



# Annual Report

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2013–2014

National Human Rights Commission

INDIA



# **Annual Report**

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**2013—2014**

**National Human Rights Commission**  
**INDIA**

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## ABBREVIATIONS

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# ***Chapter - 1***

## **Introduction**

**1.1** This is the twenty-first Annual Report of the National Human Rights Commission (NHRC). It covers the period from 1 April 2013 to 31 March 2014.

**1.2** The twentieth Annual Report of the Commission, for the period 1 April 2012 to 31 March 2013, was submitted to the Central Government on 13 February 2014 for preparing the Memorandum of Action Taken and placing the same before each House of Parliament in compliance with the procedure laid down under Section 20 (2) of the “Protection of Human Rights Act, 1993” and its amendment thereby in September 2006 (PHRA).

**1.3** During the period under review, Justice Shri K. G. Balakrishnan, former Chief Justice of the Supreme Court of India continued to hold the office of Chairperson in the Commission. Justice Shri B.C. Patel and Shri Satyabrata Pal also continued to serve as Members in the Commission and on completing their tenure relinquished office on 22 July 2013 and 1 March 2014 respectively. Shri S. C. Sinha, former Director General, National Investigation Agency, Government of India assumed office as a new Member on 8 April 2013. Justice Shri Cyriac Joseph, former Judge of the Supreme Court of India and Justice Shri D. Murugesan, former Chief Justice of High Court of Delhi were the other two new Members who assumed office on 27 May and 21 September 2013 respectively.

**1.4** In accordance with Section 3 (3) of the PHRA, Dr. P. L. Punia, Chairperson of the National Commission for Scheduled Castes; Dr. Rameshwar Oraon, Chairperson of the National Commission for Scheduled Tribes; Shri Wajahat Habibullah, Chairperson of the National Commission for Minorities and Ms. Mamta Sharma, Chairperson of the National Commission for Women continued to be deemed Members for discharge of functions specified in clauses (b) to (j) of Section 12 of the PHRA.

**1.5** Dr. Parvinder Sohi Behuria (IRS:77) succeeded Dr. Ashok Sahu (IES:75) as the Secretary General and Chief Executive Officer of the NHRC on 8 November 2013 upon the superannuation of the latter on 31 July 2013. Prior to joining the NHRC, Dr. Behuria was a Member, Central Board of Direct Taxes and Special Secretary to the Government of India. She superannuated on 31 March 2014. Smt. Kanwaljit Deol, IPS (AGMU:77) continued to work as Director General (Investigation) in the NHRC. Shri A.K. Garg and Shri J. S. Kochher (IES:1986) continued to function as Registrar (Law) and Joint Secretary (Training & Research) in the NHRC respectively.

**1.6** The Annual Reports of the Commission, apart from giving a description about the overall activities undertaken by it each year including the recommendations made by it to the State and Union Territory Governments on varied issues, serve as a principal source 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 a range of human rights concerns

as well as complaints, its other key priorities and achievements.

**1.7** In a society as diverse as ours, the indivisibility and interrelated nature of human rights – be it civil, political, economic, social or cultural – is self-evident. This aspect is well recognized in the Constitution of India. In reality, the situation is different as widespread discrimination still persists against the scheduled caste and scheduled tribe communities. This is equally true of women, children and other vulnerable groups. These deviations are grave dangers not only for the victims but for the country as a whole as discrimination engenders serious inequality and undermines the overall freedom and prosperity of a nation. The problems and concerns of each of these groups were given due attention by the Commission during the period under review.

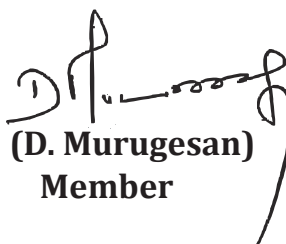
**1.8** The report that follows, *inter alia*, deals with civil and political rights, in particular, custodial violence and torture, including deaths in custody, illegal detention, high-handedness of police, deaths in police firing and encounters, and conditions in prisons. The report then deals with economic and social rights, such as rights relating to health, food, education, rights of people belonging to scheduled caste and scheduled tribe communities as well as other vulnerable groups, including women, children, disabled and elderly persons; human rights education, training and awareness; the role of State Human Rights Commissions, non-governmental organizations and human rights defenders in supporting the endeavours of NHRC, India. The important cases of human rights violation under each category of rights dealt by the Commission are also covered in this Report. In addition, the report focuses on NHRC, India's co-operation at international level with Human Rights Council, Asia Pacific Forum of National Human Rights Institutions and International Coordinating Committee of National Human Rights Institutions.



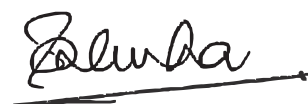
**(K. G. Balakrishnan)**  
**Chairperson**



**(Cyriac Joseph)**  
**Member**



**(D. Murugesan)**  
**Member**



**(S. C. Sinha)**  
**Member**

7th May, 2015  
New Delhi

## ***Chapter - 2***

### **HIGHLIGHTS : 2013-2014**

**2.1** Human rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. Respect for human rights is essential to the sustainable achievement of global priorities of peace, development and democracy. Given their centrality, the strengthening of human rights in all the 193 Member States is the focus of the United Nations. But assuring human rights for all people remains a daunting challenge in each country, given the impunity with which they continue to be violated in all parts of the world.

**2.2** Even today, billions continue to live in extreme poverty, and the huge disparity between rich and poor countries continues to grow. Violent conflicts continue to proliferate, sometimes uprooting entire communities, forcing millions of people to move away from their homes, political extremism and terrorism continue to target countless innocent civilians. The scourge of unemployment, discrimination and social exclusion bedevil all societies. And although globalization with the new information and communication technologies has brought the world closer together, it has also given rise to new threats to human security and human freedom. All this has benefitted anti-social elements of society, leading to increase in corruption, organized crime and transnational trafficking in illicit drugs, arms, toxic materials, even in human beings, in particular, women and children for exploitation of all kinds.

**2.3** All human rights for all people in all countries should be the goal of the 21<sup>st</sup> century. The world today has the awareness, the resources and the capacity to achieve this goal on a worldwide scale. The real test, however, to a growing global population demanding a life of dignity, is the degree to which they are able to enjoy freedom from fear and want, without discrimination. This undoubtedly can be accomplished by democracy that is inclusive and has a culture of good governance and human rights. Inclusive democracy, good governance and human rights are mutually reinforcing as each facilitates the realization of the other. These are aspects on which focused attention needs to be given by any country, including India, if the ultimate goal of 'all human rights for all' in line with the post-2015 agenda is to be achieved.

**2.4** NHRC, India has been constantly monitoring these features to ensure the protection and promotion of human rights in respect of people of this country. The ensuing paragraphs give an overview of the significant activities undertaken by the Commission during the period April 2013 to March 2014.

#### **NHRC Shifts to its Own Building**

**2.5** The Commission shifted to its own new building on 9 September 2013 – Manav Adhikar Bhawan in INA, New Delhi. Inaugurating the new premises, Justice Shri K. G.





Balakrishnan, Chairperson, NHRC expressed satisfaction over having its own space after a span of 20 years since inception.

## **NHRC Celebrates its 20<sup>th</sup> Anniversary**

**2.6** The NHRC celebrated its 20<sup>th</sup> anniversary on 12 October 2013 by organizing a cultural programme in which officers and the staff of the Commission also participated. As part of the Foundation Day celebrations, prizes were given to the winners of Children's Painting Competition and winners of Essay Writing in Hindi.

## **NHRC Observes Human Rights Day**

**2.7** The Commission observed the Human Rights Day by organizing a special function at Vigyan Bhawan, New Delhi on 10 December 2013. The Chief Guest for the occasion was Hon'ble Shri M. Hamid Ansari, Vice President of India. In light of the theme for 2013 Human Rights Day - "20 Years : Working for Your Rights", Hon'ble Shri Ansari spoke on "Human Rights and Human Wrongs". Incidentally, 2013 Human Rights Day marked the 20<sup>th</sup> anniversary of the Office of the UN High Commissioner for Human Rights and NHRC, India.

## **Commission's Meetings**

**2.8** During the year under review, the Full Commission deliberated upon and decided various cases of human rights violations in 45 sittings. In addition, the two Division Benches considered 1,228 cases in 89 sittings. Other important cases were also considered in three open camp sittings of the Commission. In accordance with Section 3(3) of the PHRA, the Statutory Full Commission consisting of deemed Members of National Commissions for Minorities, Scheduled Castes, Scheduled Tribes and Women met on 4 February 2014 to discuss issues relating to coordination and other important aspects within these Commissions.

## **NHRC's Open Hearings on Atrocities against Scheduled Castes**

**2.9** As in the past, the Commission during the period under review, held two open hearings – one at Varanasi in Uttar Pradesh on 25 & 26 November 2013. The other open hearing was held in the premises of the Commission at New Delhi on 12 December 2013 covering Districts of Meerut, Ghaziabad, Bulandshahar and Gautambudh Nagar in Uttar Pradesh. Cases of atrocities that were brought to the notice of the Commission related to police inaction, biased investigation by police officers, crime against women, sexual assault, civil dispute and civil matters.

## **NHRC Camp Sittings in Chhattisgarh, Manipur and Uttar Pradesh**

**2.10** The NHRC has been organizing camp sittings in State capitals in order 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 concerns. In the past, it has held camp sittings in Uttar Pradesh, Bihar, Bengaluru (for four southern States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu), Odisha, Assam, Meghalaya and Maharashtra.

**2.11** During the period under review, the Commission held three camp sittings in Chhattisgarh, Manipur and Uttar Pradesh. The first camp sitting was held at Raipur, Chhattisgarh on 11 and 12 April 2013. The Full Commission headed by the Chairperson, Justice Shri K. G. Balakrishnan and the Divisional Bench heard 29 cases and recommended monetary relief of about ₹ 20 lakhs in 21 cases of human rights violations.

**2.12** The Commission held its second camp sitting at Imphal, Manipur from 23 to 25 October 2013. A total of 46 cases, four in Full Commission, 42 in Division Benches, were taken up. Some of these cases related to Loktak Lake and Churachandpur District Hospital wherein the Commission recommended that investigations of these cases be carried out by the Central Bureau of Investigation (CBI). The Commission recommended monetary relief of ₹ 32 lakhs in six cases of deaths due to violation of human rights by the police/security forces.

**2.13** While in Manipur, a team of the Commission comprising Members Justice Shri Cyriac Joseph and Shri Satyabrata Pal, along with senior officers visited Jawaharlal Nehru Institute of Medical Sciences to meet Ms. Irom Sharmila, a human rights activist who has been on indefinite fast demanding the repeal of Armed Forces Special Powers Act (AFSPA). Ms. Irom Sharmila is under trial for charges under Section 309 IPC irrespective of the declaration that she will continue to fast until the Armed Forces Special Powers Act is repealed, as in the view of the State Government, her sustained refusal to eat is an attempt to commit suicide.

**2.14** Its third camp sitting was held in Lucknow, Uttar Pradesh from 15 to 17 January 2014. During the hearing, 92 cases related to atrocities on scheduled castes, sexual abuse in children's home, medical negligence, manual scavenging and deaths in police custody and encounter were taken up by the Full Commission and two Division Benches.

**2.15** A total of ₹1,20,65,000 was recommended by the Commission to be paid to the victims/next of kin of the deceased persons in 25 cases. In addition, the Commission issued notices under Section 18 of the PHRA to the State Government to show cause as to why monetary relief should not be paid to the next of kin of deceased in eight cases of death in police custody/encounter. Further, CBCID enquiry was recommended by the Commission in two cases of death in police encounter.

## **Interaction with Media**

**2.16** Ever since the NHRC was constituted, it has believed that media is its partner in the protection and promotion of human rights. The Commission makes use of a variety of

methods for sharing its information on activities conducted by it, interventions made and recommendations forwarded to different stakeholders. These include press releases, select media briefings, press conferences, and interviews of Chairperson and Members. Media persons are also invited to NHRC seminars, conferences, workshops and other events.

**2.17** During the period under review, 196 press releases/statements were issued by the Commission on various activities undertaken by it and interventions made. Special efforts were made to organize press conferences and day to day media briefings as well as coverage of all the camp sittings and open hearings organized by the NHRC in different parts of the country. Besides, 13 press conferences and 11 interviews of Chairperson and Members were organized in the All India Radio and Doordarshan for listening and viewing of the general public.

## Number and Nature of Complaints

**2.18** As in the past, the Commission continued to receive complaints from different parts of the country on a wide range of issues where rights of the people had been violated or negligence was shown by a public servant in the prevention of such violations. These complaints included cases alleging custodial deaths, torture, fake encounters, police high-handedness, violations committed by security forces, conditions relating to prisons, atrocities committed on women and children and other vulnerable sections, communal violence, bonded and child labour, non-payment of retiral benefits, negligence by public authorities, etc. The Commission also took cognizance of the intimations received regarding deaths in police encounters and police custody, judicial custody and in the custody of defence/para military forces. *Suo motu* cognizance of many incidents based on reports in print and electronic media was taken including those cases which came to the notice of Chairperson, Members, Special Rapporteurs and senior officers of the Commission during their visits to different parts of the country.

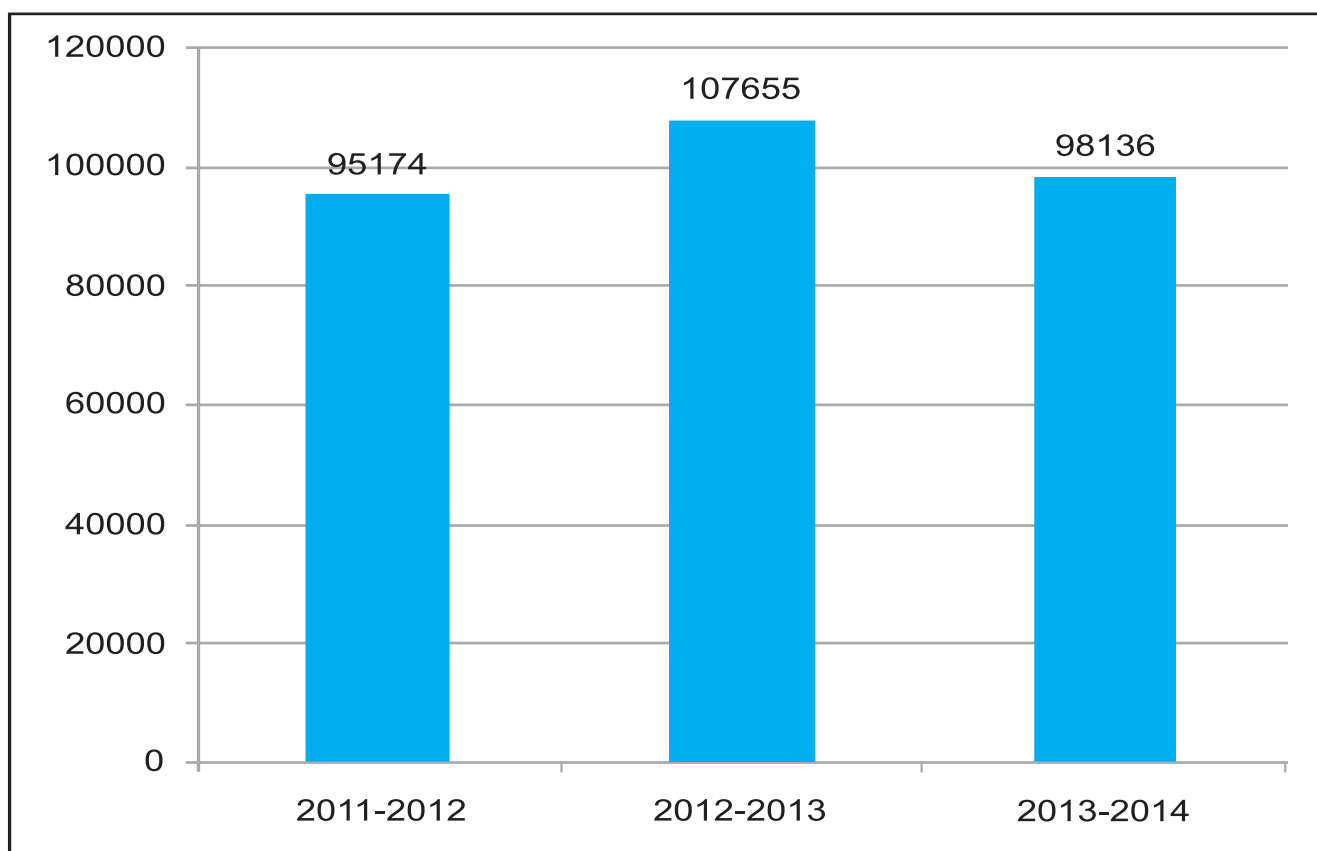
## Human Rights Violation Cases

**2.19** A total of 98,136 cases were registered in the Commission (**Annexure-1**) during 2013-2014. It disposed of 92,292 cases which included cases of previous years as well. Of the total number of cases disposed of by the Commission during the year under review, 49,776 were dismissed '*in limine*' while 26,964 were disposed of with directions to the appropriate authorities for remedial measures. A total of 5,787 cases were transferred to the State Human Rights Commissions for disposal in accordance with the provisions of the PHRA. For details of State/Union Territory-wise cases disposed of by the NHRC during 2013-2014 see (**Annexure-2**). At the end of the reporting period, i.e. on 31 March 2014, the total number of cases pending with the Commission was 28,886. These covered 2,316 cases awaiting preliminary consideration and 26,570 cases of previous years in respect of which reports were either awaited from the authorities concerned or the reports

had been received but were pending further consideration of the Commission **(Annexure-3)**.

**2.20** The Graph below gives a comparative analysis of total number of cases registered in the NHRC from 2011-2012 to 2013-2014:

**Total Number of Cases Registered in NHRC  
(2011-2012 to 2013-2014)**

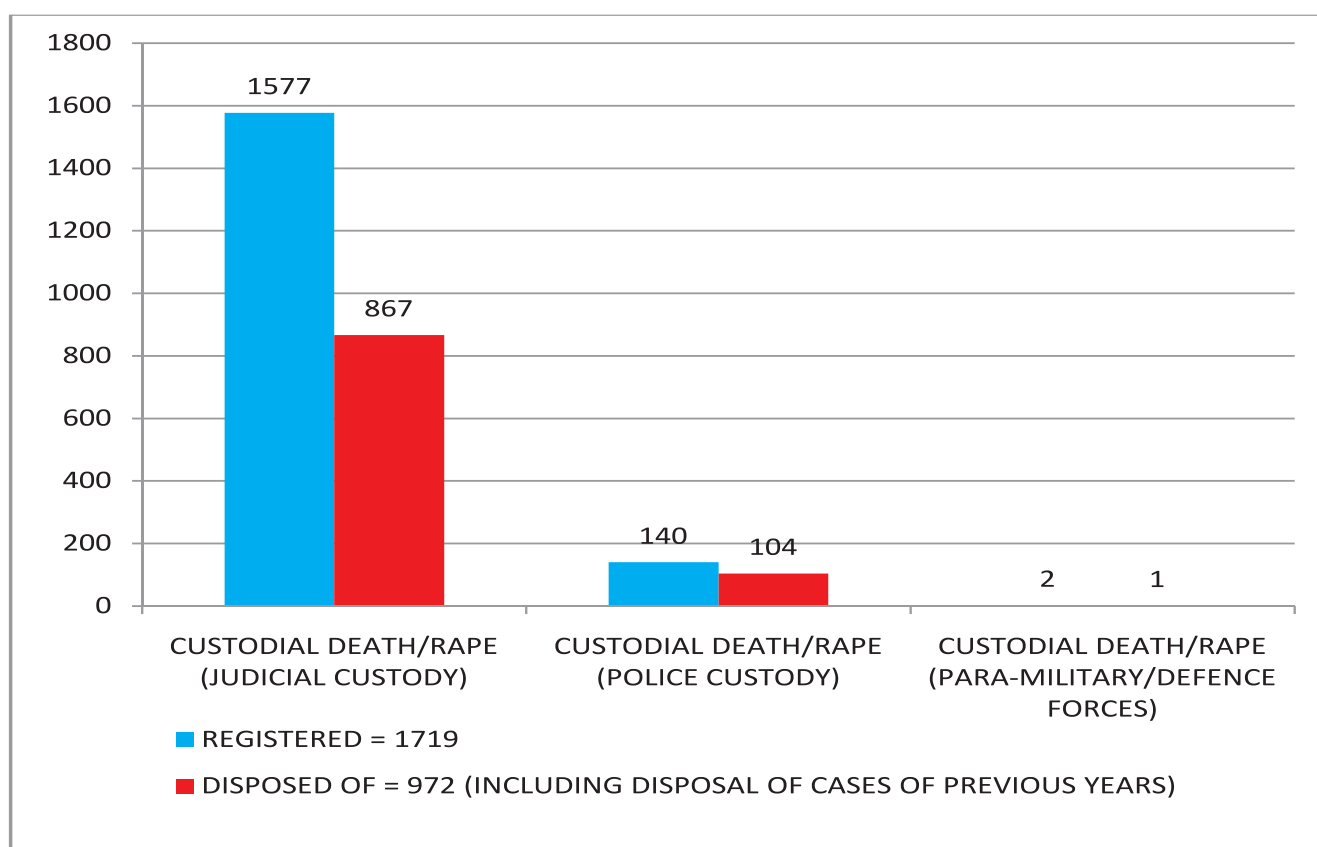


## CIVIL AND POLITICAL RIGHTS

### Preventing Custodial Violence

**2.21** The NHRC received 1,577 intimations concerning death in judicial custody<sup>1</sup>, 140 intimations of death in police custody and two intimations about death in para-military / defence forces custody during the review period. It disposed of 972 cases of custodial death – 867 cases of death in judicial custody, 104 cases of death in police custody and one case of death in the custody of para-military forces/defence services. These figures contain cases of previous years as well. See the Graph below for all details.

#### NUMBER OF CUSTODIAL DEATH/RAPE CASES REGISTERED & DISPOSED OF DURING 2013-2014



### Spot Investigations

**2.22** The Investigation Division of the NHRC, on the directions of the Commission, carried out spot inquiries in 51 cases of alleged violation of civil, political, economic, social and cultural rights during 2013-2014. These spot inquiries mainly related to custodial deaths,

<sup>1</sup> In the Annual Report, judicial custody means persons in jails as per the orders of the court.

custodial torture, false implication, illegal detention, bonded labour, atrocities on scheduled castes, scheduled tribes and other disadvantaged groups, medical negligence and lack of proper medical facilities in Government hospitals, environmental pollution, honour killing, and inhuman conditions in jails, vagrant homes and children's homes. One spot enquiry was undertaken by the Investigation Division on a reference made by the Supreme Court of India in W.P. (Civil) No.446/2013.

## Recommendations of NHRC for Monetary Relief and its Compliance

**2.23** During the period 1 April 2013 to 31 March 2014, the Commission recommended ₹ 15,19,53,086 as payment of monetary relief/compensation to the victims/next of kin of the deceased in 443 cases. Out of the total number of cases in which monetary relief was recommended, compliance reports were received in 83 cases only wherein a total amount of ₹ 2,33,95,000 was paid to the victims/next of kin of the deceased. The State/ Union Territory-wise details of these cases are at **Annexure-4**.

**2.24** During the period under review, the NHRC awaited compliance reports in 360 cases wherein monetary relief amounting to ₹ 12,85,58,086 was recommended (**Annexure-5**). The Commission, once again, recommends to all those States/Union Territories, in particular the Government of Uttar Pradesh, to take speedy action on cases pending with them for compliance so that the monetary relief recommended in each case is immediately given to the victim/next of their kin. As is evident from the given Annexure, during 2013-2014, a total of 125 cases were found to be pending with the Government of Uttar Pradesh, 29 with the Government of Assam and 25 with the NCT of Delhi for compliance in which an amount of ₹ 4,39,15,000, ₹1,84,20,000 and ₹40,50,000 respectively was recommended by the Commission as monetary relief. Bihar (18 / ₹ 35,80,000), Maharashtra (18 / ₹ 62,75,000), Madhya Pradesh (16 / ₹ 39,45,000), Manipur (16 / ₹ 84,00,000), Haryana (13 / ₹ 35,55,000), Rajasthan (13 / ₹ 24,00,000), Andhra Pradesh (13 / ₹ 23,85,000), Odisha (12 / ₹ 45,85,000) and West Bengal (11 / ₹ 37,60,000) were the other States in descending order where the pendency was noticeable.

**2.25** With regard to compliance reports relating to cases pertaining to previous years, compliance was awaited in 105 cases, for details see **Annexures - 6 & 7**. **Annexure-6** gives details of cases pending compliance for the year 2012-2013 in respect of payment of monetary relief. As is apparent, the State of Uttar Pradesh tops the list again as the Commission till date has not received proof of payment in 16 cases, most of which relate to civil and political rights. Other States, which had yet to forward their compliance reports in this respect were – Jharkhand (5), Madhya Pradesh (5), West Bengal (4), Tamil Nadu (4), NCT of Delhi (4), Andhra Pradesh (3), Maharashtra (3), Odisha (3), Punjab (3), Karnataka (2), Assam (2), Bihar (2), Gujarat (2), Rajasthan (2), Jammu and Kashmir (1), Haryana (1), Chhattisgarh (1) and Manipur (1). All the cases pertaining to these States primarily relate to civil and political rights except for a few that address concerns of sexual harassment

of women including by army/paramilitary personnel, indignity to women, irregularities/malfunctioning in primary health centres and government hospitals, abduction/rape including of a scheduled caste/scheduled tribe/other backward class woman, and non-payment of pension. The details of these cases have been reported in earlier Annual Reports of NHRC. The Commission once again calls upon all the aforementioned State Governments to take immediate steps for sending their compliance reports to the Commission and simultaneously take comprehensive steps for protection and promotion of civil, political, economic, social and health rights, along with special measures to prevent acts of violence and discrimination towards women, including those belonging to the scheduled castes, scheduled tribes and other backward classes.

**2.26 Annexure-7** gives details of cases pending compliance on the recommendations made by the Commission for the period 1998-1999 to 2011-2012 for payment of monetary relief, disciplinary action and prosecution. It would be seen that out of the 41 cases cited in the specified Annexure, in nine cases the concerned State Governments have challenged the recommendations of the Commission in their respective High Courts, and in most of these cases, the final decision is awaited. These States are Kerala (3), Odisha (3), Jammu and Kashmir (2) and NCT of Delhi (1). The Commission nonetheless makes a fervent appeal to these Governments to expedite the cases pending in their respective High Courts. It also trusts that the Governments of other States listed in Annexure-7 will adhere to the recommendations made by the Commission and provide immediate respite to the victims/next of their kin at the earliest.

## Inspection of Police Stations and Jails

**2.27** Seven Special Rapporteurs of the Commission visited seven police stations, six sub-jails, 12 district jails, 20 central jails and an exclusive jail for females located in various parts of the country during the period under review. The names of some of the police stations visited were Shymla Hills Police Station in Madhya Pradesh and Naughat Police Station, Hirri Police Station, Ratanpur Police Station and Adarsh Police Station in Chhattisgarh.

**2.28** Few of the sub-jails and district jails visited were – Solan sub-jail in Himachal Pradesh, Dimapur sub-jail in Nagaland, Godhra sub-jail in Gujarat, Bhandara district jail in Maharashtra, Hoshiarpur district jail in Punjab, Bettiah in Bihar and Jaisalmer in Rajasthan. The central jails visited, among others, were situated in States of Tripura, Manipur, Jharkhand, Goa and Mizoram. The particulars of all the jails visited are given in Chapter 4 of this Annual Report. The reports of the Special Rapporteurs on the basis of their visits are placed before the Commission and thereafter, the recommendations of the Commission are forwarded to the concerned State Governments for compliance.



## **Statement Issued by NHRC on the Naxalite Attack in Chhattisgarh**

**2.29** Appalled by the savage attack in Chhattisgarh on 25 May 2013 in which many persons were killed by the Naxalites, the Commission issued a statement condemning the attack and urged the Naxalites to abandon their violence which made matter worse for the villages whose cause they claim to espouse.

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **NHRC Team Visits Lakshadweep**

**2.30** A team of NHRC officers visited Lakshadweep Islands from 26 to 29 April 2013 to look into issues of human rights violations, review the status of implementation of Commission's recommendations and sensitize the officers of the UT Administration. During the course of the visit, a public hearing was also held where complaints about human rights violations were directly received from the complainants.

**2.31** Thereafter, a team led by Justice Shri D. Murugesan, Member, NHRC again visited Lakshadweep from 24 to 28 February 2014 to review the steps taken by the Union Territory Administration after the NHRC team's first visit.

### **Meeting of NHRC Core Group on Health**

**2.32** A meeting of the NHRC Core Group on Health was organized in the Commission on 20 June 2013 under the chairmanship of Shri S. C. Sinha, Member, NHRC. The meeting focused on themes which needed to be deliberated upon in the National Conference on Health Care as a Human Right that it organized in New Delhi on 5 and 6 November 2013. The details are given in Chapter 5 of the Annual Report that deals with "Right to Health".

### **On-the-Spot Assessment of Uttarakhand Calamity**

**2.33** NHRC team headed by Smt. Kanwaljit Deol, Director General (Investigation) visited Uttarakhand from 15 to 18 July 2013 for an on-the-spot assessment of the situation in the aftermath of natural calamity causing loss of human lives and property. The team held meeting with senior officers of the State Government in Dehradun. It also held a meeting with the NGOs and visited the worst affected areas. The team made an assessment of various aspects including number of deaths, relief camps, accessibility of food and drinking water, arrangements for rehabilitation of affected people, medical facilities, safety and security measures, arrangements for the last rites of the dead, restoration of infrastructure, disaster management system, monetary relief, etc.

## **NHRC Issues Guidelines on Clinical Drug Trials**

**2.34** The NHRC evolved significant guidelines on clinical drug trials with the advice of a five Member Committee especially constituted for the said purpose. These guidelines were an outcome of the complaints brought to the notice of the Commission on illegal clinical trial of drugs conducted on women in Andhra Pradesh. The details are given in Chapter 5 of the Annual Report.

## **Meeting of NHRC Core Group on Disability**

**2.35** A meeting of the Core Group on Disability was held in the Commission on 20 August 2013 under the chairmanship of Shri S. C. Sinha, Member, NHRC. In this meeting, the Members of the Core Group examined and discussed the draft of “The Rights of Persons with Disabilities Bill” drafted in 2012. The details are given in Chapter 11 of the Annual Report.

## **NHRC Member Visits Vishakhapatnam**

**2.36** Shri S. C. Sinha, Member, NHRC visited Vishakhapatnam in Andhra Pradesh from 5 to 8 September 2013. He held meetings with senior officers of the District administration and made an assessment of the implementation of various flagship programmes of Government of India and schemes run by the State Government. As part of the visit, Shri Sinha inspected the Government Hospital for mental health care in the District, which is among the first four mental hospitals set up in the southern region.

## **National Seminar on Challenges of Human Rights, Issues of Sensitivity and 21<sup>st</sup> Century**

**2.37** The Commission and Devi Ahilya Vishvavidyalaya in Indore, organized the aforementioned National Seminar on 12 and 13 September 2013. The Seminar was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC in the presence of Dr. D. P. Singh, Vice Chancellor of Devi Ahilya Vishvavidhyalaya. Several prominent literary and media personalities as well as senior officers of the Commission participated in the Seminar besides the students of the university. A large number of papers were read during the Seminar.

## **NHRC Team Visits Muzaffarnagar and Shamli Districts in Uttar Pradesh**

**2.38** The NHRC sent an investigation team to riot hit Muzaffarnagar and Shamli Districts in Uttar Pradesh. The team was led by Justice Shri Cyriac Joseph, Member, NHRC. In this endeavour, the Member was assisted, among others, by Smt. Kanwaljit Deol, Director General (Investigation) and Shri A. K. Garg, Registrar (Law). The team took stock of the prevailing situation and assessed the steps taken by the State Government for relief and rehabilitation



of affected persons. Besides making recommendations to the State Government on the basis of observations made by the visiting team, the NHRC also issued a statement on the riots that took place in Muzaffarnagar and adjoining areas in Uttar Pradesh.

## **National Conference on Health Care as a Human Right**

**2.39** The NHRC organized a two-day National Conference on Health Care as a Human Right in New Delhi on 5 and 6 November 2013. The main objective of the conference was to discuss ways in which the public health system could be strengthened from the angle of human rights, especially with regard to accessibility, affordability and quality of health care. The final recommendations of the conference were adopted by the Commission and forwarded to all the delegates, including the Ministry of Health and Family Welfare for taking required action. For more details on the National Conference, refer to Chapter 5 of this Annual Report.

## **National Seminar on Indian Concept of Human Rights : A Dialogue**

**2.40** The above seminar was organized in Hindi by the Commission in collaboration with Tripura University at their campus on 15-16 November 2013. The seminar was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC and was attended by eminent scholars, including Vice Chancellors of various Universities in the country besides students of the university and NHRC officers. Several papers were read during the two-day Seminar.

## **Workshop for Media Persons on Human Rights**

**2.41** The NHRC in collaboration with the Indian Law Institute, New Delhi organized a day long workshop for media persons on “Media and Human Rights : Issues and Challenges” on 19 December 2013. The workshop was organized in the premises of the Indian Law Institute, New Delhi and inaugurated by the Chairperson of the Commission.

## **Meeting of NHRC Core Group on Protection and Welfare of the Elderly Persons**

**2.42** A meeting of the above Core Group was held in the Commission on 20 December 2013 under the chairmanship of Shri S. C. Sinha, Member, NHRC. The meeting discussed in depth security and safety issues of elderly persons, need for review of implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the draft National Policy for Senior Citizens. The details are given in Chapter 10 of the Annual Report as it deals with “Rights of Elderly Persons”.

## **Status Report on Implementation of Maintenance and Welfare of Parents and Senior Citizens Act, 2007**

**2.43** The NHRC sought status report from all the States and Union Territories with regard to the implementation of provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

**2.44** It also issued notices to the Chief Secretaries of all States and Administrators of all Union Territories calling for reports regarding status of implementation under different Sections [7(1), 15, 19, 20(1)(2)(5)] of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

**2.45** To deal with the problems of the elderly, the Commission furthermore asked the Medical Council of India and the Union Ministry of Health and Family Welfare to explore the possibility of introducing a Post-graduate level course in 'Gerontology' in medical colleges.

### **Meeting of NHRC Core Group on Mental Health**

**2.46** A meeting of the Core Group on Mental Health was held in the Commission on 7 January 2014 under the chairmanship of Shri S. C. Sinha, Member, NHRC. In the said meeting, responses of the Union Government and few State Governments received in connection with the Crl. M.P. No. 8032 of 2013 in Writ Petition (Crl.) No. 1900 of 1981 filed by the Commission in the Supreme Court of India for seeking directions in removal of existing deficiencies in mental health institutes/hospitals along with improving the mental health care infrastructure in the country were discussed.

### **National Conference on Human Rights of Women**

**2.47** A two-day National Conference on Human Rights of Women was organized by the Commission on 18 and 19 February 2014 in New Delhi.

**2.48** The main objectives of the conference were – to discuss ways to prevent and eliminate violence against women in the light of the Criminal Law (Amendment) Act, 2013; focus on measures to prevent and eliminate trafficking in women and girls, including required action for implementation of CEDAW, 2000 Trafficking Protocol, Amman Programme of Action, and finalization of Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women (IPOA), address issues relating to women's sexual and reproductive health rights in line with International Conference on Population and Development (ICPD) and recommendations of the second universal periodic review accepted by the Government of India including elimination of discriminatory and coercive measures from population policies of States/Union Territories impacting on women, and discuss strategies for strengthening women's empowerment and gender equality.

**2.49** The recommendations of the Conference were sent to all the delegates and concerned stakeholders. The details are given in Chapter 9 of the Annual Report titled "Rights of Women and Children".

### **National Seminar on Manual Scavenging and Sanitation**

**2.50** A one-day National Seminar was organized by the NHRC on Manual Scavenging and Sanitation at Vigyan Bhawan, New Delhi on 21 February 2014. Its objective was to

spread awareness about the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 and ensure its proper implementation in eradicating manual scavenging. The recommendations of the Seminar were sent to all the delegates and concerned stakeholders and can be seen at Annexure-12 of the Annual Report.

### **Meeting of NHRC Core Group on Bonded Labour**

**2.51** A meeting with the members of the Core Group on Bonded Labour was held in the Commission on 25 March 2014 under the chairmanship of Justice Shri D. Murugesan, Member, NHRC. The meeting reviewed the implementation of the Bonded Labour System (Abolition) Act, 1976 and prepared draft amendments in the Rules under the Act.

## **TRAINING PROGRAMMES AND WORKSHOPS**

### **NATIONAL**

#### **Important Programmes Organized by NHRC**

**2.52** During the review period 2013-2014, a total of 108 training programmes, workshops and seminars were organized by the Training Division of NHRC in collaboration with 77 Administrative Training Institutes, Police Training Institutes, State Human Rights Commissions, Universities, Colleges, NGOs and other institutions/organizations across the country. These were in the form of one-day basic programme, two-day advance training or three-day training of trainers. Other significant programme conducted was an attachment programme for Probationary Officers of the Railway Protection Force held on 19-20 December 2013.

#### **National Moot Court Competition on Human Rights**

**2.53** A National Moot Court Competition on Human Rights was organized by NHRC in collaboration with Law Centre – I of University of Delhi from 7 to 9 March 2014. In all, forty-eight teams from different Law Colleges and Universities of India took part in the competition.

### **INTERNATIONAL**

#### **Regional Blended Learning Course**

**2.54** The Asia Pacific Forum of NHRIs, Sydney and the Raoul Wallenberg Institute, Sweden organized the Regional Blended Learning Course for Representatives from NHRIs in the Asia Pacific in which two officers from the Commission, namely, Shri K. H. C. Rao, Deputy Superintendent of Police (Investigation) and Shri T. Raveendran, Section Officer, Coordination, participated. As part of the programme, they first attended an online training which was followed by a face-to-face workshop at Bangkok from 25 November to 5 December 2013.

## INTERNATIONAL ACTIVITIES

### Visit of UN Special Rapporteur on Violence Against Women to NHRC

**2.55** Ms. Rashida Manjoo, United Nations Special Rapporteur on Violence Against Women visited the NHRC on 30 April 2013. During the course of her visit, she discussed with the Chairperson, Members and senior officers of the Commission issues of violence against women in India, its causes and consequences and the mandate of NHRC in preventing and combating it.

### Visit of Delegates from Bangladesh

**2.56** A 10 member delegation led by Md. Qamrul Islam, State Minister of Law, Justice and Parliamentary Affairs of Bangladesh visited the Commission on 1 May 2013. The delegation interacted with the Chairperson and Members of NHRC and showed keen interest in the functioning of the Commission especially with regard to human rights of women and children.

### ICC-26 Annual General Meeting and Biennial Meeting of Commonwealth Forum of National Human Rights Institutions

**2.57** A three-member delegation from NHRC, India, headed by Justice Shri K. G. Balakrishnan, Chairperson participated in the ICC-26 Annual General Meeting of International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and Biennial Meeting of Commonwealth Forum of National Human Rights Institutions – 2013, held at Geneva from 6 to 10 May 2013. Shri Satyabrata Pal, Member and Shri J.S. Kochher, Joint Secretary (Training & Research) were the other two members of the delegation.

### Myanmar's Parliamentary Delegation Visits NHRC

**2.58** A parliamentary delegation of Myanmar comprising women MPs visited the NHRC on 16 May 2013 under the auspices of the Centre for Social Research, New Delhi. The delegation met the Chairperson, Members, Secretary General and senior officers of the Commission, who provided to them an insight into the composition, structure, functions, powers and special features of the Commission.

### NHRC Chairperson Attends International Conference of Jurists in London

**2.59** Justice Shri K. G. Balakrishnan, Chairperson, NHRC attended as a distinguished guest the International Conference of Jurists, organized by the International Council of Jurists in London on 24 and 25 June 2013. He also presented a paper in the working session on "Human Rights and Terrorism".

## **20<sup>th</sup> Annual Meeting of Special Procedures of Human Rights Council**

**2.60** Smt. Kawaljeet Deol, Director General (Investigation), NHRC participated in the 20th Annual Meeting of Special Procedures of Human Rights Council in Vienna, Austria from 24 to 28 June 2013.

## **Annual Roundtable Meeting of SEOs of NHRIs at Sydney**

**2.61** The annual roundtable meeting of Senior Executive Officers of NHRIs was convened by the Asia Pacific Forum of National Human Rights Institutions (APF) in Sydney, Australia on 24 and 25 June 2013. Dr. Ashok Sahu, Secretary General, NHRC, India participated in the meeting. Several key issues were discussed during the six sessions of the meeting which included 'roles and responsibilities of SEOs', 'implementation of capacity assessment', 'good governance and corruption', 'SEOs and the media', 'organization, design and development', and 'APF update and discussion session'.

## **Third Secretary of Republic of Azerbaijan Visits NHRC**

**2.62** Mr. Toghrul Aliyev, Third Secretary (Economic Affairs), Embassy of the Republic of Azerbaijan visited the Commission on 1 August 2013 to know about the functioning of the Commission.

## **Chief of Mission of Office of the United Nations High Commissioner for Refugees**

**2.63** Mr. Dominik Bartsch, Chief of Mission, UN High Commissioner for Refugees (UNHCR) in India and Maldives called on the Chairperson of the Commission on 16 August 2013. He discussed the existing international conventions and legal framework to safeguard refugees rights and explore the possibilities between the two organizations. The Chief of Mission was also briefed about the various initiatives taken by NHRC for the rights of refugees.

## **NHRC, India Officials Visit Afghanistan Independent Human Rights Commission**

**2.64** As a part of the follow up action on the MOU signed between the Afghanistan Independent Human Rights Commission (AIHRC) and the National Human Rights Commission, India and the National Institution Building Project of the United Nations Development Programme, Afghanistan, the Joint Registrar (Law) and an Inspector of the NHRC visited AIHRC in Kabul to impart training on complaint registration procedure, usage of technology for complaint registration and investigative techniques and methods from 27 September 2013 to 13 October 2013.

## **Eighteenth Annual Meeting and Biennial Conference of APF**

**2.65** The Eighteenth Annual Meeting and Biennial Conference of Asia Pacific Forum (APF) was organized in Doha, Qatar from 1 to 3 October 2013. It was attended by a three member delegation from NHRC including Justice Shri K. G. Balakrishnan, Chairperson and Shri S. C. Sinha, Member. The Forum Councillors approved the nomination of NHRC, India to host the Nineteenth Annual Meeting of the APF in New Delhi in 2014.

**2.66** The Biennial Conference focused on the opportunities and challenges involved in charting a peaceful course to democracy. The participants examined a range of issues, including “role of women in political and democratic reform”, “role of NHRIs in working with police and security forces”, and “role of NHRIs in democracy and good governance”.

### **Visit of Delegates from Canada**

**2.67** Mr. Deepak Obhrai, Parliamentary Secretary to the Minister of Foreign Affairs and for International Human Rights in Canada along with Mr. Jim Nickel, Deputy High Commissioner of Canada and Mr. Paul Hong, Senior Policy Advisor visited NHRC on 19 November 2013.

### **Malaysian Human Rights Commission Delegation Visits NHRC**

**2.68** A two member delegation from the Malaysian Human Rights Commission (SUHAKAM) visited the NHRC from 16 to 20 December 2013 as part of a study programme.

### **NHRC Chairperson Visits Jakarta to Participate in Global Appeal against Leprosy**

**2.69** Chairperson, NHRC visited Jakarta, Indonesia to participate in the Launch Ceremony of the 2014 Global Appeal to End Stigma and Discrimination against People Affected by Leprosy held on 27 January 2014. The Global Appeal had the backing of the National Human Rights Institutions from 39 countries and regions. Yohei Sasakawa, chairman of The Nippon Foundation, since 2006 has led these appeals with the aim of raising public awareness and drawing in the support of world leaders, representatives of people affected by leprosy, and organizations concerned with human rights. Chairperson of NHRC, India also addressed the gathering present of the occasion.

### **UN Special Rapporteur on Freedom of Religion or Belief Visits NHRC**

**2.70** Prof. Heiner Bielefeldt, UN Special Rapporteur on Freedom of Religion or Belief visited NHRC on 20 February 2014.



## **ICC-27 Annual General Meeting and Annual Meeting of Commonwealth Forum of National Human Rights Institutions**

**2.71** A delegation led by Justice Shri K. G. Balakrishnan, Chairperson participated in the ICC-27 Annual General Meeting of International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and the Annual Meeting of the Commonwealth Forum of National Human Rights Institutions in Geneva from 12 to 14 March 2014. Justice Shri Cyriac Joseph, Member, NHRC and Dr. Parvinder Sohi Behuria, Secretary General, NHRC were part of the delegation.

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## *Chapter - 3*

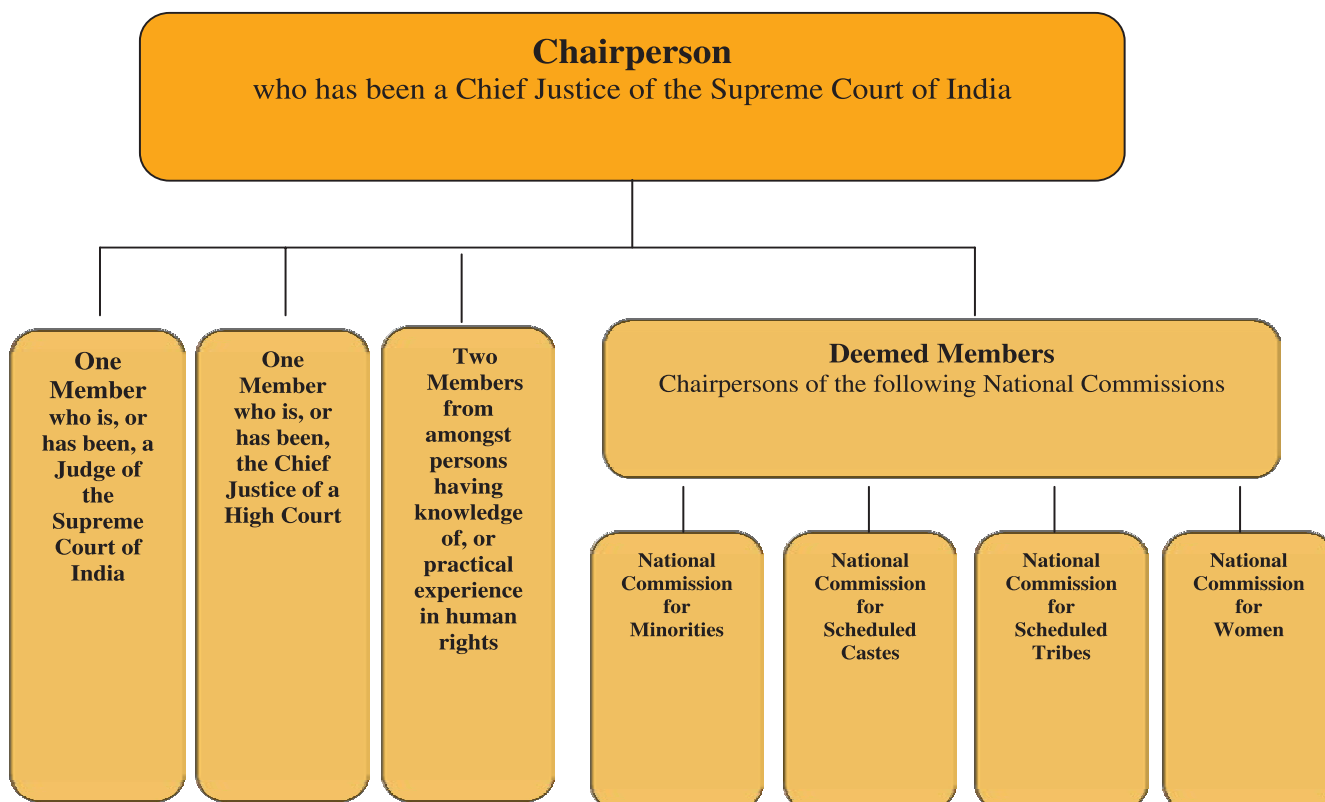
### **NHRC : ORGANIZATION AND FUNCTIONS**

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

#### **Composition**

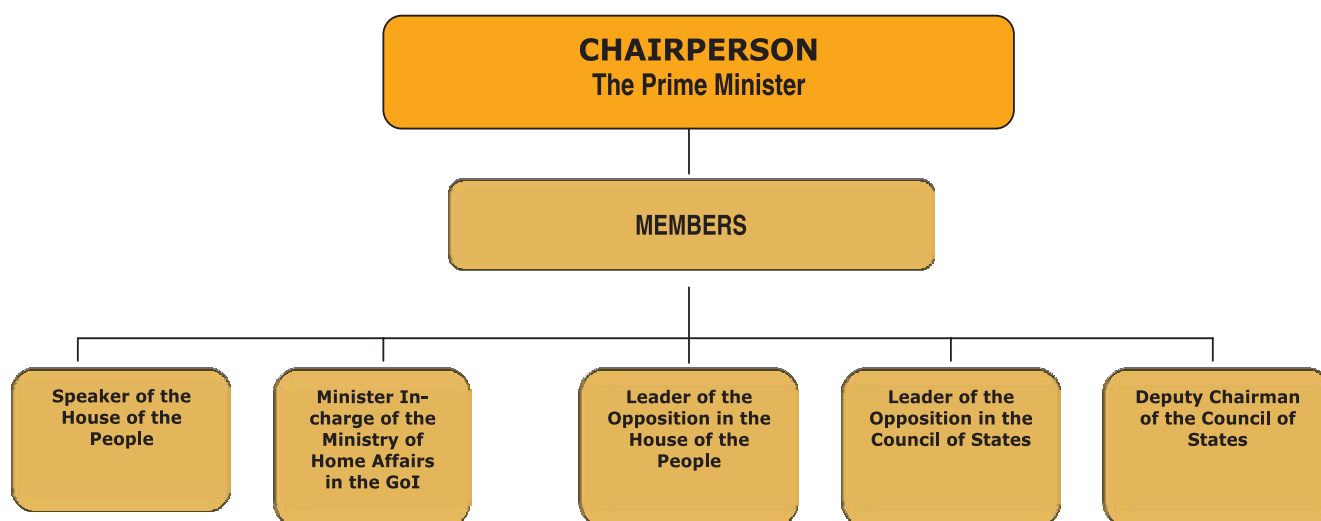
**3.2** The Commission consists of a Chairperson, four full-time Members and four deemed Members. The statute lays down qualifications for the appointment of the Chairperson and Members of the Commission.

#### **Composition of NHRC**



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

### Selection Committee for Appointment of Chairperson and Members of NHRC



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

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

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

**3.7** The **Law Division** of the Commission handles registration and disposal of cases registered on the basis of complaints of human rights violation made to it either by the victim or any other person on behalf of the victim or on a direction or order of any court. The Division also receives intimations regarding deaths in police/judicial custody, deaths in the custody of defence/para military forces and custodial rapes. *Suo motu* cognizance of serious matters taken by the Commission is also dealt with by the Division. During the year 2013-14, more than 98,000 complaints were received in the Commission. All complaints received in

the Commission are assigned a diary number and thereafter scrutinized and processed using the Complaint Management and Information System (CMIS) software especially devised for this purpose. After registration of complaints, they are placed before the Commission for its directions and accordingly, follow up action is taken by the Division in these cases till their final disposal. Cases of important nature are taken up by the Full Commission and matters pertaining to deaths in police custody or police action are considered by the Division Benches. Some important cases are also considered in sittings of the Commission in open court hearings. The Division has also been organizing camp sittings in State capitals to expedite disposal of pending complaints and sensitize the State functionaries on the human rights issues. The Commission has also been organizing open hearings regarding atrocities on Scheduled Castes in the country to have direct interaction with the affected persons belonging to Scheduled Castes. The Division further provides its views/opinion on various Bills/draft legislations referred to it for better protection and promotion of human rights. The Law Division has come out with the publication titled “NHRC &HRDs : The Growing Synergy”. There is also a Focal Point for Human Rights Defenders who is accessible to HRDs round the clock through (i) Mobile No. 9810298900, (ii) Fax No. 24651334, and (iii) E-mail: hrd-nhrc@nic.in. The Division is headed by a Registrar (Law), who is assisted by Presenting Officers, a Joint Registrar, a number of Deputy Registrars, Assistant Registrars, Section Officers and other secretarial staff.

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

**3.9** The **Policy Research, Projects and Programmes Division** (PRP&P Division) undertakes and promotes research on human rights and organizes conferences, seminars and workshops on important human rights issues. Whenever the Commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of importance, it is converted into a project/programme to be dealt with by the PRP&P Division. Besides, it reviews policies, laws, treaties and other international instruments in force for the protection and promotion of human rights. It assists in monitoring the

implementation of the Commission's recommendations by Central and State/Union Territory authorities. It further aids the Training Division in spreading human rights literacy and in promoting awareness about the safeguards available for the protection of human rights. The work of the Division is handled by Joint Secretary (Programmes & Administration) and Joint Secretary (Training & Research), a Director/Deputy Secretary, a Senior Research Officer, Research Consultants, Research Associates, Assistants and other secretarial staff.

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

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

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

**3.13** Core/Expert Groups set up by the Commission on important matters/subjects consist of eminent persons or subject experts or representatives of Government or technical institutes or non-governmental organizations in the field/area required by the Commission, be it health, mental health, disability, etc. These Groups render expert advice to the Commission on various issues. Some of the important Core/Expert Groups currently functioning in the NHRC are:

- Core Advisory Group on Health
- Core Group on Mental Health
- Core Group on Disability
- Core Group on NGOs
- Core Group on Lawyers
- Core Group on Right to Food
- Core Group on Protection and Welfare of Elderly Persons
- Expert Group on Silicosis
- Core Advisory Group on Bonded Labour

## Functions

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

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

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

## **Special Features**

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

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### **CIVIL AND POLITICAL RIGHTS**

#### **A. Terrorism and Militancy**

**4.1** Today, the world at large and India in particular, is facing daunting challenges in the task of protecting human rights of common people. No country in the world can be said to be free from the deadly scourge of terrorism. With the grim spectre of terrorism continuing to target innocent and defenseless people, the task of protection of human rights has become ever challenging for the institutions around the world.

**4.2** A peaceful society rests on the pillars of justice and individual accountability. The concern for justice has been of paramount importance while dealing with the vexed issue of terrorism. In most of the tragedies associated with terrorism, it has been mostly the common people, men, women and children, whose rights have been violated.

**4.3** An increase in the activities of the terrorists and the Naxalites has made the role of security forces even more important. They have increasingly been called upon to control civil unrest, enhance security at important places and also to control and maintain law and order whenever required.

**4.4** The United Nations General Assembly adopted a resolution on 17 December 1979 that all security personnel shall respect and protect human dignity and uphold the human rights of all persons. Towards this objective, they are expected to abide by the international conventions against torture and other cruel punishments and the principles of international cooperation in detention, arrest, and extraditions.

**4.5** The Commission is of the firm view that proper observance of human rights is not a hindrance to the promotion of peace and security. Rather, it is an essential element in any worthwhile strategy to preserve peace and security and to defeat terrorism. The purpose of anti-terrorism measures must, therefore, be to protect democracy, rule of law and human rights, which are fundamental values of our society and the core values of the Constitution.

**4.6** The Commission from time to time reiterates that terrorism creates an environment that destroys the right of people to live in freedom from fear. Terrorism's goal is to destroy the very fabric of democracy. It has today emerged as a serious threat to the humanity. India remains an important ally in the global war on terrorism. India has been waging this war for over fifty years and has learnt a great deal from its successes and failures. The endeavour of the Commission is to call on the international community to co-operate in combating terrorism. At the same time, the Commission has always emphasized that in doing so, the approach should be humane, rational and secular.

**4.7** The Commission has always taken up the cause of the victims of acts of terrorism and has taken steps for providing relief and rehabilitation to them. The Commission



believes that all persons responsible for acts of terrorism should be proceeded against in accordance with the law and that the existing laws are, by and large, sufficient. It is the firm view of the Commission that though the terrorist threats that we are facing now are on an unprecedented scale, but since the fundamental rationale of anti-terrorism measures has to be to protect human rights and democracy, counter-terrorism measures should not undermine democratic values, violate human rights, and subvert the rule of law. While fighting the war against terrorism, the state cannot be permitted to be either selective in its approach or to go overboard and declare a war on the civil liberties of the people.

## **B. Custodial Violence and Torture**

**4.8** Custodial violence is a calculated assault on human dignity. The Commission remained deeply engaged in efforts to bring to an end the egregious violations of human rights that result in custodial deaths. A systematic effort to curb custodial violence has been a major priority of the Commission. Since its inception in 1993, the NHRC issued guidelines to all the States and Union Territories according to which it is mandatory for the District Magistrates and Superintendents of Police of every District to report all deaths in police and judicial custody to the Commission within 24 hours of its occurrence or having come to know about such incidents. Failure to report promptly would give rise to presumption that there was an attempt to suppress the incident. Furthermore, all cases of deaths in police action are to be reported to the Commission by the Senior Superintendent of Police/Superintendent of the Police of the District within 48 hours of such death. However, despite these guidelines, the Commission has noticed that some of the States are not adhering to the same in true spirit. The Commission, once again requests all the States and Union Territories to follow its guidelines in all cases where death is caused in police action.

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

## **C. Illustrative Cases**

### **a) Custodial Deaths**

#### *Judicial Custody*

1. *Death of Undertrial Prisoner Radhey Shyam at Sawai Man Singh Hospital in Jaipur, Rajasthan (Case No. 168/20/14/09-10-JCD)*

**4.10** The Commission on 29 April 2009 took cognizance of an intimation received from the Superintendent, Central Prison, Jaipur, regarding death of an undertrial prisoner Radhey Shyam s/o Dunga Ram who was admitted in prison on 18 April 2009. After two days, he was admitted in the Jail Hospital for treatment but his condition deteriorated and he was shifted

to Sawai Man Singh Hospital, Jaipur where he died during treatment on 21 April 2009. The Commission also received a complaint from an NGO alleging that it was a case of death due to torture by police.

**4.11** The reports received from concerned authorities revealed that police seized liquor from Radhey Shyam and arrested him as he had no license or permit to possess liquor. An FIR for the alleged crime was registered on 17 April 2009 at 2035 hrs. but it had nothing which could tell about the physical condition of the victim. The Prisoner Register only indicated that the undertrial prisoner died on 21 April 2009 and the same was forwarded to the hospital on 20 April 2009 at 11 p.m. It also did not refer anything relating to the condition of the undertrial prisoner. As per the report, the undertrial prisoner fell sick and was admitted to the prison hospital. The prison authorities addressed a communication to the Chief Judicial Magistrate, Jaipur, but it did not indicate anything about the nature of sickness or treatment given to the deceased.

**4.12** Autopsy report revealed more than 10 injuries on the person of the deceased. A Board of three doctors after examining the post mortem report along with the pathology report and chemical analysis reports opined that the undertrial prisoner Radhey Shyam died on account of shock as a result of external injuries as indicated in the postmortem report which described injuries as 2-3 days old.

**4.13** The magisterial enquiry report revealed that the witnesses pointed how the undertrial prisoner Radhey Shyam was beaten and ill-treated and even while being taken in the vehicle how he was ill-treated again. The Magistrate concluded in his report that the victim died on account of injuries sustained at the hands of the police personnel. Hence, the Commission held that it was clear that the deceased was severely beaten and died due to injuries inflicted upon him and not due to sickness as reported by the Jail Superintendent.

**4.14** Upon consideration of the reports, the Commission in its proceedings dated 5 June 2013 observed as under :

*“.....it is a clear case of serious violation of human rights. When a person was in the custody of the State, it was the duty of the police officers as well as the jail officials to see that he is properly treated. The police officers or government officials are not expected to cause injury to a person in the custody. It is clear that when the deceased was arrested, there were no injuries on his person as per the FIR itself. If he was injured at the time of arrest, it was obligatory for the Police to take him to a Medical Officer and get him examined. Even it was compulsory for the jail officials that if the person was found in an injured condition, he should have got examined by a Medical Officer. In the instant case, it appears that the Police and the jail authorities, in connivance with each other, suppressed the fact that the victim had sustained bodily injuries. The nature of injuries was such that he was required to be admitted in the jail hospital and thereafter shifted*

*to another hospital for better treatment. However, unfortunately, he died on account of injuries on his person. Thus, this is nothing but a serious violation of human rights of the victim."*

**4.15** In view of the above observations, the Commission issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Rajasthan to show cause as to why it should not recommend monetary relief to be paid to the next of kin of the deceased Radhey Shyam. Sufficient opportunities were given to the Government of Rajasthan to respond to the show cause notice but it failed to respond.

**4.16** The Commission took up the matter on 18 December 2013 when it presumed that the State Government had nothing to say in the matter in view of its observations that undertrial prisoner Radhey Shyam had died due to injuries inflicted upon him while he was in custody, it directed the Government of Rajasthan to pay ₹ 5,00,000 as monetary relief to the next of kin of the deceased and asked the Chief Secretary to submit compliance report along with proof of payment.

**4.17** Response received from the District Collector, Jaipur is under consideration of the Commission.

2. *Suicide Committed by Prisoner in Tihar Jail, Delhi*  
(Case No. 378/30/9/2011-JCD)

**4.18** The Commission on 15 February 2011 took cognizance of an intimation received from the Superintendent, Central Jail No. 3, Tihar, New Delhi regarding death of prisoner Kallu *alias* Veeru. It was reported that the prisoner committed suicide in the jail on 25 January 2011 by hanging himself with the help of bandage.

**4.19** The cause of death was mentioned as 'asphyxia caused by ante-mortem ligature hanging' in the postmortem report. The Metropolitan Magistrate who conducted the enquiry held that there was no criminal negligence on the part of the Jail Administration. However, the Magistrate opined that the incident could have been avoided if greater care had been exercised but the jail authorities remained very casual, despite having the knowledge of such incidents in the past.

**4.20** The magisterial enquiry established that the suicide took place in the early afternoon, around 03.15 p.m. and the deceased was seen alive between 02.00 p.m. to 02.30 p.m. The Commission observed that it would not have been possible for a prisoner to commit suicide if supervision had been proper. The Commission entirely concurred with the assessment of the Learned Magistrate that greater care was necessary, and that the jail authorities were not sufficiently vigilant.

**4.21** The Commission has always held that when a person is in custody, it is the State's responsibility to ensure that s/he is not in a position to cause harm either to self or to

others. The fact that the deceased Kallu was able to commit suicide was in itself a proof that the State failed in its duty towards a person in its custody. For this negligence, which led to a uncalled death, the Commission believed it would be appropriate for the State to make reparations. The Commission thus directed the Government of the NCT of Delhi to show cause as to why it should not recommend monetary relief for the next of kin of the deceased Kallu *alias* Veeru.

**4.22** Responding to the Commission's notice, the Special Secretary, Home Department, Government of NCT of Delhi contended that the deceased did not die due to any external injury and submitted that there was no foul play in the death of the deceased. Further, suspicion raised by the family members was not substantiated in the postmortem and for those reasons there was no criminal negligence on the part of the jail administration.

**4.23** The Commission did not accept the above contention of the State and observed that the fact remained that the deceased died due to hanging. The question put forth by the Commission was that the negligence on the part of the prison officials had led the deceased to hang himself within the prison premises. The magisterial enquiry also revealed that the incident could have been avoided if greater care had been taken by the prison officials. Hence, the Commission held that there was negligence on part of the jail administration due to which the deceased committed suicide by hanging himself in the prison.

**4.24** Rejecting the defence put forth by the Government, the Commission vide its proceedings dated 12 December 2013 recommended to the Government of NCT of Delhi to pay a sum of ₹1,00,000 as monetary relief to the next of kin of the deceased Kallu *alias* Veeru on proper identification. The Chief Secretary, Government of NCT of Delhi was asked to submit compliance report along with proof of payment within a period of six weeks.

**4.25** Compliance report is awaited.

3. *Death of Undertrial Prisoner K. Yadagiri Goud in Sub-jail, Chittoor, Andhra Pradesh (Case No. 269/1/3/2011-JCD)*

**4.26** The Commission on 22 March 2011 took cognizance of the intimation received from the In-charge, Police Station, Alipuri, Chittoor, Andhra Pradesh regarding death of an undertrial prisoner K. Yadagiri Goud, aged 30 years on 26 February 2011. Goud had been lodged in the Sub-Jail-II, Chittoor, Andhra Pradesh since 30 May 2010. He reportedly fell sick on 22 February 2011 and was taken to the District Headquarters Hospital, Chittoor where he was treated as an out-patient and returned to the Sub-Jail on the same day. He again complained of illness on 25 February 2011 and was admitted to the District Hospital. On 26 February 2011, he was shifted to SVRR Government Hospital, Tirupati, where doctor on duty declared him 'brought dead'.

**4.27** Four external injuries in the form of abrasions on the right elbow, left arm and left forearm and contusion over back of left knee were noticed during the Post Mortem Examination. Three internal injuries i.e. (i) Contusion over right temporo parietal region, (ii) Multiple contusions over left side of occipital region, and (iii) Subarachnoid haemorrhage over right parietal and right occipital of brain were also noticed. However, the Board of autopsy surgeons opined that those injuries were not sufficient to cause death in ordinary course of nature, which could be caused by accidental fall on a blunt surface or due to being hit by a blunt force. The cause of death was opined as 'acute renal failure' by the Board.

**4.28** A magisterial inquiry on the death of the undertrial prisoner was conducted by the Revenue Divisional Officer, Chittoor who did not find any foul play in the death and concluded that the undertrial prisoner died due to 'acute renal failure'. He endorsed the cause of death, opined by the Board of autopsy surgeon.

**4.29** The Commission observed that the deceased had no history of fall during his stay in the jail. The Commission, being not satisfied with the cause of death, opined by the Board of autopsy surgeons, consulted Dr. Adarsh Kumar, Associate Professor, Department of Forensic Medicine, AIIMS, New Delhi, a forensic expert on its panel.

**4.30** Considering the chronology of events and postmortem findings, Dr. Adarsh Kumar opined that injuries mentioned could be produced by multiple blunt force impact by object or surface and not possible in single fall. He further opined that the combination of injuries itself was sufficient to cause death in ordinary course of nature. He also opined that the finding of 'acute renal failure' was not a natural disease process. However, he expressed the view that the CD of postmortem procedure needed to be reviewed to corroborate the findings of post mortem examination as mentioned by doctors, who conducted post mortem.

**4.31** After examining the CD of the post mortem examination, Dr. Adarsh Kumar reported that the CD was in conformity with his earlier conclusion that injuries found on the body of the deceased were not possible in single fall and that the combination of those injuries was sufficient to cause death in ordinary course of nature. Dr. Adarsh also categorically opined that the acute renal failure in that case had been precipitated as a sequel of those multiple injuries and not due to natural disease process.

**4.32** The Commission in its proceedings dated 2 July 2013 observed that in the facts and circumstances of the case, it was clear that the undertrial prisoner died while in the custody of the jail, due to the injuries sustained by him and the State was liable to compensate his next of kin. The Commission further observed that a detailed inquiry was required to be conducted to find out the persons responsible for the death of the undertrial prisoner. Hence, the Commission directed the IG (Prisons), Andhra Pradesh, to get a detailed inquiry conducted to find out the persons responsible for the death of the undertrial prisoner. The



Commission also issued notice U/S 18 of the Protection of Human Rights Act, 1993, to the Government of Andhra Pradesh, through its Chief Secretary, to show cause as to why it should not recommend monetary relief for the next of kin of the deceased K. Yadagiri Goud.

**4.33** Since no reply to the show cause notice was received from the Chief Secretary, the Commission presumed that the State Government had nothing to say in the matter and vide its proceedings dated 24 September 2013 recommended to the Government of Andhra Pradesh through its Chief Secretary to pay compensation of ₹ 3,00,000 to the next of kin of the deceased K. Yadagiri Goud. The Chief Secretary was directed to submit compliance report along with proof of payment within 6 weeks.

**4.34** Director General of Prisons and Correctional Services, Chenchalguda, Hyderabad submitted a detailed report dated 22 October 2013 but the Commission did not find it to be satisfactory and vide its proceedings dated 27 February 2014 directed the Chief Secretary of Government of Andhra Pradesh to get the matter enquired through a responsible independent agency and submit its report within 8 weeks.

**4.35** The Director General of Prisons and Correctional Services, Andhra Pradesh vide communication dated 29 March 2014 has reported that a demand draft of ₹ 3,00,000 has been sent to the Collector & District Magistrate, Hyderabad for disbursement to the next of kin of deceased K. Yadagiri Goud.

**4.36** However, proof of payment and the report of Independent Agency are awaited.

### **Police Custody**

4. *Death of Rama Shankar due to Police Torture in Chandauli District, Uttar Pradesh (Case No. 30182/24/19/2010-AD, Linked Files 30528/24/19/2010-AD, 32002/24/19/2010-AD, 33025/24/19/2010-AD, 31563/24/19/2010-AD)*

**4.37** The Commission on 11 August 2010 took cognizance of a complaint that one Rama Shankar, a Dalit was forcibly picked up by the policemen of Police Station Sakaldiha, Chandauli, Uttar Pradesh on 29 July 2010 at about 8.00 p.m. Later, he died as a result of alleged torture by police.

**4.38** The Commission sent its team to conduct a spot investigation into the incident. During the course of investigation, the team of the Investigation Division recorded the statements of the wife of the deceased, his relatives and several independent witnesses. Smt. Heerawati, wife of deceased Rama Shankar stated that on 29 July 2010, she had a quarrel with her mother-in-law Smt. Dulari Devi and during a scuffle; Dulari Devi fell down and sustained head injury. Smt. Dulari Devi along with her younger son Santosh went to the Police Station Sakaldiha and lodged a complaint. Thereupon, some policemen came in a jeep and took her husband Ram Shankar with them. While Rama Shankar was being taken

by police, she saw that he was being brutally assaulted by the policemen with rifle butt on his head. When she reached the police station, she was told that her husband had been taken to Community Health Centre, Sakaldiha for treatment. The Team of the Investigation Division of the Commission concluded that Rama Shankar was well when he was taken by the police in the jeep. However, he was admitted to the Community Health Centre, Sakaldiha in an unconscious condition, from where he was referred to the District Hospital Chaundauli where he was declared brought dead by the doctors.

**4.39** During postmortem, four ante-mortem injuries in the form of abrasions, contusions and swelling were observed. The doctor opined that the death occurred due to comma as a result of ante-mortem injury to head and brain.

**4.40** The Investigation Team of the Commission concluded that the injuries mentioned in the postmortem report were in all probability inflicted in police custody. It was also pointed out by the team that the case FIR no. 146 of 2010 u/s 302 IPC registered against six unknown police officers and suspended SI Mahender Ram, Constable Jitender Khanna and Constable Deep Chand at P.S Sakaldiha had not been investigated satisfactorily.

**4.41** Upon consideration of the report submitted by the investigating team of NHRC and also from the report submitted by the Superintendent of Police, Chandauli, the Commission expressed the view that it was an unusual case of torture inflicted on Rama Shanker by police where the victim was taken by police from his house to the Police Station and was inflicted physical torture as a result of which he died. The Commission viewed the case in the light of the fact that the police took away Rama Shanker without having any FIR in hand. The Commission observed that the registration of a case against police officials and suspension of some of them was a step in the right direction but the case needed to be carried to its logical conclusion by good and professional investigation so that six police officials against whom the case had been registered were clearly identified and departmental action against SI Mahender Ram, Constable Jitender Khanna and constable Deep Chand completed expeditiously and suitable punishment awarded to them.

**4.42** The Commission in its proceedings dated 7 February 2011 *prima facie* observed that it was a clear case of violation of human rights and therefore, issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh to show cause as to why it should not recommend monetary relief to the next of kin of the deceased Rama Shanker Ram. The Commission also directed the Secretary, Home, Government of Uttar Pradesh to get the case No.146/2010 u/s 302 IPC Police Station Sakaldiha investigated by the CB CID.

**4.43** CB CID did not find any incriminating evidence against the police in its investigation. The enquiry report of CB CID concluded that deceased Rama Shankar Ram was not assaulted or beaten by the police.



**4.44** Upon carefully examining the investigation report submitted by the Superintendent of Police, CB CID, the Commission vide its proceedings dated 17 September 2013 opined that the investigation was not fair and the evidence was not analyzed in an objective manner. S.I. Mahender Ram was examined during investigation. Sub-Inspector Mahender Ram stated that he went to the house of Rama Shankar for inquiry in NCR No.86/10 u/s 323/504 IPC, and found Rama Shankar Ram present at the door of his house. When he made inquiry from him, he started shouting. Suddenly, he put his hand on his chest and complained of giddiness and pain in chest. In a state of exhaustion, he fell on the arm of a cot lying nearby and sustained injury on his head. Some other witnesses also made similar statement. Thus, the fatal head injury which caused the death of Rama Shankar Ram was explained by saying that he had fallen on the arm of a cot in a state of exhaustion. The Commission observed that the CB CID blindly accepted that explanation. The statements made by the wife and daughters of the deceased and also an independent witness Phoolwati were completely ignored. All those witnesses stated that a Constable had kicked Rama Shankar while he was passing urine. None of them said that Rama Shankar Ram had fallen on the arm of a cot. No question in this regard was put to them by the Investigating Officer. The Commission also observed that there was not a word about Rama Shankar Ram falling on the arm of a cot in the report dated 17 March 2011 received earlier from the Superintendent of Police, Chandauli. The statement of Sub-Inspector Mahender Ram was otherwise inconsistent with the postmortem findings. The Commission did not accept the investigation report of CB CID and observed that they had no reason to ignore the inquiry report submitted by its Investigating Team.

**4.45** Since the State failed to give a plausible explanation for the fatal injury sustained by Rama Shankar Ram on his occipital and the inquiry by the team of the Investigation Division of the Commission revealed that the said injury might have been inflicted by the police while taking Rama Shankar to the police station, the Commission recommended to the Government of Uttar Pradesh to pay a sum of ₹ 5,00,000 as monetary relief to the next of kin of the deceased Rama Shankar Ram. The Chief Secretary, Government of Uttar Pradesh was directed to submit the compliance report with proof of payment within eight weeks.

**4.46** Compliance report along with proof of payment is awaited.

5. *Death of Ganesh A. Bhosle due to Torture in Police Custody in Beed, Maharashtra  
(Case No. 334/13/2006-2007-PCD)*

**4.47** The Commission on 28 June 2006 took cognizance of the intimation received from Superintendent of Police, Beed, Maharashtra regarding death of Ganesh Americkya Bhosle, aged 21 years in police custody. Ganesh and four others were arrested in crime No.107/2006 Police Station Beed on 14 June 2006 and all of them were remanded to police custody till 19 June 2006. On 19 June 2006 at about 06.20 a.m., Ganesh was taken to Government Hospital with head injury and he died in the hospital on the same day at 01.30 p.m.

**4.48** As per the police version, Ganesh had twice banged his head against the iron bar of the lock up and sustained head injury. The police version was not, however, believed by SDM, Ambajogai who conducted an enquiry into the circumstances of death. The Magistrate concluded that Ganesh had been assaulted by the police in custody. It appeared that in preliminary enquiry by CB CID also, the concerned policemen were found liable for the death and crime No.157/2006 u/s 302 IPC was registered on the complaint by Inspector R.D. Deshmukh. After the investigation of crime No.157/2006, however, the investigating agency concluded that the case had been registered due to misunderstanding and a final report was submitted in the court on 26 February 2007. The final report was accepted by the court on 26 June 2009.

**4.49** As per the reports, there were nine accused in the lock up on the date of occurrence. Out of them, five including Ganesh were from crime No.107/2006 and they were sleeping near the wall in the south-north direction. The other four were involved in crime No.134/2006 and they were sleeping near the iron bars. The four accused who were sleeping with Ganesh near the wall reiterated during investigation that Ganesh had been assaulted by the police. The other four initially feigned ignorance on the pretext that they were sleeping but subsequently they supported the police version and stated that Ganesh had banged his head against the iron bars. Their statements u/s 164 Cr.P.C. were also recorded. The investigating agency relied on the statements of these four accused. It was also pointed out that during post mortem, injuries had been observed at different parts of the head and such injuries could not have occurred due to a single assault. There was, however, no explanation as to why the statements of the four accused who were sleeping with Ganesh near the wall were disbelieved.

**4.50** The post mortem findings in this case were revealing. Contusions were seen on the right sole and the left sole of the deceased. These injuries belied the police version because such injuries could not have been caused by banging of the head against the iron bars of the lockup. According to the Surgeon who conducted postmortem, the death occurred due to fracture, dislocation of cervical vertebra with peri spinal haemorrhage. This conclusion of the Postmortem Surgeon was also inconsistent with the police version.

**4.51** Upon consideration of various reports, the Commission rejected the police version and observed that the post mortem findings indicated that Ganesh Americkya Bhosle was assaulted by the police while he was in custody. The Commission issued a notice to the Government of Maharashtra requiring it to show cause why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not given to the next of kin of Ganesh Americkya Bhosle.

**4.52** In response to the show cause notice, the State Government informed that an amount of ₹ 1,00,000 had already been paid to the wife of the deceased as compensation.

**4.53** Upon consideration of the reply to the show cause notice, the Commission vide its proceedings dated 8 August 2013 observed that the amount of ₹ 1,00,000 was grossly inadequate for the loss of human life. Since Ganesh Americkya Bhosle was only 21 years old and he died in the prime of youth as a result of police torture, the Commission held that the State must pay suitable compensation to his family. Considering all circumstances, the Commission recommended to the Government of Maharashtra to pay a sum of ₹5,00,000 to the next of kin of deceased Ganesh Americkya Bhosle as monetary relief, adjusting the amount of ₹ 1,00,000 which had already been paid. Chief Secretary, Government of Maharashtra was asked to submit the compliance report with proof of payment within eight weeks.

**4.54** Compliance report along with proof of payment is awaited.

6. *Suicide by S. Barla due to Torture in P.S. Kadamtala, Andaman and Nicobar Islands (Case No. 3/26/0/07-08-PCD)*

**4.55** The Commission on 8 June 2007 took cognizance of an intimation received from Inspector General of Police, Andaman and Nicobar Islands about death of one Suprian Barla, aged 27 years on 17 April 2007. It was reported that Suprian Barla had been arrested at about 5.00 p.m. on 17 April 2007 in Crime No.8/2007 u/s 324/504/506 IPC registered at Police Station Kadamtala on the complaint of one Mary Prabha Kujur. It was also reported that SHO, Police Station Kadamtala allowed Mary Prabha Kujur to beat Suprian Barla with her chappal and as a result of that humiliation, Suprian Barla who was already emotionally charged, escaped from police custody and committed suicide by hanging himself in his hut which was situated at a distance of 120 meters from the police station. FIR No. 551/2007 u/s 302, 342, 218, 201 IPC was registered against the SHO, Police Station Kadamtala.

**4.56** In pursuance of the directions of the Commission, relevant reports were received from concerned authorities. The postmortem report revealed a small cut injury over inner aspect of plantar surface of left foot besides a ligature mark extending from the front of neck to both sides behind the ears. The hyoid bone was found fractured. The Surgeon who conducted postmortem opined that the death had occurred due to asphyxia caused by complete obstruction of the upper airway due to a constricting force of a ligature tied around the neck by which the body was suspended. According to him, the hanging was suicidal in nature.

**4.57** The police version was questioned by the father of the deceased and on his complaint, Case No.551/2007 u/s 302/342/218/201 IPC was registered at Central Crime Station, Port Blair against the SHO, Police Station Kadamtala and other policemen.

**4.58** The theory of suicide was also disbelieved by the Judicial Magistrate, Mayabunder who enquired into the circumstances of death. The Magistrate noted that the body of the deceased was in a standing position with foot on the floor and the ligature material was not

fastened tightly around the neck so as to cause any blockage. He also observed that hyoid bone was not, as a rule, fractured by any means other than by strangulation. The Magistrate concluded that it was a case of homicidal death in police custody.

**4.59** During investigation of the case No.551/2007, it was found that the Officer-in-charge of the police station had insulted and tortured the deceased while he was in custody. The I.O. concluded that the humiliation and torture inflicted by the police had driven Suprian Barla to take the extreme step of suicide. He recommended prosecution of the police officer for abetment of suicide and other offences.

**4.60** On consideration of various reports, the Commission held that there was positive evidence of the deceased having been assaulted in the police custody. It was also noticed that the police was negligent in allowing Suprian Barla to escape from custody. Hence, the Commission issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Andaman and Nicobar Islands requiring him to show-cause as to why monetary relief of ₹ 3,00,000 be not given to the next of kin of deceased Suprian Barla.

**4.61** Responding to the show cause notice, Deputy Secretary (Home), Andaman & Nicobar Administration informed the Commission that the Administration had no objection to pay monetary relief of ₹ 3,00,000 to the next of kin of the deceased Suprian Barla.

**4.62** In view of the fair stand taken by the Andaman & Nicobar Administration, the Commission vide its proceedings dated 5 June 2013 recommended that an amount of ₹ 3,00,000 be paid as monetary relief to the next of kin of the deceased Suprian Barla.

**4.63** Andaman & Nicobar Administration vide its communication dated 17 September 2013 informed that the amount of ₹ 3,00,000 as recommended by the Commission had been paid to Shri Punna Barla, father of deceased Suprian Barla.

**4.64** In view of compliance of its recommendation, the Commission vide its proceedings dated 6 December 2013 closed the case.

**7. *Death of Ajay Mishra in Davoh Police Station, Bhind, Madhya Pradesh***  
*(Case No. 675/12/7/2012-PCD)*

**4.65** The Commission on 28 March 2012 took cognizance of an intimation received from the Superintendent of Police, Bhind, Madhya Pradesh regarding death of one Ajay Mishra on 12 March 2012, while in the custody of Police Station Davoh in Bhind, Madhya Pradesh. It was informed that three accused, Vikesh, Pankaj and Ajay Mishra were arrested on 7 March 2012 in connection with FIR no. 24/12 registered for commission of an offence u/s 392 IPC. On 11 March, the officer-in-charge, Police Station Davoh admitted sick Ajay Mishra in the Primary Health Centre in Lahaar, where he died on 12 March 2012 while undergoing treatment.

**4.66** Pursuant to the directions of the Commission, relevant reports were received from the authorities.

**4.67** The inquest, conducted by a Judicial Magistrate, revealed 12 injuries on the body of the deceased Ajay Mishra. In the postmortem report, nine abrasions, two contusions and the right eye blackened were mentioned and the cause of death was given as “cardio-pulmonary arrest leading to shock and death”.

**4.68** The magisterial enquiry, conducted by a Judicial Magistrate, took testimony, among others, from the father of the deceased, who claimed that his son was arrested on the 2 March 2012. He deposed that on 4 March 2012 when he asked about his son, Ajay Mishra from the officer in charge of Police Station Davoh, he was taken out from the lockup and beaten mercilessly in his presence. The father of the deceased alleged that he was asked to pay ₹ 50,000 to the officer for his release, but despite having paid the demanded money, his son was again beaten in front of him and not released and a further sum of ₹ 50,000 was demanded. The father of the deceased Ajay further stated that he then met the SDPO, who gave him an assurance that his son would not be beaten, but would be charge sheeted after Holi. The father of Ajay found his son dead on 12 March 2012. Other witnesses confirmed during the magisterial enquiry that Ajay Mishra had been arrested by Shri R.C. Arya, the officer in-charge of Police Station Davoh, on the 2 March 2012. News of the arrest had been carried by a local newspaper on 3 March 2012. The Commission observed that it had been established from the findings of the magisterial enquiry that the Superintendent of Police, Bhind had falsely reported to the Commission that the arrest was made on 7 March 2012.

**4.69** The magisterial enquiry also confirmed that Ajay Mishra had been beaten on the 3 and 6 March 2012 in police custody. He was shown arrested by the police on the 7 March 2012 in police custody, produced before the Magistrate on the 8 March 2012, and taken on police remand till 12 March 2012. Witnesses confirmed to the magisterial enquiry that he had again been beaten during the period of remand. According to the report of the magistrate, when Ajay Mishra was medically examined after his formal arrest on the 7 March 2012, the doctor found three injuries on him, whereas 12 injuries were recorded in the postmortem report. The Commission observed that it was a clear indication that he had been savagely beaten throughout the period that he was in the custody of the police, first in illegal detention and thereafter on remand.

**4.70** The Magistrate concluded that i) the late Ajay Mishra had indeed been in the custody of the police from the 2 March 2012, though he was shown arrested on the 7 March, 2012; ii) he had been kept in illegal detention from 2 to 7 March; iii) had been beaten throughout at the police station; and iv) had died from injuries which caused loss of blood, resulting in cardio-pulmonary arrest.



**4.71** The magisterial enquiry, therefore, established that extremely grave crimes were committed by the policemen concerned, first in the illegal detention of a man for five days, and thereafter the much more serious offence of torturing a man to death. For these grievous violations of human rights, the Commission held that it was essential for the State Government to make reparations to the next of kin, and to punish the guilty.

**4.72** Accordingly, the Commission directed the Chief Secretary, Government of Madhya Pradesh to i) show cause as to why it should not recommend relief for the next of kin of the deceased Ajay Mishra; ii) report on the action taken, including departmental action, against the policemen concerned, on the basis of the findings of the magisterial enquiry; and iii) order an immediate enquiry by the CBCID into the circumstances of the arrest and death of the late Ajay Mishra.

**4.73** In response, the Additional Secretary to the Government of Madhya Pradesh, Home Department intimated that a case crime No.93/13 u/s 304, 323, 34 IPC had been registered against Sub-Inspector, Ramesh Chand Arya and Constables Ashok Kumar and Surender Singh.

**4.74** Since required reports were not received within the stipulated time, the Commission vide its proceedings dated 10 January 2014 directed to issue a reminder to the Chief Secretary, Government of Madhya Pradesh to send a reply to the show cause notice within eight weeks failing which it would assume that the Government of Madhya Pradesh had nothing to contend and would make appropriate recommendations on the basis of material available on record. The Commission also directed the Chief Secretary to send the CBCID enquiry report and a report on departmental proceedings initiated against the erring officials in the light of the findings of the magisterial enquiry. Reports are awaited.

### **Para-Military/Defence Forces Custody**

#### **8. *Atrocities on a Young Man By BSF Jawans Near Bangladesh Border* (Case No. 134/25/13/2012-PF)**

**4.75** The Commission took *suo motu* cognizance of a news report captioned "Video shows BSF jawans thrashing a young man near Bangladesh border" carried by English daily "The Hindu" of 19 January 2012. As per the news report, a video telecast showing graphic visuals of a youth – stripped of all clothing and his arms wrapped and bound to a bamboo – writhing in pain on the ground as four personnel of BSF assaulted him, was made by a local channel in Kolkata. The Commission also received complaints on the same subject from other persons and they were registered and tagged along with this case.

**4.76** The Deputy Inspector General (Operations) C, BSF, New Delhi responded to the Commission's notice and sent a report stating that a preliminary inquiry was conducted which revealed that Head Constable Sanjeev K.R. and party manhandled one unidentified

civilian, later identified as Mohd. Habibur Rahman (Habu), s/o Mohd. Saidur Rahman of village Satrashia, PO Babupur, Police Station Shibgong, Chpainaawabgong, Bangladesh, at about 0600 hours on 9 December 2011 at ACP No. 07 of Border Out Post Charmurashi. On questioning of those personnel, it was revealed that the civilian was a cattle smuggler who was caught while smuggling cattle from India to Bangladesh in early hours of 9 December 2011 and he was released unauthorizedly by them after manhandling.

**4.77** The report further stated that a departmental Staff Court of Inquiry was conducted on the incident, which established that though suitable standing instructions were in place for companies deployed at border to adhere to the laid down SOPs regarding observance of human rights on the border, Head Constable Sanjeev K.R. and accompanying seven Constables were found responsible for stripping and beating the apprehended Bangladeshi. Disciplinary action was taken against them by the Summary Security Force Court. Head Constable Sanjeev K.R. was reduced to the rank of Constable and his one month's pay and allowances forfeited. Seven Constables were punished with 89 days rigorous imprisonment each in Force Custody.

**4.78** Upon consideration of the report of the Deputy Inspector General, BSF, the Commission held that it was established that Mohd. Habibur Rahman, a Bangladeshi, was stripped naked and assaulted by personnel of the BSF headed by Head Constable Sanjeev K.R. Though Shri Mohd. Habibur Rahman was a foreigner, yet human rights are inherent to a human being and his human rights were violated by the BSF personnel inside the Indian border, the Commission expressed the view that the victim was entitled to be compensated by the Government of India. The Commission, therefore, issued a notice U/S 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Secretary, Ministry of Home Affairs, Government of India, to show cause as to why it should not recommend suitable compensation for the victim.

**4.79** The Ministry of Home Affairs, Government of India failed to respond to the show cause notice despite reminder and therefore, having regard to the facts and circumstances, the Commission vide its proceedings dated 3 June 2013 recommended to the Ministry of Home Affairs, Government of India, New Delhi to pay a sum of ₹50,000 to the hapless victim Mohd. Saidur Rahman, who suffered at the hands of a BSF Head Constable. Secretary, Ministry of Home Affairs, Government of India was asked to send compliance report along with proof of payment to the Commission within a period of three months. Despite reminder, compliance report has not yet been received.

9. *Death of a Youth due to Torture by Sashastra Seema Bal Personnel at Village Valmikinagar in West Champaran District, Bihar  
(Case No. 2572/4/8/08-09-ACD)*

**4.80** The Commission received a complaint from Shri Suman Kumar Verma, alleging that his son Gaurav Kumar Verma had been tortured to death by Sashastra Seema Bal (SSB)



personnel. He alleged that H.R.Barot who was then posted as Commandant of the 12<sup>th</sup> Battalion of SSB stationed at Valmikinagar was encouraging smuggling activities across the border. A consignment of fertilizers which was being smuggled from India to Nepal under the direction of Shri Barot was intercepted by the villagers. The son of the complainant volunteered to be a prosecution witness in that case. Shri Barot tried to dissuade him and threatened him with dire consequence. On 15 November 2008 at about 09.00 p.m., a contingent of SSB led by Shri Barot and two forest officials raided his house in Piprakothi and dragged out his son Gaurav. He was given a severe beating and taken away. He succumbed to the injuries inflicted by SSB personnel.

**4.81** As per reports received in response to Commission's notice, an information was received regarding illegal collection of jungle wood by Gaurav Verma. On receipt of the information, a search party of SSB along with two forest officials raided the house of Gaurav at village Piprakothi. During the search, 121 numbers of wooden planks were found which were seized by SSB and forest officials. During the search operation, Gaurav Verma started vomiting and had loose motions and he was immediately shifted to Primary Health Centre, Valmikinagar. The PHC doctor examined him and suspecting consumption of poison, referred him to Bagaha hospital. Gaurav Verma collapsed on the way to Bagaha. Suman Verma, father of the deceased lodged an FIR at Police Station Valmikinagar against H.R.Barot, Commandant and other SSB personnel vide crime No.53/2008 u/s 302/120B IPC. The Investigating Officer found the allegations made in the FIR to be true.

**4.82** The District Magistrate, West Champaran submitted a report stating that Gaurav Kumar Verma had not died of poisoning and his death had occurred due to severe beating in custody.

**4.83** It was noticed that Shri H. R. Barot, Commandant, 12<sup>th</sup> Battalion, SSB sent an application to the Director General, SSB and alleged that some local people whose illegal activities had been checked by SSB were trying to influence the investigation of the case. Thereupon, Director General, SSB wrote to the Director General of Police, Bihar requesting that the case be transferred to State CID for impartial and unbiased investigation. The case was again looked into by the Deputy Inspector General, Champaran Range. The Deputy Inspector General noted the contents of the inquest report and the post mortem report. It was mentioned in the inquest report that the nails of the left foot and left hand were in damaged condition. The post mortem report also mentioned injuries on head, right hand and back. Blood mixed froth was seen in the nose, mouth and central cyanosis. The doctor opined that the death had occurred due to asphyxia resulting from respiratory embarrassment. No evidence of loose motion or vomiting was found. After thorough enquiry, Deputy Inspector General, Champaran Range concluded that Gaurav Verma had been subjected to third degree torture and he had died as a result of torture.

**4.84** The Deputy Inspector General, Champaran Range reported that the SSB personnel whose guilt had been substantiated during investigation were released on bail. Since the investigation by local police disclosed that the SSB personnel were guilty of causing the death of Gaurav Verma, the Commission issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Ministry of Home Affairs, Government of India requiring it to show cause why monetary relief of ₹ 5,00,000 be not given to the next of kin of deceased Gaurav Verma.

**4.85** In response to the show cause notice, the Deputy Secretary, Ministry of Home Affairs, Government of India informed that the local police had filed the charge-sheet against the concerned persons including ten SSB personnel. It was submitted that no further action on the show cause notice issued by the Commission was called for on the part of SSB.

**4.86** The Commission did not accept the stand taken by the Ministry of Home Affairs, Government of India and vide its proceedings dated 19 January 2012 found prima facie it to be a fit case for grant of monetary relief of Rupees Five lakhs to the next of kin of the deceased Gaurav Kumar Verma. The Ministry of Home Affairs was given an opportunity to give its response to such findings of the Commission.

**4.87** The Ministry of Home Affairs did not offer any response as to why the monetary relief should not be granted to the next of kin of the deceased. The Commission observed that filing of charge sheet against the SSB personnel or the pendency of the criminal case in the Court did not prevent the NHRC from granting monetary relief u/s 18 of the Protection of Human Rights Act, 1993, if satisfied that such grant of monetary relief was recommended in the interest of justice and for the cause of protection of human rights.

**4.88** The Commission vide its proceedings dated 21 August 2013 recommended to the Ministry of Home Affairs, Govt. of India to pay monetary relief of ₹ 5,00,000 to the next of kin of the deceased Gaurav Kumar Verma. The Secretary, Ministry of Home Affairs, Government of India was directed to submit the compliance report with proof of payment within six weeks.

**4.89** Response received from the Ministry of Home Affairs is under consideration of the Commission.

10. *Death of a Civilian in Unprovoked Firing by BSF Personnel of 19 Battalion at Bolardhepa Border Oundertrial prisonerost in Tripura  
(Case No. 24/23/4/2011-PF)*

**4.90** The Commission received a complaint dated 3 June 2011 from an NGO alleging that on 14 May 2011, at about 8.00 p.m., a labourer namely, Abu Hanif, aged 37 of village Sonapur under Sonamura Sub Division, West Tripura District was shot dead by BSF personnel of 19 Battalion posted at Bolardhepa Border Oundertrial prisonerost.

**4.91** Responding to the Commission's notice, Deputy Inspector General (Operations) C, Directorate General BSF, Ministry of Home Affairs, Government of India submitted a report indicating that on 14 May 2011 ambush-cum-patrolling party was deployed on the international border during the night. One Head Constable D.N. Mishra with an ulterior motive went towards Sonapur Madrasa after borrowing a bicycle from a civilian. He reported about the movement of 3-4 smugglers with head loads near the madrasa and challenged them to stop. However, on ignoring the warning, he fired three rounds from his rifle and the smuggler ran away leaving head loads containing ganja. The matter was inquired and it was found that Head Constable Mishra gave a wrong report. Smt. Chayera Khatun, wife of the deceased lodged FIR No. 84/11 dated 15 May 2011 for an offence punishable u/s 302 IPC. The BSF also lodged FIR No. 86/11 dated 15 May 2011 at the same police station for offences punishable u/s 148, 149, 353, 307 IPC and the cases are pending for further investigation. The Commission also received the autopsy report indicating two fire arm entry wounds causing death of the victim.

**4.92** The Staff Court of Departmental Enquiry found the act of the Constable blameworthy for deliberately misleading the facts and misreporting the entire incident to his superiors. He was also found blameworthy for operating in isolation contrary to the instructions and opening unprovoked, unwarranted fire and thereby killing a civilian, namely, Abu Hanif. It was further reported that the Post Commander and AC/COY Commander were also found blameworthy for serious supervisory lapse since they failed in their duty to physically search the area.

**4.93** Considering the facts and circumstances narrated by the BSF and the Staff Court of Enquiry, the Commission held that there was a violation of human rights of the victim. Therefore, the Commission vide its proceedings dated 17 April 2013 recommended to the Government of India, Ministry of Home Affairs, New Delhi to pay a sum of ₹ 7,00,000 to the next of kin of deceased Abu Hanif.

**4.94** Pursuance to the directions of the Commission, the Deputy Inspector General (OPS) C, Directorate General, BSF, New Delhi informed that a sum of Rupees Seven lakhs had been paid to Smt. Chhayera Khatu, wife of the deceased and also forwarded the proof of payment.

**4.95** In view of compliance of the recommendation of the Commission, the case was closed on 5 December 2013.

11. *Death of Five Alleged MULTA & NDFB Activists in an Encounter with Assam Rifles Personnel At Akabasti In Sonitpur District, Assam*  
(Case No. 247/3/16/2011-PF)

**4.96** The Commission noticed from the newsletter of Assam Police on its website that five Muslim United Liberation Tigers Association (MULTA) and National Democratic Front of Bodoland (NDFB) activists were killed in an encounter with Assam Rifles personnel on 19 April 2009 at Akabasti under Rangapara Police Station in Sonitpur District.

**4.97** The Commission took cognizance of the incident and directed the Secretary, Ministry of Home Affairs, Govt. of India, New Delhi, DGP, Assam, District Magistrate, Sonitpur and Superintendent of Police, Sonitpur to take appropriate action with regard to the investigation of the case as per the guidelines of the Commission and submit relevant reports. The Director General of Police, Assam was also asked to explain as to why intimation about the said incident has not been sent to the Commission as per the extant guidelines.

**4.98** The Inspector General of Police (Logistics), Assam forwarded relevant reports and also regretted for non-submission of intimation about the said incident to the Commission as per its guidelines.

**4.99** The Commission also received a detailed report from the Assam Rifles, and noted that there were very substantial differences on points of facts between what was claimed therein and the reports sent by the civil authorities.

**4.100** Upon consideration of the report, the Commission observed that firstly, the Assam Rifles reported that all five men escaped from the house, with the encounter taking place in the adjoining fields, where Captain Kamal Gautam killed three of the militants and Major M. Zabiulla the other two. However, three villagers, including the lady of the house in which these five men had taken shelter, told the magisterial enquiry that the shooting took place inside the house. While the two neighbours were not allowed to approach the house, and might therefore not have known where exactly the shooting was taking place, Smt. Jeleka Khatun, who was in the kitchen of the house, would have known if it was outside her house.

**4.101** The Commission further observed that there was nothing to show that Smt. Jeleka Khatun was not an innocent housewife, whose home some strangers had visited that evening. The Commission assumed, therefore, that her testimony would be objective. She did not tell the Magistrate that the men were armed or that they had other materiel with them. It was important because the Assam Rifles reported having recovered not only five small arms, but also 5 kg of explosives, 10 detonators, a Chinese grenade and 140 rounds of live AK 47 ammunition from these men. These could not have been hidden.

**4.102** The Commission also observed that inquest carried out from 10.40 a.m. on the 20 April 2009, the morning after the incident, recorded that i) one of the men was wearing underwear and a jacket; ii) the second man was wearing a “long pant”, a T-shirt and underwear; iii) the third man was wearing a singlet and a lungi; iv) the fourth man was naked but had been covered by a lungi; and v) the fifth man was wearing a yellow shirt and underwear.

**4.103** The Commission further observed that with only one man fully dressed, two found only in underwear, one in a lungi and the fifth naked, it would have been impossible for them men to have carried the arms, ammunition and explosives that the Assam Rifles claimed to

have found. And, even if it was assumed that, because of the hot weather, it was the local custom for men to walk around in their underwear, there was no reason why one of the men, after an encounter, should have been found without any clothes at all.

**4.104** The Commission also noted that the inquest did not record that the clothes were wet, though some were blood-stained. That point was important because the Assam Rifles had reported that there was “incessant rain” when the encounter took place. The villagers saw the bodies on the roadside outside the house the next morning. If they had been killed in the fields, therefore, the bodies had not been brought in. The clothes should therefore have been both wet and muddy. Since the inquest did not record any such finding, the bodies could not have been recovered from the fields. The Commission observed that the claim made by the two officers of the Assam Rifles that these men escaped into the fields, where they were killed in an encounter in “zero visibility night conditions” and in heavy rain, could not, therefore, be accepted.

**4.105** The Commission further observed that their account was further undermined because they had also reported that the alleged militants took cover in dense foliage. If those were fields adjoining village homes, there would have been standing crops, since by late April the winter crop would have been in full growth. It was extremely implausible that in that kind of terrain, in the midst of lush vegetation, and in an encounter that allegedly took place in heavy rain, which would have turned the ground into mud, the Assam Rifles could have recovered 21 spent cartridges, apart from even larger quantities of live ammunition.

**4.106** The Superintendent of Police reported that the police conducted none of the tests that were standard in a thorough criminal investigation. No tests were conducted in a forensic laboratory to confirm that: i) the pistols were in working order and had been fired; ii) the spent cartridges had been fired from these pistols; iii) fingerprints on the pistols matched those of the dead men, proving that they had handled them; and iv) tests for gunshot residue on their fingers established that they had fired weapons.

**4.107** The Commission held that in the absence of any of those tests, there was no proof that any of those five men had either handled or fired the weapons allegedly recovered from the scene of the occurrence.

**4.108** Rejecting the report of the Assam Rifles, the Commission observed that the Magistrate who conducted the enquiry had held that four out of the five men might have had involvement with an extremist organization, he had not examined the circumstances of their deaths. Even if those men had extremist links, it was difficult to accept the claim that the men were killed in a genuine encounter after examination of the reports, sent by the Assam Rifles and by the police.

**4.109** The Commission therefore issued a notice to the Ministry of Home Affairs to show cause as to why it should not recommend relief for the next of kin of Prabhat Basumatary,



Deithan Basumatary, Krishna Basumatary, Junish Ali and Babul Ali. Though vide its communication dated 8 July 2013, the Ministry of Home Affairs requested for grant of extension of time to submit reply to the show cause notice by four weeks but no response was received by the Commission.

**4.110** The Commission, therefore, expressed the view that the Ministry of Home Affairs had no explanation to offer on the observations of the Commission and vide its proceedings dated 8 January 2014 confirmed its findings and recommended to the Ministry of Home Affairs, Government of India, New Delhi to pay a sum of ₹5,00,000 each to the next of kin of the five deceased namely, Prabhat Basumatary, Deithan Basumatary, Krishna Basumatary, Junish Ali and Babul Ali within a period of eight weeks.

**4.111** Compliance report is awaited.

12. *Death of a Handicapped Boy in a Counter Insurgency Operation by Army Personnel of 118 Regiment in Sivasagar District of Assam  
(Case No. 180/3/15/08-09-AF)*

**4.112** The Commission received a complaint from a human rights activist alleging that one Bishnu Tanti, a handicapped boy aged 18 years was shot dead by the Army personnel of 118 Regiment at Tingalibam Tea Estate in Sivasagar District of Assam on 30 January 2009 when he was collecting fire wood.

**4.113** The Commission took cognizance of the complaint and requested its Director General (Investigation) to collect facts and relevant reports. The reports have been received and examined by the Commission.

**4.114** The magisterial enquiry report of Shri M. Gogoi, Additional Deputy Commissioner, Shivasagar, Assam revealed that the Army was conducting an enquiry in that matter and would submit a report.

**4.115** In response to the Commission's notice, the Ministry of Defence clarified in its communication dated 15 February 2010 that the death of Bishnu Tanti took place due to a case of mistaken identity during a bonafide counter insurgency operation. It explained that on 29 January 2009 the security forces received information that seven militants were trying to cross over to Nagaland. The security forces reached Tingalibam Tea Estate, cordoned off the area and carried out a search operation. During the operation, a gunshot was heard from the direction where some suspicious movement was observed. The security forces asked the miscreants to come out, but they paid no heed. Thereafter, the security forces retaliated fire in the same direction. After the firing subsided, the troops cautiously inched their way in the direction where the fire had come from and observed a dead body. The dead body was later on identified to be that of Bishnu Tanti. Subsequently, it became known that the deceased was a handicapped resident of No.7, Tingalibam Tea Estate, Garden Lines. He had deformity in his legs. As per evidence recorded, he did not have any linkage with militants.

The deceased was caught between the fleeing militants and security forces. The sound of a small arm fire from the fleeing militants led the Army to retaliate in self defence leading to the death of Bishnu Tantti.

**4.116** Upon consideration of the report, the Commission vide its proceedings dated 8 August 2013 observed that it was evident from the report submitted by the Ministry of Defence that deceased Bishnu Tantti was a handicapped boy having deformity in his legs and he had no linkage with militants. He became an innocent victim of the operation launched by the security forces. The Commission expressed the view that family of the deceased deserved to be compensated and the Ministry itself stated in its report that it had no objection to grant of monetary relief. Hence, the Commission recommended to the Ministry of Defence, Government of India to pay a sum of Rupees Five lakhs as monetary relief to the next of kin of deceased Bishnu Tantti. The Secretary, Ministry of Defence, Government of India was directed to submit compliance report and proof of payment within eight weeks.

**4.117** Compliance report is awaited.

**b) Death in Government Homes**

13. *Custodial Death of Puspa Nishad in Government Shelter Home for Women, Faizabad (Case No. 15070/24/24/2013-DH)*

**4.118** The Commission received a copy of magisterial enquiry report sent by District Magistrate, Faizabad, Uttar Pradesh regarding death of a lady prisoner Pushpa Nishad on 5 April 2012 in the custody of Govt. Women Shelter, Faizabad while undergoing medical treatment.

**4.119** The Commission took cognizance of the matter and vide its proceedings dated 13 May 2013 requested its Director General (Investigation) to have the available reports examined and collect further reports, if required, from the concerned authorities.

**4.120** After considering the magisterial enquiry report and other material on record, the Commission sent a team of officials from its Investigation Division to conduct an enquiry. The team of the Investigation Division made following observations:

- i) Pushpa Nishad was admitted in the shelter on 16 July 2011 and had regularly complained about coughs and fever. Sputum tests carried out on 5 December 2011 and 30 January 2012 were negative;
- ii) An X-ray was advised by the doctor of Shri Ram Hospital on 23 November 2011, 28 January 2012 and 13 March 2012, but it was produced only on 26 March 2012. Officials of the Women Shelter Home ignored this repeated medical advice for an X-ray, though it would have helped detect lung infection at an early stage;



- iii) At 9.30 a.m. on 5 April 2012, when her condition deteriorated, doctors at the District Hospital referred her to the Medical College, Lucknow. The Assistant Superintendent of the Women Shelter Home was unable to arrange for the patient's transfer to Lucknow, and she died at the Faizabad hospital. The doctors at the District Hospital advised that she could have survived if she had been transferred quickly to the Medical College;
- iv) The then Assistant Superintendent Home (officiating) in her statement claimed that the police escort did not reach the Home before the patient died. She could not, however, produce any documentary evidence in support of her contention and to prove that a request was made for an escort;
- v) A medical specialist consulted by the Investigation Division has advised that, though Pushpa Nishad was receiving medicines for lung disease, her diagnosis and treatment were not adequate;
- vi) Officials of the Home did not have a file of her medical treatment; doctors who treated her therefore did not have her case history and this was one of the reasons why the treatment she received was inadequate.

**4.121** On the basis of these findings, which established that a person died in the custody of the State due to lack of adequate medical care, the Commission vide its proceedings dated 3 February 2014 directed the Government of Uttar Pradesh to show cause as to why it should not recommend relief for the next of kin.

**4.122** The Commission further directed the Government of Uttar Pradesh to take action on three related points which arose out of the enquiry conducted by its officials and asked the Chief Secretary and the Director General of Police to submit an action taken report:

- i) A well-equipped pathology department should be established in the district hospital in Faizabad;
- ii) There was a delay in providing a police escort when the late Pushpa Nishad fell seriously ill. The Director General of Police should issue instructions to all concerned to ensure that these delays, which could be life-threatening, as it was in this case, do not take place; and
- iii) Pushpa Nishad was brought to hospital without her medical records, and therefore treated without any reference to those. All shelter homes/ detention centers should maintain a medical record of each inmate, which should accompany the person concerned whenever he or she is treated at the hospital.

**4.123** Response received from the State Government is under consideration of the Commission.

14. *Death of an Inmate in a Juvenile Home in Ghumanganj, Uttar Pradesh due to Medical Negligence*  
(Case No. 2548/24/4/09-10-DH)

**4.124** The Commission received an intimation dated 7 April 2009 from Assistant Superintendent, Government Protection Home, Allahabad regarding the death of juvenile Ramu s/o Jang Bahadur on 7 April 2009 at MLN Hospital, Allahabad. The deceased was in the custody of the Protection Home in connection with case FIR no. 94/09 u/s 363/366 IPC.

**4.125** A complaint dated 9 April 2009 was also received from the Shri Jang Bahadur alleging that his son Ramu Patel had eloped with a girl on 10 February 2009 and thereafter he along with the girl had surrendered at the Police Station Mau Aiama on 14 March 2009. His son, being a minor, was shifted to Juvenile Home, Ghumanganj on 30 March 2009. When he went to meet his son, on 5 April 2009, he was told by his son that the family members of the girl were planning to kill him in connivance with the staff of Juvenile Home. He further alleged that on 7 April 2009, his son was murdered by Dr. Lallan Prasad and Juvenile Home Staff. The complaint was registered as case No. 2548/24/4/09-10 and clubbed with this case.

**4.126** As directed by the Commission, the Investigation Division obtained relevant reports from concerned authorities. According to the reports received from the authorities of the Juvenile Home, the juvenile had died due to illness and no injury marks were found on his dead body. Reports including magisterial enquiry report, viscera report, and postmortem report were analyzed. Though the definite cause of death couldn't be ascertained but it was concluded as an unnatural death. Further analysis of the reports revealed that when the juvenile was reported sick on 6 April, 2009 (one day prior to his death), he was given some medicine by the nurse of the Juvenile Home without any consultation from the doctor. Later, when the condition of juvenile deteriorated in early hours of 7 April 2009, he was taken to Moti Lal Hospital, Allahabad where he was declared brought dead at 6.05 a.m.

**4.127** Considering these peculiar facts and circumstances of the case where a young inmate died within one week of his detention at Juvenile Home, and final cause of death was not clear and adequacy of the medical treatment was under cloud, the Investigation Division recommended for expert forensic opinion as to whether adequate medical treatment was given to the juvenile. The forensic expert after careful study of all the documents on record opined that there was clear medical negligence on the part of the authorities of the Juvenile Home as the boy was not given adequate treatment in the Juvenile Home.

**4.128** In the light of this expert opinion, the Commission asked the Government of Uttar Pradesh to show cause as to why it should not recommend relief for the next of kin of the

late Ramu. The Commission also asked the Government of Uttar Pradesh to initiate stern disciplinary action against the officials of the Juvenile Home, who showed callous negligence in the treatment of a seriously sick minor in their care.

**4.129** It was contended on behalf of the State that the report of Forensic Science Lab was negative and in the case crime No.203/2011 u/s 146/302/120(B)/201/IPC registered in the matter, the Investigating Officer filed a final report. According to the medical report, Ramu died due to illness. The final report was accepted by the court. Thus, there was no justification for payment of relief to the next of kin of the deceased.

**4.130** The Commission observed that there was no dispute regarding the death of juvenile due to disease, but there was clear evidence of medical negligence on the part of Juvenile Home officials as opined by the medical specialists. The officials of Juvenile Home were negligent in providing adequate and timely treatment to Ramu.

**4.131** The Commission held that the reply submitted by the Senior Superintendent of Police, Allahabad was insufficient to discharge the notice and therefore, vide its proceedings dated 27 September 2013 recommended to the Government of Uttar Pradesh to pay a sum of ₹3,00,000 to the next of kin of the deceased, Ramu S/o Jang Bahadur. The Commission also directed to initiate disciplinary actions against the officials of the Juvenile Home.

### **c) Unlawful Arrest, Illegal Detention and Torture**

15. *Unlawful Arrest of Complainant's Son Asif by Police in Meerut, Uttar Pradesh (Case No.981/24/54/2012)*

**4.132** The Commission received a complaint dated 31/12/11 from one Babu alleging that on 30 December 2011, the policemen from Police Station T.P. Nagar, Meerut, Uttar Pradesh unlawfully picked up his son Asif from home and apprehending his implication in a false case. He sought intervention of the Commission for independent inquiry and protection from false cases.

**4.133** In response to the directions of the Commission, a report was received from Senior Superintendent of Police, Meerut which mentioned that the policemen of Police Station T.P. Nagar, Meerut had arrested complainant's son Asif along with others following recovery of stolen motor cycles from them. In this regard FIR No. 02/12 u/s 25 Arms Act and section 379/411/420/467/468 IPC r/w 41/102 IPC was registered and on completion of investigation, charge sheet No. 17/12 dated 26 January 2012 was filed. The report further mentioned that an enquiry was being conducted regarding the arrest of the complainant's son on 1 January 2012, for which a complaint was made on 31 December 2011.

**4.134** The Senior Superintendent of Police, Meerut also informed that the complainant's son was illegally detained for 2 days w.e.f. 31 December 2011 to 1 January 2012 at Police Station T.P. Nagar and in this regard Sub Inspector Subhash Chander Gautam, was found guilty and further action was being taken against him.

**4.135** In view of the report from the Senior Superintendent of Police, Meerut, in which he admitted the illegal detention of the complainant's son for two days, the Commission observed that the State was liable for violation of human rights of Asif and, therefore, issued a notice to the Government of Uttar Pradesh through its Chief Secretary to show cause as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993, be not recommended to be paid to the complainant's son Asif. The Senior Superintendent of Police, Meerut, was also directed to submit a further report as to the outcome of the departmental action taken against the erring public servant.

**4.136** In response, the Commission received a report from Senior Superintendent of Police, Meerut that a strict warning had been issued to Sub Inspector, Shri Subhash Chand Gautam who was found guilty of illegally detaining the complainant's son Asif for two days and there should be no objection in case any interim relief was given to him. However, no response was received from the Chief Secretary, Government of Uttar Pradesh.

**4.137** In view of the above reports, the Commission held that the complainant's human rights were violated for which the State must bear the liability. The Commission therefore recommended to the Chief Secretary, Government of Uttar Pradesh to make payment of Rupees Ten thousand as monetary compensation to the victim Asif.

**4.138** Despite reminders, compliance report alongwith proof of payment is awaited.

16. *Illegal Detention and Torture of Four Minor Boys by Policemen of Police Station Dasada District Surendra Nagar, Gujarat*  
(Case No.1052/6/24/2012)

**4.139** The Commission received a complaint alleging that four minor boys Nizamudin Yusufbhai Laheriya, Nareshbhai Nanjibhai Chauhan, Ishamudin Yusufbhai Laheria and Aslambhai Hajibhai Divan aged between 8 and 10 years were picked up from a Government Primary School in a theft case by the police of Police Station Dasada in District Surendra Nagar, Gujarat. They were detained and tortured for three days without registration of any FIR against them. On 24 June 2012 a day after their release, a case of stealing covers of water tanks from the school premises was registered against them. A prayer was made for enquiry in the matter and action against the erring police officials.

**4.140** In response to the Commission's notice, Superintendent of Police, Surender Nagar sent a report which revealed that four boys named in the complaint were residents of Dasada. Nizamuddin Yusufbhai Laheriya was caught red handed while stealing a memory card from a car by one Kalubhai and handed over to Dasada police. During interrogation he confessed stealing of 10 covers of water tank, electric water pumping motor and two cameras of dish antenna along with his three friends. Two crime case Nos. 26/12 u/s 379/114 IPC and 27/12 u/s 379/114 IPC were registered on 24 June 2012. All the accused were arrested and produced before Juvenile Court. The report further revealed that all the minor accused

were called for interrogation and they were neither detained nor tortured. The victims were taken to hospital for treatment on 23 June 2012 by their parents. The injuries were found on the people which were caused by blunt hard weapon like baton, hunter. It was informed that an NCR No.3/12 u/s 323/114 IPC was registered against four police personal at Dasada Police Station on 29 June 2012 and the police officials were transferred.

**4.141** Upon consideration of the report, the Commission held that it was established that the human rights of the victims were violated as the MLC revealed that the minor children were tortured and beaten, action was taken against police personnel by Superintendent of Police and NCR also registered against the erring police officials. Hence, the Commission issued a notice u/s 18 of the Protection of Human Rights Act to the Government of Gujarat through its Chief Secretary calling upon him to show cause as to why interim relief should not be recommended to be paid to the victims. He was also directed to inform the Commission regarding the status of NCR No.3/12.

**4.142** Despite a reminder, the State government did not respond to the notice.

**4.143** Since the State government failed to respond, the Commission in its proceedings dated 21 May 2013 presumed that the State Government had nothing to say in defense and therefore recommended to the Government of Gujarat to pay a sum of ₹10,000 each to Nareshbhai Nanjibhai Chauhan, Nizamudin Yusufbhai Laheriya, Ishamudin Yusufbhai Laheria and Aslambhai Hajibhai Divan.

**4.144** On receipt of proof of payment of compensation of ₹ 10,000/- each to the four victims as per recommendation of the Commission, the case was closed on 27 August 2013.

*17. Harassment and Torture of the Complainant and Implication in a False Case by Police in District Sirsa, Haryana  
(Case No.1516/7/18/2013)*

**4.145** The Commission received a complaint from Shri Arihant Jain, resident of District Sirsa, Haryana, alleging that he was physically assaulted on 15 September 2011 and though the matter was reported to the police of Police Station Elnabad but instead of taking action against the offender, he was subjected to custodial violence for compromising the matter and was rather falsely implicated in a case. He prayed for intervention by the Commission in the matter.

**4.146** The Commission took cognizance of the complaint and vide its proceedings dated 6 March 2013 called for an action taken report from the Inspector General of Police, Hissar Range who informed the Commission that both the parties had compromised the matter and that the allegations of the petitioner could not be substantiated.

**4.147** A copy of the aforesaid report was sent to the complainant seeking his comments. In response, the complainant contradicted the police version and reiterated his allegations.



He also forwarded certain papers in support of his version. He further alleged that the police report was prepared to favour the accused police personnel.

**4.148** The Commission considered the matter and observed that the complainant had contradicted the police report in material respect and also furnished certain details which were difficult to be ignored. A copy of the response received from the complainant was sent to the Director General of Police, Haryana, for getting the matter independently enquired into and submit the report. He was also asked to ensure that the complainant be also made to join the enquiry.

**4.149** Inspector General of Police (Law & Order) in the office of Deputy General of Police, Haryana forwarded a report of Additional Director General of Police stating that the enquiry conducted by the Deputy Superintendent of Police, CBCID, Hissar, Haryana revealed that the Inspector Maha Singh and the Head Constable Bhal Singh did not misbehave or assault the complainant. No incident of taking money from the complainant was noticed during enquiry but it was established that the Inspector Maha Singh Ranga, the then Station House Officer of Police Station Elanabad and Head Constable Bhal Singh challaned the motorcycle of Arihant Jain after calling him at the Police Station. However, it was admitted in the report that the complainant was harassed by both those police officials for which departmental enquiry/disciplinary proceedings had been recommended against them.

**4.150** As the enquiry report of Deputy Superintendent of Police, CBCID, Hissar, Haryana clearly established a case of harassment caused to the complainant Arihant Jain by the two police officials, namely, Maha Singh Ranga and Bhal Singh of Police Station Elnabad by falsely making challan of his motorcycle at the Police Station after calling him there. As such, the said public servants violated the human rights of the complainant Shri Arihant Jain for which the State Government was liable to compensate the complainant. Hence, the Commission issued notice to the State of Haryana through its Chief Secretary to show cause as to why the Commission should not award compensation to Shri Arihant Jain for violation of his human rights by the police officials of the State.

**4.151** The Director General of Police, Haryana was also directed to take penal action against the above named two police officials for abusing their powers and misusing of the machinery of Law.

**4.152** The Inspector General of Police (Law & Order) in the office of Director General of Police, Haryana intimated that a department enquiry had been initiated against Inspector Maha Singh and Head Constable, Bhal Singh which was going on.

**4.153** In reply to show cause notice, no cause/explanation was furnished in that respect by the Inspector General of Police in the above noted report rather it was stated that the Commission might take action as deemed fit for violation of the human rights of the complainant by the police officials.

**4.154** In the circumstances of the case, the Commission recommended to the Government of Haryana through its Chief Secretary to pay a sum of ₹ 50,000 as compensation under Section 18 (a) (i) of Protection of Human Rights Act, 1993 to the complainant, Shri Arihant Jain at an early date and submit the report along with proof of payment.

**4.155** Despite reminder, compliance report alongwith proof of payment is still awaited.

**d) Police High-handedness**

18. *Death of a Train Passenger due to Physical Assault by a Railway Protection Force Personnel at Behrampore Railway Station in West Bengal  
(Case No. 335/25/13/2013)*

**4.156** The Commission received a complaint from Shri R.H. Bansal alleging death of a train passenger Shri Dilip Ghosh due to physical assault by Railway Protection Force personnel on 12 March 2013 at Behrampore Railway Station in West Bengal.

**4.157** The Commission took cognizance of the complaint and called for reports from the Director General, Railway Protection Force, Ministry of Railways, Government of India, New Delhi; and Superintendent of Police, Murshidabad, West Bengal.

**4.158** The Superintendent of Police, Murshidabad submitted the report which revealed that a criminal case vide FIR No.4/2013 u/s 302 IPC had been registered at Berhampore GRPS on 12 March 2013 in connection with the aforesaid incident. It further revealed that the offending police official had been arrested. It was further reported that the accused police Constable was posted at Berhampore GRPS under GRP Sealdah.

**4.159** Another report was received from Deputy Director/Security (Crime), Railway Board, New Delhi. It revealed that on 12 March 2013 at about 01.30 hrs., while Smt. Ruma Ghosh aged 42 years along with her husband Shri Dilip Ghosh aged 50 years, residents of District 24-Parganas (N), West Bengal, was resting in 2nd Class Waiting Hall at Berhampore Court Railway Station, a GRP (Government Railway Police) Constable named Paritosh Biswas of GRPS/Berhampore enquired about their name and address. Being not satisfied with their replies, he tried forcibly to take them to GRP Station. On the way to the GRP Station through the platform, the said GRP staff gave a hard blow on Shri Dilip Ghosh's nose knocking him down on the Railway track causing bleeding injury on his head. Smt. Ruma Ghosh with the help of other passengers immediately took him to Berhampore New General Hospital where the doctor declared him as "brought dead". Based on the complaint of Smt. Ruma Ghosh, Case No. 04/13 dated 12.3.2013 u/s 302 IPC was registered at GRPS, Berhampore. The accused GRP Constable, Shri Paritosh Biswas was arrested and produced before Hon'ble Chief Judicial Magistrate, Berhampore on the same day and then sent to judicial custody.

**4.160** It was further submitted that accused was a GRP Constable, and not RPF Constable, who was involved in the said incident. It was requested that the matter might be taken



up with the Director General Railway Police, West Bengal, as the matter related to the Government Railway Police, West Bengal.

**4.161** The Commission in its proceedings dated 24 June 2013 observed that Shri Dilip Ghosh (50 years) admittedly died due to physically assault by Constable Paritosh Viswas of Government Railway Police. The Commission further observed that the said Constable was posted at the Railway Station to ensure safety and security of the passengers, but on the contrary, he assaulted an innocent person while on duty. The Commission held that the human rights of Shri Dilip Ghosh had been violated and the State was vicariously liable for the criminal act of GRP constable resulting into the death of Shri Dilip Ghosh.

**4.162** Therefore, the Commission issued a Notice u/s 18 of the Protection of Human Rights Act to the Chief Secretary, Government of West Bengal to show cause as to why interim relief should not be recommended to be paid to the next kin of the deceased. The Commission also issued a notice to the Superintendent of Police, Government of Railway Police GRP Sealdah, West Bengal, calling upon him to submit status of the aforesaid criminal case No. 04/13 together details of departmental action taken against the delinquent police official.

**4.163** Responding to the Show Cause Notice, the Special Secretary, Home Department (HR), Government of West Bengal, Kolkata intimated that the State Government would agree to pay the monetary relief to the next of kin of the deceased Dilip Ghosh as recommended by the Commission on the facts and circumstances of the case.

**4.164** The Deputy Superintendent of Police (RHA), GRP, Sealdah also reported that after investigation of the crime No. 4/13 of PS GRP Berhampur, a charge sheet was submitted against the accused constable Paritosh Biswas on 6 June 2013. It was further informed that the said constable had been placed under suspension since 12 March 2013 and departmental disciplinary proceedings initiated against him.

**4.165** The Commission after considering the facts and circumstances of the case, vide its proceedings dated 23 January 2014 recommended to the State Government of West Bengal through its Chief Secretary u/s 18 (a) (i) of the PHR Act, 1993 to pay a sum of Rupees Five Lakhs only as monetary relief/interim compensation to the next of kin/dependents of the deceased Shri Dilip Ghosh and submit a report along with proof of payment to the Commission within six weeks.

**4.166** Compliance report alongwith proof of payment is awaited.

19. *Torture of a Gang Rape Victim by a Woman Constable at Behest of Sub Inspector of Police Station Afzalgarh, Bijour, Uttar Pradesh*  
(Case No. 14412/24/17/2013-WC)

**4.167** The Commission took *suo motu* cognizance of a news item entitled "Another Uttar Pradesh Rape Victim Faces Police Ire" appeared in the Delhi Edition of English daily "The

Hindu' dated 17 April 2013. According to the news report, a 16 year old gang rape victim was allegedly beaten up by a lady constable at the behest of Sub Inspector of Police Station Afzalgarh, District Bijnour, Uttar Pradesh. It is reported that the victim had gone to the police station on 12 April 2013 alongwith her parents for lodging a complaint against two youths who had gang raped her on 11 April 2013. The report also discloses that the victim and her parents had been trying to get the complaint registered since 12 April 2013 but to no avail. Instead of registering the FIR, the rape victim herself was allegedly assaulted by the lady constable on the directions of the Sub Inspector.

**4.168** While issuing notices to the Chief Secretary and Director General of Police, Uttar Pradesh, calling for a report, the Commission made the following observation:

*"The Commission is appalled at the utter insensitivity on the part of police officials. Barely a week ago, another minor rape victim was detained in a lock up in the State. These kinds of incidents by the very people who are vested with the responsibility and duty to protect the life and property of the citizens have to be put down with a heavy hand."*

**4.169** In response, reports received from authorities revealed that the victim had gone to the agricultural field on 11 April 2013 to answer the call of nature. Two men, Anees and Rashid, subjected her to sexual assault and gang raped her, leaving her injured. When the victim did not return home, her father approached Police Station Afzalgarh on 12 April 2013. The victim, however, regained consciousness on 12 April 2013 and was thereafter located by her uncle. The victim and her family members were brought to the police station by SubInspector Raj Singh the same day.

**4.170** The local police, instead of initiating any legal action, mounted pressure on the victim and her family members to enter into a compromise. During this process, even the victim was physically assaulted by woman Constable Sukhraj Kaur and sent back home. The victim and her family members again visited the police station on 13 April 2013 but the case was not registered. On 15 April 2013, the victim's father visited Additional Superintendent of Police, Rural, Bijnore and thereafter the criminal case was registered on the complaint of her mother, vide Crime No.111/2013 for the offences punishable u/s 376D, 506 IPC at Police Station Afzalgarh on 15 April 2013 against both the named accused persons.

**4.171** It was further stated that another criminal case vide Crime No.113/2013 for the offence punishable u/s 166A IPC was also registered against Ramjilal, Station House Officer, Police Station Afzalgarh; SubInspector Raj Singh and Lady Constable Sukhraj Kaur on 16 April 2013 for delay in registration of the case. All the three police personnel were placed under suspension and departmental action was also initiated against them. During the course of investigation, Section 323, 342 IPC were also added. It was further stated that in Case Crime No.113/2013, chargesheet for the offences punishable u/s 166A, 323, 342 IPC had been submitted against all the three police personnel on 26 May 2013.

**4.172** The Commission considered the matter on 14 August 2013 when it directed to issue a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh through its Chief Secretary to Show Cause why interim relief should not be recommended to be paid to the victim in this matter. The Commission further directed the Director General of Police, Uttar Pradesh to submit the status of both the aforesaid criminal cases and the outcome of the departmental action initiated against the delinquent police personnel.

**4.173** In response, the Superintendent of Police, Bijnour, informed that both the rape accused had been charge sheeted and the challan had been submitted in court on 25 May 2013. The case is under consideration of the competent court. It was further stated chargesheet for the offences punishable u/s 323, 504, 342 IPC had also been filed in court on 26 May 2013 against the delinquent police personnel namely Ramji Lal, the then Station House Officer, Sub Inspecto Raj Singh and constable Sukhraj Kaur of Police Station Afzalgarh. It was further informed that departmental proceedings were in progress against delinquent police officials. It was also submitted that the State had no objection in grant of interim relief to the rape victim.

**4.174** The Commission considered the matter on 29 October 2013 when it observed that the hapless and helpless girl was gangraped and left bleeding in an open field by the offenders and when the matter was reported to the police, the law was not set in motion. What was more shocking was that the police personnel led by the Station House Officer mounted pressure on the victim and her family members to compromise the matter and the victim who deserved full sympathy at the hands of law enforcement officials was instead physically assaulted. The case was registered only when the superior authorities intervened and took further action in the matter by placing the delinquent police personnel under suspension, registering a criminal case against them and initiating departmental action as well.

**4.175** As the State Government did not raise any objection in grant of interim relief to the victim, the Commission recommended to the Government of Uttar Pradesh to pay an amount of ₹ 3,00,000 to the victim and directed the Chief Secretary, to submit the proof of payment made to the victim in six weeks.

**4.176** Compliance report alongwith proof of payment and outcome of Departmental action initiated against three police personnel of Police Station Afzalgarh is awaited.

20. *Harassment of the Complainant by Police at the Traffic Signal of Pul Prahlad Pur, Delhi*  
(Case No. 377/30/0/2011)

**4.177** The Commission received a complaint from Shri Rajiv Kumar, a junk dealer that on 19 January 2011, when he was coming to Delhi from Faridabad, in a vehicle loaded with waste polythene, he was stopped by a PCR van of Delhi Police at the traffic signal of Pul

Prahlad Pur at about 10.00 p.m. The PCR personnel demanded ₹100 as bribe for entering Delhi. The complainant refused to oblige and he was allowed to go. However, a policeman came from behind on a motorcycle and demanded a sum of ₹500 from him. The complainant refused and asked the name of the policeman. The said policeman beat the complainant and took him to the Police Station Prahlad Pur. It was alleged the policeman allegedly took out ₹3,000 from the complainant's pocket before entering the Police Station. He was also slapped and threatened at the Police Station.

**4.178** Pursuant to the directions of the Commission, the Additional Commissioner of Police, Delhi, sent his report and confirmed that complainant and his friend Ramesh, who were coming from Faridabad in a tempo, were stopped at the traffic signal of Pul Prahlad Pur by the PCR staff due to traffic jam. As per the report, Constable Adesh asked the driver of the tempo to take the vehicle aside, but the complainant arrogantly inquired about his name and number, which annoyed the Constable. He took the complainant to the Police Station and handed him over to Sub Inspector Kishore Kumar, who after verifying the facts, let off the complainant. During the inquiry, the allegations made in the complaint were not substantiated.

**4.179** The Commission called for comments of the complainant on the report submitted by police.

**4.180** Complainant in his comments described the report as rubbish and reiterated the allegations made in the complaint. Upon consideration of the comments of the complainant, the Commission directed the Commissioner of Police, Delhi, to get the matter inquired into by a gazetted police officer of the Vigilance Branch.

**4.181** In response, the Additional Commissioner of Police, Vigilance, Delhi, endorsed to the Commission a copy of his communication addressed to the Additional Commissioner of Police, South East District, Delhi. Vide this letter the Deputy Commissioner of Police conveyed to the Additional Commissioner of Police the action approved by the Special Commissioner of Police, Vigilance, Delhi, against the delinquent policemen on the basis of the vigilance inquiry report which was not sent to the Commission. However, from the letter of the Deputy Commissioner of Police, the following facts were established:

- (i) Constable Adesh Kumar overshoot his duty and brought the complainant to the Police Station, where he was detained for a couple of hours.
- (ii) Sub Inspector Kishore Kumar committed a procedural lapse.
- (iii) SHO is also responsible for illegal act on the part of his staff.

**4.182** The Special Commissioner of Police, Vigilance, recommended transfer of Constable Adesh Kumar to a non-sensitive unit and also departmental action for minor penalty. He also recommended 'Recorded Warning' against Sub Inspector Kishore Kumar and 'Advisory

Memo' to the SHO to improve his supervision and sensitize the staff to behave and conduct in a manner expected of a sensitive and people friendly force.

**4.183** The Commission observed that the communication received from the Deputy Commissioner of Police, Vigilance, Delhi, vindicated complainant's allegations to the extent that he was taken to the Police Station, illegally detained for a few hours and harassed. Though, the allegation of demand of bribe was not established, the Commission was of the view that in the facts and circumstances, that allegation of the complainant also could not be brushed aside. Taking into consideration the facts and circumstances of the case, the Commission held that a clear case of breach of human rights was made out and, therefore, the Delhi Police was liable to compensate the complainant. The Commission issued notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Commissioner of Police, Delhi, to show cause as to why it should not recommend monetary relief for the complainant. He was further asked to inform the Commission of action taken against the delinquent policemen.

**4.184** Pursuant to the directions of the Commission, the Deputy Commissioner of Police, Vigilance, Delhi, submitted a report stating that monetary relief should not be awarded to the complainant as action has been taken against the delinquent officials. As no reasonable cause was made against award of compensation to the complainant, the Commission vide its proceedings dated 20 November 2013 recommended to the Government of NCT of Delhi, through its Chief Secretary, to pay compensation of Rupees Ten Thousand to the complainant.

**4.185** Despite reminder, compliance report alongwith proof of payment is awaited.

21. *An Accused in a Theft Case Assaulted by Police in Presence of His Girl Friend in Dehradun, Uttarakhand*  
(Case No.193/35/5/2012)

**4.186** The Commission received a complaint from Shri R.H. Bansal that Santosh Rawat, an accused in a theft case, was beaten up by the police in presence of his girl friend on 05 January 2012. The event was telecast by electronic media on a number of channels.

**4.187** In response to the directions of the Commission, Senior Superintendent of Police, Dehradun forwarded a report received from Deputy Superintendent of Police, Nehru Colony, Dehradun. The report revealed that Santosh Rawat *alias* Mahate, s/o Dheeraj Singh was involved in 10 criminal cases. He was arrested in FIR No. 8/12 u/s 380 IPC and FIR No. 9/12 u/s 454 IPC, produced before the court and sent to judicial custody. The report further mentioned that a case FIR No. 16/12 u/s 323/506 IPC was registered against the erring police personnel and being investigated by CBCID.

**4.188** The Senior Superintendent of Police, Dehradun informed that in FIR No. 16/12 charge sheet dated 13 September 2012 had been filed and the matter was pending in the



court. The Commission also sought comments on the report from the complainant but he did not offer any comments.

**4.189** As the Senior Superintendent of Police, Dehradun admitted that Santosh Rawat *alias* Mahate, an accused in a theft case, was beaten up by four police personnel regarding which FIR No. 16/12 u/s 323/506 IPC was registered and pending disposal in the court, the Commission observed that *prima facie*, the human rights of the victim were violated by the unlawful act of the law enforcing public servants for which the State is liable and issued a show cause Notice to the Government of Uttarakhand as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993, be not recommended to be paid to the victim, Santosh Rawat *alias* Mahate. The Director General of Police, Government of Uttarakhand was also asked to submit a further report as to the outcome of the departmental action taken against the erring police personnel.

**4.190** In response, Director General of Police, Crime and Law & Order, Government of Uttarakhand forwarded a report received from the Deputy Inspector General, Range Deheradun, Uttrakhand that no preliminary inquiry/departmental action was pending against the erring police personnel, However, a case against them was pending disposal in the court. He further submitted that any decision taken by the Commission for grant of financial relief to the victim, further action would be taken accordingly.

**4.191** The Commission considered the matter on 5 June 2013 when it recommended to the Chief Secretary, Government of Uttrakahand to make payment of ₹ 10,000 as monetary compensation to be paid to the victim Santosh Rawat *alias* Mahate s/o Dheeraj Singh.

**4.192** On receipt of proof of payment, the Commission vide its proceedings dated 18 October 2013 closed the case.

22. *Physical Assault by Police Personnel Violating Dignity and Human Rights of Victims in Noida, Uttar Pradesh*  
(Case No. 15025/24/30/2010)

**4.193** The Commission received a complaint from Shri Nand Lal Shukla, enclosing a newspaper report dated 24 December 2009. It was reported that one Moninder Singh was running a food shop in Sector- 59, Noida. It was alleged that on 20 December 2009 at 10 a.m., Constables Sukhbir and Shahid asked Shri Moninder Singh to pack their food. Annoyed by the delay, the above named police personnel ransacked his shop and beat up Sanjeev, Jai Ram and Moninder Singh. The complainant sought intervention of the Commission for action against the police personnel.

**4.194** In response to Commission's notice, Senior Superintendent of Police, Traffic (Nodal Officer) (HR), District Gautam Budh Nagar forwarded a report received from the Circle Officer, City-II Noida. The report revealed that Constables Sukhbir Singh and Shahid Khan were placed under suspension. A further report received from Senior Superintendent of



Police, Gautam Budh Nagar, disclosed that show cause notices were issued to the above-named Constables and upon consideration of their explanation, they were absolved of the allegations.

**4.195** The report was silent as to whether the victims were associated during enquiry and whether any FIR was registered against the above named constables who, as per newspaper report, committed a cognizable offence. Therefore, the Commission directed the Senior Superintendent of Police, Gautam Budh Nagar to submit a further report on the above stated aspect by associating the victims named in the complaint.

**4.196** In response, the Senior Superintendent of Police, Gautam Budh Nagar, Uttar Pradesh reported that the allegations of physical assault by the police personnel on the victims named could not be substantiated and for that reason the criminal proceedings were not initiated against them. However, on account of their unwanted misconduct with Moninder Singh and his brother Sanjeev, after the departmental enquiry, the erring police personnel had been penalized by an adverse entry in their service records.

**4.197** Since the report from the Senior Superintendent of Police, Gautam Budh Nagar, Uttar Pradesh admitted that the police personnel misbehaved with Moninder Singh and his brother Sanjeev at their food shop and that adversely affected the police image for which they had been penalized by way of an adverse entry in their service records, the Commission observed that the dignity and human rights of the victims had been violated for which the State must bear the liability. The Commission issued a Show Cause Notice to the Government of Uttar Pradesh as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993, be not recommended to be paid to Shri Moninder Singh and his brother Shri Sanjeev.

**4.198** Despite reminder with warnings that in case of non-receipt of any reply, the Commission would presume that the State had nothing to say in the matter and proceed to make an appropriate recommendation, no response was received from the State Government.

**4.199** The Commission took up the matter on 14 November 2013 when it observed that the dignity and human rights of the victims had been violated by police personnel for which the State must bear the liability and recommended to the Chief Secretary, Government of Uttar Pradesh to make payment of ₹ 10,000 each as monetary compensation to the victims Shri Moninder Singh and his brother Shri Sanjeev.

**4.200** Financial Controller, Uttar Pradesh Police Headquarter, Allahabad has conveyed the sanction accorded for payment of ₹10,000 each as monetary compensation to the two victims. However, proof of payment is awaited.

23. *Harassment and False Implication of the Complainants by Police in Moradabad District of Uttar Pradesh*  
(Case No. 43784/24/56/2013)

**4.201** The Commission received a complaint from Dr. Vibha Malik, alleging brutal assault on her and her husband Dr. Y.K. Punia, by the police of Police Station Majhola, District Moradabad, Uttar Pradesh on 17 November 2013 without any reason or provocation. The complainant alleged that she sustained grievous injuries due to the assault caused by the police officials. The complainant and her husband Dr. Y.K. Punia ran from pillar to post to lodge their complaint against erring police officials but Police Station Civil Line, Moradabad refused to register their complaint. As per the complaint, an FIR could be lodged only after intervention of senior police officers and of district administration. However, no action was taken against the delinquent police officials. Even a false criminal case was registered against the complainants in order to dilute criminal case lodged against the offending police officials. The complainant also enclosed copies of the press clippings which indicated that the aforesaid incident was highlighted prominently by the print media.

**4.202** The Commission vide its proceedings dated 19 December 2013 requested its Director General (Investigation) to depute a senior officer for an on the spot enquiry in the matter and submit the report within four weeks. The team was also asked to examine the role of senior officers named in the complaint.

**4.203** Investigation Division of the Commission conducted spot enquiry into the matter. From the enquiry the NHRC team found that on 17 November 2013 at around 2130-2145 hours, Dr. Vibha Malik and her husband Dr. Y.K. Punia had stopped their car on the road side to attend a phone call. In the meantime, Inspector Surendra Pal Singh, the then SHO/PS Majhola along with three constables came from behind and misbehaved with them. The policemen also assaulted the complainant and her husband as a result of which Dr. Malik sustained grievous injury on her nose (fracture in nose bone). Dr. Punia also received simple injury as per the MLC report. Later on the same night, at around 2200 hrs, SHO/PS-Majhola, Surendra Pal Singh registered a criminal case against Dr. Vibha Malik and her husband Dr. V.K. Punia at P.S. Majhola vide FIR No.727/2013 u/s 353/504/506/279/337 IPC.

**4.204** After the incident, the complainants/victims along with some doctors of Indian Medical Association, Moradabad visited the police station, Civil Lines, Mahila Police Station, residences of the Senior Superintendent of Police and the Deputy Inspector General residence in the night but no one received their complaint. Finally, the Superintendent of Police (City) instructed the police of Police Station Civil Lines to receive their complaint and on 18 November 2013 an FIR vide case No.NIL/2013 u/s 323/504/506/392 IPC, was registered at PS (Civil Line) against the SHO Sh. Surender Pal Singh and three other policemen. Further, following a meeting between complainants and doctors of the Indian Medical Association (IMA) and the district administration and the police, it was decided that an enquiry into

the matter would be conducted by the ADM (City) and the complainants were assured for prompt and appropriate action against the erring police officials.

**4.205** The SHO Inspector Surendra Pal Singh was suspended by the DIG on 18 November 2013. However, his suspension was revoked on 24 November 2013. During investigation, in case FIR No.727/2013, no evidence could be found to substantiate the charges against the complainant. Hence a final report was filed before the concerned court citing lack of evidence for filing closure report. The filing of closure report indicated that the criminal case against the complainant was lodged without any valid substance.

**4.206** Till the visit of the NHRC Team in February, 2014, investigation of the criminal case registered on the complaint of the complainants against the police officials was under investigation and no arrest was made in the case. Even the preliminary enquiry ordered against the police officials was not concluded and was pending with the SP (Rural), Moradabad.

**4.207** The ADM (City) in his interim preliminary enquiry report concluded that Dr. Punia was not found under the influence of alcohol and as per the medical record of Dr. Vibha Malik, she had sustained injury on her face. According to the ADM (City), prima-facie it was a matter of assault on the complainant. However, the ADM (City) reported that statement of police officials could not be recorded; hence it might be treated as interim enquiry report. The DM, Moradabad asked the ADM (City) to complete the enquiry and submit the final enquiry report at the earliest. However, it was learnt by the NHRC enquiry Team that the enquiry by ADM (City) was still pending.

**4.208** The delinquent police inspector Surendra Pal Singh after the incident did not report for duty and remained absent on the pretext of medical illness. Inspector S.P. Singh even did not appear before the NHRC team during the spot enquiry. In this regard, two notices were also issued for his personal appearance at the NHRC to record his statement but he failed to report before the NHRC team. A letter dated 5/2/2014 was also received from the SSP, Moradabad stating that inspector S P Singh was absent from duty and could not be contacted over his mobile phone.

**4.209** The NHRC Team observed that despite lapse of more than three months, the district and police administration failed to conclude their preliminary enquiry, and investigation of the case against the policemen was also pending. In view of the recommendations made by the NHRC enquiry Team the Commission directed the Director General of Police, Uttar Pradesh, Lucknow to transfer the investigation of FIR No. 727A/13 of PS Civil Lines, Moradabad to CBCID, Uttar Pradesh with the direction to conclude the investigation at an early date. Further, the DM, Moradabad and SSP, Moradabad, Uttar Pradesh were directed to conclude the preliminary enquiry initiated against the delinquent police officials. SSP, Moradabad was also directed to initiate departmental enquiry against the police personnel of PS Civil Lines, Moradabad for refusing to register FIR on the complaint of Dr. Vibha Malik

and her husband and to ensure personal safety of the complainant Dr. Vibha Malik and her husband.

**4.210** The matter is still under consideration of the Commission.

**e) Police Encounter**

**24. Death of One Jasbir alias Jassad in an Encounter With Police in Jhajjar, Haryana (Case No. 2201/7/7/08-09-ED)**

**4.211** The Commission on 18 December 2008 took cognizance of an intimation received from Superintendent of Police, Jhajjar, Haryana regarding death of one Jasbir *alias* Jassad in an encounter with police in the night intervening 12/13 December 2008 in the area falling within the jurisdiction of Police Station Jhajjar, Haryana.

**4.212** According to the police version of the incident, Jasbir *alias* Jassad had fired at the police party and Constable Ashok sustained a bullet injury. Jasbir's brother Sombir was also alleged to have caused a bullet injury to H.C. Ashok. A criminal case No.341/2009 u/s 304/34 IPC was registered against the police on the complaint of Birmati, mother of the deceased. After investigation of the case, the police filed chargesheet against three police officers in the court.

**4.213** It was also informed that Smt. Birmati, mother of Jasbir had filed a petition u/s 482 Cr.P.C. in the High Court of Punjab & Haryana praying that the investigation of FIR No.341/2009 be transferred to some independent agency. The said petition was disposed of by the High Court on 18 June 2010 with the observation that the report u/s 173(2) Cr.P.C. on the basis of investigation had already been submitted in the court against three policemen.

**4.214** The Commission directed Superintendent of Police, Jhajjar to submit the chargesheet filed in the court after investigation of crime No.341/2009 Police Station Jhajjar.

**4.215** Upon consideration of the charge-sheet, the Commission found that Constable Ashok Kumar was being prosecuted u/s 304 IPC and S.I. Satbir Singh and Head Constable Ashok Kumar u/s 202/203/218 IPC.

**4.216** The Commission considered the matter on 8 December 2011 when it observed that the magisterial enquiry and police investigation had disclosed that the police was liable for the homicidal death of Jasbir *alias* Jassad. The Commission expressed the view that the State must compensate the family of the deceased and directed to issue a notice to the Government of Haryana requiring it to show cause why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not given to the next of kin of deceased Jasbir *alias* Jassad.

**4.217** In response to the show cause notice, Inspector General of Police, Rohtak Range submitted that the matter of providing monetary relief should be deferred till the conclusion of criminal trial arising from FIR No.341/09 P.S. Jhajjar.

**4.218** Upon consideration of the reply of the State Government to the Show Cause Notice, the Commission vide its proceedings dated 06 December 2013 found no merit in the contention of the State Government and observed that the issue before the Commission was substantially different from the issue which was likely to arise in the criminal trial. The Commission further observed that the Criminal Court would decide on the criminal liability of the concerned police officers whereas it was primarily concerned about the violation of human rights. The Commission also observed that it makes its recommendation on a prima facie view of facts as the standard of proof required by the Commission was not as rigorous as that required in the criminal trial. Therefore, the Commission expressed the view that the pendency of criminal trial need not detain them from recommending relief. Accordingly, the Commission vide its proceedings dated 06 September 2013 recommended to the Government of Haryana to pay a sum of ₹ 5,00,000 as monetary relief to the next of kin of deceased Jasbir *alias* Jassad and submit the compliance report with proof of payment within six weeks.

**4.219** The State Government has conveyed the sanction accorded by the State Governor for payment of a sum of ₹ 5,00,000 as monetary relief to the next of kin of deceased Jasbir. However, proof of payment has not yet been received.

25. *Death of Four Persons in an Encounter with Police in Dehradun, Uttarakhand*  
(Case No. 780/35/2006-2007)

**4.220** The Commission on 7 September 2006 took cognizance of an intimation received from Senior Superintendent of Police, Dehradun, Uttarakhand regarding death of two unidentified persons in an encounter with police on 24 August 2006. As per the intimation, two unidentified persons snatched a chain of one Smt. Sangeeta Chalna, resident of Vasant Vihar, Dehradun while she was going for a morning walk. She reported the matter to Vasant Vihar Police Station and police started searching for the criminals. At around 04.45 p.m., two persons riding on a motorcycle were seen speeding towards Police Station Asha Rodi on Saharanpur Road. The police chased the persons. On seeing the police, the persons started firing on them which was retaliated by police in self defence. Consequently, motorcycle of the persons slipped and they fell down. During the exchange of fire, both the persons were killed and arms and ammunition were also recovered from them. Smt. Sangeeta identified the deceased persons as the same who had snatched her chain and belongings which were also recovered from the deceased. In connection with the aforesaid incident, case Cr.No. 59/06 u/s 307 IPC and case Cr No. 61/06 u/s 25 Arms Act were registered at Police Station Calementown.

**4.221** Pursuant to the directions of the Commission, concerned authorities forwarded relevant reports to the Commission. According to the police version, the two criminals had snatched the gold chain of a lady around 08.50 a.m. on 24 August 2006. The lady lodged a report at P.S. Vasant Vihar, Dehradun that she had been robbed of her golden chain by two



motorcycle borne persons. The motorcycle was spotted by the police around 04.45 p.m. at Turner Road. It was chased by the police and then an encounter took place in which the two persons were killed.

**4.222** Considering the time gap between the incident of robbery and alleged encounter, the Commission expressed the view that a thorough enquiry was required. The Commission directed that a team of its Investigation Division should visit Dehradun and examine Smt. Sangita Chalna who lodged FIR No.96/2006 at P.S. Vasant Vihar regarding the robbery of gold chain. The team was also required to make enquiry from the family members of the two slain persons.

**4.223** The enquiry team found that the death of Ram Darshi and Jitender in the encounter was suspicious. The team also found that there were two more deaths (Sunder s/o Janardan & Parvinder *alias* Parveen s/o Jeet Ram) in police encounter within ten hours from the encounter deaths of Ram Darshi and Jitender. The team also found that all the four deceased were from the same village and seen together by their relatives before the alleged encounter.

**4.224** Upon consideration of the report of the Investigation Division, the Commission vide its proceedings dated 9 March 2011 directed the Registry to take necessary steps to obtain the concurrence of the Central Government for investigation of the incident by CBI.

**4.225** The Central Government gave its concurrence for CBI investigation of the two incidents. The Government of Uttarakhand, however, submitted that closure reports had been submitted by the local police in those two cases and the same had already been accepted by the court. It was also pointed out by the State Government that the police action had been justified in magisterial enquiry in both the cases. On these grounds, the State Government submitted that there was no need for a fresh investigation by CBI.

**4.226** The Commission considered the matter on 25 January 2012 when it pointed out that CBI had registered two Preliminary Enquiries on the basis of reference made by NHRC. The preliminary enquiry by CBI revealed loopholes in the police version in both cases. The State Government was not probably aware of the preliminary enquiry report submitted by CBI and that appeared to be the reason for opposition of investigation by CBI.

**4.227** The Commission, therefore, directed to send a copy of the preliminary enquiry report of CBI to the Government of Uttarakhand expressing hope that the State Government would duly consider the preliminary enquiry report of CBI and withdraw its objections to CBI investigation of the two incidents. The Government of Uttarakhand was also directed to convey its consent for CBI investigation of the two cases and also to issue the requisite notification u/s 5 & 6 of DSPE Act within two months.

**4.228** However, the State Government declined to give its concurrence for CBI investigation but it was communicated that the State Government would have no objection if monetary relief was recommended by the Commission on humanitarian ground.



**4.229** In view of the stand taken by the Government of Uttarakhand and on consideration of the preliminary enquiry reports submitted by CBI, the Commission vide its proceedings dated 27 June 2013 recommended to the Government of Uttarakhand to pay a sum of Rupees Five lakhs each as monetary relief to the next of kin of deceased Ram Darshi, Jitender, Sundar and Pravin.

**4.230** In response, Senior Superintendent of Police (HR), Uttarakhand vide communication dated 26 October 2013 informed that a sum of Rupees Five lakhs had been paid to the father of deceased Sunder, as recommended by the Commission. The proof of payment was also sent. As regards Pravin, Jitender and Ram Darshi, the State Government sought instructions from the Commission as to whom the monetary relief should be paid as the parents of the deceased persons are no more alive.

**4.231** In response to the above queries, the Commission vide its proceedings dated 29 January 2014 directed Senior Superintendent of Police (HR), Uttarakhand to make the payment to the next of kin of the three deceased person as under:-

- i) In the case of deceased Pravin who was unmarried, the amount of monetary relief be paid to his brothers who are his surviving next of kin.
- ii) As regards deceased Jitender, who was also unmarried, the amount of compensation be paid to his elder brother Rajinder who is his surviving next of kin.
- iii) In the case of deceased Ram Darshi, the amount of compensation be paid to his wife Smt. Janaki Devi.

**4.232** Compliance report is awaited.

26. *Death of Alleged Gangsters Killed in an Encounter with Police Under the Jurisdiction of Police Station Khajuri Khas, Delhi*  
(Case No.8323/24/2006-2007, Linked files 10824/24/2006-2007, 5193/24/2006-2007, 3718/24/2006-2007, 295/24/2005-2006 & 637/30/2006-2007)

**4.233** The Commission received multiple complaints regarding death of Ayub, Aslam, Manoj, Sanjay and Shehzad Babu in alleged fake encounters by the Delhi Police. The complainants claimed that the police took away Ayub, Aslam, Manoj, Sanjay and Shehzad Babu on 5 May 2006 killing them in a fake encounter within the jurisdiction of Police Station Khajuri Khas, Delhi. Smt. Prabha Jatav, widow of Sanjay Kumar alleged that her husband had been taken away from their house by the police and subsequently killed in a fake encounter. Shri Jamil Ahmed in his two separate complaints alleged that his son Aslam had been picked up by the police of P.S. Bulandshahar and subsequently killed. Deputy Commissioner of Police, Special Cell, Delhi also sent an intimation regarding shoot out with notorious Ayub and Aslam Gang on 5 May 2006.

**4.234** According to police report, the Special Cell of Delhi Police received secret information on the day of the incident, at around 8:00 pm, disclosing the time and place of arrival of the notorious Ayub-Aslam gang. A raid party, consisting of 41 officials, was set up, under the Assistant Commissioner of Police, of Khajuri Khas. This police party was in possession of one official Qualis, five private vehicles and 3 motorcycles. Upon seeing the Tata Sumo in which the alleged gang members were traveling, ACP gave warning to them to surrender, as per police statement. The first round of firing between police and criminals lasted for 15-20 minutes. After firing ceased, 4 gangsters were found to be injured and a search was made for the remaining gangsters. The second round of firing, which lasted for 5 minutes, occurred when the remaining two criminals fired upon the police party. In this, one more gangster was injured while the other managed to escape into the darkness. A large quantity of weapons was recovered from this gang and despite this heavy firing, neither the police vehicle nor the vehicle used by the criminals got damaged. No police personnel were injured.

**4.235** As per the statement by SHO of Khajuri Khas, there were no signs of bullet hit marks at the site of the incident, however a large number of empty cartridges recovered from the site substantiated heavy firing.

**4.236** The Commission observed that there were several discrepancies with the raid as well as the subsequent lack of forensic examination of equipment from the site. No police party was deployed in the 'Khadar' area, which was an open and deserted area beside the site of incident and reason for non-deployment at that strategic area was not explained by the Special Cell.

**4.237** As per the post mortem reports, several injuries on all of the examined bodies of the deceased revealed injury due to blunt force, as either fall over a hard object or impact of lathi and rotatory injuries due to dragging across a hard object, like stone. Thus, the MER pointed out that, as per the deposition of post mortem doctor, the deceased were physically assaulted before they were hit and killed by police bullets.

**4.238** With regard to the investigation into the encounter, the Commission observed that no efforts were made to trace the ownership of the seized Tata Sumo that was used by the deceased and no efforts were made to record the statements of family members of the deceased. While the family members of the deceased claimed to have met the IO and the officers of the Special Cell, the later categorically denied meeting with them.

**4.239** The Commission further observed that the Inquest was conducted by the local police of Khajuri Khas and not by the SDM. The post-mortem samples were not sent to the Forensic Science Laboratory (FSL), till a year later when the Khajuri Khas Police Station submitted a final report on the matter and the samples were only submitted in 2009, 3 years after the incident.

**4.240** In the Magistral Enquiry Report (MER) the Enquiry Officer concluded that no due diligence was paid to any facts or circumstances in the investigation into the incident, rather,

attempts were made to prove the allegations put forth in FIR lodged by Special Cell of Delhi Police. This utter subversion of due process extended to the post-mortem as well, wherein hand swabs of only 3 deceased was taken and not that of Aslam and Shehzad *alias* Babu, for which no explanation was given, by the doctor.

**4.241** The Enquiry Officer raised doubts over the genuineness of the encounter and recommended a CBI enquiry, which was, however, denied by the Hon'ble LG of Delhi. The Ministry of Home Affairs also declined permission for a CBI enquiry along the same lines.

**4.242** The Commission directed to ask why a CBI enquiry was denied by the Hon'ble LG of Delhi. It further directed that a spot visit be conducted at the site to ascertain the topography and geographical features so as to determine if the injuries to the deceased could have been caused by falling over the same.

**4.243** The Ministry of Home Affairs responded to the Commission's enquiry as to the cause behind denial of a CBI enquiry stating that it agreed with the Hon'ble LG of Delhi in the matter and that a CBI enquiry was not needed as the said criminals were involved in 74 heinous crimes before said encounter.

**4.244** While the Commission reluctantly accepted this denial of what it perceived to be a necessary CBI enquiry into the matter, it served a show cause notice to the Ministry of Home Affairs, asking why monetary compensation should not be awarded to the next of kin of the deceased. The Commission also referred to the guidelines it had laid down, way back in 2003, to hold magisterial enquiries in the aftermath of any encounter, involving loss of life, which had been complied with, by all State Governments except by the National Capital Territory, wherein, the Delhi Police have always opposed magisterial enquiry, exercising extraordinary veto on these decisions.

**4.245** The Ministry of Home Affairs opposed award of compensation on the ground that the persons who were killed had serious criminal records and providing relief to the next of kin of such dreaded criminals would amount to providing incentive for such criminal activities and send a wrong signal.

**4.246** The Commission in its proceedings dated 5 February 2014 reminded the Ministry that, under the law, criminals cannot be summarily executed. It was for the police to establish that those men were killed in the exercise of the right of self-defense and they have failed to do so. Rejecting the argument made by the Ministry that "providing relief to the next of kin of such dreaded criminals would amount to providing incentive for such criminal activities and send a wrong signal" the Commission reminded the Ministry that the only criminal activity that had been plausibly established in this case was the murder of five men by policemen appointed to uphold the law, not to break it.

**4.247** The Commission held that a grievous violation of human rights was committed and, therefore, recommended a compensation of ₹1,00,000 each to the next of kin of the deceased Ayub, Shehzad Babu, Sanjay, Aslam and Manoj.

**4.248** Proof of payment is yet to be received by the Commission.

**f) Conditions in Prison**

27. *Visit of Team of Investigation Division to Raipur Jail on a Complaint Regarding Irregularities in Jail.*  
(Case No. 323/33/14/2013)

**4.249** The Commission received a complaint from Purundu Shekhar Mukherjee and V. Subarahmanayam, undertrial political prisoners regarding problems of overcrowding, sanitation, mosquitoes, quality of water, food, cooking, medical facilities, communication with relatives and lawyers etc. in the Raipur Central Jail.

**4.250** The Commission vide its proceedings dated 23 April 2013 took cognizance of the complaint and requested its Director General (Investigation) to collect facts and submit a report for its consideration.

**4.251** Pursuant to the directions of the Commission, a team of its Investigation Division visited Central Jail, Raipur w.e.f. 16/12/2013 to 19/12/2013 to examine the living conditions there. The team made the following observations after its visit to the jail:

1. The Central Jail, Raipur (Chhattisgarh) was highly over crowded. It has the capacity to accommodate only 1190 prisoners but presently there is overcrowding to the extent of 248%.
2. The number of toilets was grossly insufficient for the inmates presently lodged in this jail. As per jail manual the ratio of toilets and prisoners should be 1: 5, whereas, the existing ratio was 1:10.
3. The inmates were facing problems due to mosquitoes. Fogging done in the jail premises was not much effective.
4. The Team observed that 'ustra' without blade was commonly used for the shaving of the prisoners which was dangerous for their health. Disposable blades were not being used for shaving of prisoners.
5. The prisoners had to take bath in open space, as adequate number of bathrooms was not there.
6. The Team observed delays in sending the prisoners in referral cases to higher institutions. In year 2013 a total of 5301 cases (sick inmates) were referred to higher centre and equal number of police guards were demanded by the

Jail Hospital to escort the sick inmates but only 1,888 sick inmates could be sent to higher centres, out of which only 166 could be escorted by police guard, rest 1,722 were escorted by the jail guards.

**4.252** The Enquiry Team in its report recommended that the Chief Secretary, Government of Chhattisgarh may be directed on the following issues:-

1. Appropriate measures should be taken to control overcrowding in the jails
2. Sufficient number of bathrooms should be constructed in the jail for male prisoners.
3. Disposable blades should be used for shaving of the prisoners
4. Open drains inside the jail should be covered to minimise the menace of mosquitoes.
5. Canteen and telephone facilities should be extended as per the demand of the prisoners.
6. Sports ground should be developed so that prisoners can make use of them.
7. SSPs of all the districts in the State should be instructed to provide police escorts to jail authorities so that the prisoners could be produced before the courts on due dates and also sick prisoners may be sent on referral to higher medical institution timely.

**4.253** The report of the Investigation Division is under consideration of the Commission.

**g) Electrocuting Cases**

28. *Permanent Disability of a Student After Coming into Contact with Naked Electric Wires Lying in Government Inter College, Kandikhal, Dehradun in the State of Uttarakhand (Case No. 1941/35/11/2012)*

**4.254** The complainant alleged that Mr. Sandeep Panwar, a student of 8th Class, came into contact with naked electric wires lying in the Govt. Inter College, Kandikhal and was injured seriously due to electrocution. He was immediately admitted to Deen Dayal Upadhyay Hospital in Dehradun, but the hospital authorities discharged him without providing proper treatment. The doctors suspected 99% incapability of the student but the poor family was unable to provide him required medical aid.

**4.255** The Commission took cognizance of the complaint and called for a report from the D.M., Tehri Garhwal, Uttarakhand and the Secretary, Education Department, Government of Uttarakhand.



**4.256** The District Magistrate, Tehri Garhwal informed that Sandeep Panwar, a student of 8th Class, came in contact with naked electric wires and, during the treatment, his right arm had to be amputated. No FIR was lodged by the family members of the victim or any other department as there had been no negligence of any employee. The report also mentioned that the electricity pole was inside the premises, near the boundary wall of the Govt. Inter College, Kandikhal. There were 215 students enrolled in classes VI to XII. The Principal of the College had emphasized that it was essential to shift the electric pole and wires from the vicinity to prevent such occurrence. The report further mentioned that free medical aid was given to the child and a sum of ₹ 7,500, contributed by the children and employees of the college, was given to the family members of the victim for his treatment. Necessary instructions were given to the department for shifting the electric pole and grant of financial assistance to the victim. The Commission also received a further report from the Director, Middle School Education, Uttarakhand recommending grant of financial assistance to the father of the child and shifting of the 11 K.V. line.

**4.257** The Commission considered the report and observed that it was a clear case of violation of human rights as the State authorities had admitted that Sandeep Panwar, came into contact with naked electric wires and during treatment his right arm had to be amputated. The Commission issued notice to the Govt. of Uttarakhand, u/s 18 of the Protection of Human Rights Act, 1993, to show cause as to why monetary relief should not be recommended to be paid to the victim Sandeep Panwar. The Commission also called for a report on the action taken regarding shifting of electric pole from the premises of the college.

**4.258** In response, it was informed by the State Government that the family had been given financial assistance of ₹90,000.

**4.259** The Commission found the financial assistance to be inadequate and observed that the State admitted that a student came into contact with an electric wire from a pole which has since been moved from the spot, where it was clearly a hazard. This is the reason a young boy has had his right arm amputated. Not only has he undergone the physical pain and mental frame of a permanent disability but his ability to earn a living, after the completion of his education has been seriously jeopardized. His rights have been gravely, even brutally, violated.

**4.260** Under relevant laws, the amputation of an arm is taken as a permanent disability and according to the Commission, the relief that the State provides to the victim should be commensurate with the degree of physical and mental trauma that he has already suffered, as well as the likely loss of earnings from this disability. The Commission also observed that the nature of this disability means that avenues for skilled work will be closed to him. His ability to do unskilled work has also been severely impaired. For this, which is tantamount to a life's work denied, the Commission believes, and is confident that the State Government will agree, the innocent victim should receive redress.



**4.261** Under the Workmen's Compensation Act, which does not apply in this case, but gives a yardstick for reasonable compensation in situations like this, the multiplier laid down for victims below the age of 16 is 228.54. Even assuming that this young boy would have been in a sector of work that would have fetched him minimum wages, which the Commission understands are around ₹ 200/- a day in Uttarakhand, the compensation to which he would be entitled under the Act for a permanent disability is ₹ 13,71,240/-.

**4.262** The Commission recommended that the Government of Uttarakhand pay an additional sum of ₹ 10,00,000/- to Sandeep Panwar. Since the victim was minor, the Commission directed that the money should be put into a fixed deposit in his name, with his parents authorized to draw on the interest for his upkeep. The principal, alongwith any interest in the account, would be transferred to him when he becomes an adult.

**4.263** In response, the Uttarakhand Power Corporation sent a demand draft of Rupees Ten lakhs, in favour of the National Human Rights Commission, with certain objections on the quantum of compensation.

**4.264** The Commission considered the objections, raised by the Uttarakhand Power Corporation and observed that it hoped the Corporation would understand the difference between the cases referred to by it and the present case.

**4.265** The Commission further directed that demand draft of Rupees Ten lakhs, in favour of the Commission, sent by the Corporation, be returned to it so that another demand draft of the said amount can be issued in favour of the victim and be delivered to him. Uttarakhand Power Corporation, Dehradun has challenged the recommendation of the Commission in the Hon'ble High Court of Uttarakhand and the matter is under consideration of the Court.

29. *Loss of Limb of a Person Illegally Engaged For Repair Work by Officials of Dakshinanchal Electricity Distribution Corporation Limited, Uttar Pradesh*  
(Case No. 41224/24/1/2012)

**4.266** The Commission received a complaint from Smt. Pushpa Devi alleging that on 19 October 2012, Pramod and Sher Singh, employees of the UP Electricity Department, Atmadpur, called her son Aman to do a job work for them. Shortly thereafter, she learnt that her son had been admitted to a hospital, having suffered serious burn injuries due to electrocution. She submitted that her son told that he had been asked by those two men to repair a fault in a transformer and he received an electric shock while working on the transformer. Because of the seriousness of her son's injuries, the complainant shifted her son to a better hospital, for which she had to take a loan. During the treatment, hands of complainant's son had to be amputated.

**4.267** In response to Commission's notice, the Superintendent of Police (Rural), District Agra, informed that an FIR no. 273/13 u/s 279/337/338 IPC was registered against Sher Singh and Pramod.

**4.268** The Chief Engineer of the Dakshinanchal Electricity Distribution Corporation Ltd., also reported that, complying with an order from the District Magistrate, Agra, a sum of ₹ 80,000/- had been paid to the complainant, as her son had become totally handicapped.

**4.269** The Commission in its proceedings dated 22 November 2013 observed that the amount paid was grossly inadequate for a permanent disability suffered by a boy aged 18. It was not disputed that the injury was caused when he was working at the behest of employees of the Dakshinanchal Electricity Distribution Corporation, and by their negligence. The Commission further observed that under the Workmen's Compensation Act:

- i) a workman is a person "employed in any such capacity as specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether the contract is expressed or implied, oral or in writing";
- ii) among the occupations listed in Schedule II is "the generating, transforming, transmitting and distribution of electrical energy..."
- iii) amputation, or the loss of the use, of both hands is taken as permanent disability for the computation of relief;
- iv) for a permanent disability, the unit taken as the base for the computation of relief is 60% of the worker's monthly wage, ₹ 4,000 being taken as the limit;
- v) the multiplier for a person aged 18 is 226.38.

**4.270** The Commission held that employees of the Dakshinanchal Electricity Distribution Corporation Ltd had contracted the complainant's son, within the meaning of the Workmen's Compensation Act, to carry out work listed in Schedule II. Work on a transformer is at the very least semi-skilled work, for which the minimum wage in Uttar Pradesh in October 2012 was ₹ 205.07 a day.

**4.271** The Commission further observed that the compensation that the District Magistrate ordered the Dakshinanchal Electricity Distribution Corporation Ltd to pay was clearly predicated on the finding that it was liable for the actions of its two employees. The Commission concurred with that assessment, but held that the Corporation had the obligation to pay the victim compensation, and to provide relief, commensurate with the gravity of the injury that he had suffered and the violation of his rights.

**4.272** The Commission pointed out that the formula provided in the Workmen's Compensation Act gives an objective basis for the computation of compensation to which the complainant's son is entitled for injuries sustained at work. Having been engaged in work that was at least semi-skilled, he would have been entitled to wages that, in a month, would be well over ₹ 5,000; the limit of ₹ 4,000 laid down by the Act would therefore apply and the relief due would be ₹4,000 x 60% x 226.38, which comes to ₹ 543,312.

**4.273** Section 18 of the Protection of Human Rights Act lays down that when an inquiry conducted by the Commission “discloses the commission of violation of human rights or negligence in the prevention of violation of human rights ... by a public servant”, it may “recommend to the concerned Government or authority” “to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary”.

**4.274** The Commission held that the complainant’s son should receive compensation for his permanent disability at least at the levels laid down in the Workmen’s Compensation Act. The Commission further held that the complainant’s son was entitled to a further relief for the grievous violation of his rights, brought about by the negligence of public servants. The Commission believed that a total payment of ₹ 600,000 would be just compensation in the case. Hence, the Commission vide its proceedings dated 22 November 2013 asked the Corporation to pay the victim an additional sum of ₹5,00,000 and twenty thousand in addition to ₹80,000 already paid by them. The Commission also directed the Corporation to send a report thereon by the 24 January 2013.

**4.275** The Commission also directed the SP (Rural) District Agra, to report the outcome of the investigations on FIR no. 273/13.

**4.276** In response, the Superintending Engineer (Admn.), Dakshinanchal Electricity Distribution Corporation Ltd. intimated the Commission that the matter was being examined and it needed one month additional time.

**4.277** The SSP, Agra informed that in case crime no. 276/13 u/s 279, 337, 338 IPC, P.S., Atmadpur, a charge-sheet had been submitted in the court.

**4.278** The Commission in its proceedings dated 10 February 2014 accepted the request of the Superintending Engineer (Admn.) and directed the Chairman, U.P. Power Corporation Limited to send within eight weeks the proof of payment of ₹ 5,20,000 paid to the victim, Aman.

**4.279** Compliance report is awaited.

30. *A 10 Year Old Boy Loses Both His Arms due to Electrocuting in Village Bhukri, District Chamba, Himachal Pradesh*  
(Case No.169/8/2/2012)

**4.280** The Commission came across a news report captioned ‘Power Board adds insult to injury - pays a paltry relief of ₹5,000 to boy who lost both arms due to its negligence’, carried by ‘Tribune, Delhi’ dated 12 June 2012. According to the report, a ten year old boy Rohit of village Bhukri district Chamba, Himachal Pradesh lost both his arms after receiving an electric shock from a open wire lying in the bushes when he was playing in the fields near his village on 18 March 2012. The report further stated that the department gave him

a paltry compensation of ₹ 5,000, adding to his woes and displaying callousness towards the tragic incident. The victim's father alleged that he took his son to the government hospital in Nurpur where doctors operated upon Rohit and amputated both his arms, rendering him physically challenged. He further alleged that officials from the electricity department came and paid them ₹ 5,000 and got some papers signed, while they were trying to evade responsibility of the tragedy that hit their child's life. The report also stated that an enquiry had been ordered into the incident under the Executive Engineer, Himachal Pradesh, State Electricity Board, Chamba.

**4.281** The Commission took suo motu cognizance of the press report and vide its proceedings dated 14 June 2012 directed the Chief Secretary, Govt. of Himachal Pradesh to submit a detailed report in the matter. The Commission further directed the Superintendent Engineer, Himachal Pradesh State Electricity Board to submit the status of the inquiry regarding the incident.

**4.282** Pursuant to the directions of the Commission, the Superintending Engineer, Operation Circle, Himachal Pradesh State Electricity Board Limited (HPSEBL), sent his report alongwith the inquiry report of the 3-member Committee constituted to investigate the matter. The Inquiry Committee concluded as under :

**4.283** "After considering all aspects, the Committee arrived at the opinion that since the height of wire/conductor above the rock was 5 feet and 11 inches which is beyond the reach of child directly, must have used some conducting material unknowingly after climbing on the rock and came in the contact with the live wire/conductor of 11 KV HT line or he had tried to pull/swing the earth wire which might have touched the live wire conductor resulting in his electrocution. It is worthwhile to mention here that the height of rock from ground level is 8 feet and 11 inches and the total height of the conductor was 14 feet and 10 inches from the ground level".

**4.284** The Inquiry Committee found during the inquiry that the clearance of one of the wire/conductor of 11 KV HT line passing through the fields had become low i.e. 5 feet and 11 inches above the rock due to tilting of single pole structure of that line and loosening of winding of conductor from insulator. Master Rohit was found lying unconscious near the rock with severe burn injuries on his both arms. That rock was under the HT line.

**4.285** The report of the Inquiry Committee made a mention of an FIR on the incident. However, copy of the FIR was not annexed to the report. The SP, Chamba, was directed to inform the Commission if an FIR was registered on the incident in question and, if yes, the result of the investigation should also be forwarded to the Commission alongwith a copy of the FIR within four weeks.

**4.286** S.P. Chamba has informed vide communication dated 17.9.12 that village Bhukri is not situated in the area and no FIR was registered.

**4.287** A report was also received from Chief Secretary, Government of Himachal Pradesh stating that the Electricity Board had given compensation of ₹ 1,50,000 to the family of the victim on 19 June 2012. It was further informed that Dy. Commissioner, Chamba had separately disbursed an amount of ₹ 50,000/- to the family of the child.

**4.288** The Commission examined the report of the three-member Committee and opined that it was based on surmise and conjecture. There was no finding that the conducting material which the child might have unknowingly used, was found anywhere near the rock. Moreover, it was mentioned in the report itself that the transmission line had become low due to tilting of single pole structure and loosening of winding of conductor from insulator. It appeared that the transmission line was not maintained properly and to shield the negligent officer, the Committee tried to hush-up the case. Therefore, the Commission was convinced that the State was liable for negligence.

**4.289** As a result of electrocution the child became disabled permanently and the misery caused by electrocution would stay with him throughout his life, the amount of ₹ 2,00,000 paid to the family was grossly inadequate. Considering all the circumstances, the Commission vide its proceedings dated 15 April 2013 recommended to the Government of Himachal Pradesh to pay a sum of ₹ 5,00,000 to the victim, while adjusting the amount already.

**4.290** Pursuant to the directions of the Commission, Chief Secretary, Govt. of Himachal Pradesh informed that the victim Naval Kumar *alias* Rohit Kumar had filed a CWP No.475/2013 in the Hon'ble High Court of Himachal Pradesh for appropriate relief and pursuing his case for compensation in the High Court of Himachal Pradesh. However, the Himachal Pradesh State Electricity Board had deposited a sum of ₹ 5,00,000 with the Hon'ble High Court of Himachal Pradesh to be paid to the victim as compensation.

**4.291** Since, the Himachal Pradesh State Electricity Board had already deposited the compensation amount with the Hon'ble High Court of Himachal Pradesh, the Commission vide its proceedings dated 22 July 2013 closed the case.

## **h) Muzaffarnagar Communal Riots**

**31.** *Suo Motu Cognizance by the Commission on Communal Riots in Muzaffarnagar (Case No. 34257/24/57/2013)*

**4.292** The National Human Rights Commission issued the following statement on riots in District Muzaffarnagar, Uttar Pradesh:

*The National Human Rights Commission is deeply concerned over the riots in district Muzaffarnagar and adjoining areas of Uttar Pradesh. It appeals to all sections of society to maintain calm and harmony to overcome this unfortunate situation.*



*The common man is the worst sufferer of the riots as people face various hardships including in getting basic amenities like food, water, health etc. The Commission is keeping a watch on the developments even as the Government agencies are making their efforts to control the situation and restore normalcy.*

*It would urge the Government agencies to ensure that human rights of the people are not violated in this process. The Commission's heart goes out to the bereaved families who have lost their near and dear ones in the violent clashes. It hopes that the State Government would take appropriate measures to duly compensate the victims and their families and bring the guilty to justice. The State Government should also take strict measures so that no further damage occurs to life and property by controlling the situation and restoring communal harmony and peace in society.*

**4.293** The Commission also took suo motu cognizance of the matter and decided to send its team to the areas affected by communal violence in District Muzaffarnagar, Uttar Pradesh to assess the measures undertaken by the Government of Uttar Pradesh for relief and rehabilitation of the displaced people, necessary steps required in addition, and lapses on the part of the Government machinery.

**4.294** Accordingly, a team of the Investigation Division visited the relief camps at Shamli and Muzaffarnagar districts on 7 and 8 January 2014 and submitted an enquiry report with these findings:

- i) It is a fact that three relief camps – one relief camp in district Muzaffarnagar namely Loi relief camp and two relief camps in district Shamli namely Kandla Idgah relief camp and Taimurshah Idgah relief camp had been closed on 31 December 2013, 2 January 2014 and 5 January 2014 respectively.
- ii) No overt force appears to have been used by the district administration to dismantle or close the relief camps. However, it was found that the district administration was actively engaged in persuading the inmates of the relief camps to go back to their native places.
- iii) Families, earlier staying in the dismantled relief camps, after leaving the camps have reportedly settled in the neighbouring villages or have gone back to their native villages.
- iv) No express complaint or grievance was raised by the inmates in the existing camps about the shortage or lack of relief materials.
- v) At present, only 8 relief camps are functional in district Shamli but no relief camp is operational in district Muzaffarnagar.



**4.295** The matter was also taken up during the camp sitting of the Commission held at Lucknow from 15 to 17 January 2014. During the discussion, the officials of the State Government gave account of various relief and rehabilitation measures taken by them for the victims of communal violence in Muzaffarnagar and Shamli Districts of Uttar Pradesh and the displaced persons staying in the relief camps. The Commission has called for a comprehensive report from the State Government on the following:

- (i) Number of relief camps still existing with number of inmates. Whether the District Administration has been keeping track of affected persons who have since left the camps and their present post riots.
- (ii) Progress of criminal cases including those of rape and sexual offences. Status of investigation, arrest, etc.
- (iii) Compensation for deaths, injuries and sexual offences. Status of assessment of damage to moveable and immovable properties and compensation, thereof.
- (iv) Payment of compensation to the affected persons including children who died in the camps.

**4.296** The matter is still under consideration of the Commission.

**i) Naxalite Attack in Chhattisgarh**

32. *NHRC Condemned Naxalite Attack in Chhattisgarh on May 25, 2013*  
(Case No. 476/33/1/2013)

**4.297** While condemning the naxalite attack in Chhattisgarh, the Commission issued the following statement on 29 May 2012:

*The National Human Rights Commission is appalled by the savage attack in Chhattisgarh on the 25 May, in which so many persons were killed by the Naxalites, some after being taken alive. The Commission condemns this brutality and urges the Naxalites to abandon their violence, which has made matters worse for the villagers whose cause they claim to espouse.*

*The Commission follows developments in Chhattisgarh closely. After its report to the Supreme Court on Salwa Judum and the relief camps which house villagers displaced by the ongoing violence, it's Special Rapporteur and officers of the Commission have made follow-up visits to the State. All members of the Commission, led by the Chairman, went to Chhattisgarh in April, 2013 and held a camp sitting in Raipur, where they heard representations from, among others, villagers of the areas most severely affected by the violence. Two Members, accompanied by officers of the Commission, travelled to Dantewada*

*to try to form a first-hand impression of developments in the Bastar region, where the suffering is the most acute.*

*It was clear to the Commission that the Naxals have now made it impossible to reach social welfare programmes to those who need them most. The plight of the poorest and the most vulnerable, on whose behalf the Naxals claim to have taken up arms, has therefore become even worse. Health and education facilities can rarely be provided; only the public distribution system is permitted to function, because a part of these food supplies sustain the Naxals. The children of these families, poor, ill-fed, illiterate, are the pool from which the Naxals recruit their cadres. For the Naxals, therefore, violence is self-serving. There is no just cause which they try to advance through it.*

*The Commission is extremely concerned that the level of violence will rise again after this last attack by the Naxals as the State tries to arrest or kill those who were responsible. Police officers have confirmed to the Commission that the Naxals use villagers who are sympathisers as human shields when they are cornered. Other villagers have no option but to do what they are ordered to do by the Naxalites, but are then branded as supporters by the police and suffer the consequences. The Commission therefore urges the Central and State Governments to take every precaution possible to ensure that the innocent villagers of the region, already traumatised by the ongoing violence, of which they are the primary victims, do not suffer even more in any retaliatory operations against the Naxals."*

*The Commission has taken cognizance of the incident on the complaint received from Nishikanta Mishra, Advocate, Odisha High Court. He alleged that 30 persons, including some senior Congress Party leaders, were killed and 30 others seriously injured due to attack of a large number of armed Maoists in Bastar district of Chhattisgarh on 25 May 2013. It was alleged that the attack was a result of failure of intelligence agencies and inadequate security arrangements by the Government. Two more complaints were received on the same incident and they were clubbed with this case.*

**4.298** The Commission vide its proceedings dated 28 May 2013 issued notices to the Chief Secretary, Government of Chhattisgarh, DGP, Chhattisgarh and Secretary, Ministry of Home Affairs, Government of India, New Delhi, calling for reports in the matter.

**4.299** In response to the notice, the Under Secretary, Home Department, Government of Chhattisgarh forwarded a report of DIG, CID, Police Headquarters, Raipur stating that the State Government had constituted a One Man Commission for enquiry under the Chairmanship of Justice Shri P.K. Mishra of the High Court at Bilaspur. It was submitted that necessary action would be taken after the receipt of the report.

**4.300** It was further informed by the Under Secretary to the Government of Chhatisgarh, Home Department that the tenure of the Enquiry Commission had been extended for six months w.e.f. 28 February 2014 to 27 August 2014.

**4.301** The matter is still under consideration of the Commission.

33. *Corruption in MNREGA*  
(Case No. 547/6/1/2013)

**4.302** The Commission received a complaint from Shri Ajmalbhai Desai, a former member of the village Panchayat, Melaj, Viramgham Taluk, Ahmedabad District, Gujarat, that he was being harassed for raising the issue of corruption in MNREGA works in the village through RTI. He alleged that he and his son were assaulted by Vishnubhai Thakur and four others and his son received serious head injuries. The complainant further alleged that on his complaint FIR was not registered by police of Viramgam Rural PS under appropriate sections of IPC and that the doctors of V.S. General Hospital Ahmedabad did not give due care and attention in providing treatment. Further, a false case under section 302 IPC was also registered against him by the police and Sanand PS on the complaint of Vishnubhai Thakur.

**4.303** Pursuant to the directions of the Commission a spot enquiry into the matter was conducted by Investigation Division. During the enquiry the team of the Investigation Division carried out in-depth inspection of one MNREGA work alleged to have been carried out in Melaj village and found use of heavy machinery (tractor and JCB) and payment in cash for use of the machinery which was in violation of the provisions contained in the guidelines for the MNREGA scheme.

**4.304** The team observed that Completion Certificates were not being awarded, even inspections by district officials and mandatory social audit was not conducted in all 14 MNREGA works executed in Melaj and Kadipur villages during 2011-2012. Vishnubhai Kanabbhai Thakur and four others had assaulted the complainant and his son and others on 29 August 2012. Appropriate sections were not invoked for the offence though it was found that Pragbhai Ajmalbhai Desai, the son of the complainant, suffered a fracture on back side of his head and MLC report of V.S. Hospital had also confirmed the same. Even police had not collected documentary evidence from the hospital till the date of visit of the team.

**4.305** The enquiry team of the NHRC found that the allegations of the complainant regarding his false implication in case FIR No.198/12 dated 28 September 2012 under Section 302 IPC of PS Sanand were substantiated. The first information report was lodged on hearsay evidence against the complainant (to the NHRC) with whom the informant of the FIR had previous enmity. Moreover, the FSL report did not support the version of the informant. Further, the alleged accused in the FIR No.198/12 (complainant to the NHRC) also pointed out that he was at Gandhi Nagar on that fateful day (i.e. on 28 September 2012)

and at the time of incident he could not be in the vicinity of area where the incident had allegedly occurred.

**4.306** The enquiries also revealed that the MNREGA funds were misused.

**4.307** On the findings of the enquiry team, the Commission vide its proceedings dated 24 June 2013 directed as under:

- (i) The DGP, Gujarat, is asked to transfer the investigation of the case C.R. No.I-198 of 2012 registered for an offence under Section 302 IPC at PS Sanand and FIR No.93 of 2012 registered at PS Viramgam to the CBCID, Ahmedabad or be entrusted to the Commissioner of Police, Ahmedabad.
- (ii) In view of prima-facie evidence that there is misuse of funds of MNREGA, the investigation should be carried out for finding out the truth and bring the offenders to the books by an independent agency. These funds belong to the Central Government and, therefore, the State Government should be asked as to why the investigation should not be entrusted to CBI.
- (iii) The Comptroller and Auditor General (CAG), Gujarat, to audit all MNREGA works executed in Viramgam Taluka in the district Ahmedabad for the years 2011-12 and onwards as per the provisions of 13.5.4 and 13.5.5 of the guidelines.
- (iv) The Chief Post Master General, Gujarat, is asked to submit an action taken report on the irregularities in the working of postal department which was brought to the notice by District Rural Development Authority(DRDA) vide letter dated 20 December 2012 and 19 February 2013.

**4.308** Despite reminder, report has not been received from the authorities.

#### **j) Natural Calamities**

34. *Massive Tragedy of Loss of Human Lives and Destruction of Property Caused by Floods and Landslides in the State of Uttarakhand  
(Case No. 1170/35/0/2013)*

**4.309** The Commission took suo motu cognizance of various reports about the massive tragedy of loss of human lives and destruction of property caused by floods and landslides in the State of Uttarakhand. Some complaints were also received on the same subject and they were also registered and linked with the main file i.e. Case No.1170/35/0/2013.

**4.310** While taking cognizance of the matter on 24.6.2013, the Commission expressed its deep concern over the reports of the massive tragedy of loss of human lives and destruction of property caused by floods and landslides in Uttarakhand. The Commission appreciated the

efforts of the Security Forces and other agencies who were working admirably in difficult terrains and in appalling conditions to rescue the thousands affected person. According to media reports, thousands of pilgrims and tourist were stranded and a large number of local people had been rendered homeless by the floods and they were in urgent need of food and shelter. The Commission hoped that the State government and the Central Government would take appropriate steps for the evacuation and rehabilitation of these unfortunate people.

**4.311** The Commission directed the Chief Secretary of the Government of Uttarakhand to submit a detailed report on :-

- 1) the action taken to evacuate and rescue all those who were stranded and the progress made so far;
- 2) the steps that the State Government is taking to provide shelter, food, medical care and other essential facilities to those displaced or made homeless by the floods;
- 3) the measures it is putting in place to rehabilitate those whose homes and livelihoods have been destroyed;
- 4) the monetary relief, if any, contemplated for those who lost their lives, and those who are injured;
- 5) the steps which the State government proposes to take to prevent such disaster in future.

**4.312** The Commission expressed the view that the State government required full support of the Government of India to tide over the difficult situation. The Cabinet Secretary, Government of India was therefore directed to submit a report giving the details of the measures, which the Union Government had already taken and proposed to take to support the efforts of the Government of Uttarakhand.

**4.313** The Commission also observed that it was also essential to get an independent report on the ground realities and an objective assessment of the sustained relief and rehabilitation efforts that would be needed. The Commission therefore directed the Secretary General to constitute a team for an on the spot assessment of the situation. The Team was asked to have an assessment of the situation from the functionaries of the State government and after making such assessment, the team was required to visit the relief centres and the three most adversely affected districts of the State to study the problems caused by the floods and landslides, the relief which is required by the affected local people and the steps actually taken for rehabilitation of the people. The Team was also asked to enlist the help of NGOs which were active in the area.



**4.314** The Members, Registrar (Law), DIG and Joint Registrar(Law) who were present in the meeting of the Full Commission decided to contribute one day's salary to the relief fund of the State government. It was also decided to urge the other functionaries, officers and staff of the Commission to make similar contribution.

**4.315** In response, the Dy.Secretary (DM-1), Ministry of Home Affairs (Disaster Management Division), New Delhi forwarded a brief status note on the measures taken to support the efforts of the Government of Uttarakhand. Under Secretary to the Government of India, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi also endorsed a copy of communication dated 26 June 2013.

**4.316** After the visit to the State of Uttarakhand from 15 to 18 July 2013, the NHRC Team vide their note dated 5 August 2013 submitted a report along with its recommendations.

**4.317** The Commission directed to forward the report of the NHRC Team along with the recommendation to Secretary, Ministry of Home Affairs (Disaster Management Division), New Delhi and Chief Secretary, Government of Uttarakhand for taking necessary remedial action/measures and for submitting a status report. The Commission also directed a copy of the report to the State Human Rights Commission for information.

**4.318** Response received from the Govt. of Uttarakhand is under consideration of the Commission.

#### **k) Other Cases**

35. *Suo Motu Cognizance by the Commission on the Report of its Team After its Visit to Lakshadweep to Assess the Ground Situation About Social Welfare Schemes for Disabled and on Health Issues*  
(Case No. 24-26/31/0/2013-FC)

**4.319** The Commission decided to visit the Union Territory of Lakshadweep for holding open public hearing to assess the ground situation of Social welfare schemes for disabled and on health issues. A team headed by Shri A.K Parashar, Joint Registrar (Law) visited Lakshadweep from 23 April 2013 to 30 April 2013. The NHRC team focused its investigation on three major areas, namely;

1. Area pertaining to persons with disabilities.
2. Area pertaining to public health.
3. Area Pertaining to Police (Law and order).

**4.320** The team after its visit submitted its report with detailed observations and recommendations to the Hon'ble Member Justice Shri B. C. Patel who was earlier nominated



to head the Commission's delegation to visit Lakshadweep. The Hon'ble Member directed that the case be registered on the basis of reports. Accordingly, three cases i.e case Nos. 24/31/0/2013, 25/31/0/2013 and 26/31/0/2013 were registered and summons were issued to the authorities concerned.

**4.321** These cases were taken up on 11 July 2013 when the following officers appeared before the Commission:-

1. Smt. Stuti Kacker, Secretary, Department of Disability Affairs, Government of India
2. Shri V.C. Pandey, Secretary, Social Welfare, UT of Lakshadweep
3. Shri Parmaditya, Superintendent of Police, UT of Lakshadweep
4. Shri K.V. S. Rao, Director, Department of Disability Affairs, Government of India
5. Shri Asarpal Singh, Deputy Resident Commissioner, UT of Lakshadweep

**4.322** After having discussions with the officers, the Commission directed to issue a notice to the Secretary, Social Welfare and Superintendent of Police, UT of Lakshadweep to submit a detailed Action Taken Report to the Commission within 6 weeks. The Commission further directed that the officers of the Commission present during the discussions to visit once again Lakshadweep to take a review on the action taken after three months.

**4.323** As directed by the Commission, an NHRC team headed by Hon'ble Member Justice Shri D. Murugesan visited the Union Territory of Lakshadweep from 24 to 28 February 2014 and submitted its report. The NHRC team, in its report, has made the following observations and recommendations:

### **Observations/Findings**

**4.324** On the basis of spot visit, open public hearing and interaction with the officials, followings are the observation/findings of the NHRC team:

- (a) There are lot of complaints and issues pertaining to poor medical health care. Despite tall claims made by the Lakshadweep Administration, medical facilities are not satisfactory. Several glaring deficiencies were observed in the functioning and management of RG Specialty Hospital, Agatti.
- (b) The NHRC team noticed copious irregularities, anomalies and disparities in the functioning of Anganwadi Centres including improper maintenance of registers and records.

- (c) Suggestions made by the NHRC during its previous visit in April, 2013 are yet to be fully implemented or complied with. The recommendations of the NHRC pertaining to differently abled persons and health department are yet to be fully complied with.
- (d) The Lakshadweep is composed of 10 small islands having a total population of 64,000 but trust deficit between Administration and local residents was quite evident. It is also observed that officers are not inspecting the various establishments under them. As a result, lot of issues which should be resolved then and there, are piling up and citizen satisfaction is on lower side. The Commission noticed lack of supervision in functioning of the Anganwadi schemes and RG Specialty Hospital.
- (e) It was felt by the Commission that lot of problems related to RG Specialty Hospital could easily be resolved, had there been proper supervision and regular inspection by the Director of Health Services who is the administrative incharge of the RG Specialty Hospital and the Deputy Commissioner, Agatti. The poor supervision on their part lead to poor management of the Hospital and resulted in poor delivery of medical services.
- (f) During the previous visit in the year 2013 also, the Administrator was not available. During present visit of the Commission, the Administrator was not present and therefore, the Commission could not avail his assistance while dealing with the issues concerning the island. Furthermore, no proper publicity was made by the Administration for open public hearing.
- (g) Sh. J. Ashok, IAS Deputy Commissioner cum Development Commissioner was the only senior most officer available at the Kavaratti to assist the Commission. He made an elaborate presentation on the affairs of the Lakshadweep and replied all the queries of the Commission. During the de-briefing session as well, he noted down the grievances and assured the Commission for taking appropriate and prompt action.
- (h) During open public hearing at Kavaratti, lot of complaints pertaining to land acquisition, delayed payment, discrimination and anomalies in awarding compensation besides high pendency was noticed. The Administration needs to come out with a comprehensive Action Plan to tackle the complaints of land acquisition.
- (i) The Administration itself admitted failure in proper implementation of MNREGA scheme due to lack of co-ordination between various agencies.
- (j) The 75 vacancies meant for differently able person needs to be filled up on priority basis.

- (k) In IG Hospital, it is found that there is problem of casual workers who are hired on continuous basis against jobs of permanent nature. Even 16 medical doctors are working on contractual basis.
- (l) The issue of vacant post of District and Session Judge at Kavaratti was raised by the Commission during its previous visit in April, 2013. Due to follow up by the Administration, it is learnt Sh. B. Ramakantha has been appointed as District and Session Judge, Kavaratti. A letter to this effect has been submitted by the Administration to the Commission.

## Recommendations

- (i) An in-depth audit of RG Specialty Hospital needs to be carried out so as to chart out an Action plan for its improvement by listing out the deficiencies, anomalies and irregularities in various aspect of procurement and Administration of the Hospital.
- (ii) A process of identification of jobs which are of permanent nature should be initiated so that casual workers who are performing these jobs could be regularized by creating additional posts.
- (iii) In-depth social audit and departmental audit cum inspection of Anganwadi should be carried out to fix the irregularities and pin-point the responsibilities of the officers responsible for functioning of Anganwadi scheme.
- (iv) Weekly menu of the mid-day meal provided to the children should be prominently displayed at the Anganwadi Centre.
- (v) The provision of 'aquatic ambulance' may be explored to have connectivity through water-ways so that patients could be evacuated to RG Specialty Hospital, Agatti.
- (vi) For settling dispute/complaints pertaining to land acquisition, Lok Adalat should be convened regularly to ensure speedy and inexpensive settlement of claims.
- (vii) The recruitment process for filling 75 vacancies meant for differently abled persons should be carried out expeditiously.
- (viii) The notice may be issued to the Administrator, Lakshadweep to take suitable action on the petitions/complaints received by the Commission during the visit and submit its response.

**4.325** The report was placed before the Hon'ble Chairperson for his kind perusal.

**4.326** The matter is now under consideration of the Full Commission.

36. *Suo Motu Cognizance by the Commission on Uttar Pradesh Top Officer's Comments on Four Suicides in the State*  
(Case No.19312/24/69/2013)

**4.327** The Commission came across a news report captioned "His remark kicks up row, UP shifts out top official" that appeared in "The Indian Express" dated 23 May 2013. The news report, after referring to an unfortunate incident wherein a man had committed suicide along with his three children in Sonbhadra District, UP on 22 May 2013 goes on to narrate the remarks made by the Secretary (Home) of Government of Uttar Pradesh. Reportedly, the Secretary (Home) was asked a question by media persons as to what was the reason behind the suicidal deaths of four persons, including a man and his three children when this comment was made without showing any sign of sorrow or sympathy. They had committed suicide in Sonbhadra district of the State on 22 May 2013.

**4.328** While condemning the utter insensitivity and scant regard for human dignity and compassion to fellow human beings displayed by the above officer holding one of the top positions in the administrative hierarchy of the Government of Uttar Pradesh, the Commission took cognizance of the press report and called for a detailed report from the Chief Secretary, Government of Uttar Pradesh. The Commission also took note of the news report that the officer had been transferred from the post of Secretary (Home).

**4.329** Despite reminder, report has not received from the State Government.

## **B. Conditions in Prisons**

### **a) Visits to Jails**

**4.330** Under the provision of Section 12(c) of the PHR Act 1993, the Commission in order to study the living conditions of the inmates, can visit any jail or other institution under the control of the state govt. where persons are detained or lodged for the purpose of treatment, reformation or protection. Accordingly, Special Rapporteurs appointed by the Commission undertake visits to various jails in the country, and facilitate the Commission in discharging its sensitive and demanding responsibilities by making suggestion/recommendations after observing the conditions prevailing.

**4.331** During the period 1 April 2013 to 31 March 2014, the following jail visits were undertaken by the Special Rapporteurs appointed by National Human Rights Commission.

S.No.	Name of Jail/ Institutions	Date of Visit	Visited By
1	Sub Jail, Solan, Himachal Pradesh	29 April 2013	Smt. S. Jalaja, Special Rapporteur

S.No.	Name of Jail/ Institutions	Date of Visit	Visited By
2	Central Jail, Himachal Pradesh	30 April 2013	Smt. S. Jalaja, Special Rapporteur
3	Central Jail Agra, Uttar Pradesh	2-3 May 2013	Shri S.K Tewari, Special Rapporteur
4	Sub Jail, Dimapur, Nagaland	11 June 2013	Shri Anil Pradhan, Special Rapporteur
5	Central Jail Dimapur, Nagaland	11 June 2013	Shri Anil Pradhan, Special Rapporteur
6	District Jail, Kanker (Bastar), Chattisgarh	11-13 June 2013	Shri P.P Mathur Special Rapporteur
7	District Jail, Kohima, Nagaland	12 June 2013	Shri Anil Pradhan, Special Rapporteur
8	District Jail Kankar, Chattisgarh	12 June 2013	Shri P.P Mathur, Special Rapporteur
9	Central Jail of Amritsar & Gurdaspur and District Jail of Hoshiarpur, Punjab	25 June – 27 June 2013	Smt. S. Jalaja, Special Rapporteur
10	Women Jail, Agartala, Tripura	15 July 2013	Shri Anil Pradhan, Special Rapporteur
11	Central Jail, Mumbai	26-27 July 2013	Shri S. Ramani, Special Rapporteur
12	Central Jail, Agartala, Tripura	29 July 2013	Shri Anil Pradhan, Special Rapporteur
13	Manipur Central Jail, Imphal	27 August 2013	Shri S. Narayan, Special Rapporteur
14	Manipur Central Jail Sajiwa	29 August 2013	Shri Anil Pradhan, Special Rapporteur

S.No.	Name of Jail/ Institutions	Date of Visit	Visited By
15	Sub Jail, Khunti	10 September 2013	Smt. S. Jalaja Special Rapporteur
16	District Jail, Singhbhum	11 September 2013	Smt. S. Jalaja Special Rapporteur
17	Central Jail, Jamshedpur	12 September 2013	Smt. S. Jalaja Special Rapporteur,
18	Balaghat District Jail (Madhya Pradesh)	24 September 2013	Shri. P.P Mathur Special Rapporteur
19	District Jail, Bhandara, Maharashtra	26 September 2013	Shri P.P Mathur Special Rapporteur
20	Central Jail, Jilly, Itanagr	30 September 2013	Shri Anil Pradhan, Special Rapporteur
21	Aquada Central Jail, Goa and Sub Jail & Judicial Lock-ups in Sada Vaso	10- 12 October 2013	Shri S. Ramani, Special Rapporteur
22	Central Jail, Jamshedpur, District Jail, Singhbhum and Sub Jail, Khunti	10-12 November 2013	Smt. S.Jalaja, Special Rapporteur
23	Central Jail, Bhopal, Central Jail, Indore District Jail, Indore and District Jail Harda and Shymla Hills Police Station, Bhopal District, Maheswar Police Station, Khargao District and Rawjee Bazar Police Station, Indore District	11-21 December 2013	Shri S.Narayan, Special Rapporteur



S.No.	Name of Jail/ Institutions	Date of Visit	Visited By
24	Central Jail Muzzafarnagar, Central Jail, Motihari and District Jail, Bettiaha	26-28 December 2013	Smt. S.Jalaja, Special Rapporteur
25	Godhra SubJail, District Panchmahal, Gujarat and Chalveda in Goghumba Taluka of Panchmahal District.	8 January 2014	Shri P.P Mathur, Special Rapporteur
26	Central Jail Jodhpur and Distrcit Jail Jaisalmer	11-13 February 2014	Shri Ajay Kumar, Special Rapporteur
27	Central Jail, Aizwal, Mizoram	12 February 2014	Anil Pradhan, Special Rapporteur
28	Bilaspur Central Jail and Naughat Police Station, Hirri Police Station, Ratanpur Police Station and Adarsh Kotwali Police Station, Bilaspur	17-20 February 2014	Shri S. Narayan, Special Rapporteur

**4.332** The reports are placed before the Commission and the recommendations of the Commission are being sent to the concerned State Government for compliance.

## (b) Analysis of Prison Population

**4.333** The Commission has been deeply concerned about the pitiable condition of prisons and other detention facilities which are plagued with problems like severe overcrowding. The Commission compiles and analyzes statistics on prison population in the country to ascertain the actual position of overcrowding, health, sanitation, hygiene, etc. in the prisons and accordingly suggests measures for their improvement. This is carried out by obtaining data from the Prison Headquarters of each State/Union Territory in a prescribed format every six months.

**4.334** Data is collected on different variables like the number of jails, capacity of jails, number of convicts, number of undertrials, health profile of prisoners, etc. and comparative analysis is carried out to perceive the trends in the above mentioned variables. Analysis of the data obtained shows the problem of overcrowding was observed in large number of States. Overcrowding was especially high in the States of Uttar Pradesh, Madhya Pradesh, Bihar, Maharashtra, Punjab, West Bengal, Rajasthan, Jharkhand, Haryana and Chhattisgarh.

**4.335** It was further observed that the main reason for overcrowding is the regular increase in number of undertrial prisoners and the long periods for which they languish in jails. In some cases, it was found that the undertrials languished in judicial custody for years far beyond the punishment prescribed for the given offence under the penal law. This fact is corroborated by the data received from States like Uttar Pradesh, Bihar, Madhya Pradesh, Maharashtra, Punjab, West Bengal, Rajasthan, Jharkhand, Haryana and Orissa as these have the highest percentage of undertrial prisoners.

**4.336** The number of women prisoners was also noticeable in States of Uttar Pradesh, Maharashtra, West Bengal, Punjab, Madhya Pradesh, Bihar, Andhra Pradesh, Haryana, Tamil Nadu and Jharkhand.

**4.337** Comparative analysis of the prison statistics indicates the continuing need for all States to take serious steps to control overcrowding. Apart from increase in the capacity of jails, in order to reduce overcrowding, provisions in the statutes (in terms of parole, bail, furlough, short leave and appeal petitions, etc.) should be utilized liberally by the concerned officers in the jails. Besides, Jail Committees should be constituted, having representatives from the inmates, to assist the jail authorities in the completion of the above process.

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## ***Chapter - 5***

### **RIGHT TO HEALTH**

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

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

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

**5.4** The National Human Rights Commission (NHRC) represents India's commitment to human rights. Ensuring the right to health to all is a quintessential aspect of this commitment. Hence, the Commission is closely monitoring right to health in terms of its accessibility, affordability and availability. The NHRC has consistently taken the view that the right to life with human dignity, enshrined in the Constitution and as interpreted by the Supreme Court, must result in strengthening of measures to ensure that the people of this country, and particularly those belonging to economically disadvantaged sections of society, have access to better and more comprehensive health care facilities.

**4.5** The Commission's efforts to protect and promote right to health has evolved in a variety of interconnected ways over the past two decades. In recent years, its focus is on accessibility, availability, quality and affordability of health care; women and child health issues; ethical issues and illegal practices in health sector; importance of clean drinking water, sanitation and hygiene for better health care; occupational health and safety, leprosy and

mental health. The present chapter focuses on the work done by the Commission in these areas.

## **A. NHRC Guidelines on Clinical Drug Trials**

**5.6** The NHRC, as mentioned in Chapter 2 of the Annual Report, formulated significant guidelines on clinical drug trials with the help of a five Member Committee especially constituted for the said purpose. These guidelines were an outcome of the complaints brought to the notice of the Commission where poor women were exploited for money by way of conducting illegal clinical drug trials on them in Andhra Pradesh without providing adequate medical care for subsequent side effects.

**5.7** The Committee appointed in the NHRC for developing the guidelines noted that an Expert Committee on Reforms in Drug Regulation and Clinical Trials has already been constituted in the Ministry of Health and Family Welfare, Government of India under the chairmanship of Prof. Ranjit Roy Chaudhary. The NHRC Committee also noted that notifications, rules and regulations, additions, deletions to the Drugs and Cosmetics Act (1940) and Rules (1945) are being issued from time to time including the following :

- compensation in case of injury or death during clinical trial, Rule 122-DAB of 30.1.2013,
- registration of Ethics Committee, Rule 122 DD of 8.2.2013, and
- permission to conduct clinical trials, Rule 122 DAC of 1.2.2013.

**5.8** The NHRC Committee recommended that all institutions and Ethics Committee should implement within the time frame, stipulated in the Act, these and such changes in the Act and Rules that are brought about from time to time.

**5.9** The NHRC Committee further suggested that :

- (i) Ethics Committee should be set up in all institutions undertaking studies on human subjects and should be registered as per the Act.
- (ii) Standard Operating Procedure (SOP) should be written down and followed in all clinical trials/clinical studies, based on prevailing good clinical practices (GCP), guidelines issued by CDSCO, ICMR, ethical guidelines for biomedical research on human participants, Act and Rules.

There should be an effective mechanism for monitoring the implementation of the SOP.

- (iii) Ethics Committees should be constituted as per Act, Rules and Regulations. All members of Ethics Committees should familiarize themselves with various aspects of ethic guidelines and provisions of the Act, Rules, etc. for clinical trials.

- (iv) It is necessary to set up regional/state training centres with Ethics Committees of their region/state allocated to them and develop a common minimum syllabus for the course. Attendance in the course could be then made compulsory for persons becoming eligible to be elected members of Institutional Ethics Committees (IEC). Continuing education programme on ethics should also be organized at these centres and participation for IEC members made mandatory. Adequate budgetary provisions will be necessary to support travel, etc. of non-official members of these Committees for attending these courses.

Implementation should be monitored.

- (v) Informed consent procedure should be standardized and simplified. Information given to the patient should include details of risks involved as per the current knowledge. It should also inform about the rights of the participants for compensation in case of injury or death during the study as per the prevailing provisions of Act and Rules, regulations.

In addition to the written patient information sheet, an informative audio video CD by the investigator may be prepared, shown and given to participants specially if study is being done on illiterate subjects with a proof of their having seen and received it.

- (vi) Procedure for recruitment of participants/volunteers for the trial should be documented in the SOP. Guidelines for the procedure should be framed with due deliberation and discussion and should be in consonance with ethical guidelines for biomedical research.
- (vii) Investigator should ensure adherence to Medical Council of India code of ethics especially for research as stated in chapter 7 and for human rights as stated in chapter 6.
- (viii) Participants of the clinical trial should be provided medical care from the time of enrolment in the study, for the duration of study and for the period of follow up as specified in the protocol. How and where it will be available, including close to the participants residence should be specified in the patient information sheet.
- (ix) In the Drug and Cosmetics Act and Rules, definition of clinical trial varies in different Rules, schedules and appendices.

Notification of 30.1.2013 for compensation is given as Rule 122 DAB to be inserted after 122 DAA. It needs to be clarified whether Rule 122 DAB pertains to only clinical trials of new drugs.



As per Drugs and Cosmetics Rules, 1945, in Part X-A, import or manufacture of new drugs for clinical trials or marketing, 122 DAA defines clinical trial as systematic study of new drug (new chemical entity, new indication, new formulation, etc.). Schedule Y pertains to new drug.

However, Appendix XXXIII, clinical trial registry specifies that all interventional trials should be registered. (All interventional clinical trials conducted in India and involving Indian participants need to be registered. An interventional clinical trial is any research study that prospectively assigns people to one or more health related interventions (e.g., preventive care, drugs, surgical procedure, behavioural treatments, etc.) to evaluate their effects on health related outcomes. Thus, early and late trials, trials of marketed or non-marketed products, randomized or non-randomized trials – all should be registered.)

Appendix XXXIV, GCP guidelines for clinical trials in India and Appendix XXXVIII, guidelines for BA/BE studies define clinical trial (clinical study) as a systematic study of pharmaceutical product on human subject(s) – (whether patients or non-patient volunteer) – in order to discover or verify the clinical, pharmacological (including pharmacodynamic/ pharmacokinetics), and/or adverse effects, with the object of determining their safety and/or efficacy.

- (x) It is necessary to have a uniform definition of which type of clinical studies will be considered clinical trial.

## **B. Meeting of the Core Group on Health**

**5.10** The Commission has a Core Advisory Group on Health which advises it on different matters relating to health from time to time. The last meeting of the Core Advisory Group of Health was held in the Commission on 20 June 2013. The main agenda of the meeting was to discuss issues of concern that could be taken up by the Commission for organization of the National Conference on Health Care as a Human Right. It was deliberated by the Core Group to focus on four issues as follows :

- (i) Accessibility, Availability, Quality and Affordability of Health Care;
- (ii) Important Issues Relating to Women and Child Health;
- (iii) Clean Drinking Water, Hygiene and Sanitation; and
- (iv) Occupational Health and Safety.

**5.11** 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.

## **C. National Conference on Health Care as a Human Right**

**5.12** With a view to highlight concerns on accessibility, availability, quality and affordability of health care; women and child health issues; ethical issues and illegal practices in health sector; importance of clean drinking water, sanitation and hygiene for better health care; and occupational health and safety, the Commission organized a two-day National Conference on Health Care As a Human Right at New Delhi on 5 and 6 November 2013.

**5.13** The main objectives of the Conference were to (i) discuss ways in which the public health system could be strengthened from the perspective of human rights, especially with regard to accessibility, affordability and quality of health care by involvement of community and sharing of best practices; (ii) discuss ways in which the problems of health relating to women and children could be addressed; (iii) discuss the ethical issues involved with a view to addressing the illegal practices being carried out through proper regulation; (iv) discuss strategies to improve the availability of clean drinking water and sanitation facilities with the overall objective to improve health standards of people; and (v) discuss issues relating to occupational health like silicosis, etc. and ways to ensure the rights of workers involved.

**5.14** The participants to the Conference included public health experts and health scientists, legal experts, representatives of NGOs working on health issues, representatives of civil society, including consumer groups, technical institutions, international organizations, policymakers, senior and middle level officers of Ministries/Departments of Health and Family Welfare, Women & Child Development, Panchayati Raj, Consumer Affairs, Drinking Water & Sanitation and varied National&State Commissions.

**5.15** The Conference deliberated on the following substantive issues in four sessions :

- Availability, Accessibility, Quality and Affordability of Health Care Services in India – Need for Universal Health Care
- Women and Child Health – Important Issues;
- Clean Drinking Water, Hygiene and Sanitation – A Step Towards Better Health Care; and
- Occupational Health and Safety

**5.16** The session on 'Availability, Accessibility, Quality and Affordability of Health Care Services in India – Need for Universal Health Care' covered innovative measures for universal health coverage in India, strengthening of medical education quality for universal health care delivery and provision of adequate health services in India. These were followed by State presentations. These presentations were made by the respective Secretaries of Department of Health of Himachal Pradesh, Kerala, Tamil Nadu, Bihar and Uttar Pradesh. The session on 'Women and Child Health – Important Issues' focused on maternal and child health from the

perspective of human rights, application of human rights based approaches for prevention of maternal mortality and morbidity, strengthening of institutional arrangements for maternal and child health care and need for nutrition education and capacity development given the existing maternal and child malnutrition situation in the country.

**5.17** The session on 'Clean Drinking Water, Hygiene and Sanitation – A Step Towards Better Health Care' had speakers who gave perspectives from the ground about access to drinking water, sanitation and hygiene as human rights. Besides in this session, the viewpoint about policies and programmes of Government of India on water and sanitation issues including *Nirmal Bharat Abhiyan* was shared. The session on 'Occupational Health and Safety' dealt with occupational and other work related diseases and management of occupational health and safety through use of technology and capacity building. This was followed by a presentation on a research study commissioned by the NHRC to the Tata Institute of Social Sciences, Mumbai titled 'Governance Challenges for Implementation of Workers' Rights in Hazardous Industries : A Study of Alang-Sosiya Ship-breaking Yard, Gujarat'.

**5.18** Apart from discussions in sessions on four substantive issues highlighted above, the Conference had working group discussions on each of these issues as well. Each of these working groups was chaired by a Member of the Commission. The recommendations made in each of the working groups were presented and finalized in the concluding session of the Conference. All these recommendations are detailed out in **Annexure – 8** of the Annual Report. Later, these recommendations were forwarded to all the participants and to the concerned Secretaries of the Ministries of Health & Family Welfare and Drinking Water & Sanitation with the request to comply with the same and send their action taken report to the Commission.

**5.19** At the time of writing of the Annual Report, a response had been received from the Ministry of Health and Family Welfare wherein it thanked the Commission for taking the initiative of organizing the Conference and sharing the recommendations as these would facilitate in making required interventions in the health sector. Along with the response, the Ministry of Health and Family Welfare, Government of India forwarded a write-up highlighting some of their recent initiatives and achievements towards achieving the universal health coverage. The same is given at **Annexure – 9**. The Commission is however awaiting response from the Ministry of Drinking Water & Sanitation.

## **D. NHRC Application in Supreme Court to Improve Functioning of Mental Health Institutions**

**5.20** It was mentioned in the last Annual Report (2012-2013) of the Commission that on the directions given by the Supreme Court of India in 1997, it has been monitoring the functioning of three Government run mental hospitals in Agra, Gwalior and Ranchi. In addition to these three hospitals, the Commission as per mandate given to it under

Section 12(c) of the Protection of Human Rights Act, 1993 is monitoring other mental health institutions run by the Government across the country. Despite the progress made in the three mental hospitals, there are still areas of concern which need to be addressed, especially with regard to their physical infrastructure, human resource management and financial resources. This is equally true of other mental health institutions, most of which are housed in old dilapidated buildings of the colonial era. Their problems and constraints have not been addressed on account of limited resources in terms of human, material and financial.

**5.21** In view of the existing pervasive deficiencies, the Commission vide its letter dated 13 May 2010 addressed to the Secretary General, Supreme Court of India submitted an extensive report and requested that the same be placed before the Apex Court for appropriate directions and orders. Later, a reminder dated 7 March 2011 was issued in response to which the Assistant Registrar, PIL (Writ) informed vide letter dated 17 March 2011 that the Hon'ble Court while disposing of the Writ Petition (Crl.) No. 1900/1981 (Dr. Upendra Baxi), observed that "if and when the Commission requires any help or assistance from the Court, it is at liberty to make an appropriate application". The said letter further stated that "you are therefore requested to file an appropriate application before this Hon'ble Court for the required directions, if any".

**5.22** Pursuant to the above correspondence, the Commission, in 2013, filed an application (CRLMP.NO.8032/2013 in W.P.(Crl.)No. 1900 of 1981, Dr. Upendra Baxi Vs. State of U.P. & Ors. and National Human Rights Commission) in the Supreme Court seeking appropriate directions on thirteen pertinent issues which have been reproduced at **Annexure – 10**. On hearing the matter on 8 July 2013, the Supreme Court directed to the Ministry of Health and Family Welfare, Government of India and to all the State Governments to file their status report in response to the application submitted by NHRC, including the extent of implementation of National and District Mental Health Programme, funds received and utilized on these programmes. At the time of writing of the Annual Report, the Supreme Court had received the response of the Union Ministry of Health and Family Welfare and few States. Though the matter continues to be under the consideration of the Supreme Court, the Commission would request all the State Governments and Union Territory Administrations to render their full cooperation in the given case.

## **E. Visit Reports of Special Rapporteurs to Mental Health Institutions**

**5.23** On the directions given by the Supreme Court of India in 1997, the Commission has been monitoring the functioning of three Government run mental hospitals in Agra, Gwalior and Ranchi. In addition to these three hospitals, the Commission as per mandate given to it under Section 12(c) of the Protection of Human Rights Act, 1993 is monitoring other mental health institutions run by the Government across the country. The monitoring is primarily being carried out by way of periodic visits to these institutions by the Special Rapporteurs

of the Commission. After each visit, the concerned Special Rapporteur submits a detailed visit report to the Commission along with suitable suggestions and recommendations for bringing about overall improvement in the functioning of the mental health institution. These reports are minutely examined by the Commission and on the directions given by it, the suggestions and recommendations made by the Special Rapporteurs are then forwarded to the concerned State Government for implementation and action taken reports are called for. In some instances, a revisit is also made by the Special Rapporteur or the Chairperson or Members or senior officers of the Commission. During the period under report, the following mental health institutions were visited by the Special Rapporteurs of the Commission :

- (i) Pavlov Hospital, Kolkata on 3 April 2013 by Shri Damodar Sarangi, Special Rapporteur, NHRC.
- (ii) Meghalaya Institute of Mental Health & Neurological Sciences (MIMHANS), Lawmali, Shillong on 27 May 2013 by Shri Anil Pradhan, Special Rapporteur, NHRC.
- (iii) Hospital for Mental Health, Ahmedabad from 27-28 May 2013 by Shri Ajay Kumar, Special Rapporteur, NHRC.
- (iv) The Psychiatric Centre, Jaipur from 8-12 September 2013 by Shri Ajay Kumar, Special Rapporteur, NHRC

## **F. Better Medical Practices and Health Care Facilities in Tribal Areas**

**5.24** The Commission had organized a one-day meeting in New Delhi of the Health Secretaries of all the States and Union Territories on Illegal Medical Practices and Health Care Facilities in the Tribal Areas to ensure tribal areas in the country have better access to quality health care. Later, the important recommendations that emanated out of the deliberations of this meeting were forwarded to all the Chief Secretaries and stakeholders for compliance along with an action taken report. These recommendations were reported in the Annual Report of the Commission for the year 2010-2011. As only Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Lakshadweep, Madhya Pradesh, Mizoram and West Bengal had forwarded their action taken report, reminders were sent to all the remaining Chief Secretaries in 2010 and during the period under report for compliance and action taken report. Reminders for action taken report were also forwarded to Chairman, Medical Council of India and Secretaries of the Ministries of Health and Family Welfare and Tribal Affairs.

**5.25** At the time of writing of this Annual Report, States/Union Territories who had responded to the repeated requests of the Commission apart from the seven already mentioned above were – Punjab, Chhattisgarh, Sikkim, Arunachal Pradesh, Goa, Haryana,



Meghalaya and Karnataka. Besides, the Commission had received responses from the Ministry of Health & Family Welfare and Delhi Medical Council. While the response of the Ministry of Health and Family Welfare was received within a month of the reminder issued by NHRC, it has not responded directly to some of the recommendations. Two such recommendations are - “in order to check the menace of illegal medical practitioners and quacks, the Central Government should bring out an Anti-Quackery Bill providing provisions for stringent punishment for the people indulging in such medical malpractices” and “there is a need to replicate some of the good/best practices in standardized health care facilities, available in tribal areas of some of the State/Union Territories, in other tribal regions. The concerned Ministries in the Central Government should facilitate this process”. It is reiterated to the Medical Council of India, Ministries of Health & Family Welfare and Tribal Affairs and all the remaining State Governments and Union Territory Administrations to forward to the Commission their compliance reports complete in all respects.

## **G. Illustrative Cases**

### *1. Unauthorized Drug Trials in Andhra Pradesh and Other Parts of Country (Case No. 765/1/7/2011)*

**5.26** A complainant drew the attention of the Commission towards a news report, captioned “Women are guinea pigs here” and another news report, captioned, “Six Andhra women hospitalized after unauthorized drug trial”, in connection with the testing of cancer drug on 25 poor women in Guntur District of Andhra Pradesh. It was alleged that the poor women were lured for drug testing on a meager payment. The Commission also noticed another newspaper report captioned “India an easy target for cheap drug trials” which revealed that there is no law to effectively monitor clinical trials in India and this is one of the prime reasons that India emerged as a hotspot for foreign drug companies who unhesitatingly flouted all rules and regulations to test their products. Later, ten more cases relating to drug trial were registered in the Commission. All these cases were clubbed with this case.

**5.27** In one of the cases, it was reported that six Andhra women were hospitalized after unauthorized drug trial. It was reported that the Government of Andhra Pradesh had ordered an inquiry into the incident and asked the officials to take stern action against those who conducted the illegal clinical trials on the poor women.

**5.28** A team from the Investigation Division of the Commission was also deputed to ascertain the facts. The team reported that Axis Clinicals Ltd. in Hyderabad had conducted BA/BE tests on subjects without informing them about the nature of the tests. It was furthermore reported that post-test care was not given on account of which health of some of the subjects was adversely affected after the tests. The inquiry report further revealed that there were eight more laboratories in Hyderabad which conducted clinical tests. The team



from the Investigation Division of the Commission made the following recommendations:

- (i) The Health Secretary, Government of Andhra Pradesh should be directed to properly assess the health condition of the villagers of Piduguralla, who were affected by the BA/BE test and proper health care be provided to them, besides granting suitable compensation to the victims by the Axis Clinicals Ltd.
- (ii) The Central Drugs Standard Control Organization be directed to conduct proper study in various parts of India, particularly in South India, on the laboratories which conduct the clinical trials to ensure that the labs adhered to the guidelines issued by Central Drugs Standard Control Organization (CDSCO).
- (iii) The amount paid to the volunteers who undergo the test is paltry. The labs conducting the test should pay adequate amount to the volunteers which should be monitored by the CDSCO.

**5.29** In addition, the Commission made following queries from the Secretary of Health, Government of India, Secretary, Indian Council of Medical Research (ICMR) and the Drug Controller General of India:

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

**5.30** The Drugs Controller General of India submitted a report which stated that the clinical trials are required to be conducted as per “Good Clinical Practices (GCP)” guidelines issued by the CDSCO, Directorate General, Health Services, Ministry of Health, Government of India. On perusal of the report, the Commission noticed that no comments had been offered on the recommendations made by the team from the Investigation Division nor the queries made by it had been answered. The Drug and Cosmetics Act and Rules are the law governing these practices.

**5.31** The Committee suggested that :

- Ethics committees should be set up in all institutions undertaking studies on human subjects and should be registered as per the Act.
- Standard Operating Procedure (SOP) should be spelled out and followed in all clinical trials or studies, based on prevailing good clinical practices (GCP) guidelines.
- It is necessary to set up Regional or State training centres with ethics committees of their region allocated to them and develop a common minimum syllabus for the course. Attendance in the course could then be made compulsory for persons becoming eligible to be elected members of Institutional Ethics Committees. Continuing education program on ethics should also be organized at these centres and participation for IEC Members made mandatory.
- Informed consent procedure should be standardized and simplified. Information given to the patient should include details of risks involved as per the current knowledge. It should also inform about the rights of the participants for compensation in case of injury or death during the study, as per the prevailing provisions of Acts, rules and regulations.
- Procedure for recruitment of participants or volunteers for the trial should be documented in the SOP. Guidelines for the procedure should be framed with due deliberation and discussion and should be in consonance with ethical guidelines for biomedical research.
- Investigator should ensure adherence to Medical Council of India code of ethics, especially for research.
- Participants of the clinical trial should be provided medical care from the time of enrolment in the study, for the duration of study and for the period of follow up as specified in the protocol. How and where it will be available, including close to the participants residence should be specified in the patient information sheet.

- In the Drug and Cosmetics Act and Rules, definition of clinical trial varies in different Rules, schedules and appendices. It is necessary to have a uniform definition of which type of clinical studies will be considered clinical trial.

**5.32** The Commission approved the draft guidelines on clinical trial of drugs and filed an affidavit before the Supreme Court of India. Thereafter, the Commission vide its proceedings dated 20 January 2014 closed the case.

**2.** *Delivery of Child on Road Side as Woman Denied Admission in Bahraich District Hospital, Uttar Pradesh*  
(Case No. 43614/24/9/2012)

**5.33** The Commission came across a report captioned “Denied admission in a hospital, woman delivers on the road”. According to the press report, Smt. Indrakali, wife of Shri Nanku, a resident of Chirayya village, in Shravasti District of Uttar Pradesh, was taken to District Hospital, Bahraich, Uttar Pradesh for delivery. Allegedly the hospital denied admission to her on the pretext of unavailability of doctors. Indrakali was taken to a nursing home which too denied her medical help. Before she could reach the next nursing home, she delivered a child on the road side with the help of people nearby.

**5.34** While expressing its deep concern at the hardships being faced by common people in accessing health care facilities and denial of medical help to a pregnant woman by a Government hospital, the Commission issued notice to the Government of Uttar Pradesh, calling for a report.

**5.35** Pursuant to the directions of the Commission, the Chief Medical Officer, Bahraich forwarded a report, according to which, Smt. Indrakali was examined by Dr. Yogita Jain in the Maternity OPD and on her advice was also admitted in the hospital. However, the doctor on duty Dr. Anju Shrivastava did not find the patient in the room.

**5.36** Later, Smt. Indrakali came to OPD of the District Hospital Bahraich in an ambulance and was admitted again. She was examined and given treatment by Dr. Anju. Placenta of the patient was removed. On 4 December 2012, at the request of the patient’s husband, she was discharged after a payment of ₹1,400 to her as per the provisions of Janani Suraksha Yojna (JSY). The report concluded that all available facilities were given to Smt. Indrakali at the District Hospital in Bahraich.

**5.37** The matter was taken up by the Commission at its Camp Sitting in Lucknow. The representatives of the State informed the Commission that an inquiry had been ordered at the level of Additional Director (Health) to look into the matter. The inquiry concluded that there was some negligence on the part of the doctor and accordingly the doctor was placed under suspension. General instructions were also issued by the State Government to prevent recurrence of such incidents in the future. Besides, it was submitted that after the said incident, effective ambulance services had been introduced by the State Government for taking care of pregnant women.

**5.38** After taking all the facts into consideration, the Commission expressed that apparently there was some negligence on the part of doctor and the department too had taken steps against the negligent medical officers. Due to this admitted negligence on part of medical officers, the Commission recommended to the Government of Uttar Pradesh to pay an amount of ₹ 15,000 as a token of relief to the patient and submit a compliance report along with proof of payment. The compliance report and proof of payment is awaited on the part of Government of Uttar Pradesh.

3. *Four Persons Tested HIV Positive After Blood Transfusion in Mangaldoi District Hospital, Assam*  
(Case No. 208/3/3/2013)

**5.39** The Commission came across a press report, captioned “Assam: Three Suspended for HIV Infection in Government Hospital”. It was alleged that four persons tested HIV positive after blood transfusion at District Hospital in Mangaldoi, due to negligence of the hospital authorities. The investigation revealed that the four patients, who tested HIV positive, had taken blood directly from the donors. However, in their cases, the concerned staff of the hospital did not properly test the blood donated and transfused. It was also alleged that a section of the hospital staff was hand in glove with illegal professional donors. It was moreover mentioned in the report that three officials, including a Government doctor, had been suspended.

**5.40** The Commission took *suo motu* cognizance of the press report and called for a report from the Government of Assam. The State Government was directed to inform the name of the patients, the status of their health and the amount of compensation, if any, being proposed to be paid to them. The State was further asked to submit a report with regard to disciplinary action initiated against the delinquent public servants.

**5.41** It was informed by the State that Shri P. P. Verma, Additional Chief Secretary, Health and Family Welfare Department had been appointed to look into the matter and submit a report. According to the report forwarded to the Commission, three patients, namely, Md. Rafiqul Haque, Ms. Taslima Begum and Ms. Azufa Khatoon were under treatment and had no complaint. The State Government had given a sum of ₹ 5,00,000 each as compensation to all the three victims. It was further reported that the Medical Officer In-charge of the blood bank in Mangaldoi Civil Hospital, Dr. Jitendra Kumar Saharia and the Laboratory Technician had been placed under suspension.

**5.42** The matter continues to be under consideration of the Commission.

4. *Death of 9,000 Children in Last Five Years due to Alleged Mismanagement and Medical Negligence in Kalawati Saran Children's Hospital, Delhi*  
(Case No. 6429/30/1/2012)

**5.43** Shri. R.H. Bansal, General Secretary, Antar Rashtriya Manav Adhikar Nigrani Parishad submitted a petition to the Commission, drawing its attention to the high mortality rate of children in Kalawati Saran Children's Hospital (KSCH), Delhi. He pointed out that 9,000 children had died in the hospital during the last five years. He alleged that the children lost their lives due to negligence in treatment and mismanagement in the hospital. He, moreover, alleged that many ventilators in the hospital were lying out of order. The Commission deputed its own team to the hospital for looking into the matter. On consideration of the enquiry report submitted by the Investigation Team, the Commission advised the Secretary, Ministry of Health and Family Welfare, Government of India to :

- Constitute a Group of Experts to examine the high rate of mortality in the hospital.
- Take immediate steps for providing additional space/beds in KSCH, New Delhi in the light of huge number of patients reaching the hospital for treatment.
- Ensure time-bound repair, maintenance and replacement of life saving equipments like ventilators.

**5.44** The Ministry was also directed to submit a report to the Commission on the action taken.

**5.45** During the enquiry, the Investigation Team of the Commission selected 20 death cases on a random basis. The medical treatment record of those cases were sent to an expert on the panel of the Commission, who highlighted several problems like non-availability of beds, unhygienic conditions and non-availability of BP apparatus, but the expert did not find any evidence of medical negligence in 19 cases.

**5.46** However, in one case of a 4½ years female child, Janvi, the expert came to the conclusion that the hospital administration was responsible for her death. The child was admitted to the hospital on 20 February 2009. She was found to be suffering from jaundice for seven days and developed altered sensorium. She was diagnosed as a case of "acute viral hepatitis with hepatic encephalopathy grade IV with coagulopathy with hyperkalemia". She was referred to PICU of the same hospital. However, she was not taken to ICU, with the remark "regret no bed available". Again on the next day repeated calls were made to ICU and again the answer was "regret no bed available". In the meantime, the condition of the child continued to deteriorate. The child was finally shifted to ICU at 11.45 p.m. on 21 February 2009 in an unconscious state with severe hypotension and no reaction to painful stimuli. Ultimately, the child died on 24 February 2009.

**5.47** After considering the view tendered by the expert, the Commission observed that the child Janvi was in a critical condition when she was first admitted to the hospital. She was referred to ICU but she could not be sent there for 30 hours. This period of 30 hours proved critical. Ultimately, when the child was sent to the ICU after 30 hours, she was in an unconscious state and was not responding to painful stimuli. Due to this apathy of the hospital staff, the inevitable happened and the child died.

**5.48** The negligence and apathy of the hospital administration and doctors is clearly reflected on the record as far as the case of Janvi is concerned. The Commission opined that the Government should make monetary reparation so as to give some solace to the parents of the child. Hence, the Commission issued a notice to the Secretary, Ministry of Health and Family Welfare, Government of India requiring him to show cause as to why monetary relief, under Section 18 of the Protection of Human Rights Act, 1993 should not be given to the next of kin of deceased child, Janvi.

**5.49** In this context, a report has been received from the Ministry of Health and Family Welfare, Government of India and is under consideration of the Commission.

**5.** *Death of Woman Due to Wrongful Blood Transfusion at Bhadrak District Hospital, Odisha*  
(Case No. 1579/18/18/2012)

**5.50** The Commission received a complaint alleging that Smt. Rajalaxmi Barik, wife of Shri Rajender Barik, was given B+ blood at Bhadrak District Headquarter Hospital after she delivered a child, whereas her blood group was A+. As her condition deteriorated and became serious, she was shifted to SCB Medical College, Cuttack, where she died on 28 June 2012.

**5.51** Pursuant to the directions of the Commission, the Government of Odisha forwarded reports of Professor of Medicine and Head of Department of the Transfusion Medicine. The reports admitted the fact that late Smt. Rajalaxmi received one unit of blood transfusion of blood group B+ at the District Headquarter Hospital, instead of being a group A+ patient. It was further submitted that she was admitted to the SCB Medical College Hospital as a case of "Post partum - Post transfusion renal failure with anemia" on 4 May 2012. She was given suitable treatment and her condition improved also, after which she was discharged on 25 May 2012. But, she was again admitted on 7 June 2012 as a case of "Puerperal sepsis and enteric fever", treated and discharged. Finally, she was admitted again as a case of "Puerperal sepsis with ARF and CRF, possibly SLE nephropathy" and died on 27 June 2012. The report further stated that the possible cause of death appeared to be ARF, secondary to Puerperal sepsis, superimposed on SLE nephropathy and not due to mismatched blood transfusion.



**5.52** As the report of the Head of the Department involved medical terminology, the Commission obtained expert medical opinion on the given report, specifically whether transfusion of blood of different blood group had in any way contributed to the complications and ultimate death of the patient.

**5.53** The medical specialist categorically opined that mismatched blood transfusion might not be cause of the death in this case as the patient had severe other co-morbid illness like post-partum sepsis, myocarditis and renal failure.

**5.54** Upon consideration of the reports and expert medical opinion, the Commission observed that the deceased was admittedly given mismatched blood for transfusion worsening the condition of the patient and valid explanation was given as to how the para medical staff gave the wrong transfusion of blood. The Commission issued notice under Section 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Odisha, to show cause as to why the Commission should not recommend monetary relief for the next of kin of the deceased.

**5.55** Since no reply to the show cause notice was received from the State Government, the Commission presumed that the State Government had nothing to say in the matter and vide its proceedings dated 20 January 2014 recommended to the Government of Odisha to pay compensation of ₹ 2,00,000 to the next of kin of the deceased and submit a compliance report along with proof of payment.

**5.56** The compliance report and proof of payment is awaited from the Government of Odisha.

**6. Severe Shortage of TB Drugs Jeopardizes Treatment of Lakhs of TB Patients Across the Country**  
(Case No. 104/90/0/2013)

**5.57** The Commission came across a press report, captioned “Severe shortage of TB drugs, India faces a crisis”. The press report alleged that the treatment of lakhs of tuberculosis (TB) patients, especially children, across the country had been jeopardized over the past few weeks as India battles a severe shortage of key TB drugs. Under the TB treatment programme, the Centre is responsible for buying drugs and distributing them to the States. The stock-out is a result of never ending issues that plague drug procurement. The report further mentioned that as per the opinion of the experts, unless the Government intervened immediately, such a shortage could prove disastrous.

**5.58** Taking *suo motu* cognizance of the press report, the Commission called for a report from the Ministry of Health & Family Welfare, Government of India, New Delhi and Health Secretaries of all the State Governments and Union Territories. The Ministry of Health & Family Welfare was further directed to inform about the status of availability of TB drugs

in all the States as well as steps already taken by the Central Government to overcome the acute shortage of TB drugs of two categories - paediatrics and drug registrant TB or DR - TB.

**5.59** The responses received so far are under consideration of the Commission. Reminders have been issued by the Commission to those States from where reports have not yet been received.

7. *Unwanted Hysterectomies under Rashtriya Swasthya Bima Yojana Conducted by Private Hospitals in States of Bihar and Rajasthan*  
(Case No. 2090/4/0/2013)

**5.60** The Commission came across a news item captioned “Wombs and the Wolves”. The news report highlighted as to how a welfare scheme meant to be a boon for the poor has been converted to be a bane, out of sheer greed by unscrupulous doctors. Rashtriya Swasthya Bima Yojna (RSBY) entitles families below poverty line to free treatment up to ₹ 30,000 a year. However, the report pointed out that in Samastipur District of Bihar and Dausa District of Rajasthan, the private hospitals carried out hysterectomies on unsuspecting women who thronged the hospitals for minor ailments like stomach ache or menstrual problems. Incidentally, the cost of hysterectomy is the highest of all procedures conducted under the RSBY scheme. For that reason, allegedly, hysterectomies were performed by greedy doctors on women who had no problems at all to siphon off public money.

**5.61** As per the report, in Samastipur District of Bihar, out of 14,851 procedures conducted under RSBY between 2010 and 2012, 5,503 were hysterectomies. Alarmed by the large number of hysterectomies, the District Magistrate organized a five day medical camp to find out the truth behind it and the expert medical team found that 717 out of 2,600 hysterectomies were unwanted, 124 were under-age surgeries, 320 cases were of fleecing and 23 of non-surgery. The District Magistrate found that in many cases the hospitals simply swiped the RSBY cards and never did anything.

**5.62** In Dausa District of Rajasthan, it was reported that many FIRs were lodged against the doctors. One of the complainants was allegedly threatened by the police not to pursue the case. It was stated that the attitude of the officials at Dausa was sympathetic towards the doctors. The report also disclosed collusion of private hospitals with the government health practitioners in the rural health centres who promised commission on referrals. The employees at government hospitals even acted as agents and took patients to private clinics.

**5.63** Taking *suo motu* cognizance of the press report, the Commission in its proceedings dated 17 June 2013 observed that the toll on the Government was not just monetary. Loss of vitality and libido affected the psychological and social health of the women, who in fact were the real sufferers. This worrying state of affairs compelled the Commission to immediately call for a factual report from the Governments of Bihar and Rajasthan, especially as to what

action they proposed to take in the matter. While the Government of Bihar forwarded its report, no report has been received from the Government of Rajasthan.

**5.64** A reminder has thus been sent to the Government of Rajasthan to submit the factual report within eight weeks, failing which the Commission shall be constrained to take coercive action under Section 13 of the Protection of Human Rights Act, 1993. The Principal Secretary, Department of Labour Resources, Government of Bihar has also been asked to send a detailed report.

**5.65** The reports are awaited from the State Governments of Bihar and Rajasthan and the matter continues to be under consideration of the Commission.

8. *Supply of Contaminated Drinking Water on the Platforms of Northern Railways*  
(Case No. 1146/30/0/2014)

**5.66** A news report about high level of contamination found in drinking water supplied at the platforms of Northern Railways was taken note of by the Commission. As per the report, all the water samples collected from Lucknow Charbagh Railway Station were found to be unsafe for drinking due to the presence of high level of coliform bacteria, which causes many serious water borne diseases. Similarly, 59% of water samples collected from Moradabad Station was found to be infected whereas 94% samples collected from Ambala Station were found infected. It was also reported that the main reason for such high level of contamination was the absence of water treatment plants at these stations and wherever such plants were in place, their condition and maintenance was highly unsatisfactory, thus putting the health of passengers at grave risk. It was moreover reported that the maintenance or chlorification of water treatment plant at New Delhi Railway Station had been outsourced to a private company and when a Senior Engineer of Northern Railway inspected and questioned the company about the maintenance of the plant, the company threatened to sue him in the court of law.

**5.67** As the news report raised concerns about serious violation of right to health of millions of passengers, the Commission took *suomotu* cognizance of the matter and vide its proceedings dated 27 February 2014 issued notices to concerned authorities of Northern Railways to submit a report on the matter.

**5.68** In response to Commission's notice, the Chief Engineer HQs., Northern Railway, New Delhi sought 15 days time to submit their reply. The matter continues to be under consideration of the Commission.

9. *Death of Infants in Malda Medical College & Hospital, West Bengal*  
(Case No. 652/25/11/2013)

**5.69** A press report, captioned "Infant deaths haunt Malda again, 8 kids die within 24 hours" caught the Commission's attention. The press report alleged that 8 infants died

at Malda Medical College & Hospital (M.M.C.H) in West Bengal within 24 hours. These deaths created panic among parents whose infants were admitted there. It was further alleged in the press report that some of the parents sought release of their admitted infants on the ground that they were not getting proper treatment in the hospital. The report disclosed that a seven-member inquiry committee under the Chief Medical Officer of Health, Malda had been constituted by the District Magistrate to look into the deaths of infants.

**5.70** Taking *suo motu* cognizance of the press report, the Commission observed that the contents of the press report raised a serious concern about violation of the right to health of infants and issued notice to the Government of West Bengal and the District Magistrate, Malda, West Bengal to submit a report in the matter.

**5.71** Reports received from the concerned authorities are under consideration of the Commission.

*10. Death of Two Infants due to Negligence by Hospital Authorities in Baramulla District, Jammu & Kashmir  
(Case No. 370/9/3/2012)*

**5.72** The Commission received a complaint claiming death of two infants due to negligence by the hospital authorities in Baramulla district. It was alleged that the hospital did not start the generators when there was no electricity supply. This led to the death of both the infants in the hospital who were on ventilator support.

**5.73** In response to Commission's notice, a report was submitted by the Senior Superintendent of Police, Baramulla. His report revealed that the two infants were given the support of a ventilator in the District Hospital of Baramulla and the electric supply was disrupted at night and the same situation continued till morning. In usual course of action, the hospital authorities should have started the generator as an alternative to electric supply. But, this was not done, which resulted in the death of one infant in Baramulla Hospital, whereas the second infant was referred to Srinagar who expired on way near Pattan. In the absence of any complaint, the Police did not take any cognizance in the matter.

**5.74** The Government of Jammu & Kashmir also forwarded to the Commission the report of Deputy Director, Health Services (Hqrs.), Kashmir. It revealed that on the basis of preliminary enquiry report furnished by the Enquiry Committee, departmental action was being taken on two Medical Officers and three Paramedical Staff and a charge sheet too had been issued to them.

**5.75** Taking all the facts into consideration, the Commission observed that the delinquent Medical Officers and Paramedical Staff had *prima facie* been found guilty and chargesheeted. And, the two infants died on account of gross negligence, which amounted

to violation of their human rights. The Commission thus issued notice under Section 18 of the Protection of Human Rights Act, 1993 to the Government of Jammu & Kashmir to show cause as to why interim relief should not be recommended to be paid to the next of kin of both the deceased. The Chief Secretary was also directed to intimate the outcome of the departmental action initiated against the delinquent Medical Officers and Paramedical Staff.

**5.76** Since no response was received to the show cause notice and reminder thereto, the Commission recommended to the State Government of Jammu and Kashmir to pay a sum of ₹ 3,00,000 each as compensation to the parents of deceased infants due to negligence of its Medical Officers and staff, resulting in violation of their human rights to life.

**5.77** The compliance report on the directions given by the Commission is awaited from the Government of Jammu and Kashmir.

**11.** *Death of a Woman due to Sterilization in a Government Hospital in Ganjam District, Odisha*  
(Case No. 1479/18/5/2011)

**5.78** The Commission received a complaint that one Smt. Mahadei Reddy, aged 28 years, underwent a sterilization procedure at a Government Hospital in Patapur Block of Ganjam District in Odisha. However, due to some complications, Smt. Mahadei died. It was alleged in the complaint that Dr. P. Kurumeya, an Eye Specialist, performed the procedure, and Dr. Surya Kiran Patnaik, the Chief District Medical Officer (CDMO) should not have allowed him to do the operation.

**5.79** Pursuant to the directions of the Commission, the Government of Odisha informed that the legal heirs of the deceased were entitled to get a compensation amount of ₹ 50,000 and steps were being taken for payment of that money to the legal heirs of the deceased.

**5.80** The Commission also observed there were allegations that the doctor who performed the procedure was not competent to do so and it was due to his negligence and ineptitude, Smt. Mahadei died. A proper inquiry in the matter for that reason was definitely called for.

**5.81** On the other hand, the postmortem examination of the deceased revealed intestinal perforation caused the complications. The report mentioned there was no negligence on the part of doctor in managing the case. Besides, it was mentioned in the report that a provision of insurance coverage of ₹50,000 for this type of mishap existed and the CDMO Ganjam was pursuing with the insurance company to pay the amount to the family of the deceased. The doctor who had performed the operation was warned to be more careful in future.



**5.82** Upon consideration of the report, the Commission observed that it was clear from the report that the condition of Smt. Mahadei became serious after the sterilization operation on account of complications resulting from intestinal perforations, which ultimately caused her death. Thus, *prima facie*, the operating surgeon was responsible for the death of the patient which seems to have been accepted by the Additional Director as well when he warned the operating surgeon to be more careful in future. The warning, the Commission felt, was very mild and deficient.

**5.83** The Commission further observed that the proposed compensation of ₹ 50,000 only to the next of kin or family members of the deceased, who was only 28 years old, appeared to be wholly inadequate and insufficient.

**5.84** The Commission vide its proceedings dated 3 June 2013 recommended to the Government of Odisha to pay a sum of ₹2,50,000 as additional compensation to the next of kin of the deceased, Smt Mahadei Reddy, for the negligence caused during the sterilization operation of the deceased and *prima facie* violating the human right to life of the deceased.

**5.85** The Secretary, Department of Health & Family Welfare, Government of Odisha was also directed to examine the matter thoroughly and to initiate departmental action against the doctor and medical staff found responsible for the mishap.

**5.86** An action taken report along with proof of payment of the compensation to the family members of the deceased was called for in the matter. Response received from the State Government is under consideration of the Commission.

**12. *Health Rights of Workers Engaged in Stone Crushing Units in Ganjam District, Odisha (Case No. 134/18/5/07-08)***

**5.87** The Commission received a complaint from Shri T. Duryodhana Reddy alleging violation of human rights of workers engaged in stone crushing units in Ganjam District of Odisha. Taking cognizance of the matter, the Commission called for a report from the concerned authorities. The Commission received reports from the Collector & District Magistrate, Ganjam, Odisha and the Superintendent of Police, Berhampur, Odisha. Both the reports denied the allegations.

**5.88** As the Commission found these reports to be unsatisfactory, it directed the Collector & District Magistrate of Ganjam to depute some senior officers of the Labour Department to the concerned stone crushing units for inspection and submit a detailed report to the Commission.

**5.89** In response, the Collector & District Magistrate of Ganjam forwarded a report of the Assistant Labour Commissioner, Berhampur, wherein it was informed that the workers in stone crushing units were getting minimum wages and that stone breaking and crushing industry had been notified as a scheduled employment under the Minimum Wages Act, 1948 and the minimum wage was last revised on 13 July 2009 vide Notification No. 972.



The report of the Assistant Labour Commissioner further stated that neither any guideline existed for periodical check-up of workers or any provision for health insurance of the workers working in stone crushing units.

**5.90** The Commission considered the report and asked the Chief Secretary, Government of Odisha to submit his response on the following points:

- (a) Whether all the stone crushing units in the State of Odisha, in particular, the stone crushing units mentioned in the complaint operating in District Ganjam, have got clearance from the State Government under the Environment (Protection) Act, 1986 and Air (Prevention and Control of Pollution) Act, 1981.
- (b) What steps are being taken by the State Government to ensure that stone crushing units are strictly set up and run in accordance with the provisions of the environmental laws?
- (c) What steps the State Government proposes to take for revising the minimum wages for the workers working in the stone breaking and crushing units, since the same was revised as far back as 2009?
- (d) Whether, the Government has any plans for introducing health insurance for workers working in stone crushing units.

**5.91** In response, the Principal Secretary, Department of Forest and Environment, Government of Odisha sent an interim report informing that:

- (a) steps are being taken to expedite the process of closure of those stone crushing units, which have not been fulfilling the legal requirements under the Environment (Protection) Act, 1986 and Air (Prevention and Control of Pollution) Act, 1981;
- (b) preliminary notification regarding revision of minimum wages has been issued by the Labour and ESI Department inviting objections and suggestions for the revision of minimum wages for the crushing units and the last date for receiving objections was 20 June 2012 and thereafter final notification will be issued after considering such objections/ suggestions;
- (c) the ESI Act, 1948 is applicable to factories including stone crushers and establishments employing minimum 10 employees and hence employees covered by the Act in the stone crushing units are provided medical care and that the ESI Scheme has been implemented in three centers, i.e. Ganjam, Berhampur and Aska. Besides, workers who come within BPL category are being covered under the Rashtriya Swasthya Bima Yojana.

**5.92** The Commission thereafter received another report from the Joint Secretary, Home Department, Government of Odisha in which it was communicated that the State

Government had notified minimum wage of ₹126 per day for a worker working in the stone breaking or stone crushing unit. The Director, Environment-cum-Special Secretary, Forest & Environment Department, Government of Odisha also informed that out of 1,932 stone crusher units running in the State of Odisha, 772 had been granted consent by the Board and 407 applications seeking consent were being processed. Showcause Notice had been served against 361 units. The State Pollution Control Board had issued closure directions to 392 stone crusher units, out of which 159 units had been sealed by the District Administration. So far as applicability of ESI Act, 1948 to the stone crusher units was concerned, the Joint Secretary, Labour and ESI Department, Government of Odisha, forwarded a copy of the letter dated 27 September 2013 of the Deputy Director (REV-1), Employees State Insurance Corporation, Regional Office, Odisha which disclosed that 63 units, having minimum of ten employees, were covered under the ESI Act in seven Districts of the State.

**5.93** The Commission next considered the matter on 21 January 2014 and called for more status reports in the matter from the Director, Environment-cum-Special Secretary, Department of Forest & Environment, Government of Odisha. The issue continues to be under consideration of the Commission.

*13. Deaths of Labourers Engaged in Illegal Stone Quarries in Rajasthan due to their Deteriorating Health  
(Case No. 2204/20/2/2011)*

**5.94** The Commission received a complaint from Shri Sanjeev Kumar Chaddha regarding alleged nexus between mines & stone crusher mafia and Mining Engineer Shri J.P. Jakhad at Alwar due to which illegal mining continued in Aravalli hills without the support of any technical guidance thus causing regular collapse of mines and unnatural deaths of poor labourers. The complainant also referred to news reports published in *Dainik Bhaskar* and *Rajasthan Patrika* (on 25 and 26 August 2011), about death of four migrant labourers from Jharkhand and two from Nepal due to collapse of these mines in village Kahrani, Tehsil Tizara, District Alwar, Rajasthan. He further alleged this was the third accident that occurred within a period of 10 months in Tizara due to unsafe, illegal mining and took more than 25 lives of poor migrant labourers.

**5.95** The Commission took cognizance of the complaint and called for a report from the Chief Secretary, Government of Rajasthan.

**5.96** In response, the Deputy Secretary, Home Department (Human Rights), Government of Rajasthan forwarded the report of District Magistrate, Alwar. The report mentioned that in Kahrani village unlawful mining was being carried out and on 24 August 2011 due to caving in of mines, six labourers had died and three others injured. In this regard, an FIR No. 315/11 u/s 304 IPC was registered in which three persons named in the report were arrested and investigation was pending. As none of the deceased or injured was local residents, no financial assistance was provided to them. The report further mentioned that necessary steps were being taken to check illegal mining.

**5.97** On consideration of the report forwarded by the District Magistrate, Alwar, the Commission observed that the said report was silent on the specific allegations of the complainant who had named the officials responsible for the continuous illegal mining in violation of Supreme Court orders. The Commission consequently directed the Chief Secretary, Government of Rajasthan to submit an additional report highlighting therein the steps taken to check illegal mining and action, if any, taken on it. The Chief Secretary was also directed to furnish details of the accidents which had occurred due to illegal mining in the area along with loss of life and steps taken for rehabilitation of the next of kin of the deceased and for the injured.

**5.98** In response to the directions given by the Commission, the Additional Director, Mines forwarded a report dated 7 May 2013 of the Mining Engineer of Alwar District which pointed out the steps taken by the State Government during the last three years to check illegal mining. The report also revealed that the issue raised had been a subject matter of SLP No. 19628-29/09 in which vide order dated 14 December 2011, a central executive committee (CEC) was constituted and it submitted a report in the Supreme Court on 4 January 2012. The CEC had placed on record its appreciation for Shri J.P. Jakhad, Mining Engineer, against whom allegations had been leveled. The report, however, admitted that in the incident occurring on 24 August 2011 in which six workers died and four others were injured, an FIR No. 315/11 was registered at P.S. Bhiwadi, Phase-III. In addition, it was reported that on the same site again on 16 October 2011, three more workers had died and another FIR No. 39/11 was registered and action taken by the Forest Department.

**5.99** The Commission considered the matter on 16 September 2013 and observed that the report was silent about the outcome of the investigation in FIR No. 315/11 and FIR No. 39/11 and also on the steps taken for the rehabilitation of the next of kin of the deceased and the injured. Accordingly, the Chief Secretary, Government of Rajasthan was directed to submit an inclusive report on the aforesaid issues within four weeks.

**5.100** The Deputy Secretary, Mining Department, Government of Rajasthan informed that in the FIR No. 315/11, charge sheet had been filed against the four accused, and in compliance with the directions of the Supreme Court in SLP No. 19628-29/09, 25 stone crushers were sealed. The work was also stopped in 27 mining sites. During the year 2011-2012 and 2012-2013, the State had raised a demand of ₹ 62,96,00,000 from 15 stone crushers of Tijara Tehsil. Steps were also being taken to check illegal mining. The allegations against Mining Engineer Shri J.P. Jakhad at Alwar could not be substantiated.

**5.101** The Commission considered the material placed on record on 21 January 2014 and observed that the steps taken for the rehabilitation of the next of kin of the deceased and for the injured had not been reported. Accordingly, the Chief Secretary, Government of Rajasthan was asked to submit an additional report concerning the status of rehabilitation of the family members of the deceased labourers. The report is awaited from the State Government.

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### **RIGHT TO FOOD**

#### **A. INTERNATIONAL SCENARIO**

**6.1** Despite the codification of right to food in Article 25 of the United Nations Declaration on Human Rights in 1948 and in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966, food as a human right, remained indistinct and difficult to understand, even to human rights pioneers, as late as the 1970s. A major conceptual breakthrough in “rights” thinking came when a study prepared for the United Nations on the legal content of the right to food included the elaboration of the three levels of State obligations: to respect, protect, and fulfill human rights, a concept now regularly used in human rights work. These developments towards a new way of thinking and understanding the “right to adequate food” (RtAF) pushed civil society actors to campaign for it as a basic human right and an essential demand at the 1996 World Food Summit in Rome.

**6.2** In the wake of the momentum generated, important progress was made in the form of the Rome Declaration on World Food Security, which reaffirmed “the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger”. The momentum from the achievements in 1996 led to the adoption of General Comment 12 by the United Nations Committee on Economic, Social and Cultural Rights (Committee of ESCR) in 1999. It provided clarification on the normative content and the related obligations of State with respect to the RtAF.

**6.3** In addition, the right to food has also been enunciated in various international standards, the most significant of which are the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (RtAF Guidelines) adopted by the Food And Agriculture Organization of the United Nations (FAO). The RtAF Guidelines were developed as a practical tool for States to assist them in implementing their obligations at the domestic level under Article 11 of the ICESCR. These Guidelines have done much to raise awareness and increase recognition about RtAF and nutrition as a human right. They have also been instrumental in promoting the importance of recognizing the right to food in national legal frameworks. Guideline 7, in particular, invites States to initiate constitutional or legislative review to facilitate the progressive realization of the right to adequate food in the context of national food security. States are also advised to envisage “administrative, quasi-judicial and judicial mechanisms to provide adequate, effective and prompt remedies accessible, in particular, to members of vulnerable groups”.

**6.4** One of the major achievements of the RtAF Guidelines has been an emerging paradigm shift in recognizing right to food as a human right – one that moves away from charity based models and entitles individuals and communities to adequate, accessible and available food, and imposes obligations on States to respect, protect and fulfill the right to food. Further, through this paradigm shift a new consensus on food and nutrition has developed. The paradigm shift has also seen interconnectedness between food and energy, financial, economic and ecological crises. Today, there is a growing awareness about the enormous effects of economic and financial policies – such as price volatility, food speculation, mega-development projects, bilateral trade and investment treaties, and drastic austerity measures – on food security and nutrition. From this, many governments and international institutions are beginning to recognize the importance of policy coherence between these areas and food and nutrition. Similar recognition has occurred with respect to the interconnectedness of the right to food, in areas such as access to land, workers rights, water rights, education, agricultural policies and so on, and the importance of policy coherence between these areas.

**6.5** The paradigm shift has in a way allowed for a better understanding of why people are hungry. Today, there is increased recognition that gender-related discrimination is one of the important causes of hunger and malnutrition, and that their involvement and leadership in decision-making and their equal access to natural and economic resources, including inheritance, is vital for food and nutrition security. Other forms of social exclusion like age, disability and other forms of vulnerability are also seen as causes of hunger today.

## **B. NATIONAL SEANARIO**

**6.6** This paradigm shift has successfully contributed for the RtAF at all levels – global, regional, national and local. In India too, right to food is an essential component of right to life and is a Fundamental Right under Article 21 of the Constitution. Accordingly, Government of India is implementing food, livelihood and social security programmes, such as the Integrated Child Development Services (ICDS) Scheme, Mid-day Meal Scheme(MDMS), Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), National Social Assistance Programme (NSAP) and Public Distribution System (PDS) which support vulnerable people so that they can have access to basic needs, especially food.

**6.7** The Supreme Court of India in *People's Union for Civil Liberties vs. Union of India and Ors.* case, till date is “the most spectacular case of a court protecting the right to food”. Initiated in 2001, the case challenged the Government’s failure to address hunger and starvation deaths. The case continues to be before the Supreme Court, but in the last decade, the court expanded its original reach, focusing on larger systemic issues of food insecurity, poverty and unemployment. The Supreme Court, in the given case, has issued a series of interim orders recognizing the constitutional right to food as flowing from the right to life, identifying a number of schemes as legal entitlements, and providing directives on proper implementation of various programmes like the MDMS, ICDS and the PDS. The Supreme



Court also ordered the creation of a new accountability mechanism, like the Commissioner, created to monitor and report on compliance with the court orders.

**6.8** The above case made a considerable impact on realization of right to food in India so much so that the Government of India passed the National Food Security Act (NFSA), 2013, whereby every eligible household is entitled to a fixed amount of food grain per person per month at a nominal price (₹3, ₹2 and ₹1 per kg for rice, wheat and coarse grains respectively). The NFSA has received significant criticism for being at best a food entitlement law not in line with the more holistic approach of the right to food. More specifically, criticism has been raised that the law does not address production issues directly, has no relief for farmers, does not adequately address questions of nutrition and has placed much emphasis on public distribution without tackling the root causes of poverty and hunger.

**6.9** In consonance with the constitutional provisions, the National Human Rights Commission of India has given due importance to the issue of right to food ever since it was constituted. Furthermore, it has constituted a Core Group on Right to Food comprising experts from across the country. As reported in its earlier Annual Reports, it took cognizance of the starvation deaths in Kalahandi, Bolangir and Koraput (KBK) Districts of Odisha as starvation constitutes a gross denial and violation of right to life.

**6.10** During the year under review, it revisited the backward District of Mangan in Sikkim as part of the Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programmes in Selected 28 Districts of India. Besides, as part of the second cycle of the universal periodic review by the Human Rights Council of the United Nations that commenced in 2012, the NHRC, India on its part is looking into the issue of 'food security' as introduction of a "strategy to promote food security" has been accepted as one of the recommendations by the Government of India. It intends to monitor this recommendation by overseeing the implementation of the NFSA in the country. For this purpose, it has devised a framework taking into consideration all the recommendations accepted by the Government of India. The framework has been prepared in consultation with other stakeholders and at the time of writing of this Annual Report, the Commission was in the process of holding meetings with the Secretary/Joint Secretary of related Ministries, which it intends to follow up with regional and national level consultations.

## C. Illustrative Cases

1. *Shortage of PDS Food Items Forces Thousands of Poor to Buy Essential Items from Open Markets at Exorbitant Prices in Remote Areas of Chamba District in Himachal Pradesh (Case No.180/8/2/2013)*

**6.11** The Hindi daily 'Amar Ujjala' carried a press report, captioned "Tisa Mein 64 Depos Mein Ration Hi Nahin". The press report alleged that the supply of sugar through PDS was very little in the Tisa Sub-Division of Chamba District of Himachal Pradesh for three months.



As against a quota of 1414 quintals of sugar a bare 140 quintals were supplied. The news report further stated that mustard oil supply was missing for one month, and only 6000 liters mustard oil as against a quota of 21000 liters was supplied to the PDS Depots. The scanty supply of these essential items in the PDS forced thousands of poor people, living in these remote hilly areas to buy essential items of day to day requirement from the open market at exorbitant prices.

**6.12** The Commission took *suo motu* cognizance of the press report and called for an action taken report in the matter from the concerned District authorities.

**6.13** The Deputy Commissioner, Chamba, submitted a report stating that during the visit of NHRC team to Chamba, an enquiry was conducted by the District Controller, Food Civil Supplies and Consumer Affairs, District Chamba, in which it was mentioned that during the month of September, 2013, 62 fair price shops had lifted the essential commodities from Himachal Pradesh State Civil Supplies Corporation Limited (HPSCSCL) wholesale godown in Tissa. These commodities were wheat, *moong dal*, *urad dal*, sugar, rice and salt. During the month of October 2013, 64 fair price shops lifted the essential commodities from HPSCSCL wholesale Tissa godown. Details of the commodity and amount were mentioned in the report.

**6.14** The Deputy Commissioner further submitted in his report to the Commission that the reporter of *Amar Ujjala* had mentioned about the shortage of essential commodities upto November, 2013. However, after the finalization of tenders for supplies of State subsidized essential commodities like sugar, pulses, edible oils and salt which were in short supply earlier were made available in excess during the month of November 2013 and as wheat, *atta* and rice come under the centrally sponsored Targeted Public Distribution Scheme, these were available in the Fair Price Shops.

**6.15** He further submitted that the District Controller as well as the Area Manager of HSCSCL Chamba remained in touch with the headquarters in order to make essential commodities available on priority basis. The list of commodities supplied to different Fair Price Shops was enclosed.

**6.16** The matter continues to be under the consideration of the Commission.

2. *Nine Children Die and Fifty Become Ill After Consuming Mid Day Meal in a Government Primary School in District Saran, Bihar*  
(Case No. 2467/4/32/2013)

**6.17** The Commission came across a distressing press report captioned "Nine children die, 50 fall ill after consuming mid-day meal in Bihar" that appeared in the English daily 'The Hindu' on 17 July 2013. The press report alleged that nine children lost their lives and nearly 50 fell seriously ill after consuming mid-day meal, served in Gandaman Primary School in Jajauli Panchayat, Mashraikh Block of Saran District in Bihar. As per the report, the

children, aged between three and twelve years were being served rice, *dal*, potato and soya bean vegetable. The report further mentioned that a high level inquiry was ordered into the incident and the State Government had announced a compensation of ₹ 2,00,000, to the family of each of the deceased children.

**6.18** Pursuant to the directions of the Commission, the Chief Secretary, Department of Education, Government of Bihar, Patna submitted a report stating that regarding the incident a case Crime No. 154/13 was registered against Principal In-charge Smt. Meena Kumari. It was further stated that as per report of Director, FSL, an organohosphorous named “monocrotophos”, which is highly poisonous was found in the samples of the cooking oil and its container. In addition, it was stated that Smt. Meena Kumari was arrested and is in judicial custody. A polygraph test was also conducted on her. A Special Investigation Team (SIT) of eight members had been constituted to investigate the matter.

**6.19** The Superintendent of Police, Saran, Champaran, in his report dated 18 December 2013, informed that a chargesheet bearing No. 187/13 under Section 302/307/328/201/120-B/34 IPC and under Section 3(1)(i)/3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the accused persons Meena Kumari and Arjun Rai *alias* Arjun Prasad Yadav had been filed on 19 October 2013 and efforts were on to arrest the accused Dhruv Prasad Yadav.

**6.20** The Commission vide its proceedings dated 24 February 2014 thus directed the District Magistrate, Saran to submit a report whether any monetary relief had been paid to the victims or next of kin of the deceased children under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, and otherwise.

**6.21** Reports received from the concerned authorities were under examination of the Commission.

3. *147 Girls Fall Ill After Consuming Mid Day Meal in Neyveli Lignite Corporation Girls Higher Secondary School in Tamil Nadu*  
(Case No. 1197/22/46/2013)

**6.22** The Commission came across a press report appearing in ‘The Times of India’ on 19 July 2013, captioned “TN school meal leaves 147 girls ill”. The press report alleged that 147 students of Classes VI to IX of Neyveli Lignite Corporation (NLC) Girls Higher Secondary School complained of nausea and vomiting immediately after they ate the meal between 1:00 p.m. to 1:30 p.m. They were taken to NLC hospital, 2 kms. away in school vans and ambulance. All of them were later discharged after treatment.

**6.23** The Commission took *suo motu* cognizance of the press report and opined that the matter underlined a gross violation of right to food of students, and vide its proceedings dated 24 July 2013 issued a notice to the Principal Secretary (Education), Government of

Tamil Nadu and the Superintendent of Police, Cuddalore, Tamil Nadu to submit a report in the matter.

**6.24** Reports have been received from the Principal Secretary (Education), Government of Tamil Nadu and the Superintendent of Police, Cuddalore, Tamil Nadu and the same are under consideration of the Commission.

4. *Death of Two Persons due to Alleged Starvation and Malnutrition in Narayanpur Kheda Village of Jaipur, Rajasthan*  
(Case No. 815/20/6/2010)

**6.25** The Commission received a complaint dated 11 May 2010 from an Advocate, Radhakanta Tripathy, which drew its attention towards a newspaper report about the death of two persons, namely, Nanda Bheel and Kamla Bheel allegedly due to ailments caused by chronic under-nourishment in Narayanpura Kheda village. It was reported that at the instance of the District Administration, the Chief Medical and Health Officer visited the village on 8 May 2010 and sent 18 patients to the hospital for severe malnourishment. The Sub Divisional Officer reported that 24 persons were still in hospital with malnutrition symptoms.

**6.26** Pursuant to the directions of the Commission, the Government of Rajasthan intimated that Kamla Bheel died on 7 May 2010 in her house, due to illness and not due to malnutrition. She was medically examined by a doctor at Mahatama Gandhi Hospital, on 27 and 30 April 2010 and was undergoing treatment as per the medical advice. She had been suffering from skin disease and respiratory problems.

**6.27** The report also stated that a medical team, along with the district officials, examined the villagers on 8 May 2010 and provided necessary treatment. Nineteen patients were found to be suffering from skin disease. As the villagers indicated their willingness for treatment at the hospital, 20 patients were admitted in the M.G. Hospital for treatment by a skin specialist.

**6.28** Apart from the medical treatment, the report also states that under MGNREG Scheme, seven projects were undertaken and employment provided to 509 persons. 143 families were issued job cards and eligible persons sanctioned pension or old age pension.

**6.29** The Commission considered the report and observed that it did not indicate whether any survey had been conducted in the district about the people living below the poverty line, their regular medical check-ups and provision of BPL cards to them. There was no information provided on the number of persons eligible for engagement in gainful employment, the number of persons eligible for grant of pension or old age pension and the number of actual beneficiaries. The district authorities were directed to submit a further report, covering these aspects.

**6.30** In response, the District Magistrate informed that a survey of the people living below poverty line, regarding the status of their health check up, was conducted. There are special counters for BPL card holders at 80 medical establishments in the district. The report specified the number of job cards issued and, that all the persons who sought jobs were provided with the same under MGNREGA scheme. It also mentioned that under the scheme of the State Government for the grant of the widow pension or old age pension, the applications received were scrutinized and thereafter 56,616 eligible candidates were sanctioned pension under different schemes. The report was, however, silent about payment of compensation to the next of kin of the deceased.

**6.31** The District Magistrate informed that after the death of Kamla and Nanda Bhel, a bag of wheat was provided to the next of kin of the deceased.

**6.32** The Commission considered the material placed on record, including a medical report addressed to the Chief Medical and Health Officer of Bhilwara, revealing that the general complaints of the patients were regarding burns in hands and feet, general weakness, pigmentation and rashes over skin lasting for few days to 2-3 months. The report suggested that during treatment the victims should be provided nutritional supplements (multivitamin injection and tablet) and recommended long term nutritional support. The Commission observed that the victims suffered malnutrition and had died due to complexities thereof. The Commission issued a show cause notice to the Government of Rajasthan as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993, be not recommended to be paid to the next of kin of the deceased.

**6.33** The Commission did not receive any reply to the show cause notice and vide its proceedings dated 22 February 2013 confirmed that the human rights of two persons had been violated and recommended to the Government of Rajasthan to pay a sum of ₹ 3,00,000 each, as relief for the next of the kin of the deceased Kamla and Nanda Bheel.

**6.34** Pursuant to the directions of the Commission, the District Collector informed that a sum of ₹ 3,00,000 each was paid to Mangoo, father of deceased Kamla and to Lali Bheel, wife of the deceased Nanda Bheel.

**6.35** On compliance of its recommendations, the Commission closed the case vide its proceedings dated 29 October 2013.

5. *Two Children Suffering from Acute Malnutrition in Sonbhadra District of Uttar Pradesh (Case No. 33185/24/69/2012)*

**6.36** The complainant in her complaint dated 3 September 2012 *inter alia* alleged that Master Chander Shekhar, aged 2 years and Kumari Mandodri, aged 7 years, the son and daughter respectively, of Shiv Kumar, a resident of Raunp village of Sonbhadra District, were suffering from acute malnutrition. She requested appropriate action in the matter.

**6.37** Pursuant to the Commission's communications, the concerned District Magistrate forwarded a detailed report of the joint enquiry conducted by SDM, Chief Medical Officer, Food and Supplies Officer, District Welfare Officer and others.

**6.38** The report admitted that Master Chander Shekhar and Kumari Mandodri had been suffering from malnutrition. As per the report, on 23 November 2012, a medical check-up of the children found that Mandodri was suffering from malnutrition with anaemia and splenomegaly. Chander Shekhar, was also a victim of malnutrition.

**6.39** Both of them were admitted to the Nutrition Rehabilitation Centre, Sonbhadra and given treatment. The report further stated that Bitani had been living with her children separately from her husband at her father's house in Ghasiya Basti, which is just 1 km away from the District Hospital. The Nutrition Rehabilitation Centre is also located in the said District Hospital where nutritious food is supplied free of cost. The Antodaya Ration Card issued in the name of her husband, Shiv Kumar, was handed over to her, so that she could draw 35 kilograms food grains, sugar and other articles on subsidized rates.

**6.40** Besides, it was found out that the other children of Ghasiya Basti had been going to the school, getting scholarship, uniforms, books and mid-day meals. Old age pension and widow pension was also being given to the senior citizens and widows of Ghasiya Basti. It was mentioned in the report that 69 job cards were issued to the residents of Ghasiya Basti under the Mahatma Gandhi National Rural Employment Guarantee Scheme and Bitani had one such job card. A sum of ₹142 per day is given to each job card holder who volunteers to offer their services under the Scheme.

**6.41** The Commission vide its proceedings dated 5 August 2013 closed the matter in view of the reports received from the State Government.

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## ***Chapter - 7***

### **RIGHT TO EDUCATION**

**7.1** The Eighty-sixth Constitution Amendment of 2002 made right to education a Fundamental Right by inserting Article 21A, 51A(k) and amending Article 45. The inserted Article 21A states 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 51(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”.

**7.2** In the light of the above amendment, and for fulfillment of the constitutional mandate and the obligations arising out of international covenants including the Convention on the Rights of Child, the Right of Children to Free and Compulsory Education Act was enacted in 2009. It came into force on 1 April 2010. The Act initiated a rights based framework where every child between the age of six and fourteen years has the fundamental right to education. It is a landmark legal provision in the Indian education system.

**7.3** The said Act:

- Mandates the Right of children to free and compulsory education till completion of elementary education in a neighbourhood school.
- Clarifies that ‘compulsory education’ means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. ‘Free’ means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
- Makes provisions for a non-admitted child to be admitted to an age appropriate class.
- Specifies the duties and responsibilities of appropriate Governments, local authority and parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.
- Lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.
- Provides for rational deployment of teachers by ensuring that the specified



pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.

- Provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.
- Prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition,
- Provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centred learning.

**7.4** Though the National Commission for Protection of Child Rights (NCPCR) has been designated as the agency to monitor provisions of the Act, the NHRC through its 'Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India' is monitoring the implementation of the Act as it contains specific provisions for disadvantaged groups, such as child labourers, migrant children, children with special needs, or those who have a disadvantage owing to social, cultural, economical, geographical, linguistic, gender or any such factor along with other flagship programmes of the Government of India such as *Sarva Shiksha Abhiyan* and Mid-Day Meal Scheme.

## **A. Illustrative Cases**

1. *Lack of Facilities for More Than 400 Students of a Primary School Being Run in a Single Room in Kaithal, Haryana*  
(Case No. 3422/7/9/2014)

**7.5** The English daily 'The Tribune' dated 11 March 2014 carried a press report captioned, "One-room school for 412 students". The press report stated that there was only one classroom for 412 students, studying in Standard I to V in Shakti Nagar Government Primary School, situated at district headquarters town of Kaithal, Haryana. That one room was also used as kitchen to cook the mid-day meal during rainy season and on any rainy day. The classes were held in open ground and verandah and some of the classes were held in two separate *chaupals*, located at a distance of 300 to 500 yards, from the school.

**7.6** The press report also stated that there was only one toilet which was being used by the teachers, staff of the school (men and women) and students (girls and boys). The drinking water was stored in a tank during supply hours but in absence of any supply of the drinking water it had to be fetched from hand or submersible pumps located in the vicinity of the school. The newspaper report further stated that the condition of the school building was so dilapidated, that it had already been declared unsafe. Moreover, the one room space was also being used to store 200 chairs and 80 benches received in the school, a few months ago.

**7.7** Taking *suo motu* cognizance of the report, the Commission in its proceedings dated 19.03.2014 observed that the contents of the press report raised a serious issue of the violation of human rights of the children, the staff members and the teachers of the school and was also a violation of the fundamental rights of those people. The Commission issued notice to the Government of Haryana to submit a detailed report in the matter. The State Government is yet to respond to the notice of the Commission.

**2. Denial of Scholarship to Dalit Students due to Lack of Funds in Ahmedabad, Gujarat  
(Case No. 803/6/1/2013)**

**7.8** Shri Vasudev Charupa drew the attention of the Commission to the denial of scholarship to 3,125 Dalit students in Ahmedabad, Gujarat. It was alleged that scholarship applications in respect of 1,613 students were pending and 1,512 students were denied the scholarship due to lack of funds. It was also alleged that approximately ₹3 crores had been siphoned from the money meant for the Dalit students.

**7.9** The Commission took *suo motu* cognizance of the matter on 6 June 2013 and sought a report from the Government of Gujarat.

**7.10** In response to the directions of the Commission, the Principal Secretary, Social Justice & Empowerment Department, Government of Gujarat informed that out of the pending proposals for scholarship of 3,125 students, cheques for 1,512 students had been issued to the concerned schools or colleges. After verification of the required details and proposals, scholarships for the remaining 1,613 students were pending as their applications were incomplete. After due compliance, cheques were issued to the concerned institutions for the remaining 1,613 students and as such scholarship was paid to all the 3,125 students. It was further stated that a grant of ₹ 109.86 crore was allotted for the whole state, against the provision of ₹80 crore under post-matric scholarship scheme for the year 2012-2013. It was further stated that a sum of ₹16.39 crore was allotted for Ahmedabad District and there was no delay in the payment of scholarship due to scarcity of funds.

**7.11** In view of the above report filed by the State Government, stating that the scholarship amount was disbursed to all the students and there was delay only because some of the applications were not filled up properly, the Commission closed the case.

3. *Teenage Rape Victim and Her Two Sisters Forced to Leave the School in Fatehabad District, Haryana*  
(Case No. 6343/7/4/2012)

**7.12** The Commission came across a press report, captioned “Rape victim’s father wants all 3 girls back in school”. It was alleged that a 13 years old girl was sexually assaulted by a sexagenarian for over five months in Khai village in District Fatehabad, Haryana. The father of the girl alleged that he was pressurized to hush-up the matter and withdraw his three daughters from the school. The school, where his three daughters had been studying, informed him that his daughters could not be allowed to continue in the school. However, an enquiry conducted by the District Education Officer revealed that school leaving certificates had been issued to the girls, against a request signed by the father of the victim.

**7.13** Taking *suo-motu* cognizance of the matter, the Commission issued notice to the Government of Haryana, the District Magistrate, Fatehabad and the Director of Education to submit report in the matter.

**7.14** Pursuant to the above directions, reports were received from Deputy Commissioner, Fatehabad and Director, Elementary Education, Haryana. As per the reports, an FIR was registered against the culprit, Sonu *alias* Sohan Lal, and he was produced before the Court. It was denied that the Sarpanch and other members of the Panchayat ever tried to hush up the matter or that Shri Kushal Chand was forced to withdraw his three daughters from the Government Middle School, Khai.

**7.15** The reports received did not reflect upon whether Shri Kushal Chand was examined on the issue. Hence, the Commission directed the Deputy Commissioner, Fatehabad, to get the statement of Shri Kushal Chand recorded and forward a copy of the statement to the Commission.

**7.16** Deputy Commissioner, Fatehabad forwarded a copy of the statement of Shri Khushal Chand recorded in his presence. The statement revealed that Shri Khushal Chand was living in Nangal village on his own will and worked as a labourer under MGNREG scheme and his daughters were studying in Nangal School. Due to the problem of long distance from his house to the school, he had readmitted his daughters in Nangal School from Khai and Boda Schools. He was living in Nangal village without any pressure from anywhere. He stated that he would go back to his native village Dhani after his daughters grew up. The report further stated that the complainant was satisfied with cooperation extended by Administration.

**7.17** Since the complainant was satisfied with the cooperation, the Commission closed the case vide its proceedings dated 5 August 2013.

4. *Class II Student Locked Throughout Night Inside the Classroom due to Negligence of Teacher of a Government School, in Rajasmand, Rajasthan  
(Case No. 594/20/32/2013)*

**7.18** The Commission received a complaint from Shri R.H. Bansal, alleging that an eight year old Class-II student was locked inside the Class Room due to negligence by the school teacher of a Government school in Rajasthan and the child could only be rescued the next day.

**7.19** The Commission took cognizance of the complaint and called for a report from the Department of School Education, Government of Rajasthan.

**7.20** The Primary Education Department of the State forwarded copies of the enquiry reports of Director, Elementary Education, Rajasthan, District Education Officer, Rajsamand and other subordinating officers. According to the reports, the minor boy Suresh Gameti, student of Standard-II was locked inside the class-room due to the negligence of Gopal Lal Gameti, working as “Shiksha Sahyogi”, in the school and the child had to remain locked throughout the night. The said official, who was on contract basis, was removed from service.

**7.21** Upon consideration of the report, the Commission observed that the helpless and hapless student of Standard-II, named Suresh, had to suffer mental agony and other hardships of having spent a whole night inside the class-room, under lock, due to negligence by the school teacher. The Commission held that admittedly, human rights of the victim has been violated in this matter and therefore vide its proceedings dated 8 October 2013 issued a Notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Rajasthan to showcause as to why interim relief of Rupees one lakh may not be recommended to be paid to the victim.

**7.22** In response to the show cause notice, the Joint Secretary of Elementary Education, Government of Rajasthan, reported that only one teacher was posted in the school where the incident took place. The student was sleeping on a *dari* on the ground and he remained sleeping till the school was closed for the day. Hence, nobody noticed him inside the classroom and it was locked from outside. On the next day, he came out. There was no intentional action on the part of any employee or teacher to lock the student inside the classroom and, as such, there was no basis for grant of compensation.

**7.23** Reply of the State Government is under consideration of the Commission.

5. *School Seats Guaranteed for Poor Students Lying Vacant in the Schools of Karnataka due to Improper Implementation of the Right to Education Act  
(Case No. 477/10/0/2013)*

**7.24** The Commission came across a news report, captioned “Karnataka : Over 34 per

cent seats lying vacant under RTE”, wherein it was reported that over 34% of seats, including 37,000 seats, guaranteed for poor students, were lying vacant in the schools of Karnataka because of lack of proper implementation of the Right of Education Act in the State.

**7.25** Taking suo motu cognizance of the news report, the Commission expressed the view that the news report raised a serious issue of violation of Right to Education, especially of the children of the weaker sections of the society. The Commission vide its proceedings dated 30 August 2013 issued a notice to the Government of Karnataka, calling for a report in the matter.

**7.26** Report received from the Director (Primary Education) Government of Karnataka is under consideration of the Commission.

6. *Students Made to Clean School Premises Before Attending the Daily Classes in Government Schools in Bulandshahar, Uttar Pradesh*  
(Case No. 19365/24/18/2013)

**7.27** The Commission came across a distressing press report captioned, “UP students clean floors before class”. It was alleged that students of primary and higher secondary schools were made to clean the schools premises before attending their daily classes. The children were even engaged in pulling a cart and carrying the mid day meal. As per the report, school children were found doing menial jobs in Government schools in Gangerua, Pahasu and Thujapur villages of Bulandshahar District.

**7.28** Taking suo motu cognizance of the press report, the Commission perceived that the contents of the press report raised a serious issue of violation of Right to Education of the students and vide its proceedings dated 31 May 2013 issued notice to the Government of Uttar Pradesh to submit a report in the matter. The Commission also directed the State Government to inform the Commission as to whether or not there were regular *Safai Karamcharis* or Peons to take care of menial jobs in the premises occupied by primary, middle and higher secondary schools run by the State Government of Uttar Pradesh in all the districts.

**7.29** Response received from the State Government is under consideration of the Commission.

7. *Sixth Standard Student Forced to Drink his Urine by the Principal of Don Bosco English School, Vejalpur in Ahmedabad, Gujarat*  
(Case No. 238/6/1/2014)

**7.30** The Commission came across a news item, captioned “Principal forces 11-year-old to drink urine”. The news paper report alleged that a 6th standard student of Don Bosco English School, Vejalpur, Ahmedabad was forced to drink his urine by the School Principal



after the student was found urinating in a plastic bottle in his class room. The boy later told his mother that he was found urinating in the class room by the Peon of School and taken to the Principal of School who forced him to drink his urine.

**7.31** The news paper report further stated that there was no urinal on the floor on which the class room of the student was situated and there were only a few toilets in the school. Hence, he went to the ground floor for urinating where there was a long queue. The boy had forgotten his snack box in his class room and returned to the class but wanting to urinate immediately, he urinated in a plastic bottle in the class room.

**7.32** According to the news report, the matter was taken to the Vejalpur Police Station. As per the police version, the parents had given an application that they did not want to file a complaint in the case as the parties had compromised the matter and as part of compromise, the Principal quit his post.

**7.33** Taking *suo motu* cognizance of the news report, the Commission vide its proceedings dated 14.02.2014 issued notices to the Director of Education, State of Gujarat, the Education Department, Govt. of Gujarat and the Commissioner of Police, Ahmedabad calling for a report.

**7.34** Despite reminder, report has not yet been received from the authorities concerned.

**8.** *Twelve Minor Students Assaulted by Senior Students During Ragging in a Government Run Residential School in the Chirang District, Western Assam (Case No. 267/3/19/2013)*

**7.35** A press report, captioned “Ragging leave 12 minors with fractures” caught the Commission’s attention. The press report alleged that senior students of a Government run residential school, in Chirang District of Western Assam, thrashed 12 minor students of classes 7th and 8th, in a case of ragging, leaving four of them with broken bones. It was further alleged that the minors were attacked with bamboo poles and wooden planks on the night of July 29th, after they evaded a “ragging session”. The parents of the victims’ students lodged an FIR at the local police station.

**7.36** Taking *suo motu* cognizance of the press report, the Commission vide its proceedings dated 05.08.2013 called for a report from the Secretary, Elementary & School Education, Government of Assam, District Magistrate and Superintendent of Police, Chirang.

**7.37** Reports received from District Magistrate and Superintendent of Police, Chirang are under consideration of the Commission. However, report has not been received from the Secretary, Elementary & School Education, Government of Assam.

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## ***Chapter - 8***

### **Rights of People from Scheduled Castes, Scheduled Tribes and Other Vulnerable Groups**

**8.1** Scheduled Castes and Scheduled Tribes constitute the socially and economically deprived caste groups of the society. Even though the incidence of poverty among these groups has declined over the years, the socio-economic gap between this group and rest of the population still continues to persist. The protective legislation has been in place for them since many years, yet atrocities and crimes continue to be committed against them. They suffer disproportionately at every level, particularly in terms of access to health care, education, equal access to employment opportunities and justice mechanisms.

**8.2** The National Human Rights Commission, set up under the Protection of Human Rights Act, 1993 with a mandate to promote and protect human rights in the country, has always paid particular attention to the needs of the weakest sections of Indian society, among whom the Scheduled Castes and Scheduled Tribes are among the most vulnerable. Hence, the Commission has been actively engaged since its inception in the protection and promotion of the human rights of Scheduled Castes, Scheduled Tribes and other vulnerable sections of the society.

**8.3** The Commission gives special care to them by taking *suo motu* cognizance of reports of atrocities committed against or problems faced by these communities, deals on priority with complaints it receives of human rights violations committed against them and works closely with other key stakeholders, including the NGOs who champion their cause, to try to get them justice and to bring them redress.

**8.4** The Commission as a result undertakes research, holds regular training programmes and workshops, and has published booklets, to encourage all stakeholders to work together to ensure that there are no atrocities committed on these communities, that there is no discrimination against them, or any other violation of their human rights.

**8.5** In this endeavour, the Chairperson, Members and senior officers of the Commission continue to monitor the implementation of different programmes and special schemes for people belonging to these communities. The NHRC in 2000 also commissioned a study to Shri K.B. Saxena, IAS (Retd.) to find out the nature and magnitude of atrocities committed on scheduled castes and the manner in which these could be prevented.

**8.6** One of the prominent recommendations made by Shri Saxena in his “Report on Prevention of Atrocities Against Scheduled Castes” was that the Commission should organize at least one open hearing in a year “where the victims of major atrocities can present their experiences and grievances in seeking justice from government agencies and human rights bodies/non-governmental organizations/social workers and activists may apprise

the Commission of difficulties encountered by them in taking up their complaints". In its endeavour to implement this recommendation, the Commission held its first open hearing in Puri, Odisha from 8 to 10 April 2012. So far, it has held open hearings in the States of Gujarat, Tamil Nadu, Rajasthan, Maharashtra and Uttar Pradesh. In all these hearings, the victims are heard in the presence of the State/District government officials and cases regarding deprivation of their rights are decided on the spot and relief is also provided to them at the same time.

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

**8.7** The Commission has selected 28 districts, one from each State, from the list of identified districts availing the Backward Regions Grant Fund of the Ministry of Panchayati Raj, Government of India and endorsed by the then Planning Commission of India. The main objective of the programme is to spread understanding among the people in the identified districts on key human rights concerns like health, education, food, employment, hygiene and sanitation, political and civil rights, etc. The Commission has so far visited 16 districts and has made review visits to Wayanad and Chamba districts.

**8.8** During the period under review, the NHRC as part of the human rights awareness and facilitating assessment and enforcement of human rights programme re-visited the district of Chamba in Himachal Pradesh from 17 to 20 November 2013 under the leadership of Shri S. C. Sinha, Member, NHRC. The details of the observations and recommendations made during the course of the review visit to Chamba are listed at **Annexure - 11**. These recommendations were forwarded to the Chief Secretary, Government of Himachal Pradesh and the Deputy Commissioner of Chamba District for taking required action on issues related to custodial justice, health, school education and mid-day meal, integrated child development services scheme, projects under MGNREG scheme, food and public distribution system and other issues of concern. A copy of the said observations and recommendations was also forwarded to the concerned Secretary of the Ministries of Health and Family Welfare, Human Resource Development, Women and Child Development and Food and Public Distribution for facilitating the District authorities of Chamba in providing succor to its inhabitants. At the time of writing of this Annual Report, the Commission had not received any action taken report from the aforementioned Ministries. The Commission once again requests all these Ministries to have their action taken report sent to the Commission so that an assessment can be made about the follow up action.

## **B. National Seminar on Manual Scavenging and Sanitation**

**8.9** A National Seminar on Manual Scavenging and Sanitation under the Chairmanship of Justice Shri K.G.Balakrishnan was held at Vigyan Bhavan on 21st February, 2014 with

the objective of making possible the comprehensive and early implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 to eradicate Manual Scavenging. The recommendations made during the Seminar are at **Annexure – 12**.

**8.10** These recommendations were forwarded to all concerned in the Centre and States/ Union Territories for taking required action on them.

### **C. Bonded Labour System**

**8.11** In pursuance of the directions of the Supreme Court dated 11 November 1997 in Writ Petition (Civil No. 3922) 1985, the Commission continues to monitor the implementation of the Bonded Labour System (Abolition) Act, 1976 in the country. This is being done by calling for information from States and Union Territories on half-yearly basis in a prescribed format that focuses on identification, release and rehabilitation of bonded labourers. During the period under review, 14 States and Union Territories, namely, Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Jharkhand, Madhya Pradesh, Maharashtra, Gujarat, Rajasthan, Odisha, Uttarakhand, Chandigarh, Punjab and Daman and Diu, responded to the prescribed format of the Commission. All these States and Union Territories have furnished 'nil' information with regard to the given parameters on bonded labour.

#### *Meeting of NHRC Core Group on Bonded Labour*

**8.12** The Commission also continues to hold meetings with members of Core Group on Bonded Labour from time to time. One such meeting was held in the Commission on 25 March 2014 under the chairmanship of Justice Shri D. Murugesan, Member, NHRC. The meeting reviewed the implementation of the Bonded Labour System (Abolition) Act, 1976 and prepared draft amendments in the Rules under the Act.

### **D. Research Study on Tribal Rights and Impact of Panan HEP and Teesta IV Hydel Power Projects in Sikkim**

**8.13** The above research study was commissioned to ENDEV Society for Environment and Development, a Kolkata based organization in February 2013. The main objective of the study is to evaluate the socio-cultural impact of the two aforementioned hydel power projects in Dzongu Lepcha Reserve, Sikkim. The work on the research study was started by ENDEV in May 2013. The study is to be completed within a period of one year.

### **E. Research Study on Governance Challenges for Implementation of Workers' Rights in Hazardous Industries : A Study of Alang-Sosiya Ship-Breaking Yard, Gujarat**

**8.14** This research study was commissioned by the NHRC to the Tata Institute of Social Sciences (TISS), Mumbai in March 2013. The main objectives of the study are to – identify

major issues revolving around workers rights in hazardous industries at Alang-Sosiya, Bhavnagar along with developing and sharing information related to working conditions so as to reduce workers vulnerabilities in ship-breaking industries; develop an institutional mechanism and make recommendations to improve existing working conditions of workers and reduce environmental implications of ship-breaking industries at Alang-Sosiya; and develop a model for building a network of stakeholders involved in the ship-breaking industries at Alang-Sosiya, Bhavnagar. The study was initiated by TISS in April 2013 and is to be completed in a year's time.

## F. Illustrative Cases

1. *A 16 Year Old Dalit Girl Beaten and Burnt with Cigarette in the Presence of Police in Patna, Bihar*  
(Case No. 2724/4/26/2013)

**8.15** The Commission came across a press report captioned, "Police watch as minor Dalit girl is beaten and burnt with cigarette" that appeared in the 'Hindu' dated 6.8.2013. The press report alleged that a girl of a Singh family (OBC) had eloped with the brother of the victim, Ritu, aged 16 years (a Dalit and the name changed) in June 2013. The incident sparked a backlash. On 31 July 2013, the police picked up Ritu and brought her to the Shastri Nagar Police Station in Patna. From there, she was taken by 3 police personnel on a search mission in a police vehicle to Bela (about 70 km from Patna). The mother of the girl and her brother, Sintu Singh also accompanied the police party. They drove the whole night with Ritu looking for the absconding couple. On the way, Sintu Singh bribed the police by giving them ₹ 10,000 and two bottles of alcohol and thereafter he tore off Ritu's salwar kameez and inflicted injuries on her hands and legs with a burning cigarette. It was also alleged that the police party merely kept on laughing. Subsequently, the search party found the runaway duo that night around 2 a.m. and returned to the police station.

**8.16** It was further mentioned in the report that an FIR had been filed against the girl's family members. However, no action was taken against the police officials, who were party to alleged incident of the atrocity.

**8.17** Taking *suo motu* cognizance of the press report, the Commission in its proceedings dated 08 August 2013 observed that the contents of the reports raised a serious issue of violation of human rights of the Dalit girl and therefore, issued notice to the Director General of Police and the Senior Superintendent of Police, Patna, Bihar to submit a report in the matter. They were also directed to inform the Commission as to what legal and disciplinary action had been taken against the concerned police officials for illegally detaining the victim in police custody as well as for neglect of duties u/s 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by not preventing the accused from committing the atrocities on the victim.

**8.18** Report from SP, Patna is under consideration of the Commission.

2. *Atrocities on Dalit People for Defying a Diktat and Unfurling the National Flag at the Site of a Temple in Bandi Village in Rohtas District of Bihar (Case No. 3035/4/28/2013)*

**8.19** NDTV.com carried a story that a dalit man was stoned to death and at least 40 others, including old women and children, were seriously injured for defying a diktat and unfurling the national flag at the site of a temple in Bandi village in Bihar's Rohtas district, 160 km from Patna. The Dalits were allegedly attacked by the upper caste men.

**8.20** Taking *suo motu* cognizance of the news report, the Commission in its proceedings dated 27 August 2013 observed that the contents of the report raised a serious issue of violation of human rights of the weaker sections of the society and issued notice to the Chief Secretary, Government of Bihar and Director General of Police, Bihar calling for a report in the matter four weeks.

**8.21** Reports received from concerned authorities in the matter are under consideration of the Commission.

3. *Demolition of Super Structures of People Belonging to Scheduled Castes by Municipal Authorities in Varanasi District in Uttar Pradesh (Case No. 34188/24/72/2013)*

**8.22** The Commission invited complaints from the people belonging to scheduled castes who had a complaint of atrocity committed by a public servant or of negligence by a public servant in prevention of atrocity, to take up those complaints in its Open Hearing at Varanasi, Uttar Pradesh.

**8.23** The complainant, Horilal in his complaint dated 14 September 2013 alleged that they were residents of Malin Basti and their homes were demolished by the officials of Nagar Nigam (Municipal Corporation). The families rendered homeless and nobody was taking stock of the situation.

**8.24** The Commission took cognizance of the complaint and issued notice to the District Magistrate, Varanasi and Commissioner, Nagar Nigam, Varanasi directing them to submit a detailed report in the matter.

**8.25** During the Open Hearing at Varanasi on 26 November 2013, the representatives of the District Magistrate, Varanasi and the complainants were heard. The complainants alleged that the super-structures were demolished even without a notice. On the other hand, the Municipal Authorities contended that super structures were erected in a pond and, therefore, as per the directions of the Supreme Court, they were demolished and eviction was carried out.



**8.26** After hearing both the parties, the Commission expressed the opinion that admittedly, the complainants were not given show cause notice before the super structures were demolished, and the demolition was carried out in violation of rule of law. However, it was submitted by the Municipal authorities that the complainant was aware of the action taken by the Municipal Authorities and he was called in person also.

**8.27** The Commission also expressed the view that the action taken by the authorities was not sufficient as the occupants of the demolished structures were not given notice in writing which is a pre-condition as per the law. Therefore, the Commission recommended a sum of ₹ 50,000 each to the four occupants whose super structures were demolished and the Commission also observed that it was for the authorities to take action for removal of the encroachment in accordance with law. The Commission directed that the compensation amount should be paid in a period of four weeks and compliance of its recommendation should be reported within six weeks.

**8.28** Despite reminder, compliance report has not yet been received.

**4.** *Harassment of a Scheduled Caste Woman Social Worker by Local People in the Name of Caste in Noida, Uttar Pradesh*  
(Case No. 34942/24/30/2013)

**8.29** The Commission received a complaint from Ms. Sumitra Chauhan belonging to Scheduled Caste. The complainant, a Social Worker and also Secretary of a Committee duly formed to take care of a Balmiki Temple situated at Sector, 20, NOIDA, Gautam Budh Nagar, Uttar Pradesh alleged that a group of certain local people had been harassing her in the name of her caste and also threatening her for life. She further alleged that on 10.9.2013 the opponents who had been named in the complaint physically assaulted her with an intention to kill her.

**8.30** Though the complainant had not mentioned whether she had approached the police or any other State agency, the Commission found it appropriate to call for a report in the matter from the Senior Superintendent of Police, Gautam Budh Nagar, Uttar Pradesh.

**8.31** The matter was taken up on 26.11.2013 during Open Hearing of the Commission held in its premises to hear complaints received from Meerut Division.

**8.32** The complainant, who appeared before the Commission, reiterated the substance of her petition. She confirmed that, when the incident took place on the 10 September 2012, she had submitted a written complaint to the police, which was not accepted. The SSP, who was also present, accepted that it was a lapse on the part of the police officer concerned.

**8.33** The record showed that the police conducted its enquiry after the complaint was made to the Commission, and therefore on its directives. This belated enquiry was unable

to establish that she had indeed been attacked, but since it was held several weeks after the incident, it was to be expected. The Commission observed that given the details in the complaint of what the complainant claimed had been done to her; the findings of that tardy enquiry were not plausible.

**8.34** The Commission held that the police were gravely at fault, under the terms of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), in not discharging their obligations u/s 4 and directed the SSP to conduct an urgent enquiry to fix responsibility and send a report thereafter to the Commission.

**8.35** While observing that prima facie, it was clear that the rights of the complainant were violated by the refusal of police to take cognizance on her complaint, and to offer the protection to which she was entitled, the Commission vide its proceedings dated 19.12.2013 directed the Chief Secretary, Government of UP, to show cause as to why the Commission should not recommend relief for the complainant, apart from any other relief to which she was entitled under the provisions of the Prevention of Atrocities Act.

**8.36** Reply to the show cause notice has not yet been received.

5. *Attack on Dalits After Marriage of a Dalit Boy with a Girl of Upper Caste in Pabnava Village in Kaithal District of Haryana  
(Case No. 2795/7/9/2013)*

**8.37** 'The Times of India', Delhi Edition dated 16 April 2013 carried a news item captioned "Dalits Attacked for Inter-Caste Marriage, Flee the Haryana Village". As per the news report, Suryakant, a Dalit boy of Pabnava village in Kaithal District of Haryana eloped with an upper caste girl of Rod community and later tied knot. This led the angry members of upper caste to attack the members of Dalit community, which forced them to leave the village. 10 people including 7 policemen were injured in the attacks.

**8.38** The Commission took *suo motu* cognizance of the press report and called for a report from the District Magistrate and Superintendent of Police, Kaithal, Haryana

**8.39** Pursuant to the directions of the Commission, Deputy Commissioner, Kaithal sent a report informing that on 08.04.2013 one Prithvi Singh of Rod caste, resident of Pabnava made a complaint at Police Station Dhand against Suryakant of Dailt community alleging that he had eloped with his daughter on the pretext of marrying her. On his complaint, a case crime No.36 u/s 366 IPC was registered at Police Station Dhand on 09.04.2013. During investigation of the case, it was revealed that Meena Devi, d/o Prithvi Singh had solemnized marriage with Suryakant on 08.04.2013 at Guru Ravidas Mandir, Sector-53, Chandigarh and sought police protection from Hon'ble High Court of Punjab and Haryana. On the request, the Hon'ble High Court directed the police to give protection to them. The report further stated that in the intervening night of 13/14.04.2013, about 300/400 members of Rod community attacked 15/20 houses of Dalit community and caused damage to their

property and household goods. During the incident, three members of Dalit community and seven police personnel sustained injuries. It was also reported that an FIR No.39 u/s 148, 149, 323, 427, 452, 307, 395, 120-B, 323, 353, 186 IPC and 25/54/59 Arms Act and 3(1) 10, 15 (2) 5, SC/ST Act was registered at Police Station Dhand on 14.04.2013 against fifty members of Rod community and 300/400 unknown persons. As per the report, police have arrested 34 accused persons and after the incident, a police post had also been set up in the village to control the situation.

**8.40** It was further reported that a Four-member Committee headed by Tehsildar Pundri which had been constituted to assess the damage caused to the properties of Dalit had recommended to pay a sum of ₹ 8,19,386 to the affected families.

**8.41** The Commission was informed that a sum of ₹ 1,30,79,000 had been granted from the Chief Minister's Relief Fund for the victims and an amount of ₹ 12,20,000 had also been granted under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Director, SC & OBC Welfare Department, Haryana.

**8.42** Report is under consideration of the Commission.

6. *A Series of Suicides by Dalit Students in Premier Educational Institutions in the Country During the Last Four Years*  
(Case No. 1751/13/16/2013)

**8.43** The complainant through an email complaint dated 24 May 2013 drew the attention of the Commission to an online news report highlighting a series of suicides by dalit students in premier educational institutions in India during the last four years. The news report cited 18 specific incidents of death by suicide by students of IIT, Bombay, IIS Bangalore, IIT, Kanpur, AIIMS, New Delhi and various other premier institutions and alleged that it was an indication of widespread prevalence of caste discrimination in the Indian education system.

**8.44** The Commission also came across another news item published in the newspaper "The Hindu", dated 06.02.2013 under the caption "Violence rocks Dalit hostel as Patna varsity looks the other way" reporting fierce caste violence witnessed in Bhimrao Ambedkar Welfare Hostel of Patna during the last week of January, 2013.

**8.45** The Commission observed that it could not be denied that caste discrimination is still prevalent in the country in all pervasive form. The Constitution of India has elaborate provisions to do away with caste discrimination and to uplift the dalits and empower them through affirmative actions. Education is an important tool by which the dalits and other weaker sections of the society can be empowered and helped to achieve their rightful dignified place in the society.

**8.46** Taking cognizance of the matter, the Commission in its proceedings dated 5 June 2013 observed that the above news report, if true, reflect widespread prevalence of discrimination

towards dalits in the educational institutions driving them to take extreme steps which is gross violation of human rights. It further observed that the State had a responsibility and duty to ensure that a rightful atmosphere was created in the educational institutions, whereby everyone irrespective of caste, creed or religion could pursue their studies. The Commission issued notice to the Secretary, Ministry of Human Resources Development, Govt. of India, calling for a report.

**8.47** No response to the Commission's notice has been received so far.

7. *Atrocities on Tribals by Policemen and Forest Department Officials in Parsahidadar Village in Mahasumund District of Chhattisgarh*  
(Case No. 113/33/12/2014)

**8.48** The Commission came across a distressing report published in Hindi newspaper 'Rajasthan Patrika' dated 15/02/2014 captioned "Ghar Torr Marne Kae Liya Chhora Adivasion Ko". The press report alleged that in Parsahidadar Village in Mahasumund District of Chhattisgarh, 70 Adiwasi families had been rendered homeless in violation of their human rights. The Forest Department officials and policemen were subjecting the adivasis to beatings and had made them to run to escape the beating. 63 villagers had been arrested and sent to jail. 250 persons were allegedly wandering in the jungle to escape beating and arrest. The Forest Department claimed that the land was their property and the administration had leveled allegations on the villagers about encroachment of the forest land. However, the adivasis claimed that they were settled in the area developed by former MLA Shri Pritam Diwan. The report also mentioned that 23 women had been detained in Raipur and 26 men were detained in jail in Mahasamund. 14 children who got separated from their parents were detained in Children Observation Home in Raipur.

**8.49** Taking *suo motu* cognizance of the press report, the Commission in its proceedings dated 20.02.2014 observed that the contents of the newspaper report raised a serious issue of violation of human rights of tribals and issued notice to the Chief Secretary, Government of Chhattisgarh, calling for a factual report. He was also requested to inform the Commission about the steps taken for relief and rehabilitation of the 70 adivasi families rendered homeless.

**8.50** Report received from the State Government is under consideration of the Commission.

8. *Alleged Police Inaction in a Case of Gangrape of a Minor Tribal Girl at Mangwarkudi Village in Guna District of Madhya Pradesh*  
(Case No. 9296/12/17/2013-WC)

**8.51** The complainant, a human rights activist sought Commission's intervention and appropriate action in a case of gang rape of a minor girl by two persons in Guna District of Madhya Pradesh on 14 January 2013. As per allegations made in the complaint, the victim

had gone to her agricultural field at about 9 AM, when Imrat Lodhi and Dharmender Lodhi committed rape on her at Village Mangwarkudi within PS Cantt., District Guna, Madhya Pradesh.

**8.52** In response to the directions of the Commission, the Superintendent of Police, Guna, sent a report which revealed that a crime no. 33/13 u/s 376 (2) (g)/506 IPC and Section 3 (2 -5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered in connection with the aforesaid incident at Police Station Cantt., Guna, Madhya Pradesh against two named accused. During investigation, both the accused persons were arrested. After investigation, a charge sheet was submitted against both the accused in the court on 28 January 2013. The case was pending trial before the court.

**8.53** It was also intimated that a sum of ₹ 25,000 had been sanctioned as monetary relief for the victim. However, no proof of payment of monetary relief to the victim was received.

**8.54** A copy of the above report was sent to the complainant who sent his comments requesting for payment of remaining amount of compensation by the State Government and ensure protection of victim and her family members by the State Government.

**8.55** The Commission considered the matter on 23 December 2013 when it observed that the monetary relief of ₹25,000 was inadequate in view of the scale laid down in the schedule to Annexure-1 to Rule 12 (4) of the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 as amended by the Government of India vide notification dated 23 December 2011. As per amended notification, a minimum total sum of ₹1,20,000 is payable to the victim of rape under item no. 17. Out of which, 50% i.e. ₹60,000 ought to have been paid to the victim after her medical examination and especially after filing of charge sheet against the accused. The remaining amount of ₹ 60,000 is payable after conviction of the accused or decision of the case.

**8.56** Hence, the Commission directed the District Magistrate, Guna, Madhya Pradesh to send a report within six weeks along with proof of payment of ₹ 60,000 to the victim girl. The Commission also directed that other relief admissible under item no. 21 of Annexure-1 of the schedule to Rule 12 (4) within 3 months of the incident be also provided to the victim at an early date.

**8.57** The Commission further directed the District Magistrate and Superintendent of Police, Guna, Madhya Pradesh to ensure full protection and safety to the victim and her family members.

**8.58** Reports received from District Magistrate and Superintendent of Police, Guna, are under consideration of the Commission.



9. *Release and Rehabilitation of Bonded Labourers in Aligarh, Uttar Pradesh  
(Case No. 36291/24/3/09-10-BL)*

**8.59** The Commission received a complaint from one Mahipal S/o Chatarpal, R/o Village Gori Pura, PS Dhanari, Distt. Badayun, U.P. alleging that he along with his family members and other persons were being held as bonded labourers in Brick Kiln owned by one Amar Singh situated at Village Chandyana, PS Pali, Tehsil Atrauli, Distt. Aligarh, U.P. He further alleged that the owner of the Brick Kiln had neither been paying them wages nor allowing them to move out of the place. He requested the Commission to intervene for rescue the aforesaid persons held as bonded labourers by the said Bhatta owner and get their wages paid to them.

**8.60** Taking cognizance of the complaint, the Commission directed the Distt. Magistrate, Aligarh, (U.P.) to depute a competent officer for enquiry on the spot and identification of bonded labour, if any. The Commission further directed that if any bonded labourers were found, immediate steps be taken for their release, and an Action Taken Report submitted to the Commission.

**8.61** A report was received from Distt. Magistrate, Aligarh which revealed that a team comprising Naib Tehsildar, Atrauli, In-charge police station Pali, Mukeempur and Labour Enforcement Officer visited the brick kiln. The team found only 10 labourers working there as moulders and all the complainants had left the brick kiln along with their family members after settling their accounts. The labourers informed that they were getting ₹225 per thousand bricks moulded which was above minimum wages. Minimum wages register was not kept for the inspection. No child labour or interstate migrant was found working there. The Vigilance Committee was working in the District.

**8.62** The Commission found the report unconvincing and observed that no sincere efforts appeared to have been made by the Distt. Magistrate to find out the situation prevalent at the brick kiln. The Commission opined that in view of number of complaints being received by the Commission, it was necessary to impress upon the administration that prevalence of bonded labour system is a slur on the administration. Failure to eradicate the system is nothing but breach of Constitutional obligations by the State. The cases which have been received by the Commission recently indicate that there is no heart for poor and therefore, the officers are required to be sensitized so that the provisions of various welfare laws enacted by the Parliament are implemented in right earnest and the problems faced by the poor labourers are solved. The Distt. Magistrate has a central role to play and it is for him to instruct all the officers conversant with the provisions of law in the field of bonded labour to identify bonded labourers by giving top priority.

**8.63** The Commission observed that when a complaint is received that a person belonging to Schedule Caste and Scheduled Tribes is forced to render service in one or the other form which may amount to forced or bonded labour and the officer is not discharging his duties or



wilfully negligent in his duties, in such case the provisions of law may be attracted and it also becomes necessary to provide necessary housing, supply of water, reasonable provisional store, school facility and such other facilities namely medical, recreational, etc.

**8.64** Law mandates that the employer shall maintain registers and records giving particulars of employees employed by him. The work performed by them, the wages paid to them and the receipt obtained. When the brick kiln owner claims that he has paid minimum wages under Minimum Wages Act then it is for him to produce documentary evidence in proof of payment to show that he has paid wages in accordance with law. It is for this purpose that he is required to maintain muster roll. If the employer fails to produce the aforesaid books of accounts then the Distt. Magistrate or the officer authorized by him must raise the presumption that the labourers were kept as bonded labourers.

**8.65** The Commission observed that Section 13 of Bonded Labour System (Abolition) Act provides that at every District and Sub-Divisional level a Vigilance Committee shall be formed and the members of the Committee should be taken along with and in absence, assistance of NGOs should be taken so that labourers who alleged to be working under threat or coercion of the employer can make statements freely in the presence of such independent agencies. There was no mention of this fact in the report received and therefore, the Commission asked the Distt. Magistrate, Aligarh to send his comments. on the following points:-

1. When the brick kiln owner failed to produce the books of accounts why presumption has not raised that the labourers were kept as bonded labourers?
2. Whether any Vigilance Committee has been formed as per Section 13 of Bonded Labour System (Abolition) Act and if not reasons thereof?
3. How many brick kilns working in the District obtained permission under Pollution Laws as per Pollution Control Board, if no permission is obtained what action has been taken?
4. How many brick kilns in the districts were visited/inspected by the Department working under the Collectorate to check whether labourers were paid their wages in accordance with law or not (Minimum Wages Act/Rules Payment of Wages Act and Minimum Wages Act)?
5. In the report it has not been specifically stated that the labourers were given one day leave in a week and what action has been taken for non compliance?

**8.66** District Magistrate, Aligarh sent a report which revealed that the team comprising of Tehsildar, Atrauli, In-charge police station, Pali and Labor Enforcement Officer, Aligarh inspected the bricklin. The complainant and 11 other families had already left the bricklin on 6th December, 2009 after having settled their accounts and no complaint was made and as such they were not bonded labourers. 48 brick klin owners had obtained certificate from

Pollution Control Board and action had been initiated against 25 bricklin owners whose applications had been rejected.

**8.67** The commission considered the report and found it to be cryptic as it was reproduction of the report forwarded earlier by District Magistrate, Aligarh. No attempt was made to find out whether the brick klin owner was maintaining books of accounts, Muster roll, payment of wages register and attendance register etc. and therefore the possibility of exploitation of the laborers could not be ruled out.

**8.68** The Commission further observed as under:

*“Law mandates that the employer shall maintain registers and records giving particulars of employees employed by him, the work performed by them, the wages paid to them and the receipt obtained. When the brick kiln owner claims that he has paid minimum wages under Minimum Wages Act then it is for him to produce documentary evidence in proof of payment to show that he has paid wages in accordance with law. It is for this purpose that he is required to maintain muster roll. If the employer fails to produce the books of accounts then the Distt. Magistrate or the officer authorized by him must raise the presumption that the laborers were kept as bonded laborers.*

*Every employer is required to maintain a register of wages in form X. He shall mention the details of the person employed complete the entries pertaining to wage period. A wage slip in form XI shall be issued by every employer to every person employed by him. He shall get the signature or thumb impression of every person employed, on the register of wages and wage slip. These entries in the register shall be authenticated by the employer or any person authorized by him in this behalf. A muster roll shall be maintained by every employer at the work spot and kept in form IX and the attendance of each person employed in the Establishment shall be recorded daily in that form within three hrs. of the commencement of the work shift. It has been observed by the Commission that the team who visits the brick kiln for inspection does not take trouble to verify as to whether the employer is maintaining these records as mandated by Law. The team also does not verify if the entries in the register of wages and wage slips have been authenticated by the employer or by any other person authorized by him in this behalf. In the absence of these books of accounts a duty is cast on Distt. Magistrate to presume that the allegations made in the complaint are true and they are being kept as bonded laborers.”*

**8.69** In view of the facts and circumstances, the Commission directed the Distt. Magistrate, Aligarh, UP to declare all the persons mentioned in the complaint as bonded labourers and issue them Release Certificates. He was also directed to forward release certificates to Distt. Magistrate, Badayun for rehabilitation of released labourers under intimation to the Commission.

**8.70** In compliance of the directions of the Commission, Distt. Magistrate, Aligarh informed that the labourers had been declared as bonded labourers and their release certificates had been transmitted to Distt. Magistrates of Badayun and Moradabad for their rehabilitation.

**8.71** The Commission issued notices to Distt. Magistrates, Moradabad and Badayun calling upon them to apprise the Commission about the steps taken for the rehabilitation of the released bonded labourers.

**8.72** District Magistrate, Sambhal informed that 11 labourers belonging to District Sambhal had been rehabilitated. The District Magistrate, Badayun also informed that the remaining two released Bonded Labourers had been rehabilitated in the District. The proof of payment of prescribed amount of financial relief was also forwarded to the Commission.

**8.73** The Commission considered the matter 3.12.2013 when it observed that all the 13 released Bonded Labourers had been rehabilitated in District Sambhal and District Badayun, UP and appropriate legal action had already been initiated against the errant employer and therefore, no further action was required. The reports were taken on record and the case was closed.

*10. Release and Rehabilitation of Bonded Labourers in District Jammu Tawi, Jammu and Kashmir  
(Case No. 28/9/5/2012-BL)*

**8.74** Complainant's family and other labourers were allegedly recruited by the labour contractor Chatram for working as brick moulders at the brick kiln of one Ashu @ Kaku, situated in village Rajbala, Tehsil Akhnaur, District Jammu Tawi, Jammu & Kashmir. When the labourers asked for their wages after one week of work, the owner obtained their signatures on some papers and told them that wages would be paid to them only by the contractor and that he had made the payment to the contractor as per the deal. He agreed to pay only ₹300/- to ₹400/- per week for kitchen expenses. When the labourers tried to contact the contractor, they discovered that he had already left along with his family. It dawned upon the labourers that the contractor had pawned them to the brick kiln owner. It was further alleged by the complainant that the labourers were being forced to work without payment of wages and under intimidation and they were not being allowed to leave.

**8.75** The Commission took cognizance of the complaint and directed the District Magistrate, Jammu, J&K to depute a responsible officer for an on the spot inquiry and to get the bonded labourers released, if found any and submit an action taken report.

**8.76** Pursuant to the directions of the Commission, the Additional District Magistrate, Jammu, sent his report stating that the labourers were migrant labourers and such labourers did obtain advance from the owners of the brick kilns through their Headman / Jamadhar. The report further said that in almost all cases, the wages paid were above the minimum wages fixed by the government.

**8.77** The Commission found the report to be vague and general in nature and also silent on the release of the labourers and therefore, directed the District Magistrate, Jammu, to get a thorough inquiry conducted on the allegations made in the complaint as per the provisions contained in the Bonded Labour System (Abolition) Act, 1976.

**8.78** Deputy Commissioner, Jammu sent a report dated 19.01.2013 which was not different from the earlier report. The report was as vague as it did not mention the rate of minimum wages as well as agreed rate of wages. It also did not mention the wages earned by the labourers and simply declared that the complaint-labourers had left the place long back after clearance of their dues. As to the application of the provisions of the Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1976, he made a bizarre statement as under:

**8.79** “Under the Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1976, the said contractor / Jamadhar is required to obtain licences from the native state, from where the labourers migrate. Non compliance on the part of the contractors / Jamadhar entails legal action. The host State (where the brick kiln are located) comes into play, only thereafter. As these Jamadhars / contractors normally do not get licences from their native states, so it is difficult for the host state to carry a follow up action and regulation under the Act thereon”.

**8.80** The Commission observed that by making this statement, the Deputy Commissioner betrayed his ignorance about the provisions of the Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act. As per Section 1 (4) of the Act, this Act applies to every establishment in which five or more Inter-State migrant workmen are employed or who were employed on any day of the preceding twelve months. Under Section 6 of the Act, no principal employer of an establishment to which this Act applies shall employ Inter-State migrant workmen in the establishment unless a certificate of registration in respect of such establishment is obtained. Hence, it was totally wrong on the part of the Deputy Commissioner to say that the host State could not do anything in the matter if the contractors had not obtained a license from his native state.

**8.81** The Commission further observed that it was apparent from the two reports of the Deputy Commissioner that the labourers had received advance from the owner of the brick kiln as per the prevailing practice and it was further corroborated by the statement of the owner, quoted by the Deputy Commissioner in his report dated 19.01.2013, to the effect that the labourers had taken amounts in excess of their labour charges. The Commission held that from the two reports of the Deputy Commissioner, it could be safely concluded that the complaint-labourers were migrant labourers and they were brought to the brick kiln by some contractor, who received advance. It also corroborated the allegations made by the complaint-labourers that the contractor had pawned them to the brick kiln owner.

**8.82** As the Deputy Commissioner failed to report as to how and when did the complaint-labourers leave the brick kiln, the Commission observed that in the absence of the statutory records, which the brick kiln owner was required to maintain under the various labour laws, it was not established that the complaint-labourers were paid at a rate not less than the minimum wages. The rate of agreed wages and the wages earned by the labourers was also not established. It was also not proved that the labourers were paid their earned wages. In the absence of any evidence to the contrary, the allegation that the labourers were forced to work under intimidation was also proved and those factors would bring the complaint-labourers within the ambit of Bonded Labourers.

**8.83** The Commission also said that reading together Sub-sections (d), (f), (g) (i), (iv) and Sub-section (i) of Section 2 of the Bonded Labour System (Abolition) Act, 1976, gives a broad idea as to who can be considered as a bonded labourer.

**8.84** The Commission said that a 'Bonded Labourer' means a labourer who incurs, or is presumed to have incurred, a 'bonded debt' which means an advance obtained, or presumed to have been obtained by him under, or in pursuance of the bonded labour system. 'Bonded Labour System' means the system of forced, labour under which a debtor enters, or is presumed to have entered, into an agreement with the creditor to the effect that in consideration of an advance obtained by him or for any economic consideration received by him, he would render labour or service to the creditor for a specified period or for unspecified period, either without wages or for nominal wages i.e. less than the minimum wages fixed by the government.

**8.85** The Commission also quoted several decisions of the Supreme Court on the subject. In the case of PUDR Vs. Union of India, AIR 1982 SC 1473, popularly known as Asiatic Workers' case, the Supreme Court has maintained that non payment of minimum wage amounts to forced labour.

**8.86** In the case of Bandhua Mukti Morcha vs. Union of India, AIR 1984 SC 802, the Supreme Court went a step further by raising a presumption of bonded labour. The relevant observation of the Supreme Court is excerpted below :

**8.87** "Whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act".

**8.88** In the case of Neeraja Choudhary Vs. State of MP, AIR 1984 SC 1099, the Supreme Court redefined the expression 'bonded labour' as given under the Bonded Labour System (Abolition) Act, 1976. The Supreme Court said as under:



**8.89** “Wherever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labourer, unless the employer or the State Government is in a position to prove otherwise by rebutting such presumption.”

**8.90** In the light of the facts and circumstances of the case and the law on the subject, as propounded by the Supreme Court, the Commission held that the complaint-labourers squarely come within the ambit of ‘Bonded Labourers’ and the Deputy Commissioner, Jammu, had failed in his duty to declare them as such labourers, which amounted to violation of their human rights. Hence, the Commission vide its proceedings dated 11.6.2013 issued notice U/S 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Jammu & Kashmir, through its Chief Secretary, to show cause as to why the Commission should not recommend that the complaint-labourers be declared bonded labourers and rehabilitated as per law.

**8.91** Response is awaited from the State Government.

11. *Release and Rehabilitation of Bonded Labourers in Gautam Budh Nagar District, Uttar Pradesh*  
(Case No. 1732/24/30/2012-BL)

**8.92** The Commission received a complaint from Shri Ramesh alleging that the labourers were working as brick moulders at the OM brick kiln, situated in Village Chachula, District Gautam Budh Nagar. The rate of wages was agreed at ₹450/- per thousand bricks but they were not being paid their earned wages and forced to work. They were intimidated when they demanded their due arrears of earned wages of ₹75,000/- from the owner and were also not allowed to leave the brick kiln.

**8.93** The Commission took cognizance of the complaint and directed the District Magistrate, Gautam Budh Nagar to depute a responsible officer for an on the spot inquiry and to get the bonded labourers released, if found any and submit an action taken report.

**8.94** DM, Gautam Budh Nagar responded to the Commission’s notice and reported that a team of the District officials visited the brick kiln in question on 05.12.2012 and found it non-functional. Only the brick kiln owner, his Munshi and a few labourers, who had come in search of work, were found present there. The owner failed to produce any records and on the basis of oral evidence of the owner and others, the inspection team concluded that the complaint-labourers had come to the brick kiln to work as brick moulders in October, 2011, and they worked up to 26.12.2011. Advance payment had been made to the labourers and they were paid their earned wages fortnightly after nominal deduction on account of the advance payment. The owner stated during the inquiry that the wages were paid at the rate of ₹ 370/- per thousand bricks. However, no documentary proof in this regard was provided. Without mentioning the minimum wages, the District Magistrate said that the rate of wages was not found to be against the minimum wages fixed by the government.



**8.95** The Commission sought the comments of the complainant on the report of the District Magistrate but the complainant did not offer any comments.

**8.96** In the meanwhile, the District Magistrate informed the Commission that prosecution under the Minimum Wages Act and Payment of Wages Act had been filed against the owner in the Court of the Chief Judicial Magistrate. However, the owner of the brick kiln was not prosecuted under the Bonded Labour System (Abolition) Act, 1976, in view of the inspection report.

**8.97** The Commission considered the matter on 11.6.2013 when it observed that it was established that complaint-labourers were paid advance and it was also proved that the brick kiln owner had not maintained the statutory records as required under the various labour laws. The District Magistrate, Gautam Budh Nagar, sent his report only on the basis of the oral evidence collected by the inspection team and the complaint-labourers were not associated with the inquiry. District Magistrate did not try to find out as to how and when did the complaint-labourers leave the brick kiln.

**8.98** The Commission further observed that in the absence of the proof of quantum of work done and the wages paid, the District Magistrate could not claim that the wages were paid at the rate not less than the minimum wages. Even the rate of minimum wages had not been mentioned by him. The complaint-labourers claimed that the agreed rate of wages was ₹450/-. However, as per the oral testimony of the owner, the rate was ₹370/- per thousand bricks. This issue and the payment of arrears of wages remained unsolved in the absence of the records.

**8.99** The Commission also observed that in the absence of the statutory records, there was a presumption that the labourers were not being paid at the rate of minimum wages and it would amount to 'forced labour', as held by the Supreme Court in the case of PUDR Vs. Union of India, AIR 1982 SC 1473. Admittedly, the complaint-labourers were paid advance. Hence, it was apparent that they were not being allowed to leave till the exhaustion of the advance payment received by them. This fact would bring the complaint-labourers squarely within the ambit of 'Bonded Labourers'. Decision of the Supreme Court in the case of Bandhua Mukti Morcha vs. Union of India, AIR 1984 SC 802, is also applicable to the facts of this case.

**8.100** Considering the facts and circumstances of the case and the law laid down by the Supreme Court, the Commission held that the complaint-labourers come within the ambit of bonded labourers and inaction on the part of the District Magistrate, Gautam Budh Nagar, to declare them as bonded labourers and to issue release certificates amounted to violation of their human rights. Hence, the Commission vide its proceedings dated 11.6.2013 issued notice U/S 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why the Commission should

not recommend that the complaint-labourers should be declared bonded labourers and be rehabilitated.

**8.101** Response is awaited from the State Government.

12. *Rescue, Release and Rehabilitation of Bonded Labourers in Bulandshahar District, Uttar Pradesh*  
(Case No. 33229/24/18/09-10-BL)

**8.102** The Commission received a complaint, alleging that the complainant and others, belonging to scheduled caste, were working as labourers at the J & S brick kiln in Udravali village of Bulandshahar district, for about 2 ½ months. A sum of ₹ 190 was to be paid every 15 days to each labourer, in full, for 1000 bricks, by the brick kiln owner Devdutt, resident of Shikarpur. It was also agreed that the employer would provide a place to reside, wood for preparing food and medicine etc. Despite working for about 2 ½ months, the employer did not pay expenditure for food and he did even not pay salary. When the wages were demanded, the labourers were abused and assaulted. The complainant also submitted that they were suffering on account of hunger and were not allowed to go out. The employer also asked his Thekedar, Kalyan Singh, to see that the labourers do not engage themselves in other brick kilns and they were threatened that they would be killed. It was also alleged that there were incidents of misbehaving with the women.

**8.103** The Commission took cognizance of the complaint and directed its Director General (Investigation) to depute competent officers to take immediate and appropriate action in the matter. The Commission also directed the District Magistrate, Bulandshahar to depute an officer for spot enquiry, in identifying bonded labourers, if any and opined that immediate steps were to be taken for their release.

**8.104** The team collected the report drawn by the District Labour Officer, along with a joint statement of several labourers and the statement of the employer.

**8.105** All the labourers were uneducated except one and all used their thumb impression. The joint statement suggested that they came to brick kiln on 7th October, 2009 and the rate fixed was ₹ 190 per 1000 bricks. They started the work from 20 October 2009 and the brick kiln owner was providing residence, wood for preparing food and medicine in case of need. The statements suggested that the labourers were not having good relations amongst them. Apart from disputes between them, the raw material namely, earth, was not good and thus they were unwilling to work. It further suggested that the labourers were afraid on account of anti social elements and were not willing to work anymore.

**8.106** The labourers feared that the employer would not allow them to go. They suggested that there was no ill treatment either by the employer or through his agent and they were free to go anywhere and were not kept as bonded. On 5th November, 2009, the amount was paid to the labourers and they all wanted to go back to their houses.

**8.107** The matter was considered by the Commission when it observed that the statements recorded by the Labour Officer were not permissible as he was not competent to act under the provisions contained in the Bonded Labour System (Abolition) Act, 1976.

**8.108** The Labour Officer, in his report, suggested that no one was held in bonded labour. Under the Act, either the DM has to conduct an enquiry or the DM has to specify the officer under Section 11 to protect the welfare of the freed bonded labour by securing and protecting the economic conditions of such bonded labourers. The enquiry as per Section 10 is required to be carried out by DM or he has to specify the officer who is subordinate to him. In the instant case there is nothing to show that the Labour Officer was subordinate to him and he specified the officer to exercise the powers under the Act.

**8.109** The Commission observed that there was nothing to show that the officer who visited the site had knowledge about the labour welfare legislations.

**8.110** According to the employer they started work on 20th October, 2009. However, they began on 7th October, 2009. There was nothing to indicate what was provided to them for all those days. For not working at the brick kiln, the labourers gave reasons such as there were no cordial relations between the labourers, raw materials such as earth was not good, the employer used to take side of workers of other brick kiln and they were afraid of anti social elements.

**8.111** These facts were not mentioned in the statement, which showed that facts were fudged by someone, but not by the labourers. If there were disputes, the officer would ordinarily ask the nature of the dispute, why there was dispute and with whom. Hence, the Commission did not find the version suggested by the employer to the Labour Officer as acceptable.

**8.112** The Commission observed that the employer stated that a contractor brought the labourers, but in the statement of the labourers, it was stated that they came of their own volition. The statement of labourers and the statement of employer are contradictory.

**8.113** It also observed that it was difficult to understand why all the labourers said that they were not willing to work there on 5 November 2009 when the officer visited the site

**8.114** The Commission further observed that under the current economic hardships, faced by everyone, if the labourers were employed with the rate at which they were satisfied, along with other facilities, why did they desire to leave the place of work and go back to their houses. If they were free to go wherever they liked, then before the officer's visit they could have left place for the reasons stated by the labourers themselves. But, it appears that they were not allowed to go and were kept as bonded labourers.

**8.115** The Commission expressed the view that the report submitted by the Labour Officer to the Collector through his superior officer did not inspire any confidence. There was an

allegation that one of the labourers was not allowed to go out of the Brick kiln, he was threatened and the person belonged to Scheduled tribe. The words used by the employer while addressing the labourer, as referred in the complaint, would also attract the provisions contained in the Scheduled Castes and 4 Scheduled Tribes (Prevention of Atrocities) Act 1989, apart from the provisions contained in the Penal Code. For these cognizable offences allegedly committed by the employer, the FIR ought to have been lodged before the police.

**8.116** The employer did not produce books of account, muster roll, relevant registers and wage slip. The officer had not bothered to inquire all those aspects with a view to verify of its compliance with the provisions of law.

**8.117** In the absence of such documentary evidence, the Commission observed that the statement of employer could not be accepted and in view of version of employer and labour being at variance, the presumption ought to have been raised against the employer. The officer did not bother to inquire whether the employer had requisite license, permit or authorisation to run the brick kiln under the Factories Act, and other legislations.

**8.118** The Commission held that it was clear from the statement of the complainant that it was a case of wrongful confinement for which the police was required to take cognizance.

**8.119** The statement prepared, where thumb impressions were taken, was at variance with the statement of the employer. That, coupled with the fact that the employer failed to observe laws clearly suggested that the labourers were bonded labourers. Therefore, the collector ought to have proceeded against that employer under various provisions of the law. It was his duty to see that labourers are rehabilitated, so such employers do not trap them, yet again. The Commission directed the Collector to act in accordance with law by issuance of certificate and rehabilitation of bonded labourers.

**8.120** A response letter from the DM of Bulandshahar revealed that, at the time of inspection of Jai Gauri Brick Kiln, on 6 May 2010 no bonded labourer was found working. It was further revealed that no evidence was found that the labourers were kept as bonded labourers.

**8.121** The labourers of Kudheni village were feeling neglected as the brick kiln owner was giving prominence to the other labourers. He submitted that complaint appears to have been made after having felt insulted by this. The other moulders of Kudheni village, found working at the brick kiln, did not complain that they were being kept as bonded labourers.

**8.122** The Commission once again considered the matter, observing that the law mandates that the employer shall maintain registers and records, giving particulars of employees employed by him, the work performed by them, the wages paid to them and the receipt obtained. When the brick kiln owner claims that he has paid minimum wages under Minimum Wages Act then it is for him to produce documentary evidence to show that he

has paid wages in accordance with law. It is for this purpose that he is required to maintain a muster roll.

**8.123** If the employer fails to produce the aforesaid books of accounts then the DM, or the officer authorized by him, must raise the presumption that the labourers were held as bonded labourers.

**8.124** Section 13 of Bonded Labour System (Abolition) Act provides that, at every District and Sub-Divisional level, a Vigilance Committee shall be formed and the members of the Committee should be taken along with, and in absence, assistance of NGOs should be taken, so that labourers who alleged to be working under threat or coercion of the employer can make statements freely in the presence of such independent agencies. There is no mention of this fact in the report received. In view of this, a notice was sent to the DM, calling upon him to send comments on these points :

- When the brick kiln owner failed to produce the books of accounts, why was the presumption not raised, that the labourers were kept as bonded labourers?
- Has a Vigilance Committee been formed, as per Section 13 of Bonded Labour System (Abolition) Act and if not, reasons thereof?
- How many brick kilns working in the District obtained permission under Pollution Laws as per Pollution Control Board, if no permission is obtained what action has been taken?
- How many brick kilns in the districts were visited or inspected by the Department working under the Collectorate, to check whether labourers were paid their wages in accordance with law or not (Minimum Wages Act or Rules Payment of Wages Act and Minimum Wages Act)?
- In the report it has not been specifically stated that the labourers were given one day leave in a week and what action has been taken for non-compliance?

**8.125** Perusal of the DM's response revealed that, during enquiry, the brick kiln owner produced records regarding payment made to the labourers under Minimum Wages Act. He was also maintaining the accounts about the bricks moulded by the labourers. It further revealed that notices were issued for the closure of the brick kilns, which had not obtained certificate from Pollution Control Board. It further revealed that for non-compliance of provisions of various acts including Payment of Wages Act, Minimum Wages Act, prosecution had been launched against various brick kiln owners. Apparently, there was no instance of bonded labour.

**8.126** The Commission further considered the matter and observed that, as per the report received, the brick kiln owner was maintaining accounts and the labourers were being paid



wages for the work done. The said account was prepared on a plain paper and not in the prescribed format. The Commission observed that possibility of preparing the same at a later date could not be ruled out. The brick kiln owner was expected to have maintained books of accounts in prescribed format. The labourers being illiterate, the possibility of exploitation could not be ruled out.

**8.127** The Commission directed the DM to declare all the persons mentioned in the complaint as bonded labourers and issue Release Certificates to them. He was also directed to forward those Release Certificates to DM of Aligarh, for their rehabilitation. In response, DM, Bulandshahar forwarded a copy of list of labourers in whose name release certificates had been issued by Sub-Divisional Magistrate, Shikarpur, Bulandshahar.

**8.128** The Commission directed for issuance of notice to DM of Bulandshahar, calling upon him to apprise the Commission about the steps taken for rehabilitation of the released bonded labourers. He responded only after issuance of summons and informed that all the released bonded labourers had been paid the sanctioned amount through cheque for their rehabilitation. The Commission closed the matter on 28.10.2013, as all the 15 released bonded labourers in the matter have since been rehabilitated.

*13. Scheduled Castes Bonded Labourers Rescued in Aligarh, Uttar Pradesh  
(Case No.18571/24/51/2013-BL)*

**8.129** The Commission received a complaint from Jal Devi w/o Sonpal (Jatav), r/o Village Bhopatpur, PS Madrak, Aligarh, U.P. The complainant alleged that three released bonded labourers who belonged to the Scheduled Caste, had been abducted by accomplices of the brick-kiln owner on 14.3.13. They were got released from the bondage on the directions of ADM from a brick kiln owned by Sh. Dinesh Kumar Yadav of Eint Marka D.K.V. located in the district. The complainant further alleged that the brick-kiln owner Dinesh Kumar Yadav was a government servant working with Project Director, Land Development and Water Resources Department at Mainpuri having high political connections. A prayer was made for getting the three labourers Sonpal, Puran and Chhatrapal rescued from the clutches of the brick-kiln owner.

**8.130** Pursuant to the directions dated 29.05.2013 of the Commission, a Team of the Investigation Division conducted a spot enquiry into the matter. During the course of the enquiry the Team examined the complainant, the brick-kiln owner, police personnel, district officials, and other public witnesses and also collected relevant records.

**8.131** The NHRC enquiry team gave its findings as under:-

- (i) The complainant Smt. Jal Devi and her family members were brick kiln workers and were engaged in moulding of bricks at brick-kilns for the last 10 years.



- (ii) They went for work at DKV brick-kiln around 'Diwali' in the year 2012 and had worked there. The complainant and other labourers were not willing to work at the brick-kiln due to change in the agreed conditions. Later on, some of the labourers working in the brick-kiln fled away from the brick-kiln and they lodged a complaint with the district administration, Etawah against the brick-kiln owner.
- (iii) The ADM, Etawah asked the labour department to conduct an enquiry into the complaint of one Dinesh Kumar s/o Nem Singh at DKV Bhatta. Accordingly, on 14.3.2013, a team of district officials headed by the Assistant Labour Commissioner got freed/released 22 labourers with consent of the owner of the brick kiln. However, the then SDM, Bharthana, Etawah, the competent authority to release a labour in bondage, did not accompany the labour enforcement team during the inspection/enquiry.
- (iv) Despite having received complaint related to the bonded labour at the DKV bhatta, practice of giving advance to the labourers and non maintenance of proper records pertaining to wages, the district authorities of Etawah did not take any suitable action under the Bonded Labour Act and merely allowed the labourers to go to their native place by a tractor trolley provided by the brick kiln owner.
- (v) The enquiry revealed that the owner of brick kiln had not allowed the labourers to go to their hometown since October, 2012 till the visit of the labour enquiry team on 14.3.2013 as the labourers had taken advance.
- (vi) Neither any release certificate had been issued nor any action had been initiated against the brick kiln owner by district authorities.
- (vii) Sonpal, one of the alleged victims, reiterated the allegations made by his wife Jal Devi (complainant to the NHRC) that he was abducted from Kisni crossing and forced to work in the farmhouse of the brick kiln owner. The other two alleged victims namely Puran and Chattarpal did not appear before the NHRC team despite many efforts. However, they sent their individual affidavits stating that the complaint made by Jal Devi against the brick-kiln owners was false and labourers were sent to their houses safely. In the above circumstances, it prima facie appeared to the NHRC enquiry Team that these two alleged victims had been won over by the brick kiln owner, as instead of appearing before the NHRC team, merely a written affidavit was submitted by them (Puran and Chattarpal) which was unusual as there was no need on their part to have spent money and prepare written affidavit in support of the brick-kiln owner.

- (viii) Jal Devi, the complainant had also lodged a complaint regarding the incident of abduction to the DM's office on 2.4.2013. In this regard, a Committee consisting of SDM Bhogaon, CO Bhogaon and labour enforcement officer, Mainpuri was constituted by the DM, Mainpuri on 26.4.2013 for taking action on this complaint. However, no action was taken by the Committee till the visit of the NHRC team ie. till 27th June, 2013.
- (ix) Dinesh Kumar Yadav was found to be de-facto owner of the DKV brick-kiln while his family members (wife, his son and daughter) were the de-jure owner of the brick-kiln. Out of four partners in the brick-kiln, three partners were his family members. Being a government servant, he was not supposed to engage himself in business activity.
- (x) The NHRC Team also observed that out of the 22 freed labourers, one of the freed labourer was a girl namely Km. Malti d/o Sonpal (victim) r/o Village Bhopatpur PS Quarsi Aligarh UP. The NHRC enquiry team recorded her statement and she revealed her age to be 12 years. She also appeared to be underage from her appearance. The team of labour department of Etawah had not noticed this fact when they had got freed the labourers from the brick kiln.

**8.132** Upon consideration of the reports received from concerned authorities along with recommendations made by the enquiry team, the Commission directed as under:-

*"DM/SDM, Etawah to issue release certificates of 22 labourers released by the District Administration of Etawah, under the Provisions of Bonded Labour System (Abolition) Act, 1976 along with legal action against the brick kiln owner for keeping bonded labourers.*

*DM, Etawah to conduct an enquiry against the owner of Brick Kiln DKV Bricks for alleged violation of the child labour (Prohibition and Regulation) Act, 1986 regarding the case of Km. Malti.*

*DGP, UP, Lucknow to get a proper enquiry conducted through CB CID of the State regarding allegations of abduction of the complainant's husband namely Sonpal and 2 others."*

**8.133** The matter is still under consideration of the Commission.

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## *Chapter - 9*

### **RIGHTS OF WOMEN AND CHILDREN**

**9.1** Women and children account for over 70 per cent of India's population. Realizing the importance of the role which can be played by women and children in the overall development and progress of the country, the Constitution of India contains provisions for their survival, development, protection, participation and empowerment. These are included in the Fundamental Rights, Directive Principles of State Policy and Fundamental Duties. This empowers the State to adopt measures of positive intervention in favour of women and children. India has ratified various international conventions and human rights instruments which seek to secure equal rights for women and children. Key among them being the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1993 with one reservation and two declaratory statements and the Convention on the Rights of the Child (CRC) in 1992 with one declaratory statement.

**9.2** Despite these commitments, it is estimated that a large proportion of women and children in India are living in difficult circumstances or are vulnerable. Other than this, while there has been an appreciable gain in the overall sex ratio from 933 in 2001 to 943 in 2011, the decline in child sex ratio (0–6 years) from 927 in 2001 to 914 in 2011 is a matter of grave concern. The decline is especially disturbing as it is occurring in spite of a strong legal and policy framework and various government initiatives, including cash transfers and incentive schemes, various media and messaging efforts. If not reversed, it will alter demography, erode gender justice, social cohesion and human development. There are also increasing concerns regarding the gap between male and female infant mortality rate, 49 for girls as compared to 46 for boys. The under-five mortality rate for girls in India is very high at 64 per 1,000 live births as compared to 55 per 1,000 live births for boys. Even sharper gender differentials of 10 points or more in under-five child mortality rates are seen in States such as Rajasthan (19), Uttar Pradesh (16), Jharkhand (14), Himachal Pradesh (14) and Punjab (10). This clearly highlights the need for a comprehensive strategy for care and protection of the girl child, rooted in long term interventions for gender equality.

**9.3** The implementation of the National Rural Health Mission though has resulted in an improvement on many indicators pertaining to gender. Fertility Rates have come down and have reached replacement levels in a number of States; Maternal Mortality Rate (MMR) is improving, from 301 per 100,000 live births in 2003 it has come down to 212 (SRS 2007–2009); Infant Mortality Rate, though still high, has reduced to 47 per 1,000 in 2010.

**9.4** The National Human Rights Commission (NHRC) represents India's commitment to ensure human rights of all. Ever since it came into existence in October 1993, its efforts to protect and promote the rights of women and children have evolved in a variety of interconnected ways over the past two decades focusing on issues relating to discrimination against women and children, violence against women and children, basic health concerns

of women and children, including women's sexual and reproductive health, education of women and children, administration of juvenile justice and special protection measures for women and children, including child labour. In addition, action is being called for on the concerns highlighted in paragraph number 9.2 and 9.3 above by the Commission as part of monitoring the implementation of recommendations accepted by Government of India at the second universal periodic review held in Geneva by the UN Human Rights Council in the year 2012.

**9.5** The paragraphs given below highlight some of the important activities undertaken by NHRC, India on rights of women and children.

### **A. National Conference on Human Rights of Women**

**9.6** A National Conference on Human Rights of Women was organized by the Commission in New Delhi on 18 and 19 February 2014. The main objectives of the conference were to - (i) discuss ways to prevent and eliminate violence against women in the light of the Criminal Law (Amendment) Act, 2013 including the recommendations not incorporated in the above Act and the "Bill of Rights" formulated by the Justice Verma Committee, especially the section on, 'Right to Life, Security, and Bodily Integrity'; (ii) focus on measures to eliminate trafficking in women and girls including steps for their protection, assistance and redressal and also take up necessary action for implementation of CEDAW, Trafficking Protocol (2000), Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women and Amman Programme of Action; (iii) address issues relating to women's sexual and reproductive health rights in line with ICPD and recommendations of the second universal periodic review accepted by the Government of India including elimination of discriminatory and coercive measures from population policies of States/Union Territories impacting on women, and (iv) discuss strategies for strengthening women's empowerment and gender equality.

**9.7** The two-day conference was attended by senior and middle level officials of the Planning Commission, Ministries/Departments of Women and Child Development and Home Affairs at the Centre/States, technical institutions, international organizations, non-governmental and civil society organizations. Besides, Chairpersons, Members and senior officials of State Human Rights Commissions, other National Commissions, and State Commissions participated in the conference.

**9.8** The Conference deliberated on the following substantive issues in four Working Groups:

Working Group-I:	Women's Sexual and Reproductive Health and Rights Including Provisioning of Incentives and Disincentives for Adopting Small Family Norms
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Working Group II :	Violence against Women and Girls
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Working Group III: Women's Empowerment and Gender Equality

Working Group IV: Trafficking in Women and Girls

**9.9** The detailed recommendations that emanated out of the above Working Groups were further discussed and finalized in the concluding session of the Conference. These were again fine-tuned by the respective Member who chaired their working group. All these recommendations are at **Annexure – 13**. Subsequently, these recommendations were forwarded to all the participants. In addition, it was forwarded to the concerned Secretaries/ Directors of Ministries of Women & Child Development, Home Affairs, Health & Family Welfare and Chief Secretaries/ Administrators and Directors General of Police of all the States and Union Territories for compliance by their concerned Ministry/Department and that an action taken report be sent at the earliest so that the Commission is apprised about the status of implementation of the above recommendations. The Commission urges all the concerned stakeholders to comply with these recommendations in all earnestness and send an action taken report to the Commission about their compliance. This would facilitate the Commission in reporting about the progress about women's rights in Beijing+20 as the year 2015 marks the 20<sup>th</sup> anniversary of the Fourth World Conference on Women and adoption of the Beijing Declaration and Platform for Action.

## **B. Birth Registration : Every Child's Right**

**9.10** Birth registration, "the continuous, permanent and universal recording within the civil registry, of the occurrence and characteristics of births in accordance with the legal requirements of a country," is a fundamental right of all children and a basic function of all modern governments. It comprises two elements: entering details of a child's birth (in addition to other relevant information) into official government records, and issuing a 'birth certificate' to the child's parents, including information on the date and place of birth, parents' names and further information such as nationality.

**9.11** The right to birth registration is contained in Article 7 of the United Nations Convention on the Rights of the Child (CRC), which states that "the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents". As well as being a right in itself, birth registration has also been linked with a wide range of other rights and benefits, such as securing a child's access to essential services and protecting children from abuse and exploitation. As part of a complete and accurate civil registration system, birth registration has also been linked to more effective child rights planning and governance, and, more broadly, to promoting social and economic growth.

**9.12** Given the extensive scope of the anticipated benefits of birth registration, there remains a significant lack of available empirical research in India that explores the effects



of birth registration and if and how it benefits children in practice. In order to examine this aspect, in particular, impediments to access the universal birth registration in India, Ms. Loris Liza from the Office of the High Commissioner for Human Rights (OHCHR) called for information from NHRC. The information provided by the NHRC in this respect was as follows :

**Geographical-** The most obvious geographic constraint to birth registration in India is the distance to the nearest birth registration facility. The greater the distance to the point of registration, the more the opportunity and travel costs rise for parents. Moreover, parents may make a wasted trip, as offices often have inconvenient and irregular opening hours, staff may be absent and there may be shortage of paper and other materials. Accessibility is influenced by location and terrain, the condition of infrastructure such as roads, and the availability of public transport. In this way, geographical issues are very strong barrier in the universal birth registration. Hilly regions with their topography and climate create more challenges and further affect birth registration.

**Social-** It is not universally perceived as a fundamental right and, as a result, is given low priority at every level. Registration may not be seen as important by society at large or by a government facing severe economic difficulties or by families struggling with day-to-day survival. Its value is often neglected in the face of problems that are more immediate and tangible and the long-term potential of birth registration to ease such problems is frequently overlooked. It is often seen as nothing more than a legal formality, with little relevance for the development of the child, including access to health care and education services. The end result is a lack of support for birth registration from national and local authorities, and little demand from the general public, who remain unaware of its importance.

**Economic-** There are two sets of economic barriers to birth registration : national and individual. At the national level, government with meager budgets and competing demands may be reluctant to divert scarce resources to the creation of an effective civil registration system. In India, under resourcing has led to scarcity of well-trained, full time personnel, and lack of registration facilities including shortage of basic material. At the individual level, lower birth registration may be due to poverty. Poor families do not consider it as a priority.

**Legal and Political-** India has a specific law addressing civil registration and issues related to registration may be included, in a general fashion, in the civil code or other laws relating to the family, personal identification, the national statistical system and so on. The law dealing with birth registration in India is the Registration of Births and Deaths Act, 1969 (RBD Act). The law decentralizes responsibility for implementing registration systems to State Governments, which has resulted in wide disparity. In other words, though birth registration law exists, there are practical barriers to registration. In some cases legislation does not allow enough time for registration, given the geographical terrain and the availability of registration services. In some cases, barriers are harder to break down as they are enforced

by the State and are therefore not merely physical, but political. Such barriers affect numerous groups disproportionately including migrants, ethnic minorities and women.

**Complex Administration Procedures** - In India, administrative structure is very complex. The procedures are confusing and complicated and need to be simplified.

**Cultural and Historical Traditions** - Even an existing civil registration system, backed by relevant legislation, may be hampered by failure to recognize the culture and everyday realities of local communities. There can be a serious language barrier to registration. Another barrier could be poor understanding of the importance of registration among the population. In backward regions of India, birth registration suffers due to gender bias that excludes women from the entire process. In such a situation, registration is far more likely to be delayed if the father is absent. The gender discrimination that keeps girls out of school can also have a negative impact on birth registration.

**Lack of Resources, Awareness and Incentives** are other factors which act as impediments for accessing universal birth registration system in the country.

**9.13** The NHRC also stressed upon the need for adoption of good practices to improve birth registration and ensure awareness of the importance of birth registration. These were as follows :

1. Encouraging States to prioritize birth registration.
2. Strengthening the capacities of government institutions responsible for birth registration.
3. Piloting computerized record keeping.
4. Facilitating partnerships between government and people.
5. Organizing mass campaigns on universal birth registration.

**9.14** The NHRC on its part is looking into the issue of birth registration in the country by way of monitoring the implementation of recommendations accepted by the Government of India at the second universal periodic review held under the auspices of United Nations Human Rights Council in Geneva in the year 2012. For this purpose, NHRC, India has devised a monitoring framework taking into consideration all the recommendations accepted by the Government of India. The framework has been prepared in consultation with other stakeholders and at the time of writing of this Annual Report, the Commission was in the process of holding meetings with the Secretary/Joint Secretary of related Ministries, which it intends to follow up with regional and national level consultations.

## C. NHRC Response to List of Issues and Questions by CEDAW Committee in Relation to Combined Fourth and Fifth Periodic Reports of India on Implementation of CEDAW

**9.15** In the list of issues and questions raised by the CEDAW Committee relating to the Combined Fourth and Fifth Periodic Reports of India (CEDAW/C/IND/Q/4-5), NHRC response was on the following three concerns :

- (i) National Human Rights Institutions, in particular, interconnectedness between the mandates and actions as well as the extent of cooperation between the National Human Rights Commission and the National Commission for Women;
- (ii) Trafficking and exploitation of prostitution, especially information on the integrated plan of action to prevent and combat human trafficking with special focus on children and women developed by NHRC, India; and
- (iii) Optional Protocol to CEDAW and amendment to article 20, paragraph 1, of CEDAW.

### **(i) *Interconnectedness between the mandates, actions and extent of cooperation between NHRC, India and National Commission for Women***

**9.16** Dwelling on the above aspect, NHRC, India stated that as per Section 3 (3) of the Protection of Human Rights Act, 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006, the “Chairperson of the National Commission for Minorities, the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12”. These are -

- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) 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 the inmates thereof and make recommendations thereon to the Government;
- (d) 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;
- (e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (i) encourage the efforts of non-governmental organizations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the protection of human rights.

**9.17** Accordingly, NHRC, India collaborates with the National Commission for Women on pertinent issues of common concern. Some of the issues on which both the Commissions have collaborated are registration of marriages and trafficking in women and girls.

**(ii) *Trafficking and exploitation of prostitution, especially information on the integrated plan of action to prevent and combat human trafficking with special focus on children and women developed by NHRC, India***

**9.18** On this issue, NHRC, India reported that an Action Research on Trafficking in Women and Children was undertaken by it in collaboration with UNIFEM and the Institute of Social Sciences, New Delhi in 2002. The findings of the research were made public in 2004.

**9.19** In September, 2006, the NHRC, Ministry of Home Affairs, Ministry of Women and Child Development, National Commission for Women and UNICEF took a collective decision 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 (IPoA). It was contemplated by the Ministry of Women and Child Development at that point of time that once the IPoA is finalized, it would move forward the proposal for its adoption by the Government of India and replacing with the 1998 Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children.

**9.20** Correspondingly, based on the field experiences of all concerned, a draft IPoA was evolved. It was collectively decided that before the IPoA is finalized, it needed to be discussed with all the stakeholders. Accordingly, three regional workshops at Guwahati, Hyderabad and Goa were organized followed by a national workshop at New Delhi. The three regional workshops were organized during the year 2006-2007 and the national workshop was organized in August 2007. These workshops facilitated in identifying qualitative and quantitative targets that would ensure proper implementation of the IPoA, once finalized.

**9.21** The NHRC, India thereafter convened several meetings with concerned representatives of the Ministries of Home Affairs, External Affairs, Labour & Employment, Women & Child Development, National Commission for Women, UNICEF and few NGOs to finalize the IPoA.

**9.22** In addition, it constituted a Task Force having representatives from the Ministries of Labour and Employment, External Affairs, Home Affairs, Women and Child Development, Panchayati Raj, National Commission for Women, UNICEF and some NGOs working at the grassroots for preventing and combating trafficking.

**9.23** The Commission on its part finalized the Integrated Plan of Action to Prevent and Combat Human Trafficking with special Focus on Children and Women and forwarded it to the Ministry of Women and Child Development, Government of India for taking further required action in the matter. Now that the Integrated Plan of Action has been finalized, the Commission reiterates to the Ministry of Women and Child Development to move forward the proposal for its adoption by the Government of India and replacing with the 1998 Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children.

**(iii) *Optional Protocol to CEDAW and amendment to article 20, paragraph 1, of CEDAW***

**9.24** It was reported by NHRC, India that as per their request made to the Ministry of Women and Child Development, Government of India on 19 September 2013 for taking necessary steps with regard to signing and ratification of the Optional Protocol to CEDAW, the Ministry communicated the following in response –

“Government of India had taken a stand since 2008 to the recommendations made by the delegations during the Universal Periodic review of India that “The Constitution of India provides for direct access to the Supreme Court and High Courts for redressal of violations of any fundamental rights, for any individuals. In addition, we have several other statutory mechanisms to address such violations including National Human Rights Commission and State Human Rights Commissions. There is also a separate National Commission and State Commissions for Women which inter alia have a mandate to address cases of violations of women’s rights. There exists, therefore, effective legal and constitutional framework to address individual cases of violations within India.”

**9.25** A copy of the above reply was also forwarded to the Ministries of External Affairs and Home Affairs, Government of India by the Ministry of Women and Child Development. The Commission on its part urges the Ministry of Women and Child Development to review its 2008 stand in the light of recommendations accepted by the Government of India at the second universal periodic review.



## **D. Report of Special Rapporteur, NHRC on Children's Homes, Observation Homes and Special Homes in Kanyakumari, Dindigul, Salem, Madurai and Tiruvallur Districts of Tamil Nadu**

**9.26** As mentioned in Chapter 3 and 16 of this Annual Report, the Commission has evolved a system of engaging Special Rapporteurs to facilitate its work as mandated by the Protection of Human Rights Act, 1993 (PHRA). During the period under report, Dr. K. R. Syamsundar, Special Rapporteur, NHRC for South Zone-I (Tamil Nadu, Puducherry, Kerala and Lakshadweep) visited Tamil Nadu from September to November 2013 to oversee the functioning of Children's Homes, Observation Homes and Special Homes in Kanyakumari, Dindigul, Salem, Madurai, and Tiruvallur Districts. The observations and recommendations made by the Special Rapporteur in the reports submitted to the Commission are summarized below :

### ***Child Welfare Homes in Kanyakumari District***

- a. Out of 107 Child Welfare Homes, 40 were registered and 65 were being run without registration, though a request application for registration had been submitted by them. However, there were 2 Homes which had not even applied for registration.
- b. Out of the 40 registered Homes, nine did not have any basic infrastructural facilities; 13 had proper buildings but were devoid of other infrastructural facilities. Only 18 had adequate buildings and other facilities.
- c. Out of the 65 Homes that had applied for registration, 16 did not have any basic facilities, 33 had reasonable buildings but no other infrastructural facilities. Only 16 were found to have adequate buildings and other infrastructural facilities.
- d. Kanyakumari district being a reasonably small district of Tamil Nadu, there were a large number of Child Welfare Homes. Most of these Homes had been set up to avail the grants being given by the State Government.
- e. The District Collector had constituted Special committees consisting of Zonal Officers/ Assistant Directors of Rural Development and Panchayati Raj Departments to find out whether all the Child Welfare Homes being run in the District were recognized and also whether they had proper buildings and other basic infrastructural facilities.
- f. The District Authorities had recommended action against nine registered Child Welfare Homes for want of basic infrastructural facilities under the Juvenile Justice (Care and Protection of Children) Act, 2000 and further recommended cancellation of 16 Homes that applied for registration for want of adequate and reasonable infrastructural facilities.



- g. It was reported by many of the Child Welfare Homes that the amount given for upkeep of each child is insufficient. Some felt that a huge amount is spent on teachers but interaction with teachers revealed otherwise. Vast majority of the Homes, especially those being run by NGOs, were reluctant to present their financial reports for scrutiny.
- h. Need to conduct surprise checks on regular basis to prevent misuse of funds and abuse of children in these Homes. A detailed enquiry also needs to be instituted with regard to aid received by Homes from the State as well as other sources including foreign funds.
- i. All Homes who have not applied for registration should not be allowed to function.

### ***Children's Homes in Dindigul, Salem, Madurai and Tiruvallur***

- a. The Children Home (Sowbhagya Illam) run by Gandhigram Trust, an NGO in Dindigul District had 156 children (49 boys and 107 girls). It had adequate facilities including sufficient number of toilets and rest rooms. The premises was found to be neat and tidy and the children happy.
- b. The Binda Children Home for Girls in Salem District was run by Life Line Trust, an NGO. On the day of the visit there were 14 girls. These girls either belonged to broken families (5), had single parent (6), migrant parents (2), and one among them was an orphan.
- c. The Fatima Children's Home in Salem District was run by an NGO. It had 112 children and all were studying in Fatima School itself.
- d. The Observation Home in Salem District was located in the Court Premises. The ceiling of the building was leaky. Despite written requests, no escort was provided to take children from the Observation Home to the Juvenile Justice Board in Thiruvannamalai and Vellore.
- e. The Children Home in Madurai District was a Government Home being run from a corporation building. The building was old and required repairing.
  - i) In this Home, the posts of Head Mistress and Deputy Warden were found to be vacant and needed to be filled up.
  - ii) There were altogether 167 children, of which 5 were minor boys and the remaining were girls. Children were found preparing for their monthly tests.
  - iii) A Tehsildar was found coaching the 10th Standard children.

- f. The Special Home in Tiruvallur District was located in Chennai and housed children who were in conflict with law under the Juvenile Justice (Care and Protection of Children) Act, 2000.
  - i. Due to want of sufficient staff, there were difficulties in imparting vocational training in this Special Home.
  - ii. Building was old and dilapidated and required massive repairs.
- g. Based on the visits reports to different Homes, the Special Rapporteur suggested the need for massive sensitization of officers from the rank of Sub-Inspector to Director General of Police and also Home Secretary of the respective State Government.

**9.27** The important recommendations made by the Special Rapporteur were examined by the Commission and the same were forwarded to the Chief Secretary, Government of Tamil Nadu with the direction to take required action and a report on the action taken be sent to the NHRC at the earliest.

## **E. Report of Special Rapporteur to Observation Home-cum-Shelter Home for Boys and Girls in Aizawl District, Mizoram**

**9.28** Shri Anil Pradhan, Special Rapporteur, engaged in the Commission to cover North East Zone of India visited Observation Home-cum-Shelter Home for Boys & Girls in Aizawl, Mizoram in the month of February 2014. On the directions of the Commission, the key recommendations made by the Special Rapporteur during the course of his visit to the aforementioned Home were forwarded to the Chief Secretary, Government of Mizoram with the instructions that an action taken report be sent to it at the earliest. The key recommendations pertained to taking immediate action on pending cases of juveniles in conflict with law - JJB C/No. 12/2013, JJB C/No. 93/13 and JJB C/No. 5/14. At the time of writing of this Annual Report, the Commission had not received any action taken report from the Government of Mizoram. The Commission reiterates to Government of Mizoram to take required action on its recommendations and also forward to it their action taken report.

## **F. Illustrative Cases**

1. *Unlawful Acts on African Women by Law Minister of Government of NCT of Delhi Along with His Supporters in Delhi*  
(Case No.252/30/8/2014/FC and LF Nos. 957/30/8/2014 & 900/30/8/2014)

**9.29** The Commission took *suo motu* cognizance of a news report published in 'The Hindustan Times' dated 18 January 2014 about the alleged incidents of racial prejudice and unlawful acts on African women by the then Law Minister, Government of NCT of Delhi along with his supporters in Khirki Extension, New Delhi claiming that they were party

to a sex racket and drug trafficking in the area. Another report captioned “I feel violated, says Nigerian envoy” narrated an incident where some African women were allegedly held captive in taxis for hours and then were forced to undergo medical examination at a hospital in New Delhi. The Nigerian High Commissioner of India demanded action against perpetrators of this act.

**9.30** The Commission also received two complaints on this issue, one from a Colonel, named Dr. Shiv Pratap Singh, and another from one Shri R. H. Bansal. These complaints were registered as case Nos. 957/30/8/2014 & 900/30/8/2014 and were clubbed along with Case No.252/30/8/2014/FC of the Commission.

**9.31** Condemning any act of discrimination against any caste colour, race, sex, etc., the Commission called for a report in the matter from the Secretary, Ministry of Home Affairs, Government of India, Commissioner of Police, Delhi and Chief Secretary, Government of NCT of Delhi.

**9.32** The Commission was informed by the Government of NCT of Delhi that the Lt. Governor, Delhi had ordered an inquiry to look into allegations leveled against the police officials by the Law Minister, Shri Somnath Bharati. This inquiry is to be conducted by Shri B.L. Garg, Retired Additional District & Sessions Judge, Delhi. The inquiry report of Shri B.L. Garg was also forwarded to the Commission by the Deputy Secretary (Home), Government of NCT of Delhi.

**9.33** The Commission considered the matter on 3 February 2014 and directed that an Investigation Team from NHRC be deputed to find out the sequence of events that took place on the night of 15th/16th January 2014 and submit its report within a period of eight weeks.

**9.34** The report submitted by the Investigation Division Team to the Commission revealed that during the course of inquiry, it could not record any statement of Dr. Somnath Bharati, the Law Minister and his supporters due to prevailing political scenario. However, the team was able to record the statement of African women who were victims of the said incident. The team also recorded the statements of police officials and independent witnesses, which substantiated the allegations of human rights violations on the African women.

**9.35** The revelations made by the Investigation Team were as follows:

- “Ms. Stella Nontongo and Ms. Shillah Ainembambazzi were illegally detained, intimidated, abused and assaulted and forcibly taken to PCR Van.
- Three transgender persons, namely, Niharika, Angel and Sapna were illegally detained and subjected to indignity by checking of their physical features.
- The mob led by the Minister forcibly entered the house of Daphne Nanyalo, Sheillah Catherine and Sandra, all residents of S-9, Khirki Extension, conducted

illegal search of their rooms, hurled racist slurs, called them prostitutes and molested them.

- The car No. DL 3BV 2984 in which Ms. Mariam Nansusubuga, Ms. Namukasa Milly, Ms. Annet Mpiima and Ms. Nabawanga were travelling was unlawfully intercepted by the mob and they were subjected to illegal detention, racial abuses and intimidation.”

**9.36** The inquiry report of Shri B. L. Garg, Retired Additional District & Sessions Judge, Delhi revealed that on the intervening night of 15th/16th January, 2014, the then Law Minister, Government of NCT of Delhi with his supporters reached Khirki Extension and asked the police of PCR Van to intercept and check the vehicles of the African/Ugandan women claiming that they were indulging in sex racket and drug trafficking. The Law Minister had also asked the police to detain some of the foreign national women in the PCR and they were also not allowed to ease themselves, as a result of which those women had to forcibly alight from the vehicle and eased themselves near the said vehicle. The inquiry also revealed that on personal search of the African women at AIIMS by a female doctor, no drug was recovered from them. On consideration of the statements of witnesses and other reports, the Inquiry Officer concluded that on the intervening night of 15th/16th January, 2014, the Law Minister and his supporters were involved in illegally stopping the vehicles to see whether any African national was sitting in the vehicle or not. The African women were wrongfully restrained and humiliated without any fault of theirs, as no drug was found in their possession, from the vehicle No. DL 3C BV 2984 in which they were travelling or from any other detained vehicles. He also stated that the mob led by the Minister forcibly entered into the premises of S-9, Khirki Extension, New Delhi on the said night without any authority of law and started banging the doors of different rooms with sticks and *lathis*. As a result of this criminal intimidation and forcible entry/trespass, the mob led by the Minister unlawfully entered the rooms of several African women and hurled racist slurs at them by calling them prostitutes and in the process assaulted, humiliated, misbehaved, molested and threatened them with dire consequences. As regards the role of police in the whole episode, the Inquiry Officer stated that the police had obeyed the directions of the then Law Minister in taking the four African women to AIIMS for medical examination and for their personal search by a female doctor. The Inquiry Officer concluded that the response of the police in the light of the intervention of the Law Minister was in conformity with the law and that the role of the Law Minister was not as per existing provisions of law as *prima facie* he had violated the provisions of law while holding the ‘Constitutional Post’.

**9.37** Upon consideration of inquiry reports of Shri B.L. Garg, Retired Additional District & Sessions Judge and that of the Team from the Investigation Division of NHRC, the Commission opined that it *prima facie* proved that there was gross violation of human rights of the African women in the instant case. The Law Minister with his supporters

not only humiliated the African women and wrongfully confined them in a vehicle on the intervening night of 15th/16th January, 2014 on the ground that they were indulging in sex racket and drug trafficking, but when they were searched by a female doctor at AIIMS, no drug could be recovered. The Commission found it to be a fit case where the human rights of the aforesaid African women were violated. Hence, the Commission issued a notice u/s 18 of the Protection of Human Rights Act to the Government of NCT of Delhi to show cause as to why monetary relief be not recommended to be paid to all the victims, namely, Stella Nontongo, Shillah Ainembambazzi, Niharika, Angel, Sapna, Daphne Nanyalo, Sheillah Catherine, Sandra, Mariam Nansusubuga, Namukasa Milly, Annet Mpiima and Nabawanga.

**9.38** The case continues to be under the consideration of the Commission.

2. *Sexual Abuse of Three Girls by Guard in Government Children Home at Shikuti in Allahabad, Uttar Pradesh*  
(Case No.17781/24/4/2012 and LF No. 25206/24/4/2012)

**9.39** The Commission came across a distressing press report captioned, “*Balgrih Mein Balikaon ke Sath Durachar*” that appeared in ‘Rashtriya Sahara’ dated 7 April 2012. The press report alleged that three girls had been sexually abused by a guard, named, Vidya Bhushan Ojha in *Rajkiya Bal Grah* at Shivkuti in Allahabad. During police interrogation, the accused confessed of raping the three girls, who lived in the Children’s Home. The report further mentioned that the services of the accused had been terminated.

**9.40** The Commission took *suo motu* cognizance of the press report and vide its proceedings dated 6 June 2012 called for a report in the matter from the Chief Secretary and the Director General of Police, Government of Uttar Pradesh. They were also directed to inform the Commission as to what preventive measures the administration had taken to prevent such incidents in future.

**9.41** Pursuant to the directions of the Commission, the Additional Director General of Police (Human Rights), Government of Uttar Pradesh forwarded his report stating that in connection with the said incident, FIR No. 64/12 under Section 376 IPC was registered against Vidya Bhushan Ojha at Police Station Shivkuti, Allahabad. During the investigation, involvement of nine more persons came to light. Charge sheets under Sections 376 (2) (c)/376 (2) (f)/323 IPC and section 23 of the Juvenile Justice (Care and Protection of Children) Act, 2000 were filed against the accused Vidya Bhushan. He reported that sanction of prosecution of other accused persons was being obtained.

**9.42** The Commission considered the report and vide its proceedings dated 8 January 2013 observed that the report established *prima facie* that three minor females of the Government Children’s Home, Allahabad, were raped by the guard and other accused persons. The Commission further observed that it was a clear case of violation of human



rights of the three minor victims. Consequently, the State was liable to compensate the victims. The Commission thus issued notice under Section 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why monetary relief should not be recommended to be paid to the three victims. The Chief Secretary, Government of Uttar Pradesh was further directed to inform the Commission of any departmental action taken against the delinquent employees of the Children's Home.

**9.43** The DGP, Uttar Pradesh, was also directed to inform the Commission of the status of sanction for prosecution of other accused persons.

**9.44** Since the State Government failed to respond to the show cause notice, the Commission vide its proceedings dated 15 July 2013 recommended to the Government of Uttar Pradesh that a sum of ₹ 5,00,000 each be paid to the parents of the three minor victims. Out of the said amount, a sum of ₹ 4,00,000 each be put in fixed deposits of Nationalized Banks in the name of the girls till they attained majority and the interest accrued thereon should be paid yearly to the respective parents for upbringing of their victimized daughters. The remaining sum of ₹ 1,00,000 each be paid to the respective parents of the girls immediately and a compliance report along with proof of payment to be submitted to the Commission within a period of six weeks. The District authorities were also directed to send a status report within six weeks on the preventive steps proposed to be taken to protect the girls of the Children Home.

**9.45** The matter was taken up by the Commission during its Camp Sitting at Lucknow on 15 January 2014 wherein it was informed that various Committees had been formed to deal with the issue of safety and security in the Children Home to ensure proper supervising mechanism in place.

**9.46** It was also reported that as recommended by the Commission, an amount of ₹ 4,00,000 each had been deposited as fixed term for a period of five years in the name of the three victim girls. However, the amount of ₹ 1,00,000 could not be paid to their parents as their address and whereabouts could not be traced. The Commission directed the State Government that the remaining amount of ₹ 1,00,000 should also be deposited in the name of the minor victims and a compliance report be submitted.

**9.47** The Commission also directed that a copy of the guidelines framed by the State Government to deal with the safety and security of Children Homes in every District of the State be furnished to the Commission so that other States from where such incidents have been reported could be asked to follow them.

**9.48** Reports received from the State Government are under consideration of the Commission.



3. *Wrongful Arrest and Detention of Two Girls for Making Comment on Facebook on a Bandh Called in Mumbai After Demise of Late Shri Bala Saheb Thackeray (Case No. 3069/13/16/2012)*

**9.49** The Commission took *suo motu* cognizance of a press report captioned, “Unfriend the thought police” that appeared in the ‘The Hindu’ dated 21 November 2012. The press report alleged that the police in Mumbai wrongly arrested two women who posted comments on Facebook about the justification of shutting down India’s financial hub for the funeral of a powerful politician, late Shri Bal Thackeray. The press report further stated that the arrest of two women was a flagrant misuse of the law and an attempt to curb the freedom of expression. The Commission called for reports from the Chief Secretary and the Director General of Police, State of Maharashtra.

**9.50** From the reports received from authorities concerned, it appeared that Shaheen Dhada, aged 21 years and Renu Shrinivasan, aged 20 years were arrested on 19 November 2012 on the ground that they had committed offence under Section 295 (A) IPC. The allegation against those two young women was that Shaheen Dhada made a comment on the Facebook when there was a ‘Bandh’ after the death of Bala Saheb Thackeray and her friend Renu Shrinivasan shared the same message by liking it and making comment with her friends which, in turn, annoyed certain Shiv Sena activists of Palghar Division. The extract of the comment made by Shaheen Dhada *prima facie* did not indicate that there was deliberate or malicious intention to hurt the feelings of any class or religion or religious belief. The comment made by her only indicated that it was not necessary to have ‘Bandh’ as a mark of respect to the late leader and only said that the city was shut down due to fear and not due to respect. Of course, subsequently, when the Inspector took charge of the investigation, he invoked Section 505(2) IPC.

**9.51** The Commission observed that Section 505 (2) IPC could have been invoked only when there was any publication or circulation of any statement or report containing rumors or alarming news with the intent to create or promote, or which was likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities.

**9.52** The Commission while considering the matter on 20 December 2013 issued notice under section 18 of the Protection of Human Rights Act, 1993 to the Government of Maharashtra to show cause why suitable monetary relief be not recommended to be paid to the two girls for their wrongful arrest and detention in the police station. Despite reminder, no response to the show cause notice was received from the State Government.

**9.53** The Commission took up the matter on 4 November 2013 when it made the following observations :

*“The Commission is of the view that the two girls had been wrongly arrested by the police. Invoking Section 505 (2) IPC was wrong as the comments made by these two girls did not at all cause any reasonable apprehension of creating or promoting enmity, hatred or ill-will between classes. Actually, these two girls made the following comments in the Facebook:-*

*Every day thousands of people die.....But still the world moves on...Just due to one politician dead.....A natural death.....Every one just goes crazy....they should know.....We are resilient by force not by choice.....When was the last time did any one show some respect or even a 2 mins silence for Shaheed Bhagat Singh, Azad, Sukhdev, or any of the people because of whom we r free living Indians.....respect is earned not given n definitely not forced. Today.....Mumbai shuts down due to fear not due to respect!!!!*

*The above statements were never intended to create or promote enmity, hatred or ill-will between classes. In fact, they were only deprecating the practice of Bandh which had already been declared as illegal by the Court.*

*Even the SP, Thane Rural in his report dated 26.1.2013 was of the view that these girls had uploaded and shared the comments after the death of Shri Balasaheb Thackeray, which was at wrong time. Every individual can interpret these comments as per their own thoughts and as per The Information Technology Act, 2000, it does not have any contents to attract its provisions. As per Article 19 of Constitution of India, every individual has the Right of Freedom of Expression, which is a Fundamental Right. The complaint was lodged by the applicant against the accused persons due to confusion spread up among the Shiv Sena activists. On conclusion of the investigation, a report u/s 169 of Cr.P.C. has been submitted to JMFC Court, Palghar, Thane.*

*The whole facts reveal that these two girls were wrongly arrested. There is serious violation of their human rights. In exercise of their Freedom of Right, the girls expressed their views in the Facebook. The police should not have arrested them and certainly it must have caused mental agony and hardship to them and they had to be in the police station for a fairly long period. Considering all these aspects, we are of the view that these two girls should be adequately compensated for their wrongful arrest and detention in the police station.”*

**9.54** In view of the aforesaid observations, the Commission recommended to the Government of Maharashtra to pay a sum of ₹50,000 each to the two girls as monetary relief. Chief Secretary, Government of Maharashtra was directed to submit compliance report along with the proof of payment within six weeks.

**9.55** Compliance report is awaited from the State Government.

4. *Female Foeticide and Rise in Incidents of Abandoned Infant Females in the State of Haryana*  
(Case No. 3937/7/17/2012)

**9.56** The Commission took cognizance of a newspaper report that appeared in the English daily “The Pioneer” dated 2 May 2012 captioned “After female foeticide, now infant girls being abandoned” which was forwarded to the Commission by a human rights activist through an e-mail. According to the newspaper report, the incidents of abandoned infant females recently shot up in the State of Haryana. In the last ten days, four baby girls were admitted to the Post-Graduate Institute of Medical Sciences (PGIMS) in Rohtak, and in all the cases, the condition of the abandoned girls had been very serious or critical.

**9.57** The Commission vide its proceedings dated 6 July 2012 called for a report in the matter from the Chief Secretary, Government of Haryana. He was also directed to inform the Commission (i) whether any steps had been taken by the State Government in the past for sensitizing the people of the consequences of low sex ratio in the country; and (ii) what remedial measures were being taken by the State Government including setting up of cradles outside the destitute women homes/nursing homes/Hospitals to save the abandoned newly born babies.

**9.58** In response to the Commission’s notice, Addl. Chief Secretary to the Government of Haryana submitted a copy of the report dated 19 September 2012 received from the Director General, Women and Child Development Department, Haryana. The report stated that the Government was setting up cradles outside the destitute women homes/hospitals to save the abandoned newly born female babies. But it was not indicated as to what steps were being taken by the State Government to give better future and the measures that were being taken for the welfare of those babies which were left in the cradles.

**9.59** Upon consideration of the above report, the Commission directed the State Government to submit (i) Status report regarding the implementation of the “The Medical Termination of Pregnancy Act, 1971” in the State of Haryana and the number of prosecutions launched under the Act; (ii) Report on the female foeticides in various districts of the State of Haryana; and (iii) the various steps taken by the State Government for the welfare of the abandoned girl children.

**9.60** In response, the State Appropriate Authority-cum-Director General, Health Services, Haryana submitted district-wise information on the number of Seal and Seize, number of Court Cases under Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act and the number of Court Cases under Medical Termination of Pregnancy (MTP) Act, for consideration by the Commission.

**9.61** The Commission in its proceedings dated 29 July 2013 called for a report from the State Government indicating the steps taken by them to prevent female foeticide in the State.

**9.62** Pursuant to the above directions, the Additional Director-II, Office of Director, Women & Child Development Department, Government of Haryana submitted a detailed report with regard to steps taken to prevent and combat female foeticide in the State of Haryana, such as, organization of awareness programmes, workshops conducted on gender sensitization, number of recipients availing Ladli Incentive Scheme for the second girl child born after 20 August 2005, etc.

**9.63** Director General, Health Services, Haryana, Panchkula vide communication dated 24 September 2013 also submitted a report mentioning the steps taken by the Health Department of Haryana to prevent female foeticide in the State. The report further indicated the statistics regarding enforcement of PCPNDT Act till June 2013.

**9.64** The Commission next considered the matter on 16 December 2013 and directed the Chief Secretary, Government of Haryana to submit a status report regarding implementation of the various Schemes in the State within a period of three months.

**9.65** Status report is awaited from the State Government.

5. *Drug Abuse, Sexual Abuse and Physical Assault/Intimidation in a Juvenile Home in Delhi*  
(Case No. 7095/30/4/2013)

**9.66** 'The Times of India' in its issue dated 18 December 2013 carried a press report captioned, "Freed minor talks of drugs and abuse, hopes to study". As per the press report, one of the juveniles released on Tuesday (17.12.2013) from Sewa Kutir Complex, New Delhi, after the court acquitted him of charges, alleged that it was quite dangerous to be inside the home. Every day there were brawls and boys were thrashed. Most of the boys inside were drug addicts. They got aggressive when their demand for drugs was turned down. He further alleged incidents of sexual assault inside the home. Boys, who had been in the home for long, tend to exploit new boys. It was also alleged that the boys, who came from Tihar, were hardened with their experiences in the jail and were often very brutal.

**9.67** Taking *suo motu* cognizance of the press report, the Commission in its proceedings dated 19 December 2013 requested its Director General (Investigation) to send its own team from the Investigation Division for a surprise inspection of the institution.

**9.68** Pursuant to the directions of the Commission, the team of the Investigation Division paid three visits to the Observation Home for Boys, Sewa Kutir, New Delhi in the month of December 2013. During enquiry it was revealed that :

- i) There is substance in the allegations of drug abuse inside the Observation Home. Some juveniles used to take drugs and do manage to infiltrate some tablets/chewing tobacco inside the Home. This indicates that there is lapse in screening of the visitors or the juveniles. The officials of the Home also

admitted this factum. The passage of contrabands inside the Observation Home is in violation of Rule 51 of the Delhi JJR which prohibits the entry of contrabands inside the Home.

- ii) The allegations of physical harassment/intimidation by some bully juveniles are also found to be true. Such tormentors are primarily recidivists and the one who were transferred from Tihar/Rohini Jail on account of their juvenility.
- iii) The staff at the Observation Home is terrified for their own safety as some of them were attacked by the juveniles in the incidents of October and December 2013.
- iv) The average duration of stay of juveniles in Observation Home is 20-15 days. During this period, the scope of imparting educational instructions and its usage thereof is limited. Therefore, they should be kept busy in creative and recreational activities so that their energy could be channelized in a positive manner.
- v) The majority of staff posted (18 out of 34) at the Observation Home, Sewa Kutir, is on contractual basis. Non disbursement of pay on time and their non-permanent status are demotivating factors under the given circumstances.
- vi) The Security of the Home is managed by private security agency. The security arrangements failed to stop infiltration of drugs, surgical blades, etc. inside the Home.
- vii) In respect of allegation of sexual abuse, the officials admitted occurrence of some odd incidents (3-4 incidents) during last 6 months.

**9.69** In nut shell from the statement of the staff of Observation Home it was revealed that there was no incident of drug abuse, exploitation of juveniles by recidivist juveniles and odd incidents of sexual abuse inside the Home. The chief culprits in such cases were the repeaters of the JCL who had come from the Tihar/Rohini jail being juvenile.

**9.70** The team from the Investigation Division of the Commission made the following recommendations:

- a) Standing Operating Procedure (SOP) to deal with different situations, e.g. procedures for search, meeting of juveniles with parents/guardians, maintenance of discipline, segregation of juveniles, intervention of police in the event of vandalism/violence etc. should be prepared.
- b) Scheme of 'After care' or 'follow up' after the release of the juvenile from the Observation Home to ensure that juvenile doesn't relapse into delinquency



again and get reintegrated with the community through some vocation/ occupation/education should be prepared.

- c) The disciplinary regime must strike an appropriate balance between respecting the rights of juveniles and securing the safety of others. On admission, juveniles should be made aware of policies and procedures in the area of discipline and control.
- d) Introducing more physical, recreational, vocational and engaging activities for the juveniles.
- e) Efforts should be made to provide a choice of vocational training in areas that are likely to interest juveniles and prepare them for future employment.
- f) Training and Human Resource Development - capacity building of staff.
- g) There should be segregation of recidivist JCL from first time JCL. They should not be mixed together.
- h) Creation of smaller units of observational homes for 40-50 inmates should be made so that they could be handled effectively.
- i) The security and screening process including screening of visitors, juvenile delinquents should be strengthened and any gaps which lead to the access of drugs/tobacco/surgical blades inside the Home should be plugged.

**9.71** The Commission took up the matter on 6 March 2014 when it directed the Chief Secretary, Government of NCT of Delhi to take immediate necessary action and submit an action taken report to the NHRC within six weeks. Since the security of the Observation Home which was managed by private security agency had failed to stop infiltration of drugs, surgical blades, etc., inside the Home, the Commission recommended that at the time of finalization of the contract Delhi Police might be directed to carry out a security review of the Home and new security agency might be given the task of securing those Homes and the strength deployed should be as per recommendation of Delhi Police as brought by its review.

**9.72** The Commission further recommended that Commissioner of Police, Delhi may order to have a security review of all the juvenile homes and at the time of renewal of contract the norms arrived at by them should be taken into consideration. As far as security and strength is concerned, the Administration of the Juvenile Home should be directed to follow the recommendation of Delhi Police after its review.

**9.73** Response from the Government of NCT of Delhi is awaited.



6. *Rape of Two Year Old Girl by Ward Boy in Primary Health Centre, Kanad, District Shajapur, Madhya Pradesh*  
(Case No. 556/12/42/2013)

**9.74** The Commission received a complaint from one Shri R.H. Bansal alleging that a two years old girl was raped on 15 March 2013 by a Ward Boy, named Lakhan Yogi, posted in Primary Health Centre, Kanad, District Shajapur, Madhya Pradesh. According to the complainant, the girl was in the Primary Health Centre along with her mother who was to deliver a baby there. The Commission took cognizance of the complaint and called for a report from the Principal Secretary, Department of Health & Family Welfare, Government of Madhya Pradesh, Bhopal and Superintendent of Police, Shajapur, Madhya Pradesh.

**9.75** In response to the notice issued by the Commission, the Superintendent of Police, Shajapur submitted a report which revealed that on receipt of a complaint by the victim's mother, Smt. Bhuribai, about the alleged rape of her 2½ years old daughter by one Lakhan Nath, a criminal case vide FIR No.71/2013, for the offences punishable u/s 376(2) GH, 366, 363 IPC, Section 5/6 of The Protection of Children from Sexual Offences Act of 2012 and Section 3(2)5 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at police station Kanad on 15 March 2013. The accused had been arrested and charge sheet had also been submitted in the Court on 30 March 2013. It was further stated that financial relief amounting to ₹ 25,000 had also been paid to the victim and the delinquent medical official placed under suspension.

**9.76** The Commission observed that the incident was unfortunate, inhuman, barbaric and shocking as a minor hapless and helpless girl of two years, who accompanied her mother in the Primary Health Centre was sexually assaulted by an employee of the institute itself. The Commission further observed that the incident had occurred in a Government organization and the heinous crime had been committed by none other than an official of the institution. Holding that the State was liable to compensate the victim in those circumstances, the Commission recommended to the Government of Madhya Pradesh to pay a sum of ₹ 5,00,000 to the victim and directed the Chief Secretary to submit proof of payment within six weeks. In addition, the Chief Secretary was directed to ensure that the financial relief mandated under the law in accordance with the amended provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Rules made thereunder should also be paid to the victim and proof of payment thereof be forwarded to the NHRC.

**9.77** In the meantime, the Dy. Secretary, Tribal Welfare Department, Government of Madhya Pradesh, Bhopal sent a report stating that a sum of ₹ 25,000 was paid by cheque as monetary relief to the victim. He further submitted that Commission's recommendation for payment of ₹ 5,00,000 as compensation was not in accordance with the rules and regulations of the State Government.

**9.78** The Commission considered the matter and vide its proceedings dated 10 December 2013 observed that the Commission is endowed with special powers under the PHR Act, 1993 to award appropriate compensation and is not bound by the rules framed by the Government for payment of compensation in such cases and therefore, the Commission is unable to accept the propriety/justification of the report that the amount of ₹ 5,00,000 as compensation is not in accordance with the rules.

**9.79** The Commission again directed the State Government of Madhya Pradesh through its Chief Secretary to pay a sum of ₹5,00,000 as compensation to the victimized girl through her father/mother for violation of her human rights by an employee of Medical Department of the State Government within six weeks.

**9.80** The District Magistrate, Shajapur, Government of Madhya Pradesh was also directed to ensure that the payment of monetary relief and other help under the provisions of Rule 12 (4) and 12 (6) of Scheduled Castes and Tribes (Prevention of Atrocities) Rules, 1995 as per scale given in annexure to the schedule is provided to the victim through her parents at an early date. He was further directed to send a status report in the matter along with proof of payment to the Commission within six weeks positively.

**9.81** Compliance report is awaited.

7. *Death of a Mother While Protecting Her Daughter From Hooligans in Guntur District, Andhra Pradesh*  
(Case No. 490/1/6/2013-WC)

**9.82** Professor K. S. Chalam, Special Rapporteur, South Zone II, NHRC, forwarded a press clipping that appeared in 'The Hans India' dated 11 April 2013 (Hyderabad Edition). The press report related to an incident in which a married woman B. Suneela died while protecting her daughter from hooligans. The press report alleged that B. Suneela, aged 45 years and her daughter - a B.Tech student - were returning home after shopping at around 9:00 p.m. or so on Monday, 8 April 2013 when a group of drunken men confronted them at Gandhi Chowk. When one of them allegedly tried to misbehave with the girl, the mother caught hold of his collar and pushed him away. Thereafter, the members of the group turned to Suneela and pushed her in front of a speeding lorry. The seriously injured Suneela was rushed to the NRI General Hospital in nearby Mangalagiri town, but died on the way.

**9.83** Taking cognizance of the matter, the Commission vide its proceedings dated 23 April 2013 called for a report from the Director General of Police, State of Andhra Pradesh and Superintendent of Police, Guntur, Andhra Pradesh.

**9.84** Responding to the Commission's notice, the Superintendent of Police, District Guntur (Rural), Andhra Pradesh submitted a report informing that a case crime No.37/2013 under Sections 307, 302, 354, 509, 34 IPC read with Section 3(1) (x) of the Scheduled Castes

and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against all the eight accused, who were arrested and sent to judicial custody.

**9.85** The report further mentioned that the Government had already given ₹ 10,00,000 from the Chief Minister's Relief Fund, i.e. ₹ 5,00,000 to each of the two daughters of the deceased and ₹2,50,000 under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. It further stated that the Government would also provide house sites to the daughters of the deceased, free education to them as well as employment after completion of their education.

**9.86** The Superintendent of Police, Guntur, Andhra Pradesh sent a further detailed report stating that after investigation of case crime no. 37/2013, charge sheet was submitted against all the eight accused persons on 15 July 2013 in the court. In order to provide relief to the family members of the victim, a report had been submitted to the Collector and District Magistrate, Guntur. The Collector, Guntur intimated vide his report dated 20 July 2013 that a sum of ₹ 10,00,000 sanctioned from Chief Minister's Relief Fund had been divided equally between the two daughters of the deceased B.K. Suneela. Further, a sum of ₹ 2,47,500 was also sanctioned as monetary relief to the victims which was disbursed to the daughters of the deceased. He also forwarded photocopies of the receipts regarding payment of the above amount to the recipients duly attested by the Tehsildar Tenali Mandal, District Guntur.

**9.87** The Commission considered the above reports and vide its proceedings dated 18 December 2013 observed that all the accused related to the crime were arrested and charge sheeted to the court for trial of the offences made out against them. The two daughters of the deceased woman had been paid special relief of ₹5,00,000 each from Chief Minister's Fund. Besides, the monetary relief u/s the Scheduled Castes and the Tribes (Prevention of Atrocities) Act and Rules had also been paid to the daughters of the deceased.

**9.88** In view of the above reports, the case was closed with a direction to District Magistrate/Collector, District Guntur (Rural), Andhra Pradesh to ensure that all other possible help like house, free education and employment to the two daughters of the deceased as promised is provided by the State Government under the Welfare Schemes and also under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

8. *Alleged Rape of Girl Student by Her Teacher in Government High School in Dhamtari District of Chhattisgarh*  
(Case No. 28/33/4/2013-WC)

**9.89** The Commission received a complaint from an NGO about the alleged rape of a girl student by her teacher in a Government High School in Dhamtari District of Chhattisgarh and prayed for intervention by the Commission in the matter.

**9.90** The Commission took cognizance of the complaint and called for a report from the Principal Secretary, Department of School Education, Government of Chhattisgarh and Superintendent of Police, Dhamatari, Chhattisgarh.

**9.91** Responding to the Commission's notice, Superintendent of Police, Dhamtari, submitted two reports which revealed that the 17 years old victim (name withheld) was allegedly raped by her School Teacher - Hemant Kumar Chaurasia. A criminal case vide FIR No. 03/2013 for the offences punishable u/s 376, 506 IPC, Section 3(2)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at Police Station Borai on 13 January 2013 and the accused was arrested on 14 January 2013. The accused teacher was also placed under suspension with effect from 16 January 2013 and an amount of ₹60,000 was sanctioned by the District Collector, Dhamtari to be paid to the victim.

**9.92** The Commission considered the matter and observed that the criminal case registered against the offender was pending investigation and the accused teacher had been placed under suspension. It further observed that the minor girl student had unfortunately been sexually assaulted by her own teacher who was supposed to be her custodian in the school. On learning that the human rights of the minor tribal girl student had thus been violated, the Commission issued a notice u/s 18 of the Protection of Human Right Act to the State of Chhattisgarh through its Chief Secretary as to why interim relief may not be recommended to be paid to the victim in the matter. The Chief Secretary, Government of Chhattisgarh was furthermore directed to submit status of the case along with the details of the departmental action taken against the offender.

**9.93** In response, the Joint Secretary, Home Department (C-Section), Government of Chhattisgarh, submitted a report which revealed that an amount of ₹ 60,000 in accordance with the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Rules made thereunder had been paid to the victim on 4 April 2013 and 21 May 2013. It was also stated by the Joint Secretary that the criminal case registered against the school teacher, Hemant Kumar Chaurasia was pending trial in the Court and the accused teacher had been dealt with departmentally and dismissed from Government service on 12 April 2013. In addition, the State Government submitted that they had no objection in granting interim relief to the victim.

**9.94** Although appropriate legal and departmental action had been taken against the offender and the prescribed amount of interim relief, as mandated by law, under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act had been paid to the victim, the Commission in its proceedings dated 4 July 2013 observed that as the State Government had no objection in grant of interim relief to the victim, it recommended to the Government of Chhattisgarh to pay a sum of ₹ 5,00,000 to the victim and submit the proof of payment within six weeks. The victim, being minor, the Commission directed that the

amount be deposited in fixed account with liberty to draw interest by the guardian and on attaining majority, the amount be paid to her.

9. *Sexual Harassment of a Female Teacher by Her Seniors in Rayagada District of Odisha and Inaction by Authorities*  
(Case No. 2458/18/32/2013-WC)

**9.95** The Commission received a complaint via email from an NGO alleging that a woman teacher was being sexually harassed by her seniors in Rayagada district of Odisha but no action was taken despite several complaints to the authorities. Subsequently, she was threatened to withdraw the case against the accused official, and when she refused to do so, she was assaulted and set ablaze with kerosene. She was struggling for her life in a hospital.

**9.96** The Commission took cognizance in the matter and called for a report from the Director General of Police, Odisha, Bhubneshwar and the Secretary, Department of School Education, Government of Odisha.

**9.97** The NGO handed over its fact finding report to the Joint Registrar (Law) of the Commission during his official visit to Odisha, which stated that the victim, a contractual teacher (name withheld), 27 years of age, was sexually harassed by Headmaster of the School, Netrananda Dandasena, ever since she joined the School on 18 June 2011. The victim lodged an FIR in Tikiri Police Station on 18 July 2013 against Netrananda Dandasena. As no action was taken by the police, she approached the Director General of Police on 31 July 2013. Again on 19 September 2013 she registered an FIR against the family members of Netrananda Dandasena as they had threatened to kill her if she would not withdraw her complaint. On 5 August 2013, she approached the Superintendent of Police, Rayagada for her protection and action against the accused persons. A copy of the letter was addressed to the Chief Minister of Odisha as well. She further registered an FIR on 16 August 2013 against the accused persons and requested immediate action on the matter. As no action was taken, on 18 August 2013 the victim informed the media that nobody was addressing her grievances. Subsequently, she was set ablaze by the accused persons which led to her death on 27 October 2013. Her father and elder sister alleged that the accused were being shielded by the local Member of Parliament.

**9.98** The Joint Registrar (Law) also obtained copies of order dated 5 November 2013 issued by the Government of Odisha, vide which Sujit Kumar Say, Inspector In-charge of Police Station, Tikiri and Muralidhara Pradhan, ASI, Tikiri were dismissed from their services under Article 311 (2) (b) of the Constitution of India.

**9.99** The Commission considered the matter on 8 November 2013 whereby it noticed that the victim had approached all possible channels but no effort was made by the State authorities to address her grievances that could have saved her life. The Commission thus recommended to the Chief Secretary, Government of Odisha, to provide an interim relief



of ₹ 5,00,000 to the next kin of the deceased, and have the entire matter enquired by CB-CID.

**9.100** In response, a report was received from the Crime Branch of Odisha Police which revealed that investigation of the case was in progress.

**9.101** The Commission took up the matter on 2 January 2014 and directed the DGP, Government of Odisha to send within eight weeks the final outcome of investigation of the CID Crime Branch P.S. Case No.32 dated 1 November 2013 u/s 302 IPC. The Commission further directed that the Chief Secretary, Government of Odisha be reminded to send within eight weeks the proof of payment of interim relief.

**9.102** The response received from the authorities was under consideration of the Commission.

*10. Tonsuring Head of a Female Thief on the Orders of Panchayat in Village Gilhabadi, District Kishanganj, Bihar  
(Case No. 1332/4/18/2012-WC)*

**9.103** Hindi daily 'Rastriya Sahara', Delhi edition of 22 July 2011, carried a news report about tonsuring the head of a female thief on the orders of the Panchas of a Panchayat. As per the report, the victim, Fatima, a resident of Village Gilhabadi, District Kishanganj, Bihar, was accused of stealing utensils from the house of one Rafiq Alam. A Panchayat was held and the Panchas ordered for tonsuring the head of the victim.

**9.104** Taking cognizance of the press report, the Commission called for a report from the Superintendent of Police, Kishanganj, Bihar.

**9.105** Responding to the Commission's notice, the Superintendent of Police, Kishanganj, informed that FIR No. 108/11 dated 21 July 2011 u/s 354/509/34 IPC was registered against 17 persons at Police Station Thakurganj and after completion of the investigation a charge sheet u/s 341/342/354/509/34IPC had been filed against all the 17 named accused persons.

**9.106** The Commission, on consideration of the report, held that it was a clear case of violation of human rights as the head of the victim was tonsured by the orders of the Panchayat, and the State was liable to compensate the victim. It thus issued a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Bihar, through its Chief Secretary, to show cause as to why monetary relief should not be recommended for the victim.

**9.107** Responding to the show cause notice the Under Secretary, Home Department (Special), Government of Bihar, communicated that the State Government is ready to comply with the order of compensation that might be recommended by the Commission. The Commission vide its proceedings dated 14 May 2013 recommended to the Government



of Bihar through its Chief Secretary to pay a sum of ₹ 20,000 only as interim relief to the victim Fathima Begum at an early date.

**9.108** Compliance report is awaited.

**11.** *Inaction by Police on Complaint of Rape Victim in District Amritsar, Punjab (Case No. 1763/19/1/2012)*

**9.109** A victim from Amritsar District of Punjab in her complaint to the Commission alleged that on 6 August 2012 she was kidnapped and raped by four boys. Despite a complaint by her and her parents, the police did not register FIR. After the intervention of the *Ilaqa* Magistrate, Amritsar, a case was registered on 27 September 2012 but her statement u/s 164 Cr.P.C was not recorded by the police and after 10 days of registration of the FIR, the police filed a cancellation report in the case in the related court. She alleged that the four boys committed the act to take revenge as she had lodged a complaint with the police on 31 July 2012 implicating them on charges of molestation in which a case too was registered at P.S. Sadar, Amritsar. She alleged that the Commissioner of Police, Amritsar had not taken any action on the petitions given to him in that regard. She further alleged that the IO in the given two cases had not taken any appropriate action. In addition, it was alleged that she and her family members were being threatened by the police for not compromising in the given two cases.

**9.110** Pursuant to the directions dated 10 May 2013 of the Commission, a spot enquiry was conducted by the Investigation Division of the Commission. From the enquiry, following facts came to light :-

- (i) There was delay in registration of FIR No. 154/2012 P.S. Sadar regarding the incident of molestation. The reason for delay could not be explained satisfactorily by the concerned police personnel. Also, no arrest was made by the local police in this case. However, the four alleged accused were arrested by the Special Investigation Team (SIT) on 4 May 2013 and 5 May 2013 respectively. The case FIR No. 154/2012 was still under investigation with the SIT, Punjab Police, Chandigarh.
- (ii) Regarding the incident of rape which allegedly occurred on 6 August 2012, the NHRC enquiry Team found that a missing report of the victim was given to police post, Fatehgarh Churiyan Bypass, Amritsar by the mother of the victim on 6 August 2012 at about 3 p.m., but no FIR was lodged by the police in this regard. Also, no FIR of the rape incident was registered by the police even though initial MLC report dated 6 August 2013 of the victim clearly indicated sexual intercourse. An FIR No. 200/2012 in the given case at P.S. Sadar regarding the incident of rape could be registered only on 27 September 2012, on the directions of A.C.J.M., Amritsar.

- (iii) After registration of case FIR No. 200/2012, statement of the victim was not recorded u/s 164 Cr.P.C by the police. IO neither visited the place of occurrence nor collected any material or circumstantial evidence of the case. The IO only conducted discreet enquiry in the case and collected call details record (CDR) of mobile numbers of the alleged accused but did not examine any of the accused persons.
- (iv) The NHRC Team observed that the closure report in case FIR No. 200/2012 was submitted in the Court without receiving the vaginal swab report of the victim from Forensic Laboratory, Kharar, Punjab. The vaginal swab sample was sent to the forensic laboratory on 17 August 2012 and the report indicating sexual intercourse was received on 17 November 2012 whereas the case FIR No. 200/2012 was registered by the police on 27 September 2012 followed by closure report on 7 October 2012, i.e., within 10 days. The SIT, formed subsequently, had requested the Court to allow them to investigate the case afresh but the decision of the Court was awaited.
- (v) The Team also observed that the Standing Operating Procedure (SOP) to investigate rape cases by the Punjab Police has not been framed.
- (vi) Petitions submitted to the Commissioner of Police, Amritsar by the victim and her parents were marked to the subordinate officers for necessary action. However, compliance on these petitions was sent to the Commissioner of Police, Amritsar after registration of FIR No. 200/2012.

**9.111** Upon consideration of the detailed enquiry report and recommendations submitted by the enquiry team, the Commission directed the Director General of Police, Government of Punjab to:-

- i) Intimate the present status of the investigation of FIR No. 154/2012 and FIR No. 200/12 of P.S. Sadar, Amritsar.
- ii) Conduct appropriate action against the concerned police personnel responsible for delay in registration of FIR No. 154/12 and also non-registration of the rape case.
- iii) Take appropriate action against the concerned police officials (IO and Supervisory Officers) who were responsible for FIR No. 154/12 and 200/12 of P.S. Sadar, Amritsar.
- iv) Prepare a Standing Operating Procedure (SOP) containing the guidelines issued by the Supreme Court and High Courts regarding investigation of rape cases and to sensitize the police force in this respect.

**9.112** The matter is continues to be under consideration of the Commission.

12. *Indignity of a 65 Year Old Woman on Suspicion of Witch Hunting in Korba District of Chhattisgarh*  
(Case No. 114/33/10/2014-WC)

**9.113** The Commission took *suo motu* cognizance of a news report captioned “*Tohi Bataker Sar Mundwaya*”, published in Hindi newspaper ‘*Nai Duniya*’ dated 15 February 2014. The press report alleged that on suspicion of witch hunting, an old woman, Jhirambai, aged 65 years, was subjected to brutal beating in Korba District of Chhattisgarh and her head was also shaved.

**9.114** The Commission expressed serious concern over the incident and observed that the contents of the newspaper report raised a serious issue of violation of human rights of women and called for a report from the District Magistrate and Superintendent of Police, Korba, Chhattisgarh. The Commission also directed the Superintendent of Police, Korba to inform as to whether any case had been registered u/s 354 (b) of IPC. The report is awaited from the Superintendent of Police, Kobra.

**9.115** Response received from the District Magistrate, Korba is under consideration of the Commission.

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## ***Chapter - 10***

### **RIGHTS OF ELDERLY PERSONS**

**10.1** In recent years, there have been significant advocacy efforts calling for enhanced thinking and action on the human rights of elderly persons at the national and international level. Various stakeholders have called for more visibility and increased use of human rights standards to address the dire situation of millions of elderly persons around the world.

**10.2** Not very long ago, the issue of ageing was considered a matter of importance for only a handful of countries. Nowadays, the number of persons aged 60 and over is increasing at an unprecedented pace, anticipated to rise from its current 740 million to reach 1 billion by the end of the decade. It is projected that by 2050 there will be more persons over 60 than children in the world. Women already outnumber men among those aged 60 or above, and are twice as numerous than men among those aged 80 or over. Unfortunately the increase in numbers has also shed light on the lack of adequate protection mechanisms, and on the existing gaps in policies and programmes to address the situation of elderly persons. Today, two-thirds of the world's elderly people live in low-and middle-income countries and this proportion will rise to 80 per cent by 2050. The increase in the number of elderly people will be the greatest and most rapid in the developing world, with Asia as the region with the largest number of elderly persons.

**10.3** Elderly persons are not a homogenous group, and the challenges they face in the protection or enjoyment of their human rights vary greatly. While some continue to lead active lives as part of their community, many others face homelessness, lack of adequate care or isolation.

**10.4** Multiple discrimination appears as an essential component of any analysis, particularly when considering that age-related discrimination is often compounded by other grounds of discrimination, such as sex, socio-economic status, or health status.

**10.5** The United Nations Office of the High Commissioner for Human Rights strives to ensure that neglected population groups are given space and weight in the human rights agenda, and that governments take all measures required to protect and promote their human rights. For the first time the Report of the Secretary-General to the UN General Assembly focuses on the human rights of elderly persons. It identifies four main challenges elderly persons are facing in terms of human rights – discrimination, poverty, violence and abuse as well as the lack of specific measures and services. The report further stresses several key areas for responses to the challenges as strengthening the international protection regime, elimination of financial exploitation and employment discrimination, establishing adequate health care facilities including long-term care and participation in political life.

**10.6** As mentioned in the earlier Annual Report of the Commission for the year 2012-2013, since 1982, the international community has explored the situation of elderly persons

in a series of international declarations such as the Madrid International Plan of Action on Ageing (endorsed by the General Assembly in 2002) which called for the elimination of age discrimination, neglect, abuse and violence. International obligations to elderly persons are implicit in most core human rights treaties, such as the two Covenants, on Economic, Social and Cultural Rights and on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. However, explicit references to elderly persons in binding international human rights instruments are scarce.

**10.7** The well being of elderly persons is mandated in the Constitution of India under Article 41, which states that “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to public assistance in cases of old age”. There are other provisions too, which direct the State to improve the quality of life of its citizens. Right to equality has been guaranteed by the Constitution as a Fundamental Right. These provisions apply equally to elderly persons.

**10.8** The Commission’s involvement in respect of rights of the elderly persons, as mentioned in the last Annual Report, initially began with acting upon complaints received from them. Its involvement increased gradually in 2000 when it participated in the work of the National Council for Older Persons constituted by the Ministry of Social Justice & Empowerment and gave suggestions on its Action Plan (2000-2005) in relation to the implementation of the National Policy on Older Persons. From that year onwards, it has kept close contact with groups and organizations working for the rights of elderly persons and has been forwarding suggestions to the Union Government as and when necessary. For example, the Commission sought the response of Ministry of Health & Family Welfare with regard to provision of separate queues for older persons in hospitals. The concerned Ministry, on its part, circulated the recommendation for the provision of separate queues for older persons in hospitals to all States and Union Territories. The Commission has also expressed its concern over the plight of elderly persons belonging to economically weaker sections of society, especially those in the unorganized sector. Of late, the Commission, in collaboration with non-governmental organizations working for the elderly, has been organizing health awareness camps and events like lectures focusing on different ailments affecting people in old age. Besides, it has focused its attention on cases relating to non-payment, delayed payment and partial payment of retirement benefits to employees after their retirement and in cases where the retired person dies, timely payment of all statutory dues to their legal heirs.

#### **A. Meeting of the Core Group on Protection and Welfare of the Elderly Persons**

**10.9** In order to identify and review important human rights issues concerning the elderly so as to suggest measures for better protection of their rights, the Commission



has constituted a Core Group on Protection and Welfare of the Elderly Persons. During the period under review, the Core Group met on 20 December 2013 to discuss the status of the implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the salient features of the Draft National Policy on Senior Citizens, 2013. The said meeting was held under the chairmanship of Shri S. C. Sinha, Member, NHRC.

**10.10** Shri T. R. Meena, Joint Secretary, Ministry of Social Justice & Empowerment (MSJ&E), Government of India who attended the above said Core Group meeting as a Special Invitee informed the Hon'ble Member that the overall monitoring of the implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 lay with the MSJ&E whereas its implementation rested with the State Governments and Union Territory Administrations in terms of notifying the Act in their respective States/Union Territories Gazettes, framing of Rules and designating of Tribunals in each District. He further informed that few States so far had not framed their respective Rules. Shri S. C. Sinha, Member, NHRC asked Shri Meena to prepare a comprehensive note giving complete details of steps taken by States/UTs for implementation of the 2007 Act and any more steps which needed to be taken by them to make the 2007 Act fully operational. Shri Sinha also enquired from him the total number of cases/matters that have so far been referred to the Tribunal. Shri Sinha stressed upon the need of spreading awareness by the MSJ&E and States/UTs about the 2007 Act in cities, towns and rural areas through different modes of communication along with the involvement of the PRIs/Municipalities/local bodies. In addition, he suggested that the MSJ&E should simultaneously organize seminars in all States and Union Territories with NGOs and senior citizen bodies to spread awareness on issues affecting the elderly people.

**10.11** Shri R.N. Mittal, Member of the NHRC Core Group and President, All India Senior Citizen's Confederation (AISCN) informed that the implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 needs to be strictly enforced and widely publicized. Likewise, the penalties prescribed under the 2007 Act needs to be rigorously imposed. For example, as per Section 24 of the Act, the punishment awarded for not taking care of one's parents is a maximum fine of ₹ 5,000/- or imprisonment of 3 months. These are not sufficient deterrents. Neglect and abandonment of dependent senior citizens is a very serious inhuman crime. The imprisonment should be extended to 5 years instead of three months and fine to ₹ 50,000/- instead of ₹ 5,000/-. Besides, he emphasized that crimes against dependent elders should be made non-bailable, non-compoundable and a cognizable offence as in the case of the Protection of Women from Domestic Violence Act 2005 or the Dowry Prohibition Act 1961 or Section 498 A of IPC, or the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

**10.12** Prof. S.P. Kinjawadekar, another Member of the Core Group and Ex-President, All India Senior Citizen's Confederation, Mumbai, reiterated that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 needs to be implemented rigorously in all the States/UTs as only few individual cases about elderly abuse come to light. He underlined the need for establishment of an old age home in every District. He suggested that there is



an urgent need to start a Degree Course in Geriatric Care. At present, he stated that the Act was not being implemented properly by the States. He categorically stated that Chapters III, IV and V of the given Act are not being properly implemented.

**10.13** Prof. P.K.B. Nayar, another Core Group Member and Chairman, Centre for Gerontological Studies, Thiruvananthapuram, apprised that abuse of the elderly is on the increase. And, experience has shown that there are very few petitions under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, as parents do not want to haul their children before a court of law or the police at the far end of their life and continue to suffer silently. The reported abuses are only the tip of the iceberg, he added.

**10.14** One way to overcome this, Prof. Nayar said, is to encourage formation of local senior citizens' clubs/elders' forums/neighborhood groups, different from senior citizens' associations which are professional in character, whose members can visit houses of their peers having problems and use all measures at their disposal to end abuse. This would be the most effective means of arresting or at least mitigating and checking abuse on a permanent basis. The Government should therefore encourage the formation of such clubs in every rural and urban community. This work can best be done by the local Panchayats, he felt. The community police could also collaborate in this endeavor.

**10.15** He furthermore stated there is a need to constitute multi- service community age care centres in the country to be operated by senior citizens' themselves where a variety of services for the old and for those looking after the old could be offered. These services could range from health care, economic support and counseling, both to the old and their care giver families. This is one of the ways of integrating the old with members of their families, and with the community at large. Value education like the one successfully attempted by HelpAge India in different schools is another effective method of inculcating family and societal values among children. Since HelpAge India scheme is outside the school curriculum, it will be worth adopting the same in the existing school system. Talking about the existing old age homes in the country, he stated that these operated without any rules and regulations. Almost all old age homes in the country are run on custodial care lines. As their number is bound to increase rapidly in the future and the fact that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 lays great emphasis on at least one such home in every District in India, it is necessary that these institutions are brought under the Government rules and regulations in terms of quality of services and infrastructural facilities including geriatric facilities.

**10.16** Prof. Nayar stressed upon the need for a Perspective Plan on Aging and amendments in the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Moreover, he believed that there is an urgent need to provide income security to all elderly persons. Individuals taking responsibility of their elderly parents should also be given significant income tax relief.

**10.17** Prof. Sugan Bhatia, President, Indian University Association for Continuing Education, Delhi and Member of NHRC Core Group expressed that the human rights of the destitute and abandoned senior citizens are being violated in many parts of the country and their number was rapidly growing. The issue appears to have religious sanction as senior citizens are supposed to take to *Sanyasashrama* in that age. Those who do not do so are dispossessed of their savings and property, rendered destitute and abandoned under the excuse of getting them good health care in a Geriatric Hospital located in another city. The case of the widows of Vrindavan is too well-known, he added. Similarly, senior citizens face destitution and abandonment, even lose their life, if they do not agree to surrender their assets (both in cash and kind), social or elected position, etc. in favour of their children.

**10.18** The other issue of human rights concern to which Prof. Bhatia drew attention related to the phenomenon of unpaid care provided by the families. Unpaid care is not recognized in the development policy planning processes and often works to the detriment of the rights of such care givers, who invariably happen to be women members of the families, especially in India. The UN Special Rapporteur on Extreme Poverty and Human Rights too had recommended to the national human rights institutions on the critical significance of this issue. On the basis of suggestions made by Prof. Nayar, Prof. Bhatia raised the issue of tax rebate/exemption for all those taking care of old ailing persons in their homes.

**10.19** Shri T.R. Meena gave an assurance that in order to ensure the well-being of senior citizens especially those who are poor and needy, the MSJ&E will make all out efforts in providing them support for financial and food security, health care, shelter, protection against abuse and exploitation including other needs during the 12th Five Year Plan. He also gave an assurance to Shri S. C. Sinha, Member that he would forward to the NHRC the final Draft National Policy for Senior Citizens, advisories on elderly persons sent to the States/Union Territories by the Ministry of Home Affairs, Government of India along with the minutes of the National Conference on Elderly organized by the MSJ&E in 2012.

**10.20** Ms. Anupama Datta from HelpAge India, New Delhi and Dr. Aabha Chaudhary from Anugraha, New Delhi were the other two Members who attended the above meeting.

## **B. Comments on Draft Cabinet Note on National Policy on Senior Citizens, 2013**

**10.21** The Ministry of Social Justice and Empowerment, Government of India is the nodal Ministry for elderly persons in the country, which coordinates the programmes to be undertaken by other Ministries in their relevant areas of support to senior citizens. In the year 1999, it brought out a National Policy on Older Persons (NPOP, 1999). In view of the significant changes that are expected in the demography of ageing in India, resultant emerging challenges, and the scientific and technological changes that have taken place in the current century, including major significant developments at the international level, a

need was felt by the Ministry to review the existing NPOP, 1999 so as to reorient its focus areas in tune with the changing situation for betterment of elderly persons. Accordingly, the Ministry set up a Committee in 2010 to review the NPOP, 1999. The Committee submitted its report on 31 March 2011. Based on the draft proposed by the Committee, the Ministry, after its examination and taking into account subsequent developments and consultations, suitably modified the draft Policy and brought it out as the Draft National Policy for Senior Citizens, 2013. The 2013 Policy aims to ensure a better standard of living for elderly persons in the last phase of their life. The Policy, on approval, will replace the existing NPOP, 1999.

**10.22** As the draft 2013 Policy was not forwarded to the Commission by the Ministry of Social Justice and Empowerment for comments, it requested the Ministry of Home Affairs to forward the Draft Cabinet Note on National Policy for Senior Citizens, 2013 to the NHRC. The same was received from the Human Rights Division of the Ministry of Home Affairs on 20 February 2014. The Commission, on examination of the Draft Cabinet Note on National Policy for Senior Citizens, 2013, made its comments and suggestions on the Indira Gandhi National Old Age Pension Scheme, food security and public distribution system, employment of elderly in income generating activities, health care and nutrition, safety and security, and their welfare and forwarded the same to the Human Rights Division of the Ministry of Home Affairs, Government of India for incorporation in the final National Policy for Senior Citizens.

### C. Illustrative Cases

1. *Non-implementation of the Provisions of Maintenance & Welfare of Parents and Sr. Citizens Act 2007 by the State Governments/Union Territories*  
(Case No. 85/30/0/2014)

**10.23** It came to the notice of the Commission that provisions of Maintenance & Welfare of Parents and Sr. Citizens Act 2007 are not being implemented by some of the State Governments/Union Territories in its true spirit with the result, the old age parents and senior citizens are not getting appropriate benefits resulting in, apparently, violation of their human rights.

**10.24** This Act was enacted by the Parliament in order to provide more effective provisions for the maintenance and welfare of parents and senior citizens, guaranteed and recognized under the Constitution of India.

**10.25** The Act provides that a senior citizen or a parent who is unable to maintain himself from his own earning or property owned by him shall be entitled to make an application for his maintenance by his children or relative who are having sufficient means before a Tribunal constituted u/s 7 of the Act. It is also provided that the State Government shall designate the District Social Welfare Officer or an officer not below the rank of District Social Welfare Officer as Maintenance Officer.

**10.26** The Act also provides establishment of Old Age Homes by the State Government for the maintenance of the indigent senior citizens.

**10.27** Under the Act, it is the duty of the State Government to ensure that the Government Hospital or Hospital funded fully or partially by the Government shall provide beds for all senior citizens as far as possible for treatment of chronic, terminal and degenerative diseases.

**10.28** It also came to the notice of the Commission that the officers who were given responsibility at Sub-division level had no time to deal with the issue of senior citizens. Therefore, there was need for full time officer at sub-division level as maintenance officer.

**10.29** Hence, the Commission took suo-motu cognizance of the issue and vide its proceedings dated 07.01.2014 directed the Chief Secretaries of all the States in India / Administrators of Union Territories to submit their reply on the following provisions enacted therein :-

- i) Whether the State Governments/Union Territories have constituted Maintenance Tribunals as required u/s 7(1) of the said Act.
- ii) Whether the State Governments have constituted Appellate Tribunal as required in Section 15 of the Act.
- iii) Whether the State Governments have established Old Age Homes as required u/s 19 of the Act.
- iv) Whether the State Governments/Union Territories have ensured medical support for the senior citizens as required u/s 20(1)(2)(5) of the Act.

**10.30** Reports received from the States/Administrators of Union Territories is under consideration of the Commission.

2. *Scarcity of Shelter Homes for Homeless Persons in Delhi*  
(Case No. 1/30/0/2014)

**10.31** The Commission came across a news report captioned “No Shelter for the Homeless” published in the ‘Jagran City Plus’ on 29th December, 2013 As per the news report, about 1.5 lakh destitute persons were spending life in Delhi on footpaths and under over-bridges. There are only 175 shelter homes in Delhi to cater around 7000 homeless, which are too facing scarcity of infrastructure and sanitation. According to the DDA’s plan, there must be a night shelter for each one lakh population but that plan had not been implemented. The news also stated that as per the Government’s orders, the shelter home in the metro cities must get operational as soon as the minimum temperature reaches below normal, but the shelter homes in Delhi were lying unattended though the mercury reached 4 degree below normal.

**10.32** Taking *suo motu* cognizance of the news report on 02.01.2014, the Commission expressed serious concern over the pathetic condition of homeless persons in Delhi, who were spending nights in open sky and called for a report in the matter from the Chief Secretary, Government of NCT of Delhi.

**10.33** Pursuant to the directions of the Commission, Deputy Secretary, Home, Govt. of NCT of Delhi endorsed to the Commission a copy of the communication dated 19.2.2014 addressed to the Principal Secretaries, Urban Development Department and Social Welfare Department and Chief Executive Officer, Delhi Urban Shelter Improvement Board, New Delhi requesting them to send report to the NHRC. However, no report has yet been received from those authorities.

3. *Non-Payment of Retiral Benefits and Harassment of an Ex-Associate Professor of Atma Ram Sanatan Dharam College, University of Delhi*  
(Case No.6522/30/8/2013)

**10.34** The Commission received a complaint from Dr. Rajesh Mohan, Ex-Associate Professor, ASRD College, Delhi alleging that the college authorities as well as the authorities in the University of Delhi illegally withheld his retiral dues. He further alleged that this was in continuation of a systematic attempt to harass him.

**10.35** The Commission called for a report from the Vice Chancellor, University of Delhi, Registrar, University of Delhi, Director of South Campus, University of Delhi and Acting Principal of Atma Ram Sanatan Dharam College, University of Delhi.

**10.36** Pursuant to the directions of the Commission, Dy. Registrar, University of Delhi submitted a report of Principal, ARSD College. The Commission called for comments of the complainant on the said report.

**10.37** Upon consideration of the comments of the complainant, the Commission directed the Vice Chancellor, University of Delhi, Registrar, University of Delhi, Director, South Campus, University of Delhi, Chairman, Governing Body and Principal of the ARSD College, Delhi to submit report on following points:

- (a) The status of the Charge sheet issued to the complainant, along with a copy of the 'Charge Sheet' issued; Date of issue of charge-sheet, if any, should be clearly indicated.
- (b) What Orders have been passed, as to withholding of the complainant's retiral benefits by the Competent Authorities; If such orders exist, copies of the same be provided;
- (c) The reasons for withholding the Provident Fund dues, Leave Encashment dues of the complainant;



- (d) Calculation-sheet of the retiral benefits, such as Gratuity, Pension, Leave Encashment, etc, made by the authorities;
- (e) The present status of the issues raised in the CAG Audit Observations;
- (f) Whether replies to the CAG Audit Observations have been given by the various Authorities, also steps taken on the report by the Institution be narrated;

**10.38** The Deputy Registrar, Delhi University, South Campus, New Delhi has submitted a report and the same is under consideration of the Commission.

4. *Non-Payment of Terminal Dues to the Family of a Class IV Employee of the Social Welfare Department of the Government of Uttar Pradesh, Even After 31 Years of His Death*  
(Case No.20804/24/24/2010)

**10.39** The complainant in her complaint stated that her husband died on 08/11/1979 while working in Social Welfare Department of the Government of Uttar Pradesh. Her son was minor at that time. The complainant alleged neither dues of her late husband were paid nor her son provided job on compassionate grounds despite repeated requests.

**10.40** The Commission called for a factual report from the Chief Secretary, Uttar Pradesh.

**10.41** The Principal Secretary, Department of Social Welfare, Government of Uttar Pradesh sent a report in response to summons issued by the Commission as the report was not forthcoming.

**10.42** Upon consideration of the report, the Commission observed that the employee died on 08 November 1979, while in the employment of the Government of Uttar Pradesh and the Director Social Welfare, Government of Uttar Pradesh took about 31 years to make payment of the legitimate terminal benefits of an employee who died during service. Moreover, no interest was paid on the amount of Security Deposit, Leave Pay of ₹ 3835 and the Pension & Gratuity of the employees. In fact, the pension gratuity etc., were sanctioned only on 13 April 2011 but not paid yet. The Social Welfare Department took shield of being a time barred case for not giving employment to the next of kin of the deceased.

**10.43** The Commission expressed concern to note that such an apathy in Social Welfare Department of the Government of Uttar Pradesh raises serious questions about the fate of other such case in other department of the Government. The Commission expressed the view that there has been serious violation of human rights of the next of kin of the deceased employee and therefore directed to issue a notice u/s 18 (a) (i) of Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Uttar Pradesh calling upon him to show cause as to why compensation be not recommended to next of kin of Shri Puttural.



**10.44** The Commission further directed the Principal Secretary, Department of Social Welfare, Government of Uttar Pradesh to submit:

- (a) Detailed statement of payment of pension to the family of the deceased employee and make payment of the amount of gratuity payable to them, immediately.
- (b) to further inform the Commission as to what rate of interest has been paid to the NOK of deceased employee for the delayed payment since 1979 on the arrears of pension, the amount of gratuity, the amount of other dues already paid or to be paid to the family of the deceased employees;
- (c) what action has been taken for the employment of the one of the family member under compassionate ground;
- (d) intimate the name and designation of the officers/employees responsible for such in-ordinate delay in the matter; and
- (e) whether any Departmental action has been initiated against the errant official/officers of the Department.

**10.45** In pursuance of the directions of the Commission, Chief Secretary, Government of Uttar Pradesh submitted a report that an amount of ₹ 54,320 has been paid to Smt. Ramjilal, w/o late Shri Puttu Lal on 13 December 2013 towards interest on delay in payment of the retiral benefits of late Shri Puttu Lal.

**10.46** On perusal of the record, the Commission vide its proceedings dated 27 January 2014 observed that :

- a) The Government of Uttar Pradesh has not submitted the calculation sheet of the interest on late payment of retiral benefits of late Shri Puttu Lal.
- b) The report of the Chief Secretary, Government of Uttar Pradesh, has not thrown any light on the contradiction and concealing of facts by Ms Neelam Aehlawat, Special Secretary, Government of Uttar Pradesh by which she tried to mislead the Commission by submitting the factually incorrect report.
- c) The State Government has not identified officers/officials who caused delay in payment of retiral dues of late Shri Puttu Lal, and
- d) NoK of late Shri Puttu Lal have been paid the retiral benefits after a lapse of more than 31 years and they have been deprived of the right to live with dignity and there has been a serious violation of their human rights.

**10.47** Therefore, the Commission recommended a sum of ₹50,000 as compensation to the NoK of late Shri Puttu Lal.

**10.48** The Commission also directed the then Special Secretary, Department of Social Welfare Department, Government of Uttar Pradesh, under Section 16 of the P.H.R. Rights, 1993 to show cause as to why the Commission should not recommend to the Government of Uttar Pradesh, to start disciplinary proceedings against her for submitting incorrect information to mislead the Commission in the instant case.

**10.49** Response from the State Government is awaited.

5. *Inordinate Delay in Payment of Retiral Benefits to an Employee of Department of Food and Civil Supplies, Government of Uttar Pradesh  
(Case No. 42812/24/3/2012)*

**10.50** The Commission received a complaint from one Nagender Narayan Mishra resident of District Aligarh, Uttar Pradesh stating that he was superannuated on 31 May 2010 from Department of Food and Civil Supplies, Government of Uttar Pradesh and since then he has not been paid his GPF amount despite repeated requests to the concerned authorities.

**10.51** Pursuant to the directions of the Commission, Deputy Accountant General (Administration), Office of the Accountant General (Accounts and Entitlement-1), Uttar Pradesh, Allahabad has intimated vide his report dated 24 June 2013 that after receipt of reconciliation case of GPF Account of the complainant from the District Supply Officer, Bulandshahar on 17 June 2013, a letter dated 21 June 2013 was issued to DSO, Bulandshahar authorizing payment of 90% of total amount of ₹9,03,593 to the complainant from his GPF Account. The DSO, Bulandshahar was also requested to send the 10% GPF final payment case to the Accountant General, Uttar Pradesh for final payment. A copy of the letter dated 21 June 2013 authorizing 90% of payment of GPF Account to complainant has been enclosed.

**10.52** The District Supply Officer, Bulandshahar, Uttar Pradesh has sent a detailed report dated 27 June 2013 explaining that Shri Nagender Narayan Mishra, retired Supply Inspector had taken his GPF Passbook for getting it updated from Aligarh, Meerut and Saharanpur districts. He submitted the GPF Passbook to the office on 15 May 2013 and send some other necessary papers by Registered Post on 11 June 2013.

**10.53** After receipt of the GPF Passbook and other necessary papers, the Office took prompt action in getting all the entries completed and sent the same through Special Messenger for sanction.

**10.54** On receipt of the payment order dated 21 June 2013 from Accountant General, Uttar Pradesh, the matter was referred to the Senior Finance and Accounts Officer, Meerut who got payment of ₹8,13,234 made to the complainant on 27 June 2013 by depositing the same in the bank account of the complainant.

**10.55** The complainant Shri Nagender Narayan Mishra has intimated vide his letter dated 6 July 2013 that he had received payment of ₹ 8,13,234 on 27 June 2013 relating to his GPF Account. Now he has no complaint against the Department in the matter.

**10.56** The Deputy Accountant General (Administration) has further intimated vide his report dated 23 July 2013 that the last payment of ₹2,49,654 which included the interest payable to the complainant on his GPF till June, 2013, has also been released by the Accountant General, Uttar Pradesh for payment vide its authority letter dated 12 July 2013 to the District Supply Officer, Bulandshahar. A copy of the said sanction letter has been enclosed.

**10.57** The Under Secretary, Food and Civil Supplies Department, Government of Uttar Pradesh, Lucknow has explained vide his report dated 16.8.2013 that the delay in payment of GPF amount of the complainant Shri Nagender Narayan Mishra, retired Supply Inspector happened due to the complainant's own reasons as he could not get his GPF Passbook updated uptill May, 2013. As soon as Shri Mishra submitted the GPF Passbook along with necessary papers, the Department took prompt action and ultimately the payment of ₹ 8,13,234/- was made to the complainant on 27 June 2013 by the Senior Finance and Accounts Officer, Meerut Region under the authority letter issued by the Accountant General, Uttar Pradesh

**10.58** The Commission considered the matter from time to time and vide its proceedings dated 3 February 2014 observed and directed that the delay in payment of the GPF amount of the complainant stood fully explained by the District Supply Officer, Bulandshahar as well as the Deputy Secretary, Food and Civil Supplies, Department of the State Government. The Commission directed that a copy of the letter dated 23 July 2013 of the Deputy Accountant General (Admn.), Office of Accountant General (Accounts and Entitlement)-1, U.P. Allahabad along with copy of final payment letter dated 12 July 2013 be sent to the complainant for his information. The District Supply Officer, Bulandshahar was directed to ensure that the payment of the remaining 10% of GPF amounting to ₹ 2,49,564 is paid to the complainant at an early date. With these directions, the case was closed by the Commission.

6. *Inordinate Delay in Settlement of Terminal Benefits*  
(Case No. 1529/1/5/2011)

**10.59** The complainant forwarded a copy of the press report captioned "Man Shown Dead In Records, Old-Age Pension Stopped", appeared in the Tribune, Delhi, dated 13 September 2012 As per the press report, the old-age pension of one Mangat Ram of Panodi village in Karnal district was stopped in February 2010 and when he approached the pension cell at Chandigarh, he was told that he had been shown as dead in official records.

**10.60** The Commission called for a report in the matter from the Deputy Commissioner, Karnal, Haryana in this case.

**10.61** Since the report was not forthcoming, the Commission issued summons to the Deputy Commissioner, Karnal, Haryana.

**10.62** In response to summons, Deputy Commissioner, Karnal reported that Mangat Ram had been sanctioned pension since April, 2012. He further reported that District Social Welfare Officer, Karnal had intimated that block development and panchyat officer, Gharonda had been requested to initiate action against *nambardar* Banarsi Das and chowkidar Narata Ram of village Panodi for showing Mangat Ram as dead in APR.

**10.63** Upon consideration of the material on record, the Commission observed that the report of the District Social Welfare Officer, Karnal showed that the victim was deprived of old-age pension from February 2010 to March 2012. The Commission issued a notice u/s 18 (a) (i) of the Protection of Human Rights, Act 1993 to the Chief Secretary, Government of Haryana to show cause as to why monetary relief be not granted to Shri Mangat Ram.

**10.64** The Chief Secretary, Govt. of Haryana was also directed to ensure that old-age pension for the period February 2010 to March 2012 be paid to the complainant and the compliance report submitted to the Commission.

**10.65** Joint Director, Pension, Government of Haryana, submitted his detailed report dated 11 February 2013, stating that the remaining pension from February, 2010 to April, 2012 amounting to ₹13,600 had been paid to the complainant. He also submitted that the process of entries in the website was discontinued as a result of which old age pension of Shri Mangat Ram got stopped.

**10.66** The Commission did not find the response of the State Government to be satisfactory and therefore vide its proceedings dated 18 November 2013 recommended to the Government of Haryana, through its Chief Secretary, to pay compensation of ₹10,000 to Shri Mangat Ram.

**10.67** On compliance of the recommendation of the Commission, the case was closed by the Commission vide its proceeding dated 6 March 2014.

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## ***Chapter - 11***

### **RIGHTS OF PERSONS WITH DISABILITIES**

**11.1** It is estimated that over 650 million people, 10 per cent of the world's population, have a disability. Eighty per cent live in developing countries. Among them, a great majority face discrimination, exclusion, isolation and even abuse. Many persons with disabilities live in extreme poverty, in institutions, without education or employment opportunities and face a range of other disadvantages. In some countries, including India, in many cases, they are denied the right to own property and it is also not uncommon for persons with disabilities to be denied the right to make decisions for themselves. The discrimination they face is widespread, cutting across geographical boundaries and affecting people in all spheres of life and all sectors of society.

**11.2** The entry into force of the Convention on the Rights of Persons with Disabilities and its Optional Protocol in May 2008 marked the beginning of a new era in the efforts "to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity" (Article 1). Although persons with disabilities have always been entitled to the same rights as everyone else, it is the first time that their rights are set out comprehensively in a binding international instrument.

**11.3** The development of the Convention reflects the shift that has taken place in the way disability and persons with disabilities are seen. Historically, disability was considered to be a personal condition residing in the individual. As an individual deficit, the status of "being disabled" was viewed as the natural cause for some people being unable to attend a regular school, get a job or participate in social life. When disability is perceived in this way, society's responses are restricted to only one of two paths : individuals can be treated through medicine or rehabilitation (medical approach); or they can be cared for, through charity or welfare programmes (charity approach).

**11.4** Over the past few decades, there has been an important change in the way disability is understood. The focus is no longer on what is wrong with the person. Instead, disability is recognized as the consequence of the interaction of the individual with an environment that does not accommodate that individual's differences and limits or impedes the individual's participation in society. This approach is referred to as the human rights model of disability. The Convention on the Rights of Persons with Disabilities endorses this model and takes it forward by explicitly recognizing disability as a human rights issue.

**11.5** From this perspective, the social, legal, economic, political and environmental conditions that act as barriers to the full exercise of rights by persons with disabilities need to be identified and overcome. For example, their marginalization and their exclusion from education are not the result of their inability to learn but of insufficient teacher training or



inaccessible classrooms; their exclusion from the labour market might be due to a lack of transport to the workplace or negative attitudes among employers and colleagues that a person with disabilities is unable to work; and their inability to participate in public affairs might result from the lack of electoral material in accessible formats such as Braille or voting booths that are physically inaccessible to persons with disabilities.

**11.6** Viewing disability from a human rights perspective involves an evolution in thinking and acting by States and all sectors of society so that persons with disabilities are no longer considered to be recipients of charity or objects of others decisions but holders of rights. A rights-based approach seeks ways to respect, support and celebrate human diversity by creating the conditions that allow meaningful participation by a wide range of persons, including persons with disabilities. Protecting and promoting their rights is not only about providing disability-related services. It is about adopting measures to change attitudes and behaviours that stigmatize and marginalize persons with disabilities. It is also about putting in place the policies, laws and programmes that remove barriers and guarantee the exercise of civil, cultural, economic, political and social rights by persons with disabilities. To achieve a genuine exercise of rights, the policies, laws and programmes that limit rights need to be replaced. Moreover, programmes, awareness-raising and social support are necessary to change the way society operates and to dismantle the barriers that prevent persons with disabilities from participating fully in society. Furthermore, persons with disabilities need to be provided with the opportunities to participate fully in society and with the adequate means to claim their rights.

**11.7** The Constitution of India ensures equality, freedom, justice and dignity of all individuals, which implies an inclusive society for all, especially the disadvantaged. Besides, the constitutional provisions, there are three Acts governing various aspects of disability, which are – (i) The Rehabilitation Council of India Act, 1992, (ii) The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; and (iii) The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

**11.8** The NHRC is deeply concerned and involved in the protection and promotion of rights of persons with disabilities. It is of the firm view that persons with disabilities should enjoy all human rights on equal basis with others. Towards this end, it adopted a multi-pronged approach to deal with rights of persons with disabilities. Firstly, it urged the Government of India for the adoption and proper implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Secondly, it dealt with redressal of individual complaints. Thirdly, it made efforts to spread awareness about the rights of persons with disabilities.

**11.9** The Commission had earlier played a very active role in drafting of the UN Convention on Rights of Persons with Disabilities, 2006 (UNCRPD). The Convention marks a radical

shift in defining and understanding disability as it shifts its focus from a medical and charity standpoint to an approach based on human rights. The Government of India ratified the UNCRPD on 1 October 2007 though it is yet to ratify its Optional Protocol.

**11.10** During the period under report, the activities on which the Commission focused are detailed out in subsequent paragraphs.

## **A. Meeting of the Core Group on Disability**

**11.11** The Commission has set up a Core Group on Disability with eminent persons. The main objectives of this Core Group is to (i) advise the Commission from time to time about the implementation of rights mentioned in the United Nations Convention on Rights of Persons with Disabilities along with gaps in implementation, if any, (ii) study the functioning of focal points/coordination mechanism set up by the Centre and States and suggest improvements to the Commission for greater effectiveness, and (iii) monitor recommendations made by NHRC since 1993 for protection and promotion of human rights of persons with disabilities.

**11.12** A meeting of the Core Group was held in the Commission on 20 August 2013 to discuss the Rights of Persons with Disabilities Bill, 2012 drafted by the Department of Disability Affairs, Ministry of Social Justice and Empowerment, Government of India in the light of the provisions of UNCRPD. The Bill, on adoption, would replace the existing Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. While NHRC was ready with its observations/suggestions, the Department of Disability Affairs in the meantime changed the version of the 2012 Disability Bill and before making it public got the Bill cleared by the Cabinet in December 2013 for placing it before the Parliament. The Rights of Persons with Disabilities Bill, 2013 was introduced in the Parliament in 2014. However, the Bill has been referred to the Parliamentary Standing Committee on Social Justice and Empowerment.

## **B. Awareness Programme on Leprosy**

**11.13** Another initiative taken by the Commission was an awareness programme on leprosy organized in partnership with Sasakawa India Leprosy Foundation (SILF), a Delhi based NGO. In the said programme, known as Young Partners Programme (YPP), the main aim was to sensitize school Principals, Teachers and children about the disease of leprosy. The programme was held in different phases. The first phase included a Sensitization Workshop for Principals and Senior Teachers of 20 Government schools in NHRC. The second phase was devoted to sensitization programmes for students of identified Government schools in Delhi studying in Class VII and IX. The sensitization programme consisted of dissemination of relevant IEC material, showing a film and holding of a poster competition on leprosy and how it could be tackled. For the poster competition, NHRC and SILF provided necessary material and the best posters were later awarded and put on display. In this entire endeavour, around 2,000 students from 20 Government schools participated.

## C. NHRC Chairperson Visits Jakarta to Participate in Global Appeal against Leprosy

**11.14** Justice Shri K. G. Balakrishnan, Chairperson, NHRC visited Jakarta, Indonesia to participate in the Launch Ceremony of the 2014 Global Appeal to End Stigma and Discrimination against People Affected by Leprosy held on 27 January 2014. The Global Appeal had the backing of the National Human Rights Institutions from 39 countries and regions. Yohei Sasakawa, chairman of The Nippon Foundation, since 2006 has led these appeals with the aim of raising public awareness and drawing in the support of world leaders, representatives of people affected by leprosy, and organizations concerned with human rights. Chairperson of NHRC, India also addressed the gathering present of the occasion.

## D. Illustrative Cases

1. *A 55 Year Old Mentally Sick Man Kept in Chains Without Any Treatment in Village Ambaguda, District Nabarangpur, Odisha*  
(Case No. 3847/4/27/2013)

**11.15** Shri Damodar Sarangi, Special Rapporteur of the NHRC, East Zone-I, forwarded a translated copy of the clipping of a news report carried by an Odiya Daily “Samaj” on 10 September 2013. It was alleged that one mentally sick person, namely, Shri Basu Majhi, aged 55 years, resident of village Ambaguda, District Nabarangpur, had been kept in chains for the last 10 years without any treatment. As per the report, the family of Shri Basu was struggling against acute poverty and had not received any assistance from the Government for the treatment of Shri Basu. Benefits under the various welfare schemes were also not extended to the family.

**11.16** Taking cognizance of the news report, forwarded by Special Rapporteur Shri Sarangi, the Commission vide its proceedings dated 15 October 2013 called for a report from Chief Secretary, Government of Odisha.

**11.17** Pursuant to the directions of the Commission, the District Collector, Nabarangpur, sent her report dated 2 December 2013. Special Secretary to the Government of Odisha, Home Department, also forwarded a copy of the report of the District Collector, which revealed that Shri Basu Majhi *alias* Gonda was residing with his wife, one married son and two minor daughters. Although he is mentally sick since the last 10 years, he had not created any disturbance to anybody for about 8 years. However, since about two years, he started attacking the public and damaging private houses. In order to ensure safety of the public and the private properties, as well as to prevent him from any mishap like road accident, etc., the son of Shri Basu Majhi kept him restrained with chains. It was also submitted that Shri Basu was under proper care and supervision of his son and other family members and he was taken to their agricultural land every day with them. The report further stated that

Shri Basu Majhi owned 7.16 acres of agricultural land and had his own residential *pucca* house and he had been provided with a *Rastriya Swasthya Bima Yojana* (RSBY) Card for free medical treatment. He had also been given the AAY Card, on which he was receiving 35 kgs. of rice per month. He had moreover been sanctioned a house under the *Indira Awas Yojna* by the Block Development Officer.

**11.18** The report is under consideration of the Commission.

2. *Thrashing of a Mentally Challenged Man by Government Railway Police in Purnea District in Bihar*  
(Case No. 3847/4/27/2013)

**11.19** The English daily “The Hindustan Times” dated 24.10.2013 carried a news item captioned, “Bihar GRP thrash mentally challenged man”. The press report alleged that Gyanendra Choudhary, aged 40 years and a mentally challenged person, was injured while trying to cross the railway tracks in Purnea. GRP men took him to the District hospital. However, he slipped out of the hospital and, after a search, was found at a roadside temple 400 meter away by GRP men. The report further alleged that the GRP men thrashed him mercilessly and dragged him back to the hospital. As per the report, he had been so brutally beaten up that he could hardly walk.

**11.20** Taking *suo motu* cognizance of the aforesaid press report, the Commission vide its proceedings dated 30 October 2013 observed that the contents of the report raised issue of violation of human rights of mentally challenged person and issued notice to the Director General of Police, Bihar, Patna to submit a report in the matter.

**11.21** In response to the Commission’s notice, a report has been received from the Inspector General of Police, Bihar, Patna and the same is under consideration of the Commission.

3. *Violation of Human Rights Relating to Life, Liberty and Dignity of a Physically Disabled Professor of Ram Lal Anand College, University of Delhi*  
(Case No. 5920/30/4/2013)

**11.22** Shri Manoranjan Mohanty, a retired Professor of University of Delhi and Shri Sumit Chakravorthy, Editor, “Mainstream”, weekly approached the Commission with a complaint regarding violation of human rights of Dr. G. N. Saibaba who is a Professor with the Ram Lal Anand College of Delhi University and a physically disabled person. It was alleged that a team of personnel from Delhi and Maharashtra Police jointly conducted a raid at the residence of Dr. G. N. Saibaba on 12 September 2013 suspecting him to be having links with the banned naxals. The Police team took away his lap top, hard disks, flash drives, books and pen drives containing his research work in an unsealed condition. It was alleged that police personnel in plain clothes were deployed in front of his house to keep constant watch on him, due to which his family was living in shadow of fear. A copy of the notice dated 17 September 2013 u/s 160 Cr. P. C. was enclosed with the complaint whereby Dr. G.N. Saibaba was asked by the

SDPO of Aheri District, Gadcholi, Maharashtra to appear before him within eight days from the receipt of the notice anywhere outside Delhi or at Nagpur for the purpose of inquiry.

**11.23** Upon perusal of the complaint, the Commission in its proceedings dated 22 October 2013 observed that the allegations regarding violation of human rights relating to life, liberty and dignity of the victim required intervention of the Commission. The Commission further observed that the victim was a physically handicapped person with 90% disability as mentioned in the complaint and as per latest amendment made to the section 160 of the Code of Criminal Procedure, 1973 the words “under the age of fifteen years or woman” have been substituted with “under the age of eighteen years or above the age of sixty five years or a woman or a physically or mentally disabled person” and therefore, Dr. G. N. Saibaba should not have been called outside Delhi for the purpose of inquiry by the concerned SDPO.

**11.24** The Commission directed to issue notice to the Commissioner of Police, Delhi and the Director General of Police, Maharashtra asking them to submit their reports in the matter.

**11.25** Response received from authorities is under consideration of the Commission.

4. *Death of 32 Inmates in Vagrant Homes of West Bengal Within a Period of Five Months due to Malnutrition and Lack of Medical Aid*  
(Case No. 694/25/13/2013)

**11.26** Sh. Tapas Kumar Ray vide his complaint dated 4.6.2013 drew attention of the Commission towards the condition of inmates of the seven Vagrant Homes established under the Bengal Vagrancy Act, 1943 in West Bengal. The complainant, enclosing a press clipping published in the Ananda Bazar Patrika dated 02.06.2013, claimed that 32 inmates, including 21 male and 11 female, of the Mahalandi Lunatic Vagrant Home, District Murshidabad, West Bengal died within a period of 5 months due to malnutrition and lack of medical aid.

**11.27** The Commission requested its Director General (Investigation) to depute a team of the Commission for spot inspection of the Vagrant Homes and to submit a report within six weeks.

**11.28** The Commission’s enquiry team found:

- i) Mostly mentally ill, mentally challenged, old, infirm and destitute people are booked by the police and declared vagrant by a Magistrate. Without rehabilitation, proper medical or psychiatric or psychological treatment, the vagrant remains at the Home till his/her death. There were several cases in which inmates had been at a Home for more than 20 years.



- ii) Mentally ill/challenged persons are lodged in almost all the vagrants' homes. This is a violation of various provisions of the Mental Health Act, 1987 and of several Supreme Court judgments; this is a gross violation of human rights.
- iii) The physical condition of the Homes is deplorable and appalling.
- iv) Personal hygiene and care are absent. Most inmates wear dirty and torn uniforms, a few were naked, since clothes are issued irregularly. At the Mahalandi Lunatic Vagrant Home, the team found that clothing (shirt and shorts) was issued 3 days before its visit.
- v) Proper bedding is also not made available. Most inmates sleep on the floor without a mat or mattress. In one home, mattresses were provided to the inmates 3 days before the team's visit.
- vi) The dormitories, kitchen, toilets and the surroundings of the home are unhygienic, dilapidated and deplorable.
- vii) Food was cooked and served in conditions unspeakably unhygienic. The human touch in the process of cooking and serving food in these homes was absolutely missing.
- viii) There is no provision for safe drinking water. As a result, in 2012, at the Dhakuria Home alone, quite a substantial number of inmates died from cholera.
- ix) All vagrant homes suffer from overcrowding.
- x) There is an acute shortage of skilled staff in all the homes.
- xi) There is practically no, or a negligible, rehabilitation facility at vagrant homes. There is minimal vocational or life-skills training for their restoration to society.
- xii) Only a handful of inmates, whose families could be traced and accepted their custody, are released from vagrant homes. Release conditions are stringent.
- xiii) There is only a perfunctory medical check-up, if at all, on a person entering a vagrant home. No diagnostic tests, on blood /X-ray/urine, etc., are conducted to assess the physical health of the new inmate.
- xiv) Though most inmates have some form of mental illness, no assessments are made by a psychiatrist of their mental and psychological condition when they are admitted.
- xv) Once admitted, there is no psychological counseling for the inmates. At the Dhakuria Vagrant Home, there is no provision even for visits by psychiatrists;



psychologists from an NGO make visits for psychological counseling but look after a designated number of inmates.

- xvi) Proper medical facilities are not available at vagrant homes. What exists is primitive and basic. There are no doctors (except at Dhakuria) or beds to treat patients. Moreover, there is no provision of ambulances for emergency evacuation or referrals to hospital.
- xvii) The budget for medicines is a pittance. On an average, ₹1 is spent per day per inmate. This is woefully inadequate.
- xviii) Most inmates are in the 50-60 year age bracket. Therefore, besides their other mental and physical problems, many also suffer problems related to aging. However, there is no doctor available to diagnose or treat these problems.
- xix) There is a gross lack of 'care-givers' for the inmates. In Mahalandi Lunatic Vagrant Home, since most inmates (female and male) had psychiatric problems, they could not take care of their personal needs, including personal hygiene, eating and dressing. They need personal 'care-givers' who can attend to them.
- xx) The present ratio of inmates to attendants is 21:1 (at MLVH) which is inadequate. The staff neither have the aptitude nor the training in care-giving and counseling which is required.
- xxi) There is no recreational facility for inmates to keep them engaged in some productive activities. There is no collaboration with NGOs, who might be able to help.
- xxii) Exceptionally high numbers of deaths were reported in 2012, 90 at the Dhakuria Vagrant Home and 31 at the Mahalandi Lunatic Vagrant Home. The principal reasons were poor medical care, unhygienic living conditions and malnutrition.

**11.29** The Commission considered the report of the Investigation Team and observed that human rights of those who were residents of those Homes had been gravely violated for a number of years, and urgent corrective action was essential. Accordingly, the Commission vide its proceedings dated 20.11.2013 recommended to the Government of West Bengal to take the following steps urgently:

#### **A. Improving Basic Infrastructure and Logistics**

**11.30** There is an urgent need to substantially improve the infrastructural requirements of the Homes especially in the following area:-

- i. clean clothing must be regularly issued to all inmates;
- ii. all inmates must be given beds or proper bedding;
- iii. clean, usable utensils should be issued to each inmate;
- iv. buildings must be renovated and maintained;
- v. toilets and kitchens must be hygienic;
- vi. all homes must have provision for clean drinking water;
- vii. there should be regular fumigation and spraying to control communicable and skin-related diseases;
- viii. vehicles should be provided to the Homes, including ambulances;
- ix. adequate protective measures need to be adopted for the inmates during winter.

## **B. Identification, Screening and Classification of Vagrants**

**11.31** The High Court of Delhi in *Ram Lakhan vs. State of NCT Delhi* (137 (2007) DLT 173) has classified beggars into four categories according to their condition and requirements. There should be different categories of Homes for the old and infirm, for persons with disabilities and for physically able-bodied vagrants, with different facilities, infrastructure and rehabilitation programmes for each category.

## **C. Staffing Requirements**

**11.32** Since the Homes do not have enough staff, and existing staff are not properly trained:

- i) all the vacant posts should be filled on priority;
- ii) the Managers of the Homes should be full-time officers. They should not be given additional post/charge;
- iii) proper training and skill development is needed for the staff;
- iv) counsellors should be appointed or hired;
- v) 'caregivers' must be appointed to look after the many inmates, especially the old and infirm, who cannot take care of themselves.

## **D. Medical Facilities**

- i) Considering the physical and mental health condition of inmates, there should be doctors, assisted by nurses and paramedical staff, at each Home. The scale of medical doctors and other staff should be based on standards adopted in hospital/nursing homes;

- ii) since each Home on an average houses more than 200 inmates, proper medical infrastructure, including beds for in-patient care, testing and diagnostic facilities and other equipment should be made available;
- iii) specialists from various disciplines, such as dermatologists, dentists, gerontologists, etc. should be on the panel of each Home and should visit it on a fortnightly basis;
- iv) the budget for medicines should be immediately raised to realistic levels.

## **E. Referring Mentally ill Inmates to Mental Health Hospitals**

**11.33** Mentally ill inmates/vagrants should be referred to Mental Health Hospitals for proper treatment.

## **F. Rehabilitation Measures**

**11.34** It is unacceptable that most Homes have no provision for the rehabilitation of those in their care. To correct this:

- i. there should be proper recreation and rehabilitation facilities for the inmates. The help of reputable NGOs may be enlisted;
- ii. educational and vocational training should be provided to help inmates reintegrate in society. NGOs can be identified which would train them in trades and sell their products;
- iii. psychological clinical counsellors should be engaged to impart occupational behavioral learning therapy.

## **G. External Oversight Mechanism**

**11.35** A Board of Visitors consisting of eminent social workers/civil society member/NGOs working in this field and officials of district administration should be constituted for regular and independent monitoring of each Home.

## **H. Review of Bengal Vagrancy Act, 1943**

**11.36** The mandate and scope of the Bengal Vagrancy Act, 1943 may be reviewed. The declaration of mentally-ill persons as vagrants and their detention at Vagrant Homes, which it permits, is not in consonance with the provisions of the Mental Health Act, 1987.

**11.37** The Commission also called for a report from the Government of West Bengal on the action it has taken to urgently improve conditions in these Vagrant Homes.

**11.38** Despite reminder, the requisite action taken report has not been received from the Govt. of West Bengal.

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## ***Chapter - 12***

### **HUMAN RIGHTS EDUCATION, TRAINING AND AWARENESS**

**12.1** NHRC has the mandate to protect and promote human rights. Section 12 (h) also envisages that NHRC shall spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means. NHRC has been involved in spreading human rights awareness among functionaries of Government, especially police besides students, NGOs and members of general public.

**12.2** The Training Division of NHRC is spreading Human Rights literacy through training programmes on Human Rights issues through collaboration with Administrative Training Institutes, Police Training Institutions, SHRCs, University and Colleges and through credible NGOs. Apart from these, a month long Internship Programme is organized by the NHRC twice in a year, during summer and winter, within its premises for the university students in India along with Short-term Internship Programme of two weeks duration for students interested in the field of human rights throughout the year except for the period when a month long summer and winter internship programmes are held.

**12.3** During 2013-2014, 108 NHRC sponsored training programmes on human rights and related issues were conducted by 77 institutions. Apart from this, Summer & Winter Internship Programmes were also held by the Training Division of NHRC in which 96 students from various parts of the country participated. Besides, 195 students were given the opportunity of short term internship with NHRC during this period. Several delegations of students from university/colleges and representatives/officers from other institutions totaling 672 persons also visited NHRC and they were briefed on the working of the Commission and important human rights issues being dealt by it.

#### **A. Training Programmes Organized by NHRC**

**12.4** As part of its mandate, during the year 2013-2014, the Commission had approved 131 training programmes of 89 institutes relating to various aspects of human rights. Out of these, 102 training programmes were successfully organized/ conducted by 71 institutions SHRC/ universities/ PTI/NLI/NGOs. In addition, 06 training programmes of 06 institutes approved for the year 2012-2013 were also conducted during 2013-2014, thus taking the overall total of training programmes conducted to 108 Training Programmes by 77 institutes. The details of the training programmes organized by the Training Division of NHRC are at **Annexure – 14**.

## **B. Summer and Winter Internship Programmes**

**12.5** The NHRC regularly conducts two internship programmes of one month duration each every year for university students during their summer and winter vacations. During 2013-2014, the Summer Internship Programme was organized from 27 May to 25 June 2013. A total of 50 students comprising 31 females and 19 males successfully participated in the summer internship programme. Among the 50 interns, 14 were LL.B. students and the remaining 36 were post-graduate students pursuing different disciplines of social sciences. Six students were awarded best intern prize.

**12.6** The Winter Internship Programme was held from 30 December 2013 to 28 January 2014. In all, 46 interns comprising 23 females and 23 males completed their internship. Out of 46 interns, 22 were Law students and 24 others were post-graduate students studying different social science disciplines. Four students were conferred the best intern award.

## **C. Short-term Internship Programme & Visits to NHRC**

**12.7** 195 students, especially from the Law stream, from various institutes, colleges, universities in India attended the Short-term Internship Programme for a period of 15 days duration. During the short-term internship programme, the students were exposed to the functioning of various Divisions of the Commission and were also given practical experience of working in the Law, Investigation and Research Divisions. Apart from this, groups of students, around 672 in number, from different universities & colleges also visited NHRC.

## **D. Foundation Day Celebrations**

**12.8** The NHRC celebrated its 20th Foundation Day on 12 October 2013. As part of the Foundation Day Celebrations, a painting competition was organized for the children of NHRC employees. For purposes of the painting competition, the children were divided into three age groups – 5-8 years; 9-13 years and 14-17 years. Three prizes in each category were awarded to the best paintings.

**12.9** The celebrations ended with a spectacular cultural programme organized in the evening of 12 October 2012 at FICCI Auditorium, New Delhi. In the cultural programme, the officers and staff of NHRC, members of their families, along with professional singers and dancers performed and enthralled the audience. Justice Shri Cyriac Joseph, Member, NHRC presided over the function. Also present on the occasion were Shri S. C. Sinha, Member of the Commission along with other renowned dignitaries. Shri S.C. Sinha presented mementos to all the artists on the occasion.

**12.10** Earlier Shri J. S. Kochher, Joint Secretary (Training & Research), NHRC welcomed the guests and highlighted the importance of the event.

## **E. Human Rights Day Celebrations**

**12.11** The Commission observed the Human Rights Day by organizing a special function at Vigyan Bhawan, New Delhi on 10 December 2013. The Chief Guest on the occasion was Hon'ble Shri M. Hamid Ansari, Vice President of India. In light of the theme for 2013 Human Rights Day - "20 Years : Working for Your Rights", Hon'ble Shri Ansari spoke on "Human Rights and Human Wrongs". Incidentally, 2013 Human Rights Day marked the 20<sup>th</sup> anniversary of the Office of the UN High Commissioner for Human Rights and NHRC, India.

**12.12** On this occasion, the NHRC Chairperson, Justice Shri K.G. Balakrishnan, highlighted the efforts made by the Commission towards the protection and promotion of human rights during the last 20 years of its existence.

**12.13** As part of the programme, Ms. Kiran Mehra-Kerpelman, Director, United Nations Information Centre in India read out the message of the UN Secretary General, Mr. Ban Ki-Moon calling upon all the Member States of the United Nations to fulfill the promise they made at the Vienna Conference for promotion and protection of human rights.

**12.14** Earlier, Dr. Parvinder Sohi Behuria, Secretary General, NHRC while welcoming the dignitaries, highlighted the role of the NHRC, India.

**12.15** The Human Rights Day function was attended by Ms. Nancy Powell, United States Ambassador, the UN High Commissioner for Refugees besides representatives of other UN agencies and eminent persons from various walks of life.

**12.16** On the occasion, the Vice President also released a number of NHRC publications, which included, among others, *Manavadhikar - Nai Dishayein* in Hindi; NHRC English Journal on Human Rights; NHRC and Human Rights Defenders : the Growing Synergy; Living Conditions and Human Rights of Inmates in Prisons; Starvation, Malnutrition and Malnutrition related Deaths of Children in 15 Tribal Districts of Maharashtra; Report on the Implementation of the Persons with Disabilities Act, 1995.

**12.17** Earlier in the morning, on 10 December 2013, NHRC Chairperson, Members, officers and staff took a pledge as part of the observance of Human Rights Day.

## **F. ILI and NHRC Sign MoU for Training and Research**

**12.18** The Indian Law Institute (ILI), New Delhi and the NHRC signed a Memorandum of Understanding (MoU) for undertaking joint research and training on range of human rights issues. During the period under review, the following two programmes were organized by the Research Division of the Commission :

- (i) A two-day Training Programme for Police Personnel on 29 November 2013, and
- (ii) A one-day Programme for Media Personnel on 19 December 2013





**12.19** The participants to the abovementioned programmes were newly appointed police personnel of Central Bureau of Investigation (CBI) and media personnel from the print, radio and television.

### **G. Training Programme for RPF Probationers**

**12.20** A two-day attachment programme for 05 Assistant Security Commissioners (Probationers) of Railway Protection Force was conducted in the Commission on 19 & 20 December 2013. During this attachment programme, Chairperson, Members and senior officers of the Commission interacted with the RPF Probationers.

### **H. NHRC Publications**

**12.21** The Information and Public Relations Unit of the NHRC publishes a monthly Human Rights Newsletter in English and Human Rights *Samachar* in Hindi. These are circulated free of cost among all the important functionaries of the central and state governments, academic and technical institutions, international organizations, NGOs, civil society organizations and the general public at large for spreading awareness on the importance of human rights and NHRC interventions and recommendations given from time to time. The Newsletter is also uploaded on NHRC website for wider dissemination and awareness about human rights issues.

**12.22** The Commission also has a number of other publications which include 54 non-priced and 17 priced publications in English, Hindi and regional languages. These are displayed, distributed and sold during all the seminars, conferences and workshops organized by the Commission.

### **I. NHRC English Journal**

**12.23** The 12<sup>th</sup> volume of the “Journal of the National Human Rights Commission, India” in English was released on 10 December 2013 by the Hon’ble Vice President of India, Mohammad Hamid Ansari, as part of the observance of Human Rights Day by NHRC. The English Journal is brought out by the Research Division of the Commission.

### **J. NHRC Hindi Journal**

**12.24** The 10th edition of the Hindi Journal “Manav Adhikar : Nai Dishayain” was released on 10 December 2013 by the Hon’ble Vice President of India on the occasion of Human Rights Day.

### **K. Media Interaction**

**12.25** The National Human Rights Commission believes that media is its partner in the protection and promotion of human rights. The Commission has a structured policy for its interaction and engagement with media. Various means are utilized for sharing information

on activities, interventions & recommendations of the Commission with media. These include press releases, select media briefings, press conferences, interviews of Chairperson and Members. Media persons are also invited to NHRC seminars, conferences and workshops.

**12.26** During the period from 1 April 2013 to 31 March 2014, 196 press releases/statements were issued by the Information & Public Relations Unit about the various interventions and activities of the Commission. Special efforts were made to organize press conferences and day to day media briefings as an essential component of all the camp sittings and open hearings of the NHRC in different parts of the Country during the period. In all, 13 press conference and 11 interviews of Chairperson and Members were organized for All India Radio, Doordarshan and other media organizations.

## **L. National Seminars in Hindi**

**12.27** In its efforts towards creating awareness of human rights among the masses, the Commission has been organizing National Seminars in Hindi on Human Rights related themes in different parts of India. In continuation of this chain, 4 National Seminars were organized during the year 2013-14. The first National Seminar was held in Indore from 12-13 September, 2013 on 'Challenges of Human Rights, issues of sensitivity and 21st Century'. The second National Seminar was held in Agartala from 15-16 November, 2013 on 'Indian concept of Human Rights : A dialogue'. The third National Seminar was held in Cochin from 9-10 January, 2014 on "Women Empowerment, Media and Human Rights". The fourth National Seminar was held in Aizawl from 28 February - 1 March, 2014 on "Marginalized sections of the Society & Human Rights".

## **M. Biennial Award Scheme on Human Rights in Hindi**

**12.28** The main objective of the Scheme is to encourage original writing in Hindi on various subjects of Human Rights. For the year 2012-2013, the Award Scheme advertisement has been published in almost all leading national and regional newspapers through DAVP and the details of the scheme have also been uploaded on Commission's website.

## **N. Translation of Awarded Books and Manuscripts**

**12.29** The Commission plans to publish the awarded books/manuscripts of Biennial Award Scheme and get them translated in Bangla, Marathi, Malayalam, Tamil and Telugu in its first phase to enable the intellectuals to make full use of it. National Book Trust has been requested to cooperate in this task.

## **O. Hindi Fortnight at NHRC**

**12.30** The NHRC's Annual Hindi Pakhwada for the promotion of the use of Official Language in its day-to-day working was held from 14 - 28 September, 2013. Quiz programme, translation competition, Hindi Essay competition, Poetry recitation, Hindi typing and

handwriting competition etc. were held during the Pakhwada. The winners were awarded by Hon'ble Chairperson, Justice Sh. K. G. Balakrishnan.

## **P. Essay Writing Competition for Dalits**

**12.31** In its efforts towards spreading awareness of Human Rights among the masses, the Commission had organized an Essay competition on the subject "Six decades of Independence and status of Dalits : An Evaluation" for the Dalits (SCs) participants only. The detail of the scheme was uploaded on Commission's website and also circulated to various news channels. The last date for receiving the entries was 30 June 2013. In all, 130 entries were received from different parts of the country and four prizes were awarded to the winners of the essay competition on the occasion of Foundation Day of NHRC held on 12 October 2013.

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## *Chapter - 13*

### **HUMAN RIGHTS DEFENDERS**

**13.1** Human rights defenders are at the core of the human rights movement the world over. They, by and large, are persons either acting alone or in association with others and facilitate in addressing violations of human rights and fundamental freedoms of people and individuals. They may belong to different professions, be members of governmental and non-governmental organizations. For their involvement in the struggle for human rights, the defenders are often the first victims of human rights violations perpetrated either by State officials or non-State entities. Violence against them ranges from the most outright attacks against their life, personal security and dignity, due to which they often end up being victims of harassment, threats, intimidation and many a times restrictions are imposed on their living conditions, leading to loss of employment.

**13.2** Some human rights defenders are at greater risk because of the nature of rights they seek to protect. This is particularly true with regard to women human rights defenders. In many situations, women are at the front line of struggle, not only for their own rights but also those of their families and communities. In the midst of these struggles, many of these women are also personally at risk, for example, when they challenge the structures of societies that perpetuate discrimination against women, in particular issues of sexuality and reproductive rights. In these circumstances, the call in the Beijing Platform for Action for Governments in 1995 to ensure the protection of women engaged in the defence of human rights is of particular importance.

**13.3** Similarly, of particular significance is the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly known as the Declaration on Human Rights Defenders. The said Declaration was adopted in December 1998 by the UN General Assembly and is not just addressed to States and to human rights defenders, but to everyone. Though the Declaration is not a legally binding instrument, States have a responsibility to implement and respect all the provisions of the Declaration. The importance of the Declaration and the need to promote its effective implementation has been emphasized time and again by different human rights bodies of the United Nations.

**13.4** Ever since the Declaration on Human Rights Defenders was adopted on 9 December 1998, the movement for protection and promotion of rights of human rights defenders has grown stronger and stronger. This is evident by the fact that the Human Rights Council in order to further protect human rights defenders adopted a Resolution on 21 March 2013. The agreed Resolution encourages national human rights institutions to provide an enabling environment for human rights defenders, including reporting of their activities in the universal periodic review as well as reports submitted to committees of different treaty bodies.

**13.5** On 18 December 2013, the UN General Assembly adopted another Resolution calling upon all States to promote, translate and give full effect to the Declaration on Human Rights Defenders, along with taking appropriate steps for protection and promotion of women human rights defenders. Through this Resolution, it also calls upon States to effectively and expeditiously implement Security Council Resolutions 1325 of 31 October 2000, 1820 of 19 June 2008, 1888 of 30 September 2009, 1889 of 5 October 2009, 1960 of 16 December 2010, 2106 of 24 June 2013 and 2122 of 18 October 2013 on women and peace and security, including gender sensitivity training for Police officers and law enforcement personnel.

## **A. Role of NHRC, India**

**13.6** The NHRC, India on its part, has taken ample steps to protect and promote human rights defenders addressing humanitarian concerns in India. Some of these are :

- It has set up a Focal Point for Human Rights Defenders to deal with complaints alleging harassment of human rights defenders by or at the instance of public authorities.
- Every year since 2011, it has been releasing a message on 9 December, the day when the Declaration on Human Rights Defenders was adopted.
- Whenever instances of violation against human rights defenders come to the notice of the Commission, It sends a strong message to the concerned State not to victimize them. In furtherance of the same, during the period under report, the Secretary General, NHRC wrote a letter to the Chief Secretaries of all the States and Union Territories to sensitize its functionaries about the problems faced by human rights defenders and that they should be treated as partners in bringing about a positive change in the human rights environment of the country.
- It has taken proactive steps to protect the cause of the human rights defenders by recommending prosecution, compensation, etc.
- Human rights defenders cases are being displayed on the website of NHRC and updated regularly.
- The NHRC ensures interaction with the human rights defenders during the Camp sittings and Open hearings organized by it from time to time. The feedback given by human rights defenders about the problems faced by them are taken into consideration by the Commission. In fact, cases of human rights defenders were given top priority during the period under review and necessary relief, on merits, too was provided.

**13.7** Ever since the Focal Point for Human Rights Defenders was set up in the Commission, it has played a very significant role in addressing concerns of human rights defenders in the country along with spreading awareness among the people about the role being played by it. The designated contact person at the Focal Point in the Commission is Shri A.K. Parashar, Joint Registrar (Law). The Focal Point is accessible to human rights defenders round the clock through (i) Mobile No. 9810298900, (ii) Fax No. 24651334, and (iii) E-mail: hrd-nhrc@nic.in. The Focal Point ensures that the directions of the Commission in every case of alleged harassment of human rights defenders are complied with immediately and also conveyed to the concerned human rights defender. In addition, the update of complaints concerning alleged harassment of human rights defenders is posted on the website of the Commission.

**13.8** The Focal Point during the period under review travelled to every nook and corner of the country to participate in workshops, seminars, road shows, sensitization programmes, etc. organized by civil society organizations, non-governmental organizations and other organizations with the objective of supporting the endeavours of human rights defenders. The Focal Point has also come out with a publication titled “NHRC & HRDs : The Growing Synergy”, which was released by the Vice President of India on Human Rights Day, 10 December 2013. The publication details out the role being played by the National Human Rights Commission in promoting and protecting the rights of human rights defenders. This publication has received overwhelming response from the people.

## **B. Illustrative Cases**

**13.9** The Commission plays a vital role in handling and disposing of complaints pertaining to human rights defenders received by it. During the period under review, the Commission received 57 complaints pertaining to human rights defenders. Out of these, it disposed of 13 complaints on merit. Further, till 31 March 2014, 88 cases pertaining to human rights defenders were under consideration of the Commission. Some of the important cases and decisions taken therein are elucidated below.

1. *Student Human Rights Defender Assaulted by Miscreants for Protest Against Eve Teasers*  
(Case No.877/25/15/2013)

**13.10** The complainant drew the attention of the Commission towards a news report from West Bengal that a student human rights defender of IIT - Guwahati, named Ricky Biswas was assaulted by miscreants in retaliation against his protest of teasing a girl returning home from school. The incident happened in Ichchapur area of North 24-Paraganas District of West Bengal. The victimized student human rights defender went to the concerned Police Station to lodge an FIR but the Police forced him to sit in the Police Station for a prolonged duration and then recorded his complaint only in the General Diary. It was further alleged that the Police was trying to implicate Ricky Biswas in a false case.



**13.11** The Commission directed to issue notice to the Superintendent of Police, North 24-Paraganas calling for a report within four weeks. Communication has been received from the Superintendent of Police, North 24-Parganas, Barasat stating that the place of incident falls under the jurisdiction of Noapara Police Station which is under the authority of Commissioner of Police, Barrackpore. The Commission has now called for a report from the Commissioner of Police, Barrackpore and the same is awaited.

2. *Sub-Inspector Escorted by Hooligans Threaten Human Rights Activist for Complaint Against Them*  
(Case No. 891/25/13/2013 -Main File 646/25/13/2013-WC)

**13.12** The Commission received an SMS complaint alleging that one Swarup Biswas, Sub Inspector of Raninagar Police Station along with around 15-16 notorious hooligans, armed with bombs and pipe guns arrived at the residence of Ajimuddin Sarkar, a human rights activist, at 10.45 p.m. on 16 July 2013, and threatened him as he had made a complaint against them to the Police. The complainant had apprehended threat to life of the human rights activist and requested immediate action in the matter.

**13.13** The Commission requested its Director General (Investigation) to look into the matter and collect all the related facts from the Superintendent of Police, Murshidabad and Officer-in-charge of the Police Station Raninagar at the earliest. The matter is under consideration of the Commission.

3. *RTI Activist Killed for Seeking Information on Unauthorized Construction in Bhiwandi Area of Mumbai*  
(Case No. 312/13/16/2014)

**13.14** The complainant alleged that an RTI activist, named Abrar Ahmed Zamil Ahmed, who had sought information under the RTI Act, from Brihanmumbai Municipal Corporation about construction of unauthorized buildings in Bhiwandi area, had been killed in Mumbai on 17 December 2013.

**13.15** The Commission directed to issue a notice to the Commissioner of Police, Mumbai calling for a report in the matter within four weeks. The report is awaited.

4. *Police Cracks Down on Peaceful Protests Against Hydro-Electric Dam in Guwahati*  
(Case No.198/3/12/2012)

**13.16** The Commission received a complaint from Shri. Waliullah Ahmed Laskar, Director, Law and Legal Affairs, Barak Human Rights Protection Committee, Guwahati, Assam. It was alleged that the members of Krishank Mukti Sangram Samiti and other organizations who were protesting peacefully against an on-going construction of a hydro-electric power project were subjected to high handedness by the Police. In another incident of police atrocity, 27 activists of the same organization were detained by the Police and their makeshift camps were dismantled by the Police and CRPF personnel.

**13.17** Pursuant to the directions of the Commission, two separate reports were received from the Superintendent of Police, Lakhimpur, and the DIG (Operations-II), respectively. As per their reports, the protestors had turned violent several times during the on-going construction of a hydro-electric power project between December 2011 to May 2012, in which they indulged in rioting, causing injuries to government personnel and damaged public and private vehicles. Several cases were registered on these incidents as well.

**13.18** Their reports further stated that the protestors established a makeshift camp at Ghagar, Tinali, and this camp became a hub of nefarious and anti-national elements. As a result, they started creating nuisance and obstructed vehicles on the highway in the name of checking to ensure that no construction material relating to the dam was carried by the vehicles. They obstructed even the vehicles carrying day-to-day essential commodities for the NHPC Campus at Gerukamukh. On 11 May 2012, a diesel tanker was set on fire by the anti-dam agitators. In order to maintain law and order, one platoon of CRPF was requisitioned and deployed in the area by the Civil Force. On the same night, the makeshift camp was removed by the District Administration with the help of Police. Five criminal cases were registered at Police Station Baginadi against the protestors and the same are under investigation.

**13.19** The Commission considered the two reports and observed that the report of the Superintendent of Police was silent on the allegation that 27 activists were detained by the Police on 11 May 2012. Hence, the Commission directed the Superintendent of Police to submit a further report on this point. In the meantime, copies of the two reports were sent to the complainant, seeking his comments. Response is awaited from the State authorities as well as from the complainant.

5. *Arbitrary and Illegal Detention of Human Rights Defenders*  
(Case No. 313/18/6/2014)

**13.20** The complainant in his complaint alleged arbitrary and illegal detention of human rights defenders, namely, Digamber Duria, Srikanth Bharatia, Mansingh Bharatia, Tirath Nag and few others by Kokasara Police in Kalahandi District of Odisha on 31 December 2013 when they were protesting and demanding proper implementation of laws that ban bonded labour, steps to curb acute poverty and starvation deaths, etc. It was further alleged that the victims were falsely charged for waging war against the State & sedition u/s 147, 148, 149, 358, 120 (b), 121 (a), 124 (a) of the IPC. The complainant requested for an immediate appropriate action in the matter.

**13.21** A notice was issued to the Director General of Police, Odisha calling for a report in the matter within four weeks. The report is awaited.

6. *Trespassing and Ransacking Residence of Human Rights Monitor in Murshidabad District, West Bengal*  
(Case No. 1739/25/13/2012)

**13.22** The complainant alleged that local villagers of Village Chuapaa-Bardhanpur, Police Station Raninagar, District Murshidabad, West Bengal on 14 October 2012 entered the house of Azimuddin Sarkar, a human rights monitor, ransacked it and threatened his life. The matter was reported to the Police but no action was taken.

**13.23** The Commission took cognizance of the matter on 21 November 2012 and issued a notice to the Superintendent of Police, Murshidabad, West Bengal and called for a report.

**13.24** As there was no response from the Superintendent of Police, Murshidabad, West Bengal, the Commission directed that it shall be constrained to invoke the provisions of Section-13 of the Protection of Human Rights Act, 1993.

**13.25** The Superintendent of Police, Murshidabad, West Bengal revealed that an FIR No. 50/13 dated 21 January 2013 was registered at P.S. Raninagar, District Murshidabad and investigation is pending.

**13.26** The Commission noted this point and observed that with regard to the incident on 14 October 2012 an FIR No. 50/13 was registered on 21 January 2013 after a complaint was lodged with the Commission. The Superintendent of Police, Murshidabad District was directed to submit a further report as to the status of investigation in FIR No. 50/13 and the reason for the delay in registration of FIR No. 50/13, along with the details of the action taken against the erring police personnel for this delay.

**13.27** The Commission on 21 October, 2013 sent a final reminder to the concerned authority calling for the requisite report within four weeks, failing which the Commission would invoke provisions of Section-13 of the Protection of Human Rights Act, 1993. However, the Commission on 12 February 2014 directed to issue a further reminder to the Superintendent of Police, Murshidabad District, West Bengal, granting him four more weeks to submit the requisite report.

**13.28** The case continues to be under the consideration of the Commission.

7. *Life Threat to Human Rights Defender by Police*  
(Case No. 16023/24/52/2013)

**13.29** The Commission received a complaint filed by one Shri R.H. Bansal, human rights defender alleging that he was threatened by the Police to withdraw a complaint in which he had accused the Superintendent of Police of Mathura city for hitting his own Constable with a *lathi* thus breaking his hand. He feared threat to his life. The Commission took cognizance of the matter and directed the Director General (Investigation) to look into the matter.

**13.30** The matter continues to be under the consideration of the Commission.

8. *Arrest of Human Rights Defender for Protesting Against Incident of a Woman Forced to Give Birth Outside Primary Health Centre, Menimata in Madhya Pradesh*  
(Case No. 1062/12/2/2013 LF 1064/12/2/2013, 1065/12/2/2013, 1066/12/2/2013)

**13.31** The complainant, an office-bearer of Front Line Defenders, an Ireland based NGO, alleged that a human rights defender Madhuri Ramakrishnasway was arrested by Police in Badwani District of Madhya Pradesh on 16 May 2013 for protesting against the incident where a woman named Baniya Bai was forced to give birth on road outside the Primary Health Centre in Menimata, District Badwani in Madhya Pradesh.

**13.32** The Additional Director General of Police, Bhopal Police Headquarters revealed that as per orders of the court, one Madhuri Ben, a woman office bearer of Dalit Adivasi Organization was arrested by the Police in connection with crimes under Madhya Pradesh Hospitals Act, 2008. She was remanded to judicial custody till 30 May 2013 by the court. The FIR was registered on the report of an official of Menimata Government Hospital.

**13.33** The Commission observed that the report did not address the substance of the complaint, or grievance of Madhuri Ramakrishnasway, for which she had to make a protest against the hospital authorities, and on whose FIR the police then acted upon.

**13.34** Smt. Baniya Bai was admitted by her father-in-law at Menimata Primary Health Centre for delivery. The next day, she was asked to pay ₹ 100/- as bribe. Since she could not, she was forced to leave the hospital, and gave birth in public view on the road outside. The human rights defender took Baniya Bai to another hospital, where she received treatment. Thereupon, Madhuri Ramakrishnasway launched a protest against the incident.

**13.35** The Commission viewed the above matter seriously for it exemplified gross violation of human rights, including the right to life and the right to health. It was of the view that the staff at the Government Primary Health Centre should be punished if these allegations were found to be true and the victim Baniya Bai should receive compensation.

**13.36** The Commission considered the report of Bhopal Police Headquarters, Madhya Pradesh. The report revealed that Madhuri Ramakrishnaswamy was not arrested by the Police. However, for non-appearance in the court despite service of notice, the court had sent her to judicial custody. The report further enclosed documents which showed that departmental action was initiated against the Government PHC staff for dereliction of duties. The Compounder, Vijay Kumar, was placed under suspension and after conclusion of the inquiry, he was penalized by way of censure of one annual increment, without cumulative effect.

**13.37** The Commission observed that there had been gross violation of human rights, including the right to life and the right to health. The staff of the PHC, Compounder Vijay Kumar had been punished for his negligence. In view of this, a show cause notice was issued to the Government of Madhya Pradesh as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993, should not be recommended for victim Baniya Bai.

**13.38** The response of the State Government is awaited.

9. *Torture and Threat to Human Rights Defender by SHO For Complaining Against Rioters*  
(Case No. 12122/24/24/2013)

**13.39** The complainant alleged that one Muharam Ali, a human right defender was tortured and threatened by the SHO Aliganj. It was further alleged that police also pressurized him to withdraw the case against the accused.

**13.40** In response to the Commission's directions, it was reported by the concerned Police authorities that so far as riots were concerned, an FIR No. 35/13 u/s 147/148/435 IPC was registered against 50-60 unknown persons. During investigation, 14 persons had been identified and the Investigating Officer was instructed to expedite and conclude the investigations. As regards giving of compensation / financial assistance to the victim was concerned, the decision had to be taken by the District Administration.

**13.41** The Commission considered all the material on record including allegations of the complainant about the damage to his house by rioters on which an FIR was registered but investigation pending. The Commission vide its proceedings dated 25 July 2013, forwarded the report received from the police authorities to the complainant for comments. As the complainant has not submitted any comments on the report forwarded by the Police authorities, a copy of the report has now been sent to the victim, Muharam Ali, r/o village Ahladadepur, P.S. Aliganj, District Ambedkar Nagar, Uttar Pradesh for his comments, if any.

**13.42** The matter continues to be under the consideration of the Commission.

10. *Illegal Detention, Abuse and Torture of Human Rights Defenders by Chennai Police*  
(Case No. 61/22/13/2014)

**13.43** In the above case, the complainant alleged that a human rights defender, named, V Gouthaman along with five students, Paravai Dasan, Raymond, Gautham, Vasanthan and Jothilingam were illegally detained and a person, named Tamil Inniyan, was abused and physically tortured by the Police in Chennai, Tamil Nadu.

**13.44** It was further stated in the complaint that V. Gouthaman along with the five students were illegally detained by the Police without following the provisions of law and the guidelines laid down by the Supreme Court in the case of D.K. Basu vs. State of West Bengal. The person named Tamil Inniyan was also brought to the Guest House where the above six persons were kept.



**13.45** When all of them were being taken to some undisclosed location from the Guest House, the Assistant Commissioner of Police named Gnanasekaran arrived on the spot. He abused and brutally tortured Tamil Inniyan on the pretext that he had sent SMS to the media about their arrest. He was also hit on his private parts. All the alleged detainees were not given any food and thus made to starve. They were also not provided any record about their detention. Tamil Inniyan underwent treatment for two days at the Rajiv Gandhi Government Hospital. The complainant prayed for action against the erring police officials and relief to the victims.

**13.46** The Commission requested its Director General (Investigation) to depute a team from the Investigation Division along with an officer from the Law Division, to carry out a detailed on the spot inquiry in the matter and submit a report to the Commission.

**13.47** Pursuant to the directions of the Commission, a team of officers from Investigation Division and Law Division visited Chennai from 21 to 24 January 2014 for conducting of on spot enquiry. On completion of its enquiry, the NHRC Team found the following:

- (a) In view of the visit of the President of India to Loyola College, Chennai, the Assistant Commissioner of Police of Nungambakkam, Gnanasegeran and his team of officers (on the instructions of senior officers), arrested suspected Tamil chauvinists, including students, supportive of Sri Lankan Tamil cause and kept them under preventive detention during the entire presidential visit.
- (b) Their arrest by the Police was done in good faith, on legitimate grounds on the orders of senior officers, based on reliable intelligence inputs of plans of Tamil chauvinists to disrupt the high profile State visit of the President of India to Loyola College, Chennai.
- (c) The arrest records revealed that six persons were arrested from Saraswati Street, Mahalingapuram, Chennai. However, the enquiry revealed that actual arrest of all these six persons was done from their respective residences/ homes. It was found that the guidelines/ procedures regarding arrest as laid down by the Supreme Court of India and prescribed under the Cr.P.C. were not followed in letter and spirit.
- (d) An SMS was sent by Tamil Inniyan to different persons of media and news of their midnight arrest was made public. In the complaint, it was alleged that Tamil Inniyan was pulled out from the vehicle in which he was sitting with others and badly assaulted by Gnanasegeran, Assistant Commissioner of Police and Inspector Srikanth for sending SMS to the media. However, the medical diagnostic tests (such as Doppler test, Ultra sound and CT scan) did not reveal any injuries and the treating doctors had also not observed any



marks of external injury. Tamil Inniyan (the patient) had also absconded from the treatment ward of RGGG Hospital, Chennai.

**13.48** The NHRC Team in its report concluded that the allegations of the victims who were arrested from their respective homes by the police at night were true, and the guidelines of the Supreme Court and procedure prescribed under Cr.PC regarding arrest were not adhered to by the Police while arresting these seven persons. The NHRC Enquiry Team accordingly recommended that the Hon'ble Commission may consider directing the Director General of Police, Tamil Nadu, to initiate appropriate action against the erring police official, Gnanasegeran, Assistant Commissioner of Police, Nungambakkam and his team of police officials, including Inspectors Shibu Kumar and Srikanth, for arresting seven persons without following the rule of law on arrest.

**13.49** Upon consideration of the report submitted by the NHRC Enquiry Team and the material on record, the Commission directed the Director General of Police, Tamil Nadu to initiate appropriate action against the police officials, namely, Gnanasegeran, Assistant Commissioner of Police, Nungambakkam and his team of police officials, including Inspectors Shibu Kumar and Srikanth for arresting seven persons in FIR No. 2281 dated 20 January 2013 of Nungambakkam Police Station, without following guidelines of the Supreme Court of India and procedure prescribed under Cr.PC on arrest and submit a report in the matter to the Commission.

**13.50** The matter continues to be under the consideration of the Commission.

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## ***Chapter - 14***

### **INTERNATIONAL COOPERATION**

**14.1** National Human Rights Institutions (NHRIs) that comply with the principles relating to the status of national institutions, commonly known as the Paris Principles, are playing a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level. This role is increasingly being recognized by the international community. Through the Universal Periodic Review, treaty monitoring bodies, and other international human rights mechanisms, every State is being encouraged to establish an effective, independent NHRI that complies with the Paris Principles as well as strengthen it where already existing. NHRIs encourage cooperation with a range of actors, among which the United Nations, and in particular, the Office of the United Nations High Commissioner for Human Rights (OHCHR) besides the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (International Coordinating Committee/ICC), and the Asia Pacific Forum of National Human Rights Institutions (APF) are of significance.

**14.2** During the period under review, the National Human Rights Commission of India, which is a member of the ICC and a founder member of the APF participated in number of meetings which are detailed below along with details of participation in international meetings, seminars, workshops and interaction with foreign delegates in the Commission.

#### **A. ICC-26 Annual General Meeting and Biennial Meeting of Commonwealth Forum of National Human Rights Institutions**

**14.3** A three-member delegation from NHRC, India, headed by Justice Shri K. G. Balakrishnan, Chairperson participated in the 26th Annual General Meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and Biennial Meeting of Commonwealth Forum of National Human Rights Institutions (CFNHRIs) – 2013, held in Geneva from 6 to 10 May 2013. Shri Satyabrata Pal, Member and Shri J.S. Kochher, Joint Secretary (Training & Research) were the other two members of the delegation.

**14.4** The ICC is a representative body of NHRIs from all parts of the world. Established in 1993, the ICC promotes and strengthens NHRIs to be in accordance with the Paris Principles. It performs this role by encouraging cooperation and information sharing among NHRIs, including through an annual meeting and biennial conference; supporting NHRI engagement with the UN Human Rights Council and treaty bodies; undertaking accreditation of NHRIs in accordance with the Paris Principles; promoting the role of NHRIs with the United Nations and with States and other international agencies; offering capacity building in collaboration with the Office of the High Commissioner for Human Rights (OHCHR), and, where requested, assists governments to establish NHRIs.



**14.5** The APF and its member institutions continue to make a significant contribution to the operations and human rights initiatives of the ICC. The ICC is incorporated as a non-profit association under Swiss law. The ICC Statute, adopted in March 2009, sets out its objectives and operation.

**14.6** NHRIs which comply fully with the Paris Principles – and which have been granted ‘A status’ by the ICC Bureau – are eligible to become voting members of the ICC and to hold governance positions. NHRIs which partially comply with the Paris Principles – and which have been granted ‘B status’ by the ICC Bureau – can participate in meetings of the ICC but are not eligible to cast vote or to hold governance positions.

**14.7** The operations of the ICC are managed by the ICC Bureau, which consists of representatives from each of the four regional groupings : Africa, Americas, Europe and the Asia Pacific. Each regional grouping is represented by elected representatives from four ‘A status’ NHRIs. The APF is currently represented on the ICC Bureau by Korea, Malaysia, Qatar and Thailand.

**14.8** A key role of the ICC Bureau is to assess applications for membership of the ICC. It furthermore reviews and determines the accreditation status of NHRIs, following a recommendation from the Sub-Committee on Accreditation.

**14.9** In addition, the ICC Bureau collaborates with the Office of the High Commissioner for Human Rights (OHCHR), in particular the National Institutions and Regional Mechanisms Unit, to facilitate the participation of NHRIs in the UN Human Rights Council. The National Institutions and Regional Mechanisms Unit of the OHCHR acts as the Secretariat of ICC. The ICC has a permanent representative in Geneva to support and facilitate the participation of NHRIs in the UN Human Rights Council and its human rights mechanisms.

**14.10** ICC meetings are usually held twice a year, the first in conjunction with the first quarter session of the UN Human Rights Council and the second in conjunction with one of the NHRI regional network meetings. A meeting is also held in conjunction with the bi-annual ICC International Conference. The latter involves NHRIs as well as representatives of United Nations agencies, international organizations and civil society. The purpose of the International Conference is to strengthen cooperation between NHRIs, to discuss human rights issues of shared concern and to ensure follow-up at the national level.

**14.11** In the General Meeting of ICC-26 in which NHRC, India delegation participated, was opened by Mrs. Navi Pillay, United Nations High Commissioner for Human Rights, Ambassador Mr. Remigiusz Achilles Henczel, President of the Human Rights Council, Ms. Geraldine Fraser-Moleketi, Director of the Democratic Governance Practice of the United Nations Development Programme and Dr. Mousa Burayzat outgoing Chairperson of the ICC. Dr. Mousa Burayzat welcomed NHRIs from around the world and acknowledged the presence of the high level representatives attending the meeting’s opening session.

**14.12** Speaking on the occasion, Mrs. Navi Pillay, United Nations High Commissioner for Human Rights, highlighted number of achievements in the human rights area. She stated that 2013 marked the 20th anniversary of the Vienna Declaration and Programme of Action. Vienna shaped a number of milestone human rights commitments and fostered strong global recognition regarding the importance of NHRIs. She also referred to the interaction of NHRIs with the UN human rights mechanisms and stressed on its importance. She next threw light on some challenges that NHRIs were encountering. One key challenge being maintaining independence and effectiveness on the ground. She reiterated that the strongest characteristics of any effective NHRI must be their independence, their pluralism, their integrity and their inclusiveness. In order to be perceived by the victims of human rights violations as useful and credible actors, it is vital that national institutions remain accessible and open to all population groups — including the disadvantaged and marginalized — and they must work in close collaboration with civil society.

**14.13** In addition, she stressed that NHRIs in many cases faced legal and institutional obstacles preventing it from fulfilling its mandate successfully, which needs to be looked into. Perhaps, there is also a need to improve the existing accreditation procedure of ICC. She reaffirmed that OHCHR will continue to work closely with the ICC to achieve a more rigorous, fairer and more transparent accreditation process.

**14.14** At the end of her address, the High Commissioner acknowledged the presence of Ms. Geraldine Fraser-Moleketi, Director of the Democratic Governance Group of UNDP as well as UNDP engagement with NHRIs.

**14.15** Thereafter, Ambassador Mr. Henczel, President of the Human Rights Council expressed his appreciation to the ICC Chair for the invitation to address the 26th annual meeting of the ICC. He referred to NHRIs increasing participation in the UPR, the Special Procedures and other thematic discussions of the Council. He welcomed the fact that the meeting's agenda is to address the Report of the Special Rapporteur on Human Rights Defenders. He further stated that the Council encourages NHRIs to continue playing an active role in the prevention and protection of human rights as provided for in international human rights instruments, and encouraged member States to establish effective, independent and pluralistic NHRIs. He also commended OHCHR's role of facilitating the engagement of the ICC and NHRIs with the Human Rights Council mechanisms and its ever central position in the Council's functioning and achievements, especially along with the use of the Council's sessions as a tribunal by NHRIs and other human rights actors to raise awareness on the prevailing human rights situation on the ground.

**14.16** Ms. Fraser-Moleketi, Director of the Democratic Governance Practice of the United Nations Development Programme reminded that UNDP's relationship with NHRIs flow from its human development core mission. The Tripartite Partnership Framework between OHCHR-UNDP-ICC allowed UNDP to reply to requests for support from NHRIs. She stressed

the importance of working in partnership in the human rights area illustrated by activities implemented in central Asia, in Ukraine and in the Asia Pacific region. In addition, Ms. Fraser-Moleketi addressed the theme of Post-2015 framework and how it should be human-rights based, provide necessary mechanisms of accountability. The Post-2015 process should ensure further strengthening of the role of NHRIs towards an inclusive, sustainable and achievable agenda.

**14.17** After all the dignitaries had made their speeches, the agenda of the 26th annual meeting of the ICC was adopted. The agenda focussed on five themes (i) 20 years – the Vienna Declaration and Programme of Action, the Paris Principles and the ICC - planning for the future, (ii) Report of the Special Rapporteur on Human Rights Defenders, (iii) Follow-up on the Amman Declaration, (iv) Post-2015 Development Agenda and the role of NHRIs, and (v) Right to participation.

**14.18** After the opening ceremony, on Day 1 (6 May 2013), the first theme, i.e., “20 years – the Vienna Declaration and Programme of Action, the Paris Principles and the ICC - Planning for the Future” was taken up for discussion. In this session, intervention by way of presentation was made by Shri Satyabrata Pal, Member, NHRC, India. He began by reminding the audience that the Indian Human Rights Commission celebrates its 20 year anniversary this year. He reported that the Commission received 107,655 complaints during 2012, this figure illustrated the difficulty to cope with expectations namely the increasing number of complaints. Additionally, he highlighted some challenges that NHRC, India is encountering on the ground. The first issue related to the quasi-jurisdictional power and the need to find a balance between whether to be case driven or issue driven. While mentioning the quasi-jurisdictional power, Shri Pal noted that this issue is weakly addressed by the Paris Principles and should be made mandatory. He referred to new thematic challenges, namely, environment, business and human rights and terrorism. All these issues, he said, have transnational aspects and are global problems.

**14.19** In addition, Shri Pal invited ICC to retrospect, in particular, about its accreditation process where too much emphasis was being laid on law and legislation reforms. Shri Pal also mentioned that the ICC should not see its Members through the eyes of handful of NGOs from each country given the fact it does not have a screening process for NGOs. Finally, he reminded that all NHRIs differ from country to country and one cannot force an international framework into specific domestic issues. The complete text of the presentation made by Shri Satyabrata Pal is at **Annexure – 15**.

**14.20** On Day 2 (7 May 2013), pursuant to Article 34 of ICC Statute, Dr. Lourence Mushwana of South Africa was elected as the new Chair and Professor Alan Miller, from Scottish NHRI was elected as the new Secretary.

**14.21** Accreditation of Members to the ICC and their mid-term review also came up for discussion and NHRC, India point of view was acknowledged for discontinuing the practice



of mid-term review of NHRIs. It was further emphasized by Shri Satyabrata Pal, Member that the Statute made it amply clear that only NHRIs from Member States of the U.N. could be accredited by the ICC.

**14.22** Subsequently, Mr. Stefanov, Chief, NIRMS-OHCHR provided an overview of OHCHR's work with NHRIs. His intervention provided highlights of Secretary General Report to the Human Rights Council Activities from April 2012 – March 2013. He gave some good examples of activities to establish and strengthen NHRIs as well as good practices adopted by the NHRIs. He also gave an overview of interaction of NHRIs with treaty bodies, Human Rights Council (UPR and special procedures). Finally, he called for NHRIs implementation of the Amman Declaration and Programme of Action on the promotion and protection of human rights of women and girls, adopted at the International Conference of NHRIs in Jordan in November 2012. He stated that NHRIs working in conflict situations must be encouraged to be vigilant and proactive in protecting the rights of persons affected by conflict, in accordance with the Paris Principles.

**14.23** Next, Prof. Michael O'Flaherty, expert on human rights presented a "Report on Treaty Body Strengthening", wherein he provided facts about the high level of non-engagement of stakeholders in the treaty body process and the delays in reporting. He noted 10% increase in treaty body reporting as opposed to 40% in the UPR. Prof O'Flaherty also raised some concerns related to the fact that in some treaty body committees, NGOs are allowed space to engage but NHRIs are not, such as, CAT. On the other hand, the CRC allows for direct NHRI intervention. A proposition was thus made that the Chair of the ICC should meet the chairpersons of the Treaty Bodies at their annual meeting.

**14.24** On Day 3 (8 May 2013), Ms. Margaret Sekaggya, UN Special Rapporteur on Human Right Defenders presented a report. After her presentation, Ms. Isha Dyfan, Chief of Women's Rights and Gender Section, OHCHR emphasized on the "Follow-up of Amman Declaration". It was followed by a presentation on "Post-2015 Development Agenda and the Role of NHRIs" by Ms Julia Kercher, of OHCHR. The session was chaired by Professor Gillian Triggs, President, Australian Human Rights Commission. The last session of the meeting was on "Right to Participation". The ICC 26 General Meeting was closed by the new Chair, Mr. Lourence Mushwana, Chair of the South-African Commission.

**14.25** On 9 and 10 May 2013, the Commonwealth Forum of National Human Rights Institutions (CFNHRI) met in Geneva, Switzerland on Biennial Meeting. The meeting brought together 52 participants from 20 Commonwealth NHRIs and ombudsman offices, as well as observers from civil society organizations and other NHRI networks. The two day meeting consisted of a series of sessions involving presentations from members and external experts, as well as open discussions. Topics covered included human rights and mass violence; sexual orientation and gender identity, and the rights of older people in the Commonwealth including discussion around a convention on the rights of older people. The CFNHRI also



heard updates from the CFNHRI Working Groups on “Climate Change and Human Rights”, and “Disability”.

**14.26** During the course of the meeting of CFNHRIs, Chairperson, Justice Shri K.G. Balakrishnan spoke in the thematic session on “Human Rights and Mass Violence”. He also spoke about the work of the NHRC-India and several human rights issues covered by it and the large number of complaints it received.

## **B. Cooperation with the Asia Pacific Forum of National Human Rights Institutions**

**14.27** As mentioned in the Commission’s Annual Report of 2011-2012, the Asia Pacific Forum of National Human Rights Institutions (APF) is a leading regional human rights organization in the Asia Pacific region established in 1996. It is a member-based organization that supports the establishment and strengthening of independent National Human Rights Institutions in the region. Its goal is to protect and promote human rights of people of the Asia Pacific region through network of member institutions. At the time of writing of this Annual Report, APF had 15 full members and seven associate members. These members represent a diverse range of countries across the region. NHRC, India, as mentioned above, is one of its founding members. Any NHRI in the Asia Pacific can apply to become a member of the APF. Decisions about membership are made by the Forum Council, which is the APF’s governing body.

**14.28** To be admitted as a full member, anNHRI must comply with the minimum international standards set out in the Paris Principles. In addition, the Forum adopts the accreditation decisions of the ICC to determine APF membership status. NHRIs which are considered to fully comply with the Paris Principles are accredited as ‘A status’, while those that partially comply are accredited as ‘B’ status. ‘A status’ NHRIs are allowed to participate in the work and discussions of the United Nations Human Rights Council and its subsidiary bodies.

## **Eighteenth Annual Meeting and Second Biennial Conference of APF**

**14.29** The Eighteenth Annual Meeting and Second Biennial Conference of APF was organized in Doha, Qatar from 1 to 3 October 2013. It was hosted by the National Human Rights Committee of Qatar and attended by a three member delegation from NHRC, India comprising Justice Shri K. G. Balakrishnan, Chairperson, Shri S. C. Sinha, Member and Shri B. S. Nagar, Under Secretary (Coordination). In the Annual Meeting that was held on 1 October 2013, the Forum Councillors approved the nomination of NHRC, India to host the Nineteenth Annual Meeting of the APF in New Delhi in 2014. The suggestions of NHRC, India to retain the provisions relating to ‘Initial members’ and their ‘Status’ in Rule 11.1 (b) and (c) of the APF Constitution were accepted.

**14.30** With a number of countries in the Asia Pacific undergoing fundamental political transformations, the second APF Biennial Conference was held on 2-3 October 2013 and it focused on the opportunities and challenges involved in charting a peaceful course to democracy. Around 150 representatives from NHRIs, governments, civil society organizations and UN agencies from across the Asia Pacific discussed strategies and range of issues for working together to support a genuine and inclusive transition to democracy. The topics discussed included “role of women in political and democratic reform”, “role of NHRIs in working with police and security forces”, and “role of NHRIs in democracy and good governance”. One of the sessions also highlighted the practical steps being taken by NHRIs in the region to promote and protect the rights of women and girls, as part of commitments made under the APF Action Plan and the Amman Declaration.

**14.31** Speaking on the occasion Justice Shri K. G. Balakrishnan, spoke about the initiatives taken by the Commission on the ‘Amman Declaration and Programme of Action’ and ‘The APF Action Plan on Human Rights of Women and Girls : Promoting Gender Equality’. Chairing a session on the ‘Role of NHRIs in Working with Police and Security Forces’, he expressed that the NHRC, India works with and oversees the functioning of the police and security forces in multiple ways to ensure their adherence to human rights. Talking on the “Role of NHRIs in Democracy and Good Governance” Shri S. C. Sinha stated that NHRC, India, since its inception, has contributed significantly towards the functioning of the systems in the country. In this effort, it is facilitated by non-governmental organizations and the civil society, with whom it has a robust relationship. In addition, it has a Core Group of NGOs and various other subjects’ specific Core Groups and Expert Groups who advise the Commission from time to time on key issues.

**14.32** Forum Councillors also participated in a dialogue on supporting human rights defenders with representatives from the Asian NGO Network on National Human Rights Institutions (ANNI). Justice Shri Balakrishnan said that the ANNI Reports were misleading and ANNI should adopt a process to seek comments of the concerned NHRI on its draft report before publishing it. Mr. Kieren Fitzpatrick, Director, APF agreed with the suggestion and said that the APF has taken up this issue with ANNI. The ANNI representative present on the occasion also agreed to act accordingly.

### **Annual Roundtable Meeting of SEOs of NHRIs at Sydney**

**14.33** The annual roundtable meeting of Senior Executive Officers of NHRIs was convened by the Asia Pacific Forum of National Human Rights Institutions (APF) in Sydney, Australia on 24 and 25 June 2013. Dr. Ashok Sahu, Secretary General, NHRC, India participated in the meeting. Several key issues were discussed during the six sessions of the meeting which included ‘roles and responsibilities of SEOs’, ‘implementation of capacity assessment’, ‘good governance and corruption’, ‘SEOs and the media’, ‘organization, design and development’, and ‘APF update and discussion session’.

**14.34** Dr. Ashok Sahu gave a presentation on the 'Roles and Responsibilities of SEOs' and provided an insight into the structure, functions and activities of NHRC, India. He also addressed the session on 'Good Governance and Corruption' and highlighted the role played by NHRC, India on the issue. During the course of the presentation, Dr. Sahu underlined the policy parameters and institutional arrangements in India to prevent corruption and promote good governance.

### **C. ICC-27 Annual General Meeting and Annual Meeting of Commonwealth Forum of National Human Rights Institutions**

**14.35** A delegation led by Justice Shri K. G. Balakrishnan, Chairperson participated in the ICC-27 Annual General Meeting of International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and the Annual Meeting of the Commonwealth Forum of National Human Rights Institutions (CFNHRI) in Geneva from 12 to 14 March 2014. Justice Shri Cyriac Joseph, Member, NHRC and Dr. Parvinder Sohi Behuria, Secretary General, NHRC were other Members of the delegation.

**14.36** After the welcome and adoption of the agenda for the ICC Bureau Meeting, Mr. V. Stefanov, Chief, National Institutions and Regional Mechanism Sections (NIRMS), OHCHR made a statement on behalf of OHCHR in which its perspectives and priorities were highlighted. These included providing assistance to NHRIs in their interaction with the international human rights system and in following up on observations and recommendations formulated by treaty bodies, special procedures and the Universal Periodic Review (UPR). He continued that NHRIs being valuable stakeholders in the UPR, the Human Rights Council (HRC) has enhanced the participatory rights and visibility of A-status NHRIs in the second UPR cycle. Information submitted by those institutions now appear in a separate section of the Summary of Stakeholders' Information prepared by OHCHR, which is one of the three documents forming the basis of the review. Also, during the adoption of the outcome of the review by the Human Rights Council Plenary, A-status NHRIs are entitled to intervene immediately after the State under review. With regard to treaty bodies too, OHCHR continued to liaise with NHRIs prior to each session to encourage them to provide written or oral information and to attend the sessions. NIRMS also prepared briefings on institutions for the attention of treaty bodies.

**14.37** Mr. Stefanov reiterated that NIRMS will continue to support NHRIs at the national level working closely with NHRI regional networks; support NHRIs at the regional and international level including by encouraging NHRIs to interact with the UN and regional human rights mechanisms; and provide support to the ICC as its secretariat to meetings and the SCA for accreditation. OHCHR, he said will continue to support the fellowship programme enabling staff from A-status NHRIs to work at OHCHR for a period of time, and develop their knowledge in human rights, specifically the international human rights system. Indeed the synergy of national experience from the NHRI fellows and international

expertise from the NIRMS team provides a very dynamic and diverse pool of expertise, in relation to OHCHR mandate to support NHRIs, he concluded.

**14.38** The overarching theme of ICC 27 was the “Role of Prevention in the Promotion and Protection of Human Rights” which took into account the Human Rights Council (HRC) resolution 24/16 dated 8 October 2013. Other themes discussed were - NHRI experiences with the Second Cycle of the Universal Periodic Review of the Human Rights Council, the Belgrade Principles on the Relationship between NHRIs and Parliaments, Women’s Rights and National Actions Plans on Human Rights, and the ICC accreditation process.

**14.39** Justice Shri Balakrishnan, Chairperson of NHRC, India who led the delegation spoke about the various activities of the Commission and the important role played by it in all stages of the second cycle of UPR. He also suggested that three new observations be incorporated for the ICC Sub Committee on Accreditation (SCA) for review of NHRIs, which included NHRI serving as national monitoring/preventative mechanisms; the quasi-judicial competency of NHRIs; and assessing the performance of NHRIs. However, given NHRC, India’s strong opposition, supported by other member countries, the ICC Chair, Dr. Laurence Mushwana agreed not to move ahead with the proposal to give more powers to the SCA to review the accreditation status of NHRI, within the five year period through an amendment in Section 15 of the ICC Statute.

**14.40** The NHRC, India had held that the proposal for amendment in the ICC Statute to empower the SCA to review an NHRI within the accreditation period was against the whole process of accreditation and re-accreditation as outlined in Section 5 of the ICC Statute which has ample provisions for all kinds of checks and balances to make the process of accreditation of NHRIs fully credible.

**14.41** The NHRC, India conveyed its support to the ICC Chair on the issue of tackling leprosy related discrimination and requested that it be included in the ‘Objectives’ of the ‘Strategic Plan’ of the ICC.

**14.42** At the APF’s Forum Councillors Meeting, held on the sidelines of ICC Meeting, Justice Shri Balakrishnan accepted Director, APF, Mr. Kieren Fitzpatrick’s request to represent South Asia for the ‘Forum Councillors Working Group on APF Strategic Planning Process 2015 to 2020’. In the thematic session on ‘Post 2015 Development Agenda : The Inclusion of Human Rights’, all the NHRIs were of the opinion that human rights should be included in this Development Agenda.

## **D. Follow up to the Recommendations of Second Universal Periodic Review**

**14.43** The second cycle of the Universal Periodic Review commenced in 2012. The Working

Group on the UPR, established in accordance with Human Rights Council Resolution 5/1 of 18 June 2007, held its 13th Session from 21 May to 4 June 2012. The review of India was held on 24 May 2012. In its meeting held on 30 May 2012, the Working Group adopted the report presented by the Government of India. The report adopted by the Working Group (A/HRC/21/10) may be seen on the UN website ([www.un.org.in](http://www.un.org.in)). The final outcome of the Government of India's report was adopted in the Plenary Meeting of the Council at its 21st Session held on 20 September 2012 wherein 67 recommendations were accepted by the Government of India. The list of recommendations accepted by the Government of India may be seen on the above website.

**14.44** The follow-up and implementation on these recommendations accepted by Government of India is the most important aspect of this mechanism. Early successful implementation of these recommendations is important. This would be useful when India comes up for review under UPR-III in 2016. In order to facilitate proper implementation of the accepted recommendations, the Commission has developed a framework to monitor the implementation of recommendations accepted by the Government of India at the second UPR. On each recommendation adopted by the Government of India it has listed a series of action points along with indicators/monitorable outcomes. Besides, it identifies the authority responsible for its implementation.

**14.45** In order to ensure required action on each of the listed recommendations by the concerned Ministries, the Commission in March 2014 wrote to all the Ministries directing them to undertake the necessary actions as per the framework devised by it under information to it. These Ministries primarily are External Affairs, Home Affairs, Rural Development, Women and Child Development, Human Resource Development, Law and Justice, Health and Family Welfare, Minority Affairs, Labour and Employment, Social Justice and Empowerment, Food and Public Distribution, Drinking Water and Sanitation, Information and Broadcasting, Housing and Urban Poverty Alleviation, Finance and Tribal Affairs. The Commission will appreciate if the aforementioned Ministries take timely action on the listed recommendations as this would facilitate NHRC, India to report when India comes up for review under UPR-III in 2016.

## **E. NHRC, India Participation in International Meetings, Seminars and Workshops**

**14.46** Shri Sanjay Kumar Jain, Senior Superintendent of Police participated in Regional Blended-learning Pilot Course on "National Human Rights Institutions and the Promotion and Protection of Migrant Workers Rights" organized by the APF in Manila, Philippines from 13 to 16 May 2013.

**14.47** Shri Pupul Dutta Prasad, Senior Superintendent of Police, NHRC participated in the face-to-face workshop on Regional Training-of-Trainers (TOT) Blended-learning Course 2013 organized by the APF in Yangon, Myanmar from 3 to 7 June 2013.



**14.48** Justice Shri K. G. Balakrishnan, Chairperson was honoured as Distinguished Guest to present a paper in the working session on “Human Rights and Terrorism” in the “International Conference of Jurists” held on 24 to 25 June 2013 at London, United Kingdom.

**14.49** Smt. Kanwaljit Deol, Director General (Investigation), NHRC participated in the 20th Annual Meeting of Special Procedures of Human Rights Council in Vienna, Austria from 24 to 28 June 2013.

**14.50** Shri A. K. Parashar, Joint Registrar (Law) and Shri Dushyant Singh, Inspector of the NHRC, India visited Afghanistan Independent Human Rights Commission (AIHRC) in Kabul to impart training on complaint registration procedure, usage of technology for complaint registration and investigative techniques and methods from 27 September 2013 to 13 October 2013 as part of the follow-up action on the MoU signed between AIHRC, NHRC, India and the National Institution Building Project of the United Nations Development Programme, Afghanistan.

**14.51** Justice Shri K. G. Balakrishnan, Chairperson, Shri S. C. Sinha, Member and Shri B.S. Nagar, Under Secretary, NHRC, India visited Doha, Qatar from 1 to 3 October 2013 to participate in the 18th Annual Meeting and Biennial Conference of APF.

**14.52** Shri K. H. C. Rao, Deputy Superintendent of Police (Investigation Division) and Shri T. Raveendran, Section Officer (Coordination Unit) visited Bangkok, Thailand from 25 November 2013 to 05 December 2013 to participate in the “Blended Learning Course for NHRIs” organized by the APF in association with Raoul Wallenberg Institute, Sweden.

**14.53** Shri Sanjiv Sharma, Senior System Analyst, NHRC visited Zambia Human Rights Commission (ZHRC) for setting up of an effective and efficient complaints and case management system in their Commission from 16 to 20 December 2013.

**14.54** Justice Shri K. G. Balakrishnan, Chairperson, NHRC visited Jakarta, Indonesia to participate in the Launch Ceremony for the Global Appeal 2014 to end Stigma and Discrimination against People affected by Leprosy from 27 to 28 January 2014.

**14.55** Justice Shri K. G. Balakrishnan, Chairperson, Justice Shri Cyriac Joseph, Member and Dr. Parvinder Sohi Behuria, Secretary General participated in the ICC-27 Annual General Meeting of International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and the Annual Meeting of the Commonwealth Forum of National Human Rights Institutions in Geneva from 12 to 14 March 2014.

## **F. Interaction with Foreign Delegates in the Commission**

**14.56** The following individuals and delegations visited NHRC, India during 2013-2014 :





**14.57** Ms. Rashida Manjoo, United Nations Special Rapporteur on Violence Against Women visited the Commission on 30 April 2013 to discuss the issues on violence against women, its causes and consequences.

**14.58** A 10 member delegation led by Md. Qamrul Islam, State Minister of Law, Justice and Parliamentary Affairs of Bangladesh visited the Commission on 1 May 2013 to know from the Commission its work related to human rights of women and children.

**14.59** Mr. Toghrul Aliyev, Third Secretary (Economic Affairs), Embassy of the Republic of Azerbaijan visited the Commission on 1 August 2013 to know about the functioning of the Commission.

**14.60** Mr. Dominik Bartsch, Chief of Mission, UN High Commissioner for Refugees (UNHCR) in India and Maldives called on the Chairperson of the Commission on 16 August 2013 to discuss the stand of the Commission on the Status of Refugees.

**14.61** Mr. Deepak Obhrai, Parliamentary Secretary to the Minister of Foreign Affairs and for International Human Rights in Canada along with Mr. Jim Nickel, Deputy High Commissioner of Canada and Mr. Paul Hong, Senior Policy Advisor visited NHRC on 19 November 2013.

**14.62** A two member delegation from the Malaysian Human Rights Commission (SUHAKAM) visited the NHRC from 16 to 20 December 2013 as part of a study programme.

**14.63** Prof. Heiner Bielefeldt, UN Special Rapporteur on Freedom of Religion or Belief visited NHRC on 20 February 2014.

**14.64** Ms. Sabina Lauber, Human Rights Officer for Asia Pacific section in the Office of the United Nations High Commissioner for Human Rights visited NHRC on 24 February 2014 to discuss NHRIs work related to Universal Periodic Review including that of NHRC, India as part of documenting best practices in the region.

**14.65** As mentioned in para 14.50 above, as part of the MoU signed between AIHRC, NHRC, India and UNDP, a 25 member delegation of AIHRC visited NHRC, India on 26 February 2014 for mutual exchange of information and experience sharing.

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## *Chapter - 15*

### **STATE HUMAN RIGHTS COMMISSIONS**

**15.1** Section 21 of the Protection of Human Rights Act, 1993 (PHRA) lays down that all State Governments should have their own State Human Rights Commission so as to exercise the powers conferred upon this institution and to perform the functions assigned to it under the Act. Its Chairperson is a former Chief Justice of a High Court. One of its Members should either be or has been a Judge of a High Court or a District Judge in the State with a minimum of seven years experience as District Judge. The second Member is to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights. A Committee that includes the leaders of both the ruling and opposition parties in the State Legislature recommends their appointment to the Governor, who appoints them.

**15.2** There shall also be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him/her. The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify. A State Commission may inquire into violation of human rights only in respect of matters related to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution. Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter. As of now, 23 States of India have their own State Human Rights Commission (SHRC).

**15.3** In conformity with Section 21 of the PHRA, NHRC, India, may transfer any complaint filed or pending before it to the Human Rights Commission of the State from which the complaint has arisen, for disposal. However, it shall not forward any complaint to a State Human Rights Commission that does not have the jurisdiction to entertain the same. The complaints transferred by NHRC-India are dealt with and disposed of by the State Human Rights Commission as if it were a complaint initially filed before it.

**15.4** The existence and functioning of a Human Rights Commission in the State definitely facilitates 'better' protection of human rights. Furthermore, it is an accepted fact that good governance and human rights go hand in hand and complement each other. The State Human Rights Commissions play a vital role in the effective implementation of human rights standards. The State Governments need to appreciate that the State Commissions are facilitators and support the State Governments in fulfilling their constitutional obligations and responsibilities of protecting and promoting human rights of people – an absolutely vital element of good governance. The State Governments, as such, must take effective steps to make these Commissions fully functional at the earliest in their respective States. While doing so, it should ensure that SHRCs are structurally and financially independent in conformity with the principles relating to the status of national institutions (the "Paris Principles") which were endorsed by the United Nations General Assembly Resolution 48/134 of 20th December 1993. Setting up of SHRCs would not serve the desired purpose

if they are not provided with sufficient manpower, finance and infrastructure to facilitate their functioning.

**15.5** At the time of writing of this Annual Report, 23 States had set up their own SHRCs. The names of these States are Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal. Presently, the posts of Chairperson and Members are lying vacant in the SHRC of Himachal Pradesh. In respect of Meghalaya State Human Rights Commission too, its constitution has been notified but there has been no appointment of the Chairperson or Members.

**15.6** Undoubtedly, the need for establishment of State Human Rights Commission is felt by each and every State. For that reason, it is all the more important to constitute State Human Rights Commission in all those States which do not have the same. In this context, the Chairperson, NHRC has continuously been writing to Chief Ministers of those States which have not yet set up their SHRC as well as take immediate steps for appointment of Chairperson, Members and officers along with requisite resources, manpower, infrastructure, so that they are able to function independently and efficiently. The Chairperson, NHRC had earlier brought to the notice of these Chief Ministers, the provision existing in Section 21(6) of the PHRA whereby "Two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Members consents to such appointment: Provided that every appointment made under this sub-section shall be made after obtaining the recommendations of the Committee referred to in sub-section (1) of Section 22 in respect of the State for which a common Chairperson or Member, or both, as the case may be, is to be appointed". This provision may be useful in case an adjoining State which is without an SHRC and would be interested in sharing the Chairperson/Members with the SHRC of a State for want of suitable manpower/expertise in their own State.

**15.7** The NHRC holds regular interactions and meetings with the SHRCs for strengthening relationship and cooperation between the two. During these meetings, apart from discussing collaborative ventures, issues that affect the functioning of SHRCs – especially infrastructure, manpower and finance, are also taken up and possible measures deliberated upon to take care of those issues. The NHRC, for example, has been facilitating SHRCs in providing material and resource persons for the training of their personnel in the area of human rights. In addition, it is facilitating the SHRCs to streamline their complaint management system for expeditious disposal and effective tracking of complaints. For this purpose, it has provided financial assistance to the SHRCs. It regularly invites Chairperson, Members and senior officers of all SHRCs for conferences, workshops and training programmes organized by the Commission.

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### **Other Mechanisms**

**16.1** In order to maximize its reach to each and every part of the country, the Commission has evolved a number of mechanisms, a few of which are on the lines created by the United Nations while others are based on its mandate. The main objective of these mechanisms is to monitor the human rights situation in the country so as to ensure protection and promotion of human rights of people. These mechanisms are engagement of special rapporteurs, constitution of core/expert groups on a range of issues, holding of camp sittings and open hearings across the country, and convening of statutory full commission meetings.

#### **A. Special Rapporteurs**

**16.2** The system of engaging Special Rapporteurs in the NHRC is primarily to facilitate its work as mandated by the Protection of Human Rights Act, 1993 (PHRA). This continued during 2013-2014. Special Rapporteurs, as mentioned in Chapter 3 of this Annual Report, are senior officers who have served as Secretaries or Directors General of Police to the Government of India or is an academician of repute or an eminent person who has knowledge of or practical experience in matters relating to human rights. They are selected on the basis of their expertise, experience, independence, impartiality, integrity, objectivity and should not be holding any decision making positions within the executive or legislative branch of the Government or in any other organization which may give rise to a conflict of interest with the responsibilities inherent in the mandate. The appointment of individuals holding a decision making position in the Government may undermine the impartiality and objectivity of Special Rapporteurs. In addition, due importance is to be given to gender balance in relation to the overall number of mandate holders. They do not receive salaries but an honorarium for the services rendered.

**16.3** The Special Rapporteurs engaged in the Commission are either assigned specific subjects to deal with, such as bonded labour, child labour, custodial justice, disability, etc., or are given a specified geographical zone comprising of a group of States/Union Territories to look into human rights concerns and violations. Their principal function is to inquire into specific complaints as assigned by the Commission; visit jails, police lock-ups and other places of detention for the study of the living conditions of inmates therein; analyze the relevant thematic issue or situation or project or programme in the assigned States/Union Territories on the directions of the Commission; give an opinion on the measures which need to be taken up by the Centre/State Government(s) concerned and other relevant actors; advocate on behalf of the Commission calling for urgent actions by concerned Governments of States/Union Territories to respond to specific allegations of human rights violations and provide redress; and follow-up to the recommendations made by the Commission from time to time. In carrying out these functions under their mandate, Special Rapporteurs should take account of gender, child/life cycle and disability perspective and fully integrate these into their work.

**16.4** During 2013-2014, there were altogether nine Special Rapporteurs in the Commission addressing concerns of nine zones. These zones almost covered all the States/Union Territories of the country and the focus of Special Rapporteurs' work in these zones, apart from enquiring about action taken by the concerned State Governments/Union Territory Administrations on complaints received by the Commission, was on subjects/themes on which the Commission gave priority to during 2013-2014. The Special Rapporteurs are initially engaged for a period of three years and their term is extendable up to a maximum period of six years or up to the age of 70 years, whichever is earlier. The details of the work and visits undertaken by the Special Rapporteurs have been given in preceding chapters of the Annual Report. The details of their visit reports can also be seen on the website of NHRC – [www.nhrc.nic.in](http://www.nhrc.nic.in) under the head 'Reports'.

## **B. Core / Expert Groups**

**16.5** Core/Expert Groups consist of eminent persons or subject experts or representatives of Government or technical institutes or non-governmental organizations in the field/area required by the Commission, be it health, mental health, disability, etc. These Groups render expert advice to the Commission on the given issue for which their expertise has been called for. Some of the important Core/Expert Groups currently functioning in the NHRC are:

- Core Advisory Group on Health
- Core Group on Mental Health
- Core Group on Disability
- Core Group on NGOs
- Core Group on Lawyers
- Core Group on Right to Food
- Core Group on Protection and Welfare of Elderly Persons
- Expert Group on Silicosis
- Core Advisory Group on Bonded Labour

**16.6** Meetings of the Core/Expert Groups are called by the Commission periodically at regular intervals or as and when deemed necessary, in the Commission, at the behest of the Members. The details of different Core/Expert Group meetings held in the Commission are given in preceding chapters of the Annual Report.

## **C. Statutory Full Commission Meetings**

**16.7** As per Section 3(3) of the PHRA, the Chairperson of the National Commission for Minorities, the National Commission for Scheduled Castes, the National Commission for



Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of Section 12 of the Protection of Human Rights Act, 1993. The Chairperson of the National Commission for Protection of Child Rights is a special invitee in the Statutory Full Commission meetings.

**16.8** The Statutory Full Commission meetings are convened on a quarterly basis. However, it was agreed that depending upon the number of items and seriousness of the issues to be placed before the Commission, the frequency could be changed as deemed necessary by the Chairperson, NHRC and meetings could be held even more frequently.

**16.9** The last meeting of the Statutory Full Commission was held on 4 February 2014. A range of issues were taken up for discussion in this meeting, including, inter-linking the Complaint Management Information System (CMIS) of the NHRC with other National Commissions, follow up action taken on K B Saxena Report of the Commission on the Prevention of Atrocities against Scheduled Castes, preventing and combating human trafficking in India, malnutrition among children and women, restoration of livelihood and rehabilitation of victims of ethnic violence in Kokrajhar, Assam, and the Unlawful Activities (Prevention) Act, 1967. In addition, Members of the Statutory Full Commission also discussed issues relating to the indecent representation of women in the media, the Juvenile Justice (Care and Protection of Children) Act, 2000, clinical trials, and missing children.

## **D. Camp Sitzings and Open Hearings of the Commission**

**16.10** The NHRC has been regularly organizing camp sittings in State capitals from 2007 onwards to expedite disposal of pending complaints and review the progress made by the State functionaries with regard to the recommendations made by the Commission on various human rights concerns from time to time. The meetings of the camp sittings provide a good interface between the Commission and the State authorities to know each others' view point on a range of issues.

**16.11** During the period under review, the Commission held three camp sittings in Raipur (Chhattisgarh), Imphal (Manipur) and Lucknow (Uttar Pradesh). The information pertaining to these camp sittings have been detailed out in Chapter 2 of this Annual Report. Prior to these three camp sittings, the Commission had organized camp sittings in Lucknow (Uttar Pradesh) in January 2007, Patna (Bihar) in May 2007, Bengaluru (Karnataka) in September 2010, Ahmedabad (Gujarat) in November 2011, Bhubaneswar (Odisha) in January 2011, Guwahati (Assam) in May 2012, and in Shillong (Meghalaya) in May 2012.

**16.12** The Commission, from 2012-2013 onwards, has started organizing Open Hearings on Atrocities against Scheduled Castes in different States and Union Territories of the country. The main objective of these open hearings is to resolve complaints of atrocities committed on scheduled caste population along with other important pending human rights



issues impacting on the members of scheduled caste population in the given State/Union Territory. During 2012-2013, the Commission held six open hearings in Bhubaneswar (Odisha), Ahmedabad (Gujarat), Madurai (Tamil Nadu), Jaipur (Rajasthan) and Nagpur & Mumbai (Maharashtra).

**16.13** During the period under review, the Commission held two open hearings – one at Varanasi in Uttar Pradesh on 25 & 26 November 2013. The other open hearing was held in the premises of the Commission at New Delhi on 12 December 2013 covering Districts of Meerut, Ghaziabad, Bulandshahar and Gautambudh Nagar in Uttar Pradesh. Cases of atrocities that were brought to the notice of the Commission related to police inaction, biased investigation by police officers, crime against women, sexual assault, civil dispute and civil matters.

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## ***Chapter - 17***

### **ADMINISTRATION AND LOGISTIC SUPPORT**

**17.1** As mentioned in Chapter 3 of this Annual Report, the **Administration Division** of the NHRC in accordance with the Protection of Human Rights Act, 1993, looks after the establishment, administrative and related requirements of the Commission and its Secretariat, in terms of matters relating to infrastructure, personnel, accounts, library, etc. for smooth functioning of NHRC. Having explained the composition of the Commission and the procedure involved in appointment of the Chairperson and Members of the Commission, including functioning of various Divisions in NHRC in Chapter 3 of the Annual Report, the present Chapter focuses on the staff position, library and status of applications received in the Commission under the Right to Information Act, 2005.

#### **A. Staff**

**17.2** As on 31 March 2014, 315 employees were in position against the total sanctioned strength of 343 comprising various ranks. The NHRC over the years has taken recourse to a variety of methods with regard to selection of personnel for developing and building a cadre of its own. These methods include direct recruitment, re-employment, deputation and contractual appointment.

#### **B. NHRC Library**

**17.3** The Library of the Commission was established in the year 1994 for research and reference purposes. With the passage of time and technological innovations, the Library today is well equipped with a Documentation Centre (E-Library) having computer and internet services. Database of books, documents and articles are available on INTERNET and INTRANET for wider use of readers. Besides the Chairperson, Members and Secretariat of the Commission, the Library is also being used by government officials of different Ministries/Departments, lawyers, human rights activists, representatives of technical institutions and non-governmental organizations, interns, research scholars of universities across the country as well as from abroad, and others working in inter-disciplinary fields.

**17.4** The Library has an extensive collection of about 23,029 books covering a wide range of subjects and 1,395 back volumes of journals. It also has a collection of 417 CDs, DVDs and Cassettes. It subscribes to 59 renowned journals being published from India and abroad, 106 serial publications, 26 magazines and 24 national & regional newspapers. During the period under review, 1,560 new books pertaining to human rights and related subjects were added to the existing collection of books, periodicals and documents.

**17.5** The Library is also equipped with SCC Online (Supreme Court Case Finder CD-ROM), AIR Infotech containing AIR Supreme Court 1950-2013; AIR High Courts 1950-2013, Criminal Law Journal 1950-2013 and Software Package (E-Granthalaya) developed by National Informatics Centre (NIC), New Delhi.

**17.6** An online Open Public Access Cataloguing(OPAC) has been specially designed for ascertaining the availability and location of any book or document in a prompt way in the Library by accessing either 'Author' or 'Title', or 'Subject', or 'Keyword' or 'Publisher'.

**17.7** The NHRC Library is an institutional Member of British Council Library and DELNET (Developing Library Networking), New Delhi which promotes resource sharing among different libraries. The NHRC Library also maintains close liaison with other libraries through Inter-library loan facilities for accessing and borrowing of books, documents and journals.

### **C. Right to Information**

**17.8** The National Human Rights Commission has devised an institutional mechanism for replying to queries that come under the purview of Right to Information Act, 2005 (RTI Act). For this purpose, the Information and Public Relations Officer of the NHRC was appointed as the Central Public Information Officer and the Joint Secretary (P&A) as the First Appellate Authority under the RTI Act. With the launch of the online RTI web portal by the Department of Personnel and Training, Government of India, in 2013, taking into consideration the course of action involved on each RTI application, including the increase in number of RTI applications being received in the Commission and ensuring their replies on time, the Commission restructured its institutional mechanism and designated the following persons as relevant authorities as per the RTI Act :

#### **(i) First Appellate Authorities**

- Director General (Investigation) – for RTI appeals pertaining to the Investigation Division.
- Registrar (Law) – for RTI appeals pertaining to the Law Division.
- Joint Secretary (P&A) – for RTI appeals pertaining to Administration, Research [subjects of Deputy Secretary (Administration) Unit ] and Information and Publication.
- Joint Secretary (T&R) – for RTI appeals pertaining to the Training and Research Division [subjects of Deputy Secretary (Research) and Senior Research Officer].

These Appellate Authorities will mark the received appeals directly or through the Nodal Officers to the concerned PIO(s) who will put up the same before the Appellate Authority for sending a reply to the applicant.

- (ii) **Transparency Officer** – Smt. Shoba George, Deputy Secretary (Administration), assisted by Senior System Analyst.

(iii) **Nodal Officer**

- Shri Jaimini Kumar Srivastava, I&PRO – for RTI applications and appeals received by post or by hand.
- Shri U. N. Sarkar, AIO – for RTI applications and appeals received online.

(iv) **Public Information Officer**

Law Division

- Shri Sunil Arora, Deputy Registrar (Law) – for RTI applications relating to Law Division.

All Assistant Registrars (Law) are appointed as Deemed PIOs for RTI information pertaining to their sections/units.

Investigation Division

- Shri Sanjay Kumar Jain, Senior Superintendent of Police – for RTI applications relating to the Investigation Division.

All Deputy Superintendents of Police are appointed as Deemed PIOs for RTI information pertaining to their Groups.

Administration Division

- Under Secretary (Establishment) – for matters pertaining to the Establishment Section.

Section Officer (Establishment) is appointed Deemed PIO for matters pertaining to the Establishment Section.

- Under Secretary (Coordination) – for matters pertaining to the Coordination Section.

Section Officer (Coordination) is appointed Deemed PIO for matters pertaining to the Coordination Section.

- Under Secretary (General Administration) – for matters pertaining to the General Administration Section.

Section Officer (General Administration) is appointed Deemed PIO for matters pertaining to the General Administration Section.

- Assistant Director (Official Language) – for matters pertaining to the Official Language Section.

Sr. Hindi Translator is appointed Deemed PIO for matters pertaining to the Official Language Section.

- Senior Accounts Officer – for matters pertaining to the Accounts Section.

Shri S. S. Gossain, Assistant Accounts Officer is appointed Deemed PIO for matters pertaining to the Accounts Section.

#### Information & Publication

- Information and Public Relation Officer – for matters pertaining to Information and Public Relations.
- AIO – for matters pertaining to Publications, etc.

#### Research & Training Division

- Dr. Savita Bhakhry, Deputy Secretary (Research) – for research subjects relating to Deputy Secretary (Research) and SRO Units.
- Smt. Shoba George, Deputy Secretary (Administration) – for research subjects relating to Deputy Secretary (Administration) Unit.
- Dr. S. K. Jain, Senior Research Officer (Training) – for training and internship matters.

**17.9** With the implementation of the new mechanism, on receiving the RTI applications, online as well as postal, from the Nodal Officers, the designated PIOs now directly communicate the information to the applicant with a copy thereof to the RTI Unit for compilation of periodic reports. In case of appeals, the concerned PIOs place the same before their first Appellate Authorities and also attend to the hearings in CIC.

**17.10** The details of applications and appeals received under the RTI Act during the period 1 April 2013 to 31 March 2014 are as follows:

#### **Details of Applications**

Sr. No.		On line	Postal	Total
1	No. of applications received	215	2797	3012
2	No. of applications disposed off within 30 days	140	2542	2682
3	No. of applications pending but disposed off beyond one month	---	----	----
4	No. of applications pending but are within one month	10	107	117
5	No. of applications transferred to others Ministries/Departments/ Organizations	69	144	213

**Details of 1<sup>st</sup> Appeals**

Sr. No.		On line	Postal	Total
1	No. of appeals received by the Appellate Authorities	21	108	129
2	No. of such appeals disposed off within one month	19	106	125
3	No. of appeals pending	02	02	04

**Details of 2<sup>nd</sup> Appeals with C.I.C.**

Sr. No.		On line	Postal	Total
1	No. of notices received from C.I.C.	---	---	19
2	No. of hearings attended by C.P.I.O./Appellate Authority	---	---	19
3	No. of hearings in r/o which compliance report submitted to C.I.C.	---	---	04
4	No. of hearings in r/o which compliance report not submitted to C.I.C.	---	---	Nil

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## Chapter - 18

### SUMMARY OF PRINCIPAL RECOMMENDATIONS AND OBSERVATIONS

**18.1** The Annual Reports of the Commission, apart from giving a description about the overall activities undertaken by it each year including the recommendations made by it to the State and Union Territory Governments on varied issues, serve as a principal source 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 a range of human rights concerns as well as complaints, its other key priorities and achievements(**para 1.6**).

**18.2** In a society as diverse as ours, the indivisibility and interrelated nature of human rights – be it civil, political, economic, social or cultural – is self-evident. This aspect is well recognized in the Constitution of India. In reality, the situation is different as widespread discrimination still persists against the scheduled caste and scheduled tribe communities. This is equally true of women, children and other vulnerable groups. These deviations are grave dangers not only for the victims but for the country as a whole as discrimination engenders serious inequality and undermines the overall freedom and prosperity of a nation. The problems and concerns of each of these groups were given due attention by the Commission during the period under review (**para 1.7**).

**18.3** The report that follows, *inter alia*, deals with civil and political rights, in particular, custodial violence and torture, including deaths in custody, illegal detention, high-handedness of police, deaths in police firing and encounters, and conditions in prisons. The report then deals with economic and social rights, such as rights relating to health, food, education, rights of people belonging to Scheduled Caste and Scheduled Tribe communities as well as other vulnerable groups, including women, children, disabled and elderly persons; human rights education, training and awareness; the role of State Human Rights Commissions, non-governmental organizations and human rights defenders in supporting the endeavours of NHRC, India. The important cases of human rights violation under each category of rights dealt by the Commission are also covered in this Report. In addition, the report focuses on NHRC, India's co-operation at international level with Human Rights Council, Asia Pacific Forum of National Human Rights Institutions and International Coordinating Committee of National Human Rights Institutions(**para 1.8**).

#### Number and Nature of Complaints

**18.4** As in the past, the Commission continued to receive complaints from different parts of the country on a wide range of issues where rights of the people had been violated or negligence was shown by a public servant in the prevention of such violations. These complaints included cases alleging custodial deaths, torture, fake encounters, police high-handedness, violations committed by security forces, conditions relating to prisons,

atrocities committed on women and children and other vulnerable sections, communal violence, bonded and child labour, non-payment of retiral benefits, negligence by public authorities, etc. The Commission also took cognizance of the intimations received regarding deaths in police encounters and police custody, judicial custody and in the custody of defence/para military forces. *Suo motu* cognizance of many incidents based on reports in print and electronic media was taken including those cases which came to the notice of Chairperson, Members, Special Rapporteurs and senior officers of the Commission during their visits to different parts of the country (para 2.18).

## Human Rights Violation Cases

**18.5** A total of 98,136 cases were registered in the Commission (**Annexure-1**) during 2013-2014. It disposed of 92,292 cases which included cases of previous years as well. Of the total number of cases disposed of by the Commission during the year under review, 49,776 were dismissed '*in limine*' while 26,964 were disposed of with directions to the appropriate authorities for remedial measures. A total of 5,787 cases were transferred to the State Human Rights Commissions for disposal in accordance with the provisions of the PHRA. For details of State/Union Territory-wise cases disposed of by the NHRC during 2013-2014 see **Annexure-2**. At the end of the reporting period, i.e. on 31 March 2014, the total number of cases pending with the Commission was 28,886. These covered 2,316 cases awaiting preliminary consideration and 26,570 cases of previous years in respect of which reports were either awaited from the authorities concerned or the reports had been received but were pending further consideration of the Commission (**Annexure-3**) (para 2.19).

## Preventing Custodial Violence

**18.6** The NHRC received 1,577 intimations concerning death in judicial custody<sup>2</sup>, 140 intimations of death in police custody and two intimations about death in para-military / defence forces custody during the review period. It disposed of 972 cases of custodial death – 867 cases of death in judicial custody, 104 cases of death in police custody and one case of death in the custody of para-military forces. These figures contain cases of previous years as well (para 2.21).

## Recommendations of NHRC for Monetary Relief and its Compliance

**18.7** During the period 1 April 2013 to 31 March 2014, the Commission recommended ₹ 15,19,53,086 as payment of monetary relief/compensation to the victims/next of kin of the deceased in 443 cases. Out of the total number of cases in which monetary relief was recommended, compliance reports were received in 83 cases only wherein a total amount of ₹ 2,33,95,000 was paid to the victims/next of kin of the deceased. The State/ Union Territory-wise details of these cases are at **Annexure-4** (para 2.23).

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

**18.8** During the period under review, the NHRC awaited compliance reports in 360 cases wherein monetary relief amounting to ₹ 12,85,58,086 was recommended (**Annexure-5**). The Commission, once again, recommends to all those States/Union Territories, in particular the Government of Uttar Pradesh, to take speedy action on cases pending with them for compliance so that the monetary relief recommended in each case is immediately given to the victim/next of their kin. As is evident from the given Annexure, during 2013-2014, a total of 125 cases were found to be pending with the Government of Uttar Pradesh, 29 with the Government of Assam and 25 with the NCT of Delhi for compliance in which an amount of ₹ 4,39,15,000, ₹1,84,20,000 and ₹40,50,000 respectively was recommended by the Commission as monetary relief. Bihar (18 / ₹ 35,80,000), Maharashtra (18 / ₹ 62,75,000), Madhya Pradesh (16 / ₹ 39,45,000), Manipur (16 / ₹ 84,00,000), Haryana (13 / ₹ 35,55,000), Rajasthan (13 / ₹ 24,00,000), Andhra Pradesh (13 / ₹ 23,85,000), Odisha (12 / ₹ 45,85,000) and West Bengal (11 / ₹ 37,60,000) were the other States in descending order where the pendency was noticeable (**para 2.24**).

**18.9** With regard to compliance reports relating to cases pertaining to previous years, compliance was awaited in 105 cases, for details see **Annexures - 6 & 7**. **Annexure-6** gives details of cases pending compliance for the year 2012-2013 in respect of payment of monetary relief. As is apparent, the State of Uttar Pradesh tops the list again as the Commission till date has not received proof of payment in 16 cases, most of which relate to civil and political rights. Other States, which had yet to forward their compliance reports were – Jharkhand (5), Madhya Pradesh (5), West Bengal (4), Tamil Nadu (4), NCT of Delhi (4), Andhra Pradesh (3), Maharashtra (3), Odisha (3), Punjab (3), Karnataka (2), Assam (2), Bihar (2), Gujarat (2), Rajasthan (2), Jammu and Kashmir (1), Haryana (1), Chhattisgarh (1) and Manipur (1). All the cases pertaining to these States primarily relate to civil and political rights except for a few that address concerns of sexual harassment of women including by army/paramilitary personnel, indignity to women, irregularities/ malfunctioning in primary health centres and government hospitals, abduction/rape including of a scheduled caste/scheduled tribe/ other backward class woman, and non-payment of pension. The details of these cases have been reported in earlier Annual Reports of NHRC. The Commission once again calls upon all the aforementioned State Governments to take immediate steps for sending their compliance reports to the Commission and simultaneously take comprehensive steps for protection and promotion of civil, political, economic, social and health rights, along with special measures to prevent acts of violence and discrimination towards women, including those belonging to the scheduled castes, scheduled tribes and other backward classes (**para 2.25**).

**18.10** **Annexure-7** gives details of cases pending compliance on the recommendations made by the Commission for the period 1998-1999 to 2011-2012 for payment of monetary relief, disciplinary action and prosecution. It would be seen that out of the 41 cases cited in the specified Annexure, in nine cases the concerned State Governments have challenged

the recommendations of the Commission in their respective High Courts, and in most of these cases, the final decision is awaited. These States are Kerala (3), Odisha (3), Jammu and Kashmir (2) and NCT of Delhi (1). The Commission nonetheless makes a fervent appeal to these Governments to expedite the cases pending in their respective High Courts. It also trusts that the Governments of other States listed in Annexure-7 will adhere to the recommendations made by the Commission and provide immediate respite to the victims/next of their kin at the earliest **(para 2.26)**.

## **Custodial Violence and Torture**

**18.11** Custodial violence is a calculated assault on human dignity. The Commission remained deeply engaged in efforts to bring to an end the egregious violations of human rights that result in custodial deaths. A systematic effort to curb custodial violence has been a major priority of the Commission. Since its inception in 1993, the NHRC issued guidelines to all the States and Union Territories according to which it is mandatory for the District Magistrates and Superintendents of Police of every District to report all deaths in police and judicial custody to the Commission within 24 hours of its occurrence or having come to know about such incidents. Failure to report promptly would give rise to presumption that there was an attempt to suppress the incident. Furthermore, all cases of deaths in police action are to be reported to the Commission by the Senior Superintendent of Police/Superintendent of the Police of the District within 48 hours of such death. However, despite these guidelines, the Commission has noticed that some of the States are not adhering to the same in true spirit. The Commission, once again requests all the States and Union Territories to follow its guidelines in all cases where death is caused in police action **(para 4.8)**.

**18.12** It is pertinent to note that not all the cases of custodial deaths can be attributed to custodial violence or medical negligence. In fact, many of these deaths are due to natural causes such as illness and old age. In the remaining cases, there are a variety of reasons including illness aggravated by medical negligence, violence by public servants or between prisoners, suicide, etc. **(para 4.9)**.

## **Analysis of Prison Population**

**18.13** The Commission has been deeply concerned about the pitiable condition of prisons and other detention facilities which are plagued with problems like severe overcrowding. The Commission compiles and analyzes statistics on prison population in the country to ascertain the actual position of overcrowding, health, sanitation, hygiene, etc. in the prisons and accordingly suggests measures for their improvement. This is carried out by obtaining data from the Prison Headquarters of each State/Union Territory in a prescribed format every six months **(para 4.333)**.

**18.14** Data is collected on different variables like the number of jails, capacity of jails, number of convicts, number of undertrials, health profile of prisoners, etc. and comparative analysis is carried out to perceive the trends in the above mentioned variables. Analysis of the data obtained shows the problem of overcrowding was observed in large number of States. Overcrowding was especially high in the States of Uttar Pradesh, Madhya Pradesh, Bihar, Maharashtra, Punjab, West Bengal, Rajasthan, Jharkhand, Haryana and Chhattisgarh (**para 4.334**).

**18.15** It was further observed that the main reason for overcrowding is the regular increase in number of undertrial prisoners and the long periods for which they languish in jails. In some cases, it was found that the undertrials languished in judicial custody for years far beyond the punishment prescribed for the given offence under the penal law. This fact is corroborated by the data received from States like Uttar Pradesh, Bihar, Madhya Pradesh, Maharashtra, Punjab, West Bengal, Rajasthan, Jharkhand, Haryana and Orissa as these have the highest percentage of undertrial prisoners (**para 4.335**).

**18.16** The number of women prisoners was also noticeable in States of Uttar Pradesh, Maharashtra, West Bengal, Punjab, Madhya Pradesh, Bihar, Andhra Pradesh, Haryana, Tamil Nadu and Jharkhand (**para 4.336**).

**18.17** Comparative analysis of the prison statistics indicates the continuing need for all States to take serious steps to control overcrowding. Apart from increase in the capacity of jails, in order to reduce overcrowding, provisions in the statutes (in terms of parole, bail, furlough, short leave and appeal petitions, etc.) should be utilized liberally by the concerned officers in the jails. Besides, Jail Committees should be constituted, having representatives from the inmates, to assist the jail authorities in the completion of the above process. (**para 4.337**).

### **National Conference on Health Care as a Human Right**

**18.18** With a view to highlight concerns on accessibility, availability, quality and affordability of health care; women and child health issues; ethical issues and illegal practices in health sector; importance of clean drinking water, sanitation and hygiene for better health care; and occupational health and safety, the Commission organized a two-day National Conference on Health Care As a Human Right at New Delhi on 5 and 6 November 2013 (**para 5.12**).

**18.19** The recommendations of the above Conference are detailed out in **Annexure – 8** of the Annual Report. Later, these recommendations were forwarded to all the participants and to the concerned Secretaries of the Ministries of Health & Family Welfare and Drinking Water & Sanitation with the request to comply with the same and send their action taken report to the Commission (**para 5.18**).



**18.20** At the time of writing of the Annual Report, a response had been received from the Ministry of Health and Family Welfare wherein it thanked the Commission for taking the initiative of organizing the Conference and sharing the recommendations as these would facilitate in making required interventions in the health sector. Along with the response, the Ministry of Health and Family Welfare, Government of India forwarded a write-up highlighting some of their recent initiatives and achievements towards achieving the universal health coverage. The same is given at **Annexure – 9**. The Commission is however awaiting response from the Ministry of Drinking Water & Sanitation (**para 5.19**).

### **NHRC Application in Supreme Court to Improve Functioning of Mental Health Institutions**

**18.21** The Commission, in 2013, filed an application (CRLMP.NO.8032/2013 in W.P.(Crl.) No. 1900 of 1981, Dr. Upendra Baxi Vs. State of U.P. & Ors. and National Human Rights Commission) in the Supreme Court seeking appropriate directions on thirteen pertinent issues which have been reproduced at **Annexure – 10**. On hearing the matter on 8 July 2013, the Supreme Court directed to the Ministry of Health and Family Welfare, Government of India and to all the State Governments to file their status report in response to the application submitted by NHRC, including the extent of implementation of National and District Mental Health Programme, funds received and utilized on these programmes. At the time of writing of the Annual Report, the Supreme Court had received the response of the Union Ministry of Health and Family Welfare and few States. Though the matter continues to be under the consideration of the Supreme Court, the Commission would request all the State Governments and Union Territory Administrations to render their full cooperation in the given case (**para 5.22**).

### **Better Medical Practices and Health Care Facilities in Tribal Areas**

**18.22** The Commission had organized a one-day meeting in New Delhi of the Health Secretaries of all the States and Union Territories on Illegal Medical Practices and Health Care Facilities in the Tribal Areas to ensure tribal areas in the country have better access to quality health care. Later, the important recommendations that emanated out of the deliberations of this meeting were forwarded to all the Chief Secretaries and stakeholders for compliance along with an action taken report. As only Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Lakshadweep, Madhya Pradesh, Mizoram and West Bengal had forwarded their action taken report, reminders were sent to all the remaining Chief Secretaries in 2010 and during the period under report for compliance and action taken report. Reminders for action taken report were also forwarded to Chairman, Medical Council of India and Secretaries of the Ministries of Health and Family Welfare and Tribal Affairs (**para 5.24**).

**18.23** At the time of writing of this Annual Report, States/Union Territories who had responded to the repeated requests of the Commission apart from the seven already mentioned above were – Punjab, Chhattisgarh, Sikkim, Arunachal Pradesh, Goa, Haryana, Meghalaya and Karnataka. Besides, the Commission had received responses from the Ministry of Health & Family Welfare and Delhi Medical Council. While the response of the Ministry of Health and Family Welfare was received within a month of the reminder issued by NHRC, it has not responded directly to some of the recommendations. Two such recommendations are - “in order to check the menace of illegal medical practitioners and quacks, the Central Government should bring out an Anti-Quackery Bill providing provisions for stringent punishment for the people indulging in such medical malpractices” and “there is a need to replicate some of the good/best practices in standardized health care facilities, available in tribal areas of some of the State/Union Territories, in other tribal regions. The concerned Ministries in the Central Government should facilitate this process”. It is reiterated to the Medical Council of India, Ministries of Health & Family Welfare and Tribal Affairs and all the remaining State Governments and Union Territory Administrations to forward to the Commission their compliance reports complete in all respects **(para 5.25)**.

### **Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India**

**18.24** The Commission has selected 28 districts, one from each State, from the list of identified districts availing the Backward Regions Grant Fund of the Ministry of Panchayati Raj, Government of India and endorsed by the then Planning Commission of India. The main objective of the programme is to spread understanding among the people in the identified districts on key human rights concerns like health, education, food, employment, hygiene and sanitation, political and civil rights, etc. The Commission has so far visited 16 districts and has made review visits to Wayanad and Chamba districts **(para 8.7)**.

**18.25** During the period under review, the NHRC as part of the human rights awareness and facilitating assessment and enforcement of human rights programme re-visited the district of Chamba in Himachal Pradesh from 17 to 20 November 2013 under the leadership of Shri S. C. Sinha, Member, NHRC. The details of the observations and recommendations made during the course of the review visit to Chamba are listed at **Annexure - 11**. These recommendations were forwarded to the Chief Secretary, Government of Himachal Pradesh and the Deputy Commissioner of Chamba District for taking required action on issues related to custodial justice, health, school education and mid-day meal, integrated child development services scheme, projects under MGNREG scheme, food and public distribution system and other issues of concern. A copy of the said observations and recommendations was also forwarded to the concerned Secretary of the Ministries of Health and Family Welfare, Human Resource Development, Women and Child Development and Food and Public Distribution for facilitating the District authorities of Chamba in providing succor to its inhabitants. At

the time of writing of this Annual Report, the Commission had not received any action taken report from the aforementioned Ministries. The Commission once again requests all these Ministries to have their action taken report sent to the Commission so that an assessment can be made about the follow up action **(para 8.8)**.

## **National Conference on Human Rights of Women**

**18.26** A National Conference on Human Rights of Women was organized by the Commission in New Delhi on 18 and 19 February 2014. The Conference deliberated on four substantive issues - women's sexual and reproductive health and rights including provisioning of incentives and disincentives for adopting small family norms, violence against women and girls, women's empowerment and gender equality, and trafficking in women and girls. The recommendations of the Conference at **Annexure-13** were forwarded to all the participants. In addition, it was forwarded to the concerned Secretaries/Directors of Ministries of Women & Child Development, Home Affairs, Health & Family Welfare and Chief Secretaries/ Administrators and Directors General of Police of all the States and Union Territories for compliance by their concerned Ministry/Department and that an action taken report be sent at the earliest so that the Commission is apprised about the status of implementation of the above recommendations. The Commission urges all the concerned stakeholders to comply with these recommendations in all earnestness and send an action taken report to the Commission about their compliance. This would facilitate the Commission in reporting about the progress about women's rights in Beijing+20 as the year 2015 marks the 20<sup>th</sup> anniversary of the Fourth World Conference on Women and adoption of the Beijing Declaration and Platform for Action **(paras 9.6, 9.8 & 9.9)**.

## **Birth Registration : Every Child's Right**

**18.27** The NHRC on its part is looking into the issue of birth registration in the country by way of monitoring the implementation of recommendations accepted by the Government of India at the second universal periodic review held under the auspices of United Nations Human Rights Council in Geneva in the year 2012. For this purpose, NHRC, India has devised a monitoring framework taking into consideration all the recommendations accepted by the Government of India. The framework has been prepared in consultation with other stakeholders and at the time of writing of this Annual Report, the Commission was in the process of holding meetings with the Secretary/Joint Secretary of related Ministries, which it intends to follow up with regional and national level consultations **(para 9.14)**.

## **Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women Finalized by NHRC, India**

**18.28** The Commission on its part finalized the Integrated Plan of Action to Prevent and Combat Human Trafficking with special Focus on Children and Women and forwarded it

to the Ministry of Women and Child Development, Government of India for taking further required action in the matter. Now that the Integrated Plan of Action has been finalized, the Commission reiterates to the Ministry of Women and Child Development to move forward the proposal for its adoption by the Government of India and replacing with the 1998 Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children (para 9.23).

### **Optional Protocol to CEDAW and amendment to article 20, paragraph 1, of CEDAW**

**18.29** It was reported by NHRC, India that as per their request made to the Ministry of Women and Child Development, Government of India on 19 September 2013 for taking necessary steps with regard to signing and ratification of the Optional Protocol to CEDAW, the Ministry communicated the following in response –

“Government of India had taken a stand since 2008 to the recommendations made by the delegations during the Universal Periodic review of India that “The Constitution of India provides for direct access to the Supreme Court and High Courts for redressal of violations of any fundamental rights, for any individuals. In addition, we have several other statutory mechanisms to address such violations including National Human Rights Commission and State Human Rights Commissions. There is also a separate National Commission and State Commissions for Women which inter alia have a mandate to address cases of violations of women’s rights. There exists, therefore, effective legal and constitutional framework to address individual cases of violations within India.”

**18.30** A copy of the above reply was also forwarded to the Ministries of External Affairs and Home Affairs, Government of India by the Ministry of Women and Child Development. The Commission on its part urges the Ministry of Women and Child Development to review its 2008 stand in the light of recommendations accepted by the Government of India at the second universal periodic review (paras 9.24 & 9.25).

### **Protection of Human Rights Defenders**

**18.31** The NHRC, India on its part, has taken ample steps to protect and promote human rights defenders. In furtherance of the same, during the period under report, the Secretary General, NHRC wrote a letter to the Chief Secretaries of all the States and Union Territories to sensitize its functionaries about the problems faced by human rights defenders and that they should be treated as partners in bringing about a positive change in the human rights environment of the country. The Commission trusts that its direction has been complied with (para 13.6).

## Follow up to the Recommendations of Second Universal Periodic Review

**18.32** The second cycle of the Universal Periodic Review commenced in 2012. The Working Group on the UPR, established in accordance with Human Rights Council Resolution 5/1 of 18 June 2007, held its 13th Session from 21 May to 4 June 2012. The review of India was held on 24 May 2012. In its meeting held on 30 May 2012, the Working Group adopted the report presented by the Government of India. The report adopted by the Working Group (A/HRC/21/10) may be seen on the UN website ([www.un.org.in](http://www.un.org.in)). The final outcome of the Government of India's report was adopted in the Plenary Meeting of the Council at its 21st Session held on 20 September 2012 wherein 67 recommendations were accepted by the Government of India. The list of recommendations accepted by the Government of India may be seen on the above website(**para 14.43**).

**18.33** The follow-up and implementation on these recommendations accepted by Government of India is the most important aspect of this mechanism. Early successful implementation of these recommendations is important. This would be useful when India comes up for review under UPR-III in 2016. In order to facilitate proper implementation of the accepted recommendations, the Commission has developed a framework to monitor the implementation of recommendations accepted by the Government of India at the second UPR. On each recommendation adopted by the Government of India it has listed a series of action points along with indicators/monitorable outcomes. Besides, it identifies the authority responsible for its implementation(**para 14.44**).

**18.34** In order to ensure required action on each of the listed recommendations by the concerned Ministries, the Commission in March 2014 wrote to all the Ministries directing them to undertake the necessary actions as per the framework devised by it under information to it. These Ministries primarily are External Affairs, Home Affairs, Rural Development, Women and Child Development, Human Resource Development, Law and Justice, Health and Family Welfare, Minority Affairs, Labour and Employment, Social Justice and Empowerment, Food and Public Distribution, Drinking Water and Sanitation, Information and Broadcasting, Housing and Urban Poverty Alleviation, Finance and Tribal Affairs. The Commission will appreciate if the aforementioned Ministries take timely action on the listed recommendations as this would facilitate NHRC, India to report when India comes up for review under UPR-III in 2016(**para 14.45**).

## State Human Rights Commissions

**18.35** At the time of writing of this Annual Report, 23 States had set up their own SHRCs. The names of these States are Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal. Presently, the posts of Chairperson and Members



are lying vacant in the SHRC of Himachal Pradesh. In respect of Meghalaya State Human Rights Commission too, its constitution has been notified but there has been no appointment of the Chairperson or Members **(para 15.5)**.

**18.36** Undoubtedly, the need for establishment of State Human Rights Commission is felt by each and every State. For that reason, it is all the more important to constitute State Human Rights Commission in all those States which do not have the same. In this context, the Chairperson, NHRC has continuously been writing to Chief Ministers of those States which have not yet set up their SHRC as well as take immediate steps for appointment of Chairperson, Members and officers along with requisite resources, manpower, infrastructure, so that they are able to function independently and efficiently. The Chairperson, NHRC had earlier brought to the notice of these Chief Ministers, the provision existing in Section 21(6) of the PHRA whereby “Two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Members consents to such appointment : Provided that every appointment made under this sub-section shall be made after obtaining the recommendations of the Committee referred to in sub-section (1) of Section 22 in respect of the State for which a common Chairperson or Member, or both, as the case may be, is to be appointed”. This provision may be useful in case an adjoining State which is without an SHRC and would be interested in sharing the Chairperson/Members with the SHRC of a State for want of suitable manpower/expertise in their own State **(para 15.6)**.

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# **ANNEXURES**



## Annexure – 1

## Para 219

## STATEMENT SHOWING NUMBER OF CASES REGISTERED FROM 01/04/2013 TO 31/03/2014

Name of the State/Union Territory	Complaints	Suo Motu Cognizance	Intimation Received about Custodial Deaths/Rapes			Intimation Received about Encounter Deaths	TOTAL
			Police Custodial Deaths/Rapes	Judicial Custodial Deaths/Rapes	Para-Military/defence Forces Custodial Deaths/Rapes		
All India	73	2	0	0	0	0	75
Andhra Pradesh	1451	3	7	122	0	2	1585
Arunachal Pradesh	39	0	1	2	0	6	48
Assam	319	2	13	14	1	58	407
Bihar	4245	8	9	93	0	7	4362
Goa	53	0	0	2	0	0	55
Gujarat	1526	2	10	47	0	0	1585
Haryana	10226	12	6	48	0	5	10297
Himachal Pradesh	246	5	2	3	0	0	256
Jammu & Kashmir	380	3	0	6	0	0	389
Karnataka	690	4	0	2	0	2	698
Kerala	527	3	3	50	0	0	583
Madhya Pradesh	2262	3	6	117	0	4	2392
Maharashtra	3039	5	20	99	0	1	3164
Manipur	89	1	0	0	0	3	93
Meghalaya	45	1	4	2	0	7	59
Mizoram	18	0	1	0	0	0	19
Nagaland	16	1	0	3	0	0	20
Odisha	5368	3	4	48	0	12	5435
Punjab	1730	2	3	171	0	2	1908
Rajasthan	2578	3	3	65	0	0	2649
Sikkim	14	0	0	3	0	0	17
Tamil Nadu	2595	3	9	70	0	1	2678
Tripura	1033	1	1	5	0	0	1040
Uttar Pradesh	44397	37	15	347	0	4	44800
West Bengal	1352	3	11	97	1	1	1465
Andaman & Nicobar	34	0	0	1	0	0	35
Chandigarh	162	1	0	2	0	0	165
Dadra & Nagar Haveli	18	0	0	0	0	0	18
Daman & Diu	13	0	0	0	0	0	13
Delhi	7108	17	4	36	0	3	7168
Lakshadweep	36	0	0	0	0	0	36
Puducherry	75	0	0	0	0	0	75
Chhattisgarh	737	7	2	56	0	18	820
Jharkhand	1575	1	6	51	0	12	1645
Uttarakhand	1841	1	0	15	0	0	1857
Foreign Countries	225	0	0	0	0	0	225
<b>Grand Total</b>	<b>96135</b>	<b>134</b>	<b>140</b>	<b>1577</b>	<b>2</b>	<b>148</b>	<b>98136</b>



## Annexure – 2

## Para 2.19

**STATEMENT SHOWING DISPOSAL OF CASES DURING 2013-2014**

Name of the State/Union Territory	Dismissed <i>in Limini</i>	Disposed with Directions	Trans- ferred to SHRCs	Concluded after Receipts of Reports			Total
				Complaints/ <i>Suo Motu</i> Cases	Custodial Deaths/ Rapes	Intimation Received about Encounter Deaths	
All India	64	11	0	5	0	0	80
Andhra Pradesh	755	198	167	103	52	4	1279
Arunachal Pradesh	14	9	0	4	1	0	28
Assam	160	48	18	70	16	12	324
Bihar	2573	593	466	426	58	5	4121
Goa	27	17	2	18	3	0	67
Gujarat	882	319	175	100	41	0	1517
Haryana	7144	1745	466	469	32	2	9858
Himachal Pradesh	102	52	18	31	7	0	210
Jammu & Kashmir	212	75	16	23	2	0	328
Karnataka	433	96	67	53	6	6	661
Kerala	336	74	29	25	29	1	494
Madhya Pradesh	1269	368	220	199	97	2	2155
Maharashtra	1836	478	404	282	78	16	3094
Manipur	24	15	0	29	0	0	68
Meghalaya	15	9	0	5	0	4	33
Mizoram	3	3	0	7	0	0	13
Nagaland	6	5	0	2	1	0	14
Odisha	703	4466	207	2791	19	9	8195
Punjab	1184	318	178	70	74	1	1825
Rajasthan	1343	397	290	270	40	1	2341
Sikkim	8	5	0	2	0	0	15
Tamil Nadu	1645	266	345	168	73	3	2500
Tripura	27	1011	0	17	1	0	1056
Uttar Pradesh	21382	13460	2294	2386	211	39	39772
West Bengal	735	192	196	164	28	0	1315
Andaman & Nicobar	16	11	0	6	0	0	33
Chandigarh	97	37	0	21	2	0	157
Dadra & Nagar Haveli	14	1	0	2	0	0	17
Daman & Diu	10	2	0	2	1	0	15
Delhi	4303	1613	0	621	19	2	6558
Lakshadweep	6	5	0	0	0	0	11
Puducherry	38	13	0	9	3	0	63
Chhattisgarh	357	123	51	80	31	2	644
Jharkhand	842	318	156	111	37	2	1466
Uttarakhand	1069	546	22	103	10	1	1751
Foreign Countries	142	65	0	7	0	0	214
<b>Grand Total</b>	<b>49776</b>	<b>26964</b>	<b>5787</b>	<b>8681</b>	<b>972</b>	<b>112</b>	<b>92292</b>

## Annexure – 3

## Para 2.19

**STATEMENT SHOWING NO. OF CASES PENDING AS ON 31/03/2014**

Name of the State/ Union Territory	Cases Awaiting Preliminary Consideration				Pendency of Cases where Reports have either been Received or Awaited from the Authorities				Grand Total
	Comp- laints/ Suo-Motu	Custodial Deaths/ Rapes	Enco- unter Deaths	Total	Comp- laints/ Suo-Motu	Custodial Deaths/ Rapes	Enco- unter Deaths	Total	
All India	0	0	0	0	5	0	0	5	5
Andhra Pradesh	30	0	0	30	455	256	21	732	762
Arunachal Pradesh	0	1	0	1	26	8	10	44	45
Assam	4	0	4	8	233	52	214	499	507
Bihar	71	2	1	74	864	223	11	1098	1172
Goa	0	0	0	0	12	4	0	16	16
Gujarat	22	1	0	23	369	134	3	506	529
Haryana	200	1	0	201	1240	119	11	1370	1571
Himachal Pradesh	4	0	0	4	96	10	0	106	110
Jammu & Kashmir	7	0	0	7	251	11	1	263	270
Karnataka	16	0	0	16	183	23	9	215	231
Kerala	15	0	0	15	766	99	0	865	880
Madhya Pradesh	62	0	0	62	620	195	21	836	898
Maharashtra	72	2	0	74	634	292	29	955	1029
Manipur	1	0	1	2	164	6	42	212	214
Meghalaya	0	0	0	0	37	8	29	74	74
Mizoram	0	0	0	0	16	3	0	19	19
Nagaland	1	0	0	1	10	5	0	15	16
Odisha	168	0	0	168	2131	80	22	2233	2401
Punjab	17	2	0	19	332	184	3	519	538
Rajasthan	36	0	0	36	718	153	8	879	915
Sikkim	0	0	0	0	3	3	0	6	6
Tamil Nadu	69	1	0	70	563	132	10	705	775
Tripura	0	0	0	0	41	10	3	54	54
Uttar Pradesh	1217	2	0	1219	9216	740	119	10075	11294
West Bengal	28	0	0	28	514	183	20	717	745
Andaman & Nicobar	1	0	0	1	14	4	1	19	20
Chandigarh	1	0	0	1	57	7	0	64	65
Dadra & Nagar Haveli	0	0	0	0	3	0	0	3	3
Daman & Diu	0	0	0	0	3	0	0	3	3
Delhi	129	0	0	129	1811	75	18	1904	2033
Lakshadweep	0	0	0	0	26	0	0	26	26
Puducherry	3	0	0	3	36	3	0	39	42
Chhattisgarh	17	0	1	18	359	118	40	517	535
Jharkhand	37	0	0	37	467	105	36	608	645
Uttarakhand	60	0	0	60	296	34	4	334	394
Foreign Countries	9	0	0	9	35	0	0	35	44
<b>Grand Total</b>	<b>2297</b>	<b>12</b>	<b>7</b>	<b>2316</b>	<b>22606</b>	<b>3279</b>	<b>685</b>	<b>26570</b>	<b>28886</b>



**TOTAL NUMBER OF CASES WHERE NHRC RECOMMENDED MONETARY RELIEF ACTION DURING 2013-2014**

Sl.No.	Name of the State/ UT Name	No. of cases in which recommendations were made	Amount recommended for Victims/ Next of Kins (in Rs.)	No. of cases in which recommendations have been complied with	Amount paid (in Rs.)	No. of cases pending for compliance	Amount recommended in the cases pending for compliances (in Rs.)
1	Andaman & Nicobar	1	300000	1	300000	0	0
2	Andhra Pradesh	18	3585000	5	1200000	13	2385000
3	Arunachal Pradesh	3	3600000	0	0	3	3600000
4	Assam	30	18620000	1	200000	29	18420000
5	Bihar	21	4080000	3	500000	18	3580000
6	Chandigarh	1	15000	0	0	1	15000
7	Chhattisgarh	8	2950000	7	2450000	1	500000
8	Daman & Diu	1	100000	1	100000	0	0
9	Delhi	31	4980000	6	930000	25	4050000
10	Gujarat	7	4040000	3	440000	4	3600000
11	Haryana	16	3965000	3	410000	13	3555000
12	Himachal Pradesh	1	500000	1	500000	0	0
13	Jammu & Kashmir	2	1100000	0	0	2	1100000
14	Jharkhand	14	4650000	1	100000	13	4550000
15	Karnataka	7	1060000	2	200000	5	860000
16	Kerala	8	1350000	1	100000	7	1250000
17	Madhya Pradesh	19	5245000	3	1300000	16	3945000
18	Maharashtra	19	6375000	1	100000	18	6275000
19	Manipur	17	9100000	1	700000	16	8400000
20	Meghalaya	3	2000000	1	500000	2	1500000
21	Odisha	12	4585000	0	0	12	4585000
22	Puducherry	1	300000	1	300000	0	0
23	Punjab	6	2978086	3	1600000	3	1378086
24	Rajasthan	17	4130000	4	1730000	13	2400000
25	Sikkim	1	300000	1	300000	0	0
26	Tamil Nadu	8	2015000	2	600000	6	1415000
27	Tripura	2	1200000	2	1200000	0	0
28	Uttar Pradesh	146	49370000	21	5455000	125	43915000
29	Uttarakhand	6	3630000	2	110000	4	3520000
30	West Bengal	17	5830000	6	2070000	11	3760000
		<b>443</b>	<b>151953086</b>	<b>83</b>	<b>23395000</b>	<b>360</b>	<b>128558086</b>

## DETAILS OF CASES PENDING COMPLIANCE OF NHRC RECOMMENDATIONS DURING 2013-2014 FOR PAYMENT OF MONETARY RELIEF

Sr.No	Name Of the State/UT	Case No.	Nature Of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation
1	Andhra Pradesh	1042/1/5/2012-PCD	Custodial Death (Police)	200000	25.03.2014
2	Andhra Pradesh	199/1/13/2012-AD	Alleged Custodial Deaths In Police Custody	100000	16.05.2013
3	Andhra Pradesh	269/1/3/2011-JCD	Custodial Death (Judicial)	300000	24.09.2013
4	Andhra Pradesh	300/1/7/2012-JCD	Custodial Death (Judicial)	100000	23.12.2013
5	Andhra Pradesh	322/1/19/09-10-PCD	Custodial Death (Police)	500000	21.11.2013
6	Andhra Pradesh	352/1/23/09-10-JCD	Custodial Death (Judicial)	100000	11.09.2013
7	Andhra Pradesh	358/1/3/2011-PCD	Custodial Death (Police)	100000	03.10.2013
8	Andhra Pradesh	373/1/7/2010-PCD	Custodial Death (Police)	100000	12.06.2013
9	Andhra Pradesh	451/1/20/2012-JCD	Custodial Death (Judicial)	500000	05.07.2013
10	Andhra Pradesh	528/1/25/2012	Unlawful Detention	25000	30.01.2014
11	Andhra Pradesh	620/1/4/2011-JCD	Custodial Death (Judicial)	200000	27.08.2013
12	Andhra Pradesh	696/1/24/2011-PCD	Custodial Death (Police)	80000	06.02.2014
13	Andhra Pradesh	9/1/10/2012-PCD	Custodial Death (Police)	80000	10.02.2014
14	Arunachal Pradesh	2/2/11/2012-AF	Alleged Fake Encounter (Defence)	1500000	01.01.2014
15	Arunachal Pradesh	28/2/2/2010-ED	Death In Police Encounter	200000	18.12.2013
16	Arunachal Pradesh	4/2/14/08-09-JCD	Custodial Death (Judicial)	100000	01.11.2013
17	Assam	127/3/24/09-10-ED	Death In Police Encounter	500000	12.12.2013
18	Assam	141/3/24/07-08	Death In Police Encounter	1000000	13.06.2013
19	Assam	142/3/4/2013-PF	Abuse Of Power	500000	06.08.2013
20	Assam	142/3/5/2011	Unlawful Detention	20000	12.09.2013
21	Assam	180/3/15/08-09-AF	Alleged Fake Encounter (Defence)	500000	08.08.2013
22	Assam	200/3/11/2010-AFE	Alleged Fake Encounters	500000	08.01.2014
23	Assam	206/3/0/2011-ED	Death In Police Encounter	500000	01.01.2014

Sr.No	Name Of the State/UT	Case No.	Nature Of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation
24	Assam	209/3/1/2011-ED	Death In Police Encounter	1000000	12.02.2014
25	Assam	223/3/3/2010-ED	Death In Police Encounter	1000000	30.01.2014
26	Assam	224/3/8/2010-ED	Death In Police Encounter	1000000	30.10.2013
27	Assam	225/3/16/2010-ED	Death In Police Encounter	500000	12.12.2013
28	Assam	226/3/11/2010-ED	Death In Police Encounter	500000	13.11.2013
29	Assam	230/3/16/2010-ED	Death In Police Encounter	500000	12.12.2013
30	Assam	240/3/3/2012-JCD	Custodial Death (Judicial)	100000	09.09.2013
31	Assam	241/3/15/2011-ED	Death In Police Encounter	1000000	10.02.2014
32	Assam	242/3/22/2011-ED	Death In Police Encounter	500000	30.01.2014
33	Assam	247/3/16/2011-PF	Death In Encounter	2500000	08.01.2014
34	Assam	250/3/11/2010-JCD	Custodial Death (Judicial)	300000	25.09.2013
35	Assam	258/3/15/2011-ED	Death In Police Encounter	500000	30.01.2014
36	Assam	258/3/16/2010-AFE	Alleged Fake Encounters	500000	04.04.2013
37	Assam	259/3/7/2011-ED	Death In Police Encounter	1000000	05.12.2013
38	Assam	26/3/11/2011-ED	Death In Police Encounter	500000	30.01.2014
39	Assam	266/3/8/2011-ED	Death In Police Encounter	500000	06.02.2014
40	Assam	40/3/16/2010-AF	Death In Army Firing	500000	13.06.2013
41	Assam	5/3/18/2010-ED	Death In Police Encounter	500000	02.01.2014
42	Assam	54/3/8/2011-ED	Death In Police Encounter	500000	18.12.2013
43	Assam	61/3/16/2011-ED	Death In Police Encounter	500000	11.07.2013
44	Assam	65/3/5/2012-PF	Death In Firing	500000	29.01.2014
45	Assam	79/3/20/2010-ED	Death In Police Encounter	500000	21.11.2013
46	Bihar	1280/4/11/08-09	Miscellaneous	200000	11.02.2014
47	Bihar	1332/4/18/2012-WC	Indignity Of Women	20000	14.05.2013
48	Bihar	1507/4/23/09-10-JCD	Custodial Death (Judicial)	300000	27.08.2013
49	Bihar	1522/4/26/2012-JCD	Custodial Death (Judicial)	50000	24.03.2014
50	Bihar	1933/4/28/2011-AD	Alleged Custodial Deaths In Police Custody	100000	11.07.2013
51	Bihar	2119/4/37/2011-PCD	Custodial Death (Police)	100000	07.06.2013

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52	Bihar	2340/4/37/2011-JCD	Custodial Death (Judicial)	100000	22.01.2014
53	Bihar	2474/4/6/2012-JCD	Custodial Death (Judicial)	300000	22.10.2013
54	Bihar	2545/4/3/2011-JCD	Custodial Death (Judicial)	300000	12.06.2013
55	Bihar	2572/4/8/08-09-AD	Alleged Custodial Death	500000	21.08.2013
56	Bihar	273/4/9/2012	Inaction By The State Government/Central Govt. Officials	600000	02.07.2013
57	Bihar	3264/4/32/2012-JCD	Custodial Death (Judicial)	300000	29.07.2013
58	Bihar	4085/4/26/2012	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	10000	17.02.2014
59	Bihar	4140/4/2/2012	Custodial Torture	50000	07.11.2013
60	Bihar	4589/4/35/2012	Inaction By The State Government/Central Govt. Officials	200000	21.10.2013
61	Bihar	4608/4/23/2012-WC	Dowry Death Or Thier Attempt	50000	18.12.2013
62	Bihar	703/4/28/2012-JCD	Custodial Death (Judicial)	100000	14.06.2013
63	Bihar	979/4/23/09-10	Alleged Death In Home	300000	18.10.2013
64	Chandigarh	61/27/0/2011	Abuse Of Power	15000	19.11.2013
65	Chhattisgarh	28/33/4/2013-WC	Rape	500000	04.07.2013
66	Delhi	1232/30/2006-2007	Death In Police Encounter	500000	29.01.2014
67	Delhi	1443/30/10/2012-WC	Indignity Of Women	10000	21.01.2014
68	Delhi	1631/30/3/2010-JCD	Custodial Death (Judicial)	100000	13.03.2014
69	Delhi	2288/30/7/2012	Victimisation	50000	18.06.2013
70	Delhi	3500/30/0/2011	Police	100000	15.05.2013
71	Delhi	377/30/0/2011	Abuse Of Power	10000	20.11.2013
72	Delhi	378/30/9/2011-JCD	Custodial Death (Judicial)	100000	12.12.2013
73	Delhi	388/30/0/2013	Failure In Taking Lawful Action	20000	27.02.2014
74	Delhi	3895/30/0/2011	Irregularities In Govt.Hospitals/Primary Health Centres	100000	24.02.2014
75	Delhi	4233/30/0/2011	Inaction By The State Government/Central Govt. Officials	325000	17.02.2014

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76	Delhi	4434/30/2006-2007	Death In Police Encounter	500000	20.11.2013
77	Delhi	4697/30/0/2011	Inaction By The State Government/Central Govt. Officials	100000	04.11.2013
78	Delhi	4722/30/9/2012	Custodial Torture	15000	05.11.2013
79	Delhi	4794/30/9/2011	Children	220000	29.10.2013
80	Delhi	4883/30/9/2010	Failure In Taking Lawful Action	20000	21.01.2014
81	Delhi	494/30/9/07-08-JCD	Custodial Death (Judicial)	300000	11.06.2013
82	Delhi	5322/30/9/2011-JCD	Custodial Death (Judicial)	200000	31.12.2013
83	Delhi	5754/30/9/2010-JCD	Custodial Death (Judicial)	100000	04.03.2014
84	Delhi	6092/30/3/2012	Health	150000	19.12.2013
85	Delhi	677/30/9/2012	Failure In Taking Lawful Action	200000	07.06.2013
86	Delhi	6780/30/0/2011	Irregularities In Govt.Hospitals/Primary Health Centres	400000	12.06.2013
87	Delhi	6801/30/2/2011	Inaction By The State Government/Central Govt. Officials	300000	29.04.2013
88	Delhi	897/30/9/2012	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	200000	22.01.2014
89	Delhi	918/30/1/2012	Abuse Of Power	20000	11.06.2013
90	Delhi	926/30/7/2012	Failure In Taking Lawful Action	10000	10.02.2014
91	Gujarat	1012/6/9/2011	Public Health Hazards	2500000	22.10.2013
92	Gujarat	2786/6/6/08-09-PCD	Custodial Death (Police)	100000	05.02.2014
93	Gujarat	6/6/2/09-10-PCD	Custodial Death (Police)	500000	06.02.2014
94	Gujarat	619/6/10/2010-AFE	Alleged Fake Encounters	500000	15.05.2013
95	Haryana	1054/7/5/2012	Abuse Of Power	150000	30.11.2013
96	Haryana	1413/7/9/09-10	Abuse Of Power	350000	12.12.2013
97	Haryana	1516/7/18/2013	Custodial Torture	50000	05.03.2014
98	Haryana	1850/7/17/08-09-PCD	Custodial Death (Police)	100000	13.11.2013
99	Haryana	2037/7/6/2010-JCD	Custodial Death (Judicial)	100000	02.07.2013

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100	Haryana	2201/7/7/08-09-ED	Death In Police Encounter	500000	06.12.2013
101	Haryana	2556/7/3/2011	Inaction By The State Government/Central Govt. Officials	600000	12.08.2013
102	Haryana	2570/7/16/08-09-AD	Alleged Custodial Deaths In Police Custody	300000	07.08.2013
103	Haryana	2974/7/15/2011-PCD	Custodial Death (Police)	500000	10.07.2013
104	Haryana	2974/7/2006-2007	Alleged Fake Encounters	500000	18.12.2013
105	Haryana	3405/7/0/2011	Abuse Of Power	5000	19.11.2013
106	Haryana	4415/7/1/2013	Malfunctioning Of Medical Professionals	300000	24.01.2014
107	Haryana	5584/7/3/2012-JCD	Custodial Death (Judicial)	100000	26.02.2014
108	Jammu & Kashmir	103/9/2/2011	Failure In Taking Lawful Action	500000	08.04.2013
109	Jammu & Kashmir	370/9/3/2012	Malfunctioning Of Medical Professionals	600000	31.03.2014
110	Jharkhand	1192/34/17/2011	Exploitation Of Children	200000	04.06.2013
111	Jharkhand	1249/34/6/08-09	Unlawful Detention	350000	20.05.2013
112	Jharkhand	1310/34/6/2012-WC	Sexual Harassment By Army/Paramilitary Personnel	300000	29.10.2013
113	Jharkhand	1445/34/4/2010-PCD	Custodial Death (Police)	300000	16.05.2013
114	Jharkhand	153/34/19/2010-PCD	Custodial Death (Police)	500000	23.05.2013
115	Jharkhand	165/34/4/09-10	Trouble By Anti-Social Elements	50000	06.02.2014
116	Jharkhand	303/34/16/2011-ED	Death In Police Encounter	1000000	04.07.2013
117	Jharkhand	380/34/11/2010	Inaction By The State Government/Central Govt. Officials	150000	18.12.2013
118	Jharkhand	468/34/8/08-09	Death In Police Firing	1000000	26.06.2013
119	Jharkhand	646/34/4/2013-JCD	Custodial Death (Judicial)	100000	24.12.2013
120	Jharkhand	746/34/11/09-10-PCD	Custodial Death (Police)	100000	28.11.2013
121	Jharkhand	765/34/16/2011	Death In Police Firing	400000	03.07.2013
122	Jharkhand	954/34/18/2012-JCD	Custodial Death (Judicial)	100000	03.12.2013
123	Karnataka	1030/10/24/2011-JCD	Custodial Death (Judicial)	200000	22.05.2013
124	Karnataka	131/10/5/2012-PCD	Custodial Death (Police)	100000	26.03.2014
125	Karnataka	256/10/2004-2005	Harassment Of Prisoners	60000	14.08.2013



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126	Karnataka	322/10/15/09-10-JCD	Custodial Death (Judicial)	100000	07.08.2013
127	Karnataka	364/10/4/09-10-PCD	Custodial Death (Police)	400000	28.11.2013
128	Kerala	116/11/6/2012	Lack Of Proper Medical Facilities In The State	400000	28.05.2013
129	Kerala	14/11/12/2012-JCD	Custodial Death (Judicial)	300000	08.04.2013
130	Kerala	168/11/12/09-10-JCD	Custodial Death (Judicial)	100000	21.01.2014
131	Kerala	191/11/13/2012	Harassment Of Prisoners	50000	12.07.2013
132	Kerala	28/11/2/2010-PCD	Custodial Death (Police)	100000	01.01.2014
133	Kerala	85/11/13/2012	Abuse Of Power	200000	18.03.2014
134	Kerala	91/11/7/2012-JCD	Custodial Death (Judicial)	100000	07.03.2014
135	Madhya Pradesh	176/12/36/2012-JCD	Custodial Death (Judicial)	100000	20.01.2014
136	Madhya Pradesh	181/12/10/2012	Inaction By The State Government/Central Govt. Officials	100000	18.04.2013
137	Madhya Pradesh	1950/12/18/2011-AD	Alleged Custodial Deaths In Police Custody	300000	30.05.2013
138	Madhya Pradesh	2240/12/8/2011-PCD	Custodial Death (Police)	100000	05.04.2013
139	Madhya Pradesh	2347/12/41/2011	Miscellaneous	100000	18.04.2013
140	Madhya Pradesh	2591/12/5/2012	Exploitation Of Children	500000	20.01.2014
141	Madhya Pradesh	2698/12/37/2012-WC	Gang Rape	300000	31.10.2013
142	Madhya Pradesh	365/12/27/2013-WC	Rape	200000	19.12.2013
143	Madhya Pradesh	485/12/5/2012	Exploitation Of Children	35000	31.10.2013
144	Madhya Pradesh	519/12/40/2012	Miscellaneous	60000	27.08.2013
145	Madhya Pradesh	556/12/42/2013	Sexual Harassment	500000	19.07.2013
146	Madhya Pradesh	562/12/33/2012	Inaction By The State Government/Central Govt. Officials	250000	03.01.2014
147	Madhya Pradesh	72/12/2/2013-WC	Rape	300000	21.11.2013
148	Madhya Pradesh	785/12/21/2010-PCD	Custodial Death (Police)	500000	03.10.2013
149	Madhya Pradesh	92/12/8/2013-WC	Gang Rape	300000	19.12.2013
150	Madhya Pradesh	990/12/46/2012-JCD	Custodial Death (Judicial)	300000	06.06.2013

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151	Maharashtra	1031/13/16/2010-PCD	Custodial Death (Police)	500000	20.02.2014
152	Maharashtra	1103/13/28/09-10-PCD	Custodial Death (Police)	100000	10.07.2013
153	Maharashtra	1211/13/2006-2007	Death In Police Encounter	500000	30.10.2013
154	Maharashtra	1225/13/1/07-08-PCD	Custodial Death (Police)	100000	14.08.2013
155	Maharashtra	1282/13/19/07-08-JCD	Custodial Death (Judicial)	500000	06.08.2013
156	Maharashtra	18/13/14/2012-PCD	Custodial Death (Police)	100000	29.05.2013
157	Maharashtra	196/13/16/2011-PCD	Custodial Death (Police)	100000	20.01.2014
158	Maharashtra	205/13/34/2011	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	25000	07.03.2014
159	Maharashtra	2350/13/23/2012	Non-Payment Of Pension/Compensation	50000	19.08.2013
160	Maharashtra	3069/13/16/2012	Abuse Of Power	100000	04.10.2013
161	Maharashtra	334/13/2006-2007-CD	Custodial Death (Police)	500000	08.08.2013
162	Maharashtra	384/13/5/08-09-PCD	Custodial Death (Police)	500000	19.12.2013
163	Maharashtra	420/13/30/07-08-PCD	Custodial Death (Police)	500000	06.03.2014
164	Maharashtra	502/13/2005-2006	Death In Police Encounter	500000	03.10.2013
165	Maharashtra	558/13/11/08-09-PCD	Custodial Death (Police)	500000	01.01.2014
166	Maharashtra	621/13/30/2011-PCD	Custodial Death (Police)	500000	21.11.2013
167	Maharashtra	821/13/30/08-09-ED	Death In Police Encounter	1000000	30.01.2014
168	Maharashtra	862/13/23/2010-JCD	Custodial Death (Judicial)	200000	30.07.2013
169	Manipur	10/14/10/2010-AFE	Alleged Fake Encounters	500000	20.02.2014
170	Manipur	108/14/4/2011-AD	Alleged Custodial Deaths In Judicial Custody	200000	07.05.2013
171	Manipur	11/14/4/08-09-ED	Death In Police Encounter	500000	24.10.2013
172	Manipur	11/14/4/2010-AFE	Alleged Fake Encounters	500000	08.01.2014
173	Manipur	16/14/14/2012-ED	Death In Police Encounter	1000000	01.01.2014
174	Manipur	19/14/15/2012-ED	Death In Police Encounter	500000	24.10.2013
175	Manipur	20/14/14/2012-ED	Death In Police Encounter	500000	08.01.2014
176	Manipur	20/14/4/2010-AFE	Alleged Fake Encounters	500000	03.04.2013

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177	Manipur	21/14/12/2010-AFE	Alleged Fake Encounters	500000	18.12.2013
178	Manipur	21/14/4/2011-PF	Death In Firing	200000	21.10.2013
179	Manipur	22/14/13/07-08-AF	Alleged Fake Encounter(Defence)	500000	05.02.2014
180	Manipur	31/14/12/07-08-PF	Death In Encounter	500000	24.10.2013
181	Manipur	32/14/1/08-09-AFE	Alleged Fake Encounters	1000000	24.10.2013
182	Manipur	5/14/4/2011-ED	Death In Police Encounter	500000	06.02.2014
183	Manipur	53/14/4/07-08	Death In Police Firing	500000	15.05.2013
184	Manipur	6/14/4/2010-AFE	Alleged Fake Encounters	500000	29.01.2014
185	Meghalaya	19/15/5/2010-ED	Death In Police Encounter	1000000	04.07.2013
186	Meghalaya	9/15/2005-2006	Abuse Of Power	500000	27.06.2013
187	Odisha	1225/18/4/2012	Failure In Taking Lawful Action	10000	11.11.2013
188	Odisha	1479/18/5/2011	Public Health Hazards	250000	03.06.2013
189	Odisha	1570/18/25/2011-WC	Indignity Of Women	400000	20.01.2014
190	Odisha	1579/18/18/2012	Malfunctioning Of Medical Professionals	200000	30.01.2014
191	Odisha	2209/18/1/2012	Failure In Taking Lawful Action	300000	03.12.2013
192	Odisha	2458/18/32/2013-WC	Abduction, Rape And Murder	500000	08.11.2013
193	Odisha	2502/18/2/2011	Inaction By The State Government/Central Govt. Officials	300000	26.07.2013
194	Odisha	3013/18/31/2012	Sexual Harassment	1300000	17.12.2013
195	Odisha	3147/18/8/2012-JCD	Custodial Death (Judicial)	100000	18.07.2013
196	Odisha	432/18/5/2012	Inaction By The State Government/Central Govt. Officials	300000	13.01.2014
197	Odisha	4582/18/23/2012	Inaction By The State Government/Central Govt. Officials	300000	07.11.2013
198	Odisha	613/18/2002-2003-AF	Victimisation	625000	05.06.2013
199	Punjab	17/19/1/2012-PF	Custodial Torture	50000	11.06.2013
200	Punjab	506/19/15/2011	Miscellaneous	1028086	28.02.2014
201	Punjab	52/19/15/2013-WC	Gang Rape	300000	29.11.2013

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202	Rajasthan	118/20/19/2012	Irregularities In Govt.Hospitals/Primary Health Centres	50000	29.05.2013
203	Rajasthan	1345/20/21/09-10-JCD	Custodial Death (Judicial)	300000	26.08.2013
204	Rajasthan	1404/20/5/09-10-JCD	Custodial Death (Judicial)	100000	06.02.2014
205	Rajasthan	1577/20/6/2011	Malfunctioning Of Medical Professionals	50000	25.03.2014
206	Rajasthan	168/20/14/09-10-JCD	Custodial Death (Judicial)	500000	18.12.2013
207	Rajasthan	1838/20/17/2011-JCD	Custodial Death (Judicial)	100000	27.01.2014
208	Rajasthan	2221/20/7/2011-JCD	Custodial Death (Judicial)	200000	13.09.2013
209	Rajasthan	2384/20/23/2010-JCD	Custodial Death (Judicial)	100000	01.05.2013
210	Rajasthan	2422/20/26/2011-JCD	Custodial Death (Judicial)	100000	09.05.2013
211	Rajasthan	431/20/5/2012	Irregularities In Govt.Hospitals/Primary Health Centres	100000	28.06.2013
212	Rajasthan	642/20/29/2013-WC	Abduction/Rape	300000	07.03.2014
213	Rajasthan	689/20/14/2010-JCD	Custodial Death (Judicial)	300000	23.07.2013
214	Rajasthan	834/20/7/2010-JCD	Custodial Death (Judicial)	200000	22.08.2013
215	Tamil Nadu	1350/22/36/2010-JCD	Custodial Death (Judicial)	200000	13.11.2013
216	Tamil Nadu	330/22/5/2011-JCD	Custodial Death (Judicial)	100000	14.08.2013
217	Tamil Nadu	534/22/41/09-10-PCD	Custodial Death (Police)	500000	28.11.2013
218	Tamil Nadu	565/22/34/2010-PCD	Custodial Death (Police)	500000	08.01.2014
219	Tamil Nadu	635/22/13/2010	Custodial Torture	15000	09.09.2013
220	Tamil Nadu	71/22/53/2012-JCD	Custodial Death (Judicial)	100000	20.06.2013
221	Uttar Pradesh	1027/24/51/2012-JCD	Custodial Death (Judicial)	300000	27.03.2014
222	Uttar Pradesh	10564/24/9/2010-PCD	Custodial Death (Police)	500000	15.01.2014
223	Uttar Pradesh	10699/24/32/2013	Inaction By The State Government/Central Govt. Officials	400000	28.03.2014
224	Uttar Pradesh	11054/24/4/2011	Custodial Torture	10000	07.11.2013
225	Uttar Pradesh	11898/24/31/2010-ED	Death In Police Encounter	500000	16.05.2013
226	Uttar Pradesh	11900/24/48/2010-ED	Death In Police Encounter	500000	28.11.2013
227	Uttar Pradesh	12/24/18/2010-PCD	Custodial Death (Police)	500000	15.01.2014

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228	Uttar Pradesh	1236/24/42/2012-JCD	Custodial Death (Judicial)	100000	21.10.2013
229	Uttar Pradesh	13073/24/20/2012	Irregularities In Govt.Hospitals/Primary Health Centres	100000	07.03.2014
230	Uttar Pradesh	1388/24/41/2010	Illegal Arrest	50000	13.03.2014
231	Uttar Pradesh	14336/24/2005-2006	Death In Police Encounter	500000	04.07.2013
232	Uttar Pradesh	14412/24/17/2013	Abuse Of Power	300000	29.10.2013
233	Uttar Pradesh	14607/24/30/2010-ED	Death In Police Encounter	1000000	15.01.2014
234	Uttar Pradesh	14801/24/1/2012-JCD	Custodial Death (Judicial)	300000	17.02.2014
235	Uttar Pradesh	14844/24/39/2010	Malfunctioning Of Medical Professionals	300000	25.09.2013
236	Uttar Pradesh	15025/24/30/2010	Abuse Of Power	20000	14.11.2013
237	Uttar Pradesh	1528/24/2006-2007-CD	Custodial Death (Judicial)	200000	18.12.2013
238	Uttar Pradesh	15387/24/22/07-08-PCD	Custodial Death (Police)	100000	06.06.2013
239	Uttar Pradesh	1553/24/2006-2007	Death In Police Encounter	500000	16.01.2014
240	Uttar Pradesh	15725/24/20/2011	Illegal Arrest	50000	12.03.2014
241	Uttar Pradesh	16300/24/7/2012-JCD	Custodial Death (Judicial)	100000	01.05.2013
242	Uttar Pradesh	17656/24/2005-2006-AD	Alleged Custodial Deaths In Police Custody	500000	04.04.2013
243	Uttar Pradesh	17781/24/4/2012	Sexual Harassment	1500000	15.07.2013
244	Uttar Pradesh	17990/24/10/2010	Unlawful Detention	100000	29.07.2013
245	Uttar Pradesh	18684/24/22/2011	Sexual Harassment	30000	27.08.2013
246	Uttar Pradesh	19559/24/2006-2007	Alleged Fake Encounters	500000	05.12.2013
247	Uttar Pradesh	20226/24/28/2011	Abuse Of Power	50000	26.03.2014
248	Uttar Pradesh	20332/24/2006-2007	Death In Police Encounter	500000	16.01.2014
249	Uttar Pradesh	20413/24/22/2011	Custodial Torture	25000	31.03.2014
250	Uttar Pradesh	20803/24/2006-2007	Death In Police Encounter	500000	16.01.2014
251	Uttar Pradesh	20804/24/24/2010	Non-Payment Of Pension/Compensation	50000	27.01.2014
252	Uttar Pradesh	20922/24/31/2010-AFE	Alleged Fake Encounters	1000000	03.10.2013
253	Uttar Pradesh	21581/24/24/2011	Non-Payment Of Pension/Compensation	10000	26.09.2013
254	Uttar Pradesh	21598/24/57/2011	Attempted Murder	10000	29.11.2013
255	Uttar Pradesh	21637/24/48/07-08	Death In Police Encounter	500000	12.12.2013

Sr.No	Name Of the State/UT	Case No.	Nature Of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation
256	Uttar Pradesh	21927/24/48/2011-JCD	Custodial Death (Judicial)	300000	07.11.2013
257	Uttar Pradesh	22654/24/7/2012-AR	Alleged Custodial Rape In Police Custody	300000	11.12.2013
258	Uttar Pradesh	22682/24/48/2011	Inaction By The State Government/Central Govt. Officials	400000	07.08.2013
259	Uttar Pradesh	23388/24/2001-2002	Death In Police Encounter	500000	15.01.2014
260	Uttar Pradesh	23692/24/50/08-09-JCD	Custodial Death (Judicial)	100000	16.01.2014
261	Uttar Pradesh	24089/24/12/08-09-FE	Alleged Fake Encounters	1000000	17.04.2013
262	Uttar Pradesh	2456/24/67/2010-JCD	Custodial Death (Judicial)	300000	21.01.2014
263	Uttar Pradesh	25325/24/54/2010	Failure In Taking Lawful Action	100000	23.07.2013
264	Uttar Pradesh	2547/24/4/09-10-DH	Death In Judicial Custody	300000	27.09.2013
265	Uttar Pradesh	26146/24/2004-2005	Alleged Fake Encounters	500000	05.06.2013
266	Uttar Pradesh	26418/24/24/2010-PCD	Custodial Death (Police)	300000	02.05.2013
267	Uttar Pradesh	2655/24/34/2012-AD	Alleged Custodial Deaths In Police Custody	300000	31.03.2014
268	Uttar Pradesh	2689/24/31/2012	Unlawful Detention	20000	21.10.2013
269	Uttar Pradesh	28200/24/4/2012	Failure In Taking Lawful Action	25000	13.01.2014
270	Uttar Pradesh	28319/24/43/09-10	Disappearance	10000	24.01.2014
271	Uttar Pradesh	2888/24/2005-2006	Death In Police Encounter	500000	20.11.2013
272	Uttar Pradesh	29168/24/37/2012-WC	Abduction, Rape And Murder	100000	31.12.2013
273	Uttar Pradesh	29991/24/33/2012-WC	Abduction/Rape	300000	31.05.2013
274	Uttar Pradesh	30069/24/2005-2006	Death In Police Encounter	500000	05.12.2013
275	Uttar Pradesh	30182/24/19/2010-AD	Alleged Custodial Deaths In Police Custody	500000	17.09.2013
276	Uttar Pradesh	30410/24/52/2010	Custodial Torture	100000	29.05.2013
277	Uttar Pradesh	3063/24/31/2012	Failure In Taking Lawful Action	100000	31.03.2014
278	Uttar Pradesh	30738/24/71/2011	Inaction By The State Government/Central Govt. Officials	200000	21.11.2013
279	Uttar Pradesh	30783/24/48/2011	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	200000	01.05.2013
280	Uttar Pradesh	3104/24/79/2012-JCD	Custodial Death (Judicial)	100000	14.08.2013



Sr.No	Name Of the State/UT	Case No.	Nature Of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation
281	Uttar Pradesh	32880/24/44/2010	Arbitrary Use Of Power	200000	16.01.2014
282	Uttar Pradesh	33018/24/20/2010-PCD	Custodial Death (Police)	100000	11.12.2013
283	Uttar Pradesh	33128/24/64/2012	Failure In Taking Lawful Action	100000	13.01.2014
284	Uttar Pradesh	33342/24/70/09-10-PCD	Custodial Death (Police)	500000	17.07.2013
285	Uttar Pradesh	33397/24/2005-2006	Death In Police Encounter	1000000	16.01.2014
286	Uttar Pradesh	34109/24/24/2011-AD	Alleged Custodial Deaths In Police Custody	100000	27.06.2013
287	Uttar Pradesh	34188/24/72/2013	Atrocities On Sc/St/Obc	200000	26.11.2013
288	Uttar Pradesh	34919/24/1/2012	Inaction By The State Government/Central Govt. Officials	400000	20.02.2014
289	Uttar Pradesh	35522/24/2006-2007	Death In Police Encounter	500000	31.10.2013
290	Uttar Pradesh	36069/24/55/08-09-PCD	Custodial Death (Police)	100000	16.01.2014
291	Uttar Pradesh	3656/24/2005-2006	Alleged Fake Encounters	500000	15.01.2014
292	Uttar Pradesh	38084/24/2005-2006	Death In Police Encounter	500000	08.01.2014
293	Uttar Pradesh	38363/24/43/2011	Custodial Torture	550000	16.01.2014
294	Uttar Pradesh	3885/24/45/2012-ED	Death In Police Encounter	500000	16.01.2014
295	Uttar Pradesh	39191/24/69/2011	Failure In Taking Lawful Action	300000	25.07.2013
296	Uttar Pradesh	39410/24/61/09-10	Failure In Taking Lawful Action	10000	10.12.2013
297	Uttar Pradesh	39641/24/46/2011-ED	Death In Police Encounter	500000	16.01.2014
298	Uttar Pradesh	39743/24/3/2010-ED	Death In Police Encounter	500000	03.04.2013
299	Uttar Pradesh	40079/24/38/2012-WC	Sexual Harassment At Workplace (Govt. Offices)	50000	27.08.2013
300	Uttar Pradesh	40176/24/2006-2007	Death In Police Encounter	500000	05.12.2013
301	Uttar Pradesh	40377/24/2006-2007	Death In Police Encounter	500000	15.05.2013
302	Uttar Pradesh	40506/24/55/2011	Unlawful Detention	125000	21.10.2013
303	Uttar Pradesh	40795/24/31/2011-ED	Death In Police Encounter	500000	11.12.2013
304	Uttar Pradesh	41033/24/2006-2007	Death In Police Encounter	500000	07.11.2013
305	Uttar Pradesh	4114/24/65/2012	Abuse Of Power	100000	03.06.2013
306	Uttar Pradesh	41224/24/1/2012	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	520000	22.11.2013
307	Uttar Pradesh	41496/24/2000-2001	Illegal Arrest	1000000	05.12.2013

Sr.No	Name Of the State/UT	Case No.	Nature Of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation
308	Uttar Pradesh	42032/24/27/2012-WC	Abduction, Rape And Murder	100000	20.01.2014
309	Uttar Pradesh	4206/24/22/2011-JCD	Custodial Death (Judicial)	300000	02.12.2013
310	Uttar Pradesh	42886/24/8/2012	Inaction By The State Government/Central Govt. Officials	600000	07.10.2013
311	Uttar Pradesh	42925/24/14/2011	Abuse Of Power	10000	30.12.2013
312	Uttar Pradesh	42961/24/46/2012-JCD	Custodial Death (Judicial)	300000	05.02.2014
313	Uttar Pradesh	43024/24/2006-2007	Death In Police Encounter	500000	12.11.2013
314	Uttar Pradesh	43091/24/17/2012-WC	Rape	50000	17.09.2013
315	Uttar Pradesh	43592/24/26/2012	Inaction By The State Government/Central Govt. Officials	900000	31.03.2014
316	Uttar Pradesh	43952/24/3/2012	Inaction By The State Government/Central Govt. Officials	300000	16.09.2013
317	Uttar Pradesh	44122/24/40/2010-PCD	Custodial Death (Police)	100000	16.01.2014
318	Uttar Pradesh	44449/24/31/2011-WC	Abduction, Rape And Murder	25000	07.06.2013
319	Uttar Pradesh	44971/24/51/2011	Unlawful Detention	50000	10.02.2014
320	Uttar Pradesh	452/24/37/2011-ED	Death In Police Encounter	500000	15.01.2014
321	Uttar Pradesh	47291/24/45/07-08	Death In Police Encounter	500000	16.01.2014
322	Uttar Pradesh	4753/24/2005-2006	Death In Police Encounter	500000	15.01.2014
323	Uttar Pradesh	47835/24/2006-2007	Death In Police Encounter	500000	16.01.2014
324	Uttar Pradesh	49115/24/33/2011	Failure In Taking Lawful Action	5000	21.01.2014
325	Uttar Pradesh	4951/24/2005-2006	Death In Police Encounter	500000	01.05.2013
326	Uttar Pradesh	52724/24/41/2011	Failure In Taking Lawful Action	350000	13.11.2013
327	Uttar Pradesh	53582/24/72/07-08	Death In Police Encounter	500000	19.12.2013
328	Uttar Pradesh	5488/24/72/2010-JCD	Custodial Death (Judicial)	20000	21.10.2013
329	Uttar Pradesh	5683/24/31/2011	Custodial Torture	60000	21.01.2014
330	Uttar Pradesh	6057/24/30/2011-ED	Death In Police Encounter	500000	03.04.2013
331	Uttar Pradesh	6224/24/2005-2006-AD	Alleged Custodial Deaths In Police Custody	500000	10.07.2013
332	Uttar Pradesh	6508/24/54/2011	Illegal Arrest	10000	13.12.2013
333	Uttar Pradesh	6635/24/57/2011-ED	Death In Police Encounter	1000000	16.01.2014

Sr.No	Name Of the State/UT	Case No.	Nature Of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation
334	Uttar Pradesh	6774/24/27/2012	Miscellaneous	150000	05.03.2014
335	Uttar Pradesh	6855/24/56/2012	Malfunctioning Of Medical Professionals	300000	02.09.2013
336	Uttar Pradesh	699/24/2006-2007	Death In Police Encounter	500000	16.01.2014
337	Uttar Pradesh	7562/24/32/2010-ED	Death In Police Encounter	500000	15.01.2014
338	Uttar Pradesh	786/24/56/2013-WC	Exploitation Of Women	50000	09.09.2013
339	Uttar Pradesh	8136/24/31/07-08	Death In Police Encounter	500000	20.11.2013
340	Uttar Pradesh	8319/24/28/2010-WC	Dowry Death Or Thier Attempt	10000	26.02.2014
341	Uttar Pradesh	8323/24/2006-2007	Death In Police Encounter	2500000	05.02.2014
342	Uttar Pradesh	8460/24/2006-2007	Death In Police Encounter	500000	24.07.2013
343	Uttar Pradesh	8584/24/57/2012	Failure In Taking Lawful Action	1000000	12.02.2014
344	Uttar Pradesh	9734/24/43/2011	Death In Police Firing	200000	19.03.2014
345	Uttar Pradesh	981/24/54/2012	Illegal Arrest	10000	29.07.2013
346	Uttarakhand	1217/35/8/2010	Failure In Taking Lawful Action	20000	12.02.2014
347	Uttarakhand	1597/35/2006-2007	Alleged Fake Encounters	500000	05.02.2014
348	Uttarakhand	1941/35/11/2012	Inaction By The State Government/Central Govt. Officials	1000000	04.10.2013
349	Uttarakhand	780/35/2006-2007	Death In Police Encounter	2000000	27.06.2013
350	West Bengal	1128/25/10/2012-JCD	Custodial Death (Judicial)	200000	22.01.2014
351	West Bengal	1147/25/13/2011-PF	Victimisation	500000	12.08.2013
352	West Bengal	134/25/13/2012-PF	Abuse Of Power	50000	03.06.2013
353	West Bengal	1513/25/5/2012-JCD	Custodial Death (Judicial)	100000	20.12.2013
354	West Bengal	335/25/13/2013	Abuse Of Power	500000	23.01.2014
355	West Bengal	354/25/13/2011-PF	Victimisation	500000	19.06.2013
356	West Bengal	420/25/19/2012	Atrocities By Custom/Excise/Enforcement/ Forest/ Income-Tax Deptt., Etc.Of Central/State Govts.	10000	14.08.2013
357	West Bengal	536/25/15/07-08	Children	200000	14.03.2014
358	West Bengal	588/25/7/07-08-JCD	Custodial Death (Judicial)	300000	09.12.2013
359	West Bengal	700/25/13/2010	Inaction By The State Government/Central Govt. Officials	900000	06.06.2013
360	West Bengal	727/25/13/2010-PF	Death In Firing	500000	31.10.2013

## DETAILS OF CASES PENDING COMPLIANCE OF NHRC RECOMMENDATIONS DURING 2012-2013 FOR PAYMENT OF MONETARY RELIEF

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation	Remarks
1.	Andhra Pradesh	102/1/23/2011-PCD	Custodial Death (Police)	100000	07/02/2013	Proof of payment awaited
2.	Andhra Pradesh	256/1/3/2011	Unlawful Detention	200000	31/03/2013	Proof of payment awaited
3.	Andhra Pradesh	586/1/11/08-09-AD	Alleged Custodial Deaths In Judicial Custody	30000	17/01/2013	Proof of payment awaited
4.	Assam	115/3/2004-2005-AF	Death In Army Firing	500000	06/03/2013	Proof of payment awaited
5.	Assam	273/3/13/2010-ED	Death In Police Encounter	1500000	24/01/2013	Proof of payment awaited
6.	Bihar	1817/4/32/2011	Inaction By The State Government/Central Govt. Officials	1400000	19/11/2012	Proof of payment awaited
7.	Bihar	1818/4/1/2011	Inaction By The State Government/Central Govt. Officials	400000	30/08/2012	Proof of payment awaited
8.	Chhattisgarh	533/33/5/2011	Irregularities In Govt Hospitals / Primary Health Centres	2300000	18/05/2012	Proof of payment awaited
9.	Delhi	1244/30/2/2010	Miscellaneous	150000	27/06/2012	Proof of payment awaited
10.	Delhi	1366/30/3/2012	Sexual Harassment	500000	15/11/2012	Proof of payment awaited
11.	Delhi	1523/30/0/2011-JCD	Custodial Death (Judicial)	300000	17/12/2012	Proof of payment awaited
12.	Delhi	5494/30/0/2010	Inaction By The State Government/Central Govt. Officials	900000	15/10/2012	Proof of payment awaited
13.	Gujarat	395/6/3/08-09-PCD	Custodial Death (Police)	100000	14/06/2012	Proof of payment awaited
14.	Gujarat	580/6/14/2010-WC	Abduction/Rape	400000	04/09/2012	Proof of payment awaited
15.	Haryana	1866/7/11/2011	Health	7200000	11/04/2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation	Remarks
16.	Jammu & Kashmir	42/9/0/2012	Malfunctioning Of Medical Professionals	100000	13/02/2013	Proof of payment awaited
17.	Jharkhand	1014/34/3/2010-WC	Sexual Harassment (General)	50000	23/04/2012	Proof of payment awaited
18.	Jharkhand	108/34/2005-2006	Alleged Fake Encounters	500000	22/11/2012	Proof of payment awaited
19.	Jharkhand	1264/34/2004-2005-CD	Custodial Death (Police)	100000	10/05/2012	Proof of payment awaited
20.	Jharkhand	1311/34/18/2012-WC	Sexual Harassment By Army/Paramilitary Personnel	50000	14/02/2013	Proof of payment awaited
21.	Jharkhand	1620/34/16/2011-JCD	Custodial Death (Judicial)	500000	12/11/2012	Proof of payment awaited
22.	Karnataka	683/10/19/07-08	Death In Police Firing	1000000	14/06/2012	Proof of payment awaited
23.	Karnataka	993/10/7/07-08-JCD	Custodial Death (Judicial)	300000	31/12/2012	Proof of payment awaited
24.	Madhya Pradesh	1812/12/21/2011-WC	Indignity Of Women	20000	22/10/2012	Proof of payment awaited
25.	Madhya Pradesh	2172/12/46/2011-PCD	Custodial Death (Police)	100000	21/12/2012	Proof of payment awaited
26.	Madhya Pradesh	283/12/47/2011-PCD	Custodial Death (Police)	100000	07/02/2013	Proof of payment awaited
27.	Madhya Pradesh	447/12/18/2012	Inaction By The State Government/Central Govt. Officials	300000	18/12/2012	Proof of payment awaited
28.	Madhya Pradesh	670/12/28/07-08	Failure In Taking Lawful Action	140000	25/06/2012	Proof of payment awaited
29.	Maharashtra	188/13/2005-2006-CD	Custodial Death (Police)	200000	13/06/2012	Proof of payment awaited
30.	Maharashtra	1943/13/2002-2003-WC	Sexual Harassment (General)	100000	29/06/2012	Proof of payment awaited
31.	Maharashtra	658/13/30/2010-ED	Death In Police Encounter	500000	03/05/2012	Proof of payment awaited
32.	Manipur	8/14/2004-2005-AF	Custodial Death (Defence)	1000000	26/07/2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs. )	Date of Recommendation	Remarks
33.	Odisha	1186/18/6/2011	Inaction By The State Government/Central Govt. Officials	500000	27/09/2012	Proof of payment awaited
34.	Odisha	157/18/24/09-10	ATROCITIES BY CUSTOM/ EXCISE/ENFORCEMENT/ FOREST /INCOME-TAX Deptt., Etc.OF CENTRAL/ STATE Govts.	400000	27/12/2012	Proof of payment awaited
35.	Odisha	408/18/32/2011-WC	Rape Of Sc/St/Obc	1200000	31/08/2012	Proof of payment awaited
36.	Punjab	377/19/8/09-10-JCD	Custodial Death (Judicial)	100000	30/11/2012	Proof of payment awaited
37.	Punjab	506/19/15/2011	Miscellaneous	900000	14/08/2012	Proof of payment awaited
38.	Punjab	519/19/8/09-10-JCD	Custodial Death (Judicial)	100000	11/04/2012	Proof of payment awaited
39.	Rajasthan	2585/20/2/2011-WC	Sexual Harassment (General)	100000	27/06/2012	Proof of payment awaited
40.	Rajasthan	762/20/1/2011	Custodial Torture	50000	27/11/2012	Proof of payment awaited
41.	Tamil Nadu	106/22/13/2010	Illegal Arrest	20000	26/04/2012	Proof of payment awaited
42.	Tamil Nadu	1703/22/5/2012	Failure In Taking Lawful Action	25000	13/12/2012	Proof of payment awaited
43.	Tamil Nadu	270/22/46/2011-JCD	Custodial Death (Judicial)	400000	13/03/2013	Proof of payment awaited
44.	Tamil Nadu	844/22/15/2011-AD	Alleged Custodial Deaths In Police Custody	100000	27/02/2013	Proof of payment awaited
45.	Uttar Pradesh	11000/24/34/2011-JCD	Custodial Death (Judicial)	100000	26/11/2012	Proof of payment awaited
46.	Uttar Pradesh	17622/24/2006-2007	Death In Police Encounter	1000000	24/01/2013	Proof of payment awaited
47.	Uttar Pradesh	19603/24/57/2010	Custodial Torture	30000	24/08/2012	Proof of payment awaited
48.	Uttar Pradesh	22474/24/18/07-08	Alleged Fake Encounters	500000	12/12/2012	Proof of payment awaited
49.	Uttar Pradesh	23879/24/48/2011	Victimisation	25000	03/12/2012	Proof of payment awaited
50.	Uttar Pradesh	28329/24/45/09-10	Unlawful Detention	10000	15/11/2012	Proof of payment awaited



Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next of Kins (in Rs.)	Date of Recommendation	Remarks
51.	Uttar Pradesh	31558/24/56/2010-WC	Indignity Of Women	50000	22/05/2012	Proof of payment awaited
52.	Uttar Pradesh	34605/24/57/09-10	Illegal Arrest	20000	08/06/2012	Proof of payment awaited
53.	Uttar Pradesh	36256/24/61/2010	Malfunctioning Of Medical Professionals	300000	10/12/2012	Proof of payment awaited
54.	Uttar Pradesh	40001/24/48/2011	Miscellaneous	50000	08/06/2012	Proof of payment awaited
55.	Uttar Pradesh	41459/24/1/2010	Failure In Taking Lawful Action	100000	28/03/2013	Proof of payment awaited
56.	Uttar Pradesh	42103/24/48/2011-JCD	Custodial Death (Judicial)	300000	06/03/2013	Proof of payment awaited
57.	Uttar Pradesh	44192/24/24/2011	Non-Payment Of Pension/ Compensation	25000	29/10/2012	Proof of payment awaited
58.	Uttar Pradesh	45214/24/20/2011	Failure In Taking Lawful Action	100000	19/02/2013	Proof of payment awaited
59.	Uttar Pradesh	9217/24/48/07-08-JCD	Custodial Death (Judicial)	300000	23/11/2012	Proof of payment awaited
60.	Uttar Pradesh	9839/24/2006-2007-CD	Custodial Death (Judicial)	100000	11/05/2012	Proof of payment awaited
61.	West Bengal	197/25/4/2012-WC	Indignity Of Women	50000	11/02/2013	Proof of payment awaited
62.	West Bengal	422/25/5/2011-JCD	Custodial Death (Judicial)	100000	26/02/2013	Proof of payment awaited
63.	West Bengal	457/25/8/2011	Non-Payment Of Pension/ Compensation	25000	17/12/2012	Proof of payment awaited
64.	West Bengal	868/25/13/2010-AF	Victimisation	25000	08/10/2012	Proof of payment awaited

### DETAILS OF CASES PENDING COMPLIANCE OF NHRC RECOMMENDATIONS FROM 1998-1999 TO 2011-2012 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Nature of complaint	Action Amount (in Rs.) recommended	Date of recommendation	Remarks
1.	<b>Odisha</b>	123/18/1999-2000	Alleged physical torture & illegal detention by police	Disciplinary action	31.07.2000	The State Govt. has preferred writ petition No. O.J.C.No. 8776/2000 in the High Court of Orissa, against the recommendations of the Commission, which is pending consideration.
2.	<b>Kerala</b>	235/11/98-99 FC	Alleged false implication	10000	14.03.2001	The State Govt. has preferred writ Appeals against the recommendations of the Co, which is pending consideration
3.	<b>Delhi</b>	102/30/2005-2006 FC	Severe health problems suffered by a girl due to supply of wrong medicine by CGHS Dispensary	100000	30.07.2007	Compliance report not received due to challenge in the High Court of Delhi on the grounds of denial of medicines by the complainant; denial of opportunity to the petitioner to explain his stand; and condition of patient had worsened by administration of wrong medicine  Orders of WP No.9776/07 pending in the High Court of Delhi.
4.	<b>Kerala</b>	95/11/1999-2000 FC	Death of a head constable while on duty, for a want of timely medical care	50000	29.08.2007	Compliance report not received due to challenge in the High Court of Kerala on the grounds of non-compliance with the provisions of protection of Human Rights Act, 1993 in WP No.36890/07 which has been transferred to the Kerala Administrative Tribunal.
5.	<b>Uttar Pradesh</b>	30217/24/2002-2003-cd	Death in judicial custody (intimation)	10000	20.02.2008	Compliance report is awaited.

Sl. No.	Name of the State/UT	Case No.	Nature of complaint	Action Amount (in Rs.) recommended	Date of recommendation	Remarks
6.	Kerala	43/11/2002-2003-cd	Death in judicial custody	150000	12.09.2008	The Government of Kerala filed a Writ Petition No. 21305/09 in the High Court of Kerala against the recommendation made by the Commission and the High Court. Outcome of the writ petition is awaited
7.	Uttar Pradesh	12969/24/2002-2003 (FC)	Death in police encounter (Complaint)	300000	27.05.2009	Proof of payment awaited
8.	Uttar Pradesh	39058/24/2003-2004 (FC)	Killing of by police in Fake Encounter (Complaint)	600000 (3,00,000/- each 2 persons)	27.07.2009	Proof of payment awaited in respect of deceased Prabhat Kumar
9.	Jammu & Kashmir	55/9/2003-2004-ad	Alleged death in the custody of Jammu Police (Complaint)	500000	19.08.2009	The State Govt. has challenged the recommendation of the Commission in the J & K High Court.
10.	Uttar Pradesh	37802/24/2006-2007 M-5	Alleged torture by police (Complaint)	25000	24.08.2009	Proof of payment awaited
11.	Uttar Pradesh	38166/24/2006-2007-cd M-5	Death in Judicial Custody (Intimation)	100000	31.10.2009	Proof of payment awaited
12.	Jammu & Kashmir	206/9/2003-2004 M-4	Damage of House by the Govt. (Complaint)	200000	23.11.2009	The State Govt. has challenged the recommendation of the Commission in the J & K High Court.

Sl. No.	Name of the State/UT	Case No.	Nature of complaint	Action Amount (in Rs.) recommended	Date of recommendation	Remarks
13.	Uttar Pradesh	14303/24/2006-2007 M-5	Victimization and harassment of a press reporter by police on behest of then S.P. Lakhimpur Khiri, against whom he had reported in the press (Complaint)	500000	04.02.2010	Proof of payment awaited
14.	Uttar Pradesh	6384/24/2003-2004	Death In Police Encounter	500000	05.05.2010	Proof of payment awaited
15.	Kerala	49/11/2006-2007-CD	Death In Judicial Custody(Intimation)	300000	27.09.2010	Proof of payment awaited
16.	Arunachal Pradesh	3/2/14/08-09-PCD	Death In Police Custody(Intimation)	100000	12.11.2010	Proof of payment awaited
17.	Maharashtra	1122/13/2005-2006-CD	Death In Judicial Custody(Intimation)	300000	05.01.2011	Proof of payment awaited
18.	Maharashtra	511/13/2003-2004	Failure In Taking Lawful Action	1430000	06.01.2011	Proof of payment awaited
19.	Odisha	256/18/2/09-10	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	700000	31.03.2011	NHRC orders challenged in the Court and its orders have been kept in abeyance till further orders
20.	Maharashtra	1110/13/2006-2007.CD	Custodial Death (Judicial)	1,00,000.00	26.04.2011	Proof of payment awaited
21.	Punjab	982/19/9/08.09.JCD	Custodial Death (Judicial)	1,00,000.00	10.05.2011	Proof of payment awaited
22.	Tamil Nadu	534/22/37/07.08	Unlawful Detention	50,000.00	10.05.2011	Proof of payment awaited
23.	Madhya Pradesh	921/12/2/09.10	Malfunctioning Of Medical Professionals	13,25,000.00	05.07.2011	Proof of payment awaited
24.	Jammu & Kashmir	25/9/4/07.08.PCD	Custodial Death (Police)	5,00,000.00	27.07.2011	Proof of payment awaited
25.	Himachal Pradesh	39/8/12/09.10.PCD	Custodial Death (Police)	1,00,000.00	03.08.2011	Proof of payment awaited
26.	Chandigarh	25/27/0/09.10.AD	Alleged Custodial Deaths In Police Custody	1,00,000.00	10.08.2011	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of complaint	Action Amount (in Rs.) recommended	Date of recommendation	Remarks
27.	Uttar Pradesh	20645/24/40/09.10.JCD	Custodial Death (Judicial)	1,00,000.00	26.08.2011	Proof of payment awaited
28.	Delhi	4951/30/8/2010	Labour	3,00,000.00	01.09.2011	Proof of payment awaited
29.	Uttar Pradesh	3583/24/2002.2003	Lack Of Proper Medical Facilities In The State	44,20,000.00	28.09.2011	Proof of payment awaited
30.	Uttar Pradesh	15143/24/66/07.08.WC	Rape Of Minorities Woman	5,25,000.00	07.10.2011	Proof of payment awaited
31.	West Bengal	511/25/13/09.10.JCD	Custodial Death (Judicial)	3,00,000.00	11.10.2011	Proof of payment awaited
32.	Tamil Nadu	2349/22/36/08.09.AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	16.11.2011	Proof of payment awaited
33.	Punjab	363/19/2/08.09.PCD	Custodial Death (Police)	5,00,000.00	04.01.2012	Proof of payment awaited
34.	Odisha	176/18/6/2011	Inaction By The State Government/Central Govt. Officials	3,00,000.00	05.01.2012	Commission's recommendation challenged in High Court of Odisha
35.	Assam	144/3/16/2010.ED	Death In Police Encounter	5,00,000.00	11.01.2012	Proof of payment awaited
36.	Delhi	2843/30/1/2010	Inaction By The State Government/Central Govt. Officials	1,00,000.00	20.01.2012	Proof of payment awaited
37.	Uttar Pradesh	6153/24/56/2011.PF	Abuse Of Power	25,000.00	23.01.2012	Proof of payment awaited
38.	Maharashtra	2155/13/30/2010	Custodial Torture	10,000.00	30.01.2012	Proof of payment awaited
39.	Maharashtra	1734/13/4/2010.PCD	Custodial Death (Police)	5,00,000.00	06.03.2012	Rupees one lakh sanctioned by the Govt. Matter referred to the Division Bench
40.	Chandigarh	43/27/0/2010	Irregularities In Govt. Hospitals/Primary Health Centres	50,000.00	19.03.2012	Proof of payment awaited
41.	Bihar	1683/4/8/2010	Children	2,00,000.00	24.03.2012	Proof of payment awaited

## **NHRC Recommendations on Health Care as a Human Right**

### **I. Accessibility, Quality & Affordability of Health Care**

#### **(A) Priority Recommendations Related to Necessary Legal Frameworks**

National and State Governments should adopt following essential legal frameworks and accountability frameworks that ensure:

1. Free Access to Health and Health Care Services as fundamental right of all citizens
2. Graded norms and standards for health and health care services, including medical, surgical care, diagnostics and other health care services, with a patient's rights charter on services for all levels of health care delivery.
3. Arrangements for assuring availability of quality essential drugs and supplies free of cost to all patients in need, with essential mechanisms for fair and economic procurement of these, and for rational production, prescription and use of these.
4. Arrangements for proper regulation of health care and related services, through regulation of providers and establishments, both public and private, based on the specific norms for each of these entities.
5. All other health related human rights that has been agreed upon by the country through different international covenants and agreements.
6. That all the needy and vulnerable population groups are covered properly through all these initiatives with mechanisms put in place for their inclusion.
7. That community has full ownership and oversight on these initiatives through sufficient mechanisms for the same, and platforms to raise their concerns and grievances with responsive mechanisms for grievance redress.
8. That proper monitoring and information systems are put in place for all the above, with built in feedback and correction loops.
9. Commitment of state and national governments to ensure adequate and efficient human resources, physical infrastructure and institutional arrangements for ensuring all above.
10. Commitment of the national and state governments for sufficient, efficient and timely provision of finances and other resources required to fulfill these.



- The High Level Expert Group set up by the Planning Commission on Universal Health Coverage has set out details on all these; this to be used for detailing while formulating these.
- Existing legal frameworks may be re-examined to avoid contradictions and duplications.
- Implementing this recommendation should not be seen as a limited responsibility of the MoHFW, but of all concerned sections in national and state governments—in order to ensure larger accountability.

## **(B) Recommendations on Different Specific Areas of Health Systems**

### *Essential Health Care Service Entitlements:*

- Entitlements for all citizens to essential primary, secondary and tertiary level health care services, to be guaranteed by the governments through appropriate legal instruments; these should include OPD & IPD care for common illnesses, Accident and emergency care, obstetric and gynecologic care, basic surgical care, mental health care, referral transport services, community based care and other essential services. These should also include all essential preventive, promotive and rehabilitative care services. Health care services for different vulnerable populations – women, children, adolescent girls, tribal, people in vulnerable occupations and others should also be prioritized.
- Entitlements related to all emergency and essential drugs and supplies should be notified for each level of services
- All OPD and IPD patients belonging to either BPL category or cannot afford without going through finance hardship, to have access to all common diagnostic tests such as pathological tests, X-rays, ECGs etc free of cost. Those who can afford, it will be worthwhile to give them at subsidized rates so as to generate some resources as in AIIMS & PGI.
- These entitlements should be graded for different levels of facilities, based on the capacities and standards for the levels of facilities
- Citizens charters to be prominently displayed by all facilities, with clarity for citizens on the available services for their level, in the form of a citizens charter
- Accountability of officials and department or the establishment to be specified and fixed, in case of failure to meet the commitments as given in citizens charter

### *Accountability and Grievance Redress Mechanisms*

- Independent bodies/ authorities at national, state and district levels to enforce the provision of health care entitlements and to lead grievance redress around these for Government as well as Private Facilities.
- Accountability of health care providers to be properly set out, to these bodies.
- Arrangements such as Citizens Health Rights Councils at the level of different facilities
- Through regular social mobilization activities with NGO, civil society and elected representatives support
- community based monitoring and public hearings can support the grievance redress bodies for identification of gaps
- All these arrangements to be adequately supported through sufficient HR, physical infrastructure and other resources

### *Essential Medicines and Supplies*

- Availability of all emergency and essential medicines, surgical, sutures and other consumables specific to the level of care should be ensured in all health facilities, free of cost.
- Set up transparent mechanisms for fair procurement and supply of drugs for health services such as medical and health supplies corporations, drug warehousing facilities and software-based inventory management arrangements.
- Adopt and ensure use of Standard Treatment Guidelines, Essential Drug List, Drug Formulary, Rational Use of Drugs and evidence based medicine.
- Ensure price regulation of all essential drugs, based on manufacturing costs.
- Strengthen the public sector drug and vaccine units in order to ensure quality and availability of vaccines and essential drugs
- Acquisition and mergers of domestic companies by multinational corporations should be disallowed
- Augment production capacity of generic drugs domestically

### *Human Resource*

- New medical, dental, nursing and pharmacy colleges to be set up limited to needy areas of the country, in public sector, at district level with Zila Panchayat support, with district hospitals as teaching institutions;

- National Government to support states in ensuring competent faculty;
- local selection of meritorious students, financial support for those poor students
- 3 year BSc courses in community health to be accredited for primary level health care and these Community Health Officers will be posted at sub centre level where there is no position of medical doctor at present.
- For immediate fulfillment of specialties, certificates, diplomas, family medicine and multi-skilling to be considered.
- Nurses, nurse practitioner development to be taken in priority
- Development and deployment of Lab technicians and other paramedical personnel to be focused-with opportunities for professional advancement
- Formulation and strict enforcement of Posting and transfer policies
- First posting of staff after education could be based on merit cum choice system, to avoid influences
- Counseling model from Tamil Nadu/Karnataka could be an option
- Matching of infrastructure- human resources and facilities to be done properly, while posting people
- Sufficient wages and adequate incentives for all health care staff; Special cadre for difficult areas with attractive additional wage and incentive packages- to achieve a 'no post vacant' status' at all levels
- Expand the strength of managerial/ leadership workforce at all levels
- AYUSH doctors to be involved prominently as caregivers

#### *Promoting Professionalism and Excellence*

- Integrate all professional councils such as medical, dental, nursing, pharmacy, etc
- Ensure that best possible medical knowledge and skills are imparted to all the health professionals
- To promote professional conduct and ethics of the highest order and check malpractices
- Ensure continuing medical education through stipulated programmes
- Set up periodic evaluation (of competence and skills) and licence renewal mechanisms for all professions registered with the council(s)

- Rework the norms for opening new medical colleges so that adequate number of MBBS, specialists and super-specialist doctors are available as required
- At least 1 year compulsory rural posting for undergraduates- posting of these people to be assured in time.

### *Quality of Care*

- Lay down mandatory quality standards for all levels of facilities, for the services entitled for
- Compulsory accreditation in a stipulated period of time, and annual renewal
- through independent accreditation authority for public and private health care facilities- at national and state levels
- Norms for private and public facilities could be different, based on the objectives of institutions

### *Referral System*

- To and fro referral systems to be set up at all level of facilities, to enable health facilities to act as interconnected networks.
- Referral cards to support documentation and to facilitate transfer
- Facilities for referral transport
- Charitable hospitals which are supposed to give free services may also act as referral destinations – at par with public institutions

### *PPP/ Bringing in Private Sector for Health Care Services*

- PPPs/purchased private services to be brought under fair procurement processes, with transparent mechanisms put in place
- PPPs should supplement and NOT substitute the efforts of the government to strengthen the public health systems
- To be adopted in those areas where public facilities are deficient – there should be clear evidence that they improve availability, accessibility and affordability

### *Effective Regulation of the private sector*

- Ensure appropriate regulation of private and corporate health care providers
- Clinical Establishment Act to be enacted and implemented by all states in a stipulated timeframe

- Standards for infrastructure, HR, services, costs and quality of care to be enforced for all private and corporate providers
- Private and corporate facilities to be brought in under the grievance redressal mechanisms
- Enforce private or charitable hospitals which got land or any other public aid to provide free and concessional services for the deprived as committed by them

#### *Physical Infrastructure*

- Availability of health facility based on both distance and population norms for health facilities to be included in the entitlement package; difficult areas, as envisaged in the national health policy, to have differential norms
- Primary Health facilities to be made available to people within 3-5 km of travel
- Mechanisms to ensure adequate and timely maintenance and proper cleanliness of physical infrastructure

#### *Monitoring and Remedial Action*

- Set up an IT based Health Management Information System
- To ensure periodic monitoring of actual availability of health services, access, quality of services and outcomes
- Monthly monitoring and feedback loops
- Coupled with evaluation, prompt and effective remedial measures in case of service break down
- Bio metric attendance device to be deployed in health facilities to ensure timely reporting and check work absenteeism
- To create state level live health care database of hospitals, HR, services and caseload- to ensure rational allocation of resources

### **(C) Cautions**

#### *Infrastructure*

- Proper analysis required before sanctioning new facilities- existing resources should not be splintered or duplicated
- GIS mapping of existing infrastructure prior to declaring new ones.

## Financing

- While considering financing options for reimbursing private service providers, public financing models to be considered- full care to be taken to avoid insurance programmes managed by profit making bodies that leads to partial usage of public money earmarked for the purpose and pilferage
- Karnataka Government's public institution based non-insurance, risk pooling arrangement (Suvarna Arogya Trust) could be a way for reimbursing the private.
- Independent watch on existing arrangements to audit and to ensure public interest

## II. Woman and Child Health – Important Issues

### (A) Policy:

1. A rights based approach as against a Welfare or Beneficiary based one.
2. Removal of two child norm as an incentive / disincentive for all policies.
3. Removal of distinction between APL and BPL for access to health care.
4. Integration and convergence of State and central child and maternal health schemes.
5. All social and economic health determinants need to be addressed for a holistic approach. Structural factors that perpetuate discrimination against women and impact access to health care and should be factored into policy.
6. Legislative enablement to fill human resource gap, trained professional mid wives / nurses trained in delivery / MBBS doctors without specialization requirements. Public Health Service and Public Health Cadre needed.
7. Registration of all births and deaths. Effective policy needs data.
8. Unconditional wage equivalent maternity allowance to be made available to women three months before and six months after childbirth.
9. Home-based deliveries should not fall off the policy map. Training for home based neo-natal and maternal care.
10. Focus on high priority districts / talukas at policy level.
11. National policy for children refers to all children up to the age of 18 years. It should be the same in health policy.





**(B) Implementation:**

12. Facilities for delivery should be made available in at least a 15 km radius of remote areas with provision of mobile health clinics where there are no PHCs.
13. Proactive tracking of pregnant women to ensure planning and preparation. Mapping at PHC level of Expected Date of Delivery.
14. Blood storage facility should reach at least up to First Response Unit (FRU) level.
15. Up-grading of technological facilities at FRU. Implementation of technical guidelines.
16. Assured supply of Vitamin A and Iron Folic Acid tablets to be available at PHC level.
17. Data tracking, monitoring and up to date record keeping essential.
18. More flexibility in State PIP process of NRHM.
19. Linkage with private sector and professionals, including contracting in and contracting out. Mechanism to be evolved in private hospitals/colleges for providing free services to poor people.
20. Facility for transfer of PHC card from one unit to another.
21. Proactive transport arrangement.
22. Maternity kit as provided in Karnataka.
23. Identification and tracking of the most vulnerable and acutely malnourished women and children.
24. Similar provisions for the acutely malnourished children.
25. As provided in the Food Security Act, hot cooked food to be served to all women during pregnancy and six months after child birth through the local Aganwadis to meet the minimum nutritional standards specified in Schedule-II of the Act.
26. Capacity building / training of ANMs (who is responsible for what) and education of families.
27. Inter-generational inequities among women to be assessed and addressed and convergence of various programmes ensured to this end.
28. Menstrual health and sanitation to be addressed.
29. Training staff in soft skills.

**(C) Accountability and Redressal:**

30. Management and regulatory structures at the top inadequate.
31. Accountability at all levels.
32. Independent data monitoring and review boards at district and state levels.
33. Need to address problem of absenteeism – monitoring and accountability.
34. Health ombudsperson in every district to ensure accountability.
35. Regular assessment of effectiveness of input schemes and course corrections accordingly.

**III. Clean Drinking Water, Hygiene and Sanitation**

People for whom the government programmes are made are largely unaware of these programmes. Need of organised means of sharing information and group to support people on the ground so that they can avail the benefits of these programmes.

**(A) Clean Drinking Water:**

1. Equitable distribution of water to all irrespective of economic status, castes, religions.
2. Protection of existing water bodies so that they can be used for potable purposes.
3. Use locally appropriate and available technology for providing safe drinking water especially to people residing in far off areas like primitive tribal groups.
4. Tapping and protection of springs is a good source of drinking water at hilly areas. The use of this resource and its protection should be propagated.
5. Action to be taken against the unauthorised tapping of water since this leads to contamination of water.
6. System of monitoring quality of water not only at the source level but also at user level. Regular and periodic check-up of drinking water is essential.
7. Step should be taken for inter-sectorial collaboration and coordination between different uses and users.
8. Strict action to be taken against those responsible for contamination of water and for assuring its quality.
9. People should also be educated and exhibit responsible behaviour with use and misuse of water.

10. Prevention of over exploitation of ground water by industries. Before licensing industry should disclose its water regeneration plan.

**(B) Sanitation:**

11. Sanitation will only be successful if there is water available within or close to the toilets. Water must be made available.
12. Operation and maintenance of school toilets should be the responsibility of the school authorities. The students must be encouraged and motivated to clean the school toilets in tune with dignity of labour and without showing any discrimination.
13. Bathing room should be provided so that woman can maintain personal hygiene and dignity.
14. Personal hygiene needs more focus. Awareness programme for children should be developed thorough curriculum. Stress should be laid on hygiene including personal hygiene.
15. Government should provide drinking water and toilet facilities to all, irrespective of title of the land. Title of the land should not be an impediment for constructing community toilet for the use of the marginalised people who are living in unauthorised areas.
16. NHRC and SHRC should play a more proactive role in the eradication of manual scavenging.
17. Campaign to educate/aware slum dwellers about sanitation.
18. Health care facility should have adequate water and sanitation facilities.
19. Appropriate and enabling legislation for universal and equitable access to drinking water and sanitation should be brought forward.

#### **IV. Occupational Health and Safety**

A special report on the prevalent of silicosis was prepared by NHRC and was forwarded to the Ministry of Home Affairs far back in 2011. In the National Conference organised by the NHRC on health care as human rights the issue of occupational health and safety was discussed in detail. After deliberations with resource persons, officials attached to the respective department of the government and representative from various NGOs, the Commission recommends the following on the issue of occupational health and safety:

1. It is recommended that as per section 2(C) of the Factories Act 1948 necessary rules can be made by the State Governments in exercise of the powers u/s 85 of

the Factories Act, 1948 to bring the following units/work place under the purview of the Factories Act, 1948 where one or more workmen are employed. During the deliberation it is brought to the notice of NHRC that rules are in terms of Section 85 to bring the units where one or more workers are employed who are suffering with various occupational diseases. For example units like: - Ramming Mass (Quartz grinding), Stone crusher, Iron ore crusher, bauxite grinding, sponge iron plants, Refractories foundries, gems and jewellery.

2. Though the Employees Compensation Act mainly deal with the payment to the workmen, keeping in mind the immediate and required medical facilities shall be made available to the workmen injured and suffered any illness due to the workload. It is recommended that necessary rules can be framed by the State. Making the employer to provide such immediate and required medical treatment to the workmen concerned.
3. Considering the structure of the Employees Compensation Act the commission recommends that necessary rules can be framed by the State, fixing time limit for the disposal of application filed by the workmen and the compliance of the orders by the Commissioner.
4. It is recommended that the appropriate Governments shall make rules for the health and safety of the children covered under the Child Labour (Prohibition and Regulations) Act, 1986, keeping in mind sub section (2) of section 13.
5. Though Section 26 of the Bonded Labour System (Abolition) Act, 1976 empowers the Central Government to make rules, the said rules do not cover provisions for affording medical facilities to the rescued bonded labourers and no rules have been framed so far. Therefore, it is recommended the relevant provisions of the Bonded Labour (Abolition) Act, 1976 shall be suitably amended enabling the Central Government to make rules in this regard.
6. After deliberations and discussions, it is recommended to the Government that the following provisions of the various Acts are to be strictly complied with:
  - a. Sections 7, 7(A), 8, 9, 10, 11 to 20, 41(B), 41(C), 41(F), 85, 87, 89, 90, 91(A), 101(A), 113 of the Factories Act.
  - b. Sections 2(J), 5 to 9, 11, 16, 22, 9(A), 23, 25, 26, 27, 48 of the Mines Act. It is also recommended that the Mines Worker Welfare Board should also include all minor minerals.
  - c. Section 3 of Employees compensation Act, 1923.
  - d. Sections 2(8), 51(A), 52(A) of ESI Act, 1948.

7. It also recommended that the Government shall make a provision for appointment of Doctors, Para medical technicians, support staff and opening of separate occupational disease detection centre in all Government and ESI hospitals with suitable infrastructure.

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### **Write-up Forwarded by Ministry of Health and Family Welfare, Government of India Highlighting Some of Their Recent Initiatives and Achievements Towards Achieving Universal Health Coverage**

In order to meet people's growing demand for health and in alignment to the vision of the Twelfth Five Year Plan, the Ministry of Health & Family Welfare has been orienting itself to bringing about improvements in the implementation mechanism for health care provisioning in public health facilities. There is emphasis on strengthening the healthcare delivery system with a focus on the needs of the poor and vulnerable sections among the population, thought an incremental approach in entitlement based health care provisioning.

During the last five year plan, the Ministry has made various strides in the healthcare delivery under the National Rural Health Mission, with major impetus on upgrading the existing infrastructure and in creating new infrastructure to cater to the health needs of the rural populace. There are more than 8330 PHCs working round the clock 24X7 across the country. In addition, human resources under the NRHM has also been augmented over the years resulting in having over 1.4 lakhs Health Personnel including 22,812 Doctors/Specialists, 33,582 Staff Nurses, 16,447 Paramedical Staff. Apart from these health personnel, the human resources support towards the programme management has also been augmented with over 10,249 personnel, which includes 579 District Programme Managers, 598 District Accounts Managers, 4,807 Accountants at Block Level and 3,756 Accounts at the PHC level. The ASHA's who have been the backbone and first port of call under the NRHM have been trained effectively and positioned with drug kits. The Janani Suraksha Yojana and the Janani Shishu Suraksha Karyakram are being effectively implemented with a view to achieve the MDGs of reducing the infant and maternal mortalities. The support towards upgradation of Government Medical Colleges and district hospitals are being given due importance by the Ministry. The Ministry is also planning to provide enhanced funding to states for providing free drugs through public health facilities. The National Urban Health Mission (NUHM) has been launched with a view to improve the health status of the urban population particularly urban poor and other vulnerable sections by facilitating their access to quality primary health care. NUHM would cover all state capitals, district headquarters and other cities/towns with a population of 50,000 and above (as per census 2011) in a phased manner.

Currently under the National Health Mission, as steps towards achieving universal health coverage, a large number of services are being provided free of cost and many more are increasingly being added to the basket of free services. Some of these are:



1. Universal Immunization Programme (UIP): to provide free immunisation to a birth cohort of 27 million annually.
  - a) Guarantees free vaccination of children against 7 diseases
  - b) Free vaccination (TT) to pregnant women
  - c) Basket of vaccines being expanded e.g. Pentavalent, JE
2. Family Planning services: Free services including information, free Reproductive Health supplies and sterilization
3. Free Child Health services:
  - a) Home Based New born Care
  - b) Facility Based New born Care
  - c) Nutritional rehabilitation
  - d) Supplementation: IFA and Vit. A
  - e) Diarrhea management including free ORS and Zinc
  - f) Pneumonia management including antibiotics
4. Janani Shishu Suraksha Karyakram (JSSK): [Maternal & Child Health]
  - a) Guarantees free and no expense delivery including C-section in public health facilities
  - b) Entitlements include free to and fro transport
  - c) Free drugs, consumables, diagnostics, blood and diet
  - d) Similar guarantees for sick infants

About 16.6 million women are delivering in Government and accredited facilities every year and benefitting under JSSK. Over 28,000 beds have been sanctioned in public health facilities to cater to increased maternal and child health patient load.
5. Rashtriya Bal Swasthya Karyakram (RBSK):
  - a) The recent initiative is to provide comprehensive healthcare and improve the quality of life of children through early detection of birth defects, diseases, deficiencies, development delays including disability.
  - b) An estimated 270 million children in the age group of zero to eighteen years are expected to be covered across the country in a phased manner in both Anganwadis and Schools.

- c) Treatment including at tertiary level will be free of cost under this initiatives.
6. Rashtriya Kishor Swasthya Karyakram (RKSK):
- a) A holistic intervention for adolescent boys and girls
  - b) Six priority (Programme) areas: Nutrition, Sexual Reproductive Health, Conditions for NCDs, Substance misuse, Injuries & Violence and Mental Health.
  - c) Operationalization Components: Behaviour Change communication, Provision of Services, Provision of Commodities, Capacity building, Monitoring & Evolution, Programme management
  - d) Interventions: Community based interventions; Facility based intervention, convergence, advocacy, BCC & IPC
  - e) Adolescent friendly services through Adolescent Reproductive and Sexual Health (ARSH) Clinics
  - f) WIFS (Weekly Supplementation of Iron and Folic Acid with Deworming)
  - g) Sanitary napkins for Menstrual hygiene (Started in 107 districts, being scaled up)
7. Emergency Patient Transport and Referral System:
- a) Free Referral and patient transport is being provided to pregnant women, sick children and patients requiring hospitalization.
  - b) A total of over 20,000 ambulances/patient transport vehicles are now operational across states. These include 7,293 Dial 108 vehicles and 8,122 (102-Type) Patient Transport Services vehicles and 4,769 empanelled vehicles (Janani Express, Mamta Vahan etc.) for transporting pregnant women to government hospitals for delivery and back.
8. Provision of free drugs & Diagnostics under NHM
- a) Medicines constitute about 70% of health care expenditure.
  - b) NHM is providing funding to States to introduce free essential medicines in all Government facilities.
  - c) 'National Health Mission – Free drugs Service' and 'National Health Mission – Free Diagnostics Services' initiatives have been introduced to provide funds for free drugs and diagnostic to states.
  - d) Additionally, up-to 5% additional funding (over and above the normal allocation) is being provided to states which introduce free medicines as an incentive.

- e) 28 States/UTs have so far notified the policy to introduce free essential medicines, with limited or substantial NHM support.

9. Communicable Diseases:

- a) Free investigation and treatment for Malaria, Kala azar, Filariasis, Dengue, JE and Chikungunya
- b) Free detection and treatment for Tuberculosis including MDR-TB
- c) Free detection and treatment for Leprosy
- d) Free detection, treatment and counselling for HIV/AIDS

10. Non Communicable Diseases:

- a) Free Cataract surgery for Blindness control – over 6 million free cataract surgeries done every year
- b) Free Cornea transplant
- c) Free Glaucoma/Diabetic Retinopathy
- d) Free Spectacles to children (BPL only)
- e) Free screening for NCDs (in pilot phase)

11. Augmenting Human Resources – critical to UHC:

- a) Policy reforms have been introduced in Medical Education since 2009. As a result, about 18,412 MBBS (55%) seats and 10,093 PG/Super-Specialty (73%) seats have been added to create a total capacity of 51,979 MBBS seats and 23,931 PG seats annually.
- b) 97 new medical colleges, including 6 new AIIMS, have been established taking the total 387 medical colleges in the country.
- c) 137 new General Nursing Midwife (GNM) schools and 117 new Auxiliary Nursing Midwife (ANM) schools have been sanctioned. Additionally, one National Institute of Paramedical Sciences and 8 Regional Institute of Paramedical Sciences have been approved. These institutions would produce about 20,000 nursing and allied health professionals every year.
- d) Total additional human resource to 1,55,000 added under NHM over a base of 2.03 lakhs in 2004-05.
- e) About 8,88,000 Accredited Social Health Activists (ASHAs), who are community

workers and act as link between community and public health system have been added under NRHM.

12. Mobile Medical Units (MMUs)

- a) MMUs ensure access to healthcare at the doorsteps of people living in remote, hard to reach and LWE affected districts.
- b) Presently 2,062 MMUs are operational in 424 districts.

By the end of the 12th Five Year Plan, there would be substantial expansion and strengthening of the public health system both in rural and urban areas, with robust provision of primary, secondary and tertiary health care services in the public sector.

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## **Application Filed by NHRC in Supreme Court Seeking Directions on Thirteen Issues Relating to Mental Health Care**

**(CRLMP.NO.8032/2013 in W.P.(Crl.)No. 1900 of 1981, Dr. Upendra Baxi Vs. State of U.P. & Ors. & NHRC)**

- In the absence of a clear data base, proper policy interventions and allocation of resources are not receiving due priority. Therefore, there is a need to undertake a country-wide epidemiological survey to identify the magnitude of the problem of mental health. It is necessary and desirable that a perspective plan covering the task, financial implications, time frame etc. is drawn up keeping in view the present as well as the future requirement of the problem (*Action: Ministry of Health and Family Welfare, Government of India*).
- The Mental Health Institutes/Hospitals in the country are facing serious financial constraints as adequate resource allocation is not being made to meet their requirements. The Central and State Governments should accord priority in allocation of financial resources both for the regular maintenance and upgradation of the physical infrastructure of these institutions. While making the financial allocations, the future requirements of both infrastructure and manpower should be kept in mind (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- Lack of adequate administrative and financial powers to the Directors and the Superintendents of the Mental Hospitals are seriously affecting their functioning. Therefore, these institutions should be made completely autonomous in managing their own affairs and the Managing Committees of these institutions should have adequate administrative and financial powers to manage their affairs efficiently (*Action: State Governments*).
- Existing State run mental hospitals should be converted into Teaching-cum-Training Institutes with adequate financial and manpower resources (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- The concerned State Governments may be directed to sanction medical and para medical manpower to these institutions/hospitals as recommended by NHRC, without delay (*Action: State Governments*).

- Sufficient number of seats may be created in medical colleges in MD Psychiatry, M.Phil in Clinical Psychology and Psychiatric Social Work by relaxing the existing norms of Medical Council of India (*Action: Ministry of Health and Family Welfare, Government of India*).
- There is need to train an integrated team of psychiatrists neurologists, neurosurgeons, clinical psychologists, psychiatric social workers, nurses and other personnel required to manage mental hospitals, Medical College Hospitals and District Hospitals in the country (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- Central and State Governments should include short term programmes in Psychiatry of 3 to 12 months duration for their medical officers in established hospitals so that every district may be provided with a trained doctor where there are no psychiatrists available (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- Psychiatry and mental health care should be made a compulsory independent subject in the MBBS examination so that the young medical professionals become capable of identifying the problem at the initial stage itself (*Action: Ministry of Health and Family Welfare, Government of India*).
- Every State/Union Territory must have at least one mental health hospital fully equipped with latest equipments, a well-developed infrastructure and sufficient medical and para medical manpower as per the norms (*Action: State Governments*).
- Every State Government should set up an institutional mechanism for designing Information, Education and Communication (IEC) messages on mental health in the local language and disseminate the same among the masses (*Action: State Governments*).
- Removal of all the deficiencies in the existing mental health hospitals with regard to living conditions, providing nutritious and balanced food, water supply, cleanliness and hygiene, environment, sanitation, recreation etc. in a time bound manner must receive top attention of the concerned State Government/Union Territory Administration (*Action: State Governments*).
- A national data base of services and human resource manpower on mental health care should be created by the Central Government which should be periodically updated (*Action: Ministry of Health and Family Welfare, Government of India*).

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## **Review Visit of NHRC to Chamba District in Himachal Pradesh**

**(17-20 November 2013)**

### **Observations and Recommendations of the Team Led by Shri S. C. Sinha, Member, NHRC**

#### **A. CUSTODIAL JUSTICE**

##### **Observations on Jail**

The system of mulaqat in the new jail complex at Rajpura was not found to be up to the mark. It did not have adequate medical facilities for treating an undertrial or convict in case an emergency arose. No daily chart was displayed on the board showing names of undertrials to be brought to the court. During the course of NHRC officials' visit, the prisoners were also seen bringing their food plates and newspapers into their barracks.

##### **Recommendation**

The subject of prison administration in India is technically a 'State' subject. Therefore, the State Governments have the power and responsibility to frame their own rules and regulations regarding the administration of prisons in their territorial domain. The District Jail Authorities should ensure that the detention of the prisoners committed to prison custody is carried out with the aim of their reformation and rehabilitation. Therefore, standard minimum facilities for the treatment of prisoners consistent with the principles of individual dignity should be guaranteed taking into consideration sex, age, offence, etc. As regards right to visits and access by family members of prisoners, the Jail authorities should give due consideration to security and discipline of the prison.

##### **Observation on Non-official Prison Visitors**

Non-official prison visitors need to know their role and responsibilities which is to improve correctional work in prisons, address individual and collective grievances of prisoners with the aim of providing redressal in consultation with prison authorities.

##### **Recommendation**

It is recommended to the District Jail Authorities that there is a need to have a meaningful partnership between official and non-official visitors. Further, there is an urgent need to sensitize the non-official prison visitors on the functions to be performed by them. In case the Board of Visitors is inactive, it needs to be activated. The role of non-official prison

visitors is particularly important as they are the eyes and ears of official visitors who are not able to devote much time to this due to their other responsibilities.

### **Filling up of Sanctioned Police Personnel**

It was observed during the presentation made by the Superintendent of Police, Chamba District that 67 sanctioned posts of police personnel at the middle and lower levels were lying vacant.

### **Recommendation**

The District Administration is directed to immediately fill-up all the vacant posts of Inspectors (2), Sub-Inspector (1), Assistant Sub-Inspectors (18), Head Constables (16), Constables (26), Class III (1) and Class IV (3) employees.

### **Crimes Against Scheduled Castes and Scheduled Tribes**

It was reported by the Superintendent of Police (SP) that during the year 2012 only 2 cases were registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

### **Recommendation**

The SP is directed to give the details of the two cases dealt under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In addition, he is also directed to give details of cases registered by Chamba Police under the aforementioned Act during the last five years.

### **Crimes Against Women**

It was reported by the representatives of NGOs who attended the meeting on 17 November 2013 as well as the delegates who attended the workshop on 20 November 2013 that there was substantial increase in cases of crimes committed against women. This fact was corroborated by the presentation made by the SP before the Commission on 18 November 2013.

### **Recommendation**

Prompt action must be taken by Chamba Police with regard to crimes committed against women. Besides, the Police should give the women a greater sense of security. The Police should also be sensitized about the diverse nature of crimes committed against women and the various laws under which justice could be given to women.

### **Observation Relating to Mismatch Between Figures in Table on 2012 Crime Trend of Chamba District and Table Projecting Details of All Crimes in Chamba as on 31 October 2013**

During the presentation made by the SP about the functioning of Chamba Police, the figures given in the aforementioned two Tables for the year 2012 do not tally, especially with regard to 'rioting', 'cruelty to women', 'rape', 'kidnapping/abduction' 'road traffic accidents', 'theft', 'burglary' and 'outraging modesty'. Moreover, the Table on 2012 Crime Trend shows the over all number as 829 whereas in the five year crime trend the number given is 821.

### **Recommendation**

The SP is directed to look into the figures given under different crime heads and inform the Commission about the actual status of different crimes in Chamba for the year 2012.

### **Observation Relating to Missing Persons**

The SP during his presentation before the Commission on 18 November 2013 pointed out in one of the slides that cases of 'missing persons' in Chamba, especially women, showed an increase (34) in 2011. However, the number of women rescued is not clear from the slide. In 2012, the number of missing women decreased to 30 but those rescued is not clear. In 2013 (up to October), the number of missing women was reduced to 26. The number of missing males, on the other hand, has constantly been on the rise from 25 in 2011 to 26 and 29 in 2012 and 2013 respectively.

### **Recommendation**

The SP is directed to inform the Commission as to why women and men go 'missing' in Chamba. This could be true for children also. The Action Research on Trafficking in Women and Children in India conducted by NHRC showed that there is a close linkage between 'missing persons' and trafficking. The issue of missing persons needs to be seriously considered by the law enforcement agencies in Chamba. Further, vigilance and surveillance systems by Police personnel and NGOs need to be strengthened.

## **B. HEALTH**

### **Observation on Health Care Infrastructure**

It was observed during the course of the presentation made by the Chief Medical Officer (CMO) that Chamba District had seven Health Blocks. However, in three Blocks, namely, Choori (Mehla), Tissa and Samote (Bhatiyat) the number of public health centres (PHCs) and community health centres (CHCs) was not found to be proportionate in terms of its given population.

### **Recommendation**

The health care infrastructure in rural areas has been developed as a three-tier system and is based on the following population norms:

## Population Norms

Centre	Plain Area	Hilly/Tribal/Difficult Area
Sub-Centre	5000	3000
Primary Health Centre	30,000	20,000
Community Health Centre	1,20,000	80,000

Taking the above into account, the Deputy Commissioner along with the CMO needs to ensure establishment of one PHC in Choori, one CHC in Tissa and two CHCs in Samote at the earliest.

## Filling up of Sanctioned Health Personnel

It was observed during the presentation made by the CMO on 18 November 2013 and later during field visits made by NHRC teams to different Sub-Centres, Primary Health Centres (Sundala) and Community Health Centres that there were innumerable sanctioned posts of Medical Officers, public health personnel and para-medical staff which had not been filled up for various reasons.

## Recommendation

The State Administration is directed to fill up all vacant posts of health personnel immediately – Block Medical Officer (01), Medical Officer (35), Dental Medical Officer (07), Male Health Worker (101), Male Health Supervisor (18), Female Health Worker (46), Female Health Supervisor (10), Health Educator (02), Nursing staff (30) and para-medical staff – Chief Lab. Technician (01), Senior Lab. Technician (27), Chief Pharmacist (09), Pharmacist (30), Sr. Radiographer (02), Radiographer (05) and OTA (05).

## Hiring the Services of ASHAs in Chamba

As of now, there is no ASHA worker in the State of Himachal Pradesh. Recently, the State Government has decided to hire the services of ASHA workers as per NRHM guidelines.

## Recommendation

The services of ASHA workers should be hired immediately as per the NRHM guidelines.

## Observation Relating to PHC at Sundala

The PHC in Sundala village had a sanctioned strength of two Doctors – one from allopathic and the other from ayurvedic stream. During the field visit it was noticed that it had only one Ayurvedic Doctor. The Doctor informed the NHRC team that since no ayurvedic medicines were available in the PHC he had to prescribe allopathic medicines to the patients. This had been brought to the knowledge of the District Authorities but no follow up action on this aspect has been taken.

## Recommendation

The CMO should immediately fill up the vacant post of the Doctor. Further, the Deputy Commissioner/CMO should seek directions from the State Department of Health and Family Welfare about the supply of ayurvedic medicines in PHCs and CHCs where ayurvedic Doctors are serving. The NHRC, too, would write separately to the Union Ministry of Health and Family Welfare as NRHM seeks to mainstream AYUSH into the public health system.

## Other Observations about PHC in Sundala

The PHC in Sundala village had no provision of beds for patients. In the absence of a CHC, patients were referred to CHC in Pukhri or Chamba District Hospital in case of an emergency. It was informed that 108 Emergency Ambulance Service was used for taking patients to Phukri and Chamba. Besides, there was no Pharmacist in the PHC.

## Recommendation

The State Government should establish a CHC in Sundala village to serve as a referral centre for PHCs at the earliest. While doing so, it should adhere to the minimum norms prescribed for the same, i.e., four Medical Specialists – Surgeon, Physician, Gynaecologist and Paediatrician supported by para-medical and other staff. It should also have a 30 indoor beds with one OT, X-ray, Labour Room and Laboratory facilities. In addition, the PHC in Sundala village should be strengthened in terms of infrastructure and the vacant post of the Pharmacist and other posts should be filled up immediately.

## Non-Availability of ORS in Kalsuin Sub-Centre

The visit to Kalsuin Sub-Centre showed that it had all the available facilities in terms of staffing structure under the Indian Public Health Standards, basic drugs for minor ailments needed for taking care of health needs of men, women and children, including a labour room. In case of complicated cases, pregnant women were referred to CHC/District Hospital by the Sub-Centre. It was informed by the Female and the Male Health Workers that both of them were also required to spread awareness about maternal and child care, family welfare, nutrition, immunization, diarrhoea control and control of communicable diseases. However, ORS and Folic Acid tablets were not available in the Sub-Centre.

## Recommendation

The District Authorities, in particular the CMO, should ensure that ORS packets and Folic Acid tablets are made available to Kalsuin Sub-Centre and other Sub-Centres, PHCs, CHCs and Anganwadi Centres functioning in Chamba.

## Observation about Pangri Tribal Block

It was informed by participants in the workshop held on 20 November 2013 that Pangri Tribal Block is totally cut off for six months during the winter season. The CHC in Pangri

had six sanctioned post of Doctors but only two Doctors were available. Other sanctioned posts in the CHC were also vacant. The CHC was equipped with an X-ray machine but the post of Radiographer was vacant. In the Sub-Centres too the post of Female and Male Health Workers were vacant. In case of an emergency, the services of helicopters for lifting the patients was provided by the District Authorities but everything depended on the weather. Further, the inhabitants had requested to open a Sub-Centre in Tarela Village (in Pangi Block) but the response of the District Administration was lukewarm.

### **Recommendations**

It is recommended that all sanctioned vacant posts in Pangi CHC should be filled up immediately by the District Authorities. There is also an urgent need of improving the available physical infrastructure of the CHC with the help of a Block Health Plan prepared in consultation with the local inhabitants. Being a Tribal Block, the District Authorities should give significant attention to it as well as to Bharmour Tribal Block, which is also cut off during winter season. It would be advisable to organize mobile health camps for identification of anemia and other deficiencies among children, adolescents, women and elderly in Pangi and Bharmour through out the year by making advance arrangements. It would be advisable to organize such health camps in other development blocks of Chamba as well. There is also a need to give incentives to Doctors so that they willingly take postings in remote areas. The CMO is directed to chalk out an incentive plan for attracting Doctors to such postings.

The CMO is further directed to re-examine the opening of a new Sub-Centre in Tarela Village.

In addition, the CMO is directed to apprise the Commission about the coverage of Tribals under Rashtriya Swasthya Bima Yojana.

### **Observation about Regional Hospital in Chamba**

The District had only one regional hospital in Chamba. The NHRC team, during its visit on 17 November 2013, found that it was deficient in specialist manpower. The medicines available in the Pharmacy were not stamped and thus prone to misuse.

### **Recommendation**

The CMO is directed to look into the anomalies prevalent in the functioning of Chamba Regional Hospital and ensure upgradation of this hospital in terms of personnel, technology and infrastructure so that all facilities are available and accessible to all the inhabitants of the District.

### **Observation on Leprosy and Tuberculosis**

It was informed by few delegates that the Churah valley of Chamba district was an extremely backward area and the inhabitants were inflicted with leprosy and tuberculosis.



## Recommendation

The CMO is directed to make an assessment of the problem and submit an action plan for taking remedial measures. Being a backward area, the District Authorities need to pay special attention to its inhabitants in all walks of life by organizing awareness camps.

### C. SCHOOL EDUCATION AND MID DAY MEAL SCHEME

#### Observation on Government Sr. Secondary School in Udaypur (Grades VI to XII)

The NHRC team observed that for a total strength of approximately 500 students, 09 class rooms were insufficient. Moreover, the nine rooms were small in comparison to the average class strength.

The school had well-functioning computer and science laboratories but it required cleaning and maintenance. The school did not provide the children either steel plates or glasses for their mid-day meals. The children are required to bring these from home each day. By and large, the toilets were unclean and had no soap or mug though there was provision of tap water. It was seen that of the two toilets for boys and two for girls, only one toilet each (for boys and girls) was functional. Each of the other two toilets was blocked/choked on the day of the visit and hence, unusable. The number of toilets were inadequate given the total strength of students.

As far as drinking water is concerned, it was observed that there were no water filters in the school. Instead, it had a huge cemented water tank with taps attached for drinking purposes. While one of the teachers stated that the water is treated through the use of chlorine tablets, it has to be ascertained whether it is true.

One of the Teachers and the Cook informed that there is delay in receiving funds from the District Administration for the Mid-Day Meal Scheme (MDMS). This delay, they added, on an average, ranged from 5-6 months. Due to this, they are forced to buy rice, vegetables, pulses, spices, gas etc. from the local PDS shop and local mandi on credit. As and when the money is credited to the school's account, it is paid to the creditors. The Teacher informed that the last payment for the MDM was received in May 2013 by the school.

The students are provided two sets of school uniform every year. This comprises a pair of trousers and shirt for the boys and salwaar and kameez for girls. They are however, not provided any warm clothing such as sweaters keeping in view the cold climate of the State.

## Recommendations

The Deputy Commissioner along with his team of officials from the Department of Education should strengthen the overall infrastructure of Government Sr. Secondary School in Udaypur by constructing additional class rooms, toilets, provision of safe drinking water including warm school uniforms, water filters with built in temperature control, sanitary napkins,

iron and folic acid tablets, etc. For this, they should make use of the grants given under Sarva Shiksha Abhiyan, Rashtriya Madhyamik Shiksha Abhiyan, National Rural Health Mission and Nirmal Bharat Abhiyan. Besides, the District Administration, under the Nirmal Bharat Abhiyaan must initiate an awareness drive among the staff and students for promotion of better hygiene and sanitation practices.

The above recommendation should be made mandatory for all schools in Chamba District. A concomitant monitoring mechanism must also be put in place to ensure that medical checkups are carried out regularly by Doctors of PHCs in the schools that fall under their geographical jurisdiction. Further, the contact numbers (including emergency and ambulance contact numbers) of the closest PHCs/sub-centres must be prominently displayed in the school premises.

For MDMS, the District Authorities must consider providing to school children across Chamba District, stainless steel plates and glasses for their Mid Day Meals. It should write to the Central Government for enhancing the cost per child per day in view of the escalating prices of all essential commodities. The NHRC would also write separately to the Central Government on this issue and timely release of grants given under MDMS.

### **Observation about Primary School in Bhanauta and Sidhpura (Grades I to V)**

As observed in the Government Sr. Secondary School in Udaypur, the toilets in the Primary Schools in Bhanauta and Sidhpura were not well maintained given the fact that the toilet in Primary School in Sidhpura was constructed recently. However, the toilet in the Primary School in Sidhpura had common entrance for boys and girls. The quality of Junior Basic Teachers in these schools needs to be improved.

### **Recommendations**

The District Administration should make a survey of all schools to gauge the availability and requirement of separate toilets for boys and girls. Accordingly, it should ensure the construction of required number of toilets and this task must be given priority. Provision for partition should also be made in the newly constructed toilet in the Primary School in Sidhpura. The District Administration must ensure a regular supply of soap and/or adequate budgetary funds for the same, to schools to promote better sanitation and hygiene practices among the school staff and students.

The District Education officer should ensure that the Junior Basic Teachers appointed in these schools have all the requisite qualifications like Basic Teachers Training Certificate or B.Ed. Degree. Further, the District Authorities need to streamline the process of recruitment of teachers as currently it had teachers recruited as Primary Assistant Teachers (started in 2002), Teachers appointed by Parent-Teacher Association (started in 2006) and Para Teachers who have been employed as temporary teachers and so far not regularized.

**Observation about Government Middle School in Sidhpura (Class VI, VII & VIII)**

On the day of the visit, i.e., on 19 November 2013, the school was celebrating Environment Day and the students had put up an exhibition on various themes of environment with the help of waste material. It was told by the Head Mistress of the school that it had won first prize for cleanliness under the Nirmal Bharat Abhiyan. Further, under the School Development Plan, a request had been made for computers for usage of children. She further informed that the School Management Committee consisting of Parents took active part in overall functioning of the school. The first aid box, medicines and vitamins like Iron Folic Acid were available.

**Recommendation**

The Government Middle School in Sidhpura can be identified as a model school and its best practices could be emulated by other middle schools in Chamba District.

**Observation about Sr. Secondary School in Sarol (Class VI to XII)**

The school altogether had 367 students and had all the three streams – Arts, Commerce and Science. It had a good building, a well equipped Library and a play ground. However, the Laboratory in the school was not found to be up to the mark and this was also communicated to the Teachers as well as the District Education officers who accompanied the NHRC team to this school.

**Recommendation**

The Deputy Director, Education should ensure that the Laboratory in the above mentioned school and other schools offering science stream are well equipped and one teacher should be made responsible for its overall smooth functioning and of the Library including its cleanliness.

**Model Schools and Girls Hostels under RMSA**

During the presentation made before the Commission, it was informed by the Deputy Director, Education that in Chamba District there were four Model Sr. Secondary Schools for girls and four girls Hostels under RMSA. A girls hostel run by an NGO was also visited by NHRC team on 18 November 2013. The hostel had about 15-16 girls in different age group. Most of these girls came from poor families. The building in which the girls hostel was housed was in a dilapidated condition and the District Authorities had also directed the NGO to shift the girls to another place.

**Recommendation**

The District Authorities should facilitate the NGO in finding a suitable place in Chamba District Headquarters so that the girls were not uprooted in terms of their education. Since

Chamba District was sufficiently large, there is a need to open more number of Model Sr. Secondary Schools and hostels for both boys and girls. It should further be ensured that these schools have all the streams of education, i.e., Arts, Commerce and Science. Such schools and hostels should also specifically be opened for SC, ST and disabled children as well. In these schools, a breakfast scheme on the lines of Government of Kerala should also be started. The NHRC would be writing separately to the Chief Secretary in this regard.

### **Observation on Boys Hostel (Balashram) in Mehla Block**

The above balashram is also known as Gaddi hostel and is being run by Himachal Pradesh State Council for Child Welfare. It had a total strength of 30 children up to 16 years. The youngest among them was 10 years old. Most of these children belonged to deprived families where they either had no parent or one parent. The balashram was run by 11 staff members which included the Superintendent of the balashram. He informed that the total amount spent on a child in a year was approximately ` 13,000. Given the escalating inflation, this amount was no more self-sufficient to sustain a child. The salaries of the staff, including that of the Superintendent, were found to be extremely meagre and the same had not been enhanced for years.

### **Recommendation**

The District Authorities should look into the problems of the Balashram and facilitate them by providing aid under the Integrated Child Protection Scheme. The NHRC would also be writing separately to the Union Ministry of Women and Child Development in this regard.

The District Administration should also apprise the Commission about the status of functioning of Juvenile Justice Board and Child Welfare Committee in Chamba District.

## **D. INTEGRATED CHILD DEVELOPMENT SERVICES SCHEME**

### **Observation on Anganwadi Centre in Sarol Village in Chamba Development Block**

The Anganwadi Centre (AWC) in Sarol Village functioned from 10 a.m. to 3 p.m.. It had 33 registered children below 6 years of age. As per the guidelines of the Ministry of Women and Child Development (MWCD), there was a separate sitting room for children, separate kitchen, separate space for storing food items and toilet. However, the sitting room of children was small in size and congested. The toilet too was extremely small and had no water facility nor electricity. The water had to be brought from a private school adjacent to the AWC. The surroundings of the AWC was not kept clean. It had no space for playing of indoor or outdoor games. The Anganwadi worker informed that she got full cooperation of the Supervisor and the community in running of the AWC. The sanctioned post of Child Development Project Officer in the District had not been filled up for quite some time. Having undergone a rigorous training programme in 2002 and later a refresher training in 2011, the AWW exuberated confidence while explaining the objectives of the ICDS scheme, the

manner in which she taught pre-school education to children, plotted the nutritional status of children in the new WHO Growth Charts and conducted Village Health and Nutrition Day on 6th of every month was deserving of appreciation. The AWC was well stocked with medicines and pre-school material. She conveyed to the NHRC team that a boundary wall be constructed around the AWC. She also conveyed that since the gas cylinder supplied to the AWC was stolen, she had to cook food on the stove and procured kerosene from her own money. Twenty-two adolescent girls in the age group of 14 to 18 years were registered with the AWC and getting nutritional supplements under SABLA.

### **Recommendation**

Recognizing that ICDS is one of the flagship programmes, the Deputy Commissioner is directed to immediately take steps to fill up the post of Child Development Project Officer (CDPO). Further, it should provide basic facilities to the above mentioned AWC such as a child-friendly toilet, running water and safe drinking water. The space in front of the AWC should be spruced up and developed into a garden so that children could use the space for playing and a boundary wall should also be built around the AWC as this would ensure safety to children. The AWW should also be provided an additional gas cylinder.

### **Visit to AWC No.21 in Udayapur**

The AWC visited had 27 registered children below 6 years. On the day of the visit, the AWC was neat and clean. It was however observed that the room where children were given preschool education and served supplementary nutrition was small and congested. The toilet was found to be clean and well-maintained. There was no provision for running water in the toilet and the AWW informed that it was the duty of the Anganwadi Helper to collect and place water in a bucket each morning inside the toilet. No soap had been provided in the toilet for the staff and children. It had a UNICEF weighing scale (suspended from the ceiling). Nonetheless, no measuring tape was provided to the AWW to measure the height of the children.

The AWC had been provided the new WHO growth chart by the District Administration. In addition, the AWW informed that she had received special training on the filling up of the said chart. Data had been plotted on the growth chart consistently since May 2012 (which is when these charts were provided to the AWC) for each child registered at the Centre. According to the data plotted on the WHO growth chart by the AWW, it was found that five children in the age group of 3-6 years were 'moderately malnourished'. However, the AWW seemed unsure of whether or not any special measures were required to be undertaken at her end with regard to these children.

The AWC timings being 10 a.m. to 03 p.m., it provided two meals to the children – breakfast, comprising nutrimix (served at 10:30 a.m.) and an afternoon meal (served at 1:15 p.m.). On the day of the visit, the AWW informed that the Centre had exhausted its stock of nutrimix



due to which the children had not been provided the morning meal for the past few days. She added that she had already requested for fresh stocks of nutrimix for the AWC, which, on the day of the visit, had not yet been received. She further informed that the AWC had not been provided any dal and/or vegetables or soya granules/chunks for nearly six months. This means that on the days the children are supposed to be served rice pulao, they essentially consumed only plain salted rice as there is neither any dal, vegetable or soya to add to the rice. This implies that the children are not receiving the requisite nutrition that they should be provided at the AWC. She also informed that the District Authorities had not provided dalia for adolescent girls since October 2013, due to which these girls had stopped coming to the AWC. In all, twenty-one adolescent girls were registered with the AWC.

### **Recommendation**

The District Administration is advised to examine the WHO Growth Charts of those five children in the aforementioned AWC who fall under the 'moderately malnourished' category and take necessary action. Further, it should be ensured that all Supervisors and AWWs are given orientation training on filling up of new WHO Growth Charts so that in future they are confident to take action on their own leading to improvement in delivery of services through the ICDS. It should be made mandatory for different level of functionaries responsible for implementation of the ICDS Scheme to undergo orientation and refresher training from time to time.

The District Administration should ensure regular supply of electricity, safe drinking water, weighing scales for babies, medicines, stationery, etc. in all AWCs. Further, it must immediately provide to all the AWCs in the District, all food items whose stocks have been exhausted. More importantly, the District level officers along with Supervisors of Anganwadi Centres must be encouraged to regularly visit the AWCs under their jurisdiction and ensure that their requirements and complaints, if any, are promptly communicated to the concerned District officials and situation as above where dal, etc. had not been received for six months does not arise anywhere in future.

The District Authorities should also ensure that AWCs function as a convergence point for health and nutrition services.

### **Visit to AWC No. 57 in Pukhri**

The above AWC was housed in an old building and had no electricity nor water facility. The AWW informed that a new AWC had been constructed by the Pradhan of the village but the new building so far was not handed over. The new AWC was constructed adjacent to the old building from where AWC functioned.

### **Recommendation**

The Deputy Commissioner is directed to kindly look into the matter so that the children get a new AWC at the earliest.



## **E. PROJECTS UNDER MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE SCHEME**

### **Overall Status of MGNREGS in Chamba**

It was informed by the District Authorities that during 2012-2013 job cards were provided to 1,03,199 adults/households under the MGNREGS out of which only 65,472 households were provided employment for a period of 58 days out of 100 days. Further, the Chamba District had made use of 67.57 per cent funds only for the period 2012-2013.

The NHRC team visited a project in Gaila village in Haripur Panchayat where 27 unskilled labourers (six men and remaining women) had been given employment for cutting huge boulders and building a wall out of the cut boulders to prevent soil erosion. Their work was being supervised by 2 semi-skilled masons (one male and the other female). The work was being carried out in phases from 15 October 2012 onwards. The unskilled labourers were paid ₹ 138 whereas the semi-skilled labourers were being paid ₹ 192. However, since the labourers did not carry their job cards on the day NHRC team visited the site, one could not assess whether entries pertaining to employment and wages paid to them were being entered properly in the job cards from time to time.

It was informed by the mason and the Gram Rozgar Sevika that all projects under MGNREGS were selected and approved by the Gram Sabha. The approved projects were then forwarded to the Block Samiti who in turn forwarded it to Zila Parishad. From 2014 onwards, everything will be carried out at the level of Gram Sabha itself.

A visit was also made to Rajpura and Haripur Gram Panchayats to know their functioning. The NHRC team also interacted with the villagers and members of Bakaan Panchayat about the work carried under NREGS.

### **Recommendation**

The District Authorities should create awareness about NREGS in various development blocks of Chamba and the importance of participation of villagers in their respective Gram Sabhas for selection of projects by it as their involvement and contribution would ultimately lead to creation of permanent and sustainable assets, be it projects of water conservation and water harvesting, land development, rural connectivity, Panchayat Bhawan, agriculture related work, livestock related work, etc. The District Authorities should also regularly conduct sensitization programmes for Gram Panchayat members so that they have a vision and accordingly demand work and get the same executed as well.

Further, the District Authorities are directed to inform to the Commission the status of number of projects being run under NREGS in the District giving details of its approval, grant sanctioned, actual amount spent, labourers employed, in particular the percentage of SCs, STs and women who were given employment, including unemployment allowance

paid to those who were given job cards but no employment. In addition, it should apprise the Commission whether an Ombudsman has been appointed in Chamba District to look into complaints. This is because as per statistics provided by the District Authorities, job cards were provided to more than 1,00,000 people however the number of people who were given employment was much lesser and more than 30 per cent of the funds remained unutilized during 2012-2013.

### **Observation about Work on Chamera Dam Under NREGS**

It was informed by one of the participants of the workshop held on 20 November 2013 that when Chamera Dam-II was under construction, no employment was given to the villagers. On the contrary, their land was taken up in a clandestine manner by the NHPC including land meant for cremation of dead bodies. Even for Chamera Dam-I, 192 persons were displaced and no jobs were provided to them.

### **Recommendation**

The District Authorities are advised to prepare a fact finding report on displacement and rehabilitation of Chamera Dam-II and Chamera Dam-I projects oustees and send the same to the Commission within three months.

## **F. Right to Food**

### **Observation on Public Distribution System**

The NHRC team visited several PDS shops and found that no sugar had been provided to the beneficiaries during the last two months. In some PDS shops, the beneficiaries faced problem with regard to availability of kerosene oil and iodized salt as well.

### **Recommendation**

The Deputy Commissioner and the District Food and Supply Officer are hereby directed to apprise the Commission as to when was the last review of BPL and AAY families carried out, the criteria of inclusion and exclusion of APL/BPL/AAY families. They should also give to the Commission the exact number of surprise visits made to PDS shops by the Department of Food & Supply, raids conducted and action taken about gaps found during the raids conducted for the years 2012-2013 and April 2013 to December 2013.

## **G. OTHER ISSUES**

### **Observation on Indira Aawas Yojana**

The NHRC team visited few houses under construction for which IAY grants were provided by the District Authorities. These houses were being constructed by individual beneficiaries themselves. NHRC team noticed that space had been left for sanitary latrines but no assessment could be made about smokeless chulahs, as these houses were under construction.

## **Recommendation**

The District Authorities should apprise the Commission about the status of 680 houses for which funds under IAY were sanctioned. A survey also needs to be undertaken in remote inaccessible places like Saho on priority basis so that needy beneficiaries in these areas can be identified and provided funds by dovetailing IAY and Rajiv Gandhi Aawas Yojna (State Scheme) grants. In fact, for provision of sanitary latrines, Nirmal Bharat Abhiyan funds should be dovetailed with IAY.

## **Observation on Child Marriages taking Place in Churaha Development Block**

It was informed by a representative of an NGO that in Churaha Development Block very young girls below 15 years of age were being married by their parents. Other than this, of late, marriages were being conducted with the help of affidavits, which was not legal.

## **Recommendation**

The District machinery is directed to organize awareness/education programmes in all villages/blocks of Chamba, especially in Churaha about the ill-effects of child marriage and the importance of registration of all marriages. In these awareness programmes, the villagers should also be told about the person responsible in the village/District for registration of marriages. Information about other social issues should also be given to the villagers so that social evils are eradicated.

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## **NHRC Recommendations on Manual Scavenging and Sanitation**

1. The Act provides comprehensively for prevention, rehabilitation and supervision. The aim of everybody should be that Manual Scavenging should be totally eradicated. Both State Government and Central Government should take effective steps in constituting various Committees for effective implementation of various provisions.
2. Though in exercise of power under Section 36 and Section 37, the Central Government has framed rules/model rules, as per the scheme of the Act, the State Governments should also make necessary rules for effective implementation of the Act, particularly with reference to the Constitution of Sub-Divisional /District/State level Committees including the Vigilance Committee to be formed under Section 24 of the Act.  
  
The framing of Rules by the respective States is necessary and assumes importance as the State Governments are mandated to notify these Committees in the Gazette which may not be possible in the absence of the Rules.
3. Benefits conferred under the SC and ST (POA) Act particularly with reference to prosecution and compensation must be extended to all those covered under the definition of “Manual Scavengers” under the present Act.
4. Prescription of period of three months to take cognizance of the complaint to the District Magistrate/Judicial Magistrate as the case may be under Section 10 should be removed and the provisions prescribed for limitation under Cr.PC can be adopted.
5. In terms of Sections 8 and 9 in addition to sentencing to prison, a provision for imposition of fine is also prescribed. The fine amount so imposed and collected shall be made available to the benefit of the victim namely the Manual Scavenger so that they can rehabilitate themselves in a better manner. This payment should not be detrimental to other benefits already provided under the Act or under various schemes
6. For effective implementation there should be the determination and the mindset on the persons /officers representing Committees at all levels including all local bodies.
7. National level campaign should be organized through local areas specific IEC activities for creating awareness regarding the various provisions of the Act amongst the Civil Society.

8. A Nodal Officer should be notified at the District and Sub-Divisional level to enable the affected people for redressal of their grievances.
9. A single window system should be in place at the district level for coordination and implementation of the Act.
10. There is need for convergence of all the activities of all concerned Departments and agencies responsible for implementation of the Act.
11. While identifying the Manual Scavengers by the District administration, those working in the Indian Railways as manual scavengers should also be included.
12. NGOs need to be actively involved in identification as well as rehabilitation under the Act.
13. Before the one time financial assistance of Rs. 40,000/- is exhausted it should be supplemented by other schemes like vocational training
14. On seeing the presentation by the Railways, it is recommended that the focus should not be restricted to sanitation alone and it should be also to focus on the Manual Scavengers and their rehabilitation.
15. Under Section 2(g) of the Act both the Central and State Governments may notify "such other spaces or premises". Such notifications must be made expeditiously in order to give the full meaning of the definition of Manual Scavengers.
16. The time limit prescribed by the Railways up to period of 2021-22 to completely remove dischargeable toilets in Railways is too long a period and it should be completed in a period of five years.
17. Separate guidelines need to be issued for identification of Manual Scavengers by the urban local bodies as the local bodies are required to do the survey only if they have reasons to believe under the Act.
18. National survey All States must complete within two months a survey to identify and enumerate:
  - I. those who are manual scavengers;
  - II. those who have been manual scavengers, and have been rehabilitated;
  - III. those who have been manual scavengers, but have not been rehabilitated;
  - IV. the members of families of those who are or have been manual scavengers.
19. All States must send the findings of this survey by April, 2014, to the Union Ministries concerned, to the National Human Rights Commission and the National Commission for Safai Karmacharis.

20. Quarterly updates Starting from April, 2014, a quarterly report must be sent by each State to the National Human Rights Commission and the National Commission for Safai Karmacharis on:
  - I. the number of individuals who have been identified for rehabilitation in the last quarter;
  - II. the number of individuals who have been rehabilitated in the last quarter;
  - III. the details of the rehabilitation provided, including cash assistance, project support, skills-development, etc.;
  - IV. the details of the training provided in livelihood skills to rehabilitated manual scavengers;
  - V. the number of grants given or houses provided to former manual scavengers under the IAY, the RAY and cognate State schemes;
  - VI. the educational support, including scholarships, provided to children of those who are or have been manual scavengers;
  - VII. the relief provided to families of manual scavengers who have been killed in the course of their work.
21. Nodal authorities All States shall ensure that by April 1, 2014
  - I. Every district has appointed an officer who shall be the nodal officer for the implementation of the Act; this official will be responsible for the prevention of manual scavenging and the rehabilitation of manual scavengers;
  - II. A list of the nodal officers of the State, with their names, official addresses, telephone numbers, etc is compiled and widely disseminated, including on the internet;
  - III. This list is sent to the National Human Rights Commission and to the National Commission for Safai Karmacharis.
22. Vigilance Committees All State Governments shall ensure that by April 1, 2014:
  - I. Vigilance Committees are appointed in each District;
  - II. Their names, designations, telephone numbers etc are compiled and widely disseminated, including on the internet;
  - III. This list is sent to the National Human Rights Commission and to the National Commission for Safai Karmacharis.



23. Special Provision One-time cash assistance should be provided to manual scavengers who have left their former profession before December 6, 2013, but have not received any rehabilitation benefit, either from Governments or from banks.
24. BPL cards An individual identified as a manual scavenger, who is issued with a photo-identity card u/s 13 (a) (i) of the PEMS&R Act, 2013, containing details of all members of his family dependent on him, should simultaneously be issued with a BPL card.
25. Amendments to social welfare programmes On the lines of the Indira Awas Yojana, which has laid down that individuals rehabilitated from manual scavenging would get priority in the allotment of grants, provisions should be made in:
  - I. Rajiv Awas Yojana to stipulate that priority in the allotment of houses or allocations of grants would be given to manual scavengers being rehabilitated in urban areas;
  - II. Rehabilitated manual scavengers should get priority for work under the National Rural Employment Guarantee Scheme, and be allowed work for 200 days for five years after they are freed;
  - III. In NREGA, schemes should be drawn up for rural sanitation, for which preference in employment will be given to individuals and to the households of families redeemed from manual scavenging;
  - IV. It is important that there be convergence of all schemes, including the social welfare schemes that are used to rehabilitate redeemed manual scavengers.
26. Education of children of manual scavengers:
  - I. Ensure that all are in school and receive quality education; close attention to check that they are not forced to drop out either because of discrimination at school or pressure to earn. This should be part of the work of the Vigilance Committee;
  - II. Special attention in Anganwadi Centres; ensure that all settlements of manual scavengers have anganwadi centres close to them;
  - III. SNPs (Special Nutrition Programmes) should be automatic for them;
  - IV. Scholarships for the children of individuals who are or have been manual scavengers will be provided throughout their school lives and into the tertiary level, irrespective of their religious affiliation
27. Special health measures for those who have been manual scavengers:

- I. Special, monthly health checks through mobile vans in areas where there is a concentration of those who are or have been manual scavengers;
  - II. Identification of occupational health problems that affect manual scavengers, and the provision of medical and financial resources to treat them;
  - III. A more generous ceiling for manual scavengers under the Rashtriya Swasth Bima Yojana, given the extreme hazards to health to which they have been exposed.
28. Relief for families after deaths for the families of any person killed while working as a manual scavenger:
- I. Immediate payment of a minimum of Rs. 10 lakhs to the next of kin;
  - II. Free rations for a period of three months;
  - III. A permanent government post on compassionate grounds to at least one member of the family;
  - IV. A pension of Rs. 5000/- per month for the widow;
  - V. Scholarships for the children without limitation of the number to two, till the university level.
29. Corporate CSR 5% of corporate CSR should be devoted to the rehabilitation of manual scavengers.
30. Financial Assistance Since financing is crucial to rehabilitation and so far banks have been reluctant to provide this assistance to manual scavengers and their families;
- I. All project assistance under the Act should be channeled only through the National Safai Karamchari Finance Development Corporation;
  - II. State Governments should stand guarantee for loans given by the NSKFDC to manual scavengers;
  - III. Managers of all banks at the district level should earmark 1% of their total sanctioning power for soft loans to redeemed manual scavengers.
31. Performance audit All institutions of civil society that receive Government funding for the rehabilitation of manual scavengers should be regularly audited by independent agencies to ensure that the money is properly utilized.

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## NHRC Recommendations on Human Rights of Women

### I. Women's Sexual and Reproductive Health and Rights Including Provisioning of Incentives and Disincentives for Adopting Small Family Norms

1. India being a signatory to the International Conference on Population and Development (ICPD) in 1994 should be adhering to the principles laid down in the ICPD Programme of Action in letter and spirit by accepting that choice of the individual has to be respected and appropriate mechanisms should be created to fulfil those choices.
2. NHRC declaration made at a National Colloquium organised during 9-10 January, 2003 and attended by representatives of State Governments and civil society acknowledged the reproductive rights, set on the foundation of dignity and integrity of an individual. It encompassed several aspects such as:-
  - The right to informed decision-making, free from fear and discrimination.
  - The right to regular accessible, affordable, good quality and reliable reproductive health care services;
  - The right to medical assistance and counselling for the choice of birth control methods appropriate for the individual couples; and
  - The right to sexual and reproductive choices, free from gender-based violence.

The above aspects of the declaration need to be reaffirmed.

3. Enforcement of a two child norm and coercion or manipulation of individual fertility decisions through the use of incentives and disincentives violate the principle of voluntary informed choice and the human rights of the people, particularly the rights of the child. Keeping this in view, there is a need for a review petition in the Hon'ble Supreme Court on its verdict in the case of Fakir Chand Vs. State of Haryana. In this judgment, the Supreme Court upheld the legislation enforcing two child norm for eligibility to contest election to the Panchayat, which is against the National Population Policy as well as the ICPD principles.
4. Reproductive justice, covering a range of services including facilities for safe abortion as a right, should be ensured as this will create enabling conditions for promotion and safeguarding of reproductive rights.
5. Regulation of the practice of commercial surrogacy is required to protect the interest and rights of surrogate women. In this regard, enactment of the pending

Assisted Reproductive Technology (ART) Bill should be undertaken with necessary amendments after a consultative process with all the concerned stakeholders.

6. Rights of sexual minorities (LGBT) to avail of all health services without any bias or discrimination and their right to exercise independent sexual and reproductive choices must be affirmed.
7. The right of an adult to marry a person of his / her choice is often infringed by extra constitutional authorities. Couples who are under threat of such infringement should be provided supportive measures including protection by law enforcement agencies.
8. A large scale campaign needs to be launched to sensitize all stakeholders including judiciary, police, policy-makers, law-makers regarding the right to free choices of marriage and living with dignity without infringement.
9. Proper implementation and strict enforcement of Medical Termination of Pregnancy Act, 1971 is required since a large number of unauthorised and ill-equipped abortion centres are existing which leads to possibility of large scale abortions carried out under unsafe conditions. State Governments should take the responsibility to provide properly licensed / authorised and well-equipped abortion facilities which are accessible and affordable to women.
10. After nearly two decades of the enactment of the PCPNDT Act, widespread illegal sex determination and subsequent sex selection is taking place across the country as is evident from the skewed child sex ratio. Hence, proper and strict implementation of the PCPNDT Act by making the Appropriate Authorities at the State and the District level fully accountable, is required.
11. Other related laws that empower women and safeguard their interest like Dowry Prohibition Act, Inheritance Laws, and Protection of Women from Domestic Violence Act also need to be effectively implemented to counter "son preference".
12. Age appropriate gender sensitive, sexuality and reproductive health education should be provided in schools, especially for the adolescents. Similar attention needs to be given to the children who are out of school also.
13. Purna Shakti Kendra set up under the National Mission for Empowerment of Women needs to be strengthened as one stop window for providing various services for women.
14. Appropriate Governments should ensure that individuals, irrespective of their marital status are not denied access to contraceptive facilities at public health care centres.

15. The need for proper, acceptable and affordable reproductive health services for men as a target group should be equally addressed in the population policy as neglect of these needs may have repercussions on the rights of the women. The needs of other group such as childless women, unmarried women, single women also need to be equally addressed.
16. Comprehensive affordable and acceptable health services for women during the entire life cycle needs to be in place as against just concentrating on the reproductive stage. The problems faced by women during pre and post menopause would include lifestyle diseases, psychological problems etc.
17. Violence against women can have implication on her health including physical, mental, sexual and reproductive health. Hence, there is need for one stop crisis centres in preferably, public hospitals, with the involvement of the Gram Panchayat / other local bodies for attending to their needs such as psychological counselling, medical and other social assistance. Sensitization and training of the Gram Panchayat along with other village level functionaries should be taken up on priority for responding to incidents of violence.
18. Periodic capacity building of the functionaries of the State Human Rights Commissions and State Women Commissions and all other stakeholders on the issues relating to reproductive and sexual health rights should be undertaken by National Human Rights Commission.

## **II. Violence against Women and Girls**

1. There should be effective implementation of existing enabling legislations for women and girls. The law requiring police to register all complaints of sexual assault should be strictly implemented without questioning the credibility of the complainant. If evidence does not prove the offence a final report can be filed before the court.
2. Sensitization, training and strengthening the capacity of public officials and professionals, including the judiciary, police, military and public prosecutors, as well as those working in the sectors of education, health, social welfare, justice, defence and immigration on offences against women and children. Public officials should be held accountable for not complying with laws and regulations relating to violence against women and girls. Modules for sensitisation training should be effective and need to be administered frequently at various stages of the career of the functionary.
3. Adequate allocation of financial and human resources for implementation of laws and for rehabilitation and reintegration of women and girl-child victims and survivors of violence is necessary. Adequate protection homes for women victims are required to be established.

4. Patriarchal, social and cultural practices that perpetrate discrimination and violence against women in areas such as Haryana, western Uttar Pradesh, West Bengal, etc. should be addressed with the whole might of the state and the law. Clear guidelines may issue from the government to ensure responsive action from the authorities.
5. More women should be involved in law enforcement and posted in concerned agencies of the government.
6. Ensure women's and girls' unimpeded access to justice and to effective legal assistance on violence related issues. It is equally important to ensure that they have access to just and effective remedies for the harm suffered.
7. Violence against women should be tackled in multipronged approach of convergence model whereby all Ministries (Women and Child Development, Health and Family Welfare, Planning Commission, Home, Social Justice and Empowerment, Rural and Urban Development, Law and Justice, Labour and Employment, Finance etc.) Departments, Government Institutions, Legal bodies should come together to fight it.
8. New legislative interventions for the most vulnerable and marginalized women affected by violence should be devised for women in state run protective homes, single women, widows, women in armed conflict areas, displaced women, refugee women, women of sexual minorities, disabled women, women affected by customary practices such as witch hunting and honour crimes, women affected by communal violence against religious minorities, women in the organized sector, trafficked women, women affected by HIV/AIDs, surrogate mothers etc.
9. Sensitisation and training of medical and health professionals with regard to sexual and other violence against women and girls.
10. Action plans for addressing violence against women may be drawn up at the District level and implemented with the help of District level coordination committee involving various government agencies and NGOs'.
11. The law on sexual harassment at the workplace should be extended to the workers of the unorganized sector and the complaints mechanism should be effectively implemented in all sectors of the economy.
12. Standard Operating Procedures be devised for all stakeholders (Police, Judges, Lawyers, Counsellors, Doctors) in dealing with cases of violence against women and girls.
13. For attitudinal change intervention at school level is necessary. There is a need to develop requisite material for teacher education and training programmes for both formal and non-formal education.



14. Provision of infrastructure and shelters for protection of homeless and mentally unstable homeless women is necessary. Separate shelters/homes for mentally handicapped/ disabled women and girl-children to be established.
15. Making safe spaces for women and girls by creating fast track courts, mahilathanas, and gender cells within police stations for effective adjudication of cases.
16. Infrastructure may be created for garnering gender disaggregated data on all counts so that effective women oriented policies are drafted and legislated, as well as developing a strong database of all forms of violence against women and children issues in India. It should be state-by-state and research/data of highest value and latest date.
17. Rehabilitation and compensation for victims needs to be a priority action. Issues related to exploitation of women in Women Rescue Homes, NariNiketans, etc are alarming and such institutions must be subjected to regular social audits and immediate action needs to be taken against exploitative elements.
18. Facilitating access to justice through strengthening of supply mechanisms (courts and legal aids cells) and creation of demand (legal literacy and awareness).
19. Violence against street children, mentally and unstable and homeless should be attended without any exception. A committee at district level under the chairmanship of District Magistrate, along with one police officer at the level of Superintendent of Police, Senior Medical Officer of the district, representative of local NGO, should be constituted for the above purpose. Hospitals, exclusively for mentally and unstable people in each district and manned by doctors having expertise to treat such illnesses. Schemes like Swadhar and Ujjwala should be strengthened and implemented.
20. Police reforms to foster autonomy, quality, transparency and accountability should be given priority.
21. Compensation and redress for violence need to be included in all legislative enactments.
22. There is little visibility of offences related to domestic violence against senior women. Free legal aid should be arranged for senior women in old age homes. Senior citizens' schemes need to be extended to ensure safety of such women.
23. Reporting by media of offences against women should be free of sensationalisation. Objectivisation of women and exploitation of sexually explicit images should be avoided. Self-regulation codes should be drawn up by media. Public service messages should also be carried for awareness.

24. Infanticide and foeticide need to be addressed aggressively. Schemes, such as Cradle Point (to encourage unwanted children to be deposited for adoption), incentives for birth of girl-child, simplification of adoption procedures and concerted action against prenatal sex determination be prioritized.
25. There is a need to create safe public spaces and public transport systems. Appointment of women in the transport system to create a safer and women friendly utility be created.
26. Awareness generation in the public and society through media and seminars/street theatre etc.
27. Separate Courts be identified for violence against women, children and elderly. Public Prosecutors well versed with the issue be appointed for such cases. Free legal aid be provided to all such victims.
28. Training and Sensitisation of judicial officers through informal and formal training programmes be carried out.
29. Involving the community is important. Neighbourhood level women protection groups be set up to identify vulnerable areas and families and for creating community awareness.
30. Study and assessment of Juveniles at the time of entry in juvenile homes as to the behaviour, habits, psychology by experts must be made mandatory and properly implemented. Uniform rules should be adopted to enable the Juvenile Justice Committee to determine age.

### **III. Women's Empowerment and Gender Equality**

The Constitution of India guarantees gender equality, women's rights and women's empowerment. These have also been enshrined in global treaties and international instruments to which India is a party. However, much remains to be done. This has been accepted in the 12th Five Year Plan, which states that "Ending of gender based inequities, discrimination and all forms of violence against girls and women is being accorded overriding priority in the Twelfth Plan. This is fundamental to enabling women to participate fully in the development process, and in fulfilling their social, economic, civil and political rights."

The National Conference on the human rights of women recalls that the Beijing Platform of Action, adopted at the Fourth World Conference on Women in 1995, outlined twelve areas of critical concern – women and poverty; education and training of women; women and health; violence against women; women and armed conflict; women and the economy; women in power and decision-making; institutional mechanism for the advancement of women; human rights of women; women and the media; women and the environment; and the girl-child.

Women will be empowered, their rights will be fully protected, and there will be gender equality in India only if these areas of concern are fully addressed, individually and collectively, with actions taken that complement and reinforce each other.

The Conference notes that the National Mission for the Empowerment of Women has been set up with a mandate to work on poverty alleviation and economic empowerment of women; social empowerment and education; health & nutrition; gender rights, gender based violence and law enforcement; gender budgeting, gender mainstreaming & gender audit; and empowerment of vulnerable and marginalized groups and women in difficult circumstances. It is the consensus among all stakeholders that much more must be done on all these sectors, with monitorable targets and within short and realistic time-frames.

The Conference notes that the National Mission has identified the following challenges faced by women and the campaign to empower them:

- Legal and policy frameworks:
  - Gender-blind laws
  - Lack of supportive macroeconomic policies - trade, fiscal management, debt financing, banking policy
  - Lack of convergence between implementing agencies
  - Women's restricted access to and control over resources
  - Limited enforcement of laws
- Challenge of service delivery
  - Insensitivity of enforcement agencies and deep-rooted cultural mindsets that discriminate against women
  - Poor capacity of implementing and facilitating structures
  - A non-conducive environment
  - A top-down approach, not demand-driven
- Challenge of exclusion
  - Inaccurate poverty estimates
  - Exclusion of the most marginalised
  - Unrealistic budgetary allocations

- Barriers to access
  - Lack of knowledge and awareness of rights and entitlements
  - Complex delivery mechanisms
  - Complicated procedures
  - Onus on the poor to prove that they are poor

The Conference believes that, unless these impediments are urgently removed, it will be difficult to empower women or pay more than lip service to gender equality.

The Conference noted that the High Level Committee on the Status of Women in India has submitted a preliminary report which highlights violence against women, the declining sex-ratio and the economic disempowerment of women as three key issues that need urgent attention. The Conference agrees with this assessment.

The Conference also noted that the High Level Committee has recommended immediate action in several areas, including the following:

- Enactment of a law to reserve 50% of seats in all decision-making bodies.
- The formulation of a National Policy and Action Plan to end violence against women.
- Institutional mechanisms to be strengthened and well-resourced.
- More resources to be allocated for gender concerns.
- The Parliamentary Committee on the Empowerment of Women should examine the gender implications of all proposed legislation.
- There should be gender-responsive budgeting coupled with gender audits.
- The development paradigm should be decentralized; this would draw larger numbers of women into the process of development.
- Assessments should be made, and submitted to the people, every two years on the status of women in India.

The Conference endorses these recommendations.

The National Conference also recommends that:

### **Laws and Policies**

- Laws, regulations and policies that discriminate against women should be reviewed, amended or abolished to bring them in line with international human rights instruments.

- The design, planning and monitoring of laws, policies and programmes to achieve gender equality should address the multiple forms of discrimination and marginalization that particular groups of women continue to face, in particular tribal, rural, disadvantaged and older women, women belonging to minorities and women with disabilities.
- A National Action Plan should be drawn up, which would specify objectives and commitments, detail the policies that would be adopted to meet them, the investments that would be made, and the measures that would be put in place to implement the programmes and to monitor them.
- There should be a clear articulation of the strategies that will be adopted to address, at the national and local levels, the twelve areas of critical concern in the Beijing Platform for Action.
- A Bill of Women's Rights should be adopted, as a reaffirmation of the nation's commitment to gender equality and women's empowerment, setting out the rights guaranteed to all women by the Constitution and domestic laws, or embodied in international instruments accepted by India.
- The 16th Lok Sabha should urgently pass the Constitution (108th Amendment) Bill, to reserve for women one-third of the seats in the Lok Sabha and in the State Legislative Assemblies, acknowledging that it will be critical for the success of other policies to have a much higher representation of women in political and public life and in power and decision-making.
- Temporary special measures should be adopted to ensure that women are sufficiently represented in elected as well as appointed positions within the executive, legislative and judicial arms of Government.
- Political parties should adopt affirmative measures to support more women candidates.
- The gender perspective should be mainstreamed into laws, policies, programmes, projects and processes, which must also be monitored through a gender lens.
- There should be a codification of the property rights of women, regardless of caste, class, religion or ethnicity, which should take precedence over all personal laws and customary practices.

### **Planning, Budgeting and Implementation**

- There should be a greater use of gender-responsive planning and budgeting, taking into account in resource allocation the diversity of needs and circumstances of women and girls, and providing the necessary human, financial and material

resources for targeted activities which respond to local demands and felt needs.

- There must be greater convergence between programmes and projects and closer coordination between implementing agencies, so that synergies are created.
- There should be a strengthening of consultative processes, and closer collaboration among different stakeholders working for gender equality, including line ministries, parliamentarians, the judiciary, national and State human rights institutions, civil society, the private sector and the media.
- Best practices should be collected and replicated within and across States.
- Implementation must be regularly reviewed to eliminate obstacles to the full realization of women's rights.
- The capacity of national mechanisms for gender equality to participate effectively in the planning, development, implementation and evaluation of all policies, programmes and strategies, as well as in the collection and analysis of data, should be strengthened.
- Importance should be given to the collection of data, disaggregated by sex and age, and to the development of gender-sensitive indicators, where many gaps remain. More resources should be allocated to data collection and analysis.

## **Economic Empowerment**

- Since, without economic empowerment, gender equality cannot be achieved, the macroeconomic policy framework and economic structures must be tailored to ensure that women have equal access to and control over economic resources.
- Close attention should be paid to the priorities and needs of women and girls in the planning, development, implementation and evaluation of economic policies.
- Priority should be given to making women aware of their rights, and of the laws and policies adopted to increase women's ownership of productive assets, including land and housing. These laws and policies must be fully implemented to ensure that women have equal access to and control over economic resources.
- Women's access to the labour market and decent work is critical. Though in recent years, women's access to employment opportunities has increased, they are concentrated in low-paid jobs with little security, while occupational segregation and gender wage gaps persist. This must change, and the principle of equal pay for work of equal value applied in practice.
- Because the unequal sharing between women and men of unpaid work, including care-giving, constrains the ability of women to fully participate in the labour market,



it is important to promote practices that would redistribute unpaid work between women and men, including parental leave policies for both genders.

- There should be greater investment in infrastructure, such as energy, water and sanitation, childcare facilities and transportation systems, which would facilitate the participation of women in the labour market.
- Greater attention should be given to social protection measures such as unemployment insurance schemes, universal health coverage and social pensions, which have played critical roles in promoting gender equality and the empowerment of women.
- Measures such as cash transfers, the provision of cheap fertilizers, microcredit schemes, the establishment of women's cooperatives and the promotion of women's entrepreneurial activities, including through reservations and allotments for women's self-help groups, should be used to tackle women's poverty.
- It would be useful for all States to set up employment exchanges exclusively for women, both to give a single window for the exploration of employment opportunities and to build up a data bank of women in need.
- Poverty alleviation programmes should focus on the rights and the empowerment of women.

### **Education, Awareness-building and Sensitisation**

- Closer attention must be paid to the critical role of education. While the school curriculum might vary between States, all States should adopt a uniform message on gender equality, conducting a thorough review of text-books, weeding out passages that perpetuate gender stereo-types, and instilling an enlightened and modern approach on gender issues in the minds of children.
- The education of the girl-child is crucial, in itself and as a catalyst of social and economic change. It is essential to meet national targets for improving girls' access to education, particularly at the primary level, where progress is uneven between States and Union Territories.
- It is as important to ensure secondary, senior secondary and university education for girls.
- Non-formal education, including vocational training and skills-development, is an important complement to formal education, and must receive close attention.
- Educational gains that women and girls make should translate into better employment opportunities.

- Assistance should be given to help women overcome social and economic barriers to public and political participation, such as illiteracy, language, poverty, and impediments to their freedom of movement.
- It is essential to eliminate practices and customs that discriminate against women.
- A sustained campaign must be launched to change mindsets and educate the public on gender equality and the rights of women, so that no stigma attaches to women and girls who come forward to claim their rights or who protest when their rights are violated.
- Innovative ways should be found to engage community leaders in efforts to eliminate practices and customs that discriminate against women.
- A national campaign should be launched against female foeticide. This will entail raising public awareness and ensuring that the PCPNDT Act is implemented.
- Child marriage must be stopped through the effective implementation of the Prohibition of Child Marriage Act, 2006, including measures like compulsory registration of all marriages, keeping girls in school and awareness-raising programmes to mobilise communities against the crime.
- The Government of India should withdraw the Declarations it made while acceding to the Convention for the Elimination of Discrimination against Women, qualifying its acceptance of Articles 5(a), 16(1) and 16(2).
- It is essential to sensitise public servants, including judicial officers and the police, to the rights of women and to their duties under the laws enacted to protect them.
- It is equally important to train public servants, deployed in service delivery on projects and programmes tailored for women, on the functions they must perform.
- All stakeholders should be briefed on new laws, projects and programmes in simple language that they understand.
- 50% of the funds that companies must now devote to CSR activities should be earmarked for projects and activities that directly benefit and empower women.

#### **IV. Trafficking in Women and Girls**

At the outset, the chair of the Working Group-IV, entrusted with the responsibility of drafting recommendations/suggestions on trafficking in women and children, decided to adopt a framework for its deliberations and recommendations. The framework as given below was decided:

- 1) The Extent, Magnitude and the various Dimensions of the Problem of Trafficking of Women and Girl Child

- 2) Adequacy or Otherwise of the Existing Legal Framework to deal with the problem
- 3) Issues relating to Enforcement viz., Training of Enforcement Officers in the Police, the Prosecution, the Judiciary and capacity building in related areas
- 4) Issues relating to Rescue and Rehabilitation
- 5) Generating awareness about the seriousness of the problem of human trafficking and educating public with a view to contain demand.
- 6) Leveraging Technology to prevent and combat human trafficking.
- 7) Creation of Institutional Framework for Coordination and Monitoring.

### **1. Extent and Magnitude of the Problem both Intra-country and Inter-country**

Undertake need-based situational analysis in the form of research studies, surveys, action research and vulnerability mapping to know ground realities within the country and outside.

The earlier Action Research on Human Trafficking by NHRC is more than a decade old, and since the dimensions of both trafficking and anti-trafficking have drastically changed over the period of 10 years, NHRC should either undertake or facilitate comprehensive research/survey on all aspects of human trafficking. In this context, the proposal for a comprehensive research on trafficking by TISS is relevant.

Information gathering should be more focused, aiming at influencing policy and filling existing gaps in the available initiatives and efforts towards trafficking. Such information should cover causes, types and modes of trafficking, community responses to trafficking, gender differences and specific gender based violations and analysis of the operations of trafficking syndicates.

The collection of information should result in development of a national database and a centralized info-focal point. This should include disaggregated data, sex, age and category wise, relating to victims, place of origin, transit and destination, trafficking routes, methods and means, trafficking patterns and dynamics, cross border & transnational, numbers and outcome of prosecutions.

Data should also cover latest trends in trafficking like cyber pornography, child trafficking, micro-economic policies and impact on trafficking migration.

### **2. Adequacy of Existing Legal Framework**

Repeal the existing domestic legislation on trafficking – the Immoral Traffic (Prevention) Act 1956.

Enact a new comprehensive legislation on human trafficking from a gender and rights perspective in accordance with the Trafficking protocol, the Convention on the Rights of the child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The content of domestic trafficking legislation must strictly criminalize traffickers including agents or middlemen, brothel owners and managers, as well as institutional networks that are used in organized crime.

Stiffer punishment must be introduced to reflect the grievous nature of the crime. This must include the introduction of penal sanctions against persons in position, who are directly involved in, or collude with traffickers and other perpetrators of commercial sexual exploitation.

Provisions should be made for the confiscation of assets for the benefit of 'victim services'. Confiscated assets could also be used towards funding service provision and reintegration of victims of trafficking.

Victims of trafficking should be provided all support and protection including free legal assistance. This should include information on their rights and access to legal redress and court proceedings, in a language they will understand.

The privacy and identity of victims of trafficking must be protected at all times to safeguard them from attempts at retaliation by their traffickers.

Victim witnesses need State protection if they are to testify safely in criminal proceedings against traffickers. It is therefore essential that witness protection programmes be developed to protect victims and their families, who may face retaliation and threats from traffickers in their country of origin. States should ensure that such programmes do not violate the dignity and rights of the victims.

### **3. Enforcement**

#### **Strengthening of Enforcement Machinery**

Each District should have dedicated Anti-Human Trafficking Unit. These Units should have dedicated manpower and resources.

Dovetailing of Anti-Human Trafficking Units and Missing Children Cells/Squads with an emphasis on locating these missing children. Linkages with Child Helpline, Child Welfare Committees and Ujjawala should be strengthened.

#### **Emphasis on Training**

It should be ensured that law enforcement authorities and officials are provided with adequate training in the investigation and prosecution of cases of trafficking along with

non-governmental/civil society organizations on regular basis. This should be followed with refresher training programmes.

Special emphasis should be given to sensitization of all police, judicial authorities, prosecutors, border, immigration and social and public health workers with regard to the problem of trafficking. Their training should lay special emphasis in prevention of trafficking cases, identification of vulnerable persons, combating trafficking and protecting the rights of victims.

For purposes of carrying aforementioned training programmes, it would be essential to have a panel of national/state level trainers. The BPRD training relating to human trafficking should be strengthened/revamped. It should further take the responsibility of conducting training of trainers programmes in relation to trafficking.

### **Attitudinal Change**

There should be regular training in gender sensitization at all levels including police, prosecutors, judicial officers, doctors, social workers, aftercare providers, etc.

## **4. Rescue and Rehabilitation**

### **Assistance to Victims of Trafficking**

The comprehensive legislation must ensure that rehabilitation is mandatory and made accountable.

Any rehabilitation measure should take into account psychological, economic and civic empowerment of victims. It should take into account the specific damages of the organized crime on a human being and ensure restoration of dignity.

Government and registered NGOs providing services to trafficked victims must ensure safe accommodation and guarantee that essential services are readily accessible. These should include

- psychological/counselling services for crisis intervention and longer-term counselling; referral to health services for assessment and care, if required; access to free legal assistance and information; financial assistance for subsistence; and Police protection/assistance in situations where the victim or her family are at risk of retaliation from traffickers.

In order to protect the rights to safety and privacy of victims, and to prevent stigmatization, the victims should be facilitated to have the facility of 'in camera/video conferencing' testimony in court.

Setting up of Fast Track Courts for trial of trafficking cases within a specific time limit. The victims in country of destination be given temporary legal assistance in order to access and attend to their immediate physical and psychological needs.

The rehabilitation and reintegration of victims of trafficking is a long-term process and, as such, must be planned, taking into account the specific short and long-term needs of individual victims. Efforts must be non-punitive and aimed at protecting the rights of the victims.

Victims of trafficking are often frowned upon as outcasts in the communities they return to. Efforts to reintegrate trafficked women often require community support and participation. This means preparing families and communities through enhancing their awareness of trafficking generally and of the impact of trafficking on the individual. Sensitizing families and communities is integral for ensuring understanding, acceptance and the prevention of re-trafficking.

States should enable victims of trafficking to access both formal and non-formal education. Education should also be made accessible to adults.

Gender-sensitive, market-driven vocation training should be widely available, and could include training targeted at agriculture, microcredit, information technology and financial management etc. Government and non-governmental actors should work together to develop partnerships with public and private sector employers in order to facilitate/device training and work placements as part of the reintegration process.

## **5. Education**

Awareness of, and sensitization to, the issue of trafficking, particularly its adverse impact on the rights of women and children, is an important element of prevention. Despite efforts of Government and NGOs to raise awareness, particularly among vulnerable groups, greater attention needs to be given by them especially where the problem is rampant.

Further, any gender and rights training must encompass legal literacy on economic rights particularly for women. There is inadequate knowledge and information for potential victims to make informed decisions that affects their lives. Most trafficked persons believe that they are going to be working in domestic service, waitressing, babysitting, nursing, and that they will be paid well. The reality is often otherwise – forced prostitution, debt bondage and confiscation of travel documents.

Efforts should be made to raise awareness in communities and peer groups at all levels. Vulnerable groups should be targeted as priorities. In doing so, potential victims will be made aware of the dangers of trafficking and be able to make a more informed decision regarding potential immigration.

The media has an important role to inform and educate the public through newspapers, radio and other modes of communication, and should be targeted as a key partner in combating trafficking. It is recommended that media practitioners should first be educated with regard to the phenomenon and its complexities. This will ensure accurate reporting of the problem to the general public.



Need to review and revise the education syllabi of schools and universities and incorporate human rights and gender sensitive concerns.

Encourage gender and rights training programmes for public office holders and law enforcement personnel such as the judiciary, police, immigration and customs officials. This will promote better understanding of the issue and in the process enhance the safety and well-being of trafficked persons.

Training should also be provided on investigation and prosecution techniques with recourse to the practical and psycho-social needs of the victims. This will facilitate law enforcement officials to recognize and respect women's rights and dignity as 'victims' instead of as perpetrators.

Education and the awareness –raising of trafficking should also be aimed at the tourism industry, including airlines, hotels, travel agents, bars, package holiday companies, etc.

Targeted communication strategies should be applied to target demand for various forms of trafficking.

All line ministries such as education, rural development should mainstream contributory factors for trafficking in their regular efforts.

## **6. Leveraging Technology in Combating Trafficking and Related Issues**

Integrating technology in all aspects of law enforcement including investigation, documentation, prevention, presentation, etc.

Video conferencing facilities during trial of cases be facilitated so that the rights of the victims and witnesses are ensured.

In order to address the issue of missing children, in the light of the Supreme Court order in BBA v/s Union of India and in the light of the concern of NHRC on the seriousness of the matter, it is essential to empower and facilitate the law enforcement agencies with technological integration in addressing the issues of missing children. In this regard, the various schemes in India like Track the Missing Child, Zipnet, as well as other innovative programmes like the 'Missing Child Alert' project of Plan International need to be facilitated by NHRC. Digital data recording and dissemination need to be facilitated.

NHRC may organize a conference of all stakeholders involved in addressing the issues of missing children, including MHA, MWCD, MOL, NCPCR, NCW, Plan International, etc. as well as the various technical agencies, and facilitate the technological integration in the best possible manner, by bringing the stakeholders on a common platform.

Technology should be leveraged for the purposes of prevention strategies and also for crime detection.

## 7. Creation of Institutional Framework for Coordination and Monitoring Mechanism

Institutionalization of a reward system by the District and the State authorities for exceptional work done with regard to human trafficking especially trafficking in women and children.

Based on the Supreme Court ruling in Vishaljeet and Gaurav Jain, all State Governments have constituted Committees at the State level under the chair of Chief Secretary and in the Districts under the chair of DM. These bodies, even though created, are presently dysfunctional. They have to be activated, strengthened. SHRCs may monitor their functions.

There is a need for a national implementing agency for implementation, coordination and monitoring of activities across the country and region, especially inter-state and international trafficking issues. This body needs to be set up immediately and may be called National Anti-Human Trafficking Agency (NAHTA).

There is a need to have institutional linkages of skill building agencies with the care providers for effective rehabilitation of the rescued persons. The National Skill Building Authority be advised to develop special schemes for rehabilitation of trafficked persons and make it available to the government and non-governmental agencies. The linkage be provided by the State Human Rights Commissions and facilitated by a focal point in the NHRC.

A meeting of the concerned stakeholders including National Skill Building Authority may be organized by NHRC.

Considering the fact that several Ministries and Departments of Government of India, various State Governments, NGOs, Corporates, Women's Commissions, Child Rights Commissions, INGOs, etc. are involved in the various activities in preventing and combating trafficking within the country and the region, it was felt essential that the Focal Point in NHRC on Anti-Human Trafficking be revived and made functional and effective.

### Conclusion

The problem of human trafficking especially of women and girl child is of a humongous dimension. It goes largely unrecognized, unreported and as a result has not received the attention which it deserves. Though there are islands of excellence in preventing and combating human trafficking, the response has been highly uneven. Overall, the response systems presently in place are grossly inadequate. It is high time that human trafficking which violates both the body and mind of the trafficked persons receives due attention and is dealt with the seriousness which it deserves.

A comprehensive and integrated plan of action to prevent and combat human trafficking with special focus on women and children was prepared by the Ministry of Women and Child Development in association with NHRC, MHA, NCW and the UNICEF in the year 2007-08. The above recommendations have drawn upon the said integrated plan of action and they supplement the recommendations made therein. These recommendations need to be forwarded to the MWCD to revisit the integrated action plan and revise the same.

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## Annexure – 14

## Para 12.4

**Programmes Organized by Training Division of NHRC During 2013-2014**

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
1.	<b>Kerala Development Society Delhi (KDS)</b> 811-A, T.C. Jaina Tower-I, District Centre, Janakpuri New Delhi-110 058	Two (One-Day) District Level Training Programmes on Human Rights	Tonk & Karauli	12 & 16 December 2013  116 & 128 participants
2.	<b>Jan Mitra Nyas</b> SA 4/2A, Daulatpur Varanasi-221 002 (U.P.)	Two (One-Day) Training Programmes on Human Rights	Varanasi Mirzapur	18 January 2014 16 February 2014  450 participants
3.	<b>All India Disaster Mitigation Institute</b> 411, Sakar Five, Near Natraj Cinema Ashram Road Ahmedabad-380 009 GUJARAT	Six (One-Day) Training Programmes on "Human Rights and Disaster Risk Management" to be organized in the States of Assam, Andaman & Nicobar Island, Bihar, Lakshadweep, Odisha and Tamil Nadu	Assam,  Odisha  Andaman & Nicobar Island,  Bihar,  Lakshadweep, and  Tamil Nadu	20 November 2013 49 participants  31 October 2013 119 participants  8 January 2014  28 January 2014  12 February 2014  14 February 2014
4.	<b>Dr. B.R. Ambedkar</b> U.P. Police Academy Moradabad Uttar Pradesh	One (Three-Days) Training of Trainers (TOT) Programme on Human Rights	Dr. B.R. Ambedkar U.P. Police Academy	21 to 23 October 2013 50 participants
5.	<b>Haryana Police Academy</b> Madhuban, Karnal Haryana	Four (Two-Days) Advanced Level Training Programmes on Human Rights		25 to 26 November 2013 489 participants  29 to 30 November 2013 500 participants  30 – 31 December 2013 171 participants  16 -17, January 2014 72 participants

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
6.	Uttarakhand Human Rights Commission 1C, Laxmi Road, Dalanwala Dehradun (Uttaranchal)	One (Two-Days) Police Sensitization Programme on Human Rights for Police officials of Kumaun & Garhwal Region	Hotel Madhuban, Dehradun	20 & 21 December 2013
7.	<b>Indian Institute of Public Administration</b> <b>Bareilly Branch, 35-D/3, Rampur Garden, Civil Lines Bareilly-243 001</b>	One (One-Day) Seminars on Human Rights	Khandelwal College of Management Science and Technology, Bareilly	03 October 2013  127 participants
8.	<b>West Bengal Human Rights Commission</b> <b>Bhabani Bhavan (2<sup>nd</sup> Floor), Alipore Kolkata-700 027 (West Bengal)</b>	One (One-Day) Orientation Programme on Basic Human Rights Awareness Generation  Five (One-Day) District Level Orientation Programmes on Human Rights Awareness Generation for South 24-Parganas, Nadia, Birbhum, Murshidabad & Darjeeling	Mainak Tourist Lodge, Conf. Hall Siliguri  South 24-Parganas Nadia Birbhum Murshidabad Darjeeling	30 November 2013  14 February 2014 27 December 2013 10 January 2014 17 January 2014 21 February 2014
9.	<b>Hansraj Jivandas College of Education</b> <b>Dr. Madhuri Shah Campus, Ramkrishan Mission Marg, Khar (W) Mumbai-400 052</b>	One (One-Day) Training Programme on "Women and Human Rights-Capacity Building Training Programme	Hansraj Jivandas College of Education	23 December 2013  100 participants
10.	<b>Mizoram Law College</b> <b>Tuikual C, Aizawl Mizoram-796 001</b>	One (One-Day) Basic Training Programme on Human Rights of Vulnerable Groups	Information & Public Relation Conference Hall, Aizawl	12 March 2014
11.	<b>Bhagwan Parshuram Institute of Technology</b> <b>Area-4, Sector-17 Dr. K.N. Katju Marg, Rohini Delhi-110 089</b>	One (One-Day) Basic Training Programme on Human Rights	Bhartiya Brahmin Charitable Trust, Sector- 17, Rohini Delhi	13 November 2013  124 Participants
12.	<b>Dr. Anushka Vidhi Mahavidyalaya</b> <b>Behind Transport Nagar, Pratap Nagar Airport Road Udaipur-313 001 (Raj.)</b>	One (One-Day) Training Programme on Human Rights	Seminar Hall of the Institute	16 November 2013  128 participants

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
13.	<b>Mewar Law Institute 4-C, Vasundhara Ghaziabad-201 012 Uttar Pradesh</b>	One (One-Day) Training Programme on Human Rights	College Auditorium	11 December 2013 416 participants
14.	<b>R.G. (P.G.) College Opposite Vijay Nagar Western Kutchehry Road Meerut-250 001 Uttar Pradesh</b>	One (One-Day) Training Programme on Human Rights: A Parameter of Socio-Political Ethics	College	16 December 2013  250 participants
15.	<b>Udaipur School of Social Work, Janardan Rai Nagar Rajasthan Vidyapeeth Pratapnagar, Udaipur-313 001 (Raj.)</b>	One (One-Day) Training Programme on Human Rights for students of Social Work	Seminar Hall of the Institute	28 March 2014
16.	<b>Human Rights Front 298, Ganga Nagar, Unit-VI Bhubaneswar-751 003 (Odisha)</b>	Three (One-Day) Training Programmes on Human Rights for three districts	DRDA Conference Hall, Ganjam District  DRDA Conference Hall, Bolangir District  Soil Conversation Conference Hall Naupada Dist.	25 January 2014 102 participants  29 January 2014 114 participants  31 January 2014 106 participants
17.	<b>Institute for Social Development, Aditya Enclave, Near Kanan Vihar, Phase-II, PO Patia, Bhubaneswar Odisha</b>	One (One-Day) Basic Training Programme on Human Rights	Zilla Parishad Conference Hall, Phulbani, Kandhamal	22 January 2014  130 participants
18.	<b>Police Training College Daroh Distt. Kangra (Himachal Pradesh)</b>	Two (Two-Days) Advanced Level Training Programmes on Human Rights	Police Training College Daroh	21 & 22 February 2014 & 17 & 18 March 2013
19.	<b>Bethany Pre-University College, Noojibalthila, Puttur Taluk (D.K.)-574221</b>	One (One-Day) Training Programme on Human Rights	Bethany College Science Auditorium	20 December 2013 109 participants
20.	<b>Central University of Kerala Nayanmarmoola, Vidya nagar P.O. Kasaragod-671 123 (Kerala)</b>	One (One-Day) Training Programme on Human Rights	Central University of Kerala, Kasargod	10 December 2013

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
21.	<b>Chanakya National Law University</b> Nyaya Nagar, Mithapur Patna-800 001 (Bihar)	One (One-Day) Training Programme on Women Rights	Moot Court Hall, Chanakya National Law University	1 December 2013 207 participants
22.	<b>Christ University</b> Hosur Road, Bangalore-560 029 (Karnataka)	One (One-Day) Training Programme on Human Rights	Dept. of Social Work, Christ University	3 December 2013 100 participants
23.	<b>Manonmaniam Sundaranar University,</b> Abishekapatti, Tirunelveli-627 012 (Tamil Nadu)	One (One-Day) Basic Training Programme on Human Rights	Senate Hall of the University	10 December 2013
24.	<b>Dhempe College of Arts &amp; Science</b> Miramar, Panjim Goa-403 001	One (One-Day) Training Programme on Human Rights	Goa Science Centre Auditorium Miramar-Panjim Goa.	30 <sup>th</sup> Jan. 2014
25.	<b>Kurunji Venkatramana Gowda Law College</b> Sullia, D.K. -574 239 (Karnataka)	One (One-Day) Training Programme on Human Rights aspect of Journalism	KVG Law College	15 February 2014 132 participants
26.	<b>Maharaja Agrasen Institute of Management Studies</b> Maharaja Agrasen Chowk, Plot No.1, Sector-22, Rohini, Delhi-110 086	One (One-Day) Training Programme on Human Rights in India: A Basic Orientation Programme	Campus Auditorium of College	8 March 2014
27.	<b>Mar Ivanios College</b> Mar Ivanios Vidhya Nagar, Bethany Hills, Nalanchira Thiruvananthapuram, (Kerala)	One (One-Day) Training Programme on Human Rights for women	Mar Gregorios Conference Hall	5 December 2013 100 participants
28.	<b>N.S.S. Training College</b> Pandalam, Pathanamthitta District (Kerala)	One (One-Day) Training Programme on Human Rights	N.S.S. Training College	12 December 2013 156 participants
29.	<b>School of Law</b> KIIT University Bhubaneswar-751024 (Odisha)	One (One-Day) Training Programme on Human Rights	University Premises	8 February 2014 Approx. 125 participants

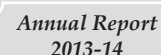


S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
30.	<b>Seshadripuram Law College</b> <b>Seshadripuram</b> <b>Bangalore-560 020</b> <b>(Karnataka)</b>	One (One-Day) Basic Training Programme on Human Rights	AC Seminar Hall, Seshadripuram Educational Trust, Bangalore	15 February 2014 108 participants
31.	<b>Sree Narayana College</b> <b>Neduvaramcodu P.O.</b> <b>Chengannur-689 508</b> <b>(Kerala)</b>	One (One-Day) Training Programme on Rights of Children : An Introspection	Seminar Hall SN College Chengannur	9 January 2014
32.	<b>Sree Narayana Training College</b> <b>Nedunganda</b> <b>Thiruvananthapuram</b> <b>(Kerala)</b>	One (One-Day) Training Programme on Child Rights	College Auditorium	6 January 2014 100 participants
33.	<b>St. Michael's College</b> <b>Mayithara P.O.</b> <b>Cherthala-688 539</b> <b>(Kerala)</b>	One (One-Day) Training Programme on Women Rights	Seminar Hall St. Michael's College	28 January 2014 102 Participants
34.	Indian Institute of Public Administration <b>Budaun Branch, Ram Kutir,</b> <b>Near Main Gurudwara</b> <b>Budaun-243 601</b> <b>(Uttar Pradesh)</b>	One (One-Day) Training Programme on Human Rights	BIMT College, Kakrala Road, Budaun	10 February 2014 125 participants
35.	Director General of Police Training Directorate Jaipur (Rajasthan)	Eight (One-Day) Basic Training Programmes on Human Rights at PTC Jodhpur (2 prog.), Kherwara (1 prog.) Jhalawad(4 prog.) & Bikaner (1 prog.)  <b>One</b> (Two-Days) Advanced Level Training Programmes on Human Rights for Police Academy, Jaipur	PTC Jodhpur (2 prog.)  PTS-Kherwara PTS-Jhalawar (4 prog.)  Police Motor Driving School Bikaner (1 prog.)	24 January 2014 28 February 2014  28 January 2014 16 February 2014 30 January 2014 12 February 2014  27 February 2014 28 February 2014  20 – 21 March 2014

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
36.	<b>Maharashtra Rajya Police Mukhyalaya Shaheed Bhagatsingh Marg, Colaba Mumbai-400 001 (Maharashtra)</b>	One (One-Day) Basic Training Programme on Human Rights for PTC Khandala.	PTC Khandala's Training Drill Shed Hall. Dist. Pune	8 February 2014
37.	<b>Maharaja Ranjit Singh Punjab Police Academy, Phillaur- 144 410 Jalandhar (Punjab)</b>	One (Two--Days) Advanced Level Training Programme on Human Rights	Main Conf. Hall, MRSPP Academy Campus, Phillaur	10 & 11 March 2014
38.	<b>Scared Heart College Thevara Kochi- 682 013 (Kerala)</b>	One (One-Day) Workshop on National Food Security Act 2013 and Human Rights Protection in India	Seminar Hall, S.H. College	29 November 2013 263 participants
39.	<b>Shri Ram College of Law Circular Road Muzaffarnagar-251 002 (Uttar Pradesh)</b>	One (One-Day) Basic Training Programme on Human Rights	SR College of Law Muzaffarnagar	16 & 17 November 2013 108 participants
40.	<b>Central University of Karnataka 2<sup>nd</sup> Floor, Karya Soudha, Gulbarga University Campus Gulbarga-585 106 (Karnataka)</b>	One (One-Day) Basic Training Programme on Human Rights	University Campus	22 February 2014
41.	<b>Chanderprabhu Jain College of Higher Studies &amp; School of Law Plot No.OCF, Sector A-8, Narela, New Delhi-110 040</b>	One (One-Day) Training Prog. on Protection of Women Rights: An International & Indian Perspective	CPJ Campus, Narela, Delhi	28 February 2014
42.	<b>Dalit Mitra Kadam Guruji Science College Mangalwedha Tal, Mangalwedha Solapur-413 305 (Maharashtra)</b>	One (One-Day) Training Prog. either on Rights of Children or Rights of Women	Dalit Mitra Kadam Guruji Science College	9 March 2014
43.	<b>Dayanand Brijendra Swarup D.B.S. (P.G.) College Dehradun-248 001 (Uttarakhand)</b>	One (One-Day) Training Programme on Human Rights  One (One-Day) National Seminar on Current Issue in Human Rights Awareness an Value Development	Golden Jubilee Auditorium, DBS College, Dehradun  DBS College, Dehradun	20 November 2013 100 Participants  14 & 15 February 2014

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
44.	<b>St. John's College Anchal Kollam-691 306 (Kerala)</b>	One (One-Day) Training Programme on Women and Human Rights in India	Audio Visual Theatre	4 February 2014
45.	<b>Government College, Attingal Thiruvananthapuram-689 101 (Kerala)</b>	One (One-Day) Seminar on Women Rights and State Development	Commerce Seminar Hall, Government College, Attingal	17 January 2014
46.	<b>Jai Narain Vyas University Residency Road Jodhpur-342 001 (Rajasthan)</b>	One (One-Day) Training Programme on Human Rights	Seminar Hall, Gandhi Shanti Pratisthan, Residency Road, Jaipur	3 February 2014
47.	<b>K.L.E. Society's B.V. Bellad Law College Belgaum-590 001 (Karnataka)</b>	One (One-Day) Seminar on Right to Health in the Human Rights Perspective	K.L.E. Society's B.V. Bellad Law College	15 March 2014 151 participants
48.	<b>K.L.E. Society's Law College Post Box: 1059, 2<sup>nd</sup> Block, Rajajinagar, Bangalore-560 010 (Karnataka)</b>	One (One-Day) Training Programme on Child Rights	Sharada Sabhagan Auditorium at College	10 February 2014
49.	<b>Lingaya's Lalita Devi Institute of Management &amp; Sciences 847-848, Mandi Road, Mandi, New Delhi-110 047</b>	One (One-Day) National Seminar on Human Rights Awareness-Focus on Child Rights	LLDIMS Auditorium	7 February 2014 110 participants
50.	<b>Maharishi Dayanand College of Education P.B. No.14, Near B.S.F. Hanumangarh Road Abohar-152 116 (Punjab)</b>	One (One-Day) Training Programme on Human Rights of Women- A Fight for Humanity	College Auditorium	21 February 2014
51.	<b>Periyar E.V.R. College Tiruchirapalli-620 023 (Tamil Nadu)</b>	One (One-Day) Basic Training Programme on Human Rights	College Auditorium	8 January 2014 113 participants UC Received
52.	<b>Shri Vijaysinha Yadav Arts and Science College, Latwade Road, Peth- Vadgaon, Tal.: Hatkanangale, Kolhapur-416 112 (Maharashtra)</b>	One (One-Day) Training Programme on Human Rights: Importance, Need and Challenges	Auditorium Shri Shahu Shikshan Prasarak Seva Mandal, Dist. Kolhapur	7 January 2014 163 participants

S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
53.	<b>Vidnyan Mahavidyalaya Sangola Tal, Sangola, Solapur-413 307 (Maharashtra)</b>	One (One-Day) Training Programme either on Child Rights or Rights of Women	Shantiniketan Hall, Vidnyan Mahavidyalaya Sangola	3 February 2014 105 participants
54.	<b>Bharati Vidyapeeth University, Yashwantrao Chavan Institute of Social Sciences &amp; Research, Erandawane, Pune (Maharashtra)</b>	One (One-Day) Awareness Programme on the Protection of Human Rights	Conference Hall YCISSR, Pune	25 February 2014
55.	<b>New Horizon College of Education, 100 Feet Road, Indiranagar, Bangalore-560 008 (Karnataka)</b>	One (One-Day) Training Programme on Human Rights & Education	New Horizon College of Education	3 March 2014 104 participants
56.	<b>Bareilly College, Bareilly-243 001 (Uttar Pradesh)</b>	One (One-Day) Basic Training Programme on Human Rights	Bareilly College	10 March 2014 100 participants
57.	<b>Amity Law School-II, Amity University, Amity University Campus, Sector-125, Noida-201 303, Gautam Buddha Nagar, (Uttar Pradesh)</b>	One (One-Day) Basic Training Programme on Human Rights	1-2 Block, Moot Court Hall, Amity University Campus, UP	10 March 2014
58.	<b>Government P.G. College Lansdowne (Jaiharikhal), Pauri Garhwal-246 193 (Uttarakhand)</b>	One (One-Day) Training Programme on Human Rights	Government P.G. College	3 March 2014 222 participants
59.	<b>Rosary College of Commerce &amp; Arts, Navelim, Salcete, Goa- 403 707</b>	One (One-Day) National Human Rights Seminar on "Rights of Women"	College	8 March 2014
60.	<b>National Institute of Social Work and Social Sciences, 3, Chandrasekharapur, Bhubaneswar-751 023 (Odisha)</b>	Two (One-Day) Training Programmes on Human Rights of Vulnerable Groups	NISWASS, Main Campus, 3, Candrasekharapur  Tribal Campus of NISWASS, Gangpur Sundargarh	8 February 2014  22 February 2014
61.	<b>Alumni Association – St. Joseph's High School Ernakulam Dist. Kerala</b>	One (One-Day) Seminar on Protection of Human Rights	MAAM Auditorium Piravom	16 February 2014 192 participants

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S. No	Name of the Institution / Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
68.	<b>Bishop Moore College, Mavelikara, Kerala</b>	One (One-Day) Training Programme on Human Rights of Women and Girl Child	College Seminar Hall	22 March 2014
69.	<b>Sathyabama University, Jeppiaar Nagar, Rajiv Gandhi Salai, Chennai, Tamil Nadu</b>	One Day Training Programme on Rights of Women	Sathyabama University Auditorium	24 March 2014 100 participants
70.	<b>University College, Trivandrum</b>	One (One-Day) Workshop on Human Rights and Development	University College, Trivandrum	21 March 2014
71.	<b>Training &amp; Special Units, Maharashtra Rajya Police Mukhyalaya, Colaba Mumbai</b>	Two (one-day)	PTC Turachi Tasgaon	24 March 2014

### TRAINING PROGRAMMES CONDUCTED DURING 2013-14

#### (APPROVED IN THE FINANCIAL YEAR 2012-13)

72.	<b>Udaynarayanpur Madhabilata Mahavidyalaya, P.O. Udaynarayanpur (Jangalpara) Howrah-711226 (WB)</b>	One (One-Day) Training Programme on Human Rights	Udaynarayanpur Madhabilata Mahavidyalaya	10 April 2013 at their college premises  100 participants
73.	<b>K.G. Uran College of Commence &amp; Arts, Uran Distt. Raigad</b>	One (One-Day) District Level Seminar	Uran College of Commence & Arts	30 September 2013 111 participants
74.	<b>Sardar Patel Subharti Institute of Law Swami Vivekanand Subharti University  Subhartipuram, Delhi Haridwar- Meerut Bypass Road, Meerut Uttar Pradesh</b>	One Day National Seminar on Human Rights	SPS Institute of Law	6 May 2013
75.	<b>Arya Kanya Degree College, Mutthiganj, Allahabad-211 003 Uttar Pradesh</b>	One Day Training Programme on Human Rights	Arya Kanya Degree College	23 November 2013  100 participants





76.	<b>Anjuman Arts, Science &amp; Commerce College, Dharwad</b>	One (One-Day) Workshop on Human Rights: Violation, Protection & Awareness	AASC College	8 February 2014 130 participants
77.	<b>Valiyam Memorial College of Teacher Education, Kollam District Kerala.</b>	One day Seminar on Human Rights	Valiyam Memorial College of Teacher Education	22 April 2013

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**Presentation by the National Human Rights Commission of India on “The Vienna Declaration, Paris Principles and the ICC – Planning for the Future”**

**ICC 26, Palais Des Nations, Geneva, May 6, 2013**

Like the VDPA, the ICC and the Paris Principles, our Commission also turns twenty this year. It's something to celebrate, but it's also been long enough for us to realize just how daunting the tasks before an NHRI are, and how much more of a challenge they are likely to become.

2. The first challenge is coping with expectations. In 1994, a year after we were set up, the NHRC received 496 complaints. Last year, there were 107,655. In a utopian future, an NHRI will be judged a success if it makes itself redundant. For the foreseeable future, though, the more effective an NHRI is, the greater the demands on it will be. Meeting this demand will tax all of us. The resources we need may rise exponentially, and governments may jib. How do we ensure that NHRIs get the funding, infrastructure, skills and mandates to discharge obligations that will keep on growing?

3. These complaints will be from individuals or groups seeking redress for specific problems. In our experience, to be able to help, we have needed every bit of our quasi-judicial powers, including to summon, take testimony on oath, requisition documents and, if necessary, issue warrants of arrest. It is a serious weakness in the Paris Principles that these powers, so essential for an NHRI to offer relief, are merely optional, and the range of quasi-judicial actions they recommend is so much more limited than those some NHRIs, including ours, already have. It would strengthen NHRIs immensely, and make them far more effective, if the Paris Principles were revised to make quasi-judicial powers mandatory, including the power to provide relief.

4. However, all NHRIs with quasi-judicial powers will have to struggle to find a balance between protection and promotion. Will we be case-driven or issue-driven? If we concentrate on protection, and it is hard not to do so, because these are problems with individual, human faces, we run the risk of ignoring the systemic defects that brought them about. So do we promote by protecting, building bulwarks and setting standards through the jurisprudence we build up through our cases, or do we protect by promoting, focusing much more on creating awareness and changing mindsets? We have tried to have the one feed into the other but symbiosis is not easy; finding a balance will become increasingly difficult as our case-load continues to grow.

5. The range of issues we have to handle, and their complexity, will also continue to grow. I give three as examples – the environment, business and terrorism. The environment is not just central to the right to life, it is also a trans-generational right. An NHRI that

abdicates its responsibility here betrays both the present and the future. In India, we have tried to focus on local problems, such as the quality of water or air in a particular area, but we have also had to take up much larger issues, balancing the need to protect water-bodies, for instance, with the rights of those who live off them, or the preservation of forests with the rights of the forest-dwellers.

6. Many of us have to grapple with the challenges posed by business, broadly defined, to human rights, not a priority in the VDPA but now central to our concerns. The ICC has a working group on this issue, as it should. In India, we monitor, among others, the implementation of laws that protect labour, the impact on human rights of displacements caused by industrialization, and the impact of business on health. We are developing a code of ethics for Indian industry. That's a very wide spectrum of complicated issues.

7. NHRIs monitoring responses to terrorism, now a far more widespread danger than it was 20 years ago, are told that States protect the human rights of their citizens against those who respect no rights at all. In doing so, however, States have often diluted their commitments to human rights, and it is the NHRI's responsibility to ensure that human rights are not destroyed in attempts to protect them. This is a particularly difficult problem, with moral, legal and political ramifications.

8. All three issues have transnational aspects and are global problems. And these are simply three examples out of many that all of us could give. No one NHRI will have the wisdom to find solutions alone; they will need to share experience and learn from each other.

9. This means, then, that for NHRIs international meetings must add value to their domestic work. Otherwise, it will become increasingly difficult to balance their domestic mandate, which justifies their existence, with their international obligations, which become a luxury. It's pleasant for the Chairman and me to be in Geneva, but around 600 cases will be pushed back three months, the normal cycle in our cause-lists, because we are away. We have to ask ourselves if the benefits to us as an institution outweigh the costs to the victims of delay.

10. The ICC therefore needs to introspect. It should not be a talking-shop and it must offer much more of a service than it now does. To do this and stay relevant to the work of its members, it must begin by placing content over form. At the moment, through the Sub-Committee on Accreditation, it judges members, not by what they do, but by how far, in the way they are set up, they meet an ideal norm. This must change.

11. Far too much emphasis is placed, too, on what is easy to do, to monitor laws and make suggestions for improvement, or to urge governments to accede to and comply with international instruments. If we salved our consciences doing this, particularly in developing countries, we should be pilloried. Each country represented here has laws that protect

almost every human right. Problems arise when they are not honoured. That is where the NHRI's role is crucial. That is where we need to work, not fritter away time, energy and resources trying to make laws perfect or aligning them to international instruments. The ICC needs to understand this too, if it is to stay relevant to the work of many of its members.

12. The ICC must also recognize that some of us face a challenge of coordinating with other national bodies that have responsibilities for the promotion of the rights of groups, including those of women, children and minorities, to whom separate sections were devoted in the VDPA. In India, these Commissions have the same powers that the NHRC does, but are not bound by the Paris Principles. Two problems arise. Some are not well equipped but, under the law, when one of them takes prior cognizance of a case, the NHRC must stand down and, without a common database, which we are trying to build, there is always a problem of duplicating efforts. But this also means that the ICC, which has a designated NHRI as a member, gets only a partial view of the range of work done by HRIs in the country.

13. The ICC makes the further mistake of seeing its members through the eyes of the handful of NGOs from each country which are self-appointed monitors of the work of their NHRI and generously financed by others primarily for this. In India, for instance, thousands of NGOs, with many of which the NHRC works closely, toil away at the grassroots. Many of the government's economic and social programmes could not work without them; they are also the fiercest critics of its shortcomings. These NGOs do not come to international meetings; they do not have the money and they would consider it a waste of time.

14. The voices that the ICC and the UN listen to, which they take as the voice of civil society, are the voices of those who are paid to carp. The ICC does not even have the screening mechanism that the UN does, but if it values the views of those NGOs to which it has given a special place, it should satisfy itself that they deserve to be there.

15. NHRIs, however, are joined at the hip to civil society. We need them now, and will need them even more in the future. No NHRI can function effectively without them. In India, they partner us in every aspect of our work. But, as our colleagues will confirm, the quality of NGOs is uneven and increasingly this too is a sector where many come in to make money. As it becomes compulsory under the law in India for all companies to set aside a percentage of their profits for CSR, and this is added to the almost \$100 billion that the government invests each year in social welfare programmes, this has now become a hugely lucrative area. Knowing which NGOs are kosher, and steering clear of those who are not, is already a problem for NHRIs and will become even more so in the future.

16. Because the problems NHRIs face are already so complex, they need absolute conceptual clarity on the issues they tackle, and they need to be spared the confusion or the agenda of others. All human rights are universal, but the forms in which they are violated vary from country to country; forcing a local problem into a foreign framework does not

help to solve it. Secondly, the bias in the UN is towards civil and political rights, but NHRIs in most developing countries know that an even greater need is to assure economic, social and cultural rights. Because this is not a priority for the UN, it has not been a priority for the ICC either, but this too must change.

17. A last challenge. This is also the twentieth anniversary of the world-wide web. In the decade after the VDPA was adopted, the digital age was in its infancy, social media did not exist. All of us are now immersed in it. We live in a public glare that the VDPA and the Paris Principles simply did not envisage. Two challenges face an NHRI. First, because a problem has been reported in real time, it is expected to provide an immediate solution, which is rarely possible. Second, social media can lead to the serious violation of the rights of individuals, but because it is so amorphous, it is almost impossible to affix responsibility or to get the victims any relief. And yet it is an enormously powerful instrument, which NHRIs must harness. How do we use social media, rather than having it abused?

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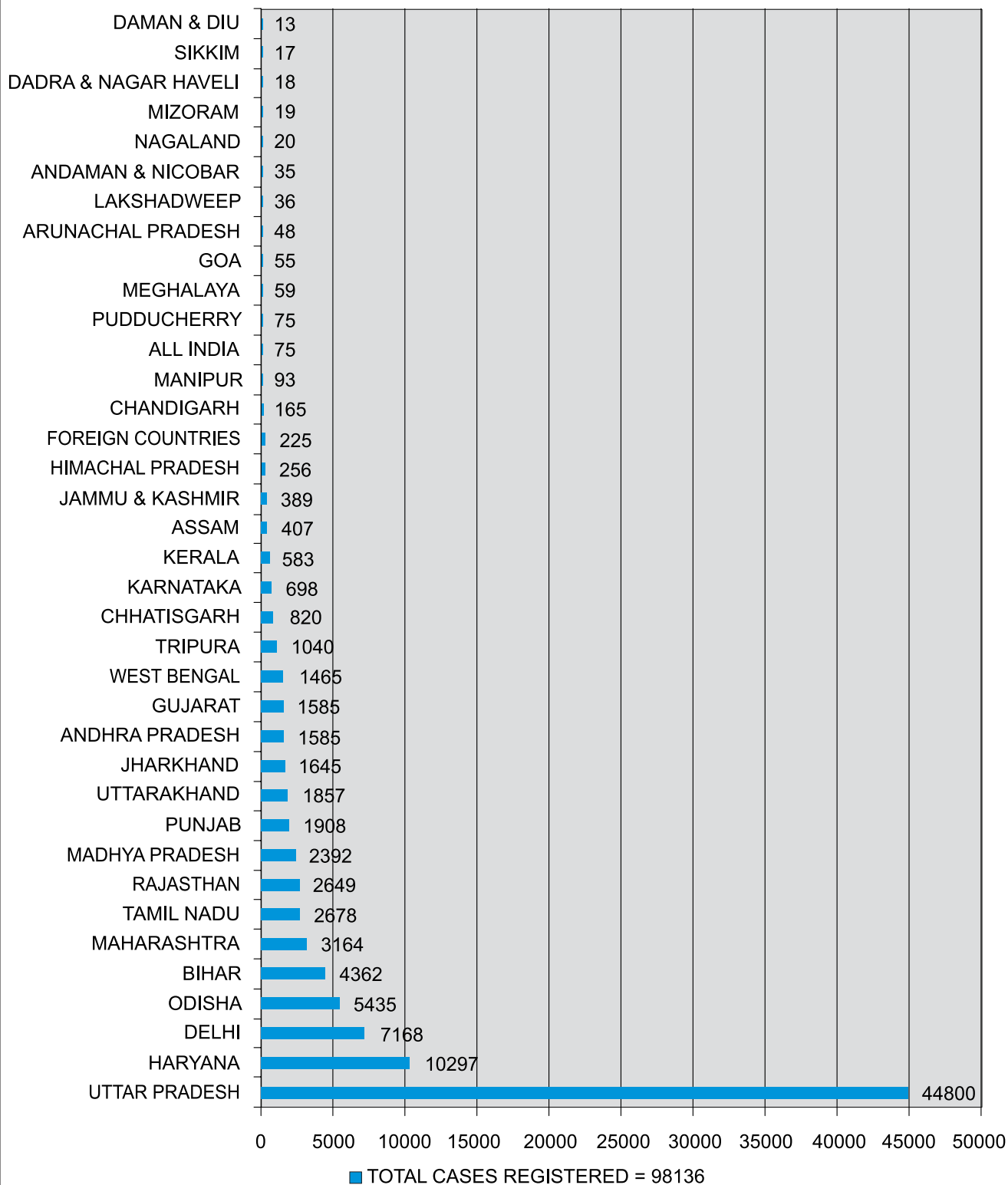
# **CHARTS & GRAPHS**





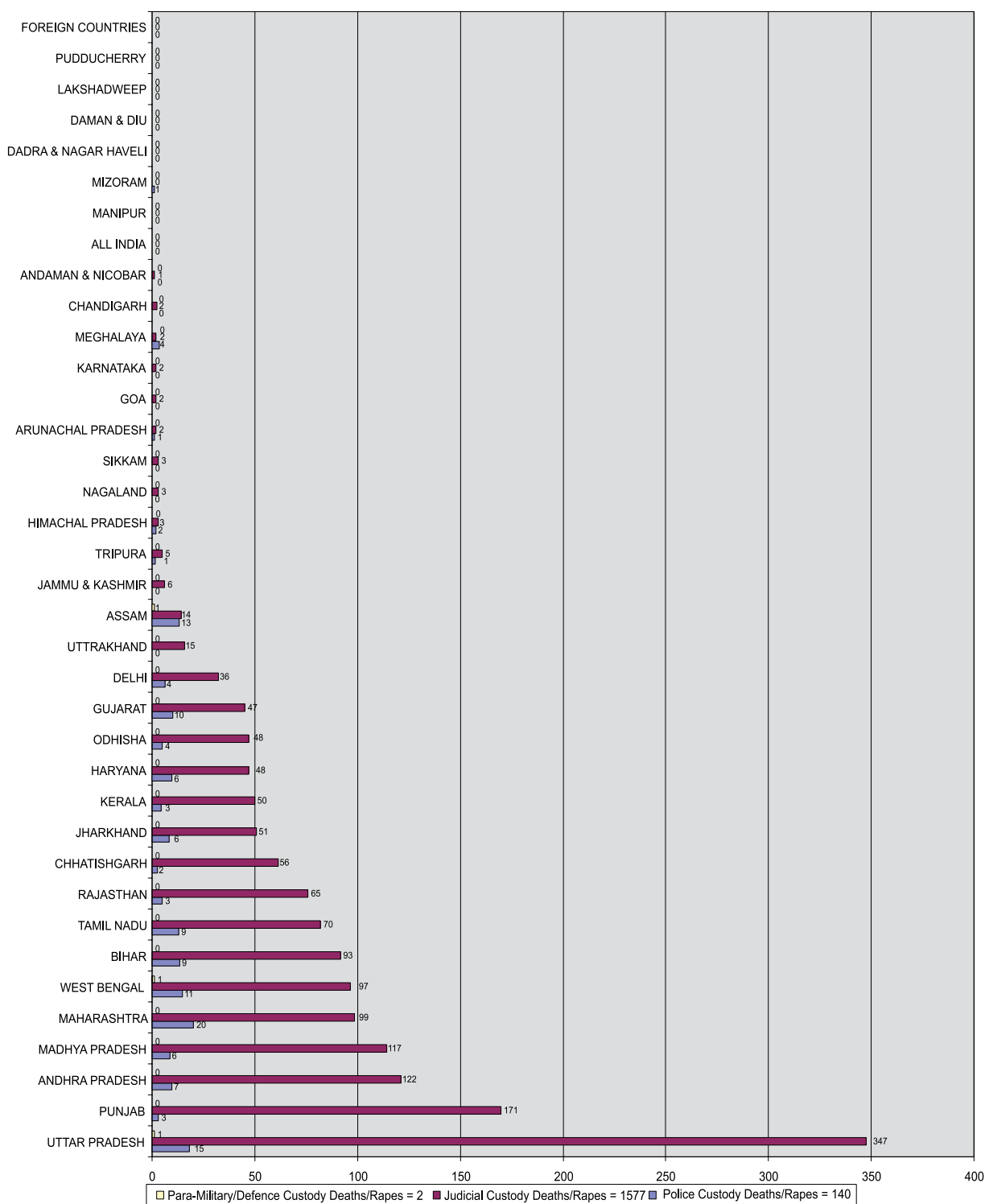
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**STATE/UT-WISE NUMBER OF CASES REGISTERED IN NHRC DURING 2013-2014**



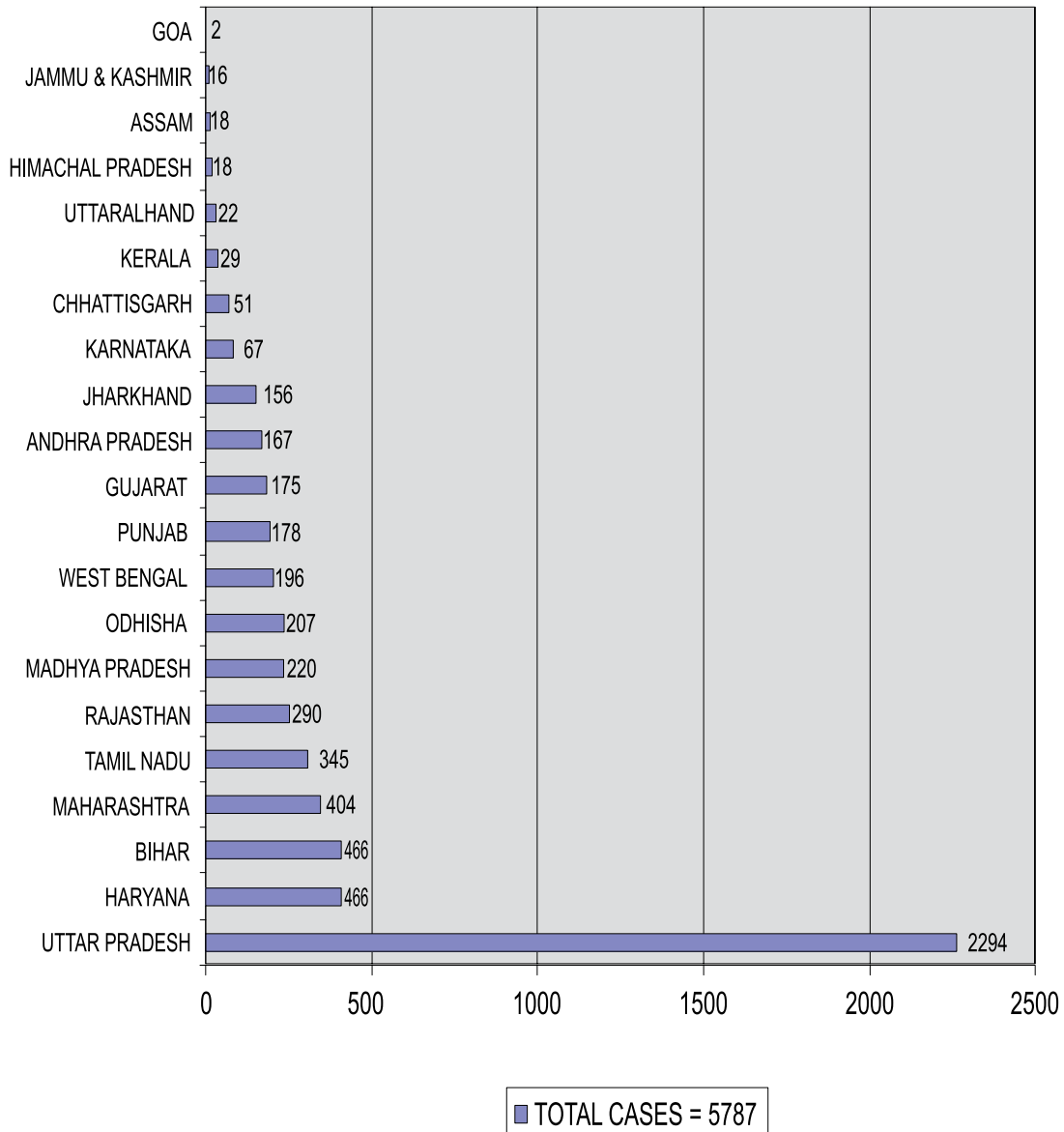
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### STATE/UT INTIMATIONS REGISTERED IN NHRC RELATING TO CUSTODIAL DEATHS/RAPES DURING 2013-14 TOTAL CASES = 1719



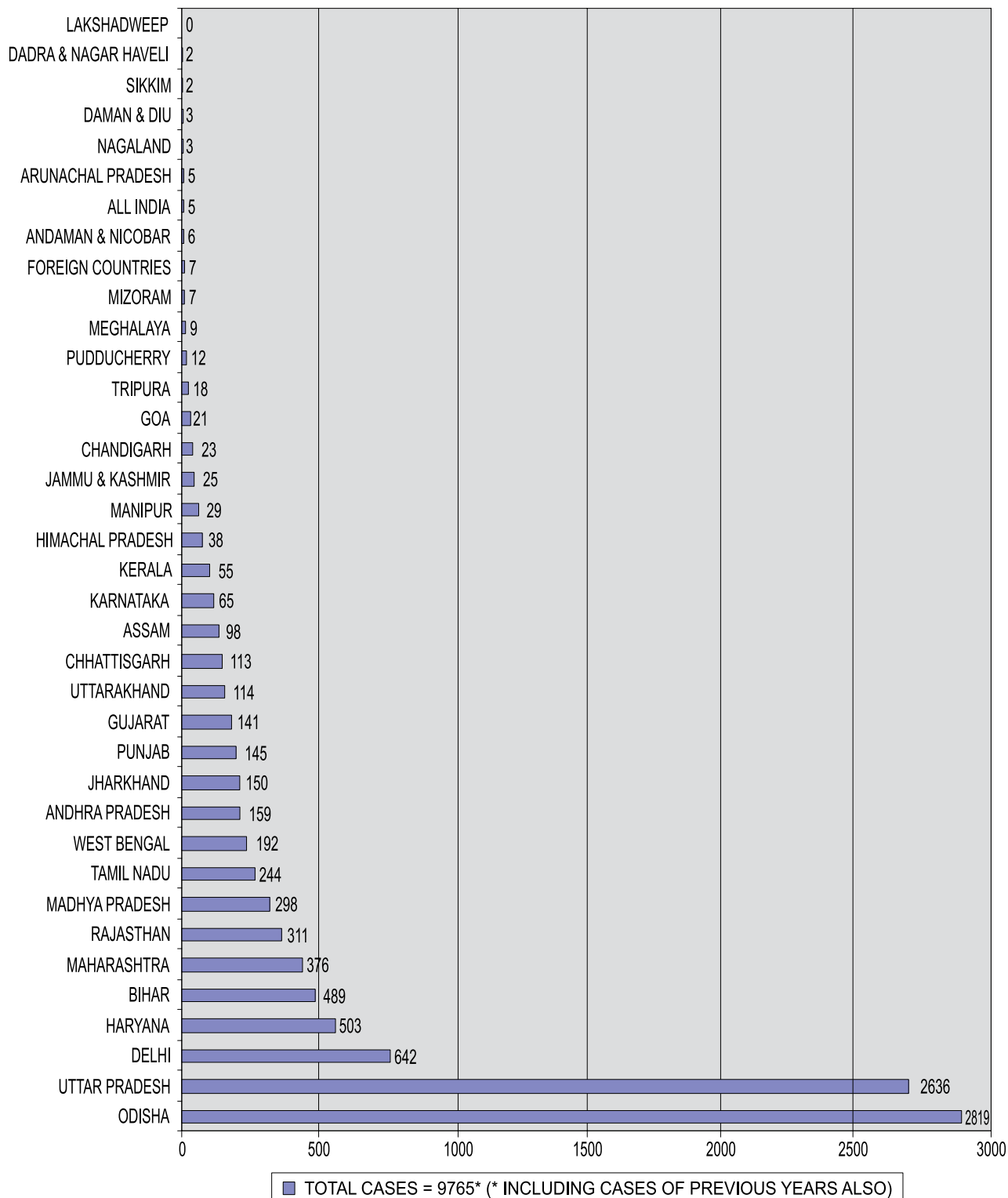
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#### CASES TRANSFERRED BY NHRC TO SHRCs DURING 2013-2014



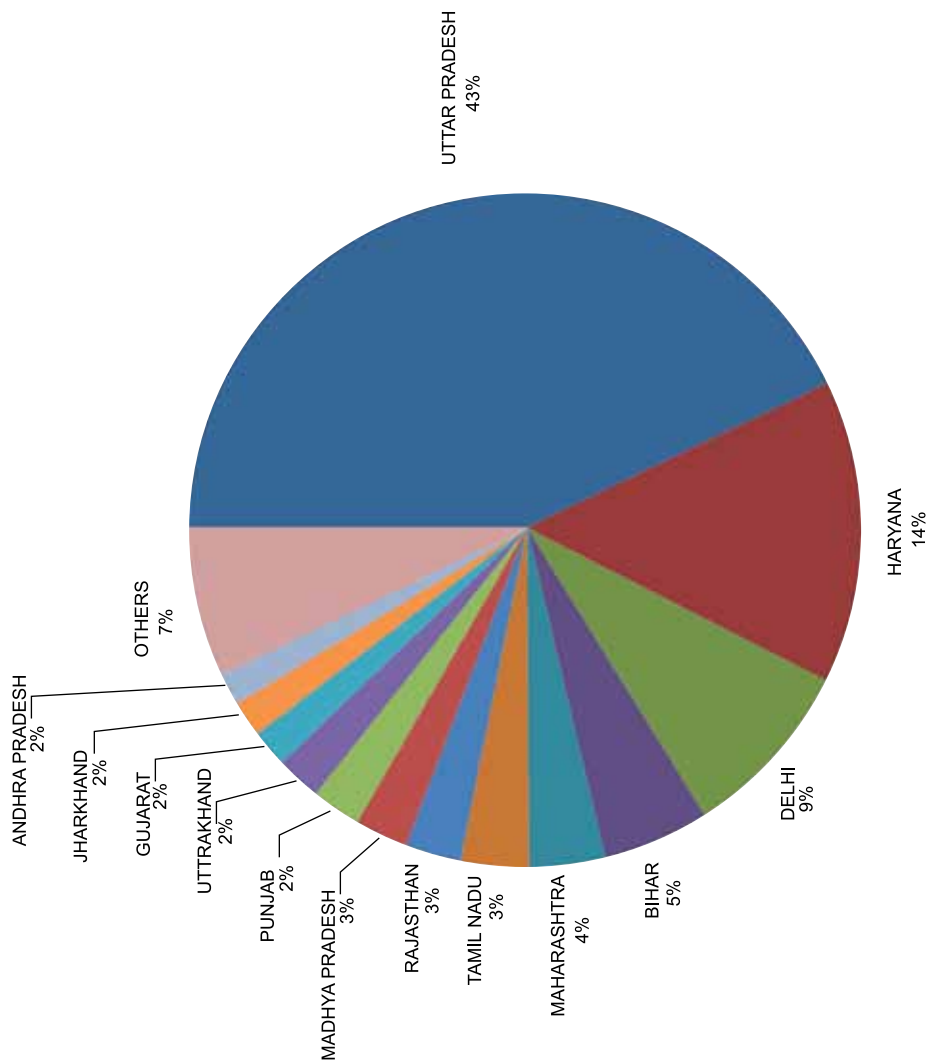
# 4

## NATURE & CATEGORIZATION OF REPORT CASES\* DISPOSED OF BY THE NHRC DURING 2013-2014



## 5

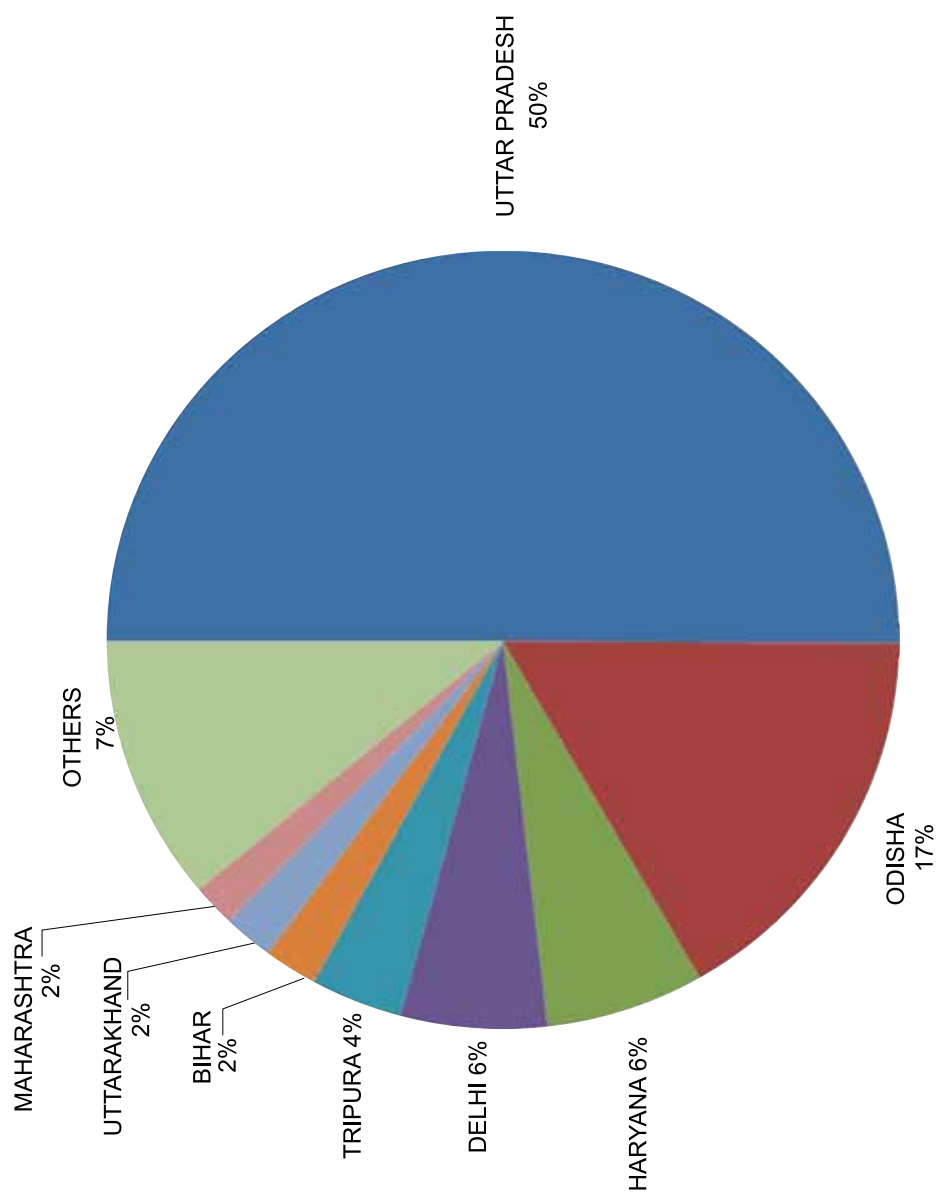
### CASES DISMISSED 'IN LIMINI' BY NHRC DURING 2013-2014 IN STATES/UTs WITH A DISMISSAL RATE OF MORE THAN 2%





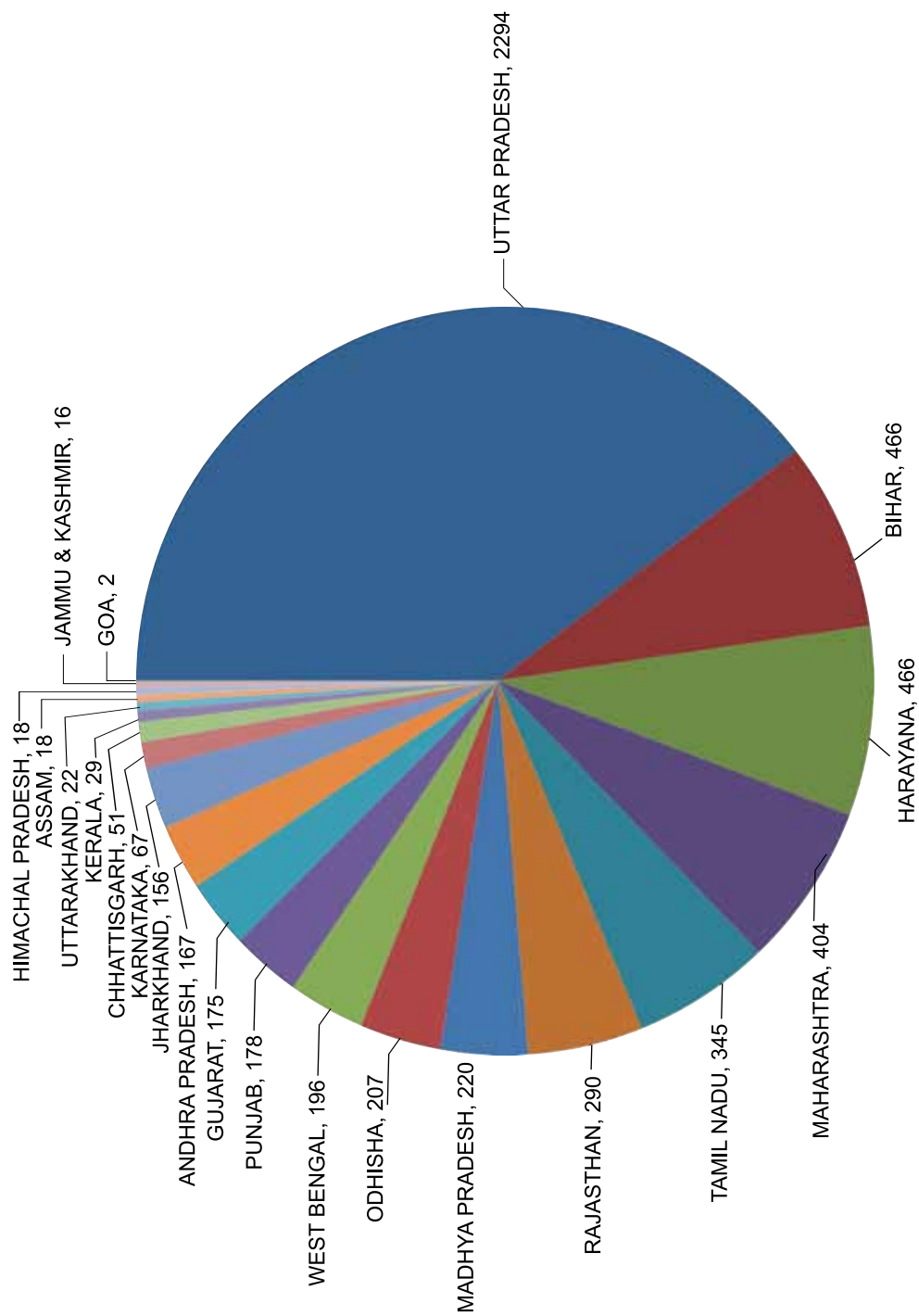
## 6

### CASES DISPOSED OF WITH DIRECTIONS BY NHRC DURING 2013-2014 IN STATES/UTs WITH A DISPOSAL RATE OF 2% OR MORE



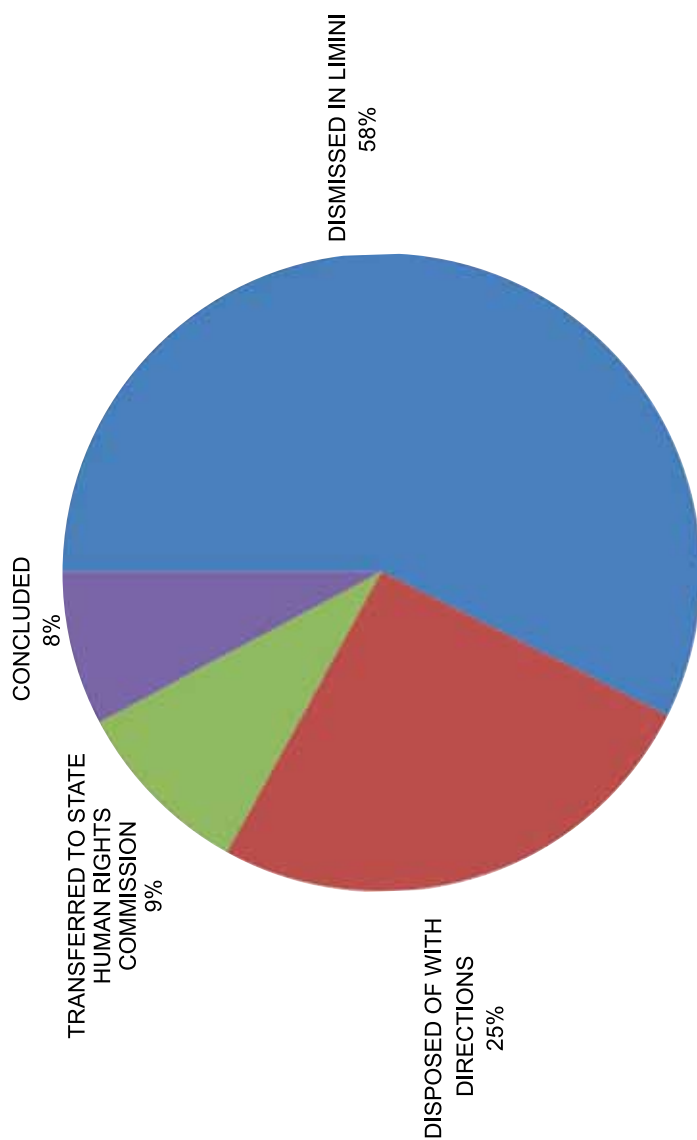
# 7

## CASES TRANSFERRED TO SHRCs BY NHRC DURING 2013-2014 TOTAL CASES = 5787



# 8

## CASES DISPOSED OF BY NHRC DURING 2013-14



# **ABBREVIATIONS**



AAY	:	Anthodya Anna Yojana
A.C.J.M.	:	Additional Chief Judicial Magistrate
Art.	:	Article
Arts.	:	Articles
ATR	:	Action Taken Report
ASI	:	Assistant Sub-Inspector
BPL	:	Below Poverty Line
Cr.P.C.	:	Criminal Procedure Code
CRPF	:	Central Reserve Police Force
DGP	:	Director General of Police
DM	:	District Magistrate
FIR	:	First Information Report
GPF	:	Gratuity Provident Fund
GRP	:	Government Railway Protection
HEP	:	Hydro-Electric Project
HQs.	:	Headquarters
IO	:	Investigating Officer
I&PRO	:	Information & Public Relations Officer
IPC	:	Indian Penal Code
JCL	:	Juveniles in conflict with law
JJR	:	Juvenile Justice (Care & Protection of Children) Rules
LFs	:	Linked Files
MACP	:	Assured Career Progress
MER	:	Magistarial Enquiry Report
MGNREG Scheme	:	Mahatma Gandhi National Rural Employment Guarantee Scheme
NCR	:	National Capital Region





NCT	:	National Capital Territory
OBC	:	Other Backward Classes
PC & PNDT Act	:	Pre-conception & Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
PDS	:	Public distribution system
PHR Act	:	Protection of Human Rights Act, 1993
P.S./PS	:	Police Station
r/o	:	resident of
r/w	:	read with
RTE	:	Right to Education
s/o	:	son of
SC	:	Scheduled Castes
SDM	:	Sub-Divisional Magistrate
SHO	:	Station House Officer
SMS	:	Short Message Service
ST	:	Scheduled Tribes
u/s	:	under section
UTP	:	Undertrial Prisoner
w/o	:	wife of

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ISSN 0973-7553



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