multi-pronged approach for the protection and promotion of rights of persons with disabilities. This includes redressal of individual complaints, legislative and policy reform, providing requisite infrastructure and services, encouraging the efforts of NGOs, research, training and spreading awareness. The Commission on its part appointed a Special Rapporteur on women, children and disability related issues and also constituted a Core Group on Disability comprising experts, including activists who have made significant contributions for empowering the disabled (**Paras 9.5, 9.6 & 9.9**).

Rights of Displaced Persons

18.61 NHRC is well aware of the fact that it is the most vulnerable who often have to pay the price of development. In the past one year, there has been a frenzied spurt of land acquisition for mega industrial projects and construction of Special Economic Zones (SEZ) in several parts of the country. The Commission is fully alive to the 'rights' dimension of these economic moves and accordingly it has heightened its vigilance in affected places. It has not only taken up individual complaints but also law and policy matters for an in-depth examination (**Para 9.15**).

National Rehabilitation and Resettlement Policy

18.62 The Commission is happy to note that the amended National Rehabilitation and Resettlement Policy was notified by the Government on 31 October 2007. Two Bills on the subject, the Land Acquisition (Amendment) Bill, 2007 and the Rehabilitation and Resettlement Bill, 2007 were before the Parliamentary Standing Committee on Rural Development which invited views from stakeholders on the provisions of these Bills (**Para 9.16**).

Rights of Scheduled Castes and Scheduled Tribes

18.63 Since its inception, the Commission has been actively engaged in protection and promotion of the rights of Scheduled Castes and Scheduled Tribes. Apart from acting *suo motu* and on complaints related to atrocities against Scheduled Castes and Scheduled Tribes, the Commission

has also engaged with key stakeholders on the issue; published booklets; and held training programmes and workshops aimed at sensitizing various stakeholders on the issue so as to eliminate atrocities, discrimination, and any other form of violation of their human rights (**Para 9.18**).

18.64 The last Annual Report had referred to a decision of the Commission to launch awareness campaigns in four districts which had a high record of atrocities against Scheduled Castes. In this connection, senior officials from the Commission went to Bharatpur in Rajasthan and Faridabad in Haryana and a NHRC Member visited Jaipur and Ajmer in Rajasthan (**Para 9.19**).

Rights of Denotified and Nomadic Tribes

18.65 In 1998 the Commission's Advisory Group on this issue made several recommendations to improve the condition of these communities. During the period under review, the Commission was engaged in monitoring the response from the States/Union Territories on these recommendations (**Para 9.22**).

Eradication of Manual Scavenging

18.66 NHRC has been vigorously urging the States to adopt the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (notified by the Central Government in 1997) (**Para 9.25**).

18.67 The National Action Plan for Total Eradication of Manual Scavenging had set a target date of December 2007, even though it was contemplated that the date may be extended to March 2009, which was also the date set for rehabilitation of the scavengers and their dependents (**Para 9.26**).

18.68 The States that have adopted the Act are Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh (its own Municipal Act), Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa, Punjab (implemented Integrated Scheme of Liberation of Scavengers and Improvement in Sanitation in 77 towns), Rajasthan, Jammu & Kashmir, Tripura, Uttar Pradesh, Uttarakhand, West Bengal and Union Territory of Andaman & Nicobar Islands (**Para 9.27**).

18.69 The States/Union Territories which have informed the Commission that they are manual scavenging-free/ do not have dry latrines are: Andaman and Nicobar Islands, Tripura, Arunachal Pradesh, Sikkim, Goa, Manipur, Mizoram, Meghalaya, Nagaland, Haryana, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Chandigarh and Kerala (**Para 9.28**).

18.70 The Commission considers it extremely unfortunate that so many regions of the country have not shown requisite will in addressing this issue. The Commission firmly believes that full and complete eradication of this practice can be achieved only with the concerted efforts of all stakeholders, including concerned ministries, government agencies, financial institutions,

human rights institutions, NHRC, SHRCs and civil society groups. The Commission notes with regret that instead of working together, most stakeholders are blaming each other without examining how each can contribute to eradicate this practice and how the failures can be rectified. The Commission once again urges all States/Union Territories to maximize their efforts to implement the Act in true spirit (**Para 9.29**).

Training Programmes Organized by the Commission

18.71 The promotion of 'Human Rights Education' has assumed tremendous significance today. The endeavour of creating, assimilating and disseminating knowledge and awareness is a robust way of bringing about an attitudinal change among the people from all walks of life especially with regard to their archaic perceptions and thoughts. During the period under review, the Commission undertook various initiatives to promote the cause of human rights education. As part of its mandate, the Commission approved 93 training programmes of 35 institutions/NGOs on various human rights issues to be organized during the year 2007-2008 all over the country focusing specifically on the North Eastern States and other backward States/UTs. Out of these, 65 training programmes were organized (**Para 10.1 & 10.9**).

The Protection of Human Rights Act, 1993

18.72 In the Annual Report of 2006-2007 the Commission had reported that the Government of India has finally notified the Protection of Human Rights (Amendment) Act, 2006. It had also commented that the amendments carried out by the Government of India to the Protection of Human Rights Act, 1993 fall short of its recommendations and expectations as several clauses have been inserted which limited the Commission's mandate concerning international conventions. The Commission wishes to point out that Article 51 of the Constitution provides that the State shall endeavour to foster respect for international law and treaty obligations in the dealings of organized people with one another. The Supreme Court has held that the Courts shall respect the international treaties or agreements entered into by India, in the absence of domestic legislation. If there are any express legislation, the Courts shall give effect to the domestic legislation (**Para 14.2**).

18.73 It noted that while Section 2(1)(d) defines human rights as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India", as per Section 2(1)(f) all international conventions (other than ICCPR or ICESCR), even though ratified by the Government and enforceable by courts in India, would still have to be notified. The Commission therefore approached the Ministry of Home Affairs in December 2007 and February 2008 pointing out this anomaly and urged it to examine the matter and get the appropriate notification issued, so that this contradiction can be rectified. The Commission has been informed by the Ministry of Home Affairs that it has referred the matter to the Ministry of External Affairs. The Commission is awaiting a response from both the Ministries (**Para 14.3**).

Convention Relating to the Status of Refugees, 1951 and the 1967 Protocol

18.74 The Commission has advocated for the ratification of the Convention relating to the Status of Refugees, 1951 and the 1967 Protocol thereto and the enactment of a national law in this regard. In the past year, the Commission had engaged the concerned Ministries towards the enactment of a national law on refugee protection. Based on a detailed exchange of views with the highest echelons of the Government, the Commission asked the Ministry of Home Affairs and the Ministry of External Affairs to formulate necessary proposals and send them to the Commission at the earliest. Their response is awaited (**Para 14.4**).

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

18.75 Pursuant to the Commission's efforts, India signed the Convention against Torture in 1997. The Commission has been advocating for the early ratification of the Convention against Torture for the past several years. In its earlier Annual Reports too, the Commission had expressed its deep concern about the delay in ratification, and urged the Government to ratify it expeditiously. The Commission once again urges the Government of India to ratify the Convention at the earliest (**Paras 14.5 & 14.7**).

The 1977 Protocols Additional to the Geneva Conventions of 1949

18.76 Protocol I to the Geneva Conventions 1949 provides for new rules on international armed conflicts and Protocol II develops international humanitarian law on non-international armed conflicts. In response to the Commission's request for comments on both the Protocols, the Ministry of External Affairs referred to the changing nature of armed conflict and the need to hold detailed consultations with other agencies in this regard (**Paras 14.8 & 14.9**).



ANNEXURES



ANNEXURE

1

PARA 5.7

STATE/UT-WISE & YEAR-WISE DETAILS OF POLICE CUSTODY DEATH & JUDICIAL CUSTODY (JAIL) DEATH CASES (NATURAL & UNNATURAL) REGISTERED BY THE COMMISSION FROM 1993-1994 TO 2007-2008

S. No.	NAME OF STATE/UNION TERRITORY	YEARS																TOTAL		
		1993-94* PC+JC	1994-95		1995-96		1996-97		1997-98		1998-99		1999-00		2000-01					
			PC	JC	PC	JC	PC	JC	PC	JC	PC	JC	PC	JC	PC	JC	PC + JC* (1993-94)	POLICE CUSTODY (4+6+8+10+ 12+14+16)	JUDICIAL CUSTODY (5+7+9+11+13+ 15+17)	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
1	ANDAMAN & NICOBAR	0	0	0	0	0	0	0	0	0	0	2	1	2	0	2	0	1	6	
2	ANDHRA PRADESH	0	6	0	10	45	27	70	21	53	25	96	11	73	2	76	0	102	413	
3	ARUNACHAL PRADESH	0	0	0	0	0	2	0	2	2	2	1	4	0	1	1	0	11	4	
4	ASSAM	1	14	4	7	15	13	12	18	15	15	22	11	22	11	11	1	89	101	
5	BIHAR	4	17	0	8	67	14	79	10	107	10	182	7	155	2	137	4	68	727	
6	CHANDIGARH	0	0	0	0	0	0	0	0	0	0	0	0	0	1	2	0	1	2	
7	CHHATTISGARH	0	0	0	0	0	0	0	0	0	0	0	0	0	1	29	0	1	29	
8	DADRA & NAGAR HAVELI	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
9	DAMAN & DIU	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	
10	DELHI	7	5	33	7	33	5	19	11	26	0	17	6	19	9	28	7	43	175	
11	GOA	0	1	1	0	0	2	0	0	2	0	1	2	2	2	3	0	7	9	
12	GUJARAT	0	0	0	15	4	18	32	10	27	8	37	13	19	11	27	0	75	146	
13	HARYANA	1	2	0	4	5	2	7	3	7	4	18	5	24	4	20	1	24	81	
14	HIMACHAL PRADESH	0	2	0	0	1	1	0	0	0	2	0	1	0	1	2	0	7	3	
15	JAMMU & KASHMIR	1	0	0	15	0	4	0	2	0	0	0	0	0	0	1	1	21	1	
16	JHARKHAND	0	0	0	0	0	0	0	0	0	0	0	0	0	1	33	0	1	33	
17	KARNATAKA	0	1	0	3	10	8	28	7	33	10	40	6	35	5	41	0	40	187	
18	KERALA	1	3	0	2	2	6	9	6	30	4	25	6	14	1	26	1	28	106	
19	LAKSHADWEEP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
20	MADHYA PRADESH	1	2	8	2	7	8	7	17	43	19	99	13	58	11	37	1	72	259	
21	MAHARASHTRA	0	2	0	9	25	21	180	17	116	20	98	30	126	19	104	0	118	649	
22	MANIPUR	1	2	1	4	0	1	0	1	0	3	0	0	1	0	0	1	11	2	
23	MEGHALAYA	1	3	0	0	3	0	10	2	0	1	6	0	2	1	0	1	7	21	
24	MIZORAM	0	0	0	0	2	0	0	0	1	0	0	0	0	1	0	0	1	3	
25	NAGALAND	0	1	0	2	0	2	1	1	0	1	0	0	0	0	0	0	7	1	
26	ORISSA	0	3	1	2	8	3	10	4	19	0	68	1	45	2	55	0	15	206	
27	PUDUCHERRY	1	0	0	0	0	0	0	1	0	1	0	0	0	0	0	1	2	0	
28	PUNJAB	0	10	2	8	8	5	12	8	27	12	43	11	42	13	48	0	67	182	
29	RAJASTHAN	1	10	0	6	11	5	25	11	30	3	47	3	45	3	38	1	41	196	
30	SIKKIM	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	
31	TAMIL NADU	6	7	0	4	1	3	18	13	54	14	41	9	48	4	24	6	54	186	
32	TRIPURA	0	1	0	0	0	0	0	2	0	0	0	0	0	2	0	0	5	0	
33	UTTAR PRADESH	8	5	0	13	24	32	139	14	172	20	222	18	141	10	121	8	112	819	
34	UTTARAKHAND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	0	0	6	
35	WEST BENGAL	0	14	1	14	37	6	42	10	43	6	40	19	43	9	38	0	78	244	
36	FOREIGN COUNTRIES	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total		34	111	51	136	308	188	700	191	807	180	1106	177	916	127	910	34	1110	4798	
Total (YEAR-WISE)		34	162		444		888		998		1286		1093		1037					

PC > POLICE CUSTODY DEATHS JC > JUDICIAL CUSTODY (JAIL) DEATHS

* No separate data available for Police Custody & Judicial Custody (Jail) Deaths for 1993-1994.

(Annexure - 1 contd.)

STATE/UT-WISE & YEAR-WISE DETAILS OF POLICE CUSTODY DEATH & JUDICIAL CUSTODY (JAIL) DEATH CASES (NATURAL & UNNATURAL) REGISTERED BY THE COMMISSION FROM 1993-1994 TO 2007-2008

S. No.	NAME OF STATE/UNION TERRITORY	YEARS														TOTAL			GRAND TOTAL (37+38+39)
		2001-02		2002-03		2003-04		2004-05		2005-06		2006-07		2007-08					
		PC	JC	PC	JC	PC	JC	PC	JC	PC	JC	PC	JC	PC	JC	PC + JC* (1993-94)	POLICE CUSTODY (19+23+25+27+29+31+33+35)	JUDICIAL CUSTODY (20+24+26+28+30+32+34+36)	
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
1	ANDAMAN & NICOBAR	0	0	0	0	0	0	0	1	0	2	0	0	0	0	0	1	9	10
2	ANDHRA PRADESH	16	81	10	112	10	114	13	116	11	134	5	118	9	132	0	176	1,220	1,396
3	ARUNACHAL PRADESH	2	0	2	2	2	1	0	2	1	0	1	1	0	1	0	19	11	30
4	ASSAM	10	20	15	13	6	18	4	11	7	27	8	17	12	19	1	151	226	378
5	BIHAR	2	144	4	153	9	139	3	150	1	246	2	193	8	222	4	97	1,974	2,075
6	CHANDIGARH	0	1	0	3	0	4	1	3	0	3	0	2	1	1	0	3	19	22
7	CHHATTISGARH	4	28	3	29	2	42	5	26	2	52	3	50	2	45	0	22	301	323
8	DADRA & NAGAR HAVELI	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	1
9	DAMAN & DIU	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
10	DELHI	5	27	2	30	3	22	5	27	3	29	3	25	6	33	7	70	368	445
11	GOA	0	5	0	1	0	0	0	4	1	4	0	1	0	0	0	8	24	32
12	GUJARAT	8	44	17	34	20	37	15	54	20	52	7	54	16	55	0	178	476	654
13	HARYANA	5	34	6	41	2	49	2	49	4	58	2	51	9	59	1	54	422	477
14	HIMACHAL PRADESH	1	1	0	2	0	2	0	5	0	5	0	3	1	3	0	9	24	33
15	JAMMU & KASHMIR	0	0	0	0	0	0	0	0	1	0	0	0	3	2	1	25	3	29
16	JHARKHAND	4	55	6	41	3	53	5	66	4	62	3	59	3	77	0	29	446	475
17	KARNATAKA	9	41	16	49	4	52	9	51	5	67	8	56	5	76	0	96	579	675
18	KERALA	4	33	4	50	4	51	6	51	5	44	3	37	6	56	1	60	428	489
19	LAKSHADWEEP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20	MADHYA PRADESH	7	38	1	36	3	30	2	49	4	44	10	59	10	97	1	109	612	722
21	MAHARASHTRA	27	125	26	117	32	148	23	138	20	115	21	130	25	174	0	292	1,596	1,888
22	MANIPUR	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	11	3	15
23	MEGHALAYA	3	2	3	3	3	3	2	6	0	4	1	1	3	0	1	22	40	63
24	MIZORAM	0	0	0	2	0	2	0	0	0	0	0	0	0	0	0	1	7	8
25	NAGALAND	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	7	3	10
26	ORISSA	7	49	1	41	1	52	3	39	2	42	2	53	6	50	0	37	532	569
27	PUDUCHERRY	0	0	1	0	1	0	1	0	0	1	0	1	0	2	1	5	4	10
28	PUNJAB	7	70	9	65	7	81	6	65	6	100	1	87	7	100	0	110	750	860
29	RAJASTHAN	5	49	6	55	5	45	0	50	7	50	3	54	2	58	1	69	557	627
30	SIKKIM	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	2	1	3
31	TAMIL NADU	7	48	17	51	12	106	9	98	7	101	16	103	6	104	6	128	797	931
32	TRIPURA	1	0	1	1	0	0	1	4	1	4	1	5	1	4	0	11	18	29
33	UTTAR PRADESH	11	183	16	169	18	199	7	219	18	259	11	241	32	312	8	225	2,401	2,634
34	UTTARAKHAND	3	8	1	7	2	7	3	9	1	10	1	7	5	14	0	16	68	84
35	WEST BENGAL	17	54	16	49	13	43	11	64	8	76	7	69	8	89	0	158	688	846
36	FOREIGN COUNTRIES	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	1
Total		165	1140	183	1157	162	1300	136	1357	139	1591	119	1477	188	1789	34	2202	14609	16845
Total (YEAR-WISE)		1305		1340		1462		1493		1730		1596		1977					

PC > POLICE CUSTODY DEATHS JC > JUDICIAL CUSTODY (JAIL) DEATHS

* No separate data available for Police Custody & Judicial Custody (Jail) Deaths for 1993-1994.



ANNEXURE

2

PARA 6.2

STATEMENT SHOWING STATE/UT-WISE NUMBER OF CASES PENDING AS ON 01/04/2007

S. No.	Name of the State/ Union Territory	Cases awaiting preliminary consideration				Pendency of cases where reports have either been received or awaited from the State Authorities			
		Complaints/ Suo motu cognizance	Intimation about		Total	Complaints	Custodial Death Cases	Encounter Death Cases	Total (7+8+9)
			Custodial Deaths	Encounter Deaths					
1	2	3	4	5	6	7	8	9	10
1	ALL INDIA	0	0	0	0	7	0	0	7
2	ANDHRA PRADESH	1	0	1	2	262	319	35	616
3	ARUNACHAL PRADESH	1	0	0	1	14	5	0	19
4	ASSAM	0	0	0	0	147	45	14	206
5	BIHAR	0	1	0	1	2280	560	6	2846
6	GOA	0	0	0	0	8	6	0	14
7	GUJARAT	4	1	0	5	436	205	3	644
8	HARYANA	5	0	0	5	1049	125	6	1180
9	HIMACHAL PRADESH	0	0	0	0	48	5	0	53
10	JAMMU & KASHMIR	2	0	0	2	321	6	3	330
11	KARNATAKA	2	1	0	3	271	225	16	512
12	KERALA	0	0	0	0	120	78	1	199
13	MADHYA PRADESH	4	1	0	5	652	125	14	791
14	MAHARASHTRA	2	2	0	4	1031	314	35	1380
15	MANIPUR	0	0	0	0	90	2	1	93
16	MEGHALAYA	0	0	0	0	3	7	1	11
17	MIZORAM	0	0	0	0	12	1	0	13
18	NAGALAND	0	0	0	0	19	1	0	20
19	ORISSA	3	1	0	4	903	89	4	996
20	PUNJAB	3	1	0	4	552	96	2	650
21	RAJASTHAN	1	1	0	2	871	71	35	977
22	SIKKIM	0	0	0	0	4	0	0	4
23	TAMILNADU	4	2	0	6	449	399	12	860
24	TRIPURA	0	0	0	0	39	15	1	55
25	UTTAR PRADESH	22	4	0	26	13150	820	393	14363
26	WEST BENGAL	10	2	0	12	578	66	7	651
27	ANDAMAN & NICOBAR	0	0	0	0	11	1	0	12
28	CHANDIGARH	0	0	0	0	37	8	0	45
29	DADRA & NAGAR HAVELI	0	0	0	0	3	0	0	3
30	DAMAN & DIU	0	0	0	0	4	0	0	4
31	DELHI	59	0	0	59	2227	70	37	2334
32	LAKSHADWEEP	0	0	0	0	0	0	0	0
33	PUDUCHERRY	2	0	0	2	21	4	0	25
34	CHHATTISGARH	0	0	0	0	149	83	3	235
35	JHARKHAND	1	1	0	2	631	165	2	798
36	UTTARAKHAND	1	1	0	2	659	39	31	729
37	FOREIGN COUNTRIES	1	0	0	1	58	0	0	58
TOTAL		128	19	1	148	27116	3955	662	31733
GRAND TOTAL (6+10) = 148+31733=31881									



ANNEXURE

3

PARAS 6.2, 6.3 & 6.4

**STATEMENT SHOWING STATE/UT-WISE NUMBER OF CASES REGISTERED
DURING 01/04/2007 TO 31/03/2008**

S.No	Name of the State/ Union Territory	Complaints	Suo motu cognizance	Intimation Received about Custodial Deaths/Rapes				Intimation received about Encounter Deaths	Total (3+4+5+6+7+8+9)
				Police Custody	Judicial Custody (Jail)	Defence/ Para-Military	Custodial Rapes		
1	2	3	4	5	6	7	8	9	10
1	ALL INDIA	132	0	0	0	0	0	0	132
2	ANDHRA PRADESH	1415	7	9	132	0	0	20	1583
3	ARUNACHAL PRADESH	31	1	0	1	0	0	1	34
4	ASSAM	180	4	12	19	0	0	22	237
5	BIHAR	4348	11	8	222	0	3	3	4595
6	GOA	45	0	0	0	0	0	0	45
7	GUJARAT	1888	3	16	55	0	0	1	1963
8	HARYANA	3601	9	9	59	0	1	7	3686
9	HIMACHAL PRADESH	137	0	1	3	0	0	0	141
10	JAMMU & KASHMIR	207	1	3	2	3	0	2	218
11	KARNATAKA	1662	1	5	76	0	0	6	1750
12	KERALA	398	5	6	56	0	0	0	465
13	MADHYA PRADESH	2726	1	10	97	0	1	3	2838
14	MAHARASHTRA	2609	3	25	174	0	0	10	2821
15	MANIPUR	53	0	0	0	0	1	1	55
16	MEGHALAYA	26	0	3	0	0	0	0	29
17	MIZORAM	16	0	0	0	0	0	0	16
18	NAGALAND	7	0	0	2	0	0	0	9
19	ORISSA	1147	4	6	50	0	0	1	1208
20	PUNJAB	2020	3	7	100	0	0	2	2132
21	RAJASTHAN	2913	2	2	58	0	1	0	2976
22	SIKKIM	18	0	1	1	0	0	0	20
23	TAMILNADU	2303	4	6	104	0	1	1	2419
24	TRIPURA	46	0	1	4	0	0	0	51
25	UTTAR PRADESH	58412	18	32	312	0	7	84	58865
26	WEST BENGAL	1021	7	8	89	1	0	3	1129
27	ANDAMAN & NICOBAR	22	0	0	0	0	0	0	22
28	CHANDIGARH	143	1	1	1	0	0	0	146
29	DADRA & NAGAR HAVELI	11	0	0	1	0	0	0	12
30	DAMAN & DIU	18	0	0	0	0	0	0	18
31	DELHI	6153	16	6	33	0	0	2	6210
32	LAKSHADWEEP	5	0	0	0	0	0	0	5
33	PUDUCHERRY	71	0	0	2	0	0	0	73
34	CHHATTISGARH	724	1	2	45	0	2	0	774
35	JHARKHAND	1620	4	3	77	0	1	5	1710
36	UTTARAKHAND	2024	1	5	14	0	0	3	2047
37	FOREIGN COUNTRIES	180	1	1	0	0	0	0	182
GRAND TOTAL		98332	108	188	1789	4	18	177	100616



ANNEXURE

4

PARAS 6.2 & 6.5

STATEMENT SHOWING STATE/UT-WISE DISPOSAL OF CASES DURING 2007-2008

S. No.	Name of the State/Union Territory	Dismissed 'in Limini'	Disposed off with Directions	Transferred to State Human Rights Commissions	Concluded after receipt of Reports				Total
					Complaints/ Suo motu Cognizance Cases	Custodial Death Cases	Custodial Rape Cases	Encounter Death Cases	
1	2	3	4	5		7	8	9	10
1	ALL INDIA	115	14	0	2	0	0	0	131
2	ANDHRA PRADESH	889	436	34	240	57	0	2	1658
3	ARUNACHAL PRADESH	23	7	0	5	0	0	0	35
4	ASSAM	121	34	0	65	15	0	4	239
5	BIHAR	2859	1238	0	1065	136	0	2	5300
6	GOA	29	10	0	2	0	0	0	41
7	GUJARAT	1680	203	8	121	25	0	0	2037
8	HARYANA	2327	993	0	332	23	0	1	3676
9	HIMACHAL PRADESH	97	34	1	32	4	0	0	168
10	JAMMU & KASHMIR	132	59	0	70	1	0	0	262
11	KARNATAKA	1373	241	16	119	15	0	1	1765
12	KERALA	339	41	7	47	9	0	0	443
13	MADHYA PRADESH	1988	605	45	263	40	1	1	2943
14	MAHARASHTRA	2038	374	203	525	30	0	2	3172
15	MANIPUR	18	13	0	22	1	0	0	54
16	MEGHALAYA	20	1	0	3	2	0	0	26
17	MIZORAM	11	3	0	1	0	0	0	15
18	NAGALAND	4	3	0	0	1	0	0	8
19	ORISSA	765	344	4	204	52	0	0	1369
20	PUNJAB	1690	257	24	125	59	0	1	2156
21	RAJASTHAN	1979	743	42	283	11	1	0	3059
22	SIKKIM	14	1	0	1	1	0	0	17
23	TAMILNADU	1513	602	38	215	49	0	1	2418
24	TRIPURA	35	6	0	13	0	0	0	54
25	UTTAR PRADESH	35312	17513	1074	4841	119	0	37	58896
26	WEST BENGAL	660	227	72	213	64	0	1	1237
27	ANDAMAN & NICOBAR	20	2	0	1	0	0	0	23
28	CHANDIGARH	100	34	0	14	0	1	0	149
29	DADRA & NAGAR HAVELI	9	3	0	1	0	0	0	13
30	DAMAN & DIU	17	1	0	1	0	0	0	19
31	DELHI	4407	1478	0	779	7	0	4	6675
32	LAKSHADWEEP	5	0	0	0	0	0	0	5
33	PUDUCHERRY	55	13	0	4	0	0	0	72
34	CHHATTISGARH	481	182	8	41	8	0	0	720
35	JHARKHAND	1163	349	0	214	6	0	0	1732
36	UTTARAKHAND	1355	480	0	224	9	0	5	2073
37	FOREIGN COUNTRIES	120	56	0	12	0	0	0	188
GRAND TOTAL		63763	26600	1576	10100	744	3	62	102848



ANNEXURE

5

PARA 6.2

STATEMENT SHOWING STATE/UT-WISE NUMBER OF CASES PENDING AS ON 31/03/2008

S. No.	Name of the State/ Union Territory	Cases awaiting preliminary consideration				Pendency of cases where reports have either been received or awaited from the State Authorities			
		Complaints/ Suo motu Cognizance	Intimation about Custodial Deaths/ Rapes	Encounter Deaths	TOTAL	Complaints/ Suo motu Cognizance Cases	Custodial Deaths/ Rapes	Encounter Deaths	TOTAL
1	2	3	4	5	6	7	8	9	10
1	ALL INDIA	3	0	0	3	4	0	0	4
2	ANDHRA PRADESH	18	7	1	26	379	389	47	815
3	ARUNACHAL PRADESH	1	0	0	1	7	5	0	12
4	ASSAM	14	0	2	16	85	67	33	185
5	BIHAR	105	6	0	111	1449	533	5	1987
6	GOA	1	0	0	1	13	5	0	18
7	GUJARAT	10	3	0	13	350	238	3	591
8	HARYANA	109	1	0	110	696	172	10	878
9	HIMACHAL PRADESH	1	0	0	1	24	7	0	31
10	JAMMU & KASHMIR	6	0	0	6	184	9	5	198
11	KARNATAKA	13	8	0	21	237	273	18	528
12	KERALA	5	2	0	7	75	132	1	208
13	MADHYA PRADESH	64	3	0	67	422	172	13	607
14	MAHARASHTRA	25	17	0	42	451	453	46	950
15	MANIPUR	3	0	0	3	73	1	6	80
16	MEGHALAYA	2	0	0	2	15	8	1	24
17	MIZORAM	0	0	0	0	9	1	0	10
18	NAGALAND	0	0	0	0	2	4	0	6
19	ORISSA	31	1	0	32	275	76	5	356
20	PUNJAB	57	5	0	62	514	106	1	621
21	RAJASTHAN	68	1	0	69	528	117	34	679
22	SIKKIM	2	0	0	2	1	1	0	2
23	TAMILNADU	35	13	0	48	502	434	5	941
24	TRIPURA	0	0	0	0	26	20	2	48
25	UTTAR PRADESH	1451	5	0	1456	12556	873	413	13842
26	WEST BENGAL	42	1	0	43	368	91	7	466
27	ANDAMAN & NICOBAR	0	0	0	0	9	1	0	10
28	CHANDIGARH	2	0	0	2	32	10	0	42
29	DADRA & NAGAR HAVELI	0	0	0	0	2	1	0	3
30	DAMAN & DIU	0	0	0	0	3	0	0	3
31	DELHI	120	1	0	121	1317	106	29	1452
32	LAKSHADWEEP	0	0	0	0	1	0	0	1
33	PUDUCHERRY	2	0	0	2	11	7	0	18
34	CHHATTISGARH	18	1	0	19	168	98	2	268
35	JHARKHAND	31	0	0	31	568	228	8	804
36	UTTARAKHAND	57	1	0	58	464	47	25	536
37	FOREIGN COUNTRIES	4	0	0	4	46	0	0	46
TOTAL		2300	76	3	2379	21866	4685	719	27270
GRAND TOTAL (6+10) 2379+27270 = 29649									



ANNEXURE

6

PARAS 6.6 to 6.10

STATEMENT SHOWING STATE/UT-WISE & CATEGORY-WISE REPORT CASES* DISPOSED OFF DURING 2007-2008

S. No.	Name of the State/Union Territory	Alleged Disappearances	Alleged False Implication	Custodial Violence	Illegal Arrest	Unlawful Detention	Failure in taking Action	Alleged Fake Encounters	Other Alleged Police Excesses	TOTAL
1	2	3	4	5	6	7	8	9	10	11
1	ALL INDIA	0	0	0	0	0	0	0	0	0
2	ANDHRA PRADESH	1	9	0	11	6	34	8	55	124
3	ARUNACHAL PRADESH	0	0	0	0	0	1	0	1	2
4	ASSAM	0	3	0	0	0	11	1	8	23
5	BIHAR	3	47	0	2	15	277	4	168	516
6	GOA	0	0	0	0	0	0	0	1	1
7	GUJARAT	0	12	0	0	6	19	0	19	56
8	HARYANA	2	12	0	3	12	92	1	43	165
9	HIMACHAL PRADESH	1	0	0	0	0	4	0	7	12
10	JAMMU & KASHMIR	1	1	0	1	3	0	1	11	18
11	KARNATAKA	0	4	0	4	4	10	0	29	51
12	KERALA	1	1	0	1	1	4	0	6	14
13	MADHYA PRADESH	1	3	0	2	6	54	1	34	101
14	MAHARASHTRA	7	9	0	1	3	21	3	17	61
15	MANIPUR	0	0	0	1	1	0	0	4	6
16	MEGHALAYA	0	0	0	0	0	0	0	1	1
17	MIZORAM	0	0	0	0	0	0	0	1	1
18	NAGALAND	0	0	0	0	0	0	0	0	0
19	ORISSA	1	2	0	2	1	16	0	24	46
20	PUNJAB	0	4	0	0	2	20	0	19	45
21	RAJASTHAN	0	5	0	3	5	36	1	47	97
22	SIKKIM	0	0	0	0	0	1	0	0	1
23	TAMILNADU	2	13	0	12	16	28	1	57	129
24	TRIPURA	0	0	0	0	0	1	0	5	6
25	UTTAR PRADESH	5	95	1	261	474	721	32	1759	3348
26	WEST BENGAL	1	2	0	0	1	33	1	35	73
27	ANDAMAN & NICOBAR	0	0	0	0	0	0	0	1	1
28	CHANDIGARH	0	1	0	0	0	2	0	4	7
29	DADRA & NAGAR HAVELI	0	0	0	0	0	0	0	1	1
30	DAMAN & DIU	0	0	0	0	0	1	0	0	1
31	DELHI	2	14	1	6	93	145	0	167	428
32	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
33	PUDUCHERRY	0	0	0	0	0	0	0	0	0
34	CHHATTISGARH	0	1	0	1	1	3	0	5	11
35	JHARKHAND	2	9	0	2	3	29	0	33	78
36	UTTARAKHAND	2	7	0	5	22	26	3	61	126
37	FOREIGN COUNTRIES	0	0	0	0	0	0	0	0	0
GRAND TOTAL		32	254	2	318	675	1589	57	2623	5550

*Report cases are the cases other than those dismissed 'in limini' or disposed off with directions or transferred to SHRCs

(Annexure - 6 contd.)

**STATEMENT SHOWING STATE/UT-WISE & CATEGORY-WISE REPORT CASES
DISPOSED OFF DURING 2007-2008**

S. No.	Name of the State/Union Territory	Indignity to Woman	Sexual Harrassment	Abduction/ Rape & Murder	Dowry Deaths or its attempt	Dowry Demand	Exploitation of Woman	Rape of Woman	Total
12	13	14	15	16	17	18	19	20	21
1	ALL INDIA	0	0	0	0	0	0	0	0
2	ANDHRA PRADESH	2	8	4	3	2	1	4	24
3	ARUNACHAL PRADESH	0	0	0	0	0	0	0	0
4	ASSAM	2	0	0	0	0	0	2	4
5	BIHAR	9	11	22	106	15	18	39	220
6	GOA	0	0	0	0	0	0	0	0
7	GUJARAT	1	1	1	0	2	0	3	8
8	HARYANA	6	3	18	22	4	1	11	65
9	HIMACHAL PRADESH	0	0	3	0	2	1	0	6
10	JAMMU & KASHMIR	0	2	1	1	0	0	2	6
11	KARNATAKA	0	6	1	5	2	1	1	16
12	KERALA	0	1	0	1	0	0	0	2
13	MADHYA PRADESH	5	3	12	20	4	1	9	54
14	MAHARASHTRA	1	3	2	4	0	1	2	13
15	MANIPUR	0	0	0	0	0	0	0	0
16	MEGHALAYA	0	0	1	0	0	0	0	1
17	MIZORAM	0	0	0	0	0	0	0	0
18	NAGALAND	0	0	0	0	0	0	0	0
19	ORISSA	8	4	1	13	5	3	6	40
20	PUNJAB	1	1	0	0	0	1	0	3
21	RAJASTHAN	7	1	8	14	5	7	12	54
22	SIKKIM	0	0	0	0	0	0	0	0
23	TAMILNADU	5	2	1	3	2	1	3	17
24	TRIPURA	1	0	0	0	0	0	0	1
25	UTTAR PRADESH	36	26	161	210	52	22	117	624
26	WEST BENGAL	2	1	7	5	4	2	4	25
27	ANDAMAN & NICOBAR	0	0	0	0	0	0	0	0
28	CHANDIGARH	1	0	2	1	0	0	0	4
29	DADRA & NAGAR HAVELI	0	0	0	0	0	0	0	0
30	DAMAN & DIU	0	0	0	0	0	0	0	0
31	DELHI	5	12	27	17	10	6	13	90
32	LAKSHADWEEP	0	0	0	0	0	0	0	0
33	PUDUCHERRY	0	0	0	0	0	0	1	1
34	CHHATTISGARH	1	1	1	0	0	0	2	5
35	JHARKNAND	4	2	3	16	3	8	8	44
36	UTTARAKHAND	3	1	2	2	5	2	3	18
37	FOREIGN COUNTRIES	0	0	0	0	0	1	0	1
GRAND TOTAL		100	89	278	443	117	77	242	1346

(Annexure - 6 contd.)

**STATEMENT SHOWING STATE/UT-WISE & CATEGORY-WISE REPORT CASES
DISPOSED OFF DURING 2007-2008**

S. No.	Name of the State/Union Territory	Child Labour	Child Marriage	Bonded Labour	Alleged Harrassment of Prisoners	Lack of Medical Facilities in Jails	Jail Conditions	Atrocities on SC/ST	Communal Violence	Other Cases	Total (24-32)	Total (11+21+33)
22	23	24	25	26	27	28	29	30	31	32	33	34
1	ALL INDIA	0	0	0	0	0	0	0	0	2	2	2
2	ANDHRA PRADESH	4	0	2	1	0	2	9	0	74	92	240
3	ARUNACHAL PRADESH	0	0	0	0	0	0	0	0	3	3	5
4	ASSAM	0	0	0	0	0	1	1	0	36	38	65
5	BIHAR	1	0	3	6	5	22	43	1	248	329	1065
6	GOA	0	0	0	0	0	0	0	0	1	1	2
7	GUJARAT	0	0	1	1	1	1	1	1	51	57	121
8	HARYANA	1	1	13	7	0	7	3	1	69	102	332
9	HIMACHAL PRADESH	0	0	2	0	0	0	0	0	12	14	32
10	JAMMU & KASHMIR	0	0	2	0	0	1	0	0	43	46	70
11	KARNATAKA	2	0	5	1	0	7	1	0	36	52	119
12	KERALA	0	0	0	0	0	1	0	0	30	31	47
13	MADHYA PRADESH	1	0	0	1	1	0	6	0	99	108	263
14	MAHARASHTRA	1	0	0	11	2	20	2	0	415	451	525
15	MANIPUR	0	0	0	0	0	0	0	0	16	16	22
16	MEGHALAYA	0	0	0	0	0	0	0	0	1	1	3
17	MIZORAM	0	0	0	0	0	0	0	0	0	0	1
18	NAGALAND	0	0	0	0	0	0	0	0	0	0	0
19	ORISSA	1	0	3	3	1	3	2	0	105	118	204
20	PUNJAB	0	0	8	11	0	5	3	0	50	77	125
21	RAJASTHAN	2	5	2	6	0	7	28	0	82	132	283
22	SIKKIM	0	0	0	0	0	0	0	0	0	0	1
23	TAMILNADU	0	1	3	2	0	3	10	0	50	69	215
24	TRIPURA	0	0	0	0	0	0	0	0	6	6	13
25	UTTAR PRADESH	12	9	32	54	14	45	51	0	652	869	4841
26	WEST BENGAL	0	1	0	2	0	1	1	0	110	115	213
27	ANDAMAN & NICOBAR	0	0	0	0	0	0	0	0	0	0	1
28	CHANDIGARH	0	0	0	0	0	0	0	0	3	3	14
29	DADRA & NAGAR HAVELI	0	0	0	0	0	0	0	0	0	0	1
30	DAMAN & DIU	0	0	0	0	0	0	0	0	0	0	1
31	DELHI	3	3	3	9	1	12	5	0	225	261	779
32	LAKSHADWEEP	0	0	0	0	0	0	0	0	0	0	0
33	PUDUCHERRY	0	0	0	1	0	0	0	0	2	3	4
34	CHHATTISGARH	0	0	0	0	0	2	3	0	20	25	41
35	JHARKHAND	1	0	0	3	2	4	5	0	77	92	214
36	UTTARAKHAND	0	0	3	4	1	2	1	0	69	80	224
37	FOREIGN COUNTRIES	0	0	0	0	0	1	0	0	10	11	12
GRAND TOTAL		29	20	82	123	28	147	175	3	2597	3204	10100



ANNEXURE

7

PARAS 6.13 & 6.284

TOTAL NUMBER OF CASES WHERE THE COMMISSION RECOMMENDED MONETARY RELIEF/ DISCIPLINARY ACTION/ PROSECUTION DURING 2007-2008

Sl. No.	Name of State/ Union Territory	No. of cases in which recommendations were made during 2007-2008	Amount recommended	No. of cases where recommendations have been complied with	Amount paid & Status of Other Recommendations	No. of cases pending for compliance	Recommended Amount/action pending for compliance
1	Andhra Pradesh	18 cases (Monetary relief in 17 cases including disciplinary action in 1 case and only disciplinary action in 1 case)	50,75,000	11	44,00,000 and disciplinary action in 1 case	7 cases (Monetary relief in 6 cases & disciplinary action in 1 case)	6,75,000 and disciplinary action in 1 case
2	Arunachal Pradesh	Monetary relief in 2 cases.	4,00,000	1	3,00,000	1	1,00,000
3	Assam	Monetary relief in 4 cases.	8,00,000	1	4,00,000	3	4,00,000
4	Bihar	Monetary relief in 22 cases, out of which disciplinary action also recommended in 1 case	38,35,000	7	13,35,000	15	25,00,000 and disciplinary action in 1 case
5	Gujarat	6 (Monetary relief in 5 cases including disciplinary action recommended in 1 case and in 1 case only disciplinary action was recommended)	10,00,000	3	7,00,000 and disciplinary action in 1 case	3	3,00,000 and disciplinary action in 1 case
6	Haryana	Monetary relief in 8 cases.	8,10,000	7	7,90,000	1	20,000.00
7	Jammu & Kashmir	Monetary relief in 4 cases.	11,50,000	1	2,00,000	3	9,50,000
8	Karnataka	Monetary relief in 4 cases.	8,00,000	3	5,00,000	1	3,00,000
9	Kerala	Monetary relief in 4 cases.	2,80,000	3	2,30,000	1	50,000
10	Madhya Pradesh	Monetary relief in 9 cases.	22,25,000	8	19,25,000	1	3,00,000
11	Maharashtra	Monetary relief in 7 cases.	10,00,000	1	1,00,000	6	9,00,000
12	Manipur	Monetary relief in 1 case.	60,000	1	60,000	-	-
13	Orissa	Monetary relief in 6 cases.	3,35,000	4	1,35,000	2	2,00,000
14	Punjab	Monetary relief in 5 cases, out of which disciplinary action also recommended in 1 case)	7,25,000	4	4,25,000	1	3,00,000 and disciplinary action in 1 case.
15	Rajasthan	Monetary relief in 1 case.	30,000	-	-	1	30,000
16	Tamil Nadu	Monetary relief in 11 cases, out of which disciplinary action recommended in 3 cases and prosecution of delinquent public servant in 1 case.	12,85,000	6	8,10,000 and disciplinary action also taken in 2 cases	5	4,75,000 and disciplinary action as well as prosecution of delinquent public servants in 1 case.
17	Uttar Pradesh	Monetary relief in 62 cases, out of which disciplinary action and prosecution of delinquent public servant was also recommended in 1 case.	81,95,000	36	45,95,000	26	36,00,000 and disciplinary action as well as prosecution of delinquent public servant in 1 case.
18	West Bengal	Monetary relief in 5 cases.	15,00,000	2	12,50,000	3	2,50,000
19	Delhi	Monetary relief in 9 cases.	10,70,000	6	8,60,000	3	2,10,000
20	Chhattisgarh	Monetary relief in 2 cases.	6,00,000	1	1,00,000	1	5,00,000
21	Jharkhand	Monetary relief in 8 cases.	6,55,000	5	3,45,000	3	3,10,000
22	Uttarakhand	Monetary relief in 3 cases, out of which disciplinary action recommended in 1 case.	1,70,000	1	50,000 and disciplinary action in 1 case	2	1,20,000
	TOTAL	Monetary relief in 199 cases, disciplinary action in 11 cases and prosecution in 2 cases.	3,20,00,000	112	1,95,10,000 (including 5 cases of disciplinary action)	89	1,24,90,000 (including 6 cases of disciplinary action & 2 cases of prosecution)



ANNEXURE

8

PARA 6.285

STATEMENT SHOWING DETAILS OF CASES PENDING COMPLIANCE OF THE COMMISSION'S RECOMMENDATIONS DURING 2007-2008 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/ PROSECUTION

Sl. No.	Name of the State/Union Territory	Case No.	Nature of complaint	Recommendation	Date of recommendation	Remarks
1.	Andhra Pradesh	393/1/2002-2003-CD	Death in judicial custody(intimation)	Recommended Rs.50,000/- as monetary relief.	26.12.2007	Compliance report awaited.
2.	Andhra Pradesh	673/1/2004-2005-CD	Death in judicial custody(intimation)	Recommended Rs.50,000/- as monetary relief.	08.10.2007	Proof of payment awaited.
3.	Andhra Pradesh	330/1/2002-2003-CD	Death in police custody(intimation)	Recommended Rs.1,00,000/- as monetary relief.	11.02.2008	Compliance report and proof of payment awaited.
4.	Andhra Pradesh	611/1/2002-2003-CD	Death in police custody(intimation)	Recommended Rs.75,000/- as monetary relief.	26.07.2007	Proof of payment is awaited.
5.	Andhra Pradesh	819/1/2004-2005-CD	Death in police custody(intimation)	Departmental enquiry against the errant doctor.	15.02.2008	Compliance report awaited.
6.	Andhra Pradesh	308/1/2003-2004-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	14.02.2008	Compliance report awaited.
7.	Andhra Pradesh	614/1/2001-2002-CD	Death in judicial custody (intimation)	Recommended Rs.3,00,000/- as monetary relief.	03.03.2008	Compliance report awaited.
8.	Arunachal Pradesh	14/2/2003-2004-CD	Death in police custody(intimation)	Recommended Rs.1,00,000/- as monetary relief.	12.12.2007	Proof of payment is awaited.
9.	Assam	111/3/2003-2004-CD	Death in police custody(intimation)	Recommended Rs.1,00,000/- as monetary relief.	20.02.2008	Sanction order for Rs. one lakh has been passed. However proof of payment is awaited.
10.	Assam	25/3/2002-2003-CD	Death in police custody(intimation)	Recommended Rs.2,00,000/- as monetary relief.	27.08.2007	Proof of payment awaited.
11.	Assam	106/3/2001-2002-AF	Death of a colonel in the course of counter insurgency operation	Recommended Rs.1,00,000/- as monetary relief.	19.03.2008	Compliance report awaited.
12.	Bihar	1231/4/2000-01-CD	Death in judicial custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	8.05.2007	Compliance report awaited.
13.	Bihar	3731/4/02-03	Death in fake encounter(intimation)	Recommended Rs.2,00,000/- as monetary relief.	17.05.2007	Compliance report and proof of payment awaited.

contd./-

14.	Bihar	2812/4/97-98	Death in fake encounter (intimation)	Recommended Rs.3,00,000/- as monetary relief.	1.08.2007	Compliance report awaited.
15.	Bihar	1633/4/2005-2006	Death of a student due to severe beating by the School Teacher (suo motu cognizance)	Recommended Rs.2,00,000/- as monetary relief.	8.08.2007	Compliance report awaited.
16.	Bihar	3133/4/97-98	Death in judicial custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	24.09.2007	Compliance report and proof of payment awaited.
17.	Bihar	689/4/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	9.12.2007	Compliance report and proof of payment awaited.
18.	Bihar	2887/4/2005-2006-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	3.12.2007	Compliance report and proof of payment awaited.
19.	Bihar	1015/4/2002-2003-AD	Death in judicial custody (intimation)	Recommended Rs.3,00,000/- as monetary relief.	17.12.2007	Compliance report and proof of payment awaited.
20.	Bihar	2252/4/2003-2004-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	28.12.2007	Compliance report and proof of payment awaited.
21.	Bihar	2848/4/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs.1,50,000/- as monetary relief	2.01.2008	Compliance report and proof of payment awaited.
22.	Bihar	2417/4/98-99	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	25.02.2008	Compliance report and proof of payment awaited.
23.	Bihar	1676/4/2003-2004-CD	Death in judicial custody (intimation)	Recommended Rs.1,50,000/- as monetary relief	12.03.2008	Compliance report and proof of payment awaited.
24.	Bihar	838/4/2006-2007-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	29.02.2008	Proof of payment awaited.
25.	Bihar	656/4/2000-2001-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	18.02.2008	Compliance report and proof of payment awaited.
26.	Bihar	1902/4/2000-2001	Complaint alleging death due to electrocution by the over hanging electric wire.	Recommended Rs.2,00,000/- as monetary relief.	20.02.2008	Compliance report and proof of payment awaited.
27.	Gujarat	653/6/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	3.09.2007	Case pending in the High Court.
28.	Gujarat	310/6/2003-2004-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	5.09.2007	Proof of payment awaited.
29.	Gujarat	136/6/25/07-08	Harassment and torture by Haryana police (complaint)	The Commission recommended disciplinary action against the erring police officials.	15.02.2008	Compliance report awaited.

contd./-

30.	Haryana	1906/7/2006-2007-WC	A girl allegedly abused by police (suo-motu cognizance)	Recommended Rs.20,000/- As monetary relief + Departmental action against errant police personnel	29.02.2008	Compliance report awaited.
31.	Jammu & Kashmir	162/9/1999-2000	Illegal detention and torture by the local police (complaint)	Recommended Rs.1,00,000/- as monetary relief.	12.03.2008	Compliance report and proof of payment awaited.
32.	Jammu & Kashmir	97/9/2005-2006	Death in police firing(intimation)	Recommended Rs.2,50,000/- (i.e. Rs.2,00,000/- to Nishu Sharma and Rs.50,000/- to Rakesh Sharma)	22.08.2007	Compliance report and proof of payment awaited.
33.	Jammu & Kashmir	179/9/2002-2003 -AD	Alleging death of 3 persons by Army personnel (complaint)	Recommended to the Union Government of India to pay Rs. 2 laks each to the next of the kin of the deceased (Rs. 6,00,000)	03.08.2007	Compliance report awaited.
34.	Karnataka	180/10/2004-2005-CD	Death in police custody(intimation)	Recommended Rs.3,00,000/- as monetary relief	17.09.2007	Compliance report and proof of payment awaited.
35.	Kerala	95/11/99-2000	Death of a Head Constable while on duty, for want of timely medical care (complaint)	Recommended Rs. 50,000/- as monetary relief	29.08.2007	Compliance report awaited as the matter challenged in the High Court of Kerala
36.	Madhya Pradesh	12/395/95-LD	Death due to Police torture (complaint)	Recommended Rs.3,00,000/- as monetary relief	6.02.2008	Compliance report awaited
37.	Maharashtra	2788/13/03-04-CD	Death in police custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	30.05.2007	Proof of payment awaited.
38.	Maharashtra	548/13/03-04-CD	Death in police custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	11.06.2007	Proof of payment awaited.
39.	Maharashtra	1287/13/02-03-CD	Death in police custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	18.06.2007	Compliance report and proof of payment awaited.
40.	Maharashtra	2021/13/2000-2001-AD	Death in police custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	14.01.2008	Compliance report and proof of payment awaited.
41.	Maharashtra	415/13/02-03-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	30.01.2008	Compliance report and proof of payment awaited.

contd./-

42.	Maharashtra	1299/13/2000-2001-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	04.03.2008	Compliance report and proof of payment awaited.
43.	Orissa	42/18/2003-2004-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	12.12.2007	Proof of payment awaited.
44.	Orissa	323/18/04-05	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	23.01.2008	Compliance report and proof of payment awaited.
45.	Punjab	104/19/2006-2007	Illegal detention and harassment by police (complaint)	Recommended Rs.3,00,000/- as monetary relief	20.02.2008	Compliance report awaited.
46.	Rajasthan	1635/20/2002-2003	Unlawful detention by police (complaint)	Recommended Rs.30,000/- as monetary relief.	8.10.2007	Proof of payment awaited.
47.	Tamilnadu	1213/22/2002-2003	False implication in a theft case by police, for not fulfilling their demand of bribe (complaint)	Recommended Rs.50,000/- as monetary relief	14.03.2008	Proof of payment awaited.
48.	Tamilnadu	404/22/98-99	Illegal detention by police (complaint)	Recommended Rs.25,000/- as monetary relief.	28.11.2007	Proof of payment awaited.
49.	Tamilnadu	728/22/04-05-CD	Death in police custody (intimation)	Recommended Rs.2,00,000/- as monetary relief.	31.03.2008	Rs. 1 lakh has already been paid and remaining Rs. 1 lakh has to be paid.
50.	Tamilnadu	333/22/2004-2005	Physical torture by police (complaint)	Recommended Rs.1,00,000/- as monetary relief + departmental action + prosecution against errant police personnel	7.03.2008	Compliance report awaited.
51.	Tamilnadu	482/22/2004-2005	Death in custody of Forest Officials	Recommended Rs.,1,00,000/- as monetary relief	20.02.2008	Compliance report awaited.
52.	Uttar Pradesh	11/24/2006-07	Unlawful detention by police (complaint)	Recommended Rs.10,000/- as monetary relief.	28.02.2008	Compliance report awaited.
53.	Uttar Pradesh	18427/24/2001-2002	Illegal detention by police (complaint)	Recommended Rs.25,000/- as monetary relief.	12.11.2007	Compliance report awaited.
54.	Uttar Pradesh	36867/24/2002-2003	Death of a bonded labour and inaction by local police	Recommended Rs.5,000/-, as monetary relief. + departmental action against errant police personnel.	8.11.2007	Compliance report awaited.
55.	Uttar Pradesh	12821/24/2002-2003	Illegal detention by revenue authorities due to wrong recovery certificate, (complaint)	Recommended Rs.25,000/- as monetary relief.	22.02.2008	Compliance report awaited.

contd./-

56.	Uttar Pradesh	16838/24/2004-2005	Illegal detention by revenue authorities in wrongful recovery proceedings, (complaint)	Recommended Rs.50,000/- as monetary relief.	07.03.2008	Compliance report and proof of payment awaited.
57.	Uttar Pradesh	14621/24/02-03-CD	Death in judicial custody (intimation)	Recommended Rs.10,000/- as monetary relief.	3.09.2007	Compliance report and proof of payment awaited.
58.	Uttar Pradesh	36/24(74)/96-LD	Death in police custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	24.10.2007	Proof of payment awaited.
59.	Uttar Pradesh	26685/24/1999-2000	Unlawful detention by police (complaint)	Recommended Rs.25,000/- as monetary relief.	12.11.2007	Compliance report and proof of payment awaited.
60.	Uttar Pradesh	7049/24/2000-2001-CD	Death in judicial custody (intimation)	The Commission recommended Rs.3,00,000/- as monetary relief	10.03.2008	Proof of payment awaited.
61.	Uttar Pradesh	26626/24/2000-2001	Alleged death in judicial custody (complaint)	Recommended Rs. 10,50,000/- (i.e. Rs.1,50,000/- to NOK of 5 deceased and Rs. 3,00,000/- to one Vishwas Tyagi)	17.03.2008	Compliance report and proof of payment awaited.
62.	Uttar Pradesh	43727/24/2005-2006	Illegal detention by police (complaint)	Recommended Rs. 10,000/- as monetary relief.	04.03.2008	Compliance report awaited.
63.	Uttar Pradesh	38771/24/2002-2003	Illegal arrest by police (complaint)	Recommended Rs.5,000/- as monetary relief.	30.08.2007	Compliance report awaited.
64.	Uttar Pradesh	6310/24/2003-2004-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	15.11.2007	Compliance report awaited.
65.	Uttar Pradesh	17012/24/2001-2002-CD	Death in judicial custody (intimation)	Recommended Rs.50,000/- as monetary relief.	14.02.2008	Compliance report awaited.
66.	Uttar Pradesh	30093/24/2004-2005-WC	Alleged sexual harassment (complaint)	Recommended Rs.20,000/- as monetary relief.	26.12.2007	Compliance report awaited.
67.	Uttar Pradesh	39488/24/2002-2003	Harassment of Prisoners by Chief Warden (complaint)	Recommended Rs.5,000/- as monetary relief	26.12.2007	Compliance report awaited.
68.	Uttar Pradesh	19721/24/2005-2006	Illegal arrest by police (complaint)	Recommended Rs.10,000/- as monetary relief.	12.03.2008	Compliance report awaited.
69.	Uttar Pradesh	30217/24/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs.10,000/- as monetary relief.	20.02.2008	Compliance report awaited.
70.	Uttar Pradesh	24835/24/2002-2003-AD	Alleged death in judicial custody	Recommended Rs.2,00,000/- as monetary relief.	25.06.2007	Compliance report awaited.
71.	Uttar Pradesh	24/2374/95-LD	Complaint about fake encounter.	Recommended Rs.6,00,000/- as monetary relief.	04.07.2007	Compliance report awaited.

contd./-

72.	Uttar Pradesh	43972/24/2006-2007	Complaint about labourers being kept as bonded labour in brick kiln.	Recommended Rs.5,60,000/- as monetary relief.	13.12.2007	Compliance report awaited.
73.	Uttar Pradesh	26989/24/22/07-08	Suo motu cognizance of a media news about a child being brutally beaten up by a constable.	Recommended Rs.20,000/- as monetary relief.	28.01.2008	Compliance report awaited.
74.	Uttar Pradesh	974/24/2006-2007-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	29.01.2008	Compliance report awaited.
75.	Uttar Pradesh	2144/24/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	04.02.2008	Compliance report awaited.
76.	Uttar Pradesh	46335/24/2006-2007	Complaint about illegal detention by police	Recommended Rs.10,000/- as monetary relief.	25.02.2008	Compliance report awaited.
77.	Uttar Pradesh	3519/24/2003-2004	Complaint alleging fake encounter by police.	Recommended Rs.2,00,000/- as monetary relief	04.03.2008	Compliance report awaited.
78.	West Bengal	147/25/2001-2002-CD	Death in judicial custody (intimation)	Recommended Rs.1,00,000/- as monetary relief.	7.03.2008	Proof of payment awaited.
79.	West Bengal	589/25/02-03	A boy severely injured on being shot accidentally by a guard of a Colliery under Deptt. of Coal, Government of India (complaint)	Recommended Rs.1,00,000/- as monetary relief.	28.12.2007	Compliance report and proof of payment awaited.
80.	West Bengal	222/25/19/07-08	Unlawful detention and physical torture by police (complaint)	Recommended Rs.50,000/- as monetary relief.	13.03.2008	Compliance report awaited.
81.	Delhi	2678/30/2004-2005	Alleged harassment and wrong challan under Motor Vehicle Act by the police for not fulfilling their demand of bribes. (complaint)	Recommended Rs.10,000/- as monetary relief and departmental action against the errant police personnel.	12.12.2007	Proof of payment awaited.
82.	Delhi	102/30/05-06	Severe health problems suffered by a girl due to supply of wrong medicine by CGHS dispensary (a complaint)	Recommended Director, CGHS to pay Rs.1,00,000/- as monetary relief.	30.7.2007	Compliance report awaited as the matter challenged in the High Court of Delhi

contd./-

83.	Delhi	272/30/2000-2001-CD	Death in judicial custody (intimation)	Recommended Rs. 1,00,000/- as monetary relief.	17.10.2007	Compliance report awaited.
84.	Chhattisgarh	99/33/04-05-WC	Gang Rape of ST woman (complaint)	Recommended Rs. 5,00,000/- as monetary relief.	17.3.2008	Compliance report and proof of payment awaited.
85.	Jharkhand	1253/34/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs. 2,00,000/- as monetary relief.	9.5.2007	Proof of payment awaited.
86.	Jharkhand	1431/34/2001-2002	Alleged custodial torture by police (complaint)	Recommended Rs. 10,000/- as monetary relief and departmental action against the errant police personnel	11.2.2008	Proof of payment awaited.
87.	Jharkhand	312/4/2000-2001-CD	Death in judicial custody (intimation)	Recommended Rs. 1,00,000/- as monetary relief	20.02.2008	Compliance report and proof of payment awaited.
88.	Uttarakhand	682/35/2002-2003-CD	Death in judicial custody (intimation)	Recommended Rs. 1,00,000/- as monetary relief.	26.02.2008	Compliance report awaited.
89.	Uttarakhand	718/35/2003-2004	Complaint alleging beating up and abuse by police	Recommended Rs. 20,000/- as monetary relief.	09.10.2007	Compliance report awaited.



ANNEXURE

9

PARA 6.288

STATEMENT OF CASES PENDING COMPLIANCE OF THE COMMISSION'S RECOMMENDATIONS MADE DURING 1999-2000 TO 2006-2007 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of State/ Union Territory	Case No.	Nature of complaint	Recommendation	Date of recommendation	Remarks
1	Bihar	2214/4/2003-2004	Complaint regarding injuries sustained in police firing,	Recommended monetary relief of Rs.30,000/-	07.02.2007	Compliance report awaited.
2	Gujarat	608/6/2002-2003	Complaint against harassment and torture by the police	Recommended monetary relief of Rs. 20,000/- & Rs.10,000/- each to two victims and disciplinary action against the delinquent police officials.	23.01.2006	Compliance report awaited.
3	Jharkhand	4/743/95-LD	Complaint alleging death in police custody	Recommended monetary relief of Rs. 4,00,000/- and prosecution and departmental action against two police officials.	20.1.2000	Compliance report awaited.
4	Karnataka	10/3295-LD	Alleged death in police custody (<i>suo -motu</i> cognizance)	Recommended monetary relief of Rs. 3,00,000/-	21.05.1999	Sanction order received proof of payment awaited.
5	Kerala	235/11/98-99	Complaint from former Director, ISRO, Bangalore reg. false implication	Recommended monetary relief of Rs. 10,00,000/-	14.3.2001	The State Govt. has filed a Writ Appeal against the recommendations of the Commission.
6	Madhya Pradesh	978/12/2005-2006	Assault and threats by police for demand of gratification	Recommended departmental action against errant police personnel.	27.07.2006	Compliance report awaited.

contd./-

Sl. No.	Name of State/ Union Territory	Case No.	Nature of complaint	Recommendation	Date of recommendation	Remarks
7	Orissa	123/18/1999-2000	Complaint alleging physical torture and illegal detention by police.	Recommended monetary relief of Rs.50,000/- and disciplinary action against errant police personnel also.	31.7.2000	The State Govt. has filed a Writ Petition in the High Court of Orissa against the recommendations of the Commission
8	Rajasthan	1042/20/2003-2004	Complainant alleging false implication of charges by the police	Recommended monetary relief of Rs. 10,000/-	21.6.2005	Compliance report awaited.
9	Rajasthan	20/599/96-LD (12462/96-97-NHRC)	Labourers sustained injuries at worksite due to collapse of a trench.	Recommended monetary relief of Rs. 80,000/- (Rs.25,000/- to each of the N.O.K. of the 2 deceased victims, and Rs15,000 to each of the 2 injured victims.	25.10.2000	Rs.65,000/- has been paid, compliance of payment of Rs.15,000/- to one of the injured victims, is awaited.
10	Tamilnadu	795/22/97-98-FC Linked Cases- 222/10/97-98, 534/22/97-98, 249/10/98-99, 79/10/98-99, 248/10/97-98, 250/10/97-98, 318/10/97-98 & 329/10/98-99	Complaints received from several individuals and NGOs alleging violation of human rights of villagers and tribals by the Joint Special Task Force set up to apprehend Veerappan, the sandalwood smuggler.	Recommended monetary relief of Rs.2,80,00,000/- to 89 persons, Rs.2,69,00,000/- paid to 86 persons. Rs.11,00,000/- to 3 persons yet pending	15.1.2007	Compliance report awaited.
11	Uttar Pradesh	4122/24/2001-2002	Bonded Labour	Recommended monetary relief of Rs.30,00,000/-, (Rs. 1000/- each to 300 Bonded labourers).	28.02.2005	Compliance report awaited.
12	Uttar Pradesh	18413/24/2001-2002	Death in police custody (a complaint)	Recommended monetary relief of Rs. 1,00,000 /-	2.11.2005	Compliance report awaited.



ANNEXURE

10

PARA 6.289

STATEMENT SHOWING NUMBER OF CASES WHERE COMMISSION'S RECOMMENDATIONS MADE DURING 1993-1994 TO 2006-2007 FOR PAYMENT OF MONETARY RELIEF / DISCIPLINARY ACTION / PROSECUTION CHALLENGED IN THE COURT

Sl. No.	Name of State/ Union Territory	Case No.	Nature of complaint	Recommendation	Date of recommendation	Remarks
1	Jharkhand	4/743/95-LD	Complaint alleging death in police custody	Recommended Rs. 4,00,000/- and prosecution and departmental action against two police officials	20.1.2000	Matter pending in Delhi High Court.
2	Kerala	235/11/98-99	Complaint from former Director, ISRO, reg. false implication	Recommended Rs. 10,00,000/- to the complainant	14.3.2001	The State Govt. has filed a Writ Appeal against the recommendations of the Commission.
3	Orissa	123/18/1999-2000	Complaint alleging physical torture and illegal detention by police.	Recommended compensation of Rs.50,000/- & disciplinary action against errant police personnel	31.7.2000	The State Govt. has filed Writ Petition in the High Court of Orissa against the recommendations of the Commission.



REPORT OF THE NHRC COMMITTEE ON MISSING CHILDREN

FOREWORD

Children are the nation's assets. A happy child will make his/her home and the country happy. The future of any country depends upon the right upbringing of its children, for which a congenial environment and adequate opportunities for wholesome development are essential.

According to UNICEF's "The State of the World's Children," report for 2006, one-third of the world's children lack adequate shelter, 31% lack basic sanitation and 21% have no access to clean, potable water. Illness, malnutrition, and premature death are common when children lack the most basic protection.

The brutal killing of several innocent children in Nithari sparked off nation wide indignation on the abuse to which the victims were subjected and gross violations of their human rights. It was shame that shook the nation's conscience.

In order to put an end to this callous indifference and insecurity with regard to the protection of children and to prevent more lives from being lost in similar crimes, the National Human Rights Commission constituted a Committee to look into the issue of 'missing' children. The Committee was to examine the problem of missing children and bring this issue to the forefront as a national priority. At present Missing Children remains a neglected, low- priority intervention area for everyone other than those who have lost their children.

It will be NHRC's endeavor to ensure that such grave human rights violation is prevented. It is hoped that the State Government, the departments concerned and society will join the NHRC's efforts.

I take this opportunity to thank all the Committee Members and those who have contributed to strengthening the dialogue on this vital concern and enabled us to identify imperatives and formulate action plans at various levels. I would especially like to place on record my thanks and gratitude to Dr. Savita Bhakhry, Senior Research Officer, NHRC who prepared the initial draft and marshalled the entire data that has gone into the making of this report. My thanks are also due to Shri Ajai Bakshi, who recorded the minutes of the meetings held by the Committee in this regard.

I do hope that the recommendations find their meaningful worth in preventing perpetration of heinous crimes against children.

Sd/-
(P. C. Sharma)
Member, NHRC



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1. Constitution of the Committee at NHRC to Examine the Problem of Missing Children
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CONSTITUTION OF THE COMMITTEE AT NHRC TO EXAMINE THE PROBLEM OF MISSING CHILDREN



CHAPTER

I

The National Human Rights Commission (NHRC) has been concerned about the problem of missing children ever since it was constituted in October 1993. It has sent notices and called for reports on action taken from many State Governments/Union Territories.

In addition, the manner in which young children went missing from one of the neighbouring villages of the National Capital Territory of Delhi, namely, Nithari in NOIDA, which falls under the overall jurisdiction of the State of Uttar Pradesh, had a deep impact on the Commission. Taking *suo motu* cognizance of the matter, the Commission noted, "the phenomenon of missing children is not confined to Nithari or Uttar Pradesh alone. The Commission has come across media reports of similar incidents from other parts of the country as well. The problem of missing children has thus become an issue of grave concern to the nation and more so, to the National Human Rights Commission of India as it has the mandate for better protection and promotion of human rights and also to deal with cases of human rights violations that come to its notice and make appropriate recommendations in that regard, including giving relief to the victims. The Commission is, therefore, of the opinion that this issue should be examined in depth and guidelines should be evolved to deal with such cases effectively and meaningfully to protect and promote human rights of children and also take appropriate steps where violations of human rights are found in this regard".

Accordingly, on 12th of February 2007, the National Human Rights Commission constituted a Committee to examine the issue of missing children in depth and evolve simple, practical guidelines so that appropriate recommendations may be evolved by the Commission and forwarded to the relevant authorities across the States/Union Territories as well as to the Government of India that would facilitate in tracing and restoring missing children back to their families or to agencies/support systems where they could be taken care of and protected. The constitution of the Committee was as follows:

- | | | |
|---|-------|----------|
| 1) Shri P.C. Sharma
Member NHRC | | Chairman |
| 2) Shri Damodar Sarangi
Director General (Investigation)
NHRC | | Member |

- | | | |
|---|-------|----------|
| 3) Shri A.K. Garg
Acting Registrar(Law)
NHRC | | Member |
| 4) Dr. Savita Bhakhry
Senior Research Officer
NHRC | | Member |
| 5) Shri P.M.V. Siromony
Chief Coordinator (Training)
NHRC | | Convener |

The Committee co-opted the following experts for advice and participation during deliberations:

- 1) Dr. P. M. Nair, IPS, Project Coordinator, Anti-Human Trafficking, UNODC, New Delhi.
- 2) Prof. B. B. Pande, Retd. Professor of Law, University of Delhi & Consultant, NHRC.
- 3) Ms. Shanta Sinha, Chairperson, National Commission for Protection of Child's Rights, New Delhi.
- 4) Prof. C. Raj Kumar, School of Law, City University of Hong Kong, Kwoloon, Hong Kong.

The Committee also held wide consultations with various stakeholders in the Government, including the Ministry of Home Affairs, Ministry of Women & Child Development, Ministry of Labour, Ministry of Social Welfare, Government of Delhi, Delhi Police, National Crime Records Bureau (under the Ministry of Home Affairs), UNICEF and several leading NGOs in India working in this field as well as experts having intimate knowledge of the subject. The Committee also received valuable inputs from Ms. Ritu Sarin, Indian Express, Shri Gerry Pinto, Advisor, Butterflies, Delhi; Shri Sanat Sinha, Balasakha Trust, a Patna based NGO.

The Commission did not set-up any specific Terms of Reference for the Committee. However, the Committee on its own decided to use the following Terms of Reference:

- To make an overall assessment of the role played by the police and local administration in different States/Union Territories across the country in locating/tracing missing children;
- To make an in-depth study and analysis of Rules, Guidelines, Circulars and Orders being followed by the police in locating/tracing missing children;
- To examine the good practices being followed by States/Union Territories, if any, in

finding/tracing missing children as well as study important rulings/guidelines issued by the Apex and other Courts in the country for protection or searching of missing children;

- To study the role played by other governmental and non-governmental organizations, including media and the civil society in finding/tracing missing children as well as cooperation extended by them to the families of missing children;
- To study the role of the Panchayati Raj institutions;
- To evolve practical guidelines for police and other stakeholders for initiating standardized measures that would not only facilitate in tracing and restoring missing children back to their families but also make the stakeholders accountable.

The Committee was given the option of obtaining assistance and help from other experts and organizations, as it deemed proper.



SITUATIONAL ANALYSIS OF MISSING CHILDREN IN INDIA



CHAPTER

II

Children and childhood across the world, have broadly been construed in terms of a 'golden age' synonymous with innocence, freedom, joy, play and the like. It is a time when one is spared the rigours of adult life, responsibility and obligations. At the same time, it is also the time when children are most vulnerable, especially when they are very young, because they need to be cared for and protected from 'the harshness of the world outside'. This being so, the adult-child relation, with respect to parents in particular, should be to provide 'care, love and protection' - serving thereby the 'best interests of the child' and meeting their day-to-day 'needs of survival and wholesome personal development'. Society as a whole and the adults, in particular, are to act as the guardians of children and in that respect are expected to take the responsibility of their welfare and development. In reality, this is an ideal very difficult to fulfill as not a single day passes without a case in which a child has either been exploited, abused or found to be missing or killed. This being so, children as a category are susceptible to a range of crimes.

The Problem of Missing Children

India is home to more than 400 million children below the age of 18 years, and is considered one of the countries in which youth and children comprise more than 55% of the population. These children represent diverse cultures, religions, castes, communities & social and economic groups. The Government is undoubtedly committed to doing its best for children. However, despite its best efforts, there are innumerable children who are subjected to exploitation and atrocities of various kinds. Moreover, countless children go 'missing' every year. These cases of missing children represent a conglomeration of a number of problems, including abductions/kidnappings by family members, abductions/kidnappings carried out by non-family members or strangers, children who run away on their own or are forced to run away due to compelling circumstances in their families and extended surroundings, children who face unfriendly and hostile environment and are asked to leave home or who are abandoned, children who are trafficked or smuggled or exploited for various purposes, and children who are lost or injured. Undoubtedly, each of these groups of children exemplifies different social problems. Since, as a group, missing children -- are so heterogeneous, there is no adequate data or consistently applied set of definitions to describe them. In addition, many cases of missing children are not reported to the police at all for various reasons, and police involvement in the

resolution of different kinds of cases varies widely across the country. All this poses a serious problem. The NHRC Action Research on Trafficking, published by Orient Longman in 2005, has shown that in any given year, an average of 44000 children are reported missing; of them, as many as 11000 remain untraced.

The revelations at Nithari exemplify that missing children may end up in a variety of places and situations -- killed and buried in a neighbour's backyard, working as cheap forced labour in illegal factories/establishments/homes, exploited as sex slaves or forced into the child porn industry, as camel jockeys in the Gulf countries, as child beggars in begging rackets, as victims of illegal adoptions or forced marriages, or perhaps worse than any of these as victims of organ trade and even grotesque cannibalism as reported at Nithari.

The Committee observed that there are some studies conducted by both governmental and non-governmental organizations, which bear testimony to the fact that, a large number of girls and boys who run away from their homes or are said to have run away from their homes are mainly school dropouts or children fed up with domestic conditions. The glamour and lure of big cities often make them blind to the stark realities of urban life. Being vulnerable, they often fall prey to promises of jobs or careers in films or modeling and eventually end up as sex workers or as domestic help/labourers in homes, small hotels/restaurants, tea shops/stalls and unorganized establishments, many of them hazardous. Many of the run away boys and girls become victims of the organized begging rackets or pick-pocketing/drug peddling racket etc. Most of these children are also trafficked and further abused, physically or sexually, and their cases are not even brought to the knowledge of the police. Many of these children come from indigent families who either do not have access to authorities or whose complaints are not treated with due diligence. The Action Research Study on Trafficking by NHRC has brought out several case studies to establish this linkage between "trafficking" and "persons reported missing".

The Committee observed that the juvenile justice system too has failed to provide due care and protection to children. Despite the specific provisions made in the Juvenile Justice (Care and Protection of Children) Act, 2000 and its amendment thereof in 2006, many State Governments/Union Territories are yet to frame Rules under the principal Act. In a majority of places, Special Juvenile Police Units had not been set up. All this has eroded the confidence of the people in the system.

When a child goes missing, nobody, except the perpetrator, knows the real intent behind it. It could be quite possible that the child for various reasons has run away on his or her own from home, a relative's home, or an institution, which the child's parents/caretakers construe, as 'missing'. On the other hand, it is also possible that the child may have gone missing from the scene for a different reason altogether, which could be sexual gratification, sexual exploitation, labour exploitation, profit-making, or personal vengeance, etc. In these cases the person(s)

directly or indirectly involved in the incident may resort to crimes of various kinds ranging from kidnapping, abduction, grievous hurt, assault, rape, unnatural offences, and even murder of the child. In fact, even a child who has run away on purpose is also susceptible to being kidnapped, abducted, abused or assaulted. This raises the question as to why reports of missing children are not treated as cognizable offence.

General Pattern of Investigation Followed for 'Missing Children'

Normally, the investigation of a crime commences with the registration of a First Information Report (FIR) in a police station. The registration of an FIR pre-supposes a cognizable offence. However, in the case of a missing child, there is no system of registering an FIR across the country. Complaints of missing children, by and large, are treated as any other non-cognizable offence and only an entry is made in the General Station Diary (GD) that is followed by an enquiry. In other words, just as in the case of a missing person, no FIR is registered but only an entry is made in the GD of the police station concerned, the same procedure is followed in the case of missing children. The follow-up procedure thereafter entails the Station House Officer in the police station forwarding the information to all concerned, as well as to the Superintendent of Police or to the Deputy Commissioner of Police who in turn forwards it to the Chief of Police. At the field level, local police officials publicize the particulars of the missing child in the media by circulating the available identification details and photographs.

The message concerning missing child/children that reaches the Police Headquarters normally is taken care of by the Missing Persons Bureau. At the State level, this Bureau is often a wing of the CID of the State police. While taking action, they also forward the message to the State Crime Records Bureau who, in turn, transfers the information to the Missing Persons Wing at the National Crime Records Bureau (NCRB) in New Delhi, which operates under the Ministry of Home Affairs. The NCRB, at best, transmits this message to the Chiefs of Police in other States. The 'Search Wing' of the NCRB coordinates this information and further transmits it to other places.

The NCRB, under the TALASH Information System, maintains a national level database of missing persons under the following broad categories - 'missing', 'kidnapped', 'arrested', 'deserted', 'escaped', 'proclaimed offender', 'wanted', 'unidentified dead body', 'unidentified person' and 'traced/found'. Earlier, data on missing children under the broad category of 'missing' was not available. However, this is now available for both the sexes under the age group 0-12 and 13-18. The NCRB, by and large, functions as a 'Documentation Centre' or at best a 'Transfer Desk' because as of today the NCRB neither investigates, nor does it monitor or facilitates the recovery of missing children as a pro-active organization. The Police Stations, too, generally do not give any feed back to the NCRB when the missing child is rescued, traced or returned. Hence the data lacks accuracy. Thus, despite being the national repository of 'crime data', the NCRB is unaware both of children who are traced or of those who remain untraced.

Interestingly enough, though the category of missing children has come to be reflected in the TALASH Information System, there is no mention or analysis of it to date in the Crime in India Report being published by the NCRB. This is in spite of the fact that Chapter Six therein titled 'Crime Against Children' categorically affirms that "Generally, the offences committed against children or the crimes in which children are the victims are considered as Crime Against Children". It then goes on to highlight crimes committed against children that are punishable under the Indian Penal Code 1860 and crimes committed against children that are punishable under the Special and Local Laws.

As per the latest Crime in India Report - 2005, a total of 14, 975 cases of crimes against children were reported in the country during 2005 as compared to 14,423 cases during 2004, signifying an increase of 3.8 per cent. The highest crime rate was reported from Delhi (6.5%) followed by Chandigarh (5.7%) and Madhya Pradesh (5.6%) as compared to the national average of 1.4 per cent. A total of 4026 cases of child rape were reported in the country during 2005 as compared to 3,542 in 2004 accounting for a significant increase of 13.7 per cent during the year. The State of Madhya Pradesh reported the highest number of cases (870) followed by Maharashtra (634). These two States together accounted for 37.3 per cent of the total child rape cases reported in the country. Highlighting cases related to kidnapping and abduction, the Report mentions that a total of 3,518 cases were reported during the year as compared to 3196 cases reported in the previous year accounting for an increase of 10.1 per cent. Delhi reported the highest percentage of such cases among children up to 15 years. The analysis of data clearly reveals the increase of number of crimes against children in the country.

The aforesaid data reveals the predicament of missing children in many ways. Apart from the NCRB, there are some regional police websites like the Zonal Integrated Police Network (ZIPNET) and a few State police websites, which provide data on missing persons, including data on missing children. But the information provided therein remains largely incomplete. Since awareness about these databases -- particularly, among police personnel -- is low, it has not drawn adequate attention in the investigation and tracing of missing children.

It is pertinent to mention that sending "look out" notices and publishing photographs and other details in local visual and print media is somehow not mandatory in every State/ Union Territory. In addition to this, there are a host of other factors — absence of effective supervision and follow-up, lack of interest on account of low priority accorded to the problem of missing children, lack of resources, lack of coordination and lack of national strategy to deal with the challenge - due to which cases of missing children do not receive the desired attention that they really deserve. With the passage of time, routine efforts to locate missing children have also been abandoned. As a result, a large number of missing children remain untraced. Sustained efforts to locate the missing children are rare.

Status of Interventions by Other Governmental and Non-Governmental Agencies on the Issue of Missing Children

The overall status of governmental and non-governmental interventions concerning missing children across the country shows that except in a handful of States, most of them do not pay any heed to the problem of missing children. The Police Department in the State of Tamil Nadu has a Modus Operandi Bureau that maintains a list of missing persons. This list of missing persons is compiled alphabetically from the First Information Report of missing persons received from police stations. All cases of missing children, kidnapped women, children and activities of professional traffickers of women and children are reported directly by Station House Officers to the Modus Operandi Bureau. In order to streamline the process of monitoring and supervision of such cases, Special Cells have been formed at the Range and District level for missing persons. Correspondingly, there is a Missing Child Bureau under the Department of Social Defence, set up by Government of Tamil Nadu. It renders services related to missing children in collaboration with organizations like the Police, non-governmental organizations working for rights of children and CHILDLINE, a 24x7 helpline for children whose toll free telephone number is 1098 and which can be accessed by any one, even children themselves. It has a website that displays simple but important tips to prevent the occurrence of missing children under the caption 'Do's and Don'ts' and whom to contact in respect of missing children.

Taking a cue from the guidelines issued by the Supreme Court of India on 14 November 2002 for missing and kidnapped minor girls and women, in Writ Petition (Cri.) No. 610 of 1996 (Horilal vs Commissioner of Police, Delhi & Ors.), the Maharashtra Rajya Police Mukhyalaya, time and again, through its Circulars, has reiterated the need to implement the same. Except for Guideline No. 5 (e) therein, the State of Maharashtra has issued instructions that the same be followed in cases of missing persons, too, by all the Unit Commanders. A copy of the Guidelines issued by the Supreme Court is at **Annexure A**. In addition, it has stressed the need to implement the provisions of the Juvenile Justice (Care and Protection of Children Act), 2000 and its amendment thereof in 2006, and Sections 97 and 98 of the Criminal Procedure Code.

The Crime Branch of Orissa Police has, from time to time, issued strict instructions for recording all missing reports and subsequent follow-up action on them to trace missing children. Wherever necessary, criminal cases are being registered against the culprits to bring them to book. The State has further set up Mahila and Sishu Desks that are headed by Sub Inspector/ Assistant Sub Inspector in 210 police stations. The State proposes to set up these Desks in all police stations. To monitor cases of trafficking in women and children, Organized Crime Units have been set up in the CID CB which is headed by I. G. of Police, CID and at the District level by the Deputy Superintendent of Police, Crime. In fact, the IGP, CID CB, has been nominated as the Nodal Officer of the State for looking into cases of trafficking in women and children. A State Level Co-

ordination Committee has also been formed under the chairmanship of the Chief Secretary consisting of 15 members including officials from different Departments of the State and representatives of prominent non-governmental organizations so as to coordinate all anti-trafficking matters. Other than this, emphasis is being laid on training of all police personnel in the State on issues concerning children.

In the State of Andhra Pradesh, all cases of missing children are registered as FIRs. Regular review meetings are simultaneously held from time to time along with 'special drives' to locate missing children. The State has a website of missing children too.

As per the report on missing children received from Delhi Police a missing person register is being maintained in each Police Station of Delhi. All relevant information about the missing person is entered in the register and forwarded to the Missing Person Squad. District Senior Officers are also deployed as Child Welfare Officers in each police station. A District Missing Persons Unit is functioning in each district under the supervision of ACP/DIU.

Delhi Police has introduced computerization of missing persons data in 2006. The matching of missing persons with unidentified dead bodies is being done with the help of computers. Before computerization of missing persons data, the tracing out percentage of missing persons was about 25% which has increased to 73.77% in 2006. As per the report 80% missing children were traced. Photographs of missing persons as well as unidentified dead bodies are fed in the computer. The web site developed by the Delhi Police can be accessed by general public from any part of the world. The report claimed that out of 15201 persons reported missing in the year 2006, 11215 persons had been traced and had been restored to their parents/guardians.

A District Missing Persons Unit (DMPU) have also been set up in each district of Delhi Police. This unit has been provided with a web based computer programme and broadband connection for uploading the information on 'Missing Persons' and 'Unidentified Dead Bodies'. This information can be accessed by public on ZIPNET through normal internet.

The Delhi Police also reported to the Committee that in the year 2006, out of 4,118 male missing children 3,446 had been traced back as also out of 2,910 missing female children 2,196 had been traced.

A recent study conducted in 2007 itself by the Delhi Police had indicated that most affected age group for minor male and female children was 11-18 years. Majority of the children reported missing were illiterate and had left their homes on their own will for a variety of reasons ranging from elopement to fear of parents. It was further reported that almost all girls under 10 years of age had been traced and there was no criminal activity linked to their disappearance.

A disturbing trend observed by the NHRC Committee while reviewing the functioning of

several States in addressing the issue of missing children was that parents and relatives of missing children, who returned home, did not inform the police stations where they had registered the case. This in a way complicates the problem. In many cases concerning missing girls, police noticed that the concerned family had shifted home and it was the neighbours who later informed them that the missing girl had returned.

The Committee is of the opinion that several non-governmental organizations have been doing commendable work in this field. Among them is CHILDLINE, the country's first 24x7 toll-free tele-helpline which operates in over 73 cities and towns in India. Bal Sakha, Patna has done commendable work in locating several hundred missing children, counselling them, identifying the cause, and returning the children to their parents as well as documenting the good work done. The National Centre for Missing Children, a non-governmental organization in Madhya Pradesh has launched a website, missingindiankids.com, that seeks details of missing children from parents and police stations and then posts them on the site with photographs. However, funding has been a serious issue with non-governmental organizations like these.

The Committee thus observed that missing children is a veritable black hole in law enforcement. The police and State / UT authorities including local administration until now have failed to even acknowledge the problem. The urgent need is to have a system where all of us have to be vigilant towards the missing children so that they are restored back to their families/caretakers as quickly as possible.



PROCEDURE ADOPTED BY THE NHRC COMMITTEE FOR EVOLVING GUIDELINES TO DEAL WITH CASES OF MISSING CHILDREN



CHAPTER

III

Keeping in view the overall Terms of Reference set-up by the Committee, the Chairman and other Members of the Committee, first and foremost, convened an in-house preliminary meeting with various experts on the subject. The deliberations of this meeting facilitated the Committee to decide its future course of action. Accordingly, it called for relevant information from all the States and Union Territories across the country by writing to the Director Generals of Police and the Commissioners of Police. It called for the Report of the Committee that was specifically constituted by the Ministry of Women and Child Development, Government of India, to investigate allegations of large scale sexual abuse, rape and murder of children at Nithari village of NOIDA. Simultaneously, it also held a series of meetings with other stakeholders in the National Human Rights Commission and outside.

The Committee also deputed its staff to interact with parents, family members and relatives of the missing children from Nithari and other parts of the country who had gathered at Janpath, New Delhi to protest against the authorities for their lackadaisical attitude and behavior in tracing their children. The sole aim of this was to gather qualitative information from them about the police as well as local administration's response to reports of missing children.





CHAPTER

IV

ISSUES CONCERNING MISSING CHILDREN DEALT BY THE NHRC COMMITTEE

The situational analysis of missing children in India in Chapter I of this report clearly exemplifies that the phenomenon of missing children is not an isolated problem. There are many other issues interwoven with it. Moreover, in the absence of any homogeneous and comprehensive definition of missing children in India or for that matter in the world, the task of bringing together authentic data concerning them is a challenging task. This is primarily because when a child is found missing, nobody knows the real intent or purpose behind it. It could be quite possible that the child for various reasons may have run away on his or her own from home or a relative's home or an institution and the like which the parents/caretakers may construe it as 'missing'. On the other hand, it could be relatively possible that the child may have gone missing from the scene for a different motive altogether, which could be sexual gratification or sexual exploitation or labour exploitation or profit-making or personal vengeance and the like. And, for this purpose, the concerned person(s) directly or indirectly involved in the incident(s) of missing children may resort to crimes of various kinds ranging from kidnapping, abduction, grievous hurt, assault, rape, unnatural offences, and even murder of the child.

The Committee noted that missing children, on the whole, did not come under the purview of criminal act unless there were complaints filed relating to their kidnapping or abduction. But, the fact is that missing children as a category encompass run away children who left home and gave no notice about their whereabouts; lost and separated children; kidnapped children or children abducted or lured away by an acquaintance, stranger, or organized gang of criminals; trafficked children who were sold for various exploitative purposes; children who were sold, abandoned or who had their life ended by a parent or lawful custodian unknown to the other parent who considers them missing.

The Committee, therefore, deliberated, in its sittings, upon each category of these children and evolved suitable and practical guidelines to deal with the problem.



RECOMMENDATIONS/SUGGESTIONS OF THE NHRC COMMITTEE



CHAPTER

V

The NHRC Committee after interacting with the stakeholders has proposed the following recommendations/suggestions to contain the problem of missing children:

- 1. PRIORITY ISSUE:** Irrefutably, the problem of 'Missing Children' is a grave matter, which is also a human rights issue. It is acknowledged that it has not been received the attention it deserves from the government and society at large. Therefore, this issue needs to be made a “priority issue” by all stakeholders, especially the law enforcement agencies. The Directors General of Police of States should take appropriate steps to issue police orders/circulars/standing instructions etc., sensitize all officers in this regard and also make them accountable.
- 2. MISSING PERSONS SQUAD/DESK IN POLICE STATIONS:** The Committee recommends that every Police Station across the country should have Special Squad/Missing Persons Desk to trace missing children. This Squad/Desk should have a Registering Officer who should be made responsible of registering complaints of missing children. He/she should maintain complete records of efforts made by them to trace missing children as well as by the Special Squad. The Registering Officer should also write incident reports and keep them on record in Station Diary/case diary, as the case may be. In addition to this, the Registering Officer should also work as an Enquiry Officer whereby he/she should be made responsible for following up the entire procedure of tracing/tracking the missing child. The JAPU (Juvenile Aid police Unit) can, if required, be utilized for addressing the issue of missing children, even though the children who are missing can never be labeled as juveniles, but are, in fact, children in need of care and attention. The functioning of this unit/squad should be regularly monitored/ reviewed by Senior Officers and wherever necessary timely instructions and assistance should be provided to the Registering-cum-Enquiry Officer.
- 3. COURT DIRECTIVES:** There is a need to reiterate the implementation of the Supreme Court Guidelines given on 14/11/2002 in Writ Petition (Cri.) No 610 of 1996 filed by Horilal Vs. Commissioner of Police, Delhi & Ors. in all police stations across the country. This would entail prompt and effective steps for tracing missing children.

As per the directions given by the Delhi High Court, a Cell relating to missing persons/children was set up in the Central Bureau of Investigation (CBI). This Cell has been functioning ever since but due to lack of adequate resources, desired results could not be achieved.

Since the CBI is a Central investigating agency having powers and jurisdiction to take up cases of inter-state and international ramifications, it would be desirable to strengthen this Cell to enhance its capacity to coordinate and investigate criminal cases relating to missing children and persons. See **Annexure B**.

4. ROLE OF DISTRICT ADMINISTRATION: The legislation enjoins upon the district administration in the country to get places where children are employed, periodically inspected. The Committee notices with deep anguish that in this task the district administration all over the country has failed. This is evident from the fact that even today, the number of children found engaged as domestic help and bonded/child labour is enormous. Again, it is a matter of concern that in the identified cases of child labour and bonded labour in which prosecutions are launched against the employer the conviction rate is not even 1 per cent which obviously has resulted due to lack of supervision. Such an apathy towards this vital issue has to be curbed in favour of a proactive approach. The Committee urges the authorities concerned to hold district administration accountable for dereliction in discharging this responsibility.

The Committee is of the opinion that this exercise of regular inspections, if undertaken with all earnest, will ensure linking back a large number of children missing from their homes.

5. MANDATORY REPORTING: The State Police Headquarters should evolve a system of mandatory reporting whereby all incidents of missing children across the country should be reported to the newly constituted National Commission for Protection of Child Rights (NCPCR) within 24 hours of occurrence. Failure to report promptly would give rise to the presumption that there was an attempt to suppress the incident. The reporting should be done promptly and the procedure could be the same as is being followed by the concerned authorities for reporting custodial death cases to the NHRC.

6. INVOLVING PANCHAYAT RAJ INSTITUTIONS (PRIs) ETC: In order to make the investigative procedures concerning missing children more transparent and user-friendly, it would be preferable for the police investigating team to involve the community at large, such as representatives of Panchayati Raj Institutions / Municipal Committees/ Neighbourhood Committees/Resident Welfare Associations, etc, in addition to existing help lines. This will enable the community to get fully involved along with the police in tracing missing children. The Directors General of Police should seriously consider taking full advantage of these agencies in the task of not only investigating crimes relating to children but also in tracking down missing children. The role of Panchayats and such bodies should be extended to:

- Prompt reporting of missing children;
- Prompt dissemination of intelligence, if any, to the law enforcement agencies;
- Rendering assistance to law enforcement agencies for tracing children;

- Provide timely feed-back to the law enforcement agencies about the return of the child..

7. INVOLVING NGOs: In places where vulnerable groups of children are found in large numbers, there is need for enforcement agencies to evolve some kind of a mechanism in partnership with non-governmental organizations and social workers, whereby apart from rendering counseling to them, awareness raising activities are also carried out. This would not only instill confidence in them but also strengthen them and give them special protection so that they are in no way lured by external agencies/factors. This initiative could be taken by the Missing Children Squad/Cell in the Districts. The DGPs need to ensure action on this initiative.

8. NATIONAL DATABASE AND MONITORING: NCRB should establish a National Tracking System that would encompass the grass-root level in locating and tracing missing children. There should be prompt reporting of not only missing children cases, but also of return/rescue/recovery. All instances where children are rescued from places of exploitation including places of sexual exploitation and also exploitative labour, should be dovetailed into the NCRB data base. The database should be updated on a regular and systematic basis. This also involves revising the reporting format with respect to the rescue and recovery of persons who have been trafficked. The Director NCRB should liaise with the Project Coordinator, Anti-Human Trafficking UNODC, New Delhi and workout the format as the UNODC is working in the field of empowering law enforcement agencies and developing appropriate projects etc. with respect to Anti Human Trafficking and related issues. This could be made effective through web-based and other intra and inter State networking linkages. The information that is gathered ought to be appropriately disseminated. It is suggested that the NCRB evolve one-page useful position papers that has information with regard to various crimes, including the relevant statistics. This could be useful and accessible tool for different agencies that are dealing with a particular problem. For example, relevant information relating to missing children, if it is put in a page or two will be far more accessible and readable for all stakeholders than information compiled as part of a voluminous report prepared by the NCRB.

9. STATE CRIME RECORD BUREAU / DISTRICT CRIME RECORD BUREAU: There is an urgent need to revive State/District Crime Records Bureau. The database on missing persons, their return and the processes involved should be properly documented. The State Missing Person's Bureau (MPB), needs to be revamped, made functional and strengthened. The officers should be well trained and knowledgeable to address the issues in an analytical manner and from the perspective of Human Rights. The SCRB and the MPB should have proper liaison between them, so that the database of SCRB and NCRB are dovetailed to the functioning of MPB and the Special cell/ squad to be set up in the Police Stations. The MPB data should be specifically updated with the data of rescued children from trafficking crimes.

10. HELPLINE: There is a need to establish a Child Helpline through NGOs/PRIIs/other agencies with adequate support from Government in all the districts. The Department of Women & Child Development, Govt. of India, may take the initiative to set up such a national network.

11. OUTSOURCING PRELIMINARY INQUIRY TO NGOS: The NHRC Committee came to know about several instances where NGOs are actively functional, delivering the best results, in tracing missing children and also documenting them. Such efforts and initiatives have supplemented the work of the law enforcement agencies. The synergy of police and NGOs can be of immense help in addressing this issue and in providing tremendous support to the police agencies who are preoccupied with several other tasks, especially in those places where the police station strength is very poor. Therefore, Preliminary Inquiry into missing persons could be outsourced to NGOs, who are willing to undertake this task. MHA may issue appropriate guidelines to the States in this regard. Each State can identify a few such NGOs and notify them if required. As of today nothing stops NGOs from causing such inquiries and many are already doing this work. Therefore, the best option, in the given situation, is to develop synergy between the law enforcement agencies and the NGOs and institutionalize this partnership.

12. COGNIZABILITY OF THE EVIDENCE: As of now the issue of missing children is not a cognizable offence and the very fact of missing of a child does not convey occurrence of a crime. However, some States like Andhra Pradesh, Tamil Nadu allow police to register FIRs and take up investigation. In order to facilitate proper enquiry/investigation, it is advisable that an FIR is registered by the police with respect to the issue of missing children. However, experience shows that in many cases a child may not have gone missing and the panic reaction of the parents or wards lead to such reporting. Therefore, all such issues may not warrant registration of an FIR immediately. Nevertheless, it is advisable to register FIR if a missing child does not come back or is not traced within a reasonable time. The State Governments are advised to consider issue of appropriate directions to the law enforcement agencies to set a time limit of 15 days from the date of reporting that if a missing child is not traced back within 15 days, a presumption may be made of some malafide and an FIR registered with respect to all such issues of missing children.

13. SENSITIZATION OF STAKEHOLDERS: There is a need to sensitize all ranks of police personnel and other stakeholders to the issue of missing children. For this a two-day module be designed by BPRD, so that uniform training is imparted to all concerned. Along with this, there is a need to prepare suitable reading material that includes good practices about missing children from other States/Union Territories as well as other countries.

14. RESCUE OF CHILDREN IN NEED OF CARE AND ATTENTION: There is a need to identify “run away children”, “abandoned children”, “neglected children” and such “vulnerable children” who are often found roaming around places where they are particularly exposed to

abuse and exploitation such as railway stations, traffic junction etc. Their vulnerability increases due to a lack of support structures - family or otherwise. Proper identification, provision of care and support, and a 'safe place' is vital for them. These children are, under the JJ Act, are the children in need of care and attention, which they should be given. This can be achieved by producing them before CWC and ensuring proper care in the concerned Homes. If Government Homes are not available, Government agencies should support appropriate NGOs to set up such Homes. The State Governments are called upon to notify such NGOs immediately so that they can become functional without delay. States should ensure that such notifications are done on a time frame of one month from the date of application by the NGOs.

15. I-CARD FOR CHILDREN: The local administration should facilitate the schools to keep a watch on their children, especially when they become untraced or become dropouts. Schools and old teaching institutions should introduce photo identity cards of children, so that tracing is possible. All such photos with identity particulars be documented and data base be developed urgently. The State Governments and the Central Government should take initiatives in this regard. Schools should embark on a programme of empowering the children on their rights, legal strengths and defence mechanisms in case of need.

16. POVERTY ALLEVIATION MEASURES: It is acknowledged that poverty is one of the main factors in pushing children into inhospitable conditions and making them vulnerable for exploitation. The Central and State Governments have introduced several schemes to be implemented at Gram Panchayat level with the object of providing job opportunities to the poor and the disadvantaged and elevating them from the poverty line. All these programmes, especially concerning children welfare should be properly planned at the Gram Sabha level following the Antyodaya approach. Schemes such as Mid-day Meal Scheme, Sarva Siksha Abhiyaan, Health Immunization etc. deserve to be properly monitored for achieving optimum results. Proper implementations of these poverty alleviation programs are indeed a human rights approach. If such schemes and programmes of the Government are implemented it can be reasonably expected that the vulnerable sections will become empowered to resist exploitation that often takes place now.

17. ROLE OF STATE COMMISSIONS: There is a need to involve State Human Rights Commissions, Women Commission of State/ Centre etc., with regard to the issue of missing children. Such bodies have tremendous overarching influence on all stakeholders in addressing the issues appropriately in their respective jurisdictions.

18. ROLE OF MEDIA: In view of the current dreadful situation, the media can play an important role in increasing public awareness of missing children and the plight of the thousands of hapless families whose children are listed as untraced. This could be achieved as follows:

- At the newsroom level, crime reporters and metro editors need to include the category of missing children as a regular beat and as part of their daily news grind.
- These stories need to be followed up and tracked regularly just like other stories of murder, human trafficking, etc. A LOST and FOUND series could be commenced. The cases of missing children being traced/ returned home should be treated as the ``good news'' stories which will also encourage the police/ local authorities to step up their actions.
- The large picture story on the enormity of the continuing malaise of missing children, could coincide with Human Rights Day, Children's Day and so on.
- Newspapers can make a separate section in their classified sections on missing children. The notices and advertisements on missing children need to have a better display and be given more prominence and space in newspapers and TV bulletins.
- Just as some newspapers carry a daily/ weekly count of say, victims of terrorism, a new slot of missing children in the city/ country can be commenced.
- Newspapers or TV channels with an emphasis on local news can have an arrangement with either the police or a local NGO, which has worked in the area to print without charge announcements and advertisements on missing children.
- The missing child story should also be picked up for the daily crime shows many TV channels have commenced. Just as investigative stories are done on the flesh trade, on organ smuggling etc., case studies of how missing children end up in brothels or factories can be carried. Cases can be picked from solved cases or; where children were smuggled across borders. Identities can be masked if need be.
- Media organizations like media unions, the women's press corps and so on can collaborate with agencies like the NHRC and other NGOs working on children's rights issues to hold seminars and symposiums on the subject.

19. ATTENTION AT TRANSIT POINTS OF TRAFFICKING: There is a need to keep special vigils at railway stations, bus-stands, airports, sea- ports and such other places, which act as transit points for missing children, including children who run away or are made to run away. In this context, the Government Railway Police, the Railway Protection Force, Airport and Seaport authorities needs to be oriented about the issue of missing children.

20. MISSING CHILDREN FROM ACROSS BORDERS: This is a grey area, which largely remains unaddressed. It has been reported that several foreign children who have been trafficked into India have been punished as illegal immigrants and are made to suffer. NHRC recommends

the state governments to undertake review of all such cases and provide relief to such children, as all trafficked children, irrespective of their nationality, are children in need of care and attention. Moreover, there is a need of developing a Protocol on this issue. It is learnt that UNODC in its anti human trafficking project can provide the required technical assistance. In this regard the Ministry of Women and Child Development can utilize the technical assistance of UNODC and in close coordination with the Ministry of External Affairs, develop a protocol on this topic. The Project Coordinator, UNODC may provide the required technical assistance.

21. SURVEY AND RESEARCH: The world of missing children is unknown and there is no proper study or research on this issue. Even today the exact figures of missing or traced children are not available. The existing legislation requires the State and district authorities to periodically carry out inspections/surveys of places where children are employed with a view to identifying missing children and those engaged in bonded labour/child labour. This task has remained a low priority area. There is an urgent need for the State administration to undertake micro studies especially at the places where children are reportedly vulnerable.

A village-wise survey of all children who have gone missing or even recovered is an urgent need to understand the realistic dimensions of the problem. Studies by academic institutions into various factors behind the vulnerability of children are recommended in order to generate right response.





The current Report of the Committee on 'Missing Children' bears testimony to the fact that not much has been achieved to protect the rights of children in the last 60 years. Undoubtedly, there has been a plethora of documents in the form of plans, policies, programmes, schemes and the like brought forth by the Government since independence pledging to protect and promote the rights of children but the records of national governance, public investment and development action yield little matching evidence of substantive work for children. Given the situation of children, especially from underprivileged and vulnerable sections of society, the Committee is of the view that the Constitution of India has sufficient mandate to secure human rights of children. This being so, the need of the hour is to identify and uphold certain commitments as 'non-negotiables' both by the State and the civil society. Investment in children's well-being and security is one such *sine qua non*. In this context, both the Central and State Governments have to ensure realistic plans of action so as to make protection of children a reality within a specific time frame. This, of course, would require massive mobilization of resources, strong political commitment and decentralized planning and management structure. Most importantly, radical reforms in social services administration for efficient delivery of services are urgently needed. Coordination with other institutions of civil society will also be necessary. All this would ultimately ensure that the nation can have a strong human resource base.





ANNEXURE

A

Supreme Court Guidelines on Missing Children

The Guidelines given by the Hon'ble Supreme Court of India on 14-11-2002, while hearing the Writ Petition (Cri.) No. 610 of 1996 filed by Horilal V/s Commissioner of Police, Delhi & Ors. with regard to effective steps to be taken in case of tracing out the missing and kidnapped minor girls and women etc. :-

- (1) Publish photographs of the missing person in the newspaper, telecast them on the television promptly and in any case not later than one week of the receipt of the complaint. Photographs of the missing person shall be given wide publicity at all the prominent outlets of the city/town/village concerned - that is, at the railway stations, inter-State bus stands, airport, regional passport office and through law enforcement personnel at border check-posts. This should be done promptly and in any case not later than one week of the receipt of the complaint. But in case of a minor / major girl such photograph shall not be published without the written consent of the parents/guardians,
- (2) Make inquiries in the neighborhood, the place of work/study of the missing girl from friends, colleagues, acquaintances, relatives etc. immediately. Equally all the clues from the papers and belongings of the missing person should be promptly investigated,
- (3) To contact the Principal, class teacher and student at the missing person's most recent school/educational institutions. If the missing girl or woman is employed somewhere, then to contact the most recent employer and her colleagues at the place of employment.
- (4) Conduct an inquiry into the whereabouts from the extended family of relatives, neighbours, school teachers including school friends of the missing girl or woman,
- (5) Make necessary inquiries whether there have been past incidents or reports of violence within the family.

Thereafter, the investigating officer/agency shall:

- (a) Diligently follow up to ensure that the records requested from the parents are obtained, and examine them for clues,

- (b) Hospitals and mortuaries be searched immediately after receiving the complaint.
- (c) The reward for furnishing clue about the missing person should be announced within a month of her disappearance.
- (d) Equally hue and cry notices shall be given within a month.,
- (e) The investigation should be made through women police officers as far as possible.
- (f) The concerned Police Commissioner or the D.I.G./I.G. of the State police would find out the feasibility of establishing a Multi-Task Force for locating missing girl children and women.
- (g) Further, in the metropolitan cities, such as Delhi, Mumbai, Kolkata and Chennai, the Investigating Officer should immediately verify the red-light areas and try to find out the minor girls. If any minor girl (may or may not be recently brought there) is found, her possession be taken and she may be sent to the local children's home (Sec. 34 of the Juvenile Justice (Care and Protection of Children), Act, 2000), and the I.O. to take appropriate steps that all medical/ other facilities are provided to her.





ANNEXURE

B

Write-up on Missing Children by CBI

Existing System

Different States in India have different procedures in place for dealing with cases of missing persons. Almost all of them treat reports of missing persons as they would treat information about any other non-organizable offence i.e. a general diary entry is made followed by an enquiry. Sending look out notices and publishing photographs and other details in local visual & print media is also not mandatory in every State. Because of a host of factors — lack of effective follow-up and supervisions, lack of resources, lack of coordination and lack of a national strategy to deal with the challenge — these cases do not receive the attention they deserve and as a result, a large number of missing persons remain untraced. At the same time, an equally large number of unidentified dead bodies (hereinafter UIDBs) — approx. 40000 per annum — remain unidentified in the country. It is a well known fact that UIDBs are an important subset of missing persons. In other words, every UIDB possibly is also a missing person from somewhere else. Apparently, the investigating agencies have no means at present to compare and connect these two mutually related databases.

Besides, at present, no credible data is available regarding number of missing persons in the country, even though the National Crime Records Bureau (NCRB) collects information (about missing persons) through various State Crime Records Bureaus (SCRBs) and uploads it on their website. Some regional police websites like the ZIPNET and a few State police website also provide data on missing persons but the information largely remains incomplete. Moreover, awareness about these databases amongst police personnel is low leading to unsatisfactory success rate in tracing missing persons.

Proposed System

In view of the above-mentioned problems/shortcomings in the existing system, I propose that we design and build a national system for tracing missing persons in the country having the following four sub-systems/components:

- 1 A web-based front end giving easy access to the people to report information about missing persons. It will be supplemented by additional options to report by phone, fax or post.

2. A database of missing persons containing identifying particulars like name, parentage, address, height, weight, color of the case. DNA of the missing persons, if available, will also be captured here.
3. A database of UIDBs containing identifying particulars (like the ones mentioned above) as well as the DNA to facilitate comparison/ matching with the database of missing persons.
4. A rich resource base to be made available on the website for the benefit/ education of the families of missing persons, related issues like dangers facing vulnerable groups like children and women, behavioral and psychological aspects of sexual exploitation of children etc. These resources will be immensely useful for imparting training to law enforcement officers as well.

Information received about a missing person-either online or by phone, fax or post – will go into the database of Missing Persons. On receipt of such information, the system will automatically generate report(s) to be disseminated to the local law enforcement agency. Similarly, a second database containing details of Unidentified Dead Bodies (UIDBs) will be created. For this purpose, a voluntary partnership will need to be built between the Central Bureau of Investigation and the field police functionaries in the country.

Once this database is in place, the investigative officers in the CBI or any State police department will be able to run queries based on the DNA profile of missing persons. In case the DNA of missing persons is not available, DNA of their parents or siblings can be used for the purpose of comparison. Database matching is a crucial component of the system and is likely to be a computing power intensive operation, but given the modern advances in computing technology, the will not be hard to achieve.

Challenges

The proposed system is likely to face the following three significant challenges –

1. Difficulties in collection of data about missing persons
2. Difficulties of collection of data about UIDBs from the local police.
3. Difficulty in DNA profiling of UIDBs in view of shortage of forensic science infrastructure in the country.

1. Difficulties in collection of data about missing persons

Collection of information about missing persons using the internet will certainly be the most cost effective but it may not serve all sections of the society in view of low internet penetration in the country. At present, there are about 40 million internet connections in the country including 2.5 broadband connections. Even if we assume two persons per connection, we can say that about 80 million people have access to the internet today. But the real problem is that lop-sided

distribution as a majority of these people live in the cities. However, the internet penetration is witnessing an exponential rise in the country including in rural areas which is encouraging. In a few years, by the time the proposed system comes of age, the situation is likely to improve considerably, as has happened in mobile telephony. Until that time, however, we will need to supplement the web-based option with others like reporting by post, phone or fax.

Another very important source of information will be the local police. They are a very important stakeholder in this project. In fact, one of the important tasks in the implementation of this project will be to create awareness amongst the local police on the need to submit timely information. In the long run, however, the popularity of the system will be determined by its usefulness. If the police officers find it useful, they will certainly use it and will also furnish the required information. A few success stories will go a long way in establishing the credentials of the system.

2. Difficulties in collection of data about UIDBs

Collecting accurate data on nearly 40000 UIDBs in the country will be absolutely important for this system to achieve success. As already state, UIDBs are a very important subset of missing persons. Automated comparison between these two database is likely to throw large number of matches resulting in successful identification of missing persons/UIDBs.

In order to collect this vital piece of data, a partnership will need to be built directly with the field police functionaries in the country. Amongst other things, this will involve compensating them for collecting and furnishing information about UIDBs direct to the CBI. There is already a precedence in Narcotic Control Bureau's scheme of giving rewards to the local police in NDPS cases.

3. Difficulties in DNA profiling etc.

As already stated, unidentified dead bodies are a major subset of missing persons. Once we have these two databases in place, information technology can be used to match and compare them automatically. But this will be possible only if we include a unique characteristic like DNA profile in the databases. As none of the other particulars of a UIDB like height, weight, color of the skin etc. is unique to human beings, they can not be used for the purpose. Therefore, DNA profiling is absolutely essential if we want to ensure automated comparison. In other words, there is no way we can do without it.

As the existing forensic science infrastructure in the country may not be sufficient to take this load, additional infrastructure will have to be created. This offers a good business opportunity; therefore there is tremendous scope for the involvement of private sector. Several private labs (for example Sri Ram Labs) are already doing a good job in certain areas (like chemical and physical testing) and enjoy a high credibility. Private designated medical labs which

supplement the Central Government Health System are an other example. Infrastructure in DNA profiling can be augmented through public-private partnerships in this manner. The National DNA Database in UK (www.parliament.uk/documents/upload/postpn258.pdf) is functioning since 1995 and now has 3 million records. A similar effort will be required if we want this project to succeed.

Cost

Major component of the initial investment will go into creating of DNA lab infrastructure in the country. However, this component can easily be kept down through public-private partnerships as is being done in numerous infrastructure projects (like highways) in the country. The cost of developing the software to store and match the two databased based on DNA profile will be another important expenditure. Remaining items like domain name registration, development of the front end (the website) and the back end (database of missing persons and UIDBs) are likely to cost less than a few lakhs of rupees and can be met from within the internal resources of the organization (for example, the annual modernization plan).

Reoccurring cost of running the system will have two major components-cost of collection of data pertaining to UIDBs and their DNA profiling. A quick back-of-the palm estimation tells us that a compensation of say rupees 2000 per case to the field police functionaries (for their time and effect in collecting and dispatching UIDB samples to the designated lab for DNA profiling) will mean an expenditure of Rs. 8 crore per annum for nearly 4000 such bodies found in the country. Add to it the cost of DNA profiling @ Rs. 2500 approx. per sample i.e. another about 10 crores of rupees per annum. The total annual cost of running this system, thus, is not likely to exceed rupees 25 crores, which is reasonable for a country of the size of India.

Benefits

The likely benefits of the proposed system are :

1. A significant improvement in tracing missing persons in the country, thereby mitigating the agony of thousands of victim families.
2. Significant increase in successful identification of UIDBs.





ANNEXURE

12

PARA 10.9

Human Rights Training Programmes Conducted During 2007- 2008

Sl. No.	Name of Institution	Theme of Training & No. of Programmes	Venue	Programme Date & No. of Participants
1.	Citizenship Development Society, Mayur Vihar Phase II, Delhi (NGO)	Seminar on Human Rights Awareness (2 Days) One Programme	Bhartiya Vidya Bhavan, Jaipur, Rajasthan	12 to 13 April 2007 75 Participants
2.	Judicial Academy, Jharkhand, Ranchi	Training on Human Rights for Judicial Officers (1 Day) One Programme	Judicial Academy Ranchi, Jharkhand	14 April 2007 30 Participants
3.	Tamil Nadu SHRC, Thiruvaramam Maalgai, (Greenways Road), Chennai, Tamil Nadu	i. Sensitization Programme on Human Rights Literacy for Resource Persons & Police Officers (1 Day) ii. Protection of Human Rights and to Promote Awareness on Human Rights Literacy (1 Day) iii. & iv. do Four Programmes	i. Central Leather Research Institute, Chennai, T.N. ii. Conference Hall, Collectorate, Thiruvannamalai, Tamil Nadu iii. Conference Hall, Collectorate, Trichy, T.N. iv. Thirunelveli, T.N.	i. 1 May 2007 ii. 9 June 2007 iii. 6 October 2007 iv. 27 February 2008 180 Participants
4.	PRERNA Ayodhya Nagar, Bhopal, Madhya Pradesh (NGO)	Workshop on Human Rights (2 Days) One Programme	Nehru Yuva Kendra, Betul, Madhya Pradesh	3 to 5 August 2007 60 Participants
5.	Institute of Management in Government, Thiruvananthapuram, Kerala (ATI)	i. TOT Programme on Human Rights (4 Days) ii. Sensitization Programme on Human Rights (2 Days) Two Programmes	Thiruvananthapuram, Kerala	17 to 20 September 2007 35 Participants 24 to 25 September 2007 33 Participants
6.	Office of Chief Conservator of Forests, Research, Education and Working Plans, Govt. of Assam, Guwahati	Training of Frontline Staff of Assam Forest Department on Human Rights in North East Region (3 Days) One Programme	Assam Forest School, Guwahati, Assam	8 to 10 October 2007 45 Participants

contd./-

Sl. No.	Name of Institution	Theme of Training & No. of Programmes	Venue	Programme Date & No. of Participants
7.	State Women Resource Centre, RCVN Noronha Academy of Administration & Management, Bhopal, Madhya Pradesh (ATI)	Division Level Workshops on Violence Against Women (2 Days each) Five Programmes	i. Jabalpur, M.P. ii. Rewa, M.P. iii. Chambal, Gwalior Division, M.P. iv. Indore Ujjain Division M.P. v. Sagar, M.P.	i. 8 to 9 October 2007 30 Participants ii. 15 to 16 October 2007 25 Participants iii. 13 to 14 December 2007 28 Participants iv. 17 to 18 December 2007 30 Participants v. 27 to 28 December 2007 25 Participants
8.	Bihar Institute of Public Admn. and Rural Development (BIPARD) Patna, Bihar (ATI)	Training on Human Rights (2 Days each) Eight Programmes	BIPARD, Patna, Bihar	i. 30 to 31 October 2007 30 Participants ii. 29 to 30 November 2007 30 Participants iii. 18 to 19 December 2007 25 Participants iv. 8 to 9 January 2008 28 Participants v. 30 to 31 January 2008 30 Participants vi. 4 to 5 March 2008 25 Participants vii. 10 to 11 March 2008 28 Participants viii. 12 to 13 March 2008 30 Participants
9.	Dr. P.S. Shankar Pratishthana, 'Deepti' Gulbarga, Karnataka (NGO)	Health Care Educational Programme for Elderly (5 Days) One Programme	Rotary School, Public Gardens, Gulbarga, Karnataka	2 to 6 November 2007 250 Participants
10.	Human Rights Council C/o Maharaja Agrasen Education Society, Saharanpur, Uttar Pradesh (NGO)	Environmental Effect on Human Rights (3 Days) One Programme	Prakarti Kunj Ashram, Saharanpur, Uttar Pradesh	16 to 18 November 2007 85 Participants

contd./-

Sl. No.	Name of Institution	Theme of Training & No. of Programmes	Venue	Programme Date & No. of Participants
11.	Meghalaya Administrative Training Institute, Government of Meghalaya, Shillong, Meghalaya (ATI)	i. Sensitization on Human Rights Issue (2 Days) ii. Workshop on Women's Rights (2 Days) iii. H.R. Concept and Issues (2 Days) Three Programmes	ATI, Meghalaya	i. 26 to 27 November 2007 18 Participants ii. 24 to 25 January 2008 17 Participants iii. 27 to 28 March 2008 15 Participants
12.	Administrative Training Institute, Government of Nagaland, Kohima, Nagaland (ATI)	Sensitization Training Programme on Human Rights Issues (3 Days) One Programme	ATI, Nagaland	26 to 28 November 2007 30 Participants
13.	Bhartiya Nagrik Kalyan Avem Aparadh Nirodhak Samiti, Hathras District, Uttar Pradesh (NGO)	Seminar on Human Rights Awareness* (1 Day) One Programme	Shri Ramanand Ashram, Govardhan, Distt. Mathura, U.P. B.S.A. College, Mathura, U.P.	2 December 2007 24 February 2008 80 Participants
14.	Auxilium College (Affiliated to Thiruvalluvar University), Vellore, Tamil Nadu (College)	Redefining Human Rights and Values Towards a New Socio-Religious Interface (2 Days) One Programme	Auxilium College, Vellore, Tamil Nadu	12 to 13 December 2007 70 Participants
15.	Chhattisgarh Academy of Administration, Raipur, Chhattisgarh (ATI)	i. Sensitization on Human Rights Issues (3 Days) ii. Sensitization on Human Rights Issues (3 Days) iii. Workshop on Women and Sexual Harassment (3 Days) iv. Workshop on Domestic Violence against Women (3 Days) Four Programmes	i. Raipur, Chhattisgarh ii. Bilaspur, Chhattisgarh iii. Jagdalpur, Chhattisgarh iv. Ambikapur, Chhattisgarh	i. 12 to 14 December 2007 20 Participants ii. 26 to 28 December 2007 26 Participants iii. 7 to 9 January 2008 45 Participants iv. 15 to 17 January 2008 35 Participants
16.	Administrative Training Institute Mysore, Karnataka (ATI)	Child Trafficking (3 Days each) Two Programmes	ATI, Mysore, Karnataka	17 to 19 December 2007 35 Participants 6 to 8 February 2008 30 Participants
17.	St. Joseph's Educational Trust (JET), Thiruchirappalli District, Tamil Nadu (NGO)	Legal Education Programme for Scheduled Caste Women (10 Days) One Programme	Thiruchirappalli District Tamil Nadu	21 to 30 December 2007 300 Participants

*The Commission had approved only one programme. However, two programmes were organized at Mathura. The expenditure for the other programme was incurred by the NGO, whereas the technical expertise was provided by NHRC.

contd./-

Sl. No.	Name of Institution	Theme of Training & No. of Programmes	Venue	Programme Date & No. of Participants
18.	International Leprosy Union (ILU), Pune, Maharashtra (NGO)	Workshop on Human Rights In the context of Leprosy & HIV/AIDS (2 Days each) Four Programmes in Four Regions	i. Bangalore, Karnataka ii. Parulia, West Bengal iii. Bilaspur, Chhattisgarh iv. Silvasa Dadra & Nagar Haveli	i. 26 to 27 December 2007 50 Participants ii. 10 to 11 January 2008 55 Participants iii. 9 to 10 February 2008 45 Participants iv. 8 to 9 March 2008 40 Participants
19.	HelpAge India, New Delhi (NGO)	Seminar on Human Rights and Elder Abuse (1 Day each) Six Programmes	i. Ranchi, Jharkhand ii. Hazaribagh, Jharkhand iii. Unnao, U.P. iv. Banda, U.P. v. Betul, M.P. vi. Mandla, M.P.	i. 27 December 2007 40 Participants ii. 29 December 2007 35 Participants iii. 13 February 2008 42 Participants iv. 17 February 2008 45 Participants v. 28 February 2008 40 Participants vi. 4 March 2008 40 Participants
20.	North Eastern Police Academy (NEPA), Govt. of India, Umsaw, Meghalaya (Police Training Institute)	Training Course on Human Rights for the Police Officers of North Eastern Region (5 Days) One Programme	NEPA, Meghalaya	14 to 18 January 2008 30 Participants
21.	Karnataka Law Society's Raja Lakhamgouda Law College, Belgaum Karnataka (College)	National Workshop on Human Rights 'Gender Justice: Some Recent Parliamentary and Judicial Initiatives' (3 Days) One Programme	Raja Lakhamgouda Law College, Belgaum Karnataka	14 to 16 February 2008 50 Participants
22.	Department of Studies in Law, University of Mysore, Mysore, Karnataka. (University)	National Workshop on Rights of Persons with Disability, the Older and the Sick Persons (2 Days) One Programme	University Premises Mysore, Karnataka	28 to 29 March 2008 60 Participants
23.	HCM State Institute of Public Administration, Jaipur, Rajasthan (ATI)	TOT Programme on Human Rights (3 Days each) Two Programmes	HCM RIPA Campus, Jaipur, Rajasthan	3 to 5 March 2008 18 Participants 17 to 19 March 2008 17 Participants
24.	Sane and Enthusiast Volunteer's Association of Calcutta (SEVAC), Calcutta, West Bengal (NGO)	Mental Health Education for Police Personnel Working in Orissa, Bihar, Jharkhand and West Bengal (2 Days) One Programme	Salt Lake, Kolkata West Bengal	1 to 2 February 2008 64 Participants

contd./-

Sl. No.	Name of Institution	Theme of Training & No. of Programmes	Venue	Programme Date & No. of Participants
25.	Government of Arunachal Pradesh, Department of Personnel & Administrative Reforms, Administrative Training Institute, Naharlagun (ATI)	TOT Programme on Human Rights Issues (3 Days) One Programme	ATI, Naharlagun	24 to 26 March 2008 20 Participants
26.	Administrative Training Institute, Mizoram (ATI)	TOT Programme on Human Rights Issues (2 Days) One Programme	ATI, Mizoram	26 to 27 March 2008 30 Participants
27.	Uttar Pradesh State Human Rights Commission, Lucknow, Uttar Pradesh (SHRC)	Training on 'Human Rights Sensitization' (2 Days) One Programme	Gomti Nagar, Lucknow Uttar Pradesh	4 to 5 April 2008 45 Participants
28.	Indira Mahila Mandali Prakasam District Andhra Pradesh (NGO)	Seminar on Human Rights (2 Days) One Programme	Tangutur Mandal, Prakasam District Andhra Pradesh	29 to 30 March 2008 253 Participants
29.	Samaja Seva Samiti, Bangalore, Karnataka (NGO)	Workshop on Role of Voluntary Organizations in Promoting and Protecting Human Rights in Different Social Aspects (2 Days) One Programme	Bidar, Karnataka	24 to 25 March 2008 100 Participants
30.	Rural Litigation & Entitlement Kendra (RLEK), Dehradun, Uttar Pradesh (NGO)	Workshop on Human Rights vis-à-vis Marginalized Communities in India with Special Focus on Uttarakhand (2 Days) One Programme	Dehradun, Uttarakhand	29 to 30 March 2008 93 Participants
31.	National Campaign on Dalit Human Rights, New Delhi (NGO)	Creating Awareness on Dalit Human Rights Monitoring and Mechanisms (2 Days each) Three Programmes	i. Chandigarh, Haryana ii. Jamui, Bihar iii. Varanasi, U.P.	i. 3 to 4 March 2008 50 Participants ii. 19 to 20 March 2008 50 Participants iii. 27 to 28 March 2008 50 Participants
32.	UP Academy of Admn. & Management, Lucknow, Uttar Pradesh (ATI)	Sensitization on Human Rights (1 Day) One Programme	ATI, Lucknow, U.P.	25 March 2008 33 Participants
	Total Institutions = 32	Total No. of Programmes Conducted = 65		Total No. of Participants = 3,273

NB: Summary of Total Number of Programmes Organized by Various Institutions

Name of Institutions	No. of Programmes Organized
1. Twelve-Administrative Training Institutes (ATIs)	: 31
2. One-Judicial Training Institutes (JTIs)	: 01
3. Two-State Human Rights Commissions (SHRCs)	: 05
4. Three-Universities/Colleges	: 03
5. Thirteen-Non Government Organizations (NGOs)	: 24
6. One-Police Training Institute (PTI)	: 01
Total	: 65



NHRC, INDIA PAPER FOR UNIVERSAL PERIODIC REVIEW

**“Sarve Bhavantu Sukhinah, Sarve Santu Niramaya,
Sarve Bhadrani Pshayantu, Maa Kashchid Dukh Bhaag Bhavet.”**
*[O Lord! Let all beings be happy and healthy. I wish well being to all.
Let none suffer from any misery]*

1. This has been the cornerstone of promotion and protection of human rights in the Indian society and, therefore, rightly the motto of Commission is also “Sarve Bhavantu sukhinah”.
2. Following Human Rights violations faced by many countries under colonial rule in the nineteenth and twentieth centuries and also chastened by egregious violations during two World Wars in the last century, the international community resolved to protect and promote Human Rights in the Universal Declaration of Human Rights. In 1949, the Indian people adopted the Constitution, which guaranteed Fundamental Rights to its citizens. In order to ‘better’ protect human rights, the Parliament passed the Protection of Human Rights Act in 1993 for constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts. The National Human Rights Commission accordingly came into existence on 12th October, 1993. The State Human Rights Commissions have also been set up in 18 States.
3. The strength of NHRC, India is its complete autonomy. The selection process of its Chairperson and Members itself is inclusive of both the ruling and opposition parties. The Commission has also complete freedom to select and appoint its staff and officials. The Commission, due to its accessibility and positive actions, has gained credibility amongst the people, which is its major strength.
4. Though the Commission is a recommendatory body, the reports of the Commission are placed in the Parliament with the action taken report by the Government. Thus, there is an inbuilt accountability of the Government for implementation of the recommendations to the extent acceptable. In case the Government disagrees, it furnishes reasons thereof in the action taken report. The experience has been that 95% recommendations have been generally complied with.
5. In last 14 years, the Commission received a large number of complaints relating to various human rights issues. The Commission also takes *suo motu* cognizance in some cases on the basis of media reports etc. The number of complaints registered and disposed off during last 3 years is as follows:

Year	Fresh cases as well as cases brought forward from previous years	Cases disposed off
1 April 2004-31 March 05	1,35,209	85,661
1 April 2005-31 March 06	1,23,992	80,923
1 April 2006-31 March 07	1,14,114	93,421

6. The Commission's role is complementary to that of judiciary. The Supreme Court has referred a number of important matters to the Commission for monitoring while the Commission has also taken specific cases of violation of human rights to the Courts. The guidelines evolved by the Commission on the treatment of mentally ill persons held in prisons and child rape cases have been adopted by the Delhi High Court and commended to the authorities for adoption. The complementary role of the National Human Rights Commission and the higher judiciary in India is an illustration of 'best practice'.

7. The range of Commission's interventions and results thereof are reported in the Annual Reports of the Commission. The Annual Reports of the Commission up to 2006-07 have been submitted to the Government and reports up to 2005-06 have also been placed in the Parliament with reports on the action taken by the Government. The Commission also brings out annual journals and other publications. The website of the Commission, <http://nhrc.nic.in> gives updated information on the current status of each complaint. The Commission follows a completely transparent procedure in its functions. While details of Commission's actions can be seen in above documents/ website, some of the important recommendations made by the Commission are highlighted in succeeding paragraphs.

8. Since December, 1996, the Commission has been dealing with complaints alleging starvation deaths in Koraput, Bolangir and Kalahandi (KBK) districts of Orissa. The Commission after hearing the parties formulated a practical programme covering rural water supply schemes, public health care, social security schemes, water and soil conservation measures and rural development schemes. The implementation of the programmes as also its monitoring by the Commission through its Special Rapporteurs has yielded good results.

9. In the case of death of unidentified persons due to terrorist attacks and alleged fake encounters by the Police in Punjab in what has come to be known as 'Punjab Mass Cremation Case', the Commission recommended compensation of Rs. 2,50,000 to the next kin of each of 195 deceased identified to be in deemed custody of police and Rs. 1,75,000 to each of next of kin of 1103 identified persons whose dead bodies were cremated by Punjab police, amounting to Rs. 24, 27, 25,000/- till the end of the year 2006-07.

10. Communal violence broke out in the State of Gujarat on February 27, 2002. The Commission took *suo-motu* cognizance of the tragic incidents and has been seized of the issue since then. The Commission asked the State Government to entrust the investigation of certain critical cases to CBI. The Commission has been continuously monitoring the progress of measures taken by the State for the relief and rehabilitation of the riot-affected persons through its Special Rapporteur. In the year 2003, the Commission filed a Special Leave Petition in the Supreme Court of India to enforce "the right of fair trial" for all and a petition for transfer of nine serious cases for trial outside the State of Gujarat. The Commission's intervention in the Supreme Court of India led to several positive outcomes including the transfer of some serious cases to outside Gujarat, reopening and retrial in important cases and conviction of the guilty persons in 'Best Bakery' and Bilkis Bano cases. In the Bilkis Bano case, the Commission extended legal assistance to her. Trials in other cases are continuing.

11. The Commission received a number of representations from non-government organizations and individuals regarding atrocities committed by the Joint Special Task Force set up by the States of Karnataka and Tamil Nadu to apprehend sandalwood smuggler and forest brigand Veerappan. After detailed deliberations, the Commission recommended immediate interim relief of 28 million rupees to 89 victims to mitigate their suffering and hardship.

12. In the State of West Bengal, large-scale violence took place in March and November 2007 on the issue of proposed land acquisition for setting up a mega-chemical hub and a Special Economic Zone [SEZ] covering about 10,000 acres of land in Nandigram and adjoining areas. The Commission took *suo motu* cognizance of the case and not only called for reports from the State Government but also sent its own Investigation team. The matter is under consideration of the Commission. However, the concerns expressed and actions taken by various agencies like judiciary and Commission seemed to have had a salutary effect.

13. On a report received from the Special Rapporteur of the Commission who visited LGB Regional Institute of Mental Health, Tezpur, Assam in 2005 about lodging of five undertrial prisoners at the Institute for periods ranging from 32 to 54 years, the Commission took cognizance and called for a report from the Government of Assam. As a result of the Commission's intervention, they have since been released and paid compensation.

14. The Commission took cognizance of a complaint alleging attacks on Christians and their institutions in Kandamal District, Orissa on December 24-25, 2007. The Commission has not only issued notice to the Chief Secretary, Government of Orissa and the Director General of Police, Orissa calling upon them to submit a report giving details of injured and casualties, if any, damage caused to the properties, steps taken by the Government to provide relief and compensation to the affected persons/institutions but also directed that every possible protection be provided to the

members of Christian community in the State. The Commission also dispatched a team from its own Investigation Division for an on-the-spot visit and to ascertain facts.

15. Some parts of the country like Jammu and Kashmir and North East region as also some other States are facing the menace of militancy and terrorism. The Armed forces of the Union including Para Military forces have been deployed in some disturbed areas to aid and assist the State Government authorities to handle internal security situation. At times, there are allegations of Human Rights violations by the forces who conduct operations against terrorists and on receipt of such complaints, the Commission calls for reports from concerned authorities. Army has issued strict guidelines to all ranks on the observance human rights while operating in such areas. It has also been reported that since 1994, there have been 1318 allegations of Human Rights violations of which, 1269 have been investigated and 54 have been found to be true. 115 persons have been punished.

16. In the last 14 years, the Commission has endeavoured to curb violation of human rights as well as to promote a culture of human rights in the country through various measures. These include syllabus for the introduction of human rights education from the school level up to the university level, mass awareness programme by way of imparting training and bringing out publications in English, Hindi and regional languages etc. In order to sensitize various stakeholders, the Commission has been organizing training programmes and workshops on Human Rights issues since its inception. The target groups include police personnel, armed forces personnel, judicial officers, students, public representatives, NGOs etc. The programmes cover general human rights awareness as also some specific issues like rights of the disadvantaged sections e.g. women, tribals, food security, right to education and health and custodial justice etc. The 'Know your rights' series brought out by the Commission has proved highly useful in spreading human rights awareness. Other publications include Handbook on Human Rights for Judicial Officers, Disability Manual, HR education for beginners etc.

17. The Commission has been closely monitoring, as also urging State authorities to move aggressively towards complete eradication of the pernicious practice of manual scavenging. Under a Supreme Court directive, this is to be fully complied with by 2009.

18. India has been striving to protect and promote Human Rights of its citizens inspite of serious problems of terrorism, militancy, as also under development. While there is no denial that some achievements have been made, yet there are certain issues of serious concern related to enjoyment of Human Rights by all its citizens. These issues relate to trafficking in women and children, food security, right to education and health, disappearance of persons, displacement of persons due to disasters, conflicts and development, child labour, custodial deaths, prisons and the disabled. On these issues, the Commission is not only dealing with individual cases but also issuing policy guidelines for implementing agencies.

19. The Commission laid down stringent reporting requirements in respect of custodial deaths and rapes. A National Conference was organized in this regard which was attended by cross section of the society. It discussed ways and means to prevent it. The Commission has issued guidelines, among others, on deaths in alleged fake encounters, arrests, and protection of human rights in prisons. Scrupulous adherence to the Commission's guidelines would go a long way in the protection and promotion of human rights. The Commission was a respondent in a petition in the Supreme Court related to Police Reforms and enactment of new Police Act.

20. The Commission has also taken a proactive approach to periodically monitor and review the implementation of measures by Government for ensuring some basic Human Rights areas of concern. Some of these are as follows:

I. Right to Education

21. The Commission has been advocating since 1994 for free and compulsory education to all children until they complete the age of 14 years. The 86th Constitutional Amendment Act, which was passed in 2002, mandates that 'the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.' As of now, there is no central legislation in this regard. The Model Right to Education Bill was circulated to the States in June 2006. Though the Constitutional Amendment Act has been passed, this right is a stillborn right as the corresponding legislation is not in place. Notwithstanding Sarva Shiksha Aabhiyan and other programmes, fundamental right to education cannot be realized all over the country in the absence of a clear policy and legislative measures, whether through a Central or State legislation. The Commission is deeply concerned about equity and quality of education, which leaves much to be desired. There are significant gaps between urban and rural areas and between elite and non-elite schools in educational attainments with backward districts and tribal people lagging behind the general public.

II. Right to Health

22. Universal equitable access to essential health care based on need continues to elude us. There are significant inter-state, urban-rural and economic status related disparities in access to essential health care which have been clearly brought out by the National Family Health Survey III.

Quality assurance in Mental Hospitals and protection of the rights of mentally ill is also a challenge. The Commission recommended compulsory rural attachment for the doctors and having nurse practitioners to resolve the issue of manpower.

III. Rights of Children

23. The Commission regularly monitors the measures towards elimination of the practice of

child labour in hazardous work through its Special Rapporteurs and issues recommendations for compensation as well as penal action. The Commission is of the firm view that children should be in schools and not work for their livelihood and that there should be stricter enforcement of protective provisions in the Constitution and in the laws. The Commission has also been deeply concerned about the findings of slow decline in infant mortality rate brought out by the National Family and Health Survey (NFHS 3). Deeply concerned about juvenile justice, the Commission held a National Conference and made detailed recommendations in this regard. Instances of sexual abuse of children have been on the rise and are a matter of deep concern for the Commission. The Commission intervened in specific cases of child sexual abuse including in the Nithari incident where it constituted a High Level Committee on Missing Children and based on its report, it made detailed recommendations on the issue. In July 2007, it has issued Guidelines for speedy and sensitive disposal of child rape cases. The predominantly patriarchal, social, cultural and religious set up based on the foundation that the family line runs through a male has contributed extensively to the secondary status of women in India. This has led to a strong desire to avoid the birth of a female child in the family resulting in decline in the child sex ratio at an alarming rate. Modern technology combined with a cultural preference for sons rather than daughters has led to the mushrooming of neo-natal clinics across India where parents can check the sex of their unborn child. In some parts of the country parents are choosing to abort if the child is female.

IV. Right to Food

24. Though sufficient food grains are available in the country, the Commission has been concerned about issues relating to access to food and malnutrition. In spite of plethora of schemes, there seemed to be no convergence. On one hand, we have overcome famines and moved away from being a food deficit country, while on the other hand, there are instances of starvation and malnutrition. The Commission is of the firm view that there is a need to redefine concepts like, 'Right to Nutrition', 'Malnutrition', 'Starvation' so that there is a paradigm shift from 'welfare' approach to 'rights based approach' to the issue of malnutrition and starvation. The Commission has held that Right to Food is not only a constitutional guarantee but also a basic human right. In order to ensure quality execution of Right to Food, the Commission has recommended constitution of Committees which would monitor the access and availability of food grains to the eligible and most vulnerable sections of the society. The Commission has issued the guidelines on the constitution and functioning of the committees to all the State governments and the Central Ministries. The Commission hopes that, if implemented in letter and spirit, these Committees, which will act as Watch Committees, would pave the way for a hunger free India. Besides drawing up a draft National Action Plan on Right to Food, the Commission is also monitoring incidence of malnutrition in Maharashtra.

V. Rights of Persons with Disability

25. The Commission was actively involved in the drafting of the Convention on the Rights of Persons with Disabilities and soon after its adoption by the UN General Assembly, the Commission commended it to the Government of India for ratification, which has since been done. Article 33 of that Convention provided a role for NHRIs in the monitoring of implementation. Accordingly, the Commission has initiated follow up action. It proposes to hold regional workshops to sensitize various stakeholders about the provisions of the Convention and monitor the execution of the rights of persons with disabilities.

VI. Corruption and Human Rights

26. Recognizing linkages between corruption and good governance and how the former impinges upon the enjoyment of Human Rights, the Commission held a National Conference on this subject in May 2006 and based on it, made detailed recommendations to all authorities concerned.

VII. Review of International Human Rights Commitments

27. As an 'A' category Paris Principles compliant National Institution, the Commission has been playing an active role in the International Coordinating Committee and in the Asia Pacific Forum of NHRIs and was instrumental in the UN Human Rights Council resolution 5/1 which listed critical role of NHRIs in the UN Human Rights Council. On request from the Government of India, the Commission actively participated in the preparation of the India Country Paper.

28. In the interpretation of applicability of international conventions, the Courts and the Commission have always interpreted it in a progressive manner in harmony with international law. Based on the Commission's efforts, the Government of India has signed the Torture Convention. Following the Commission's advice, it has signed and ratified two Optional Protocols to the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. In the same vein, the Commission has been advocating for the ratification of the 1951 UN Convention relating to the Status of Refugees and the Torture Convention. In addition, it has been advocating for a National Law on Refugees.

VIII. Conclusion

29. There is an increasing convergence of positions amongst various sections - the State, Human Rights Institutions and civil society that development is one of the necessary requisites for promotion and protection of human rights and right to Development. Two challenges need to be met before this right can be taken seriously in policy and action. The first is to create a robust concept of development; the second is to identify the practical steps to implement this right by

gearing up the administration and the operation of law. The object of this right is to reduce disparities, harmonize aspirations of freedom and dignity with material improvement of human conditions. Neither objective is possible under conditions of poverty. Poverty often results from willful neglect and discrimination. Lack of adequate development or that which permits exclusion and discrimination in allocation of resources paves the way to increased inequality and marginalization of the poor and the vulnerable. It denies them their human rights in terms of lack of capacity.

30. In the words of Nobel laureate, Amartya Sen, “the overarching objective of development is to maximize people's capabilities their freedom to lead the kind of lives they value, and have reason to value.” Economic and social inequalities create differences in access to political power, justice, basic goods and services, all of which are essential for the full realization of human rights. The process of development must strive to realize all human rights entitlements of all rights holders. This is particularly relevant for the poor and the marginalized. For them, it is necessary that the development process move away from needs based exercise in charity and assistance to one that creates and sustains genuine entitlements that span all aspects of their life - economic, social and cultural as well as civil and political.

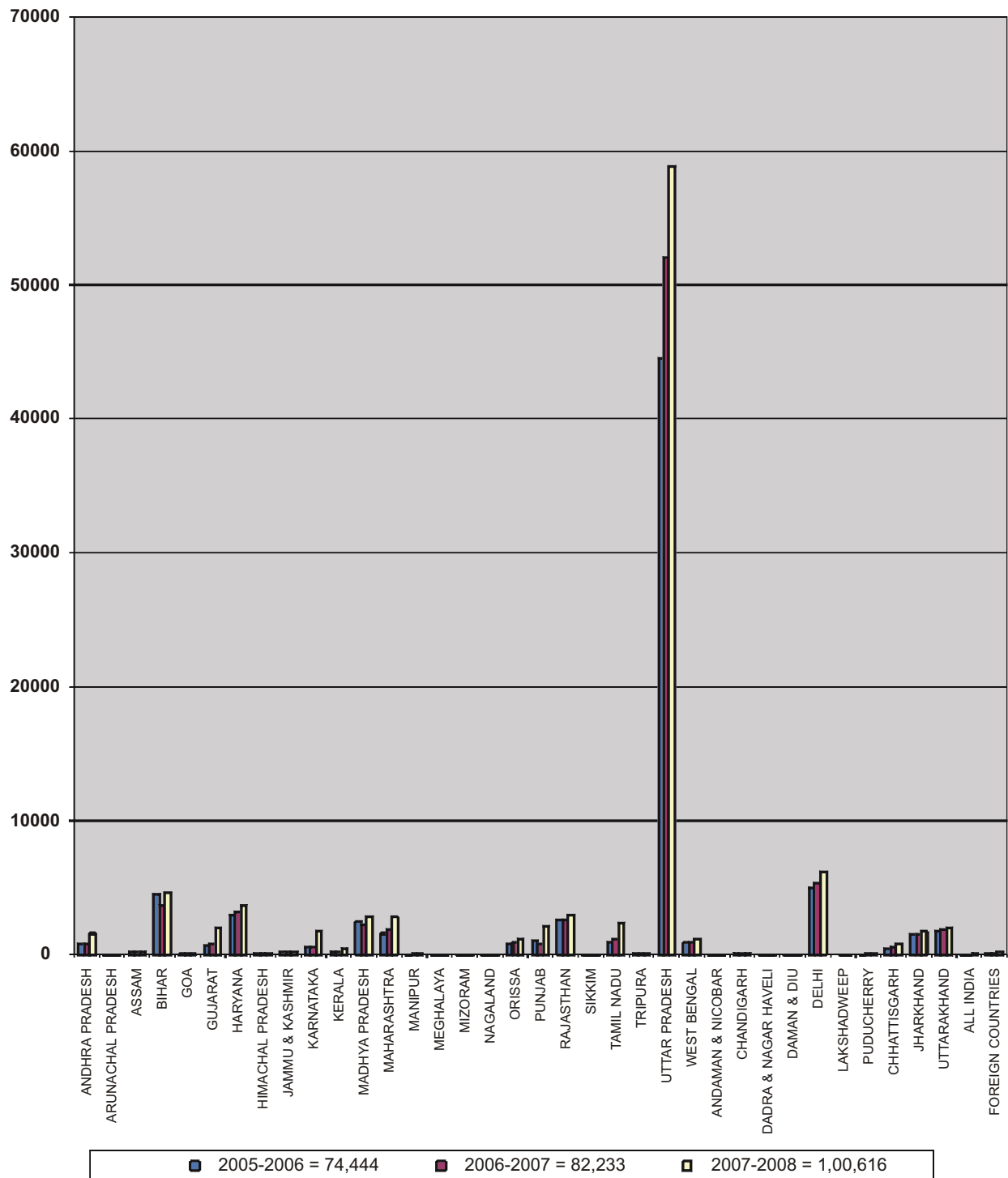
31. The second challenge is to translate political commitment to practice. Development with social justice cannot be achieved in the absence of respect for human rights. There has to be an enabling environment - legal political, economic and social - sensitive in the local context for realization of right to development. The gap between intention and action has undermined the credibility of several schemes. NHRC targets to be a facilitator to trigger this process for the realization of the right to development.



CHARTS & GRAPHS

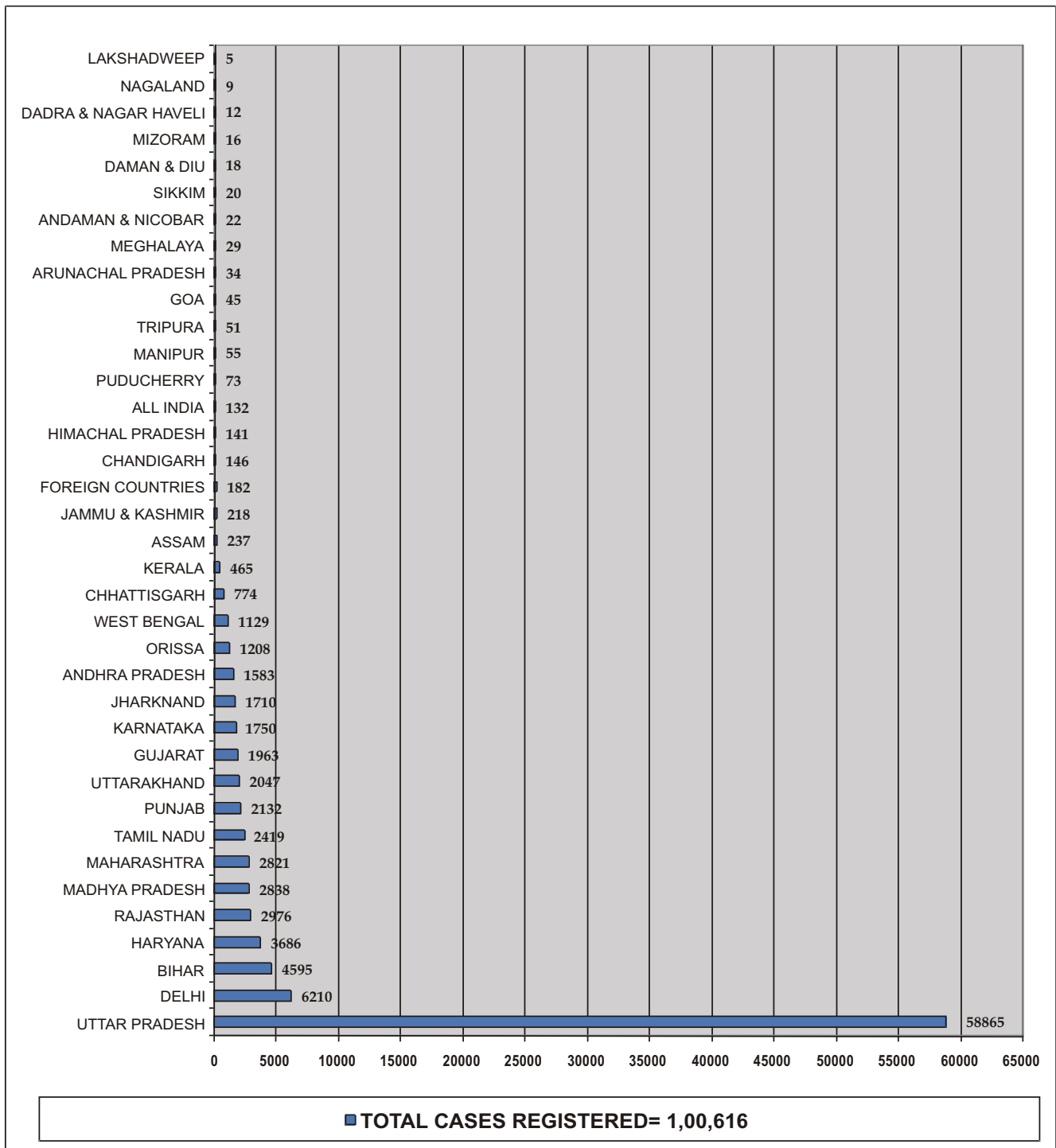


STATE/UT-WISE CASES REGISTERED DURING LAST THREE YEARS



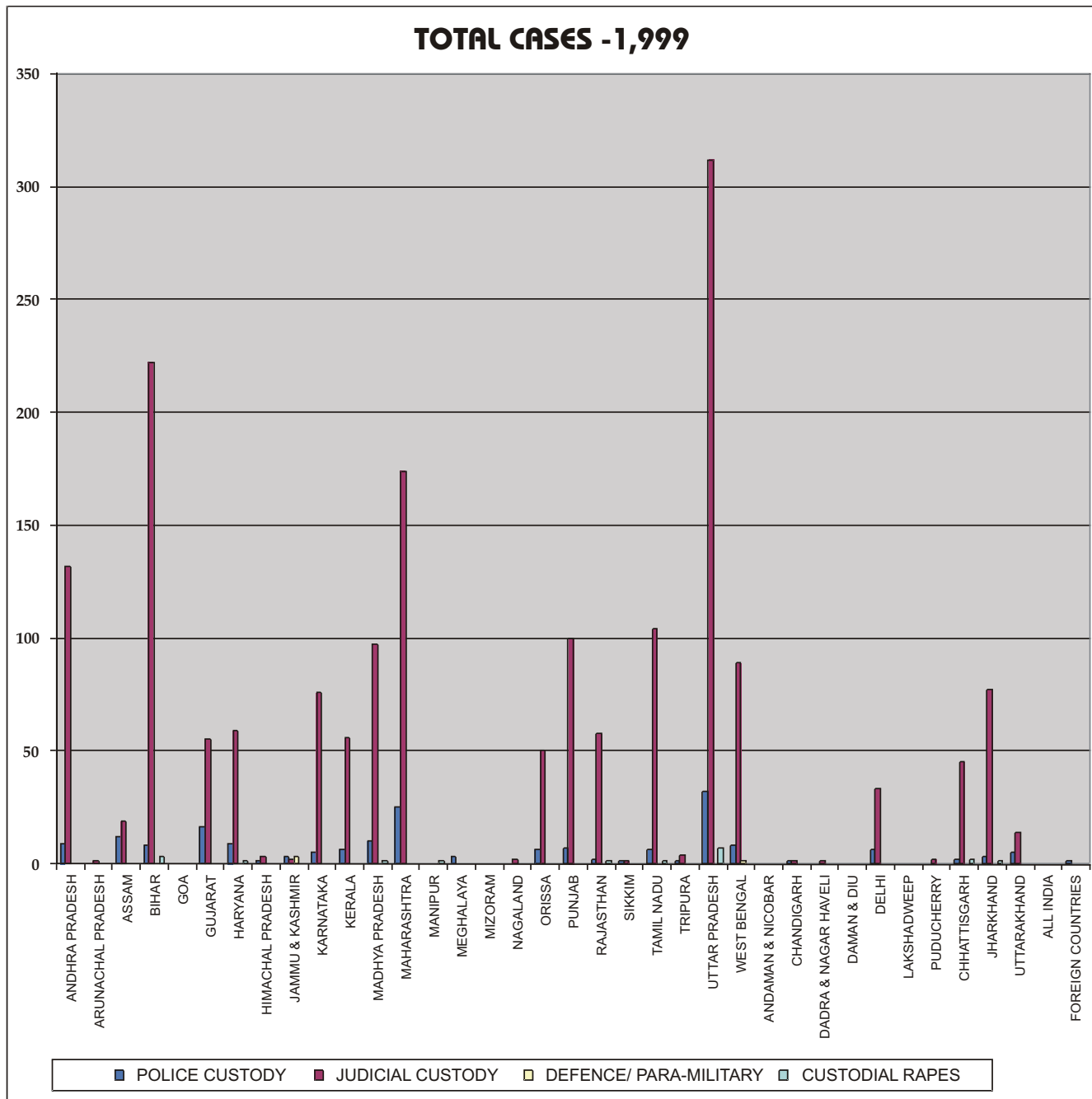


STATE/UT-WISE NUMBER OF CASES REGISTERED DURING 2007-2008



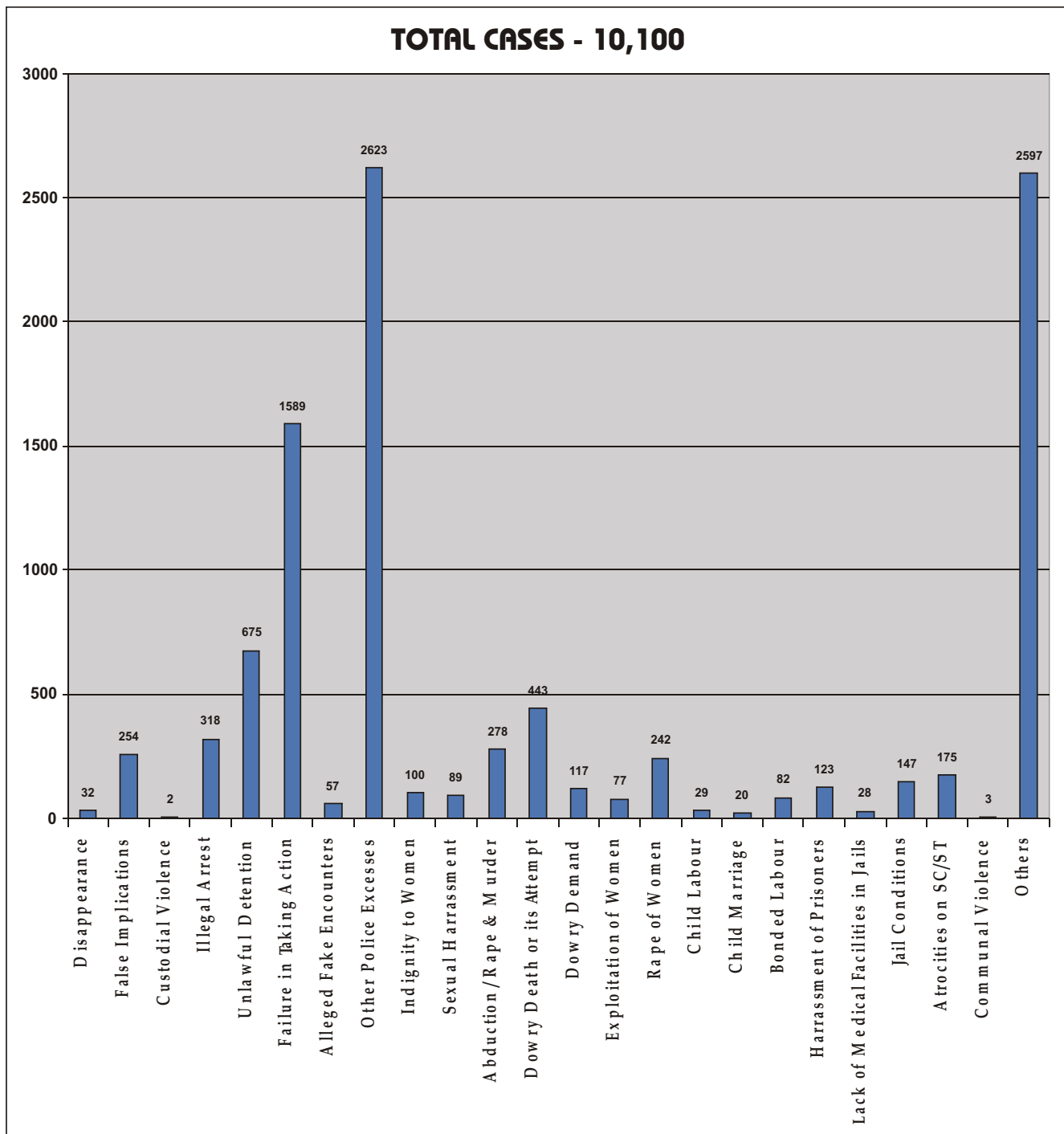


STATE/UT-WISE LIST OF INTIMATIONS REGISTERED RELATING TO CUSTODIAL DEATHS/RAPES DURING 2007-2008





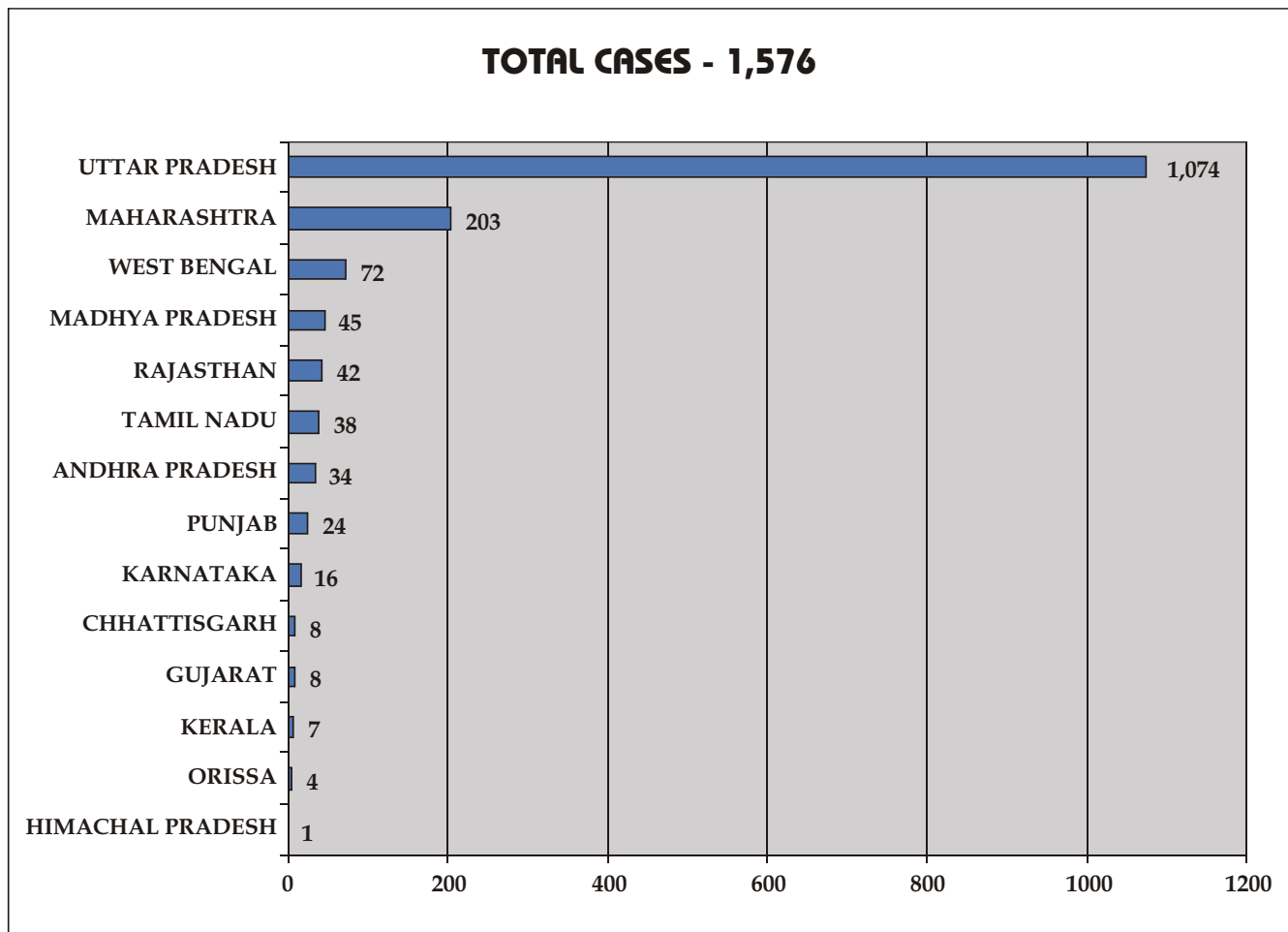
NATURE & CATEGORIZATION OF REPORT CASES* DISPOSED OFF BY THE COMMISSION DURING 2007-2008



*Report cases are the cases other than those dismissed 'in limini' or disposed off with directions or transferred to SHRCs

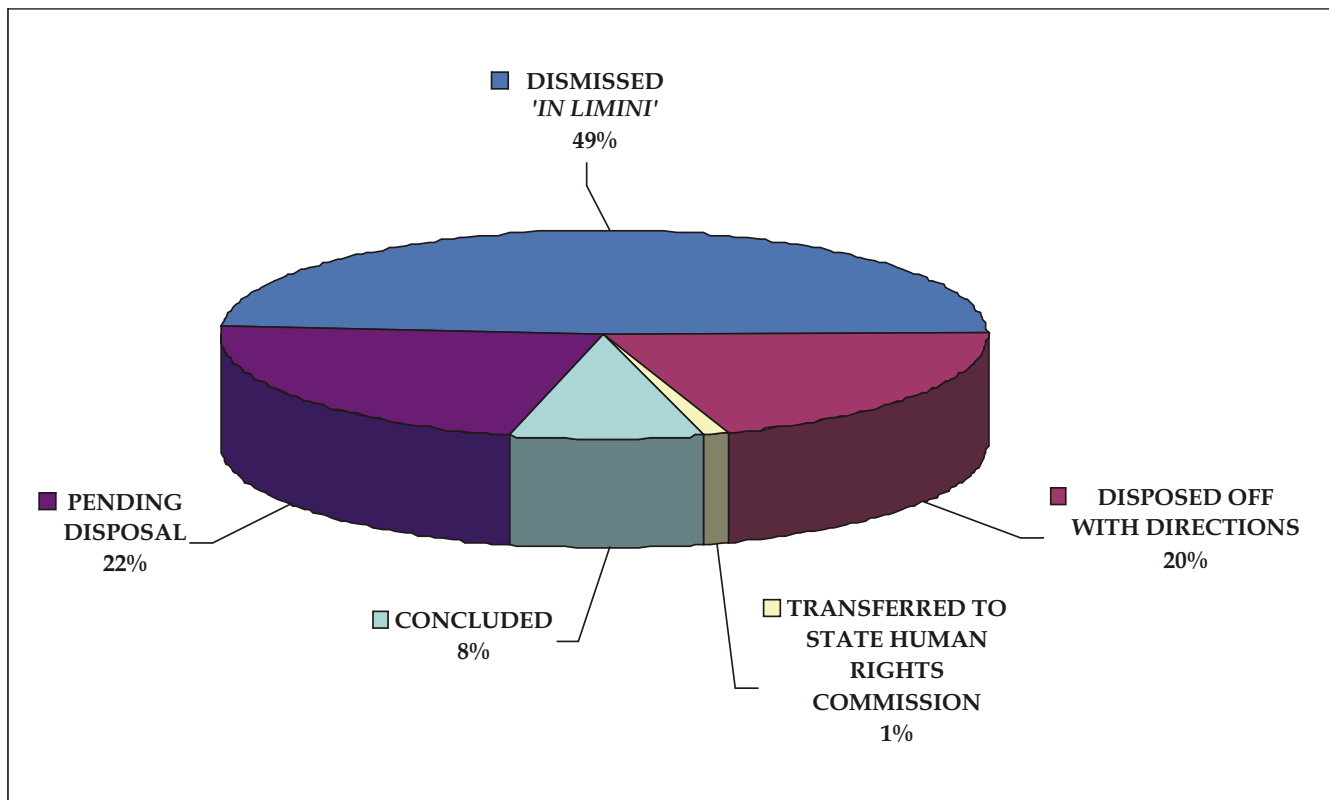


CASES TRANSFERRED TO STATE HUMAN RIGHTS COMMISSIONS DURING 2007-2008





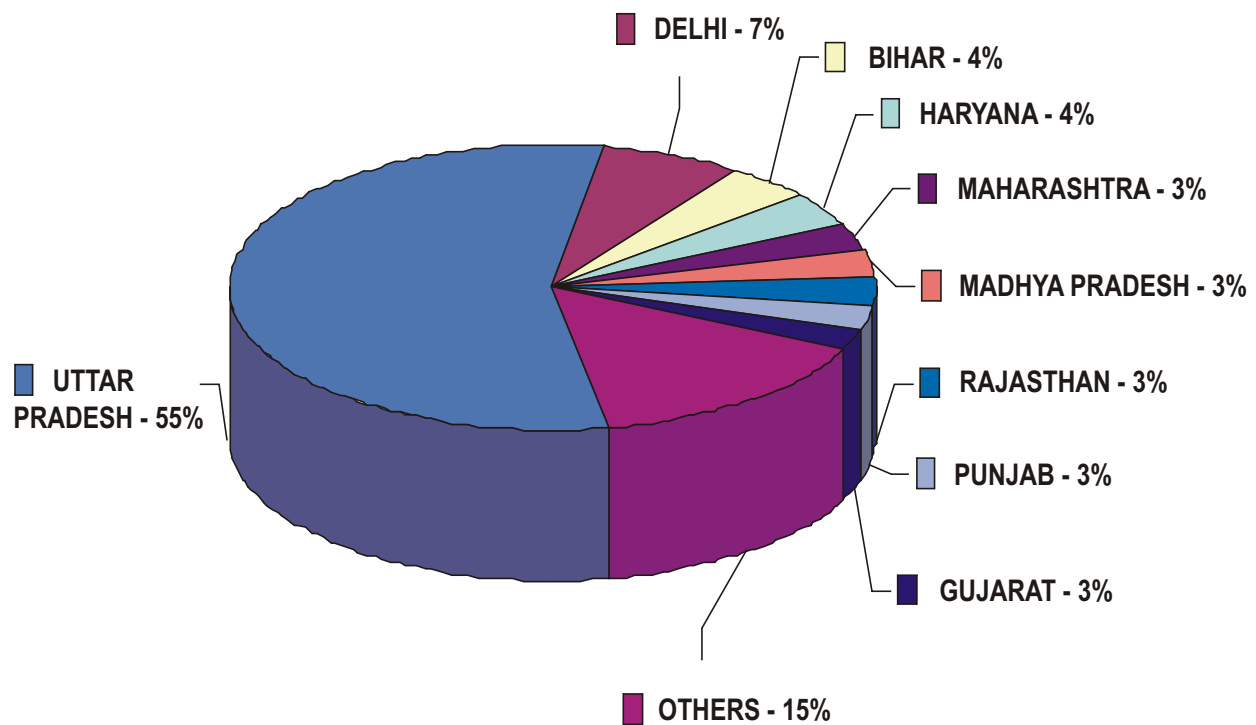
CASES DISPOSED OFF/PENDING DISPOSAL DURING 2007-2008





CASES DISMISSED 'IN LIMINI' DURING 2007-2008 IN STATES/UTs WITH A DISMISSAL RATE OF MORE THAN 3%

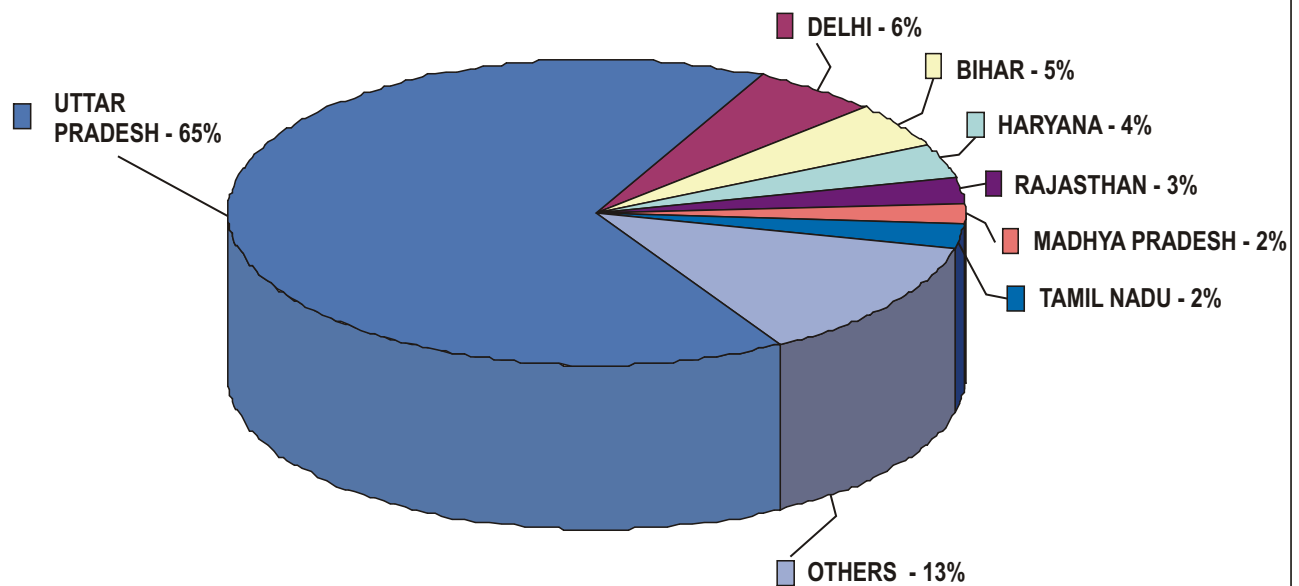
TOTAL CASES - 63,763





CASES DISPOSED OFF WITH DIRECTIONS DURING 2007-2008 IN STATES/UTs WITH A DISMISSAL RATE OF MORE THAN 3%

TOTAL CASES - 26,600





ABBREVIATIONS

AIIMS	-	All India Institute of Medical Sciences
AIR	-	All India Reporter
A.P.	-	Andhra Pradesh
APF	-	Asia Pacific Forum
ARV	-	Anti-rabies Vaccine
ASI	-	Assistant Sub-Inspector
ATI	-	Administrative Training Institute
BN.	-	Battalion
BPL	-	Below Poverty Line
BSF	-	Border Security Force
CB-CID	-	Crime Branch-Criminal Investigation Department
CBI	-	Central Bureau of Investigation
CGHS	-	Central Government Health Scheme
CHCs	-	Community Health Centres
CIC	-	Central Information Commission
CID	-	Criminal Investigation Department
CJM	-	Chief Judicial Magistrate
CMO	-	Chief Medical Officer
CMRI	-	Calcutta Medical Research Institute
CMS	-	Complaint Management System
CPIO	-	Central Public Information Officer
Cr.	-	Criminal
Cr.P.C.	-	Criminal Procedure Code
CWC	-	Child Welfare Committee
Cr.W.P.	-	Criminal Writ Petition
CRPD	-	Convention on the Rights of Persons with Disabilities
CRPF	-	Central Reserve Police Force
C.W.P.	-	Civil Writ Petition
DFWO	-	District Family Welfare Officer
DGHS	-	Directorate General Health Services

DG	-	Director General
DG(I)	-	Director General (Investigation)
DGP	-	Director General of Police
DIG	-	Deputy Inspector General
DMs	-	District Magistrates
ECL	-	Eastern Coalfields Limited
FIR	-	First Information Report
GoI	-	Government of India
HRC	-	Human Rights Council
HR	-	Human Rights
HQs.	-	Headquarters
I-CARD	-	Identity Card
ICCPR	-	International Covenant on Civil and Political Rights
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
IGP	-	Inspector General of Police
INC	-	Indian Nursing Council
IPC	-	Indian Penal Code
JTI	-	Judicial Training Institute
KBK	-	Koraput, Bolangir and Kalahandi
MCI	-	Medical Council of India
MER	-	Magisterial Enquiry Report
MRO	-	Mandal Revenue Officer
MTP	-	Medical Termination of Pregnancy
NCT	-	National Capital Territory
NDPS	-	Narcotic Drugs and Psychotropic Substances
NGOs	-	Non-governmental Organizations
NHRC	-	National Human Rights Commission
NHRIs	-	National Human Rights Institutions
NIC	-	National Informatics Centre
NOK	-	Next of Kin
NPP	-	National Population Policy
NREG	-	National Rural Employment Guarantee
NSCN(IM)	-	National Socialist Council of Nagaland (Isak-Muivah)
OHCHR	-	Office of the United Nations High Commissioner for Human Rights
PCPNDT	-	Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994

PHCs	-	Primary Health Centres
PHRA	-	Protection of Human Rights Act
PS	-	Police Station
PSIs	-	Police Sub-Inspectors
PTI	-	Police Training Institute
RAF	-	Rapid Action Force
RPC	-	Ranbir Penal Code
RPF	-	Railway Protection Force
RTI	-	Right to Information
SC	-	Supreme Court
SCs	-	Scheduled Castes
SDM	-	Sub-Divisional Magistrate / Sub-District Magistrate
SEZ	-	Special Economic Zone
SHO	-	Station House Officer
SHRCs	-	State Human Rights Commissions
SI	-	Sub-Inspector
Sl.	-	Serial
SMO	-	Senior Medical Officer
SP	-	Superintendent of Police
SSP	-	Senior Superintendent of Police
STs	-	Scheduled Tribes
Tab.	-	Tablet
T.B.	-	Tuberculosis
UIDBs	-	Un-identified Dead Bodies
UN	-	United Nations
UNDP	-	United Nations Development Programme
U.P.	-	Uttar Pradesh
UPR	-	Universal Periodic Review
UNIC	-	United Nations Information Centre
u/s	-	under section
UT	-	Union Territory
UTs	-	Union Territories
UTP	-	Undertrial Prisoners
VIP	-	Very Important Person
W.P.	-	Writ Petition



**It has always been a mystery to me how men
can feel themselves honoured by the
humiliation of their fellow beings.**

-Mahatma Gandhi



NATIONAL HUMAN RIGHTS COMMISSION

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