



ANNUAL REPORT

2016-2017

NATIONAL HUMAN RIGHTS COMMISSION, INDIA



**Chairperson
NHRC**

F o r e w o r d

The National Human Rights Commission is pleased to present to the Parliament and people of India, its **twenty-fourth** Annual Report for the period **from 01 April 2016 to 31 March 2017**.

2. The National Human Rights Commission has completed 24 years of its pioneering work in the promotion and protection of human rights since its establishment on 12 October 1993 under the Protection of Human Rights Act, 1993. Since then, the Commission has consistently worked towards bringing a human rights-centered approach in the Government at Central and State levels, as well as towards creating human rights awareness and sensitization amongst public authorities and civil society. Through the years, the Commission has channelized its efforts towards broadening the ambit of human rights to ensure the protection of the civil and political rights of the people as well as safeguard their economic, social, and cultural rights.

3. In a society as diverse as ours, the indivisibility and inter-connectedness of human rights, whether civil and political or economic, social and cultural, is self-evident, especially in respect of the most vulnerable, including people belonging to Scheduled Castes, Scheduled Tribes, Women, Children, Disabled and other vulnerable groups. The deprivation, problems and concerns that confront each of these groups, remained an important area of concern for the Commission during the period under review.

4. Accordingly, during 2016-2017, the Commission continued to intervene in matters concerning civil and political rights, on the basis of *suo motu* cognizance of media reports as well as complaints received. Further, in fulfillment of its mandate and diverse functions envisaged under Section 12 of the Act, the Commission also continued to address rights relating to health, food, education, rights of persons belonging to Scheduled Caste and Scheduled Tribe communities as well as other vulnerable groups, including women, children, disabled and the elderly, human rights education, and training and awareness.

5. It is heartening to note that the Commission's relentless efforts for the protection and promotion of human rights have led to a phenomenal increase in the number of complaints it receives each year. This is indicative not only of the growing awareness of human rights among the people, but also their growing confidence that the Commission is an able and responsible institution, firmly committed to safeguarding their rights. It is a matter of great satisfaction that,

in almost all cases, Government authorities have complied with the NHRC's recommendations for providing relief to victims and initiating action against errant officials.

6. To further expand its reach across the country, the Commission is forging newer and more comprehensive partnerships with various sections including key stakeholders such as, the judiciary, police personnel, government officials, media, representatives of NGOs and civil society organizations, and academia (including students), most notably through its coveted internship programmes, publications, seminars, workshops, training, consultations and other such means. Further, the Commission is making all-out efforts to make its complaint handling even more effective, and has accordingly, designed, developed and implemented a web-based version of Complaint Management System software using technical support of National Informatics Centre (NIC), which enables the complainant.

7. The present Annual Report for 2016-2017 of the National Human Rights Commission, *inter alia*, describes at length, the important activities of the Commission and its numerous initiatives undertaken during 2016-2017 for a more robust protection and promotion of human rights in the country.

8. It is the Commission's ardent hope that the present Annual Report will not only serve to inform its readers of the important initiatives undertaken by the Commission during the last year, but also encourage both, government and civil society to think more closely about the human rights challenges that we collectively face as a nation and to chart ways to address these challenges in an inclusive and holistic manner.



(Justice H. L. Dattu)

(Former Chief Justice of India)



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Chapter 1

INTRODUCTION

1.1 This report of the National Human Rights Commission (NHRC) covers the period from 1 April 2016 to 31 March 2017. It is the twenty-fourth Annual Report of the Commission.

1.2 The twenty-third Annual Report of the Commission, covering the period from 1 April 2015 to 31 March 2016, was submitted to the Central Government on 29 June 2017 for preparing the Memorandum of Action Taken and placing the same before each House of Parliament in accordance with the procedure laid down under Section 20 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 H. L. Dattu, former Chief Justice of India continued to serve as Chairperson in the Commission. Justice Shri Cyriac Joseph (former Judge of Supreme Court of India) demitted the office on 27.01.2017, Justice Shri D. Murugesan (former Chief Justice of High Court of Delhi) and Shri S. C. Sinha (former Director General, National Investigation Agency) continued to serve as Members in the Commission.

1.4 Dr. Satya Narayan Mohanty, IAS (1980: Telangana Cadre) continued to serve as Secretary General and Chief Executive Officer of NHRC. Shri J.S. Kochher and Dr. Ranjit Singh continued to be the Joint Secretary (Training & Research) and Joint Secretary (Programme & Administration), respectively. Shri C. K. Chaturvedi continued to serve the Commission in his capacity as Registrar (Law) upto 28 February 2017. Thereafter, Shri A. K. Koul, former Registrar, J&K High Court, joined the Commission as Registrar (Law).

1.5 As provided in Section 3 (3) of the PHRA, Prof. (Dr.) Ramshankar Katheria, the Chairperson of the National Commission for the Scheduled Castes, Shri Nand Kumar Sai, the Chairperson of the National Commission for the Scheduled Tribes, Shri Syed Ghayorul Hasan Rizvi, the Chairperson of the National Commission for Minorities and Smt. Rekha Sharma, the Member - Additional Charge Chairperson of the National Commission for Women continued to be deemed Members of the NHRC for the discharge of functions specified in clauses (b) to (j) of Section 12 of the PHRA.



1.6 The Annual Reports of the Commission not only provides a description about the overall activities undertaken by it each year but also serve as a principal source of information on the human rights situation in the country. During 2016-2017, the Commission focussed its attention on a wide range of activities in accord with the various functions prescribed under Section 12 of the PHRA. It took suo motu cognizance of media reports as well as on the basis of complaints about occurrences hinting towards use of excessive force by police personnel in different parts of the country resulting in loss of many lives; rape and death in police and judicial custody; violation of human rights of prisoners in jails; illegal detention and torture; deaths in encounter; deaths due to electrocution; delay in payment of pension to retired employees; lack of educational facilities and basic amenities like drinking water, toilet, safe building and infrastructure in schools; children falling ill after consuming mid-day meals in schools; dubious functioning of IVF clinics; sexual assault, rape and trafficking of children and women; killing of persons on allegations of practicing witchcraft; suicide by farmers; enticing children for begging; stray dog menace; pesticides in vegetables and fruits; botched up cataract surgery; separate *anganwadis* for children of *dalits*; poor facilities in Primary Health Centres resulting in death of new born babies; increasing incidents of missing children; and atrocities against vulnerable sections like the Scheduled Castes, Scheduled Tribes, Minorities, Other Backward Classes, children, women, disabled and the elderly. In all these, apart from making important interventions by way of issuing directives to the concerned State Governments and sending its own teams from the Investigation Division for conducting spot inquiries, the Commission also recommended payment of monetary relief to the victims whose rights were violated or their next-of-kin along with furnishing of proof of payments it recommended.

1.7 The Commission has always been sensitive to the concerns of vulnerable sections of society, particularly scheduled castes and scheduled tribes. In its endeavour to implement the recommendations made by Shri K.B. Saxena, IAS (Retd.) in his report submitted by him after carrying out a study about the atrocities against persons belonging to Scheduled Castes, on the request of the Commission, Camp Sitzings and Open Hearings of the Commission are being held in different States and Union Territories of the country. During the period under review, the Commission, held Camp Sitzings/Open Hearings in the States of Bihar, Jharkhand and Odisha and Union Territories of Puducherry and Andaman & Nicobar Islands.

1.8 This Annual Report deals with the issues pertaining to civil and political rights including deaths in police/judicial custody, illegal detention, high handedness of police, death in police encounters etc. The Report also deals with economic and social rights, such as rights relating to health care including mental health care and leprosy, right to food, right to education, rights of vulnerable groups including women, children, disabled and elderly persons, rescue, release and rehabilitation of bonded and child labourers. The Commission also explored areas of cooperation

and coordination between NHRC and State Human Rights Commissions for protecting and promoting human rights and also concentrated on issues forming part of the second cycle of the universal periodic review (UPR) of India undertaken in 2012 by the United Nations Human Rights Council which had the concurrence of the Government of India as the Commission feels that it would facilitate in preparing its independent report for the third cycle of the periodic review that is to take place in 2017. In addition, the NHRC continued to spread human rights literacy among various sections of society including key stakeholders like the judicial officers, police personnel, government officials, media persons, representatives of non-governmental and civil society organizations, and university and college students through its training and internship programmes, publications, seminars, workshops, consultations and other available means.

1.9 These issues have been detailed out in different chapters of the Annual Report for the year 2016-2017.

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(H. L. Dattu)
Chairperson



Chapter 2

HIGHLIGHTS

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

Web-based Version of Complaint Management System

2.2 The Commission has made efforts to computerize most of its activities relating to handling of complaints. In this process activities/modules such as grouping of proceedings of similar cases, file movement in group, release of proceedings, linking of cases, reply for complaints on same matter etc. have been computerized and added in the web-based version of CMS recently implemented by the Commission.

Additional Modules in Software for Despatch Section of Law Division

2.3 The Commission has added few modules in Despatch Software for ordinary post and un-registered letters which are sent by Law Division to various Authorities. This has facilitated in maintaining electronic records as well as quick retrieval of information regarding letters sent.

Additional Reports in Real Time Management Information System

2.4 The Commission has also designed and developed various reports in web-based Real Time Management Information System (RTMIS) software which provides information regarding time taken during different stages of case disposal.

Network Management System

2.5 A web-based 'Network Management System (NMS)' software has been designed & developed in-house for managing the network resources being used by the Commission. This software helps in storing, retrieving and compiling the information regarding the IP addresses, computing devices, users and locations of the devices.

Government e-Marketplace

2.6 Commission has started using Government e-Marketplace (GeM) portal for procurement of items required by NHRC.

NHRC Account on YouTube

2.7 NHRC has created an account on YouTube (a video-sharing site). Three short films on human rights, which were approved by the Commission, have been uploaded on the YouTube account of NHRC.

Accounts Software

2.8 Necessary changes were made in the Accounts Software for making all payments through electronic mode.

Foundation Day Celebrations

2.9 The Foundation Day of the Commission is being celebrated by the Commission on 12th October each year. This year i.e. in 2016, Foundation Day of the Commission was celebrated on 21.10.2016 at Dr. D.S. Kothari Auditorium, DRDO Bhawan, Rajaji Marg, New Delhi. Shri Ravi Shankar Prasad, Hon'ble Minister of Telecommunication and Law & Justice was the Chief Guest on the occasion.

Observance of Human Rights Day

2.10 Human Rights Day is being celebrated by the Commission on 10th of December every year. This year i.e. in 2016, the Human Rights Day was celebrated by the Commission at Dr. D.S. Kothari Auditorium, DRDO Bhawan, Rajaji Marg, New Delhi on 10.12.2016. Justice Shri P. Sathasivam, Hon'ble Governor of Kerala was the Chief Guest and Shri Bezwada Wilson, Founder of Safai Karamchari Andolan was the Guest of Honour on the occasion.



Meetings of the Commission

2.11 During the year under review, the Full Commission took up 566 cases of human rights violations in its 36 sittings. In addition, the two Division Benches considered 1595 cases in 91 sittings. 24 cases of Kashmiri migrants were also considered in 3 sittings of the Commission in the open court hearings.

NHRC Camp Sitzings

2.12 The National Human Rights Commission (NHRC) has been organizing camp sittings in different States in order to expedite disposal of pending complaints and sensitize the State functionaries on the human rights. During the period under review, the Commission held Camp Sitzings in Bihar, Jharkhand and Odisha. The Commission considered 51 cases in its sittings of Full Commission and 28 cases in Division Benches in these camp sittings.

NHRC Open Hearings on Atrocities against Scheduled Castes

2.13 During the period under review, the Commission took up 270 cases in its Open Hearings held at Patna, Bihar - 67 cases (21 April 2017), Ranchi, Jharkhand - 69 cases (7 September 2017), Puducherry - 17 cases (16 December 2017), Bhubaneswar, Odisha - 107 cases (9 January 2017) and Andaman & Nicobar Islands - 10 cases (19 January 2017).

Dissemination of NHRC Information and Interaction with Media

2.14 The NHRC, through Media and Communication wing, disseminates information about the NHRC activities through various means. These include press releases, media briefings, press conference, interviews of Chairperson and Members. Deputy Director (M&C) also provides feedback to the Commission about human rights issues reported in the media and also gives news clippings for *suo motu* cognizance taken by the Commission.

Outreach Mechanism

2.15 During the period from 01.04.2016 to 31.03.2017, about 139 press releases/statements were prepared and issued by the Media & Communication Wing about the various interventions and activities of the Commission. About 99 news clippings were brought to the notice of the Commission for consideration of *suo motu* cognizance. In order to give an idea about the issues reported in a media related to NHRC's role and interventions, daily news clippings are uploaded on the website of the Commission. A monthly compendium of these news clippings is prepared and sent to the library for record and reference by people visiting library.

2.16 Apart from this, a monthly newsletter is published in English and Hindi, which is circulated free of cost among all the important functionaries of the Government(s), academic institutions, NGOs, media persons, individuals etc. for spreading awareness about the importance of human rights and NHRC interventions and recommendations. It is also uploaded on the NHRC website with links to number of complaints received, disposed of and under process. The copies of the newsletters are also available for the visitors at the reception.

2.17 In addition to providing information to media persons on some specific issues during the period, the M&C Wing organized total 04 press conferences and 06 interviews of Chairperson, Members and senior officers for All India Radio, Doordarshan and other media organizations. Special efforts were made to invite media persons for the coverage of 14 Camp Sitzings/Workshops/Seminars/Conferences organized by the Commission in different parts of the country on various issues on human rights. Apart from the activities in the Headquarters, special efforts made for some specific outstation events for media coverage during the period were as follows:

1. NHRC's 3-day Open Hearing, Camp Sitting in Patna, Bihar from April 21 to 23 April 2016.
2. NHRC's one day workshop on 'Elimination of Bonded Labour' in Bengaluru on 13 May 2016.
3. NHRC's 2-day 'Western Region Consultation for Universal Periodic Review' in Mumbai from 23-24 June 2016.
4. NHRC's Conference on Silicosis for endemic States in New Delhi from 22 July 2016.
5. NHRC's 2-day National Consultation for 3rd Universal Periodic Review in New Delhi from 12-13 August 2016.
6. NHRC's 2-day National Seminar on 'Good Governance Development and Human Rights' in New Delhi from 19-20 August 2016.
7. NHRC's 2-day Camp Sitting and Open Hearing at Ranchi, Jharkhand from 7-8 September 2016.
8. NHRC's Chairperson, 'Media Interaction - Briefing' in run up to its Foundation Day Celebrations on 21 October 2016.
9. NHRC's 2-day Regional Workshop on 'Good Governance, Development and Human Rights' in collaboration with the Government of Meghalaya in Shillong from 3-4 November 2016.
10. NHRC's one day 'Open Hearing-cum-Camp Sitting' at Puducherry on 16 December 2016.



11. NHRC's 2-day Regional Workshop on "Good Governance, Development and Human Rights" in collaboration with the Government of Karnataka, with participating States Tamil Nadu, Kerala, Andhra Pradesh and Telangana in Bengaluru from 20-21 December 2016.
12. NHRC's 2-day Camp Sitting and Open Hearing at Bhubaneswar, Odisha from 9-11 January, 2017.
13. NHRC's one day National Seminar on 'Gender, Social Justice and Human Rights' at Kohima on 15 March 2017.
14. NHRC's 2-day National Seminar on 'Literature, Society and Human-Rights' at Raipur, Chhattisgarh from 23-24 March 2017.

In-house Feedback Mechanism

2.18 Besides providing news clippings on various aspects of human rights to the Chairperson, on a daily basis, a 'Weekly News Digest' on human rights issues, reported in the media, was prepared for the feedback of the Commission, a copy of which is also sent to the library for others' information. A monthly compendium of media reports on human rights issues and such events and activities, which may have direct or indirect bearing on human rights, was also prepared.

Foundation Day Press Conference

2.19 Organized an elaborate Press Conference addressed by the Hon'ble Chairperson coinciding with the Foundation Day of the NHRC on the 21 October 2016. Prepared a ready reckoner on the highlights of the NHRC's activities and a statement, in connection with the press conference.

NHRC's Short Film Awards

2.20 The Commission decided to continue with the 2015 initiative of its Media & Communication Wing to award three best short films on human rights, with more value addition. The award carries three prizes of ₹1,00,000/-, ₹ 75,000/- and ₹ 50,000/- respectively with a certificate and a specially designed trophy. In the year 2016, 94 entries were received, out of which 83 fulfilled the conditions; a Jury of external experts was constituted who selected three best films for award. The three films were 'Black & White' by Shri Anuj S. R. from Kerala; 'Tumling Street' by Shri Rimbik Das from Kolkata, West Bengal; and 'Ambrosia' by Shri Somnath Chakraborty from West Bengal. Certificate of 'Special Mention' was also given to four films – i) Dehleez, ii) Arem Sei; iii) Women; and iv) Kanavugul. Additionally, 11 more films were used for awareness purposes. The three awardees were invited to Delhi to receive the awards at a function organized by the

Commission to celebrate Human Rights Day. A festival of the six selected short films was also organized on the occasion. These included three each from the entries in 2015 and 2016. A DVD of these short films along with a brochure on NHRC's Short Film Award Scheme and highlighting the three award winning films of 2016 was also released.

2.21 The three short films of 2016 were also uploaded on 'YouTube'. These included 'Black & White', 'Women' and 'Arem Sei'.

NHRC's (Draft) Social Media Policy & Standard Operating Procedure

2.22 Media & Communication Wing prepared in 2015, 'NHRC's (Draft) Social Media Policy and Standard Operating Procedure' for consideration of the Commission. The policy document has examined very elaborately the subject with an SOP as a collective work ethic with the operational support from the computer unit of the Commission. The draft policy document is to be considered by the Commission.

Children's Painting and Photo Exhibition

2.23 A children's painting and photo exhibition about NHRC's activities was also mounted on the occasion of Human Rights Day, 2016. The exhibition also included posters of award winning films and archival Gallery of collage.

Archival Gallery of Collage

2.24 A collage of year wise news clippings and photographs on the activities of the Commission is being prepared in-house and got released by the Chief Guest on Human Rights Day function. Started in 2014, the concept was followed up in 2015 and 2016 also in order to create an 'Archival Gallery' of such collage, which could give a glimpse into various important facets of the Commission's work, during the years, to the visitors.

Number and Nature of Complaints

2.25 The human rights literacy has been continuously increasing in the country. The spectrum of the human rights has also significantly widened through legislation as well as judicial pronouncements, bringing new concepts of human rights and more rights in the ambit of human rights. There is wider discussion and debate about the fourth generation human rights. People are coming forward voluntarily for the cause of protection of human rights, and the number of volunteers and NGOs working for safeguard of human rights is increasing manifold. As a result,



the number of complaints of alleged human rights violation was bound to increase. The State Human Rights Commissions are also redressing a big chunk of such complaints now, and the sensitivity and the respect for human rights amongst civil authorities is increasing day by day. Due to these factors, the number of complaints of alleged human rights violations, received in the Commission, has slightly come down from 1,17,808 cases registered by the Commission in the year 2015-2016, to 91,887 cases in the year 2016-2017. The complaints, received in the Commission, cover a wide range of issues such as alleged human rights violation due to negligence by a public servant in the prevention of such violation, alleged 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 and atrocities on SC/ST, etc. The Commission also took cognizance of the intimation 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.

2.26 Details of the last five years perspectives on certain important parameters are given below:

Statement Showing No. of Cases Registered (Data as per CMS as on 03/10/2017)					
Financial Year	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Death in Police Encounter (Inc. Code 812)	168	137	188	179	169
Custodial Death (Judicial) (Intimation) (Inc. Code 301)	1557	1577	1588	1668	1616
Custodial Death (Police) (Intimation) (Inc. Code 807)	143	140	130	151	145
Child Labour (Inc. Code 101)	121	63	716	66	50
Bonded Labour (Inc. Code 601)	3865	3174	1017	3345	240

Statement Showing No. of Cases Registered (Data as per CMS as on 03/10/2017)					
Financial Year	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Inaction by the State Government/ Central Govt. Officials (Inc. Code 1505)	9755	9546	14799	16258	13578
Gang Rape (Inc. Code 1307)	673	659	759	572	455
Rape (Inc. Code 1311)	704	827	978	707	535
Children (Inc. Code 100-112)	1745	1568	2560	1657	1211
Health (Inc. Code 200-205)	1487	1475	2738	2535	1832
Jail (Inc. Code 300-318)	2739	2597	2583	2670	2447
Police (Inc. Code 800-823)	35523	32968	34954	35533	27845
Pollution/Ecology/Environment (Inc. Code 900-904)	291	271	334	457	446
Women (Inc. Code 1300-1314)	8449	8991	9904	8105	7413
Defence Forces (Inc. Code 1600-1617)	120	144	144	128	72
Para-Military Forces (Inc. Code 1700-1717)	239	141	178	160	152
SC/ST/OBC (Inc. Code 1900-1904)	3987	3210	3555	3454	3207

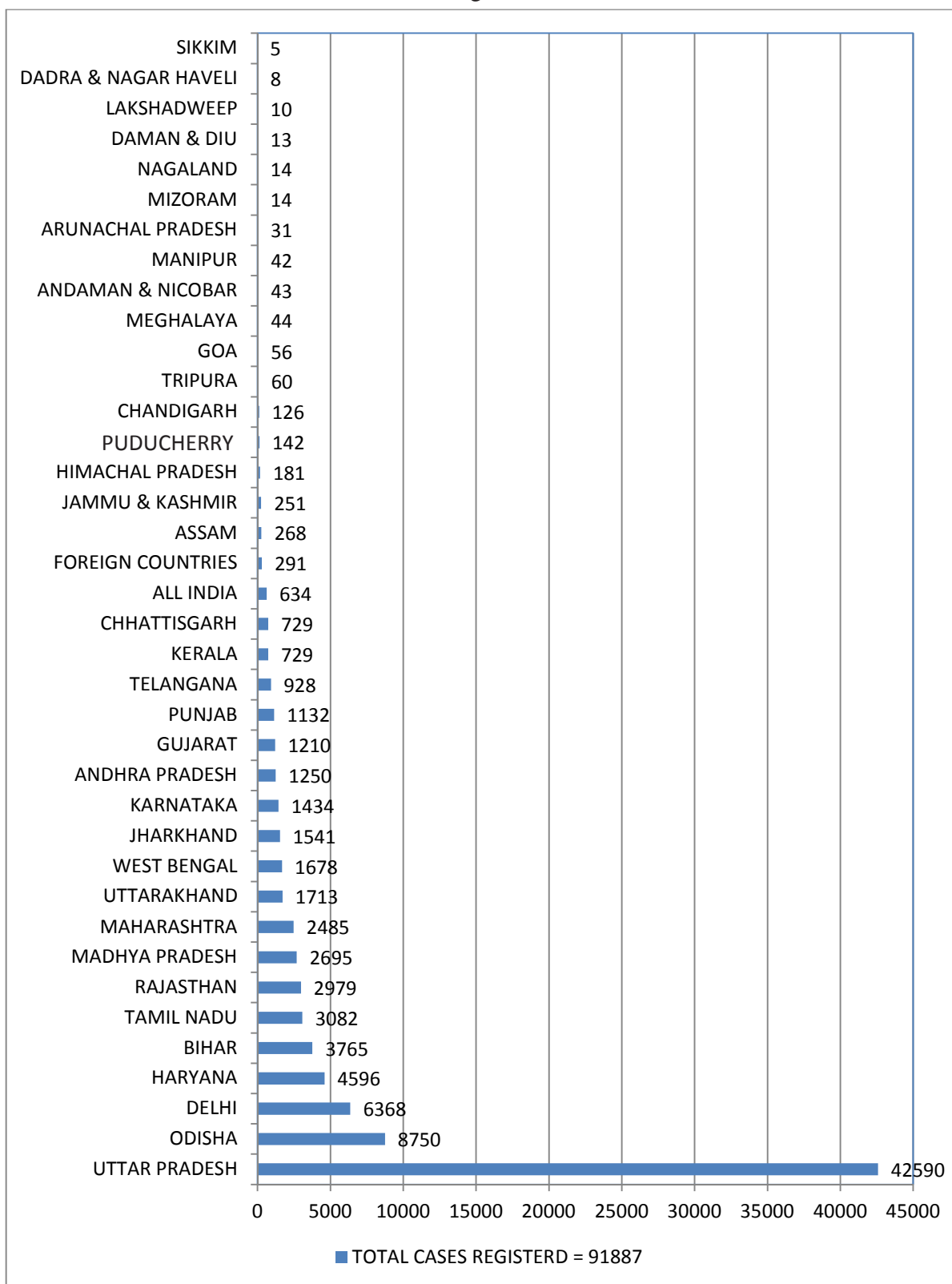
Note : Data may vary on account of re-verification done.

Human Rights Violation Cases

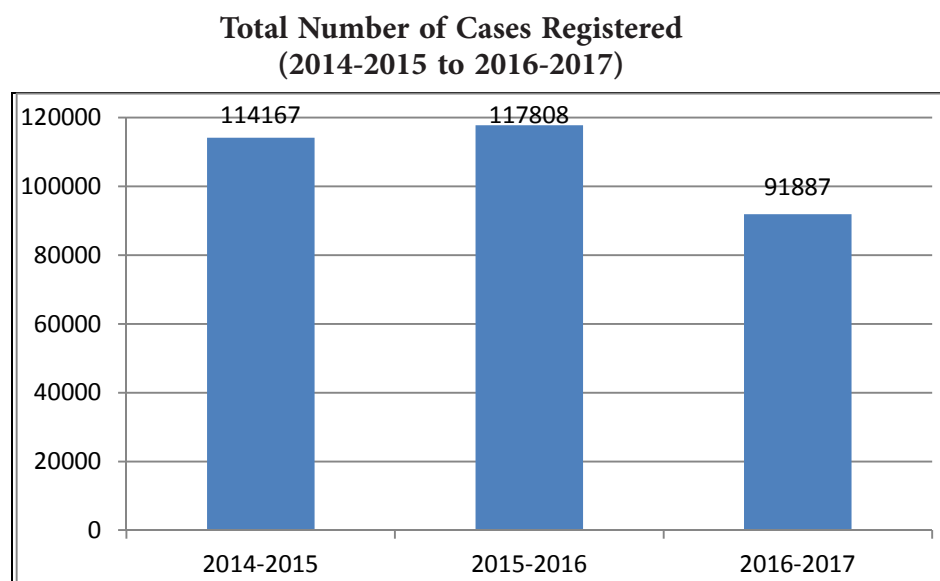
2.27 A total of 91,887 cases were registered in the Commission (**Annexure-1**) during 2016-2017. Out of these 91,887 cases, 42,590 cases related to the State of Uttar Pradesh, 8,750 cases to Odisha, 6,368 to State of NCT of Delhi, 4,596 to Haryana and 3,765 to Bihar. The State-wise break-up of the number of cases registered is given in the next page:



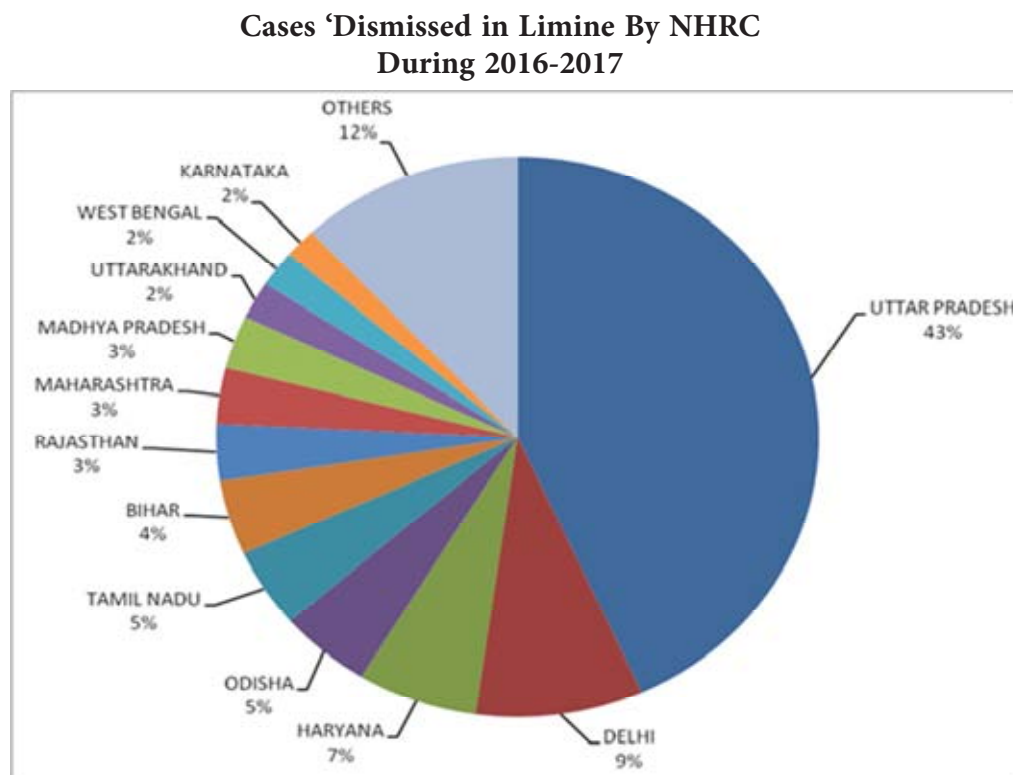
State/UT-wise Number of Cases Registered in NHRC During 2016-2017



2.28 The Graph below gives a comparative analysis of total number of cases registered in the NHRC from 2014-2015 to 2016-2017:

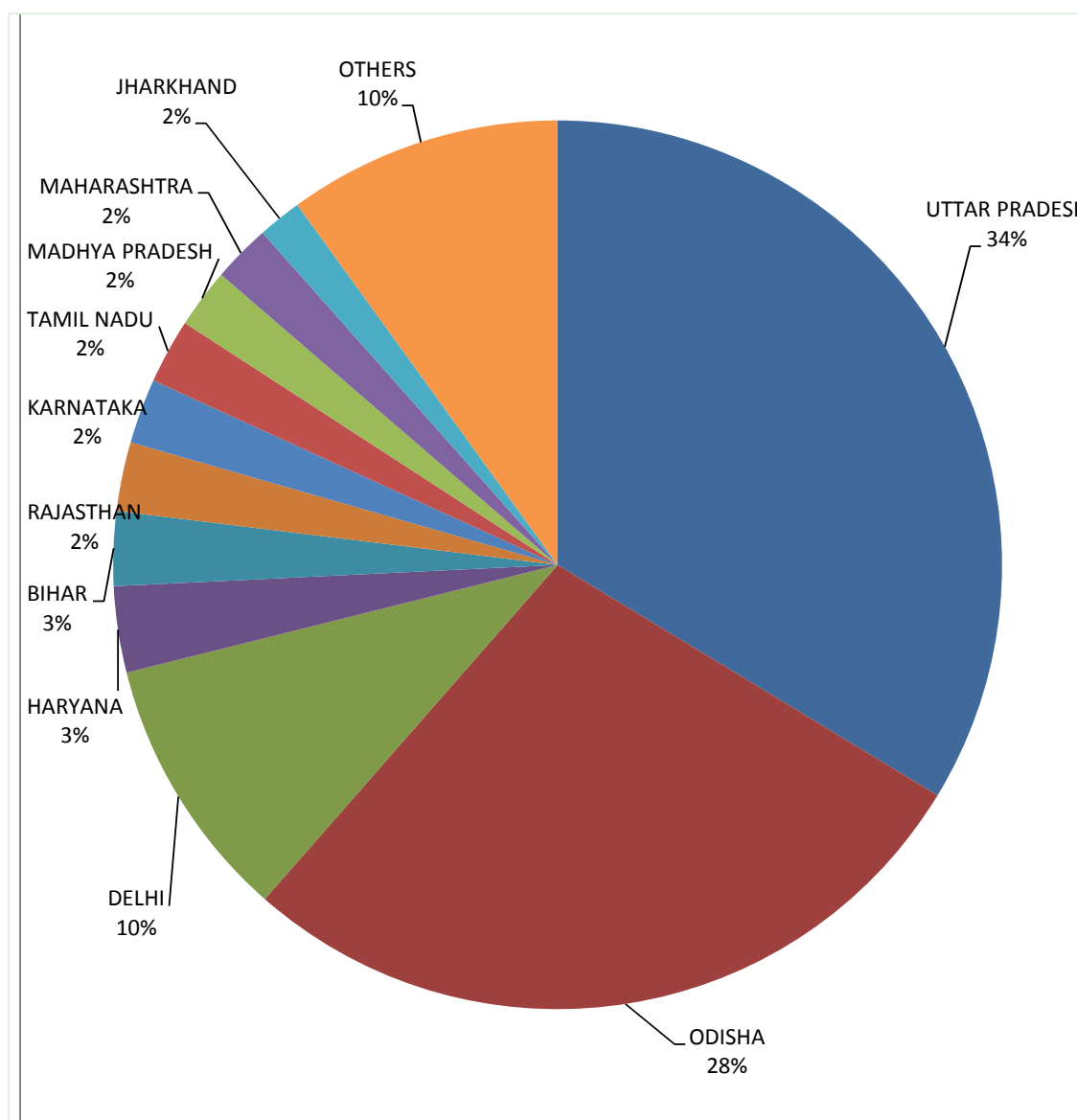


2.29 It disposed of 1,00,699 cases during 2016-17, which included cases of previous years as well. Of the total number of cases disposed of by the Commission during the year under review, 42,527 were dismissed 'in limine'. The state wise break up of these cases is furnished in the chart below:



2.30 The Commission disposed of 17,666 cases with directions to the appropriate authorities for remedial measures during 2016-2017. The state wise break up of these cases is furnished in the chart below:

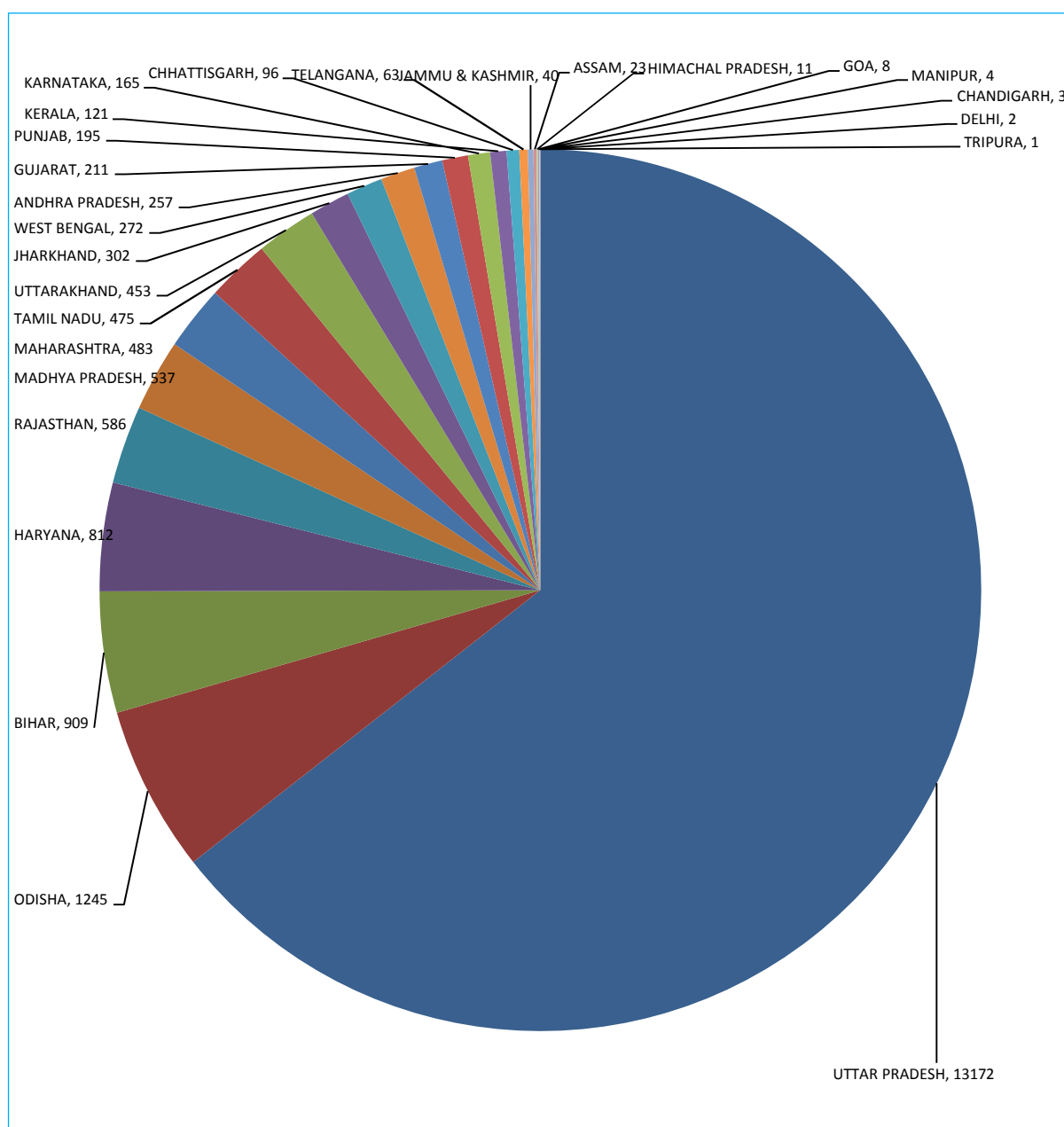
**Cases 'Disposed of with Directions' (DWD) by NHRC
During 2016-2017**



2.31 20,446 cases were transferred to the State Human Rights Commissions for disposal in accordance with the provisions of the PHRA. This is also reflected in the chart below. For details of State/Union Territory-wise cases disposed of by the NHRC during 2016-2017 please see **Annexure-2**.

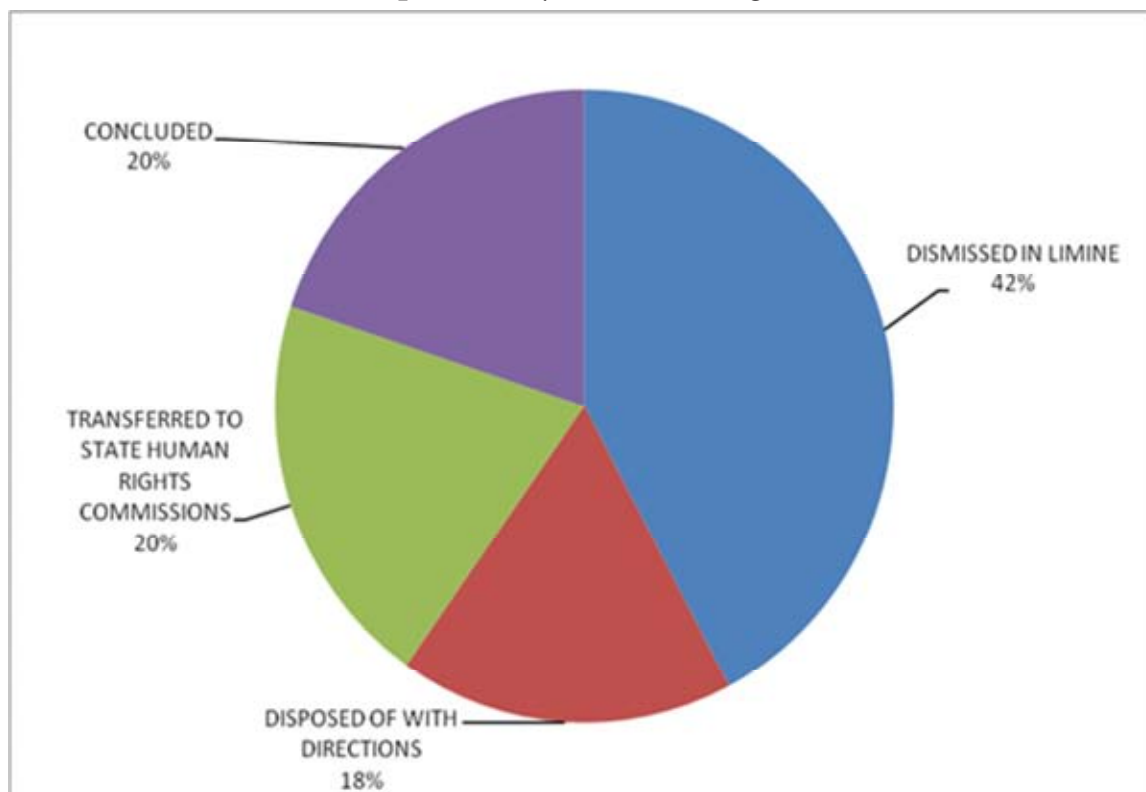


Cases Transferred to SHRCs by NHRC During 2016-2017
(Total Cases = 20446)



2.32 The disposal of the cases during the year in different ways, by dismissal of the complaint (DIL), by directions to the authorities for taking appropriate action, transferring of the complaint to the State Human Rights Commissions, closure of the case upon consideration of the reports received in pursuance to the Commissions, is indicated in the chart in the next page:

Cases Disposed of by NHRC During 2016-2017



2.33 At the end of the reporting period, i.e. on 31 March 2017, the total number of cases pending with the Commission was 32,085. These covered 2,537 cases awaiting preliminary consideration and 29,548 cases pending either for want of reports from the authorities concerned or the reports received being pending for consideration by the Commission (**Annexure-3**).

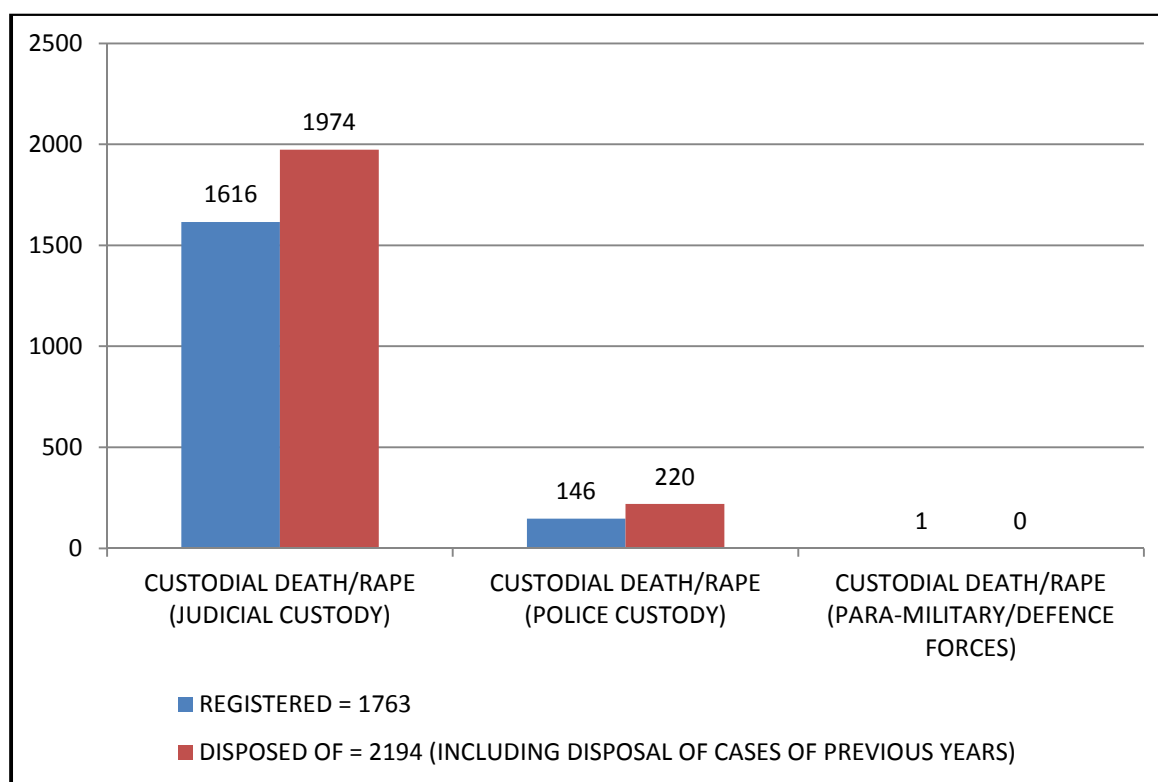
CIVIL AND POLITICAL RIGHTS

Preventing Custodial Violence

2.34 The NHRC received 1,616 intimations concerning death in judicial custody¹, and 146 intimations of death/rape in police custody during the year 2016-17. An intimation of death in para-military/defence forces custody was also reported during the review period. It disposed of 2,194 cases of custodial death. Out of these 2,194 cases, 1,974 cases relate to death in judicial custody, 220 cases of death/rape in police custody and one case of death in the custody of para-military forces. These figures contain cases of previous years as well. The Graph, in the next page gives the details.

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

NUMBER OF CUSTODIAL DEATHS/RAPE CASES REGISTERED & DISPOSED OF DURING 2016-2017



NHRC Recommendations for Monetary Relief and its Compliance

2.35 During the period 01.04.2016 to 31.03.2017, the Commission recommended `11,24,87,500/- as payment of monetary relief/compensation to the victim/next-of-kin of the deceased in 531 cases. Out of the 531 cases, in which monetary relief was recommended, compliance reports were received in 96 cases, wherein a total amount of ` 1,95,15,000/- was paid to the victim/next-of-kin of the deceased. The State/Union Territory-wise details of these cases are at **Annexure-4**.

2.36 As on 31.03.2017, compliance reports were awaited in 435 cases, wherein monetary relief amounting to ` 9,29,72,500/- was recommended during the year (**details of the cases at Annexure-5**). Apart from the recommendations for monetary relief, the Commission also recommended disciplinary/departmental action against the errant public servants in 16 cases and prosecution of errant public servants in 4 cases. The Commission, once again, recommends to all those States/Union Territories 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.



State-wise Details for Recommendations Made by the Commission During 2016-17, for Monetary Relief, Compliance of which is Pending, (As on 31.03.2017)

Sl. No.	Name of State Government	No. of Cases
1)	Government of Uttar Pradesh	133
2)	Government of Odisha	50
3)	Government of Maharashtra	29
4)	Government of Bihar	25
5)	Government of Rajasthan	23
6)	Government of NCT of Delhi	20
7)	Government of Madhya Pradesh	17
8)	Government of Jharkhand	17
9)	Government of Haryana	15
10)	Government of Andhra Pradesh	13
11)	Government of West Bengal	12
12)	Government of Gujarat	11
13)	Government of Manipur	11
14)	Government of Assam	9
15)	Government of Tamil Nadu	8
16)	Government of Kerala	7
17)	Government of Punjab	7
18)	Government of Chhattisgarh	6
19)	Government of Telangana	6
20)	Government of Meghalaya	4
21)	Government of Mizoram	3
22)	Government of Karnataka	2
23)	Government of Tripura	2
24)	Government of UT of Chandigarh	2
25)	Government of Jammu & Kashmir	1
26)	Government of Nagaland	1
27)	Government of Jharkhand	1

2.37 With regard to compliance reports relating to cases pertaining to previous years, compliance was awaited in 202 (96+106) cases, for details see **Annexures - 6 & 7.**



2.38 Annexure-6 gives details of 96 cases pending compliance for the year 2015-2016 in respect of payment of monetary relief. The State of Uttar Pradesh tops the list as the Commission, till date, has not received proof of payment in 34 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 (11), NCT of Delhi (8), Madhya Pradesh (6), Maharashtra (6), Haryana (6), Odisha (5), Rajasthan (4), Bihar (3), Telangana (3), Tripura (3), West Bengal (2), Assam (2), Chhattisgarh (1), Manipur (1) and Tamil Nadu (1). These cases involved allegation of malfunctioning in primary health centers and government hospitals, abduction/rape, including of a Scheduled Caste/Scheduled Tribe/Other Backward Class woman, and non-payment of pension, etc. 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 cultural 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.

2.39 Annexure-7 gives details of 106 cases pending compliance on the recommendations made by the Commission for the period 2000-2001 to 2014-2015 for payment of monetary relief, disciplinary action and prosecution. It would be seen that out of the 106 cases cited in the aforementioned Annexure, in four cases the concerned State Governments have challenged the recommendations of the Commission in their respective High Courts, wherein the final decision is awaited. These States are Jammu and Kashmir (2), Kerala (1) and Odisha (1) (Sl. Nos. 96, 97, 98 & 101 of Annexure-7). 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 shall provide immediate respite to the victims/next of their kin at the earliest.

Cases Dealt by Investigation Division

2.40 During the given period from 01.04.2016 to 31.03.2017, the Investigation Division of NHRC has dealt with total of 7,865 cases, including 4,356 cases of deaths in Judicial custody, 495 cases of deaths in Police custody and 3,014 fact finding cases. The Division has also dealt with 178 cases of death in Police encounters.

Spot Enquiries

2.41 During the period 01.04.2016 to 31.03.2017, the Investigation Division conducted spot enquiry in 58 cases of alleged violations of civil & political rights, economic, social and cultural rights. These cases relate to custodial deaths/rapes; sexual harassment by policemen; custodial



torture; false implication; illegal detention; bonded and child labour, atrocities on Scheduled Castes, Scheduled Tribes, and other disadvantaged groups; inhuman conditions in jails and shelter homes for children.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Silicosis

2.42 The Commission organized a series of meetings with the Experts on Silicosis, which were held on 23rd January, 7th February and 6th April, 2017 to give concrete suggestions with regard to preventive, remedial, compensatory and rehabilitative measures to alleviate the problem of silicosis suffered by the affected workers and their family members. The suggestions were later drafted in the form of recommendations. The Commission has filed an affidavit in the Supreme Court of India in writ petition (Civil) No. 110 of 2006 (Peoples' Rights and Social Research Centre vs. Union of India), submitting its recommendations on preventive, remedial, rehabilitative and compensation aspects of Silicosis.

Core Group of NGOs

2.43 In pursuance of Section 12 (i) of the Protection of Human Rights Act, 1993, the Commission, right from its inception, has been encouraging the efforts of the non-governmental organizations and institutions working in the field of human rights. The Commission associates and partners with the reputed NGOs in various programmes and projects initiated by it in the area of human rights awareness. As awareness of human rights is an important factor in the better protection of human rights, there is greater scope of increasing interaction with the NGOs. In order to facilitate its interaction with the NGOs and civil society organizations, the Commission constituted a Core Group of NGOs on 17 July 2001. The Group was last reconstituted on 16 September 2011 with 11 Members. The matter regarding reconstitution of the Core Group of NGOs is again under consideration of the Commission for giving wide representation of credible NGOs from diverse fields of human rights across the country.

State Human Rights Commissions

2.44 The National Human Rights Commission was constituted in 1993, in accordance with the Protection of Human Rights Act (PHRA), 1993. The PHRA, in Section 21, provides for constitution of the State Human Rights Commissions (SHRCs) in the States. The existence and functioning of a Human Rights Commission in the States will go a long way in the protection of human rights in the remote areas of the country. The Commission has been urging the State



Governments, where no State Commission has been constituted, to initiate action to constitute a State Human Rights Commission to fulfill its responsibilities to the people in accordance with the Protection of Human Rights Act, 1993 and the 'Paris Principles'.

2.45 The Commission takes the initiative to hold regular interactions with the State Human Rights Commissions to explore and further strengthen the areas of cooperation and partnership.

2.46 As per the information received from the State Governments, 26 States have set up State Human Rights Commission (SHRCs) viz., Andhra Pradesh and Telangana (Combined SHRCs), Assam, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Kerala, Jammu & Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tripura, Tamil Nadu, Uttar Pradesh, Uttarakhand, Haryana, Goa, West Bengal and Meghalaya.

2.47 The Commission has taken up with the Government, the issues for evolving a basic structure, minimum manpower and financial requirement of SHRCs to enable them to discharge their functions assigned under the Protection of Human Rights Act, 1993 and to streamline complaint disposal by the SHRCs. In response, Government of India has requested to send the details of complaints registered, disposed off and pending division-wise existing manpower, financial allocation, details of shortage being experienced and justification for providing additional amount etc. by each SHRC. The details, as received from SHRC, have been sent to the Government of India on 23rd March, 2015. Further response of the Government of India is awaited.

2.48 The Commission has organized a Conference of SHRCs in New Delhi on 17 February, 2017. The Conference was attended by Chairpersons/Acting Chairpersons, Members, Secretaries, SHRCs and State Government officers, besides the Chairperson, Members, Secretary General and other officers of the NHRC.

2.45 One of the key motivations for India's law makers, the NHRC and SHRCs under the Protection of Human Rights Act, 1993 was the protection and promotion of the inviolable rights of the people of India. The powers bestowed upon these Commissions as well as the broad and inclusive definition of human rights contained in the PHR Act, 1993 mandate the NHRC and SHRCs to address the whole range of civil, political, social, economic, and cultural rights. The Commission had attempted to draw up an agenda for the NHRC-SHRC Meeting which was broad-ranging and which would attempt to address several issues of concern to both, including the matter concerning suitable amendments to the PHR Act to lend greater power to the decisions of these Commissions as well as greater financial and functional autonomy to enable these Commissions to function more effectively. Another objective of the meeting would be to deliberate upon other important concerns regarding human rights defenders, promotion of



human rights through training and awareness programmes, as well as sharing of best practices of the NHRC with SHRCs, particularly in the area of conducting inquiries and investigation.

2.50 Justice Shri Dalveer Bhandari, Member of the International Court of Justice, while inaugurating the conference, stated that the principle of ‘universality’ is the cornerstone of human rights. This principle was first emphasized in the Charter of the United Nations in 1945 and reiterated through the adoption of the Universal Declaration on Human Rights (UDHR) in 1948. He added that the Preamble to the Constitution of India is also premised on the principle of the dignity inherent in all human life. Justice Bhandari expressed his appreciation for the role that NHRC and SHRCs have played in the protection and promotion of human rights, reflected in the increase in the number of complaints received by the NHRC since its inception. Justice Bhandari further emphasized that there is a need to further strengthen these Commissions, especially the SHRCs to enable them to function more effectively.

Swachh Bharat Abhiyan in NHRC

2.51 The Commission imbibes the idea of *Swachh Bharat Abhiyan* and has organized Special drives for weeding out of old records during April to June, 2016 and also initiated action for disposal of obsolete items. The Commission also organized special cleanliness drives in and around the *Manav Adhikar Bhawan*, office building of the National Human Rights Commission and special drives for cleanliness of the IT items and its accessories of the Commission. Banners with slogans were displayed in the building and website for spreading awareness about ‘*Swachh Bharat Abhiyan*’. Various circulars were also issued to all the Divisional Heads requesting to carry out special drives for their officers and staff to participate in the cleanliness drives organized for *Swachh Bharat Abhiyan* during the year 2016-17.

2.52 Following *Swachhta* Action Plan (SAP) has also been prepared for the year 2017-18 for the office of the Commission:

S. No.	Programmes/Schemes/Activities
1.	Display of banners on the NHRC website and at main entrance, back gate, central courtyard and other areas in the building.
2.	Issue of circulars to all the Divisional Heads requesting to organize special drives to undertake the cleanliness and awareness campaign for the officers & staff of the Commission.
3.	Special drives for weeding out of old records.
4.	Organizing of special cleanliness drives periodically for the purpose.
5.	Organizing of special drives for cleanliness of the IT items and its accessories.
6.	Procurement of house-keeping/toiletry items for special drives.



Good Governance, Development and Human Rights

2.53 The National Human Rights Commission is also paying heed to the governance issues in the country in regard to human rights and development. In the wake of digitalization, development and minimum government, NHRC puts its effort to provide a forum for discussing different issues relating to good governance process, identify its challenges and thus initiated the process of formulating a roadmap towards achieving the goal of good governance among different stakeholders.

2.54 Considering these issues, NHRC organized regional workshops on 'Good Governance, Development and Human Rights' in Shillong on 3-4 November 2016 in collaboration with the Government of Meghalaya, with participating States of Manipur, Mizoram, Nagaland and Assam, and in Bengaluru in collaboration with the Government of Karnataka on 20-21 December 2016 with the participating States of Tamil Nadu, Kerala, Andhra Pradesh and Telangana.

2.55 Both these workshops were chaired by Justice Shri H. L. Dattu, Chairperson, NHRC. The participants of the workshops were Senior Government Officers such as DGs/IGs, DMs, SDMs, SSPs, Senior State Officers, Welfare Officers, Labour Officers, SHRC and representatives from NGOs/Civil Society Organizations, Academicians and Research Scholars from Universities and Block/Panchayat Officers.

2.56 The objective of the workshops was to raise awareness amongst all stakeholders about the importance of good governance in relation to human rights and development. The workshops provided a platform to discuss effective examples of governance practices that have had an impact on the promotion of human rights and to draw lessons from them with focus on essential elements of good governance, including promotion of rule of law, strengthening services delivery and government institutions, participation and combating corruption in the public and private sectors to identify further issues & challenges and share best practices of good governance and development as well as to put forth a vision for the road ahead. Apart from these, the workshops also sought to address capacity building programmes and to identify the gaps that need to be bridged.

2.57 As good governance and human rights go hand in hand, the Commission strives to promote not only human rights but also good governance. With these regional workshops, the Commission aims to provide a base for the furtherance of human rights awareness and attainment of good governance.

Regional Conferences on Business and Human Rights

2.58 The Commission organized a series of meetings with the Industry Federations/Organizations to encourage voluntary compliance of human rights principles by the business



enterprises. The Commission organized three Regional Conferences on Business and Human Rights, viz., the South Regional Conference at Chennai on 17 January 2017, West Regional Conference at Mumbai on 22 February 2017 and East Regional Conference at Kolkata on 2 June 2017. It finally culminated with the development of a draft 'Self-Assessment Tool' to be used by the industry on a voluntary basis.

Research Studies Commissioned by NHRC

2.59 NHRC has entrusted research studies on varied subjects to educational and research institutions and civil society organizations. The subject of the studies are – (i) Corporate Duty to Respect Human Rights in Indian Context - An Empirical Study on the State of Human Rights Practices based on Ruggie's Framework in Business Firms in India; (ii) Status of Human Rights Education in Colleges and Universities; (iii) Challenges for Protection, Dissemination and Promotion of Human Rights Education through Law School: A Study of North India; (iv) Custodial Justice: An Investigation into Causes of Deaths in Uttar Pradesh, West Bengal, Maharashtra and Tamil Nadu; (v) Assessing the Status of Health System Delivery and Factors Determining Access to Quality Health Care for Tribal Communities; (vi) A Study to Understand the Changing Dynamics and Challenges of Surrogates; (vii) Agrarian Crisis and Farmers Suicides – An Empirical Study of Endemic States – Issues and Concerns; (viii) Human Rights Education in Schools in India : A Comparative Study of Syllabus Prescribed by State Education Boards; and (ix) Human Index Report and Human Rights Index.

Oral Statement made by NHRC, India at a Plenary Session

2.60 Shri J. S. Kochher, Joint Secretary (Training & Research), represented NHRC India in the United Nations Human Rights Council Meeting for consideration of the Third Universal Periodic Review of India from 20-21 September 2016 at Geneva, Switzerland. During the session, NHRC, India made an oral statement at the plenary session of the United Nations Human Rights Council.

TRAINING PROGRAMMES AND WORKSHOPS

NATIONAL

Important Programmes Organized by NHRC

2.61 During the year 2016-17, the Commission had approved 560 training programmes of 125 institutes relating to various aspects of human rights, which includes 403 One Day Awareness Generation Programmes on Human Rights for Block Panchayat Level and Nagar Panchayat Level in different States namely Assam, Chhattisgarh, Madhya Pradesh & Tripura. Out of these,

116 training programmes were successfully organized by 98 institutions, Universities/Colleges, Administrative and Police Training Institutes and Non-Government Organizations. In addition, 09 training programmes of 04 institutes, approved for the year 2015-16, were also conducted during 2016-17, thus taking the overall total to 125 training programmes conducted by 102 institutes.

INTERNATIONAL

2.62 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. 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), now renamed as GANHRI, and the Asia Pacific Forum of National Human Rights Institutions (APF) are of significance.

2.63 During the period under review, the National Human Rights Commission of India, which is a member of the GANHRI and a founder member of the APF participated in a number of meetings, seminars, workshops and interaction with foreign delegates in the Commission.

Cooperation with Global Alliance of National Human Rights Institutions (GANHRI)

2.64 The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), renamed as GANHRI, is a representative body of National Human Rights Institutions established for the purpose of creating and strengthening National Human Rights Institutions which are in conformity with the Paris Principles. It performs this role through encouraging international co-ordination of joint activities and co-operation among these National Human Rights Institutions, organizing international conferences, liaison with the United Nations and other international organizations and, where requested, assisting governments to establish a National Institution. It works to create and strengthen National Institutions and to ensure that they conform to the Paris Principles. In all its activities and in its Presidency, Committees, Working Groups, etc., the GANHRI will ensure gender equality. NHRC, India



is a GANHRI member with 'A' status accreditation which was earlier accredited in 1999 and reaccredited in 2006 and 2011. Next re-accreditation of NHRC India with the Global Alliance of National Human Rights Institutions (GANHRI) is scheduled in the Sub-Committee on Accreditation (SCA) Session from 14-18 November, 2016.

29th Annual Meeting of GANHRI

2.65 NHRC India was a member of the GANHRI Bureau in the year 2003 and from 2007 to 2011. The NHRC India Delegation led by Chairperson Justice Shri H. L. Dattu, accompanied by the Secretary General and Joint Secretary attended the 29th Annual Conference of the Global Alliance of National Human Rights Institutions (GANHRI) on promotion and protection of human rights at Geneva from 21.03.2016 to 23.03.2016. The General Meeting elected India as a Bureau Member of GANHRI from Asia Pacific Region (APF). Thus, after a gap of four years, NHRC India has again become a member of the GANHRI Bureau with the election of Justice Shri H. L. Dattu, the present Chairperson of the Commission from this year i.e. 2016. In the opening plenary session, Justice Shri H.L. Dattu, Chairperson, NHRC India delivered a statement on the role of NHRC India in the priority theme of "Business and Human Rights".

2.66 The National Human Rights Commission, India delegation consisting of Justice Shri H. L. Dattu, Chairperson, NHRC and Joint Secretary (P&A), NHRC attended GANHRI Special Session on Human Rights of Older Persons on 14 June, 2016 and ASEM Expert Forum on Human Rights of Older persons from 15-16 June, 2016 at Seoul, South Korea. The GANHRI Special Session on Human Rights of Older Persons, co-sponsored by the Asia Pacific Forum of National Human Rights Institutions, focused on exploring ways on how national human rights institutions contribute to the international community and share experiences to promote and protect human rights of older persons. At the ASEM Expert Forum on Human Rights of Older Persons, the right to health and eradication of poverty were discussed amongst ASEM members, experts from international organizations including the UN and NGOs. Justice Shri H. L. Dattu, during his deliberations with other delegates, highlighted the need for well being and protection of elderly persons which is mandated in the Constitution of India and the various Government policies such as Maintenance & Welfare of Parents and Senior Citizens Act, 2007. The Chairperson highlighted steep rise in population of older persons in India and challenges before India to provide older persons security, good health, dignity, equality and comfortable living. The Chairperson also focused on Commission's initiatives and best practices that promotes and protects the rights of older persons in India from the perspective of human rights.

2.67 The Chairperson, NHRC also made a presentation on NHRC India initiatives regarding rights of older persons. The presentation also covered two major themes, viz., NHRC India

initiatives and best practices of NHRC for the rights of older persons. The NHRC initiatives elaborated on constitution of Core Group on protection and welfare of the older persons, suggestions offered to government on National policy for senior citizens, promotion of research, spreading awareness through training, seminars and bringing out publications for wider dissemination of information on rights of elderly. The best practices of NHRC India mentioned about having a robust & comprehensive Complaint Management System, organizing of open hearings & camp sittings regularly, awarding of monetary compensations, having a functional Focal Point for Human Rights Defenders, taking Suo-motu Cognizance and issuance of directions for establishing Old-Age Homes and Appellate Tribunals, introduced MD courses in Gerontology in Medical colleges, appointed Special Rapporteurs and calling for action taken reports from State Governments on recommendations made by the Commission.

2.68 Justice Shri H. L. Dattu, Shri S. C. Sinha, Member and Dr. S. N. Mohanty, Secretary General attended the GANHRI Bureau Meeting, Knowledge exchange, General meeting, Annual Conference, a one-day Commonwealth Forum of National Human Rights Institutions (CFNHRI) meeting and event with UNICEF on NHRIs and children's rights at Geneva, Switzerland from 06.03.2017 to 09.03.2017.

2.69 NHRC India also displayed a two and a half minutes short film on 'Rights of Elderly in India'. The film depicts the plight of an elderly woman, who is so lonely that instead of being frightened, she smiles to see even a thief to his shock. The film tries to show that elderly people not only have financial needs, they have the right to be loved and cared by the family members who leave them alone and meet occasionally.

NHRC Participation in Other International Meetings

2.70 Shri U. N. Sarkar, Assistant Director (Publication) attended the Asia Pacific Forum (APF) Communications Network Workshop at Kathmandu, Nepal from 26.04.2016 to 28.04.2016.

2.71 Smt. Chhaya Sharma, DIG (Investigation) attended a meeting to follow up issues raised in an International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) 29th meeting side-event organized by Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) on NHRI procedures for victim's access to justice before, during and after conflict at Bangkok, Thailand from 02.05.2016 to 03.05.2016.

2.72 Smt. Sumedha Dwivedi, Sr. Superintendent of Police (Investigation) attended the International Conference: A 21st Century Approach to the work of Ombudsmen, jointly organized by the office of the Northern Ireland Ombudsman and the Northern Ireland Human Rights Commission at Belfast, Ireland from 25.05.2016 to 27.05.2016.



2.73 Shri Nitin Kumar, Inspector attended the advanced face-to-face Training Workshop on Investigating Allegations of Torture being organized by Asia Pacific Forum of NHRIs (APF), Association for the Prevention of Torture (APT) and International Rehabilitation Council for Torture Victims (IRCT) at Kuala Lumpur, Malaysia from 06.06.2016 to 10.06.2016.

2.74 Shri Sanjay Kumar Jain, Sr. Superintendent of Police-1 attended the World Congress on the Death Penalty at Oslo, Norway from 21.06.2016 to 23.06.2016.

2.75 Dr. S. N. Mohanty, Secretary General, NHRC attended the Conference on Accelerating Efforts to End Child Marriage through joint action with Regional and National Human Rights Institutions at Kathmandu, Nepal from 02.06.2016 to 03.06.2016.

2.76 Justice Shri H. L. Dattu, Chairperson and Dr. Ranjit Singh, Joint Secretary (P&A) attended the GANHRI Special Session on Human Rights of Older Persons and ASEM Expert Forum on Human Rights of Older Persons, at Seoul, Korea from 14.06.2016 to 16.06.2016.

2.77 Dr. Sanjay Dubey, Director (Admn.) attended the face-to-face training workshop on Human Rights Education blended learning course being organized by Asia Pacific Forum of NHRIs (APF) at Bangkok, Thailand from 26.09.2016 to 30.09.2016.

2.78 Justice Shri H. L. Dattu, Chairperson and Dr. S. N. Mohanty, Secretary General attended the Global Alliance of National Human Rights Institutions (GANHRI) Bureau Meeting at Berlin, Germany from 12.10.2016 to 14.10.2016.

2.79 Justice Shri H. L. Dattu, Chairperson, Justice Shri D. Murugesan, Member and Shri Sunil Arora, Incharge Joint Registrar (Law) attended the 21st Annual General Meeting of Global Alliance of National Human Rights Institutions (GANHRI) at Bangkok, Thailand from 26.10.2016 to 27.10.2016.

2.80 Shri Khwaja A. Hafeez, Assistant Registrar (Law) attended the Conference on Human Rights & Sustainable Development Goals organized by Afghanistan Independent Human Rights Commission (AIHRC) at Kabul, Afghanistan from 26.11.2016 to 27.11.2016.

2.81 Shri C. S. Mawri, Assistant Registrar (Law) and Shri S. K. Gauba, Section Officer participated in the face-to-face training workshop of blended learning course on sexual orientation, gender identity and sex characteristics (SOGISC) at Colombo, Sri Lanka from 12.12.2016 to 16.12.2016.

2.82 Shri J. S. Kochher, Joint Secretary (T&R) attended the two days Workshop on 'The Garment Industry & Business & Human Rights – closing the Gap' at Bangkok, Thailand from 30.01.2017 to 31.01.2017.

Interaction with Foreign Delegates in the Commission

2.83 Ms. Leilani Farha, Special Rapporteur on adequate housing, OHCHR visited NHRC India on 11.04.2016 to examine / discuss issues related to the promotion and protection of the right to adequate housing, and more broadly to the links between the right to an adequate standard of living, of which housing is a central aspect.

2.84 Mrs. Anne Marchal, First Counsellor, Head of Political Affairs, EU visited the Commission to have a meeting with Dr. S.N. Mohanty, Secretary General, NHRC on 9 May 2016. Eleven participants from EU Political Counsellors had attended the above meeting.

2.85 A delegation consisting of 12 people, led by Justice Stella Arach Amoko, the Chairperson of the Law Development Centre (LDC) Management Committee, Uganda and a Judge of the Supreme Court of Uganda from Law Development Centre (LDC), Uganda visited NHRC India on 19.10.2016 for an interaction with the Chairperson, Members and Secretary General to discuss the functioning of the Commission.

2.86 The NHRC Bangladesh (JAMAKON) delegation consisting of seven staff members, namely, Md. Nazrul Islam, Full Time Member, Professor Meghana Guhathakurta, Honorary Member, Mr. Enamul Hoque Chowdhury, Honorary Member, Professor Akhter Hussain, Honorary Member, Begum Nurun Naher Osmani, Honorary Member, Hiranmaya Barai, Secretary, NHRC Bangladesh, Ms. Lubna Yasin, Representative from UNDP, visited India for an interaction with NHRC India on 23.11.2016 and with other Commissions from 21 to 22 November, 2016 to gather ideas and share experiences from different sources. The delegation showed eagerness to be conversant with the procedures and business of NHRC India, which they consider to be the most versatile organization in the APF region, to learn about Complaint Management System, cases hearing, administrative procedures, etc.



NHRC : ORGANIZATION AND FUNCTIONS

3.1 The NHRC, India was set up by an act of Parliament on 12 October 1993, known as the Protection of Human Rights Act, 1993 (PHRA). The reason for enacting it was the ‘better protection and promotion of human rights’. It is an institution which acts as a compliment to the judiciary and is engaged in – the protection and promotion of the constitutionally enshrined fundamental human rights of all people in the country.

3.2 As per the Act, ‘human rights’ means the ‘rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.’ “International Covenants” means the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Racial Discrimination (CERD). The Government of India acceded to the ICCPR and ICESER in 1979. It ratified the CEDAW in 1993, the CRC in 1991 and the CERD in 1968. It would not be out of place to mention that the Constitution of India takes into account all those features that have been spelt out in the above-mentioned conventions. Many of the rights referred to in the ICCPR and the ICESCR were available to Indian citizens when India became independent as these rights are primarily reflected in Part III and Part IV of the Constitution under the broad heading of Fundamental Rights and Directive Principles of State Policy.

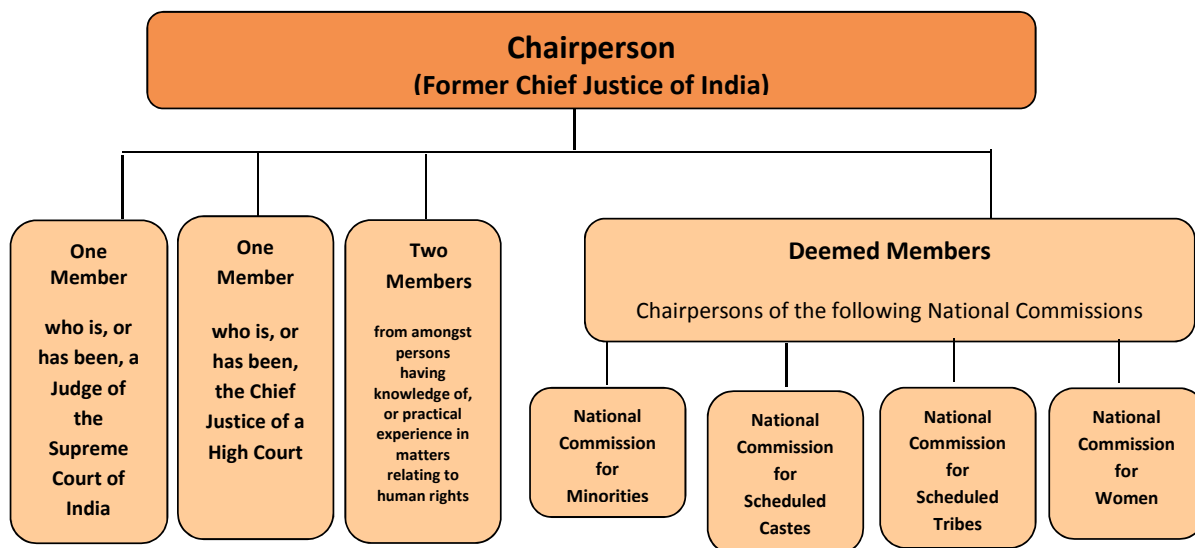
3.3 Unquestionably, the greatest strength of the PHRA has been to provide the Commission with ‘independence, functional autonomy and broad mandate’, which are essential to the composition and proper functioning of a NHRI conforming with the Paris Principles. NHRC, India is an embodiment of India’s concern for the promotion and protection of human rights.

3.4 The experience of NHRC-India, ever since it came into existence, has shown that its independence and strength is well guaranteed by the requirements of the statute relating to its composition, appointments procedure, powers relating to inquiries, extensive range of functions and specialized divisions and staff.

Constitution

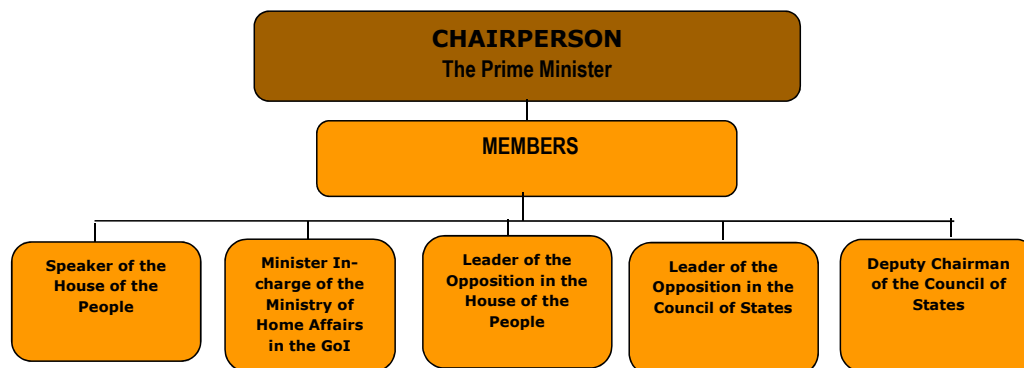
3.5 The Commission consists of a Chairperson, four full-time Members and four deemed Members. The statute lays down qualifications for the appointment of the Chairperson and Members of the Commission.

Constitution of NHRC



3.6 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



3.7 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.



3.8 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.

Powers Relating to Inquiries

3.9 The NHRC has been given all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, in particular in respect of summoning and enforcing the attendance of witnesses and examining them on oath; receiving evidence through affidavits; requisitioning any public record or copy thereof from any court or office; and any other matter that may be prescribed. In case of breach, it calls upon the concerned government to take remedial measures and pay compensation to the victim or to the next of their kin and also remind public servants of their duties and obligations. Depending on the case, it may further recommended to initiate proceedings for prosecution, or any other suitable action that it may deem fit, against the person(s) concerned.

3.10 Another important feature, which it fully utilizes, is *suo motu* cognizance of serious matters, which it takes on the basis of newspaper and media reports.

Extensive Range of Functions

3.11 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.

Specialized Divisions and Staff

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

3.13 The Law Division of the Commission handles registration and disposal of around one lakh cases each year, registered on the complaints of human rights violation made to it either by the victim or any other person on behalf of the victim or on receipt of intimation from authorities concerned, regarding custodial death, custodial rape, death in police action, or on *suo motu* cognizance by the Commission 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 2016-2017, 91,887 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 different 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 few important publications like “NHRC & HRDs : The Growing Synergy”, etc. 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.

3.14 The Law 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.

3.15 The **Investigation Division** is headed by an officer of the rank of Director General of Police, assisted by one DIG and three Senior Superintendents of Police. Each Senior Superintendent of Police heads a group of investigative officers (comprising of Deputy Superintendents of Police and Inspectors). The functioning of Investigation Division is multi dimensional, details of which are as follows:

- (a) **Spot Enquiries:** The Investigation Division conducts spot enquiries and recommends suitable action in the cases revealing human rights violation. The spot enquiries conducted by the Investigation Division not only bring out the truth before the Commission, but also send a message to all concerned – complainants, public servants, etc. The Commission orders a Spot enquiry in a range of cases concerning a variety of public authorities – from illegal detention, extra judicial killing, etc. by the police to the lack of facilities in a hospital leading to avoidable deaths. Spot enquiries enhance the confidence of general public too and instill their faith in NHRC’s role in protection of Human Rights. The Investigation Division also gives its comments / observations, whenever sought, in the cases of advice / analysis, besides monitoring cases whenever referred to it.
- (b) **Custodial Deaths :** As per the guidelines issued by the Commission to the State authorities, the latter are supposed to intimate the Commission in case of any death occurring in custody (whether in police or judicial custody) within 24 hours. The Investigation Division, on receiving such intimations, analyzes the reports in order to find out if there was any human rights violation involved. In order to make the analysis more professional and accurate, Investigation Division seeks help from the forensic experts on the panel of NHRC.
- (c) **Fact Finding Cases :** The Investigation Division also calls upon different authorities to submit reports in “Fact Finding” Cases as directed by the Commission. The Investigation Division critically analyzes these reports with a view to assist the Commission in deciding



whether there is any violation of Human Rights or not. In cases where reports received are misleading or not factual, the Commission orders a spot enquiry as well.

- (d) **Training** : The officers of the Investigation Division deliver lectures in training institutes and other forums, wherever they are invited to spread human rights literacy and promote awareness of the safeguards available for the protection of the human rights.
- (e) **Rapid Action Cell** : From the year 2007, the Investigation Division has taken the initiative of making a Rapid Action Cell functional in the Commission. Under RAC cases, the Investigation Division deals with cases which are of a very urgent nature e.g. the allegation may be regarding child marriage likely to be performed the very next day; the complainant fears that a relative or friend picked up by the police may be killed in a false encounter, etc. In all such cases, the Investigation Division takes up the urgent follow up required by the Commission. It may include speaking to authorities/complainants personally over telephone to ascertain facts, faxing the complaint to various authorities for reference and asking them to send their replies expeditiously. During the period 01-04-2016 to 31-03-2017, the Investigation Division has dealt with 307 such Rapid Action Cases where immediate intervention by the Commission was able to prevent not only Human Rights violation but also threats to human life and liberty in a number of cases.
- (f) **Debate Competition for Personnel of Central Armed Police Forces** : In order to promote human rights awareness and spread sensitization towards it among the personnel of the Central Armed Police Forces, the Investigation Division has been regularly organizing a debate competition on such issues, every year, since 1996. Moreover, since 2004, as directed by the Hon'ble Chairperson, zone-wise debate competitions have also been organized as a run up to the final competition, for larger participation of the CAPFs all over the country. The semi-final and the final rounds of teams selected during the zonal competitions are subsequently organized in the Capital. Each year, this event sees enthusiastic participation and an outstanding level of debate.
- (g) **Debate Competition for Personnel of State Police Forces**: The police today are duty bound to conform to the principles of Human Rights in discharging their duties. The lower and middle levels in the police forces are extremely crucial from the viewpoint of Human Rights because they directly come into contact with general public while discharging their duties. Since the year 2004, an attempt has been made by the Investigation Division of National Human Rights Commission to increase the level of human rights awareness among the police officials by providing necessary financial assistance to State/UTs Police Forces for conducting Debate Competitions for State Police Force personnel. At present Commission is providing amount of `15000/- for holding debates in States/UTs.



- (h) **Visits to Places of Detention** : There are a large number of complaints related to the living condition in jails and other institutions where persons are detained or lodged for the purpose of treatment, reformation or protection. The IOs of the Investigation Division visit Jails and other institutions in different states, as and when directed by the Commission and submit reports presenting the facts regarding specific allegations or the general condition of prisoners or inmates with regard to their human rights based on which needed follow-up action is pursued by the Commission.

3.16 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 facilitates in monitoring the implementation of NHRC recommendations by the Central, State and Union Territory authorities. It further helps 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 (Training & Research) and Joint Secretary (Programme & Administration), a Joint Director (Research), Section Officer, Assistant, Research Consultants, Research Associates, Research Assistants and other secretarial staff.

3.17 The *Training Division* is responsible for spreading human rights literacy among various sections of the society. As such, it trains and sensitizes various government officials and functionaries of the State and its agencies, non-government officials, representatives of civil society organizations and students on different human rights issues. For this purpose, it collaborates with the Administrative Training Institutions/Police Training Institutions and Universities/Colleges. 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 (Training), an Assistant and other secretarial staff. Coordination Section, under the Training Division, deals with all the international matter, including international treaties and conventions. Besides, it coordinates with Camp Commission Sitzings/Open Hearings in various States/UTs, organizes Commission's annual functions, viz., Foundation Day and Human Rights Day. It is also tasked with taking care of protocol duties as well as organizing visits of Chairperson/Members/senior officers of the Commission, both at the national and international levels. Coordination Section consists of an Under Secretary, Section Officer, Assistants, Research Consultant and other secretarial staff.

3.18 The *Administration Division* looks after the establishment, administrative and related requirements of the Chairperson and Members of the NHRC. Besides, it looks into personnel, accounts, library and other requirements of the officers and staff of the NHRC. The work of the Division is handled by the Joint Secretary (P&A) who is assisted by a Director, Under Secretaries, Section Officers, Assistants and other secretarial staff.

3.19 The Media and Communication 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'. The Publication Unit, responsible for bringing out all the publications of the Commission, is another crucial Unit of the NHRC. The Annual Report, NHRC English and Hindi Journal, "Know Your Right" Series are a few of the salient publications brought out by this Unit. Furthermore, it looks into applications and appeals received under the Right to Information Act, 2005.

Special Features

3.20 The reach of the Commission is considerably enhanced by the appointment of Special Rapporteurs and the constitution of Core and Expert Groups. It has evolved transparent systems and procedures for discharging its functions. The Commission has laid down procedures to transact its own business by formulating regulations.



Chapter 4

CIVIL AND POLITICAL RIGHTS

A. Terrorism and Militancy

4.1 Today, India is facing the daunting challenge of protecting the human rights of common man on the face of terrorism. With the grim spectre of terrorism continuing to target innocent and defenseless people, the task of protection of human rights has become all the more challenging.

4.2 A peaceful society rests on the pillars of justice and individual's 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 is mostly the common people, whose rights are violated.

4.3 An increase in the activities of terrorists and naxalites has made the role of security forces even more demanding. They are increasingly 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 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.

4.5 The Commission from time to time has reiterated 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 humanity. India remains an important ally in the global war on terrorism. It has fought against terrorism for over fifty years and has learnt a great deal from its success and failures. The endeavor 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 human, rational and secular.

B. Custodial Violence and Torture

4.6 Custodial violence and torture is so rampant in this country that it has become almost routine. It represents the worst form of excesses by public servants entrusted with the duty of law enforcement. The Commission regards crimes like rape, molestation, torture, fake encounter in police custody as manifestations of a systemic failure to protect human rights of one of the most vulnerable and voiceless categories of victims. Therefore, it is deeply committed to ensure that such illegal practices are stopped and human dignity is respected in all cases. Besides awarding compensation to the victims or next of their kin, the Commission's efforts are also geared towards bringing an end to an environment in which human rights violations are committed with impunity under the shields of "uniform" and "authority within the four walls of a police station, lock-up and prison, where the victims are totally helpless".

4.7 The Commission has issued various guidelines in this regard. One of such guidelines is that a death in custody has to be reported to the Commission within 24 hours. Though all custodial deaths may not be crimes or the results of custodial violence or medical negligence, it is important that no assumption is made without thorough enquiry and analysis of reports like inquest report, post-mortem reports, initial health screening report, magisterial enquiry report, etc. Compliance of the guidelines of the Commission by the State authorities, therefore, plays a crucial role in quick disposal of cases relating to custodial deaths. However, it has been seen that some deaths are reported after considerable delay or not reported at all, and in many cases reports are forwarded to the Commission only after issuance of conditional summons to the authorities concerned.

4.8 In the year 2016-2017, the Investigation Division has dealt with a total of 4,851 cases of custodial deaths, including 4,356 cases of death in judicial custody and 495 cases of death in police custody. The Division has also dealt with 178 cases of deaths in encounter with security/police forces.

C. Important Illustrative Cases

a) Custodial Deaths

Judicial Custody

1. *Death of an Accused Madan (23 Years) on 18.08.2015 in the Custody of PS Central Faridabad, Haryana*

(Case No. 7030/7/3/2015-PCD)

4.9 The Commission received an intimation that one Madan, aged 23 years, was arrested by the Faridabad Police on 18.08.2015 at 0040 hrs. in connection with a theft case. Soon after the arrest, his health condition deteriorated and he was rushed to the nearby Badshah Khan Hospital, Faridabad, where he died at 0440 hrs., while undergoing treatment.



4.10 The Commission examined all the reports in the matter received from the State authorities. It was reported that Madan was arrested on 18.08.2015 at 12.40 a.m. He was declared dead at 04.40 a.m., within four hours of his arrest. There was nothing on the police record to show the time of his arrest. Further, he was not medically examined immediately after his arrest. Fifteen injuries were noticed on the body of the deceased during inquest proceedings and 11 injuries were noticed in the post-mortem report, which remained unexplained. Copy of the Daily Dairy revealed that, on 17.08.2015, HC Sandeep lodged his departure in case investigation vide Sl. No. 13 at 10.30 p.m. The information of arrest and death of Madan was lodged in the daily dairy vide DD No. 3 dated 18.08.2015 at 3.20 p.m., which was 11 hours after the death. The mother of the deceased alleged that her son was picked up on 11.08.2015 from Munirka bus stand seven days prior to his death. According to the Magisterial Enquiry Report, there were several contradictions in the statements of the police officials as regards the mode of travel, time of arrest, etc. According to the Magistrate, such contradictions in the statements recorded barely hours after the death could only be interpreted as deliberate concoction of false stories in order to cover up the misdeeds of the police. Thus, the Enquiry Magistrate concluded that the death of accused Madan was a result of injuries inflicted upon him in the police custody. On the findings of the Enquiry Magistrate, a case FIR No. 134/16 dated 13.04.2016 u/s 302/343/34 IPC was registered at P.S. Central Faridabad against the police personnel and was being investigated by the Crime Branch.

4.11 The Commission took note of the shocking state of affairs that indicated that the policemen who were in search of an accused in a theft case, picked him up and tortured him to death without anybody's knowledge. The facts narrated by the police were a sheer attempt to hide the incident under the pretext of investigation of the theft case. No civilized law allowed custodial cruelty. The cruelty, as found resorted to by the police officials, showed that the same sprang out of a perverse desire to cause suffering rather than eliciting any material evidence relevant to the case. The police officials crossed all the limits of civility. The conduct of the said police officials amounted to a gravest violation human rights of the deceased. The Commission has directed the Government of Haryana to show cause under Section 18(a)(i) of the Protection of Human Rights Act, 1993 as to why a monetary compensation of ₹ 5,00,000/- (Rupees Five Lakh only) should not be recommended to be paid to the next-of-kin of the deceased.

4.12 The matter is still under consideration of the Commission.

2.. Death of Undertrial Prisoner, Raju alias Rajendra, while in Judicial Custody, in the Central Jail, Kota, Rajasthan

(Case No. No.922/20/21/2013-JCD)

4.13 On receipt of an intimation of custodial death of undertrial prisoner, Raju *alias* Rajendra on 29.04.2013 in the custody at Central Jail, Kota, Rajasthan, the Commission called upon its



Director General (Investigation) to collect requisite facts and reports.

4.14 The Commission perused the record, particularly the medical treatment record, post-mortem report and the magisterial enquiry report, received in response to its directions. The deceased was reportedly undergoing treatment first in the Jail Hospital and later in the MBS Hospital for pyorrhea and malaria with psychotic depression with septicemia. The doctors deposed before the Enquiry Magistrate that, as per viscera and histopathology report, the final cause of death of the prisoner was Pneumonia and septicemia. Though the Enquiry Magistrate did not raise suspicion or find negligence in the death of the deceased, presence of considerably large size of bedsores i.e. 15x10 cms on both buttocks showed negligence on the part of the jail hospital and MBS Hospital, Kota.

4.15 The Commission, therefore, obtained medical opinion of medical experts on its panel about the medical treatment provided to the deceased to rule out any negligence. The medical expert on the panel of the Commission, Dr. Thejaswi H T, Assistant Professor of Forensic Medicine, PGIMER and Dr. RML Hospital, New Delhi, opined that during autopsy, the deceased was found to have pressure sores measuring 15cms x10cms, infected with pus pockets. The cause of death was given as pneumonia and septicemia. It is a well-known fact that pressure ulcers are painful, debilitating and potentially serious outcome of a failure to provide sufficient nursing or medical care. Hence, there was negligence on the part of Jail Hospital and MBS Hospital, Kota, as pressure sores are largely preventable and its development adversely impacted the clinical condition of the patient, contributing to his death.

4.16 In view of this opinion of the medical expert, it was established that there was negligence on the part of the jail hospital and MBS Hospital, Kota in providing sufficient nursing or medical care resulting in violation of right to life of the deceased prisoner guaranteed under Article 21 of the Constitution. The Commission, therefore, directed to issue a notice to the Chief Secretary, Government of Rajasthan to show cause u/s 18 of the PHRA 1993, as to why monetary compensation should not be recommended to be paid to the next-of-kin of the deceased undertrial prisoner Raju *alias* Rajendra for violation of his human rights.

4.17 In response to the notice, the Joint Secretary to the Government of Rajasthan, vide report dated 20.03.2015, opposed the grant of compensation on the ground that the best possible treatment was provided to the deceased (prisoner) who died due to pneumonia/ septicemia, and his death was natural death and that no carelessness was made by the jail administration.

4.18 The Commission considered the report of the Joint Secretary to Government of Rajasthan on 11.07.2016 and observed that the Enquiry Magistrate has not considered the fact that, during autopsy, the deceased was found to have pressure sores measuring 15 cm x 10 cm, infected with



pus pockets. It is quite obvious that pressure ulcers are very painful, debilitating and it is serious outcome of a failure to provide sufficient medical care. The pressure sores are preventable and its development adversely impacted the clinical condition of the patient, contributing to his death. Therefore, the negligence on the part of jail hospital and MBS Hospital Kota to provide Medicare Care to the patient cannot be ruled out. Hence, the next-of-kin of the deceased prisoner are entitled for monetary relief under Section 18 of Protection of Human Rights Act.

4.19 The Commission, therefore, recommended to the Government of Rajasthan to pay monetary compensation of ₹1,00,000/- (Rupees One Lakh only) to the next-of-kin of the deceased Raju *alias* Rajendra on account of violation of his human rights. Compliance report along with the proof of payment of the compensation is awaited.

*3. Death of an Undertrial Prisoner in Judicial Custody in Sub-Jail, Bhongir, Andhra Pradesh
(Case No.403/1/14/09-10-JCD)*

4.20 This case pertains to the death of an undertrial prisoner Goura Siddulu, 25 years of age, on 04.09.2009 in the judicial custody of Sub-Jail, Bhongir, Andhra Pradesh. Pursuant to the directions of the Commission, the authorities submitted the reports. Inquest Report did not notice any external injury. Post-mortem report indicated: (i) 4×3 cm contusion over scalp on left parietal region, reddish in colour; (ii) 3×3 cm contusion over muscles attached to the left side of trachea, reddish in colour; (iii) on internal examination, the stomach was having two contusions of size 6×9 cm and 2.9 cm×3cm with stomach wall reddish black in colour; and (iv) the greater omentum was having contusion of size 15×6 cm on reddish black colour. Cause of death, was opined as “Acute respiratory distress syndrome from cardio myopathy”.

4.21 Magisterial enquiry was conducted by the Revenue Divisional Officer of Bhongir, Nalgonda District who stated that the prisoner complained of breathing problem on 04.02.2009. He was admitted in the Government Area Hospital, Bhongir and later on referred to the Osmania General Hospital, Hyderabad, where he died during treatment. The wife and mother of the deceased stated that a day before his death, the deceased was in good health and that he died due to beatings by the CI of Police Yadagiri Gutta. However, the Enquiry Officer rejected the allegations of mother and wife of the deceased and did not find any foul play in the death of the deceased. It was concluded that the deceased died due to “acute respiratory distress syndrome from cardio myopathy”. However, in view of family’s economic condition, he recommended to sanction ₹ 2,00,000/- (Rupees Two Lakh only) to the next-of-kin as financial assistance.

4.22 As per the directions of the Commission dated 15.03.2011, the treatment record was examined by the Forensic Expert on its panel, Dr. Adarsh Kumar, Associate Professor, Forensic Department, AIIMS, who concluded that the cause of death, opined by the doctors ‘as acute



respiratory distress syndrome from cardiomyopathy' appears to be misleading. Considering the chronology of events (acute in origin) and the findings mentioned in the post-mortem report, as well as the viewing of the video CD of post-mortem examination procedure, the cause of death may be 'shock and haemorrhage as a result of multiple injuries to vital organs as described which is traumatic in origin and not due to disease process'. These types of injuries are usually produced as a result of severe blow to abdomen by blunt force impact by object. The injury to stomach and omentum, as described, are deep seated and are characteristic of severe blunt trauma to abdomen. The Commission, on 31.07.2011, directed to obtain the comments of the District Magistrate, Nalgonda, on the observations of the forensic experts on the panel of NHRC. The District Magistrate, Nalgonda, vide a report dated 22.10.2014 stated that : "Injury No. 1: Contusion Scalp is only external in nature and there was no corresponding internal injury to vital organ brain. Injury No.2: Contusion in the Muscle of Trachea didn't cause only internal injury. Injury No. 3: Contusion 2 number in Stomach wall did not cause internal injury to vital organ like Stomach, internal liver, as there is no hemorrhagic fluid collected in peritonic cavity. Injury No. 4: Contusion over greater Omentum is of no significance as there is no bleeding in abdominal cavity. Contrary to the above findings, enlarged heart with 150 ml of pericardial fluid, accumulations of fluid in plural cavities clinical manifestation and histopathological examination cause of death is due to acute respiratory distress syndrome to chronic heart problem like cardio maeopathy than shock and hemorrhage a result of multiple injuries to vital organs."

4.23 The Commission, on 07.03.2015, observed that there was a contradiction in the report of the Forensic Expert on the panel of the Commission and the report sent by team of Doctors, constituted by District Magistrate, Nalgonda and sought to have the comments of the Forensic Expert on the panel of the Commission. Dr. Adarsh Kumar, Assistant Professor, Forensic Medicine, AIIMS, New Delhi, furnished his opinion that the PMR mentions presence of enlarged heart only and does not mention about the weight of the heart as well as the thickness of various walls and other gross findings which would substantiate the cause of death as cardio myopathy. Further, the deceased was a young male of 25 years of age, and without any history of previous illness of heart, there was no evidence of chronic heart disease per se. On the contrary, there were massive injuries to internal organs like stomach with 2 contusions of size 6x9 cms and 2.9x3 cms with reddish black stomach wall and also contained coffee coloured fluid. This was clearly indicative of deep seated injury leading to collection of blood in the walls. The greater omentum was having contusion of size 15x6 cms with reddish black colour which again shows the deep seated injuries. Additionally, the chest cavity contained about 200 ml of reddish brown fluid which is nothing but the blood only as supplemented by edemated lungs having blood stained froth. All these findings, when considered in a holistic manner were clearly indicative of "Death due to shock and haemorrhage as a result of multiple internal injuries produced by severe blow to abdomen by blunt force impact by an object". As such, the submission of the doctor, who



conducted autopsy, as well as Dr. Devraj, Assistant Prof. Forensic Medicine, regarding the cause of death is to be treated as erroneous and illogical, irrational, particularly in view of the facts that the deceased was a healthy young person of 25 years of age without any history or clinical presentation of heart disease. It was a typical case of custodial torture which is extremely difficult to interpret by doctors who have no expertise in this field”.

4.24 The Commission, on 17.09.2015, perused the opinion given by the Forensic Expert on the panel of the Commission. On the basis of the opinion of the medical expert on its panel, it took the view that the State has failed to protect the prisoner in the custody making itself vicariously liable. The Commission therefore, issued a notice u/s 18 (a) (i) of PHRA, 1993 to the Chief Secretary, Government of Andhra Pradesh, calling upon him to Show Cause as to why monetary compensation should not be paid to the next-of-kin of the deceased undertrial prisoner Goura Siddulu for violation of his human rights as well as the next-of-kin.

4.25 The Director General of Prisons and Correctional Services, Telangana State, vide communication dated 04.05.2016, submitted a reply to the show cause notice, wherein it was stated that the undertrial prisoner Goura Siddulu died due to “acute respiratory distress syndrome from cardiomyopathy”, which is a natural death and there was no negligence on the part of the prison administration in providing constant medical treatment to the above deceased prisoner. Thus, there was no need to pay any compensation to the next-of-kin of the deceased. However, it was left to the decision and discretion of the authorities of NHRC to recommend or award monetary compensation to be paid to the next-of-kin of the deceased prisoner.

4.26 The Commission, on 29.06.2016, considered the matter again and observed that the response submitted by the Director General of Prisons, Government of Telangana was not convincing because it did not explain satisfactorily the injuries found on the body of the deceased. Keeping this in view and also considering the opinion of the Medical Expert, the Commission maintained the view that it is a case of custodial torture and a clear case of violation of human rights of the victim Goura Siddulu. Thus, the next-of-kin of the deceased undertrial prisoner Goura Siddulu were entitled for compensation. The Commission, therefore, recommended that a sum of ₹ 3,00,000/- (Rupees Three Lakh only) be paid to the next-of-kin of the deceased undertrial prisoner Goura Siddulu by the Government of Telangana. The compliance report along with the proof of payment has since been received and the case closed by the Commission.

4. Death of an Undertrial Prisoner in Central Jail No.1, Tihar, New Delhi, for Want of Timely Proper Medical Care

(Case No. 2632/30/1/2012-JCD)

4.27 The Commission received an intimation from the Superintendent, Central Jail No. 1,



Tihar, New Delhi regarding the death of an undertrial prisoner Sushil Kumar, aged 49 years, s/o Shri Amar Singh, in its custody.

4.28 Pursuant to the Commission's directions, a report was received, which revealed that the undertrial prisoner Sushil Kumar was lodged in the jail on 28.03.2012 in connection with a case u/s 279/304A of IPC. On 30.03.2012, he went to the jail dispensary and was treated for loss of appetite and weakness. On 03.04.2012, he was again treated and advised to review with jail's visiting medical specialist, but he did not go. On 09.04.2012, when he again came with the complaint of weakness, after providing necessary treatment, he was sent to LNJP Hospital for treatment where he was declared brought dead by the doctor. Post-mortem examination report did not reveal any fresh injury on the body of the deceased and, since the cause of death could not be ascertained, viscera was preserved. After considering the post-mortem report, FSL report of viscera and histopathological report, the board of doctors opined the cause of death as due to bilateral pulmonary tuberculosis, which is a natural cause of death. During the magisterial enquiry, the enquiry Magistrate concluded that there was a gap of about five hours in giving emergency medical treatment to the deceased. This occurred due to the callous and negligent attitude on the part of the jail administration at Central Jail No.1, Tihar, in that the first two hours from 08:00 a.m. to 10:00 a.m. were lost due to negligence on the part of jail officials. The Jail Supdt. tried to mislead the court by saying that the deceased was taken to DDU Hospital on 9/4/12 at 07:55 a.m., which was against the facts placed on record. The said fact *prima facie* showed negligence and dereliction of duty on the part of the jail official at Central Jail no.1, Tihar.

4.29 The Commission, on perusal of the material placed on record, observed that in view of the findings of the magisterial enquiry that the jail administration had been negligent in providing medical treatment to the undertrial prisoner Sushil Kumar, there had been violation of his human rights and for this the State must bear the liability. The Commission, therefore, issued a notice to the Government of National Capital Territory of Delhi, through its Chief Secretary, to show cause as to why monetary relief of ₹ 3,00,000/- (Rupees Three Lakh only) u/s 18 of the PHRA, 1993, be not recommended to be paid to the next-of-kin of the deceased.

4.30 The DG (Prisons), Government of National Capital Territory of Delhi was also asked to submit an action taken report on the findings of the magisterial enquiry. In response, a reply was received from the Law Officer, Prison, Delhi, wherein it was denied that the delay caused in getting the proper and timely treatment of the deceased prisoner was due to the negligence of the Jail Officials. It was attributed to other reasons such as availability of proper ambulance and stretcher in time and DAP escorts, etc. Further, it was submitted that during transportation of the patient from Central Jail to LNJP Hospital, the patient suffered a sudden cardiac arrest



and the accompanying doctor started CPR and ambo ventilation and injectables - atropine and Adrenaline was given to the patient, but he could not be revived and was declared brought dead at LNJP Hospital.

4.31 The Commission carefully considered the report and observed that admittedly there had been a delay in shifting the patient to the concerned hospital for his emergency treatment. The cause of death, as opined by the Board of Doctors, was due to Bilateral Pulmonary Tuberculosis. The Enquiring Magistrate, in his magisterial enquiry report, has categorically held that there was negligence and dereliction of duty on the part of the Jail Officials. In any case, the right to proper and timely treatment of the under trial prisoner has been grossly violated. Just because a prisoner is confined to jail as under trial, he does not cease to be a human being. In the instant case, the violation of his human rights was due to the negligence of the employees of the State, therefore, the strict liability of the State is clearly established. Therefore, the Chief Secretary to the Government of NCT of Delhi was directed to submit the compliance with proof of payment of compensation of ₹ 3,00,000/- (Rupees Three Lakh only), as recommended, to the next-of-kin of the undertrial prisoner Sushil.

4.32 The Superintendent, Prison Headquarters, Tihar, Janak Puri, New Delhi has since submitted the compliance report for payment of the amount of ₹ 3,00,000/- (₹ 75,000/- each to next-of-kin of the deceased – i.e., Sunny, Ajay, Vijay and Smt. Anita sons and wife of late Sushil Kumar along with proof of payment and the Commission, vide its proceedings dated 07.02.2017, has closed the case.

b) Unlawful, Arrest, Illegal Detention and Torture

5. Illegal Detention of One Safiujjaman Sarkar and Extortion of Money by Hariharpara PS Police, Murshidabad, West Bengal

(Case No. 1066/25/13/2014)

4.33 Activist Kirti Roy, in his complaint dated 25.06.2014, alleged illegal detention of one Safiujjaman Sarkar and extortion of money by Hariharpara PS Police.

4.34 Pursuant to the Commission's direction, report dated 28.11.2014 was received from the Superintendent of Police, Murshidabad, which though denied the allegation of extortion of money, states that disciplinary action was taken against the delinquent police officials. The Commission carefully considered the material on record and other facts and circumstances of the case and observed that the Hon'ble Apex Court, in the case of D. K. Basu, clearly laid down principles regulating the conduct of the police. Police is a disciplined service and any departure from it



must be dealt with by a disciplinary action which was followed in this case. Even though the Superintendent of Police denied the allegation, his pre and post behaviour amply established that the victim was subjected to illegal police action which amounted to a violation of the human rights of the victim.

4.35 In these circumstances, the Chief Secretary, Government of West Bengal was directed by the Commission on 13.07.2016 to show cause u/s 18(a)(i) of the PHR Act, 1993 as to why a monetary compensation of ₹ 25,000/- (Rupees Twenty-five Thousand only) should not be recommended to be paid to the victim within six weeks.

4.36 The matter is under consideration of the Commission.

6. Illegal Detention and Torture of Complainant's Son Rajiv alias Guddu, Resident of Village Yakabgarhi, Dhanaura Police Station, Jyotiba Phule Nagar, Uttar Pradesh, for 8 Days in Police Station

(Case No.12111/24/41/2012)

4.37 In this case, the complainant Shri Chandra Pal Singh, son of Duli Singh, resident of Village Yakabgarhi, Dhanaura Police Station, Jyotiba Phule Nagar, Uttar Pradesh, on 25.02.2012 alleged police inaction in regard to the illegal detention and torture of his son Rajiv *alias* Guddu for eight days in police station and the illegal demand of ₹ 5,00,000/- for his release.

4.38 A report of the Superintendent of Police, Amroha, was received, according to which it was clear that no plausible explanation was given by the police about the illegal detention of Rajiv. Though, it is established that Rajiv was called at the police station between 17.02.2012 to 29.02.2012, but justification of calling Rajiv was not mentioned in the G.D. The Commission was of the view that it is a case of violation of human rights of victim Rajiv. Accordingly, the Commission directed to issue a notice u/s 18(a)(1) of the PHRA, 1993 to the Chief Secretary, Government of Uttar Pradesh to show cause as to why the victim be not recommended compensation.

4.39 In response, the Joint Secretary, Government of Uttar Pradesh submitted a report dated 03.03.2016, along with a report of the Superintendent of Police, Amroha dated 09.11.2015, according to which Rajiv was brought to the Police Station from 17.02.2012 to 29.02.2012 for interrogation but no GD entry was made to this effect. On 29.02.2012, the SHO Rajabpur recorded the statement of Rajiv in case Crime No. 62/2012 u/s 302 Police Station Rajabpur, which was mentioned in the GD Entry No. 31. The Investigating Officer found that Shri Suman Kumar, the then SHO Rajabpur, and Head Constable Kamal Narayan Jha were partially guilty of violating the principles laid down by the Hon'ble Supreme Court of India in D. K. Basu case.



For this negligence of the above said police officials, they were severely reprimanded and entries were made in their personal records. The report has further stated that since the concerned police officials have been reprimanded, the Commission may reconsider the show cause given for interim relief to victim Rajiv.

4.40 The Commission considered the matter again on 24.03.2017 and observed that the report of the Joint Secretary, Home admits illegal detention of Rajiv from 17.02.2012 to 29.02.2012. Two police officials were found guilty of violation of the directions of the Supreme Court and were reprimanded. Therefore, the Commission was of the considered view that human rights of Rajiv have been violated by the public servants. Therefore, the Commission recommended u/s 18(i)(a) of PHRA, 1993, a sum of ₹ 50,000/- (Rupees Fifty Thousand only) as compensation to be paid to the victim Rajiv. Compliance report along with proof of payment is awaited.

c) Police High-handedness

7. One Prem Giri, aged 54 years, Resident of Mohalla Pokhra Baseri District Dholpur, Rajasthan Beaten to Death by Police

(Case No. 506/20/12/2014)

4.41 On 10.03.2014, the Commission received a complaint from an Activist Shri R. H. Bansal, who alleged that on 07.03.2014 one Prem Giri, aged 54 years, r/o Mohalla Pokhra Baseri, District Dholpur, Rajasthan was beaten to death by police. Pursuant to directions of the Commission, the Superintendent of Police, Dholpur reported that on 03.03.2014 at the time of incident, ASI Mahesh Yadav, who was on duty, entered the house of Prem Giri in the capacity of a police officer on duty. It was admitted that the family members of the deceased were not associated in the inquiry. In the meantime, a case crime No. 94/14 u/s 302/143 IPC was registered against ASI Mahesh Yadav and others on the complaint of son of the deceased. After investigation of the said case, prima-facie evidence was available against the police officials. The Hon'ble Rajasthan High Court also directed further investigation in the matter u/s 173 (8) Cr.P.C. against the ASI Mahesh Yadav and some others. According to the contents of the complaint dated 07.03.2014, of the son of the deceased, on 03.03.2014 his brother Rajender Giri was kidnapped so he went out for his rescue as his father Prem Giri was worried. On 07.03.2014, ASI Mahesh Yadav and named police officials entered into the house of Prem Giri and man-handled him and his wife resulting in the death of Prem Giri. The deceased was suspected to have complicity in the crime along with the named persons in the kidnapping of a victim.

4.42 The Commission carefully considered the facts and circumstances of the case and observed that the ASI Mahesh Yadav and his staff conducted themselves not as protectors of

law but as predators armed with State authority to kill anyone whom they wanted. The conduct of the concerned police officials is certainly condemnable as the same took away the life of an innocent person under the pretext of police action. Their action was grossly negligent and the same amounted to a serious violation of human rights of the deceased, for which the State was vicariously liable. The Commission directed Government of Rajasthan to show cause under Section 18(a)(i) of PHR Act, 1993 as to why a monetary compensation of Rs. 5 Lakh should not be recommended to be paid to the next-of-kin of the deceased.

4.43 The matter is under consideration of the Commission.

8. *False Implication of Gautam Kumar in a Case of Arms Act by Officer-in-Charge of P.S. Sambhuganj, Bhagalpur, Bihar*

(Case No. 4499/4/3/2014)

4.44 This case was referred to the Commission by Shri Anil Kumar Thakur, Judicial Magistrate First Class, Banka, Bhagalpur, Bihar. The Magistrate observed that Gautam Kumar Singh had been falsely implicated in a case of Arms Act on the basis of a defunct firearm, perhaps from the junkyard of the P.S. Malkhana. The Magistrate further observed thus:-

“The accused had to languish in jail for about 7 months i.e. from 25.10.2007 to 17.5.2008 due to this false implication, which was in violation of his constitutional right and human right.”

4.45 The facts of the case are that Sanjay Kumar Pandey, the then Officer-in-Charge of P.S. Sambhuganj registered crime No.145/2007 u/s 25 & 26 Arms Act stating that on 24.10.2007 at about 05.00 p.m., he had gone with his staff to village Karsop in connection with the investigation of crime No.144/2007, when he entered the house of Rajendra Singh along with two independent witnesses Jai Kishore Thakur and Sunil Kumar Singh, a boy ran out of the house. The police chased him and apprehended him. A country made Musket was recovered from the boy who was identified by the two independent witnesses as Gautam Kumar Singh.

4.46 After completion of investigation in case crime No.145/2007 P.S. Sambhuganj, the police submitted a charge-sheet in the court. The case was tried by Shri Anil Kumar Thakur, Judicial Magistrate First Class. The accused was acquitted on 19.07.2014 observing that it was a case of false implication.

4.47 The State preferred an appeal against the judgment of the Magistrate which was admitted by Sessions Judge, Banka on 27.01.2015. The operation of the judgment of the Trial Court was, however, not stayed by the Appellate Court.



4.48 The Commission carefully examined the judgment dated 19.07.2014 delivered by Judicial Magistrate First Class, who had observed that as per FIR, Sanjay Kumar Pandey, S.I., had recovered the illegal arm on 24.10.2007 at about 05.00 p.m. from the accused Gautam Kumar Singh at village Karsop where he had gone in connection with the investigation of crime No.144/2007, whereas the case diary of crime No.144/2007 revealed that Sanjay Kumar Pandey, S.I. was at Sambhuganj Bazaar from 04.00 p.m. to 05.30 p.m., on that day, as such the recovery of the illegal arm is a fabricated story, as he cannot be present at the same time at two different places. The Magistrate also noted that the Musket when produced in court was in a dilapidated condition. Its firing barrel was tied with rope. The striker and trigger was found completely unfixed and tied with a string. The bolt for fixing the striker to firing barrel was found absent. Thus, the Musket was not in a working condition. The Magistrate also discussed the testimony of Sergeant Major Umesh Kumar, who had examined the seized firearm. He noted that the witness had not test fired the weapon and had given opinion without disclosing the basis of its finding. He also noted that the two independent witnesses of the alleged recovery of firearm had refused to support the prosecution in the court. Both of them stated that they had been called to the police station and their signatures were obtained on the seizure memo at the police station. With these observations, the Magistrate acquitted the accused.

4.49 The Commission in its proceedings dated 31.08.2015 observed that the Judicial Magistrate First Class, Banka, while acquitting the accused, had given cogent and sound reasons for his judgment. No doubt, an appeal from the judgment of the Magistrate is pending, but the pendency of the appeal cannot be a bar on the Commission from proceeding with the inquiry. More so, because the appellate court has not stayed the operation of the impugned judgment. Considering all the facts of the case, the Commission observed that Gautam Kumar Singh was, *prima facie*, falsely implicated in a criminal case. The matter becomes all the more serious because admittedly, the victim had no criminal antecedents. The Commission, therefore, issued a notice to the Government of Bihar, requiring it to show cause as to why monetary relief u/s 18 of the PHRA 1993 be not recommended to be paid to Gautam Kumar Singh.

4.50 Since no reply to the notice was received, a reminder dated 05.02.2015 was issued to the Chief Secretary. In that reminder, it had been specifically indicated that the Chief Secretary, Government of Bihar would send his report on or before 26.02.2016 and if, for any reason, the reply was not received within the aforesaid date, the Commission would presume and assume that the Government of Bihar had nothing to say in the matter.

4.51 The matter was taken up during the Camp Sitting of the Commission at Patna, Bihar on 22.04.2016 and the Principal Secretary (Home), Government of Bihar reiterated that against the orders passed by the Chief Judicial Magistrate, the State had already filed an appeal and the Commission should wait for the outcome of the appeal that was pending before the District



Judge. This request was considered by the Commission on earlier occasion and by an order dated 31.08.2015, it had rejected the request of the State Government. The Commission, therefore, observed and directed as under:

“Since we are of the opinion that false implication of a person is a violation of his human rights, we are of the opinion that appropriate compensation requires to be paid to the victim. Accordingly, we recommend a sum of ₹ 1,00,000/- (Rupees One Lakh only) as compensation to be paid to the victim Gautam Kumar Singh by the State Government within four weeks. The Chief Secretary, Government of Bihar shall submit the compliance report with proof of payment within two weeks, thereafter. Put up after six weeks.”

4.52 Pursuant to the directions of the Commission, the District Magistrate, Banka vide communication dated 03.11.2016 forwarded a copy of the receipt regarding payment of compensation of ₹ 1,00,000/- (Rupees One Lakh only) to the victim Shri Gautam Kumar on 01.10.2016.

4.53 In view of compliance of the recommendation of the Commission, the case was closed on 30.12.2016.

d) Police Firing and Encounter

9. Fake Encounter of Mukhjit Singh by Anti Narcotic Cell in Amritsar, Punjab

(Case No. 673/19/1/2015-ED)

4.54 The Commission received an intimation dated 17.06.2015 from Commissioner of Police, Amritsar, Punjab regarding the death of one Mukhjit Singh *alias* Mukha, s/o Multan Singh in an encounter with the Anti-Narcotic Cell, Amritsar on 16.06.2015. According to the intimation, the deceased fired on the police party and, in retaliation, police party also opened fire in self-defense which resulted in the death of Mukhjit Singh.

4.55 The Commission examined all the relevant reports relating to the incident as furnished by the state authorities. The post mortem report indicated more than 30 lacerated wounds with multiple wounds and fracture on different parts of the body including many wounds on the vital parts of the body of the deceased. The cause of death of the deceased was shown in the report to be the injuries to the heart, lungs and liver.

4.56 The Magisterial Enquiry conducted by the SDM, Amritsar concluded that the encounter was genuine. According to the enquiry officer, the police laid a trap to apprehend one Jaggu, but when the car of Mukhjit stopped, he suddenly opened fire on the police party in apprehension of his arrest, and, in retaliation by the police, he was killed. Further, the report pointed out that



the deceased Mukhjit Singh was mistakenly understood to be Jaggu and the victim had also thought that the police had come to arrest him. In this confusion, there was an exchange of fire in which the deceased sustained bullet injuries and latter succumbed to the injuries.

4.57 According to the report of the Special Investigation Team, the incident took place at around 6.46 pm. The police party acted hastily without making any efforts to ascertain the identity of the occupant of the i20 Car. Also, no gunshot residue was found in the hand wash of the deceased. This ruled out the possibility of firing by the deceased. Further, it was revealed that there was no imminent danger to the police party necessitating the whole party to open fire on the said Car. Thus, according to the SIT, the so called encounter was fake and, accordingly, criminal action was initiated against the erring police officials.

4.58 The Commission, upon consideration of the matter vide its proceedings dated 30.11.2016, observed and directed as under:-

“Under the law, no one including the police had an unqualified right to take life of another. Death of a person by a police officer amounted to an offence of culpable homicide not amounting to murder unless it was established that the causing of death was not an offence in law. If a police officer killed someone in encounter, he or she must prove that the death was caused in the legitimate exercise of the right of private defense or in the use of force proportional to the resistance offered while arresting a person accused of an offence with death or life imprisonment. As from the record, the special investigation team concluded that it was a fake encounter and all the police personnel of the encounter party were responsible for the death of the deceased, the conduct of the police personnel amounted to a grave violation of human rights of the deceased.

The Commission issued a show cause notice to the Government of Punjab as to why monetary compensation of ₹ 5,00,000/- shall not be granted to the next-of-kin of the deceased as per Section 18(a)(i) of the PHRA, 1993.”

4.59 The matter is under consideration of the Commission.

10. One Kasar Mahto Killed and Four Others Seriously Injured in Police Firing in Village Pager of Hazaribagh District, Jharkhand

(Case No. 947/34/11/2013)

4.60 The Commission had received an intimation from the Superintendent of Police, Hazaribagh, about an incident of police firing in village Pager of Hazaribagh District, in which one person named Kasar Mahto was killed and four others were seriously injured. The intimation revealed that, on 23.07.2013, construction work at the site office of NTPC in village Pagar was



being started by Sub-Contractor Pradeep Kumar Singh. In the meantime, Shri Kamalnath Mahto reached the site and opposed the construction work, due to which a quarrel took place between Pradeep Kumar and Kamalnath Mahto. During the quarrel, Vikash (son of Pradeep Kumar) hit on the head of Kamalnath Mahto. This information was conveyed to the villagers by Shri Kamalnath and a large number of people assembled at the spot. Shri Pradeep Kumar informed the Police Station about the incident. On that information, police party reached the spot. The villagers started beating Vikash who had entered a house near the site. When police personnel tried to save him, the villagers started pelting stones on the police personnel, due to which one Constable got injured. The Constable in his self defence fired one round by his official duty weapon, but the situation could not be controlled and he had to fire a total of seven rounds in his self defence. In the firing, one person Kasar Mahto, aged 55 years, died while Rahul Mahto, Nanhoo Mahto, Makhan Verma and Ramesh Mahto got injured. The police personnel involved in the firing were placed under suspension. The Investigation Division of the Commission concluded that the analysis of the file shows that due to police firing and excess use of force, one person namely Kasar Mahto was killed and four others were seriously injured. The departmental inquiry has established the guilt/negligence of the police official in the incident and action has already been taken against them.

4.61 A notice u/s 18(a)(i) of the Protection of Human Rights Act, 1993, was issued to the Government of Jharkhand, to show cause as to why the Commission should not recommend monetary relief to the next-of-kin of the deceased and to the injured persons. Since no reply to the show cause notice has been submitted by the State Government, the Commission on 19.10.2016 recommended to the Government of Jharkhand, to pay the compensation of ₹ 3,00,000/- (Rupees Three Lakh only) to the next-of-kin of the deceased Kasar Mahto and ₹ 1,00,000/- (Rupees One Lakh only) each to the injured persons. Proof of payment is still awaited from the State Government.

e) Atrocities in Prisons

11. Grievous Injuries Inflicted to One Prisoner in an Attack by Co-prisoners in District Jail, Mau, Uttar Pradesh

(Case No.20338/24/53/2013)

4.62 Shri Rakesh Verma, National Chairman Jai Hind Anti Corruption, Panipat, Haryana on 27.05.2013 enclosed a press clipping of newspaper “Amar Ujala”, dated 26.12.2012, in which it was mentioned that one detainee was attacked by a group of accused persons detained in District Jail, Mau, Uttar Pradesh inflicting grievous injuries on his neck and the jail administration had failed to prevent the incident.



4.63 The Commission, on 12.06.2013, took cognizance and obtained a report dated 07.03.2014 from the DIG, Prison Administration and Correctional Services, Uttar Pradesh, Lucknow, which stated that the enquiry was entrusted to the DIG, Prisons, Gorakhpur who concluded that detainee Radhey Shyam Tiwari was found unconscious in the gallery of hospital of District Prison, Mau, Uttar Pradesh. His hands and legs were tied with a rope. Detenue Radhey Shyam Tiwari, in his statement, informed that he was taken to the lobby of hospital ward where detainee Ajit Choubey and Radhey caught hold of him and tried to strangle him by a rope due to which he became unconscious and fell down. He was shifted to District Hospital, Mau where, after 9 days, he could recover. In connection with the incident case at crime No. 417/12 u/s 323/504/506 IPC was registered at PS Sarai Lakhansi, District Mau. The DIG, Prisons, Gorakhpur found warder Bihari Ram, Dharamnath Yadav, Moti Chandra Gupta, Dy. Jailor Om Prakash and Jailor Ramjit Singh guilty in the incident. Jailor Ramjit Singh had retired on 30.03.2013 and for rest of the persons departmental action had been initiated.

4.64 On 20.3.2014, the Sr. Superintendent of Police, District Jail, Azamgarh informed the Commission that warder Bihar Ram was placed under suspension and recommended for departmental proceedings against him. As a punishment, his one increment was withheld for a period of six months. Warder Moti Chandra Gupta was also indicted and was reprimanded.

4.65 The Commission considered the matter on 04.09.2014 and observed that, from the perusal of the report submitted by Addl. IG Prisons, it is clear that the jail authorities had failed to protect the detainee Radhey Shyam Tiwari in prison and they have been departmentally punished. Thus, it is a clear case of violation of human rights of detainee Radhey Shyam Tiwari. Accordingly, the Commission issued a notice u/s 18(a)(i) of the PHRA, 1993 to Government of Uttar Pradesh to show cause as to why victim Radhey Shyam Tiwari be not recommended interim relief.

4.66 Pursuant to the directions of the Commission, the Under Secretary to the Government Uttar Pradesh, vide a communication dated 17.06.2016, forwarded a reply of the DIG (Headquarter), Prisons Administration and Correctional Services. The report revealed that the inquiry of the DIG found Ram Bihari, Moti Chandra Gupta, Dharamnath Yadav and Ramjit Singh all jail officials guilty in the incident. The departmental proceedings were initiated against them and they have been punished accordingly. The report further stated that, since the guilty officials/personnel of the prison have been punished for their act of omission and commission, there is no justification for making payment of compensation to the victim detainee Radhey Shyam Tiwari.

4.67 The Commission, on 07.10.2016, perused the record and observed that a person in custody loses his liberty due to process of law. However, his body is to be protected in the custody by the State. In the instant case, the prisoner Radhey Shyam Tiwari was strangled by his co-prisoners. His legs and hands were found tied with rope. He recovered from the incident after



nine days in the hospital and, for the aforesaid incident, four jail officials/officers were found guilty and have been punished. Therefore, it is amply clear that the jail officials have failed to protect the body of the prisoner Radhey Shyam Tiwari in the prison and his human rights as to right to life has been violated in the jail. Therefore, the State Government is vicariously liable for the acts of omission and commission of its officers/officials. Hence, the Commission is of the view that the detainee Radhey Shyam Tiwari deserves to be compensated for the violation of his human rights in the jail. The Commission, therefore, recommended u/s 18(a)(i) of the Protection of Human Rights Act, 1993 a sum of ₹ 50,000/- (Rupees Fifty Thousand only) to be paid to the prisoner Radhey Shyam Tiwari for violation of his human Rights. The compliance report in this regard is awaited.

f) Electrocution Cases

12. Death of a 55 year old Woman due to Electrocution in Jaunpur District, Uttar Pradesh (Case No. 22027/24/39/2013)

4.68 The Commission took suo motu cognizance of a news item, captioned “*High-tension taar ki chapet mein aane se vivahita ki maut*” published in ‘Jansandesh Times’ dated 24.05.2013. As per the news story, Zahida Begum, aged 55 years was going to a field adjoining her house to answer the call of nature in the wee hours when an overhead transmission line of 11 KV snapped and fell into the field. Since it was dark, the lady could not see the wire and walked over it. She was electrocuted and immediately died.

4.69 The Commission called for a report from the Secretary, Department of Power, Government of Uttar Pradesh and District Magistrate, Jaunpur, Uttar Pradesh.

4.70 Pursuant to the directions of the Commission, General Manager, Uttar Pradesh Power Corporation Ltd. explained in communication dated 11.10.2013 that the transmission line had snapped due to thunder storm. It was further reported that neither any FIR was registered nor the post-mortem was conducted.

4.71 An enquiry under Section 161(2) of the Electricity Act, 2003 was conducted by the Director, Electrical Safety, which found that the incident took place due to contravention of Rule 29 and Rule 91 of the Indian Electricity Rules. It was observed that had the weak conductor been identified and secured and the OCB of the feeder properly maintained, the accident could have been avoided. The operator of the Electric Sub-Station was held liable for the incident and appropriate compensation for the husband of the deceased lady was also recommended by the Inquiry Officer.



4.72 On perusal of the enquiry report of the Director Electrical Safety, the Commission held that the electrical accident, in which Zahida Begum lost her life, occurred due to negligence of the Electricity Department. Therefore, the Commission issued a notice to the Government of Uttar Pradesh requiring it to show-cause as to why appropriate monetary relief be not recommended to be paid to the next-of-kin of the deceased Zahida Begum.

4.73 In response to the show cause notice, the Special Secretary, Government of Uttar Pradesh submitted that in view of the fact that the family members did not make any complaint to the Electricity Distribution Division II, Jaunpur nor any post mortem was conducted nor any claim was made for compensation, it was not possible to initiate any proceeding for payment of compensation in the matter. He also relied on a statement of husband of the deceased.

4.74 Upon consideration of the material on record, including the statement of husband of the deceased, the Commission observed that husband of the deceased in his statement himself had mentioned that his wife Zahida Begum came into touch with a snapped electric wire accidental in the field and died immediately. The Commission did not find any merit in the report that no compensation is payable only because no post mortem was carried out and no claim was made. The Commission also observed that the enquiry under Electricity Act by Director, Electrical Safety had concluded that incident took place due to contravention of Rule 29 and Rule 91 of the Indian Electricity Rules by public servants responsible for maintenance of the electric supply system. Therefore, the Commission, vide its proceedings dated 04.04.2016, recommended to the Government of Uttar Pradesh to pay a monetary relief of ₹ 1,00,000/- (Rupees One Lakh only) to the next-of-kin of the deceased Zahida Begum.

4.75 Pursuant to the directions of the Commission, Chief Engineer (Distribution), Varanasi Zone vide communication dated 19.12.2016 informed that a sum of ₹ 1,00,000/- (Rupees One Lakh only) had been paid to the husband of the deceased through cheque No. 029686 dated 18.12.2016 and the Commission has closed the case on 03.01.2017.

13. Death of Four Persons and Injury to Six Others due to Electrocution in Village Ghatiyala, Tarantaran, Punjab

(Case No. 304/19/19/2014)

4.76 As per the complaint on 30.03.2014 in Village Ghatiyala, Tarantaran, Punjab, four persons died on the spot and six others were injured due to coming in contact with electric wire of 11 KV. The accident occurred due to carelessness of the Electricity Department.

4.77 During the inquiry by the Commission, Sr. Superintendent of Police, Tarantaran, reported that the matter was got inquired into through the Dy. Superintendent of Police, Sub-Division Bhikhiwind. During inquiry, it was revealed that on 30.03.2014 people of village Sabhra were



returning on a truck after a visit to Baba Sher Shah Wali shrine for prayers. Few of the passengers sat on the tool box. When truck driver was reversing the truck, one of the villagers Shinda Singh, who stood on the tool box, suddenly came in contact with electric wires overhead. All the persons sitting on the tool box were affected by the electrical current. Shinda Singh, Roshan Singh, Harpal Singh and Nishan Singh died in the government hospital and six persons received burn injuries.

4.78 The Deputy Commissioner, Tarantaran, in his report, submitted that four persons had died on the spot and six others were injured in the accident. To compensate all the affected persons, Hon'ble Chief Minister of Punjab has sanctioned ₹ 5,50,000/-, i.e., ₹ 1,00,000/- each has been paid to the next-of-kin of the deceased persons and ₹ 25,000/- each has been given to the six injured persons. According to another report from O/o Chief Electrical Inspector to the Government of Punjab who got an inquiry conducted into the incident, the vertical clearance of the line was not as specified under the Rules, the sag of the line was loose and no guarding was provided under this 11 KV line. It was also stated that loose sag of 11 KV line was the cause of this accident. It was concluded that this accident could have been avoided, had the supplier erected and maintained the installation in a proper and safe way. By not doing so, the provisions of Regulation 58 and 70 of Central Electricity Authority Regulations, 2010, were violated by the supplier.

4.79 Upon consideration of the above reports, the Commission took the view that a clear case of violation of human rights of the deceased persons and injured persons was made out. As reported ₹ 1,00,000/- each has been paid to the next-of-kin of the deceased persons and ₹ 25,000/- each has been paid to the six injured. In the opinion of the Commission, the amount paid to the next-of-kin of the deceased is not adequate. A notice u/s 18(a)(i) of the PHRA, 1993, was issued to the Chief Secretary, Government of Punjab to show cause as to why the Commission should not recommend additional compensation to the next-of-kin of the deceased persons, who lost their lives due to negligence of the Electricity Department.

4.80 Since no reply was submitted by the State Government. The Commission on 23.01.2017 recommended to the Government of Punjab, through its Chief Secretary, to pay additional compensation of ₹ 1,00,000/- (Rupees One Lakh only) each to the next-of-kin of the deceased. Proof of payment in this case is awaited.

g) Pollution and Environment Cases

14. Alleged Pollution Caused by Karoli Plastic Bottles Manufacturing Industry, which is established in Residential Area Inhabited by People Belonging to Scheduled Caste, in Village Abhiniguntapalem, Guntur, Andhra Pradesh

(Case No.1046/1/6/2016)



4.81 The complainant alleged that Karoli Plastic Bottles Manufacturing Industry, established in the residential area inhabited by people belonging to Scheduled Caste in village Abhineniguntapalem, Guntur, Andhra Pradesh was causing harm to life and health of the residents.

4.82 Pursuant to the directions of the Commission, the Andhra Pradesh Pollution Control Board submitted a report dated 12.01.2017 stating that the M/s. Karoli Plastic Industries is engaged in manufacturing of various plastic goods. The line of activity has been categorized under green category as per CPCB categorization of industries which has low potential of pollution in terms of Water and Air Acts. The Board issued Consent for Establishment (CFE) to the industry on 18.09.2014 duly stipulating necessary conditions. The consent of APPCB was issued from Pollution Control point of view only. Zoning and other regulations were not considered by them. The industry obtained consent for a period up to 31.10.2016 which has further been renewed up to 31.10.2026. The matter is under consideration of the Commission.

15. Health Hazard due to the Contamination of Sutlej River in Ludhiana, Punjab

(Case No.430/19/10/2016)

4.83 The Commission received a complaint from Rohit Sabharwal, President, Council of RTI Activists, Ludhiana, Punjab stating that due to the contamination of Sutlej river, the lives and health of the common masses are at risk. It is stated that due to the apathetic working attitudes of Punjab Pollution Control Board (PPCB) and the Municipal Corporation, Ludhiana people are forced to use contaminated/polluted water of Sutlej river, due to which they can get infected with various contagious diseases.

4.84 Pursuant to the Commission's directions, reports were received from the Municipal Corporation, Ludhiana and Department of Science, Technology and Environment and Punjab Pollution Control Board stating that every sincere effort is being made by the Government of Punjab/Pollution Control Board to mitigate the problems of the residents of the State and to ensure safe environment in the State of Punjab.

4.85 The Commission considered the reports and called for the comments of the complainant on the same. The comments received are under the consideration of the Commission.

16. Environmental Pollution due to Construction Activities Being Carried Out by NBCC at Ring Road in South Delhi

(Case No.6310/30/8/2016)

4.86 The Commission received a complaint from Prof. Alka Kshatriya, Ex-Member of Parliament, Rajya Sabha expressing her concern about the environmental pollution due to construction activities being carried out by the NBCC, at Ring Road in South Delhi where the



construction of multi-storey buildings is underway. The flats under construction are to be allotted to the government officers and also to the general public on lease basis.

4.87 The complainant has mentioned that around 2,38,000 trees shall be removed for the proposed construction and the pollution level in the area would dangerously rise.

4.88 The Commission took cognizance of the complaint vide its proceedings dated 30.11.2016 and called for a report from the Secretary, Ministry of Urban Development, Government of India, New Delhi which is awaited, following which reminders were issued on 21.04.2017 and 25.09.2017. The matter is under consideration before the Commission.

h) Other Important Cases

17. Death of a Girl Student due to Negligence of Management of Kasturbha Gandhi Residential School, Thakurdwara, Moradabad, Uttar Pradesh

(Case No. 9036/24/56/2015)

4.89 An activist, R.K. Sharma, from Haridwar, Uttarakhand sent a complaint through e-mail dated 19.02.2015 alleging that a girl student Manisha died and twelve other students left the hostel of Kasturbha Gandhi residential school, Thakurdwara, Moradabad, Uttar Pradesh due to the negligence of school management.

4.90 Pursuant to the directions of the Commission, the ADM, Moradabad vide communication dated 16.03.2016, forwarded the report of the District Education Officer (DEO), Moradabad and the report of Sr. Superintendent of Police, Moradabad. The enquiry report submitted by the DEO revealed that the school in question was being run by an NGO as per the directions of the Government. On 13.11.2014 at 11:00 p.m., a girl student of VI Class Ms. Manisha complained of stomach pain. She had consumed some powder, which was with her. Her pain got subsided for some time, but at 1:30 a.m. she again complained of stomach pain. In view of her serious condition, a local doctor was called, who after check-up refused to give any medicine. The school teacher contacted the office of the District Magistrate, Moradabad to get an ambulance but, despite getting assurance from the District Magistrate, no ambulance reached. Then, at 4 a.m., the local police reached but by then the child was dead. The report disclosed that during her monthly check up, the local PHC doctors had opined that the victim girl was suffering from anemia, but no follow up action was taken thereafter. The Enquiry Report concluded that the death of the deceased was the result of sickness and not a departmental negligence. A similar enquiry report of Circle Officer, Thakurdwara, Moradabad submitted by the SSP, Moradabad concluded that the father of the deceased girl had complained against the school officials regarding the death of her daughter. Thus, the report stated that the allegations made by R.K. Sharma were substantiated.



4.91 The Commission carefully considered the facts and circumstances of the case and took note of the material on record and concluded that timely treatment of the victim could have saved her life. The negligence by the officials of the district administration, Moradabad in getting timely and effective treatment to the victim amounted to a gross violation of her human rights.

4.92 The Commission directed Government of Uttar Pradesh to show cause under section 18 (a) (i) of PHR Act, 1993 as to why a monetary compensation of ₹ 1,00,000/- (Rupees One Lakh only) should not be recommended to be paid to the next-of-kin of the deceased. The case is under consideration of the Commission.

18. Large Number of Students made to Travel by Train in a Cattle Like Situation in Sleeper Class Compartments Without Reservation by Kendriya Vidyalaya Sangathan for Participation in Their National Sports Event

(Case No. 7298/30/3/2014)

4.93 The Commission received a complaint from one Vivek Pandey alleging gross violation of human rights of the school students by the authorities in Kendriya Vidyalaya Sangathan, New Delhi, stating that girl students of Kendriya Vidyalayas, in the age group of 10 to 18 years, were brought from across the country to Ahmedabad to participate in the National Sports Event organized by the Kendriya Vidyalaya Sangathan. It was alleged that the students in large number were sent from New Delhi to Ahmedabad by train in a cattle like situation in sleeper class compartments without reservation. The teachers also faced the same plight and had to struggle a lot in the trains to reach Ahmedabad. The students were about to return to their respective places and their return tickets were without confirmed reservation. The aggrieved parents approached the concerned authorities but it did not evoke any response. A prayer was made for direction to the concerned authorities for safe return of the students.

4.94 The Commission, upon consideration of the matter, issued a show cause notice dated 24.06.2015 under Section 18 of the PHRA, 1993 to the Secretary, Department of School Education & Literacy, M/o Human Resource Development, Government of India, New Delhi, to show cause, as to why an amount of ₹ 5,000/- each be not recommended to be paid to the girl students and escort teachers of Gurugram Region, Rajokari Cluster and Hissar Cluster, who were made to travel without reservation in overcrowded general coach of the trains.

4.95 Pursuant to the directions of the Commission, the Joint Commissioner (Trg.), Kendriya Vidyalaya Sangathan, New Delhi, vide his communication dated 28.07.2015, submitted that in all 4,734 students and escort teachers had travelled from various parts of the country to Ahmedabad. The onward journey was confirmed for all of them and, on return journey, 540 tickets were not confirmed. In Gurugram Region, 04 girls and 01 escort teacher, whose tickets

were waitlisted had also travelled on the train. These students were not originally selected to participate in National Meet at Ahmedabad and their tickets were booked in the last minute. In Rajokari Cluster, 42 students and teachers travelled on confirmed reservations. For the rest 82 students and teachers railway authorities attached a general bogie with a seating capacity of 90 and all the students could find some place to sleep. The small attendant adjustments are a part of learning for the students. The efforts made by KVS in promoting the talent may be noted and small hiccups may be ignored. In Hissar Cluster, 21 students and 04 teachers' train reservations could not be confirmed and they travelled by Volvo Bus. However, the bus failed on the way and the journey was delayed. Other 12 students and 02 teachers of Hissar Cluster traveled by the Haridwar Mail without confirmed reservation and reached Delhi with the help of co-passengers. It is further stated that there was dereliction of duties on the part of the contingent leader, who failed to perform the duties as expected. She should have decided the travel plan of the whole contingent and guided the teachers instead of leaving them to decide on their own to travel with un-confirmed reservations. Hence, it was proposed to take action against the Contingent Leader of Gurugram Region for dereliction of duty.

4.96 Pursuant to further directions of the Commission, Executive Director Passenger Marketing, Railway Board, New Delhi vide his communication dated 09.10.2015, submitted his report stating that, from 13.10.2014 to 18.10.2014, there was mass gathering of Kendriya Vidyalaya teachers and students in Ahmedabad for which the journey was not planned in advance. Most of them were holding waitlisted tickets and last minute request dated 18.10.2014 (on date of disbursement of students) was made by Kendriya Vidyalaya Authorities for confirming reservation for their teachers and students travelling to various directions who had waitlisted tickets. Ahmedabad Division of Railways had made certain arrangements to ensure the safe and comfortable movement of teachers and students. It is stated that no extra coach was attached as Ashram Express was running with maximum permissible load of coaches and only option was exercised by earmarking the existing General Coach to the students and teachers. They were given highest priority in all trains regarding allotment of emergency quota. Indian railways have provisions for bulk booking during Advance Reservation Period and also booking of full coaches on Full Tariff Rate. Had the Kendriya Vidyalaya Sangathan approached for bulk booking or FTR well in advance of their date of journey, suitable arrangements could have been made by railways. October, being the peak holiday season, all the trains were already having long waiting list with occupancy more than 10%. In spite of the short notice given to Railways to make the arrangement, Ahmedabad Division had provided maximum possible assistance for the mass movement of students. Copy of request letter dated 18.10.2014 by Kendriya Vidyalaya, Sabarmati, to Railways Authority had also been enclosed.

4.97 The Commission further considered the matter and observed that the Commission had



issued show cause notice under Section 18 of the PHRA, 1993 to the Secretary, Department of School Education & Literacy, Ministry of Human Resource Development, Government of India, New Delhi, and subsequent reminder letter dated 16.09.2015 was also issued. However, no response was received.

4.98 From the perusal of available records, it appeared that there was a failure on the part of Kendriya Vidyalaya Sangathan to take care of the students and escort teachers in the National Sports Event. The travel plan was not properly arranged and 05 students & escort teacher of Gurugram Region; 82 students & escort teachers of Rajokari Cluster and 39 students & escort teachers of Hissar Cluster, (in total 126 students & escort teachers) had suffered during travel to/from National Meet organized by the Kendriya Vidyalaya Sangathan at Ahmedabad. It had also been admitted by Kendriya Vidyalaya Sangathan that there was dereliction of duty on part of contingent leader, who did not perform the duties as expected and it was proposed to take action against the Contingent Leader of Gurugram Region for dereliction of duty. Hence, due to dereliction of duty on the part of State Agencies, human rights of 126 students & escort teachers have been violated. The Commission took a serious note of such human rights violations.

4.99 The Commission, therefore, recommended that an interim relief of monetary compensation of ₹ 5,000/- each shall be granted to: 05 students & escort teacher of Gurugram Region; 82 students & escort teachers of Rajokari Cluster and 39 students & escort teachers of Hissar Cluster, (in total 126 students & escort teachers) who were victimized in the episode; under Section 18 of the PHRA, 1993, by the Government of India.

4.100 The compliance report has been received and the case has been closed.

19. Delay in Processing of Mercy Petitions of Four Death Row Convicts Lodged in District Jail, Bhagalpur, Bihar

(Case No.684/4/5/2014)

4.101 Shri Suhas Chakma, Director, Asian Centre for Human Rights vide his complaint dated 06.02.2014 brought to the notice the failure of prison authorities to process the mercy petitions filed by the four death row convicts, Krishna Mochi, Nanhe Lal Mochi, Bir Kuer Paswan and Dharmendra Singh *alias* Dharu Singh who were lodged in District Jail, Bhagalpur. According to the complainant, the Prison authorities claimed that they had forwarded the mercy petitions to the President of India on 03.03.2003 but the list of “mercy petition cases since 1981” received by the President of India, as provided by the Ministry of Home Affairs, did not show the names of Krishna Mochi and others, which clearly indicated that their petitions had been lost. The Complainant also drew attention of the Commission to the landmark judgment of the Hon’ble Supreme Court of India in the case of Shatrughan Chauhan and another Vs. Union of India



and Ors. [(Writ Petition No. 55/2015) (2014) 2 SCC (Cri) 1], whereby the death sentences had been commuted to life imprisonment on the ground of delay in deciding the mercy petitions by the President of India. The period of delay in those cases was between 5 and 12 years. The complainant, therefore, requested intervention of the Commission to get the death sentences of the four convicts commuted to life imprisonment in the light of the above judgment of the Apex Court.

4.102 The Commission examined the judgment of Hon'ble Supreme Court not only in the case of Shatrughan Chauhan & anr Vs. Union of India & ors. [(Writ Petition No. 55/2015) (2014) 2 SCC (Cri.) 1] but also in the case of Ajay Kumar Pal vs. Union of India 2015 2 SCC (Cri) 2, whereby the death sentences had been commuted to life imprisonment on the ground of undue delay in deciding the mercy petitions by the President of India.

4.103 The Commission, vide its proceedings dated 22.08.2016, took the view that on the basis of the above two judgments, the four death row convicts who had submitted their mercy petitions more than 12 years ago had a strong case to get their death sentences commuted to life imprisonment. Accordingly, the Commission recommended to the Government of India to expedite and decide the mercy petitions in the light of the above two judgments of the Supreme Court.

4.104 The Ministry of Home affairs, Government of India informed the Commission that the President of India, in exercise of powers under Article 72 of the Constitution of India, commuted the death sentence of the aforesaid condemned prisoners to life imprisonment on 01.01.2017, with a condition that the prisoners shall remain in prison for the whole of remainder of their natural life and there shall be no further remission of the term of their imprisonment for life by any authority. The Ministry also informed that the decision of the President had been conveyed to the Government of Bihar.

4.105 In view of the fact that the mercy petitions have been disposed of by the President of India, the Commission did not find it necessary to keep the matter pending any longer and closed the matter accordingly.

20. Death of 36 Villagers of Nonke Khagrabari in District Baksa, Assam in a Massacre by Forest Officials in Collusion with the NDFB Cadres

(Case No. 215/3/11/2014)

4.106 The Commission took suo-motu cognizance of a press report captioned "Assam violence: 6 forest dept men in custody after complaints by survivors", appeared in the daily newspaper "Indian Express" dated 05.05.2014. According to the press report, a team of CID of Assam Police visited villages in Baksa District to carry out its investigation into the killings in Khagrabari



incident in which 20 persons had died. The report mentioned that 5 cases had been registered in connection with the incident that occurred in Kokrajhar and Baksa on the 1st and 2nd of May 2014. According to press report, some of the survivors made a specific complaint that when the villagers rushed to the forest beat office in Khagrabari as the armed miscreants attacked them, the forest personnel, instead of helping, allegedly fired at them and set some of the houses on fire.

4.107 The Commission called for reports from the Chief Secretary, Government of Assam and the DGP, Assam.

4.108 Pursuant to the directions of the Commission, reports were received from the Superintendent of Police, District Kokrajhar as well as Superintendent of Police, District Baksa. It was reported by the Superintendent of Police, Kokrajhar that, on 01.05.2014, a group of unknown 20-25 BODO youth, who were suspected to be affiliated to NDFB(S), armed with deadly weapons, entered the village Balapara Part -1 and fired indiscriminately at the villagers. In this incident, 7 persons had died, while 3 persons were seriously injured. A case FIR No. 155/2014 dated 02.05.2014 u/s 448/457/302/307/326/324/427/34 IPC r/w section 27 Arms Act was registered at P.S. Gossaigaon, which was being investigated by the Special Task Force, Assam.

4.109 The Superintendent of Police, District Baksa reported that, on 02.05.2014, a group of 40-50 unidentified cadres suspected to belong to banned outfit of NDFB(S) armed with deadly weapons attacked the villagers. Receiving this information, the police rushed to the spot and recovered 18 dead bodies over a period of time. Four persons were injured and 2 were missing. After the incident, a case FIR No. 64/14 dated 03.05.2014 u/s 120(B)/12/123/147/307/436/302 IPC and Section 25 (I-A)/27 Arms Act, Section 10/13 Unlawful Activities (Prevention) Act was registered in PS Gobardhana.

4.110 The Commission was further informed by the Additional Secretary (Home & Political) Department, Government of Assam, vide his letter dated 03.03.2016, that 13 forest officials were arrested in connection with case FIR No. 64/2014. It was also informed that both the cases FIR No. 155/14 and 64/2014 were handed over to National Investigation Agency for further investigation.

4.111 Subsequently, the Commission was informed by the National Investigation Agency that, after investigation, charge-sheets have been filed in both the cases. It was also revealed that 36 villagers of village Nonke Khagrabari, P.S. Gobardhana, District Baksa were killed by the alleged cadres of NDFB (S) on 02.05.2014 with the collusion of forest officials. As per the charge-sheet in case FIR No. 64/2014 (RC-02/2014NIA-Guw), involvement of four forest officials namely (1) Rojen Boro (2) Jayanta Baro (3) Nijwm Basumatary and (4) Mallajit Kherkatary had been established.



4.112 Upon consideration of the reports, the Commission while expressing its grave concern on the revelation that forest officials had colluded with the NDFB cadres to massacre 36 villagers of Nonke Khagrabari in District Baksa, vide its' proceedings dated 06.01.2017, *inter-alia*, observed and directed that the next-of-kin of 36 innocent villagers were entitled for interim monetary relief from the State of Assam. The Commission, therefore, issued notice u/s 18 (1)(a) of PHRA, 1993 to the Chief Secretary, Government of Assam to show-cause as to why the Commission should not recommend payment of ₹ 5,00,000/- (Rupees Five Lakh only) each as interim monetary relief to the next-of-kin of thirty-six villagers, who had been massacred by the NDFB(S) cadres in collusion with the forest officials and ₹ 1,00,000/- (Rupees One Lakh only) each to the four injured persons. The list of the deceased victims, as well as 4 injured persons, was also provided to the Government of Assam. The Chief Secretary, Government of Assam was further directed to make all out effort to trace out the two missing children, namely, Sahinur Islam (9 years), s/o Ramjan Ali; and Rasidul Islam (5 years), s/o Azimuddin.

4.113 The Director General, National Investigation Agency was also directed to keep the Commission apprised about the progress of case No. 64/2014 (RC-02/2014NIA-Guw) and 155/2014 (RC-03/2014NIA-Guw).

4.114 The Commissioner and Secretary (Environment and Forest), Government of Assam was also directed to inform the Commission within four weeks regarding departmental action being initiated against the four forest officials, who were charge sheeted by the National Investigation Agency.

4.115 No response has yet been received from the Chief Secretary, Government of Assam, Principal Secretary (Forest), Government of Assam and the Director General, National Investigation Agency and the matter is under consideration of the Commission.

21. Death of an Eight Year Old Student due to Alleged Beating by a Teacher in a Government School in Chanho, Ranchi District, Jharkhand

(Case No. 122/34/16/2014)

4.116 The Commission took *suo motu* cognizance of a news report captioned "Eight Year Old dies after being 'beaten up' by teacher" published in the English daily, the Indian Express dated 04.02.2014. According to the report, Sujit Munda, a Class I student of Government School in Chanho, District Ranchi, Jharkhand died due to suspected internal injuries on 02.02.2014. Allegedly, the boy was beaten up by the school teacher with a piece of firewood. Subsequently, the Commission also received three more complaints on the same issue.

4.117 Pursuant to the directions of the Commission, a report was received from the Sr. Superintendent of Police, Ranchi which confirmed the incident and stated that an FIR No 11/2014



u/s 304 IPC, Section 23 of Juvenile Justice Act and Section 17(1) of the Right of Children to Free and Compulsory Education Act was registered against Arshad Hussain, s/o Mohd. Qasim, Headmaster of the Government Middle School, Barhey (Ranchi). The matter was investigated and the charges were found true and, accordingly, the Investigating Officer recommended filing of charge-sheet against the accused which had been approved by the competent authorities. The report also referred to the post-mortem report and pointed out that the death had taken place due to lung disease and not due to the beating. The Commission also received a report dated 27.10.2014 from the Deputy Commissioner, Ranchi, according to which the accused Headmaster had been suspended from duty.

4.118 Upon consideration of the reports, the Commission, vide its proceedings dated 07.12.2015, observed that it had clearly emerged from the above facts that an eight year old boy was subjected to corporal punishment. This was nothing but violation of human rights of the child by a public servant against whom a criminal case had been registered and he had also been suspended. The State was, therefore, liable to adequately compensate the next-of-kin of the deceased child. The Commission, therefore, issued a notice u/s 18 of the PHRA to the Chief Secretary, Government of Jharkhand to show cause as to why the Commission should not recommend payment of ₹ 1,00,000/- (Rupees One Lakh only) as compensation to the next-of-kin of the deceased child.

4.119 In response to the show-cause notice, the Joint Secretary, Home, Prison and Disaster Management, Government of Jharkhand informed the Commission that the State Government had agreed to the recommendation of payment of compensation amount of ₹ 1,00,000/- (Rupees One Lakh only) as monetary relief to the next-of-kin of the deceased student Sujeet Munda.

4.120 The matter was taken up during the camp sitting of the Commission at Ranchi on 07.09.2016. Since the State Government produced the proof of payment of ₹ 1,00,000/- (Rupees One Lakh only) as compensation to the next-of-kin of the deceased child, the case was closed.

22. A Railway Passenger Brutally Assaulted by GRPF/RPF Police Inside the Jagannath Express Train Near Delanga Railway Station, Odisha

(Case No.2430/18/12/2014)

4.121 On the basis of news item published in 'Dharitri' Odia daily dated 02.06.2014, the complainant Jayanta Kumar Das, an RTI activist, vide his petition dated 03.06.2014 alleged that a railway passenger Dr. Deba Prasad Pattanaik was brutally assaulted by GRPF/RPF police inside the Jagannath Express train near Delanga Railway Station on 02.06.2014, while he was travelling with a proper ticket. When the victim was reluctant to pay penalty as demanded by the GRP police, they started abusing in filthy language. When the victim objected, the police got furious and beat the victim mercilessly. Dr. Pattanaik got treatment in hospital after reaching Puri and



submitted a written complaint with GRP PS, Puri, but they did not register the same and rather pressurized the victim to compromise. The complainant sought action against the erring officials.

4.122 Pursuant to Commission's directions dated 12.06.2014, the Superintendent of Police, Railways, Cuttack, informed that on the report of the victim Dr. Deba Prasad Pattanaik, case No. 34 u/s 341/323/294/307/506 IPC was registered on 02.06.2014 at Puri GROU. During investigation, it was ascertained that Home Guards Subash Ch. Pradhan & Biswajit Mohanty were on duty in the Puri-Howrah Jagannath Express Train from Puri Railway Station to Khurda Road Railway Station on the day of occurrence. After Delanga Railway Station, H/G Subash Ch. Pradhan asked the victim to produce his ticket, who was travelling in an almost vacant sleeper coach. When he denied showing the ticket, there was an exchange of heated words. As a result, the victim was assaulted with lathi. The Home Guard also used filthy language at him. Victim was medically examined. Four injuries were noted by the doctor in his MLC. The nature of injuries was simple. The victim was not in possession of a valid ticket at the time of incident. The report concluded that the case had been supervised by OPS, DSRP, Khurda Road Zone, who found the case is a true case u/s 341/323/294 IPC against the accused HG Subash Ch. Pradhan and evidence u/s 307/506 IPC could not be substantiated. Since there was evidence against the accused HG Subash Ch. Pradhan, he was arrested by the Investigating Officer and forwarded to the court.

4.123 The Commission considered the matter on 15.10.2015 and observed that the passenger Dr. Deba Prasad Pattanaik, who was travelling in a sleeper coach of the Howrah-Puri Jagannath Passenger Train was brutally assaulted by HG Subash Ch. Pradhan, who was on duty in the train, with lathi and caused injuries on different parts of his body. The victim was also abused in filthy language by the public servant. Therefore, the human rights of the victim have been violated, for which the Railway was vicariously liable. The Commission, therefore, issued a notice u/s 18(a)(i) of the PHRA, 1993 to the Chairman, Railway Board, Ministry of Railways, New Delhi, to show cause, within six weeks, as to why the Commission should not recommend monetary relief to the victim Dr. Deba Prasad Pattanaik.

4.124 Pursuant to the direction of the Commission the Deputy Director/SEC (Crime) Railway Board informed that the accused home guard against whom the case had been registered by the Government Railway Police of Odisha State, works under the State Police of Odisha State.

4.125 The Commission vide proceedings dated 07.11.2016 recalled the show-cause notice issued to the Chairman Railway Board, Ministry of Railways, New Delhi and directed to issue a notice to the Chief Secretary, Government of Odisha calling upon him to show cause as to why the monetary compensation of ₹ 50,000/- (Rupees Fifty Thousand only) should not be recommended u/s 18(a)(i) of PHRA, 1993 to be paid to the victim Dr. Deba Prasad Pattanaik for violation of his human rights by the public servant.



4.126 The Commission took up the matter at Bhubaneswar in its camp sitting on 09.01.2017 and noted that admittedly, action had been taken against the accused Home Guard and he was charge-sheeted. It was established that the accused Home Guard had violated the charter of his duties and had violated the human rights of the victim. Hence, the Commission recommended to the Government of Odisha to pay a monetary compensation of ₹ 50,000/- (Rupees Fifty Thousand only) to the victim Dr. Deba Prasad Pattanaik for violation of his human rights by a public servant. Compliance report along with proof of payment is awaited.

23. Killing of Two Inmates by Another Inmate in Regional Mental Hospital, Yerwada, Pune, Maharashtra

(Case No.3143/13/23/2013)

4.127 The Commission received a complaint dated 20.11.2013 from Dr. Subash Mohapatra, Executive Director, Global Human Rights Communication, alleging about the killing of two inmates, Pandurang Landge and Shamsjuddin Sawaji Bhanwadia, who were being treated for schizophrenia at the hospital's male observation ward, by another inmate Deepak Suravase, a patient of substance-induced psychosis in the Regional Mental Hospital, Yerwada, Pune, Maharashtra, on the night of 20.11.2013. It was alleged that three attendants were posted outside the ward and one psychiatrist and one medical officer were on duty that night but no one intervened in the fight between inmates nor called the police for help.

4.128 The Commission took cognizance of the matter on 27.12.2013 and obtained reports from the Deputy Secretary, Government of Maharashtra, Public Health Department, Mumbai, Superintendent of Regional Mental Hospital, Yeravada, Pune and from Deputy Commissioner of Police, Yeravada, Pune City. The Commission, on consideration of the reports on 03.03.2016, observed that during enquiry, it was found that the incident was true and the accused, Deepak Suravase mentally-ill patient murdered the other two patients admitted in the hospital. He has admitted his guilt, however, the police did not arrest him because of mental illness of the accused. Investigation of the case was in progress. Further, the Regional Mental Hospital, Pune submitted a detailed action taken report. It was submitted that all possible efforts were made to avoid recurrence of such incident. The action taken report is as follows:-

- (i) Number of attendants in the night duty in all wards of the hospital has been increased.
- (ii) One Psychiatrist and one medical officer every night to conduct rounds in all wards and to personally supervise the behaviour of mentally ill patients and working of staff on duty.
- (iii) Psychiatric/Medical officer to identify violent patients of the wards and to take appropriate measures to keep such patients in isolated rooms and to provide medical aid of chemical restraints to such patients.



(iv) Intercom facilities provided throughout the wards and various departments of the hospital.

(v) Procedure of fixing CC TV Cameras in all wards is in progress and these cameras will be fixed in short time.

4.129 On perusal of the report, the Commission also observed that death of two patients in the Mental Hospital, when as many as three attendants were on duty, all of whom failed to prevent the incident prima-facie shows that the hospital staff was grossly negligent. For this negligence, which led to violation of human rights of the deceased, the State of Maharashtra is vicariously responsible and the Commission issued a notice to the Chief Secretary, Government of Maharashtra under Section 18 (a)(i) of PHRA, 1993 to show cause as to why a compensation of ₹ 1,00,000/- (Rupees One Lakh only) each be not paid to the next-of-kin of both the victims within eight weeks.

4.130 Pursuant to the directions of the Commission, the Joint Secretary to the Government of Maharashtra, Public Health Department, Mumbai submitted a report, dated 18.11.2016, in which it was stated that the three attendants who were on duty on the fateful night have been put under suspension and departmental enquiry has been initiated against them, as well as against the Medical Superintendent of the Mental Hospital. He further stated that the departmental enquiry was pending at the Government level, and also the Police Department was investigating the matter. Therefore, it would be appropriate, if, the issue of compensation in this matter is decided after findings of the enquiry were received.

4.131 The Commission perused the record on 25.01.2017 and observed that death of the two inmate/patients of the Regional Mental Health Hospital, Yerwada, Pune, has taken place in a ward due to attack of another inmate, and the three attendants and one daily wager deputed, outside the ward did not prevent the violent patient from indulging in violence nor they called any outside help of police, etc. *Prima facie*, the hospital authorities were negligent in protecting the lives of the two inmates of the hospital. The inmates in the Regional Mental Hospital were to be protected by the public servants under whose custody they had been entrusted. But, the public servants failed to protect the life of the inmate of the hospital. Therefore, State Government is vicariously liable for the death of the two inmates. The Commission, therefore, reiterated the stand taken vide its proceeding dated 03.03.2016 and recommended payment of an interim compensation of ₹ 1,00,000/- (Rupees One Lakh only) to the next-of-kin of each of the two deceased inmates of the hospital u/s 18(a)(i) of PHRA, 1993. The compliance report called for is awaited.

24. Two Persons Shot Dead and Four Others Injured in a Dacoity in Maurya Express, near Hathidah Railway Station, District Patna, Bihar

(Case No. 3380/4/26/2014)



4.132 A complaint by Shri R.H. Bansal, a human rights activist disclosed a train dacoity in Maurya Express on 16.8.2014 near Hathidah Railway Station, District Patna, Bihar in which 2 persons were shot dead and 4 others were injured. According to the complainant, this happened due to negligence in the security arrangements.

4.133 The reports dated 20.11.2014 and 14.11.2014 received from the Deputy Director, Safety (Crime), Railway Board, and the SP, Railway, Patna, respectively, confirmed the incident. However, these reports say that only 2 persons were shot dead by the dacoits and no passenger was injured. FIR No. 24/14 dated 17.08.2014 u/s 302/394/34 IPC and Section 27 of the Arms Act was registered on the incident at Railway PS, Mokama. During investigation, 10 accused persons were arrested and after completion of the investigation, a charge sheet dated 12.11.2014 u/s 396 IPC was filed in the Court. Members of the escort party of the GRP were placed under suspension after the incident and were punished with forfeiture of six months increment.

4.134 On consideration of these facts of the case, the Commission issued a show cause notice u/s 18(a)(i) of the PHRA, 1993, to the Chairman, Railway Board which was responded to by the ASC/Security (Crime), Railway Board, vide his communication dated 13.1.2017. It was stated that the incident is covered under the definition of 'untoward incident' u/s 123/C (ii) of the Railways Act, 1989 and that there is provision of maximum compensation of ₹ 4,00,000/- (Rupees Four Lakh only) for the death of each bonafide passenger. Dependent of the victim is required to file a claim application u/s 109 & 125 of the Railways Act, 1989 before the Railway Claims Tribunal. Hence, the Commission should remit the case to the Railway Claim Tribunal for adjudication and compensation.

4.135 The Commission considered the response to the show cause notice. "Right to life" is included in the meaning of "human rights" as per Section 2(1)(d) of the Protection of Human Rights Act, 1993. As per Section 12 of the Act, negligence in the prevention of such violation of the human rights by a public servant can be taken cognizance of and inquired into by this Commission. As per Section 18(a)(i) of the Act, if the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, the Commission 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.

4.136 In the case in hand, the Commission found after inquiry that a breach of human rights has occurred as the escort party present in the train in question committed dereliction of duty in preventing the incident. They have already been punished departmentally for negligence. Hence, the Commission can recommend suitable compensation to the next-of-kin of the two victims, notwithstanding the provisions of the Railways Act, 1989, referred to by the Railway

Board. Hence, the defence taken by the Railway Board was rejected.

4.137 Keeping in view the facts and circumstances of the case and the maximum limit of ₹ 4,00,000/- (Rupees Four Lakh only) payable under the Railways Act, the Commission on 09.02.2017 recommended to the Government of India, through the Chairman, Railway Board, to pay the compensation of ₹ 4,00,000/- (Rupees Four Lakh only) each to the next-of-kin of the two deceased. Proof of payment is still awaited.

D. Conditions in Prisons

a. Visits to Jails

4.138 Under the provision of Section 12(c) of PHR Act 1993, the Commission can visit any jail or other institution under the control of the State Government in order to study the living conditions of the inmates and make recommendations to the Government where persons are detained or lodged for the purpose of treatment, reformation or protection. Accordingly, Special Rapporteurs appointed by the Commission undertake visit to various jails in the country and facilitate the Commission in discharging its sensitive and demanding responsibilities by making suggestion/recommendations after observing the prevailing conditions. Members and Senior Officers of the Commission periodically make their visits to scrutinize the prison conditions and issues related to prisoners.

4.139 During the period 01.04.2016 to 31.03.2017, following jail visits were undertaken by the Special Rapporteurs appointed by the National Human Rights Commission:

S.No.	Name of Jail/Institutions	Date of Visit	Visited by
1.	Drought affected areas of Maharashtra Aurangabad, Jalna, Beed and Ahmednagar Districts	15-21 May 2016	Smt. S. Jalaja
2.	Aurangabad, Jalna, Beed and Ahmednagar Districts in Maharashtra (HR conditions)	15-21 May 2016	Smt. S. Jalaja
3.	Government Central Prison & Women's Prison, Kannur	22 July 2016	Shri Jacob Punnoose
4.	Government Central Prison, Central Women's Prison & Government Prathyasa Bhawan, Trissure, Kerala	28-29 July 2016	Shri Jacob Punnoose
5.	All Woman Police Station, Madurai, Tamil Nadu	30 August 2016	Shri Jacob Punnoose



S.No.	Name of Jail/Institutions	Date of Visit	Visited by
6.	District Jails Simdega and Lohardaga, Jharkhand	5-6 September 2016	Smt. S. Jalaja
7.	Yerwada Jail, Pune, Maharashtra	1 October 2016	Dr. S.N.Mohanty
8.	Raipur, Bilaspur, Janjgir Districts in Chhattisgarh (Bonded Labour/Child Labour) (Bakarkuda, Binhori, Murlidih and Kotmisonur villages)	7-12 November 2016	Dr. Ashok Sahu
9.	Jails in Vadodara, Bharuch, Surat and Dang in Gujarat	14-19 November 2016	Smt. S. Jalaja
10.	Ranchi, Gumla and Khunti Districts in Jharkhand (visits were made to two institutes namely Construction Gurukooland, NariNiketan and villages Dumardih Tukutoli and Silam in connection with Bonded / child labour)	18-24 December 2016	Dr. Ashok Sahu
11.	Bhubaneswar, Ganjam and Kalahandi Districts of Odisha (Bonded/child labour) (Sukande, Kanamana, Balipada, Uparpada villages, Residential School at Raghunathpur in Ganjam District	15-23 January 2017	Dr. Ashok Sahu
12.	Tezu, Lohit District of Arunachal Pradesh [Primary Health Centre at Loiland village, Drinking water supply Scheme, Changliang village, Auxiliary Line Corps (ALC) Anganwadi Centre, and Tankhakso Chai Memorial Government Upper Primary School, Tezu]	29 January - 3 February 2017	Shri Anil Pradhan
13.	Patna, Bhojpur and Saran Districts of Bihar (Bonded/Child Labour) [Dechnabal and Balwahi Tota villages, District registration and Consultation Centre and Children Home (Boys), Chhapra]	7-11 February 2017	Dr. Ashok Sahu
14.	Balasore District Jail, Odisha	1-2 March 2017	Shri Damodar Sarangi

S.No.	Name of Jail/Institutions	Date of Visit	Visited by
15.	Baran and Kota District, Rajasthan (Eklera Danda Bonded labourers Rehabilitation Colony, Janjati Balika Aavas Vidyalaya Kishanganj, and field visits to Brick Kilns at Mangrol, Kota & Jagpura)	17 March 2017	Shri G. B. Panda
16.	Bhopal, Indore and Khandawa Districts of Madhya Pradesh (Bonded/Child Labour) (Vijay Nagar and Sarafa in Indore, Rajkiya Bal Sangrakshan Ashram and Bal Sakha Ashram Gruha, Indore and Khandawa)	19-25 March 2017	Dr. Ashok Sahu
17.	District Jail, Meerut	23 March 2017	Shri Sunil Krishna
18.	Central & District Jail, Bareilly	28 March 2017	Shri Sunil Krishna

4.140 The reports submitted by the Members, Special Rapporteurs and officers are placed before the Chairperson or Full Commission and the directions given thereto are forwarded to the concerned State Government for compliance.

E. Prison Reforms

a. Follow-up of National Seminar on Prison Reforms

4.141 The National Human Rights Commission organized a two-day National Seminar on Prison Reforms in New Delhi on 13-14 November, 2014. The aim of the seminar was to assess the status of the implementation of the recommendations made in its earlier seminar on the subject held on the 15 April 2011 and to discuss what further steps would require to be taken to improve prisoners' condition and prison administration with a human rights perspective. The recommendations emerged from the seminar were sent to all the States and Union Territories seeking for an action taken report. The recommendations of the seminar are also available in the NHRC's website.

4.142 Action taken report has been received from all the States, except from the States of Uttarakhand, Madhya Pradesh, Karnataka, Rajasthan and Union Territory of Lakshadweep. Reminders have been sent to these States and Union Territory seeking for action taken report. The Commission has worked on analysis of the action taken reports.



F. Study on Under-Trial Prisoners

4.143 The Commission has initiated a pilot study on Undertrial Prisoners for the State of Uttar Pradesh with Centre for Equity Studies (CES) in February 2015. The main objectives of the study is to establish their social, demographic profiles including age, gender, religion, social category, domicile and education and also to know what offence has the undertrial been charged with.

4.144 The final report submitted by the CES was considered by the Commission on 03.03.2017 and directed the Secretariat to examine and list out the recommendations which are practical, feasible and tenable. The recommendations were sought to be listed as per the authority to which it would be sent, i.e., the State Government, State Police, Judiciary and Prison Department. The same is under consideration of the Commission.

G. Custodial Justice – An Investigation into causes of Deaths in Uttar Pradesh, West Bengal, Maharashtra and Tamil Nadu

4.145 A research study entitled “Custodial Justice – An Investigation into Causes of Deaths in Uttar Pradesh, West Bengal, Maharashtra and Tamil Nadu” has been undertaken by the NHRC in collaboration with the Nodal Centre of Excellence for Human Rights Education, School of Law, Rights and Constitutional Governance, TISS, Mumbai. The study will make an attempt to identify the pattern and nature of causes for deaths in prisons and establish their correlation. It will also investigate the efficacy of the existing prison health care system. The study will be conducted in four States of Uttar Pradesh, West Bengal, Maharashtra and Tamil Nadu as these States have recorded the highest prison mortality rate as compared to other States. The duration of the study will be for a period of 13 months.

4.146 The findings of the study will draw attention of the Government towards the need to build functional prison health-care system and advocate for an effective system of accountability for every death.

Chapter 5

REACHING OUT

5.1 The NHRC, India, overtime, has developed a robust set of monitoring mechanisms to oversee civil and political rights as well as matters concerning social and economic justice. While some of these mechanisms have been developed based on the mandate accorded to the Commission by the Protection of Human Rights Act, 1993, others have been developed along the lines of the instruments and special procedures adopted by the United Nations for human rights protection, monitoring and promotion. Some of the key mechanisms devised by the Commission include the Full Commission and Statutory Full Commission Meetings, Camp Sitzings and Open Hearings, engagement of Special Rapporteurs, and the establishment of Core and Expert Groups on a range of human rights issues.

A. Commission Meetings

5.2 During the year under review, the Full Commission took up 566 cases of human rights violations in its 36 sittings. In addition, the two Division Benches considered 1,595 cases in 91 sittings. 24 cases of Kashmiri migrants were also considered in 3 sittings of the Commission in the Open Court hearings.

B. NHRC Camp Sitzings

5.3 The Commission has been organizing camp sittings in different States in order to expedite disposal of pending complaints and sensitize the State functionaries on the various issues of human rights. During the period under review, the Commission held Camp Sitzings in Bihar, Jharkhand and Odisha. The Commission considered 51 cases in its sittings of Full Commission and 28 cases in Division Benches in these camp sittings.

C. NHRC Open Hearings on Atrocities against Scheduled Castes

5.4 During the period under review, the Commission took up 270 cases in its Open Hearings held at Patna, Bihar - 67 cases (21 April 2017), Ranchi, Jharkhand - 69 cases (7 September 2017),



Puducherry -17 cases (16 December 2017), Bhubaneswar, Odisha - 107 cases (9 January 2017) and Andaman & Nicobar Islands - 10 cases (19 January 2017).

**DETAILS OF CAMP SITTING/OPEN HEARING
DURING THE YEAR 2016-2017**

Sl. No.	Name of State/ Union Territory	Date	No. of Cases	No. of Cases Disposed Of	Compensation Amount Recommended (₹)
1.	Bihar	21-23 April, 2016	88	36	1,00,000
2.	Jharkhand	7-8 September, 2016	91	34	3,25,000
3.	Puducherry	16 December, 2016	17	9	Nil
4.	Odisha	9-11 January, 2017	138	62	27,75,000
Total			334	141	32,00,000

D. Statutory Full Commission Meeting

5.5 To ensure that NHRC, India represents the views of the most vulnerable sections of society, Section 3(3) of the PHRA, 1993 stipulates that the following shall be deemed to be members of the NHRC for the discharge of functions specified in clauses (b) to (j) of Section 12 of the PHR Act, 1993:

- a) Chairperson of the National Commission for Minorities;
- b) Chairperson of the National Commission for Scheduled Castes;
- c) Chairperson of the National Commission for Scheduled Tribes; and
- d) Chairperson of the National Commission for Women.

5.6 Together with the Chairperson and Members of the NHRC, the Chairpersons of these bodies constitute its Statutory Full Commission (SFC), which meets regularly. In addition, the NHRC, India invites the Chairperson of the National Commission for the Protection of Child Rights as a 'Special Invitee' to all its Statutory Full Commission Meetings since the NCPCR has a significant bearing on all issues concerning the rights of children.

5.7 The Statutory Full Commission meetings are convened regularly to discuss the issues of common interest and participate in the conference/seminars of the Commission. The last meeting of the Statutory Full Commission was held on 03.02.2015. The meeting of the SFC was chaired by Justice Shri K. G. Balakrishnan, Chairperson, National Human Rights Commission and attended by Justice Shri Cyriac Joseph, Justice Shri D. Murugesan, and Shri S. C. Sinha, Members, NHRC; Shri Naseem Ahmed, Chairperson, National Commission for Minorities; Shri P. L. Punia, Chairperson, National Commission for Scheduled Castes; and Shri Ravi Thakur,



Vice-Chairperson, National Commission for Scheduled Tribes. Shri V. S. Oberoi, Chairperson, National Commission for the Protection of Child Rights attended the meeting as a Special Invitee.

5.8 A range of issues was discussed at the meeting, including inter-linking the Complaint Management Information System of the NHRC with other National Commissions, independence and autonomy of the National Commissions, availability of basic infrastructure and resources to all National Commissions as per their requirements to fulfill, proposal for initiation of quarterly/half yearly meetings of Senior Executive Officers/Chief Executive Officers of all Member Commissions, including Special Invitee – National Commission for the Protection of Child Rights.

5.9 The Statutory Full Commission had also approved a proposal to organize periodic meetings of the Senior Executive Officers/Chief Executive Officers of Member Commissions of the Statutory Full Commission, including the Special Invitee, National Commission for the Protection of Child Rights.

E. Special Rapporteurs

5.10 The Special Rapporteurs of the Commission are human rights experts who are specifically appointed with the directive to report and advice on human rights concerns from a thematic or state-specific perspective. The system of Special Rapporteurs is a central element of the NHRC machinery and covers all human rights: civil, political, economic, social and cultural. In addition, they cover sensitive issues like child labour, bonded labour, disability concerns; etc. and spread awareness among the people about the provisions contained in the PHRA from the point of view of seeking redressal from the NHRC in case of violation of their rights or that of others. 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. A copy of the Special Rapporteurs scheme is posted on the website of the NHRC - http://www.nhrc.nic.in/Documents/Scheme_And_Guidelines_for_Engagement_of_Special_Rappoteurs_05_01_2016.pdf.

5.11 The Special Rapporteurs in position during the period under report were :

ZONAL SPECIAL RAPORTEURS

Sl. No.	Zone/Area Covered	Name of Special Rapporteur
1.	North Zone-I (Punjab, Haryana, Chandigarh, Delhi, Himachal Pradesh, Jammu & Kashmir and Uttarakhand)	Shri A.K. Jain, IAS (Retd.)



Sl. No.	Zone/Area Covered	Name of Special Rapporteur
2.	North Zone-II (Uttar Pradesh)	Shri Sunil Krishna, IPS (Retd.)
3.	West Zone (Maharashtra, Goa, Gujarat, Dadra & Nagar Haveli and Daman & Diu)	Smt. S. Jalaja, IAS (Retd.) (With effect from 01.04.2017. Earlier looking after Central Zone-II)
4.	Central Zone-I (Madhya Pradesh, Chhattisgarh and Rajasthan)	Shri Gopo Bihari Panda
5.	Central Zone-II (Bihar and Jharkhand)	Dr. Vinod Aggarwal, IAS (Retd.)
6.	East Zone-1 (West Bengal, Odisha, Andaman & Nicobar Islands.)	Shri Damodar Sarangi, IPS (Retd.)
7.	South Zone-I (Tamil Nadu, Puducherry, Kerala & Lakshadweep)	Shri Jacob Punnoose, IPS (Retd.)
8.	South Zone-II (Andhra Pradesh, Telangana and Karnataka)	Lt. Gen. (Retd.) P.G. Kamath
9.	North Eastern Zone-I (Nagaland, Manipur, Mizoram & Tripura)	Shri Sudhir Kumar Former Member, CAT
10.	North Eastern Zone-II (Assam, Meghalaya, Sikkim & Arunachal Pradesh)	Shri Anil Pradhan, IPS (Retd.)

THEMATIC SPECIAL RAPPORTEURS

Sl. No	Theme	Name of Special Rapporteur
1.	Disabilities	Shri P.K. Pincha
2.	Bonded Labour / Child Labour/ Migrant Labour	Dr. Ashok Sahu, IES (Retd.)

F. Core and Expert Groups

5.12 Core and Expert Groups consist of eminent persons or subject experts or representatives of Government or technical institutions or non-governmental organizations in a given field required by the Commission, be it health, mental health, disability, bonded labour, etc. These Groups render expert advice to the Commission as per their expertise. Some of the important Core and Expert Groups that functioned in the NHRC during 2016-2017 were :

- 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
- Core Advisory Group on Bonded Labour
- Expert Group on Silicosis
- Expert Group on Emergency Medical Care
- Core Group on Trafficking, Women and Children

5.13 Meetings of the Core and Expert Groups are called by the NHRC periodically at regular intervals or as and when deemed necessary, in the Commission. The details of some of the Core and Expert Group meetings held in the Commission during the period under review are given in subsequent chapters of the Annual Report where these issues have been taken up.

Meeting of Core Group of NGOs

5.14 In pursuance of Section 12(i) of the Protection of Human Rights Act, 1993, the Commission, right from its inception, has been encouraging the efforts of non-governmental organizations and institutions working in the field of human rights. The Commission associates and partners with reputed NGOs in various programmes, projects initiated by it in the area of human rights awareness. As awareness of human rights is an important factor in the better protection of human rights, there is greater scope of increasing the interaction with NGOs.

5.15 In order to facilitate its interaction with the NGOs and civil society organizations, the Commission constituted a Core Group of NGOs on 17.07.2001. The Group was last reconstituted on 16.09.2011 with 11 members. The matter regarding reconstitution of the Core Group of NGOs



is again under consideration of the Commission for giving wide representation of credible NGOs from diverse fields of human rights across the country.

Committee on Amendment to Prison Act, 1894

5.16 In pursuance to the recommendations of National Seminar on Prison Reforms 2014, the NHRC constituted a Committee of Experts on 18 March 2015 under the Chairmanship Shri Sanjay Kumar (IAS), Principal Secretary, Home (Jails), Government of Punjab to suggest amendments to the Prison Act, 1894, in order to make it in conformity with human rights norms, Supreme Court judgments and International Conventions/Covenants binding on India. The third meeting of the Committee in connection with the amendment of Prison Act, 1894 was held in the Commission on 22.07.2016. The draft amendment submitted by the Chairman of the Committee was sent to all the members of the Committee/general public through website seeking their opinions/suggestions.

5.17 The inputs/suggestions submitted by the members of the Committee were discussed in detail and the Chairman of the Committee was asked to incorporate the same and submit a final draft for perusal of the Commission. The final draft is to be submitted by the Chairman of the Committee.

Chapter 6

RIGHT TO HEALTH

“Economic growth cannot be sensibly treated as an end in itself. Development has to be more concerned with enhancing the life we lead and the freedoms we enjoy”.

- Prof. Amartya Sen

6.1 India bears a disproportionate burden of disease due to lack of clean water, food, shelter, employment and education, which are the basic rights. According to the Global Burden of Disease Study (GBD) 2015 published in the medical journal ‘*The Lancet*’, India has finished a dismal 154th among 195 countries on the healthcare index. In this context, provision of health services is one of the most important welfare responsibilities of the Government of India and the various State Governments. A number of Committees (Bhore Committee, 1946, Mudaliar Committee, 1962) established in the post-independence period in India have emphasized directly or indirectly the recognition “right to health” as a fundamental right in order to ensure highest standard of health and sanitation for Indian people. Recently, the Centre cleared the long-awaited National Health Policy 2017, which promises to increase public health spending to 2.5% of GDP in a time-bound manner and guarantees health care services to all Indian citizens, particularly, the underprivileged. Through this Policy, the Government of India aims to pursue ambitious targets like reducing under-five mortality to 23 by 2025 and maternal mortality ratio from current levels to 100 by 2020, and infant mortality rate to 28 by 2019 among others.

6.2 It is relevant to mention here that the right to health is not included directly in as a fundamental right in the Indian Constitution. The Fundamental Right to Life, as stated in Article 21 of the Indian Constitution, guarantees protection of life and personal liberty to every citizen. The Supreme Court of India has interpreted the right to health as an essential constituent of the right to life. The obligation of the State to ensure the creation and the sustaining of conditions congenial to good health is cast by the Constitutional directives contained in Articles 38, 39(e), 42, 47 and 48 A in Part IV (Directive Principles) of the Constitution of India. The right to health is guaranteed by the international human rights treaties and declarations, including the “Universal Declaration of Human Rights” (Article 25), “International Covenant on Economic, Social and Cultural Rights” (Article 12), “Convention on the Elimination of all Forms of Racial



Discrimination” (Article 5), “Convention on the Elimination of all Forms of Discrimination Against Women” (Articles 12 & 14), “Convention on the Rights of the Child” (Article 24) and the “Convention on the Rights of Persons with Disabilities” (Article 25). All these conventions have been endorsed by the Government of India.

6.3 Since the time the Commission came into existence in October 1993, it has been monitoring the issue of the right to health with the aim of ensuring that all health services and facilities are not only of good quality and provided without discrimination but are easily available, accessible and affordable to the people across the country, especially to those who are poor and vulnerable. This Chapter throws light on the work on the right to health undertaken by the Commission during the year 2016-2017.

A. Silicosis

6.4 With a view to review the status of implementation of NHRC recommendations in respect of the endemic States, viz. Gujarat, Jharkhand, Madhya Pradesh, Rajasthan, Karnataka and West Bengal as well as share the best practices adopted by these States on the issue of silicosis, the NHRC organized a one-day Conference on Silicosis on 22 July 2016 at Vigyan Bhawan Annexe, New Delhi. The senior officers from the Health and Labour Ministries/Departments of Union Government as well as from the various State Governments, which come under the category of ‘endemic’, along with non-governmental and civil society representatives working in the area of silicosis participated in the Conference.

6.5 The Conference deliberated on the following two major themes:

Session-I : Sharing Best Practices

Session-II: Review of Endemic States

6.6 Based on the deliberations held in the above said plenary sessions, the following recommendations emanated from the Conference:

- i. The implementation of all recommendations made by NHRC earlier should be ensured by the Central and all concerned State Governments.
- ii. The overall approach to deal with the problem of silicosis must be broadened and it should be all encompassing - preventive, curative, rehabilitative and compensatory. However, greater emphasis is required on prevention.
- iii. Strict enforcement of all precautionary measures including wearing of the protective gears by the workers of silicosis prone industries needs to be ensured by the concerned authorities.

- iv. The endemic States need to carry out a full-fledged mapping of their respective States in terms of number of silicosis patients in their states, number of those undergoing treatment and rehabilitation, number of deaths on account of silicosis, compensation paid, etc. This would give them an overall picture of the problem and enable them to prepare an effective action plan for its elimination.
- v. Need for use of technology so as to provide all concerned industries with necessary equipment to minimize the exposure to silica/dust.
- vi. Need to involve the private sector also in the work towards prevention, management and rehabilitation of silicosis.
- vii. Creating and spreading awareness among all stakeholders in particular the people's representatives, civil servants at the District level and Doctors working at the ground level of the endemic States.
- viii. There is also need to conduct awareness programmes for the owners and the employees of silicosis prone occupations.
- ix. The Government of India should evolve a national programme on silicosis or bring the disease of silicosis under the National Health Mission. As treatment facilities may not be always available at PHC or CHC level, all silicosis patients need to be provided a cashless health insurance cover/life insurance cover for their treatment and associated travel and the premium be paid by the State Government.
- x. Need to develop a simple and uniform format across the country for diagnosis of silicosis cases.
- xi. Need to undertake a national level survey on silicosis. This survey could be undertaken by the nodal Ministry along with the affected States, NGOs and civil society organizations. This would facilitate in understanding the depth of the issue and to devise a better strategy for solution to the problem of silicosis.
- xii. Need to develop a 'central welfare fund' whereby relief could be provided to all persons affected by silicosis irrespective of their nature and place of work.
- xiii. Standard pension scheme given under various schemes of the Government of India should also be made available to all those afflicted with silicosis and on their death to their respective families. Efforts must also be made to include them in the BPL category so that they can enjoy the benefits to full extent.
- xiv. Furthermore, children who have lost one or both parents due to silicosis need to be provided monthly education allowance and sustenance allowance. Likewise, there is a need to rehabilitate the widow of each deceased person in other occupations.



- xv. Emphasis should be on alternate employments so that all the inhabitants of the village are not susceptible to silicosis through same employment and the situation like that of 'villages of widows' does not emerge.
- xvi. In case of occurrence of death on account of silicosis, the families of the deceased should be allowed to go in for appeal and post-mortem examination.

B. Core Advisory Group on Health

6.7 A meeting of the Core Advisory Group on Health was held on 6 May 2016. The Meeting was chaired by Shri S. C. Sinha, Member, NHRC. The main purpose of the meeting was to discuss the National Health Mission (NHM) and strengthening of the public health system. After due deliberations, the Core Group recommended the following:

- i. There is a need to strengthen the National Health Mission by activating it in a mission mode. Fund flow under the NHM needs to be timely and effective. All the States need to focus on the individual National Programme like National HIV/AIDS control programme, National Vector Borne Disease Control Programme, Mental Health, etc.
- ii. Government of India to provide essential drugs free of cost under the public health system to the poor. The costs of the other drugs also need to be made affordable.
- iii. The States which have, so far, not adopted the Clinical Establishment Act need to be persuaded to adopt the said Act.

6.8 Another meeting of Core Advisory Group on Health was held on 31 March 2017, wherein it was decided to constitute two Sub-Committees for developing the "Charter on Patients' Rights" and on "Making Health Care as an Entitlement" respectively.

C. Research Study on Assessing the Status of Health System Delivery and Factors Determining Access to Quality Health Care for Tribal Communities

6.9 The research study on "Assessing the Status of Health System Delivery and Factors Determining Access to Quality Health Care for Tribal Communities" is undertaken by NHRC in collaboration with SAMA- Resource Group for Women and Health, New Delhi. The study will enable to understand the status of prevailing health delivery system in terms of its availability and utilization by the tribal population in the States of Jharkhand, Chhattisgarh and Odisha. The objectives of the study are – to understand the current status of public health care utilization among the tribal communities in the study areas and barriers faced in access to healthcare, and to explore differential access to public healthcare among tribal communities and other population in the study areas and reasons for the same. The said study is to be completed within a period of 12 months.



6.10 A series of meetings with the Experts on Silicosis were held under the chairmanship of Shri S. C. Sinha, Member, NHRC to obtain suggestions with regard to preventive, remedial, compensatory and rehabilitative measures to eliminate the problem of silicosis faced by the affected workers and their families. The suggestions were later drafted in the form of recommendations which would be submitted by NHRC to the Supreme Court to consider the same while giving necessary directions to the concerned Governments/Authorities.

D. Illustrative Cases on Health Dealt by NHRC

1. Right Eye of a Nine Day Old Baby Eaten by Ants in Children Ward of Government Ummaid Hospital, Jodhpur, Rajasthan

(Case No. 882/20/19/2013)

6.11 The substance of the grievance raised before the Commission by an Activist Shri R. H. Bansal in his complaint dated 15.04.2013 was that the right eye of a nine day old baby was eaten by ants in the children ward of Government Ummaid Hospital, Jodhpur, Rajasthan. He alleged that the incident occurred due to the negligence of the hospital administration. The matter in question was also published in the News Daily “Dainik Bhaskar” dated 12.04.2014.

6.12 Pursuant to the directions of the Commission, a team of officers of the Investigation Division of the NHRC visited the hospital and recorded the statements of parents of the victim baby and other relevant witnesses. They also obtained the opinion of the forensic experts of the panel of the Commission.

6.13 The Commission carefully considered the facts and circumstances of the case and took note of the material on record. At the outset, it was found that there were a set of medical procedures for the maintenance of newly born babies which was found to have been not followed in the present case. Moreover, the Forensic Expert on the panel of the Commission gave his findings, wherein a case of serious medical negligence was made out against the hospital authorities. The negligence shown to the infant baby by the hospital authorities amounted to the violation of human rights of the victim. Therefore, the Commission directed Government of Rajasthan to show cause u/s 18(a)(i) of PHR Act, 1993 as to why a monetary compensation of ₹ 1,00,000/- (Rupees One Lakh only) should not be recommended to be paid to the family of the victim.

6.4 The matter is under consideration of the Commission.

2. An Infant Kept on Ventilator Died due to Being Bitten by Rats in Government Hospital in Guntur District, Andhra Pradesh

(Case No. 1051/1/6/2015)



6.15 The Commission initiated suo motu proceedings on the basis of a media report captioned “*Ventilator par rakhe bacche ko chuhon ne kuttar kar mar dala*”, published in Hindi newspaper ‘Punjab Kesari’ dated 27/8/2015. The incident allegedly took place in Government hospital in District Guntur, Andhra Pradesh where a 10 days old child, kept on ventilator was badly bitten by the rats on two occasions which led to his death due to excessive bleeding. According to the report, the child was operated upon and was kept on ventilator in the post-operative unit as a life protection measure.

6.16 The Superintendent, Government Hospital, Guntur submitted a report which confirmed the incident of rat bites and death of the child of one Ch. Laxmi. It was stated that the first incident of rat bite occurred on 24.08.2015 with a scratch/bite on left hand of the baby, immediately after which preventive measures were taken. Unfortunately, again on 26.08.2015, the infant was bitten by the rat on the left temporal side and upper chest. The baby expired at about 2.45 p.m. on the very day of second rat bite i.e. 26.08.2015.

6.17 The Committee of senior Professors, which conducted a departmental enquiry in the matter, concluded that the baby expired due to multiple congenital anomalies and breathing difficulties and that the rat bites could not amount to the death of the baby. Also, as per the post-mortem report, the infant died due to “shock as a result of Septicemia” associated with multiple gnawing injuries. However, at the same time, it is to be noted that the Committee also recommended that sanitation of the hospital should be improved and that every ward should be adequately provided with staff nurses. Moreover, the report of the Superintendent, Government General Hospital further revealed that the contract of sanitation and security services provided by Chaitany Jyothi Welfare Society, Vijayawada was terminated for gross negligence on its part and the Sanitary Inspector of the hospital was also suspended. The report further enumerated the steps taken for improvement of sanitation and to tackle the rat menace in the hospital.

6.18 A cumulative assessment of all the above admitted facts led the Commission to an inescapable conclusion that there had been gross negligence in the matter of maintenance of sanitation as well as in taking adequate care of the child who was kept on ventilator in the post operative unit. This negligence led to the repeated rat bites to the baby who expired on the same day of the second rat bite. The Commission did not express any opinion on the actual cause of death but it observed that, nevertheless, gross negligence on the part of the hospital authorities/ its agents/ contractors was writ large in the case which led to violation of human rights of the deceased child and the parents. Hence, the Commission held that the State was liable to pay compensation to the next-of-kin of the deceased child for violation of the human rights. The Commission, accordingly, issued a notice to the Chief Secretary, Government of Andhra Pradesh under section 18 of the PHRA, 1993 to show cause as to why it should not recommend payment



of ₹1,00,000/- (Rupees One Lakh only) as compensation to the next-of-kin of the deceased child.

6.19 As the Chief Secretary, Government of Andhra Pradesh failed to submit any reply to the show cause notice, despite reminders, the Commission on 05.12.2016 recommended to Government of Andhra Pradesh to pay an amount of ₹ 1,00,000/- (Rupees One Lakh only) as monetary compensation to the next-of-kin of the deceased child. The compliance report in this case is still awaited.

3. *A Pregnant Woman Turned Away by a Woman Surgeon and Employees at District Women Hospital, Sant Kabir Nagar, Uttar Pradesh*

(Case No. 41931/24/65/2014)

6.20 The Commission came across a distressing press report captioned “*Aspatal se bhagai gai mahila ne sadak per bachhi ko diya janam*” published in Hindi Newspaper “Daily News” dated 20.10.2014. According to the newspaper report, a pregnant woman was turned away by the District Women Hospital, Sant Kabir Nagar on 19.10.2014 on account of her inability to pay ₹ 4,000/- for the surgery. Subsequently, the deaf and dumb woman, Kismati Devi, wife of Ram Lakhan, delivered a girl child on the road.

6.21 The Commission took *suo motu* cognizance of the matter and, pursuant to its directions, the District Magistrate, Sant Kabir Nagar submitted a report informing that the matter was enquired into by the Chief Medical Officer, Sant Kabir Nagar and also by a three-member Committee headed by Senior Consultant, Dr. Y. P. Singh.

6.22 The finding of the Committee was that the victim had been taken away from the hospital by her attendants against medical advice, on their own, due to the delay which was being caused in the delivery.

6.23 The Commission, however, noted that the doctors who were members of the Enquiry Committee were all from the same hospital in which the incident took place giving rise to a conflict of interest and raising questions on the fairness and impartiality of the inquiry. Similarly, the Commission was cognizant of the fact that a common man very rarely gives a statement against a public servant, especially, if he or she is posted in the area to which the person whose statement is being recorded belongs. Therefore, the Commission expressed the view that there was a distinct possibility that the persons, whose statements had been recorded by the Committee, had not stated the whole truth.

6.24 The Commission, therefore, disapproved the report of the enquiry and observed that the victim was a deaf and dumb woman and that she came from a poor family with a rural background. A poor patient has very little financial capacity and he/she is completely dependent



on the public health care facilities available in the vicinity. As a result, a poor person shall never take his/her patient away from a Government hospital in case the Government hospital offers the necessary health care and the patient gets the attention in the hospital which is due to him/her. A poor person will take away his or her patient from a government hospital only if he/she finds that the patient is not getting any attention and care in the Government Hospital, i.e., if he is completely dissatisfied with the treatment which the patient is getting in the hospital and only in case of grave negligence which the patient faces in the hospital, the family loses all hope. The doctors posted in the District Hospital, Sant Kabir Nagar had created such conditions, by their carelessness towards the victim, which had forced the family of the victim to take her away from the hospital. The victim was taken away from the District Hospital, Sant Kabir Nagar because of the medical negligence of the doctors attending on her, which is a gross violation of the human rights of the victim lady.

6.25 The Commission, therefore, issued a notice to the Chief Secretary, Government of Uttar Pradesh to show-cause why monetary compensation of ₹ 1,00,000/- (Rupees One Lakh only) should not be recommended to be paid to Smt. Kismati Devi.

6.26 As the Chief Secretary, Government of Uttar Pradesh failed to submit any reply to the show cause notice despite reminder, the Commission, vide proceedings dated 05.12.2016, recommended to the Government of Uttar Pradesh to pay an amount of ₹ 1,00,000/- (Rupees One Lakh only) as monetary compensation to the victim Smt. Kismati Devi. Compliance report along with proof of payment is awaited.

4. *Amputation of Foot of a 10 Year Old Boy due to Negligence of Doctors of Hindu Rao and Safdarjung Hospitals in Delhi*

(Case No. 4301/30/2015)

6.27 The Commission took *suo motu* cognizance of a news report, which Hindi Daily “Nai Dunia” dated 01.08.2015 under the caption “*Doctors ke laparwahi se kaatna pada bachhe ka pair*”. According to the report, the 10 year old child Bilal had suffered an injury on his left foot on 01.05.2014 when a piece of glass pierced into his foot. He was initially taken to a quack in Rana Pratap Bagh Colony in Sangam Park area of Delhi, who stitched the wound without extracting the piece of glass. As the condition of the child was not good, he was taken to the emergency ward of Hindu Rao Hospital, Delhi for treatment. After X-ray, the doctor declared that there was no glass and advised further treatment in the OPD next morning. A further X-ray in the OPD revealed glass piece in the foot. Though the patient was kept in the hospital, the glass was taken out only after three days. This caused severe infection for which no treatment was provided. The patient was transferred to Lok Nayak Hospital, where he was not admitted and was later taken to Safdarjung Hospital, where he was initially refused admission, but later kept



for two days and then discharged. The patient was taken to a hospital in Meerut where his foot was amputated in order to save his life. The news report mentioned that registration of four doctors of the two hospitals, Hindu Rao and Safdarjung, had been suspended for one month by the Delhi Medical Council. A case had also been registered against the quack.

6.28 Pursuant to the directions, the Commission received reports from the Secretary, Delhi Medical Council, CMO (Administration), North Delhi Municipal Corporation, Hindu Rao Hospital and Under Secretary to the Government of India, Ministry of Health and Family Welfare, New Delhi.

6.29 The Commission received a detailed order of the Delhi Medical Council (DMC) dated 30.07.2015 which related to the complaint filed before it by Shri Kadir Ahmed regarding the alleged medical negligence on the part of various doctors in the treatment administered to his son Master Bilal whose left leg had to be amputated.

6.30 After conducting a detailed fact finding enquiry, the Delhi Medical Council found that an unqualified medical person viz. Shri Aftab Alam, who ran a clinic in Sangam Park, Delhi was liable to be prosecuted under the provisions of the Indian Penal Code for having acted recklessly by treating the injury of the patient Bilal Ahmed which was beyond his knowledge and skill. There was a complete lack of reasonable degree of knowledge, skill and care on the part of the treating doctors of Hindu Rao Hospital, Delhi where Master Bilal Ahmed was taken on 01.05.2014. The Doctors who were found to be negligent were Dr. Anant Sharma, Junior Resident and Dr. Jagadeesh V., Senior Resident. Further, as the patient Bilal Ahmed developed arterial Thrombosis, he was referred to Safdarjung Hospital on 08.05.2014 for vascular surgeon's management. Dr. Vishal Gajbhiye, who examined findings of CT Angiography, noted that no surgical intervention was needed. It was stated further that the C.T. angiography of the lower limb confirmed that the patient had compromised limb for which the patient should have been admitted to the hospital for an urgent review by the C.T.V.S. and an attempt should have been made to salvage the limb. However, this was not done and the patient was referred to C.T.V.S. OPD/Ward.

6.31 DMC held that this was indicative of the lack of due diligence and professionalism on the part of Dr. Vishal Gajbhiye who had examined the findings of the C.T. Angiography. The Council further held that Dr. Arvind Kumar Pandey of Department of CTVS Safdarjung Hospital, who was also involved in the treatment of Bilal Ahmed, had also failed to exercise due diligence and care which was expected of a reasonably knowledgeable doctor.

6.32 The Delhi Medical Council held that Dr. Vishal Gajbhiye and Dr. Arvind Kumar Pandey were both guilty of professional misconduct or were guilty of medical negligence. The Commission



found that the Delhi Medical Council had arrived at those findings after a very detailed fact finding enquiry during which it had recorded various statements, including that of the victim's father and the doctors of various hospitals involved in his treatment. The Commission, therefore, accepted the conclusions arrived at by the Delhi Medical Council and vide its proceedings dated 20.06.2016 observed that it was *prima facie* established that there was negligence and lack of professionalism on the part of the doctors of Safdarjung Hospital, New Delhi in the treatment of the victim Bilal Ahmed and it amounted to violation of his human rights and therefore, he deserved to be monetarily compensated. The Commission, therefore, issued a notice u/s 18(a) (i) of the Protection of Human Rights Act, 1993 to the Secretary, Ministry of Health & Family Welfare, Government of India, New Delhi to show-cause as to why a monetary compensation of ₹1,00,000/- (Rupees One Lakh only) be not recommended to be paid to Master Bilal Ahmed for the violation of his human rights.

6.33 Response received from the Secretary, Ministry of Health & Family Welfare, Government of India is under consideration of the Commission.

5. Death of 9 Workers due to Silicosis in Chota Udepur Taluks of Vadodara District, Gujarat, and a Large Number of Workers Suffering from Silicosis

(Case No.212/6/9/2010)

6.34 The Commission received a complaint from Shri Jagdish Patel, Director, Peoples Training & Research Centre, Vadodara, Gujarat alleging about death and suffering of a large number of workers due to silicosis in Chota Udepur Taluks of Vadodara District and nine confirmed cases of death in village Kharsana in District Dahod, He sought intervention of the Commission.

6.35 The Commission called upon the District Collector, Dahod, Gujarat to submit report as to whether next-of-kin of the deceased persons have been paid any compensation by the State Government of Gujarat or any other agency.

6.36 Pursuant to the directions of the Commission, the Under Secretary to the Government of Gujarat, Labour & Employment Department sent a report which was sent to the complainant for comments. The complainant submitted a list of 9 workers out of which, the complainant withdrew 4 workers since their cases have already been decided by the Employee State Insurance Corporation. Now, next-of-kin of five workers who died of silicosis are to be considered for relief or compensation from the Government of Gujarat or from ESI or any other Government agency. According to the complainant, these workers had worked in quartz crushing units in Godhra. All these units are covered under Factories Act and ESI Act. These units, in violation of provisions of Factories Act, exposed their workers to lethal silica dust in an amount more than prescribed by the law. They also did not issue ESI identity cards to the workers though they registered their



names. Thus, Labour Department of Government of Gujarat and ESI Corporation had failed miserably to see that the legal provisions are diligently followed by the units. This indicated that the Government of Gujarat failed in its duty to protect health and life of these workers as enshrined in Article 21 of the Constitution of India.

6.37 The Commission considered the matter on 05.08.2014 and observed that on the basis of the above, it was clear that, five workers who were working in quartz crushing units in Godhra contacted silicosis and thereafter died due to silicosis. The enforcement agencies of Government of Gujarat had failed to protect the life of the workers. The complainant had submitted the final list of five workers and their medical certificates which indicated that they died of silicosis. Thus, it was a clear case of violation of human rights of the next-of-kin of the deceased workers and they were entitled for compensation.

6.38 Further, from the perusal of the report of Dy. Director, Employees State Insurance Corporation dated 08.08.2012 it has been stated that ESIC is not awarding any compensation but benefits are payable/paid to the insured persons and the dependants as per the provisions of ESI Act. Further, Dahod is a non implemented area and the provisions of the ESI Act are not applicable in the areas of Dahod. However, ESI has paid the permanent partial disablement benefit to the insured persons suffering from occupational disease and registered in the factories situated in the area of Godhra. The amount of benefit paid to the insured persons is a very meager and nothing has been paid by ESIC to the dependents of the workers. Under these circumstances, the next-of-kin of deceased were entitled to get compensation u/s 18 of Protection of Human Rights Act, 1993.

6.39 Accordingly, the Commission directed to issue a notice u/s 18(a)(i) of PHRA, 1993 to the Chief Secretary, Government of Gujarat to show cause within six weeks as to why next-of-kin of deceased be not recommended compensation.

6.40 Pursuant to the directions of the commission, the Joint Secretary, Government of Gujarat, Labour and Employment Department, on 07.10.2014, took the stand that Director, the Government of Gujarat is not responsible to pay compensation to next-of-kin of deceased workers. Compensation is either paid by ESIC or Workmen's Compensation Authority. It was further submitted that workers at serial no. 1 to 4 were registered in ESI, but Sub-Regional Officer, ESIC, Vadodara on 24.1.2014 informed that these workers did not fulfil the criteria of minimum six months continuous employment and thus they were not entitled for compensation under the ESI Act. The Joint Secretary, Government of Gujarat, Labour and Enforcement Department highlighted the efforts made by the Government of Gujarat to prevent the ailment of silicosis in the State. According to Joint Secretary, since safety and health measures have been taken by the department with utmost care, *prime facie* there was no inaction on the part of State Government of Gujarat.



6.41 The Commission considered the matter on 08.06.2016 and observed that from the perusal of the report submitted by Government of Gujarat, it is clear that, on one hand, the report reveals that the four workers, who died of silicosis, were working in M/s Bharat Silica Sand, M/s Sadri Minerals Vadodara and M/s Diamond Abrasives Vadodara and they have their ESI number as well but on the other hand, Sub-Regional Officer, ESIC, Vadodara submitted that since the workmen at serial no. 1 to 4 did not fulfill the criteria of minimum six months continuous employment, they were not entitled for compensation under ESI Act, 1948. These two versions were contradictory to each other.

6.42 The Commission, on 05.08.2014, had categorically mentioned that the workers, who had been working in quartz crushing units in Vadodara, were exposed to the lethal silica dust and who had later died due to silicosis because of the inaction of the enforcement agencies of Gujarat. It was the duty of the State enforcement agencies to ensure that the concerned industrial units take appropriate preventive/safety measures. Such checking and supervision by the State authorities could have saved the lives of the workers, who ultimately suffered from Silicosis and died. The Commission was of the view that the remedy available to the family of a deceased worker under ESI Act, 1948 or under Employees Compensation Act, 2010 is in addition to the monetary compensation, which is recommended by this Commission, if any, u/s 18 of the Protection of Human Rights Act, 1993.

6.43 The reply to the show cause notice submitted by the Joint Secretary, Labour and Enforcement Department, Gujarat was not convincing. The Commission was of the view that the Labour Department, Government of Gujarat and ESI Corporation, Gujarat had failed miserably to see that the legal provisions were strictly followed by the units. Thus, the Government of Gujarat had failed in its duty to protect the health and life of the workers as enshrined under Article 21 of the Constitution of India. Hence, the next-of-kin of the four workers, who died due to silicosis, were entitled to get compensation from the State Government of Gujarat.

6.44 Thus, the Commission recommended that a sum of each ₹ 4,00,000/- (Rupees Four Lakh only) be paid to the next-of-kin of the four deceased Dinesh Fatta Kamod, Kadwa Sadiya Kamod, Narsinh Sadiya Kamod and Harsinh Kunvrabhai Kamod by the State Government of Gujarat. Out of ₹ 4,00,000/-, ₹ 2,00,000/- will be given to the next-of-kin of the deceased in cash and rest of the amount of ₹ 2,00,000/- shall be kept in their fixed deposit account, which will be available to the next-of-kin of the deceased in the shape of monthly interest. The compliance report along with proof of payment is awaited from the Chief Secretary, Government of Gujarat.



Chapter 7

RIGHT TO FOOD

“It is widely accepted that the right to food forms one of the basic economic and social rights essential to achieve ‘economic democracy’ in India. This right is nowhere near realization in India, where under nutrition levels are among the lowest in the world”

- Jean Dreze

7.1 A well nourished, healthy population is a pre-condition for sustainable development and India is facing significant challenges in harnessing long term dividends from its young demographic base. While the faster economic growth has been made by India in the recent period, the country is saddled with high levels of hunger and malnutrition in the world. The National Family Health Survey 4 (2015-16) reflects upon this problem as more than half of the women (53 per cent) between 15 and 49 years are anaemic in the country and 22 per cent have Body Mass Index below normal. Among children younger than age 5, 35.7 per cent have low weight for age and 21 per cent have low weight for height. This situation is dismissal despite the fact that India runs two of the world’s biggest nutrition programmes, Integrated Child Development Scheme (ICDS) for children under the age of 6 years and Mid Day meal Programme for Children up to the age of 14 years. Recently, India is ranked 97 among 118 developing countries on International Food Policy Research Institute’s (IFPRI) Global Hunger Index (GHI) in 2016.

7.2 The situation is dismal in spite of the fact that the Article 21 of the Constitution of India read with Articles 39(a) and 47, places the issue of food security in the correct perspective by making State duty bound towards its obligations in effective realization of the right to food of the people of the country. The requirements of the Constitution are in with obligation on states under the 1966 International Covenant of the Economic, Social and Cultural Rights to which India is a party. Article 11 of the Covenant recognizes the right of everyone to an adequate standard of living including adequate food. India is an active member of the United Nations and is a State Party to the International Covenant on Economic, Social and Cultural Rights. The United Nations Sustainable Development Goals (SDGs) for transforming the world by 2030 have also been endorsed by the Government of India. These, 17 goals, offer a vision of more prosperous,



peaceful and sustainable world in which no one is left behind. They seek to build on the 2000 Millennium Development Goals. This all the more casts an obligation on the Government to respect, protect and fulfill the right to food of every citizen of India.

7.3 The Government of India put in place a massive food and safety programme by enacting the National Food Security Act, 2013 on 10 September 2013 that seeks to ensure food and nutritional security of the people. The National Food Security Act, 2013 (NFSA), seeks to deliver food security to the targeted beneficiaries. It combines and expands the scope of some existing food-based welfare schemes like Targeted Public Distribution System (TPDS), Supplementary Nutrition Programme (SNP) of Integrated Child Development Services (ICDS) and Mid-day Meal (MDM) scheme and a conditional cash transfer scheme called the Maternity Benefit Programme [erstwhile Indira Gandhi Matritva Sahyog Yojana, (IGMSY)].

7.4 The success of the Government's other numerous flagship programmes (including Make in India, Skill India, Digital India) is contingent on the availability of a healthy and trained workforce. The current state of malnutrition in India, however, poses great threat to the realization of this vision. Given that malnutrition has severe economic, health and social consequences for future generations, reducing investment into early childhood health and nutrition can prove to be an erroneous policy view. Children and women together constitute around 70 per cent of the country's population, which represents not just the present human resource base but also the future. This resource base is eroded by under nutrition which undermines their survival, health, cumulative learning capacities and adult productivity and therefore must be urgently addressed.

7.5 The National Human Rights Commission has been emphasizing on the proper implementation of the National Food Security Act, 2013 and also the flagship schemes namely, the Integrated Child Development Services Scheme or ICDS and the Mid-day Meal Scheme. It has also been requesting its Special Rapporteurs to provide feedback on the status of implementation of these schemes as well as the Food Security legislation in the States. Keeping in mind the existing reality on the ground where many are still struggling with the problem of poverty, hunger and malnutrition in the country, the NHRC organized a two-day Conference on Right to Food at India International Centre, New Delhi on 28-29 April 2016. The main objective of the Conference was to make a state-wise assessment of the implementation of the National Food Security Act, 2013 across the States and Union Territories in the country, to assess the use of information technology and other available tools to prevent diversions of food grains and other corrupt practices prevalent in TPDS, and to identify state-wise gaps/shortcomings in the effective implementation of the National Food Security Act, 2013 and to finalize the recommendations for the Central and State/ Union Territories Governments to plug those gaps.

7.6 The Conference deliberated on three major themes in its plenary sessions as follows:

- Session I : National Food Security Act, 2013 – Present Status of Implementation
- Session II : Implementation of National Food Security Act, 2013 by the States – Identification of Eligible Households: Steps Taken, Structural Problems, Operational Issues and Bottlenecks
- Session III : Implementation of National Food Security Act, 2013 by States – Nutritional Support to Pregnant Women & Lactating Mothers and Children up to 6 Years: Steps Taken, Structural Problems, Operational Issues and Bottlenecks



National Conference on Right to Food at IIC, New Delhi on 28-29 April 2016

7.7 The three Working Groups constituted in the Conference made recommendations on the issues of (i) Identification of eligible households, (ii) Nutritional Support to Pregnant Women and lactating mothers and children up to 6 years and (iii) Reforms in the Targeted Public Distribution System. The recommendations were later sent to the concerned Union Ministries and to all the States and Union Territories.



A. A Study of Right to Food – Prevailing Situation among BPL Families in Bihar and Uttar Pradesh

7.8 It was reported in the Annual Report 2015-16 of the NHRC that its Research Division had commissioned a research study to HARYALI Centre for Rural Development, New Delhi. Its specific objectives were – to find out the socio-economic status and living conditions of the BPL families; understand whether the BPL families have physical and economic access to adequate food or the means for its procurement; assessment of dietary pattern of male and female children and adults at the household level; and study the extent of gender discrimination practiced with regard to food items; assess the impact of food grains provided under the public distribution system as well as food provided under the ICDS and Mid-day Meal Schemes in overcoming the problem of malnutrition and starvation particularly among children; ascertain the incidence and prevalence of morbidity and mortality among BPL families and children due to under-nutrition and starvation; assess the role of civil society organizations and private institutions in catering to the needs of BPL families; and to device strategies for overcoming the problem of starvation among BPL families and children by improving their nutritional status.

7.9 During the period under report, ‘HARYALI’ made a presentation before the Commission and was advised to improve upon its draft report by addressing the shortcomings noticed in it.

B. Research Project on Agrarian Crisis and Farmers Suicides - An Empirical Study of the Endemic States-Issues and Concerns

7.10 The research study titled “Agrarian Crisis and Farmers’ Suicide - An Empirical Study of the Endemic States - Issues and Concerns” has been undertaken by NHRC in collaboration with National Institute of Rural Development & Panchayati Raj, Hyderabad. The study will attempt to analyze the causes of farmers’ suicides, post-suicide condition of the households, measures for rehabilitation, successful interventions and possible policy interventions not only to prevent the suicide but also to mitigate the adverse impact on the family. The study will use both primary and secondary sources of data to accomplish the objectives of the study which will be carried out in the States of Maharashtra, Telangana, Odisha and Punjab. The duration of the study is 10 months.

7.11 The findings of the study will suggest necessary policy measures to be taken by the government to prevent the incidence of farmer’s suicides and to ensure that the affected families obtain the ideal rehabilitation benefits with minimum bureaucratic hassles.

C. Illustrative Case on Right to Food Dealt by NHRC

1. Non-supply of Food to Children at Anganwadis in Punjab

(Case No. 1164/19/0/2014)



7.12 The Commission came across a newspaper report captioned “*Children at anganwadis go without food*”, which appeared in “The Tribune” dated 01.09.2014. According to the report, lakhs of children below six years of age were not given any food as no ration was supplied to 26,652 Anganwadi Kendra, in different parts of the State of Punjab for four months. It was also reported that advance bills for purchase of ration under Supplementary Nutrition Programme (SNP) were not cleared by the Treasury in the month of December of the previous year. Moreover, the situation was further aggravated due to delay in delegation of powers of Drawing and Disbursing Officer (DDO) in the new fiscal year. It was further reported that approximately Rs. 80 crore, including 90% of the matching grant from the Government of India, was spent under the Supplementary Nutrition Programme of the Integrated Child Development Service Schemes, catering to around ten lakh poor children, pregnant women and lactating mothers enrolled with Anganwadis to save them from malnutrition. Approximately, 50,000 children at 857 Anganwadis in Ropar District could not be supplied rice, dalia and panjeeri since April, 2014 due to non-availability of funds.

7.13 Taking *suo motu* cognizance in the matter, the Commission issued notice to the Chief Secretary, Government of Punjab calling for a detailed report along with

- i) District-wise break up of number of Anganwadis in each district of the State;
- ii) District-wise break- up of the number of Anganwadis in which ration for supply of edible under SNP was not issued; and
- iii) remedial steps proposed by the Chief Secretary.

7.14 The matter was taken up during the camp sitting of the Commission, at Chandigarh on 27.11.2014, when the Director, Social Security & Women and Children Development Department, Government of Punjab submitted a report admitting that ration supply was not available for a period of four months. He also submitted that with the help of local community, food supply was made available. However, the Commission directed him to submit a further report.

7.15 The Commission received a report dated 19.5.2015, reporting that an amount of ₹14,153.97 lakh was released by the District Treasuries during the financial year 2014-15 under Supplementary Nutrition Programme. The report further stated that there were 26656 Anganwadis in the State of Punjab. The supply of supplementary nutrition to Anganwadis was reportedly disrupted in Amritsar, Bhathinda, Faridkot, Ferozepur, Fazilka, Fatehgarh Sahib, Gurdaspur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Mansa, Moga, Shree Mukatsar Sahib, Roopnagar, Tarn Taran and Barnala districts during different periods from 01.06.2014 to 10.11.2014. The funds amounting to ₹ 78.75 crore were sanctioned but the same could not be released for 2 months due to delay in delegation of the DDO powers, which were issued on



25.08.2014. Funds to the tune of ` 69.76 crore have been drawn from Treasuries by the District Programme Officers.

7.16 The Commission found that the pregnant women, lactating mothers and infants in thirteen Districts of Punjab were deprived of regular supply of supplementary nutrition due to bureaucratic delays. The mental growth of the infants may have been adversely affected due to this serious lapse on the part of the government as the development of brain of the child takes place in the first six years of the child. At this point of time, it may not be possible to undo the damage. However, the beneficiaries who were denied supplementary nutrition could certainly be reimbursed for the loss caused to them.

7.17 Hence, the Commission issued a notice to the Government of Punjab to show cause as to why the Commission should not recommend to the government to reimburse the deprived beneficiaries in thirteen Districts of Punjab money equal to the value of the ration which was not supplied during the period from 01.06.2014 to 10.11.2014.

7.18 In response to the show cause notice, Director, Department of Women & Child Development, Punjab, vide communication dated 12.08.2015, submitted that under the Integrated Child Development Services Scheme, Centrally Sponsored Scheme, the expenditure of which is met by Centre and State Government in the ratio of 50:50; there is no provision of giving cash payments to the beneficiaries. The disruption in the supply of supplementary nutrition was regretted. It was also stated that the State shall ensure that such a situation does not arise in future.

7.19 On perusal of the response to the show cause notice, the Commission observed that pregnant women, lactating mothers and infants in 13 Districts of Punjab were deprived of regular supply of supplementary nutrition during the period from 01.06.2014 to 10.11.2014 due to bureaucratic delay is not disputed, and as such human rights of the pregnant women, lactating mothers and infants are violated. The Commission further observed though the Integrated Child Development Service Scheme is a centrally sponsored scheme and expenditure for providing supplementary nutrition is met by the Centre and the State Government in the ratio of 50:50, there was no failure or inaction on the part of the Central Government in this case. The regular supply of supplementary nutrition was disrupted due to bureaucratic delays in the release of funds by the State Government. Hence, the State Government cannot be absolved from the liability to compensate the victims. The fact that the guidelines issued by the Government of India do not provide for giving cash payments to the beneficiaries cannot be a justification for denying monetary compensation to the victims. For effective protection of human rights, the State Government should be made to compensate the victims of such violation of human rights. Hence, the Commission recommended to the Government of Punjab that the persons, who were deprived of regular supply of supplementary nutrition in the 13 districts of Punjab during

the period from 01.06.2014 to 10.11.2014, shall be paid money equal to the value for the ration which was not supplied to them during the period from 01.06.2014 to 10.11.2014. The Chief Secretary, Government of Punjab was directed to submit the compliance report with proof of payment within three months.

7.20 In response, the Government of Punjab informed that the Finance Department of Punjab Government has issued approval for release of funds, and Department is taking necessary action to provide monetary benefit to the deprived beneficiaries who were not given supplementary nutrition food.

7.21 Considering the response from the Government of Punjab, the Commission, vide its proceedings dated 27.02.2017, directed the Additional Director, Women and Child Development Department, Government of Punjab to disburse the monetary relief to the affected beneficiaries who were not given supplementary nutrition food and submit the compliance report along with proof of payment to the Commission within eight weeks. Compliance report in this case is awaited.

2. 200 Girl Students Denied of Proper Food, Adequate Standard of Living in a Government Run Hostel for Tribes of Bhaluguda Sevashram in Malkangiri, Odisha

(Case No.3727/18/29/2013)

7.22 The Commission received a complaint dated 29.11.2013 from Dr. Subash Mohapatra, Executive Director, Global Human Rights Communication, whereby he drew the attention of the Commission against the hunger and denial of adequate standard of living to 200 girl students in a Government run hostel for the tribes of Bhaluguda Sevashram in Malkangiri, Odisha. According to the NGO, these 200 girls have left the hostel on 25.11.2013. It was also alleged that there was a provision of keeping five teachers in Bhaluguda Sevashram but none was available on duty in the school. Consequently, the girl students were not provided adequate food. No female teacher was available in the hostel for these scheduled tribe and scheduled caste girls. Since they were feeling insecure, they left the hostel.

7.23 Pursuant to the directions of the Commission dated 11.12.2013, Director (ST)-cum-Additional Secretary to the Government of Odisha, ST & SC Development Department on 18.08.2014 informed the Commission that as per report of the District Administration it was revealed that 161 girl students instead of 200 had actually left the hostel. Further, necessary curative measures have been taken to enhance the quality of food and other hostel management aspects. Departmental proceedings have been initiated against Head Sevika who was found guilty of inaction and show cause notice has been served to the Shiksha Sahayika for negligence in duty. After the incident, the erring teachers and officials have been transferred and their substitute has



joined. At present, quality food as per the prescribed menu is being served. All efforts were being made for improvement in overall management of the hostel. In view of the changed scenario and sincere efforts initiated by District Authority, to reform the hostel condition, a request was made to generously consider and drop the proceedings.

7.24 The Commission further considered the matter on 30/12/2016 and observed that admittedly 161 girl students had actually left the hostel due to hunger and denial of adequate standard of living. Now, curative measures have been taken to enhance the quality of food and other hostel management aspects. Departmental proceedings have also been initiated against Head Sevika who was found guilty of inaction and erring teachers and officials have been transferred

7.25 Non-availability of the proper food and denial of adequate standard of living amounts to a grave violation of human rights of 161 girl students of Government run hostel for tribal girls and, therefore, the children are entitled to be compensated.

7.26 Accordingly, Chief Secretary, Government of Odisha was asked to show cause as to why 161 girl students who were residing in Bhaluguda Sevashram in Malkangiri, Odisha be not paid monetary compensation of ₹ 1,000/- each u/s 18(a)(i) of the PHRA, 1993 by the State Government of Odisha. Response to the show cause notice is awaited.

Chapter 8

RIGHT TO EDUCATION

“Travelling through the cities of Europe and observing in the comforts and education of even poor people, there was brought to my mind the state of our people, and I used to shed tears....what made the difference? Education was the answer I got....”

-Swami Vivekananda

8.1 Education is a process of learning and gaining knowledge and it can be acquired by inculcating skills, values and beliefs in different aspects of an individual's life. According to international human rights law, primary education shall be compulsory and free of charge for the children. In fact, international law makers have propagated that secondary and higher education should also be made progressively free of charge. Free primary education is fundamental in guaranteeing everyone has access to education. However, in many developing countries, families often cannot afford to send their children to school, leaving millions of children of school-age deprived of education. Despite international obligations, some states keep on imposing fees to access primary education. In addition, there are often indirect costs associated with education, such as for school books, uniform or travel, that prevents children from low-income families accessing school.

8.2 In India, the Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) is an Act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21-A of the Indian Constitution. India became one of 135 countries to make education a fundamental right of every child when the Act came into force on 1 April 2010. The Act makes education a fundamental right of every child between the ages of 6 and 14 and specifies minimum norms in elementary schools. It requires all private schools to reserve 25% of seats to children (to be reimbursed by the state as part of the public-private partnership plan). Children are admitted in to private schools based on economic status or caste based reservations. It also prohibits all unrecognized schools from practice, and makes provisions for no donation or capitation fees and no interview of the child or parent for admission. The Act



also provides that no child shall be held back, expelled, or required to pass a board examination until the completion of elementary education. There is also a provision for special training of school drop-outs to bring them up to par with students of the same age.

8.3 The cornerstone of Right to Education (RTE) is provision of free and compulsory primary education, though the aim is also to provide increasing access to learning opportunities at secondary, technical and higher levels. It was envisaged that under the RTE Act, teaching and learning processes would be stress-free. A programme for curricular reform was also envisaged to provide for a child friendly learning system, which is at once relevant and empowering. In this regard Indian government has taken many major steps and initiatives for increasing the literacy rate in India. The comparison of data provided by the National Literacy Mission in 2001 and 2011 clearly shows that the literacy rate of country has increased tremendously. For the year of 2011 the literacy rate was 74.04 percent which was only 64.84 percent in 2001.

8.4 Further, it has been quoted in many assessment reports that RTE Act is still a mirage in a number of places in India. There are prominent regional disparities across India in the execution of the Act. In regard with enrollment of the children, the enrollment rate has improved but learning outcomes have not shown much progress. The percentage of girls' total enrollment in upper primary has increased from 48 per cent in FY2009-10 to 49 per cent in FY2013-14. Also, the gender parity index (the number of females divided by the number of males enrolled in a given level) has increased from 0.93 in FY2009-10 to 0.95 in FY2013-14. The enrollment numbers for Children with Special Needs (CWSN) has increased to nearly twice of the number in FY2009-10 and the annual dropout rate has considerably dropped from 9 per cent in FY2009-10 to below 5 per cent in FY2013-14. The Net Enrolment Rate (NER) in primary education increased from 84.5 per cent in FY2005-06 to 88.08 per cent in FY2013-14.

8.5 The quality indicators indicate that most of the states have adopted the curriculum mandate under the RTE Act. In government schools, 80 per cent of the teachers have the prescribed professional qualification to teach. However, average attendance of students and teachers in primary as well as upper primary schools still is an area of concern. The teacher indicator indicates the increase in the number of teachers working in government and aided schools. There has been a drop in the number of schools that do not fulfill the Pupil Teacher Ratio (PTR) as laid down by the Act. The PTR ratio, as mentioned in the RTE Act, is meant to ensure that schools maintain smaller classrooms which will enable personal attention to each student by the teacher which would serve as the basis of the Continuous and Comprehensive Evaluation policy. There have been significant improvements in the schools when we compare the social infrastructure indicators in FY2013-14 to FY2009-10. Playground, boundary wall and kitchen sheds have still not been developed in many schools. There has been significant increase in the percentage of

schools that are equipped with toilets for girl students, from 59 per cent in FY2009-10 to 85 per cent in FY2013-14, but there's still a long way to go to achieve full compliance.

8.6 As stated above, despite significant gains in increasing access to literacy rate and schooling, there are still major glitches in the implementation of the RTE by States, especially with regard to basic infrastructure requirements, such as proper classrooms, toilets and boundary walls for schools, availability of drinking water, having trained teachers in place, filling up of vacant posts of teachers and pupil-teacher ratio. There are still habitations that do not have a school within three kilometers. RTE is illusory for many children from tribal and minority communities and conflict zones. Furthermore, all States do not have the Commissions for Protection of Child Rights needed to monitor the implementation of the RTE. Much of the narrative around the RTE continues to focus on the 25% reservation of seats for children from disadvantaged background in private schools.

8.7 It is important to recognize that as a large majority of students in India study in Government schools or Government aided schools, it is fundamental to improve the implementation of the RTE in terms of infrastructure, teacher quality and targeted learning for children from disadvantaged groups so as to build up a more equitable system. Even now, a significant number of children drop out before completing five years of primary school and a large percentage before finishing upper primary school. These drop-out trends raise troubling questions about equity for there is a huge difference between urban and rural education and the education received by the rich and the poor. Therefore, aside from the investment of huge financial and human resources, a lot of work on the ground level is required to access this right meaningfully and in full measure.

A. Research Study on Human Rights Issues Related to Right to Education of Children of Migrant Labourers in Kerala

8.8 The above study was undertaken by the National Human Rights Commission in collaboration with the Sacred Heart College (SHC) in Thevara, Cochin, Kerala. The concerns to be addressed by the study are : (i) the levels of enrolment of children of migrant labourers in schools; (ii) the dropout rates of children of migrant labourers in schools; (iii) the levels of enrolment of children of migrant labourers in higher education; (iv) the living conditions of the migrant labourers; (v) analyze the economic state of affairs of the migrant labourers; and (vi) the cultural dilemma faced by the children of migrant labourers.

8.9 The Commission facilitated the SHC in the preparation of their interview schedule. The prepared interview schedule was pre-tested and further improved upon and finalized for the study. The interim reports were sent to the Commission which were analyzed and the gaps in the report were communicated to the Principal Investigator.



B. Illustrative Cases Related to Right to Education Dealt by NHRC

1. A Student of Bachelor of Library & Information Science Programme at IGNOU Deprived of Re-evaluation as well as Appearing in the Next Term Examination due to Mistake in Uploading the Results on the Website of the University by an Official of the Computer Department of the University

(Case No. 4167/30/0/2014)

8.10 Ran Vijay Prasad was enrolled as a student of Bachelor of Library & Information Science (BLIS) programme at the Indira Gandhi National Open University (IGNOU) in July 2007, which was valid up to June 2011. However, it was extended up to June 2012 and the complainant was eligible to two term examinations; one in December 2011 and the other in June 2012. He appeared for the term end examination of June 2012. When the results were declared on the website of the University on 17.08.2012, it showed “re-registration not done” against enrolment of the complainant. The complainant sought information from the University under the RTI Act and the University informed him that the information given on the website regarding his result declared on 17.08.2012 was not correct; that the mistake had been committed by Shri Rakesh Miglani of the Computer Department; and that his result had been made available on the website on 04.10.2012. However, the prescribed period to apply for revaluation had expired by then.

8.11 The Assistant Registrar(R-II), IGNOU informed the Commission, vide his letter dated 09.09.2014, that responsibility was fixed on the concerned official and a serious warning was issued to him vide Memorandum dated 10.10.2013. The said reply established that the allegation made in the complaint was admitted by the University authorities. The fact remained that the result of the complainant was not declared and was wrongly shown as “registration not done” due to the mistake by the Computer Department. The result was displayed on the website of the University only on 04.10.2012 without any information to him and he was informed of this only through a letter dated 20.03.2013. By this time, one month period for applying for re-evaluation had already expired. Consequently, the complainant could neither apply for re-evaluation, nor appear for the December, 2012 examination. Further, he was advised by the University to seek fresh admission.

8.12 Since the complainant was deprived of the opportunity of seeking revaluation due to the fault on the part of the University, his right to education had been breached and the University was liable to compensate him. A show cause notice u/s 18(1)(a) of the Protection of Human Rights Act, 1993, was issued to the Vice Chancellor of the IGNOU, through its Registrar who objected to the grant of compensation on the following grounds:-

- i) The CIC has already admitted and disposed of the case on 03.10.2013;



- ii) The concerned officer has already been warned for the delay in declaration of the result ;
- iii) A communication was also sent to the complainant.

8.13 On perusal of the records, the Commission observed that, while disposing the appeal of the complainant, the CIC had observed that though information was provided to the appellant, it was done with considerable delay. The CIC also directed First Appellate Authority, to look into the matter and fix the responsibility for the inordinate delay in providing a response to the RTI. From this decision of the CIC, it is very much clear that the IGNOU has been indicted for committing delay in providing a response to the complainant under RTI Act. This decision rather confirms the plea taken by the complainant and it does not in any way bar this Commission from recommending compensation to the complainant for violation of his Right to Education. Hence, this objection of IGNOU was rejected.

8.14 It is true that the guilty employee who committed mistake in uploading the result of the complainant was warned to be careful in future. This also confirms the mistake on the part of the University and it cannot act as a defense against the violation of human rights of the complainant. Consequently, this objection was also devoid of any force and rejected.

8.15 Now the question was whether the complainant was informed of his correct result in time enabling him to apply for revaluation within the prescribed period. It is on record that even in response to his RTI application, he was not provided the required information, forcing him to approach the CIC. Though the University responded to his applications, vide communications dated 07.09.2012, 09.10.2012, 25.10.2012, 21.11.2012, 01.02.2013 and 20.03.2013, a reading of all these letters shows that correct and clear information was never provided to him and even the University appears to be confused regarding the date from which one month period for applying revaluation is to be reckoned.

8.16 This letter gives the impression that time limit for applying revaluation is to be reckoned from 17.08.2012. This is absolutely wrong information. In any case, this information was provided to the complainant only through the letter dated 21.11.2012 by which time the period of one month for revaluation had expired, whether reckoned from 17.08.2012 or 04.10.2012.

8.17 Also, admittedly no personal intimation regarding the result was given by the University, as undertaken by it vide its letter dated 09.12.2013.

8.18 On consideration of the material on record, it is clear that the result of the complainant was not declared on 17.08.2012 and was wrongly shown as “re-registration not done”. Specifically, the result was declared on 04.10.2012, but the same was not intimated to the complainant and even not mentioned specifically in the letters sent to the complainant in response to his application under



RTI Act. Rather, the University misled the complainant informing him through the letter dated 21.11.2012 that application for revaluation could be filed within one month from 17.08.2012.

8.19 The Commission reiterated that the complainant's Right to Education has been breached as he could not avail of the facility of revaluation due to the fault of the University. Hence, the University was liable to compensate monetarily.

8.20 Keeping in view the facts and circumstances of the case, the Commission on 16.09.2016 recommended a compensation of ₹ 25,000/- to be paid to the complainant. On receipt of compliance report along with proof of payment, the matter was closed on 26.04.2017.

2. A Student of Talasahi Sevashram of School and Mass Communication Department of Odisha, Expelled by the Head Master of the School, Branding Her as Witch

(Case No.224/18/7/2014-WC)

8.21 Shri Subash Mohapatra alleged that Kumari Mamta 2nd Standard student of Talasahi Sevashram of the school and Mass Communication Department of Odisha was expelled by the Head Master of the school on 12.02.2013, branding her as a witch. No action was taken by the police.

8.22 The Commission on 11.11.2014 observed and directed as under :-

"The State of Odisha has an Anti Witchcraft Law. It appears that the matter was reported to the police, however, it did not take any action. The matter should again be reported to the concerned police station for initiating action under Anti Witchcraft Law enforced in the State of Odisha and the case which may so be registered may be duly investigated and taken to a logical conclusion. The departmental proceedings against the Headmaster Shri Uday Nath Parida and Gana Sikshak Smt. Rukmani Mahanta may also be finalized at the earliest

The outcome of the police investigation and department proceedings as above may be intimated to the Commission within six weeks by Collector, Keonjhar and Superintendent of Police, Keonjhar".

8.23 Pursuant to the directions of the Commission, the District Magistrate, Keonjhar submitted a report dated 23.11.2015, stating that an enquiry was conducted by the Sub-Collector & SDM, Keonjhar. The enquiry team found that the incident occurred on 19.12.2013 and the I/C Headmaster Shri Uday Nath Parida was the culprit who alleged that the said child was behaving as a cat during night, sucking blood of other girl students of the hostel. When she came back after reopening of the school she was not allowed to remain in the hostel. However, after intervention

of district administration, on 05.01.2014, the victim girl was brought back to the hostel and she was now pursuing her studies in the school. The report further reveals that the culprit Uday Nath Parida, Head Master of the school was suspended on 05.01.2014 and departmental proceeding was initiated against him. The Head Master was reinstated on 10.04.2015. After finalization of the departmental proceeding, he was given a punishment of withholding of two increments with cumulative effect. The delinquent officers have also been warned not to commit such type of acts in future. Smt. Rukmani Mahanta Gana Shiksha, being a contractual employee, was transferred to Katrapuli upper primary school.

8.24 The ASP Keonjhar also inquired into the matter who observed that since Odisha Prevention of Witch Hunting Act, 2013 came into force with effect from 25.02.2014, the said Act could not be applied in the case because the incident was prior to the notification of the above said Act.

8.25 The Commission perused the record on 03.02.2017 and observed that the delinquent Head Master of the school Uday Nath Parida was found guilty of the offence of propagating a belief in practicing witches etc., and of violating the human rights of the student Kumari Mamta, a 2nd standard student of a Government school. He had been punished for his deeds. Therefore, the Commission issued a notice u/s 18(a)(i) of PHRA, 1993 to the Chief Secretary Government of Odisha calling upon him to show cause as to why monetary compensation of ₹ 25,000/- (Rupees Twenty-five Thousand only) should not be recommended to be paid to Kumari Mamta for violation of her human rights. Reply to the show cause notice is awaited.



RIGHTS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER VULNERABLE GROUPS

9.1 The Scheduled Castes (SCs) and Scheduled Tribes (STs) are officially designated as historically disadvantaged segment of the society. To revive these vulnerable groups from suppression, the Constitution of India secured reservation status for their upliftment and progressive inclusion back into society. The Constitution further framed protective arrangements to improve status of SCs and STs across the country.

9.2 Since its inception, the National Human Rights Commission has been actively engaged in affirmative actions towards development of SC and ST communities. The Commission in order to eliminate perpetual inequalities has also strongly recommended punitive measures against discriminatory practices. In furtherance to it, the Commission also gets valuable inputs from the Chairpersons of the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes who are also the sitting ex-officio in the NHRC.

9.3 The NHRC over the years has looked into various matters ranging from the still prevalent untouchability to systematic exclusion of the SC/ST. The pattern of complaints under this category mainly involves the issues of discrimination, exploitation and evasive or indifferent attitude of the police in bringing justice to them.

9.4 The Commission has conducted an exhaustive study on Prevention of Atrocities against Schedule Caste and Schedule Tribes. This study was undertaken to identify, prevent atrocities and subsequently to prepare a plan of action for reducing incidence of violence against SCs/STs. Approximately 150 recommendations emerged from this study which were then sent to the concerned authorities thereby requesting them to send an action taken report. The Commission has also been taking *suo motu* cognizance and redressal of individual complaints in cases of human rights violations committed on SC/ST or any other vulnerable sections of the society.

9.5 Further, the Commission has been proactive in monitoring the adherence of the States towards implementation of the Protection of Civil Rights Act, 1955, the Schedule Castes and



the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006. The Investigation Division of the Commission has been entrusted with the responsibility to carry out investigations in cases filed under Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The matter relating to the Compensation as per the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, role of the police and analysis of various rules and notifications issued by the Government for relief and rehabilitation of the victims of discrimination have been regularly undertaken by the Commission. In reference to victimization of SC/ST/OBC, the Commission has registered 3,360 number of cases from 01.04.2016 to 31.03.2017, out of which 2,933 have been disposed off and 427 are under consideration.

A. Recommendations of the Report on “Prevention of Atrocities against SCs” by Shri K.B. Saxena

9.6 As mentioned in the previous report, the Commission is monitoring the recommendations made by Shri K. B. Saxena. The recommendations of the report were transmitted to the Central and State Government seeking an action taken report. The action taken report from the concerned Union Ministries have been received. The action taken report/partial action taken report have been received from the States of Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Meghalaya, Mizoram, Odisha, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, West Bengal, Union Territories of Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, NCT of Delhi, Lakshadweep and Puducherry. The report from the remaining States has not been received. The matter is being pursued with the State Government asking for submission of action taken report on all the recommendations.

B. Elimination of Bonded Labour System

9.7 The National Human Rights Commission has been overseeing the implementation of the Bonded Labour System (Abolition) Act, 1976 in different parts of the country in pursuance of the directions of the Supreme Court dated 11 November 1997 in Writ Petition (Civil No. 3922/1985). The Apex Court in its judgment said Writ Petition dated 15 October 2012 had given further directions to all States/UTs with regard to monitoring and survey of bonded labour.

a) National Seminar on Elimination of Bonded Labour

9.8 NHRC organized a two-day ‘National Seminar on Bonded Labour’ at New Delhi on 14-15 February 2017 under the Chairmanship of Justice Shri H. L. Dattu, Hon’ble Chairperson, NHRC.



National Seminar on Bonded Labour

9.9 The objective of the seminar was to raise awareness amongst all the stakeholders and to establish conceptual clarity about strategy and methodology of identification, release and rehabilitation of bonded labourer and also to exchange of ideas and experience amongst the participants.

9.10 The seminar brought together country's experts and different stakeholders in the field of bonded labour, including Shri Bandaru Dattatreya, Hon'ble Minister of State (Independent Charge), Ministry of Labour and Employment, Government of India who was the Chief Guest of the Seminar.

9.11 The participants of the Seminar were Senior Officers of the Union Ministries, Senior Officer from the States/Union Territories, representative(s) of State Human Rights Commission, National Commissions, International Labour Organization, United Nations Development Programme, Special Rapporteurs, Members of Core Group on Bonded Labour of NHRC, NGOs, Academicians and research scholars from different Universities across the country.

9.12 The recommendations emerged during the seminar were sent to all States/UTs and seeking Action Taken Report. The recommendations are also available in the NHRC website.



b) *Regional Workshops*

9.13 The NHRC organized four regional Workshops during 01.04.2016 to 31.03.2017 in order to sensitize the government machinery and bring awareness on the menace of bonded labour and strategies for combating this issue. The regional workshops which were held in the year 2016-17 are as follows:

Sl. No.	State	Date of the Workshop
1	Bengaluru (Karnataka)	13 May 2016
2	Hyderabad (Telangana) with the participating State of Andhra Pradesh	02 September 2016
3	Ranchi (Jharkhand)	9 September 2016
4	Bhopal (Madhya Pradesh)	29 September 2016

9.14 During these seminars and workshops, different labour related issues were discussed including child labours and migrant labours. NHRC persists its effort to sensitize different stakeholders and help in formulating strategies to combat these susceptible issues.

c) *Core Group on Bonded Labour*

9.15 A meeting of the Core Group on Bonded Labour was held in the Commission on 16.09.2016 under the Chairmanship of Justice Shri D. Murugesan, Member, NHRC. This meeting was in continuation of the last meeting, which was held in the Commission on 28.01.2015. The objective of the meeting was to review/recommend amendments to the Bonded Labour System (Abolition) Act and Rules, 1976, and to eradicate the menace of bonded labour from the country.

9.16 In his concluding remarks, the Chair of the meeting stated that there are numerous areas that need to be revisited by the Members who were present in the meeting such as amendments in the Bonded Labour Rules, improving functionality of the Vigilance Committee, Police Officers, importance of inter-connectedness of different labour Acts and Schedules. Justice Shri D. Murugesan concluded the meeting by welcoming further suggestions to the Act/Rules from the Members of the Core Group.

C. **Illustrative Cases Related to Scheduled Castes, Scheduled Tribes and Other Vulnerable Groups Dealt by NHRC**

1. *Death of Three Workers Belonging to Scheduled Caste, while Working in the Manhole of Sewage Treatment Plant due to Poisonous Gas in District Meerut, Uttar Pradesh*

(Case No.29674/24/54/2011)



9.17 The Commission received a complaint dated 25.07.2011 from Dr. Lenin, PVCHR, Varanasi inviting attention to a newspaper report published in the *Dainik Jagran* dated 25.07.2011 captioned '*Manhole me sama gai teen jindagi*'. The newspaper report mentioned that on 24.07.2011, in Shatabadi Nagar, Meerut, Uttar Pradesh two workers, Udairam and Omkar, died while working in the manhole of sewage treatment plant and one Suresh also died due to poisonous gas in an attempt to save them. Since the manhole had not been opened earlier in accordance with the guidelines, gases had collected inside. No safety equipment had been provided for the workers. Intervention of the Commission was sought for adequate compensation to the families of the deceased as well as action against the guilty persons.

9.18 The Commission, on 22.02.2012, considered the report received from DIG, Meerut Range, which revealed that Assistant Engineer, Meerut Development Authority had, on 24.07.2011, lodged a complaint about the death of the three persons. It was informed that the work of construction of manhole for joining sewers was awarded to Shri Mukesh Kumar and his representative Shri Mange Ram, who opened the plug of manhole without any prior information. This resulted in emission of poisonous gas resulting in 3 deaths. A case Cr. No. 355/2011 u/s 304 IPC was registered and Section 3(2)5 of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was incorporated. One of the accused had been arrested and efforts were on to arrest the remaining accused.

9.19 The report from the District Magistrate, Meerut, revealed that proposals for release of budget for payment of ₹ 1,00,000/- (Rupees One Lakh only) each to the next-of-kin of the two deceased Udai and Suresh Sharma, under the Farmer Accident Insurance Scheme, had been submitted to the Commissioner-cum-Secretary, Revenue Parishad, Lucknow. No such proposal had been sent in the case of Omkar since he was not owner of any agricultural land, as per condition under the scheme. The report also mentioned that on the basis of collections made by the officials and staff of the Meerut Development Authority, the next-of-kin of the three deceased had been provided monetary relief of ₹1,00,000/- (Rupees One Lakh only) each. Apart from the criminal case registered, the firm had also been blacklisted.

9.20 The Commission, on 27.09.2013, considered the material placed on record and noted that the work of construction of manhole for joining sewers was awarded by the State authorities to Shri Mukesh and due to negligence of his personnel, who opened the plug of manhole without any prior information resulting in the emission of poisonous gas led to 3 deaths regarding which Cr. No. 355/2011 u/s 304 IPC r/w Section 3(2)(V) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 had been registered. The Commission observed that for this negligence, the State is vicariously liable. The Commission issued a notice to the Chief Secretary to show cause as to why monetary relief u/s 18 of the PHRA, 1993, be not recommended to be



paid to the next-of-kin of the three deceased. The Commission also asked whether the Meerut Development Authority had laid down any Guidelines for safety of the sewage workers and their insurance under the relevant labour laws and any financial assistance had been given to the next-of-kin of the deceased to which they are entitled under section 3(2)(V) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1995.

9.21 Pursuant to the directions of the Commission, the Special Secretary to the Government of Uttar Pradesh, on 06.01.2015, has forwarded the report of the Vice Chairman, Meerut Development Authority, Meerut according to which it was clear that the sewer line had been laid by the Meerut Development Authority for the development of locality Shatabadi Nagar situated in Meerut, Uttar Pradesh and the entire allotment of houses and land has been done by the Meerut Development Authority. If, any accident occurs in the construction or repair of the sewer line, the Meerut Development Authority cannot escape from its liability along with the State Government of Uttar Pradesh.

9.22 Although the work was entrusted to a private contractor, the Commission was of the view that the Meerut Development Authority, was the principal employer in this case and it was its duty to ensure that proper security arrangements were made for the workers, who are working over the sewer line, which is being laid under its direction.

9.23 Thus, from the perusal of the papers available on record, it was established that Meerut Development Authority, being the principal employer, failed to protect the life of the workers and it was a prima-facie case of violation of human rights of the three workers, who had lost their lives while doing work in the sewer line and the next-of-kin of the deceased are entitled for monetary compensation from the State Government of Uttar Pradesh.

9.24 Thus, the Commission recommended that a sum of ₹ 2,00,000/- (Rupees Two lakh only) each be paid to the next-of-kin of the deceased Uday, s/o Ramesh; Omkar, s/o Raghav; and Suresh, s/o Sauraj, by the State Government of Uttar Pradesh. This monetary compensation shall be in addition to the compensation, which is awarded, if any, to the next-of-kin of the deceased under the Employees Compensation Act, 2012. The compliance report along with proof of payment is awaited from the Chief Secretary, Government of Uttar Pradesh.

Bonded Labour

2. *A Labourer of District Sikar, Rajasthan and Others Held as Bonded Labour at Village Madina, Tehsil Guhana, Sonapat District, Haryana*
(Case No. 1693/7/19/2012-BL)



9.25 The Commission received a complaint from Activist Rahul Gothwal regarding one Bhenwa Ram of District Sikar, Rajasthan and others, all belonging to Scheduled Caste, being held as Bonded Labourers at Village Madina, Tehsil Guhana, District Sonapat, Haryana.

9.26 Pursuant to the Commission's directions, the District Magistrate, Sonapat, Haryana, vide communication dated 17.10.2012, had forwarded 12 release certificates to the District Magistrate, Sikar, Rajasthan for their rehabilitation. The District Magistrate, Sikar, Rajasthan vide his communication dated 23.07.2012, had verified the addresses of 11 released bonded labourers. Three were found to be infants. Out of eight eligible labourers, four have already been rehabilitated. Four remaining labourers were to be rehabilitated by the District Magistrate, Sikar, Rajasthan.

9.27 Pursuant to further directions of the Commission, the District Magistrate, Sikar, vide his communication dated 09.03.2016, submitted that the remaining four released bonded labourers have also been rehabilitated. Proof of payment was also annexed.

9.28 The Commission further considered the matter and observed that all the eight released bonded labourers in the matter stands rehabilitated and the case was closed.

*3. Labourers Kept as Bonded Labourers at a Brick Kiln in Faridabad District, Haryana
(Case No. 6051/7/3/2015-BL)*

9.29 The Commission received a complaint that certain labourers have been kept in bondage at a Brick Kiln in District Faridabad, Haryana.

9.30 Pursuant to directions of the Commission, the District Magistrate, Faridabad, Haryana, vide his communication dated 02.12.2015, informed the Commission that the Sub Divisional Magistrate, Ballabgarh had declared the labourers mentioned in the complaint as bonded labourers and their release certificates (12) have been forwarded on 02.12.2015 to the District Magistrate of Sikar, Rajasthan for their rehabilitation.

9.31 The District Magistrate, Sikar, vide his communication dated 9.03.2016, informed the Commission that all the twelve released bonded labourers have been rehabilitated on 26.02.2016. Proof of payment was also annexed.

9.32 The Commission further considered the matter and appreciated the action taken by the District Magistrate, Sikar and Labour Commissioner, Rajasthan for rehabilitating all the victims in about two months' time. The Commission requested both these authorities that the benefits be also extended to the victims under social welfare schemes for their permanent rehabilitation. With these directions, the case was closed.

Chapter 10

RIGHTS OF WOMEN AND CHILDREN

10.1 NHRC, India is committed to the protection of human rights of women and children due to their vulnerability and therefore gives importance to it in its work in all thematic areas. In India, as elsewhere, women and children confront manifold violations of their human rights and are often discriminated against despite the fact that the Constitution of India provides for their survival, development, protection, participation and empowerment. India is also party to the international conventions which explicitly address the issues and advances human rights of women and children. The conventions were framed to ensure equality in the field of civil and political rights as well as economic, social and cultural rights.

10.2 The key international agreement on women's human rights is the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is ratified by 185 UN Member States. CEDAW encompasses a global consensus on the changes that need to take place in order to realize women's human rights. Likewise, the key international agreement on children's human rights is the 1989 Convention on the Rights of the Child (CRC). The CEDAW was ratified by the Government of India in 1993, whereas the CRC was ratified in 1992. Having ratified the CRC and the CEDAW, its provisions are reflected in numerous policies, laws, schemes and programmes being implemented for children and women by the Government of India.

10.3 However, the intergenerational cycle of multiple deprivation and violence faced by girls and women is amply clear by the adverse child sex ratio in children under 6 years of age. Hence it is important to work in the direction so as to provide protective and safe environment for women and children, including those from the most deprived socio-religious communities.

10.4 The paragraphs given below highlight some of the important activities undertaken by the Policy Research, Projects and Programmes Division, in short, Research Division of NHRC, on rights of women and children.

A. Constitution of the Core Group on Trafficking, Women and Children

10.5 The Commission has constituted a Core Group on Trafficking, Women and Children in



November 2016. The Members of the Core Group include experts on the subject representing Central Government, Police, Research Institutes, NGOs and Civil Society Organizations. The first meeting of the Core Group was held on 6 December 2016 under the chairmanship of Shri S. C. Sinha, Member, NHRC. The meeting was held to discuss the agenda prepared on issues related to Trafficking, Women and Children. The Core Group looked into the draft guidelines on Trafficking formulated by the NHRC and decided to re-draft the same. In the subsequent meetings of the Core Group held in the months of April, May and June the Core Group drafted a Standard Operating Procedures (SoP) and Guidelines for Combating Trafficking of Persons in India. The SoP comprises in great detail the concept of Trafficking, Collection of Intelligence for Prevention of Trafficking, Actions to be Taken Before Rescue, Rescue Process, Post-rescue Process, Rehabilitation and Compensation, Monitoring and Accountability, Law Enforcement and Legal Provisions which includes related provisions of Law relating to different aspects of trafficking. The Guidelines provides the policy and legal framework including international obligations and national framework, Situational Analysis of Trafficking in India. The guidelines further, look to establish a minimum standard in all processes leading to the prevention of trafficking; identification, rescue, repatriation, rehabilitation and prosecution of all the offenders involved. It talks about Resource Allocation, Capacity Building and Monitoring, Accountability and Transparency Mechanisms which needs to be developed for the better implementation of the existing framework.

B. Comments on Draft Model Rules, 2016 of Juvenile Justice (Care and Protection of Children) Act, 2015

10.6 The NHRC had provided comments on Draft Model Rules, 2016 under the Juvenile Justice (Care and Protection of Children) Act, 2015 to the Ministry of Women and Child Development on 5 June 2016 as was desired by the Ministry. The Comments are as follows:

Rule	Provision in Draft Rules 2016	Proposed Changes	Rationale for suggestions /comments
Rule 17	Pendency (Section 16 (3) of the Act)	<ul style="list-style-type: none"> District Magistrate in addition to District Judge is to be included to conform to Section 16 (3). 	<ul style="list-style-type: none"> As per Section 16 (3) of the JJ Act, 2015 the information of pendency of JJB are to be furnished to Chief Judicial Magistrate or Chief Metropolitan Magistrate and the District Magistrate on quarterly basis. Therefore there is a need to add District Magistrate to make the Rule in conformity with the Act.

Rule	Provision in Draft Rules 2016	Proposed Changes	Rationale for suggestions /comments
	Rule 17 provides for pendency/quarterly report to be submitted to District Judge, Chief Judicial Magistrate / Chief Metropolitan Magistrate	<ul style="list-style-type: none"> Inclusion of Rule 17 (3) needs to be examined afresh in view of the lack of concomitant statutory support in Section 16 (3) of the Act. 	<ul style="list-style-type: none"> There is no mention of District Judge in Section 16 of the Act.
Rule 21	<p>Selection, Training and Term of Members of the Committee</p> <p>Rule 21 talks about selection of the members of Child Welfare Committee by the Selection Committee Constituted under Rule 119.</p>	<ul style="list-style-type: none"> The selection of the Members should be after advertising for the vacancy. 	<ul style="list-style-type: none"> The Rule 21 states that the State Government shall appoint Chairperson and Member of CWC on the recommendations of Selection Committee constituted under Rule 119. But Rule 21 or 119 does not clarify as to how the applications for the positions of Chairperson and Members of CWC would be received by the Selection Committee. Therefore, to make the selection process inclusive and transparent it would be appropriate that application be called through public advertisements and the same is included in the Rule
Rule 23 (6)	<p>Sittings of the Committee (Section 28 of the Act)</p> <p>As per rule 23 (6) the Child Welfare Committee will sit for a minimum of 5 hours on all working days.</p>	<ul style="list-style-type: none"> The Committee shall sit on all working days for a minimum of 6 hours instead of 5 hours. 	<ul style="list-style-type: none"> As per Rule 23 (6) the Child Welfare Committee shall sit on all working days for minimum of 5 hours. However, as per Rule 6 (3) JJBs are to sit on all working days for minimum of 6 hours. Therefore, to have uniformity in working hours, there is a need to change the numbers of minimum hours of sitting/day of CWC from 5 to 6 hours.



Rule	Provision in Draft Rules 2016	Proposed Changes	Rationale for suggestions /comments
Rule 24	<p>Powers of the Committee</p> <p>In addition to the powers of the Committee under section 29 of the Act, any direction of the Committee under sections 92 and 93 of the Act may be addressed to any hospital, whether a government hospital or private hospital or clinic or specialty or super specialty hospital or psychiatric home or treatment center or a center for the physically or mentally challenged or de-addiction center or integrated rehabilitation center as the case may be.</p>	<ul style="list-style-type: none"> There is a need to indicate the authority as to who will bear the expenditure for treatment of child in private hospital or clinic or specialty or super-specialty hospital. 	<ul style="list-style-type: none"> To remove confusion & uncertainty regarding payment of expenses for full medical treatment of the child.
Rule 30	<p>Pendency (Section 36 (4) of the Act)</p>	<ul style="list-style-type: none"> The Committee shall submit a quarterly report in Form 16 to District Magistrate. District Judge shall be deleted. 	<ul style="list-style-type: none"> As per section 36 (4) of the JJ Act, 2015, the quarterly report is to be submitted to District Magistrate. Therefore to be in conformity with the JJ Act, 2015, the change in Rule is required.

Rule	Provision in Draft Rules 2016	Proposed Changes	Rationale for suggestions /comments
Rule 60	Institutional Management of children. (Section 53 of the Act) Para K of rule 60 talks about pre-release planning of a child from CCI.	<ul style="list-style-type: none"> The contents of Para K (2) may be stated under a separate Head under the same Rule. 	<ul style="list-style-type: none"> The contingency of a child leaving the child care institution without permission needs to be handled separately from other aspects of pre-release planning.
Rule 69	Death of a child Rule 69 talks about procedure to be adopted in case of death of a child in CCI.	<ul style="list-style-type: none"> It is suggested that in sub-rule (vi) of Rule 69, in addition to the institutions to whom the report of death of a child is to be sent, National Commission for Protection of Child Rights (NCPCR)/ State Commission for Protection of Child Rights may also be included. 	<ul style="list-style-type: none"> NCPCR and SCPCR are bodies responsible for child rights protection at National and State level respectively and hence, they should be kept informed of such deaths.
Rule 2 (v) (c)	Helping out at a local hospital or nursing home	<ul style="list-style-type: none"> This may be deleted as community service in a hospital or nursing home may make a child vulnerable to health hazards. 	<ul style="list-style-type: none"> Hospitals/nursing homes are places where there is a high probability of catching infection and children should not be exposed to such conditions.

C. Interrogating Violence against Women from the Other Side: An Exploratory Study into the World of Perpetrators

10.7 The study 'Interrogating Violence against Women from the other Side: An Exploratory Study into the World of Perpetrators' was initiated by NHRC in collaboration with Centre for



Women's Development (CWDS), New Delhi. The rationale of the research is to gain insight into the perceptions of male perpetrators accused of crimes against women and girls in Delhi. The study attempts to gain an understanding of the perpetrators of crimes against women with a particular focus on the economic cultural and psychological factors that configure their identities and life-worlds. The study involves in-depth individual and group interviews with a sample of adult perpetrators accused and/or convicted of violence against women lodged in Tihar Jail to gauge their perspectives on the crimes they are alleged to have committed. The study will draw inferences on the intersections of gender, violence, crime and social transformation with a particular focus on urban India.

10.8 The case study method is used to profile the offenders. The CWDS team highlighted the main observations from the fieldwork in Juvenile Observation Homes and Tihar Jail as well as the challenges faced by the CWDS team during the presentation made before the Commission. The Commission suggested the CWDS team to collect the judgments, views of the stakeholders, and case records to verify the statement of the convicts. Furthermore, the Commission directed them to find evidence to the information provided by the inmates.

D. Study on Human Rights of Transgender as a Third Gender

10.9 The research study entitled 'Study on Human Rights of Transgender as a Third Gender' has been entrusted by NHRC to Kerala Development Society (KDS), New Delhi. The main objectives of the research project were to study the socio-economic profile of transgender as the third gender. Further, the study was to examine the various kinds of discrimination and the violation of human rights issues faced by transgender and to evaluate the problems faced by transgender for receiving the benefits of the various government programmes related to education and employment and reasons for their exclusion. Additionally, this study was to make in-depth analysis of the programmes/schemes launched and facilities provided for transgender by the Centre, State or Local Government as well as of the laws and policies, along with the Supreme Court judgment and the steps taken for the overall development of the transgender. Meetings were held with the Principal Investigator from Kerala Development Society before the Commission. The reports submitted by the Principal Investigator were thoroughly examined and the gaps in the report were communicated to him to be filled up.

E. Country Assessment/National Inquiry on Human Rights in the Context of Sexual and Reproductive Health and Well Being

10.10 The 'Country Assessment/National Inquiry on Human Rights in the Context of Sexual and Reproductive Health and Well-being' has been undertaken by the NHRC in the March 2016.

For the purpose of the national inquiry, the research study has been commissioned to two Delhi-based organizations namely, 'Partners for Law in Development' (PLD) and 'SAMA- Resource Group for Women and Health'. The main objectives of the research study are to - cover the domestic/national laws, policies and existing gaps pertaining to the sexual and reproductive health rights as in accordance to international standards. Further, it would look into the overlapping components of sexual rights and reproductive rights. The Research work will be carried out in two stages – desk work and interactions with key experts working in the area covering north to south and west to east zone.

F. National Research on Human Trafficking in India

10.11 The Commission embarked on the above research in collaboration with the Tata Institute of Social Sciences (TISS), Mumbai as a follow up to the Action Research on Trafficking in Women and Children in India undertaken by the NHRC from 2002-2004. Meetings are convened from time to time under the Chairmanship of Justice Shri Cyriac Joseph, Member, NHRC. The Fourth Review Meeting was held in the Commission on 9 January 2017 to the review progress made in the project so far. The NHRC has facilitated and supported the project in terms of providing link between different stakeholders and ministries.

G. A Study to Understand the Changing Dynamics and Challenges of Surrogates

10.12 The National Human Rights Commission along with Council for Social Development, New Delhi has initiated the above research project in March 2017. The study will make an attempt to understand surrogacy practices in two Indian cities, i.e., the National Capital Region of Delhi and Mumbai, in particular, to explore the challenges faced by surrogate mothers. The objectives of the study are (i) to understand the impact of new law proposed on surrogacy practices in these two cities, (ii) to explore the challenges and difficulties in seeking justice by surrogate mothers due to violation of their rights; (iii) to develop best practices in the domain of surrogacy to minimize the exploitation involved in both commercial and altruist surrogacy.

10.13 The study will adopt an empirical approach and include in-depth interviews with semi-structured open-ended interview schedule along with the Focus Group Discussions (FDGs) among the surrogate mothers and their family members. The study will also be conducting structured interview with IVF specialists and doctors, and will use observation and unstructured interviews with IVF clinics staff and agents. The study intends to provide recommendations to propose changes in law and policy concerning surrogacy.



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

1. *Non-registration of Case and Inaction by the Delhi Police, in the Matter of Kidnapping of a Minor Girl, by Unknown Persons Near Mahavir Enclave, Delhi*

(Case No. 3322/30/7/2016)

10.14 One Pramod Kumar alleged kidnapping of his minor daughter, non-registration of case and inaction against the offenders by the police. Pursuant to the directions of the Commission, the Investigation Division of the Commission collected the facts, which revealed that the minor girl (11) was kidnapped in a car by some unknown persons near Mahavir Enclave and was recovered from Dwarka area, taken to DDU Hospital by police for medical examination but no case was registered by the police. On 03.06.2016, a PCR call regarding missing of a girl was received in police station Dabri and the same was marked to HC Hari Ram for further action.

10.15 During the enquiry, it was found that the victim went to the house of her friend and that she was allegedly kidnapped by unknown persons, while coming back to her house. As she did not reach home, her mother made a PCR call. After some time, they received a call regarding recovery of their kidnapped girl. She was taken to DDU Hospital for medical examination, MLC was prepared, but, she and her mother refused internal medical examination by the doctors. However, now a case FIR No. 509/16, u/s 363 IPC, dated 20.06.2016, Police Station, Dabri has been registered regarding the incident of kidnapping which is pending investigation. The conduct of IO/HC was not found up to the mark, as he failed to take legal action in the matter. Accordingly, departmental action was being taken against him. The Commission further considered the matter wherein it observed that *the incident had taken place on 03.06.2016, the girl was recovered on the same day. However, HC Hari Ram did not initiate legal action despite commission of a cognizable offence and filed the call on the ground that the girl had been recovered. The Criminal Case was registered only on 20.06.2016 after intervention of the Commission. It has been informed by the Addl. DCP South-West District, Delhi that departmental action has been initiated against the errant police official HC Hari Ram. The delay in registration of the case and inaction by the police has resulted in violation of human rights of the victim and her parents and, therefore, a notice u/s 18 of the PHRA, 1993 was issued to the Government of NCT of Delhi through its Chief Secretary to show cause as to why an amount of ₹ 25,000/- (Rupees Twenty-five Thousand only) be not recommended to be paid to the victim. The Commissioner of Police, Delhi was also called upon to submit the details of departmental action taken not only against the errant police official HC Hari Ram but also against his Supervisory Officers for their failure to take lawful action in a case like kidnapping of a minor girl and to inform status/outcome of case FIR No. 509/2016, Police Station Dabri.*



10.16 The matter is under consideration of the Commission.

2. *Sexual Harassment and Rape of a Class IX Student by Headmaster of Chaula Mendi Upgraded High School in Mathili Block of Malkangiri District, Odisha*

(Case No. 2101/18/29/2015-WC)

10.17 A complaint was received from activist Jayanta Kumar Das based on a news report dated 12.03.2015 in Odisha Post that the Headmaster of Chaula Mendi Upgraded High School in Mathili Block of Malkangiri district allegedly raped a Class IX student of his school. According to the complainant, the said Headmaster had visited the Girl's Home on 20.12.2014 and persuaded her to come to the school. When the girl came to the school, the Headmaster took her to a room and kissed her and touched her private parts. He also threatened the girl with dire consequences if she revealed the said matter to anyone. It was alleged that, on 19.02.2015, the said Headmaster asked the girl to go to the kitchen and help in the preparation of mid day meal. Later, the erring teacher raped her inside the room. After the victim informed her family members about the incident, a report was lodged against the Headmaster at the local Police Station. Pursuant to the directions of the Commission, a report dated 18.06.2015 enclosing therewith a report submitted by I/C, Mathili PS was received. It was intimated that based on the written report of the victim, Mathili PS Case No. 26 dated 10.03.2015 u/s 354/376 (2) (f)/506 IPC r/w Section 4 of the POCSO Act, 2012 was registered and investigation taken up. During the course of investigation, both the victim and the accused teacher were got medically examined and the statement of the victim was recorded u/s 164 C.R.P.C. It was reported that the Headmaster subsequently absconded and steps were being taken to arrest him. The District Education Officer, Malkangiri has placed the Headmaster under suspension with effect from 14.03.2015. A report dated 21.12.2015 was further received from the Secretary, District Legal Services Authority, Malkangiri informing that, as an interim measure, ₹ 15000 was paid to the victim. As regards rehabilitation of the victim, it was intimated that the victim girl was staying with her parents and continuing her studies in Class X at Chaulamendi English School. The Commission further considered the facts and circumstances of the case and observed that the material on record overwhelmingly supported the allegations made in the complaint and disciplinary action against the erring teacher has been initiated. The misconduct of the headmaster in question who happened to be a public servant amounted to a gross violation of human rights of the victim for which the State was vicariously liable. The Commission directed Government of Odisha to show cause u/s 18 (a) (i) of PHR Act, 1993 as to why a compensation of ₹1,00,000/- (Rupees One Lakh only) should not be recommended to be paid to the victim for violation of her human rights.

10.18 The matter is under consideration of the Commission.

3. *Acid Attack on a Girl Student of Arambagh in Hooghly District, West Bengal*

(Case No. 1047/25/8/2014-WC)



10.19 A complaint, dated 07.08.2014, was received from Activist R.H. Bansal regarding acid attack on a girl student of Arambagh locality of Hooghly, West Bengal. In response to Commission's direction, a report dated 25.10.2016 was received from the SP, Hooghly, according to which, soon after the incident, the victim did not file an FIR as she was unwell at that time, and whole attention was paid to her medical treatment. Subsequently, on receiving a written report from the victim, Arambagh PS case No. 1055/14 dated 22.10.2014 u/s 326 (A) 34 IPC was registered against unknown person and investigation taken up. However, due to lack of any hint or any indication on the examination of the complainant and, in absence of any information from the people of the locality, no one could be arrested.

10.20 The Commission, vide proceedings dated 13.01.2017, carefully considered the contents of the report dated 25.10.2016 and transmitted a copy of the report dated 25.10.2016 to the Principal Secretary, Home, West Bengal to get the matter investigated by the CB/CID and submit the compliance report. The DGP Government of West Bengal was also directed to take departmental action against the police officials found negligent and responsible in the matter and submit the action taken report within the said period.

10.21 The Commission further observed that the Hon'ble Apex Court, in the case of Laxmi v/s Union of India and others W.P.CRL No. 129/2006, held that the acid attack victim should be paid compensation of at least ₹ 3,00,000/- (Rupees Three Lakh only) by the concerned State Governments as the after care and rehabilitation cost. Of this amount, a sum of ₹ 1,00,000/- (Rupees One Lakh only) should be paid within 15 days of occurrence of such incident to facilitate immediate medical attention and expenses in this regard. The balance of ₹ 2,00,000/- (Rupees Two Lakh only) should be paid as expeditiously as possible and positively within two months. Therefore, the Chief Secretary Government of West Bengal was directed to comply with the directions of the Hon'ble Apex Court and submit compliance report.

10.22 The matter is under consideration of the Commission.

4. *A Woman Raped by One Assistant Sub-Inspector of Police-Post Chanana, Police Station Chidawa, Jhunjhunu District, Rajasthan on the Pretext to Release her Husband who was Falsely Implicated in the Case of Selling Liquor*
(Case No. 1741/20/18/2016-AR)

10.23 The Commission received a complaint dated 12.07.2016, from activist Trivani Bansal, alleging that one Assistant Sub-Inspector Lakshminarayanan posted with Police Post Chanana, PS: Chidawa, District Jhunjhunu, falsely implicated one person in a case of selling liquor. On the pretext of releasing him, his wife was raped in the police post by the above ASI.



10.24 Pursuant to the directions of the Commission, Superintendent of Police, Jhunjhunu submitted a report dated 29.08.2016 stating that, in the alleged incident, case FIR No. 300/15 u/s 376(2)A(i)(ii) IPC, PS: Chidawa was registered against ASI Lakshminarayanan. After investigation, charge-sheet No. 131 dated 24/07/2015 was also filed in the Court.

10.25 The Commission observed that a heinous crime had been committed by a police officer inside the police post and no other supervisory official could prevent the same. This is a very unfortunate incident where the sufferings of victim cannot be undone by any means. The police report established that ASI was involved in the crime and he had been charge-sheeted. Providing interim relief of monetary compensation to the victim would be a solace to her injured sentiments. The police report was silent whether or not any monetary compensation was granted to the victim in the matter.

10.26 The Commission issued notice to Government of Rajasthan to Show Cause why monetary compensation of ₹ 3,00,000/- (Rupees Three Lakh only) shall not be granted to the victim as per Section 18 of the PHRA, 1993. Director General of Police, Rajasthan was also directed to submit his further report regarding the departmental action taken against the delinquent police officer.

10.27 The matter is under consideration of the Commission.

5. Dignity of a Minor Girl Violated by Police Officials of Bhilwara District, Rajasthan, while Interrogating Her in the Case of Murder of Her Younger Sister

(Case No. 1340/20/6/2012)

10.28 A complaint was received on 05.06.2012 from one Satya Prakash Dev Pandey, Human Rights Activist based in Sonebhadra, Uttar Pradesh alleging that one minor girl aged about 9 years was killed brutally in mysterious circumstances by unknown culprits. During investigation, her elder sister aged 12 years Kanchan Kalbelia, daughter of Shyamnath was tortured and beaten brutally by the IO/ police officials of District Bhilwara during interrogation. Awkward, inhuman and humiliating questions like how many time she had intercourse with her father, etc. were asked from her and she was even administered drugs to make disclosure and to wrongfully elicit confessional statement from her. The petitioner requested for taking appropriate action against the concerned police officials, besides stringent action against the culprits. Another complaint was also received in the matter from one Tulsi Das Raj of an NGO.

10.29 The reports received from Superintendent of Police, Bhilwara, Rajasthan revealed that Ms. Kanchan Kalbelia (ST), sister of the deceased, was called at PS Raipur for her interrogation in connection with the murder of her younger sister Savita relating to case FIR No. 59/12 u/s 302/201 IPC of PS Raipur. The said interrogation took place in presence of the then CO,



Gangapur. The report clearly mentioned that, as per law, the police officers ought to have examined the victim at her house and she ought not to have been called to the Police Station at all. Thus, the Commission found that there was a clear violation of the provisions of Section 160 Cr.P.C. by both these officers and there was prima facie violation of human rights of Miss Kanchan for which the State Government was vicariously liable to compensate the victim for the fault committed by its employees. Therefore, the Commission issued a notice under Section 18 of the PHRA, 1993, to the State Government of Rajasthan to show cause as to why suitable monetary relief/ compensation be not recommended to be paid to Ms. Kanchan Kalbelia for violation of her human rights. The DGP, Government of Rajasthan, was also directed to send the complete report of investigation being conducted by the CB/CID, Ajmer. Having received no response to the show cause notice, the Commission recommended payment of ₹ 25,000/- as compensation to the victim.

10.30 The District Collector, Bhilwara, vide communication dated 06.05.2014, submitted the compliance report indicating that an amount of ₹ 25,000/- has been paid to Miss Kanchan Kalbelia, the victim on 05.05.2016. Proof of payment had also been annexed.

10.31 The Commission further considered the matter and it observed and directed as under:-

“An amount of interim relief of ₹ 25,000/-, as recommended by the Commission, has been paid to the victim. The Commission is however constrained to observe that the Superintendent of Police, Bhilwara had informed the Commission that the Inspector General of Police, Ajmer Range vide his communication dated 17.12.2012 was asked to initiate departmental action against the indicted Deputy Superintendent of Police, Circle Officer, Gangapur City. The said Inspector General of Police did not evince any interest to proceed against him. Thereafter, the delinquent police officer was transferred to Bharatpur and the Inspector General of Police, Bharatpur Range was asked by the Additional Director General of Police, AHT, Rajasthan on 18.07.2014 to take action, yet no action was taken by him as well. In the meanwhile, the Joint Secretary (HR), Department of Home, Government of Rajasthan vide his communication dated 17.09.2014 had informed the Commission by sending a misleading and false report to the Commission that departmental action against the then Circle Officer has been taken in the matter. The communication dated 07.04.2016 received from the Additional Director General of Police, AHT, Rajasthan states that the departmental proceedings have been dropped on 01.07.2015 and a fresh proposal for the same will be sent to the State Government being the competent authority as the delinquent police officer has been promoted to the higher rank. It clearly shows how a indicted police officer who was found blameworthy for keeping the victim minor dalit girl in illegal detention, violated provisions of Section 160 Cr.P.C. and Article 21 of the Constitution has

been saved by the senior police officers without taking any legal and departmental action and was even promoted to the higher rank of Additional Superintendent of Police. In these circumstances, the Commission issued a notice to the Principal Secretary, Department of Home, Government of Rajasthan and the Director General of Police, Rajasthan calling upon them to obtain explanations of the then concerned Inspector Generals of Police, Ajmer Range and Bharatpur Range and the Joint Secretary (HR), Department of Home, Government of Rajasthan within six weeks as to why appropriate recommendations for departmental action should not be made by the Commission against them in the light of aforesaid observations in the matter. The Chief Secretary, Government of Rajasthan was also directed to get this matter enquired into by an officer of appropriate rank and submit the report together with details of departmental action taken against the delinquent police officer.”

10.32 As per further reports, the delinquent police personnel have been punished departmentally and the case has been closed.

6. Sexual Assault of a Four Year Old Girl in a Government School in Delhi

(Case No. 6498/30/0/2014)

10.33 An English daily, ‘The Tribune’, dated 01.09.2014 carried a distressing news item captioned “Four-Yr-Old girl sexually assaulted at school”. The Commission took *suo motu* cognizance of the news report and, vide its proceedings dated 15.09.2014, called for a report from the Chief Secretary, Government of NCT of Delhi and Commissioner of Police, Delhi.

10.34 The Deputy Commissioner of Police, Outer District, Delhi sent a report dated 26.11.2014, stating that a case in FIR No. 904/2014 u/s 376 IPC and 6 POCSO Act was registered at Police Station Begumpur on the complaint of the mother of the victim. During the course of the investigation, the victim was medically examined and a juvenile, in conflict with law, was apprehended for having committed the offence and sent to observation home. The Deputy Director of Education, District North-West (B), Pitampura also submitted a report on the same lines.

10.35 Upon consideration of both the reports, the Commission, vide its proceedings dated 09.05.2016 observed and directed as under:

“It is seen that the girl is a student of a Government school. She was sexually assaulted by a juvenile, working in the school campus. The juvenile has been engaged to work in the campus by a contract. The Commission is inclined to observe that the school authorities and more so, the officials of the Government department having control over the Government school in question are duty bound to ensure the safety of the girls studying in the school.



The incident of sexual abuse had taken place within the premises of the school and the Government is vicariously liable to compensate the victim girl.

In view of the above, the Commission recommends to the Chief Secretary, Government of NCT of Delhi to pay a sum of ₹ 1,00,000/- to the parents of the victim girl. Report shall be submitted to the Commission within a period of eight weeks.”

10.36 Pursuant to the directions of the Commission, the Deputy Director of Education, North West (B) District, Government of NCT of Delhi forwarded a copy of the receipt regarding payment of compensation of ₹1,00,000/- (Rupees One Lakh only) vide cheque No. 417953 dated 24.10.2016.

10.37 In view of the compliance of recommendation of the Commission, the case was closed on 07.11.2016.

Chapter 11

RIGHTS OF ELDERLY PERSONS

11.1 The elderly population is the fastest growing portion of society at global level. It has been quoted in many reports that by 2025, more than 1.2 billion people will be aged sixty or above, and more than seventy per cent will be residing in what are currently considered developing countries. Declining fertility rates and longer life expectancy are the two major factors causing the unprecedented proportional growth in the world's elderly population. Presently, two-third of the world's elderly population lives in the low and middle-income countries. The increase in the elderly population has highlighted the gap in the existing policies and lack of adequate protection mechanisms to address the issues and concerns of elderly population.

11.2 Historically, the human rights of the older persons as a unique, separate social group have received little attention in the international discourse on human rights. But, since the last decade this topic has been given increasing attention and rights of the elderly are becoming a part of the public agenda. Developed and developing countries address the issues of the aging population in different ways. In developed countries, for example, a social security apparatus bears the strain of caring for the elderly. In developing countries, on the other hand, families traditionally care for the elderly. In the developing countries, the lack of a social security apparatus and the weakening of the family unit present obstacles to the provision of care for elderly family members.

11.3 The issues, concerns and challenges of elderly persons in protection of their human rights vary from one individual to another because they are not a homogenous group. There are some elderly persons who continue to lead active lives as part of their overall personality, family and community while many others face homelessness, lack of adequate care and isolation. It has been observed that most of them are victims of multiple discrimination, prominent among these are the poverty, violence, abuse, insecurity, poor health and well being, low earning capacity, limited availability of old age pensions, threats and limited control over assets and property, unequal participation in private and public decision-making.

11.4 Although there is no comparison on the level of discrimination faced by both elderly men and elderly women but women in many Indian societies are still considered second class citizen. Hence, elderly women face the additional cumulative effects of the gender discrimination. Due



to social and traditional family structure they are forced to live with many limitations. Social marginalization, loneliness, isolation and even negligence in old age lead to basic violation of their human rights. Ironically, in India due to high prevalence of illiteracy and lack of awareness older women are not aware of their basic rights. Since most of them remain within four walls of their homes throughout their life, they remain vulnerable. Elderly women face not only age discrimination but also gender discrimination in old age. Despite growing evidence on how discrimination affects women in older age and the challenges they face, the issue seems to have remained unresolved despite the galvanized progress to promote gender equality through Goal 3 of the Millennium Development Goals. The issue once again received little attention during the Post-2015 discussions. The truth of the matter is that ageing and rights of elderly persons fits within the framework of the Post-2015 Development Agenda, including the sustainable development goals.

11.5 As it has been already mentioned above that ageing population increasing at a fast pace globally, presently India, too, is witnessing rapid ageing of its population. In India, the size and percentage of elderly population has increased from 77 million in 2001 to 104 million in 2011 (2011 Census). By 2050, the elderly population is likely to increase by three times, accounting for 20 per cent of the total population of the country. The relatively young India of today will turn into a rapidly graying society in the coming years. This is a cause of a deep concern as India already has the world's second largest population of the elderly, defined as those above 60 years of age. With changing socio-economic scenario coupled with the emerging trend of nuclear families, the lives of the elderly is further changing and they are likely to become more vulnerable in the years to come. The challenge is to ensure that they are able to lead secure, healthy and comfortable lives.

11.6 It is important to understand that the steady increase in the numbers of the elderly has affected the rate of human rights violations negatively, especially crimes against elderly, including physical abuse, is increasing rapidly. Moreover, a vast majority of elderly persons, being illiterate, are ignorant of their human rights due to which they face serious discrimination. All this has definitely affected their way of life and sense of well-being.

11.7 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.

11.8 Simultaneously, India is also adhering to international norms and standards related to

rights of elderly persons. Prominent among these being the Vienna International Plan of Action on Ageing adopted at the World Assembly on Ageing in 1982, the 1991 United Nations Principles for Older Persons, the 2002 Madrid International Plan of Action on Ageing adopted at the Second World Assembly on Ageing, and endorsed by the General Assembly in its Resolution 57/167.

11.9 The National Social Assistance Programme (NSAP), which came into effect from 15 August 1995, represents a significant step towards the fulfillment of the Directive Principles in Article 41 of the Constitution. The programme introduced a National Policy for Social Assistance for the poor and aims at ensuring minimum national standard for social assistance in addition to the benefits that States are currently providing or might provide in future. NSAP, at present, comprises Indira Gandhi National Old Age Pension Scheme (IGNOAPS), Indira Gandhi National Widow Pension Scheme (IGNWPS), Indira Gandhi National Disability Pension Scheme (IGNDPS), National Family Benefit Scheme (NFBS) and Annapurna.

11.10 The Parliament of India has also enacted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to ensure need based maintenance for parents and senior citizens including their welfare. The Government of India has come up with a National Pension Scheme and Atal Pension Yojana Scheme. Besides, there is the Rashtriya Swasthya Bima Yojana for below poverty line families.

11.11 The involvement of NHRC in respect of rights of the elderly persons initially began with redressal of complaints received from them. This association 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, Government of India and gave suggestions on its Action Plan (2000-2005) in relation to the implementation of the National Policy on Older Persons. Since then, it has kept close contact with groups and organizations working for the rights of elderly and has been making recommendations to the Central Government. It recommended to the Ministry of Health & Family Welfare, Government of India, to make provision for a separate queue for elderly persons in all hospitals. The concerned Ministry, on its part, circulated this recommendation to all the States and Union Territories.

11.12 It also expressed its concern over the plight of elderly persons belonging to the economically weaker sections of the society, especially those in the unorganized sector. Furthermore, in collaboration with the non-governmental organizations working for the elderly, NHRC has been organizing health awareness camps and lectures focusing on different ailments affecting older persons. Besides, it has focused its attention on cases related 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 Core Group on Protection and Welfare of the Elderly Persons

11.13 The Commission has constituted a Core Group in NHRC on Protection and Welfare of the Elderly Persons. A meeting of the Core Group was held on 13 January 2017 in the Commission. After intensive deliberations, the Core Group made the following major recommendations:

- 1) The National Programme for Health Care for Elderly has been launched in 2010. However, till now it has been implemented in only 418 Districts or 60 per cent of the total Districts in the country. It is suggested that the Ministry of Health and Family Welfare should ensure immediate implementation of the Programme in all the 418 Districts. Further, the programme should be extended to all the Districts of the country by end of 2020-21. The Government may also get a third party audit conducted of the implementation of the National Programme for the Health Care of Elderly in order to assess whether the funds for the Programme are being properly utilized.
- 2) The coverage of the old age pension is limited to Below Poverty Line (BPL) families and it is not reaching to every elderly person. It is suggested that the Ministry of Social Justice and Empowerment should make old age universal for all those who are non-tax payers and do not receive pension from any other source. Further, the Ministry of Social Justice and Empowerment should make the pension reasonable and raise it to ₹ 2,500 p.m., which is half of the minimum wage rate.
- 3) Ministry of Urban Development has come out with a plan, which describes what an old age home should look like. It is suggested that the Ministry of Social Justice and Empowerment should set up detailed common minimum standards for building and maintenance of old age homes and that these common minimum standard should be adhered to by all old age homes.
- 4) PG Courses in Geriatric Medicine should be introduced in all the medical colleges of the country. Action in this regard needs to be taken by the President, Medical Council of India, Government of India and respective State Governments.
- 5) As around 40 per cent of the elderly suffer from some disability or other, all the public buildings must be immediately modified to be accessible to the disabled and also to disabled elderly.
- 6) Construction of old age homes in all the Districts of the country be done on priority.
- 7) Regular auditing and monitoring of old age homes be done by third party.
- 8) Since a very large number of elderly suffer from mental problems in each region of the country, separate Centres/Institutes for Geriatric Mental Health Care may be established on the lines of already established in Lucknow.



B. Human Rights of Elderly Persons : Laws, Policies and Implementation – A Study with Special Reference to Kerala

11.14 The above study was commissioned by the NHRC to the Centre for Human Rights, the National University of Advanced Legal Studies, Kochi in February 2016 to be completed within a time frame of 18 months. The objectives of the research study are to – analyze the categories of elderly persons; examine the problems faced by them; examine the rationale in enacting laws to protect the rights of elderly persons in the backdrop of social realities; inspect the scope of protection given to elderly persons; scrutinize the reach of policies and programmes proposed by the Government for them; analyze the provisions of all laws applicable to them; make an assessment of the implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and other related laws in Kerala, including in adjoining Southern States; and come up with recommendations for effective reforms for their betterment.

11.15 In view of the large scale migration of Keralite youth to countries abroad, the study will also examine whether these migration trends are leading to possible isolation of elderly people, lack of their security in physical as well as financial terms. In addition, the research study will examine whether the benefits of social security schemes for elderly persons are reaching the right intended beneficiaries or not.

11.16 During the period under review, NUALs made a presentation before the Commission on the status and methodology of the project.

C. Illustrative Case Related to Rights of Elderly Persons Dealt by NHRC

1. *Left Ear of an Elderly Person, who was Picked up by the Police Ensuing a Land Dispute, Pulled off and Uprooted, in P.S. Ahiroli, District Ambedkar Nagar, Uttar Pradesh*
(Case No.43832/24/24/2013)

11.17 Shri Lenin Raghuvanshi, a human rights activist, has drawn Commission's attention to a newspaper report published in *Dainik Jagran* and *Hindustan* alleging suspension of 3 police officials due to uprooting the ear of an old man.

11.18 As per complaint, three Constables of PS Ahiroli took away one old man Ram Laut, aged about 70 years, from his house over a land dispute with another person. At the police station, the two police constables caught the body of the victim and one of them, namely Shivram, pulled the left ear of the victim as a result of which, the victim fell down with serious bleeding injury. On enquiry by Circle Officer, Sadar, three Police Constables namely Vindresh Yadav, Ram Sagar Yadav and Shivram Bharti were found guilty and were suspended.



11.19 As per report received in the matter, an FIR No. 181/2013 u/s 326/504/506 IPC and 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act was registered at PS Ahiroli against the then SO and three Police Constables on the complaint of one Ram Janam, s/o Ram Laut. During investigation, the allegations against SI Neeraj Rai, constable Ram Sagar and Vindresh Yadav were found false.

11.20 During investigation, it was revealed that the Constable Shivram Bharti had no intention to cause grievous injury to the victim, as such the crime was converted to Section 335 IPC. The offences u/s 326/504/506 IPC and Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act were not made out against the constable Shivram Bharti as he belonged to the SC community. A charge sheet u/s 335 IPC only was filed by the IO against Constable Shivram Bharti alone.

11.21 The Commission found the report highly unsatisfactory. The copies of medical report of the victim, copy of FIR, statements of victim and eye witnesses had not been enclosed. If there was grievous hurt caused to the victim by the accused, how could it be inferred that the accused had an intention to cause only simple hurt. It appears that the enquiry officer has only tried to save the police officials, the then SO and 2 other police constables from the legal consequences of the atrocity committed by them on a helpless old man. The matter needed an independent and fair enquiry.

11.22 The Commission directed the DGP, Uttar Pradesh to get fresh investigation conducted into the offence through a Senior Gazetted Police Officer of CB/CID posted at the Hqrs.

11.23 As per report received in the matter, on investigation of FIR No. 181/2013 u/s 326/504/506 IPC and Section 3 (1) (x) the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of PS Ahiroli, the named accused SO Neeraj Kumar Rai, Constable Ram Sagar Yadav and Constable Virendra Yadav were not found involved in the incident, so, the above offences were converted into Section 335 IPC only. After investigation, Constable Shivram Bharti alone was found guilty and a charge sheet u/s 335 IPC was filed against him in the Court.

11.24 During investigation, the alleged victim Ram Laut and his son Ram Janam told a different story that the victim sustained injury on his ear due to fall from his bicycle to the ground, but, the two constables who claimed themselves to be eye witnesses of the incident stated to the IO that Constable Shivram Bharti had caused grievous injury on the ear of the victim. The doctor who examined the injury on left ear of Ram Laut found the injury to be grievous in nature as the left ear was amputated. The doctor clearly opined during investigation that the said injury could not be caused by fall of the victim on ground. The IO, even after concluding that it was



Constable Shivram Bharti who had caused injury to Ram Laut filed a charge sheet against him u/s 335 IPC instead of Section 325 IPC.

11.25 The Commission considered the above report and observed that Section 335 IPC was inapplicable to the facts of the case as, *prima facie*, there was no allegation/evidence of grave and sudden provocation caused by the injured to the constable Shivram Bharti. Thus, the IO clearly failed to invoke the serious offence of Section 325 IPC, which was *prima facie* made out against the accused Constable Shivram Bharti. The CO and SP also failed to apply their mind to the facts collected during investigation.

11.26 The SP, Ambedkar Nagar, UP was, therefore, directed to examine the report of investigation and to ensure that a supplementary charge sheet under appropriate section of law is submitted against the accused constable to the Court. He should also report if any monetary relief/compensation has been paid to the victim Ram Laut and whether his free medical treatment for the grievous injury suffered by him was arranged by the Administration.

11.27 The report of investigation clearly showed that one police Constable of PS Ahiroli District of Ambedkar Nagar violated the human rights to life of the victim Ram Laut at the Police Station while posted on duty. The State Government is, therefore, *prima facie* liable to compensate the victim for the violation of human rights to life of a citizen committed by its employee.

11.28 The Commission issued a notice to the State Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why the Commission may not recommend u/s 18 of PHR Act, 1993 payment of ₹ 1,00,000/- (Rupees One Lakh only) as monetary compensation to the victim Ram Laut. Compliance report and proof of payment is awaited.

2. *A Senior Citizen of Goa Picked up and Falsely Implicated by the Police of Vaishali Nagar Police Station, Jaipur, Rajasthan, for Extortion of Money as Illegal Gratification to let Him Off*

(Case No. 2655/20/14/2015)

11.29 The Commission received a complaint from one Rajesh Tiwari, a Senior Citizen and resident of Goa alleging that Sub Inspector Pushpender Singh posted at Police Station Vaishali Nagar, Jaipur falsely implicated him in a case, demanded illegal gratification to let him off, lifted him on 03.10.2015 from Goa, showed his formal arrest on 05.10.2015 at Jaipur and extorted money amounting to ₹ 50,000/- in total. The petitioner further alleged that he has credible evidence against the said police officer with regard to extortion of money.

11.30 As per reports received in the matter, the said police officer has been found guilty of demanding the illegal gratification and taking ₹ 50,000/- as bribe from the complainant. Since



the allegations were found proven against the said police officer, he was accordingly placed under suspension on 16.10.2015 and departmental action against him has also been initiated.

11.31 The Commission considered the matter and observed it has been admitted that Sub Inspector, Pushpender Singh had demanded illegal gratification and extorted money from the Senior Citizen and has thus taken law in his own hands under the colour of his uniform. He has been placed under suspension and departmental action against him has also been initiated. Human Rights of the petitioner, who is a senior citizen, have thus been blatantly violated by public servant who has misused his power and authority. The state is therefore vicariously liable to compensate the complainant. The Commission issued a notice u/s 18 of the PHRA, 1993 to the Government of Rajasthan to 'Show Cause' as to why an amount of ₹15,000/- (Rupees Fifteen Thousand only) as interim relief may not be recommended to be paid to the petitioner.

11.32 The Commission also directed the Chief Secretary and Director General of Police, Government of Rajasthan to set the law in motion and entrust investigation of the case to a Senior Officer of CID/CB Rajasthan, Jaipur.



Chapter 12

RIGHTS OF PERSONS WITH DISABILITIES

People with disabilities are vulnerable because of the many barriers we face: attitudinal, physical, and financial. Addressing these barriers is within our reach and we have a moral duty to do so..... But most important, addressing these barriers will unlock the potential of so many people with so much to contribute to the world. Governments everywhere can no longer overlook the hundreds of millions of people with disabilities who are denied access to health, rehabilitation, support, education, and employment - and never get the chance to shine.

- Stephen Hawking

12.1 According to the World Health Organization, about 15 per cent of the world's population lives with some form of disability and the number is continually growing. As per the Census 2011, in India, out of the 121 crore population, about 2.68 crore are 'disabled', which is 2.21 per cent of the total population. The number of disabled persons is highest in the age group of 10-19 years (46.2 lakhs) and elderly (60+ years) disabled constituted 21 per cent of the total disabled at all India level. The concept of disability encompass locomotor disability, visual disability, mental disability, disability caused due to chronic neurological conditions, blood disorder, multiple disabilities, and any other category.

12.2 Persons with disabilities often have lower education accomplishments, poorer health conditions, higher poverty rates and less economic engagement than people without disabilities. This is partly because people with disabilities experience barriers in accessing services including health, education, employment, and transport as well as information and this leads to the worsening of social and economic well being. As the persons with disabilities often suffer from inequalities, violations of dignity, and sometimes are denied autonomy, a range of international documents like World Report on Disability have highlighted disability as a human rights issue.

12.3 The United Nations Convention on the Rights of Persons with Disability (UNCRPD) was adopted on 13 December 2006 to protect the rights and dignity of the persons with disabilities. Keeping in view that the disabled are usually deprived of opportunities for social and economic development and is a vulnerable section of the society, the Constitution of India through its



Preamble, Fundamental Rights and Directive Principles of State Policy empowers the State to adopt measures of positive intervention in favour of persons with disabilities. This has led to framing of four principal Acts, namely, (i) The Mental of Health Act, 1987, (ii) The Rehabilitation Council of India Act, 1991, iii) the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full participation) Act, 1995, and (iv) The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

12.4 In consonance with these principal Acts, India also formed a National Policy for Persons with Disabilities in the year 2006. The National Policy recognizes the fact that persons with disabilities are a valuable human resource of our country and it is imperative to provide them with equal opportunities, protect their rights and ensure their full participation in the society. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was recast in December 2016 as the Rights of Persons with Disabilities Act, 2016, so as to bring it in consonance with the United Nations CRPD, 2006. The UNCRPD was ratified by the Government of India on 1 October 2007.

12.5 The Commission, which played a prominent role in drafting of the UNCRPD, has all along been looking at the issue of disability from the lens of human rights so that people with disabilities are considered as holders of rights and not recipients of charity. During the year 2016-2017, the Commission undertook the following activities with regard to persons with disabilities.

A. Meeting of NHRC Core Group on Disability

12.6 A meeting of the Core Group on Disability was conducted on 23 December 2016 under the chairmanship of Shri S.C. Sinha, Member, NHRC. After intensive discussions, several important recommendations emerged, which, if implemented properly, may help in better protection of rights of persons with disabilities. The major recommendations concerning the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, are as under:

- i. Section 3(3) of the Rights of Person with Disability (RPD) Act, 2016 mentions that no person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving the legitimate aim. Since the Act is silent on what constitutes the 'legitimate aim', it would give unfettered power to the executives to discriminate on the ground of disability. It was suggested that this issue could be taken care of by the Government.
- ii. The RPD Act, 2016 provides for grant of limited guardianship by the District Court under which there will be joint decision-making between the guardian and the persons with disabilities. In the National Trust for the Welfare of Persons with Autism, Cerebral Palsy,



Mental Retardation and Multiple Disabilities Act, 1999, there is a provision for appointing guardians as such this issue needs to be harmonized. The plenary guardianship has been totally abolished in the Bill. It was suggested that instead of limited guardianship, there should be need based guardianship.

- iii. There is a lack of sensitization among the doctors of the Medical Board authorized to issue disability certificate to persons with disability. In absence of even one of the Members of the Medical Board, the disability certificate is not issued. Thus, person with disability run from pillar to post in order to get disability certificate. It was suggested that only one doctor should be enough to identify the disability of the person and can issue the disability certificate. Many doctors are not aware of the exhaustive circular and thus there is a need for sensitization of doctors. Therefore, there is a need to evolve the system where disability certificate could be issued quickly and preferably within one month's time.
- iv. In the Schedule of the RPD Act, 2016, which classify 'Specific Disability', under para 7 of the Schedule, there is a provision that any other category of disability could be notified by the Central Government as a 'Specific Disability'. Therefore, other disabilities could be identified and added in the list.
- v. As per circular of the Department of Revenue, Ministry of Finance, there is a provision of excise duty exemption on cars bought by persons with physical disabilities who could drive. There are certain categories of persons with disabilities who cannot drive but need a car. Therefore, it is suggested that provision of exemption of excise duty should be extended to all persons with disabilities.
- vi. Rehabilitation Council of India (RCI) Act, 1992 needs to be amended as it does not cover all the disabilities. There is a need for a thorough revision of the RCI Act, 1992 in light of the RPD Act, 2016. Keeping the UNCRPD in view, there are two broad functions played by the National Trust. Firstly, it appoints guardians through local committees and secondly, implements schemes belonging to four categories of disabilities. But now, the concept of guardianship has been modified in the RPD Act, 2016, as it talks about the limited guardianship which has no mention in National Trust Act 1999. Thus, the National Trust needs to be amended in light of the RPD Act, 2016.

12.7 The Union Ministries have been asked to get these recommendations examined and issue necessary directions for early implementation.

B. Meeting of NHRC Core Group on Mental Health

12.8 A Meeting of the Core Group on Mental Health was held on 30 November 2016 in the NHRC. Its main objective was to discuss the issue of shortage of psychiatrist in the country.



The Meeting was chaired by Shri S. C. Sinha, Member, NHRC and was attended by Members of the Core Group on Mental Health and senior officers of the Commission. On the basis of the deliberations held in the meeting, the following recommendations emerged:

- 1) The Ministry of Health and Family Welfare in consultation with the State Governments to identify and up-grade the existing mental health institution to be developed as National Institutions.
- 2) The hospitals which do not have Psychiatry Department, State Government could be asked to start the Department of Psychiatry.
- 3) The State Governments to ensure in-service training of the existing doctors/staff working at the Primary Health Centers, Community Health Care Centers as well as in the State Medical Services cadre on mental health.
- 4) Carving out Psychiatry as an independent paper from medicine in MBBS curriculum.

C. Illustrative Case Relating to Rights of Persons with Disabilities Dealt by NHRC

1. *Visually Impaired Students of Greenfield Residential School for the Visually Impaired Near Kakinada in Andhra Pradesh, Brutally Assaulted with a Stick by the Headmaster of the School*

(Case No.1117/1/6/2014)

12.9 One P. Sukumar of Chitoor, Andhra Pradesh through his complaint dated 22.07.2014 alleged that, on 21.07.2014, the Headmaster of Greenfield Residential School for the visually impaired near Kakinada in Andhra Pradesh brutally assaulted three blind students with a 5 feet long stick. No action had been taken against the erring teacher He sought the intervention of the Commission.

12.10 A report dated 11.08.2015 received from the Secretary to the Government, School Education Department, Andhra Pradesh admitted the incident. It was stated that the erring Principal and one correspondent were taken into police custody on the complaint of Mandal Education Officer and Tehsildar, Kakinada (Rural) and a case was registered vide case No. 77/2014 u/s 324 IPC, which is under investigation. It was disclosed that the said school was being illegally run by one K. Venkateswar Rao (blind), T.G.T. in Government Residential School for visually handicapped, Vishakhapatnam, Andhra Pradesh (the said correspondent) in the name of an NGO, by collecting donations from the public for which special audit was required to find out the irregularities in the above school. It is reported that the Collector and DM, East Godavari, Kakinada has appointed the IED Coordinator, SSA School Education, East Godavari,

Kakinada as Special Officer. The concerned erring correspondent who happens to be the Founder-cum-Chairman of the said School for visually handicapped has been placed under suspension. According to the report, the Founder Secretary of the said School has preferred a Writ Application before the Hon'ble High Court of Andhra Pradesh and Telangana by W.P. No. 32657/2014 and orders of the said court are awaited.

12.11 The Commission carefully considered the report and observed that the allegations made in the complaint were admitted. The conduct of the aforesaid Headmaster, who happens to be a public servant, is a gross violation of human rights of the victims.

12.12 Another report dated 30.11.2015 has been received from the Secretary, Department of School Education, Government of Andhra Pradesh informing that no compensation has been paid to the victims. The criminal case was pending investigation for want of FSL report and judgment in W.P. No. 32657/2014 is also awaited.

12.13 The Commission carefully considered the contents of the report and observed that the question of payment of compensation to the victims has nothing to do with the pendency or disposal of either of the said cases. Admittedly, the victims have been beaten in a cruel manner by the Head Master of Green Field Residential School for visually impaired who happens to be a public servant. This amounts to a gross violation of human rights of the victims. Therefore, the victims are entitled to a reasonable compensation from the State which is vicariously liable. The Commission directed the Chief Secretary, Government of Andhra Pradesh to show cause u/s 18 (a) (i) of the PHR Act, 1993 as to why a suitable monetary compensation of ₹ 25,000/- (Rupees Twenty-five Thousand only) should not be awarded to victims.

12.14 The Commission also directed the Secretary, Education Department to submit the action taken report along with the outcome of the investigation in case No. 77/2014.



HUMAN RIGHTS EDUCATION, TRAINING AND AWARENESS

13.1 NHRC has the mandate to protect and promote human rights. Section 12(h) of the Protection of Human Rights Act, 1993 also envisages that NHRC shall spread human rights literacy among various sections of the 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 the Government, especially police besides students, NGOs and members of general public.

13.2 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 one month Internship Programme twice in a year, i.e. Summer & Winter is being organized by the NHRC within its premises for the university/college students of different States of the country and also the Short-term Internship Programme of two weeks for the students interested in the field of human rights throughout the year, except May-June and December-January.

A. Training Programmes Organized by NHRC

13.3 As part of its mandate, during the year 2016-17, the Commission had approved **560** training programmes of **125** Institutes relating to various aspects of human rights, which includes **403** One Day Awareness Generation Programme on Human Rights for Block Panchayat Level and Nagar Panchayat Level in different States, namely Assam, Chhattisgarh, Madhya Pradesh and Tripura. Out of these, **116** training programmes were successfully organized by **98** Institutions, Universities/Colleges, Administrative and Police Training Institutes and Non-government Organizations. In addition, **09** training programmes of **04** Institutes approved for the year 2015-16 were also conducted during 2016-17, thus taking the overall total of training programmes conducted to **125** Training Programmes by **102** Institutes.

B. Internship Programmes

13.4 Apart from this, 99 (49 interns + 50 interns) interns from various Universities of the country successfully completed their Summer and Winter Internship Programme. Besides, 105 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 599 persons also visited NHRC and they were briefed on the working of the Commission and on human rights issues. NHRC sponsored National Moot Court Competition 2017 was also organized at University Law College, Bengaluru, Karnataka.



Winter Internship Programme-2016



Summer Internship Programme-2017



C. Open Online Course on Human Rights

13.5 On the request of the NHRC, the Department of Higher Education, Ministry of Human Resource Development, Government of India, took up the task of preparation of Massive Open Online Course (MOOCs) on Human Rights through SWAYAM Portal with the University Grant Commission (UGC). Similarly, the NHRC approved the proposal of Indira Gandhi National Open University (IGNOU) for preparation of Course Material on training programme of human rights and Online Training/Awareness Generation Programme on human rights for Police Personnel and Judicial Officers.

D. Organization of National Seminars in Hindi on Human Rights

13.6 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, (i) National Seminar was organized in collaboration with National Law University, Dwarka from 19 to 20 August 2016 on the theme “Good Governance, Development & Human Rights”. Hon’ble Justice Shri H. L. Dattu (Former CJI), Chairperson, NHRC was the chief guest of the inaugural ceremony; (ii) National Seminar was organized in collaboration with the Nagaland University, Kohima on 15 March 2017 on the theme “Gender, Social Justice and Human Rights: With Reference to North-East”; (iii) National Seminar was organized in collaboration with Pt. Ravishankar Shukla University, Raipur (CG) from 23 to 24 March 2017 on the theme “Literature, Society and Human Rights”.

13.7 Hon’ble Chairperson, Members, Secretary General and other Senior Officers of the Commission also participated in these Seminars. Distinguished personalities, including representatives from Delhi, Nagaland, Chhattisgarh, SHRCs, various NGO’s and Media also participated in these Seminars.

E. Observance of Hindi Fortnight at NHRC

13.8 The NHRC’s Annual Hindi Fortnight, to promote the use of official language in its day-to-day working, was held from 14-28 September 2016. The officers and staff of the Commission actively participated in the events, organized on the occasion. Quiz programme, translation competition and Hindi Essay, Typing and *Sulekh* competition, etc. were held during the fortnight.

F. Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Select 28 Districts of India

13.9 The Commission over the years focused its attention on food security, custodial justice,



right to education, right to health, hygiene and sanitation, right to housing, juvenile justice, abolition of bonded labour, child labour, manual scavenging, protection of rights of SCs and STs, right to culture and protection of community assets, right to life, living conditions and nature of responsibility of the Government and Panchayats. There is lack of awareness at the ground level on human rights issues in the country. Hence, to bring awareness among the people, NHRC has taken up the 28 Districts Programme where it reviews implementation of guidelines on above mentioned issues in the selected Districts of the Country, one District from each State.

13.10 During the period 01.04.2016 to 31.03.2017, the Commission visited Champawat District, Uttarakhand on 2-4 June 2016; Wayanad District, Kerala on 1-3 August 2016 and Kadapa District, Andhra Pradesh on 22-23 December 2016 as part of the human rights awareness and facilitating assessment and enforcement of human rights programme in these Districts under the 28 Districts programme of the Commission.

13.11 The aim of this programme is to spread awareness among the people on human rights issues like food security, education, custodial justice, health, hygiene and sanitation etc by undertaking field visit to the schools, primary health centres, community health centers, hospitals, police stations, prisons, panchayats, ration shops functioning under public distribution system, various departments working for the empowerment of children, women, Scheduled Castes, Scheduled Tribes and other vulnerable sections of the society.

G. Media Workshop

13.12 The Commission on 15 April 2015 gave an in principle approval to the proposal for organizing workshops for the media persons as a regular feature in a structured manner in different parts of the country after the feedback from a successful day-long workshop organized by it in New Delhi on 27 April 2012. The genesis of the workshops lay in the recommendations of the Commission's 'Media Advisory Group' on 01 November 2011, which was setup as part of the 'Media & Outreach Policy' of the Commission, formulated in 2011. However, instead of one workshop each in every quarter of a year, as proposed by the Media & Communication wing, the Commission agreed to begin with only two workshops in a year.

13.13 The idea behind these workshops is to provide an orientation to the working journalists of major/important news organizations towards human rights as well as the laws and institutional safeguards, including the NHRC, that protect and promote these rights. Such workshops may eventually also help in building awareness through media about the role, jurisdiction and activities of the Commission.

13.14 These may also facilitate a direct dialogue and contact with the media persons at state



capitals and other important cities in reaching out of people about the Commission's interventions and recommendations. These workshops are to be organized in co-operation with the State Information Departments of their respective State Governments. The Press Clubs may also be associated. The process is in the pipeline.

13.15 Provided critical support to the Training Division of the Commission to organize a Media Workshop in collaboration with the Indian Law Institute, New Delhi on 22 February 2017.

H. Development of Booklets on Different Human Rights Themes

13.16 NHRC in collaboration with Multiple Action Research Group (MARG), New Delhi, started a project to develop booklets on different human rights themes on the rights of vulnerable and marginalized and spread legal awareness about the same in terms of knowledge of law, respect for rights and skills to secure rights. In all, MARG would develop 27 booklets covering 11 themes. These booklets would be easy to use and could be accessed by those with basic literacy skills. Each book would include illustrations for the purpose of better understanding of its users/readers. The booklets would be initially written in English, and later translated and printed in Hindi. MARG has submitted few booklets, which are under review by the Commission.

I. Research Study on Human Rights Education in Schools in India: A Comparative Study of Syllabus Prescribed by State Education Boards

13.17 A research study entitled "Human Rights Education in Schools in India : A Comparative Study of Syllabus Prescribed by the State Education Board is undertaken by NHRC in collaboration with Rajiv Gandhi National University of Law, Punjab. The study will attempt to analyze course content of the syllabus prescribed by the State Education Boards at the Primary, Secondary and Senior Secondary level in order to know the status of human rights education imparted in schools in India. The study will be both descriptive and analytical. The requisite data shall be collected by compilation of the syllabus prescribed by different State Education Boards in schools across different States in India. The duration of the research study will be for a period of 15 months.

13.18 The study will provide the status of human rights education imparted by State Education Boards in schools across India with the aim of bringing uniformity in the course content at the primary, secondary and senior secondary levels.

J. Status of Human Rights Education in Colleges and Universities

13.19 A research study entitled "Status of Human Rights Education in Colleges and Universities" is undertaken by the NHRC in collaboration with the Centre for Research in Rural and Industrial

Development (CRRID), Chandigarh. The study will find out the existing status of teaching and research in human rights education as a separate inter-disciplinary discipline and role of higher education institutions in developing human rights education curricula from the rights perspective in universities and colleges of India. The study will cover Central Universities, State Universities and selected affiliated colleges to accomplish the objectives of the study. The study will use both primary and secondary sources of data. The research study will help the social scientists and policy makers to develop curricula for different courses/programmes in human rights studies of universities and higher academic institutions of the country. The study will be for a period of 12 months.

13.20 The study will be a major contribution to the emerging academic discipline of human rights studies from social science perspective and stimulate Indian scholars in theory building.

K. Challenges for Protection, Dissemination and Promotion of Human Rights Education through Law Schools: A Study of North India

13.21 The research study entitled “Challenges for Protection, Dissemination and Promotion of Human Rights Education through Law Schools : A Study of North India” is undertaken by the NHRC in collaboration with the Himachal Pradesh National Law University, Shimla. The study will assess the status of Human Rights Education (HRE) in Law Schools/Universities in India and will examine the role and methods adopted by such institutions in disseminating HRE in society. In order to accomplish the objectives of the study data on various parameters related to human rights education will be collected through structured interview schedules and the informants will comprise students, staff of Law schools as well as members of the locality where HRE programmes have been initiated and completed. The study will be for a period of 12 months.

13.22 The study will suggest the measures which can be used by Law Schools and Universities to enhance Human Rights Education in India.

L. Developing Human Rights Index and Human Rights Report

13.23 The National Human Rights Commission has undertaken a pan-India project entitled ‘Developing Human Rights Index and Human Rights Report’ in collaboration with the Public Affairs Centre (PAC), Bangalore. The main objective of the project is to develop human rights indicators on five identified areas of the themes, namely, (i) police atrocities; (ii) crimes against vulnerable sections of society; (iii) evil social practices; (iv) institutional structures for human rights in the States; (v) developmental entitlements like poverty, health, nutrition, education, drinking water, housing, electricity, facilities for widows, differently abled, facilities for senior



citizens, working women, etc. apart from developing a comparative national index on human rights, the project shall also take into consideration the nature and quality of the governance system of all States in the protection of human rights. Further, PAC will bring out a comprehensive Human Rights Report. Secondary data available in the public domain, including that of NHRC, is being used for developing human rights indicators to be evolved. The duration of the said project is 12 months.

13.24 The said project will present the nature and quality of the State governance system in the protection of human rights. This will facilitate monitoring of protection of human rights across the country.

M. NHRC Celebrates 23rd Foundation Day

13.25 The Foundation Day of the Commission is being celebrated by the Commission on 12th of October every year. This year, i.e. in 2016, Foundation Day of the Commission was celebrated on 21.10.2016 at Dr. D. S. Kothari Auditorium, DRDO Bhawan, Rajaji Marg, New Delhi. Shri Ravi Shankar Prasad, Hon'ble Minister of Telecommunication and Law & Justice was the Chief Guest on the occasion.



Foundation Day 2016

N. Observance of Human Rights Day and Release of NHRC Publications

13.26 Human Rights Day Function is being celebrated by the Commission on 10th of December every year. This year, i.e. in 2016, the Human Rights Day function was celebrated by the Commission at Dr. D. S. Kothari Auditorium, DRDO Bhawan, Rajaji Marg, New Delhi on 10.12.2016. Justice Shri P. Sathasivam, Hon'ble Governor of Kerala was the Chief Guest and Shri Bezwada Wilson, Founder of Safai Karamchari Andolan was the Guest of Honour on the occasion. The chief guest on the occasion released the following publications of the NHRC:

- NHRC English Journal on Human Rights (Vol.No.15, 2016)
- Manavadhikar – *Nai Dishayein*, (Vol. No.13, 2016) – NHRC Hindi Journal on Human Rights
- NHRC Intervention on Silicosis – (in English)
- Children in India and their Rights” (Revised Edition) – (in English)



Human Rights Day 2016, 10th December, 2016

O. Essay Writing Competition

13.27 In its efforts towards spreading awareness of human rights among the masses, the Commission organized an essay competition for the citizens of India. The details of the scheme



were uploaded on Commission website also.

13.28 This year the theme of the essay competition was “Crisis of Existence of Women and Human Rights”. The last date for receiving the entries was 30 June 2016. The four winners of this competition were awarded on the Foundation Day function of the Commission on 21.10.2016.

P. All India Inter-Central Armed Police Forces’ Debate Competition 2016

13.29 As referred in Chapter 3 [Para 3.15(f)], in the year 2016-17, the semi-final and final rounds of the debate competition for the CAPF were organized by the National Security Guards at NSG Training Centre, Manesar, Haryana, on 20 September 2016 and 30 November 2016 respectively.

13.30 The Team Championship for Debate Competition 2016 was won by the Central Industrial Security Forces (CISF) and the Rolling Trophy was awarded to them. Debate competition for personnel (Individual) was won by Shri Ajay Singh, TC, NSG in English and Shri J. M. Mishra, SI, SSB in Hindi.

Q. Debate Competition on Human Rights Awareness in English and Hindi/ Regional Language for State/UT Police Forces

13.31 As mentioned in Chapter 3 [Para 3.15(g)] of this Annual Report, in the financial year 2016-17, a total of 15 States submitted their proposal for conducting the said debate competition. On receipt of their proposals, ₹ 15,000/- each was disbursed for conducting the debates.

Chapter 14

HUMAN RIGHTS DEFENDERS

14.1 Whoever, individually or with others, act to promote or protect human rights can be described as “Human Rights Defenders”. 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) is the main international instrument on human rights defenders. It was adopted by the United Nations General Assembly in December 1998, after 14 years of negotiation.

14.2 Human rights defenders are not partners of the National Human Rights Commission alone, but also of the Government, be it, at the level of local bodies, the State level or the Central level in the endeavour to ensure protection and promotion of human rights of the people. The fact is, by raising various issues that thwart the Government’s crusade to provide good governance to the citizens, human rights defenders assist the Governments by drawing their attention to areas or incidents that cry for help and justice. Any such actions that the Government takes to help solve the problems of the people pointed out by the human rights defenders, in turn, benefit the Government in discharging its constitutional obligations and its primary responsibility of protecting people’s human rights thereby raising the level of public confidence in the Government of the day.

14.3 Unfortunately, in the recent past, it is observed that the State authorities miss this important point and view the human rights defenders who raise various human rights concerns, as irritants. It is this approach that the Commission is striving to remove by sensitizing various stakeholders. One of the major areas of concern regarding the human rights defenders is the reprisals they are facing for their legitimate work towards promotion and protection of human rights. RTI activists, activists fighting against displacement caused due to large scale development projects and women HRDs are major targets for reprisals. The State actors need to develop an understanding about the role being played by them. They should not be treated as an impediment but should be treated as an asset to help promote good governance.



14.4 Media has been one of the most important human rights defenders. The Commission has been keeping itself abreast of the latest issues and incidents pertaining to human rights through the print and electronic media. Some of the most important interventions of the Commission had been through *suo motu* cognizance taken on the news items published in the print and the electronic media. Media is a tool to highlight the gaps in the governance process. The executive instead of demeaning the role of the media should utilize the opportunity to plug the gaps highlighted by it. Media is the window through which we see the world and a robust and impartial media is a guarantee for a vibrant and strong democracy.

14.5 The Commission wish to emphasize once again that there is need for greater cooperation between the Government and the human rights defenders for overall benefit of the society.

14.6 The Declaration on the Human Rights Defenders codifies the international standards that protect the activity of human rights defenders around the world. It recognizes the legitimacy of human rights activity and the need for this activity and those who carry it out to be protected. Under the Declaration, human rights defender is anyone working for the promotion and protection of human rights. This broad definition encompasses professional as well as non-professional human rights workers, volunteers, journalists, lawyers and anyone else carrying out, even on an occasional basis, a human rights activity.

14.7 The Declaration articulates existing rights in a way that makes it easier to apply them to the situation of human rights defenders. It specifies how the rights contained in the major human rights instruments; including the right to freedom of expression, association and assembly, apply to defenders. The Declaration outlines specific duties of the States as well as responsibility of everyone with regard to defending human rights. For human rights defenders too, it is equally important to subscribe to the two principles of universality and non-violence for invoking protection under the United Nations Declaration on Human Rights Defenders.

14.8 The National Human Rights Commission of India is mandated under Section 12(i) of the Protection of Human Rights Act, 1993 to encourage the efforts of non-governmental organizations and institutions working in the field of human rights. Therefore, ever since NHRC came into existence, it has worked closely with a number of organizations and individuals, both governmental and non-governmental, to improve the human rights situation in the country along with rendering support and protection to human rights defenders. It has observed and complied with the United Nations Declaration on Human Rights Defenders and consequently made efforts to promote the development of protective mechanisms for human rights defenders across the country. As part of its strategy, it works with the non-governmental and civil society organizations; National and State Commissions including State Human Rights Commissions and other key actors to raise awareness about human rights defenders and challenges being faced by them.

A. Focal Point for Human Rights Defenders in NHRC

14.9 Acting on one of the recommendations of the Workshop on Human Rights Defenders that was organized by the Commission on 12 October 2009 in New Delhi, a Focal Point for Human Rights Defenders has been set-up in the NHRC to deal with the complaints alleging harassment of human rights defenders by or at the instance of public authorities. The designated contact person at the Focal Point is Shri Srinivasa Kammath, Deputy Registrar (Law). The Focal Point is accessible to the 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 on priority and also conveyed to the concerned human right defender. The update of the complaints of alleged harassment of human rights defenders is also posted on the website of the Commission.

14.10 The Focal Point for Human Rights Defenders has also engaged itself in discussions with NGOs/HRDs/State Government officers to understand the status of promotion and protection of human rights at the grassroots level.

B. NHRC's Course of Action for Protection of Human Rights Defenders

14.11 The Commission has always extended its support for the cause of promotion and protection of Human Rights and has denounced the acts of reprisal, harassment, etc. against persons who fight for this cause. In fact, one of the most important aspects of civilian safeguard that has been taken up by the Commission is the promotion and protection of the rights of the human rights defenders.

14.12 Important steps taken by NHRC for protection of HRD's are:

- NHRC sends a strong message to the State not to victimize HRDs. In furtherance of the same, the Secretary General, NHRC wrote a letter to the Chief Secretary of all the States to create a favorable environment for the functioning of the human rights defenders.
- NHRC has taken proactive steps to protect the cause of the HRDs by recommending prosecution of the erring public servants and recommending compensation to the victim-HRD.
- A Chapter on human rights defenders in the Annual Report of the Commission is also a part of the steps to spread awareness.
- The National Human Rights Commission interacted with the representatives of the NGOs and the HRDs during the Camp Sitzings and Open Hearings. The feedback given by them



regarding the bottlenecks and the problems being faced by them were taken up by the Commission. Cases of HRDs were assigned top priority and necessary relief, on merit, was given.

- The NHRC releases a message on 9th December every year, which is the day when the UN Declaration on HRDs was adopted by the UN General Assembly. The Commission released a message on 9 December 2016 pledging continued support to the Human Rights Defenders. The message is annexed as **Annexure – 8**.

C. Illustrative Cases Relating to Human Rights Defenders Dealt by NHRC

14.13 During the period under review, the Commission received 98 complaints concerning alleged harassment of Human Rights Defenders. Out of the same, 70 cases pertaining to HRDs were finally disposed of by the Commission. Some of the important cases dealt by the Commission during the year 2016-2017 are as under :

1. *Ensuring Security by Ghaziabad Police to Shri Rajeev Kumar Sharma, Human Rights Defender*

(Case No. 41893/24/31/2016)

14.14 The Commission received a complaint from Shri Rajeev Kumar Sharma, Shakarapur, Delhi bringing to the notice of the Commission towards an incident where in an illegal jacket manufacturing factory in Sahibabad, 13 labourers died and 3 were seriously injured in fire. The complainant requested for compensation for the victims and action against the offenders. The complainant has submitted further complaints alleging that because of the human rights issues highlighted by him, he is being threatened and his life is under threat.

14.15 The Commission noted that the incident of death of 13 labourers and injuries to 3 labourers was brought to the notice of the Commission by the complainant. The inquiry has confirmed that the said factory was illegal. The complainant has alleged that he is being threatened by the persons whose vested interests are being disturbed because of the activism of the complainant. He is also allegedly implicated in false case. It is the duty of the administration and the police functionaries to protect such persons who are fighting for the cause of human rights. If they are left at the mercy of the violator, the cause of human rights will suffer.

14.16 The Commission further directed the District Magistrate, Ghaziabad and the Sr. Superintendent of Police, Ghaziabad to assess the security threat to the complainant and, if required, extend necessary protection to him, as per law.

14.17 In response to the directions of the Commission, a report was received from the District Magistrate, Ghaziabad reporting that the complainant has been provided security. As regards



the status of the case registered in the matter, the investigation in Case Crime No. 1916/2016 u/s 304A/427 IPC is in progress.

14.18 The complainant thereafter informed that his security had been removed. The Superintendent of Police Traffic, Ghaziabad informed the Commission that the complainant has been provided with the security. The Commission considered the matter on 2.6.2017 and directed the DM, Ghaziabad to look into the matter and ensure that the concerns of the complainant are redressed, as per law.

14.19 It has been reported by DM Ghaziabad that the security to the complainant was removed because of lack of police personnel and that now security has been provided to the complainant.

14.20 Other issues in the case are under consideration by the Commission.

2. Grant of Compensation to Baniya Bai in Badwani District of Madhya Pradesh, a Victim of Medical Dishonesty on the complaint of Human Rights Defender.

(Case No. 1062/12/2/2013)

14.21 The complainant, an office-bearer of Front Line Defenders, an Ireland based NGO, has alleged that a human rights defender Ms Madhuri Ramakrishnasway has been arrested by police in Badwani district of Madhya Pradesh on 16.05.2013 as she was protesting for the rights of a woman Baniya Bai who was victim of medical dishonesty in Public Health Centre, Menimata, District Badwani, Madhya Pradesh.

14.22 It was reported by the authorities that Madhuri Ramakrishnasway was not arrested by the police but for non appearance in the Court in spite of service of notice, the Court had sent her to judicial custody. As regards dereliction of duty it was reported that action has been initiated against the erring staff.

14.23 The Commission issued Show Cause Notice to the Chief Secretary, Government of Madhya Pradesh asking him to show cause as to why the Commission should not recommend payment of compensation to the victim Baniya Bai. In response to this Commission's Show Cause Notice, Dy. Secretary to the Government of Madhya Pradesh, GA Department, Madhya Pradesh informed that a case of violation of rights of the victim has been established against public servant. It was also stated that the State of Madhya Pradesh shall comply with whatever recommendations made by the Commission. The Commission recommended to the State of Madhya Pradesh to pay a sum of Rs.3,00,000/- by way of compensation to the victim Baniya Bai as a case of gross violation of her human rights including right to life and right to health has been established against public servant. The Commission also made it clear that this payment/compensation shall be taken as interim in nature and would not preclude claim for compensation



to be laid in the appropriate forum. On receipt of the compliance report and proof of payment, the case was closed by the Commission on 10.5.2016.

3. *Inaction of Police, PS Vepery, Chennai on the Complaint of 82-year-old Social Activist K.R. Ramaswamy*

(Case No. 609/22/13/2015)

14.24 The Commission received a complaint from one Henri Tiphagne of an NGO alleging arrest and remand of an 82-year-old senior citizen, social activist namely K. R. Ramaswamy *alias* Traffic Ramaswamy, in the pre-dawn hours of 12.03.2015 (in violation of guidelines laid down by the Hon'ble Supreme Court in Arneesh Kumar Vs. State of Bihar July 2014) by the police of Vepery PS, Chennai allegedly on the basis of a false complaint filed by one Mr. Veeramani in respect of an incident occurred on 11.03.2015. His condition worsened in the prison and was taken to hospital. The victim also lodged a complaint to the police on 11.03.2015, but, no action was taken. The complainant sought independent investigation by the CB/CID, immediate action against the perpetrators for the assault and departmental action against the erring police personnel.

14.25 The Commission took cognizance on 30.03.2015 and called for a report from the Commissioner of Police, Chennai. Pursuant to the directions of the Commission, the Commissioner of Police, Greater Chennai, Vepery, Chennai, vide letter dated 03.06.2015 submitted that on 11.03.2015 at about 10.00 AM, while the complainant C.S. Veeramani was passing by Raja Annamalai Road in his car, near MSR Mahal, K. R. Ramaswamy *alias* Traffic Ramaswamy was standing in the middle of the road and giving interview to a TV channel. When he requested him to clear the traffic and give way to proceed further, he scolded him by using filthy language. The accused pelted stones at the complainant's vehicle and caused damage. The accused also threatened to cause death to the complainant. On the basis of a written complaint given by Veeramani, Vepery Police registered a case Cr. No. 462/2015 u/s.341, 294(b), 506(ii) IPC and 3(II) Tamil Nadu Property Damage and Loss Act, 1992. The accused Ramaswamy was arrested on 12.03.2015 at about 04.30 a.m. After informing his friend Rajendran about his arrest and about his act, the accused was taken to the Vepery PS and then to Kilpauk Hospital for medical examination and produced before the XIV Metropolitan Magistrate. The Magistrate remanded the accused to judicial custody for 15 days and subsequently, he was admitted in Government Royapettah Hospital. As per the direction of the High Court, the accused was admitted in Multi Speciality Government Hospital for further treatment. He was released on conditional bail on 16.03.2015. The handling of accused Ramaswamy in the PS, Hospital and enroute to court and jail has been video recorded. In the video recording and enquiry from the witnesses, no human rights violation has been noticed. The report concluded that the accused has got grudge against



police personnel as a case was registered against him and hence, he has filed a false petition. It was, therefore, prayed that no further action be taken on this petition.

14.26 The Commission, vide proceedings dated 26.09.2016, considered the report and observed that it was silent regarding the action taken on the complaint filed by the victim at Vepery PS on 11.03.2015. Hence, the Commission directed the Commissioner of Police, Greater Chennai to send a report on the status of the complaint registered by the victim on 11.03.2015 at Vepery PS. He was also directed to send the status/outcome of the writ petition filed by the next friend of the victim, Mr. G. Ravi Kumar in this regard before the High Court of Madras.

14.27 A copy of the report dated 03.06.2015 received from the Commissioner of Police, Greater Chennai Police, Vepery, Chennai, along with its enclosures, was also sent to the complainant for his comments, if any asking him to inform the Commission about the status of the writ petition and send a copy of the order passed by the Hon'ble High Court in the writ petition filed by his next friend.

14.28 The matter is still under consideration of the Court.

4. *The Attacks on HRDs in Chhattisgarh*

(Case Nos. 667/33/20/2016 & 130/33/1/2016)

14.29 The Commission took *suo motu* cognizance about registration of an FIR against the Delhi University Professor Archana Prasad and JNU Prof. Nandini Sundar and three others by Chhattisgarh Police. The Commission also condemned the incident in which the Chhattisgarh police personnel burnt the effigies of Prof. Nandini Sundar. Expressing its deep concern over the state of affairs prevailing in the State of Chhattisgarh, the Commission summoned Shri S.R.P. Kalluri, IGP, Bastar and the Chief Secretary of the State. Although Shri Kalluri could not appear before the Commission due to health reasons, the top most police officer of the State, DGP and Additional Chief Secretary appeared before the Commission and assured that remedial action will be taken. As per the directions of the Commission, the Chief Secretary, Chhattisgarh has submitted the action plan to ensure adequate protection to the human rights defenders which is under consideration of the Commission. Subsequently, IGP Shri S.R.P. Kalluri was shifted from Bastar.

14.30 Likewise, the Commission also took cognizance of complaint (case No. 130/33/1/2016) regarding forceful eviction of Ms. Salini Gera and Ms. Isha Kandelwal by the Chhattisgarh police.

14.31 On receipt of telephonic message regarding alleged harassment of Ms. Bela Bhatia at Bastar, the Commission through its DIG the same day asked the DGP of State to immediately intervene in the matter and provide protection to Ms. Bela Bhatia. The Commission has while



considering the matter on 03.07.2017 reminded the Chief Secretary to submit further reports in the matter of protection of human rights defenders and in all the cases where the Commission has intervened, which are awaited. The Commission has also asked for a copy of terms of reference of a Committee constituted to look into the allegations made by the Human Rights Defenders against the members of the security forces. Some additional information like copies of FIRs, names of Police Stations and section of law, names of the human rights defenders, has also been called for from Ms. Kalyani Menon Sen and Mr. Henri Tiphagne, complainants which is also awaited.

14.32 Regarding the attack on Ms. Soni Sori a well known Tribal and Human Rights Activist of Bastar on 20.02.2016, the NHRC team that conducted the spot inquiry found that criminal cases FIR No. 16/16, P.S. Geedam have been registered against the unidentified assailants that blackened her face. After the said incident 'Y' class security with round the clock Personal Security Officer was provided to her to ensure her safety and security.

14.33 The NHRC team also enquired into the threats being faced by Isha Kandelwal, Shalini Gera and Malini Subramaniam. The recommendations of the NHRC team were sent to the State authorities with the direction to ensure safety and security to the activists, which were assured by the State authorities.

5. Recommendation of Compensation to Shri Satya Narayan Garg, Social Activist, Ajmer, Rajasthan

(Case No. 2806/20/1/2015)

14.34 The Commission received a complaint from one Satya Narayan Garg, a Social Activist and a senior citizen alleging harassment/ill treatment by the District Collector, Ajmer on 23.10.2015 when he approached her in connection with corruption matters in local civic agency.

14.35 Pursuant to the Directions of the Commission the Deputy Secretary, Home (HR) Department, Government of Rajasthan vide communication dated 09.11.2016 submitted the report which reveals that an inquiry into the matter has been conducted by the Divisional Commissioner, Ajmer, Rajasthan. It has been brought out that there is no CCTV camera installed inside the chamber of the District Collector, Ajmer. The petitioner made false allegations. The petitioner, however, reiterated his allegations made in the complaint during inquiry. The inquiry officer has concluded that though the allegations of ill treatment with the petitioner by the District Collector, Ajmer could not be substantiated, but, it should be ensured that the senior citizens are heard on priority with dignity. They should be treated with sensitivity and should not feel dejected. He has proposed that the District Collector should be directed to hear grievances of the senior citizens on priority and on humanitarian grounds in order to counter the allegations as made in the instant matter.



14.36 The Commission further considered the matter when it observed and directed as under:-

“The petitioner has reiterated his allegations made in the complaint and the inquiry officer has not asked the then District Collector, Ajmer to submit her clarification on the specific allegations. Nevertheless, the inquiry officer has indicated that the petitioner, who is a senior citizen, came to meet the District Collector, Ajmer in her chamber and was not treated with dignity by the District Collector. It appears that the indifferent treatment meted out to the petitioner has forced the petitioner to approach the Commission and other authorities to ventilate his grievances. It, thus, prima facie appears that the petitioner was not treated with due dignity by the then District Collector, Ajmer which has resulted in violation of his human rights”.

14.37 The Commission, vide its proceedings dated 06.01.2017, directed to issue a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Rajasthan through its Chief Secretary to show cause as to why an amount of ₹ 10,000/- (Rupees Ten Thousand only) as interim relief may not be recommended to be paid to the petitioner.

14.38 Vide its further proceedings dated 12.09.2017, the Commission considered the reply dated 22.02.2017 of Government of Rajasthan and recommended ₹ 10,000/- as interim relief to the petitioner and called for proof of payment and details of departmental action against the erring officer.

6. *Non-renewal of Licenses of Centre for Promotion of Social Concern under Foreign Contribution (Regulation) Act*

(Case No. 6259/30/0/2016)

14.39 The Commission has on 16.11.2016 while taking cognizance of the issue of non-renewal of FCRA licenses of Centre for Promotion of Social Concern (CPSC), has expressed a prima-facie view that non renewal of FCRA licenses is neither legal nor objective and thereby impinges on the rights of the HRDs. The Commission has drawn the attention of the Government of India to the report of the UN Special Rapporteur on Freedom of Association and Assembly wherein it was argued that FCRA is not in conformity with international law, principles and standards, as access to resources including the foreign funding is a fundamental part of the right to freedom of association. Any limitation on such access to foreign funding has to be (a) prescribed by law (b) imposed solely to protect national security, public safety, public order, public health or morals, or the rights and freedoms of others and (c) necessary in a democratic society such as rights and freedoms of others.

14.40 The Commission has directed Secretary (Home), Government of India to send information on the number of NGOs whose licenses have not been renewed in the last three years, how litmus test laid down by the UN Special Rapporteur on Freedom of Association and



Assembly is applied in the adjudication by the Central Government and to demonstrate how the generic aspect of access to foreign funding and continuance of the same is not the right to form association and is not against international law, standards and principles.

14.41 Pursuant to the directions of the Commission, Ministry of Home Affairs, Government of India had submitted reports in the matter, which is under active consideration of the Commission. However, since the matter of funding of NGOs in India is pending before the Supreme Court of India and the issue of non-renewal of CPSC is pending before Delhi High Court, the Commission has chosen to keep the issue pending for the time being.

7. Alleged Intimidation and Harassment of Human Rights Activist Kirty Roy and Other Members of NGO MASUM, Hooghly, West Bengal

(Case No.1063/25/6/2016)

14.42 This case pertains to alleged intimidation and harassment of Shri Kirty Roy, Human Rights Activist, Founder and Secretary of a human rights organization Banglar Manabadhikar Surakksha Mancha (MASUM) and against Ms Tilak Barman, Mr. Ajijul Haq, Bisweswar Barman and Azimuddin Sarkar who are also members of MASUM by the West Bengal police.

14.43 In this regard, a mobile complaint was received through Human Rights Defenders Alert on 5.8.2016 to the effect that Mr. Kirty Roy who visited Mekhligunj rehabilitation and settlement camps meant for enclave dwellers in Cooch Behar was being followed by police. Allegedly the police was planning to apprehend Mr. Kirty Roy. On receipt of this mobile complaint, the Superintendent of Police, Cooch Behar was telephonically contacted and asked to ensure that no hindrance is caused to Mr. Kirty Roy who is a human rights defender, in his legitimate work.

14.44 Another e-mail communication dated 11.8.2016 on the same subject was received from the Observatory for the Protection of Human Rights Defenders, joint programme of the World Organization Against Torture (OMCT) and FIDH requesting urgent intervention of the Commission. It was also brought to the notice of the Commission that Mr. Kirty Roy was earlier arrested on 7.4.2010 by the Anti-Terrorist Cell of Kolkata Police u/s 120B, 170 and 229 of IPC for organizing a people's tribunal on torture with the attendance of 1200 victims of torture and their families.

14.45 The Commission took cognizance of the matter on 18.08.2016 and transmitted the mobile complaint as well as the complaint received from the Observatory for the Protection of Human Rights Defenders to the DGP, West Bengal and directed him to inquire into the same and submit a report within two weeks. The Commission also directed DGP, West Bengal that he shall also ensure that Mr. Kirty Roy and other members of his human rights organization

MASUM are assured of a congenial atmosphere in the State to carry out their legitimate human rights related work.

14.46 The report submitted by Inspector General of Police (Administration), West Bengal vide communication dated 5.10.2016 denying the allegations was sent to the complainant for comments but the response is awaited.

8. *Restricted from Traveling to Geneva to Attend UNHRC and Arbitrary Detention of Mr. Khurram Parvez*

(Case No.183/9/13/2016)

14.47 On receipt of a complaint from Henri Tiphagne alleging illegal arrest of Mr. Khurram Parvez, Human Rights Defender and preventing him to travel to Geneva, the Commission took cognizance and called for reports from Foreigner Regional Registration Officer, Government of India. In response to the notice, the Commission received reports from Intelligence Bureau (IB), Ministry of Home Affairs, Government of India that Mr. Khurram Parvez is a valley based human rights activist having anti-India and pro-separatist disposition and indulges in anti India activities. He also maintains close links with pro-separatist leaders in Kashmir. In short, the report was casting aspersions on the integrity of Mr. Khurram Parvez. On the face of such adverse report on the integrity of the person concerned, the Commission in its wisdom has closed the case.



Chapter 15

INTERNATIONAL COOPERATION

15.1 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. 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.

15.2 During the period under review, the National Human Rights Commission of India, which is a member of the GANHRI and a founder Member of the APF, participated in number of meetings, seminars, workshops and interaction with foreign delegates in the Commission.

A. Cooperation with the Asia Pacific Forum of National Human Rights Institutions

15.3 The Asia Pacific Forum of National Human Rights Institutions (APF) is the leading regional human rights organization in the Asia Pacific region established in 1996. It is a member-based organization that supports the establishment and strengthening of independent National Human Rights Institutions in the region. Its goal is to protect and promote human rights of people of the Asia Pacific region through network of member institutions. At the time of writing of the Annual Report, APF had 15 full members and 7 associate members. These members represent a diverse range of countries across the region. The National Human Rights Commission of India (NHRC, India) is one of its founding members. Any National Human Rights Institution in the Asia Pacific can apply to become a member of the APF. Decisions about membership are made by the Forum Council, the APF's governing body.

15.4 To be admitted as a full member, a National Human Rights Institution must comply with the minimum international standards set out in the Paris Principles. In addition, the Forum adopts the accreditation decisions of the International Coordinating Committee of National Human Rights Institutions to determine APF membership status. National Human Rights Institutions which are considered to fully comply with the Paris Principles are accredited as 'A status', while those that partially comply are accredited as 'B' status. 'A' status 'National Human Rights Institutions are allowed to participate in the work and discussions of the United Nations Human Rights Council and its subsidiary bodies.

Other Events Organized by APF & NHRC Participation

15.5 Shri U. N. Sarkar, Assistant Director (Publication) attended the Asia Pacific Forum (APF) Communications Network Workshop at Kathmandu, Nepal from 26.04.2016 to 28.04.2016.

15.6 Shri Nitin Kumar, Inspector attended the advanced face-to-face training workshop on investigating allegations of Torture being organized by Asia Pacific Forum of NHRIs (APF), Association for the Prevention of Torture (APT) and International Rehabilitation Council for Torture Victims (IRCT) at Kuala Lumpur, Malaysia from 06.06.2016 to 10.06.2016.

15.7 Dr. Sanjay Dubey, Director (Admn) attended the face-to-face training workshop on Human Rights Education blended learning course being organized by Asia Pacific Forum of NHRIs (APF) at Bangkok, Thailand from 26.09.2016 to 30.09.2016.

15.8 Shri Khwaja A. Hafeez, Assistant Registrar (Law) attended the Conference on Human Rights & Sustainable Development Goals being organized by Afghanistan Independent Human Rights Commission (AIHRC) at Kabul, Afghanistan from 26.11.2016 to 27.11.2016.

15.9 Shri C. S. Mawri, Assistant Registrar (Law) and Shri S.K. Gauba, Section Officer participated in the face-to-face training workshop of blended learning course on sexual orientation, gender identity and sex characteristics (SOGISC) at Colombo, Sri Lanka from 12.12.2016 to 16.12.2016.

B. Cooperation with the Global Alliances of National Human Rights Institutions (GANHRI)

15.10 The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), renamed as GANHRI is a representative body of National Human Rights Institutions established for the purpose of creating and strengthening National Human Rights Institutions which are in conformity with the Paris Principles. It performs this role through encouraging international co-ordination of joint activities and co-operation among these National Human Rights Institutions, organizing international conferences, liaison with the United



Nations and other international organizations and, where requested, assisting governments to establish a National Institution. It works to create and strengthen National Institutions and to ensure they conform to the Paris Principles. In all its activities and in its Presidency, committees, working groups, etc., the GANHRI will ensure gender equality. NHRC, India is a GANHRI member with 'A' status accreditation which was earlier accredited in 1999 and reaccredited in 2006 and 2011. Next re-accreditation of NHRC India with the Global Alliance of National Human Rights Institutions (GANHRI) is scheduled in the Sub-Committee on Accreditation (SCA) Session from 14 – 18 November, 2016. The Commission participated in the following meetings of GANHRI in the year:-

15.11 NHRC India was a member of the ICC Bureau in the year 2003 and from 2007 to 2011. The NHRC India Delegation led by Chairperson Justice Shri H.L. Dattu accompanied by Dr. S. N. Mohanty, Secretary General and Dr. Ranjit Singh, Joint Secretary attended the 29th Annual Conference of the International Coordination Committee (ICC) on promotion and protection of human rights at Geneva from 21.3.2016 to 23.3.2016. The Conference commenced on the opening day (21.3.2016) with ICC Bureau Meeting, chaired by Adv. Mabelde Lawrence Mushwana, Chairperson of ICC. ICC communication project was initiated by the ICC to rename ICC. After two years of inclusive process, the ICC officially adopted the new name Global Alliance of National Human Rights Institutions (GANHRI). The General Meeting elected India as a Bureau Member of GANHRI from Asia Pacific Region (APF) in place of South Korea. Thus, after a gap of four years, NHRC India has again become a member of the GANHRI Bureau with election of Justice Shri H.L. Dattu, the present Chairperson of the Commission from this year i.e. 2016. In the opening plenary session, Justice Shri H.L. Dattu, Chairperson, NHRC India delivered a statement on the role of NHRC India in the priority theme of “Business and Human Rights”.

15.12 In the session deliberating the MERIDA declaration adopted in October, 2015, the NHRC-India Delegation led by Justice Shri H.L. Dattu, Chairperson, NHRC India delivered a statement on the Role of NHRIs in implementing Sustainable Development Goals in compliance with MERIDA declaration.

15.13 India actively participated in the Knowledge Fair organized by GANHRI on the last day of the three day Conference for all member States for interaction and providing an opportunity for face to face networking as well as cross regional sharing of information and experiences. NHRC-India established a Stall in which information was displayed on trends of Human Rights cases from 1993 to 2015. It was explained in the form of poster presentation demonstrating that in 1993, 30 cases were registered whereas in 2015 more than 1.20 lakh cases were registered which shows growing public trust reposed in NHRC-India. NHRC-India also displayed its publications



and initiatives taken by the Commission on various human rights issues. In addition, NHRC-India displayed posters of short film competition organized by the Commission in the year 2015.

15.14 The renaming of ICC as GANHRI, which is akin to GANDHI, Father of our Nation, who championed the cause of human rights, is matter of great pride and honour for us. India has been unanimously elected as Bureau Member of GANHRI for Asia Pacific Region. India can effectively contribute towards protection and promotion of human rights in the entire region. India's contribution in the field of human rights is not only traditional and historical but imbibes in the Indian Constitution with focus on human dignity, gender, governance, security and sustainable development.

15.15 The National Human Rights Commission, India delegation consisting of Justice Shri H.L. Dattu, Chairperson, NHRC and Joint Secretary (P&A), NHRC attended GANHRI Special Session on Human Rights of Older Persons on 14 June, 2016 and ASEM Expert Forum on Human Rights of Older persons from 15 -16 June, 2016 at Seoul, South Korea on invitation from Mr. Sung-Ho-Lee, Chairperson, National Human Rights Commission, South Korea. The conference commenced on 14th June, 2016 with welcoming remarks by Sung-Ho Lee, Chairperson, National Human Rights Commission of Korea and Ms. Claudia Mahler, Senior Researcher, German Institute for Human Rights was the GANHRI Chair delegate. The GANHRI Special Session on Human Rights of Older Persons, co-sponsored by the Asia Pacific Forum of National Human Rights Institutions focused on exploring ways on how national human rights institutions contribute to the international community and share experiences to promote and protect human rights of older persons. At the ASEM Expert Forum on Human Rights of Older Persons, the right to health and eradication of poverty were discussed amongst ASEM members, experts from international organizations including the UN and NGOs for the benefit of all participants.

15.16 Justice H. L. Dattu, Chairperson, NHRC India during his deliberations with other delegates highlighted the need for well being and protection of elderly persons which is mandated in the Constitution of India and the various Government policies such as Maintenance & Welfare of Parents and Senior Citizens Act, 2007. The Chairperson highlighted steep rise in population of older persons in India and challenges before India to provide older persons security, good health, dignity, equality and comfortable living. The Chairperson also focused on Commission's initiatives and best practices that promotes and protects the rights of older persons in India from the perspective of human rights.

15.17 Justice Shri H. L. Dattu, Chairperson, NHRC made a presentation on NHRC India initiatives regarding rights of older persons. Initially he introduced about demographic features with reference to population of older people in India and various Acts, policies and functional



welfare schemes running for older people in India. The presentation also covered two major themes, viz., NHRC India initiatives and best practices of NHRC for the rights of older persons. The NHRC initiatives elaborated on constitution of Core Group on protection and welfare of the older persons, suggestions offered to government on National policy for senior citizens, promotion of research, spreading awareness through training, seminars and bringing out publications for wider dissemination of information on rights of elderly. The best practices of NHRC India mentioned about having a robust & comprehensive Complaint Management System, organizing of open hearings & camp sittings regularly, awarding of monetary compensations, having a functional Focal Point for Human Rights Defenders, taking Suo-Motu Cognizance and issuance of directions for establishing Old-Age Homes and Appellate Tribunals, introduced MD courses in Gerontology in Medical colleges, appointed Special Rapporteurs and calling for action taken reports from State Governments on recommendations made by the Commission.

15.18 Justice Shri H.L. Dattu along with Shri S.C. Sinha, Member and Dr. S.N. Mohanty attended the GANHRI Bureau Meeting, Knowledge exchange, General meeting, Annual Conference, a one-day Commonwealth Forum of National Human Rights Institutions (CFNHRI) meeting and event with UNICEF on NHRIs and children's rights at Geneva, Switzerland from 06.03.2017 to 09.03.2017.

15.19 NHRC India also displayed a two and a half minutes short film on 'Rights of Elderly in India'. The film depicts the plight of an elderly woman, who is so lonely that instead of being frightened, she smiles to see even a thief to his shock. The film tries to show that elderly people not only have financial needs, they have the right to be loved and cared by the family members who leave them alone and meet occasionally.

C. Universal Periodic Review

15.20 As part of the second cycle of the universal periodic review (UPR) undertaken by the United Nations Human Rights Council in 2012, the NHRC, being an independent statutory body, took upon itself the task of monitoring all the 67 recommendations accepted by the Government of India and report its progress to the Council by submitting its own independent report. For this purpose, first and foremost, it devised a framework indicating action required on each of the 67 recommendations along with its monitorable outcomes as it felt this would not only provide the information about the existing ground realities on a range of issues but also facilitate in providing a road map for improving the gaps therein. All the 67 recommendations were grouped under 16 major heads. This exercise was initiated in October 2012 and continued till 2013 with significant stakeholders including the national human rights institutions and civil society organizations. Simultaneously, the NHRC wrote to the respective Ministers of all the concerned Ministries to inform the progress they had made towards implementation of UPR-1 and UPR-2 recommendations.



15.21 The framework was completed in February 2014 wherein it identified the specific Union Ministries, 16 in all, on whose part action was required. The NHRC further ensured that the completed framework developed by it was forwarded to all the 16 Ministries and other stakeholders besides posting it on its website (www.nhrc.nic.in) for wider dissemination. As response was received from only four Ministries (Minority Affairs, Food & Public Distribution, Justice and Rural Development), NHRC again addressed letters to the concerned Secretary of each of the 16 Ministries including NITI Aayog calling for a meeting in the Commission. The names of these Ministries are External Affairs, Home Affairs, Law & Justice (Department of Justice), Health & Family Welfare, Women and Child Development, Minority Affairs, Human Resource Development, Rural Development, Social Justice and Empowerment, Finance, Consumer Affairs, Food & Public Distribution, Labour & Employment, Drinking Water & Sanitation, Housing & Urban Poverty Alleviation, Information & Broadcasting (Press Council of India) and Tribal Affairs. The Secretary General/Joint Secretary (Training & Research) of NHRC held these meetings with the Secretaries/Joint Secretaries/Directors of all the above Union Ministries during the first half of 2015. In these meetings a brief orientation was given about the UPR along with the framework evolved by NHRC. This was followed by a discussion on the action taken by their Ministry on the recommendation(s) related to their work. Despite these efforts and reminders, exact information did not come forth from most of the Ministries, a handful of them did not respond at all. In order to have complete information from all these Ministries, the NHRC then decided to have another round of meetings with each of the identified Ministries beginning 2016.

15.22 It also decided to organize regional and national consultation with representatives of the government, human rights institutions including State Human Rights Commissions (SHRCs), technical institutions, academics, experts, non-governmental and civil society organizations from the viewpoint of perceiving the actual ground situation across the country given the diversity of India. As reported in the Annual Report, NHRC held two regional consultations, one at Chandigarh (in collaboration with Panjab University) in October 2015 which covered the Northern States of the country. The second consultation covering the Eastern and Central States was held in Kolkata in February 2016 (in collaboration with the West Bengal National University of Juridical Sciences).

15.23 During the period under review, regional consultations were organized at Bengaluru (Southern Region States), Mumbai (Western Region States) and Lucknow (Additional for Bihar, Madhya Pradesh and Uttar Pradesh). These were followed by National Consultation Towards Third UPR on 12-13 August 2016 at India International Centre, New Delhi. The main objective of these regional and national consultations was to evolve a broad consultation process with all stakeholders so as to have first - hand information from them about the existing human



rights situation in the country and in the process assess the status of progress on each of the 67 recommendations adopted by the Government of India.



National Consultation Towards Third Universal Periodic Review

15.24 NHRC, India submitted its independent report for the Third Universal Periodic Review of India to the UN Human Rights Council on 22 September 2016.

D. Business and Human Rights

15.25 One of the increasingly recognized responsibilities of Corporate Sector is the protection of human rights, as the capacity of the corporate sector to protect human rights has not kept pace with the expansion of economic activity. In order to seek some clarity on the human rights responsibilities on business enterprises - a robust and authoritative framework, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" was developed by Professor John Ruggie United Nations Special Representative on Business and Human Rights. These Guiding Principles were endorsed by U.N. Human Rights



Council in June 2011, affirming that business enterprises have responsibility to respect human rights while the duty of States is to regulate their the conduct.

15.26 In the context of UN Guiding Principles, National Human Rights Commission is uniquely positioned in the country to act as a convener for the associated initiatives. Since, the Commission is a symbol of India's concern for the promotion and protection of human rights, it will enable it to engage effectively in the field of business and human rights.

15.27 NHRC is a Member of the Commonwealth Forum for National Human rights Institutions (CFNHRI) working on Human Rights issues in the Commonwealth countries. Its strategic plan for 2016-19 covers various human rights issues including Business and Human Rights. NHRC India has been nominated by the CFNHRI to be the focal point for the subject 'Business and Human Rights' in a recent meeting in Geneva. Keeping this in view, the Commission organized a meeting with Industry Federations/Organizations to discuss and prepare a map of engagements with industry associations. It was followed by a series of meetings with Industry Federations/Organizations to encourage voluntary compliance of human rights Principles by the Business. It was finally culminated with development of a draft Self Assessment Tool to be used by industry on voluntary basis. The Self Assessment Tool draws upon the United Nations Guiding Principles, National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, and other existing guidelines available for assessing corporate's impact on human rights.

15.28 The Commission thereafter organized three Regional Conference namely, the South Regional Conference on Business and Human Rights at Chennai on 17 January 2017, West Regional Conference at Mumbai on 22 February 2017 and the third in the series, East Regional Conference, on 2 June 2017 in Kolkata. The objective of these Regional Conferences was to share the national and international developments in the area of Business and Human Rights besides hearing experiences/views of regional stakeholders. These Conferences were organized in collaboration with the Confederation of Indian Industry (CII) and were attended by regional business federations/associations, CEOs of eminent companies, State Government officials, SHRCs and representatives of civil society working in the area of business and human rights. The Conferences were held under the two major sessions namely, Key Developments in "Business and Human Rights" in Recent Years and CEO Keynote Panel – Perspectives on Business and Human Rights.

15.29 During all the three Conferences, the draft Self Assessment Tool was presented to the participants for their comments. The draft Self Assessment Tool has also been uploaded on the Commission's website (www.nhrc.nic.in) to invite comments of all stakeholders.



15.30 In future also NHRC will continue its efforts in fulfilling its mandate on business and human rights.

E. Research study on Corporate Responsibility to Respect Human Rights in Indian Context

15.31 During the period under review a research study entitled “Corporate Duty to Respect Human Rights in Indian Context- An Empirical Study on the State of Human Rights Practices Based on Ruggie’s Framework in Business Firms in India” was entrusted to Indian Institute of Technology Bombay, Mumbai. The study will attempt to empirically examine the state of human rights practices of business firms with different ownerships in India based on Ruggie’s framework of Business and Human Rights- “Protect, Respect and Remedy” which is the key framework in this domain. The study will use both primary and secondary sources of data. Primary research will be based on in-depth interviews and questionnaire surveys while secondary research will consist of reviewing existing literature in the domain of business and human rights & related practices of corporate social responsibility. The duration of the research study will be for a period of 12 months.

F. NHRC Participation in Other International Meetings & Programmes

15.32 Shri U. N. Sarkar, Assistant Director (Publication) attended the Asia Pacific Forum (APF) Communications Network Workshop at Kathmandu, Nepal from 26.04.2016 to 28.04.2016.

15.33 Ms. Chhaya Sharma, DIG (Investigation) attended a meeting to follow up issues raised in an International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) 29th meeting side-event organized by Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) on NHRI procedures for victim’s access to justice before, during and after conflict at Bangkok, Thailand from 02.05.2016 to 03.05.2016.

15.34 Mrs. Sumedha Dwivedi, Sr. Superintendent of Police (Investigation) attended the International Conference: A 21st Century Approach to the work of Ombudsmen, jointly organized by the office of the Northern Ireland Ombudsman and the Northern Ireland Human Rights Commission at Belfast, Ireland from 25.05.2016 to 27.05.2016.

15.35 Shri Nitin Kumar, Inspector attended the advanced face-to-face training workshop on Investigating Allegations of Torture being organized by Asia Pacific Forum of NHRIs (APF), Association for the Prevention of Torture (APT) and International Rehabilitation Council for Torture Victims (IRCT) at Kuala Lumpur, Malaysia from 06.06.2016 to 10.06.2016.



15.36 Shri Sanjay Kumar Jain, Sr. Superintendent of Police-1 attended the World Congress on the Death Penalty at Oslo, Norway from 21.06.2016 to 23.06.2016.

15.37 Dr. S. N. Mohanty, Secretary General, NHRC attended the Conference on Accelerating Efforts to End Child Marriage through joint action with Regional and National Human Rights Institutions at Kathmandu, Nepal from 02.06.2016 to 03.06.2016.

15.38 Justice Shri H.L. Dattu, Chairperson along with Dr. Ranjit Singh, Joint Secretary (P&A) attended the GANHRI Special Session on Human Rights of Older Persons and ASEM Expert Forum on Human Rights of Older Persons, at Seoul, Korea from 14.06.2016 to 16.06.2016.

15.39 Dr. Sanjay Dubey, Director (Admn.) attended the face-to-face training workshop on Human Rights Education blended learning course being organized by Asia Pacific Forum of NHRIs (APF) at Bangkok, Thailand from 26.09.2016 to 30.09.2016.

15.40 Justice Shri H.L. Dattu, Chairperson along with Dr. S. N. Mohanty, Secretary General attended the Global Alliances of National Human Right Institutions (GANHRI) Bureau Meeting at Berlin, Germany from 12.10.2016 to 14.10.2016.

15.41 Justice Shri H.L. Dattu, Chairperson, Justice Shri D. Murugesan, Member and Shri Sunil Arora, Deputy Registrar (Law) – Incharge Joint Registrar (Law) attended the 21st Annual General Meeting of Global Alliances of National Human Right Institutions (GANHRI) at Bangkok, Thailand from 26.10.2016 to 27.10.2016.

15.42 Shri Khwaja A. Hafeez, Assistant Registrar (Law) attended the Conference on Human Rights & Sustainable Development Goals being organized by Afghanistan Independent Human Rights Commission (AIHRC) at Kabul, Afghanistan from 26.11.2016 to 27.11.2016.

15.43 Shri C. S. Mawri, Assistant Registrar (Law) and Shri S.K. Gauba, Section Officer participated in the face-to-face training workshop of blended learning course on sexual orientation, gender identity and sex characteristics (SOGISC) at Colombo, Sri Lanka from 12.12.2016 to 16.12.2016.

15.44 Shri J. S. Kochher, Joint Secretary (T&R) attended the Two days Workshop on 'The Garment Industry & Business & Human Rights – Closing the Gap' at Bangkok, Thailand from 30.01.2017 to 31.01.2017.

G. Interaction with Foreign Delegates in NHRC

15.45 Ms. Leilani Farha, Special Rapporteur on adequate housing, OHCHR visited NHRC India on 11.4.2016 to examine / discuss issues related to the promotion and protection of the right to



adequate housing, and more broadly to the links between the right to an adequate standard of living, of which housing is a central aspect.

15.46 Mrs. Anne Marchal, First Counsellor, Head of Political Affairs, EU visited the Commission to have a courtesy meeting with Dr. S.N. Mohanty, Secretary General, NHRC on 9 May 2016. Eleven (11) participants from EU Political Counsellors had attended the above meeting.

15.47 A delegation consisting of 12 people, led by Justice Stella Arach Amoko, the Chairperson of the Law Development Centre (LDC) Management Committee, Uganda and a Judge of the Supreme Court of Uganda from Law Development Centre (LDC), Uganda visited NHRC India on 19.10.2016 for an interaction with the Chairperson, Members and Secretary General to discuss the operations of the Commission.

15.48 The NHRC Bangladesh (JAMAKON) delegation consisting of seven staff members, namely, Md. Nazrul Islam, Full Time Member, Professor Meghana Guhathakurta, Honorary Member, Mr. Enamul Hoque Chowdhury, Honorary Member, Professor Akhter Hussain, Honorary Member, Begum Nurun Naher Osmani, Honorary Member, Hiranmaya Barai, Secretary, NHRC Bangladesh, Ms. Lubna Yasin, Representative from UNDP, visited India for interaction with NHRC India on 23.11.2016 and with other Commissions from 21 to 22 November, 2016 to gather ideas and share experiences from different sources the honourable Members have grown eager to be conversant with the procedures and relative businesses of NHRC India which they consider to be the most versatile organization in the APF region, to learn about Complaint Management System, hearing, administrative procedure etc.



Chapter 16

STATE HUMAN RIGHTS COMMISSIONS

16.1 The National Human Rights Commission was constituted in the year 1993, in accordance with the Protection of Human Rights Act (PHRA), 1993. The PHRA, in Section 21, provides for constitution of the State Human Rights Commissions (SHRCs) in the States. The existence and functioning of a Human Rights Commission in the States will go a long way in the 'better' protection of human rights.

16.2 The Commission has been urging the State Governments, where no State Commission has been constituted, to initiate action to constitute a State Human Rights Commission to fulfill its responsibilities to the people in accordance with the Protection of Human Rights Act, 1993 and the 'Paris Principles'.

16.3 The Commission takes the initiative to hold regular interactions with the State Human Rights Commissions to explore and further strengthen the areas of cooperation and partnership.

16.4 As per the information received from the State Governments, 26 States have set up State Human Rights Commission (SHRCs) viz., Andhra Pradesh and Telangana (Combined SHRCs), Assam, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Kerala, Jammu & Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tripura, Tamil Nadu, Uttar Pradesh, Uttarakhand, Haryana, Goa, West Bengal and Meghalaya.

16.5 The Commission has taken up with the Government, the issues for evolving a basic structure, minimum manpower and financial requirement of SHRCs to enable them to discharge their functions assigned under the Protection of Human Rights Act, 1993 and to streamline complaint disposal by the SHRCs. In response, Government of India has requested to send details of complaints registered, disposed off and pending division-wise existing manpower, financial allocation, details of shortage being experienced and justification for providing additional amount etc. by each SHRC. The details, as received from SHRC, have been sent to the Government of India on 23 March, 2015. Further response of the Government of India is still awaited.



16.6 The Commission has organized a Conference of NHRC and SHRCs in New Delhi on 17 February, 2017. The Conference was attended by Chairpersons/Acting Chairpersons, Members, Secretaries, SHRCs and State Government officers, besides the Chairperson, Members, Secretary General and other officers of the NHRC.



NHRC-SHRCs Meeting on 17th February, 2017

16.7 One of the key motivations for India's law makers the NHRC and SHRCs under the Protection of Human Rights Act, 1993 was the protection and promotion of the inviolable rights of the people of India. The powers bestowed upon these Commissions as well as the broad and inclusive definition of human rights contained in the PHR Act, 1993 mandate the NHRC and SHRCs to address the whole range of civil, political, social, economic, and cultural rights. The Commission had attempted to draw up an agenda for the NHRC-SHRC Meeting which was broad-ranging and which would attempt to address several issues of concern to both, the NHRC and SHRCs, including the matter concerning suitable amendments to the PHR Act to lend greater power to the decisions of these Commissions as well as greater financial and functional autonomy to enable these Commissions function more effectively. Another objective of the meeting would

be to deliberate upon other important concerns regarding human rights defenders, promotion of human rights through training and awareness programmes, as well as sharing of best practices of the NHRC with SHRCs, particularly in the area of conducting inquiries and investigation.

16.8 Justice Shri Dalveer Bhandari, Member of the International Court of Justice while inaugurating the conference stated that the principle of ‘universality’ is the cornerstone of human rights. This principle was first emphasized in the Charter of the United Nations in 1945 and reiterated through the adoption of the Universal Declaration on Human Rights (UDHR) in 1948. He added that the Preamble to the Constitution of India is also premised on the principle of the dignity inherent in all human life. Justice Bhandari expressed his appreciation for the role that NHRC and SHRCs have played in the protection and promotion of human rights, reflected in the increase in the number of complaints received by the NHRC since its inception. Justice Bhandari further emphasized that there is need to further strengthen these Commissions, especially the SHRCs to enable them function more effectively.



ADMINISTRATION AND LOGISTIC SUPPORT

A. Staff

17.1 As on 31.3.2016, 294 employees were in position against the total sanctioned strength of 331 consisting of various ranks. Over the years, NHRC has taken recourse through various 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 appointments.

B. Budget

17.2 The Commission is financed through Grants-in-Aid by the Government of India u/s 32(1) of the Protection of Human Rights Act, 1993

Budget Estimates & Revised Estimates

17.3 The Budget estimates and Revised Estimates of the Commission are prepared by the Accounts Wing of the Commission according to the annual requirement of the Commission. This Estimate with the approval of Secretary General is placed before the Steering Committee of the Commission headed by Chairperson, NHRC. This Committee considers and approves the Annual Budget of the Commission. After approval of the Steering Committee the Budget Estimates are sent to the Government. This estimate of the Commission is scrutinized and approved by the Ministry of Home Affairs, in consultation with the Ministry of Finance.

Audit

17.4 The Accounts are audited by the Comptroller and Auditor General of India and any expenditure incurred in connection with such audit shall be payable by the Commission.

Annual Accounts

17.5 The Annual Accounts of the Commission is prepared in the format prescribed by the Government u/s 34(1) of the Act in consultation with Comptroller and Auditor General of India.

The Accounts are authenticated and signed by the Secretary General, NHRC and approved by the Steering Committee. The printed Accounts along with the audit certificate are submitted to the Government for placing in the both Houses of the Parliament u/s 34(4) of the Act.

Expenditure

17.6 Grants received and expenditure incurred during the last three years is shown below:

(Rs. in Lakh)

Year	Budget Estimate	Expenditure
2014-15	3510.00	3384.12
2015-16	3754.54	3467.47
2016-17	4404.00	4044.24

C. Promotion of Official Language

17.7 In its efforts to promote official language in the NHRC, an Official Language Section has been set up within the Commission. Its prime role is that of translation, including translation of monthly Newsletter of the NHRC, Annual Report, Budget Report and important publications of the Commission. In addition, the Official Language Section of the Commission undertakes several other activities like raising awareness on human rights issues by organizing seminars and workshops in Hindi, Publishing Annual Journal (Manav Adhikar: Nai Dishayein and Manav Adhikar: Sanchayika), Organizing Hindi Essay Writing Competition and Mahatma Gandhi Biennial Hindi Writing Award Scheme.

D. NHRC Library

17.8 The Library of the Commission was established in 1994 for research and reference purpose. It has been upgraded to NHRC Documentation Centre (E-Library) which is well equipped with computer and Internet services. Database of books, documents and articles is available on the internet for wider use of readers. These readers include Interns, Research Scholars and others working in the field of human rights.

17.9 Quality information is the backbone and an essential aspect of any documentation centre. The NHRC Documentation Centre (E-Library) keeps important information from different sources and documents to make it available to the Chairperson, Members, Officers and Staff of the Commission, Interns, Research Scholars and others who are working in the field of Human rights by providing value-added information services. The databank at the Centre is continuously updated with documents and information that include books and journals on Human Rights,



Government Reports, information received from United Nations, NGO's, NHRIs, research papers, unpublished reports, films, CDs, Video cassettes, etc.

17.10 The compiled information and Newspapers clipping prepared by the Dy. Director (Media & Communication) are readily available in the Library. In addition to its primary role of collecting and preserving information on major topics of Human Rights, it also actively disseminates the current information to the users.

17.11 The Weekly News digest of Human Rights is an initiative to provide data and information on various Human Rights violation in India.

17.12 The Library has record of computer database of printed books on Human Rights as well as a small collection of fiction and reference books, The Library is Computerized and has evolved into a fully automated library environment with the support of E-Granthalaya (Library software). The online catalogue of the Library provides an excellent starting point for anyone researching on violation of Human rights of various sections of the society. Constant efforts are made to update the collection of Library books and documents so that the users can obtain the most recent books, documents, reports, etc.

17.13 The library has about 30,680 books and back volumes of journals. It has also a collection of 515 CD/DVD/Cassettes. It subscribes to 53 journals (Indian and Foreign), 40 Journals received on gratis basis, 112 Serial Publications, 27 Magazines and 22 National and 9 in regional languages newspapers. It has an extensive collection of books and documents covering a wide spectrum of human rights and related subjects. During the period under review 1329 new books & Documents pertaining to human rights and related subjects were added to the library.

17.14 The Library is also equipped with 4 Online databases i.e SCC Online, Manupatra Online, Westlaw India and JSTOR Online along with Software Package (E-Granthalaya) developed by National Informatics Centre (NIC), New Delhi.

17.15 An online OPAC (Open Public Access Cataloguing) has been specially developed for quickly ascertaining the availability and location of any book or document available, in the library through any access, such as Author, Title, Subject, Keyword and Publisher.

17.16 NHRC library is Institutional Member of British Council Library and DELNET (Developing Library Networking), New Delhi which promotes resource sharing amongst the libraries. Library also maintains close liaison with others Libraries through Inter- Library Loan facilities for accessing and borrowing books, documents and journals.

E. Right to Information

17.17 The details of applications and appeals and CIC notices received during the period 1st April, 2016 to 31st March 2017 in RTI Units are indicated below:

Sl. No	Brief	Online	Postal	Total
1.	No. of applications received	424	2388	2812
2.	No. of applications disposed off within 30 days	393	2322	2715
3.	No. of applications pending but disposed off beyond one month	-	-	-
4.	No. of applications pending but are within one month	31	66	97
5.	No. of applications transferred to other Ministries/ Departments/ Organizations	118	191	309

Details of 1st Appeals

Sl. No	Brief	Online	Postal	Total
1.	No. of appeals received by the Appellate Authority	53	204	257
2.	No. of such appeals disposed off within one month	50	191	241
3.	No. of appeals pending	03	13	16

Details of 2nd Appeals with C.I.C.

Sl. No	Brief	Online	Postal	Total
1.	No. of notices received from C.I.C.	03	11	14
2.	No. of hearings attended by C.P.I.O./Appellate Authority	03	11	14
3.	No. of hearings in r/o which compliance report submitted to C.I.C.	03	11	14
4.	No. of hearings in r/o which compliance report not submitted to C.I.C.	-	-	-

17.18 These include details of 'postal' and 'by hand' applications/appeals as well as online applications looked after by the officer and staff under the supervision of the two different Nodal Officers Dy. Director (M&C) and Asst. Director (Publication) respectively.



Chapter 18

NON-ACCEPTANCE OF NHRC RECOMMENDATIONS BY STATE GOVERNMENTS

18.1 The NHRC in exercise of its powers under Section 18(a)(i)(ii) makes recommendations for payment of compensation or damages to the complainant or the victim of the Members of the family and/or to initiate proceedings for prosecution and such other suitable action as the Commission may deem fit against the concerned public servant.

18.2 During the year 2016-17, recommendation made by the Commission for payment of monetary relief of Rs. One lakh in respect of an under trial prisoner Daroga Singh *alias* Daroga Yadav who had died on 1.6.2012 while under transit from Central Jail Buxar to District Jail Sasaram through police escort party, has been challenged. It was a case of denial of treatment to the deceased at the Railway Hospital, Mugal Sarai where he was taken on 1.6.2012 by the police escort which resulted in his death at P.R. Hospital, Mugal Sarai, Uttar Pradesh.

18.3 The Commission vide its proceedings dated 30.10.2015 recommended monetary relief of ₹ 1,00,000/- for the next-of-kin of the deceased and directed the Chairman, Railway Board to submit compliance report. The Ministry of Railways (UOI) have challenged the recommendation made by the Commission in W.P.(C) 1194/2017 before the Delhi High Court. The matter is pending consideration before the High Court and interim stay has been granted subject to depositing of the amount with the Registrar of High Court (Case No.1951/4/7/2012-JCD).

18.4 Further, as reported in the Annual Report of the Commission for the year 2015-2016, the Commission's recommendations had been challenged by the authorities concerned in 5 cases. With the inclusion of one more case as cited above, the number of the cases where the recommendations of the Commission are challenged has now increased to 6. The details of these cases are summed up in the table given in the next page:



Sl. No.	Name of the State/ UT	Case No.	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation	Details of cases filed against the recommendations of the Commission.
1	Ministry of Railways	1951/4/7/2012-JCD	Denial of treatment to the deceased at the Railway Hospital, Mugal Sarai, U.P.	1,00,000	30/10/2015	Ministry of Railways has challenged the recommendation of the Commission in the Delhi High Court. By filing W.P. (C) 1194/2017
2	Ministry of Railways	984/34/15/08-09	Death of the victim due to injuries caused by the RPF personnel by the butt of Rifle, when he objected teasing of his wife by the RPF personnel, while travelling by train.	5,00,000	06/05/2015	Ministry of Railways has challenged the recommendation of the Commission by filing a Writ Petition (C) No. 5974 of 2015 before the High Court at Ranchi
3	Jammu & Kashmir	55/9/2003-2004-ad	Alleged death in the custody of Jammu Police (Complaint)	5,00,000	19.08.2009	The State Government has challenged the recommendation of the Commission in the J & K High Court.
4	Jammu & Kashmir	206/9/2003-2004 M-4	Damage of House by the Government (Complaint)	2,00,000	23.11.2009	The State Government has challenged the recommendation of the Commission in the J & K High Court.
5	Kerala	43/11/2002-2003-cd	Death in judicial custody	1,50,000	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
6	Odisha	123/18/1999-2000	Alleged physical torture & illegal detention by police	Disciplinary action	31.07.2000	The State Government 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 for consideration.



Chapter 19

PROBLEMS FACED BY NHRC IN ITS EFFECTIVE FUNCTIONING

19.1 The National Human Rights Commission was set up in the year 1993, under the provisions of the Protection of Human Rights Act, 1993, with a mandate to protect and promote human rights. Human Rights as defined under Section 2(d) of the Act, mean rights relating to life, liberty, equality and dignity of the individual. These rights are basic conditions for a dignified life of an individual and are so inalienable. The Commission has been receiving more or less one lakh complaints per annum alleging human right violations, having complaints alleging death in fake encounters, custodial deaths and custodial torture and other police atrocities, child labour, bonded labourers, rape and abduction, trafficking of women, electrocution deaths due to the negligence of authorities, environmental and pollution hazards, inadequate health services, malfunctioning and malpractices in hospitals, etc. These complaints are received from all over the country including far flung areas of the countryside. The complainants, including human rights defenders, have faith in the Commission and pinning hopes that Commission would render justice to them. The Commission is also organizing its camp sittings and open hearings in different parts of the country, with an endeavor to render justice at the doorsteps of the victims.

Legal Constraints

19.2 Every year the Commission is making recommendations in about 400-500 cases for payment of monetary relief to the victims or to the next-of-kin of the deceased victims. In the current year also the Commission recommended monetary relief of ₹ 11,24,87,500/- in 531 cases. However it is a fact, that despite the best efforts by the Commission, to redress the human rights violations, to create awareness of the human rights, and to sensitize the authorities on the human rights issues and to imbibe the respect for human rights in the people, particularly, the authorities with whom the responsibilities of the protection of human rights rests, there have been many incidents of grave human rights violations. While dealing with these issues of human rights violations, the Commission has felt the various constraints. The Commission believes that it would have performed much better, if these constraints had not been there. The Commission,



therefore urges, that necessary remedial measures be taken to remove these constraints stated below, to enable the Commission to protect and promote human rights in better ways.

19.3 As on 31.03.2017, the Commission has 32,085 cases pending disposal, Out of which 2,537 cases were recently registered pending for preliminary orders by the Commission. But despite best of its efforts, many cases have been pending for quite considerable time. These cases are pending for want of requisite reports from the authorities concerned and in a number of cases the Commission was constrained to invoke its powers u/s 13 of the PHR Act, issuing summons and bail-able warrants. The shortage of manpower with the Commission is also one of the reasons for the pendency. The Commission comprises of a Chairperson and 4 Members, who are assisted with 329 approved manpower. The Commission observes that it can reduce the pendency of complaints in a better way if the manpower available with the Commission is augmented to the reasonable justifiable level, particularly, the strength of the Law Division and the Investigation Wing of the Commission is required to be enhanced considerably. The Hon'ble Supreme Court vide its order dated 14.07.2017, in the Writ Petition (c) No. 445 of 2012, in the case of Extra Judl. Exec. Victim Families Assn, & Anr. Vs. Union of India, upheld the need for enhancement of manpower of the Commission with the following observations :

“It is quite clear from a reading of above provision that the Central Government is under an obligation (‘shall make available’) to provide adequate officers and staff so that the NHRC can perform its functions efficiently. The difficulties faced by the NHRC due to inadequate officers and staff and something to worry about from a human right perspective.”*

19.4 Other constraint is that the recommendations made by the Commission are not binding upon the authorities, as a result the Commission is nicknamed as ‘toothless tiger’. At the one hand the Section 2(d) of the Protection of Human Rights Act, 1993, defined these rights as enforceable by the court of Law, and the Section 13(5) provides that every proceeding before the Commission shall be deemed to be a judicial proceeding, and the Commission has also been equipped with the powers of a Civil Court while enquiring a complaint, as per Section 13(1), but when it is concluded that human rights are violated, and there should be remedial measures to protect the human rights and grant of compensations to the victims, the powers of the Commission as per Section 18(c) of the Protection of Human Rights Act, 1993 are confined to make recommendations to the government. Sometimes it is felt that the recommendations are left to the sweet will of the government, and they are a liberty to ignore the Commission's recommendations. It is a fact that the recommendations are not simple opinions and advices, or consultancy, but these are orders in proceedings where the Commission after giving all possible opportunities to the State authorities has taken view to recommend monetary compensation to the victims or the family members of the deceased victims, as the case may be, or to initiate



prosecution of the violator of human rights of the victim. The aforesaid provisions of the Act indicate that the compliance of the recommendations made the Commission, under the Act, cannot be left to the discretion of the government, but the government is under obligation to pay regard to the recommendations.

19.5 Though the High Court of Judicature at Allahabad in the Case of State of U.P. and 2 Others Vs. N.H.R.C. and 3 Others (WRIT - C No. - 15570 of 2016), while upholding the view that due regard should be paid by the State Governments to the recommendations made by the Commission, has observed as follows:-

“..... the Commission is not merely a body which is to render opinions which will have no sanctity or efficacy in enforcement, cannot be accepted. This is evident from the provisions of clause (b) of Section 18 under which the Commission is entitled to approach the Supreme Court or the High Court for such directions, orders or writs as the Court may deem fit and necessary. Governed as we are by the rule of law and by the fundamental norms of the protection of life and liberty and human dignity under a constitutional order, it will not be open to the State Government to disregard the view of the Commission. The Commission has directed the State Government to report compliance. The State Government is at liberty to challenge the order of the Commission on merits since no appeal is provided by the Act. But it cannot in the absence of the order being set aside, modified or reviewed disregard the order at its own discretion. While a challenge to the order of the Commission is available in exercise of the power of judicial review, the State Government subject to this right, is duty bound to comply with the order. Otherwise the purpose of enacting the legislation would be defeated. The provisions of the Act which have been made to enforce the constitutional protection of life and liberty by enabling the Commission to grant compensation for violations of human rights would be rendered nugatory. A construction which will produce that result cannot be adopted and must be rejected.”

19.6 But there have been some contrary decisions of High Courts to the effect that acceptance of recommendations of the Commission may be left to the discretion of the concerned government. It is therefore felt the position in the matter be clarified by a suitable amendment in the Act.

19.7 In addition to the above mentioned constraints, the constraint reported in the Annual Report of the Commission for the year 2015-2016, are yet to be addressed. In brief, these are as follows.

19.8 The Commission be conferred with penal powers, or the powers to make contempt proceedings to enable it to deal with the public servants who do not submit the enquiry reports pursuant to the Commission's directions, consequently the matters have been languishing for years together.

19.9 The Commission's powers in respect of the human right violations by the armed forces be reviewed and improved.

19.10 The Commission's powers in respect of Jammu & Kashmir region be also reviewed and improved.

19.11 The provisions of the section 36(2) of the PHR Act 1993, barring the Commission to take cognizance of an incident of human right violation beyond one year since the date of incident, be also reviewed and improved.

Administrative Constraints

19.12 The NHRC is Paris Principles compliant which states "the National Human Rights Institutions shall have an infrastructure which is suited for the smooth conduct of its activities, in particular adequate funding and staff. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence from the perspective of human rights".

19.13 The role of the Commission is expanding day by day and currently it is handling more than one lakh complaints a year reflecting the growing trust reposed by the citizens of India. This necessitates devolution of powers to the Chairperson, NHRC in Administrative as well as financial matters.

19.14 The vacant post of Member (Shri Satyabrata Pal, Member demitted office on 1.3.2014) is to be filled up by the Government. It has remained vacant for considerable time adversely affecting the functioning of the Commission. The post of Director General (Investigation) remained vacant from 01.11.2014 to 01.02.2017. The Government has posted Shri P.V.K. Reddy, IPS (TR:82) w.e.f. 02.02.2017, however he will be demitting the office on attaining the age of superannuation on 30.04.2017.

19.15 Though the Commission is effectively advocating and conducting various programmes viz., seminars, conferences, workshops etc on 'Right to Health', 'Rights of the Elderly', the officers and staff of the Commission who are directly appointed are not getting medical benefits after their retirement. They deserved to be treated at par with Central Government Servants and extended the medical facilities after their retirement. Matter was taken up with Ministry of Health & Family Welfare but has not yielded any fruitful result.

19.16 Space crunch is also a constraint being faced by the Commission, for which correspondence is still under process. Similarly, despite repeated correspondence with the 'Delhi Jal Board', issue of supply of Jal Board Water has not been resolved till date. As a result Commission is facing



acute water shortage particularly during peak summer season. Further, with the shifting of many offices in GPO Complex, traffic congestion issue is needed to be taken up with the concerned traffic authorities as the vehicles are being parked in the GPO Complex in a very disorganized manner which always results in jam on the congested road whole the day.

Manpower Constraints

19.17 Presently, the Commission has sanctioned strength of 331 officers and staff, out of which 294 is the present strength. In spite of several attempts by publishing various posts in leading English Newspaper, Employment News, in the Website of NHRC and wide circulation of the posts to various Ministries, the Commission could not get suitable officers for many posts. Since its inception, the Commission has never had the full sanctioned strength as compared to the available strength. As a result due to voluminous complaints, it is compelled to engage retired Government officers as Consultants on contract basis.

19.18 It is pertinent to mention that the amendment/revision in the Recruitment Rules was sent to the Ministry of Home Affairs in 2012, however, due to various reasons the same could not be notified and again the Commission initiated amendment of RRs.

19.19 The Commission struggles to cope up with the expectations of the Human Rights affected victims throughout the country and unable to fulfill its mandate in protecting and promoting human rights. The Commission requires creation of various posts for effectively and efficiently discharging its mandate. Shortage of experienced investigating officers who are required to be provided by the Government as per Section 11(b) of the Protection of Human Rights Act, 1993 affected to some extent for conduct of spot enquiries on custodial deaths, torture, illegal detention etc. for which sufficient number of experienced staff are required. The Law Division which is the backbone of the Commission also faces lot of problems in performing its pivotal role in handling/disposing the large number of complaints due to shortage of manpower.

Financial Constraints

19.20 The Commission receives grants-in-aid every year from the Government of India, Ministry of Home Affairs. In terms of Chapter VII Section 32 (2) of the Protection of Human Rights Act, 1993, “the Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to sub-section (1)”. With this financial independence, the Commission functions efficiently to fulfill its mandate. On financial autonomy accounts virtually no predicament was faced by the Commission during the period. However, the Commission wishes to have financial autonomy to purchase vehicles as the same has not been delegated.

Chapter 20

SUMMARY OF PRINCIPAL RECOMMENDATIONS AND OBSERVATIONS

Number and Nature of Complaints

20.1 Like previous years, the Commission continued to receive complaints from different parts of the country on wide range of issues relating to human rights violations. The complaints, received in the Commission, cover a wide range of issues such as alleged human rights violation due to negligence by a public servant in the prevention of such violation, alleged 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 and atrocities on SC/ST, etc. The Commission also took cognizance of the intimation 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 2.25**).

Human Rights Violation Cases

20.2 During the year 2016-2017, a total of 91,887 cases were registered in the Commission. Out of these 91,887 cases, 42,590 cases related to the State of Uttar Pradesh, 8,750 cases to Odisha, 6,368 to State of NCT of Delhi, 4,596 to Haryana and 3,765 to Bihar. The Commission disposed of 1,00,699 cases during 2016-17, which included cases of previous years as well. Of the total number of cases disposed of by the Commission during the year under review, 42,527 were dismissed 'in limine'. It disposed of 17,666 cases with directions to the appropriate authorities for remedial measures during 2016-2017. During 2016-2017, 20,446 cases were transferred to the State Human Rights Commissions for disposal in accordance with the provisions of the PHRA. At the end of the reporting period, i.e. on 31 March 2017, the total number of cases pending



with the Commission was 32,085. These covered 2,537 cases awaiting preliminary consideration and 29,548 cases pending either for want of reports from the authorities concerned or the reports received being pending for consideration by the Commission (**paras 2.27, 2.29, 2.30, 2.31 & 2.33**).

Preventing Custodial Violence

20.3 The NHRC received 1,616 intimations regarding death in judicial custody, and 146 in respect of death/rape in police custody during the year 2016-17. An intimation of death in para-military/defence forces custody was also reported during the review period. It disposed of 2,194 cases of custodial death. Out of these 2,194 cases, 1,974 cases relate to death in judicial custody, 220 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 2.34**).

Recommendations of NHRC for Monetary Relief and its Compliance

20.4 During the period 01.04.2016 to 31.03.2017, the Commission recommended as payment of monetary relief/ compensation to the tune of ₹ 11,24,87,500/- to the victim/next-of-kin of the deceased in 531 cases. Out of the 531 cases, in which monetary relief was recommended, compliance reports were received in 96 cases, wherein a total amount of ₹ 1,95,15,000/- was paid to the victim/next-of-kin of the deceased. The State/Union Territory-wise details of these cases are at Annexure-4 (**para 2.35**).

20.5 As on 31.03.2017, compliance reports are awaited in 435 cases, wherein monetary relief amounting to ₹ 9,29,72,500/- was recommended during the year 2016-2017. Apart from the recommendations for monetary relief, the Commission also recommended disciplinary/ departmental action against the errant public servants in 16 cases and prosecution of errant public servants in 4 cases. The Commission, once again, recommends to all those States/Union Territories 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 (**para 2.36**).

20.6 With regard to compliance reports relating to cases pertaining to previous years, compliance was awaited in 202 cases (Annexures - 6 & 7) (**para 2.37**).

20.7 As regards 96 cases pending compliance for the year 2015-2016 in respect of payment of monetary relief, is concerned, the State of Uttar Pradesh tops the list as the Commission, till date, has not received proof of payment in 34 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 (11), NCT of Delhi (8), Madhya Pradesh (6), Maharashtra (6), Haryana (06), Odisha



(5), Rajasthan (4), Bihar (3), Telangana (3), Tripura (3), West Bengal (2), Assam (2), Chhattisgarh (1), Manipur (1) and Tamil Nadu (1) (Annexure-6) (**para 2.38**).

20.8 So far as the cases pending compliance on the recommendations made by the Commission for the period 2000-2001 to 2014-2015 for payment of monetary relief, disciplinary action and prosecution are concerned, out of the 106 cases cited in the Annexure -7, in four cases the concerned State Governments have challenged the recommendations of the Commission in their respective High Courts, wherein the final decision is awaited. These States are Jammu and Kashmir (2), Kerala (1) and Odisha (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 shall provide immediate respite to the victims/next of their kin at the earliest (**para 2.39**).

Good Governance

20.9 Recommendations from the workshop conducted in Karnataka included importance of minimizing government and maximizing governance through a collective working of the three organs of government viz. legislature, executive and judiciary and by ensuring more participation from the citizens in the decision making processes. The workshop also emphasized on various issues like combating corruption to enhance good governance, providing training and awareness to different stakeholders. As Privates players hold an important share in the GDP of the states, it is important for them to protect and promote rights of employees and marginalized section to ensure good governance. The workshop recommended increasing the participation of tech savvy youth and also development of national data bank for migrant workers. Recommendations were also made for the improvement of prisons (**paras 2.54, 2.55 & 2.56**).

20.10 In a workshop organized in Meghalaya (Shillong) on good governance in north-east region of India, some of the important and actionable recommendations highlighted on promoting sense of wellbeing and opportunities for enabling sustainable development by ensuring peace and security of the region and by maintaining the traditional system of North East. To encourage development in the region, collective duty is called from the people to stand up and unite to fight for protection of rights of marginalized and corruption. The recommendations also cover more usage of RTI Act and e-governance tools that will be effective in combating corruption. To gauge the performance of governance and development, one of the recommendations is to use Public Affair Index that indicates transparency, accountability, anti-corruption measures and public participation. It was also proposed that human rights should be brought in curriculum as one of the subjects at primary, secondary, graduate and post-graduate level. General recommendations



covered the need for identifying 'development gaps', simplifying legal jargons for common man's understanding and creating single window system for quick delivery of services. It is also recommended to incorporate a few changes to enhance the efficiency of the working of the police departments (**paras 2.54, 2.55 & 2.56**).

Silicosis

20.11 The NHRC with a view to review the status of implementation of NHRC recommendations in the endemic States, viz. Gujarat, Jharkhand, Madhya Pradesh, Rajasthan, Karnataka and West Bengal as well as share the best practices adopted by these States on the issue of silicosis, organized a one day Conference on Silicosis on 22 July 2016 at Vigyan Bhawan Annexe, New Delhi. The Conference deliberated on two major themes in three plenary sessions such as session-I of Sharing Best Practices and session-II of Review of Endemic States Based on the deliberations held in the plenary sessions, the following key recommendations emanated from the Conference (**para 6.4**).

20.12 The overall approach to deal with the problem of silicosis must be broadened and it should be all encompassing - preventive, curative, rehabilitative and compensatory. However, greater emphasis is required on prevention. Strict enforcement of all precautionary measures including the wearing of protective gears by the workers of silicosis prone industries needs to be ensured by the concerned authorities. The Endemic States need to carry out a full-fledged mapping of their respective States in terms of number of silicosis patients in their States, number of those undergoing treatment and rehabilitation, number of deaths on account of silicosis, compensation paid, etc. as this would give them an overall picture of the problem and how they could work towards its elimination. Need for use of technology so as to provide all industries with necessary equipment to minimize the exposure to silica/dust. Need to also involve the private sector in prevention, management and rehabilitation of silicosis. Creating and spreading awareness among all stakeholders in particular the Parliamentarians, Civil Servants at the District level and Doctors of endemic States. There is also need to conduct awareness programmes for owners and employees of silicosis prone occupations. The Government of India should evolve a National Programme on Silicosis or bring the disease of silicosis under the National Health Mission. As treatment facilities may not be always available at PHC or CHC level, all silicosis patients need to be provided a cashless health insurance cover/life insurance cover for their treatment and associated travel and the premium paid by the State Government. Need to develop a simple and uniform format across the country for diagnosis of silicosis cases. Need to undertake a national level survey on silicosis. This survey could be undertaken by the nodal Ministry along with the affected States, NGOs and civil society organizations. This would facilitate in understanding the depth of the issue and a better solution to the problem of silicosis. Need



to develop a central Welfare fund whereby relief could be provided to all persons affected by silicosis irrespective of their nature and place of work. Standard pension scheme given under various schemes of Government of India should also be made available to all those afflicted with silicosis and on their death to their respective families. Efforts must also be made to include them in the BPL category so that they can enjoy minimum benefits. Furthermore, children who have lost one or both parents due to silicosis to be provided monthly education allowance and sustenance allowance. Likewise, there is need to rehabilitate the widow of each deceased person in other occupations so that situations like that of 'Villages of Widows' does not emerge. Emphasis should be on alternate employments so that all the inhabitants of the village are not susceptible to silicosis through same employment. The families of the patients should be allowed to go in for appeal and post mortem examination in case of occurrence of death on account of silicosis (para 6.6).

Core Advisory Group on Health

20.13 A meeting of Core Advisory Group on Health was held on 6 May 2016. The Meeting was chaired by Shri S. C. Sinha, Member, NHRC. The Meeting was attended by Members of the Core Advisory Group on Health and senior officers of the Commission. The main aim was to discuss the National Health Mission (NHM) and strengthening of public health system. The Core Group recommended the following:

- i. There is a need to strengthen the National Health Mission by activating it as a Mission mode. Fund flow under the NHM needs to be effective. All States need to focus on the individual National Programmes like National HIV/AIDS control programmes, National Vector Borne Disease Control Programme, Mental Health, etc.
- ii. Government of India to provide essential drugs free of cost in the public health system to the poor. The costs of the other drugs need to be made affordable.
- iii. The States which have not adopted the Clinical Establishment Act to be requested to adopt the said Act (para 6.7).

20.14 A meeting of Core Advisory Group on Health was also held on 31 March 2017. In this meeting it was decided to constitute two sub-committees for developing of Charter on Patients' Rights and Making Health Care as an Entitlement (para 6.8).

Right to Food

20.15 The NHRC organized a two-day Conference on Right to Food at India International Centre, New Delhi on 28-29 April 2016. The main objectives of the Conference was to make



a State-wise assessment of the implementation of the National Food Security Act, 2013 across the States/UTs in the country use of information technology and other available tools to prevent diversions of food grains and other corrupt practices prevalent in TPDS and to identify gaps/shortcomings State-wise in the effective implementation of the National Food Security Act, 2013 and finalization of recommendations for the Central and State/UT Governments to cover these gaps (**para 7.5**).

20.16 In this Conference 3 Working Group were constituted which made recommendations on the issues of (i) Identification of eligible households, (ii) Nutritional Support to Pregnant Women and lactating mothers and children up to 6 years and (iii) Reforms in Targeted Public Distribution System. These recommendations were sent to concerned Union Ministries and all States/UTs (**para 7.6**).

Regional Workshops on Elimination of Bonded Labour

20.17 One National and four regional workshops organized from 01.04.2016 to 31.03.2017. The important recommendations that emerged from these workshops emphasized upon revising old Act or bring new Act for the fixation of minimum wages, which should be at par with living wages, providing equal opportunities in education to eliminate child labour, the facilities and standard of education should be improved in Government schools to bring them at par with private schools, every Government employee should be compelled to admit their child in the Government schools. SDMs should be given more authority so that they can get success in this field. There is a need to conduct nationwide surveys on bonded labour. Workers of unorganized section must be paid minimum wages at par with Government employees. Vigilance committee should be constituted and awareness programmes should be conducted to raise awareness among all stakeholders. Rescue, release and rehabilitation of bonded labourers must be done immediately without linking conviction of the perpetrators. MNREGA should provide employment for those who are working in seasonal jobs like for 3-6 months of sowing the farms. Then, for the remaining months, they should be provided employment for their livelihood. MoUs should be signed and Inter-State collaborate should be established. Labour welfare fund should be created. To bridge the communication gap in the field, an online open access self teaching course for DMs, ADMs etc. can be created. A uniform toll-free helpline number across the country should be made available (**paras 9.13 & 9.14**).

Rights of Elderly

20.18 It has constituted a Core Group in NHRC on Protection and Welfare of the Elderly Persons. A meeting of the Core Group was held on 13 January 2017 in the Commission. After intensive deliberations the Core Group made the following major recommendations:



- 1) The National Programme for Health care for Elderly has been launched in 2010. However, it has been implemented till now in only 418 districts or 60 per cent of the total districts in the country. It is suggested to the Ministry of Health and Family Welfare should ensure immediate implementation of the plan in all the 418 districts. Further, the programme should be extended to all the districts of the country by 2020-21 end. Government may also get a third party audit conducted of the implementation of National Programme for the Health Care of Elderly in order to assess whether the funds for the Programme are being properly utilized.
- 2) The coverage of the old age pension is limited to Below Poverty Line (BPL) families and it is not reaching to every elderly person. It is suggested that the Ministry of Social Justice and Empowerment should make Old age universal for all those who are non-tax payers and do not receive pension from any other source. Further, the Ministry of Social Justice and Empowerment should make the pension reasonable and it may be raised to ₹ 2,500 p.m., which is half of the minimum wage rate.
- 3) Ministry of Urban Development has come out with a plan which describes how old age home should look like. It is suggested that the Ministry of Social Justice and Empowerment should set up detailed common minimum standards for building and maintenance of Old Age Homes and these common minimum standard should be adhered to by all the old age homes.
- 4) PG Courses in Geriatric Medicine in all the Medical colleges of the country be started. Action in this regard needs to be taken by President, Medical Council of India (MCI), Government of India and respective state governments.
- 5) As around 40 per cent of the elderly suffer from some disability or other, all the public buildings must be immediately modified to be accessible to the disabled and also to disabled elderly.
- 6) Construction of old age homes in all the districts of the country be done on top priority.
- 7) Regular auditing and monitoring of old age homes should be got done by third party.
- 8) Since a very large number of elderly suffer from mental problems in each region of the country, separate Centres/Institutes for Geriatric Mental Health care may be established on the lines already established in Lucknow (**para 11.13**).

Meeting of NHRC Core Group on Disability

20.19 A meeting of the Core Group on Disability on 23 December 2016 under the Chairmanship of Shri S.C. Sinha, Member, NHRC. After intensive discussions, several important



recommendations emerged which if implemented properly may help in better protection of rights of persons with disabilities. The major recommendations emanating from this meeting was sent to the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, D/o Revenue, M/o Finance are as follow:

- i. Section 3(3) of the Rights of Person with Disability Act, 2016 mentions that no person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving the legitimate aim. Since the Act is silent on what constitutes the 'legitimate aim', it would give unfettered power to the executives to discriminate on the ground of disability. It was suggested that this issue could be taken care of while framing Rules by the Government.
- ii. The RPD Act, 2016 provides for grant of limited guardianship by District Court under which there will be joint decision – making between the guardian and the persons with disabilities. In the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, there is a provision for appointing guardians as such this issue needs to be harmonized. The plenary guardianship has been totally abolished in the Bill. It was suggested that instead of limited guardianship, there should be need based guardianship.
- iii. There is a lack of sensitization among the doctors of the Medical Board authorized to issue disability certificate to persons with disability. In the absence of one of the members of Medical Board, the disability certificate is not issued. Thus the persons with disability run from pillar to post in order to get disability certificate. It was suggested that only one doctor should be enough to identify the disability of the person and to be assigned responsibility to issue disability certificate. Many doctors are not aware of the exhaustive circular and thus there is a need for sensitization of doctors. Therefore, there is a need to evolve system where disability certificate could be issued quickly and preferably with one month's time.
- iv. In the schedule of the RPD Act, 2016 which classify Specific Disability, under the para 7 of the schedule there is a provision that any other category of disability could be notified by the Central Government as a Specific Disability. Therefore, other disabilities could be identified and added in the list.
- v. As per, the D/o Revenue, M/o Finance, Circular, there is a provision of excise duty exemption on cars bought by persons with physical disabilities who could drive. There are certain categories of persons with disabilities who could not drive but need a car. Therefore, it suggested that provision of exemption of excise duty should be extended to all persons with disabilities.



- vi. Rehabilitation Council of India (RCI) Act, 1992 needs to be amended as it does not cover all the disabilities. There is a need for a thorough revision of the RCI Act, 1992 in light of the RPD Act, 2016. Keeping the UN Convention on Person with Disability in view, there are two broad functions played by National Trust. Firstly, it appoints guardians through local committees and secondly, implements schemes belonging to four categories of disabilities. But now, the concept of guardianship has been modified in the RPD Act, 2016, as it talks about the limited guardianship which has no mention in National Trust Act 1999. Thus, the National Trust needs to be amended in light of the RPD Act, 2016 (**para 12.6**).

20.20 The Union Ministries have been asked to get these recommendations examined and issue necessary directions for early implementation (**para 12.7**).

Meeting of NHRC Core Group on Mental Health

20.21 A Meeting of the Core Group on Mental Health was held on 30 November 2016 in the NHRC. Its main objective was to discuss the issue of shortage of psychiatrist in the country. The Meeting was chaired by Shri S. C. Sinha, Member, NHRC. The Meeting was attended by Members of the Core Group on Mental Health and senior officers of the Commission. On the basis of the deliberations held in the meeting, the recommendations emanated out of this meeting were forwarded to M/o Health and Family Welfare, hospitals which do not have psychiatry department, State Governments and Union Territory Administration (**para 12.8**).

State Human Rights Commissions

20.22 The National Human Rights Commission was constituted in the year 1993, in accordance with the Protection of Human Rights Act (PHRA), 1993. The PHRA, in Section 21, provides for constitution of the State Human Rights Commissions (SHRCs) in the States. The existence and functioning of a Human Rights Commission in the States will go a long way in the 'better' protection of human rights (**para 16.1**).

20.23 The Commission has been urging the State Governments, where no State Commission has been constituted, to initiate action to constitute a State Human Rights Commission to fulfill its responsibilities to the people in accordance with the Protection of Human Rights Act, 1993 and the 'Paris Principles' (**para 16.2**).

20.24 As per the latest information received from the State Governments, 26 States have set up their own State Human Rights Commission (SHRCs). It is in the interest of citizens that SHRCs are set up in a speedy manner in the remaining States. The Commission has taken



up with the Government, the issues for evolving a basic structure, minimum manpower and financial requirement of SHRCs to enable them to discharge their functions assigned under the Protection of Human Rights Act, 1993 and to streamline complaint disposal by the SHRCs (**paras 16.4 & 16.5**).

20.25 The Commission has organized a Conference of NHRC and SHRCs in New Delhi on 17 February, 2017. Justice Shri Dalveer Bhandari, Member of the International Court of Justice was the Chief Guest on the occasion. The Conference was attended by Chairpersons/ Acting Chairpersons, Members, Secretaries, SHRCs and State Government officers, besides the Chairperson, Members, Secretary General and other officers of the NHRC. One of the key motivations for India's law makers the NHRC and SHRCs under the Protection of Human Rights Act, 1993 was the protection and promotion of the inviolable rights of the people of India. The powers bestowed upon these Commissions as well as the broad and inclusive definition of human rights contained in the PHR Act, 1993 mandate the NHRC and SHRCs to address the whole range of civil, political, social, economic, and cultural rights. The Commission had attempted to draw up an agenda for the NHRC-SHRC Meeting which would attempt to address several issues of concern to both, the NHRC and SHRCs, including the matter concerning suitable amendments to the PHR Act to lend greater power to the decisions of these Commissions as well as greater financial and functional autonomy to enable these Commissions function more effectively. Another objective of the meeting would be to deliberate upon other important concerns regarding human rights defenders, promotion of human rights through training and awareness programmes, as well as sharing of best practices of the NHRC with SHRCs, particularly in the area of conducting inquiries and investigation (**paras 16.6, 16.7 & 16.8**).

ANNEXURES



Annexure – 1

Para 2.27

STATEMENT SHOWING NUMBER OF CASES REGISTERED FROM 01/04/2016 TO 31/03/2017

Name of the State/ Union Territory	Complaints	Suo-Motu Cognizance	Intimations Received about Custodial Deaths/Rapes			Intimations Received about Encounter Deaths	Grand Total
			Police Custodial Deaths/ Rapes	Judicial Custodial Deaths/ Rapes	Defence/ Para-Military Custodial Deaths/ Rapes		
All India	633	1	0	0	0	0	634
Andhra Pradesh	1214	1	2	30	0	3	1250
Arunachal Pradesh	25	0	1	0	0	5	31
Assam	199	1	9	26	0	33	268
Bihar	3668	2	5	86	0	4	3765
Goa	51	0	1	4	0	0	56
Gujarat	1144	3	10	53	0	0	1210
Haryana	4539	1	9	45	0	2	4596
Himachal Pradesh	176	0	1	4	0	0	181
Jammu & Kashmir	241	2	0	7	1	0	251
Karnataka	1418	4	4	6	0	2	1434
Kerala	668	7	5	48	0	1	729
Madhya Pradesh	2542	7	10	135	0	1	2695
Maharashtra	2321	6	25	125	0	8	2485
Manipur	38	0	1	0	0	3	42
Meghalaya	33	0	0	1	0	10	44
Mizoram	8	0	2	4	0	0	14
Nagaland	13	0	1	0	0	0	14
Odisha	8682	8	4	47	0	9	8750
Punjab	972	1	6	150	0	3	1132
Rajasthan	2887	4	6	82	0	0	2979
Sikkim	5	0	0	0	0	0	5
Tamil Nadu	3002	11	7	60	0	2	3082
Tripura	55	0	0	5	0	0	60
Uttar Pradesh	42160	15	11	400	0	4	42590
West Bengal	1561	2	9	99	0	7	1678
Andaman & Nicobar	43	0	0	0	0	0	43
Chandigarh	123	0	0	3	0	0	126
Dadra & Nagar Haveli	8	0	0	0	0	0	8
Daman & Diu	13	0	0	0	0	0	13
Delhi	6324	11	2	30	0	1	6368
Lakshadweep	10	0	0	0	0	0	10
Puducherry	141	0	0	1	0	0	142
Chhattisgarh	586	6	6	56	0	75	729
Jharkhand	1468	1	5	60	0	7	1541
Uttarakhand	1693	0	0	20	0	0	1713
Telangana	891	4	4	29	0	0	928
Foreign countries	291	0	0	0	0	0	291
Grand total	89846	98	146	1616	1	180	91887

Annexure – 2

Para 2.29 -2.32

STATEMENT SHOWING DISPOSAL OF CASES DURING 2016-2017

Name of the State/ Union Territory	Dismissed in Limine	Disposed with Directions	Transferred to SHRC's	Concluded after Receipts of Reports			Grand Total
				Complaints/ Suo-Motu Cases	Custodial Deaths/ Rapes	Intimation Received about Encounter Deaths	
All India	550	60	0	4	0	0	614
Andhra Pradesh	636	201	257	317	76	6	1493
Arunachal Pradesh	10	4	0	16	4	5	39
Assam	116	32	23	131	38	76	416
Bihar	1843	479	909	681	127	0	4039
Goa	31	7	8	12	7	0	65
Gujarat	601	179	211	168	104	0	1263
Haryana	2740	557	812	795	83	7	4994
Himachal Pradesh	94	41	11	51	11	0	208
Jammu & Kashmir	110	90	40	142	3	0	385
Karnataka	734	419	165	197	10	5	1530
Kerala	394	81	121	355	70	1	1022
Madhya Pradesh	1302	384	537	475	193	7	2898
Maharashtra	1370	375	483	367	224	15	2834
Manipur	8	8	4	92	3	13	128
Meghalaya	23	4	0	34	4	10	75
Mizoram	1	3	0	8	4	0	16
Nagaland	4	2	0	20	3	0	29
Odisha	2096	4924	1245	1813	70	11	10159
Punjab	497	155	195	256	129	1	1233
Rajasthan	1401	444	586	701	105	2	3239
Sikkim	4	0	0	2	1	0	7
Tamil Nadu	1947	416	475	346	76	5	3265
Tripura	25	17	1	17	2	0	62
Uttar Pradesh	18420	5970	13172	7709	411	45	45727
West Bengal	888	199	272	374	95	8	1836
Andaman & Nicobar	20	13	0	9	2	0	44
Chandigarh	92	21	3	44	6	0	166
Dadra & Nagar Haveli	5	3	0	1	0	0	9
Daman & Diu	7	2	0	1	0	0	10
Delhi	3835	1710	2	1406	60	11	7024
Lakshadweep	5	3	0	1	0	0	9
Pondicherry	67	34	0	29	3	0	133
Chhattisgarh	322	104	96	201	107	27	857
Jharkhand	631	283	302	365	68	10	1659
Uttarakhand	922	182	453	250	30	0	1837
Telangana	578	185	63	196	65	2	1089
Foreign Countries	198	75	0	13	0	0	286
Grand Total	42527	17666	20446	17599	2194	267	100699



Annexure – 3

Para 2.33

STATEMENT SHOWING NUMBER OF CASES PENDING AS ON 31/03/2017

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
	Complaints/ Suo-Motu Cases	Custodial Deaths/ Rapes	Encounter Deaths	Total	Complaints/ Suo-Motu Cases	Custodial Deaths/ Rapes	Encounter Deaths	Total	
All India	31	0	0	31	15	0	0	15	46
Andhra Pradesh	56	1	1	58	340	122	11	473	531
Arunachal Pradesh	6	0	0	6	25	19	16	60	66
Assam	5	5	4	14	159	67	237	463	477
Bihar	121	14	1	136	1246	317	15	1578	1714
Goa	1	0	0	1	14	3	0	17	18
Gujarat	76	2	0	78	487	109	2	598	676
Haryana	93	14	0	107	1208	122	11	1341	1448
Himachal Pradesh	9	0	0	9	103	8	0	111	120
Jammu & Kashmir	7	0	0	7	122	6	1	129	136
Karnataka	45	1	0	46	216	12	4	232	278
Kerala	38	3	0	41	230	89	0	319	360
Madhya Pradesh	90	8	0	98	796	127	13	936	1034
Maharashtra	67	6	0	73	594	223	27	844	917
Manipur	2	0	0	2	113	4	38	155	157
Meghalaya	2	0	0	2	44	15	54	113	115
Mizoram	0	0	0	0	12	13	0	25	25
Nagaland	2	0	0	2	12	10	0	22	24
Odisha	148	5	2	155	1694	82	18	1794	1949
Punjab	32	8	0	40	520	215	5	740	780
Rajasthan	93	12	0	105	1226	186	1	1413	1518
Sikkim	0	0	0	0	6	1	0	7	7
Tamil Nadu	99	1	0	100	523	87	3	613	713
Tripura	2	0	0	2	47	18	2	67	69
Uttar Pradesh	908	28	1	937	11027	1028	54	12109	13046
West Bengal	67	14	3	84	550	265	27	842	926
Andaman & Nicobar	2	0	0	2	16	4	0	20	22
Chandigarh	1	0	0	1	52	8	0	60	61
Dadra & Nagar Haveli	0	0	0	0	3	1	0	4	4
Daman & Diu	0	0	0	0	8	0	0	8	8
Delhi	187	0	0	187	2020	109	11	2140	2327
Lakshadweep	0	0	0	0	7	0	0	7	7
Puducherry	7	0	0	7	55	2	0	57	64
Chhattisgarh	24	7	5	36	367	128	149	644	680
Jharkhand	48	20	2	70	651	159	48	858	928
Uttarakhand	39	3	0	42	271	43	2	316	358
Telangana	36	4	0	40	258	110	7	375	415
Foreign Countries	18	0	0	18	43	0	0	43	61
Grand Total	2362	156	19	2537	25080	3712	756	29548	32085



Annexure – 4

Para 2.35

TOTAL NUMBER OF CASES WHERE NHRC RECOMMENDED MONETARY RELIEF DURING 2016-2017

(Data as per CMS as on 06/08/2015)

Name of State/UT	No. of Cases in Which Recommendation Made	Amount Recommended for Victims/ Next-of-kins	No. of Cases in Which Recommendations have been Complied With	Amount Paid	No. of Cases Pending for Compliance	Amount Recommended in the Cases Pending Compliance
All India	0	0	0	0	0	0
Andhra Pradesh	15	1685000	2	180000	13	1505000
Arunachal Pradesh	0	0	0	0	0	0
Assam	12	11200000	3	2000000	9	9200000
Bihar	31	6007500	6	1175000	25	4832500
Goa	0	0	0	0	0	0
Gujarat	13	4775000	2	400000	11	4375000
Haryana	27	5050000	12	2825000	15	2225000
Himachal Pradesh	1	100000	1	100000	0	0
Jammu & Kashmir	1	1500000	0	0	1	1500000
Karnataka	3	350000	1	300000	2	50000
Kerala	7	1050000	0	0	7	1050000
Madhya Pradesh	22	3865000	5	550000	17	3315000
Maharashtra	38	8825000	9	2600000	29	6225000
Manipur	14	10240000	3	1500000	11	8740000
Meghalaya	5	3000000	1	2000000	4	1000000
Mizoram	3	500000	0	0	3	500000
Nagaland	1	100000	0	0	1	100000
Odisha	64	10015000	14	1690000	50	8325000
Punjab	12	1050000	5	425000	7	625000
Rajasthan	25	3020000	2	60000	23	2960000
Sikkim	0	0	0	0	0	0
Tamil Nadu	10	2025000	2	200000	8	1825000
Tripura	2	600000	0	0	2	600000
Uttar Pradesh	145	19025000	12	810000	133	18215000
West Bengal	15	3875000	3	600000	12	3275000
Andaman & Nicobar	0	0	0	0	0	0
Chandigarh	2	1150000	0	0	2	1150000
Dadra & Nagar Haveli	0	0	0	0	0	0
Daman & Diu	0	0	0	0	0	0
Delhi	26	5620000	6	650000	20	4970000
Lakshadweep	0	0	0	0	0	0
Puducherry	0	0	0	0	0	0
Chhattisgarh	8	2200000	2	600000	6	1600000
Jharkhand	21	4455000	4	750000	17	3705000
Uttarakhand	2	125000	1	100000	1	25000
Telangana	6	1080000	0	0	6	1080000
Grand Total	531	112487500	96	19515000	435	92972500



Annexure – 5

Para 2.36

**DETAILS OF CASES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING
2016-2017 FOR PAYMENT OF MONETARY RELIEF ACTION**

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
1	Andhra Pradesh	1027/1/19/2013-JCD	301	Custodial Death (Judicial)	100000	1/11/2017
2	Andhra Pradesh	1051/1/6/2015	203	Malfunctioning of Medical Professionals	100000	12/5/2016
3	Andhra Pradesh	1066/1/19/2013-JCD	301	Custodial Death (Judicial)	100000	8/30/2016
4	Andhra Pradesh	1117/1/6/2014	100	Children	75000	6/29/2016
5	Andhra Pradesh	1182/1/6/2013-JCD	301	Custodial Death (Judicial)	100000	1/6/2017
6	Andhra Pradesh	1251/1/21/2012-JCD	301	Custodial Death (Judicial)	100000	7/21/2016
7	Andhra Pradesh	135/1/6/2014-JCD	301	Custodial Death (Judicial)	300000	9/16/2016
8	Andhra Pradesh	5/1/3/2015	804	Abuse of Power	20000	4/1/2016
9	Andhra Pradesh	792/1/19/2012-JCD	301	Custodial Death (Judicial)	100000	10/29/2016
10	Andhra Pradesh	864/1/10/2013	804	Abuse of Power	110000	9/1/2016
11	Andhra Pradesh	909/1/22/2015	112	Alleged Death in Home	200000	10/4/2016
12	Andhra Pradesh	94/1/24/2014-JCD	301	Custodial Death (Judicial)	100000	10/19/2016
13	Andhra Pradesh	970/1/6/2012-JCD	301	Custodial Death (Judicial)	100000	12/20/2016
14	Assam	141/3/13/2012-PCD	807	Custodial Death (Police)	300000	4/6/2016
15	Assam	213/3/16/2013-ED	812	Death in Police Encounter	500000	6/29/2016
16	Assam	220/3/16/2014-ED	812	Death in Police Encounter	600000	3/27/2017
17	Assam	229/3/24/2011-ED	812	Death in Police Encounter	500000	6/29/2016
18	Assam	242/3/15/2012-AF	1603	Abduction/Rape	100000	3/30/2017
19	Assam	358/3/4/2012-PCD	807	Custodial Death (Police)	200000	6/7/2016
20	Assam	389/3/10/2012-AF	1610	Death in Army Encounter	500000	2/21/2017
21	Assam	46/3/24/2011-ED	812	Death in Police Encounter	1000000	4/6/2016
22	Assam	63/3/24/09-10	811	Death in Police Firing	5500000	1/25/2017
23	Bihar	1079/4/26/2014-JCD	301	Custodial Death (Judicial)	100000	11/28/2016
24	Bihar	1165/4/5/2012-JCD	301	Custodial Death (Judicial)	100000	9/20/2016
25	Bihar	1299/4/8/07-08-PF	1709	Death in Firing	725000	11/9/2016
26	Bihar	1365/4/4/2013	814	Failure in Taking Lawful Action	10000	5/23/2016
27	Bihar	1458/4/23/2015	809	Custodial Torture	20000	1/12/2017
28	Bihar	1521/4/4/2010-PCD	807	Custodial Death (Police)	100000	12/1/2016
29	Bihar	1588/4/8/09-10-PF	1707	Custodial Torture	500000	10/6/2016
30	Bihar	16/4/24/2014	814	Failure in Taking Lawful Action	100000	10/21/2016
31	Bihar	2047/4/28/2011-PCD	807	Custodial Death (Police)	500000	3/22/2017
32	Bihar	208/4/39/2013-WC	1301	Abduction, Rape & Murder	25000	4/19/2016
33	Bihar	2166/4/23/2012-JCD	301	Custodial Death (Judicial)	100000	2/6/2017
34	Bihar	2179/4/14/2012-JCD	301	Custodial Death (Judicial)	50000	3/17/2017
35	Bihar	2196/4/36/2012-JCD	301	Custodial Death (Judicial)	100000	3/17/2017



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
36	Bihar	2267/4/27/2012-WC	803	Abduction/Rape	300000	3/22/2017
37	Bihar	2315/4/8/2014-JCD	301	custodial death (Judicial)	100000	11/9/2016
38	Bihar	2546/4/3/2014-WC	1309	Indignity of Women	10000	6/8/2016
39	Bihar	2572/4/8/08-09-AD	1716	Alleged Custodial Death	500000	5/27/2016
40	Bihar	2886/4/39/2013	100	Children	67500	3/14/2017
41	Bihar	3380/4/26/2014	502	Nuisance by Local Ruffians	800000	2/9/2017
42	Bihar	3532/4/5/2014	203	Malfunctioning of Medical Professionals	300000	3/27/2017
43	Bihar	3554/4/23/2013-JCD	301	Custodial Death (Judicial)	50000	9/27/2016
44	Bihar	4378/4/21/2012-JCD	301	Custodial Death (Judicial)	50000	11/16/2016
45	Bihar	4598/4/26/2012-JCD	301	Custodial Death (Judicial)	100000	2/6/2017
46	Bihar	715/4/39/2014-WC	803	Abduction/Rape	100000	4/19/2016
47	Bihar	846/4/39/2014	814	Failure in Taking Lawful Action	25000	1/2/2017
48	Chandigarh	122/27/0/2014	804	Abuse of Power	1050000	3/20/2017
49	Chandigarh	131/27/0/2014	1505	Inaction by State Government/ Central Government Officials	100000	3/29/2017
50	Chhattisgarh	166/33/14/2014-JCD	301	Custodial Death (Judicial)	100000	10/24/2016
51	Chhattisgarh	487/33/14/2012-JCD	301	Custodial Death (Judicial)	300000	3/14/2017
52	Chhattisgarh	532/33/14/2015-WC	1307	Gang Rape	300000	12/13/2016
53	Chhattisgarh	671/33/8/2015	106	Sexual Harassment	300000	10/7/2016
54	Chhattisgarh	702/33/5/2013	203	Malfunctioning of Medical Professionals	500000	4/27/2016
55	Chhattisgarh	961/33/9/2014-JCD	301	Custodial Death (Judicial)	100000	12/8/2016
56	Delhi	1111/30/2006-2007	812	Death in Police Encounter	1000000	7/13/2016
57	Delhi	1290/30/10/2014	1505	Inaction by State Government/ Central Government Officials	100000	4/18/2016
58	Delhi	1361/30/9/2014	815	False Implications	500000	11/8/2016
59	Delhi	3434/30/2/2015	1505	Inaction by State Government/ Central Government Officials	100000	11/7/2016
60	Delhi	374/30/3/2013	204	Irregularities in Government Hospitals/Primary Health Centres	300000	3/16/2017
61	Delhi	4167/30/0/2014	1505	Inaction by State Government/ Central Government Officials	25000	9/16/2016
62	Delhi	4345/30/0/2013	1505	Inaction by State Government/ Central Government Officials	200000	2/10/2017
63	Delhi	4433/30/2006-2007	812	Death in Police Encounter	500000	3/1/2017
64	Delhi	4631/30/3/2015	204	Irregularities in Government Hospitals/Primary Health Centres	25000	3/27/2017
65	Delhi	4632/30/10/2015	1505	Inaction by State Government/ Central Government Officials	200000	2/27/2017
66	Delhi	5050/30/5/2013	814	Failure in Taking Lawful Action	25000	3/20/2017
67	Delhi	532/30/1/2014	809	Custodial Torture	25000	12/7/2016
68	Delhi	5357/30/8/2012	809	Custodial Torture	100000	7/11/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
69	Delhi	5494/30/0/2010	1505	Inaction by State Government/ Central Government Officials	900000	11/28/2016
70	Delhi	5537/30/9/2014-PF	1703	Abduction/Rape	100000	3/20/2017
71	Delhi	6233/30/10/2013	814	Failure in Taking Lawful Action	100000	3/1/2017
72	Delhi	6507/30/2/2014	804	Abuse of Power	25000	12/7/2016
73	Delhi	6738/30/8/2014	1200	Service Matters	25000	6/20/2016
74	Delhi	7294/30/1/2013	204	Irregularities in Government Hospitals/Primary Health Centres	100000	5/19/2016
75	Delhi	7298/30/3/2014	1505	Inaction by State Government/ Central Government Officials	620000	7/15/2016
76	Gujarat	1345/6/25/2013-JCD	301	Custodial Death (Judicial)	300000	11/17/2016
77	Gujarat	1435/6/13/2014	1505	Inaction by State Government/ Central Government Officials	100000	6/7/2016
78	Gujarat	1515/6/25/2014	815	False Implications	25000	9/15/2016
79	Gujarat	1573/6/9/2013-AD	822	Alleged Custodial Deaths in Police Custody	500000	12/7/2016
80	Gujarat	160/6/21/2013-PCD	807	Custodial Death (Police)	100000	12/8/2016
81	Gujarat	212/6/9/2010	202	Public Health Hazards	1600000	6/8/2016
82	Gujarat	256/6/9/2010-ED	812	Death in Police Encounter	550000	1/25/2017
83	Gujarat	286/6/23/2013-PCD	807	Custodial Death (Police)	100000	8/29/2016
84	Gujarat	394/6/6/2013-PCD	807	Custodial Death (Police)	500000	1/5/2017
85	Gujarat	805/6/25/2015-PCD	807	Custodial Death (Police)	500000	3/24/2017
86	Gujarat	964/6/26/2011-PCD	807	Custodial Death (Police)	100000	12/1/2016
87	Haryana	10991/7/5/2014-AD	309	Alleged Custodial Deaths in Judicial Custody	400000	8/29/2016
88	Haryana	13005/7/10/2014	305	Harassment of Prisoners	100000	11/21/2016
89	Haryana	1438/7/15/2012	814	Failure in Taking Lawful Action	50000	7/25/2016
90	Haryana	1969/7/6/2010-PCD	807	Custodial Death (Police)	500000	11/30/2016
91	Haryana	2064/7/15/2015	804	Abuse of Power	25000	5/10/2016
92	Haryana	3007/7/3/2014-WC	1311	Rape	300000	2/21/2017
93	Haryana	3431/7/6/2014-JCD	301	Custodial Death (Judicial)	100000	11/21/2016
94	Haryana	3688/7/12/2012	809	Custodial Torture	25000	8/18/2016
95	Haryana	4569/7/2/2014-AD	822	Alleged Custodial Deaths in Police Custody	100000	3/17/2017
96	Haryana	4778/7/6/2012	109	Disappearance / Missing	100000	1/24/2017
97	Haryana	5563/7/7/2014-WC	1307	Gang Rape	200000	11/9/2016
98	Haryana	5832/7/6/2012-PCD	807	Custodial Death (Police)	100000	5/20/2016
99	Haryana	6189/7/18/2014	204	Irregularities in Government Hospitals/Primary Health Centres	100000	3/20/2017
100	Haryana	7904/7/1/2013-PCD	807	Custodial Death (Police)	25000	11/17/2016
101	Haryana	90/7/20/2014	204	Irregularities in Government Hospitals/Primary Health Centres	100000	6/22/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
102	Jammu & KASHMIR	94/9/8/2010-AF	1611	Alleged Fake Encounter (Defence)	1500000	8/17/2016
103	Jharkhand	1167/34/16/2012-JCD	301	Custodial Death (Judicial)	50000	12/13/2016
104	Jharkhand	118/34/16/2013-JCD	301	Custodial Death (Judicial)	100000	4/12/2016
105	Jharkhand	1188/34/18/2011-ED	812	Death in Police Encounter	200000	3/2/2017
106	Jharkhand	1194/34/11/2011	1505	Inaction by State Government/ Central Government Officials	500000	5/17/2016
107	Jharkhand	1209/34/20/2012	1500	Miscellaneous	400000	9/7/2016
108	Jharkhand	1447/34/11/2013-JCD	301	Custodial Death (Judicial)	300000	2/7/2017
109	Jharkhand	1538/34/4/2014-PCD	807	Custodial Death (Police)	100000	11/8/2016
110	Jharkhand	319/34/21/09-10	811	Death in Police FIRING	125000	9/8/2016
111	Jharkhand	355/34/22/2012	804	Abuse of Power	500000	1/29/2017
112	Jharkhand	370/34/2/2013	804	Abuse of Power	10000	5/16/2016
113	Jharkhand	410/34/20/2015	604	Hazardous Employments	400000	9/7/2016
114	Jharkhand	514/34/11/2015	1505	Inaction by State Government/ Central Government Officials	25000	2/21/2017
115	Jharkhand	767/34/22/2010-PF	1709	Death in Firing	150000	9/8/2016
116	Jharkhand	817/34/9/2013	1901	Atrocities on SC/ST/OBC	50000	9/7/2016
117	Jharkhand	890/34/3/2013	203	Malfunctioning of Medical Professionals	25000	6/20/2016
118	Jharkhand	947/34/11/2013	811	Death in Police Firing	700000	10/19/2016
119	Jharkhand	949/34/0/2012	1500	Miscellaneous	70000	7/11/2016
120	Karnataka	204/10/1/2014-WC	1309	Indignity of Women	25000	12/30/2016
121	Karnataka	967/10/1/2014	804	Abuse of Power	25000	4/13/2016
122	Kerala	189/11/12/2012-PCD	807	Custodial Death (Police)	100000	7/13/2016
123	Kerala	437/11/8/2014-PCD	807	Custodial Death (Police)	100000	10/31/2016
124	Kerala	448/11/11/2013-PCD	807	Custodial Death (Police)	100000	7/13/2016
125	Kerala	454/11/13/2014	804	Abuse of Power	50000	7/4/2016
126	Kerala	464/11/3/2014	809	Custodial Torture	300000	1/5/2017
127	Kerala	508/11/2/2016-AD	822	Alleged Custodial Deaths in Police Custody	100000	3/27/2017
128	Kerala	615/11/3/2016	203	Malfunctioning of Medical Professionals	300000	1/24/2017
129	Madhya Pradesh	1328/12/18/2013-JCD	301	Custodial Death (Judicial)	100000	12/20/2016
130	Madhya Pradesh	1761/12/24/2014	203	Malfunctioning of Medical Professionals	50000	4/1/2016
131	Madhya Pradesh	204/12/5/09-10-PCD	807	Custodial Death (Police)	100000	11/9/2016
132	Madhya Pradesh	2100/12/17/2014	104	Exploitation of Children	50000	8/22/2016
133	Madhya Pradesh	2157/12/8/2013-JCD	301	Custodial Death (Judicial)	100000	4/1/2016
134	Madhya Pradesh	2170/12/54/2015	106	Sexual Harassment	200000	10/31/2016
135	Madhya Pradesh	2198/12/35/2014-WC	803	Abduction/Rape	100000	3/21/2017
136	Madhya Pradesh	2203/12/30/2011-PCD	807	Custodial Death (Police)	100000	3/22/2017



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
137	Madhya Pradesh	236/12/38/2015	814	Failure in Taking Lawful Action	30000	1/11/2017
138	Madhya Pradesh	2695/12/33/2014	1505	Inaction by State Government/ Central Government Officials	625000	3/22/2017
139	Madhya Pradesh	3022/12/46/2014	809	Custodial Torture	200000	2/21/2017
140	Madhya Pradesh	325/12/36/2014-WC	1305	Dowry Demand	25000	6/30/2016
141	Madhya Pradesh	353/12/54/2012	1505	Inaction by State Government/ Central Government Officials	125000	5/23/2016
142	Madhya Pradesh	508/12/24/2014-JCD	301	Custodial Death (Judicial)	100000	11/7/2016
143	Madhya Pradesh	675/12/7/2012-PCD	807	Custodial Death (Police)	500000	6/30/2016
144	Madhya Pradesh	834/12/7/2014	1505	Inaction by State Government/ Central Government Officials	900000	2/27/2017
145	Madhya Pradesh	877/12/24/2015	814	Failure in Taking Lawful Action	10000	3/8/2017
146	Maharashtra	1010/13/22/2011-PCD	807	Custodial Death (Police)	25000	10/19/2016
147	Maharashtra	102/13/13/2014-WC	1313	Sexual Harassment at Workplace (Government Offices)	100000	11/24/2016
148	Maharashtra	1196/13/17/2012-JCD	301	Custodial Death (Judicial)	100000	11/21/2016
149	Maharashtra	1286/13/6/2010-PCD	807	Custodial Death (Police)	500000	9/15/2016
150	Maharashtra	1384/13/4/2012-JCD	301	Custodial Death (Judicial)	100000	4/13/2016
151	Maharashtra	1385/13/28/2012-JCD	301	Custodial Death (Judicial)	100000	2/16/2017
152	Maharashtra	1386/13/17/09-10-PCD	807	Custodial Death (Police)	100000	2/2/2017
153	Maharashtra	1391/13/3/2010-PCD	807	Custodial Death (Police)	300000	9/28/2016
154	Maharashtra	1454/13/9/2014-JCD	301	Custodial Death (Judicial)	100000	2/16/2017
155	Maharashtra	1517/13/14/2011-PCD	807	Custodial Death (Police)	100000	1/25/2017
156	Maharashtra	1615/13/17/2012-JCD	301	Custodial Death (Judicial)	50000	9/20/2016
157	Maharashtra	1756/13/30/2014	809	Custodial Torture	300000	3/27/2017
158	Maharashtra	18/13/4/2011-PCD	807	Custodial Death (Police)	200000	11/10/2016
159	Maharashtra	1831/13/13/2015	106	Sexual Harassment	50000	2/21/2017
160	Maharashtra	2242/13/23/2013-JCD	301	Custodial Death (Judicial)	100000	11/29/2016
161	Maharashtra	228/13/21/2011-PCD	807	Custodial Death (Police)	100000	11/16/2016
162	Maharashtra	2991/13/16/2013-WC	1312	Sexual Harassment (General)	50000	9/19/2016
163	Maharashtra	3143/13/23/2013	204	Irregularities in Government Hospitals/Primary Health Centres	200000	1/25/2017
164	Maharashtra	390/13/22/2011-PCD	807	Custodial Death (Police)	500000	3/2/2017
165	Maharashtra	473/13/26/09-10-PCD	807	Custodial Death (Police)	50000	5/27/2016
166	Maharashtra	496/13/23/2013-JCD	301	Custodial Death (Judicial)	300000	2/13/2017
167	Maharashtra	501/13/2005-2006	812	Death in Police Encounter	1000000	4/6/2016
168	Maharashtra	545/13/6/2013-WC	1311	Rape	100000	5/11/2016
169	Maharashtra	554/13/2005-2006	812	Death in Police Encounter	500000	6/14/2016
170	Maharashtra	56/13/16/2012-JCD	301	Custodial Death (Judicial)	50000	9/21/2016
171	Maharashtra	820/13/33/2011-PCD	807	Custodial Death (Police)	450000	6/1/2016
172	Maharashtra	848/13/16/2013-PCD	807	Custodial Death (Police)	500000	11/23/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
173	Maharashtra	873/13/4/09-10-PCD	807	Custodial Death (Police)	100000	9/15/2016
174	Maharashtra	902/13/25/09-10-PCD	807	Custodial Death (Police)	100000	1/25/2017
175	Manipur	108/14/15/2012-ED	812	Death in Police Encounter	500000	6/29/2016
176	Manipur	11/14/2/09-10-PF	1711	Alleged Fake Encounter (P-M Forces)	1000000	5/10/2016
177	Manipur	2/14/1/2010-PF	1711	Alleged Fake Encounter (P-M Forces)	500000	9/15/2016
178	Manipur	2/14/12/07-08-PF	1709	Death in Firing	440000	11/9/2016
179	Manipur	33/14/4/09-10-PF	1711	Alleged Fake Encounter (P-M Forces)	1000000	3/1/2017
180	Manipur	35/14/12/09-10-PF	1711	Alleged Fake Encounter (P-M Forces)	1500000	2/2/2017
181	Manipur	37/14/12/08-09-FE	813	Alleged Fake Encounters	500000	3/2/2017
182	Manipur	4/14/0/09-10-AFE	813	Alleged Fake Encounters	500000	5/10/2016
183	Manipur	45/14/4/08-09-PF	1709	Death in Firing	1000000	11/10/2016
184	Manipur	52/14/1/2010-AD	822	Alleged Custodial Deaths In Police Custody	300000	11/9/2016
185	Manipur	65/14/13/2012-PF	1711	Alleged Fake Encounter (P-M Forces)	1500000	11/30/2016
186	Meghalaya	2/15/1/2011-AFE	813	Alleged Fake Encounters	500000	8/2/2016
187	Meghalaya	20/15/3/2013-PCD	807	Custodial Death (Police)	100000	12/7/2016
188	Meghalaya	35/15/0/2015-AR	823	Alleged Custodial Rape In Police Custody	200000	11/8/2016
189	Meghalaya	38/15/3/2013-PCD	807	Custodial Death (Police)	200000	3/16/2017
190	Mizoram	11/16/1/2014-JCD	301	Custodial Death (Judicial)	300000	10/20/2016
191	Mizoram	6/16/0/2011-PCD	807	Custodial Death (Police)	100000	6/1/2016
192	Mizoram	9/16/1/2013-PCD	807	Custodial Death (Police)	100000	6/22/2016
193	Nagaland	10/17/1/2012-PCD	807	Custodial Death (Police)	100000	8/10/2016
194	Odisha	1030/18/29/2013-JCD	301	Custodial Death (Judicial)	100000	3/16/2017
195	Odisha	11351/18/26/2015	804	Abuse of Power	25000	2/16/2017
196	Odisha	11430/18/16/2015	804	Abuse Of Power	25000	6/23/2016
197	Odisha	1194/18/20/2014	1505	Inaction by State Government/ Central Government Officials	120000	6/15/2016
198	Odisha	12002/18/9/2015	204	Irregularities in Government Hospitals/Primary Health Centres	300000	1/10/2017
199	Odisha	12095/18/8/2015	814	Failure in Taking Lawful Action	155000	1/9/2017
200	Odisha	13526/18/5/2015	1505	Inaction by State Government/ Central Government Officials	285000	1/10/2017
201	Odisha	1475/18/7/2013	1505	Inaction by State Government/ Central Government Officials	150000	5/18/2016
202	Odisha	1627/18/6/2012-JCD	301	Custodial Death (Judicial)	100000	1/11/2017
203	Odisha	1754/18/8/2014	203	Malfunctioning of Medical Professionals	100000	3/22/2017
204	Odisha	1798/18/28/2014	1505	Inaction by State Government/ Central Government Officials	65000	11/29/2016
205	Odisha	1806/18/31/2014	1505	Inaction by State Government/ Central Government Officials	100000	2/21/2017
206	Odisha	192/18/12/2014	100	Children	20000	5/3/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
207	Odisha	1981/18/13/2014	106	Sexual Harassment	600000	1/6/2017
208	Odisha	2109/18/30/2013-JCD	301	Custodial Death (Judicial)	50000	9/21/2016
209	Odisha	2173/18/7/2013	1505	Inaction by State Government/ Central Government Officials	60000	8/2/2016
210	Odisha	2180/18/28/2014	1505	Inaction by State Government/ Central Government Officials	300000	7/8/2016
211	Odisha	2187/18/10/2013	106	Sexual Harassment	50000	9/19/2016
212	Odisha	2207/18/10/2014	1505	Inaction by State Government/ Central Government Officials	200000	3/22/2017
213	Odisha	2284/18/29/2013-JCD	301	Custodial Death (Judicial)	50000	12/20/2016
214	Odisha	2307/18/26/2013	1505	Inaction by State Government/ Central Government Officials	870000	11/16/2016
215	Odisha	2328/18/9/2013	1505	Inaction by State Government/ Central Government Officials	100000	9/23/2016
216	Odisha	2373/18/9/2013	1505	Inaction by State Government/ Central Government Officials	100000	3/22/2017
217	Odisha	2430/18/12/2014	814	Failure in Taking Lawful Action	50000	1/9/2017
218	Odisha	2524/18/13/2013	1505	Inaction by State Government/ Central Government Officials	200000	12/21/2016
219	Odisha	2842/18/8/2012	1202	Non-Payment of Pension/ Compensation	100000	7/11/2016
220	Odisha	2976/18/3/2014	1505	Inaction by State Government/ Central Government Officials	50000	12/21/2016
221	Odisha	3098/18/10/2014	814	Failure In Taking Lawful Action	50000	12/30/2016
222	Odisha	3274/18/1/2013	1505	Inaction by State Government/ Central Government Officials	225000	4/13/2016
223	Odisha	3321/18/17/2014	1505	Inaction by State Government/ Central Government Officials	100000	11/4/2016
224	Odisha	3332/18/33/2014	1505	Inaction by State Government/ Central Government Officials	100000	6/27/2016
225	Odisha	3513/18/4/2014	1505	Inaction by State Government/ Central Government Officials	300000	1/10/2017
226	Odisha	3526/18/31/2014	1904	Victimization	925000	4/26/2016
227	Odisha	3556/18/1/2014	1505	Inaction by State Government/ Central Government Officials	100000	6/8/2016
228	Odisha	3778/18/12/2013	1505	Inaction by State Government/ Central Government Officials	40000	3/30/2017
229	Odisha	4060/18/2/2014	204	Irregularities in Government Hospitals/Primary Health Centres	20000	10/7/2016
230	Odisha	4137/18/3/2014-JCD	301	Custodial Death (Judicial)	100000	5/11/2016
231	Odisha	4959/18/12/2014-WC	1301	Abduction, Rape & Murder	150000	3/10/2017
232	Odisha	5027/18/31/2015	1505	Inaction by State Government/ Central Government Officials	60000	1/9/2017
233	Odisha	577/18/3/2013-AD	822	Alleged Custodial Deaths in Police Custody	100000	1/11/2017
234	Odisha	6654/18/3/2016	1904	Victimization	100000	1/9/2017
235	Odisha	674/18/2/2014	1505	Inaction by State Government/ Central Government Officials	200000	3/22/2017
236	Odisha	6744/18/7/2016	801	Arbitrary Use of Power	100000	1/9/2017



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
237	Odisha	689/18/8/2014	204	Irregularities in Government Hospitals/Primary Health Centres	100000	3/22/2017
238	Odisha	705/18/3/2015	204	Irregularities in Government Hospitals/Primary Health Centres	100000	2/13/2017
239	Odisha	727/18/29/08-09-AFE	813	Alleged Fake Encounters	500000	6/30/2016
240	Odisha	8302/18/1/2015	1505	Inaction by State Government/ Central Government Officials	350000	1/10/2017
241	Odisha	8527/18/4/2015	1505	Inaction by State Government/ Central Government Officials	100000	12/1/2016
242	Odisha	9328/18/2/2015	1505	Inaction by State Government/ Central Government Officials	100000	1/30/2017
243	Odisha	9429/18/17/2015	1505	Inaction by State Government/ Central Government Officials	80000	12/9/2016
244	Punjab	1117/19/3/2013-JCD	301	Custodial Death (Judicial)	100000	3/31/2017
245	Punjab	1534/19/13/2012-PCD	807	Custodial Death (Police)	100000	2/21/2017
246	Punjab	273/19/13/2013-JCD	301	Custodial Death (Judicial)	100000	2/13/2017
247	Punjab	290/19/18/2013-JCD	301	Custodial Death (Judicial)	100000	9/16/2016
248	Punjab	304/19/19/2014	1505	Inaction by State Government/ Central Government Officials	100000	1/23/2017
249	Punjab	782/19/10/2014-WC	1311	Rape	100000	3/20/2017
250	Punjab	977/19/2/2014	203	Malfunctioning of Medical Professionals	25000	2/13/2017
251	Rajasthan	1157/20/10/2016	1901	Atrocities on SC/ST/OBC	100000	3/29/2017
252	Rajasthan	1196/20/14/2014-JCD	301	Custodial Death (Judicial)	100000	11/29/2016
253	Rajasthan	1200/20/9/2015	1901	Atrocities on SC/ST/OBC	25000	3/7/2017
254	Rajasthan	1306/20/11/2013-WC	1307	Gang Rape	50000	1/23/2017
255	Rajasthan	1338/20/2/2015	1901	Atrocities on SC/ST/OBC	10000	7/14/2016
256	Rajasthan	1533/20/7/2013-JCD	301	Custodial Death (Judicial)	300000	6/27/2016
257	Rajasthan	1536/20/7/2014-JCD	301	Custodial Death (Judicial)	100000	11/1/2016
258	Rajasthan	168/20/2/2014-WC	1301	Abduction, Rape & Murder	25000	4/19/2016
259	Rajasthan	1699/20/18/2015-WC	803	Abduction/Rape	100000	10/31/2016
260	Rajasthan	1703/20/26/2016	1505	Inaction by State Government/ Central Government Officials	100000	2/16/2017
261	Rajasthan	2033/20/19/2015-WC	1903	Rape of SC/ST/OBC	50000	11/10/2016
262	Rajasthan	2185/20/14/2014-JCD	301	Custodial Death (Judicial)	300000	11/18/2016
263	Rajasthan	2560/20/1/2013-JCD	301	Custodial Death (Judicial)	100000	10/4/2016
264	Rajasthan	2583/20/21/2012-JCD	301	Custodial Death (Judicial)	300000	3/14/2017
265	Rajasthan	2731/20/14/2013-JCD	301	Custodial Death (Judicial)	100000	3/17/2017
266	Rajasthan	2971/20/9/2014	1901	Atrocities on SC/ST/OBC	25000	2/8/2017
267	Rajasthan	344/20/24/2014	307	Irregularities in Jail	50000	5/16/2016
268	Rajasthan	586/20/6/2013	100	Children	350000	5/23/2016
269	Rajasthan	64/20/30/2015-WC	1301	Abduction, Rape & Murder	25000	12/7/2016
270	Rajasthan	84/20/29/2014-JCD	301	Custodial Death (Judicial)	300000	10/4/2016
271	Rajasthan	922/20/21/2013-JCD	301	Custodial Death (Judicial)	100000	7/11/2016
272	Rajasthan	937/20/13/2010	809	Custodial Torture	300000	1/23/2017
273	Rajasthan	942/20/10/2015-WC	1903	Rape of SC/ST/OBC	50000	3/7/2017
274	Tamil Nadu	1482/22/11/2013-JCD	301	Custodial Death (Judicial)	500000	5/11/2016



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275	Tamil Nadu	1694/22/37/2014	106	Sexual Harassment	50000	3/27/2017
276	Tamil Nadu	2051/22/13/2012-JCD	301	Custodial Death (Judicial)	300000	3/21/2017
277	Tamil Nadu	2715/22/30/2012-PCD	807	Custodial Death (Police)	500000	3/24/2017
278	Tamil Nadu	459/22/26/2012-JCD	301	Custodial Death (Judicial)	100000	7/28/2016
279	Tamil Nadu	61/22/13/2014	816	Illegal Arrest	300000	4/13/2016
280	Tamil Nadu	63/22/15/2014	804	Abuse of Power	50000	11/7/2016
281	Tamil Nadu	634/22/0/2016	804	Abuse of Power	25000	1/23/2017
282	Telangana	1047/1/7/2012-JCD	301	Custodial Death (Judicial)	100000	1/23/2017
283	Telangana	1077/1/7/2011-PCD	807	Custodial Death (Police)	80000	8/17/2016
284	Telangana	1331/1/14/2012-JCD	301	Custodial Death (Judicial)	100000	4/29/2016
285	Telangana	403/1/14/09-10-JCD	301	Custodial Death (Judicial)	300000	6/29/2016
286	Telangana	765/1/16/2013-PCD	807	Custodial Death (Police)	200000	8/1/2016
287	Telangana	855/1/8/2014-JCD	301	Custodial Death (Judicial)	300000	3/8/2017
288	Tripura	1185/23/5/2013-AD	822	Alleged Custodial Deaths in Police Custody	100000	2/2/2017
289	Tripura	29/23/2005-2006	812	Death in Police Encounter	500000	12/7/2016
290	Uttar Pradesh	10226/24/2006-2007	812	Death in Police Encounter	500000	9/29/2016
291	Uttar Pradesh	10642/24/40/2014	1505	Inaction by State Government/ Central Government Officials	100000	7/21/2016
292	Uttar Pradesh	10703/24/71/2014	804	Abuse of Power	100000	3/22/2017
293	Uttar Pradesh	12021/24/46/2013	814	Failure in Taking Lawful Action	25000	5/23/2016
294	Uttar Pradesh	12111/24/41/2012	817	Unlawful Detention	50000	3/24/2017
295	Uttar Pradesh	13141/24/35/09-10-AD	822	Alleged Custodial Deaths in Police Custody	200000	7/21/2016
296	Uttar Pradesh	13259/24/35/2013-WC	803	Abduction/Rape	100000	6/8/2016
297	Uttar Pradesh	13270/24/76/2013	804	Abuse of Power	75000	4/25/2016
298	Uttar Pradesh	1333/24/7/2015-PCR	808	Custodial Rape (Police)	100000	5/4/2016
299	Uttar Pradesh	13742/24/63/2013	814	Failure in Taking Lawful Action	25000	2/28/2017
300	Uttar Pradesh	13810/24/19/2014	1505	Inaction by State Government/ Central Government Officials	100000	12/14/2016
301	Uttar Pradesh	14254/24/69/2014	804	Abuse of Power	25000	9/27/2016
302	Uttar Pradesh	14390/24/48/2013-PCD	807	Custodial Death (Police)	100000	1/25/2017
303	Uttar Pradesh	14505/24/62/2014	1202	Non-Payment of Pension/ Compensation	100000	3/14/2017
304	Uttar Pradesh	14789/24/39/2011	1505	Inaction by State Government/ Central Government Officials	25000	5/18/2016
305	Uttar Pradesh	14807/24/42/2012-PCD	807	Custodial Death (Police)	100000	3/23/2017
306	Uttar Pradesh	1544/24/31/2014-WC	1307	Gang Rape	100000	9/16/2016
307	Uttar Pradesh	15736/24/14/2014	1500	Miscellaneous	100000	3/17/2017
308	Uttar Pradesh	15744/24/42/2013	814	Failure in Taking Lawful Action	50000	10/24/2016
309	Uttar Pradesh	16296/24/68/2012-JCD	301	Custodial Death (Judicial)	500000	7/11/2016
310	Uttar Pradesh	16511/24/60/2015-JCD	301	Custodial Death (Judicial)	300000	12/8/2016
311	Uttar Pradesh	17590/24/6/2014	804	Abuse of Power	25000	2/13/2017
312	Uttar Pradesh	17661/24/75/2014	814	Failure in Taking Lawful Action	25000	2/13/2017
313	Uttar Pradesh	18128/24/27/2014	814	Failure in Taking Lawful Action	25000	9/30/2016
314	Uttar Pradesh	18424/24/50/2014	1202	Non-Payment of Pension/ Compensation	10000	5/3/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
315	Uttar Pradesh	18780/24/53/2012-JCD	301	Custodial Death (Judicial)	100000	10/18/2016
316	Uttar Pradesh	19040/24/57/2014-WC	1305	Dowry Demand	25000	1/12/2017
317	Uttar Pradesh	19607/24/41/2010-WC	1311	Rape	20000	1/25/2017
318	Uttar Pradesh	19697/24/15/2011-PCD	807	Custodial Death (Police)	500000	5/10/2016
319	Uttar Pradesh	20336/24/7/2013-WC	1301	Abduction, Rape & Murder	100000	10/24/2016
320	Uttar Pradesh	20338/24/53/2013	306	Inequalities in Prison	50000	10/7/2016
321	Uttar Pradesh	20925/24/2006-2007	812	Death in Police Encounter	400000	12/26/2016
322	Uttar Pradesh	21140/24/38/09-10-JCD	301	Custodial Death (Judicial)	500000	7/28/2016
323	Uttar Pradesh	21607/24/20/2013-WC	1301	Abduction, Rape & Murder	100000	5/23/2016
324	Uttar Pradesh	21939/24/48/2011-JCD	301	Custodial Death (Judicial)	100000	5/31/2016
325	U T T A R P R A D E S H	22031/24/13/2014-JCD	301	Custodial Death (Judicial)	500000	11/9/2016
326	Uttar Pradesh	22082/24/10/2013-JCD	301	Custodial Death (Judicial)	100000	3/29/2017
327	Uttar Pradesh	22473/24/43/2014	809	Custodial Torture	50000	2/16/2017
328	Uttar Pradesh	22499/24/9/2013-JCD	301	Custodial Death (Judicial)	200000	1/24/2017
329	Uttar Pradesh	23050/24/14/2015-WC	1304	Dowry Death or Their Attempt	10000	3/7/2017
330	Uttar Pradesh	23289/24/34/2013-WC	1304	Dowry Death or Their Attempt	50000	4/19/2016
331	Uttar Pradesh	23902/24/31/2012-AD	309	Alleged Custodial Deaths in Judicial Custody	100000	2/13/2017
332	Uttar Pradesh	25081/24/31/2011	809	Custodial Torture	25000	9/2/2016
333	Uttar Pradesh	25136/24/55/2010-PCD	807	Custodial Death (Police)	300000	5/25/2016
334	Uttar Pradesh	25272/24/51/2013	814	Failure in Taking Lawful Action	50000	2/28/2017
335	Uttar Pradesh	25395/24/44/2010-AD	822	Alleged Custodial Deaths In Police Custody	100000	8/4/2016
336	Uttar Pradesh	25500/24/35/2014	109	Disappearance / Missing	100000	3/20/2017
337	Uttar Pradesh	25866/24/15/2015	816	Illegal Arrest	50000	1/25/2017
338	Uttar Pradesh	26090/24/44/2014	1901	Atrocities on SC/ST/OBC	100000	10/20/2016
339	Uttar Pradesh	26275/24/14/2013-JCD	301	Custodial Death (Judicial)	100000	3/29/2017
340	Uttar Pradesh	26532/24/69/2014	1901	Atrocities on SC/ST/OBC	10000	11/10/2016
341	Uttar Pradesh	2672/24/27/2013-WC	1304	Dowry Death or Their Attempt	25000	6/15/2016
342	Uttar Pradesh	27032/24/8/2014	809	Custodial Torture	50000	2/3/2017
343	Uttar Pradesh	27060/24/14/2011-AD	822	Alleged Custodial Deaths in Police Custody	100000	11/9/2016
344	Uttar Pradesh	27898/24/49/2014-JCD	301	Custodial Death (Judicial)	100000	3/6/2017
345	Uttar Pradesh	27930/24/18/2015	804	Abuse of Power	100000	3/21/2017
346	Uttar Pradesh	29370/24/56/2013-WC	803	Abduction/Rape	100000	2/28/2017
347	Uttar Pradesh	29674/24/54/2011	1505	Inaction by State Government/ Central Government Officials	600000	7/8/2016
348	Uttar Pradesh	29716/24/52/2014	815	False Implications	25000	2/8/2017
349	Uttar Pradesh	29796/24/13/2013	1505	Inaction by State Government/ Central Government Officials	100000	2/21/2017
350	Uttar Pradesh	29803/24/42/2013-JCD	301	Custodial Death (Judicial)	50000	3/20/2017
351	Uttar Pradesh	29857/24/9/2016	204	Irregularities in Government Hospitals/Primary Health Centres	100000	3/22/2017
352	Uttar Pradesh	30016/24/76/2014	814	Failure in Taking Lawful Action	100000	3/20/2017
353	Uttar Pradesh	30311/24/31/2014	809	Custodial Torture	25000	11/9/2016
354	Uttar Pradesh	30768/24/64/2012-JCD	301	Custodial Death (Judicial)	100000	10/24/2016
355	Uttar Pradesh	31226/24/21/2013	804	Abuse of Power	25000	12/5/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
356	Uttar Pradesh	31656/24/4/2011	203	Malfunctioning of Medical Professionals	50000	10/3/2016
357	Uttar Pradesh	32377/24/75/2014	809	Custodial Torture	10000	5/20/2016
358	Uttar Pradesh	3241/24/48/2013-JCD	301	Custodial Death (Judicial)	500000	5/20/2016
359	Uttar Pradesh	32706/24/68/2014	1901	Atrocities on SC/ST/OBC	25000	10/20/2016
360	Uttar Pradesh	33149/24/54/2014	815	False Implications	50000	6/30/2016
361	Uttar Pradesh	33200/24/5/2013	802	Abduction/Kidnapping	25000	4/25/2016
362	Uttar Pradesh	33348/24/56/2012-JCD	301	Custodial Death (Judicial)	300000	3/16/2017
363	Uttar Pradesh	33352/24/14/2012-PCD	807	Custodial Death (Police)	500000	6/30/2016
364	Uttar Pradesh	33406/24/16/2012-DH	108	Death in Judicial Custody	50000	11/29/2016
365	Uttar Pradesh	33710/24/14/2012-JCD	301	Custodial Death (Judicial)	300000	1/2/2017
366	Uttar Pradesh	3384/24/76/2015-WC	1307	Gang Rape	500000	6/23/2016
367	Uttar Pradesh	34079/24/18/2013-WC	1301	Abduction, Rape & Murder	30000	4/27/2016
368	Uttar Pradesh	34636/24/69/2011	801	Arbitrary Use of Power	500000	4/12/2016
369	Uttar Pradesh	34791/24/43/2013	106	Sexual Harassment	100000	6/21/2016
370	Uttar Pradesh	35010/24/15/2013	817	Unlawful Detention	50000	5/4/2016
371	Uttar Pradesh	35027/24/50/2014	305	Harassment of Prisoners	100000	1/23/2017
372	Uttar Pradesh	35164/24/25/2013	105	Immoral Traffic on Children	50000	3/6/2017
373	Uttar Pradesh	35220/24/1/2012-JCD	301	Custodial Death (Judicial)	100000	6/6/2016
374	Uttar Pradesh	35370/24/7/2013	1505	Inaction by State Government/ Central Government Officials	260000	7/21/2016
375	Uttar Pradesh	36210/24/31/2013	1901	Atrocities on SC/ST/OBC	25000	6/20/2016
376	Uttar Pradesh	36481/24/2002-2003-AD	309	Alleged Custodial Deaths in Judicial Custody	500000	3/16/2017
377	Uttar Pradesh	37174/24/14/2013	305	Harassment of Prisoners	100000	8/9/2016
378	Uttar Pradesh	37313/24/48/2012-JCD	301	Custodial Death (Judicial)	500000	1/29/2017
379	Uttar Pradesh	37675/24/9/2014	1505	Inaction by State Government/ Central Government Officials	125000	2/16/2017
380	Uttar Pradesh	38292/24/21/2013	804	Abuse of Power	300000	12/20/2016
381	Uttar Pradesh	38745/24/54/2013	500	Mafias/Underworld	50000	9/16/2016
382	Uttar Pradesh	39116/24/30/2013	814	Failure in Taking Lawful Action	25000	1/30/2017
383	Uttar Pradesh	39429/24/57/2012	816	Illegal Arrest	50000	2/16/2017
384	Uttar Pradesh	39669/24/57/2013-JCD	301	Custodial Death (Judicial)	100000	4/29/2016
385	Uttar Pradesh	40161/24/65/2013	814	Failure in Taking Lawful Action	300000	4/19/2016
386	Uttar Pradesh	40332/24/48/2013-JCD	301	Custodial Death (Judicial)	50000	7/11/2016
387	Uttar Pradesh	40361/24/55/2013	817	Unlawful Detention	50000	2/16/2017
388	Uttar Pradesh	40420/24/75/2012	814	Failure in Taking Lawful Action	25000	6/20/2016
389	Uttar Pradesh	41931/24/65/2014	204	Irregularities in Government Hospitals/Primary Health Centres	100000	12/5/2016
390	Uttar Pradesh	42848/24/31/2012	817	Unlawful Detention	25000	2/28/2017
391	Uttar Pradesh	42963/24/9/2012-JCD	301	Custodial Death (Judicial)	100000	3/21/2017
392	Uttar Pradesh	43345/24/37/2013	814	Failure in Taking Lawful Action	20000	8/1/2016
393	Uttar Pradesh	43922/24/3/2012	1901	Atrocities on SC/ST/OBC	25000	4/25/2016
394	Uttar Pradesh	44438/24/43/2012-JCD	301	Custodial Death (Judicial)	100000	11/16/2016
395	Uttar Pradesh	44878/24/49/2014-JCD	301	Custodial Death (Judicial)	100000	1/6/2017
396	Uttar Pradesh	44988/24/59/2013	804	Abuse of Power	100000	4/19/2016
397	Uttar Pradesh	48166/24/4/2011	804	Abuse of Power	500000	1/29/2017
398	Uttar Pradesh	49485/24/33/2011-WC	1309	Indignity of Women	10000	6/10/2016



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
399	Uttar Pradesh	49638/24/4/2014-JCD	301	Custodial Death (Judicial)	25000	1/23/2017
400	Uttar Pradesh	5016/24/31/2014	814	Failure in Taking Lawful Action	100000	3/22/2017
401	Uttar Pradesh	5205/24/18/2013-JCD	301	Custodial Death (Judicial)	300000	11/17/2016
402	Uttar Pradesh	5646/24/10/2012-JCD	301	Custodial Death (Judicial)	300000	11/9/2016
403	Uttar Pradesh	5906/24/8/2013	809	Custodial Torture	50000	1/6/2017
404	Uttar Pradesh	6170/24/57/08-09-JCD	301	Custodial Death (Judicial)	200000	8/24/2016
405	Uttar Pradesh	618/24/35/2013-WC	1301	Abduction, Rape & Murder	100000	5/3/2016
406	Uttar Pradesh	6202/24/60/2014	814	Failure in Taking Lawful Action	10000	1/31/2017
407	Uttar Pradesh	6270/24/68/2013-JCD	301	Custodial Death (Judicial)	100000	3/16/2017
408	Uttar Pradesh	6383/24/24/2011-AD	822	Alleged Custodial Deaths in Police Custody	100000	5/25/2016
409	Uttar Pradesh	7066/24/26/2013-JCD	301	Custodial Death (Judicial)	100000	1/29/2017
410	Uttar Pradesh	7351/24/30/2014	809	Custodial Torture	150000	1/31/2017
411	Uttar Pradesh	7501/24/75/2014	804	Abuse of Power	50000	9/23/2016
412	Uttar Pradesh	7805/24/31/2010-ED	812	Death in Police Encounter	500000	8/18/2016
413	Uttar Pradesh	7828/24/54/2010-ED	812	Death in Police Encounter	500000	8/18/2016
414	Uttar Pradesh	803/24/13/2012-PCD	807	Custodial Death (Police)	100000	6/1/2016
415	Uttar Pradesh	8049/24/28/2014	804	Abuse of Power	50000	4/1/2016
416	Uttar Pradesh	8119/24/46/2013-JCD	301	Custodial Death (Judicial)	100000	11/30/2016
417	Uttar Pradesh	8470/24/17/2013	804	Abuse of Power	50000	7/13/2016
418	Uttar Pradesh	8555/24/56/2013-JCD	301	Custodial Death (Judicial)	100000	1/30/2017
419	Uttar Pradesh	8998/24/9/2014	814	Failure in Taking Lawful Action	25000	9/1/2016
420	Uttar Pradesh	9078/24/43/2014	819	Police Motivated Incidents	25000	4/13/2016
421	Uttar Pradesh	9867/24/48/08-09-PCD	807	Custodial Death (Police)	100000	9/15/2016
422	Uttar Pradesh	9967/24/7/2014	814	Failure in Taking Lawful Action	100000	8/30/2016
423	Uttarakhand	1227/35/6/2013	814	Failure in Taking Lawful Action	25000	3/6/2017
424	West Bengal	1066/25/13/2014	809	Custodial Torture	25000	2/8/2017
425	West Bengal	1107/25/2/2011-JCD	301	Custodial Death (Judicial)	500000	12/1/2016
426	West Bengal	127/25/15/2013-ED	812	Death in Police Encounter	500000	11/9/2016
427	West Bengal	1272/25/5/2012-JCD	301	Custodial Death (Judicial)	100000	12/5/2016
428	West Bengal	1315/25/11/2013	809	Custodial Torture	150000	6/20/2016
429	West Bengal	1356/25/13/2013-JCD	301	Custodial Death (Judicial)	100000	11/24/2016
430	West Bengal	1419/25/22/2013	804	Abuse of Power	150000	8/2/2016
431	West Bengal	157/25/13/09-10-AD	1716	Alleged Custodial Death	500000	9/1/2016
432	West Bengal	624/25/13/09-10-AD	1716	Alleged Custodial Death	500000	7/8/2016
433	West Bengal	79/25/5/2013-JCD	301	Custodial Death (Judicial)	100000	5/4/2016
434	West Bengal	81/25/5/2013-JCD	301	Custodial Death (Judicial)	100000	6/10/2016
435	West Bengal	915/25/17/2010-AFE	813	Alleged Fake Encounters	550000	11/9/2016



Annexure – 6

Para 2.37

**DETAILS OF CASES WHERE NHRC'S RECOMMENDATIONS FOR MONETARY RELIEF
MADE DURING 2015-2016 ARE PENDING FOR COMPLIANCE**

(Data as per CMS as on 14/03/2017)

Sl. No	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
1	Assam	282/3/9/2013-WC	1309	Indignity of Women	50000	29/03/2016
2	Assam	354/3/9/2013	1505	Inaction by State Government/ Central Government Officials	100000	29/10/2015
3	Bihar	1453/4/23/2013-JCD	301	Custodial Death (Judicial)	300000	02/06/2015
4	Bihar	180/4/26/2013	204	Irregularities in Government Hospitals/Primary Health Centres	300000	01/03/2016
*5	Bihar	1951/4/7/2012-JCD	301	Custodial Death (Judicial)	100000	30/10/2015
6	Chhattisgarh	835/33/14/2013-JCD	301	Custodial Death (Judicial)	100000	09/12/2015
7	Delhi	1907/30/0/2011	1505	Inaction by State Government/ Central Government Officials	600000	05/05/2015
8	Delhi	2315/30/10/2013	814	Failure in Taking Lawful Action	75000	04/11/2015
9	Delhi	2624/30/0/2013	804	Abuse of Power	50000	22/06/2015
10	Delhi	3925/30/7/2013-AD	822	Alleged Custodial Deaths in Police Custody	500000	31/03/2016
11	Delhi	5755/30/6/2013	814	Failure in Taking Lawful Action	100000	24/02/2016
12	Delhi	6565/30/8/2013	821	Victimization	250000	27/11/2015
13	Delhi	7146/30/0/2012	814	Failure in Taking Lawful Action	25000	10/12/2015
14	Delhi	969/30/1/2014-WC	1311	Rape	100000	05/05/2015
15	Haryana	1195/7/3/2014	815	False Implications	100000	24/06/2015
16	Haryana	1572/7/19/2014	503	Trouble by Anti-Social Elements	900000	07/11/2015
17	Haryana	2942/7/14/2011	1505	Inaction by State Government/ Central Government Officials	50000	27/05/2015
18	Haryana	3267/7/0/2011-BL	601	Bonded Labour	400000	14/05/2015
19	Haryana	5390/7/1/2012-JCD	301	Custodial Death (Judicial)	100000	07/07/2015
20	Haryana	9267/7/17/2014	1505	Inaction by State Government/ Central Government Officials	200000	15/09/2015
21	Jharkhand	1011/34/4/2012	804	Abuse of Power	50000	09/07/2015
22	Jharkhand	1155/34/11/2013	804	Abuse of Power	50000	11/06/2015
23	Jharkhand	1243/34/6/2013-PCD	807	Custodial Death (Police)	100000	10/12/2015
24	Jharkhand	1276/34/7/2012-JCD	301	Custodial Death (Judicial)	300000	11/06/2015
25	Jharkhand	130/34/6/2014	203	Malfunctioning Of Medical Professionals	400000	10/12/2015
26	Jharkhand	1383/34/5/2012-JCD	301	Custodial Death (Judicial)	300000	02/12/2015
27	Jharkhand	164/34/5/2013	305	Harassment Of Prisoners	100000	18/11/2015
28	Jharkhand	345/34/9/2013	1505	Inaction by State Government/ Central Government Officials	2400000	11/06/2015
29	Jharkhand	550/34/20/2012	814	Failure in Taking Lawful Action	80000	08/03/2016
30	Jharkhand	564/34/3/2013-WC	1307	Gang Rape	50000	21/04/2015
**31	Jharkhand	984/34/15/08-09	804	Abuse of Power	500000	06/05/2015
32	Madhya Pradesh	1298/12/7/2014	1904	Victimization	100000	26/02/2016
33	Madhya Pradesh	1598/12/2002-2003	1500	Miscellaneous	300000	02/07/2015



Sl. No	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
34	Madhya Pradesh	3446/12/8/2014	203	Malfunctioning of Medical Professionals	100000	19/10/2015
35	Madhya Pradesh	554/12/15/2015	1505	Inaction by State Government/ Central Government Officials	25000	24/02/2016
36	Madhya Pradesh	629/12/8/2014	106	Sexual Harassment	200000	22/01/2016
37	Madhya Pradesh	902/12/20/2013-PCD	807	Custodial Death (Police)	100000	28/10/2015
38	Maharashtra	2839/13/23/2015	204	Irregularities in Government Hospitals/Primary Health Centres	100000	06/01/2016
39	Maharashtra	2851/13/36/2015	204	Irregularities in Government Hospitals/Primary Health Centres	200000	06/01/2016
40	Maharashtra	2852/13/3/2015	204	Irregularities in Government Hospitals/Primary Health Centres	25000	21/01/2016
41	Maharashtra	2855/13/36/2015	204	Irregularities in Government Hospitals/Primary Health Centres	50000	06/01/2016
42	Maharashtra	2857/13/2/2015	203	Malfunctioning of Medical Professionals	50000	06/01/2016
43	Maharashtra	415/13/24/2010-PCD	807	Custodial Death (Police)	500000	14/10/2015
44	Manipur	16/14/6/2014-AD	822	Alleged Custodial Deaths in Police Custody	100000	22/09/2015
45	Odisha	1179/18/18/2014	1505	Inaction by State Government/ Central Government Officials	100000	10/02/2016
46	Odisha	1760/18/24/2014	204	Irregularities In Government Hospitals/Primary Health Centres	100000	17/02/2016
47	Odisha	2106/18/14/2013-WC	1903	Rape of SC/ST/OBC	100000	31/08/2015
48	Odisha	2296/18/28/2013-WC	1311	Rape	100000	19/08/2015
49	Odisha	395/18/28/2013	1505	Inaction by State Government/ Central Government Officials	100000	18/11/2015
50	Rajasthan	1617/20/26/2013-JCD	301	Custodial Death (Judicial)	100000	28/10/2015
51	Rajasthan	1651/20/2/2012	814	Failure in Taking Lawful Action	150000	22/07/2015
52	Rajasthan	1766/20/2/2013	804	Abuse of Power	300000	16/07/2015
53	Rajasthan	1904/20/14/2011-JCD	301	Custodial Death (Judicial)	50000	13/01/2016
54	Tamil Nadu	134/22/13/2015	106	Sexual Harassment	100000	13/11/2015
55	Telangana	1010/1/8/2013-WC	1301	Abduction, Rape & Murder	300000	18/11/2015
56	Telangana	1271/1/14/2013-WC	1311	Rape	300000	14/07/2015
57	Telangana	344/1/12/2012-JCD	301	Custodial Death (Judicial)	300000	10/12/2015
58	Tripura	1670/23/4/2013-JCD	301	Custodial Death (Judicial)	25000	14/03/2016
59	Tripura	1691/23/3/2013	204	Irregularities in Government Hospitals/Primary Health Centres	10000	29/03/2016
60	Tripura	8/23/5/2012	814	Failure in Taking Lawful Action	25000	30/11/2015
61	Uttar Pradesh	12023/24/46/2013	814	Failure in Taking Lawful Action	25000	26/10/2015
62	Uttar Pradesh	18355/24/68/2010-AD	822	Alleged Custodial Deaths In Police Custody	500000	13/05/2015
63	Uttar Pradesh	20006/24/60/2015	814	Failure in Taking Lawful Action	300000	18/02/2016
64	Uttar Pradesh	21330/24/34/2013	821	Victimization	25000	31/08/2015
65	Uttar Pradesh	22385/24/34/2013	814	Failure in Taking Lawful Action	25000	24/06/2015
66	Uttar Pradesh	22934/24/46/2013-WC	1311	Rape	25000	26/10/2015
67	Uttar Pradesh	24179/24/13/2011-AD	822	Alleged Custodial Deaths in Police Custody	500000	12/01/2016
68	Uttar Pradesh	24558/24/31/2013	817	Unlawful Detention	25000	25/06/2015



Sl. No	Name of the State/UT	Case No.	Incident Code	Nature of Complaint	Amount Recommended for Victims/ Next-of-kins (₹)	Date of Recommendation
69	Uttar Pradesh	25042/24/8/2014	814	Failure in Taking Lawful Action	25000	03/07/2015
70	Uttar Pradesh	25612/24/10/2013	204	Irregularities in Government Hospitals/Primary Health Centres	200000	31/08/2015
71	Uttar Pradesh	257/24/40/2014	806	Atrocities on SC/ST (By Police)	100000	14/07/2015
72	Uttar Pradesh	26047/24/7/2014	814	Failure in Taking Lawful Action	15000	01/10/2015
73	Uttar Pradesh	27481/24/71/2012-JCD	301	Custodial Death (Judicial)	100000	09/11/2015
74	Uttar Pradesh	27603/24/77/2014-WC	803	Abduction/Rape	100000	13/07/2015
75	Uttar Pradesh	29202/24/2006-2007-AD	822	Alleged Custodial Deaths in Police Custody	500000	24/06/2015
76	Uttar Pradesh	32498/24/1/2012-JCD	301	Custodial Death (Judicial)	100000	31/03/2016
77	Uttar Pradesh	34021/24/72/2013	814	Failure in Taking Lawful Action	300000	26/05/2015
78	Uttar Pradesh	35618/24/31/2012	814	Failure in Taking Lawful Action	25000	15/10/2015
79	Uttar Pradesh	36086/24/31/2013-WC	1304	Dowry Death or Their Attempt	100000	24/06/2015
80	Uttar Pradesh	39313/24/3/2014	1508	Atrocities By Custom/Excise/ Enforcement/Forest/Income-Tax Deptt., etc. of Central/State Govts.	25000	07/03/2016
81	Uttar Pradesh	39734/24/36/2013-WC	1304	Dowry Death Or Their Attempt	100000	19/08/2015
82	Uttar Pradesh	39952/24/31/2012	1505	Inaction by State Government/ Central Government Officials	250000	02/06/2015
83	Uttar Pradesh	40059/24/43/2012	804	Abuse of Power	100000	04/01/2016
84	Uttar Pradesh	40404/24/21/2011-JCD	301	Custodial Death (Judicial)	100000	25/06/2015
85	Uttar Pradesh	41114/24/25/2013-WC	1304	Dowry Death or Their Attempt	100000	22/01/2016
86	Uttar Pradesh	42106/24/6/2011-JCD	301	Custodial Death (Judicial)	300000	08/10/2015
87	Uttar Pradesh	43640/24/51/2013	817	Unlawful Detention	30000	08/09/2015
88	Uttar Pradesh	43743/24/46/2012-WC	1307	Gang Rape	300000	06/07/2015
89	Uttar Pradesh	44142/24/5/2011	1200	Service Matters	50000	01/12/2015
90	Uttar Pradesh	44241/24/72/2012	804	Abuse of Power	50000	20/01/2016
91	Uttar Pradesh	44339/24/62/2013	814	Failure in Taking Lawful Action	300000	17/04/2015
92	Uttar Pradesh	52622/24/48/08-09-AFE	813	Alleged Fake Encounters	500000	12/11/2015
93	Uttar Pradesh	6689/24/31/2013-JCD	301	Custodial Death (Judicial)	100000	02/12/2015
94	Uttar Pradesh	6973/24/2006-2007	812	Death in Police Encounter	500000	23/09/2015
95	West Bengal	614/25/16/2010-PCD	807	Custodial Death (Police)	500000	02/12/2015
96	West Bengal	84/25/19/2014	1505	Inaction by State Government/ Central Government Officials	600000	21/03/2016

* The recommendations made by the Commission for payment of monetary relief to the next-of-kin of the deceased victim (Sl. No.5) challenged by the Ministry of Railways in the High Court of Delhi, vide Writ Petition (Civil) No.1194/2017.

** Recommendations made by the Commission for payment of monetary relief to the next-of-kin of the deceased victim challenged by the Ministry of Railways, in the High Court of Ranchi, vide Writ Petition (Civil) No.5974/2015.

Annexure – 7

Para 2.37

DETAILS OF CASES PENDING COMPLIANCE OF NHRC RECOMMENDATIONS FROM 2000-2001 TO 2014-2015 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Incident code	Nature of Complaint	Amount Recommended for Victims/ Next-of-Kins (₹)	Date of Recommendation	Remarks
1	Andhra Pradesh	232/1/10/2014-WC	1307	Gang rape	100,000	30/01/2015	Andhra Pradesh
2	Bihar	1517/4/23/2011	100	Children	50,000	02/09/2014	Bihar
3	Bihar	1934/4/5/2013	106	Sexual Harassment (Children)	100,000	16/12/2014	Bihar
4	Bihar	2329/4/39/2011	106	Sexual Harassment (Children)	25,000	20/02/2015	Bihar
5	Bihar	258/4/8/2012-JCD	301	Custodial Death (Judicial)	100,000	08/09/2014	Bihar
6	Bihar	349/4/34/2013	816	Illegal Arrest	90,000	24/03/2015	Bihar
7	Delhi	252/30/8/2014	2006	Victimization (Foreigner's/NRI)	300,000	29/09/2014	Delhi
8	Delhi	4693/30/2005-2006	812	Death in Police Encounter	500,000	08/10/2014	Delhi
9	Delhi	6429/30/1/2012	204	Irregularities in Government Hospitals/PHC	300,000	20/10/2014	Delhi
10	Gujarat	128/6/23/2012	205	Lack of Proper Facilities in State	100,000	22/04/2014	Gujarat
11	Gujarat	500/6/19/2013-JCD	301	Custodial Death (Judicial)	100,000	03/11/2014	Gujarat
12	Jharkhand	254/34/1/2010-AD	309	Alleged Custodial Death in Judicial Custody	100,000	09/04/2014	Jharkhand
13	Jharkhand	589/34/22/2012-PF	1704	Abuse of Power by Para Military Forces	100,000	09/07/2014	Jharkhand
14	Kerala	354/11/13/2013-JCD	301	Custodial Death (Judicial)	300,000	23/12/2014	Kerala
15	Kerala	392/11/2/2013-JCD	301	Custodial Death (Judicial)	100,000	08/09/2014	Kerala
16	Madhya Pradesh	342/12/36/2013	1505	Inaction by State Government/ Central Government Officials	3,000,000	24/04/2014	Madhya Pradesh
17	Madhya Pradesh	430/12/32/2012	604	Hazardous Employment	1,200,000	11/09/2014	Madhya Pradesh
18	Maharashtra	3622/13/33/2012	814	Failure in Taking Lawful Action	25,000	22/12/2014	Maharashtra
19	Odisha	2463/18/18/2013	100	Children	300,000	26/09/2014	Odisha
20	Odisha	3246/18/17/2012	804	Abuse of Power by Police	25,000	16/02/2015	Odisha
21	Rajasthan	142/20/14/2014-WC	1301	Abduction, Rape & Murder	300,000	22/12/2014	Rajasthan
22	Rajasthan	258/20/29/09-10-JCD	301	Custodial Death (Judicial)	200,000	16/07/2014	Rajasthan
23	Rajasthan	2841/20/14/2012-JCD	301	Custodial Death (Judicial)	100,000	30/03/2015	Rajasthan
24	Tamil Nadu	101/22/13/2014-WC	2003	Rape of Foreigners/ NRIs	100,000	17/02/2015	Tamil Nadu
25	Telangana	634/1/7/2012-JCD	301	Custodial Death (Judicial)	100,000	30/06/2014	Telangana
26	Uttar Pradesh	13267/24/56/2013	814	Failure in Taking Lawful Action	100,000	21/10/2014	Uttar Pradesh
27	Uttar Pradesh	15672/24/1/2012	817	Unlawful Detention by Police	20,000	25/08/2014	Uttar Pradesh
28	Uttar Pradesh	18450/24/51/2013	804	Abuse of Power by Police	20,000	23/03/2015	Uttar Pradesh
29	Uttar Pradesh	19687/24/4/2013	817	Unlawful Detention by Police	100,000	12/02/2015	Uttar Pradesh
30	Uttar Pradesh	20381/24/72/2013	809	Alleged Physical Torture & Illegal Detention by Police	100,000	28/10/2014	Uttar Pradesh
31	Uttar Pradesh	2061/24/54/2013	804	Abuse of Power by Police	50,000	06/08/2014	Uttar Pradesh
32	Uttar Pradesh	2629/24/54/2012	817	Unlawful Detention by Police	50,000	30/01/2015	Uttar Pradesh
33	Uttar Pradesh	26885/24/48/2011	203	Malfunctioning of Medical Professionals	300,000	16/12/2014	Uttar Pradesh
34	Uttar Pradesh	30596/24/3/2012-JCD	301	Custodial Death (Judicial)	100,000	02/01/2015	Uttar Pradesh
35	Uttar Pradesh	31257/24/3/2013	203	Malfunctioning of Medical Professionals	300,000	20/01/2015	Uttar Pradesh
36	Uttar Pradesh	33505/24/26/2012-JCD	301	Custodial Death (Judicial)	300,000	06/06/2014	Uttar Pradesh
37	Uttar Pradesh	34906/24/1/2012	1505	Inaction by State Government/ Central Government Officials	200,000	04/04/2014	Uttar Pradesh
38	Uttar Pradesh	35842/24/25/2011-WC	1307	Gang Rape	100,000	05/03/2015	Uttar Pradesh



Sl. No.	Name of the State/UT	Case No.	Incident code	Nature of Complaint	Amount Recommended for Victims/ Next-of-Kins (₹)	Date of Recommendation	Remarks
39	Uttar Pradesh	35845/24/4/2012-WC	1301	Abduction, Rape & Murder	100,000	06/08/2014	Uttar Pradesh
40	Uttar Pradesh	38710/24/79/2013-WC	1903	Rape of SC/ ST/OBCs	75,000	16/02/2015	Uttar Pradesh
41	Uttar Pradesh	39032/24/68/2012	109	Disappearance/ Missing	300,000	30/03/2015	Uttar Pradesh
42	Uttar Pradesh	39182/24/1/2012-AD	309	Alleged Custodial Death in Judicial Custody	100,000	16/02/2015	Uttar Pradesh
43	Uttar Pradesh	43723/24/72/2012-JCD	301	Custodial Death (Judicial)	100,000	09/09/2014	Uttar Pradesh
44	Uttar Pradesh	5581/24/72/2010	809	Alleged Physical Torture & Illegal Detention by Police	25,000	25/08/2014	Uttar Pradesh
45	Uttar Pradesh	6066/24/56/2014-AD	822	Alleged Custodial Death in Police Custody	500,000	18/03/2015	Uttar Pradesh
46	Uttar Pradesh	7876/24/54/2014	800	Police	100,000	12/08/2014	Uttar Pradesh
47	Uttar Pradesh	8324/24/18/08-09-ED	812	Death in Police Encounter	500,000	17/07/2014	Uttar Pradesh
48	Andhra Pradesh	1042/1/5/2012-PCD	807	Custodial Death (Police)	200000	25-03-2014	Proof of payment awaited
49	Assam	259/3/7/2011-ED	812	Death in Police Encounter	1000000	05-12-2013	Proof of payment awaited
50	Bihar	2572/4/8/08-09-AD	1716	Alleged Custodial Death	500000	21-08-2013	Proof of payment awaited
51	Bihar	4589/4/35/2012	1505	Inaction by State Government/ Central Government Officials	200000	21-10-2013	Proof of payment awaited
52	Delhi	3500/30/0/2011	800	Police	100000	15-05-2013	Proof of payment awaited
53	Gujarat	1012/6/9/2011	202	Public Health Hazards	2500000	22-10-2013	Proof of payment awaited
54	Jammu & Kashmir	370/9/3/2012	203	Malfunctioning of Medical Professionals	600000	31-03-2014	Proof of payment awaited
55	Jharkhand	380/34/11/2010	1505	Inaction by State Government/ Central Government Officials	150000	18-12-2013	Proof of payment awaited
56	Kerala	91/11/7/2012-JCD	301	Custodial Death (Judicial)	100000	07-03-2014	Proof of payment awaited
57	Madhya Pradesh	485/12/5/2012	104	Exploitation of Children	35000	31-10-2013	Proof of payment awaited
58	Maharashtra	334/13/2006-2007-CD	807	Custodial Death (Police)	500000	08-08-2013	Proof of payment awaited
59	Maharashtra	558/13/11/08-09-PCD	807	Custodial Death (Police)	500000	01-01-2014	Proof of payment awaited
60	Manipur	108/14/4/2011-AD	309	Alleged Custodial Deaths in Judicial Custody	200000	07-05-2013	Proof of payment awaited
61	Rajasthan	1345/20/21/09-10-JCD	301	Custodial Death (Judicial)	300000	26-08-2013	Proof of payment awaited
62	Rajasthan	642/20/29/2013-WC	803	Abduction/Rape	300000	07-03-2014	Proof of payment awaited
63	Uttar Pradesh	14844/24/39/2010	203	Malfunctioning of Medical Professionals	300000	25-09-2013	Proof of payment awaited
64	Uttar Pradesh	1553/24/2006-2007	812	Death in Police Encounter	500000	16-01-2014	Proof of payment awaited
65	Uttar Pradesh	15725/24/20/2011	816	Illegal Arrest	50000	12-03-2014	Proof of payment awaited
66	Uttar Pradesh	20803/24/2006-2007	812	Death in Police Encounter	500000	16-01-2014	Proof of payment awaited
67	Uttar Pradesh	20804/24/24/2010	1202	Non-Payment of Pension/ Compensation	50000	27-01-2014	Proof of payment awaited



Sl. No.	Name of the State/UT	Case No.	Incident code	Nature of Complaint	Amount Recommended for Victims/ Next-of-Kins (₹)	Date of Recommendation	Remarks
68	Uttar Pradesh	24089/24/12/08-09-FE	813	Alleged Fake Encounters	1000000	17-04-2013	Proof of payment awaited
69	Uttar Pradesh	2547/24/4/09-10-DH	108	Death in Judicial Custody	300000	27-09-2013	Proof of payment awaited
70	Uttar Pradesh	2655/24/34/2012-AD	822	Alleged Custodial Deaths in Police Custody	300000	31-03-2014	Proof of payment awaited
71	Uttar Pradesh	2888/24/2005-2006	812	Death in Police Encounter	500000	20-11-2013	Proof of payment awaited
72	Uttar Pradesh	33018/24/20/2010-PCD	807	Custodial Death (Police)	100000	11-12-2013	Proof of payment awaited
73	Uttar Pradesh	34109/24/24/2011-AD	822	Alleged Custodial Deaths in Police Custody	100000	27-06-2013	Proof of payment awaited
74	Uttar Pradesh	34188/24/72/2013	1901	Atrocities on SC/ST/OBC	200000	26-11-2013	Proof of payment awaited
75	Uttar Pradesh	3656/24/2005-2006	813	Alleged Fake Encounters	500000	15-01-2014	Proof of payment awaited
76	Uttar Pradesh	38084/24/2005-2006	812	Death in Police Encounter	500000	08-01-2014	Proof of payment awaited
77	Uttar Pradesh	3885/24/45/2012-ED	812	Death in Police Encounter	500000	16-01-2014	Proof of payment awaited
78	Uttar Pradesh	39743/24/3/2010-ED	812	Death in Police Encounter	500000	03-04-2013	Proof of payment awaited
79	Uttar Pradesh	40795/24/31/2011-ED	812	Death in Police Encounter	500000	11-12-2013	Proof of payment awaited
80	Uttar Pradesh	41496/24/2000-2001	816	Illegal Arrest	1000000	05-12-2013	Proof of payment awaited
81	Uttar Pradesh	42032/24/27/2012-WC	1301	Abduction, Rape & Murder	100000	20-01-2014	Proof of payment awaited
82	Uttar Pradesh	43024/24/2006-2007	812	Death in Police Encounter	500000	12-11-2013	Proof of payment awaited
83	Uttar Pradesh	43091/24/17/2012-WC	1311	Rape	50000	17-09-2013	Proof of payment awaited
84	Uttar Pradesh	44122/24/40/2010-PCD	807	Custodial Death (Police)	100000	16-01-2014	Proof of payment awaited
85	Uttar Pradesh	452/24/37/2011-ED	812	Death in Police Encounter	500000	15-01-2014	Proof of payment awaited
86	Uttar Pradesh	47835/24/2006-2007	812	Death in Police Encounter	500000	16-01-2014	Proof of payment awaited
87	Uttar Pradesh	53582/24/72/07-08	812	Death in Police Encounter	500000	19-12-2013	Proof of payment awaited
88	Uttar Pradesh	6855/24/56/2012	203	Malfunctioning of Medical Professionals	300000	02-09-2013	Proof of payment awaited
89	Uttar Pradesh	8584/24/57/2012	814	Failure in Taking Lawful Action	1000000	12-02-2014	Proof of payment awaited
90	Uttarakhand	1597/35/2006-2007	813	Alleged Fake Encounters	500000	05-02-2014	Proof of payment awaited
91	Bihar	1817/4/32/2011	1505	Inaction by State Government/ Central Government Officials	1400000	19/11/2012	Proof of payment awaited
92	Bihar	1818/4/1/2011	1505	Inaction by State Government/ Central Government Officials	400000	30/08/2012	Proof of payment awaited
93	Chandigarh	43/27/0/2010		Irregularities in Government Hospitals/Primary Health Centres	50,000	19.03.2012	Proof of payment awaited
94	Delhi	5494/30/0/2010	1505	Inaction by State Government/ Central Government Officials	900000	15/10/2012	Proof of payment awaited



Sl. No.	Name of the State/UT	Case No.	Incident code	Nature of Complaint	Amount Recommended for Victims/ Next-of-Kins (₹)	Date of Recommendation	Remarks
95	Delhi	2843/30/1/2010	1505	Inaction by State Government/ Central Government Officials	1,00,000	20.01.2012	Proof of payment awaited
96	Jammu & Kashmir	55/9/2003-2004-ad	822	Alleged Death in the Custody of Jammu Police (Complaint)	5,00,000	19.08.2009	The State Government has challenged the recommendation of the Commission in the J & K High Court.
97	Jammu & Kashmir	206/9/2003-2004 M-4	1508	Damage of House by the Government (Complaint)	2,00,000	23.11.2009	The State Government has challenged the recommendation of the Commission in the J & K High Court.
98	Kerala	43/11/2002-2003-cd	301	Death in Judicial Custody	1,50,000	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
99	Manipur	8/14/2004-2005-AF		Custodial Death (Defence)	10,00,000	26/07/2012	Proof of payment awaited
100	Odisha	157/18/24/09-10	1508	Atrocities by Custom/Excise/ Enforcement/Forest/Income-tax Dept., etc. of Central/ State Govts.	400000	27/12/2012	Proof of payment awaited
101	Odisha	123/18/1999-2000	809	Alleged physical Torture & Illegal Detention by Police	Disciplinary action	31.07.2000	The State Government 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.
102	Punjab	377/19/8/09-10-JCD	301	Custodial Death (Judicial)	100000	30/11/2012	Proof of payment awaited
103	Uttar Pradesh	41459/24/1/2010	814	Failure in Taking Lawful Action	100000	28/03/2013	Proof of payment awaited
104	Uttar Pradesh	30217/24/2002-2003-cd	301	Death in Judicial Custody (Intimation)	10000	20.02.2008	Compliance report is awaited.
105	Uttar Pradesh	39058/24/2003-2004 (FC)	813	Killing 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
106	Uttar Pradesh	38166/24/2006-2007-cd M-5	301	Death in Judicial Custody (Intimation)	100000	31.10.2009	Proof of payment awaited

Annexure – 8

Para 14.12

NHRC Message on 9th December 2016 (Human Rights Defenders Day) Pledging Continued Support to the Human Rights Defenders**MESSAGE**

“Today, on 9th December, the day when the Declaration on Human Rights Defenders was adopted in the year 1998 by the UN General Assembly, the National Human Rights Commission of India reiterates its resolve to strengthen the Human Rights Defenders as an integral part in its endeavour to strengthen the human rights culture in India and across the globe.

HRDs have always been instrumental in fighting for the cause of human rights. However, their efforts were provided impetus through the Declaration on Human Rights Defenders. NHRC, India too, right since inception in 1993, has considered HRDs as its partners and has played a very important role in promoting and protecting the rights of HRDs.

The creation of Focal Point for HRDs and inclusion of chapter on HRDs in the Annual Report are just few of the novel initiatives undertaken by the Commission. NHRC gives special attention to complaints of alleged harassment of HRDs. These complaints are registered as separate category for proper monitoring and follow up. The Commission takes all possible steps, as per law and based on merits, to provide an effective and substantive relief to the HRDs while dealing with complaints pertaining to them.

The Commission organized a National Workshop on Human Rights Defenders on 19th February, 2015. A large number of important stakeholders participated in the deliberations and arrived at certain recommendations. It will be the endeavour of the Commission to see that the recommendations pertaining to promotion and protection of Human Rights Defenders are acted upon by the relevant stakeholders. The Commission interacts with the Human Rights Defenders at all levels to understand their problems and bottlenecks. The Commission meets the NGOs/HRDs through the Focal Point for HRDs by participating in various programmes/events across the country. Further during the Open Hearings / Camp Sitzings, the Commission organizes special interaction session with the HRDs and representatives of NGOs. The feedback received during these interactions are given due consideration by the Commission and all possible steps are taken to ameliorate the problems being faced by them.

The Commission also came out with the publication titled “NHRC and Human Rights Defenders : The Growing Synergy” which was released by the Vice President of India on 10th December, 2013 i.e. the Human Rights Day. The book details the role being played by the National Human Rights Commission in promoting and protecting the rights of HRDs. It is very heartening to note that this book has been appreciated by all the stakeholders including academicians and lawyers.



Another issue of great importance taken up by the Commission recently is the non-renewal of licenses of some of NGOs/HRDs under Foreign Contribution Regulation Act(FCRA). Taking suo-motu cognizance of the matter, the Commission has drawn the attention of the Government of India to the report of the UN Special Rapporteur on Freedom of Association and Assembly wherein it was argued that FCRA is not in conformity with international law, principles and standards, as access to resources including the foreign funding is a fundamental part of the right to freedom of association. Any limitation on such access to foreign funding has to be (a) prescribed by law (b) imposed solely to protect national security, public safety, public order, public health or morals, or the rights and freedoms of others and (c) necessary in a democratic society such as rights and freedoms of others.

The Commission has taken a prima-facie view that non-renewal of FCRA license is neither legal nor objective and thereby, impinges on the rights of the HRDs. The Commission has directed Secretary (Home), Government of India to send information on the number of NGOs whose licenses have not been renewed in the last three years, how litmus test laid down by the UN Special Rapporteur on Freedom of Association and Assembly is applied in the adjudication by the Central Government and to demonstrate how the generic aspect of access to foreign funding and continuance of the same is not the right to form association and is not against international law, standards and principles. The Commission is closely pursuing the matter.

The Commission is also perturbed by the incident in the State of Chhattisgarh where human rights activists, including academicians etc., are being named in the FIRs. Taking suo-motu cognizance of the matter, the Commission observed that it is deeply disturbed by the state of affairs in Chhattisgarh and has taken up the matter with the Chief Secretary, Government of Chhattisgarh and IGP, Bastar Range.

The Commission, therefore, would like to reiterate that the Human Rights Defenders play an important role in its endeavour to promote and protect human rights in the country. Bonafide interests of Human Rights Defenders should be protected and the State should create and maintain a safe and enabling environment for HRDs where human rights are promoted and protected. The Commission at the same time exhorts the HRDs and civil society actors to bear in mind that national interest is above all other interests and that they should be guided in their actions by the same.

The Commission would also like to express its heartfelt thanks to the State Actors like Police, Army, Armed Police Forces, etc., who are also the Human Rights Defenders fighting and laying down their lives in its effort to uphold and protect the right to life, liberty, equality and dignity of the citizens of India.”

Justice H.L. Dattu
Chairperson, NHRC, India

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
CFNHRI	: Commonwealth Forum of National Human Rights Institutions
COP 21	: 21st Conference of the Parties
CPCB	: Central Pollution Control Board
Cr.P.C.	: Criminal Procedure Code
CRPF	: Central Reserve Police Force
DD	: Daily Diary
DGP	: Director General of Police
DM	: District Magistrate
FIR	: First Information Report
FSL	: Forensic Science Laboratory
GANHRI	: Global Alliance of National Human Rights Institutions
GD	: General Diary
GPF	: Gratuity Provident Fund
GRP	: Government Railway Police
HC	: Head Constable
HQs./Hqrs.	: Headquarters
ICC	: International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
IO	: Investigating Officer
I&PRO	: Information & Public Relations Officer
IPC	: Indian Penal Code
JCL	: Juveniles in conflict with law
JJA	: Juvenile Justice (Care & Protection of Children) Act, 2000
LFs	: Linked Files



MER	: Magisterial Enquiry Report
MGNREG Scheme	: Mahatma Gandhi National Rural Employment Guarantee Scheme
M/o	: Ministry of
NCR	: National Capital Region
NCRB	: National Crime Record Bureau
NCT	: National Capital Territory
OBC	: Other Backward Classes
PC & PNDT Act	: Pre-conception & Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
PD	: Physical Drill
PDS	: Public distribution system
PHR Act /PHRA	: 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
SOPs	: Standard Operating Procedures
SP	: Superintendent of Police
SSP	: Sr. Superintendent of Police
ST	: Scheduled Tribes
STF	: Special Task Force
UP	: Uttar Pradesh
u/s	: under section
w/o	: wife of