



**2012-2013**

# **ANNUAL REPORT**

**National Human Rights Commission  
India**



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# CONTENTS

CHAPTER-1	INTRODUCTION	1
CHAPTER-2	HIGHLIGHTS	3
CHAPTER-3	NHRC : ORGANIZATION AND FUNCTIONS	17
CHAPTER-4	CIVIL AND POLITICAL RIGHTS	23
	A. Terrorism and Militancy	23
	B. Custodial Violence and Torture	24
	C. Illustrative Cases	25
	<b>a) Custodial Deaths</b>	25
	<i>Judicial Custody</i>	25
	1. Suicide by Undertrial Prisoner Ramesh Kumar in District Jail, Sirsa, Haryana (Case No. 2558/7/18/2011-JCD & Linked File 2560/7/18/2011-AD)	25
	2. Death of Undertrial Prisoner Shankar Dadaju Ghume in District Prison, Wardha, Maharashtra (Case No. 1165/13/31/08-09-JCD)	26
	3. Death of Undertrial Prisoner Raju in Rohini District Jail, Delhi (Case No. 1523/30/0/2011-JCD)	27
	4. Death of Undertrial Prisoner Lal Mahatoo in District Jail, Sivasagar, Assam (Case No. 4/3/15/2012-JCD)	28
	5. Death of Sivakumar in Judicial Custody in Tiruchirapalli due to Torture by Police (Case No. 1014/22/36/08-09-JCD)	29

6.	Death of Chaitu Potai in Judicial Custody in North Bastar, Chhattisgarh (Case No. 451/33/8/2011-JCD [Link File Case No. 520/33/8/2011-AD])	30
	<i>Police Custody</i>	33
7.	Death due to Police Torture in Kerala (Case No. 112/11/10/2010-PCD [L/F 113/11/10/2010-AD])	33
8.	Death of an Innocent Person in Police Custody in Jharkhand (Case No. 685/34/7/2011-PCD)	34
9.	Death of Chukka Bala Anthony in Central Jail, Kadapa, Andhra Pradesh (Case No. 586/1/11/08-09-AD)	35
10.	Death of Ghanshyam Lalchand Desani in P.S. Kareli, Vadodara, Gujarat (Case No. 145/6/2005-2006-CD)	37
11.	Death of Rajbal in Police Custody in Chhapar, Muzaffarnagar, Uttar Pradesh (Case No. 14530/24/57/09-10-PCD)	38
12.	Death of Sandeep Kumar in P.S. Narnaud, Hissar, Haryana (Case No. 1969/7/6/2010-PCD)	39
	<i>Para-Military/Defence Forces Custody</i>	40
13.	Death due to Custodial Violence by Army in Assam (Case No. 64/3/2/2011-PCD)	40
	<b>b) Illegal Detention and Torture</b>	<b>42</b>
14.	Suo Motu Cognizance of Brutal Torture Meted Out to a Woman by Police in Central Jail, Raipur, Chhattisgarh (Case No. 517/33/3/2011)	42
15.	Illegal Detention and Torture of a Woman in Police Station Majhola, Moradabad District, Uttar Pradesh (Case No. 31558/24/56/2010)	44

16.	Torture & Inhuman Treatment of Vinu at Viyyur Central Jail, Thrissur, Kerala (Case No. 191/11/13/2012)	45
	<b>c) State Government's Indifference</b>	<b>46</b>
17.	Apathy of the State Government Towards Victims of Bomb Blast in Imphal (Case No. 90/14/4/2011)	46
	<b>d) Police High-Handedness</b>	<b>47</b>
18.	Inhuman Handling of a Girl by Delhi Police (Case No. 892/30/2/2011)	47
19.	False Implication of Wife and Other Relatives by Police in Haryana (Case No. 1486/7/3/2011)	48
	<b>e) Deaths in Police Firing and Encounter</b>	<b>50</b>
20.	Death of Two Civilians in Police Firing in Dakshin Kannada, Karnataka (Case No. 683/10/19/07-08)	50
21.	Death of Francis Tirkey in Encounter during a Joint Operation of Police and Army in Karbi Anglong, Assam (Case No. 272/3/8/2010-ED)	52
22.	Death of Angad Sonkar during Police Encounter in Azamgarh, Uttar Pradesh (Case No. 9057/24/6/08-09-ED)	53
23.	Alleged Fake Encounter of a Tribal Youth in Odisha (Case No. 702/18/14/2010-PF-AFE)	54
24.	Death of Avireni Sudhakar During Police Encounter in Nalgonda, Andhra Pradesh (Case No. 781/1/14/07-08)	55
	<b>f) Electrocutation Cases</b>	<b>57</b>
25.	Electrocutation of Nine Passengers in Saiha District, Mizoram (Case No. 8/16/0/2011)	57

26.	Alleged Death of Nine Persons and Injuries Caused to Many Others due to Negligence by Bihar State Electricity Board, Rohtas, Bihar (Case No. 1922/4/28/2011)	59
27.	Compensation to Widow of the Victim who Died of Electrocution in Bhubaneswar, Odisha (Case No. 2778/18/28/2011)	61
D.	Conditions in Prisons	62
a)	Visits to Jails	62
b)	Analysis of Prison Population	63
E.	Follow up Action on Recommendations of the National Seminar on Prison Reforms	63
<b>CHAPTER-5</b>	<b>RIGHT TO HEALTH</b>	<b>65</b>
A.	Silicosis	66
B.	Mental Health	66
1.	National Seminar on Human Rights and Mental Health Care	67
2.	Plight of Mentally Ill Persons Languishing in Chamatkari Hanumanji Temple in Chhindwara District of Madhya Pradesh	68
3.	Status of Mental Health Institutions: Filing of Application in Supreme Court	69
4.	Visit Reports of Special Rapporteurs to Mental Health Institutions	72
5.	Ranchi Institute of Neuro-Psychiatry and Allied Sciences	73
6.	Institute of Psychiatry and Human Behaviour, Bambolim, Goa	74
C.	Illustrative Cases on Health Dealt by NHRC	76
1.	Death of Five Persons Employed in Stone Crushing Factories of Godhra in Gujarat (Case No. 1012/6/9/2011)	76

2.	Medical Negligence by Staff of Maternity Sub-Centre in Chilla, District Banda, Uttar Pradesh (Case No. 20811/24/12/2010)	77
3.	Slaughter of Animals in Residential Area Causes Pollution of Air and Ground Water in District Saharanpur, Uttar Pradesh (Case No. 32160/24/64/2012)	78
4.	Enormous Pollution Caused by ACC Company in Khaliapali, District Bargarh, Odisha (Case No. 2071/18/17/2012)	79
5.	Death of Adolescent Girl due to Medical Negligence (Case No. 36256/24/61/2010)	80
<b>CHAPTER-6</b>	<b>RIGHT TO FOOD</b>	<b>83</b>
A.	National Conference on Right to Food	85
B.	Illustrative Cases on Right to Food Dealt by NHRC	90
1.	Students Thrashed for Refusing to Eat Insect Infested School Meal in District Vaishali, Bihar (Case No. 2432/4/39/2012)	90
2.	Death of Two Minor Scheduled Caste Sisters in District Raichur, Karnataka due to Malnutrition (Case No. 31/10/17/2012)	91
3.	Poor Implementation of Health Schemes in Jharkhand Leading to Malnutrition (Case No. 125/34/0/2012)	92
<b>CHAPTER-7</b>	<b>RIGHT TO EDUCATION</b>	<b>93</b>
A.	Illustrative Cases on Right to Education	94
1.	Discrimination against a Student in Issuing of NOC for Migration by an Institute Affiliated to Guru Gobind Singh I.P. University, Delhi (Case No. 5762/30/7/2011)	94
2.	Denial of Extra Time of 20 Minutes per hour in Examinations to Persons Having 80% Disability (Case No. 2872/30/3/2011)	95

3.	Pathetic condition of Primary School in, Bhelkha village in Varanasi District (Case No. 9673/24/72/2011)	96
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<b>CHAPTER-8</b>	<b>RIGHTS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER VULNERABLE GROUPS</b>	<b>99</b>
A.	Action Taken on Recommendations Made in Report on Prevention of Atrocities against Scheduled Castes	100
	NHRC's Open Hearings on Atrocities against Scheduled Castes	100
	Visit to Scheduled Caste Prone Districts by Special Rapporteurs	106
B.	SC/ST Protection Cells in the States/UTs	107
C.	NHRC Workshops on Bonded & Child Labour	108
D.	Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India	109
E.	Action Taken Report on Recommendations of National Workshop on Manual Scavenging and Sanitation	110
F.	Illustrative Cases Dealt by NHRC Concerning Scheduled Castes, Scheduled Tribes and Other Vulnerable Groups	112
1.	Rape of a Scheduled Caste Woman by a Sub-Inspector of Bhimasar Police Station in District Kutch, Gujarat (Case No. 580/6/14/2010-WC)	112
2.	Maintenance of Registers/Records by Brick-kiln Owners of Uttar Pradesh for Better Enforcement of Bonded Labour System (Abolition) Act (Case No. 16893/24/31/2010-BL)	113
3.	Tonsuring a Female Thief on Instructions Given by Panchas of Village Gilhabadi, District Kishanganj, Bihar (Case No. 1332/4/18/2012)	114
4.	Suicide of a Scheduled Caste due to Atrocities Committed by the Panchayat in District Salem, Tamil Nadu (Case No. 1462/22/31/2012)	115





5.	Rehabilitation of Bonded Labourers in Bihar (Case No. 2097/4/29/2007-2008)	116
6.	Alleged Exploitation of Reang Families in Tripura (Case No. 8/23/5/2012)	116
7.	Assault on Scheduled Caste and Non-registration of FIR in Devala Police Station, District Nilgris, Tamil Nadu (Case No. 1559/22/35/2012)	118
8.	Redressal of Safai Karmacharis Grievances in Maharashtra (Case No. 2376/13/2/2012)	119
<b>CHAPTER-9</b>	<b>RIGHTS OF WOMEN AND CHILDREN</b>	<b>121</b>
A.	Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation across Key States: Follow-up of Recommendations	122
B.	NHRC's Comments on National Policy for Children	124
C.	NHRC's Comments on Draft Cabinet Note for Amendments to Juvenile Justice Act (Care and Protection of Children) Act, 2000	125
D.	NHRC's Comments on Draft Cabinet Note for Amendment to the Dowry Prohibition Act, 1961	126
E.	NHRC's Comments on Draft Cabinet Note for Amendments to Immoral Traffic Prevention Act (ITPA), 1956	127
F.	The Human Rights of Women and Girls, Gender Equality : The Role of National Human Rights Institutions	129
G.	Report of Special Rapporteur, NHRC on Children's Facilities in Allahabad, Uttar Pradesh	131
H.	Consultation on 'Violence Against Women'	133
I.	National Conference on Missing Children	133
J.	Illustrative Cases Dealt by NHRC Relating to Rights of Women and Children	137

1.	Abduction and Rape of a Minor Girl and Police Inaction in District Sonebhadra, Uttar Pradesh (Case No. 16964/24/69/09-10-WC)	137
2.	Sexual Assault of Students in a School Run by Government of Odisha (Case No. 408/18/32/2011-WC)	138
3.	Gang rape of a 21 year Hapless Woman by a Constable and his Friend in Mumbai (Case No. 1923/13/16/2010-WC)	139
4.	Rape of a Mentally Retarded Minor Girl (Case No. 155/7/16/2010-WC)	140
5.	Rape of an 18 Year Girl by Policemen in Campus of P.S. Choti Sadri, District Pratapgarh, Rajasthan (Case No. 8087/24/59/2012-AR)	141
6.	Kidnapping and Blackmailing of Two Girls by Police Sub-Inspector in Chander Nagar, Madhya Pradesh (Case No. 1812/12/21/2011-WC)	141
7.	Misery of Widows Residing in Swadhar Mahila Ashray Kendra in District Vrindavan, Mathura, Uttar Pradesh (Case No. 2507/24/52/2012)	142
<b>CHAPTER-10</b>	<b>RIGHTS OF ELDERLY PERSONS</b>	<b>145</b>
A.	Research Project on Sense of Security among Older Persons and Their Human Rights	147
B.	Right to Life with Dignity	147
C.	Illustrative Cases Dealt by NHRC on Rights of Elderly Persons	149
1.	Delayed Payment of Retirement Benefits to Widow of an Employee of Social Welfare Department, Government of Uttar Pradesh after 31 Years (Case No. 20804/24/24/2010)	149

2.	Non-Payment of Retirement Benefits to Widow of an Employee of Social Welfare Department, Government of Uttar Pradesh (Case No. 24824/24/22/09-10)	149
3.	Delayed Payment of Dues to Widow and Job to Son of Deceased Employee by Bharat Coking Coal Limited (Case No. 636/34/4/2010)	150
4.	Stoppage of Family Pension to an Elderly Woman (Case No. 325/30/3/2011)	151
5.	Non-Payment of Retirement Benefits to Class IV Employee (Case No. 762/30/0/2012)	153
6.	Inordinate Delay in Settlement of Terminal Benefits (Case No. 1529/1/5/2011)	154
7.	Non-payment of Terminal Benefits to Dependents of Ex-serviceman (Case No. 1365/35/9/2011)	155
8.	Payment of Retirement Benefits to Executive Engineer Working with Government of Madhya Pradesh after Death (Case No. 1153/12/22/09-10)	156
9.	Payment of Retiral Benefits to an Employee of OFDC, District Rayalgarh, Odisha (Case No. 2559/18/32/2011)	157
10.	Payment of Retiral Benefits to an Employee of Oil India Limited (Case No. 181/4/16/2011)	157
11.	Non-payment of Special Pension to Widow of a Deputy Jailor in Mirzapur, Uttar Pradesh (Case No. 23002/24/2002-03)	157
12.	Non-Payment of Pension and Other Dues to an Elderly Person in Uttar Pradesh (Case No. 988/24/47/2012)	158

	13. Non-Payment of Pension and Other Dues to an Elderly Person in Jharkhand (Case No. 256/34/18/2012)	158
<b>CHAPER-11</b>	<b>RIGHTS OF PERSONS WITH DISABILITIES</b>	<b>159</b>
A.	Country Report on Rights of Persons with Disabilities	160
B.	Rights of Print Disabled Persons	162
C.	National Conference on Leprosy	162
D.	Awareness Programme on Leprosy	165
E.	Illustrative Cases Dealt by NHRC Relating to Rights of Persons with Disabilities	165
1.	Discrimination, Harassment and Torched upon Differently Abled Persons at Andaman and Nicobar Island (Case No. 47/26/0/2012)	165
2.	Denial of Equal Opportunity to Persons with Disability in Odisha (Case No. 489/18/0/2013)	166
3.	Denial of Benefits Available to the Physically Challenged Employees of the State of Maharashtra. (Case No. 3688/13/16/2012)	166
4.	Denial of Extra Time in Examination to Handicapped Students (Case No. 934/13/17/2012)	167
<b>CHAPTER-12</b>	<b>HUMAN RIGHTS EDUCATION, TRAINING AND AWARENESS</b>	<b>169</b>
A.	Training Programmes Organized by NHRC	169
B.	Summer and Winter Internship Programmes	169
C.	Short-term Internship Programmes	170
D.	Sensitization Programme on Human Rights for BSF Officers	170
E.	Sensitization Programme on Human Rights for KVS Officers	171



F.	Training Programme for RPF Probationers	171
G.	Hindi Fortnight at NHRC	171
H.	Foundation Day Celebrations	171
I.	Debate Competition for Para-Military Forces	172
J.	Training Programme for Indian Foreign Service Probationers	172
K.	Human Rights Day Celebrations	173
L.	National Conference on Human Rights Education	174
M.	Workshop on Human Rights Training in Police and Para-Military Organizations	175
N.	Interaction with Visiting Students/Trainees from Various Colleges/Universities of India	175
<b>CHAPTER-13</b>	<b>HUMAN RIGHTS DEFENDERS</b>	<b>177</b>
A.	Resolution Protecting Human Rights Defenders	177
B.	Role of NHRC-India	178
C.	Focal Point for Human Rights Defenders in NHRC	178
D.	Illustrative Cases Dealt by NHRC Relating to Human Rights Defenders	179
1.	Alleged Torture of Human Rights Defenders by Police in District Coimbatore, Tamil Nadu (Case Nos.634/22/13/2010 & 635/22/13/2010)	178
2.	Alleged Threat to Human Rights Defender Opposing Police Inaction in District Varanasi, Uttar Pradesh (Case No.20903/24/72/2011 LFs 21069/24/72/2011 & 22280/24/72/2011)	179
3.	Alleged Unlawful Detention of an RTI Activist by Police in District, Uttar Pradesh (Case No.20596/24/72/2012 LF 29463/24/72/2012)	180
4.	Assault of a Human Rights Lawyer by Police in Delhi (Case No. 5976/30/0/2011)	180





5.	Alleged Threat to Human Rights Defender (Case No. 49995/24/34/2011 & 50016/24/34/2011)	180
6.	Alleged Threatening of a Human Rights Defender by Uttar Pradesh Police (Case No.11939/24/73/2010)	181
7.	Illegal Arrest of Fact Finding Team by Tamil Nadu Police (Case No.896/22/37/2010)	182
<b>CHAPTER-14</b>	<b>INTERNATIONAL COOPERATION</b>	<b>183</b>
A.	Eleventh International Conference of the ICC	183
B.	Second Universal Periodic Review	184
C.	57th Session of Commission on Status of Women at United Nations	185
D.	NHRC-India Participation in International meetings, Seminars and Workshops	186
E.	Interaction with Foreign Delegates in the Commission	187
<b>CHAPTER-15</b>	<b>STATE HUMAN RIGHTS COMMISSIONS</b>	<b>189</b>
<b>CHAPTER-16</b>	<b>OTHER MECHANISMS</b>	<b>191</b>
A.	Special Rapporteurs	191
B.	Core Group of NGOs	191
C.	Statutory Full Commission	192
D.	Camp Sitzings/Open Hearing of the Commission	192
<b>CHAPTER-17</b>	<b>ADMINISTRATION AND LOGISTIC SUPPORT</b>	<b>195</b>
A.	Staff	195
B.	Use of Official Language	195
C.	NHRC Library	196
D.	Right to Information	197
<b>CHAPTER-18</b>	<b>SUMMARY OF PRINCIPAL RECOMMENDATIONS AND OBSERVATIONS</b>	<b>199</b>

<b>ANNEXURES</b>	<b>213</b>
1. Statement Showing Number of Cases Registered From 01/04/2012 to 31/03/2013	215
2. Statement Showing Disposal of Cases During 2012-2013	216
3. Statement Showing Number of Cases Pending as on 31/03/2013	217
4. Total Number of cases Where NHRC Recommended Monetary Relief Action During 2012-2013	218
5. Details of Cases Pending Compliance of NHRC's Recommendations During 2012-2013 for Payment of Monetary Relief	219
6. Details of Cases Pending Compliance of NHRC's Recommendations During 2011-2012 for payment of monetary relief/disciplinary action/prosecution	227
7. Details of Cases Pending Compliance of NHRC's Recommendations During 1993-1994 to 2010-2011 for Payment of Monetary Relief/Disciplinary Action/ Prosecution	229
8. Recommendations of the Review Visit of NHRC to Wayanad District in Kerala	231
9. Recommendations of the National Workshop on Manual Scavenging and Sanitation	242
10. Amman Declaration and Programme of Action	244
11. APF Action Plan on the Human Rights of Women and Girls: Promoting Gender Equality	254
12. Recommendations of the Consultation on Violence against Women	256
13. Status of the Training Programmes Conducted during Financial Year 2012-2013	259
14. Recommendations National Conference on Human Rights Education	267
15. Recommendations of the Workshop on Human Rights Training in Police and Para-Military Organizations	271

16.	UPR-II : List of Recommendations Accepted by the Government of India	274
17.	Oral Statement by NHRC-India in the Plenary Session of UNHRC	281

<b>CHARTS &amp; GRAPHS</b>	<b>283</b>
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1.	State/UT-wise Number of Cases Registered in NHRC During 2012-2013	285
2.	State/UT-wise Intimations Registered in NHRC Relating to Custodial Deaths During 2012-2013	286
3.	Cases Transferred by NHRC to SHRCs During 2012 -2013	287
4.	Nature & Categorization of Report Cases Disposed of by NHRC During 2012-2013	288
5.	Cases Dismissed 'In Limine' by NHRC During 2012-2013 in States/UTs with a Dismissal Rate of More Than 2%	289
6.	Cases Disposed of with Directions by NHRC During 2012-2013 in States/UTs with a Disposal Rate of More Than 2%	290
7.	Cases Transferred to SHRCs by NHRC During 2012-13	291
8.	Cases Disposed of/Pending Disposal by NHRC During 2012 - 2013	292

<b>ABBREVIATIONS</b>	<b>293</b>
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## INTRODUCTION

**1.1** This is the twentieth Annual Report of the National Human Rights Commission (NHRC). It covers the period from 1 April 2012 to 31 March 2013.

**1.2** The nineteenth Annual Report of the Commission, for the period 1 April 2011 to 31 March 2012, was submitted to the Central Government on 21 January 2013 for preparing the Memorandum of Action Taken and placing the same before each House of Parliament in compliance with the procedure laid down under Section 20 (2) of the Protection of Human Rights Act, 1993 and its amendment thereby in September 2006 (PHRA).

**1.3** During the period under review, Justice Shri K. G. Balakrishnan, former Chief Justice of the Supreme Court of India continued to hold the office of Chairperson in the Commission. Justice Shri B.C. Patel and Shri Satyabrata Pal also continued to serve as Members in the Commission whereas two Members, Shri P. C. Sharma and Justice Shri G. P. Mathur, on completing their tenure relinquished office on 27 June 2012 and 18 January 2013 respectively.

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

**1.5** Dr. Ashok Sahu (IES:75) succeeded Dr. Rajiv Sharma, IAS (RJ:76) as the Secretary General and Chief Executive Officer of the NHRC on 11 November 2012 upon the superannuation of the latter on 31 July 2012. Prior to his joining NHRC, Dr. Sahu was holding the post of Principal Advisor, Labour, Employment & Manpower and Development Policy & Perspective Planning Divisions in the Planning Commission. Smt. Kanwaljit Deol, IPS (AGMU:77) took over on 11 December 2012 as Director General (Investigation) from Shri Sunil Krishna, IPS (UP:73), who superannuated on 30 June 2012. Smt. Deol was Special Commissioner of Police, Delhi prior to her joining. She has served in various key positions in her cadre States, including that of Director General of Police, Arunachal Pradesh. Shri Alok Kumar Shrivastava, IAS (SK:84) joined the Commission as Joint Secretary (Programme & Administration) on 5 November 2012. He succeeded Shri J. P. Meena, IAS (AM:83) who held this post till 2 April 2012. Before joining the Commission, Shri Shrivastava was Principal Secretary, Department of Social Justice & Empowerment and Department of Science & Technology, Government of Sikkim. Shri A. K. Garg continued to serve as Registrar (Law) and Shri J. S. Kochher (IES:1986) as Joint Secretary (Training) in the NHRC.

**1.6** The Annual Reports of the Commission, apart from presenting the reports about the overall activities undertaken by NHRC each year, also serves as a principal source of information on the human rights situation in the country. Besides these, the present Annual Report too gives an account of the actions taken by the Commission on a range of human rights issues including individual complaints, its other core concerns and achievements.

**1.7** In a society as diverse as ours, the indivisibility and interrelated nature of human rights, whether civil and political or economic, social and cultural, is self-evident. Nowhere is this linkage more visible than in respect of people belonging to Scheduled Caste and Scheduled Tribe communities. This aspect is also well recognized in the Constitution of India. The same is true with women, children and other vulnerable groups. The problems and concerns of each of these groups were given due attention by the Commission during the period under review.

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



**(K. G. Balakrishnan)**

**Chairperson**



**(Cyriac Joseph)**

**Member**



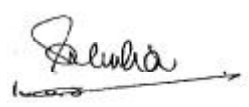
**(D. Murugesan)**

**Member**



**(Satyabrata Pal)**

**Member**



**(S.C. Sinha)**

**Member**

**17 December, 2013**  
**New Delhi**



## HIGHLIGHTS

**2.1** Human rights are the rights inherent to all human beings, irrespective of an individual's nationality, place of residence, sex, national or cultural origin, colour, religion, language, or any other status. Every human being is thus equally entitled to human rights without discrimination. These rights are universal, interrelated, interdependent and indivisible. These rights ensure the dignity and worth of the human person and guarantee human well-being. The emphasis on human dignity is not only laid in the UN Charter, Universal Declaration of Human Rights and several international covenants but also in the Constitution of India, which mentions 'dignity of the individual' as a core value in its Preamble. It is 'human dignity' which ultimately defines the true meaning of human rights. In addition, human rights have a distinct relation with human development as both share a common vision and a common rationale to ensure human wellbeing.

**2.2** Human rights entail both rights and duties. States assume duties under international law to respect, protect and fulfill human rights. The duty to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups from human rights abuses. The duty to fulfill means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level (while all of us are entitled to human rights) it also becomes our duty to respect the human rights of others.

**2.3** The real test, however, is the degree to which a growing global population, demanding a life of dignity, is able to enjoy freedom from fear and want, without discrimination. This undoubtedly can be accomplished by good governance and accountability. Good governance and accountability are the cornerstones of human rights framework. These are two aspects on which focused attention need to be given by any country, including India, if the goal of 'all human rights for all' is to be achieved.

**2.4** NHRC-India has been constantly monitoring these two features to ensure the protection and promotion of human rights in respect of people of this country. The ensuing paragraphs give an overview of the significant activities undertaken by the Commission during the period April 2012 to March 2013.

### Commission Meetings

**2.5** During the year under review, the Full Commission deliberated upon and decided numerous cases of human rights violations in 38 sittings. In addition, the two Division

Benches considered 1324 cases in 102 sittings. Some important cases were also considered in 5 sittings of the Commission in open court hearings. Other programme and administrative agenda items were dealt with in 10 meetings. The Statutory Full Commission, which includes deemed Members also met on 7 December 2012, wherein issues relating to inter-Commission coordination were discussed.

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

**2.6** Being deeply concerned about the atrocities against persons belonging to Scheduled Castes, the Commission in 2000 requested Shri K. B. Saxena to carry out a study in this regard. Accordingly, a report was submitted by him in which a series of recommendations were made. In accordance with one of its recommendations, the Commission initiated the process of holding open hearings for people belonging to Scheduled Caste, who have suffered discrimination or whose rights have been otherwise violated in contravention to the existing legislations prohibiting such practices.

**2.7** During the period under review, the Commission held five such open hearings at Puri (Odisha) in April 2012, Ahmedabad (Gujarat) in May 2012, Chennai (Tamil Nadu) in August 2012, Jaipur (Rajasthan) in September 2012 and Nagpur & Mumbai (Maharashtra) in January 2013.

## **NHRC Camp Sitzings in Assam and Meghalaya**

**2.8** The NHRC in its efforts to reach out to the people living in remote areas has been organizing camp sittings in different parts of the country. The aim of these sittings is to expedite disposal of pending complaints as well as review the progress made by the State functionaries with regard to the recommendations made by the Commission on various human rights issues. Accordingly, a delegation of the Commission headed by its Chairperson visited Guwahati in Assam from 28 to 29 May 2012 and Shillong in Meghalaya on 30 May 2012 for its camp sittings.

**2.9** During the camp sitting in Assam, the Commission closed 14 out of 50 cases and recommended monetary relief of ₹ 3,50,000 to victims whose human rights had been violated. In Meghalaya, the Commission recommended ₹ 3,00,000 as monetary relief to the next of kin of the deceased in an encounter case, which had resulted in the death of the victim. During the course of camp sittings, the Commission directed the authorities to adhere to the provisions of law and the guidelines issued by it on various human rights issues. In Assam, the State was particularly asked to ensure prison reforms including the need to give vocational training to the prisoners and to ensure their regular health check-ups. In Meghalaya, the Commission expressed serious concern over child labour in illegal mines and directed the authorities to stop it in all forms. The Commission also met with the representatives of the NGOs in the two camp sittings.

## Workshop for Media Persons on Human Rights and Functioning of the NHRC

**2.10** The Commission always believes that the media has an imperative role in the protection and promotion of human rights and remains in constant touch with it. In order to sensitize the media persons about the functioning of NHRC, methods of investigation adopted by it, research studies conducted by it and the role of media in reporting cases of human rights, a one-day 'Workshop for Media Persons on Human Rights and Functioning of the NHRC' was organized by the Commission in New Delhi on 27 April 2012. The workshop was inaugurated by Justice Shri K.G. Balakrishnan, Chairperson of NHRC and it was attended by 40 media persons from across the country.

### Interaction with Media

**2.11** Apart from the workshop for Media Persons on 'Human Rights and Functioning of the NHRC', 8 press conferences and 29 interviews of Chairperson and Members were organized. These included, an interactive session with media personnel on 3 August 2012 by Shri Satyabrata Pal, Member, NHRC. He briefed them on the social and economic rights. On 26 October 2012, Justice Shri B. C. Patel, Member, NHRC briefed media persons on encounter and bonded labour issues. On 19 February 2013, in another interactive session with media persons, Shri Satyabrata Pal, Member responded to their several questions relating to a range of human rights issues. These included, among others, human trafficking and missing children, clinical drug trials, death penalty and open hearings held by the Commission relating to denial of rights to persons belonging to scheduled castes and atrocities committed against them. Dr. Ashok Sahu, Secretary General, NHRC was also present. 147 press releases issued during the year also served the purpose of interaction with media.

### Number and Nature of Complaints

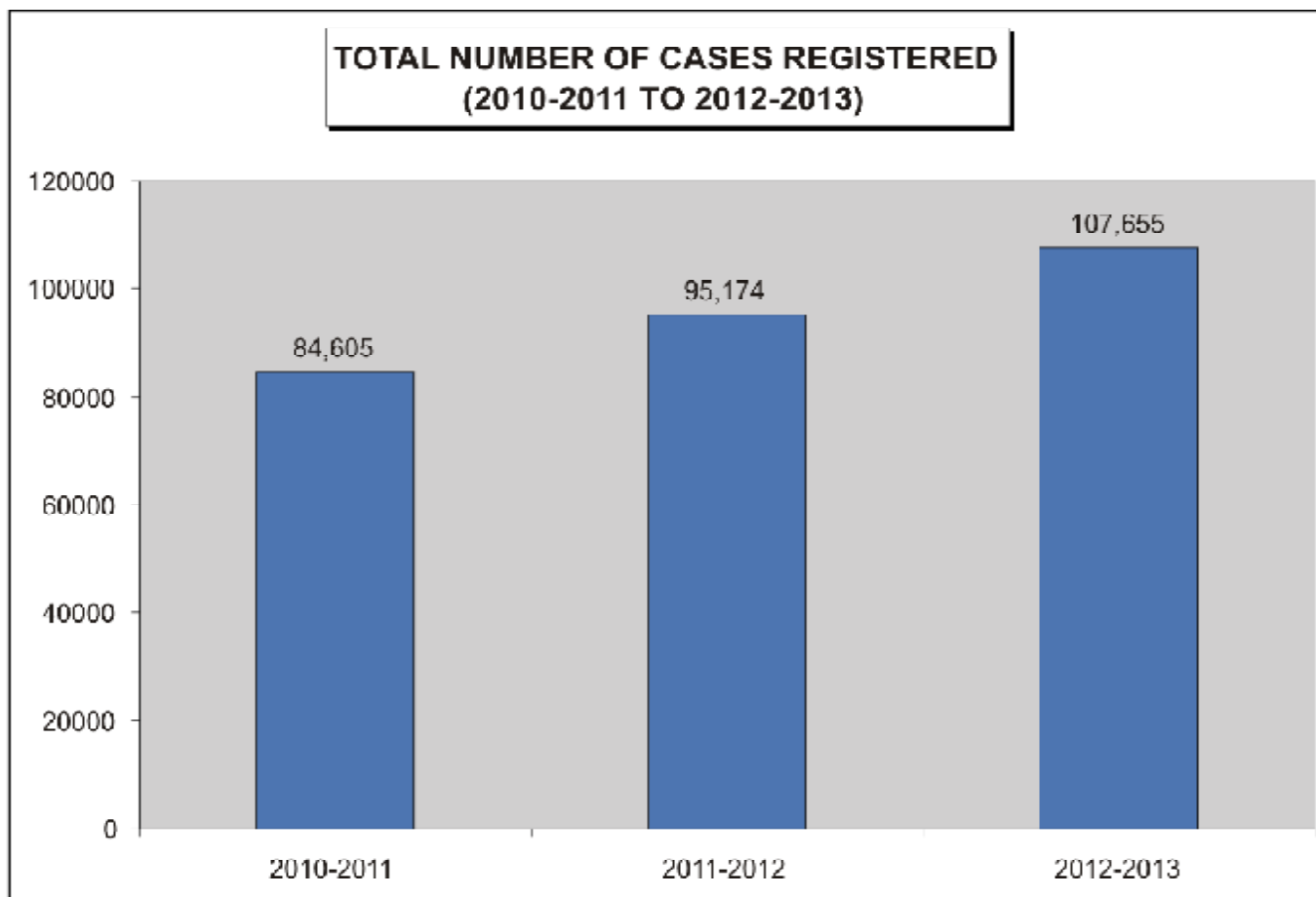
**2.12** With regard to the number and nature of complaints, the Commission continued to receive complaints from different parts of the country on a wide range of issues. These complaints included allegations of custodial deaths, torture, fake encounters, police high-handedness, starvation deaths, sexual harassment at work place, delay in payment of retirement benefits, delay in providing medical care in hospitals, irregularities in government hospitals/public health centers, environment pollution, inaction by the Central Government/State Government officers, violations by security forces, conditions prevailing in prisons, atrocities committed on women, children and other vulnerable groups, bonded and child labour, negligence by public authorities, etc. The Commission also took *suo motu* cognizance of many incidents based on reports in print and electronic media including cases reported during visits undertaken by its Chairperson, Members, Special Rapporteurs and officers. The Commission further took cognizance of the intimations received from the

concerned authorities, pursuant to the guidelines issued by it with regard to custodial deaths, custodial rapes, deaths in encounters, etc.

## Human Rights Violation Cases

**2.13** A total of 1,07,655 cases were registered in the Commission during 2012-2013 (**Annexure-1**). The Commission disposed off 99,756 cases which included cases carried forward from previous years. Out of the total number of cases disposed off by the Commission during the year under report, 57,388 were dismissed *in limine* while 25,295 were disposed off with directions to the appropriate authorities for remedial measures. A total of 9,165 cases were transferred to the State Human Rights Commission for disposal in accordance with the provisions of the PHRA. The details of State/Union Territory-wise cases disposed off by the NHRC are given in **Annexure-2**. At the end of the reporting period, i.e. on 31 March 2013, the total number of cases pending with the Commission was 23,072 which included 1,525 cases awaiting preliminary consideration and 21,547 cases in respect of which reports were either awaited from the authorities concerned or the reports had been received but were pending further consideration of the Commission (**Annexure-3**).

**2.14** The Graph below gives a comparative analysis of total number of cases registered in the NHRC from 2010-2011 to 2012-2013:

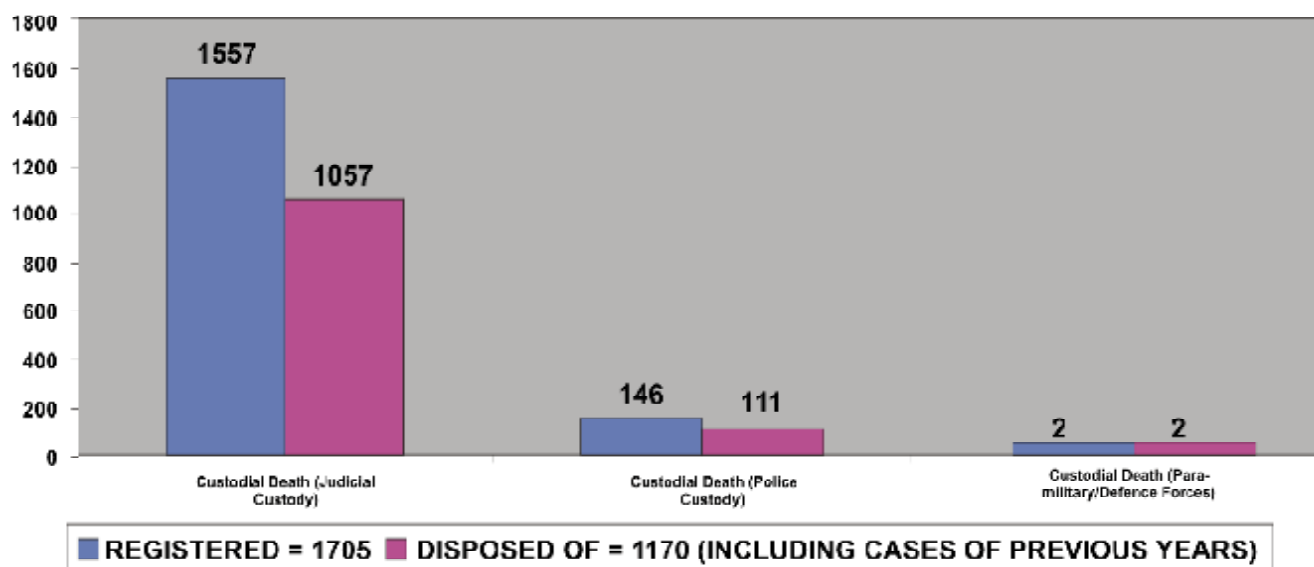


## CIVIL AND POLITICAL RIGHTS

### Preventing Custodial Violence

**2.15** The NHRC received 1,557 intimations about deaths in judicial custody<sup>1</sup>, 146 intimations regarding deaths in police custody and two intimations regarding deaths in para-military/defence forces custody during the period under review. It disposed off 1,170 cases of custodial deaths - comprising 1,057 cases of deaths in judicial custody, 110 cases of deaths in police custody and one case of death in the custody of para-military forces and one case of death in the custody of defence forces. These figures also include cases of previous years. See the Graph below.

**NUMBER OF CUSTODIAL DEATH CASES REGISTERED & DISPOSED OFF DURING 2012-2013**



### Inspection of Jails and Correctional Homes

**2.16** Three Special Rapporteurs of the Commission visited Alipore Central Correctional Home in Kolkata (West Bengal); District Jails in Latehar & Garwa and Daltonganj Central Jail in Palamu (Jharkhand); District Jail in Dantewada & Raipur Central Jail (Chhattisgarh); Jagdalpur District Jail in Bastar (Chhattisgarh), Bhatinda Central Jail and Sangrur District Jail in Punjab; Central Prison, Juvenile Homes and Observation Home in Visakhapatnam (Andhra Pradesh) and Gaya Central Jail and District Jails in Jamui & Jehanabad (Bihar). The main objective of these visits was to inspect the functioning of these institutions and study the living conditions and other aspects of human rights situation of the inmates therein.

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



## **Spot Investigations**

**2.17** During the period, the Commission directed its Investigation Division to conduct spot investigations in 32 cases of alleged violations of civil and political rights and social & cultural rights. These cases were mainly related to custodial deaths; fake encounters; custodial torture; false implication; illegal detention; bonded and child labour; atrocities on scheduled castes, scheduled tribes, and other disadvantaged groups; medical negligence and lack of proper medical facilities in Government hospitals; death due to negligence of State authorities; inhuman conditions in jails and homes for children.

## **Workshop on Police Functioning**

**2.18** A day long 'Workshop on Various Aspects of Police Functioning' was organized by the Commission for officers of its Investigation Division in New Delhi on 10 May 2012. The main aim of the workshop was to orient and update the knowledge of NHRC's investigation officers about the functioning of police so that they are able to look into complaints of human rights violations committed by police. The workshop was inaugurated by the Director General (Investigation) of NHRC.

## **Meeting with Defence Ministry on Encounter Issue**

**2.19** The NHRC held a meeting with the Ministry of Defence on the issue of encounters by the armed forces. The meeting was presided over by Shri A. K. Garg, Registrar (Law), NHRC.

# **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

## **Mental Health Education Programme for Police Personnel**

**2.20** The NHRC in collaboration with SEVAC, an NGO, organized a programme on Mental Health Education for Police Personnel in Kolkata, West Bengal on 16 and 17 July 2012 and another programme in Bhubaneswar, Odisha on 30 and 31 July 2012.

## **Study of Prevailing Right to Food Situation among BPL Families in Bihar and Uttar Pradesh**

**2.21** The above study was commissioned to HARYALI Centre for Rural Development, New Delhi in July 2012. The broad objective of the study is to find out the availability, accessibility and adequacy of food in BPL families and also ascertain the incidence of deaths due to under-nutrition and starvation.

## **National Seminar on Tradition, Culture and Human Rights**

**2.22** The NHRC in collaboration with the University of Pune organized a two-day National

Seminar in Hindi on Tradition, Culture and Human Rights on 6 and 7 September 2012 in the University campus. The overall aim of the seminar was to spread awareness on protection and promotion of human rights among students. The seminar was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC. Prominent resource persons who deliberated on different aspects of the main theme of the seminar included Prof. W. N. Gade, Vice Chancellor, University of Pune; Shri Achyutananda Mishra, a noted litterateur and former Secretary, Sahitya Akademi and Prof. Indra Nath Choudhuri, Registrar, University of Pune.

## **National Conference on Leprosy**

**2.23** The Commission organized a day-long Conference on Leprosy in New Delhi on 18 September 2012. The Conference was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC. It was attended, among others, by officers of the Central Ministries, State Departments, SHRCs, international and civil society organizations.

## **National Seminar on Mental Health and Human Rights**

**2.24** A one-day Seminar on Mental Health and Human Rights was organized by the Commission in New Delhi to mark the World Mental Health Day on 10 October. The seminar was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC.

## **National Seminar on Globalization, Poverty and Human Rights**

**2.25** The Commission and Mohanlal Sukhadia University in Udaipur, Rajasthan jointly organized a two-day National Seminar on Globalization, Poverty and Human Rights in Hindi on 22 and 23 November 2012. The Seminar was inaugurated by Justice Shri Balakrishnan, Chairperson, NHRC and it was the seventh seminar as part of a series of national seminars organized in Hindi across the country. Justice Shri N. N. Mathur, Vice-Chancellor, National Law University, Jodhpur delivered the keynote address. Others who participated in the seminar were Prof. I. V. Trivedi, Vice-Chancellor, Mohanlal Sukhadia University, Udaipur and Shri J. S. Kochher, Joint Secretary (Training), NHRC.

## **Constitution of Expert Committee for Clinical Drug Trials**

**2.26** The NHRC constituted a six member expert committee for framing of guidelines for clinical drug trials in the country. The Commission also decided to intervene in public interest litigation on clinical drug trials in the Supreme Court.

## **Code of Ethics for Indian Industry**

**2.27** The NHRC commissioned a study to Institute of Corporate Sustainability Management Trust (ICSM), New Delhi on 'Developing Code of Ethics for Indian Industry'. For developing the code of ethics, data was collected from 20 industries in public and private sectors in different geographical locations of India. These sectors comprised steel, power, mines, building and construction, paper, sugar, banking and MFI, tea, insurance, natural

gases, national and regional business associations, heavy engineering, IT-BPO, textile and NGOs. The objective was to suggest various parameters which could be the basis of the code of ethics for Indian industry. The ICSM submitted its report to the Commission based on the study and also made a presentation before the Commission on its findings.

**2.28** As a follow up of the study, a meeting was convened in the Commission on 21 December 2012 to know the views of Indian Industry Organizations like FICCI, CII, etc., on the parameters suggested by the ICSM in the report for formulating a code of ethics for Indian industry.

## **National Conference on Human Rights Education**

**2.29** The Commission organized a one-day National Conference on Human Rights Education in New Delhi on 14 December 2012. The key objective of the Conference was to discuss ways in which schools, colleges and universities could play an increased role in promotion of human rights education. The final recommendations of the Conference that were adopted by the Commission were forwarded to all the delegates. These recommendations were also forwarded to the Chief Ministers/Administrators of all the States/Union Territories by the Chairperson of the Commission for implementation so as to promote human rights education.

## **National Conference on Right to Food**

**2.30** A day-long National Conference on Right to Food was organized by the NHRC in New Delhi on 4 January 2013. The central objective of the Conference was to make an assessment of the programmes and policies being implemented in realizing right to food, including nutritional aspects with special reference to women, children and other disadvantaged sections. The final recommendations that emanated out of the Conference were forwarded to all the participants as well as senior representatives from the Department of Food and Consumer Affairs/Public Distribution/Civil Supplies of various States and Union Territories for taking necessary action. The recommendations were also sent to the Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution, Planning Commission, National Commissions for Protection of Child Rights and Women.

## **Consultation on Violence against Women**

**2.31** In the wake of the brutal rape and death of a young woman in Delhi, the Commission organized a one-day Consultation on Violence against Women in New Delhi on 8 January 2013. Several prominent speakers, including NHRC's Chairperson and Members, expressed their views with regard to seeking changes in the existing laws and related issues.

**2.32** A list of recommendations/suggestions that emanated out of the deliberations of the Consultation and further examined in the Commission was forwarded to the Justice

Verma Committee on Amendments to Criminal Law. The same was also forwarded to the Rajya Sabha Secretariat that had invited suggestions on the Criminal Law (Amendment) Bill, 2012 for examination by the Department-related Parliamentary Standing Committee on Home Affairs headed by Shri M. Venkaiah Naidu, Member Parliament, Rajya Sabha.

**2.33** The Justice Verma Committee submitted its report to the Government of India on 23 January 2013. In the light of Justice Verma Committee's report, the Government of India has promulgated the Criminal Law (Amendment) Ordinance, 2013 on 3 February 2013. Some of the recommendations/suggestions made by the Commission find place in the Ordinance.

### **National Conference on Missing Children**

**2.34** The Commission organized a National Conference on Missing Children in New Delhi on 15 January 2013. The main objective of the Conference was to discuss the status of compliance of NHRC's earlier suggestions/recommendations and advisories issued by the Ministry of Home Affairs on missing children and also decide upon the future plan of action for tackling the problem of these children.

### **National Seminar on Human Rights and Ecological Balance : A Dialogue**

**2.35** The above Seminar was organized by the Commission in collaboration with Saurashtra University, Rajkot on 4 and 5 March 2013. Prof. Nand Kishore Acharaya from International Institute of Information Technology, Hyderabad delivered the keynote address in the seminar. Other eminent persons who spoke in the two-day seminar were Justice K. G. Balakrishnan, Chairperson, NHRC; Dr. M. K. Padalia, Vice-Chancellor, University of Saurashtra and Shri A. K. Shrivastava, Joint Secretary, NHRC.

### **NHRC Workshops on Bonded and Child Labour**

**2.36** The NHRC has been supervising the implementation of the Bonded Labour System (Abolition) Act, 1976 and the Child Labour (Prohibition & Regulation) Act, 1986 in the country ever since it was constituted in 1993. During the period under review, it organized three workshops under the chairmanship of Justice Shri B. C. Patel, Member, NHRC on 'Elimination of Bonded and Child Labour' in Lucknow (Uttar Pradesh), Kurukshetra (Haryana) and Indore (Madhya Pradesh) in collaboration with the respective State Governments on 7 and 21 September 2012 and 15 February 2013. The objective of these workshops was to sensitize District Magistrates, Sub-Divisional Magistrates, Members of Vigilance Committees, and Officers of State Labour Department on identification, release and rehabilitation of bonded labour as well as existing forms of child labour, sectors of the economy in which children work, constitutional and legal safeguards prohibiting employment of children and legislations that aim at elimination of child labour in the country.

## Meeting of NHRC Core Group of NGOs

**2.37** A meeting of the Core Group of NGOs was held in the Commission on 22 March 2013 under the chairmanship of Justice Shri K. G. Balakrishnan. Also present on the occasion were Member Justice Shri B. C. Patel, Member Shri Satyabrata Pal, Secretary General Dr. Ashok Sahu, Joint Secretary (P&A) Shri A. K. Shrivastava, Joint Secretary (Trg.) Shri J. S. Kochher and other senior officers of the Commission. The Members of the Core Group of NGOs who participated were Shri Suhas Chakma of Asian Centre for Human Rights, Shri R. S. Chaurasia of Bachpan Bachao Andolan, Shri Rakesh Jinsi of SOS Children's Villages of India, Shri Mathews Philip of South Indian Cell for Human Rights Education and Monitoring, Ms. Puja Marwaha of Child Rights and You, Dr. Lenin Raghuvanshi of People's Vigilance Committee on Human Rights, Dr. Ruth Manorama of National Alliance of Women and Shri B. Patanaik of Odisha Goti Mukti Andolan.

## Recommendations of NHRC for Monetary Relief and its Compliance

**2.38** During the period from 1 April 2012 to 31 March 2013, the NHRC recommended ₹ 10,78,75,000 as payment of monetary relief to the victims/next of kin of the deceased in 356 cases. Compliance reports were received in 108 cases and a total amount of ₹2,94,30,000 was disbursed to the victims/next of kin of the deceased. The State/Union Territory-wise details of these cases are at **Annexure-4**.

**2.39** The NHRC is awaiting compliance report in 248 cases wherein monetary relief amounting to ₹ 7,84,45,000 has been recommended (**Annexure-5**).

**2.40** As regards, compliance reports' relating to cases pertaining to previous years, intimation has not been received in 95 cases (**Annexures - 6 & 7**). The details of these cases have been reported in the earlier Annual Reports of the NHRC.

## TRAINING PROGRAMMES AND WORKSHOPS

### NATIONAL

### Important Programmes Organized by NHRC

**2.41** During the review period, a total of 114 training programmes, workshops and seminars were organized by the Training Division of NHRC in collaboration with the Administrative Training Institutes, Police Training Institutes, State Human Rights Commissions, Universities, NGOs and other institutions/organizations across the country. These were in the form of one-day basic training programme, two-day advanced training or three-day training of trainers. Other important programmes conducted were - Training Programme on Human Rights for Principals and Education Officers of Kendriya Vidyalaya Sangathan and Sensitization Programme on Human Rights for BSF Officers. The NHRC



also conducted a two-day attachment programme for Probationers of Indian Foreign Service and Railway Protection Force. Besides, it conducted Summer & Winter Internship Programmes of one month duration each for college and university students and short-term attachment for students interested in the field of human rights.

## **Workshop on Human Rights Training in Police and Para-Military Organizations**

**2.42** The Training Division organized a day-long workshop on 'Human Rights Training in Police and Para-Military Organizations' in New Delhi on 19 March 2013. The workshop was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC.

## **National Moot Court Competition**

**2.43** A National Moot Court Competition on Human Rights was organized by NHRC in collaboration with Law Centre - I of University of Delhi from 8-10 March 2013. Fifty teams from different Law Colleges and Universities of India took part in the competition. The subject matter of the moot court competition related to human rights of tribal people, land acquisition, displacement of local people and environmental issues.

## **NHRC Training Programme at Port Blair**

**2.44** A training programme on 'Rights Protection, Accountability and Disaster Risk Deduction' was organized by the Commission in collaboration with National Institute of Disaster Management (NIDM), Ahmedabad at Port Blair in Andaman & Nicobar Islands on 14 March 2013. The programme was attended by more than 90 participants from various Departments like the Police, Health, Fire Services, Revenue and Disaster Management. The programme was also attended by community leaders and NGOs.

## **INTERNATIONAL**

### **Blended Learning Course for Training of Trainers**

**2.45** The Asia Pacific Forum of NHRIs, in April 2012, initiated a new Blended Learning Course to build and equip a skilled group of human rights trainers, who can lead capacity building programmes for NHRIs and other groups across the Asia Pacific. The course has two components - (i) an online learning component of one month duration; followed by (ii) a regional workshop of five days duration.

**2.46** The programme was attended by Shri J. S. Kochher, Joint Secretary (Trg.) from NHRC-India. The online programme was held from 2-29 April 2012 and the regional workshop was conducted at Philippines from 18-22 June 2012.

## INTERNATIONAL ACTIVITIES

### **Afghanistan Independent Human Rights Commission Visits NHRC-India**

**2.47** A delegation from Afghanistan Independent Human Rights Commission (AIHRC) visited NHRC-India from 4 to 8 May 2012 for developing an action plan as part of the MOU signed between the AIHRC, NHRC-India and the National Institution Building Project of UNDP Afghanistan.

**2.48** As a part of the follow-up action, a five-member delegation of AIHRC revisited NHRC-India from 11-22 March 2013.

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

**2.49** A delegation from Myanmar Human Rights Commission led by its Chairman, Mr. Win Mra visited NHRC-India from 22-24 May 2012 to understand its structure, functioning, complaint management system and best practices. The NHRC Chairperson, Members and senior officers interacted with the visiting delegates.

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

**2.50** The annual roundtable meeting of Senior Executive Officers of NHRIs was convened by the Asia Pacific Forum of National Human Rights Institutions (APF) in Sydney, Australia on 24 and 25 May 2012. Dr. Rajiv Sharma, Secretary General, NHRC-India participated in the meeting. Several key issues were discussed in the meeting which included NHRI accreditation process, role of NHRIs in times of conflict, crisis management, emergency and national transition, strategic plans and planning, expanding scope of NHRIs participation in the international human rights system and capacity assessment mechanism of different NHRIs.

### **Second Universal Periodic Review - Plenary Session of United Nations Human Rights Council**

**2.51** Shri J. S. Kochher, Joint Secretary (Training) and Dr. Savita Bhakhry, Deputy Secretary (Research), NHRC-India participated in the Plenary Session of United Nations Human Rights Council in Geneva, Switzerland on 20 and 21 September 2012 in which the Human Rights Council adopted the final outcome of the universal periodic review on India consisting mainly of the Working Group Report on India and list of recommendations accepted by the Government of India. Shri Kochher also made an oral statement on behalf of NHRC-India in the plenary on 21 September 2012.

### **Symposium on Human Rights - Universality and Indivisibility**

**2.52** The Chairperson, NHRC attended the above symposium on 2 and 3 October 2012 in Rabat, Morocco. The symposium was organized by Moroccan National Human Rights Council in partnership with the United Nations High Commissioner for Human Rights.

## **Eleventh International Conference of NHRIs**

**2.53** Justice Shri K.G. Balakrishnan, Chairperson, NHRC-India and Shri Satyabrata Pal, Member participated in the 11th International Conference of National Human Rights Institutions that was held in Amman, Jordan from 5 to 7 November 2012. The theme of the conference was 'The Human Rights of Women and Girls, Promoting Gender Equality : The Role of National Human Rights Institutions'. The Conference was hosted by the National Centre for Human Rights of Jordan in cooperation with the International Coordinating Committee of National Human Rights Institutions (ICC) and the United Nations Office of the High Commissioner for Human Rights (OHCHR). As per the established practice, an NGO Forum was held parallel to the Conference with a view to consolidate the knowledge and experiences of civil society organizations with that of National Human Rights Institutions (NHRIs), thereby strengthening mutual cooperation.

**2.54** The ICC Bureau Meeting preceded the Conference on 4 November 2012 in Amman, Jordan. There was a post-conference event on 'Women, Business and Human Rights' on 8 November 2012, which was organized by Canada, as the Chair of the ICC Working Group on Business and Human Rights set-up after the Edinburg Conference in 2010. The Chairperson and Member, NHRC-India participated in all these events.

**2.55** The APF Councillors Meeting was held on 5 November 2012, before the inauguration of the ICC Conference.

## **International Conference on Cooperation between NHRIs for the Promotion and Protection of the Rights of Migrant Workers**

**2.56** Justice Shri K. G. Balakrishnan and Justice Shri G. P. Mathur, Chairperson and Member, NHRC-India respectively participated in a two-day International Conference on Cooperation between National Human Rights Institutions for the Promotion and Protection of the Rights of the Migrant Workers in the Asia Pacific Region in Kathmandu, Nepal that was held on 26 and 27 November 2012. The Conference was organized by the National Human Rights Commission of Nepal.

## **Visit of Delegates from Iceland**

**2.57** A five member delegation led by H.E. Mr. Ogmundur Jonasson, Minister of Interior Justice and Transport, Iceland visited NHRC-India on 19 February 2013. The delegation interacted with the Chairperson and Members of NHRC and showed keen interest on the overall issues dealt by the Commission.

## **Fourth Regional Forum on Prevention of Genocide**

**2.58** Justice Shri K. G. Balakrishnan, Chairperson, NHRC attended the Fourth Regional Forum on Prevention of Genocide held at Phnom Penh, Cambodia from 28 February to 1 March 2013.

## **57th Session of Commission on Status of Women at United Nations**

**2.59** Dr. Ashok Sahu, Secretary General, NHRC-India participated as part of joint efforts of ICC/APF for a more active participation of NHRIs in the activities of the Commission on the Status of Women during its 57th Session at the United Nations Headquarters in New York from 3 to 8 March 2013. The session was held from 4 to 15 March 2013. The Session focused on the 'Elimination and Prevention of All Forms of Violence Against Women and Girls'.

## **NHRC-Nepal Delegation Visits NHRC-India**

**2.60** A two-member delegation from NHRC-Nepal visited NHRC-India from 4-8 March 2013 to gain first hand information about the functioning of the Commission. The visit of the delegation was jointly organized by the Asia Pacific Forum of NHRIs and the British Embassy in Nepal.

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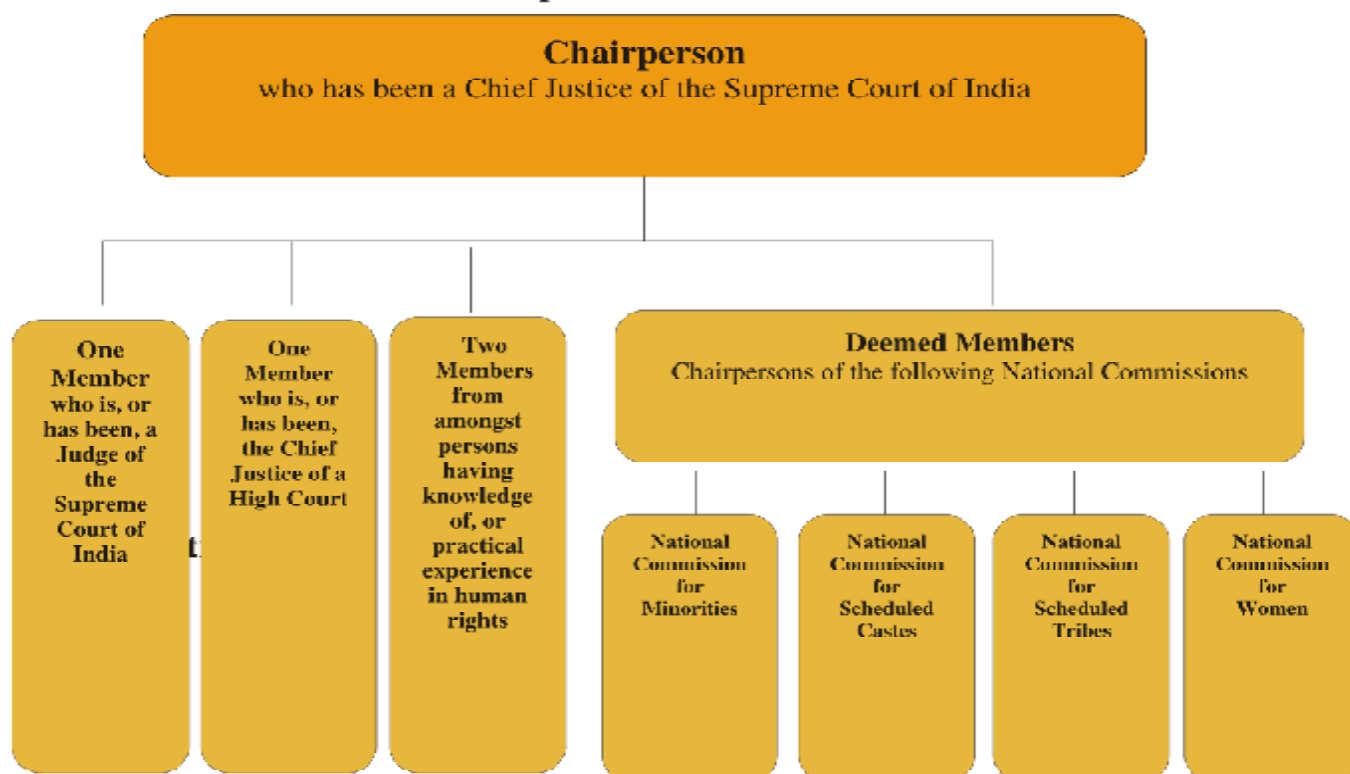
## NHRC : ORGANIZATION AND FUNCTIONS

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

### Composition

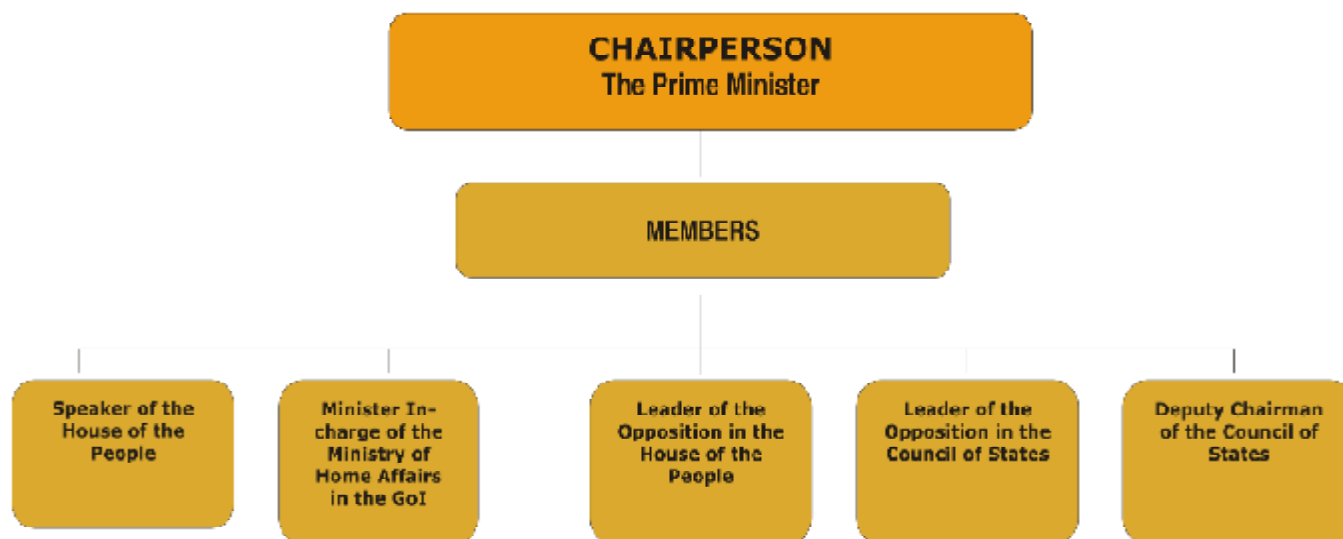
**3.2** The Commission consists of a Chairperson, four full-time Members and four deemed Members. The statute lays down qualifications for the appointment of the Chairperson and Members of the Commission.

#### Composition of NHRC



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

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



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

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

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

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



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

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

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

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

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

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

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

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

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

## Functions

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

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

- Intervene in any proceeding involving any allegation of violation of human rights pending before a court, with the approval of such court.
- Visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of inmates thereof and make recommendations thereon to the Government.
- Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- Study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- Undertake and promote research in the field of human rights.
- Spread human rights literacy among various sections of society and promote awareness about the safeguards available for the protection of these rights through publications, the media, seminars and other available means.
- Encourage the efforts of non-governmental organizations and institutions working in the field of human rights.
- Such other functions as it may consider necessary for the protection of human rights.

## Powers

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

## Special Features

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

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## CIVIL AND POLITICAL RIGHTS

### A. Terrorism and Militancy

**4.1** Terrorism, extremism and militancy clearly have a very real and direct impact on human rights, with devastating consequences for the enjoyment of the right to life, liberty and physical integrity of victims. In addition to these individual costs, terrorism can destabilize government, the democratic process, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have a real impact on the enjoyment of human rights. Terrorists and militants are undoubtedly enemies of human rights and no possible end can justify the violent means that they adopt with grave consequence for the human rights of innocent people.

**4.2** The Commission is of the firm view that its response to terrorism and efforts to prevent it, should be respectful of the human rights. Respect for human rights, fundamental freedoms and the rule of law are essential tools in the effort to combat terrorism. Counter-terrorism strategies that are compliant with human rights and follow the due process of law not only avoid legal pitfalls, but also prove more effective in the long term at winning the ideological battle against terrorism. There is also support for the view that where the State violates human rights, it strengthens the ranks of the terrorists. Human rights standards impose positive obligations on States to ensure the right of life, protection from torture, and other human rights and freedoms.

**4.3** The NHRC further believes that the promotion and protection of human rights is an integral component of the counter-terrorism strategy. Counter-terrorism measures need human rights standards to ensure that their implementation does not undermine their very purpose, which is to protect and uphold the ideals of a democratic society. The Commission has always taken up the cause of the victims of acts of terrorism and has taken steps for providing relief and rehabilitation to them.

**4.4** The Hon'ble Supreme Court of India in its 1996 landmark judgment in *D.K. Basu vs. State of West Bengal* noted that "The State must, therefore, ensure that various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves". Therefore, it is of vital importance for the State to carry along the affected communities with it and make them a partner, rather than stay in isolation or detachment from them, in the fight against terrorism. It is extremely important to train and educate the security forces - police, para-military and the army - about the salience, non-violability and

importance of respecting the human rights of the people. The training and education should focus especially on the lower rungs of the security forces, which in large numbers, come into contact with the community.

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

**4.5** Custodial violence and torture is used by the forces as if it is a legitimate tool. However, it represents one of the worst forms of human rights violations by public servants who are entrusted with the duty of enforcing the rule of law. The Commission regards crimes like rape, molestation, torture, fake encounters in police custody as manifestations of a systemic failure to protect human rights of the vulnerable and voiceless 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 geared up towards bringing to an end the environment in which human rights violations are committed with impunity under the shield of "uniform" and "authority" within the four walls of police station, lock-up and prison, where the victims are totally helpless.

**4.6** The Commission has issued various guidelines in this regard. One such guideline is that a death in custody has to be reported to the Commission within 24 hours. Yet, some such custodial deaths are reported after considerable delay. Though all custodial deaths may not be crimes or the outcome of custodial violence or medical negligence, it is important that no assumption is made without a thorough inquiry and analysis of reports like inquest, postmortem, initial health screening, magisterial enquiry, etc. Compliance of Commission's guidelines by the State authorities, therefore, plays a crucial role in providing full justice in cases relating to custodial death. Nonetheless, in many cases, reports are forwarded to the Commission only after issuance of conditional summons to the authorities concerned.

**4.7** During the period 1 April 2012 to 31 March 2013, the Investigation Division of NHRC received reports of 147 cases of death in police custody and 1,610 cases of death in judicial custody. The Investigation Division examined 203 cases of death in police custody and 2,669 cases of death in judicial custody during the period under review. Expert opinion of empanelled forensic experts was taken in 143 cases of custodial deaths. Besides, 1,403 fact finding cases (FFC) and 108 advice cases were examined by the Investigation Division. Furthermore, it conducted spot investigation in 32 cases of alleged violations of civil, political, economic, social and cultural rights.

**4.8** The Commission granted compensation in 124 cases of judicial custody, 40 cases of police custody and 46 cases of encounter deaths.

### *Commission's Recommendations Challenged in the Court*

**4.9** Recommendations given by the Commission in two cases -No. 1485/18/14/2010-ED and No. 408/18/32/2011-WC have not been adhered to. In the Case No. 1485/18/14/



2010-ED relating to an encounter, the Commission vide its proceedings dated 10 January 2013 recommended to the Government of Odisha for a payment of monetary relief of ₹ 5,00,000. This recommendation of the Commission was challenged before the Odisha High Court in Writ Petition 7203 of 2013 by the State Government. In Case No. 408/18/32/2011-WC relating to rape and sexual exploitation of girl students by a teacher and a peon in a Government school in Odisha, the Commission vide its proceedings dated 31 August 2012 recommended to the State Government for a payment of ₹ 3,00,000 to the four victims. The State has informed that as per the advice tendered by their Law Department, a decision has been taken to file a Writ Petition before the Odisha High Court against the recommendation made by the Commission and accordingly the Collector of Rayagada has been asked not to disburse the amount to the victims.

### C. Illustrative Cases

#### a) Custodial Deaths

##### *Judicial Custody*

1. *Suicide by Undertrial Prisoner Ramesh Kumar in District Jail, Sirsa, Haryana*  
(Case No.2558/7/18/2011-JCD & Linked File 2560/7/18/2011-AD)

**4.10** The Superintendent, District Jail, Sirsa, Haryana intimated to the Commission about the suicide committed by an undertrial prisoner Ramesh Kumar *alias* Kalia in Barrack No.9 on 16 August 2011 by hanging with the help of Parna (long scarf). The Commission also received a complaint from the Director, National Campaign for Prevention of Torture, New Delhi requesting for an enquiry in the matter and payment of compensation of ₹ 10,00,000 to the next of kin of the deceased.

**4.11** In response to the notice of the Commission, the District Magistrate, Sirsa forwarded copies of the inquest proceedings, postmortem report and judicial enquiry conducted by the Judicial Magistrate, Sirsa. Perusal of the postmortem report revealed no injury on the person of the deceased except a ligature mark. The cause of death was asphyxia due to hanging. During the judicial enquiry, the brother of the deceased stated that Ramesh Kumar was threatened by his in-laws with dire consequences, due to which he committed suicide. The Magistrate concluded that the deceased died an unnatural death in the custody of jail authorities due to asphyxia.

**4.12** The Commission upon consideration of the matter on 22 December 2011 observed that the undertrial prisoner committed suicide in Barrack No.9 of the jail. And, the place of incident where the suicide took place was visible from the place where a Guard was deployed. Had the Guard been sufficiently alert, the incident could have been averted. The deceased who was under the care and custody of the State succeeded in committing suicide due to negligence of the Guard on duty thus violating the human rights of the deceased. In spite of the show cause notice followed by reminders, no reply on merit was received from the

Government of Haryana. The Commission assumed that the Government has nothing to say in this matter and recommended payment of interim relief amounting to ₹ 1,00,000 to the next of kin of the deceased.

**4.13** Subsequently, the Under Secretary (Prisons & Justice), Government of Haryana vide communication dated 10 May 2012 submitted a compliance report stating that an amount of ₹1,00,000 as recommended by the Commission was paid to Mangtu Ram, father of the deceased undertrial prisoner Ramesh Kumar *alias* Kalia. He also enclosed the proof of payment.

**4.14** The amount of interim relief as recommended by the Commission having been paid to the next of kin of the deceased, the Commission on 21 June 2012 closed the matter.

2. *Death of Undertrial Prisoner Shankar Dadaju Ghume in District Prison, Wardha, Maharashtra*  
(Case No. 1165/13/31/08-09-JCD)

**4.15** The Superintendent, Wardha District Prison informed to the Commission about the death of an undertrial prisoner Shankar Dadaju Ghume on 17 August 2008. In response to Commission's notice, the Superintendent of Wardha District Prison forwarded a copy each of the inquest and postmortem report. The inquest report revealed injury marks on both the knees of the deceased. The post-mortem report revealed abrasions over left and right knees and also on the face and the forehead. The Head of Forensic Medicine Department, Government Medical College, Nagpur concluded that the cause of death was due to ailment of liver (cirrhosis of liver with chronic venous congestion). The Sub-Divisional Magistrate, Hindon Ghat who conducted the magisterial enquiry concluded that the deceased died due to ailment of liver but he also mentioned that considering the age, health and ailment, if proper and timely treatment was given, this custodial death could have been avoided.

**4.16** The Commission upon consideration of the matter on 9 February 2012 observed that according to the magisterial enquiry report, had proper and timely medical treatment been provided, the life of the deceased could have been saved. There was medical negligence which resulted in the death of the deceased, violating his human rights. The Commission consequently issued a notice to the Chief Secretary, Government of Maharashtra, Mumbai calling upon to show cause as to why monetary relief may not be recommended to the next of kin of the deceased. The Chief Secretary was also directed to inform to the Commission about the action taken by the State on the magisterial enquiry report.

**4.17** As no response was received from the State Government, the Commission on 16 May 2012 observed that perhaps the Government had nothing to say in the matter. Furthermore, the Sub-Divisional Magistrate, Hindon Ghat who conducted the magisterial enquiry concluded that had proper and timely medical treatment been provided to Shankar Dadaju Ghume who was in the custody of the State, the life of the deceased could have been

saved. Undoubtedly, it was a case of medical negligence, violating the human rights of the deceased. Taking into consideration all the circumstances of the case, the Commission observed that grant of interim relief was justified. Accordingly, an amount of ₹ 3,00,000 was recommended to be paid as interim relief to the next of kin of the deceased.

**4.18** The Superintendent, Wardha District Prison, Maharashtra vide his communication dated 7 July 2012 informed that an amount of ₹3,00,000 was paid to the son of the deceased undertrial prisoner Shankar Dadaju Ghume vide cheque No.71882 dated 1 July 2012. The proof of payment was also annexed.

**4.19** In view of the above, the Commission closed the case on 10 October 2012.

3. *Death of Undertrial Prisoner Raju in Rohini District Jail, Delhi*  
(Case No. 1523/30/0/2011-JCD)

**4.20** The Commission received a communication from the Superintendent of Rohini District Jail, Delhi about the death of an undertrial prisoner, named Raju, s/o Jaiphal in the intervening night of 6-7 April 2011 in the jail premises.

**4.21** In response to the directions of the Commission, it was reported that in the intervening night of 6-7 April 2011 at about 11.15 p.m., Raju was brought by the jail officials to the jail dispensary with alleged history of physical assault by co-inmates. On examination, Raju was found dead. In the inquest report, fresh bruises on the middle of the chest, swollen right eye, blood in the mouth and blood marks on the lips were found. In the postmortem report, a number of ante mortem injuries caused by hard and blunt objects were found on different parts of the body. The death was opined to have occurred due to combined effect of traumatic asphyxia, coma and shock consequent upon multiple injuries over neck, chest, head and buttocks. The Metropolitan Magistrate, Delhi, who conducted a judicial enquiry, concluded that the deceased lost his life on account of unnatural circumstances that had resulted due to culpable homicide. The actual perpetrators of the culpable homicide were required to be ascertained by further investigation. The DCP, Outer District, Delhi informed that an FIR u/s 302/201/34 IPC was registered at P.S. Samaipur Badli, Delhi. Eight accused were arrested and chargesheet was filed against them in the Court.

**4.22** The Commission on consideration of the above reports directed the Chief Secretary, Government of NCT of Delhi to show cause as to why suitable compensation should not be awarded to the next of kin of the deceased. The Director General (Prisons), Government of NCT of Delhi was further directed to inform the Commission about the steps taken to prevent re-occurrence of such incidents.

**4.23** In response to the show cause notice, the Law Officer (Prisons), Delhi, reported that on 6 April 2011 Raju and another undertrial, Rakesh, quarreled with each other. On receiving an emergency call, the jail officials rushed to the jail ward where Raju was found lying unconscious and Rakesh had a surgical blade in his bleeding hand. Both of them were

immediately rushed to Jail dispensary for treatment where the doctors examined the two. Rakesh was referred to Dr. Baba Saheb Ambedkar Hospital, Rohini, Delhi for treatment and Raju was declared dead. It was further stated that there was no delay in rendering medical aid to the undertrials. A submission was, therefore, made that compensation may not be awarded in the matter.

**4.24** The Commission took the view that it was the statutory duty of the State and its concerned officers in the Jail Department to ensure the personal safety of the prisoners during detention in jail. They are expected to prevent the attack on the body of a prisoner and to save him from any violence or injury being caused not only by the jail officials but also by the co-prisoners. In the given case, the jail officials failed to perform their duties as per law for which the State was liable to compensate the next of kin or family members of the deceased. The Commission thus recommended that a monetary compensation of ₹ 3,00,000 be paid to the next of kin of the deceased.

**4.25** In compliance of the Commission's recommendations, the Superintendent Prisons, Government of NCT of Delhi reported that the compensation had been paid to next of kin of the deceased. The proof of payment was also furnished. The matter continues to be under the consideration of the Commission.

*4. Death of Undertrial Prisoner Lal Mahatoo in District Jail, Sivasagar, Assam  
(Case No. 4/3/15/2012-JCD)*

**4.26** The Commission received an intimation dated 8 December 2011 from the Superintendent, District Jail, Sivasagar, Assam about the custodial death of an undertrial prisoner Lal Mahatoo, aged 19 years and s/o Late Bijoy Mahatoo.

**4.27** In response to the Commission's directions, it was reported that Lal Mahatoo was ill and was referred to Civil Hospital, Joysagar on 6 December 2011 for treatment. While undergoing treatment, the prisoner expired on 8 December 2011. In the inquest report, the cause of death was mentioned as "due to illness". In the post-mortem examination report, no external injury was found on the body of the deceased. The report further mentioned that no definite opinion about the cause of death could be detected. The viscera were preserved for examination. In the magisterial enquiry report, the Magistrate concluded that the prisoner suffered from certain illness which could not be diagnosed. Although, diagnostic tests were advised, they were not conducted. On further enquiry by the Commission, the Deputy Commissioner, Sivasagar intimated that on examination of the viscera at the forensic laboratory, no poison was detected. A medical board constituted for the purpose opined that no definite cause of death of the deceased could be detected.

**4.28** The Commission considered the reports and noted that alleged diagnostic tests were advised for the prisoner but those were not conducted. This, in Commission's view, clearly reflected negligence on the part of the jail authorities including the jail doctor and doctors of Civil Hospital, Sivasagar who did not get the necessary tests conducted to diagnose the

actual disease or illness suffered by the prisoner. The Commission observed that there appeared to be a *prima facie* violation of the right to life in the said case including right to get necessary medical treatment from a doctor during the custody in jail.

**4.29** The Commission directed the Chief Secretary, Government of Assam to show cause as to why a suitable compensation should not be awarded to the next of kin of the deceased Lal Mahatoo for medical negligence on the part of officers and employees of the State.

**4.30** The Secretary, Medical and Health Department, Government of Assam and Director General of Prisons, Assam were also directed to get a thorough enquiry conducted against the concerned doctors and the jail officials for alleged medical negligence in the treatment of the deceased prisoner as per the report of magisterial enquiry and to take appropriate action against the erring officials.

**4.31** The requisite reports are awaited by the Commission.

**5.** *Death of Sivakumar in Judicial Custody in Tiruchirapalli due to Torture by Police (Case No. 1014/22/36/08-09-JCD)*

**4.32** The Commission received an intimation dated 18 August 2008 from the District Collector, Tiruchirapalli that two employees of Sree Ramvilas Oil Company of Thiruvaiyaru were waylaid and looted of ₹56,60,000 while they were going to deposit the collection money in ICICI Bank at Kumbakondam. A criminal case No.157/2008 was also registered on 8 July 2008 at Swamimalai Police Station regarding the dacoity. During investigation by the police, the name of one Sivakumar came to light and he was arrested on 15 August 2008 at 06.15 a.m. near Leelavati Tea Stall in Thillaisthan village. The information of arrest was given to his sister and some recoveries were also made from Sivakumar's house. Thereafter, he was produced in the court and remanded to judicial custody for 15 days. He was sent to Central Prison, Tiruchirapalli. On 17 August 2008, he was sent from the jail to Government Hospital, Tiruchirapalli with multiple injuries. He died in the hospital on the same day during the course of treatment. The postmortem report revealed eleven ante-mortem injuries and the cause of death was on account of multiple contusions and respiratory distress.

**4.33** During the magisterial enquiry, while the police claimed that Sivakumar had been arrested around 6.15 a.m. on 15 August 2008, Sasikala, wife of the deceased deposed before the Magistrate that her husband was taken away for interrogation on 5 August 2008. She also stated before the Magistrate that she had gone to Swamimalai Police Station on 9 August 2008 with her relatives and Advocate R. Sivasubramanian. She further stated that the Advocate was allowed to meet her husband who after the meeting informed that Sivakumar was beaten and had swollen legs. She testified that on 15 August 2008 while she had gone with her relatives to Karakottai to perform the last rites of her grandmother, the police came to her house and told the sister-in-law that Sivakumar was being taken to Tiruchi Prison.



**4.34** Inspector N. Kannadasan of Swamimalai Police Station who appeared before the Magistrate explained that Sivakumar got injured due to a fall as he was intoxicated. On consideration of evidence, the Magistrate concluded that Sivakumar died on account of multiple organ failure.

**4.35** On considering the various reports received, particularly, the infirmities noticed during the magisterial enquiry, the Commission found that *prima facie* Sivakumar was kept in illegal detention for a number of days before his formal arrest and during this period he was subjected to torture. In Commission's view, the police appeared to be liable for the death of Sivakumar. On 15 October 2011, the Commission directed that a notice be sent to the Government of Tamil Nadu to show cause why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not given to the next of kin of Sivakumar.

**4.36** In response to the show cause notice, the State Government vide its letter dated 11 January 2012 submitted that the prisoner had died due to torture by the police personnel and orders were issued to initiate departmental action against the delinquent policemen. It was further stated that the State Government is contemplating to sanction a financial relief of ₹ 1,00,000 to the next of kin of the deceased.

**4.37** Taking note of the response received from the State Government including all the circumstances of the case, the Commission on 9 May 2012 recommended to the Government of Tamil Nadu to pay a sum of ₹ 5,00,000 as monetary relief to the next of kin of the deceased. While sanction for payment of monetary relief of ₹ 5,00,000 to the next of kin of the deceased has been granted by the State Government, proof of payment is awaited.

**6.** *Death of Chaitu Potai in Judicial Custody in North Bastar, Chhattisgarh*  
(Case No. 451/33/8/2011-JCD [Link File Case No. 520/33/8/2011-AD])

**4.38** The Commission received an intimation from the Additional District Magistrate, North Bastar, Kanker, Chhattisgarh about the custodial death of an undertrial prisoner Chaitu Potai, aged 26 years who was admitted in the jail on 25 November 2010. However, on 23 August 2011, due to his deteriorating health, Chaitu Potai was admitted in the Government District Hospital, Kanker, where he expired on 24 August 2011. On the basis of this information, the Commission registered a case (No. 451/33/8/2011-JCD).

**4.39** A joint complaint was also received from Sukhmi Bai Potai (wife of deceased Chaitu Potai) and others from village Kotodi, Gram Panchayat Kadme, P.S. Koyalibeda, District North Bastar, Kanker, Chhattisgarh. In the complaint, it was alleged that on 24 November 2010, the police of P.S. Koyalibeda falsely implicated her husband in a naxalite case and sent him to judicial custody. Chaitu Potai died under mysterious circumstances in the jail on 24 August 2011 and on 26 August 2011 his body was handed to them for the last rites. Furthermore, in the complaint, it was mentioned by Sukhmi Bai Potai that eight days before the death of her husband, she had met Chaitu Potai who was found to be in good health. She failed to understand as to how her husband's health deteriorated within a span of eight



days. She thus requested the NHRC to intervene in the matter. Accordingly, the Commission registered a case vide No. 520/33/8/2011-AD and clubbed it with case No. 451/33/8/2011-JCD.

**4.40** According to a report dated 18 October 2011 received from the Superintendent of Kanker District Jail, Chaitu Potai was jailed on 25 November 2010 and at that time his health was normal.

**4.41** During the inquest proceedings, no external injury was detected and it was noted that the prisoner died while undergoing treatment. However, postmortem examination was recommended to ascertain the exact cause of the death.

**4.42** The postmortem report indicated no ante-mortem external injury on the body of the deceased. The cause of death was "syncope due to sudden infraction of spleen enlarge".

**4.43** Magisterial enquiry was conducted by the Sub-Divisional Magistrate, North Bastar, Kanker, Chhattisgarh. During the magisterial enquiry, he recorded statements of the jailor and four co-prisoners and also examined the relevant documents. On the basis of statements and documents, the SDM stated that Chaitu Potai was in jail since 25 November 2010 in case Cr. No. 249/03 and 255/03. He was administered timely treatment whenever he fell sick. The treatment records of 6.2.2011, 4.3.2011, 11.3.2011, 14.3. 2011, 17.3.2011, 4.4.2011 & 6.4.2011 were available, but the same did not mention the exact nature of the disease for which the treatment was given. On 23 August 2011, Chaitu Potai was admitted in District Hospital Kanker due to sickness where he expired the next day, i.e. on 24 August 2011 while undergoing treatment. Postmortem examination was conducted by a Board of three doctors and later the body was handed over to the relatives. The SDM concluded that adequate treatment was provided to the deceased. However, the Magistrate mentioned that there was only a temporary jail doctor in Kanker jail on whose advice the pharmacist used to give medicines to the ailing prisoners.

**4.44** As per the report of the Superintendent of Jail, Kanker, the deceased was given treatment in the jail hospital, on different dates, for following diseases :

Date	Disease
6.2.2011	Boil
4.3.2011	Fever
11.3.2011	Rashes on body
14.3.2011	Fever
17.3.2011	Anaemic (Hb 7g)
4.4.2011	Anaemic (Hb 6g)
6.4.2011	Fever
<b>Treatment in Distt. Hospital, Kanker</b>	
23.8. 2011 (at 12.50 p.m.)	Fever & puff face
24.8. 2011	Fever, Anaemic (Hb <3g) and vomiting, died at 11.20 a.m.

**4.45** In view of the above, the Commission noticed that on 17 March 2011 the deceased was examined and his Hb measurement was 7 g. and after 18 days, i.e. on 4 April 2011 it was again 6 g. Later, on 23 August 2011 when the deceased was admitted in District Hospital Kanker in critical condition, at that time too his Hb measurement was less than 3 gm. The cause of death of the deceased mentioned by the Board of three doctors was "syncope due to sudden infraction of spleen enlarge".

**4.46** The case was also examined by the Investigation Division of the Commission and it found that adequate treatment was not provided to the deceased and recommended that the opinion of the forensic expert on NHRC panel may be sought to verify the medical negligence in providing proper and timely treatment to the deceased.

**4.47** The case file was accordingly sent to Dr. N.K. Aggarwal, Professor of Forensic Medicine, University College of Medical Sciences & Guru Teg Bahadur Hospital, Delhi for his expert opinion. He opined that "After reviewing the postmortem report and treatment records, I am of the opinion that as the deceased was suffering from severe anaemia, for which he could have been treated at appropriate time." The Commission considered the report of the expert and inferred that the deceased was not provided proper medical treatment which violated his human rights. If proper and timely medical treatment was given to the deceased his life could have been saved.

**4.48** The Commission thus issued a notice u/s 18 of the Protection of Human Rights Act to the Chief Secretary, Chhattisgarh calling upon him to show cause why interim relief may not be recommended to be paid to the next of kin of the deceased.

**4.49** The Joint Secretary (Admn.), Chhattisgarh sent a report dated 21 August 2012 that as per the postmortem report, the death of the deceased Chaitu Potai was natural and the Executive Magistrate did not suspect any foul play during enquiry. Further, there has not been any medical negligence in providing treatment to the deceased.

**4.50** The Commission considered the reply and sent the case file again to Dr. N. K. Aggarwal, Professor of Forensic Medicine and expert on the panel of NHRC for his view. After review of the postmortem report and treatment record, he concluded that the deceased was suffering from severe anaemia for which he was not provided treatment at proper time.

**4.51** Taking into consideration all the reports and records available, the Commission recommended an interim relief of ₹ 5,00,000 to the next of kin of the deceased and called upon the Chief Secretary, Government of Chhattisgarh to send the proof of payment made to the next to the kin of the deceased.

**4.52** The DIG, Chhattisgarh vide his report dated 26 December 2012 has confirmed payment of ₹ 5,00,000 to Sukhmi Bai Potai, wife of the deceased.

## ***Police Custody***

### **7. *Death due to Police Torture in Kerala***

*(Case No. 112/11/10/2010-PCD [L/F 113/11/10/2010-AD])*

**4.53** The Superintendent of Police, Palakkad sent a communication to the Commission that a person by the name of Sampath aged 30 years was arrested by the police of Town North Police Station on 29 March 2010. He complained of uneasiness and chest pain and collapsed in the lockup. He was taken to the District Hospital, Palakkad but was declared brought dead.

**4.54** In response to the notice, the District Magistrate, Palakkad, Kerala submitted a copy each of the inquest, postmortem and magisterial enquiry reports. The inquest proceedings and the postmortem report revealed more than 30 wounds and 63 wounds respectively on the body of the deceased. All these injuries were ante-mortem in nature caused by kicking with shoes, striking against hard surface, compression of lower forearm, wrist, etc. The cause of death given was internal bleeding in tissues and brain and multiple localized trauma. As per the statements of the relatives recorded during the magisterial enquiry, the deceased died of police torture. The Magistrate concluded on the basis of the statements of witnesses including policemen and relatives and other records that the death of Sampath occurred due to brutal physical torture while he was in police custody.

**4.55** Upon consideration of the reports on 20 August 2010, the Commission observed that the deceased Sampath was in the custody of the police. As per postmortem report as many as 63 injuries were found on his body. The Magistrate too concluded that Sampath died due to brutal physical torture while in police custody. *Prima facie*, it was a case of human rights violation. The Commission thus issued a notice to the Chief Secretary, Government of Kerala, Thiruvananthapuram calling upon to show cause as to why interim relief may not be recommended to be paid to the next of kin of the deceased.

**4.56** In response, the Additional Chief Secretary to the State Government, Home Department, Thiruvanthapuram conveyed that a CBI investigation is in progress. As such, the payment of interim relief at this stage is premature.

**4.57** A letter was also received from the Superintendent of Police, CBI, Thiruvanthapuram which revealed that Sampath (the deceased), Manikandan and Kanakraj were picked up by the police and taken to an isolated place at the riverside cottage of Irrigation Department. There they were brutally tortured by the police with fist blows, *lathies*, cane, kicking with shoes and other objects. The death of Sampath took place due to the injuries sustained by him for which the police personnel were solely responsible and further investigation was under progress in case crime No.251/10.

**4.58** The Commission on 10 November 2010 considered the reply as well as the report received from the CBI and observed that Sampath and two others were brutally tortured by the police officials which ultimately led to his death. This clearly indicated high handedness

on the part of the police. The Commission thus felt that grant of interim relief to the next of kin of the deceased in the given case is justified. Hence, it recommended payment of interim relief amounting to ₹ 5,00,000 to the next of kin of Sampath.

**4.59** The Deputy Secretary, Home (SSA) Department, Government of Kerala informed to the Commission that it had sanctioned ₹5,00,000 as interim relief to the next of kin of the deceased. He further informed that the State Police Chief acting on the directions of the Government of Kerala had disbursed an amount of ₹1,25,000 each to the mother and widow of the deceased. The remaining ₹2,50,000 will be paid equally to the two children of the deceased, Sampath.

**4.60** The Inspector General of Police, Police Headquarters, Thiruvananthapuram, Kerala vide his communication dated 9 May 2012 further informed that balance amount of the interim relief of ₹2,50,000 had been disbursed to Saritha, wife of the deceased Sampath, on 12 April 2012. The proof of payment was also annexed.

**4.61** The Commission considered the matter and noted that as the CBI case was being monitored by the Chief Judicial Magistrate, Ernakulam and in view of the fact that the total amount of interim relief of ₹ 5,00,000 as recommended by the Commission was paid, no further action was called for. The compliance report was taken on record on 3 July 2012 and the case was closed.

**8.      *Death of an Innocent Person in Police Custody in Jharkhand***  
**(Case No. 685/34/7/2011-PCD)**

**4.62** The Superintendent of Police, Garhwa, Jharkhand sent an intimation to the Commission that on 19 May 2011 Coy Commander, Bazar Samiti, CRPF apprehended one Rishi Kumar on suspicion and handed him over to Police Station Siristha where on being violent, he was put in the lock-up. In the toilet of the Police Station, Rishi Kumar locked himself and attempted suicide by tightening his *banyan* (vest) around the neck. He was immediately taken to Sadar Hospital where he died during treatment on the same day.

**4.63** The Superintendent of Police, Garhwa vide letter dated 30 June 2011 forwarded the copies of inquest, postmortem and magisterial enquiry report. While the inquest report revealed only a light mole mark around the deceased's neck, the postmortem report revealed several abrasions on various parts of the body of the deceased. All injuries were caused by hard and blunt substances.

**4.64** The Sub-Divisional Magistrate, Garhwa who conducted the magisterial enquiry report concluded that the deceased Rishi Kumar was not a criminal and there was no case registered against him. Because of his abnormal behaviour, he was kept in the lockup where he attempted to commit suicide and later died in Sadar Hospital.

**4.65** The Chief Judicial Magistrate, Garhwa who also conducted a judicial inquiry over the incident concluded in his report that *prima facie* it was a case of custodial death and not

a case of custodial suicide. He also did not believe that the deceased was mentally sick. The Judicial Magistrate recommended that a case u/s 342/302/201/34 IPC be registered against the erring police officials and the matter investigated by appropriate agency.

**4.66** The Commission upon consideration of the matter observed that as per the magisterial enquiry report there was no case registered against the deceased. He was also not a criminal. He was kept in the lock-up illegally where he made an attempt to commit suicide and later on died in the hospital on the same day. The human rights of the victim had definitely been violated. The Commission consequently issued a notice to the Chief Secretary, Government of Jharkhand calling upon him to show cause why monetary relief may not be recommended to be paid to the next of kin of the deceased.

**4.67** The Deputy Secretary (Home), Government of Jharkhand informed that it had no objection to the grant of token amount of compensation to the next of kin of the deceased.

**4.68** The Commission further observed that the Chief Judicial Magistrate who conducted the judicial enquiry had indicted the police officers for custodial death of Rishi Kumar and recommended registration of a criminal case against the erring police officers to be investigated by an appropriate agency. An amount of ₹ 5,00,000 was recommended to be paid as compensation to the next of kin of the deceased. The Chief Secretary, Government of Jharkhand was directed to send the proof of payment and inform the Commission about the action taken on the judicial enquiry report submitted by the Chief Judicial Magistrate, Garhwa.

**4.69** In response, the Under Secretary, Home Department, Government of Jharkhand vide communication dated 16 April 2012 forwarded the compliance report along with proof of payment of ₹5,00,000 made to the father of the deceased vide banker's cheque No. 748389 dated 12 April 2012. The Inspector General of Police, CID, Jharkhand vide communication dated 16 April 2012 also informed to the Commission that pursuant to the findings of the judicial enquiry, a case vide FIR No.109/2012 for the offence punishable under Sections 342, 302, 201, 34 IPC was registered at P.S. Garhwa on 14 April 2012 and the same was being investigated.

**4.70** The Commission upon consideration of the compliance report and the communication from the CID, directed the Director General of Police, Jharkhand to ensure proper supervision of the case being investigated by the State CID as well as ensure that departmental proceedings initiated against the delinquent police personnel are expedited and finalized at the earliest. With these directions, the Commission on 1 May 2012 took the compliance report on record and closed the case.

9. *Death of Chukka Bala Anthony in Central Jail, Kadapa, Andhra Pradesh*  
(Case No. 586/1/11/08-09-AD)

**4.71** The Commission received a complaint from Chukka Lakshamma, a resident of Koilakuntla town, District Kurnool in Andhra Pradesh alleging that her husband Chukka



Bala Anthony was picked up from the house on 3 October 2008 by the Inspector of Police, P.S. Koilakuntla at about 2 a.m. He was illegally detained and tortured in custody for three days. On 6 October 2008, he was produced before the Court and sent to Central Jail, Kadapa. The complainant further alleged that she received information in the evening of 7 October 2008 from Central Jail, Kadapa about the death of her husband in custody. The body of the deceased had a number of marks due to injuries inflicted upon him by the police.

**4.72** In response to the directions given by the Commission, the requisite reports were received from the concerned authorities. The postmortem report mentioned seven ante-mortem injuries on the body of the deceased. No poison was found during the chemical analysis of the viscera. The final cause of death was stated as fracture of skull bones associated with hematoma of the brain due to blunt force. In the magisterial enquiry, the Magistrate concluded that the deceased Chukka Bala Anthony was suffering from withdrawal symptoms of alcohol even at the time of admission in Sub-Jail, Koilakuntla, Kurnool and later in Central Prison, Kadapa, as he behaved strangely hitting his head against the walls of the prison cell and the iron rods. This resulted in injuries as mentioned by the doctors. No one could be held responsible for his death.

**4.73** The Commission considered the above reports and noticed the variations in the version of prison officials of Sub-Jail, Koilakuntla and Central Prison, Kadapa. It was also observed that the magisterial enquiry report did not explain the injuries found on the body of the deceased in the postmortem report. As such, the Commission directed the Chief Secretary, Government of Andhra Pradesh to get the matter enquired through the State CID and submit a report.

**4.74** In response, the Principal Secretary, Government of Andhra Pradesh (Home) submitted a CID enquiry report, wherein it was stated that no foul play was seen during the investigation and neither the Police nor the Jail authorities were responsible for the death of Chukka Bala Anthony. The Enquiry Officer recommended that suitable departmental action may be taken against the erring police officials for keeping the accused in illegal detention for three days.

**4.75** The Commission directed the Chief Secretary, Government of Andhra Pradesh to show cause, as to why a suitable monetary relief should not be awarded to the next of kin of the deceased Chukka Bala Anthony. Furthermore, the Chief Secretary, Government of Andhra Pradesh was directed to intimate to the Commission the quantum of punishment awarded to the delinquent police officials in the departmental proceedings.

**4.76** The Principal Secretary, Department of Home, Government of Andhra Pradesh, Hyderabad, reported that the delinquent Circle Inspector of Police and ASI who were responsible for illegal detention of the accused Chukka Bala Anthony had been awarded suitable punishment in the departmental enquiry. No explanation beyond this was tendered.

**4.77** The Commission recommended to pay a sum of ₹ 30,000 as monetary relief to the next of kin of the deceased Chukka Bala Anthony.



**4.78** The Special Chief Secretary, Government of Andhra Pradesh vide his report dated 25 March 2013 informed that orders of sanctioning amount of ₹ 30,000 had been issued for payment of compensation to the legal heirs of the deceased. The proof of payment is yet to be received. The matter is under consideration of the Commission.

10. *Death of Ghanshyam Lalchand Desani in P.S. Kareli, Vadodara, Gujarat*  
(Case No. 145/6/2005-2006-CD)

**4.79** The Commission received an intimation dated 3 July 2005 from the Commissioner of Police, Vadodara about the death of Ghanshyam Lalchand Dasani, aged 40 years, in the custody of police at P.S. Kareli on 3 July 2005. The deceased was arrested u/s 122 of Bombay Police Act at 5.00 a.m. on 3 July 2005 and brought to the Police Station Kareli in Vadodara city. There, he hanged himself with a bed sheet in the lock-up.

**4.80** The postmortem report did not reveal any external injury except a ligature mark on the neck. The Postmortem Surgeon attributed the death due to asphyxia as a result of hanging. The postmortem findings were noted by the SDM, Vadodara in his enquiry report in which it was concluded that Ghanshyam Lalchand had committed suicide by hanging himself. The SDM, however, recommended that a special enquiry be conducted by some senior police officer ascertaining the conditions which led Ghanshyam to commit suicide. Accordingly, the matter was investigated by the State CID and the investigating agency came to the conclusion that the prisoner committed suicide in a state of mental depression.

**4.81** While considering the matter on 14 July 2011, the Commission observed that since the deceased was in custody, it was the duty of the police to see that no harm was caused to him. If proper vigilance had been exercised, the prisoner would not have got an opportunity to commit suicide. The death was solely attributable to the negligence of the concerned police officials. Consequently, the Commission directed that a notice u/s 18 of the Protection of Human Rights Act, 1993 be issued to the Government of Gujarat through its Chief Secretary requiring it to show cause why monetary relief be not given to the next of kin of the deceased.

**4.82** In response to the show cause notice, a letter dated 18 October 2011 was received from the Commissioner of Police, Vadodara city stating that no compensation is required to be paid to the next of kin of the deceased as he committed suicide. Moreover, the two police officials had been punished for negligence in performing their duties of supervision while the deceased was in custody.

**4.83** The Commission in its proceedings took the view that the State was under an obligation to protect the life and limb of the deceased and as well as ensure that he may not cause self harm while in custody. The State had definitely failed in its duty to protect the life of the deceased and is vicariously liable for the wrong done to him. The Commission on 14 June 2012 recommended to the State Government to pay a sum of ₹ 1,00,000 as compensation to the next of kin of the deceased.

**4.84** Pursuant to the sanction dated 23 August 2012 issued by the Home Department, Government of Gujarat, for payment of ₹1,00,000 to the next of kin of the deceased, a compliance report along with the proof of payment has been received by the Commission. The matter, however, continues to be under the consideration of the Commission.

**11. *Death of Rajbal in Police Custody in Chhapar, Muzaffarnagar, Uttar Pradesh***  
(Case No. 14530/24/57/09-10-PCD)

**4.85** The Commission received an intimation dated 9 July 2009 from the District Magistrate and the Senior Superintendent of Police, Muzaffarnagar, Uttar Pradesh about the death of one Rajbal, s/o Ratiram in Police custody at P.S. Chhapar, District Muzaffarnagar, Uttar Pradesh on 7 July 2009. One Vijay Pal also made a complaint at P.S. Chhapar, Muzaffarnagar to the effect that seven named accused had beaten up his father Rajbal and uncle Mayaram on account of dispute over a plot of land. As a result of the beating, his father Rajbal, aged 60 years expired. A criminal case No.456/2009 u/s 302 IPC was registered on the basis of his complaint. Section 3 (2) 5 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added in the case. The case was initially investigated by the local police and subsequently the investigation was transferred to CB-CID. The investigation by CB-CID disclosed that Sub-Inspector Muninder Singh and Constable Ajay had committed offences u/s 302/323 IPC. It was also found by the investigating agency that Constable Sardar Singh had committed offences u/s 323/302/109 IPC. Since a Sub-Inspector and two Constables were found liable for the death of Rajbal by CB-CID, the Commission on 21 April 2011 issued a notice to the Government of Uttar Pradesh directing it to show cause as to why monetary relief be not given to the next of kin of deceased Rajbal.

**4.86** In response to the show cause notice, the State Government vide its communication dated 10 August 2011 submitted that a chargesheet had been filed in the court against the delinquent policemen. Moreover, financial assistance of ₹ 1,50,000 had been given to the next of kin of deceased Rajbal under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The State Government added that it had no objection to the grant of additional monetary relief.

**4.87** Vide its proceeding dated 2 May 2012, the Commission observed that it has been established *prima facie* during investigation by the CB-CID that Rajbal lost his life in consequence of assault by policemen. As such, the bereaved family deserved to be suitably compensated. Considering all the circumstances of the case, the Commission recommended to the Government of Uttar Pradesh to pay a sum of ₹5,00,000 to the next of kin of deceased Rajbal. The amount disbursed as financial assistance under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was to be adjusted.

**4.88** The Special Secretary, Government of Uttar Pradesh vide letter dated 8 February 2013 informed to the Commission that ₹3,50,000 had been paid to the next of kin of late Rajbal as recommended by the Commission. The proof of payment was also enclosed. The matter continues to be under the consideration of the Commission.

**12.** *Death of Sandeep Kumar in P.S. Narnaud, Hissar, Haryana*  
(Case No. 1969/7/6/2010-PCD)

**4.89** An intimation was received in the Commission on 19 August 2010 from the S.P., Hissar, Haryana mentioning therein that one Sandeep Kumar (age 23/24 years), s/o Mahabir Singh and r/o Rajthal, P.S. Narnaud was arrested by ASI Udai Ram (now retired) in connection with FIR No. 331 u/s 324 IPC dated 18 August 2010. He was kept in the lock-up of P.S. Narnaud. In the police lock-up, Sandeep took off his shirt and tried to strangle himself. The same was seen by the on duty Sentry, Ram Niwas who informed the Munshi of the Police Station and ASI Udai Ram. The lock-up was immediately opened and as the condition of Sandeep was found to be serious, he was rushed to the Community Health Centre (CHC), Narnaud. In the CHC, he was first examined by the para-medical staff and then the Medical Officer. After examination, Sandeep was declared dead by the Medical Officer. On examination of the case, the Commission found inconsistency with regard to the time when the deceased was put in the lock-up, taken out of the lock-up, taken out of the police station premises and shifted to the CHC. Further, no document pertaining to the entry with regard to the admission of the deceased in the CHC was made available. Initially, the deceased was examined by the para-medical staff and then the Medical Officer. But no record regarding these entries was made available.

**4.90** The Commission directed the Investigation Division to depute a team to visit the concerned Police Station and the CHC immediately for the purpose of obtaining the relevant records and submission of the inquiry report.

**4.91** The visiting team from the Investigation Division examined the records and documents pertaining to the case of P.S. Narnaud, District Hissar, especially '*Rojnamcha*' (General Diary), *Malkhana* register, wireless message register, case dairy, logbook of gypsy No. HR-39-B-1206 of P.S. Narnaud. The antecedents of deceased Sandeep were also collected from P.S. Narnaud. Similarly, records of the CHC, Narnaud, District Hissar pertaining to the treatment of the deceased Sandeep in OPD and indoor patient were examined. Besides, the team recorded statements of concerned para-medical staff and doctor who treated the deceased.

**4.92** On going through the records, it was revealed that as per Daily Diary Entry (DDE) No. 2 dated 18 August 2010 at 00.35 a.m., an FIR No. 331/2012 u/s 324 IPC was registered on the complaint of one Ishwar, s/o Tarsem and r/o Villgae Sorkhee, District Hissar against the deceased Sandeep for assaulting him with a knife on the right hand near Shanti Hospital, Narnaud. The deceased was handed over to the ASI Udai Ram along with knife near bus stand of Narnaud where he was on a patrolling duty along with ASI Rameshwar and

Constable Sunil. In this regard, *Rojnamcha* entry No. 43 dated 17 August 2010 revealed that ASI Udai Ram, ASI Rameshwar and Constable Sunil left P.S. Narnaud at 10.10 p.m. for area patrolling. DDE No. 3 dated 18 August 2010 and *Rojnamcha* entry No. 3 dated 18 August 2010 revealed that the deceased was arrested at 01.00 a.m. and after the arrest, he was searched in P.S. Narnaud but nothing was found from his possession. Information regarding his arrest was given to Kulwant Singh, the then Sarpanch, Rajthal and Suresh Kumar, Ex-Sarpanch Rajthal. Relatives of the deceased were informed as well.

**4.93** The team found that no specific entry was available either in the records of P.S. Narnaud neither in the CHC, Narnaud. However, as per the statement of Dr. Yashpal Singh, the deceased was brought to the CHC, Narnaud at about 01.50 a.m. on 18 August 2010.

**4.94** Except for the knife, nothing was found from the possession of Sandeep while he was searched at P.S. Narnaud.

**4.95** It was revealed from the suspension order dated 27 August 2010 issued by the Additional Superintendent of Police, Hissar that the deceased was not taken to the CHC in time.

**4.96** Statements of the CHC staff did not support the Police version. The role of the then SHO Rohtas in the whole matter was also not clear. Timing of different significant incidents in the entire matter was found to be inconsistent too. Statements of close relatives, i.e. the mother, sister and others were not recorded at any stage.

**4.97** Though Sandeep was reported to be intoxicated, the Police did not consider it necessary to have him examined upon arrest. No trace of any intoxicant was found in viscera of the deceased. The ligature mark as mentioned in the postmortem report was found to be 2.2 cm. whereas the impression/mark of a shirt should be wider. Two injuries were mentioned on the body in the postmortem report. The Investigation Team thus recommended that a thorough enquiry in the matter may be conducted through CB-CID, Haryana.

**4.98** The Commission directed the Government of Haryana to send clarifications on all the anomalies, failing which, it may consider having a CB-CID enquiry to resolve the doubts that remain.

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

13. *Death due to Custodial Violence by Army in Assam*  
(Case No. 64/3/2011-PCD)

**4.99** The Superintendent of Police, Haflong, Dima Hasao, Assam sent an intimation to the Commission about the death of accused Thangben Kemprai, aged 23 years. It was stated that on 9 March 2011 at about 12.30 p.m. Capt. Huska Sema of 16 Dogra Camp Thajuwary handed over the dead body of one Thangben Kemprai at P.S. Diyungmukh along with the

copy of the FIR which revealed that the deceased was inside a house which was locked from outside. The lock was broken and the deceased was brought out. He was questioned and later became unconscious. He was taken to the Primary Health Centre Diyungmukh, where he was declared dead. The Senior Superintendent of Police, Dima Hasao District, Haflong informed that on the written report UD No. 2/11 was registered. And, further, another FIR No. 5/11 for the offences punishable u/s 302 IPC was registered in P.S. Diyungmukh on the complaint made by the brother in-law of the deceased. It was alleged in the complaint that deceased was picked up by the Army of Thaijuwari camp and later killed under mysterious circumstances.

**4.100** The Superintendent of Police, Dima Hasao District, Haflong, Assam subsequently forwarded a detailed report along with a copy each of the inquest and postmortem report. Perusal of inquest proceedings revealed no injury on the person of the deceased except for the blood oozing from his nose and saliva coming out of the mouth. The cause of death therefore could not be ascertained. Perusal of the postmortem report too revealed no injury on the person of the deceased. The cause of death to be determined only on receipt of viscera examination report.

**4.101** The Deputy Commissioner, Dima Hasao District, Haflong forwarded a copy of the magisterial enquiry report conducted by the Additional Deputy Commissioner of the District. It concluded that the deceased Thangben Kemprai died in Army custody on way to the Primary Health Centre, Diyungmukh. There is no evidence that the deceased was tortured and the exact cause of death could be known only after the receipt of the chemical analysis report. After examining the viscera report, the board of doctors opined that cause of death was vagal inhibition which may be due to anger, fright, dread or any other emotional excitement.

**4.102** As per the directions of the Commission, the file was sent to Professor and Head, Department of Forensic Medicine, UCMS & GTB Hospital, an expert on the panel of the Commission. He gave his opinion as follows:

*"Further on reviewing the postmortem report it was observed that there was bilateral periorbital contusion and blood clots were found in the peritoneal cavity. These findings does not co-relate with the cause of death and could be due to any blunt trauma".*

**4.103** The Commission considered the matter on 27 March 2012 and observed that as per the postmortem report the deceased had no simple injuries but fracture of left maxillary bone. The expert on the panel of the Commission too concluded that the findings given in the postmortem report did not co-relate with the cause of death and could be due to any blunt trauma.

**4.104** On examination of all the facts and reports related to the case, the Commission opined that the death of deceased Thangben Kemprai took place while he was in the custody



of Army officials. The human rights of the victim had definitely been violated. Let a notice u/s 18 of the Protection of Human Rights Act, 1993 be sent to the Secretary, Ministry of Defence, Government of India calling upon to reply to the Commission within four weeks.

**4.105** The Commission next considered the matter on 27 August 2012 and observed that no reply had been received from the Ministry of Defence. It appeared to the Commission that the Government of India had nothing to say in the matter. Deceased Thangben Kemprai died in the custody of the Army on way to the Primary Health Centre, Diyungmukh, as per the magisterial inquiry conducted by the Additional Deputy Commissioner, Dima Hasao, Haflong. The file was also sent to the expert on the panel of NHRC who concluded on review of the postmortem report that there was bilateral periorbital contusion and blood clots were found on peritoneal cavity. These findings did not co-relate with the cause of death and could be due to any blunt trauma. As per the postmortem report, the deceased not only had simple injuries, but fracture of left maxillary bone. The human rights of the victim undoubtedly had been violated. In these circumstances, the Commission recommended an amount of ₹ 5,00,000 to be paid as interim relief to the next of kin of the deceased. The Secretary, Government of India, Ministry of Defence, New Delhi was directed to forward the proof of payment to the Commission within four weeks as well.

**4.106** In response, the Ministry of Defence vide their letter dated 22 January 2013 sought an extension of three months which was granted by the Commission. Further response in the matter is awaited.

## **b) Illegal Detention and Torture**

14. *Suo Motu Cognizance of Brutal Torture Meted Out to a Woman by Police in Central Jail, Raipur, Chhattisgarh*  
(Case No. 517/33/3/2011)

**4.107** The Commission took suo motu cognizance of a media report dated 11 October 2011 of Newsfirst correspondent in which it was stated that a woman from Chhattisgarh namely Soni Sori was arrested by Chhattisgarh and Delhi Police on 4 October 2011 from Delhi. She was shifted to Chhattisgarh and subjected to brutal torture in the custody which resulted in several severe head injuries.

**4.108** The Commission received 37 other complaints regarding the alleged torture of Soni Sori in police custody. All the cases were linked together. The Commission also received a letter dated 10 May 2012 from Shri V. Kishore Chandra Dev, Minister of Tribal Affairs and Panchayati Raj, Government of India and forwarded therewith another letter addressed by Dr. T. N. Seema, Member of Parliament about the custodial torture of Soni Sori. A copy of the Supreme Court of India order dated 2 May 2011 in Criminal Miscellaneous Petition No. 1104, 4981 and 8976 of year 2012 in Writ Petition (Criminal) No. 206 of year 2011 filed by the victim was annexed with the enclosed letter.



**4.109** Pursuant to the directions of the Commission, a report dated 12 October 2011 was received from the Superintendent of Police, District South Bastar, Dantewada. The report revealed that the two accused B. K. Lala and Linga Kodopi were trapped by the police team on 9 September 2011 on the pretext that they were handing over an amount of ₹ 15,00,000 to naxalites Vinod and Raghu through a woman named Soni Sori at Palnar market on behalf of M/s Essar Company. It was further stated that the accused Linga Kodopi along with Soni Sori had acted as a middleman in the payment of money to naxalites on many earlier occasions. Accordingly, the cash and vehicle involved in the matter were seized, the accused arrested and a case No. 26/2011 u/s 121 / 124 A, 120 B IPC, 39 (1), 40 Unlawful Activities (Prevention) Act and 8 (2, 3) Chhattisgarh Special Public Security Act was registered at Kua Konda Police Station. Soni Sori was arrested on 4 October 2011 in Delhi with the help of the Delhi Police Crime Branch.

**4.110** It was also reported that the nephew of Soni Sori, namely, Lingaram Kodopi (aged 25 years) was arrested by Chhattisgarh Police on the charges of facilitating protection money for Maoists from Essar Steel. In addition, the victim Soni Sori had apprehended threat to her life alleging that the State Police had tried to kill her in an encounter on 11 September 2011.

**4.111** The Commission vide its proceeding on 26 September 2012 directed to depute a team from the Investigation Division to look into the circumstances in which Soni Sori was held. The Commission made sure that its Investigation Division team had one woman officer.

**4.112** Pursuant to the directions of the Commission, a team from the NHRC visited the Central Jail in Raipur from 31 October 2012 to 2 November 2012 where Soni Sori was kept. The team spoke to Soni Sori, the alleged victim, in the female ward of the Central Jail. The team also examined and recorded statements of some other co-prisoners in the female ward where Soni Sori was lodged. The team recorded the statements of jail officials and Medical Officer as well who dealt with Soni Sori.

**4.113** The NHRC team found that the overall conditions in which Soni Sori was kept in the Central Jail, Raipur were satisfactory and she too did not complain about anything. However, it was alleged by her that she was stripped naked for purposes of checking and that the prescribed procedure was not being followed in her case. It was further alleged that she was being singled out and stripped in the jail hall in the presence of other women co-prisoners. The team moreover learnt that Soni Sori underwent medical examination at NRS Medical College, Kolkata on the directions of the Hon'ble Supreme Court. As per the report of the Medical Superintendent, NRS Medical College, Kolkata, two foreign objects were removed from the vagina and rectum of Soni Sori.

**4.114** Besides, the NHRC team learnt that Soni Sori did not consume food after the two stripping incidents on 1 July and 13 July 2012 on account of humiliation meted out to her.

**4.115** Contrary to the allegations of Soni Sori, Chhattisgarh Police pleaded that no radio opaque shadow which indicated the presence of foreign body was found by the Radiologist of District Hospital, Dantewada at the time when she underwent medical examination after the incident of her fall in the bathroom on 10 October 2011.

**4.116** Taking note of the findings of the Investigation Division Team, the Commission directed to obtain a clarification from NRS Medical College and Hospital, Kolkata whether the foreign bodies which were removed from the vagina and rectum could have remained there for a period of 18 days.

**4.117** In response to the clarifications sought by the Commission and follow up thereafter, Prof. Sudev Saha, Department of Surgery, NRS Medical College and Hospital, Kolkata stated that "it is unlikely that the foreign body found in the rectum was lodged there for 18 days, as she was passing stool normally during examination. No damage was noticed during the rectal examination. She was provided conservative treatment". In addition, Prof. Dr. Biplob Acharyay, Head of Department, Orthopedics suggested that findings of the Radiologist of Government Hospital, Dantewada and Dr. B. R. Ambedkar Medical College and Hospital, Raipur could be placed before an expert for seeking opinion.

**4.118** Accordingly, the Commission called for an expert opinion in the case which continues to be under its consideration.

15. *Illegal Detention and Torture of a Woman in Police Station Majhola, Moradabad District, Uttar Pradesh*  
(Case No. 31558/24/56/2010)

**4.119** A woman by the name of Soni was illegally detained and tortured at Police Station Majhola in District Moradabad, Uttar Pradesh. As per the version of the Police, her name was disclosed by child lifters from whom a child aged about five was recovered by the Police on 23 July 2010 in Moradabad. She was arrested on the same day and during interrogation it was disclosed she had handed over two missing children to her brother in Haridwar. However, her brother was not found at the given address. Soni and her husband promised to produce the two missing children in 2-3 days. The Police allowed Soni to go with the assurance that she must report back within the stipulated time.

**4.120** Soni then filed a complaint to the Inspector General of Police, Moradabad Range, on 28 July 2010 alleging torture, illegal detention and forcible extraction of confession regarding the two missing children. On the basis of her complaint, an FIR No. 96/10 u/s 342/323/504/506/336/330 IPC was registered at Police Station Majhola on 29 July 2010 against unknown policemen and investigation was handed over to Anju Bhaduria, Station Officer of Mahila Police Station, Majhola.

**4.121** The Commission also directed the Chief Secretary, Government of Uttar Pradesh, to get the case investigated by the CB-CID of the State.

**4.122** The Under Secretary to the Government of Uttar Pradesh, Home (Human Rights), forwarded a copy of the CB-CID report. As per the report, it was established that Soni was illegally detained at the Mahila Police Station from 23 July 2010 to 26 July 2010 and was tortured to elicit information regarding the missing children. A chargesheet u/s 323/343/504 IPC was filed in the Court against the Station House Officer Anju Bhaduria, Sub-Inspector Krishan Kumar Singh and Constables Neetu Johri and Shimla Chaudhary.

**4.123** Upon examination of the report, the Commission observed that the accused Anju Bhaduria was the same officer to whom the investigation of the case was initially entrusted and if she continued as the Investigating Officer of the case, the plight of Soni could be conjectured as deplorable. The Commission held that illegal detention and torture of Soni having been established by the CB-CID inquiry, it is the obligation of the State to compensate her. The Commission issued a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief for the victim who was illegally detained and tortured.

**4.124** Responding to the show cause notice, Shri Kamal Saxena, Secretary to the Government of Uttar Pradesh, Department of Home (Human Rights) informed that departmental action had been initiated against the delinquent Police officials. The State Government was ready to concede grant of compensation to the victim as well.

**4.125** Keeping in view the facts and circumstances of the case, the Commission in its proceedings dated 22 May 2012 recommended to the Government of Uttar Pradesh to pay a compensation of ₹50,000 to the victim Soni. The Commission directed the Chief Secretary to submit a compliance report along with proof of payment and expressed hope that the departmental inquiry against the delinquent Police officials shall be taken to its logical conclusion. The matter is under consideration of the Commission.

**16.** *Torture and Inhuman Treatment of Vinu at Viyyur Central Jail, Thrissur, Kerala*  
(Case No. 191/11/13/2012)

**4.126** The Commission received a complaint from Tejang Chakma, a human rights activist alleging that torture and inhuman treatment was meted out to a prisoner named Vinu at Viyyur Central Jail, Thrissur, Kerala by the Jail Head Warder named Vincent on 19 May 2012. It was stated that the Head Warder was in an inebriated state and forcibly compelled Vinu to consume his vomit and then spew out.

**4.127** In response to the directions given by the Commission, the Additional Director General of Police (Prisons) reported that on enquiry the allegation of compelling the prisoner to consume vomit and spew out could not be substantiated. However, the allegation of beating by the Jail Warder was true. The Jail Warder, however, was transferred from the Central Jail, Viyyur to an Open Prison in Cheemeni on disciplinary grounds.

**4.128** It was observed by the Commission that the prisoner was beaten by the Jail Warder. The subsequent transfer of the Warder on disciplinary grounds confirmed the use of force which was unjustified.

**4.129** The Commission thus directed the Chief Secretary, Government of Kerala to show cause as to why monetary relief should not be given to the victim Vinu for alleged violation of his human rights by the Jail Warder.

**4.130** In response to the show cause notice, the Additional Secretary, Home Department, Government of Kerala informed to the Commission that the Jail Warder had already been punished. In addition, a request was made to the Commission by the State Government to waive the direction of giving monetary relief to the victim. The matter is under consideration of the Commission.

### **c) State Government's Indifference**

**17. *Apathy of the State Government Towards Victims of Bomb Blast in Imphal***  
*(Case No. 90/14/4/2011)*

**4.131** The Coordinator, North-East Dialogue Forum, Imphal sent a complaint to the Commission alleging four persons of a family had sustained injuries in a bomb blast that took place on 11 September 2011 at Kiyamgei Muslim Mamang Leikai, Imphal East. Further, no assistance was extended to the victims for their treatment. He requested the Commission to direct the State Government to apprehend the culprits and provide immediate assistance to the victims.

**4.132** The Under Secretary, Home Department, Government of Manipur informed to the Commission about the alleged incident stating that a case crime No. 74 (9)/2011 had been registered. While some of the accused were arrested and remanded to judicial custody, efforts are being made to locate the whereabouts of the other absconding accused. It was also informed that four injured persons were treated at RIMS Hospital, Lambhelaipat.

**4.133** The Commission subsequently issued a notice to the Under Secretary, Home, Government of Manipur, calling upon to inform the status of case crime No.74(9)/2011. The Under Secretary was also directed by the Commission to inform whether any compensation was paid to the victims and whether the victims were provided treatment by the State Government.

**4.134** The District Magistrate, Imphal East informed to the Commission that in case crime No.74(9)/2011, the investigation is still in progress as some of the accused are yet to be arrested. And, no compensation had been paid to the victims. In fact, the parents of the victims spent their own money for the treatment.

**4.135** The Commission took note of the fact that the four persons injured in the bomb blast were neither provided free medical treatment by the State Government nor given any

monetary relief. They sustained injuries for no fault of theirs. The human rights of the victims in the given case had definitely been violated. The Commission thus issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Manipur, Imphal calling upon to show cause as to why interim relief may not be recommended to be paid to the victims. The matter continues to be under the consideration of the Commission.

#### **d) Police Highhandedness**

##### **18. Inhuman Handling of a Girl by Delhi Police** (Case No. 892/30/2/2011)

**4.136** The Commission came across a report published in Dainik Jagran, Delhi on 14 March 2011 wherein it was reported that a young girl whose leg was plastered was dragged by the Police in an extremely inhuman manner in the premises of Karkardooma Court, Delhi. The photograph of the ruthless incident was also published in the newspaper.

**4.137** Taking suo motu cognizance of the news report, the Commission called for a detailed report of the incident from the Commissioner of Police, Delhi and made the following observations:

*"The Commission believed that upholding the dignity and rights of women in today's society is of prime importance and the State functionaries have to lead by example in this endeavour. Such acts, if any, should be condemned. Women's rights and their dignity should not be compromised under any circumstances. The Commission considered this act of Police, as violation of human rights."*

**4.138** A report was received from the Additional Commissioner of Police (Vigilance), Delhi which revealed that one young girl by the name of Shabnam was injured in a vehicular accident in the vicinity of Police Station Khajoori Khas on 11 March 2011 and an FIR No. 65/11 u/s 279/337 IPC was registered. The injured was taken to the GTB Hospital by the PCR van. She was discharged from the hospital on the same day after treatment. Since there was no one to look after her in Delhi, Shabnam was brought to the police station and kept in the supervision of a woman Constable Manju because the local Police decided to send her to Nari Niketan. The report further stated that on 12 March 2011, Assistant Sub-Inspector Baldev Raj along with two women Constables Nisha and Sudha and Constable Pradeep Kumar went to the GTB Hospital for medical examination of Shabnam and from there she was taken to Karkardooma Court at about 2.15/2.30 p.m. The Investigating Officer tried to arrange for a wheelchair/stretcher from the Court dispensary, but the same was not available. He produced the victim in the Court of Duty Metropolitan Magistrate Shri Naveen Gupta. Being a major, the Duty Metropolitan Magistrate declined to send Shabnam to Nari Niketan. When they were coming out of the Court, the media persons began to click photographs. Subsequently, the injured was restored to her mother Sanno Begam. The report of the Additional Commissioner moreover revealed that the above version was given



by the ASI Baldev Raj during the course of inquiry. A stretcher, however, was available in the Court dispensary but no effort was made to obtain the same for carrying the injured in the Court and she was physically lifted. As per the report, a show cause notice for 'censure' was issued to ASI Baldev Raj for his misconduct and merciless handling of the victim.

**4.139** The Commission held that it was amply clear from the report that ASI Baldev Raj did not make any effort to obtain a stretcher from the Court dispensary for taking the victim to the Court and bringing her back. Apparently, the woman victim was physically lifted by hands and legs by the Police personnel to the Court room on the first floor and in the same manner brought back when they were caught by the media persons. By doing so, the Police personnel had shown their insensitivity and scant respect towards the victim and by their inhuman act they violated her right to dignity as well. Consequently, the State was liable to compensate the victim. The Commission consequently directed to issue a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 to the Government of Delhi, through its Chief Secretary, to show cause as to why it should not recommend monetary relief to the victim.

**4.140** In response to the show cause notice, the Deputy Secretary to the Government of Delhi, Home Department, simply forwarded a copy of the report of the Additional Commissioner of Police, Vigilance, Delhi. The report stated that disciplinary action was taken against the delinquent Police officer ASI Baldev Raj and he was also warned. As to the show cause notice, it simply mentioned that the Government of NCT of Delhi had to take a decision on it.

**4.141** The Commission expressed its displeasure over the fact that the Home Department of the Government of NCT of Delhi had mechanically forwarded the report of the Additional Commissioner of Police, Vigilance, Delhi. A decision on the show cause notice was required to be taken by Delhi Government but it failed to do so. As per the facts and circumstances of the given case, it is assumed that the Government of Delhi has nothing to say against the show cause notice and recommended to the Chief Secretary, Government of NCT of Delhi to pay a compensation of ₹25,000 to the victim, Shabnam. The Chief Secretary was also directed to submit a compliance report along with the proof of payment.

**4.142** As the recommendations made by the Commission were carried out, the Commission closed the case vide its proceedings dated 23 April 2012.

19. *False Implication of Wife and Other Relatives by Police in Haryana*  
(Case No. 1486/7/3/2011)

**4.143** The Commission on 13 June 2011 took suo motu cognizance of a newspaper report under the caption "He faked own death to get even with wife; killed stranger to frame 'cheating' wife, in-laws" that appeared in *The Times of India* dated 12 June 2011. As per the news report, one Sohan Lal, a transport agent from Hodal in Haryana faked his own death in collusion with a friend-cum-business partner. The two murdered an innocent man, put



his dead body in the car and then threw it in Palwal canal after disfiguring it. In order to pose the dead body as his own, Sohan Lal cleverly kept his purse, which carried the PAN card and other IDs, in one of the pockets of the clothes worn by the dead man. All this was done by Sohan Lal to punish his wife suspected of having an extra-marital affair. Sohan Lal's father and brother identified the dead body as that of 'Sohan Lal'. On 21 March 2011, Sohan Lal eloped with his minor sister-in-law with whom he had a illegitimate relationship. A decomposed body was recovered on 22 March 2011 from Palwal canal which was identified as that of Sohan Lal. Laxmi, Sohan Lal's wife, her brother Jal Singh and the father of her alleged lover Sonu were taken into custody. Laxmi's other two brothers and Sonu were reported to be absconding. Sohan Lal was later apprehended from Okhla where he was living with his 16 year old sister-in-law.

**4.144** The Commission issued a notice to the Chief Secretary and Director General of Police, Government of Haryana, calling for a detailed report in the matter within two weeks.

**4.145** As per the information received from the Superintendent of Police, Palwal, the accused persons confessed to their guilt during the investigation of the case and on completion of the inquiry a chargesheet was filed in the Court against the three accused persons, namely, Laxmi, Jal Singh and Inder Singh, father of Laxmi's paramour, on 13 May 2011.

**4.146** On 10 June 2011, Sub-Inspector Abbas Khan, Investigating Officer of the case, received information from the Special Crime Branch, Delhi that Sohan Lal was alive and was lodged in Tihar Jail. On receiving this information, the Investigating Officer moved the concerned Court for release of the three chargesheeted accused persons who were set free by the Court on 16 June 2011.

**4.147** While considering the matter on 24 October 2011, the Commission observed that the facts of the case revealed the usual *modus operandi* of the Police in solving a case on the basis of forced disclosure statement made by an accused during the course of investigation. Such a disclosure statement is tailor-made to fit in the facts and circumstances of the case. In the present case, it was apparent that all disclosure statements of the accused persons, namely, Laxmi, Jal Singh and Inder Singh were recorded by the Police to solve the case and these persons were falsely implicated. This act on the part of the concerned Investigating Officer amounted to gross violation of human rights of these persons and the State undeniably is liable to compensate them. The Commission directed that a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993, be issued to the Government of Haryana, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief for the three victims, namely, Laxmi, Jal Singh and Inder Singh. The Director General of Police, Haryana, was also directed to inform the Commission of any disciplinary action taken against the concerned Investigating Officer.

**4.148** The Government of Haryana did not oppose the grant of monetary relief to the three victims. While considering the matter on 11 June 2012, the Commission held that the

three innocent persons must have certainly suffered trauma, immense mental pain and agony. No amount of monetary compensation is sufficient to mitigate the trauma and agony suffered by the three victims on account of the criminal case filed against them as well as their incarceration in jail for more than two months. For such a serious violation of human rights and the pain suffered because of the faulty investigation initiated by the Police, the State should pay compensation to them. The Commission made a recommendation to the State Government to pay a sum of ₹ 5,00,000 each to the three victims, namely, Laxmi, Inder Singh and Jal Singh.

**4.149** The Director General of Police, Government of Haryana was also directed to submit the status of the criminal case filed against Sohan Lal and his accomplice within six weeks.

**4.150** While the Government of Haryana has communicated to the Commission that financial sanction for the payment of the recommended amount to the three victims has been given, the proof of payment is still awaited.

**e) Deaths in Police Firing and Encounter**

20. *Death of Two Civilians in Police Firing in Dakshin Kannada, Karnataka*  
(Case No. 683/10/19/07-08)

**4.151** The Commission received a complaint dated 23 July 2007 from B.V. Seetaram of Mangalore, Karnataka stating that two civilians Dinesh and Premanand were killed in police firing on 1 December 2006 in Dakshina Kannada District of Karnataka. It was further alleged that two bullets were fired in the air through SLR rifle and eight bullets were fired through 7.62mm AK 47 rifle by the Police in front of Mulky Police Station on that day.

**4.152** Pursuant to the directions of the Commission, the Director General of Police, Karnataka submitted a report dated 6 October 2007 stating the background of the incident. It was mentioned that Sukananda Shetty, a well-known political leader of Mulky area, was murdered on 1 December 2006 by a group of miscreants who were believed to be belonging to Muslim community. When Sukananda Shetty was taken to A. J. Hospital in Mangalore, a huge crowd gathered there. The crowd demanded that the dead body of Sukananda Shetty be taken in a funeral procession from Mangalore to Mulky. The Police was reluctant to allow the funeral procession in view of the surcharged atmosphere, but ultimately they relented. By the time the funeral procession reached Mulky Bus Stand area, it was about 7.00 p.m. At Mulky Bus Stand junction, the mob started indulging in looting and arson of shops owned by the Muslims. The Police wanted the procession to proceed to the house of the deceased via Bappanadu and Vijaya College. The mob, however, forcibly turned towards the side of Mulky Police Station which led to Karnad, a Muslim dominated area. The crowd became uncontrollable and pushed the police up to the gates of the Police Station. The prime motive of the mob was to proceed towards the Muslim dominated area so as to attack the members of the minority community. Since the situation turned communal and there was danger to the members of the families residing in the Police quarters, the Superintendent

of Police issued an order to his gunman to open fire of eight rounds. Varun Alva, the gunman, accordingly, fired eight rounds in a single fire mode with the weapon available with him, i.e. AK - 47 at the people leading the mob.

**4.153** During the magisterial enquiry, the Additional District Magistrate examined 33 public and 17 Police witnesses. He concluded that the opening of fire by the Police in front of Mulky Police Station was necessary and justified. He also held that the firing was not excessive. The Magistrate did not, however, make any comment about the use of AK- 47 rifle.

**4.154** An enquiry was also conducted by ADGP, CID, Bangalore in which it was concluded that the use of AK-47 rifle was not violative of the circular issued by the Union Government as the gunman had fired eight rounds in a single fire mode in defence of the SP and not in order to control the mob.

**4.155** While considering the reports received, the Commission on 18 January 2012 observed that there could be no basis for the apprehension that the rifles stored in the Police station would be looted by the mob. There may have been some justification for Police firing at the Mulky Bus Stand but the police firing in front of the police station appeared to be totally unjustified. It was evident from various reports that there was considerable distance between Mulky Bus Stand and the Police Station.

**4.156** Even assuming that there was some justification for firing, the use of AK-47 rifle definitely amounted to misuse of power. The CID report itself mentions a circular of the Ministry of Home Affairs, Government of India according to which the Union Government has for good reasons prohibited the use of AK-47 rifles for the purpose of maintaining law and order and for controlling violent mobs. The SP, could not have, therefore, asked his gunman to use AK-47 rifle on the pretext of self-defence or on any other ground. Such use of AK-47 rifle definitely amounted to violation of human rights.

**4.157** The Commission was *prima facie* convinced that Dinesh and Premanand became victims of excessive and unwarranted use of force by the Police. It thus directed to issue notice to the Government of Karnataka requiring it to show cause why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not given to the next of kin of the deceased Dinesh and Premanand.

**4.158** In response, the Under Secretary, Home Department (Crimes), Government of Karnataka vide communication dated 22 May 2012 submitted that the State Government had paid ₹1,00,000 as monetary relief to each of the next of kin of the two deceased.

**4.159** The Commission vide its proceeding dated 14 June 2012 observed that in the facts and circumstances of the case, the amount of ₹ 1,00,000 given by the State Government to the next of kin of each of the two deceased is grossly inadequate for the loss of human life. The State Government must, therefore, pay adequate compensation to the next of kin of the

two deceased. Accordingly, the Commission recommended to the State Government to pay a sum of ₹ 5,00,000 each to the next of kin of the deceased and the amount of ₹ 1,00,000 already paid be adjusted while making the payment.

**4.160** The compliance report along with proof of payment is awaited.

21. *Death of Francis Tirkey in Encounter during a Joint Operation of Police and Army in Karbi Anglong, Assam*  
(Case No. 272/3/8/2010-ED)

**4.161** The Commission received an intimation dated 6 January 2010 from the Superintendent of Police, Karbi Anglong, District Diphu, Assam stating that an extremist by the name of Francis Tirkey died on 25 November 2009 at Bokajan Karbi Anglong during firing by the police in self-defence. It was reported that on the basis of information about the presence of extremists in the area of Kuwaram Basti, a joint operation was carried out by Bokajan Police and the army on 25 November 2009. At about 10.30 p.m., the joint team came across an extremist group and on being challenged, the extremists opened fire. The team fired in retaliation for their self-defence. During the encounter, an extremist named Francis Tirkey died on the spot. Arms and ammunition were recovered from the spot. In connection with the incident a case No. 117/09 u/s 120B/121/121A/122/307 IPC r/w 25 (1B) (a)/27 Arms Act was registered.

**4.162** During the magisterial enquiry, the Magistrate accepted the Police account of the incident. However, the Commission noted that the enquiry officer made no attempt to contact the three men who were arrested, though they would have been able to confirm if indeed such an encounter took place and Francis Tirkey was with them. Neither did the Magistrate examine any member of the family on the specious ground that they had left the village. This enquiry was, therefore, perfunctory and the Commission was unable to place much credence on it.

**4.163** The Commission observed that the Armourer's Report on the pistol and ammunition allegedly recovered from Francis Tirkey only established that the weapon was in working order but it did not confirm if it had been fired or if the spent cartridges recovered had been fired from it.

**4.164** Neither did the Police conduct tests that are standard in a thorough criminal investigation. No fingerprints were taken, nor were tests conducted on swabs for gunshot residue. There was therefore no evidence to confirm that, even if the pistol was serviceable, Francis Tirkey had handled or fired it. Therefore, the claim of the Police that they were forced to return fire in self-defense was not established.

**4.165** The nature of the injuries found in the postmortem made it clear that the account given by the Police was false. The autopsy found three entry wounds, all on the back. One hit the left thigh, the other on the back and the third on the head. These could not have been

fired in a single burst because they were too widely dispersed. Bullets fired from three weapons simultaneously hit Francis Tirkey. That would have been extremely unlikely in a genuine encounter. The scenario that emerged was of a man who had three shots simultaneously fired into his body from the back. This is the pattern of an execution, not of an encounter.

**4.166** For these reasons, the Commission held that there was a grievous violation of human rights. Accordingly, vide its proceeding dated 1 February 2012, the Commission called upon the Government of Assam to show cause as to why it should not recommend relief for the next of kin of late Francis Tirkey.

**4.167** The stand taken by the Government of Assam in response to the show cause notice was considered by the Commission vide its proceeding dated 17 May 2012. The Commission did not find any merit in the stand since the Executive Magistrate had failed to examine the three arrested persons and the Police had not produced the witnesses before the Magistrate. Further, the family members of the deceased were not examined by the Magistrate. Moreover, no purpose was served by examination of weapons by the FSL after a lapse of more than two years. It is a known fact that if the weapon is examined after a delayed period no reliance could be placed on the opinion. Further, there is nothing to state positively about the finger prints and swab to find out the gun shot residue. Therefore, the Commission found it difficult to accept any of the contentions raised by the State.

**4.168** Under the facts and circumstances of the case and on careful examination of the matter, the Commission vide its proceeding dated 17 May 2012, recommended to the Government of Assam to pay a sum of ₹ 5,00,000 to the next of kin of the deceased Francis Tirkey *alias* Akash.

**4.169** As the compliance report along with the proof of payment was received, the case was closed by the Commission on 25 October 2012.

22. *Death of Angad Sonkar during Police Encounter in Azamgarh, Uttar Pradesh*  
(Case No. 9057/24/6/08-09-ED)

**4.170** The Commission received an intimation dated 30 May 2008 from the Superintendent of Police, Azamgarh, Uttar Pradesh, stating that one Angad Sonkar, s/o Nimbu Sonkar and r/o Mughal Sarai died on 30 May 2008 during an encounter with the Police in the area of Police Station Kotwali, Azamgarh, Uttar Pradesh. It was reported that the deceased, a notorious criminal was involved in 20 criminal cases. On 30 May 2008, the Police waylaid two criminals on a motor cycle who fired upon the Police personnel. During the ensuing encounter, one person died while the other managed to escape. The deceased was identified as Angad Sonkar.

**4.171** Upon consideration of the 6 fire arm injuries reflected in the postmortem report, the Commission called for Ballistic Expert report of the weapon allegedly seized from the possession of the deceased along with expert opinion on the hand wash collected from the



hands of the deceased to show the gun shot residue as well as finger prints on the weapon for comparison with the finger prints of the deceased to confirm that the deceased had handled the weapon. In the absence of any ballistic examination reports and the injury certificates which could prove that the policemen were injured in the firing, the Commission observed that this was not a genuine encounter but an extra-judicial execution. Accordingly, the Commission vide its proceeding dated 8 December 2011, called upon the Government of Uttar Pradesh to show cause why it should not recommend relief for the next of kin of the deceased for the most grievous violation of human rights.

**4.172** Upon consideration of the response to the show cause notice, it became apparent that no scientific test was carried out for finding out the presence of gun powder on the hand of the victim who is alleged to have opened fire at the Police. It was also admitted that the finger prints were not taken and that no police personnel sustained injury in the incident. The Commission, therefore, vide its proceeding dated 19 April 2012, recommended to the Government of Uttar Pradesh to pay a sum of ₹ 5,00,000 to the next of kin of the deceased.

**4.173** As the compliance report along with the proof of payment of ₹5,00,000 to the father of the deceased was received, the case was closed on 19 September 2012.

**23. *Alleged Fake Encounter of a Tribal Youth in Odisha***  
(Case No. 702/18/14/2010-PF-AFE)

**4.174** The Commission received a complaint dated 20 May 2010 from Suhas Chakma, Director, National Campaign for Prevention of Torture, New Delhi about alleged extra-judicial killing of a tribal youth, Matias Haro, aged 30 years, and beating up of Amar Topno by combined team of CRPF and Odisha Police on 12 May 2010 in Sundargarh District of Odisha. It was alleged that Matias Haro and four other youth were asked to accompany the police party from Digha village to show the road near Odisha-Jharkhand Border in Sundargarh District. The police party returned with all the youth except Matias Haro. The joint team claimed that Matias Haro belonged to Maoists cadre and was killed in an encounter on 12 May 2010. However, the residents of Digha village alleged that Matias was innocent and killed in a fake encounter after being picked up by the joint team. A prayer was made for intervention by the Commission, independent investigation and compensation for the victim as well as the family of the deceased.

**4.175** Upon consideration of the various reports received, namely, the inquest, postmortem and the magisterial enquiry reports and the status report of investigation of Bisra Police Station, a Case No. 36/2010 was registered in connection with the incident. The Commission vide its proceedings dated 10 February 2011 requested the State Government to entrust the investigation of the case to the CB-CID.

**4.176** The CB-CID in their report reached three broad conclusions:

- i) Though the residents of Digha had claimed that Matias Haro was



an innocent villager, who worked in a coal mine, the CB-CID found that no one at the mine had heard of him. On the other hand, there were cases against him in both Odisha and Jharkhand. He was, therefore, an extremist, and the villagers had lied when they claimed that he was innocent.

- ii) Since no one from Digha had been treated at any local hospital on the day, there was no proof that the joint force of the CRPF and Odisha Police had assaulted any of the villagers. The CB-CID had spoken to Etwah Jateh, the man whose hand was fractured, but confirmed that he had not been beaten.
- iii) Accepting the statements made by the villagers of Chirubeda, on which the CB-CID relied since the villagers of Digha had not been truthful about the antecedents of Matias Haro, it concluded that the joint force had never been to Digha.

**4.177** The Commission vide its proceeding dated 26 April 2012, considered the observations made by the CB-CID in the light of the various statements/depositions recorded and the other material on record. In the absence of any material to establish that the deceased had handled or fired the weapon found near his body and the absence of standard forensic test for confirming that the gun was in working order; that finger prints taken from the weapon matched those of Matias Haro and the swab was taken from the finger print, the Commission did not accept the claim of the joint forces that Matia Haro had taken part in an encounter and had fired on the joint forces. The findings in the postmortem indicating a single shot injury on the back of the head coupled with lack of evidence to support the version of the police and the CRPF lent support to the likelihood of an execution. The Commission, therefore, recommended to the Government of Odisha to pay an amount of ₹5,00,000 as relief to the next of kin of the deceased.

**4.178** As the proof of payment of ₹ 5,00,000 to Tintose Haro, father of the deceased, was received, the case was closed on 19 December 2012 by the Commission.

**24.** *Death of Avireni Sudhakar during Police Encounter in Nalgonda, Andhra Pradesh*  
*(Case No. 781/1/14/07-08)*

**4.179** The Commission received a copy of an order dated 27 August 2007 issued by the Collector and District Magistrate, Nalgonda, Andhra Pradesh with regard to magisterial enquiry into the incident of encounter death which took place at Dharmaram (V), Mothkur Police Station, Nalgonda on 1 April 2005. It was reported by the Superintendent of Police, Nalgonda that on 1 April 2005 at about 7.00 a.m., the then Sub-Inspector of Police Station, Thrumalagiri received information that one Avireni Sudhakar, s/o Somaiah, aged 32 years along with a Zonal Committee Member of CPI-ML was taking shelter in the house of one Mekala Prakash at Dharmaram (V). The police team reached the place to arrest the

deceased. On seeing the police, Avireni Sudhakar opened fire at the police team from the house. Though he was called upon to surrender, yet he did not stop the firing and continued to fire. Thereafter, the police team retaliated in self-defence. After the firing stopped, the police entered the house and found the dead body of Sudhakar with bullet injuries. Arms and ammunition were recovered from the scene of offence.

**4.180** Upon consideration of the postmortem and magisterial enquiry reports received, the Commission found the police version doubtful since neither the provisions of the law were followed by the police nor any independent witnesses were examined. Further, it was to be noted that there is no evidence of forensic laboratory or the opinion from the ballistic expert confirming that the weapons recovered from the place of incident were fired before forwarding the same to the expert and that the empty rounds alleged to have been recovered from the scene of occurrence were fired from the same weapons. It was also essential to note that the police had not taken fingerprints of the deceased and fingerprints from the weapons to confirm that the fingerprints matched so as to say with certainty that it was the deceased who used the weapon.

**4.181** The Commission also observed that there is another independent and scientific test which was required to be carried for finding out the gunshot residue on the hands of the deceased. A swab or hand wash is taken and forwarded to the expert to trace the gunshot residue. This test being scientific and independent ought to have been conducted to show that it was the deceased who used the weapon. In the absence of independent eye witnesses, these tests are very essential and important. However, in the absence of the same, it is difficult to accept the version of the police. Considering the aforesaid aspects, the Commission prima facie opined that the human rights of the deceased had been violated. Accordingly, the Commission issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Andhra Pradesh through its Chief Secretary to show cause why suitable monetary relief should not be recommended by the Commission to the next of kin of the deceased Avireni Sudhakar.

**4.182** The Commission vide its proceeding dated 5 December 2012 considered the submissions made by the Government of Andhra Pradesh but was unable to accept the explanations in the light of the evidence on record. It observed that the evidence points to the likelihood that Avireni Sudhakar, who may well have had established criminal antecedents, was cornered in a hut and shot at close range. For this violation of human rights, the Commission believed that it would be appropriate for the State to make reparations. Accordingly, the Commission recommended to the Government of Andhra Pradesh to pay ₹ 5,00,000 as relief to the next of kin of late Avireni Sudhakar. Compliance report along with proof of payment is awaited in the case.

## f) Electrocuting Cases

### 25. *Electrocution of Nine Passengers in Saiha District, Mizoram* (Case No. 8/16/0/2011)

**4.183** The Commission received a complaint that a passenger bus carrying 36 passengers came in contact with a live overhead electric cable between New Serkawr and New Latawh in Saiha District of Mizoram on 25 March 2011 causing death of nine passengers.

**4.184** According to the report received from the Under Secretary to the Government of Mizoram (Power and Electricity Department), there were many shortcomings in the maintenance of the electric lines. For instance :

- (i) 11 KV overhead line ran dangerously low above the road.
- (ii) The vertical cable of the 11 KV conductor above the ground was 3.35 meter whereas it should not be less than 4.5 meters.
- (iii) The double pole supporting the line was leaning to the extent of 30 degrees. It was so because the pole was not supported by a stay and was found uprooted from the ground. This reduced the vertical clearance from the ground.
- (iv) Had the stay for the double pole location been intact, the consequent lowering of the conductor would not have happened and the tragic incident could have been avoided.
- (v) The 11 KV line was constructed during the year 1993-1994 when there was only fair-weather jeep road in the area. Improvement of this road was taken up by the PWD in the year 2009 and it was likely that the stay for the double pole was uprooted while carrying out earth excavation on the road.

**4.185** The report also revealed that some utensils piled up on the top of the bus came in contact with the 11 KV overhead line.

**4.186** Another report dated 7 December 2011 was also received from the Under Secretary to the Government of Mizoram (Home Department) forwarding a magisterial inquiry report and informed that financial assistance of ₹ 10,000 each was given to the families of the nine deceased persons. It also informed that the police has registered a case which is under investigation.

**4.187** The Inquiry Magistrate found that the electric cable was hanging low and due to the heavy cyclone which lashed the area a week before may be the reason for the same. During the investigation it was found that since the Junior Engineer (P&E Division), Lawngtlai, In-charge of the 11 KV line was responsible for gross negligence in maintaining the line, the case is pending for his arrest since he is out of station.

**4.188** Upon consideration of the report, the Commission observed and directed as under:

*"..... it is clearly made out that gross negligence on the part of the Power Department was committed in the maintenance of 11 KV line in question as per rules. Had the line been at a proper height from the ground, as required under the rules, the tragic incident in which nine innocent persons lost their lives would not have happened, notwithstanding the pile of utensils on the roof of the bus. Hence, the State is liable to provide adequate monetary relief to the next of kin of the deceased persons. The financial assistance of ₹ 10,000 each cannot be said to be adequate for the loss of a life due to negligence of public servant.*

*Issue notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Mizoram, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief for the next of kin of the nine deceased persons. Response to the show cause notice is expected within six weeks."*

**4.189** However, the show cause notice issued to the Government of Mizoram, Board of Electricity Department was opposed on the following grounds :

1. The incident had occurred due to the negligence of the driver and conductor of the bus involved.
2. A criminal case has already been registered u/s 304-A IPC and on payment of compensation the Commission may not be an appropriate forum to decide the issue.
3. Competent Civil Courts as well as Human Rights Courts are there to take up and decide the cases for violation of human rights.
4. A sum of ₹ 1,00,000 each, in addition to ₹10,000 each already paid, is being paid to the next of kin of the deceased persons as immediate relief by the State Government.

**4.190** Upon consideration of the objections raised by the Government of Mizoram, the Commission vide its proceeding dated 23 July 2012 observed and directed as under:

*"The Commission has carefully considered the objections raised by the Government of Mizoram. The Commission has already noticed in its detailed proceedings dated 15 February 2012 that the police has found during the investigation that the Junior Engineer, P&E Division, Lawngtlai, was responsible for gross negligence in maintaining the line and he was likely to be arrested. In view of this finding, it does not lie in the mouth of the State to say that the incident took place due to the negligence of the driver and conductor of the bus. The registration and pendency of a criminal case does not debar this Commission to grant appropriate relief to*

*the next of kin of the deceased persons u/s 18 of the Protection of Human Rights Act, 1993. No Civil or Human Rights Court is seized of the matter. Hence, because of the simple fact that these courts exist in the State, the Commission is not prevented from giving relief under the provisions of the Protection of the Human Rights Act, 1993. As to the State's decision to pay compensation of ₹ 1,00,000 each to the next of kin of the deceased persons, in addition to the interim relief of Rs.10,000 each already paid, the same appears to be inadequate for the death of a person due to negligence of a public servant.*

*Hence, keeping in view the facts and circumstances of the case, the Commission recommends to the Government of Mizoram, through its Chief Secretary, to pay additional compensation ₹ 1,00,000 each to the next of kin of the nine deceased persons. The Chief Secretary is directed to submit compliance report along with proof of payment within six weeks.*

**4.191** The response received in the matter is under consideration of the Commission.

26. *Alleged Death of Nine Persons and Injuries Caused to Many Others due to Negligence by Bihar State Electricity Board, Rohtas, Bihar*  
(Case No. 1922/4/28/2011)

**4.192** One R.H. Bansal, General Secretary of an NGO sent a complaint to the Commission on 9 September 2011 regarding death of nine persons and others who were injured due to electrocution in Rohtas, Bihar and prayed for intervention. Two other similar complaints were also received from different NGOs that were clubbed with this case.

**4.193** In response to Commission's enquiry in the matter, the Law Officer, Bihar State Electricity Board informed that according to the report of the District Authorities, Rohtas, Sasaram, nine persons were reported dead and eight persons injured in an accident of electrocution which took place on 2 August 2011 near village Ahraon under Police Station Natwar. All the persons were electrocuted not on account of any negligence on the part of Bihar State Electricity Board but due to the fact that all of them came in contact with 11 KV line Rajpur feeder crossing emanating from Bijinar Power sub-station when they were unlawfully travelling on the roof of a bus. It was further stated that a sum of ₹ 11,00,000 had been placed at the disposal of the District Magistrate, Rohtas, Sasaram for being paid to the next of kin of nine deceased and eight injured victims.

**4.194** The Commission considered the matter on 12 January 2012 and observed that Section 161 of the Electricity Act, 2003 read as follows:

*"Notice of Accidents and inquiries - (1) if any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with any part of the electric lines or electrical plant of any person and the accident results or is likely to result in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the*

*occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct;*

*(2) the Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-*

- (a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or*
- (b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made there under or of any license, so far as those provisions affect the safety of any person, have been complied with.*
- (3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of Section 176 of the Indian Penal Code (45 of 1860)".*

**4.195** In these circumstances, Chief Electrical Inspector/Electrical Inspector, Rohtas, Sasaram was directed to hold an enquiry in the alleged incident of electrocution and send the report to the Commission.

**4.196** The District Magistrate, Rohtas was directed to intimate to the Commission about the criminal case filed in the subject matter and against whom. He was further asked to provide the name of the transporter in whose bus the injured and the deceased were travelling along with the action taken. In addition, the District Magistrate, Rohtas was directed to send the proof of payment made to the next of kin of the deceased and to the victims.

**4.197** In response, a communication was received from the Chief Electrical Inspector, Bihar, Patna along with a detailed report of Senior Electrical Engineer and Electrical Inspector. It revealed that the alleged incident had taken place due to negligence on the part of the bus driver who drove the bus in spite of the warning. The passengers who were travelling on the roof of the bus came in contact with the live wire.

**4.198** The Commission considered the matter on 20 September 2012 and observed that the report received from the Chief Electrical Inspector had been examined. The report reveals that the height of high tension overhead wire was less than the prescribed height in the Electricity Act, 1956 and Central Authority Regulations, 2010. It was also revealed that the feeder did not trip automatically which shows deficiency in the instrument. Furthermore,



it is revealed that no intimation was given to the authorities as required under Section 161 of the Electricity Act, 2003. Had the information been given on time, the casualties would have been less. This shows negligence on the part of electricity authorities. The human rights of the deceased as well as the injured have definitely been violated. In these circumstances, let a notice be sent to the Director, Bihar State Electricity Board, Patna u/s 18 of Protection of Human Rights Act calling upon him to show cause why interim relief may not be recommended to be paid to the next of kin of the deceased and the injured. The matter is under consideration of the Commission.

27. *Compensation to Widow of the Victim who Died of Electrocution in Bhubaneswar, Odisha (Case No. 2778/18/28/2011)*

**4.199** Radhakanta Tripathy, an Advocate sent a paper clipping of *Sarvadhara* dated 24 October 2011 to the Commission wherein it was reported about the death of one T. Ramesh Reddy, a labourer due to electrocution, having come into contact with open electrical wire. He was engaged in the work of widening of a road and the incident occurred on 23 October 2011 at Bhubaneswar. Payment of adequate compensation to the next of kin of the deceased was prayed for.

**4.200** In response to the directions of the Commission, the Commissioner-cum-Secretary (Department of Energy), Government of Odisha reported that the incident occurred within the licensed area of Central Electricity Supply Utility (CESU). The victim was engaged by M/s. ARSS Engineering & Technology for road widening work. The ground clearance of 11 KV line of the feeder giving power supply to the colony was reduced, due to dumping of extra soil under the line which fact was not intimated to CESU authority. The victim while carrying an aluminum survey rod in hand touched the bare 11 KV line, got electrocuted and expired. The above incident occurred due to the negligence of M/s. ARSS Engineering and Technology who engaged the victim in the road widening work.

**4.201** The Commission while considering the matter on 9 March 2012 took note of the above report that the incident had occurred due to the negligence of the company and hence issued a notice to the Commissioner-cum-Secretary (Department of Energy), Government of Odisha, calling upon him to inform as to whether any criminal case had been registered or any compensation paid to the next of kin of the deceased by M/s. ARSS Engineering & Technology.

**4.202** In response, vide letter dated 16 May 2012, the Joint Secretary to the Department of Energy, Government of Odisha, informed that an ex-gratia of ₹ 1,50,000 was paid to Jyoti Reddy w/o late T. Ramesh Reddy and an additional amount of ₹15,000 was paid to the brother of the victim by M/s ARSS Engineering & Technology. The proof of payment was also sent. Besides, the letter revealed that Jyoti Reddy had filed a claim petition under the Workmen Compensation Act which is pending before the Employees Compensation-cum-Labour Commissioner, Cuttack.

**4.203** The Commission upon consideration of the above report closed the matter on 22 June 2012.

#### **D. Conditions in Prisons**

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

**4.204** Section 12(c) of the Protection of Human Rights Act, 1993, states that the Commission shall "visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government". Accordingly, the Chairperson, Members, Special Rapporteurs and officers of the Commission have been visiting different jails and other correctional institutions in the country for making an assessment of the overall situation prevailing therein. Their visit reports are then forwarded to the concerned State authorities with appropriate recommendations for compliance.

**4.205** During the year following visits to jails and other homes were made:

<b>S.No.</b>	<b>Name of Jail/ Institution</b>	<b>Date of visit</b>	<b>Visited by</b>
1.	Alipore Central Correctional Home, Kolkata (West Bengal)	13-15 July 2012	Shri Damodar Sarangi, Special Rapporteur, NHRC
2.	Latehar & Garwa District Jails and Daltonganj Central Jail, Palamu, (Jharkhand)	28-31 August 2012	Smt. S. Jalaja, Special Rapporteur, NHRC
3.	Danetwada District Jail & Raipur Central Jail (Chhattisgarh)	10 September 2012	Smt. S. Jalaja, Special Rapporteur, NHRC
4.	Jagdalpur District Jail, Bastar (Chhattisgarh)	12 September 2012	Smt. S. Jalaja, Special Rapporteur, NHRC
5.	Bhatinda Central Jail and Sangrur District Jail (Punjab)	29 November 2012	Smt. S. Jalaja, Special Rapporteur, NHRC
6.	Central Prison, Juvenile Home and Observation Home, Visakhapatnam (Andhra Pradesh)	27-29 Nov. 2012	Prof. K. S. Challam, Special Rapporteur, NHRC

7.	Gaya Central Jail and Jamui & Jehanabad District Jails (Bihar)	1-2 February 2013	Smt. S. Jalaja, Special Rapporteur, NHRC
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## b) Analysis of Prison Population

**4.206** NHRC compiles and analyses the statistics pertaining to prison population in the country on the basis of data obtained from Prison Headquarters of States/Union Territories. On analyzing the data for the year ending 31 December 2010, the problem of overcrowding was observed in large number of States. Overcrowding was especially high in Chhattisgarh, Dadra & Nagar Haveli, Andaman & Nicobar Islands, Uttar Pradesh, Delhi, Punjab and Goa.

**4.207** The main reason for overcrowding is the presence of a large population of undertrial prisoners (UTPs) in various prisons. Data collected shows that States like Dadra & Nagar Haveli, Meghalaya, Andaman & Nicobar Islands and Chhattisgarh have high percentage of undertrial prisoners.

**4.208** The number of women prisoners was noticeable in States of Uttar Pradesh, Maharashtra, West Bengal, Punjab and Madhya Pradesh. It was also observed that Uttar Pradesh, Jharkhand, Madhya Pradesh and Maharashtra had significant number of mothers with children below the age of five years in jail.

**4.209** The analysis indicates the continuing need for all States to take steps to increase prison capacity, reduce overcrowding by ensuring speedy trials through measures like video conferencing, holding of jail *adalats*, providing legal assistance to poor and needy prisoners and streamlining procedure for grant of parole.

## E Follow up Action on Recommendations of National Seminar on Prison Reforms

**4.210** The Commission's concern about the state of prisons was reflected in the National Seminar on Prison Reforms which it organized in 2011. Several recommendations were made in the Seminar which has been detailed out in the Commission's Annual Report 2011-2012. With regard to follow up action taken on the recommendations, the Commission during the period under report received responses from twenty States and four Union Territories only. These are Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Manipur, Meghalaya, Mizoram, Odisha, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Andaman & Nicobar Islands, Chandigarh, Daman & Diu and Dadra & Nagar Haveli. The Commission trusts that the remaining States/Union Territories who have so far not responded to the recommendations of the Commission on prison reforms will take necessary action and report back to the Commission about the steps taken by them.

**4.211** The States which have responded have indicated the following :

- Provisions pertaining to parole or furlough are being exercised judiciously and prisoners are being provided necessary legal aid for filing their bail applications and availing other legal remedies.
- For purposes of capacity building and enhancing the skills of prisoners, they are being engaged in various activities such as furniture making, printing, soap making, kitchen work, weaving, etc.
- As regards health care and sanitation, efforts are being made to improve the health care system in the jails. For instance, it is ensured that medical examination of prisoners is carried out at the time of admission and their medical records are well maintained. Sanitation facilities too have been improved and potable drinking water is being provided in the jails. In some of the jails, RO plants have also been set up. Septic tanks are being cleaned by municipal authorities or through outside agencies.
- The Supreme Court guidelines relating to children of women prisoners are being followed in jails and women prisoners are escorted by women staff and women Home Guards only.
- *Mulakat* time was given to the eligible prisoners and the prisoners are engaged in co-curricular activities.
- As regards general improvement in prison management, the prisoners are given opportunity for ventilating their grievances through complaint boxes installed in the jails.
- The Jail Manual is being reviewed by the respective State Government from time to time.
- The prisoners are paid wages as per prescribed rules. Some States have also set up the facility of video conferencing.

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## RIGHT TO HEALTH

**5.1** Health is one of the most basic and essential asset of a human being. It is indeed a fundamental human right that enables one to live a life with dignity. Internationally, it was first articulated in the 1946 Constitution of the World Health Organization (WHO), whose preamble defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". The preamble further states that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."

**5.2** The 1948 Universal Declaration of Human Rights also mentions health as part of the right to an adequate standard of living (Article 25.1). Article 21 of the Constitution of India has also been interpreted to uphold 'right to health' as part of Fundamental Right to Life. The right to health is yet again recognized as a human right in the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).

**5.3** The right to health has also been proclaimed in the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, 1989 Convention on the Rights of the Child, 1993 Vienna Declaration and Programme of Action, 1994 Programme of Action of the International Conference on Population and Development held at Cairo and other international instruments like the 1995 Declaration and Programme of Action of the Fourth World Conference on Women held in Beijing and 2006 Convention on the Rights of Persons with Disabilities. Goal Nos. 4, 5 & 6 of the Millennium Development Goals, 2000 are also related to health issues, i.e., reducing child mortality, improving maternal health and combating HIV/AIDS, malaria and other diseases.

**5.4** In recent years, increasing attention is being paid to right to the highest attainable standard of health, by human rights treaty monitoring bodies, WHO and the Human Rights Council. In 2002, the then Commission on Human Rights created the mandate of Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health. These initiatives have helped clarify the nature of the right to health and how it can be achieved.

**5.5** The National Human Rights Commission (NHRC) represents India's commitment to human rights. Ever since it came into existence, it is closely monitoring the issue of right to health and its various dimensions like maternal anemia, HIV/AIDS, access to health care including emergency medical care, nutritional deficiencies, tobacco control, leprosy,

reproductive health, public health, mental health and occupational health. This chapter primarily focuses on two issues of health, namely, silicosis and mental health. The issue with regard to health of persons with disabilities and health of women and children is being dealt separately in chapters 8, 9 and 11.

## **A. Silicosis**

**5.6** As reported in the Annual Report of the Commission for the year 2011-2012, the Commission is deeply concerned about the health hazards posed by Silicosis. During the period under report, it continued with its on-going efforts to protect and promote the rights of workers employed in silicosis prone industries, including their families. It organized a regional review meeting with the concerned officials of the States of Uttar Pradesh, Maharashtra, Himachal Pradesh, Goa, Uttarakhand and Punjab on 4 May 2012. This meeting was chaired by Shri P. C. Sharma, Member, NHRC and attended by representatives of Union Ministry of Labour and Employment, Institute of Occupational Health & Environment Research, Directorate General of Mines Safety, Director General, Factory Advice Service and Labour Institutes, Employees' State Insurance Corporation of India and NGOs. In the said meeting, it was reiterated by Member, NHRC that the State responses in the meeting demonstrated the lack of interest in the subject by the States concerned. He further expressed that it would be desirable to call a meeting of the Secretaries of all the States/Union Territories in the future, so that they are sensitized about the gravity of the problem and consequently draw up an action plan to tackle the issue.

**5.7** The Commission had reported in its earlier Annual Report of 2011-2012 that it had prepared a Special Report on Silicosis and forwarded it to the Ministry of Home Affairs, Government of India for laying it in the Parliament. The Commission is yet to hear from the Ministry of Home Affairs. It will be pertinent to mention that the Commission had recommended to the Government of Gujarat to award compensation of ₹ 3,00,000 each to the next of kins of the 238 deceased as per the list submitted by the District Collectors of Jhabua and Alirajpur. The victims who died were from the State of Madhya Pradesh who had gone to Gujarat for work. It also recommended that 304 persons, who are suffering from silicosis and were staying in the State of Madhya Pradesh, be given a rehabilitation package by the State Government. But, till date the Commission has not received the compliance report from the two State Governments. The Commission once again reiterates to the Governments of Gujarat and Madhya Pradesh to comply with the directions of the Commission.

## **B. Mental Health**

**5.8** As part of the mandate given to it by the Supreme Court in 1997, the NHRC is continuously monitoring the functioning of three Mental Health Hospitals in Agra, Gwalior and Ranchi. Accordingly, its Chairperson, Members, Special Rapporteurs and senior officers visit mental hospitals all over the country to assess the treatment and care being given to



mentally ill persons lodged there. The State Governments/Union Territory Administrators were also requested to apprise the Commission periodically on the progress of implementation of the recommendations made by it, a matter which it continues to pursue till date and keeps the Apex Court informed about it. The Commission, on its own, took the responsibility of monitoring all the mental hospitals in the country.

**5.9** In 2003-2004, the Commission also constituted a 'Core Group on Mental Health' and formulated guidelines on reporting of every death that took place in mental health hospitals in Agra, Gwalior and Ranchi. Prior to this, in February 2000, the Chairperson of the Commission wrote a letter to all the Chief Ministers recommending that directions be issued to senior prison officers to regularly inspect prisons, so as to ensure that mentally challenged persons were not kept in jails under any circumstances. In 2001-2002, the Commission directed the Chief Secretaries/Administrators of all the States/Union Territories to certify that no mentally ill patients were chained and kept in captivity. The Core Group on Mental Health, during 2007-2008 also made a series of recommendations on the issue of mental health. Prominent among them being - the basic needs of mentally ill persons should be met and they should have access to all entitlements such as old age pension which are available to ordinary citizens.

**5.10** During 2008-2009, the Commission brought out a report on mental health entitled "Mental Health Care and Human Rights". The report throws light on the latest developments in mental health care in India since the initial involvement of the NHRC through the "Quality Assurance in Mental Health" report.

**5.11** In 2011-2012, the Commission directed the Director Generals of Police and Chief Secretaries of all the States/Union Territories to take appropriate steps for proper implementation of the Mental Health Act, 1987. The Commission, in particular, recommended for implementation of Section 23 of the Mental Health Act, 1987, which lays down powers and duties of police officers in respect of certain mentally ill persons. Under this Section of the Mental Health Act, the police have an obligation to take into protective custody a wandering or neglected mentally ill person, inform his/her relative and also produce such person before the local magistrate for issue of reception orders within a stipulated period of time.

### ***National Seminar on Human Rights and Mental Health Care***

**5.12** With a view to highlight the challenges relating to mental health issues and to sensitize people on those issues, the Commission organized a Seminar on 'Human Rights and Mental Health Care' on 10 October 2012, which is observed as World Mental Health Day, at India International Centre, New Delhi. The seminar was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC. It was attended by Directors of Mental Health Institutions, experts, students of medical and social work, representatives of NGOs working in the area of mental health care. Some of the important suggestions/recommendations that emerged from the seminar were viz., mental health programme needs to be made

functional in various Districts so as to pay equal attention to rural areas vis-à-vis urban areas; more emphasis on psychiatry in the curriculum of MBBS courses; initiate measures to move from custodial care to community based care for the cure and rehabilitation of mentally ill persons; and strengthen legal framework to check rampant sexual exploitation of mentally ill persons.

***Plight of Mentally Ill Persons Languishing in Chamatkari Hanumanji Temple in Chhindwara District of Madhya Pradesh***

**5.13** The Commission is also deeply concerned about the rights of persons with mental illness, especially those kept in chains and confined in a restricted space in religious places. The attention of the Commission was drawn towards the plight of mentally ill persons languishing in Chamatkari Hanumanji temple in Chhindwara District of Madhya Pradesh by an NGO, namely, Sane and Enthusiast Volunteers' Association of Calcutta (SEVAC).

**5.14** In Chamatkari Hanumanji temple, there is a myth that with the blessing of the deity, mentally ill people can be cured. The temple has thus become a dumping ground for mentally ill persons. Besides, the NGO pointed out that owing to absence of any kind of mental health care delivery system in the vicinity, the mentally ill persons do not have access to psychiatric care and treatment.

**5.15** In order to understand the gravity of the problem, the Commission, entrusted a pilot project to SEVAC for protecting the human rights of mentally ill persons languishing in the temple. The main objective of the project was to create awareness among the family members of mentally ill patients languishing in the temple and in the process bring them under the purview of psychiatric treatment. Its other objective was to carry out the groundwork for setting-up a psychiatric camp in the temple premises for diagnosis and counselling.

**5.16** The final report of the project revealed the pathetic conditions of mentally ill persons suffering in the temple. These patients and their relatives either live in the temple premises or some guest house or *jhopri* nearby and at times even in open fields with no sanitation facilities.

**5.17** During the course of the pilot project, 1,069 mentally ill patients were interviewed. They were in the age group of 15-30 years (55.75%). More than 32 per cent were in the age group of 31-50 years. Majority of these persons were daily wage earners (92%) and suffered from mental illness. Seventy-nine per cent of the caregivers, who were generally close relatives of the patients, stated that they were ready for psychiatric treatment provided it is accessible and the medicines are made available to the patients free of cost. Further, the Union Ministry of Health and Family Welfare at the request of the Commission directed the National Institute of Mental Health and Neuro-sciences (NIMHANS), Bangalore to send its team to visit the Hanuman Temple and the Civil Hospital in Chhindwara District. The NIMHANS team suggested that an action plan be evolved to protect the rights of mentally ill persons languishing in the temple area. It also suggested a multi-pronged approach,

consisting of medical consultation and free medicines, free hygienic accommodation, half-way homes, hospitalization and treatment of patients at the Taluk hospital. Besides, it recommended awareness generation among the people in the area through relevant IEC material. The report submitted by NIMHANS was forwarded by the Commission to the Government of Madhya Pradesh.

**5.18** On 26 October 2012, the Commission organized a meeting of all stakeholders to review the implementation status of the suggestions made by NIMHANS. This meeting was attended by the representatives of the Government of Madhya Pradesh, Union Ministry of Health and Family Welfare and NGOs working in the area. In this meeting, it was decided that the Government of Madhya Pradesh will post a Psychiatrist in the District who will be visiting the Civil Hospital at Sausar; the State Government will provide free medicines to the patients attending the psychiatric clinic run by SEVAC at the Civil Hospital in Sausar; the State Government will further take steps to include these medicines in the State List of free medicines; the doctors at the Hospital will be given adequate training for dealing with mentally ill patients; the Director, Health Services, Government of Madhya Pradesh will visit the Temple and the Hospital to monitor the sanitary and health conditions of mentally ill patients; the '108' emergency ambulance service will be extended to Chhindwara District; necessary cooperation will be extended by the District Administration to the team of SEVAC for providing psychiatric treatment to the mentally ill patients languishing in the temple; and the Union Ministry of Health and Family Welfare will take steps to include Chhindwara District under the 'District Mental Health Programme' and the establishment of a Psychiatric Clinic in Sausar Hospital under the National Rural Health Mission. The Commission will continue to monitor the implementation of all these recommendations so that relief is provided to the mentally ill patients and their families languishing in the temple and its vicinity.

#### ***Status of Mental Health Institutions: Filing of Application in Supreme Court***

**5.19** Upon being entrusted by the Supreme Court to monitor the functioning of three mental hospitals in Agra, Gwalior and Ranchi in 1997, and as mandated under Section 12(c) of the PHRA, the Commission has been regularly undertaking visits to these hospitals since then to see the living conditions prevailing there.

**5.20** Simultaneously, the Commission from 1997 onwards has taken significant initiatives. It would be worthwhile to give a brief description about the improvements made in the functioning of three mental hospitals in Agra, Gwalior and Ranchi, especially with regard to their administration and management due to Commission's continuous involvement and monitoring, including meeting with their respective Directors and Chairpersons of the Management Committees of the three hospitals, Health Secretary of Government of India and the Health Secretaries of States where the mental hospitals are located. Noteworthy among these improvements are:

- The admission and discharge of patients has been streamlined in accordance

with the provisions of the Mental Health Act, 1987 and the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Healthcare.

- Incidence of deaths of mentally ill patients has come down.
- Diagnostic and therapeutic facilities have been upgraded and their impact is visible in the rate and recovery of patients.
- The three hospitals are also engaged in expanding mental health services at the community level.
- A special drive has been initiated to restore a number of cured patients to their respective families, who had earlier been reluctant to take them back.
- A prominent feature has been the establishment of Half-way Homes for the cured patients before they are finally discharged.
- An expert group was constituted to deal with the rehabilitation of the cured patients who were either destitute or had been abandoned by their families.
- For rehabilitation of long-staying patients, Project-Maitri was launched by Action Aid, India with financial support from NHRC. As per the project, sensitization workshops for attendants and nursing staff of the three hospitals were organized.

**5.21** Despite the progress made in the three mental hospitals, there are still areas of concern, which need to be addressed, especially with regard to their physical infrastructure, human resource and management, and financial resources. Apart from the three mental hospitals in Agra, Gwalior and Ranchi, as mentioned earlier, the Commission is monitoring other mental hospitals also. Many of these mental health hospitals are housed in old dilapidated buildings of the colonial era. Their problems and constraints have not been addressed because of limited resources in terms of human, material and financial.

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

**5.23** Pursuant to the above correspondence, a proposal to file an application was placed before the Full Commission and vide its meeting dated 11 January 2013 gave approval to the said proposal. Accordingly, the Commission through its Advocate filed an application on the issue of mental health institutions in India before the Supreme Court seeking appropriate directions on the following areas:

- In the absence of a clear data base, proper policy interventions and allocation of resources are not receiving due priority. Therefore, there is a need to undertake a country-wide epidemiological survey to identify the magnitude of the problem of mental health. It is necessary and desirable that a perspective plan covering the task, financial implications, time frame etc. is drawn up keeping in view the present as well as the future requirement of the problem (*Action: Ministry of Health and Family Welfare, Government of India*).
- The Mental Health Institutes/Hospitals in the country are facing serious financial constraints as adequate resource allocation is not being made to meet their requirements. The Central and State Governments should accord priority in allocation of financial resources both for the regular maintenance and upgradation of the physical infrastructure of these institutions. While making the financial allocations, the future requirements of both infrastructure and manpower should be kept in mind (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- Lack of adequate administrative and financial powers to the Directors and the Superintendents of the Mental Hospitals are seriously affecting their functioning. Therefore, these institutions should be made completely autonomous in managing their own affairs and the Managing Committees of these institutions should have adequate administrative and financial powers to manage their affairs efficiently (*Action: State Governments*).
- Existing State run mental hospitals should be converted into Teaching-cum-Training Institutes with adequate financial and manpower resources (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- The concerned State Governments may be directed to sanction medical and para medical manpower to these institutions/hospitals as recommended by NHRC, without delay (*Action: State Governments*).
- Sufficient number of seats may be created in medical colleges in MD Psychiatry, M.Phil in Clinical Psychology and Psychiatric Social Work by relaxing the existing norms of Medical Council of India (*Action: Ministry of Health and Family Welfare, Government of India*).



- There is need to train an integrated team of psychiatrists neurologists, neurosurgeons, clinical psychologists, psychiatric social workers, nurses and other personnel required to manage mental hospitals, Medical College Hospitals and District Hospitals in the country (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- Central and State Governments should include short term programmes in Psychiatry of 3 to 12 months duration for their medical officers in established hospitals so that every district may be provided with a trained doctor where there are no psychiatrists available (*Action: Ministry of Health and Family Welfare, Government of India and State Governments*).
- Psychiatry and mental health care should be made a compulsory independent subject in the MBBS examination so that the young medical professionals become capable of identifying the problem at the initial stage itself (*Action: Ministry of Health and Family Welfare, Government of India*).
- Every State/Union Territory must have at least one mental health hospital fully equipped with latest equipments, a well-developed infrastructure and sufficient medical and para medical manpower as per the norms (*Action: State Governments*).
- Every State Government should set up an institutional mechanism for designing Information, Education and Communication (IEC) messages on mental health in the local language and disseminate the same among the masses (*Action: State Governments*).
- Removal of all the deficiencies in the existing mental health hospitals with regard to living conditions, providing nutritious and balanced food, water supply, cleanliness and hygiene, environment, sanitation, recreation etc. in a time bound manner must receive top attention of the concerned State Government/Union Territory Administration (*Action: State Governments*).
- A national data base of services and human resource manpower on mental health care should be created by the Central Government which should be periodically updated (*Action: Ministry of Health and Family Welfare, Government of India*).

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

**5.24** As mentioned above, the Commission is monitoring the functioning of Government run mental health institutions in Agra, Gwalior and Ranchi under a mandate given to it by the Supreme Court of India in 1997. With the passage of time, the Commission began to monitor other government mental hospitals/institutions situated in different parts of the



country. The periodic visits to these institutions are made by the Chairperson, Members, Special Rapporteurs and senior officers of the Commission. After each visit, suitable suggestions/recommendations are made to the concerned State Governments for bringing about an improvement in their overall functioning. During the year under report, the following mental health institutions were visited by the Special Rapporteurs of the Commission :

### *Ranchi Institute of Neuro-Psychiatry and Allied Sciences*

**5.25** Smt. S. Jalaja, Special Rapporteur, NHRC visited the Ranchi Institute of Neuro-Psychiatry and Allied Sciences (RINPAS) on 28 August 2012 to review the implementation of Supreme Court directions and action taken by the State Government on the suggestions/recommendations made by the Commission for improving the functioning of RINPAS. After the review visit, Smt. S. Jaleja, submitted a report to the Commission highlighting the following :

1. The post of Director of RINPAS was found to be vacant since 1 August 2007. The State Government, therefore, must take appropriate action in this regard.
2. Seeing the conditions of women who were forced to stay life-long in a mental hospital, she suggested that:
  - i. Action should be taken by the RINPAS to prevent mentally cured women to stay life long in the mental hospital. If due to any reason such a contingency arises, a more pro-active role should be played by RINPAS. To say that the patient's address is incorrect, it cannot escape from its own responsibility.
  - ii. It should be obligatory on the part of RINPAS to seek valid ID proof both of the patient and his/her family at the time of admission so that at the time of discharge there would be no difficulty.
  - iii. After admission, the case history of each patient, including family history, should be ascertained.
  - iv. RINPAS should ensure that any mentally ill person who is admitted as a patient is not being abandoned by the family members of the patient on the pretext of mental illness. Moreover, it should also ensure that there is no collusion between the family members of the mentally ill persons and the staff of RINPAS.
  - v. In the case of a mentally ill woman who is brought by her husband or his relatives for admission, it should be made mandatory that a family member from her maternal side is also present. In case she is brought by a member of her husband's family due to unavoidable

- reasons, the patient should be admitted only after all doubts are removed.
- vi. In case RINPAS is not able to discharge the mentally cured patients due to their incorrect addresses, they should explore all means to locate her family including search through thanas, TV/Newspaper advertisements, etc.
  - vii. RINPAS should consider whether some of the mentally cured patients could be gainfully employed in the Institute itself, as part of their rehabilitation, depending on their mental and physical condition.
  - viii. Some of the fully recovered patients, especially old and infirm who have nowhere to go in their life-time, other than the stay in the mental hospitals where they were treated, long stay homes or community centres should be set up especially for them, so that they are no longer confined to a restricted space and atmosphere.
3. In the Occupational Therapy Unit, the skilled and semi-skilled patients on daily basis earn ₹ 20 and ₹10 respectively. Their rate of payments should be enhanced by RINPAS.
  4. The vacant posts of Professor and Assistant Professor in Psychiatry and Psychiatric Social Work must be filled-up.
  5. The outcome of outreach programme and District Mental Health Programme should be evaluated by an outside agency.
  6. The website of RINPAS must be updated regularly.

**5.26** As directed by the Commission, a letter has been addressed to the Director, RINPAS to comment on the observations and the recommendations made by the Special Rapporteur in her report. On receipt of comments from RINPAS, the Commission directed that a letter be addressed to the State Government. The Commission will continue to follow up the matter with the concerned authorities till the required action is taken on it.

***Institute of Psychiatry and Human Behaviour, Bambolim, Goa***

**5.27** Dr. L. Mishra, former Special Rapporteur of NHRC had visited the Institute of Psychiatry and Human Behaviour (IPHB) situated in Bambolim, Goa from 6 to 9 December 2010. The Commission directed that the suggestions/recommendations made by him should be conveyed to the State Government and should be complied with. However, when the Action Taken Report (ATR) from the State Government was received, it was observed that there were still some issues on which no action was taken. Consequently, Shri Ajay Kumar, the Special Rapporteur appointed in place of Dr. L. Mishra was requested to visit IPHB and

review the status of issues on which action was required. He visited Goa from 24 to 28 September 2012 and submitted a detailed report which has helped the Commission in knowing the status of implementation and further follow up with State of Goa.

**5.28** In addition, Shri Ajay Kumar has made the following observations/ suggestions:

1. Out of 190 beds, 69 were occupied by long stay patients. IPHB should work out the modality in collaboration with the State Government to send them to their respective homes. Besides, there is need to establish half-way homes for mentally cured patients who have no place of their own to go.
2. For efficient functioning of IPHB it must have these facilities:
  - Wards for male and female children
  - Provision of special wards - A and B class
  - Ward for critically ill male and female patients
  - A rehabilitation ward
  - Ward for male patients with Hansen disease
  - De-addiction ward
  - Male and female wards for mentally ill prisoners
  - A separate ward for epilepsy patients
  - The OPD should cater to special clinical services for old age problems, neuropsychiatry, neurosis, sexual problems, crisis intervention, etc.
3. The IPHB should also have :
  - Industrial therapy centre
  - Dental wing
  - Police outpost
  - Central steam laundry
  - Medical Officer, Social Welfare Officer, Staff Nurse, Attendants and Sanitary Workers should manage each ward.
  - Relatives who visit the patients in the respective wards should be advised to meet the Medical Officer or Social Welfare Officer to know the condition of the patients.

#### 4. Emergency Services:

- Round the clock emergency services should be available in the hospital.
  - The hospital should have facilities to pick-up patients from their houses.
5. IPHB should have a Citizen Charter detailing out the services available.
  6. OPD must function for all the 365 days in a year.
  7. Streamline the procedure for registration and admission of new cases.
  8. The State Government should implement provisions of the Goa Children's Act, 2003 and establish counselling centres in every school in Goa.

**5.29** The above report, as directed by the Commission, has been forwarded to the Chief Secretary, Government of Goa and to the Secretary, Ministry of Health and Family Welfare for their comments and action taken report.

### C. Illustrative Cases on Health Dealt by NHRC

#### 1. *Death of Five Persons Employed in Stone Crushing Factories of Godhra in Gujarat (Case No. 1012/6/9/2011)*

**5.30** Jagdish Patel, Director, People's Training & Research Centre, Vadodara forwarded a list of five persons to the Commission who were employed in stone crushing factories of Godhra town in Gujarat. All of them were afflicted with life threatening occupational disease and were diagnosed as patients of silicosis by the National Institute of Occupational Health (NIOH), Ahmedabad. They, thus, filed claims before the Employees' State Insurance Court, Vadodara. However, during the pendency of their case, they all died one by one. No compensation was thereby paid to any of the employee by the respective factory in which they were employed.

**5.31** The Commission took cognizance of the matter and called for a report from the Chief Secretary of Gujarat. The Government of Gujarat in their report submitted that a team from NIOH had monitored the working environment in registered factories of Godhra and suggested engineering control measures. Those suggestions were also enforced by the Directorate of Industrial Safety and Health. Thereafter, the NIOH again monitored the working conditions of those factories and the environment in which the workers worked and found that the level of dust inhaled was within the prescribed limits. The State Government further submitted that out of the five labourers mentioned in the list, four had worked in the registered factories of Godhra and notices had been sent to ESIC office, Vadodara for the purpose of grant of compensation to them. The fifth person, namely, Damor Mangu Bhai Surtanbhai had not worked in any registered factory located in Godhra.

**5.32** The comments of the complainant were sought on the report submitted by the Government of Gujarat. The complainant in his rejoinder stated that Mangu Bhai was diagnosed as a patient suffering from silicosis by NIOH during the camp held at CHC, Zalod in October 2004 and on being questioned about his occupation, he informed that he had worked in one of the registered silica crushing units in Godhra. The complainant refuted the claim of the State Government that the level of respirable dust was found within the limits prescribed by NIOH. He then forwarded an article wherein NIOH had stated that after making all efforts in the registered factories, the dust level was still much above the limit prescribed under the Factories Act, 1948.

**5.33** The right to life being guaranteed under Article 21 of the Constitution of India, the Commission took the view that the life of labourers working in factories is as precious as that of any other citizen. It is the duty of the State to ensure that the factories where the labourers work maintain appropriate standards of safety prescribed under various laws. The fact that five labourers were diagnosed as patients of silicosis indicated that the factories were not maintaining the required safety standards and the State too failed in its duty in this regard. Hence, the State cannot escape its liability to compensate the families of the deceased labourers. A notice was issued to the Government of Gujarat to show cause as to why monetary relief to the tune of ₹ 5,00,000 each should not be recommended to the next of kin of the five deceased who were afflicted by silicosis during their employment in stone crushing factories and eventually died of silicosis.

**5.34** The Government of Gujarat in response to the show cause notice issued by the Commission has communicated that it will not pay compensation to the victims of silicosis in the present case. The matter continues to be under the consideration of the Commission.

2. *Medical Negligence by Staff of Maternity Sub-Centre in Chilla, District Banda, Uttar Pradesh*  
(Case No. 20811/24/12/2010)

**5.35** The Commission received a complaint dated 18 May 2010 from Shri Premchand, s/o Chandra Bhushan and r/o Village Sadimadanpur, Police Station Chilla in District Banda of Uttar Pradesh alleging that when his pregnant wife Sharda was taken in labour to Maternity Sub-Centre Chilla on 15 May 2010, an official named Prasanna demanded ₹ 1,000 for an injection, and did not provide any medical facility to his wife the entire day because the money asked for was not given. In the evening his wife was shunted out from the Maternity Sub-Centre as a result she gave birth to her child on the street at 7.30 p.m. After the delivery, when she returned to the Maternity Sub-Centre with her baby, no vaccination or other medical facility was provided to the mother and child for two consecutive days.

**5.36** On directions of the Commission, an inquiry report dated 16 June 2011 was submitted by the Deputy Chief Medical Officer of Banda District stating that the complainant's sister, mother and her neighbour Smt. Rajrani had articulated that one Prasanna, a Lady Health Visitor (LHV) had demanded a sum of ₹ 200 only from the

complainant to purchase medicines. The report further stated that the LHV had examined the complainant's wife and also apprised her about her condition that there was still time for the child to be delivered and the accusation that she demanded ₹ 1000 is not correct and also the fact that the delivery took place on the road.

**5.37** The Commission examined the matter and observed that the complainant Shri Prem Chand brought his wife Sharda to Maternity Sub-Centre Chilla at about 11.00 a.m. on 15 May 2010 on the advice of the Accredited Social Health Activist (ASHA) Smt. Rita. The LHV examined Sharda and noticed that the womb was dilated only by one finger. Thereafter, though the expectant mother was in the Sub- Centre the whole day and in pain, it did not appear from the enquiry report that she was provided any treatment or medication to relieve her suffering. Compounding this callousness, in the evening a woman in labour was compelled to leave the maternity centre and give birth elsewhere. It is obvious that at least ₹ 200 was demanded from the family on the pretext of purchasing medicines.

**5.38** The Commission further observed that "this is a litany of cruelty and corruption, made worse by the fact that the State has sought to shield those whose duty was to treat and help the complainant's wife, but who instead abdicated their responsibilities, displaying only a heartless greed. It is a travesty to call these individuals public servants, but they are employees of the State of Uttar Pradesh, and since their negligence and cupidity put both the complainant's wife and their unborn child in danger, let a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 be issued to the Government of Uttar Pradesh, through its Chief Secretary, requiring him to show-cause why monetary relief not be recommended to the complainant's wife Sharda".

**5.39** As the reply to the show-cause notice was not received, the Commission assumed that the State Government has no views in the matter, and asked the Government of Uttar Pradesh through its Chief Secretary to pay an amount ₹ 50,000 to the victim Smt. Sharda.

**5.40** Pursuant to further communications of the Commission, the Chief Medical Officer of Banda has forwarded the proof of payment vide letter dated 28 September 2012. The case has been closed by the Commission.

**3.** *Slaughter of Animals in Residential Area Causes Pollution of Air and Ground Water in District Saharanpur, Uttar Pradesh*  
(Case No. 32160/24/64/2012)

**5.41** Shri Sher Singh Rana, s/o Bharat Singh, r/o Village Sawalpur Nawada in District Saharanpur in his complaint dated 28 August 2012 to the Commission alleged that the underground water in District Saharanpur is being contaminated by waste water and blood of the animals butchered in a slaughter house, which was situated in their residential area. He further alleged that Uttar Pradesh Pollution Control Board has given them permission to slaughter 600 buffalos, 250 sheep and 250 goats but around 3,000 buffalos, cows, bulls and camels are being butchered every day, leading to massive pollution of air and water in the entire vicinity.



**5.42** Pursuant to the directions of the Commission, the District Magistrate, Saharanpur, submitted a report dated 12 December 2012 wherein he completely denied the allegations made in the complaint. The Commission considered the matter on 15 February 2013 and has called for comments of the complainant which are awaited.

**4.** *Enormous Pollution Caused by ACC Company in Khaliapali, District Bargarh, Odisha (Case No. 2071/18/17/2012)*

**5.43** The complainant Shri Debabrata Mishra, President of Fight on Rights situated on Kali Mandir Road, District Bargarh in Odisha informed to the Commission that the ACC Company in Odisha had set-up 32 MW Power Plant in Khaliapali, District Bargarh, Odisha for its cement factory. He alleged that the company has no proper protective dumping ground of hazardous ash created by the plant due to which people living within a radius of 15 kms. were being affected by respiratory and skin diseases. He further alleged that the ash of this plant was being used in the agricultural land as well, thus affecting crops and livelihoods of the local people adversely.

**5.44** Pursuant to the directions of the Commission, the Commissioner-cum-Secretary, Government of Odisha sent a compliance report along with other reports of inspection of the site and steps taken to avoid recurrence of such spillage of fly ash to the agricultural fields. The Regional Officer, State Pollution Control Board, Sambalpur also reported that the fly ash was discharged along with surface run-off due to rain in the nearby agriculture land of Khaliapali village causing damage thereof. He furthermore directed the Vice President, M/s Bargarh Cement Works, ACC Ltd. to take immediate steps for removal of fly ash from the nearby areas including the affected agricultural land and directed them to immediately comply with the instructions/recommendations of the State Pollution Control Board, Odisha.

**5.45** The Director of the Plant in Bargarh Cement Works, ACC Ltd. in his compliance report stated that it had removed the ash flown out of adjoining private land due to heavy rain. Besides, the ACC Ltd. will pay compensation to the farmers as per the Government norms, if there is any damage to their standing crops due to spillage of fly ash. In addition, the ACC Ltd. had taken steps for construction of a boundary wall on their land to ensure that no adjacent area of villagers is affected due to dumped materials. Suitable care will be taken during the construction of the boundary wall which was in progress to avoid spillage of the dumped material. The fly ash filling area will be supervised by responsible persons and security personnel would be engaged for supervision of the ash mound area on 24 hours basis.

**5.46** The report the Regional Officer, State Pollution Control Board, Sambalpur mentioned that the fly ash had caused damage to crops of nearby farms and they need to be compensated as per Government norms.

**5.47** The Commission on 21 February 2013 directed (i) to send a copy of the report of Director, Plant, ACC Ltd. to the complainant for comments, and (ii) the Principal Secretary,

Department of Forest & Environment, Government of Odisha and the District Magistrate Bargarh to send the status report relating to payment of compensation made by the Company to the farmers who suffered loss due to fly ash of M/s Bargah Cement Works, ACC Ltd., Bargah and also measures taken by the company to avoid recurrence of such incidents in future, within eight weeks.

**5.48** The response from the complainant and Government of Odisha is awaited.

**5.** *Death of Adolescent Girl due to Medical Negligence*  
(Case No. 36256/24/61/2010)

**5.49** The complainant Shri Pashupati Nath Mishra in his complaint dated 3 September 2012 alleged that his 15 years daughter, Neha, complained of severe pain in her legs and was taken to the Community Health Centre, Maharajganj in Rai Bareilly, Uttar Pradesh at about 3.00 p.m. on 19 August 2010 for treatment. But Dr. D.K. Shrivastava, Superintendent, Community Health Centre, Maharajganj did not attend to her on the plea that there was no staff and advised him to take her to one Dr. Amresh Pandey, running a private hospital in front of the Community Health Centre. Dr. Amresh Pandey, a Child Specialist, attached with the Community Health Centre on contract basis advised him to take his daughter to the District Hospital. In the meantime, Neha became serious and died before they could arrange for a transport for taking her to the District Hospital. Shri Pashupati Nath alleged that the death of his daughter was caused by the negligence of Dr. Shrivastava, Superintendent, Community Health Centre, Maharajganj who did not provide timely medical aid to Neha and therefore sought the intervention of the Commission.

**5.50** The Commission took cognizance of the matter on 26 September 2010 and received a report dated 16 November 2010 on the case from the Chief Medical Officer, Rai Bareilly. Another report dated 29 September 2010 was also received from the Sub-Divisional Magistrate, Maharajganj. The latter had conducted an enquiry into the matter. Both the reports received from the State Government accepted Dr. Shrivastava's version though the same was not substantiated by corroborative evidence of independent witnesses. The two reports concluded that the deceased was brought to the Community Health Centre at 5.00 p.m. on 19 August 2010 and that the doctors, after examination, declared her brought dead and there was no negligence in the treatment of the deceased. The Commission called for the comments of the complainant on the said report, which it received vide his letter dated 1 February 2011.

**5.51** The Commission during its proceedings held on 28 April 2011 considered the aforesaid reports and directed the Principal Secretary (Home), Government of Uttar Pradesh to undertake an impartial enquiry into the matter.

**5.52** In response, the Special Secretary (Home), Uttar Pradesh Administration vide letter dated 11 June 2012 forwarded a copy of the report of fresh enquiry conducted by Chief Medical Officer, Rai Bareilly, in which he noticed that as per Standard Operational

Procedure, Dr. Shrivastava should have noted down the details of the dead person in his emergency register. Besides, he should have informed the police and the body should have been kept in the mortuary for postmortem. As such, Dr. D.K. Shrivastava, Superintendent, Community Health Centre, Maharajganj had shown reluctance in fulfilling his official and administrative duties.

**5.53** The Commission examined the report submitted by the Chief Medical Officer, Rai Bareilly and noted the findings of the inquiry officer that Kumari Neha was already dead when brought to the Community Health Centre and that Dr. Shrivastava had asked Dr. Pandey to give his opinion just to satisfy the agitated mob outside. On further perusal of the report, it was revealed that the inquiry officer did not try to record the statements of any independent witnesses in order to arrive at the truth. The complainant, in his comments dated 1 February 2011, while reiterating the allegations, submitted that besides his wife and brother, there were other persons too present in the dispensary who could prove that the statements given by the two doctors are false. Since Dr. Shrivastava failed in his statutory duty to record the details of the dead person in his emergency register, it was incumbent upon the inquiry officer to ask the complainant as well as the concerned doctors to submit additional evidence in the matter before arriving at any conclusion. The Commission thus presumed that Dr. Shrivastava did not attend to the ailing girl. Had the ailing girl been provided timely medical aid, a precious life perhaps could have been saved. By not giving due attention to the deceased, Dr. Shrivastava had undoubtedly violated her human rights. Accordingly, the Commission directed that a notice be issued under Section 18 of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Uttar Pradesh to show-cause as to why appropriate compensation be not awarded to the next of kin of the deceased. The Chief Secretary, Government of Uttar Pradesh was further directed to initiate disciplinary proceedings against the delinquent doctor for not discharging his administrative duties in accordance with the law.

**5.54** As there was no response within the stipulated time from the Government of Uttar Pradesh, the Commission vide its proceedings dated 10 December 2012 assumed that the State had nothing to submit in the matter and recommended to the Chief Secretary, State of Uttar Pradesh to pay a sum of ₹ 3,00,000 as compensation to the next of kin of the deceased, Kumari Neha. The proof of payment is awaited from the State Government.

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## RIGHT TO FOOD

**6.1** The right to food is one of the most essential human rights. It protects the right of all human beings to live in dignity, free from hunger, food insecurity and malnutrition. The right to food is not about charity, but about ensuring that all people have the capacity to feed themselves in dignity and meet their basic minimum body requirements.

**6.2** The right to food is protected under international human rights and humanitarian law. It is recognized in Article 25 of the Universal Declaration on Human Rights and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as in a plethora of other instruments. The corresponding state obligations are also accordingly, a natural corollary under international law. It is also recognized in numerous national constitutions.

**6.3** The Committee on Economic, Social and Cultural Rights (Committee on ESCR) in para 6 of its General Comment 12 of 1999 states that the right to adequate food is realized when every man, woman and child, alone and in community with others, has physical and economic access at all times to adequate food or means for its procurement. It thus entails the right to have regular and permanent access, either directly or by means of financial purchases, to quantitatively and qualitatively sufficient food and which ensures a physical and mental, individual and collective, fulfilling and dignified life. The three main elements of right to food are availability, adequacy and accessibility of food.

**6.4** Availability refers to enough food being produced thus entailing the notions of sustainability, or long-term availability, and the protection of the environment. Adequacy refers to the dietary needs of an individual which must be fulfilled not only in terms of quantity but also in terms of nutritious quality of the accessible food. Accessibility implies sufficient income/purchasing power to access adequate amount of food. It may also imply that the financial costs incurred for the acquisition of food for an adequate diet does not threaten or endanger the realization of other basic needs like housing, health, education etc. Physical accessibility implies that everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, the terminally ill, and persons with persistent medical problems, including the mentally ill, should be ensured access to adequate food.

**6.5** The right to food implies three types of State obligations - the obligations to respect, protect and to fulfill. This typology of States obligations is defined in General Comment 12

by the Committee on ESCR and endorsed by States, when the Food and Agriculture Organization Council adopted the Right to Food Guidelines in November 2004.

**6.6** The obligation to respect requires governments not to take any measures that arbitrarily deprive people of their right to food. The obligation to protect means that States should enforce appropriate laws and take other appropriate measures to prevent third parties, including individuals and corporations, from violating the right to food of others. The obligation to fulfill entails that governments must pro-actively engage in activities intended to strengthen people's access to and utilization of resources so as to facilitate their ability to feed themselves.

**6.7** In India too, right to food is an essential component of right to life and is a Fundamental Right under Article 21 of the Indian Constitution. Accordingly, Government of India is implementing food, livelihood and social security programmes, which support vulnerable people, so that they can have access to basic needs, especially food. For instance, under the Integrated Child Development Services (ICDS) Scheme, expectant mothers are fed in Anganwadi centres, along with infants, children up to the age of six and adolescent girls. Similarly, under the Mid-Day Meal Scheme (MDMS), the children in school are provided with meals. As adults, women receive maternity support, bread earners are guaranteed 100 days of wage employment in public works under Mahatma Gandhi National Rural Employment Guarantee Scheme; and if identified to be poor, they can buy subsidized cereals from ration shops with the Public Distribution System. The aged - widows in many States and disabled people - are given pensions. There are also schemes for BPL families as well as unorganized labour to avail insurance benefits in case of death or injury to the bread earning member apart from medical benefits.

**6.8** These programmes, however, are plagued by corruption, leakages, delays, poor allocations and little accountability. They further tend to discriminate against and exclude those who most need them. Social barriers of gender, age, disability, caste, and religion are the basis of such discrimination in many cases. State neglect towards urban poor migrants, street and slum residents, and unorganized workers is also rampant. As a result, data from various sources, like the National Family Health Survey (NFHS) that was conducted in 2005-2006 indicated that 46 per cent children below three years are underweight; 33 per cent women and 28 per cent of men have Body Mass Index (BMI) below normal; 79 per cent children between 6-35 months; 56 per cent of married women between 15-49 years; 24 per cent of men in the same age group; and 58 per cent of pregnant women have anaemia. The national averages mask locational differences. All these indicators are much worse in rural India. These indicators have improved very little since the earlier rounds of NFHS. In terms of calorie consumption, the picture is even worse.

**6.9** The National Human Rights Commission (NHRC) of India has given due importance to the issue of right to food ever since it was constituted. As such, it has consistently maintained that right to food is an integral part of right to life as enshrined in Article 21 of



the Constitution of India. In order to ensure that every one is free from hunger, the Commission has also constituted a Core Group on Right to Food, comprising experts from across the country. As reported in the Annual report of 2011-2012, it took cognizance of the starvation deaths in Kalahandi, Bolangir and Koraput (KBK) districts of Odisha as starvation constitutes a gross denial and violation of right to life. During the year under review, it organized a National Conference on Right to Food and re-visited Wayanad District in Kerala as part of the Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India.

## **A. National Conference on Right to Food**

**6.10** A one-day National Conference on Right to Food was organized by the National Human Rights Commission (NHRC) on 4 January 2013 at India International Centre, New Delhi. The main objectives of the conference were to: (i) analyze the right to food in terms of availability, adequacy and sustainability; (ii) examine the existing situation in the country regarding fulfillment and realization of the right to food; (iii) make an assessment of the programmes and policies being implemented in realizing right to food, including nutritional aspects with special reference to women, children and other disadvantaged sections.

**6.11** The Conference was attended by Chairperson, Members, Special Rapporteurs and senior officials of NHRC, other National Commissions and State Human Rights Commissions (SHRCs); senior officers from the related Ministries/Departments of Government of India and States/Union Territories; experts from technical institutions; and representatives of non-governmental organizations working at the grassroots.

**6.12** Keeping in view the objectives, the Conference deliberated on the following substantive issues in three technical sessions:

- Right to Food: Situational Analysis of India (Session-I)
- Nutritional Issues in India: Special Reference to Women and Children (Session-II)
- Right to Food Situation in States: Issues of Concern (Session-III)

**6.13** The Conference was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC. He informed the participants that the Constitution of India places a responsibility on the State for ensuring the realization of right to food. The right to life as elucidated under Article 21 of the Indian Constitution encompasses right to live a life of dignity, which cannot be achieved without ensuring the right to food. Moreover, Article 11 of the International Covenant on Economic, Social and Cultural Rights expressly recognizes the right of each individual to an adequate standard of living including adequate food. India, he said, has a long way to go as it still continues to be amongst the nations with high rates of hunger and undernourishment. In the existing situation, he articulated that it is sad that

one sees large amounts of good grains being wasted or rotting or being eaten by pests, while large sections of the under-privileged groups do not get sufficient quantity of food to eat. This kind of a paradoxical situation exists due to fault in our national policies and system of governance.

**6.14** The efforts of the Commission in this area, he stated, started way back in December 1996 when it took cognizance of a letter received from the then Union Minister for Agriculture regarding starvation deaths taking place in KBK (Kalahandi, Bolangir and Koraput) Districts of Odisha. A writ petition was also filed in the matter by the Indian Council of Legal Aid and Advice and others before the Supreme Court seeking interim measures to prevent deaths by starvation that had occurred in KBK Districts of Odisha which in fact comprised the eight Districts of Kalahandi, Nuapada, Bolangir, Sonepur, Koraput, Malkanagiri, Navrangpur and Rayagada. It was alleged in the petition that these starvation deaths continued despite the directives issued by the Supreme Court in its judgement in the case of Kishan Pattnayak vs. State of Orissa (A.I.R. 1989 S.C. 677).

**6.15** Placing the responsibility of this matter on the NHRC, the Supreme Court in its order dated 26 July 1997, directed the Indian Council of Legal Aid and Advice and others (Writ Petition Civil No. 42/97) to approach the Commission, which recommended interim measures and periodic reviews for improving the situation. The interim measures included proper implementation of programmes for development of scheduled castes and scheduled tribes, drinking water supply, rural development, soil conservation, primary health care, school education, social security, land reforms and afforestation by the State Government. Besides, it recommended that the benefits of these programmes should be maximized by linking them to employment generating projects. Based on a number of hearings, the Commission made far-reaching recommendations of time-bound short-term practical measures to be dovetailed into long-term plans by the State Government to end the scourge of deprivation, malnutrition and starvation, he stated.

**6.16** The Commission, Justice Shri Balakrishnan continued, has monitored not only the KBK region of Odisha, but also other parts of the country to assess the situation regarding availability of food and functioning of nutrition related schemes. The Commission was also aware of the public interest litigation filed by members of the civil society with regard to the issue of food security, including nutrition issues and the appointment of Commissioners by the Supreme Court for reporting on the situation on a regular basis. This mechanism has led to 'right to food as a legal entitlement'. Justice Shri Balakrishnan asserted that the NHRC was aware of the National Food Security Bill, which seeks to provide a minimum amount of food grains to each household of a priority segment of the population. As against this, there is a belief in some quarters that a universal public distribution system (PDS) is a better option from the perspective of a right based approach. There are also steps being initiated to provide cash transfers to the people on the basis of identification under the AADHAR scheme. Before concluding, he pinpointed that there were quite a number of issues which need to be debated upon in the National Conference. Some of these are:

- Whether the National Food Security Bill should cover the entire population that is provide universal coverage or is it appropriate in its present form
- Whether the right to food would be secure under the proposed cash transfer scheme
- Whether the PDS needs to be reformed on the basis of good practices observed in some of the States/Union Territory Administrations
- What are the changes required in schemes like ICDS and mid-day meal, especially with regard to their nutritional component.

**6.17** Speaking on the occasion, Shri Sudhir Kumar, Secretary, Department of Food and Public Distribution, Government of India stated that the country today is self-sufficient in terms of production of food grains on account of the technological breakthroughs achieved during the Green Revolution and its aftermath. The real challenge lies in keeping pace with the demand. In pursuance of the constitutional obligations and those under the international conventions ratified by the Government of India, the prime focus of Government's planning and policy has been to work towards food security. Food security, he elucidated, means availability of sufficient food grains to meet the domestic demand as well as people having access to adequate quantities of food at affordable prices, at the individual household level. Affordability, he opined, will always remain a big challenge. Other major challenges that need to be addressed are pilferage of food grains, their black-marketing, transportation and delivery of food grains. It is for this purpose that the scheme of 'cash transfer' linked with 'Aadhar' has been initiated.

**6.18** Highlighting the activities and achievements of the Department of Food and Public Distribution, Shri Kumar mentioned that its ultimate vision and mission is to ensure food security for the people of India; administer the PDS operations in the country through efficient procurement at minimum support price, storage and distribution of food grains including cereals; ensure availability of food grains, sugar and edible oils through appropriate policy instruments, including maintenance of buffer stocks of food grains; and make food grains accessible at reasonable prices, especially to the weaker and vulnerable sections of the society. Referring to the Targeted Public Distribution System (TPDS), he said that it is the cornerstone of Government's policy for food security under which subsidized food grains are provided to the Below Poverty Line (BPL), including Antyodaya Anna Yojana (AAY), and Above Poverty Line (APL) households. In pursuance of the directions given by the Supreme Court, action has been initiated for computerization of TDPS covering key areas like having a portal of complete PDS information, supply chain management, digitization of ration card database, automation of fair price shop operations, etc. He complemented the States of Chhattisgarh, Gujarat, Andhra Pradesh and Karnataka for taking commendable steps in this regard. He also informed that the Government of India during 2010-2011 had launched a programme, namely 'Bringing Green Revolution in Eastern India'. It is a sub-scheme of Rashtriya Krishi Vikas Yojana and is being implemented in seven States, viz. Assam, Bihar, Chhattisgarh, Jharkhand, Odisha, Eastern Uttar Pradesh and West Bengal.

**6.19** Throwing light on the National Food Security Bill, 2011, which on 5 January 2012 was referred by the Speaker of Lok Sabha to the Standing Committee on Food, Consumer Affairs and Public Distribution for examination, Shri Sudhir Kumar said that the proposed legislation marks a paradigm shift in addressing the problem of food security from the current welfare approach to a rights based approach. Consequently, it seeks to provide food and nutritional security by taking into account the human life cycle approach. By doing so, the Bill would confer legal rights on eligible beneficiaries to receive entitled quantities of food grains at highly subsidized prices whereby they could live a life with dignity, in particular women and children, destitute and homeless, and persons living in starvation.

**6.20** The final recommendations/suggestions emanated out of the deliberations of the Conference are listed below:

#### **Food Availability Including PDS & National Food Security Bill**

1. Food will not be available unless adequate quantities are produced, properly stored and efficiently distributed.
2. Food availability cannot be restricted only to cereals; it must include pulses, oils, vegetables, fruits and animal-based proteins. Food security entails making available adequate nutritional food that is locally acceptable. For this, the availability of safe drinking water is essential. All of this must be accessible and affordable. First right on food should be of the poor who may not be able to afford to buy it.
3. The experience so far with the targeted public distribution system shows that very large numbers of those who are hungry, poor or malnourished, and who need support are excluded. The Government must keep this essential fact under review, so as to eventually bring under its coverage all those in need.
4. The list of the most vulnerable people presently in India includes workers in the unorganized sector, dalits, tribals and forest-dwellers, migrants, single women and disabled persons. The special needs of children and that of pregnant and lactating women also need to be addressed. Similarly, there is growing evidence that marginal farmers & landless labourers engaged in agricultural activities are under tremendous stress and are food- insecure.
5. In computing food availability, the government needs to bear in mind that the current calorie consumption of 2400/2100 is extremely conservative in the Indian context. The Government should raise this level in order to arrive at a realistic computation of need.
6. The Government in consultation with all stakeholders should urgently draw-up and adopt a comprehensive national nutrition policy to give priority to nutrition security.

7. There should be an independent monitoring and evaluation mechanism which lays emphasis on accountability of all concerned officers and functionaries in implementing Government's schemes for promoting food security. A periodic social audit of all food schemes should be made mandatory at the Gram Panchayat level to ensure immediate rectification of the problems.
8. There is an essential need to bring about a reform in the PDS system. For this purpose, it would be useful for the Government to distill the best practices of States like Andhra Pradesh, Chhattisgarh, Gujarat, Tripura and Tamil Nadu where these reforms have been instituted.

#### **Nutritional Issues Including Programmes like ICDS, MDMS, etc.**

1. Food served should be available in adequate quantity. It should also be affordable and available all the times. It should be, by and large, culturally acceptable. Similarly, taste and preference factor should not be ignored, as far as possible.
2. Transparency has to be ensured at all levels, be it production, distribution or management.
3. There has to be easy access to potable water and proper sanitation facilities.
4. Community based supervision for nutrition programmes to be given priority.
5. Food should have balanced combination of various components including vitamins, fruits, vegetables and animal based proteins like milk, curd, paneer, etc.
6. There should be coordination and convergence of ICDS and ASHA functionaries at the field level.
7. Balanced diet should be provided under the ICDS and mid-day meal schemes throughout the week.
8. Full nutritional security commitment in the National Food Security Bill has to be incorporated immediately.
9. There is need to generate more awareness on nutritional requirements, right to food, micronutrients, etc. There is also a need for effective social communication through social counselors.
10. Those involved in nutrition programmes have to be made accountable and action to be taken against erring public officials and panchayat functionaries.
11. All forms of malnutrition, such as, Vitamin A deficiency, protein deficiency, iodine deficiency, etc. must be addressed adequately and effectively.

**6.21** These recommendations were forwarded to all the delegates, who represented the Department of Food and Consumer Affairs of their respective States/Union Territories for



information and necessary action. The Commission believes that all its recommendations shall be given due consideration and shall be implemented in letter and spirit.

## **B. Illustrative Cases on Right to Food dealt by NHRC**

1. *Students Thrashed for Refusing to Eat Insect Infested School Meal in District Vaishali, Bihar*  
(Case No. 2432/4/39/2012)

**6.22** The Commission came across a press report captioned, "Kids thrashed for refusing insect-infested school meal" that appeared in *The Hindustan Times* on 16 July 2012. The report stated that two brothers belonging to Scheduled Caste community, namely, Sanjay Kumar, aged 12 years and Chandeshwar Kumar, aged 13 years, students of Class 6 of a school at village Mithani Milki in Vaishali District of Bihar were allegedly thrashed by their Headmaster till they fainted as they refused to eat mid-day meal consisting of khichdi in which insects were there. The Headmaster reportedly told the two brothers to throw the insects out and eat the meal. When the boys refused to do so, the Headmaster allegedly caned them mercilessly. The children's father rushed them to a Primary Health Centre for treatment and, later, he lodged a complaint with the Police against the Headmaster.

**6.23** Taking cognizance of the news report, the Commission issued a notice to the Chief Secretary, Government of Bihar and to the District Magistrate, Vaishali to submit a factual report in the matter. The Chief Secretary, Government of Bihar was also directed to inform as to what steps are being taken by the administration for monitoring and supervision of mid-day meal scheme in schools including the quality of food being served to the school children in Bihar.

**6.24** The Superintendent of Police, Vaishali, Bihar vide his report dated 5 December 2012 informed the Commission that after investigation, a chargesheet had been filed in the Court against the Headmaster for beating the two students on 14 July 2012. The incident relates to Crime No. 228/12 u/s 341/323 IPC and section 3 (X) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, in Police Station Gorol.

**6.25** Upon consideration of the report, the Commission vide its proceedings dated 22 February 2013 observed and directed as under:

*"The report does not mention if any interim monetary relief or compensation has been paid to the victim students under the provision of Rule 12 by the DM, SDM or any other Executive Magistrate of the area on filing of chargesheet against the accused headmaster under the provision of Section 3 (X) of the SC/ST (PA) Act 1989. The monetary relief as per the provision of scheduled annexure 1 to Rule 12 (4) of SC/ST (PA) Rules 1995 is required to be paid to the victims. The amount of monetary relief is to be determined according to the nature of the offence. The payment of 25% has to be made when chargesheet is sent to the court and the rest*



*on conviction. Thus, 25% of the compensation/monetary relief that might be determined by the DM or SDM under Rule 10 (4) of the Rules is required to be paid to the victim students after filing of the chargesheet.*

*The Chief Secretary, Government of Bihar, has not sent the report called for by the Commission vide its communication dated 18.7.2012 regarding the steps being taken for monitoring and supervision of the mid-day meal scheme and quality of food being served in the schools of the State.*

*The Commission seriously views the matter.*

*The Chief Secretary, Government of Bihar, Patna, is again directed to send a detailed report in the above points positively within six weeks.*

*The DM, Vaishali, Bihar, is directed to send a report along with proof of payment within six weeks, regarding payment of interim monetary relief to the victim students of SC community under the provision of Rule 12 (4) of SC/ST (PA) Rules 1995".*

#### **6.26** The Reports from the State are awaited.

2. *Death of Two Minor Scheduled Caste Sisters in District Raichur, Karnataka due to Malnutrition  
(Case No. 31/10/17/2012)*

**6.27** The Commission received a complaint alleging death of two minor sisters, namely, Anjaneya and Mahalakshmi, r/o Malladevaragudde in Devadurga Taluk of Raichur District in Karnataka in August 2011 on account of malnutrition. It was further alleged that an additional 6,600 children from Scheduled Castes, Scheduled Tribes and Minorities communities were suffering from malnutrition. The complainant requested for a judicial enquiry into the matter along with suitable measures for implementation of various social welfare schemes in the area and action against guilty officials.

**6.28** Pursuant to the directions of the Commission, the Director, Department of Women & Child Development, Bangalore vide its communication dated 24 February 2012 forwarded a detailed report about the nutritional status of children in Karnataka State and measures taken by the State Government to combat the problem of malnutrition in children and pregnant women. It was stated in the report that the cases of malnutrition of children cited in the complaint were on account of multiple factors like illiteracy, ignorance, early marriage, marriages among blood relations, anaemia, congenital diseases, high fluoride contents in water, non-utilization of Government facilities in full and inadequate follow-up by the parents of the beneficiaries, etc. The report had a chart which gave the nutritional status of children in Karnataka and action plan for reducing malnutrition. The report also highlighted various Central and State Government Sponsored Schemes to improve the situation of malnutrition among children like the Integrated Child Development Services

Scheme, Balasanjeevini, medical expenses for severely malnourished children, etc.

**6.29** As the Commission desired to know the comments of the complainant on the above report, it forwarded a copy of the report to the complainant on 5 July 2012. However, since the Commission did not receive any response from the complainant, it closed the case on 10 September 2012.

3. *Poor Implementation of Health Schemes in Jharkhand Leading to Malnutrition*  
(Case No. 125/34/0/2012)

**6.30** The Commission received a complaint dated 27 December 2011 in which it was disclosed that poor and backward people residing in Palamu, Latehar, Chatra, Ramgarh, Giridih, Gumlah and Lohardaga Districts of Jharkhand are facing acute malnutrition due to poor implementation of health schemes by the State Government. The victims also included children. As such, a request was made to the Commission to look into the matter.

**6.31** The Commission took cognizance of the matter vide its proceedings dated 3 February 2012 and issued a notice wherein it called for a report from the Government of Jharkhand.

**6.32** The Deputy Secretary to the Government of Jharkhand, Department of Health, Medical Education and Family Welfare has forwarded the reports of Civil Surgeons of Giridih, Palamu, Latehar, Gumlah, Chattra and Ramgarh. The reports have refuted the allegations made in the complaint about malnourishment in the stated Districts.

**6.33** The Commission has now forwarded this report to the complainant for comments which are awaited.

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## RIGHT TO EDUCATION

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

**7.2** In the light of the above amendment, and for fulfillment of the constitutional mandate and the obligations arising out of international covenants including the Convention on the Rights of Child, the Right of Children to Free and Compulsory Education Act was enacted in 2009. It finally came into force on 1 April 2010. The Act addresses issues of school drop out, out-of-school children, quality of education and availability of trained teachers.

**7.3** Though the National Commission for Protection of Child Rights (NCPCR) has been designated as the agency to monitor provisions of the Act, the NHRC through its 'Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India' is monitoring the implementation of the Act as it contains specific provisions for disadvantaged groups, such as child labourers, migrant children, children with special needs, or those who have a disadvantage owing to social, cultural, economical, geographical, linguistic, gender or any such factor along with other flagship programmes of the Government of India such as Sarva Shiksha Abhiyan and Mid-Day Meal Scheme.

## A. Illustrative Cases related to Right to Education

1. *Discrimination against a Student in Issuing of NOC for Migration by an Institute Affiliated to Guru Gobind Singh I.P. University, Delhi*  
(Case No. 5762/30/7/2011)

7.4 The Commission received a complaint from Sapna Tuteja, a second year student of B. Tech. (EEE) of HMR Institute of Technology, New Delhi affiliated to IP University, alleging discrimination and refusal to issue NOC for migration. The complainant had given reason of long commuting distance to the institute and health problem for seeking migration to some other college under the university.

7.5 The Commission issued notice to the Registrar, IP University New Delhi and Chairman, HRM Institute of Technology, New Delhi calling for report within seven days. The Registrar, I.P. University expressed its inability to direct any self-financing private institute to issue NOC for migration in view of the judgement of Hon'ble Supreme Court of India in the matter of TMA Pai Foundation and Ors. vs State of Karnataka and Ors (WP (C) 317/ 93) and the revised ordinance No.7 of the University.

7.6 The Chairman, HRM Institute in his written submission argued that there was no violation of any right, not to talk of human rights of the complainant for non-issue of NOC for migration to her. He further argued that the right to migration is not a vested right as per decisions of Hon'ble High Court of Delhi.

7.7 The Commission perused the judgment in the matter of the TMA Pai Foundation & Ors vs State of Karnataka & Ors. in WP-317/93 and observed that the University could not issue direction in five matters specifically mentioned by the ratio of above referred case of the Hon'ble Supreme Court. But the issue of NOC for migration does not fall under these 5 categories and the judgment of Hon'ble Delhi High Court has directed that NOC for migration was not a vested right of the students but the power is coupled with the duty to act reasonably guided by relevant considerations and not by whim or caprice and in another case the Hon'ble High Court of Delhi had held that ground of medical reasons, convenience of location of Institution, distance and time spent on commuting to place of study, convenience of shift i.e. from evening to morning or vice versa on the ground of security are relevant and germane reasons for favourable consideration of application for NOC for migration.

7.8 The Commission directed the Registrar, Guru Gobind Singh University to frame and circulate clear guidelines to all the affiliated colleges under the University in reference to the migration. The Commission further directed the Secretary, Ministry of Human Resource Development, Government of India to direct all the Universities and their affiliated colleges to frame guidelines regarding terms and conditions for issuing NOC/Migration to other Universities.

**7.9** The Registrar, Guru Gobind Singh I. P. University has submitted a copy of guidelines issued to the affiliated colleges etc. which is under consideration of the Commission.

2. *Denial of Extra Time of 20 Minutes per Hour in Examinations to Persons Having 80% Disability*

(Case No. 2872/30/3/2011)

**7.10** Complainant lost his right working hand in an accident and is a disabled person having 80% disability. He appeared for All India Bar Examination (AIBE) conducted by the Bar Council of India on 6 March 2011. He was granted extra time of only 20 minutes. The complainant failed in the examination. The grievance of the complainant is that he was entitled to extra time of 20 minutes per hour of the examination period and had he been granted this extra time, he would have passed the examination. He had to re-appear in the next examination, which he passed, and had to pay fee of ₹700 again.

**7.11** According to the reports dated 9 September 2011 and 27 September 2011 from the Bar Council of India, first All India Bar examination was conducted by the Bar Council of India on 6 March 2011 on the directions of the Supreme Court. There are no specific norms/rules by the Bar Council of India regarding relaxation of 20 minutes to handicapped persons. It is further stated that if there is any provision for giving extra time for every hour of the examination, the complainant may be directed to submit the same to the Bar Council of India, so that in future such relaxation may be considered by it.

**7.12** The complainant has relied upon a letter No. 22-OR (3)/C.C.D./99/ 6608 dated 2 August 2000 addressed by the Chief Commissioner for Disabilities, Ministry of Social Justice & Empowerment, to the Secretary, Ministry of Human Resource Development, Department of Education, New Delhi, on the subject "Modifications in the Schools / Colleges examination entrance tests and written test for recruitment to jobs and promotion and in interviews for persons with disabilities".

**7.13** Clause 1 (c) of the letter reads as follows :

*"Person having impairment of movement in arms and hands though can read independently but have problem in writing the test at a high speed, therefore, require assistance of a scribe for the purpose of writing the tests for recruitment or promotion".*

**7.14** Clause 3 of the letter relates to allotment of extra time in writing tests and examination and reads as under :

*"It is evident that the candidate who writes the test with the assistance of a scribe/writer would write at a slower pace, as the candidate speaks the answer and the writer writes the answer after listening to the answer of the candidate. In this process the time consumed in writing the answer is higher than that of the non disabled candidates. With a view to ..... it is necessary to equalize the opportunities by granting extra time. The examining authorities are advised to :*

- (i) For a written test of duration of one hour, at least 20 minutes extra time should be allotted.
- (ii) Similarly, for written tests involving more than one or less than one hour extra time should be worked out on the basis of 20 minutes per one hour criteria."

**7.15** The Commission had an occasion to consider the above mentioned letter/circular in another case i.e. case No. 1869/30/3/2010 relating to one Ankit Gautam. Vide its proceedings dated 28 May 2010 in that case, the Commission recommended to the Controller of Examination, SCERT, to issue necessary guidelines for the benefits of the persons with disabilities on the issue of grant of extra time.

**7.16** The letter/circular was never forwarded to the Bar Council of India by any government department. Also the All India Bar Examination has been started recently on the directions of the Supreme Court. In the facts and circumstances of the case, if the complainant was not granted extra time as per the circular of the Chief Controller for Disabilities, it cannot be said that human rights of the complainant were violated. Keeping in view the spirit of the letter/circular issued by the Chief Controller for Disabilities, mentioned hereinbefore, the Commission recommended to the Bar Council of India to formulate appropriate rules on the subject. The Secretary, Bar Council of India, was directed to submit action taken report.

**7.17** The Secretary, Bar Council of India, has informed the Commission vide his letter dated 20 June 2012 that the General Council of the Bar Council has allowed 20 minutes extra time per hour to the disabled persons in All India Bar Examination in the light of the letter dated 2 August 2000 issued by the Chief Commissioner for Disabilities.

**7.18** The Commission noted that the Bar Council of India has responded to the need of the disabled persons appearing in the All India Bar Examination and vide proceedings dated 17 September 2012 closed the case, as the needful has been done.

3. *Pathetic Condition of Primary School in, Bhelkha Village in Varanasi District*  
(Case No. 9673/24/72/2011)

**7.19** The Commission received a complaint from Shri Imtiaz Khan of Manav Adhikar Emergency Helpline Association, an NGO, drawing attention of the Commission to the pathetic condition of sanitation and water supply in Primary School, Bhelkha village in Varanasi. He annexed a newspaper cutting in support of his claim and requested intervention of the Commission. The Commission took prompt cognizance of the matter.

**7.20** Special Secretary, Department of Education-5, Government of Uttar Pradesh, vide letter dated 13 July 2012 informed that one hand pump and four toilets have been provided and six teachers are being posted in the School. He also reported that the grievances mentioned in the complaint have been redressed.



**7.21** The Commission was keen to know the response of the complainant to this report and sought his comments vide its order dated 15 November 2012. However, since no comments were received from the complainant, taking note of the steps taken by the Government for the betterment of students in Primary School, Bhelkha Village, the Commission closed the case on 15 February 2013.

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# RIGHTS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER VULNERABLE GROUPS

**8.1** The Scheduled Castes (SCs) and Scheduled Tribes (STs), have a special status under the Constitution of India. In addition, Other Backward Classes (OBCs), Minorities and vulnerable groups like persons with disabilities, elderly persons, children and women in difficult circumstances are the other disadvantaged groups needing special attention and support. In this chapter, the focus primarily is on the rights of scheduled castes and scheduled tribes. The rights of persons with disabilities, elderly persons and those of children and women have been dealt separately in subsequent chapters of this Annual Report.

**8.2** Across social groups, the incidence of poverty is most pronounced among the SCs and STs. Even though the incidence of poverty among these groups has declined over the years, the headcount ratio (HCR) for SCs and STs remains higher than the national average. Over the years several steps have been taken to bridge the gap between these groups and the rest of the population. But gaps continue to persist. The protective legislations have been in place for them since many years, yet atrocities and crimes continue to be committed against them, especially against their women, which are reported regularly from across the country in varying degrees. However, there are still many such instances which do not come to light at all. The need of the hour is to ensure the security and dignity of all persons belonging to these communities at par with remaining population, in terms of all developmental indices viz. education, health, nutrition, housing, income generation and employability as well as proper implementation of legislations for their over all protection.

**8.3** The National Human Rights Commission of India (NHRC) has been deeply concerned about the rights of the SCs, STs, OBCs and Minorities since its inception. It would be pertinent to highlight that in accordance with Section 3(3) of the Protection of Human Rights Act, 1993, and its amendment thereby in September 2006 (PHRA), the Chairpersons of the National Commissions for Scheduled Castes, Scheduled Tribes, Minorities and Women are deemed members of NHRC for discharge of functions specified in clauses (b) to (j) of Section 12 of the PHRA.

**8.4** These functions have already been detailed out in Chapter 3 of this Annual Report. The NHRC, in fact, has paid most careful attention to the complaints it receives from the SCs, STs, OBCs and Minorities relating to acts of discrimination, untouchability, violence apart from various other atrocities, including high-handedness, negligence and non-compliance of duty to protect by public servants. The people from these communities are known to be paid less, forced to do all kinds of menial work and rarely appreciated for their

contribution. Many of them work as manual scavengers, bonded and child labour even today. These two are major crimes committed on them. In the case of manual scavenging, the Chairperson of the Commission wrote to the Prime Minister of India and the Chief Ministers of States and is rigorously monitoring the situation across the country. On the issue of bonded and child labour, which was entrusted to it through a 1997 remit of the Supreme Court, it is continuously monitoring the situation in the country and simultaneously organizing sensitization programmes for the District Collectors and other stakeholders towards identification, release and rehabilitation of bonded and child labourers. In August 2011, the NHRC also constituted a Cell to monitor bonded and child labour issues.

8.5 During the period under review, the Commission's activities towards protecting and promoting the rights of SCs, STs, OBCs and Minorities are given below.

### **A. Action Taken on Recommendations Made in Report on Prevention of Atrocities against Scheduled Castes**

8.6 The Commission in the year 2000 had requested Shri K. B. Saxena, IAS (Retd.) to prepare a status report on atrocities committed on scheduled castes and based on the actual ground situation the initiatives that NHRC could take to curb and prevent them. Accordingly, a study was undertaken by Shri Saxena and a detailed report entitled "Prevention of Atrocities against Scheduled Castes" was prepared and submitted to the Commission. The report makes altogether 150 recommendations under broad heads for follow up action on the part of various Ministries of Central Government, State Governments, National Commissions, including NHRC. These recommendations were subsequently forwarded by the Commission to all the stakeholders for taking necessary action as stated therein with a request to forward the action taken report to NHRC. The NHRC, so far, has received action taken reports from the Ministries of Finance, Human Resource Development, Home Affairs, Labour & Employment, Railways, Rural Development and Women & Child Development. It has also received action taken reports from various States and Union Territories, namely, Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Karnataka, Kerala, Meghalaya, Mizoram, Rajasthan, Uttar Pradesh, West Bengal, Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Lakshadweep and NCT of Delhi. The details of the action taken reports received from the Ministries, States and Union Territories are posted on NHRC's website <http://nhrc.nic.in>. The Commission is taking follow up action to obtain feedback from States and Union Territories who have not reported so far.

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

8.7 One of the recommendations (Number 28) made in the report entitled "Prevention of Atrocities against Scheduled Castes" is -

*"National Human Rights Commission may organize open **hearing** on violence against SCs, two in a year, if feasible, or at least one in a year, where the victims of major atrocities can present their experiences and grievances in seeking justice*

*from Government agencies and Human Rights bodies/Non-governmental organizations/social workers and activists may apprise the Commission of difficulties encountered by them in taking up they complaints. In the interaction with the State Government subsequent to the hearing, the Commission may convey its observations and advice on various actions to be taken for effective enforcement of law, sustaining confidence of victims and, where required, looking into the conduct of officials coming in for adverse reference during the hearing. The follow-up actions in the hearings may be monitored."*

**8.8** As a follow-up to this recommendation, the Commission held five open hearings in Puri (Odisha) from 8-10 April 2012, Ahmedabad (Gujarat) on 14-15 May 2012, Chennai (Tamil Nadu) from 7-9 August 2012, Jaipur (Rajasthan) on 13-14 September 2012 and Nagpur & Mumbai (Maharashtra) from 28-31 January 2013.

### *Puri, Odisha*

**8.9** The first open hearing in Puri was held under the chairmanship of Shri Satyabrata Pal, Member, NHRC. After the open hearing, a meeting was held with NGOs and human rights defenders who drew the attention of the Commission towards various superstitious practices prevalent in the State in the garb of witchcraft, black magic, tantra and mantra leading to harassment and torture of the downtrodden people, widespread trading of country and foreign liquor in remote tribal, rural and urban areas causing death of innocent people due to consumption of spurious liquor. They also drew the attention of the Commission for setting-up of Scheduled Castes/Scheduled Tribes Protection Cells in villages under Section 17 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, innumerable attacks and illegal detention of human rights defenders and anti-displacement activists. Other issues highlighted by them related to trafficking in women, child and bonded labour, issue of missing children, forced marriage of minor girls, killing of innocent people in riots, lack of proper investigation by police, which often led to acquittal of guilty and non-registration or improper registration of FIRs.

**8.10** The NHRC team also held a meeting with the Chief Secretary and other senior officers of Government of Odisha and directed them to give immediate attention to the cases which came up during the course of the open hearing and required State intervention for giving relief to the victims. It also urged the State Government to look into issues raised by NGOs and human rights defenders. The visit to Puri was concluded with a stopover in Jagasinghpur and POSCO site (Kujanga) for assessment of human rights issues in these areas.

### *Ahmedabad, Gujarat*

**8.11** The second open hearing in Ahmedabad was held under the chairmanship of Justice Shri K. G. Balakrishnan, Chairperson, NHRC. Justice Shri B. C. Patel, Member, NHRC was part of the delegation. The open hearing was attended by more than 300 persons, including complainants. The Commission heard the grievances of about 100 complainants and gave

appropriate directions to the State Government for redressal of their complaints. Thereafter, the Commission held a meeting with the NGOs, who raised several issues. Prominent among them being the pathetic conditions of gutter workers in the State, allocation of funds for upliftment of scheduled caste women, provision of residence to *safai karamcharis*, rehabilitation of victims socially boycotted by society, forced migration, manual scavenging, exploitation of labourers, delayed justice, provision of water and sewer facilities for residents of hutments in the city, lower conviction rates with regard to cases coming under the purview of SC and ST (PoA) Act, 1989 and abolition of contract system.

**8.12** On conclusion of the meeting with NGOs, the Chairperson and Member held another meeting with the Chief Secretary, Director General of Police and other senior officers of the State Government. It highlighted the gist of the issues brought forth by the complainants as well as the issues conveyed to them by the NGOs and civil society. The State Government gave an assurance to the Commission to take prompt action on all the issues along with suitable solutions. This was followed by a brief media interaction.

### *Chennai, Tamil Nadu*

**8.13** Justice Shri K. G. Balakrishnan, Chairperson, NHRC along with Justice Shri B. C. Patel and Shri Satyabrata Pal, Members, NHRC convened the third open hearing in Chennai, Tamil Nadu. For this open hearing, complaints were invited by the Commission in advance through a public notice published in leading English and Tamil newspapers. The Commission received more than 1,000 complaints/ representations, out of which only 317 complaints, falling under its jurisdiction, were dealt with. On examination of these complaints, the Commission issued advance notices to the State Government, so that it could be ready with their response pertaining to each case when the Commission visited Chennai.

**8.14** In Chennai, all the 317 cases were taken up for consideration in two Benches. Bench No. 1 was chaired by Justice Shri B. C. Patel, in which 168 cases were dealt. Bench No. 2 was chaired by Shri Satyabrata Pal, in which 149 cases were considered. On hearing the grievances of the complaints and response of the State Government, a total of 159 cases were disposed off - 111 by Bench No. 1 and 48 by Bench No. 2. The prime reason for non-disposal of remaining cases was poor response on the part of the State Government. Since many of the complainants had come from far-off places in Tamil Nadu, the State Government was asked to reimburse the expenses incurred by the complainants.

**8.15** Most of the cases dealt with in the two Benches pertained to non-issue of caste certificates. In some cases, the State Government on receipt of notice from the Commission instantly issued caste certificates whereas in other cases it was reported that there was inordinate delay on the part of revenue officials conducting the inquiry. The Commission reiterated to the State Government that the inquiry should be expeditiously concluded and caste certificates to the deserving candidates should be issued without any further delay.



**8.16** The grievance of some complainants pertained to the issue of *patta*. In cases where the complainant had been given the *patta*, the possession of land had not been given to them. The State Government was thus directed by the Commission to take appropriate legal action and ensure delivery of possession to the *patta* holders.

**8.17** In some of the cases it was alleged that on retirement of the employees the retiral benefits due to them were not paid. Many complaints on land grabbing were also made. In one case, it was found that there was encroachment on the graveyard of the scheduled castes by upper caste people and the State had not taken any kind of appropriate action. The Commission recommended prosecution of encroachers under section 3(1)(v) of SC & ST (PoA) Act and also recommended prosecution of the negligent Government official under section 4 of the Act. In several cases it was found that the police had filed chargesheet after investigation of cases concerning atrocities committed on scheduled castes but the financial assistance recommended under the SC and ST (PoA) Rules for such crimes was not made. The Commission thus directed the State Government to disburse the financial assistance within a prescribed time.

**8.18** In numerous other cases, it was observed that the offences committed against scheduled castes had been diluted in the FIRs and appropriate provision of SC and ST (PoA) Act was not invoked. The Commission directed the police authorities to take action under the appropriate provision of the relevant Act. In one case, rehabilitation of 45 families, who were displaced, was recommended by the Commission.

**8.19** After examining all the cases, the Commission held a meeting with the representatives of the NGOs and Civil Society, who then apprised the Commission about a range of issues, such as eliminating the practice of manual scavenging, non-issuance of caste certificates, *pattas* and protective equipments to sanitary workers working in Chennai Corporation, having schools within the radius of 10 kilometers, especially in Erode wherein *Adi Dravidas* are residing.

**8.20** The open hearing was concluded by the Commission with a meeting held with the Chief Secretary, Director General of Police and other senior officers of the State of Tamil Nadu, which was followed by a media interaction.

### *Jaipur, Rajasthan*

**8.21** Justice Shri K. G. Balakrishnan, Chairperson, NHRC along with Justice Shri B. C. Patel and Shri Satyabrata Pal, Members, NHRC convened the fourth open hearing in Jaipur, Rajasthan. As in the open hearing held in Chennai, the Commission for the open hearing in Jaipur invited complaints in advance through a public notice published in leading English and Hindi newspapers. In response, the Commission received more than 300 complaints, out of which only 114 complaints were taken-up by it. On examination of all these cases, the Commission issued advance notices to the State Government, so that they were ready with the existing status of each case.

**8.22** All the 114 cases were dealt with in two Benches that were chaired by Justice Shri B. C. Patel and Shri Satyabrata Pal, Members, NHRC. In all, 89 cases were disposed off during the course of the open hearing and appropriate directions were issued in the remaining 25 cases. The Commission also received 65 fresh cases during the open hearing.

**8.23** After the Commission had heard the grievances of all the complainants in the open hearing, it held a meeting with NGOs and members of the Civil Society. The issues brought forward by them were - non-involvement of NGOs in the implementation of various socio-economic programmes of the Government, atrocities on scheduled casts by the Government authorities, especially the police, inhuman treatment meted out to the rape victims by the police and the matter of discrimination and untouchability.

**8.24** The Chairperson and Members along with senior officers of the Commission held another meeting with the Chief Secretary, Director General of Police and other senior officials of the State Government before concluding the open hearing in Jaipur. During this meeting, the State Government was apprised of the problems faced by the scheduled castes. The State Government assured the Commission that all these issues will be taken care of. The meeting concluded with a media briefing, which was attended by a large number of media persons. A press release was also released on the occasion.

### *Nagpur and Mumbai, Maharashtra*

**8.25** The open hearing in Nagpur and Mumbai, Maharashtra was held under the chairmanship of Justice Shri K. G. Balakrishnan. The complaints that were taken-up for consideration in the open hearing in Nagpur were invited through a public notice published in national and local newspapers of Maharashtra. In response, 1,401 complaints were received from different Districts of Maharashtra. As most of the complaints were in Marathi, the Commission engaged persons knowing Marathi for translation and scrutiny of complaints. All these complaints were registered and placed before the Commission and finally it decided to deal with only 571 cases. A Cause-List of cases to be taken-up by the two Benches - one headed by Justice Shri B.C. Patel and the other by Shri Satyabrata Pal, Members, NHRC - were prepared and then forwarded to the State Government through its Chief Secretary and Nodal Officer appointed by the State Government for the open hearing. The Cause-List of both the Benches was also uploaded on the NHRC website. Notices were subsequently issued to the complainants to attend the open hearing of the Commission on the date their case was listed.

**8.26** All the 571 cases listed by the Commission were dealt with in two Benches in Nagpur on the scheduled dates. The cases that came up for hearing covered multiple issues like forcible dispossession of scheduled castes from their lands by upper caste people, denial of benefits to SCs with regard to social welfare schemes, discrimination, malpractices of revenue authorities, non-payment of retiral benefits, non-issue of certificates, etc. In response of advance notices issued by the Commission, the Government of Maharashtra gave relief to

many aggrieved victims and next of kin of the victims. For example, caste certificate and BPL cards were issued to many complainants. Some persons, who were in Government service, got retiral benefits, including their withheld salary. Relief was also provided to *safai karamcharis* belonging to Jalgaon Mahanagar Palika and the *Valmiki* community desirous of getting regular jobs as sweepers in different hospitals and dispensaries of the State.

**8.27** Another issue that was brought to the knowledge of the Commission pertained to non-receipt of scholarships for scheduled caste students for the year 2011-2012 in 213 secondary schools located in Sholapur District. The State Government's explanation was that many of the schools did not submit their proposal on time and these proposals had to be sent by the schools to the Department of Social Welfare. The Commission's recommendation was that all these schools should immediately submit their proposal to the Department of Social Welfare for grant of scholarship to the students and the amount of scholarship should be disbursed to the eligible students within a month. In another case, the Commission directed the State Government to accord recognition to primary and secondary school run by *Sangharsh Samiti* in Pangaon, Latur District as the school was being run exclusively for the benefit of SC children. In yet another case, a woman from *Manpur Mandala Basti* informed the Commission that there was no school in the Basti and the children of poor families had to travel long distances for their education.

**8.28** The Commission, during the course of the open hearing, was also apprised about the fact that the Rights of Persons with Disabilities Bill, 2012 does not include Sickle Cell disease as eligibility criteria for disability. In one another case, a handicapped woman informed the Commission that the benefits available to the physically challenged employees of the State had not been extended to her. After hearing the representative of the State Government, a direction was given by the Commission to provide all the entitled benefits to the victim.

**8.29** The Commission after hearing all the complainants and concerned State officers who appeared on behalf of the authorities, disposed off 279 cases.

**8.30** On 31 January 2013, the Commission held a meeting with human rights activists, social workers, representatives of NGOs and Civil Society organizations in Mumbai. The meeting highlighted several issues of vital importance, such as the appointment of the Chairperson and Members in the State Human Rights Commission by the State Government, holding a meeting of the State Vigilance Committee which had not taken place for a very long time, launching of a media campaign against untouchability by the State Government, creation of special courts in every District to give immediate relief to victims of atrocities, setting-up of more number of mobile squads, including appointment of nodal and field level officers for redressing the problems of SCs in atrocity prone areas, prompt registration of FIRs, creation of State Helpline for SCs so as to provide them immediate relief especially those who are victims of atrocities and discrimination, and need to immediately issue to them ration cards, Aadhar cards and BPL cards.

**8.31** Ms. Medha Patekar from National Alliance of People's Movement apprised the Commission about the sub-human conditions in which the slum dwellers were living. She stated that section 5 of the Slum Areas (Improvement and Clearance) Act, 1956 was not being properly implemented as a result, basic amenities were not available to the slum dwellers. Besides, there was massive corruption in slum rehabilitation scheme. She further informed that Commission that *Sidharth Colony* in *Bandra* had been demolished without any notice to the inhabitants and without making any arrangement for their rehabilitation. She thus urged the Commission to inquire into the housing rights of scheduled caste people. Another NGO brought to the notice of the Commission about the *Tanta Mukti* scheme, which was launched by an executive order but was prejudicial to the interest of the scheduled caste community as they had no voice at the village level and all decisions were taken under the influence of powerful upper caste persons.

**8.32** The meeting with the NGOs and Civil Society Organizations was followed by another meeting with senior State officials in which the Chief Secretary and Director General of Police of Maharashtra were also present. The issues cited by the complainants, NGOs and others were communicated to them and an assurance was given by the Chief Secretary that the same would be looked into and corrective action taken. During the said meeting held on 31 January 2013 in Mumbai, 29 complaints were further taken-up for discussion. The State Government promised that if a school was required for the children of *Manpur Mandala Basti*, the Corporation will take necessary steps. Similarly, the *Tanta Mukti* Scheme would be examined and if it was found that the scheme is biased towards the SCs, the State Government would take remedial steps. The DGP, Maharashtra informed to the Commission that a circular for strict compliance of section 154 Cr.P.C. had already been issued. He reassured the Commission that a circular would be reiterated with necessary directions to the police officers at the District level.

**8.33** The meeting concluded with a media briefing, which was attended by a large number of media persons. A press release was also issued on the occasion.

## **Visit to Districts Prone to Atrocities on Scheduled Castes/Scheduled Tribes Communities**

**8.34** Another recommendation (Number 33) made in the report entitled "Prevention of Atrocities against Scheduled Castes" is as follows:

*"Special Rapporteurs located in each State, in addition to the existing work entrusted to them may be utilized for gathering feedback on the current state of social relations and its impact on victim community in villages/nearby areas where major incidents of atrocities have occurred, progress made in preparation of action plan in relation to atrocities prone areas and its subsequent execution, rehabilitation of victims of atrocities, and the overall profile of implementation of SCs and STs (Prevention of Atrocities) Act, 1989 in the State and such other relevant information, which may enable the Commission to measure improvement registered in reducing the level of atrocities and discrimination".*

**8.35** In view of the above recommendation, Shri S. K. Tewari, Special Rapporteur, NHRC, made a field visit to Banda District in Uttar Pradesh from 23-28 April 2012 and submitted a detailed report on atrocities against SCs in the District on the basis of personal interviews conducted and information collected from other sources. Banda District is one of the 20 'sensitive' Districts in the State identified by the Government of Uttar Pradesh.

**8.36** As per information provided to the Special Rapporteur by the District Administration of Banda, from 1 January 2011 to 31 March 2012, a total of 249 crimes against SCs were committed as per details given below:

Year	Serious Crimes	Other Crimes	Total
January-December 2011	33	179	212
January-March 2012	07	30	37
<b>Total</b>	<b>40</b>	<b>209</b>	<b>249</b>

**8.37** It was further reported by the Special Rapporteur that in Banda, the District Police did not register any case under the Protection of Civil Rights Act, 1955. As regards cases filed under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, required data was not provided to the Special Rapporteur. However, the Superintendent of Police of District Banda vide his endorsement dated 12 September 2012 informed the Commission that in 2011 a total of 215 cases were registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, out of which chargesheet was issued in 150 cases and final report submitted in 65 cases.

**8.38** The Special Rapporteur's report containing suggestions for action was forwarded to the concerned State authorities on the directions of the Commission. The action taken report from the Government of Uttar Pradesh is awaited.

## **B. SC/ST Protection Cells in States/Union Territories**

**8.39** Rule 8 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, requires the State Government to set up SC/ST Protection Cell, at the State Headquarters, under the charge of a Director General of Police/Inspector General of Police with the following responsibilities:-

- conducting survey of, maintaining public order and tranquility in, and recommending deployment of special police force in identified areas;
- investigating causes of offences under the Act, restoring feeling of security among SC/ST;
- liaising with nodal and special officers about law and order situation in identified areas;



- monitoring investigation of offences and enquiring into willful negligence of public servants;
- reviewing the position of cases registered under the Act; and;
- submitting a monthly report to the State Government/Nodal Officer about action taken/proposed to be taken in respect of the above.

**8.40** SC/ST Protection Cells have been set up in 23 States/Union Territories, namely, Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Dadra & Nagar Haveli, NCT of Delhi and Puducherry.

**8.41** Accordingly, the Commission made a request to all those States/Union Territories where such Cells have not been constituted to set-up the same. In response, the Governments of Sikkim, Meghalaya and Andaman Nicobar Islands have informed that the SC/ST Cell was established by them. The Government of Mizoram has, however, informed that SCs living in the State are non-indigenous permanent residents and are presumably employees of Central Government or private sector currently deployed/stationed/ posted. In view of this and the fact that the STs themselves are at the helm of all affairs, the State Government is of the opinion that there is no need to set-up a SC/ST Cell in the State. The Commission on its part continues to monitor the setting-up of SC/ST Cells in the remaining States/ Union Territories.

## **C. NHRC Workshops on Bonded & Child Labour**

**8.42** The NHRC has been supervising the implementation of the Bonded Labour System (Abolition) Act, 1976 and the Child Labour (Prohibition & Regulation) Act, 1986 in the country ever since it was constituted in 1993. During the period under review, it organized three workshops under the chairmanship of Justice Shri B. C. Patel, Member, NHRC on 'Elimination of Bonded and Child Labour' in Lucknow (Uttar Pradesh), Kurukshetra (Haryana) and Indore (Madhya Pradesh) in collaboration with the respective State Governments on 7 & 21 September 2012 and 15 February 2013. The other resource persons for these workshops were officers from NHRC, Union Ministry of Labour & Employment and State Labour Departments. The objective of these workshops was to sensitize District Magistrates, Sub-Divisional Magistrates, Members of Vigilance Committees, Officers of State Labour Departments, other District level Officers and NGOs working in the area, on identification, release and rehabilitation of bonded labour as well as existing forms of child labour, sectors of the economy in which children work, constitutional and legal safeguards prohibiting employment of children and legislations that aim at elimination of child labour in the country.



**8.43** As bonded labour is rampant in brick-kilns, the Government of Uttar Pradesh also organized an awareness programme on bonded and child labour for brick-kilns owners on 24 August 2012 at Meerut. The technical support for organization of this programme was provided by NHRC. The programme was inaugurated by Justice Shri B. C. Patel, Member, NHRC.

**8.44** The NHRC also organized workshops for spreading awareness on bonded and child labour in collaboration with non-governmental organizations in their respective Districts. The names of these organizations are *Janta Kalyan Samiti* in Haryana, *Lokseva Samiti* in Jethena, Ajmer. Besides, *Ramakrishna Sevashram* in Odisha organized two seminars on 'Child Labour, its Problem and Solutions' in Bhadrak and Cuttack Districts on 22 February and 13 March 2013.

## **D. Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India**

**8.45** The above programme was undertaken by the Commission in 2007-2008, wherein it selected 28 Districts, one from each State, from the list of identified Districts availing the Backward Regions Grant Fund of the Ministry of Panchayati Raj, Government of India and is endorsed by the Planning Commission of India.

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

**8.47** From 2008 to 2012, the Commission has visited 16 Districts. The names of these Districts are Chamba (Himachal Pradesh), Ambala (Haryana), North Sikkim (Sikkim), Jalpaiguri (West Bengal), Dhalai (Tripura), South Garo Hills (Meghalaya), Sonbhadra (Uttar Pradesh), Dang (Gujarat), South Goa (Goa), Wayanad (Kerala), Jamui (Bihar), Hoshiarpur (Punjab), Kalahandi (Odisha), Saiha (Mizoram), Chatra (Jharkhand) and Tiruvannamalai (Tamil Nadu).

**8.48** The District of Wayanad in Kerala was earlier visited by the Commission in September 2009, wherein it had made extensive recommendations for improving the overall

plight of Scheduled Tribes and Scheduled Castes with regard to their land and housing, conditions and availability of work, right to health, right to food, right to education and custodial justice. In order to re-assess the situation in the light of action taken reports received from the Government of Kerala, it made a review visit to Wayanad District in Kerala from 26 February to 1 March 2013 under the leadership of Shri Satyabrata Pal, Member, NHRC. The Joint Secretary (P&A), Deputy Secretary (Research) and an Inspector from the Investigation Division assisted the Member during the re-visit.

**8.49** At the time of writing of this Annual Report, the Commission had already forwarded its recommendations to the Chief Secretary, Government of Kerala, with a request that an action taken report be sent to the Commission at the earliest. These recommendations are listed at **Annexure-8**.

### **E. Action Taken Report on Recommendations of National Workshop on Manual Scavenging and Sanitation**

**8.50** The National Human Rights Commission had organized a one-day National Workshop on Manual Scavenging and Sanitation on 11 March 2011 in New Delhi. On the basis of deliberations held in the workshop, 16 recommendations were made which were forwarded to all the concerned in the Centre and States/Union Territories for taking required action.

**8.51** The Commission has so far received responses from 11 States and four Union Territories only, namely, Assam, Bihar, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Meghalaya, Mizoram, Tripura, Uttar Pradesh, West Bengal, Andaman & Nicobar Island, Chandigarh, Lakshadweep and NCT of Delhi.

**8.52** The Governments of Bihar, Chandigarh, Lakshadweep, Meghalaya, Mizoram and Tripura have conveyed to the Commission that their States/Union Territories are free from manual scavenging. However, the responses received from the remaining States are not very heartening. For instance, State of Assam has communicated that no report regarding existence of dry latrines and engagement of manual scavengers in notified urban areas has been received. Further, no single window has been created to address the problems of the manual scavengers. Cess Pool Cleaners have been provided to the Municipals Boards and Town Committees. Some of them have procured mechanical systems to avoid cleaning of septic tanks manually and guidelines for cleaning work have been circulated to the urban local bodies for compliance. The Government of Madhya Pradesh has conveyed that District Collectors/Sub-Divisional Magistrates have been made Nodal Officers to address issues relating to manual scavenging and construction of dry latrines. A State level cell has also been constituted to facilitate urban local bodies in rehabilitating manual scavengers. The Municipal bodies have been directed to adopt safety measures, including mechanization of cleaning process of manholes to abolish manual cleaning.

**8.53** The Government of Uttar Pradesh seems to have adopted a lackadaisical approach towards the problem of manual scavenging in mechanically communicating that the instructions to the Divisional Commissioner and District Magistrates have been issued vide circular dated 28 August 2012. Detailed survey is being carried out in the rural and urban areas of the State. The nodal department for addressing the problems of the manual scavengers is Social Welfare Department and the process of rehabilitation is being implemented by Scheduled Caste Finance Development Corporation. For cleaning of septic tanks necessary instructions have been issued to the urban local bodies. The Government of Karnataka in their action taken report has informed that as per the reports submitted by District Collectors, all identified dry latrines have been demolished and the manual scavenging system is not prevailing in their limits. In order to prevent manual cleaning of septic tanks, the State Government has taken a decision to procure sucking/jetting machines. It has been stated by the Government of West Bengal that District Magistrates are the executive authority for rehabilitation of manual scavengers and enforcement of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. Implementation of self-employment schemes for rehabilitation of manual scavengers is being carried through District branch offices of WBSCSTDFC which is the State channelizing agency. The Municipal Affairs Departments have been requested to circulate the guidelines among the urban bodies with a direction to abide by the same.

**8.54** The NHRC, in 2011, had recommended that "the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 should be implemented in letter and spirit at the fastest pace and the abolition of the practice of scavenging should be taken up as a national mission". Further, "the States need to ensure that the data provided by them on the abolition of dry latrines and rehabilitation of manual scavengers commensurate with the data of the Ministry of Social Justice and Empowerment. In case of any discrepancy, the State Governments should take up the matter with the Ministry, to get the data rectified. On synchronizing of their data with the Ministry of Social Justice and Empowerment with regard to abolition of manual scavenging, each State/Union Territory should issue a declaration/notification with a copy to NHRC that their area is free from manual scavenging and dry latrines". It is disturbing to note that none of the reporting States/Union Territories have taken a serious view towards abolishing the practice of manual scavenging, including those States/Union Territories who have communicated that they are free from manual scavenging.

**8.55** The Commission once again reiterates all the States/Union Territories to implement all the sixteen recommendations of the National Workshop on Manual Scavenging and Sanitation with earnest sincerity; if at all the practice of manual scavenging is to be eliminated in all its forms. A copy of the above recommendations is at **Annexure-9**.

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

1. *Rape of a Scheduled Caste Woman by a Sub-Inspector of Bhimasar Police Station in District Kutch, Gujarat*  
(Case No. 580/6/14/2010-WC)

**8.56** The Commission took cognizance of a complaint filed by an NGO alleging rape of a woman by Sub-Inspector R.L. Rathod, Police Station Bhimasar, Rapar Taluka in Kutch District of Gujarat.

**8.57** On examination of the complaint, the Commission issued a notice to the Director General of Police, Gujarat and to the District Magistrate and the Senior Superintendent of Police, Kutch in Gujarat. In response, the Superintendent of Police, East Kutch in Gujarat reported that the victim stayed with her husband and two years old son in a rented house in Nandasar area of Adesar Village, which came under the police jurisdiction of Bhimasar Police Station. On the night of ill-fated day when it was pouring heavily, Sub-Inspector R. L. Rathod of Bhimasar Police Station entered the house of the victim, while her husband had gone to his native place. The Sub-Inspector asked unashamedly for sexual favour and threatened that if she did not succumb to his demand he would kill her husband and son. She raised an alarm and shouted for help but her cries were subdued by the heavy downpour and nobody came forward to rescue her. Next morning when her husband returned and reported the matter to the Bhimasar Police Station the accused Sub-Inspector who was also the In-charge of the Police Station threatened him with dire consequences. An FIR was however registered and necessary investigations were carried out by the Deputy Superintendent of Police, SC/ST Cell, Bhuj (Kutch District). Based on the report of the medical examination as well as the circumstantial evidence, the Sub-Inspector was arrested, produced before the Court at Bhachau in Kutch District and sent to judicial custody. A chargesheet bearing No. 1-68/10 (Bhimasar P.S.) was filed before the Court.

**8.58** After perusing the above mentioned report, the Commission observed that *prima-facie* it was a case of violation of human rights of a woman belonging to weaker section by a public servant who was supposed to protect her dignity. It further observed that the report forwarded by the State Government was totally silent about payment of relief to the victim as per norms laid down in the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. The Commission thus issued a show cause notice u/s 18(a)(i) of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Gujarat. It also reminded the District Magistrate of Kutch to submit a detailed report including payment of relief amount to the victim and the status of departmental action initiated against the accused Sub-Inspector. The Government of Gujarat instead of responding to the show cause notice simply mentioned that it had registered an FIR, arrested the accused SI and filed a chargesheet against him.

**8.59** After several reminders, the response to Commission's show cause notice was received from the State Government stating that as the chargesheet had been filed in the court, it would not be appropriate for the State to award monetary relief u/s 18(a)(i) of PHR Act, 1993 before the trial is concluded. It however intimated that financial assistance of ₹ 50,000 under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, had been sanctioned by the concerned District Magistrate out of which an amount of ₹ 25,000 was paid to the victim.

**8.60** The Commission found no merit in the stand taken by the State Government in response to its show cause notice. The standard of proof required by the Commission is not as rigorous as that required in a criminal trial for conviction of the accused. The Commission makes recommendation on the basis of broad probabilities. In this case, the Sub-Inspector R.L. Rathod was involved in the rape case as per police investigation. Hence, it was recommended by the Commission to pay monetary relief to the victim. Considering that the victim is a Scheduled Caste woman and the perpetrator of the crime is a police officer, the Commission recommended Government of Gujarat to pay a sum of ₹ 4,00,000 to the victim.

**8.61** The Commission has been informed by the Government of Gujarat that as the Sessions Court has not given the verdict in favour of the victim, it will not pay the compensation of ₹ 4,00,000 to her as directed by the Commission. The matter continues to be under consideration of the Commission.

2. *Maintenance of Registers/Records by Brick-kiln Owners of Uttar Pradesh for Better Enforcement of Bonded Labour System (Abolition) Act*  
(Case No. 16893/24/31/2010-BL)

**8.62** One Hari Singh in his complaint dated 30 April 2010 addressed to the Commission stated that he along with his family members were kept as bonded labour by R. K. Brick-kiln in District Ghaziabad. He *inter alia* alleged non-payment of wages, illegal detention and implication in false cases.

**8.63** The Commission taking cognizance of the complaint directed the District Magistrate of Ghaziabad to assess the actual situation on the ground and submit an action taken report. The Commission further directed the District Magistrate, Ghaziabad to give details of the records/registers maintained in the brick-kiln, in case proper records/registers were not being maintained by the brick-kiln owner, the action taken by the State authorities for non-maintenance of records and whether the District Vigilance Committees have been constituted in the District.

**8.64** The District Magistrate, Ghaziabad intimated that the complainant was not residing in the village of his last disclosed home address for the last six years. Further, the Vigilance Committees as per the Bonded Labour System (Abolition) Act, 1976 had been constituted in the District of Ghaziabad and 114 brick-kilns out of 442 were inspected. The District



authorities had imposed fine on the defaulting 114 brick-kiln owners under the Minimum Wages Act, 1948 and 110 brick-kiln owners were fined under the Payment of Wages Act, 1936.

**8.65** The Commission, however, found the approach of the District Magistrate, Ghaziabad casual towards the whole issue of bonded labour as he failed to provide the exact details about the number of brick kiln owners who were maintaining register/records under the related labour laws. The Commission thus directed the District Magistrate, Ghaziabad to appear in person before the Commission along with the required reports. The District Magistrate appeared before the Commission on 13 June 2011 and submitted that under the labour laws, a large number of registers/records are to be maintained, hence there is a need to simplify and rationalize the number of records, which each brick kiln owner is required to maintain. As of now, the office of the Labour Commissioner, Kanpur, Government of Uttar Pradesh had finalized and rationalized seven proformae for the brick-kiln owners.

**8.66** The District Magistrate, Ghaziabad also submitted that during the course of inspections of brick-kilns carried out from April 2009 to March 2010, 123 brick-kiln owners had been fined under the Payment of Wages Act, 1936 and 127 owners were fined under the Minimum Wages Act, 1948 and during April 2010 to March 2011, 131 brick-kiln owners were fined under the Payment of Wages Act and 86 brick-kiln owners fined under the Minimum Wages Act, 1948.

**8.67** Further, the District Magistrate, Ghaziabad vide his report dated 20 April 2012 submitted that out of 289 brick-kilns inspected, 195 brick-kiln owners have now started maintaining the records. With regard to 85 brick-kiln owners, prosecution cases have been filed in the appropriate Court for non-maintenance of records and nine brick-kilns were found to be closed.

**8.68** The Commission appreciated the efforts made by the District Administration of Ghaziabad, especially its Labour Department for complying with the directions of the Commission. The Commission closed the case with a direction to the Labour Commissioner, Kanpur, to pursue the steps taken by the District Administration and Labour Department of Ghaziabad.

3. *Tonsuring a Female Thief on Instructions Given by Panchas of Village Gilhabadi, District Kishanganj, Bihar*  
(Case No. 1332/4/18/2012)

**8.69** The Commission took cognizance of a news report forwarded by Shri Mangla Prasad, a human rights activist about tonsuring a female thief on the instructions given by Panchas of Village Gilhabadi in Kishanganj District of Bihar that was carried in a Hindi daily Rastriya Sahara, Delhi edition of 22 July 2011. As per the report, the victim Smt. Fatima, a resident of Village Gilhabadi was accused of stealing utensils from the house of one Rafiq Alam. A village Panchayat was held and the Panchas instructed that the victim should be tonsured.



**8.70** In response to the Commission's notice, the Superintendent of Police, Kishanganj forwarded his report dated 20 May 2012 according to which an FIR No. 108/11 dated 21 July 2011 u/s 354/509/34 IPC was registered against 17 persons at Police Station Thakurganj. After completion of the investigation, a chargesheet u/s 341/342/354/509/34IPC too was filed against all the 17 accused persons.

**8.71** Since the victim was tonsured on the instructions of the Panchayat, the Commission vide its proceedings dated 21 January 2013 held that it was a clear case of violation of human rights and the State is liable to compensate the victim for the gruesome act committed on her. The Commission issued a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 to the Government of Bihar, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief to the victim. The response of the State Government is awaited in the matter.

4. *Suicide of a Scheduled Caste due to Atrocities Committed by the Panchayat in District Salem, Tamil Nadu*  
(Case No. 1462/22/31/2012)

**8.72** The complainant Smt. M. Shanthi, w/o Late Shri P. Moorthy in her complaint addressed to the Commission alleged that her husband committed suicide as he was forced to pay ₹ 150 as fine by the Panchayat and was also forced to touch the feet of all the Panchayat members. For this, a case u/s 306 IPC and section 3(2) (V) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered but the investigations were not completed even after a lapse of one year and four months.

**8.73** The case was taken up during the Open Hearing held by the Commission for persons belonging to Scheduled Caste community at Chennai on 8 August 2012. It was reported by the Deputy Superintendent of Police, Salem and an official of the Collectorate that a sanction has been obtained for making a payment of ₹1,50,000 to the complainant, as the chargesheet against the accused included charges under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

**8.74** The Commission categorically pointed out to the concerned officials that since a death had taken place, relief must also be provided under the provisions of Section 3(1)(xx) of the said Act. Therefore, according to the quantum of relief stipulated in the Schedule to the Act, in addition to the amount of ₹ 1,50,000/-, an amount of ₹ 5,00,000 has to be paid as relief out of which ₹3,50,000/- is payable after the postmortem and ₹ 1,50,000 after the convictions of the accused by the Sessions Court. The Commission further drew the attention of the State Government to the Schedule of the Act which stipulates rehabilitation measures and pointed out that in addition to the immediate relief, it should also pay a pension to the widow at the rate of ₹ 3,000/- p.m. or provide employment to a member of the family or agricultural land or a house. The State is further expected to bear the full cost of the education and maintenance of the victim's children.

**8.75** The Commission directed the District Collector, Salem to inform it about the steps taken to discharge the above mandatory obligations. The compliance report in the case is awaited.

5. *Rehabilitation of Bonded Labourers in Bihar*  
(Case No. 2097/4/29/2007-2008)

**8.76** Shri Guran Mahto, State Coordinator, Bachpan Bachao Andolan submitted a complaint to the Commission alleging that the State administration is taking no interest in rehabilitation of the bonded labourers who were rescued from various carpet looms.

**8.77** Pursuant to the communications of the Commission, the Labour Commissioner, Bihar submitted a status report in which it was stated that only 52 labourers out of 837 had been rehabilitated so far. The Commission observed that *"the status report received from the Labour Commissioner, Bihar is not at all satisfactory. It does not provide complete information. It is the duty of the State Government to ensure that bonded labourers are properly rehabilitated by the administration of the various districts within a reasonable time after their rescue from bondage. Appropriate package for rehabilitation must be prepared and implemented"*.

**8.78** Reporting on the status of rehabilitation of bonded labourers in various Districts of Bihar again, the Labour Commissioner stated that 16 labourers were rehabilitated in Khagria District, 20 in Muzaffarpur District, 12 in Supol District, 36 in Purnia District, 47 in Darbhanga District and 32 in Madhubani District. However, this status report too was found to be disappointing by the Commission.

**8.79** Pursuant to the directions of the Commission, the Principal Secretary to Government of Bihar vide his communication dated 21 January 2011 reported that out of 837 bonded labourers, 348 were not available or were without release certificates or had died or their names did not figure in the list and the remaining 489 bonded labourers were being rehabilitated. Out of the remaining 489 bonded labourers, 347 had been rehabilitated while 142 bonded labourers were partially rehabilitated or were in the process of being rehabilitated. The Commission vide its proceedings dated 20 September 2012 and subsequent proceedings dated 6 December 2012 directed the Chief Secretary, Government of Bihar to forward a complete report on the rehabilitation of these 142 freed bonded labourers. The report from Government of Bihar is awaited.

6. *Alleged Exploitation of Reang Families in Tripura*  
(Case No. 8/23/5/2012)

**8.80** The Commission received a complaint dated 9 February 2012 from the Asian Centre for Human Rights, New Delhi, in which three serious allegations were levelled as follows:

- i) An attempt was made to murder Shri Sanjit Debbarma near the Manu Forest Division in Dhalai District of Tripura on 29 January 2012. It was suspected

that the victim was targeted because he was an RTI activist who had been fighting for the rights of the Reang tribals;

- ii) 44 Reang families, of the Primitive Tribal Group, were being denied their land rights despite the order of the Revenue Court in Dhalai; and
- iii) Rupees 17,31,500 allocated for these families was misappropriated.

**8.81** Given the gravity of the charges levelled by Asian Centre for Human Rights, an enquiry was conducted by a team of the Investigation Division of the Commission.

**8.82** In its proceedings of 4 May 2012, the Commission directed the Government of Tripura to take action on the following three points:

- i) the CB-CID to conduct an enquiry into the incident involving Shri Sanjit Debbarma, in which he was injured;
- ii) withdraw the vexatious appeal lodged by Forest Department officials, in defiance of decisions taken at the highest levels of the State Government, against the order of the District Revenue Court, which ruled in favour of the Reang families; and
- iii) to take quick action to recover the money, amounting to ₹ 17,31,500 allocated to the 44 Reang families and simultaneously initiate criminal proceedings against the officials responsible for misappropriation of funds.

**8.83** The Secretary, Tribal Welfare Department, Government of Tripura vide letter dated 20 October 2012 submitted an action taken report on the above mentioned points. So far as denial of land rights was concerned, it was stated that the Forest Department had duly considered the judgment and orders passed by the Revenue Courts in consultation with the Law Department as well as the Advocate General of Tripura and it was finally decided to allow extraction of trees from the allotted land of Shri Thaithak Reang and others in Mouja Shikaribari under Ambassa Forest Division. The District Forest Officer, Dhalai, Ambassa and the concerned Divisional Forest Officer had been advised vide letter dated 22 September 2012 to consider the applications of Shri Thaithak Reang and others for Tree Registration Certificates, etc. as per provisions of the Tree Felling Guidelines, etc. issued by the Department from time to time and issue orders accordingly.

**8.84** As regards misappropriation of funds allocated to 44 Reang families, it was stated that chargesheet under Rule-14 of CCS (CCA) Rules, 1965 had been framed against Shri Pariosh Biswas, TCS-II, Ex. Deputy Collector & Magistrate (Ex. Branch Officer of TW Section, Ambassa) now posted as Deputy Collector at the O/o the District Magistrate & Collector, West Tripura District, Agartala and Shri Jacob Rokhum Ex. Supervisor, TW, SDM's Office, Ambassa (now posted as Extension Officer at the O/o the Sub-Divisional Magistrate,

Gandacherra) by the GA(AR) Department vide Memorandum dated 2 July 2012. On receipt of the defence statement from the accused officers, an enquiry officer will be appointed to enquire the charges under common proceedings.

**8.85** Regarding the incident involving Shri Sanjit Debbarma, it was stated that considering the facts and circumstances with reference to the incident dated 29 January 2012, a case No. 13/12 u/s 279/337/427 IPC was registered at Manu Police Station on 27 March 2012 and the Investigating Officer of the case had filed a final report dated 20 April 2012 as true but wanting evidence. However, in view of the wide ramifications of the case, Director General of Police, Tripura ensured further enquiry of the case through a team of officers from the State CB-CID. The Investigation Team from the Commission had noticed that Shri Sanjit Debbarma met with an accident on 29 January 2012 at about 18.00 hrs. near Manu Eco-Park on NH-44 in which he was minutely injured and his motorbike too was damaged. However, no dash mark was found on the back side of the motorcycle to suggest that it was hit by a Canter Truck from the back. No evidence was also found to indicate that miscreants attempted to murder Shri Sanjit Debbarma by using Canter Truck.

**8.86** In the meantime, the Commission has received some more representations from the complainant. The matter is under active consideration of the Commission.

7. *Assault on Scheduled Caste and Non-registration of FIR in Devala Police Station, District Nilgris, Tamil Nadu*  
(Case No. 1559/22/35/2012)

**8.87** One Shri Balasubramanian, belonging to a Dalit community, in District Nilgris, Tamil Nadu complained to the Commission stating that his wife Smt. Valli is working as a labourer in Parry Agro Industries Limited. He alleged that one Shri Neduncheliyan working in the Company demanded ₹ 10,000/- as bribe from him to make his wife permanent. However, when he refused, Shri Neduncheliyan assaulted him at Uppatty Town resulting in his hospitalization. Although the matter was reported to the Police, no action was taken.

**8.88** The Commission issued a notice to the Superintendent of Police, Nilgris, Tamil Nadu and called for a report. The matter was further taken up by the Commission at the Open Hearing held at Chennai on 4 July 2012. During the Hearing the Superintendent of Police, Nilgris submitted a report denying the allegation of the complainant regarding a demand for bribe. As regards, the allegation of assault on the complainant, the Superintendent of Police reported that since the assailants also belonged to the Adi Dravidar community, the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act will not be applicable. He further informed that departmental action nevertheless had been taken against Special Sub-Inspector Basuvaraj of Devala PS for not taking action immediately against the assailant.

**8.89** As pointed out by the Commission which was also agreed to by the Superintendent of Police that the FIR was registered only on 19 July 2012, after it issued a notice whereas

the incident had taken place on 13 July 2011. The delay in registration of FIR itself was a serious violation of human rights. The Commission thus issued a show cause notice to the Government of Tamil Nadu as to why no monetary relief should be recommended for the victim.

**8.90** It was informed on behalf of the State vide reply dated 14 July 2012 that the errant police official Special Sub-Inspector Basuvaraj of Devala P.S. had already been awarded a punishment where his increment has been stalled for one year without cumulative effect. The State Government, however, on its part accepted that payment of monetary relief to the victim is justified. The Commission, therefore, recommended to the State of Tamil Nadu through its Chief Secretary to make a payment of ₹ 10,000 as monetary compensation to the victim Shri Balasubramanian and also forward a compliance report along with proof of payment. The report from the State Government is awaited despite a reminder issued on 11 February 2013.

8. *Redressal of Safai Karmacharis Grievances in Maharashtra*  
*(Case No. 2376/13/2/2012)*

**8.91** The Commission for its fifth Open Hearing that was held in Nagpur and Mumbai had issued a public notice in the national and local newspapers of Maharashtra calling for complaints from scheduled castes whose rights had been violated or there was negligence in the prevention of such violations by a public servant. In this context, the Commission received a complaint dated 27 October 2012 from one Shri P. B. Bhatkule, General Secretary, All India Safai Mazdoor Congress, Maharashtra alleging that the Government of Maharashtra has been ignoring the recommendations of the Union Committees set up for the welfare of the *Safai Mazdoors* and particularly the recommendations of the State *Safai Karmachari* Commission regarding provision of employment to the dependants of the retired Safai Karmacharis within 30 days.

**8.92** Taking cognizance of the complaint, the Commission issued a notice on 20 November 2012 to the Chief Secretary, Government of Maharashtra and called for a detailed report.

**8.93** In response to the notice, Under Secretary to the Government of Maharashtra vide his communication dated 12 December 2012 stated that a decision to take the services of sweepers on contract basis in District Hospitals was taken vide Government Resolution dated 1 March 2006 since there were rampant complaints of non-cleanliness in the hospitals so much so that the matter was also raised in the Assembly. It was also informed that 563 posts of sweepers in mental hospitals were abolished in 2007 and it was decided to fill the same on contract basis. Therefore, it was not possible to fill up these posts on compassionate grounds.

**8.94** During the hearing the complainant again drew the attention of the Commission to the recommendations made by LAAD & PAA Committee in favour of the Safai Karmacharis.

These recommendations also were later accepted by the State Government. A representative of the Health Department, Government of Maharashtra stated that steps are being taken to modify the original notification. The complainant cited a circular dated 21 October 2011 issued by the then Chief Secretary with the approval of the Governor. The State Government officials admitted before the Commission that in view of the said circular appointments are required to be made in accordance with the same and outsourcing cannot be resorted to.

**8.95** The Commission disapproved the stand taken by the Deputy Secretary to the Government of Maharashtra that the State Government will take a decision on the matter. It was pointed out by the Commission that the decision on the matter has already been taken by the State Government which was evident from the circular dated 21 October 2011 and all the officers are required to follow the same.

**8.96** The Commission thus directed that the existing vacancies be filled-up in accordance with the circular dated 21 October 2011 within a period of 30 days and directed the Chief Secretary, Government of Maharashtra to submit a detailed reply in support of the decision of the Government dated 17 January 2011 for outsourcing the services. The Commission also directed the Chief Secretary to reconsider their decision of 17 January 2011.

**8.97** The response from the Government of Maharashtra is awaited in the case.

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# RIGHTS OF WOMEN AND CHILDREN

**9.1** NHRC-India is committed to the protection of human rights of women and children due to their vulnerability and therefore gives due importance to it in its work in all thematic areas.

**9.2** In India, as elsewhere, women confront manifold violations of their human rights - when they cannot participate in the decisions that affect their lives or claim fair political representation, when they face discrimination in employment, when they are denied entitlement to land and property, when they are deprived of health care or when they suffer violence within their own home. Similarly, children, especially girls, confront manifold violations of their rights; the most blatant being when they are prevented from going to school, married early, forced into labour, trafficked, exploited, abused, or are simply killed in the womb on the basis of sex-selection.

**9.3** As per the Constitution of India, all persons, including children, are entitled to distinct inherent and inalienable rights. At the same time, the Government of India is party to international instruments on women and children. 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 also described as the international bill of women's rights. 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.

**9.4** The overall status of women and children is well recognised as they suffer from vulnerability and deprivation. In fact, 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. The ending of gender based inequities, discrimination and violence is an overriding priority in the Twelfth Five Year Plan as well. Ending gender based violence against girls and women including improvement in the declining child sex ratio should be an overarching monitorable target of the Government towards their empowerment. Its other endeavour should be to provide protective and safe environment for women and children, including those from the most deprived socio-religious communities,

such as Scheduled Castes, Scheduled Tribes, de-notified and nomadic groups, religious minorities, other backward classes, migrants, those living in inaccessible or scattered hamlets, and the urban poor, among others.

9.5 The following paragraphs elucidate some of the important activities, which NHRC-India undertook with regard to rights of women and children.

#### **A. Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation across Key States: Follow up of Recommendations**

9.6 It was reported in the Annual Report 2010-2011 of the Commission that in collaboration with the UNFPA a joint research project entitled "Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation across Key States" was undertaken by the Commission. For the project, the Commission had further requisitioned the services of Public Health Foundation of India (PHFI) in New Delhi who for purposes of collecting primary data from the field further identified four grassroot NGOs, namely, Prayatn (Jaipur), Centre for Youth Development and Activities (Pune), ADITHI (Bihar) and VIMOCHANA (Karnataka).

9.7 The main objective of the research project was to review the cases registered by the States/Union Territories under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PCPNDT) including the hurdles in filing of such cases, the overall process by which the cases reach the final stage of conviction, i.e. the court proceedings and orders passed on these cases, thus focussing on the impediments in the implementation of the Act. The research also focused on the State and District level implementation machinery.

9.8 The research was carried out in 18 States and Union Territories, namely, Andhra Pradesh, Assam, Bihar, Delhi, Gujarat, Goa, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh and West Bengal. The criterion for selection of these States was threefold - (i) some of these States had filed cases against the violators of the PCPNDT Act and final judgments had also been passed in some of the cases, including convictions; (ii) some of these States had filed cases against the violators of the PCPNDT Act but no judgments had been passed; and (iii) no cases had been filed till date in some of these States.

9.9 On the basis of key findings, the research has made number of recommendations under the following broad heads:

- Enhance the effectiveness of existing implementation structures and systems; push for extensive reform in current practices among implementing authorities and concerned stakeholders;

- Greater engagement with and empowerment of implementing authorities is critical, and the same can be achieved through intensified training and sensitization with a focus on follow-up and periodic training;
- Case law documentation, legal processes and rigour can be strengthened through a set of actions that can contribute significantly to a much more robust legal approach; and
- Advocacy and Campaigns to enhance awareness of the Act and its provisions besides addressing larger social issues.

**9.10** A copy of the aforementioned study containing the recommendations were forwarded to all the States/Union Territories for information, taking necessary action and keeping the Commission apprised about the same. Since the responses received from few of the States were found to be of vague nature, the Commission devised a reporting format to facilitate all the States/Union Territories to send their action taken reports.

**9.11** During the period under report, the Commission had received responses from 18 States/Union Territories, i.e., from the States of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, NCT of Delhi, Daman & Diu and Dadra & Nagar Haveli.

**9.12** Except for the States of Andhra Pradesh, Haryana, Punjab, Rajasthan, Uttar Pradesh, West Bengal and Union Territory of Chandigarh, none of the other States/Union Territories have provided complete information. The State of Tamil Nadu has simply stated that "all the DCs and District Appropriate Authorities under the PCPNDT Act have been requested to implement the recommendations issued by NHRC and to send the action taken report..... the ATR is still awaited". All the other columns of the reporting format have been left blank by the State. Similarly, the State of Himachal Pradesh has communicated that "State level and District level Appropriate Authorities have been notified by the Government. Advisory Committee at State level and District level has been constituted. State Supervisory Board has been constituted by the Government". However, "action taken report on the NHRC's recommendations has not been furnished by the State". It has also not responded to other columns. The State of Karnataka has stated that it has appointed a District Collector as District Appropriate Authority in the Districts where female sex ratio is less, for example, Bijapur, Bangalkote, Davandere, Belgaum, Chitradurga, Mandya, Bidar and Gulbarga, Assistant Commissioners have been appointed as Appropriate Authorities for the concerned sub-districts levels. However with regard to many of the other recommendations, it has simply communicated 'yes' and 'no'. The State of Gujarat needs to conduct regular training workshops at District and Block level for Appropriate Authorities, Judicial Officers, Doctors, Public Prosecutors and Lawyers in local language. The Commission would once again reiterate to all these States/Union Territories as well as those who have not replied so far to take required action on the recommendations and forward their action taken reports at the earliest.

## **B. NHRC Comments on National Policy for Children**

**9.13** It was reported in the last Annual Report of the Commission that the National Policy for Children (NPC) adopted by the Government of India in 1974 needs to be reviewed in view of the adoption of the Convention on the Rights of the Child by the UN General Assembly in 1989 and its subsequent ratification by the Government of India on 11 December 1992. Besides, the new challenges that have emerged with the advent of liberalization, globalization and information technology in the nineties has deeply affected the lives of children in many ways, be it their survival, development or protection. The recognition of the child as a person with inherent and inalienable rights, which are inter-related and inter-dependent, has furthermore necessitated the review and consequent updating of the 1974 Policy.

**9.14** In addition, it was reported by the Commission that the review of the NPC was initiated by the Ministry of Women and Child Development (MWCD), the nodal Ministry for women and children in the Government of India, in 2008. A draft working paper prepared by the MWCD was discussed in five regional consultations from September 2010 to January 2011. On the basis of comments received in the regional consultations, a revised working paper was prepared by the MWCD which was then discussed in a national consultation held in December 2011. The revised working paper was further modified with inputs from participants representing key Government Ministries and Departments, State Governments and Union Territory Administrations, technical institutions, academicians, experts, various national and state commissions, non-governmental and civil society organizations. NHRC-India too forwarded its comments to MWCD for inclusion in the draft National Policy for Children. These comments are reported in the Annual Report of the Commission for the year 2011-2012.

**9.15** Comments received from various stakeholders on the draft National Policy for Children was subsequently examined and finalized by the Drafting Committee of the MWCD, a copy of which was forwarded to NHRC as well. The following observations were made by NHRC-India on the final draft and forwarded to MWCD for inclusion:

- a) A high-level monitoring and review committee of concerned stakeholders/ organizations/agencies at the Central and State may be constituted to coordinate and oversee the implementation of the Policy. PRIs should also be involved for monitoring at grass root level.
- b) The word 'disabilities' should be replaced with "differently-abled" in para 3.3 (vii) and para 3.11 of the draft Policy. The policy should ensure that adequate provisions specifically for differently-abled children are made by the concerned Ministry/Departments of States and Union Territories and other stakeholders.

- c) The Policy should also accord protection to children affected by naxalite and border area violence. In fact the Policy in para 3.11 should include all categories of children in need of care and protection as per the Juvenile justice (Care and Protection of Child) Act, 2000 as amended in 2006.
- d) The Policy should further incorporate a provision whereby the Government is committed to progressively move in the direction of bringing all legislations especially Child Labour (Prohibition and Regulation) Act, 1986 in conformity with the UN Convention on the Rights of the Child so far as age of a child is concerned. The said issue has been raised in various forums including the Universal Periodic Review of India.

**9.16** The MWCD has communicated to the Commission that the Cabinet has approved the National Policy for Children, 2013 in its meeting held on 18 April 2013.

### **C. NHRC Comments on Draft Cabinet Note for Amendments to Juvenile Justice Act (Care and Protection of Children) Act, 2000**

**9.17** The Juvenile Justice (Care and Protection of Children) Act, 2000 (JJA, 2000) came into force on 1 April 2001. It was later amended in 2006 when provisions were included to strengthen child protection mechanisms and make it more child-friendly. In 2011, it was amended again to provide relief to children affected by mental illness or addicted to alcohol or other drugs.

**9.18** For effective implementation of the JJA, 2000, a centrally sponsored scheme, 'Integrated Child Protection Scheme' (ICPS) was introduced by the Ministry of Women and Child Development, Government of India in 2009. The ICPS aims to create a safety net of structures and personnel for children, especially those in difficult circumstances, and envisages a variety of interventions for their protection. However, ever since the 2006 amendment took place and the ICPS was launched, various debatable issues have cropped up, such as, increase in reported incidents of abuse of children in institutions, families and communities; inadequate facilities, poor quality of care and rehabilitation measures in different kinds of homes; delays in various processes under the Act, in particular, decisions of Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) leading to high pendency of cases; and lack of clarity with regard to roles, responsibilities and accountability of CWCs and JJBs, etc.

**9.19** In order to address these issues, it was proposed by the Ministry of Women and Child Development to further amend the JJA, so as to make it more comprehensive and effective. Accordingly, the major changes proposed and justifications for the same were forwarded to the Commission in the form of a draft Note for Cabinet for purposes of comments, if any, by the Human Rights Division of Ministry of Home Affairs in November 2012.

**9.20** The comments made by the NHRC on the draft Cabinet Note were as follows:

- **Section 25 (now Section 81) regarding penalty for giving intoxicating liquor or narcotic drug psychotropic substance to a child :** There may be contingencies or situations where even other than on medical advice, liquor could be offered to a child, for example, by a parent to a child of say, 17 years. Hence, in such situations, punishment may not be warranted.
- **New Section 85 regarding Corporal Punishment :** There is need for caution here as the provision regarding imprisonment and dismissal from service on such offences may be possibly misused.
- **New Section 87 regarding use of a child by an armed group distinct from State :** It may be stated that even the State is not supposed to use a child for participation in armed conflict.
- **Section 15 (now Section 13) regarding disposal/orders that may be passed regarding children found to be in conflict with law :** It has been proposed that in sub-section 1 (d), the parent of the said child or the child himself to pay a fine if he is over 14 years of age and earns money. It may be stated that the child up to 18 years is supposed to be not working and hence, a fine on him may not be appropriate.
- In the proposed amendments, many aspects which were incorporated under the Juvenile Justice Rules, 2007 are sought to be included within the Act leading to unnecessary expansion of the provisions of Act. What is required is strict implementation on ground through setting up of appropriate infrastructure and shifting of provisions from the Rules to the Act may not be the solution.

**9.21** These were forwarded to the Ministry of Home Affairs on 11 February 2013.

#### **D. NHRC Comments on Draft Cabinet Note for Amendment to the Dowry Prohibition Act, 1961**

**9.22** The Dowry Prohibition Act, 1961 came into force on 1 July 1961. The main objective of the Act is to prohibit the evil practice of giving and taking dowry. However, as the practice of dowry has continued to flourish despite the existing law, the Government of India decided to amend the law. As such, the Ministry of Home Affairs forwarded a draft cabinet note to the NHRC regarding a proposal to amend the Dowry Prohibition Act, 1961 as proposed by the Ministry of Women and Child Development, Government of India for comments.

**9.23** The comments made by the NHRC on the draft cabinet note were as follows:



- i) The provision regarding making the list of gifts to be maintained as a necessary condition for obtaining a marriage certificate without provision for compulsory registration of marriages would not be practical.
- ii) The failure to maintain list shall attract a penalty of imprisonment as per Section 2 A. This may require reconsideration.

## **E. NHRC Comments on Draft Cabinet Note for Amendments to Immoral Traffic Prevention Act (ITPA), 1956**

**9.24** The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949 mandates State Parties to punish persons profiting from the prostitution of others, especially women and children. The Government of India signed this Convention on 9 May 1950 and ratified it on 9 January 1953. Accordingly, the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA). SITA was amended twice, first in 1978 to address the inadequacies in the Act and then in 1986 wherein the nomenclature of the Act was changed to Immoral Traffic (Prevention) Act, 1956 (ITPA).

**9.25** On 20 November 1989 the Convention on the Rights of the Child (CRC) was approved by the General Assembly of the United Nations. As already mentioned above, the CRC was ratified by the Government of India in December 1992. The Articles of CRC also deal with sexual exploitation, abduction/sale/trafficking of children and other forms of exploitation. In addition, the Government of India in 2005 ratified the two Optional Protocols, viz., the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, adopted by the UN General Assembly in May 2000. The former has a direct bearing on trafficking of children. In the year 1993, the Government of India ratified the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) with a declaration and reservation. Article 6 of CEDAW emphasizes that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women".

**9.26** It would be worthwhile to mention that the Government of India in 2002 endorsed the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, 2000. The Government of India ratified the said Protocol in May 2011. Article 3 of the Trafficking Protocol, for the first time, defines trafficking. It also casts an obligation on the State Parties to undertake measures for prevention of trafficking in persons, and protection and repatriation of victims of trafficking in persons.

**9.27** In the light of these developments, the Government of India is required to examine the provisions of ITPA from the point of view of strengthening its provisions and make it compatible with the commitments inherent in the UN Conventions and its Protocols as well as the SAARC Convention. The Ministry of Women and Child Development thus constituted an Inter-Ministerial Committee comprising representatives from the Ministries of Home Affairs, Law & Justice, National Commission for Women, National Mission for Empowerment of Women and non-governmental organizations for examination of ITPA and amendments thereto.

**9.28** Thereafter, a draft Cabinet Note to amend ITPA was prepared by the MWCD and forwarded to various Ministries/Departments, including NHRC-India for comments. The Commission based on its past experience of conducting an Action Research on Trafficking in Women and Children, examined the draft Note and made the following suggestions:

- In the new Sub-section 2 (j), 'trafficking in persons' has been defined. It has not been clarified that the purpose of exploitation may also cover other areas apart from sexual exploitation or abuse or pornography. For instance, purposes like slavery, forced labour, forced removal of organs etc., are also involved in trafficking.
- While in the new Sub-section 2 (k), 'gender neutrality' has been brought in, while defining 'commercial sexual exploitation or abuse', it is not assured in many of the other provisions of the Act.
- The proposed enhanced penalties as given in Section 3 (1) of the Act would be counter-productive.
- There is need for inclusion of the aspects relating to Inter-State obligations considering the fact that India is placed both as a source and destination as well as a transit State for the purpose of trafficking.
- In the proposed new Sub-section 5 (A) (1), the portion 'of trafficking in persons' may be deleted as a customer is not expected to ascertain whether any person is trafficked or not.
- There should be an enhanced punishment under Section 6 if a person in authority is found to be in connivance for allowing prostitution activity.
- Section 8 (a) of the existing Act is proposed to be deleted as it is felt that this is a much abused section under which women allegedly soliciting customers are arbitrarily picked up and arrested. However, Section 8 (b) is proposed to be retained. This provision could still lead to harassment of women.
- As per new Section 15 A, a dedicated trafficking victims' rehabilitation and welfare fund shall be created. There is need for ensuring that payment to victims should be paid immediately as otherwise, there are problems of

transfer of payment to the place where the victim is rehabilitated. It is also seen that none of the bonded labour are properly rehabilitated. This needs to be ensured.

- There is need for provision relating to legal remedies in conformity with the UNCTOC.
- An amendment of an act directed against prostitution to cover all trafficking without substantial modification may not be possible or practicable.

**9.29** These suggestions were forwarded to the Ministry of Women and Child Development for incorporation in the proposed amendments to ITPA.

## **F. The Human Rights of Women and Girls, Gender Equality : The Role of National Human Rights Institutions**

**9.30** The conference on "The Human Rights of Women and Girls, Promoting Gender Equality: The Role of National Human Rights Institutions" was organized as part of the Eleventh International Conference of the International Coordinating Committee of the National Institutions for the Promotion and Protection of Human Rights (ICC) in Amman, Jordan from 5 to 7 November 2012. It was hosted by the Jordan National Centre for Human Rights in cooperation with the Office of the High Commissioner for Human Rights. The Asia Pacific Forum of National Human Rights Institutions (APF) also contributed towards the organization of this conference. Justice Shri K. G. Balakrishnan, Chairperson and Shri Satyabrata Pal, Member attended the conference from NHRC-India.

**9.31** The conference adopted the Amman Declaration and Programme of Action, which noted that despite commitments made through human rights treaties for women and girls, "the human rights of billions of women and girls are violated and denied". It further stated that "poverty and inequality are significant factors that increase vulnerability to discrimination, hunger and gender-based violence. Patriarchal structures, systems and macro-economic choices devalue the lives and the contributions of women ..... and women and girls bear the brunt of austerity measures, including through budget cuts on public services, such as health, education and social security."

**9.32** The Amman Declaration sets out a number of broad principles and areas of work to promote greater gender equality for NHRIs. Some of these are as follows:

- Monitor the States' fulfillment of their human rights obligations..... The Beijing Platform for Action and its 12 areas of critical concerns should serve as the guiding framework for assessing State action to ensure women's and girls' human rights;
- Respond to, conduct inquiries into and investigate allegations of violations of women's and girls' human rights, including all forms of discrimination against

women and girls, gender-based violence, violations of economic, social and cultural rights, violations of reproductive rights and discrimination in public and political life, and identify systemic issues, which perpetuate these violations;

- Facilitate women's and girls' access to justice, including judicial and non-judicial remedies, in accordance with their mandate;
- Where NHRIs have quasi-judicial powers, exercise them fully to provide relief to the woman and girl victims and press for administrative action against or the criminal prosecution of offenders;
- Promote the realization of human rights of women and girls', including as found in CEDAW, ICCPR, ICESCR, CRC, CRPD and other human rights norms and standards, into national law and policies;
- Encourage the withdrawal of reservations to such treaties with a view to strengthening implementation of all human rights treaties;
- Monitor and encourage the implementation of recommendations of treaty bodies and special procedures, Human Rights Council, Commission on the Status of Women ..... and recommendations accepted by States in the context of the Universal Periodic Review;
- Work with human rights defenders ..... forge strategic partnership with UN agencies; and
- Undertake education, promotion and awareness raising activities to promote the human rights of women and girls and to counter prejudices and stereotypes.

**9.33** In addition, it adopted the Amman Programme of Action that sets out a number of action points that NHRIs can take to promote women's political and public participation; advance women's economic and social rights; respond to violence against women and girls; and address women's health and reproductive rights. The complete text of the Amman Declaration and Programme of Action are at **Annexure-10**.

**9.34** The Amman Declaration and Programme of Action are to be supported by regional action plans developed by the four regional groupings of NHRIs from Africa, the Americas, the Asia Pacific and Europe. The APF Action Plan on Human Rights of Women and Girls: Promoting Gender Equality is at **Annexure-11**.

**9.35** The texts of the Amman Declaration and Programme of Action, and the APF Action Plan were also circulated for taking necessary action to the National Commission for Women, National Commission for the Protection of Child Rights, the corresponding State Commissions, to the existing State Human Rights Commissions and to the Ministry of Women and Child Development. The Commission is confident that the above would be

taken note of and reflected in the programmes undertaken by all the aforementioned stakeholders.

## **G. Report of Special Rapporteur, NHRC on Children's Facilities in Allahabad, Uttar Pradesh**

**9.36** As mentioned earlier, the Commission has evolved a system of having Special Rapporteurs who facilitate in discharging responsibilities mandated to it. For this purpose, they are either assigned specific subjects to deal with or a zone comprising of a group of States/Union Territories to look into human rights concerns and violations. During the period under report, Shri S. K. Tiwari, Special Rapporteur for North Zone-2 (Uttarakhand and Uttar Pradesh) visited Allahabad in November 2012 to see the functioning of Government Children's Home for Infants in Shivkuti; Government Children's Home for Girls in Mumfordganj; Government Observation Home for Boys in Khuldabad; and Children's National Institute, a children's home for girls run by an NGO, in Swaraj Bhawan, Motilal Nehru Marg.

**9.37** The report submitted by the Special Rapporteur stated that the Children's Home for Infants in Shivkuti is poorly maintained and functioned from a rented building. Out of the ten rooms allotted, five are used for accommodating children. Since the rooms are small in size, two children are made to sleep in one bed. However, the number of beds was insufficient given the total number of children on the day of the visit (38 children - 20 boys and 18 girls). Twelve out of them, who were aged six or less, were placed in an adoption centre run from the premises. The most striking feature of this Home was the large percentage of children with disabilities. As many as 15 children were reported to be mentally retarded, some having the added complication of epilepsy. Five children were found to be visually handicapped. Three children, aged 8 and 10, were HIV positive. A child, aged one, was suffering from tuberculosis. Due to regular visits of the District Magistrate and his team of officers, things seem to have improved in recent months but may not sustain in the long run for want of established procedure, commitment and accountability, training and awareness on the part of functionaries running the Home.

**9.38** As per the Special Rapporteurs report, in the Government Home for Girls, in Mumfordganj there were 46 girls in the age group of 10 to 18 years. About half of them had come from the Shivkuti Home after attaining the age of 10. Three girls had come on transfer from Homes in Jhansi, Banaras and Kanpur. The remaining girls were brought to the Home through Childline or the Police. The Home is being run in a rented building and altogether there are four rooms for accommodating the children due to which there is overcrowding. The Home did not have a Superintendent and it was told by the Chairperson of the Child Welfare Committee, who was present on the day of visit, that no regular Superintendent had been appointed during the last six years. Several other posts in the Home were also found to be vacant. Five to six girls have provided their addresses as they wish to go home.

But due to lack of proper procedural knowledge on the part of the officials, these girls have not been restored back to their families.

**9.39** The Observation Home for Boys in Khuldabad, according to the Special Rapporteur, functioned from a new Government building and could accommodate 50 boys. However, on the day of visit, there were 113 boys. The boys of the Home were accommodated in 10 rooms as per their age group. Almost all the older boys share a bed. The younger children were marginally better off. Since the Superintendent did not have official quarters, he used two rooms for his living. Two rooms of the building were used as the offices. Besides, the building had two more rooms - one as a common room and the other for dining purposes.

**9.40** The Home for boys cater to the needs of four Districts - Allahabad, Fatehpur, Pratapgarh and Kaushambi. The Juvenile Justice Board for Allahabad functions from the Observation Home once in a week. The JJ Boards for other Districts functioned from their District Headquarters. On the day of the visit of the Special Rapporteur (7 November 2012), 10 boys were held by the Juvenile Justice Board of Allahabad District for a period ranging from one to two years. The Observation Home was under the charge of an Assistant Superintendent as no regular Superintendent has been posted. No Inspection Committee was visiting the Home regularly and there existed no feedback or grievance redressal system.

**9.41** The Children's National Institute, run by an NGO, had 31 girls, most of whom were under 16. The Home was dependent on Government grants and charity for its day-to-day functioning. It had sufficient number of staff, though the Superintendent of the Institute was an ex-Army man.

**9.42** Shri S. K. Tewari, in his report, has concluded that the problems encountered in Children's Homes visited by him were not limited to one or two homes only. It was all pervasive in the State of Uttar Pradesh. These problems could be broadly summarized under five headings, as follows:

- (i) Juveniles and children in need of care were lodged illegally in Jails, *Nari Niketans*, Women's Homes, etc., in violation of the JJ Act.
- (ii) Infrastructure in the form of Children Homes, Observation Homes and Special Homes is grossly inadequate.
- (iii) Institutional arrangements, such as those contemplated by Sections 35, 43, 44, 45, 61, 62 and 62A of the JJ Act did not exist.
- (iv) There are no manuals for the performance of day-to-day activities in Homes and no management information system for monitoring compliance.
- (v) Training and sensitization on a sustained basis for judicial, executive, police and welfare officials (including specific training modules, built around handbooks mentioned above, for officers and staff deployed in the Homes) has been either totally lacking or inadequate.



**9.43** The report submitted by the Special Rapporteur was examined by the Commission. At the time of the writing of the report, the Commission directed its Secretariat to write to the Chief Secretary of Uttar Pradesh for taking necessary action in respect of the recommendations (i) to (v) mentioned above.

## **H. Consultation on 'Violence against Women'**

**9.44** The gruesome gang rape of a young woman in Delhi in December 2012 once again brought to the forefront the threat of insecurity faced by women and girls in the country. The massive protest that followed the incident was also an indication of the fact that the general public sought a change in the criminal justice system so that it provided safety and security to women and girls of the country. In the backdrop of this incidence, the Commission organized a Consultation on 'Violence against Women' on 8 January 2013 in New Delhi.

**9.45** This Consultation was attended by Director Generals of Police of States/Union Territories, officials of various Union Ministries, National Commissions, lawyers, representatives of women's groups, NGOs and student fraternity. Based on the deliberations of the Consultation, the Commission made detailed recommendations/suggestions covering legislative, judicial and police reforms. These were then forwarded to Chairman, Justice Verma Committee. This Committee was especially constituted on 23 December 2012 to look into possible amendments of the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault of extreme nature against women. The other members on the Committee were Justice Smt. Leila Seth, former judge of the High Court and Shri Gopal Subramaniam, former Solicitor General of India. NHRC's recommendations/suggestions were also forwarded to the Rajya Sabha Secretariat that had invited suggestions on the Criminal Law (Amendment) Bill, 2012 for examination by the Department-related Parliamentary Standing Committee on Home Affairs headed by Shri M. Venkaiah Naidu, Member Parliament, Rajya Sabha. The detailed recommendations/suggestions made by the Commission are at **Annexure-12**.

**9.46** The Justice Verma Committee submitted its report to the Government of India on 23 January 2013. In light of the Justice Verma Committee's report, the Government of India has promulgated the Criminal Law (Amendment) Ordinance, 2013 on 3 February 2013. Some of the recommendations/suggestions made by the Commission find place in the Ordinance.

## **I. National Conference on Missing Children**

**9.47** India is home to the largest number of children in the world. There are about 43 crore (430 million) children in the age group of 0-18 years. It is estimated that about 40 per cent of them are living in difficult circumstances, which includes children without family support, abused and trafficked children, children on the streets, children forced into labour,

children affected by armed conflict, civil unrest, natural calamities, etc. Besides, countless children go missing every year.

**9.48** Missing children represent a conglomeration of a number of problems, including abductions/kidnappings by family members and non-family members, children who run away on their own or are forced to run away due to compelling circumstances in their families and extended surroundings. It also includes children who are abandoned, trafficked or smuggled or exploited for various purposes and their whereabouts are not known. The fact that missing children are heterogeneous, there is no authentic data or consistently applied set of definition to describe them. Many cases of missing children are not reported to the police at all for various reasons and police involvement in solving cases varies widely across the country. All this adds to the problem.

**9.49** In 2007, taking *suo motu* cognizance of missing children from Nithari village in NOIDA, the NHRC constituted a Committee on 12 February 2007 to examine the issue in depth from the point of view of evolving appropriate suggestions/recommendations for missing children. The Committee constituted by NHRC held wide consultations with various stakeholders in the Government, including the Ministries of Home Affairs, Women & Child Development, Labour, Social Justice & Empowerment, Government of NCT of Delhi, Delhi Police, National Crime Records Bureau, UNICEF and several NGOs working for child rights as well as experts having knowledge about the subject. The recommendations/suggestions brought forth by the Committee were endorsed by the Commission and forwarded to the Chief Secretaries and Director Generals of Police of all the States/Union Territories, National Commission for Protection of Child Rights, Ministry of Home Affairs and Ministry of Women and Child Development to facilitate tracking and restoring of missing children back to their families or to agencies/support systems where they could be taken care of and protected.

**9.50** Some of the major recommendations/suggestions made by the Committee were as under:

- Every police station should have a special squad and missing person's desk dedicated to tracing of missing children. The Juvenile Aid Police Units can also be used for this purpose;
- There is a need to reiterate the implementation of the Supreme Court Guidelines given on 14 November 2002 in Writ Petition (Cri.) No. 610 of 1996 (*Horilal v/s Commissioner of Police, Delhi & Ors.*) in all police stations across the country;
- All missing children cases in the country should be reported to National Commission for Protection of Child Rights;
- National Crime Records Bureau should set-up a national tracking system/database so that cases of missing children are solved quickly; and

- In order to facilitate proper enquiry/investigation of missing children, it is advisable that FIRs are registered by the police in the case of missing children.

**9.51** The Commission also devised a detailed reporting format for monitoring the compliance of its recommendations on missing children and sent it to all the States/Union Territories. In order to further streamline coordination between law enforcement agencies, other Government officials and civil society organizations, a National Conference on Missing Children was organized by the National Human Rights Commission on 15 January 2013 in New Delhi.

**9.52** The main objectives of the Conference were to:

- discuss the status of compliance of NHRC's suggestions/recommendations on missing children and advisories issued by the Ministry of Home Affairs;
- discuss the challenges relating to the missing children in the State and Union Territories;
- share best practices of States, Union Territories and non-governmental organizations; and
- decide upon the future plan of action concerning the problem of missing children.

**9.53** The Conference was attended by Secretaries of States and Union Territories; senior officers of Ministries of Home Affairs, Women and Child Development and Social Justice & Empowerment; Directors General of Police of States and Union Territories; representatives of State Commissions of Women, Child Rights, State Human Rights Commissions and representatives of civil societies.

**9.54** The recommendations of the National Conference are given below:

- Child related problems have to be made visible.
- Various planning measures should not stop at district level. There is need to go further into sub-District, and even household level.
- Community has to play a major role through Welfare Committees, involving school teachers, Anganwadi workers, etc.
- There seems to be divergence between official and non-official statistics relating to missing children. Tracking System being developed would help (under integrated Child Protection Scheme)
- Child Line Services are important and be streamlined and encouraged.

- FIR should allowed to be lodged in all cases of missing children irrespective of whether crime is committed.
- SOP needs to be developed (already in place in Delhi & MP)
- Reports have to be sent to NCPCR.
- Feedback needs to be given to parents.
- Needs for regulation of placement agencies.
- Acts like RTE Act and other development Schemes shall be properly implemented. There is need for convergence.
- Missing Persons Bureau should be established in all States.
- Sponsorship Programmes for vulnerable children would help.
- Inclusivity in School Education curriculum is necessary.
- States having child tracking system should migrate to the National Tracking System for missing and vulnerable Children being developed by Ministry of Woman and Child Development. Hardware has to be made available.
- Need for child Relief Fund, proper counseling and residential facilities for homeless.
- Sufficient financial provisions and adequate infrastructural facilities need to be made.
- Compensation for trafficked children as in case of rescued child labour.
- Children up to 18 years should be covered and distinction between hazardous and non-hazardous industries should go.
- Establishment of a Central Agency to trace missing children.
- Emergency Response System (First 24 hours important).
- Focus on prevention.
- Accountability needs to be fixed.
- In order to have permanent solution to the problem of missing children you have to ameliorate poverty by providing land to landless.
- Tracking system should be converged with CCTNS.

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

1. *Abduction and Rape of a Minor Girl and Police Inaction in District Sonbhadra, Uttar Pradesh*  
(Case No. 16964/24/69/09-10-WC)

**9.55** The complainant, Anant Kumar, r/o Agori Khas, District Sonbhadra in Uttar Pradesh alleged in his complaint dated 16 July 2009 that on 17 April 2009 his minor daughter was abducted by four persons named Sukhadi, Amarnath, Sunil and Guddu. When the complainant went to their house to enquire about his daughter, they misbehaved and also assaulted him and his wife. When the complainant went to the police, the police registered only a National Capital Region and asked them to search for their daughter on their own. The complainant further stated that upon getting information that his daughter was being forced to marry one Sunil, he again informed the police but no action was taken. On 10 July 2009 when his daughter returned, she told that on being abducted by the above mentioned persons, she was continuously raped and threatened. The complainant complained to the police station and higher authorities again but all in vain.

**9.56** In response to the notice of the Commission, the Superintendent of Police, Sonbhadra vide its report dated 18 March 2011 informed that the complainant had moved an application u/s 156(3) Cr.P.C. in the court of Chief Judicial Magistrate, Sonbhadra for registration of FIR and investigation thereof. A Case Crime No. 928/09 u/s 363/366/376/506 IPC was registered against Sukhadi and three others on 9 October 2009 and after investigation, the allegations having being substantiated against accused Sunil, he was arrested and sent to jail. The Investigating Officer had submitted the chargesheet in the Court on 25 November 2009 and the same was pending trial.

**9.57** The Commission observed that an FIR of the complainant was lodged by order of the court on 9 October 2009 though the complainant had approached the police on earlier dates for registration of his case. Since the complainant's daughter was abducted on 17 April 2009 and the FIR was registered by order of the court on 9 October 2009, the concerned police officials had violated the human rights of the complainant by not registering his case at an early date for which the State of Uttar Pradesh was vicariously responsible.

**9.58** The Commission issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh through its Chief Secretary to show cause as to why recommendation for payment of appropriate compensation to the victim should not be made. The Superintendent of Police, Sonbhadra was directed to send a report on the action taken against the police officials responsible for non-registration of the complainant's case as a cognizable one.

**9.59** In response, the Secretary to the Government of Uttar Pradesh intimated that chargesheet had been filed against only one accused and the Government of Uttar Pradesh

will comply with the directions of the Commission. Thereafter, the Commission vide its proceedings dated 25 September 2012, recommended to the Government of Uttar Pradesh to pay ₹ 3,00,000 as relief to the victimized daughter of the complainant. The Chief Secretary has been asked to send the proof of payment, which is awaited.

2. *Sexual Assault of Students in a School Run by Government of Odisha*  
(Case No. 408/18/32/2011-WC)

**9.60** The Commission received a complaint dated 8 February 2011 from one Shri Subhas Mohapatra alleging that three students of class III and one student of class IV of Gadiseskhkhil Sevashram run by the Government of Odisha were threatened and sexually assaulted by a teacher, named, Narendra Nath Maniaka and a peon, named, Lingaraj Kulusika. It was alleged that neither any action was taken by the district authorities nor an FIR was registered in the matter.

**9.61** The Commission obtained a report from the Superintendent of Police, Rayagada which revealed that an FIR No. 42/11 was registered u/s 294/354/509/34 IPC in Police Station Chandali and the accused were placed under suspension.

**9.62** Observing that the human rights of the girls students were violated by none other than their own teacher and a peon of the school, the Commission issued a notice under Section 18 a (i) of the Protection of Human Rights Act, 1993 to the Government of Odisha, through its Chief Secretary calling as to why monetary relief should not be recommended to be paid to the four students who were sexually assaulted.

**9.63** The Commissioner-cum-Secretary to Government of Odisha informed that the accused Lingaraj Kulesika, has already been disengaged from his Government job and departmental proceedings were initiated against the other accused.

**9.64** The Commission further considered the matter and asked the Chief Secretary, Government of Odisha to make a payment of ₹ 3,00,000/- to each of the victims as relief and to send the proof of payment within 6 weeks.

**9.65** In response, the Commission has received an endorsement of communication dated 5 November 2012 from the Additional Secretary, Government of Odisha addressed to the Branch Manager, State Bank of India, Forest Park Branch, Bhubaneswar regarding issuance of bank draft of ₹ 12,00,000 to the Commissioner-cum-Secretary, Government of Odisha, from the Chief Minister's relief fund account for payment of compensation to the four victims.

**9.66** However, since the proof of payment was not received by the Commission, a reminder has been issued to the Chief Secretary, Government of Odisha to expedite sending the same.



3. *Gang Rape of a 21 Year Hapless Woman by a Constable and his Friend in Mumbai*  
(Case No. 1923/13/16/2010-WC)

**9.67** Suhas Chakma, Director of Asian Centre for Human Rights, New Delhi in his complaint to the Commission alleged that a 21 year woman, a resident of Khar, Mumbai was raped by one Police Constable and his friend at Manori Village, Mumbai on 3 October 2010. He prayed for action against the erring police constable and compensation to the victim. The Commission took cognizance of the matter on 22 October 2010 and issued notice to the Commissioner of Police, Mumbai.

**9.68** The Deputy Commissioner of Police, Zone-XI, Mumbai informed that with regard to this incident, a Case Crime No.14/10 for the offences punishable u/s 376/354/506(2)/34 IPC has been registered at Police Station Gorai. Both the accused persons were arrested and chargesheet had been filed in the court. It was also informed that the offending Constable had been suspended.

**9.69** The Commission upon consideration of the report on 17 February 2011 *inter alia* observed that the accused is a police constable and it was his duty to prevent commission of any crime. On the contrary, such a person had himself committed the crime of rape on a hapless victim thus violating her human rights. The Commission, therefore, issued a notice to the Chief Secretary, Government of Maharashtra, calling upon him to show cause as to why interim relief may not be recommended to be paid to the victim.

**9.70** The Government of Maharashtra submitted that the Constable has not committed the alleged act while on duty or while the victim was in his lawful custody. It, therefore, cannot be said that the State is liable to pay compensation. According to them, it was only after the accused was convicted that the concerned court has to consider grant of compensation. The Commission was, therefore, requested to drop or defer the proceedings.

**9.71** The Commission upon further consideration of the matter on 23 March 2011 observed that it was not disputed that the accused is a Constable. It was his duty to prevent commission of any crime rather he himself perpetrated the crime on the hapless victim. The human rights of the victim have been violated by a public servant. In these circumstances, the Commission felt that grant of interim relief to the victim was justified, and an amount of ₹ 25,000 was, therefore, recommended to be paid as monetary relief to the victim.

**9.72** In response, the Joint Secretary to the Government of Maharashtra, Home Department, submitted the proof of payment of ₹ 25,000 made to the victim.

**9.73** The Commission upon consideration of the compliance report on 3 May 2012 observed that the recommendations made by the Commission have been complied with and closed the case.

4. *Rape of a Mentally Retarded Minor Girl*  
(Case No. 155/7/16/2010-WC)

**9.74** The Commission took cognizance of a complaint received from Purusharth Lal, r/o Bawal, District Rewari alleging rape of his mentally retarded daughter aged 16 years by Deepak and Neetu at a knife point. The incident was reported at P.S. Bawal and to the Inspector General, Rewari but no FIR was registered.

**9.75** After long persuasion, the Director General of Police, Haryana intimated that the complaint was being enquired through the Deputy Superintendent of Police. On the basis of evidence collected, Crime No. 56 dated 29 March 2010 u/s 363/366A/376 IPC at Thana Bawal was registered and investigation of the case was under progress. Since a case of delay in registration of FIR was established in a heinous crime like rape on a mentally retarded minor girl, the Director General of Police, Haryana was requested to conduct an enquiry and ensure timely registration of FIRs in the State. Subsequently, a further report was received from the Superintendent of Police, Rewari informing that Deepak was arrested in case FIR No. 56/2010 pertaining to P.S. Bawal and a *challan* was submitted in the court where the trial is pending. The Assistant Sub-Inspector, Dharampal and Prithviraj had been placed under suspension and departmental enquiry had been initiated against them. On the basis of the above mentioned report the Director General of Police, Haryana was asked to submit the outcome of the departmental enquiry and to issue directions in the State that FIRs in every Police Station should be registered without any delay.

**9.76** The Director General of Police, Haryana consequently intimated to the Commission that the Commissioner of Police, Faridabad and Gurgaon, Senior Superintendents of Police of all the Districts of Haryana and Superintendent of Police, Railways, Ambala Cantt. had been directed to ensure that FIR in every P.S. is registered without any delay. He also informed that the departmental enquiry against the errant police officers was in progress and would be finalized very shortly. The Commission considered the reports on record. Since the police personnel had been held guilty for delay in registration of FIR even when a complaint of heinous and cognizable offence of rape of a mentally challenged girl was received, the Commission opined that the State is vicariously liable for the act of violation of human rights by its employees, it issued a show cause notice u/s 18 of the PHR Act, 1993 to the Chief Secretary, Government of Haryana. The Director General of Police, Haryana was requested to report the outcome of the departmental enquiry.

**9.77** Pursuant to the directions of the Commission, the Director General of Police, Haryana informed that both the errant police officers had been placed under suspension and finally they have been punished with censure entry. But the Chief Secretary, Government of Haryana did not respond to the show cause notice in spite of two reminders. The Commission assumed that the State Government had nothing to say in its defense and hence recommended the Government of Haryana to pay a sum of ₹50,000 as monetary relief to the victim.

**9.78** The compliance report received from the Government of Haryana is under consideration of the Commission.

5. *Rape of an 18 Year Girl by Policemen in Campus of P.S. Choti Sadri, District Pratapgarh, Rajasthan*  
(Case No. 8087/24/59/2012-AR)

**9.79** The Commission took cognizance of a news report carried by Hindi daily *Rajasthan Patrika*, Jaipur edition dated 17 May 2011, regarding rape of a girl by policemen in the campus of Police Station Choti Sadri, District Pratapgarh in Rajasthan. As per the report, two Constables, namely, Pawan Meena and Tej Singh, went to village Malavda and brought the 18 year old girl and her father to the Police Station on the pretext of recording their statements in a case and took them to their quarter in the campus of the Police Station. There the Constable Pawan Meena raped the girl, while Constable Tej Singh kept hold of her father outside the quarter. A copy of this news report was forwarded to the Commission by Ms. Shirin Shabana Khan, a human rights activist.

**9.80** Responding to the Commission's notice, the Superintendent of Police, Pratapgarh, in his report dated 8 August 2012, confirmed the incident. The report further stated that FIR No. 92/11 u/s 363/366/376 IPC had also been registered and both the Constables were arrested. During the investigation, the commission of crime was established and a chargesheet was filed in the Court on 12 June 2011. In addition, the report stated that both the Constables were suspended on 16 May 2011 and thereafter removed from service vide order dated 23 May 2011.

**9.81** In view of the report of the Superintendent of Police, the Commission vide its proceedings dated 13 December 2012 held that it was a case of violation of human rights and the State Government is liable to compensate the victim and issued notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993, to the Government of Rajasthan to show cause as to why the Commission should not recommend monetary relief for the victim.

**9.82** Response received from the Government of Rajasthan is under consideration of the Commission.

6. *Kidnapping and Blackmailing of Two Girls by Police Sub-Inspector in Chander Nagar, Madhya Pradesh*  
(Case No. 1812/12/21/2011-WC)

**9.83** In two separate incidents, two minor girls aged 16 and 17 years respectively, were kidnapped and their offensive videos were made and the culprits tried to blackmail the girls. An FIR No. 846/11 u/s 365/363/342/506/34 IPC and FIR No. 858/11 u/s 363/365/342/354/506/34 IPC and Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, were registered at Police Station Chandan Nagar. In both the cases Sub-Inspector Ram Kishore Shiv Hare was involved. Chargesheets in both

the cases have been filed in the Court. The Commission ordered issuance of show cause notice to the Government of Madhya Pradesh.

**9.84** The show cause notice was responded to by Additional DGP (Complaints), Madhya Pradesh, and a Deputy Secretary to the Government of Madhya Pradesh, Home (Police) Department. As per their response, Sub-Inspector Shiv Hare had been removed from service. A sum of ₹ 25,000 was sanctioned as compensation to one of the victim. However, their reports were silent on grant of compensation to the two victims for violation of their human rights.

**9.85** The Commission vide its proceedings dated 22 October 2012 observed that in the facts and circumstances of the case, it is presumed that the State Government has nothing to say in the matter and recommended to the Government of Madhya Pradesh to pay a compensation of ₹ 10,000 each to the two victims. The Chief Secretary was directed to submit compliance report along with proof of payment within six weeks.

**9.86** The Commission also directed the Deputy Secretary, Home (Police) Department, Government of Madhya Pradesh, to inform the Commission if the sanctioned relief of ₹ 25,000 is under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, and whether this amount has been paid to the victim as she is also required to be paid relief under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules.

**9.87** Response received in the matter is under consideration of the Commission.

7. *Misery of Widows Residing in Swadhar Mahila Ashray Kendra in District Vrindavan, Mathura, Uttar Pradesh*  
(Case No. 2507/24/52/2012)

**9.88** The Commission received a complaint from Shri Yati Balmike on 12 January 2012 alleging that dead bodies of the widows residing in Swadhar Mahila Ashray Kendra, a Government run Shelter Home in Chetanya Vihar, Vrindavan, Mathura, were taken away by sweepers at night, cut into pieces and put in jute bags because the institution has no provision for cremation of dead bodies. The Commission also received a complaint from one Shri R.H. Bansal in the same matter.

**9.89** The Commission vide its proceedings dated 30 January 2012 directed the Director General (Investigation) of the Commission to depute its own team for a spot enquiry into the matter.

**9.90** Accordingly, the team of the Commission inspected four Mahila Ashrams in Vrindavan District, Mathura. Out of these, two are run by NGOs, the third operates under the Swadhar Scheme of the Ministry of Women and Child Development, Government of India and the fourth is under the aegis of the Department of Women Welfare, Government of Uttar Pradesh. The team found the conditions unsatisfactory and deplorable, and recommended as under: -

1. The due funds to these Ashrams which have not been paid should be made available immediately;
2. Hygienic conditions must be drastically improved;
3. Residents should be covered under the Welfare Schemes for women such as widow/old age pensions and should be given Antyodya/BPL Ration Cards;
4. The district authorities must regularly and diligently monitor the functioning of these Ashrams;
5. Medical facilities should be improved;
6. When death takes place, the dignity of the deceased must be respected;
7. Allegations about the conduct of officials of these Ashrams, listed in its report, should be urgently enquired into and, if found to be true, action must be taken against them.

**9.91** The Commission considered the report and observed that the women who live in these Ashrams have no other shelter or protection. Their age, destitution, and the absence of family support make them among the most vulnerable citizens of India. Since they are so completely dependent on these Ashrams, if they are not well treated there, the human rights of a particularly disadvantaged group of people are violated.

**9.92** A copy of the report was sent to the Secretary, Ministry of Women & Child Development, Government of India and to the Secretary, Department of Women's Welfare, Government of Uttar Pradesh. They were asked to take action on the recommendations made in report of the Investigation team, and to brief the Commission on the corrective steps taken by the authorities.

**9.93** In the meantime, it was brought to the notice of the Commission that in W.P. (C) No. 659/2007 Environment of Consumer Protection Foundation vs. Union of India and Others with W.P. No. 133/2012, Supreme Court of India on 9 May 2011 had issued certain directions in which it has been mentioned that a Special Committee shall be constituted forthwith, comprising the following persons/ authorities:-

- a) Chairman, District Legal Services Authority, Mathura, Uttar Pradesh (Chairman);
- b) Secretary, Social Welfare Department, Government of Uttar Pradesh (or his nominee);
- c) Secretary, Department of Women and Child Development, Government of Uttar Pradesh (or his nominee);

- d) Representative of the National Commission for Women (NCW);
- e) District Collector, Mathura, Uttar Pradesh;
- f) District Medical Officer, Mathura, Uttar Pradesh;
- g) District Senior Superintendent of Police, Mathura, Uttar Pradesh

**9.94** The Supreme Court has further directed that the Special Committee shall undertake an exercise of identification and enumeration of the destitute in Vrindavan District, Uttar Pradesh, those having shelter and those wandering the streets without any shelter. During the survey, the Committee shall collect complete data in respect of each of the destitutes, which shall include the name, age, address, place of origin, educational qualification (if any), reason for shifting to Vrindavan area, particulars about the family members, including the husband with their names and addresses and their present source of income. It will be open to the Committee to seek assistance of Para-legal volunteers of the District Legal Services Authority as also Non-government Organizations and Law students. The Committee shall submit its preliminary report within eight weeks.

**9.95** As the Supreme Court of India is seized of the matter, the Commission vide its proceedings dated 27 September 2012 closed its enquiry.

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## RIGHTS OF ELDERLY PERSONS

**10.1** The elderly population is the fastest growing group of population today. Almost 700 million people are now over the age of 60. By 2050, 2 billion people, over 20 per cent of the world's population, will be 60 or older. It is predicted that for the first time in human history, there will be more persons over 60 than children in the world. Women already outnumber men among those aged 60 or above, and are twice as numerous among those aged 80 or over. The increase in the number of elderly people will be the greatest and the most rapid in the developing world, with Asia as the region with the largest number of older persons, and Africa facing the largest proportionate growth<sup>2</sup>. As the number of elderly people grows, the number of older women and men who experience discrimination is likely to increase if no action is taken to challenge the status quo.

**10.2** There is no denial of the fact that international human rights standards have gained increasing recognition within the realm of the rights of individuals, but the rights of elderly persons did not receive the international legal attention which they rightly deserved. The concerns of elderly people also remain almost invisible in the new Universal Periodic Review mechanism, where every UN Member State reports to the Human Rights Council on its human rights record. At the national level too, continued existence of a number of challenges associated with the elderly population like age-related discrimination, violence and abuse, poverty and inadequate living conditions and lack of specialized services, necessary to guarantee the human rights of elderly people is also an indicator that the State has failed to adequately incorporate the rights of elderly people in their laws, budgets, programmes and training for service delivery staff.

**10.3** The international community started to highlight the situation of elderly persons in 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 1992 Global Targets on Ageing for the Year 2001 and the 1992 Proclamation on Ageing further advanced international understanding of essential requirements for the well-being of older persons. The Political Declaration and the Madrid International Plan of Action on Ageing, 2002 (MIPAA), adopted at the Second World Assembly on Ageing, and endorsed by the General Assembly in its resolution 57/167, reinvigorated the political consensus on an agenda on ageing, emphasizing development and international cooperation and assistance in this area.

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<sup>2</sup> Secretary-General report (A/66/173) submitted pursuant to General Assembly resolution 65/182 entitled "Follow-up to the Second World Assembly on Ageing" and Summary of the Report of the Secretary-General to the General Assembly (<http://www.ohchr.org/EN/Issues/OlderPersons/Pages/OlderPersonsIndex.aspx>).

Since its adoption, the Madrid International Plan has guided the drafting of policies and programmes at the national level, inspired the development of national and regional plans and provided an international framework for dialogue.

**10.4** The priorities set out in the Madrid International Plan of Action include a wide range of issues: equal employment opportunities for all older persons; programmes that enable all workers to acquire social protection and social security, including, where applicable, pensions, disability insurance and health benefits; and sufficient minimum income for all older persons, with particular attention to socially and economically disadvantaged groups. The importance of continuous education, vocational guidance and placement services are also stressed. Health is also a key feature of the Madrid Plan of Action. The provisions encompass notions of prevention, equal access to health care, active participation and the full functionality of supportive and care-giving environments. As these instruments are not legally binding on governments, they have limited effect. A review in 2007 showed States' commitment to implementing the recommendations in MIPAA to be patchy and inconsistent.

**10.5** A 2011 report of the Secretary-General (A/66/173) submitted pursuant to General Assembly resolution 65/182 entitled "Follow-up to the Second World Assembly on Ageing" identifies several areas where much work needs to be carried out. These are - strengthening of the international protection regime for the human rights of elderly persons, bringing to an end violence against elderly persons and women in particular, stopping of financial exploitation, focusing on their health requirements, promoting home care, social security and social protection, access to justice and judicial remedies and the need to improve national systems of statistics/data collection, particularly statistics on persons aged 60 and above in order to better assess the situation and rights of older persons and to set adequate monitoring mechanisms for programmes and policies geared towards ensuring the human rights of older persons.

**10.6** Elderly men and women have the same rights as everyone else. These rights are set out in the Universal Declaration of Human Rights, 1948 (UDHR) and other subsequent international human rights conventions which elaborate different types of rights, such as economic, social and political rights, and the rights of different groups, such as women, children or disabled people. The UDHR states in Article 1 that "all human beings are born free and equal in dignity and rights". The right to freedom, equality and dignity does not change in old age. However, on ground these rights are denied to a large majority among the elderly people.

**10.7** The Commission's involvement in respect of rights of the elderly persons, as mentioned in the last Annual Report, initially began with acting upon complaints received from them. Its involvement increased gradually in 2000 when it participated in the work of the National Council for Older Persons constituted by the Ministry of Social Justice & Empowerment and gave suggestions on its Action Plan (2000-2005) in relation to the

implementation of the National Policy on Older Persons. From that year onwards, it has kept close contact with groups and organizations working for the rights of elderly persons and has been forwarding suggestions to the Union Government as and when necessary. For example, the Commission sought the response of Ministry of Health & Family Welfare with regard to provision of separate queues for older persons in hospitals. The concerned Ministry, on its part, circulated the recommendation for the provision of separate queues for older persons in hospitals to all States and Union Territories. The Commission has also expressed its concern over the plight of elderly persons belonging to economically weaker sections of society, especially those in the unorganized sector. Of late, the Commission, in collaboration with non-governmental organizations working for the elderly, has been organizing health awareness camps and events like lectures focusing on different ailments affecting people in old age.

## **A. Research Project on Sense of Security among Older Persons and Their Human Rights**

**10.8** NHRC-India, in collaboration with Agewell Foundation, a Delhi based non-governmental organization, have undertaken a research project on 'Sense of Security among Older Persons and Their Human Rights'. The main objective of the research project is threefold - to assess the impact of emerging socio-economic scenario on the emotional, physical, medical, legal and financial security among older persons and their related human rights; assess the status of older person's awareness about human rights; and spread awareness about human rights amongst elderly people. The focus area of the study is confined to Delhi and its adjoining regions, i.e., Gautambudh Nagar and Ghaziabad Districts of Uttar Pradesh and Gurgaon, Faridabad, Jhajjar, Rohtak and Sonipat Districts of Haryana. For the purpose of the study, a representative sample of 1500 older persons (768 men and 732 women) was taken and interviewed by the volunteers of Agewell. In selecting the sample of the study, due attention has been given to both rural and urban respondents.

**10.9** The field work for the study has been completed by Agewell Foundation. Based on the analysis of the data collected for the study, the final report of the project is under preparation.

## **B. Right to Life with Dignity**

**10.10** NHRC-India ordinarily does not entertain "service matter" cases. However, cases of non-payment, delayed payment, partial payment of retirement benefits and timely payment of other statutory dues to legal heirs when an employee dies or goes missing have primarily been viewed by the Commission as deprivation of their right to life as provided under Article 21 of the Indian Constitution. The Commission, of late, is receiving a large number of such complaints, which it dealt with both in the Single Bench and in the Full Commission. The 'Full Commission' in one such case (No. 3072/4/26/08-09) stated:

*"..... that the State Electricity Board slept over the matter too long which deprived the retiree of his retiral benefits for a long period. This must have affected him mentally as well as financially and this long delay in payment of retiral benefits violates his human rights to dignity. Consequently, the State is liable to compensate him....."*

**10.11** The Hon'ble Supreme Court of India in the matter of D.S. Nakara & Others vs. Union of India (AIR 1983 SC 130), also made the following observations in respect of pension:

*"The antiquated notion of pension being a bounty a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in Deoki Nandan Prasad v. State of Bihar & Ors. (1) wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension".*

**10.12** The citizens of India have a Fundamental Right to earn a livelihood under Article 21 of the Indian Constitution which invariably implies that any person who retires is entitled to receive her/his deferred wages in accordance with rules prescribed. Non-payment of retiral benefits undisputedly is violation of one's Fundamental Right under Article 21 of the Constitution of India. In other words, pension is a deferred portion of compensation for long and devoted services rendered by an employee to the employer. Pension is a social welfare measure as well. The right to receive the same is not only a Fundamental Right but also a right to property under Article 300A of the Constitution of India and therefore cannot be taken away except by the authority of law.

**10.13** The Commission's intervention in all these cases has been to ensure that the essential objectives enshrined in Article 21 of the Constitution of India are fulfilled. The pensioner and the family of the deceased employee have a right to live with dignity and non-payment or delayed payment of meager pensionary benefits after one's retirement or death is a serious violation of their right to live with dignity. The issue becomes grave when due benefits of an employee who dies in service are inordinately delayed and the family suffers irreparable loss due to negligence on the part of the responsible public servants. The mere intervention of the Commission in most of the cases has resulted in payment of retiral benefits including pension whereas in other cases it has been instrumental in examining the entire matter calling for reports from the concerned authorities and recommending payment of their dues. In addition, the Commission has recommended compensation for damages to the victim for non-payment or delayed payment of their terminal dues. A few of such cases in which the Commission's intervention has resulted in the payment of the retiral benefits and other dues are given in succeeding paragraphs.

## C. Illustrative Cases Related to Right to Life with Dignity dealt by NHRC

1. *Delayed Payment of Retirement Benefits to Widow of an Employee of Social Welfare Department, Government of Uttar Pradesh After 31 Years*  
(Case No. 20804/24/24/2010)

**10.14** The case under reference pertains to a complaint of non-payment of dues to the family of late Shri Puttu Lal, a Class-IV employee in the Social Welfare Department, Government of Uttar Pradesh who died on 8 November 1979. The complaint was made by the deceased's wife Smt. Ramjilal alias Shanti Devi, aged 78.

**10.15** On examination of the matter, the Commission issued a notice to the Chief Secretary, Government of Uttar Pradesh calling for a report. The State Social Welfare Department in its report submitted that the Government had paid ₹ 27,390 (GPF), ₹ 115.30 (security deposit) and ₹ 3,835 (medical reimbursement) of the deceased employee, in May 2011 but the gratuity and pension though sanctioned had not been paid to the family of the deceased employee.

**10.16** The lack of concern on the part of the Social Welfare Department of Government of Uttar Pradesh was noted by the Commission whereby it directed the State Department to make the payment of gratuity and pension to the family of the deceased immediately. It was subsequently informed to the Commission that the Social Welfare Department had paid ₹ 5,72,259 towards gratuity and arrear of pension to the complainant.

**10.17** The Commission thereafter issued a notice u/s 18 of PHR Act, 1993 calling for show cause as to why compensation should not be recommended for human rights violation of the family of the deceased employee.

**10.18** In response to the show cause notice, the State Government submitted that they had forwarded a proposal to the Department of Finance for payment of interest on the delayed payment of arrears, due to the deceased employee since 1979.

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

2. *Non-Payment of Retirement Benefits to Widow of an Employee of Social Welfare Department, Government of Uttar Pradesh*  
(Case No. 24824/24/22/09-10)

**10.20** Smt. Kiran Devi, w/o Girendra in her complaint dated 17 September 2009 addressed to the Commission stated that her husband who was working with the District Welfare Officer, Etah died in harness on 21 December 2001, and that his retirement dues had not been paid to her despite repeated requests to the concerned authorities.

**10.21** The Commission took cognizance of the matter and called for a report from the Director, Department of Social Welfare, Government of Uttar Pradesh, Lucknow and District

Magistrate, Etah. Report of the District Social Welfare Officer, Etah dated 7 November 2009 stated that GPF link insurance could not be given to the employee because the Accountant General had not sent the balance amount of GPF payment orders.

**10.22** The Commission on 17 December 2009 was pained to note that the complainant had been denied the lawful dues of her husband even after 8 years had passed thus causing immense hardship to the widow. This was a serious case of violation of human rights of the complainant. Pursuant to the D.O. letter from the Secretary General of NHRC, the Principal Secretary, Social Welfare Department-I, Uttar Pradesh stated that the complainant was paid ₹ 30,000 towards GPF Link Insurance and the balance of GPF amounting to ₹ 31,050. However, the report was silent on the aspect whether any inquiry had been made looking into the delay in release of dues of the employee and whether any interest had been paid on the delayed payments.

**10.23** On the directions given by the Commission, the Principal Secretary, Social Welfare Department, Government of Uttar Pradesh, in his report stated that orders had been issued to conduct an enquiry into the delay in payment of dues of the deceased employee and Director, Social Welfare was directed to put up the proposal for payment of interest at the rate of 10% (compound interest) on the delayed payment.

**10.24** The Chief Secretary, Uttar Pradesh vide his communication dated 30 July 2010 informed the Commission that an amount of ₹28,462 as interest on delayed payment of insurance was paid and the errant public servant has been punished by way of recovery of the interest on delayed payment along with appropriate disciplinary action. Orders for recovery of interest on delayed payment from negligent officers/officials had been issued. Two serving District Social Welfare Officers were warned to be careful in future. Orders for initiation of action against three Clerks had also been issued. The case was closed on 4 January 2011.

3. *Delayed Payment of Dues to Widow and Job to Son of Deceased Employee by Bharat Coking Coal Limited*  
(Case No. 636/34/4/2010)

**10.25** The complainant Smt. Lilu Devi, in her complaint dated 19 May 2010 alleged that her late husband Shri Mathura Manjhi, who belonged to a scheduled tribe community and worked in Colliery Area No. 5, Basdevpur, under Bharat Coking Coal Limited (BCCL) died on 28 November 2002 but she has not been given any pension nor other retirement benefits including a job to her son on compassionate ground. On the directions given by the Commission, the General Manager, BCCL, Dhanbad vide his letter dated 30 January 2012 informed that monthly pension to Smt. Lilu Devi at the rate of ₹ 599 per month had been sanctioned and an amount of ₹61,945 including arrears of ₹ 56,945 was paid to her in October 2010. It was further informed that CMPF amount of ₹ 6,06,609 due to Smt. Lilu Devi was paid vide cheque No. 927578 dated 2 December 2010, and the CMPF amount of ₹ 2,02,203



to each of the son and daughter of the deceased employee was paid vide cheque dated 9 February 2011. Accrued statutory interest on CMPF accumulation had also been paid. Besides, it was informed that her son Shri Rishadar Kant Tudu was appointed on compassionate ground vide office order dated 16 January 2012. An amount of ₹4,51,600 was further paid as monetary compensation to Smt. Lilu Devi vide cheque No. 50946 dated 17 January 2012. The Commission on 23 April 2012 noticed that the family of the deceased tribal employee was left without means of support for eight years because of the negligence of concerned public servants. It thus directed the Chairman-cum-Managing Director of BCCL to make an additional payment of ₹ 1,00,000 as reparation for the victim Smt. Lilu Devi for violation of the human rights of her family. Accordingly, the General Manager (P&IR), BCCL, vide his letter dated 22 June 2012 informed that the recommended amount of ₹1,00,000 was paid vide cheque No. 146922 dated 8 June 2012 to Smt. Lilu Devi w/o Late Mathura Manjhi and punitive action was also taken against Shri K. P. Mandal and Shri Sovi Rajbhar, CMPF, Clerks. In addition, he informed that the Colliery officials were advised to be vigilant and careful while dealing with such kind of cases in future.

**10.26** As the proof of payment was received in the matter, the Commission closed the case on 30 August 2012 and expected that the Ministry of Labour, Government of India shall ensure that in case of death of an employee, no gratuity amount shall be deposited with the controlling authority under the proviso of Section 4 (c) of the Payment of Gratuity Act, 1972, unless a reasonable opportunity is given to the heirs of the deceased employee to claim it.

4. *Stoppage of Family Pension to an Elderly Woman*  
(Case No. 325/30/3/2011)

**10.27** The Commission received a complaint from an elderly 85 year old woman, named Smt Bhagwanti Devi, wife of Late Shri Durga, resident of Palam Colony in Delhi, stating that her husband was employed as Senior Mali (Gardener) in the Horticultural Department of Central Public Works Department. She further stated in her complaint that her husband died while working in harness on 4 July 1969 and that she used to receive her family pension in cash from the Government Treasury. This procedure continued up to October 2006. However, from November 2006 onwards she was not getting her pension.

**10.28** The Commission took cognizance of the plight of the aged woman and vide its proceedings dated 7 February 2011 issued a notice to the Secretary, Department of Expenditure, Ministry of Finance, Government of India, New Delhi, calling for a report in the matter.

**10.29** The report was received from the Department of Expenditure, Ministry of Finance stating that the case of Smt. Bhagwanti Devi was taken up with Central Pension Accounting Office (CPAO) and it had informed that the Pension Payment Order (PPO) in her case has been issued by the Ministry of Urban Development and CPAO has authorized the Bank for payment. An amount of ₹ 2,56,598 was credited to Smt. Bhagwanti's bank account at State

Bank of India, Chandni Chowk Branch in Delhi on 19 March 2011, which includes arrears of monthly basis pension at the rate of ₹ 3,500 with effect from November 2006. The remaining arrears would also be credited to her account after it received the money from Mumbai.

**10.30** The Commission considered the matter again on 17 June 2011 and observed that a delay of more than five years cannot be justified by any logic. An 85 years old widow needs money at this stage of life to live a life of dignity. Inaction on the part of the Central Government in the matter has affected the complainant's right to live with dignity, which is a human right recognized by the statute. By withholding the pension of the complainant for such a long time, the Central Government had violated her right to live with self-respect. For this reason, the Commission strongly feels that the Central Government is liable to compensate the complainant for this violation.

**10.31** A notice under Section 18 (a) (i) of the Protection of Human Rights Act, 1993 was thus issued to the Government of India, through the Secretary, Ministry of Finance to show cause as to why the Commission should not recommend monetary relief to the complainant on account of this inordinate delay in payment of her family pension.

**10.32** In response, the Department of Expenditure, Ministry of Finance, informed the Commission vide their letter dated 16 August 2011 that their Ministry was neither the pension sanctioning authority nor was it the pension disbursing authority and that it had played only a coordinating and facilitating role and had taken up the case with the CPAO, which was a subordinate organization under the Ministry of Urban Development.

**10.33** In view of this response, a show cause notice was issued to the Secretary, Ministry of Urban Development. The Director (Works), Ministry of Urban Development replied that the matter remained pending either in the office of the CPAO or in the Pay & Accounts Office. Once the PPO was issued by the CPWD Authority in the year 1969, there was no role to be played by the CPWD or the Ministry of Urban Development regarding payment of pension. It was further stated that CPAO was not a subordinate organization under the Ministry of Urban Development and that it was a subordinate office of the Ministry of Finance, Department of Expenditure.

**10.34** The Commission on 2 February 2012 issued a notice to the Central Pay & Accounts Officer to show cause as to why the Commission should not recommend monetary relief to the complainant on account of inordinate delay of five years in payment of family pension.

**10.35** The Controller of Accounts, Ministry of Finance, Department of Expenditure, CPAO, New Delhi, vide his letter dated 9 April 2012 opposed the grant of any compensation to the complainant. It was further stated that the complainant continued to get the family pension up to 31 October 2006 from the Treasury Office, Delhi, which was working under AG Audit, Delhi. For the purpose of getting family pension through bank, the Treasury Office, Delhi, transferred the original pension documents to CPAO on 14 November 2006 directly without special seal authority of AG Audit, Delhi. As per the approved procedure, CPAO forwarded

the original pension papers to AG Audit, Delhi on 8 December 2006 for embossing their special seal on the pension documents. However, no reply was received for one year from the office of the AG Audit and a reminder was sent on 18 December 2007. The AG Audit replied on 13 March 2008 stating that the documents were not received by them.

**10.36** According to the CPAO, the office of the AG Audit, Delhi, took one year and three months to report loss of original pension documents. A request for a duplicate PPO was sent to the CPWD on 13 March 2008 by AG Audit and the CPWD took almost two years and five months in preparing the duplicate PPO. The CPAO thus claimed that the delay was on the part of AG, Audit, Delhi and CPWD.

**10.37** A communication dated 16 August 2011 was also received from the Director (Administration), Ministry of Finance, Department of Expenditure, which stated that "CPAO have admitted to a significant delay of more than four years and four months in the payment of pensionary entitlements to Smt. Bhagwanti Devi due to communication gaps/non-action/other reasons by various authorities".

**10.38** Upon consideration of the response to the show cause notice, the Commission through its proceedings dated 11 June 2012 opined that given the facts and circumstances of the case, the initial point of delay occurred at the office of the CPAO, who claimed to have sent the documents to AG Audit, but the same never reached its destination. This resulted in the delay of almost five years. Hence, the complainant is certainly entitled to some compensation. The compensation is to be paid by the Government of India and it is irrelevant as to which Department of the Government pays it. Since the cause of delay was at the office of the CPAO, the Commission recommended to the Secretary, Ministry of Finance, Government of India, and the CPAO to pay a compensation of ₹ 35,000 to the complainant Smt. Bhagwanti Devi.

**10.39** The compliance report along with proof of payment is awaited in the matter.

5. *Non-Payment of Retirement Benefits to Class IV Employee*  
(Case No. 762/30/0/2012)

**10.40** The Commission received a complaint from Shri Kabool Singh, a Class IV employee who retired from the Office of Rehabilitation Services, Department of Social Welfare, Government of NCT of Delhi on 30 June 2010 alleging that his pay was not revised as per Rules before his retirement on 30 June 2010 and he was paid retirement benefits on the basis of the old grade pay of ₹1,800 instead of ₹ 2,400. He further alleged that non-payment of full retirement benefits as admissible to him under the Rules has led to immense financial hardships.

**10.41** After examination of the complaint, the Commission issued a notice to the Government of NCT of Delhi on 13 February 2012 and obtained a report from them which stated that the case of Shri Kabool Singh is being finalized shortly. A copy of the letter dated 14 March 2012 stating that the pay of the concerned employee had been re-fixed and the order of fixation issued vide order No.F.RS/Admbn./Pension/2009-10/1027-1031 dated 14 March 2012 was also enclosed.

**10.42** The Commission considered the report on 26 March 2012 and observed that the employee retired on 30 June 2010 and even after lapse of more than 1 ½ years, the Department failed miserably in revising the retirement dues of a Class IV employee and no efforts were further made even after a notice was issued by the NHRC to recalculate the revised pension, gratuity, commutation and leave encashment on the basis of Grade Pay of ₹ 2,400 as claimed by the employee that was not refuted by the Department. The Commission thus directed the Chief Secretary and the Deputy Secretary (Home), Government of NCT Delhi to finalize the revision of pay of the complainant and other similarly situated retired Class IV employees without any additional delay and release the revised benefits to them positively within four weeks. The Chief Secretary, Government of NCT of Delhi was also directed to institute an enquiry to identify the officials who were responsible for delay in processing the claims of the retired Class IV employees which deprived them of their legitimate dues.

**10.43** In response, a communication dated 19 July 2012 was received from the Head of Office (Rehabilitation Services), Government of NCT of Delhi informing the Commission that payment of arrears to seven retired officials including the complainant had been made. The letter further mentioned that the revised PPOs had also been issued to them. Besides, payment of arrears on account of grant of MACP was also made to the remaining Group-D employees after re-fixation of their pay. Regarding institution of disciplinary proceedings against the delinquent officials, the Senior Superintendent (Administration), Department of Social Welfare, Government of NCT of Delhi informed that an enquiry had been initiated to fix the responsibility for delay in processing the retirement claims of Shri Kabool Singh, the complainant and similarly situated retired employees.

**10.44** Since compliance to all the directions given by the Commission was looked into by the Government of NCT of Delhi, the case was closed on 7 September 2012 by the Commission.

6. *Inordinate Delay in Settlement of Terminal Benefits*  
(Case No. 1529/1/5/2011)

**10.45** Smt A. Menaga, w/o late Shri Annamalai in her complaint to the Commission stated that her son A. Arunkumar joined the Shipping Corporation of India Ltd. in 1996 as Engine Room Petty Officer. On 5 July 2003 she received a telegram that her son was missing on board MT Havildar Abdul Hamid PVT. (owned by the Shipping Corporation of India Ltd.). He was last seen in the ship at 8.30 p.m. on 2 July 2003. An FIR No.65/03 dated 3 July 2003 was registered. However, even after a span of 7 years his family did not receive any compensation. She sought the intervention of the Commission in the matter.

**10.46** In response to the notice given by the Commission, the Shipping Master, Ministry of Shipping, Government of India located in Kolkata informed the Commission that a death compensation amount of ₹ 12,85,000 had been sent to the Commissioner for Workmen's Compensation, Chennai for disbursement. However, the Chennai Office demanded his death certificate and certificates of the legal heir of the complainant's son which she was

unable to provide. She has been requested again to get the death/deemed death certificate in English language as early as possible.

**10.47** The Commission upon consideration of the matter on 4 May 2012 observed that Shri A. Arunkumar was working with Shipping Corporation of India Ltd. He went missing aboard the Vessel on 3 July 2003. FIR No.65/03 was also registered in the matter. Shri A. Arunkumar however could not be traced and as such he was presumed to be dead after 7 years. The compensation for a sum of ₹ 12,85,000 was sanctioned to be paid to the next-of-kin of Shri A. Arunkumar. In these circumstances, Deputy Commissioner of Labour-I, Chennai should correspond with Shipping Corporation of India Ltd. to find out the name of the nominee mentioned in service record of Shri A. Arunkumar for making the required payment. If no name of the nominee was mentioned in the service record, then the Deputy Commissioner should be directed to contact the complainant and find out the names of the legal heirs of the deceased, so as to pay the compensation to the widow of the deceased and his children, if he was married, and if he was unmarried to the mother of the deceased. The Commission directed that the Deputy Commissioner should comply with its order and report back within four weeks.

**10.48** In response, the Commissioner for Employees Compensation cum Deputy Commissioner of Labour-1, Chennai informed the Commission that a cheque No.708480 dated 14 August 2012 in favour of Smt. A. Menaga had been sent to Deputy Inspector of Labour, Vellore for disbursement of compensation amount to her.

**10.49** The Commission, meanwhile, also received a letter from the complainant stating that she had received the compensation cheque for a sum of ₹ 12,85,000 on 23 August 2012 vide cheque No.708480 dated 14 August 2012. The Commission next considered the matter on 12 September 2012 and observing that the complainant had received the compensation amount in respect of her deceased son, the case was closed.

7. *Non-payment of Terminal Benefits to Dependents of Ex-serviceman*  
(Case No. 1365/35/9/2011)

**10.50** The Commission received a complaint from Smt. Dropdi Devi, resident of District Pithoragarh, Uttarakhand, stating that her husband had died on 21 April 1993, but she is yet to receive the family pension. It was alleged in the complaint that she is not physically well and was unable to get proper treatment for want of money and that the concerned officers were delaying the matter on one pretext or the other.

**10.51** In response to the notice issued by the Commission, the Under Secretary, Ministry of Defence, (Pension Grievances Cell) vide his communication dated 7 February 2012 informed that the family pension in respect of Smt. Durali Devi alias Dropdi Devi, widow of late Havaladar Dharam Singh had been forwarded to State Bank of India, Pithoragarh on 30 April 2011 and that the petitioner was advised to liaise with the Bank for payment of family pension and in case of non-payment she may lodge a complaint with the Reserve Bank of India against the Bank.



**10.52** Upon consideration of the matter the Commission observed that the report received from the Ministry of Defence was incomplete and the allegations made were not enquired. The fact remains that the husband of the complainant died on 21 April 1993, yet the necessary formalities were completed after considerable delay, in the year 2011. The plight and trauma of the complainant could very well be gauged from this shocking fact alone. The Commission felt that no serious efforts were made by the authorities in the Ministry of Defence for redressal of grievances. The Commission, therefore, issued a notice to the Under Secretary, Ministry of Defence, (Public Grievances Cell) to get the matter enquired and accordingly inform the Commission about the action taken against the delinquent officers/officials who had caused inordinate delay in disbursement of the family pension to the complainant. The Commission also directed to send a copy of the report to the complainant for comments.

**10.53** In response, the Under Secretary, Ministry of Defence (Public Grievances Cell) vide his communication dated 20 July 2012 submitted a report stating that Smt. Dropadi Devi w/o late Dharam Singh Pawar had received ₹ 5,37,890 as family pension. Copies of the concerned records and justification of the time taken were also forwarded.

**10.54** The Commission considered the matter and observed that the complainant had received the family pension. And though the copies of the reports were also forwarded to the complainant for her comments, she had not responded. Presuming that the complainant had no pending grievances, the Commission closed the case on 31 July 2012.

8. *Payment of Retirement Benefits to Executive Engineer Working with Government of Madhya Pradesh after Death*  
(Case No. 1153/12/22/09-10)

**10.55** A complainant named Shri T. R. Jain in his complaint dated 30 September 2009 to the Commission alleged that GPF amount was not paid to him even after 7 years of his retirement on 11 July 2002 as Executive Engineer from the Public Health Engineering Department, Government of Madhya Pradesh. The Commission in its proceedings dated 10 May 2012 observed that Shri T. R. Jain retired in July 2002 but his GPF amount of ₹ 6,52,654 could only be paid on 9 July 2011 after the complainant died on 17 October 2009, while his half pay leave was still not being given. Accordingly, the Commission vide its proceedings dated 20 September 2012 directed the Government of Madhya Pradesh to pay an amount of ₹1,00,000 to the next of kin of Shri T. R. Jain as compensation. Pursuant to the directions of the Commission, a letter dated 7 March 2013 was received from the Deputy Secretary, Government of Madhya Pradesh, Public Health Engineering Department wherein it was informed that earned leave encashment of late Shri T.R. Jain had been paid to his wife, Smt. Kusum Jain, by crediting the amount in her account with the State Bank of India and permission for payment of the amount of compensation of ₹ 1,00,000 was granted too. However, the proof of payment is still awaited by the Commission.





9. *Payment of Retiral Benefits to an Employee of OFDC, District Rayalgarh, Odisha*  
(Case No. 2559/18/32/2011)

**10.56** The complainant Sangram Charan Chakhi alleged vide complaint dated 24 September 2011 that he retired from OFDC, Muniguda (C) Division of Rayalgarh District in Odisha but could not get his EPF dues and pensionary benefits. Pursuant to the directions of the Commission, the report dated 23 December 2011 submitted by the Regional Provident Fund Commissioner, Odisha revealed that the EPF dues of the complainant had already been settled for ₹ 24,934 and remitted by cheque no. 226528 dated 19 December 2011 to the bank of the complainant and his monthly pension at the rate of ₹ 893 with an arrear of ₹ 65,308 was also paid to him vide cheque no. 108395 dated 7 June 2012. On knowing that all the dues of the complainant had been paid to him, the Commission closed the matter on 19 October 2012.

10. *Payment of Retiral Benefits to an Employee of Oil India Limited*  
(Case No. 181/4/16/2011)

**10.57** One Shri B.M. Roy, a retired employee from Oil India Limited in his complaint dated 18 January 2011 addressed to the Commission alleged that he had not got arrears of his pension. On the directions of the Commission, the Head (Legal), Oil India Limited, Noida, Uttar Pradesh intimated that the Accounts Department of the Company had informed that commuted pension amounting to ₹ 34,879 was paid vide cheque dated 5 June 2012. A monthly ex-gratia payment of ₹ 584 is being paid from May 2012 along with an arrear of the ex-gratia amounting to ₹ 12,848 for 22 months from August 2010 to April 2012 has been paid by way of Bank Transfer to the account of the complainant Shri B. M. Roy. On knowing all the details of the payment from Oil India Limited, the Commission closed the matter on 1 November 2012.

11. *Non-payment of Special Pension to Widow of a Deputy Jailor in Mirzapur, Uttar Pradesh*  
(Case No. 23002/24/2002-03)

**10.58** In the Annual Report 2011-2012 of the Commission, detailed account of the above case was reported. In the complaint, the widow Smt. Savitri Devi, resident of Mirzapur in Uttar Pradesh stated that her late husband who worked as Deputy Jailor was murdered in 1977 while performing his official duties and that she was not being paid extraordinary pension by the State Government despite her repeated requests. On examination of the case by the Commission, it directed the Chief Secretary, Government of Uttar Pradesh to personally look into the matter thus taking appropriate and sympathetic action so as to provide relief to the widow of deceased Shri Brij Bhushan Dubey.

**10.59** It was further reported in the 2011-2012 Annual Report that in response to Commission's directive, sanction had been accorded by the Governor of Uttar Pradesh to pay extraordinary pension to Savitri Devi and copies of the order had been sent to the Accountant General and PPO and GPO with a request to pay arrears at the earliest. The Commission thereafter issued a notice to the Inspector General, Prison Administration and

Correctional Services, Government of Uttar Pradesh calling upon him to send the proof of payment of arrears to the complainant.

**10.60** The Commission is pleased to report that after a delayed period of 35 years the office of the Accountant General (A&E), Uttar Pradesh, Allahabad vide its communication dated 21 August 2012 forwarded the compliance report stating that the arrears of extraordinary pension amounting to ₹ 5,48,081 was paid to the petitioner Smt. Savitri Devi on 18 August 2012. On receipt of the compliance report, the Commission closed the case.

*12. Non-Payment of Pension and Other Dues to an Elderly Person in Uttar Pradesh  
(Case No. 988/24/47/2012)*

**10.61** Shri Ghanshyam Das, in his complaint dated 22 December 2011, alleged that he retired from the services of Uttar Pradesh Jal Nigam, Lucknow on 30 June 2011 but the concerned Department has not paid his retiral dues till date. Pursuant to the directions of the Commission, the Chief Secretary, Government of Uttar Pradesh vide letter dated 4 June 2013 informed that the gratuity amount of ₹3,85,140 due to Shri Ghanshyam Das has been paid. Besides, it had also made an order for payment of commutation amount ₹3,94,173 along with the leave encashment amount of ₹ 2,54,070 (cumulative ₹ 6,48,243) vide order dated 3 June 2013.

*13. Non-Payment of Pension and Other Dues to an Elderly Person in Jharkhand  
(Case No. 256/34/18/2012)*

**10.62** The Commission received a complaint from one Shri Bir Singh Boypai, resident of West Singhbhum District, Jharkhand, alleging that he superannuated on 30 June 2008 but has not been paid his terminal benefits, including regular pension causing grave hardship to the whole family. In response to the notice issued by the Commission, the Deputy Commissioner, West Singhbhum District, Chaibasa, Jharkhand vide his communication dated 7 May 2012 submitted that the complainant has been paid his terminal benefits, which comprises commutation amount of ₹ 1,30,392, General Provident Fund of ₹ 83,887, provisional pension of ₹ 1,680, Group Insurance of ₹ 58,614 and arrears of 6th Pay Commission amounting to ₹1,05,640. Other than this, appropriate departmental action has been initiated against three delinquent officials towards delay in payment of terminal benefits accruing to Shri Bir Singh Boypai.

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## RIGHTS OF PERSONS WITH DISABILITIES

**11.1** According to the United Nations, 650 million people, roughly 10 per cent of the world's population has some kind of a disability. In India alone, there are roughly 100 million people with disabilities, which is almost 1/6th of the disabled population in the world. Persons with disabilities are often the most marginalized and vulnerable groups as they tend to face not only physical limitations but also working or environmental and social barriers. These barriers include stigmatization, prejudice and discrimination. All these negative conditions act as a barrier against their full participation in the Society. People with disabilities often live in isolation and are insecure. Many people do not want to reveal their genuine disability status in any data collections because of stigma and discrimination. Lack of adequate and comparable data on persons with disabilities comes in the way of developing effective programmes and to monitor their impact on disability issues.

**11.2** The Constitution of India ensures equality, freedom, justice and dignity of all individuals, which implies an inclusive society for all, especially the disadvantaged. Article 41 of Part IV ["Directive Principles of State Policy"] which is particularly relevant with regard to persons with disabilities, reads as follows:

*"41. Right to work, to education and to public assistance in certain cases. - The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."*

**11.3** In pursuance of the above provision of the Constitution, several initiatives have been taken by the Government for the welfare and empowerment of persons with disabilities. For example, "Relief of the disabled and unemployable" figures at S. No. 9 in "List II" ("State List") in the Seventh Schedule of the Constitution. "Disability" also appears in the 11th & 12th Schedules (pertaining to Panchayats & Municipalities) of the Constitution in the following manner:-

*11th Schedule: Entry No.26:- "Social Welfare, including welfare of the handicapped and mentally retarded", and*

*12th Schedule: Entry No.9:- "Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded".*

**11.4** Besides, there are three Acts governing various aspects of disability, which are as follows:-

1. The Rehabilitation Council of India Act, 1992,
2. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; and
3. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

**11.5** The National Human Rights Commission (NHRC) is deeply concerned and involved in the protection and promotion of rights of persons with disabilities. It is of the firm view that persons with disabilities should enjoy all human rights on equal basis with others. Towards this end, it adopted a multi-pronged approach to deal with rights of persons with disabilities. First and foremost, it urged the Government of India for the adoption and proper implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and secondly, it dealt with redressal of individual complaints. Thirdly, it made efforts to spread awareness regarding their rights.

**11.6** The Commission had earlier played a very active role in drafting of the UN Convention on Rights of Persons with Disabilities, 2006 (UNCRPD). The Convention marks a radical shift in defining and understanding disability as it shifts its focus from a medical/social perspective to an approach based on human rights. The Government of India ratified the UNCRPD on 1 October 2007.

**11.7** During the period under report, the following activities were taken by the Commission.

### **A. Country Report on Rights of Persons with Disabilities**

**11.8** In accordance with paragraph 1 of Article 35 of UNCRPD, each State Party shall submit to the Committee, through the Secretary General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned. Paragraph 1 of Article 36 further provides that the Committee may request further information from the States Parties.

**11.9** States need to follow the reporting process, including the process of preparation of their reports, not only as a means to ensure compliance with their international obligations, but also as an opportunity to take stock of the state of human rights protection within their jurisdiction for the purpose of more efficient policy planning and implementation of the Convention. The report preparation process thus offers an occasion for each State Party to:

- (a) conduct a comprehensive review of the measures it has taken to harmonize national law and policy with the provisions of the relevant international human rights treaties to which it is a party;
- (b) monitor progress made in promoting the enjoyment of the rights set forth in the treaties in the context of the promotion of human rights in general;
- (c) identify problems and shortcomings in its approach to the implementation of the treaties; and
- (d) plan and develop appropriate policies to achieve these goals.

**11.10** Furthermore, States Parties should encourage and facilitate the involvement of non-governmental organizations, including organizations of persons with disabilities in the preparation of reports. Constructive engagement on the part of these organizations will enhance the quality of report as well as promote the enjoyment by all of the rights protected by the Convention. The report should also contain an explanation of the procedure used to consult with Civil Society and in particular with representative organizations of persons with disabilities and the measures taken to ensure that this process is fully accessible.

**11.11** States Parties must recognize and respect the diversity of persons with disabilities and ensure that their report is not generalized, but specific to different types of disability.

**11.12** Keeping the above in view, the Government of India was required to submit its country report before the Committee by 2009. As reported in the Annual Report of 2011-2012, the Commission requested the Union Ministry of Social Justice and Empowerment, Government of India to submit India's report to the Committee on time. Due to its continuous efforts, a draft copy of the country report was prepared by NALSAR Law University, Hyderabad on behalf of the Union Ministry, which was also forwarded to the Commission for comments. In order to discuss the draft country report of India, the Ministry of Social Justice and Empowerment also held a National Consultation Meeting on 16 & 17 January 2012 at Vigyan Bhawan, New Delhi. This meeting was attended by Joint Secretary (Training) of the Commission. On examination of the draft country report, the Commission forwarded its observations, especially the initiatives taken by it, to the Government of India.

**11.13** Some of these initiatives include requesting the Government of India to sign and ratify the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities as it is of the view that the Optional Protocol will strengthen the accountability mechanism and serve as an additional tool for the promotion of the rights of persons with disabilities. As persons with disabilities have to incur higher expenses in terms of assisted devices, medical equipments, transport and other related expenses to carry out their day-to-day activities, it definitely has a negative impact on their disposable income. It thus recommended to the Union Finance Minister to make special provisions in the income tax laws, so as to provide them higher exemption limit or extend any other benefit to enable them to maintain same level of well being as any other tax payer.

**11.14** Based on the inputs given by different stakeholders, a revised draft of the country report was prepared by NALSAR. A copy of the revised draft was also forwarded to the Commission for comments/suggestions. The Commission communicated its observations to the Ministry of Social Justice and Empowerment as well as to the Ministry of Home Affairs in May 2012. It is hoped by the Commission that the Government of India has finally submitted the revised country report to the UNCRPD Committee.

## **B. Rights of Print Disabled Persons**

**11.15** As reported in the previous year's Annual Report that the Commission reviewed 'The Copy Right (Amendment) Bill, 2010' from the human rights perspective and noted that the same did not meet the demand of print disabled persons. It had thus recommended amendments in the proposed Bill, which was sent to the Parliamentary Standing Committee for consideration. The said Bill has been passed by the Parliament and the recommendations of the Commission have been duly incorporated.

## **C. National Conference on Leprosy**

**11.16** The Commission had received a letter from the Deputy Chairman, District Congress Committee, Faridabad wherein he stated that the Government of NCT of Delhi was providing financial assistance of ₹ 1800 per month to beneficiaries under the Rehabilitation Centre for Lepers Scheme with effect from 1 July 2009. He suggested that the NHRC may direct all the States/Union Territories to provide similar kind of financial assistance to leprosy affected persons as being provided by the Government of NCT of Delhi. Before taking any action, the Commission decided to obtain information from all the States/Union Territories with regard to welfare/financial assistance schemes provided by them to persons affected by leprosy. It thus wrote to the Chief Secretaries/ Administrators of all the States/Union Territories.

**11.17** On the basis of responses received from States/Union Territories, the Commission observed that only Delhi, Karnataka and Haryana were providing pension from their allocated budget to leprosy affected persons. Most of the other States/Union Territories were providing financial assistance under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Under the Act, person with disability means a person suffering from not less than forty per cent of any disability as certified by a medical authority. It was, however, reported to the Commission during the course of regional review and national health meetings organized by it earlier that procuring a disability certificate from the civil surgeon is an arduous task and many disabled persons fail to get the requisite certificate for themselves. It was also observed by the Commission that many of the States were implementing the 'project for rehabilitation of leprosy cured persons' under the Deendayal Disabled Rehabilitation Scheme to Promote Voluntary Action for Persons with Disabilities (Revised DDRS) of the Ministry of Social Justice and Empowerment, Government of India for welfare of persons affected by leprosy. The basic aim of this project



is to empower leprosy cured persons with skills to enable them to improve their socio-economic condition. The projects include vocational training units and homes (only for severely disabled).

**11.18** Many of the States particularly focused on persons affected by leprosy under BPL and Antyodaya Anna Yojna (AAY) schemes. For their inclusion, it was essential to have a disability certificate from a medical authority. Other areas of concern related to persons affected by leprosy were employment, stigma and discrimination, discriminatory laws, hygiene, sanitation and their living conditions in colonies where they are residing.

**11.19** In order to look into these issues as well as make an assessment about the implementation of existing programmes and policies for persons affected by leprosy, including discrimination faced by them, the Commission organized a one-day National Conference on Leprosy at India International Centre, New Delhi on 18 September 2012. The Conference was attended by representatives of States/Union Territories dealing with the issue, State Human Rights Commissions, Union Ministries and NGOs who were working closely with the leprosy affected persons. Important suggestions/recommendations that emanated out of the National Conference are as follows:

- There is need to give wide circulation to the principles and guidelines prepared by the Human Rights Council and which emphasize that persons affected by leprosy and their family members should be treated as individuals with dignity.
- State Governments must take steps to eradicate discrimination being faced by persons affected by leprosy by developing appropriate IEC material and ensure its wider dissemination.
- There is need to generate awareness on the issue of leprosy by way of organizing training programmes, workshop, lectures, nukkad natak, TV spots, radio talks, puppetry, etc. for all sections of the society.
- The discriminatory provisions in central and state laws affecting Civil and Political Rights and Economical, Social and Cultural Rights may either be repealed or suitably amended. Research study would be carried out to suggest suitable changes.
- Leprosy affected persons should be given proper care treatment in all the hospitals without discrimination.
- In order to provide an enabling environment for leprosy affected persons and their families, there should not be separate colonies for leprosy affected person. Efforts must be made to settle them in the mainstream society by allocating lands and housing. They should live in a sporadic manner in the society.

- The State Governments must take steps to improve living conditions in the colonies where people affected by leprosy reside.
- Leprosy should be included in the school syllabus so that children are sensitive towards leprosy affected/cured persons and their familiar.
- The Central Government must ensure inclusion of persons affected by leprosy in the poverty alleviation schemes.
- There is a need to provide adequate and reasonable level of pension to persons affected by leprosy keeping the best practice followed by government of Delhi as a model.
- There is a need to review criteria of minimum requirement of 40% per cent disability under the PWD requirement Act, 1995 for persons affected by leprosy to obtain disability certificate. Most of the LAPs are having 30 per cent disability and hence are not eligible for disability certificate.
- Employment in Government can be provided as is done in Karnataka where 130 Group D employees have been recruited. In Kerala, they are employed as hospital attendants. Such practices can be replicated.
- Steps must be taken to ensure easy availability of disability certificate to persons affected by leprosy by organizing special camps.
- The State must take steps to motivate the persons affected by leprosy in developing self help groups for self-care like dressing of their ulcers.
- Leprosy affected and cured persons and their families should live a dignified life. For this, they need to be empowered with basic human rights like right to education, right to work, right to health, right to food, right to housing and other economic, social and cultural rights. They should have access to all these rights without facing any kind of discrimination.
- There are no leprosy specific schemes and these should be designed. There is no scheme for allotment of land to them. Further, reservation with in persons with disabilities is required as they are most vulnerable with little say.
- There is a need for early detection and ASHAs may be provided incentive across the country as is being done in some States like Karnataka. These States also have Swarna Arogya Chatanya Programme for early detection which may be implemented elsewhere.

**11.20** These recommendations were sent to all the stakeholders for compliance. The Commission is hopeful that its recommendations are being complied with all the States and Union Territories.

## D. Awareness Programme on Leprosy

**11.21** Another initiative taken by the Commission was an awareness programme on leprosy organized in partnership with Sasakawa India Leprosy Foundation (SILF), a Delhi based NGO. In the said programme, known as Young Partners Program (YPP), the objective is to sensitize school going children about the disease of leprosy. As part of first phase of the programme, it was decided to hold a Sensitization Workshop for Principals and Senior Teachers of Government schools in NHRC. Accordingly, the said workshop was organized by SILF in the Commission on 30 November 2012. In this workshop, Principals and Teachers from 24 Government schools were informed about the facts and myths relating to leprosy, the prevalence of the disease in the world and in India, UN resolution against discrimination against leprosy affected people, the ramification of the disease on the immediate surrounding and steps to improve their plight.

**11.22** Under the second phase of the programme during January and February 2013, it was decided to organize sensitization programmes for students of Government schools in Delhi studying in Class VII and IX. Accordingly, SILF visited three Governments schools and sensitized students from Class VII to IX. These children were shown a documentary and provided relevant IEC material. With the help of teachers, a group of 30 children from these schools were selected for participation in a poster competition on leprosy and how it could be tackled. These children were also given necessary material for making the posters. The posters made by children were later displayed in the respective schools. It is hoped that SILF will take this momentum of spreading awareness forward in other schools as well.

## E. Illustrative Cases Related to Rights of Persons with Disability

1. *Discrimination, Harassment and Torched upon Differently Abled Persons at Andaman and Nicobar Island*  
(Case No. 47/26/0/2012)

**11.23** The Commission received a complaint dated 19 November 2012 from Shri P. S. Saboo, General Secretary, A&N National Human Rights Commission Islands Handicapped Persons Association, Port Blair alleging discrimination, harassment and torture to physically challenged persons by the State Administration. It has been further alleged that their huts have been demolished. The complainant has sought intervention of the Commission in the matter.

**11.24** The Commission took cognizance on 21 December 2012 and directed the Chief Secretary, Andaman & Nicobar Islands to submit the action taken report.

**11.25** The matter is under consideration of the Commission.

2. *Denial of Equal Opportunity to Persons with Disability in Odisha*  
(Case No. 489/18/0/2013)

**11.26** In this case, the Commission received a complaint dated 30 January 2013 from Shri Ranjan Kumar Biswal, General Secretary, Milton Charitable Foundation for the Visually Handicapped, stating that as per information obtained by his organization under RTI Act, 2005, it has come to notice that the Government of Odisha has not employed any blind candidate in the Group A, B, C and D respectively. Near about 200 blind persons have been appointed as "Shikhya Sahayak Teacher" for a time bound project. Neither the State Government has identified the posts for the blind persons nor implemented the Section 33 of the PWD Act, 1995, for making reservations and equal opportunity for physically handicapped.

**11.27** While considering the complaint, the Commission vide its proceedings dated 6 March 2013 called for a report in the matter from the Chief Secretary, Government of Odisha. The report was received from the Commissioner-cum-Secretary to the Government of Odisha, Women and Child Development Department stating that the State Government has taken necessary measures by formulating Resolution No.3404 dated 13 February 2006 wherein there is provision of 3 per cent reservation of posts and services for Persons with Disabilities, 1 per cent each for the Blind, Deaf and Orthopaedically Handicapped. The provision of 3 per cent reservation of posts for PWDs has also been extended for PSUs and in case of contractual employment. The process of identification of posts in different government establishments suitable for PWDs of different categories is going on. It is also mentioned in the report that a number of meetings on the issue have been held and all the departments of State Government have been moved at times to ensure data on identification of posts. As per report, a fresh resolution of identification of posts for PWDs will be made soon after receipt of data from different government departments.

**11.28** The Commission considered this report vide its proceedings dated 8 November 2013 and called for a final report in the matter from the Government of Odisha. The final report is yet to be received.

3. *Denial of Benefits Available to the Physically Challenged Employees of the State of Maharashtra.*  
(Case No. 3688/13/16/2013)

**11.29** The Commission received a complaint dated 31 October 2013 from Sunita Rajendra Sapkale, a physically challenged teacher belonging to a Scheduled Caste in Maharashtra alleging that benefits available to the physically challenged employees of the State have not been extended to her.

**11.30** The Commission vide its proceedings dated 18 May 2012 issued notice to the Principal Secretary, Education Department, Maharashtra, to submit a report to the

Commission within four weeks. A copy of the complaint was also forwarded to the District Collector.

**11.31** The matter was taken up on 29 January 2013 by the Commission in its Open Hearing at Nagpur.

**11.32** Smt. Ashalata Patil, Deputy Education Inspector, Mumbai appearing on behalf of the government stated that the petitioner is handicapped and is entitled to get benefits and within a period of four weeks all the benefits will be extended to her. In view of this assurance, the case was closed by the Commission with the observation that if the petitioner still remains aggrieved, she may again approach the Commission. No further complaint has been received from her.

4. *Denial of Extra Time in Examination to Handicapped Students*  
(Case No. 934/13/17/2012)

**11.33** The Commission received an email complaint dated 15 May 2012 from Ms Paveen Gunganani forwarding a request from one Ms Kritika Gunganani, a handicapped student of B.Com for providing extra twenty minutes for each hour of examination by the RSTM University, Nagpur as per the rules for the handicapped students. She further alleged that the University had only allowed ten minutes extra for each hour and was also not keeping the answer sheets of handicapped students in separate bundles as per rules.

**11.34** The Commission vide its proceedings dated 18 May 2012 took cognizance of the complaint and issued notice to Chief Secretary, Government of Maharashtra and Registrar, RSTM University, Nagpur, calling for a report, within seven days.

**11.35** Controller of Examinations, Rashtrasant Tudadoji Maharaj Nagpur University, Nagpur submitted a report dated 13-27 August 2012. The report reveals that as per provisions under section 32(1) of Maharashtra Universities Act, 1994, an instructions 'Booklet for proper Organization of Examinations', contains guidelines for granting extra time to the examinee. It states that facility of one additional hour (next and above the stipulated time limit of the paper) to the writer of the Blind Examinee and extra half an hour (over and above the stipulated time limit of the paper) to the writer of Physically Handicapped examinee can also be availed. The Examinee/student should obtain prior permission well in advance from the Chief Supervisor of his centre by submitting necessary documents/ Certificates.

**11.36** Section Officer, High & Technical Education Mantralaya, Mumbai vide a report dated 30 August 2012 submitted that provision for extra time to blind examinee and physically handicapped examinee had been made and the same was being provided to them.

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

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# HUMAN RIGHTS EDUCATION, TRAINING AND AWARENESS

**12.1** Section 12 (h) of the Protection of Human Rights Act, 1993 (PHRA) mandates the Commission the responsibility to "spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means". A similar duty has been assigned to the State Human Rights Commissions (SHRCs) in respective States as per Section 29 of the PHRA.

**12.2** During the period under review, the National Human Rights Commission (NHRC) undertook various activities to promote human rights education, training and awareness in the country.

### **A. Training Programmes Organized by NHRC**

**12.3** As part of its mandate, during the year 2012-2013, the Commission approved 131 training programmes of the Training Division to be conducted by 105 different institutes on human rights and its related issues. Out of these, 105 training programmes were successfully organized by 87 institutions/universities/NGOs. In addition, 9 training programmes of 5 institutes for the year 2011-2012 were conducted during 2012-2013 thus taking the overall total of training programmes to 114. These programmes were conducted by 92 institutions. The details of the training programmes organized by the Training Division of NHRC are at **Annexure-13**.

### **B. Summer and Winter Internship Programmes**

**12.4** The NHRC has been regularly conducting two internship programmes of one month duration each every year. During 2012-2013, the Summer Internship Programme (SIP) was held from 14 May to 12 June 2012 in which 49 interns consisting of 29 females and 20 males from diverse universities/colleges of 11 States and Union Territories of India participated. The Winter Internship Programme (WIP) was held from 31 December 2012 to 29 January 2013 in which 45 interns consisting of 21 females and 24 males from different universities/colleges of 11 States and Union Territories of India participated. From the point of view of giving hands-on experience to the participants of the internship programmes, the students were taken for field visits to NGOs and district jail. The interns were also attached with various Divisions of the Commission and given project assignments on different aspects of human rights situation in the country on which they worked and later

submitted reports. An interactive session with Delhi Police Officers was specially arranged for the students during the two internship programmes. Based on the overall performance of the students during the course of SIP, Sanchit Singh of National Law Institute University, Bhopal and Shikha from Tata Institute of Social Sciences, Mumbai stood first and second respectively. Four interns namely, Bhartendu Agarwal from National Law Institute, Jodhpur; Ritam Arora from Amity University, Lucknow; Asha P. Soman from School of Legal Studies, Kochi University of Science & Technology and Arjun Krishna, National Law Institute University, Bhopal shared the third position. In the WIP also six interns were awarded for their overall performance. Gitanjali Ghosh from North Eastern Hill University NEHU, Shillong; Siddharth Brook from Indian Law Institute, New Delhi and Pronami Dutta from Centre for Juridical Studies, Dibrugarh University, Assam stood first, second and third respectively. Four other interns, namely, K. Raghava Ramana from College of Law, Osmania University, Hyderabad; Deeksha Gehlot from Amity Law School, Noida and Prerana Chaturvedi, Campus Law Centre, University of Delhi were also awarded for their overall performance.

### **C. Short-term Internship Programmes**

**12.5** In addition to the Summer and Winter Internship programmes, the NHRC also conducts short-term internship programmes for a period of 15 days to one month. This programme is open throughout the year for students pursuing various disciplines including Law. During the short-term attachment, students are exposed to the functioning of various Divisions of the Commission and they are made to work for short stints in each Division. These interns have their placement in the Facilitation Centre (MADAD) of the NHRC also where they get hands-on experience of interacting with victims of human rights violations. Besides, the interns are taken for a field visit to a District Jail, whereby they observed its overall functioning and the treatment meted to the inmates therein. During 2012-2013, approximately 308 students from different law universities/colleges/institutes attended the short-term internship with the NHRC.

### **D. Sensitization Programme on Human Rights for BSF Officers**

**12.6** A one-day sensitization programme for BSF Officers was organized by the NHRC at Agartala in Tripura on 17 April 2012. This was the third in the series of programmes organized by the Commission for BSF personnel. The first two programmes were held earlier in Kolkata for the South-Bengal BSF Frontier and Siliguri for the North-Bengal BSF Frontier. The programme was inaugurated by Shri P. C. Sharma, Member, NHRC. Others who addressed the participants were Shri Sunil Krishna, Director General (Investigation), NHRC; Shri Damodar Sarangi, Special Rapporteur, NHRC; Shri D. K. Arya, former Director General, BSF; Shri J. S. Kochher, Joint Secretary (Training) and Shri Viplav Kumar, SSP, NHRC.

## **E. Sensitization Programme on Human Rights for KVS Officers**

**12.7** A three-day sensitization programme on Human Rights for education and administrative officers of Kendriya Vidyalaya Sangathan (KVS) was organized by the Commission from 24 to 26 April 2012 at Chandigarh, Punjab. The objective was to sensitize the senior level personnel of KVS about human rights, so that they in turn could sensitize the teachers and students about the importance of human rights.

## **F. Training Programme for RPF Probationers**

**12.8** A batch of 13 probationer Assistant Security Commissioners of the Railway Protection Force (RPF) recruited through Civil Services Examination 2007 and 2009, attended a two-day training programme at the NHRC on 7 and 8 June 2012. During the two-day programme, the Probationers were apprised about the structure and functioning of the Commission. They also visited the Facilitation Centre (MADAD) and the Computer Cell of the NHRC to have hands on experience about the complaint management system of the Commission.

## **G. Hindi Fortnight at NHRC**

**12.9** The NHRC's Annual Hindi Fortnight Event, to promote the use of official language in its day-to-day working, was organized from 14 to 28 September 2012. The officers and staff of the NHRC actively participated in the quiz programme, translation and essay competition as well as in other programmes organized on the occasion for the promotion of Hindi language.

## **H. Foundation Day Celebrations**

**12.10** The NHRC celebrated its 19th Foundation Day on 12 October 2012. As part of the Foundation Day Celebrations, a painting competition was organized for the children of NHRC employees. For purposes of the painting competition, the children were divided into three age groups - 5-8 years; 9-13 years and 14-17 years. Three prizes in each category were awarded to the best paintings. Other than this, a sports competition was organized by the Commission for its employees.

**12.11** The celebrations ended with a spectacular cultural programme that was organized in the evening of 12 October 2012 at FICCI Auditorium, New Delhi. In the cultural programme, the officers and staff of NHRC, members of their families, differently abled artists from 'Ability Unlimited' group and singers performed and enthralled the audience. Justice Shri K G. Balakrishnan, Chairperson, NHRC presided over the function. Also present on the occasion were Justice Shri B. C. Patel and Shri Satyabrata Pal, Members of the Commission along with other renowned dignitaries. Speaking on the occasion, Justice Shri Balakrishnan recalled the efforts of the Commission in ensuring protection and promotion of human rights. He further emphasized that the Commission so far has disposed off an

estimated 11 lakh cases. The phenomenal increase in the number of complaints from 496 in 1993-1994 to 95,174 during 2011-2012 is an indicator of the growing awareness about human rights among the people. He added that despite its limited resources, the Commission's continuous endeavour has been to make itself accessible to the people.

**12.12** On this occasion, Justice Shri Balakrishnan along with other Members of the Commission, namely, Justice Shri B. C. Patel and Shri Satyabrata Pal gave away prizes to the winners of the children's painting competition. Earlier Shri J. S. Kochher, Joint Secretary (Trg.), NHRC welcomed the guests and highlighted the importance of the event.

## **I. Debate Competition for Para-Military Forces**

**12.13** In order to promote human rights awareness among the personnel of Central Police Organizations, the NHRC has been regularly organizing a debate competition on a range of human rights issues every year since 1996. The debate is initially conducted at zonal levels whereby it short-lists debaters for the semi-final and final round. The responsibility to hold the semi-final and final round is entrusted to one of the para-military forces organization on rotation basis. During the period under review, the Commission organized an All-India Debate Competition of Para-Military Forces in Hindi & English in collaboration with the Sashastra Seema Bal (SSB) in New Delhi on 18 October 2012.

**12.14** The topic of the debate competition was "Human Rights can be Observed by Para-Military Forces Only by Endangering National Security". Among the individual honours, the first prize for debate in Hindi was awarded to Shri Santosh Verma, Head-Constable, CRPF and in English to Shri Neeraj Chand, Deputy Commandant, SSB. The second prize in Hindi was given to Ms. Rekha Sharma, Sub-Inspector, CISF and in English to Shri Anil Kumar, Assistant Commandant, CISF. The third prize in Hindi was awarded to Shri Deepak Sawalakhia, Assistant Commandant, CISF and in English to Captain T. Krishna, NSG. Consolation prize in Hindi was given to Shri Anil Kumar Rana, Inspector, ITBP and in English to Major Bhargav A., NSG. The overall best team rolling trophy was won by Central Industrial Security Force (CISF).

**12.15** The winners were selected by a three-member panel of jury headed by Justice Shri K. G. Balakrishnan, Chairperson, NHRC; Shri A. K. Suri, Director General, Railway Protection Force and Prof. B. T. Kaul, Faculty of Law, University of Delhi. Congratulating the winners, Justice Shri Balakrishnan said that the role of security forces in upholding human rights is well defined and in no way these should be compromised. He accoladed the valued inputs of all the participants and hard work put in by them. He also thanked the jury and the SSB for making the event successful.

## **J. Training Programme for Indian Foreign Service Probationers**

**12.16** The NHRC from 2006 onwards has been collaborating with the Foreign Service Institute (FSI) of the Ministry of External Affairs, New Delhi in organizing a two-day 'Attachment Programme for the Indian Foreign Service Probationers'. The main objective

of the attachment programme is to sensitize the probationers on various human rights issues. During 2012-2013, 34 Indian Foreign Service Probationers of 2011 batch were attached with the NHRC on 22 & 23 October 2012. The probationers were given an over all view about the functioning of various Divisions in the Commission including an orientation about the complaint management system. They also interacted with the Chairperson, Members, Secretary General and other senior officers of the NHRC.

## **K. Human Rights Day Celebrations**

**12.17** The NHRC celebrated the Human Rights Day on 10 December 2012 at a function organized in Vigyan Bhawan, New Delhi.

**12.18** Addressing the gathering on the occasion, Hon'ble Shri Pranab Mukherjee, President of India and the Chief Guest, said that on this day, in 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, which proclaims that "All human beings are born free and equal in dignity and rights". The Declaration, since then, has provided guidance to many nations in ensuring their laws are in tandem with the fundamental of human rights. It is a reference document from which all subsequent human rights legal instruments have evolved to ensure protection of the weak and disadvantaged from injustice and arbitrary treatment, he added.

**12.19** Tracing India's association with the international human rights movement, the President recalled the contribution made by Dr. Hansa Mehta, a freedom fighter, educator and social reformer, who significantly contributed to the drafting of the Declaration. The father of the Nation, Mahatma Gandhi, who was widely recognised as among the foremost human rights activist of the world was also consulted when the Declaration was being drafted, he mentioned. The Constitution of India, he stated, also drew inspiration from the Declaration. As a result, there are several identical features between the Fundamental Rights contained in our Constitution and the Articles of the Universal Declaration on Human Rights.

**12.20** Dwelling on the concept of human rights, the President said that the promotion of political rights alone will not lead to the full enjoyment of human rights. Economic, social and cultural rights are equally important. The two sets of rights, he reiterated, are inter-dependent. He added that India's commitment to economic, social and cultural rights is reflected in the Directive Principles of the State Policy of the Constitution. These principles have been described as fundamental in the governance of the country.

**12.21** Lauding the initiatives of the NHRC since the time it was constituted, the President called upon the Government, the judiciary, statutory bodies like the National Commissions and Civil Society to do their utmost for the promotion and protection of human rights. He also stressed that awareness of human rights must be increased by including it as a subject in the school curricula. A human rights culture should ultimately infuse the consciousness of each and every citizen of the country.

**12.22** Speaking on the occasion, Justice Shri K. G. Balakrishnan, Chairperson, NHRC, said that the policies and programmes of the Government should have a strong human rights component to ensure a truly beneficial and equitable utilization of resources. The NHRC, with its expansive range of activities, can at best work as a catalyst towards safeguarding the rights of common man.

**12.23** On the occasion, the message of the UN Secretary General, Mr. Ban Ki-moon was read out by Ms. Lise Grande, UN-Resident Coordinator. In the message, the UN Secretary General emphasized that "Everyone has the right to be heard and to shape the decisions that affect their community. .... No matter who you are, or where you live, your voice counts. On this Day, let us unite to defend your right to make it heard."

**12.24** Earlier, Dr. Ashok Sahu, Secretary General, NHRC welcomed all the guests and dignitaries assembled to observe Human Rights Day with the Commission.

**12.25** The President released nine NHRC publications, which included its annual 'Journal' in English and Hindi; *Manav Adhikar Sanchayika*; *A Handbook on Human Rights Conventions*; *Care and Treatment in Mental Health Institutions: Some Glimpses in the Recent Period*; and *Professional Policing: A Perspective on Interviewing Skills & Report Writing*. The function ended with a vote of thanks given by Shri A. K. Shrivastava, Joint Secretary (P&A), NHRC.

## **L. National Conference on Human Rights Education**

**12.26** A one-day National Conference on Human Rights Education was organized by the NHRC at Vigyan Bhavan Annexe, New Delhi on 14 December 2012. The conference was attended by Vice Chancellors/Senior Faculty Members of various Universities; senior officials of Ministry of Human Resource Development, Government of India; Secretaries of States/ Union Territories dealing with School Education; officials of NCERT and SCERTs, National Commissions, State Human Rights Commissions and representatives of NGOs and civil society organizations. The main objectives of the Conference were to (i) find ways to sensitize schools and universities about the need for human rights education; (ii) discuss ways in which schools, colleges and universities can play an important role in promoting human rights education; (iii) discuss the need for development of new modules and methodology for imparting human rights education theoretically as well as practically; (iv) human rights education promotion among students of courses/streams in which reach of this education is otherwise difficult; and (v) sharing of best experiences in the field of human rights training and education.

**12.27** Keeping in view the objectives, the Conference deliberated on three substantial issues 'Status of Human Rights Education in India', 'Human Rights Education at the University and School Level: Way Forward' and 'Incorporating Human Rights Education in School and University System' in three technical sessions. In the session on 'Human Rights Education at the University and School Level : Way Forward', the participants were divided



into two Groups as per their area of specialization. Group I dealt with 'Human Rights Education at School Level' and was chaired by Justice Shri B. C. Patel, Member, NHRC. Group II focused on 'Human Rights Education at the University & College Level' and was chaired by Dr. Justice V. S. Malimath, Chairman, Law Commission of Karnataka. The suggestions/recommendations made by the two respective Groups was followed by an open house discussion and later adopted as the final recommendations of the conference. A copy of the recommendations is at **Annexure-14**. These recommendations apart from being forwarded to the delegates of the Conference were also forwarded to the Chief Ministers and Administrators of all the States and Union Territories by the Chairperson of the Commission for implementation so as to promote human rights education.

### **M. Workshop on Human Rights Training in Police and Para- Military Organizations**

**12.28** A day-long workshop on 'Human Rights Training in Police and Para-Military Organizations' was organized by the Commission on 19 March 2013 in New Delhi. The workshop was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC. The participants of the workshop were Senior Police Officers of States/Union Territories and Para-Military Organizations. The main objective of the workshop was to have a detailed discussion with the police and para-military training institutions so that adequate emphasis could be laid on human rights issues in their respective training programmes. The workshop primarily focused on 'Police Training on Human Rights - Existing Status and Suggested Changes' and 'Training Needs of Police and Para Military Forces'. In the latter session, the participants were divided into two groups. Group - I focused on 'Training Needs of Police' and was chaired by Justice Shri B.C. Patel, Member, NHRC. Group II focused on 'Training Needs of Para Military Forces' and was chaired by Shri Satyabrata Pal, Member, NHRC. The respective groups after detailed discussions prepared their suggestions/recommendations. These were then presented in a joint session which was followed by open house discussion. During the open house discussion, recommendations concerning training needs of police and para-military organizations were finalized, a copy of which is at **Annexure-15**.

### **N. Interaction with Visiting Students/Trainees from Various Colleges/ Universities of India**

**12.29** In view of the mandate entrusted to the NHRC, it is approached regularly by various colleges, universities, educational institutions for allowing their students to visit the Commission so as to get direct information about its organizational structure, functioning and the manner in which complaints are dealt with. The Commission on its part views these participants as emissaries of human rights who, on acquiring knowledge, would zealously spread it to people in their vicinity. During 2012-2013, approximately 765 students from different colleges/universities/educational institutions along with their senior faculty members visited the NHRC.

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## HUMAN RIGHTS DEFENDERS

**13.1** One of the most important developments in the field of human rights, both at the national and international level, has been the path breaking role being played by the Human Rights Defenders (HRDs) in the promotion and protection of human rights at all levels. On the occasion of the 50th anniversary of the Universal Declaration of Human Rights, the Declaration on Human Rights Defenders was adopted by the UN General Assembly on 9 December 1998. It is one of the most important UN documents, which discusses at length the issues, roles and responsibilities pertaining to Human Rights Defenders, the States and the individuals.

**13.2** The Declaration is not, in itself, a legally binding instrument. It contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding - such as the International Covenant on Civil and Political Rights.

**13.3** It does not create new rights but instead articulates existing rights in a way that makes it easier to apply them to the practical role and situation of human rights defenders. Human rights defenders have an obligation under the Declaration to conduct peaceful activities.

**13.4** Articles 1, 5, 6, 7, 8, 9, 11, 12 & 13 of the Declaration of Human Rights Defenders provide specific protection to the HRDs. These include freedom to conduct human rights work individually and in association with others, to form associations and NGOs, etc. Some duties have also been cast on the States in the Declaration. These include duty to protect, promote and implement all human rights; to promote and facilitate teaching of human rights at all levels; and to promote public understanding of civil, political, economic, social and cultural rights, etc. The Declaration emphasizes that every one has duties towards and within the community and encourages each human being to become a human right defender.

### **A. Resolution Protecting Human Rights Defenders**

**13.5** The Human Rights Council on 21 March 2013 unanimously adopted the Resolution Protecting Human Rights Defenders, tabled by Norway. The adoption of this Resolution sends an important signal of support to all the courageous people who are fighting against human rights violations all over the world. The key message of the Resolution is that national legislation must be consistent with international human rights law and cannot be misused to restrict the legitimate work and activities of human rights defenders.

## **B. Role of NHRC-India**

**13.6** The National Human Rights Commission of India is mandated under Section 12(i) of PHR Act, 1993 to encourage the efforts of non-governmental organizations and institutions working in the field of human rights. 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 non-governmental and Civil Society Organizations as well as 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.

**13.7** NHRC-India has initiated and taken many steps to promote and protect the rights of HRDs and also to mitigate the risks taken by them while defending human rights. During its Camp sittings and Open hearings, it has interacted with the representatives of NGOs and HRDs and has taken prompt action on the feedback provided by them. Cases of HRDs were given top priority and necessary relief, on merits, too was given.

## **C. Focal Point for Human Rights Defenders in NHRC**

**13.8** Acting on one of the recommendations of the Workshop on Human Rights Defenders that was organized by the Commission on 12 October 2009 in New Delhi, a Focal Point for Human Rights Defenders has been set-up in the NHRC to deal with complaints alleging harassment of human rights defenders by or at the instance of public authorities. The designated contact person at the Focal Point for NHRC is Shri A. K. Parashar, Joint Registrar (Law). The Focal Point is accessible to human rights defenders round the clock through (i) Mobile No. +919810298900, (ii) Fax No. +9111-23384012, and (iii) E-mail: [hrd-nhrc@nic.in](mailto: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.

**13.9** The Focal Point for Human Rights Defenders during the year under report has traveled to places across India like Bhubaneshwar, Madurai, Kolkata, Chindwara, Bolangir, etc. and held dialogues and discussions with NGOs, HRDs, villagers, State Government officials to know the status of human rights at the grassroot level. The visit reports and the complaints received during visits of the Focal Point were placed before the Commission and immediate action was taken on them.

## D. Illustrative Cases Dealt by NHRC Relating to Human Rights Defenders

**13.10** During the period under review, the Commission received thirty-four complaints concerning alleged harassment of human rights defenders. Thirty-four cases, including cases registered in previous years, pertaining to HRDs were finally disposed of by the Commission during the year 2012-2013. The details of pending cases along with action taken by the Commission are available on the website of the Commission. Some of the important cases dealt by the Commission during the year given below.

1. *Alleged Torture of Human Rights Defenders by Police in District Coimbatore, Tamil Nadu*  
(Case Nos. 634/22/13/2010 & 635/22/13/2010)

**13.11** The Commission took cognizance of two complaints received from Shri Sarvanan Karuppasamy, and Ms. Sakthi Prabhavati, CEO and Secretary of World Human Rights Commission & Rescue Centre. The two complainants alleged that they had been falsely implicated in the said cases and were harassed and tortured while in police custody because they refused to withdraw their complaints made to the NHRC against the police officials in respect of the violence that took place at Law College, Coimbatore. Both the cases being on the same subject were clubbed together by the Commission.

**13.12** The Commission called and considered the report from Director General of Police, CB-CID, Tamil Nadu. On perusal of the report, the Commission felt that *prima facie* the complainants were tortured during the police custody. The Commission thus issued a show cause notice to the Chief Secretary, Government of Tamil Nadu as to why Commission should not recommend relief for the complainant. The reply to the show cause notice is awaited and the case is under due consideration of the Commission.

2. *Alleged Threat to Human Rights Defender Opposing Police Inaction in District Varanasi, Uttar Pradesh*  
(Case No.20903/24/72/2011 LFs 21069/24/72/2011 & 22280/24/72/2011)

**13.13** Dr. Lenin, Secretary General, People's Vigilance Committee on Human Rights (PVCHR), an NGO in Varanasi District of Uttar Pradesh alleged that one of their activists Shri Mangala Rajbhar is being threatened by the police as he raised the issue of police inaction in a gang rape case. Further, Shri Balgovind Mishra, In-charge of Police Outpost Kathiraw under Phulpur Police Station, Varanasi, called him repeatedly and threatened him for advocating the case of a rape victim.

**13.14** Shri Lenin, Secretary General, PVCHR, protested against this conduct of the police officer against the human rights defender.

**13.15** Upon consideration of the report called for by the Commission, it observed that the report of the Superintendent of Police did not touch upon the real issue raised by Shri Lenin

in his complaint and directed the Senior Superintendent of Police, Varanasi to submit a proper report touching upon the allegations made in the complaint.

**13.16** The matter is under consideration of the Commission.

3. *Alleged Unlawful Detention of an RTI Activist by Police in District, Uttar Pradesh*  
(Case No.20596/24/72/2012 LF 29463/24/72/2012)

**13.17** The Commission received a complaint dated 26 June 2012 from People's Vigilance Committee on Human Rights, Varanasi in Uttar Pradesh. In the complaint, it was alleged that Shri Anil Kumar Maurya, an RTI activist who applied for information under RTI Act regarding irregularities in issuing gas cylinders by the Indian Oil Corporation is being threatened by the gas agency. The victim was allegedly harassed as he was detained by the police for about 30 hours for no reason.

**13.18** The Commission directed the Law Division to issue a notice to the Senior Superintendent of Police, Varanasi calling for a report on the matter. The report in the matter is awaited.

4. *Assault of a Human Rights Lawyer by Police in Delhi*  
(Case No. 5976/30/0/2011)

**13.19** The Commission received an e-mail alleging that one human rights lawyer, Shreeji Bhavsar, was assaulted by police officials in Sarita Vihar Police Station on 16 October 2011, due to which he received grievous injuries, fractured his right thumb and suffered severe chest pain.

**13.20** The Commission took cognizance of the matter on 3 November 2011 and directed to issue a notice to the Deputy Commissioner of Police (South West), Delhi calling for a report in the matter.

**13.21** The Commission, after considering the relevant reports, observed that there was enough evidence on record to prove that Sub-Inspector O. P. Yadav had caused grievous injuries to Shreeji Bhavsar and threatened him with dire consequences.

**13.22** The Commission thus issued a show cause notice to the Government of NCT of Delhi through its Chief Secretary.

**13.23** On 31 December 2012, it also recommended to the Chief Secretary, Government of NCT of Delhi to make payment of ₹50,000 as monetary compensation to the victim, Shreeji Bhavsar and submit a compliance report along with the proof of payment within six weeks. The compliance report is awaited.

5. *Alleged Threat to Human Rights Defender*  
(Case No. 49995/24/34/2011 & 50016/24/34/2011)

**13.24** Dr. Lenin Raghuvanshi, Secretary General and Executive Director, PVCHR in an



e-mail stated that on 29 November 2011 he received a threat on his mobile number from a caller who told that his name was J. P. Mishra, a resident of Gorakhpur. The complainant alleged that the above named caller threatened to shoot him dead. The complainant thus requested to conduct a high level inquiry against the culprits and provide security to him and to the witness in Shobrab killing case, Gorakhpur in which the name of a Member of Parliament Aditya Yogi Nath had appeared.

**13.25** The Commission directed to issue a notice to the Director General of Police, Uttar Pradesh calling for a detailed report within seven days and take adequate steps to protect the life of Dr. Raghuvanshi and the witness in Shobrab case.

**13.26** It further directed the Director General (Investigation) of the Commission to collect all facts. The report of the Investigation Division has been received and the matter is under consideration of the Commission.

6. *Alleged Threatening of a Human Rights Defender by Uttar Pradesh Police  
(Case No.11939/24/73/2010)*

**13.27** The Commission had received a complaint dated 1 April 2010 from Nand Lal Shukla, a human rights defender and President, Manavadhikar Emergency Helpline Association, Sant Ravidas Nagar, Bhadohi, Uttar Pradesh alleging that the then Additional Superintendent of Police (Intelligence), Sant Ravidas Nagar, Uttar Pradesh Ruchita Choudhary had called him and asked to withdraw his statement in a complaint case bearing no. 224/24/73/09-10 submitted by him earlier before the Commission pertaining to one victim Vinod Kumar Dixit. He further alleged that when he showed reluctance, the Additional Superintendent of Police (Intelligence), threatened him with dire consequences. In the light of the apprehension of false implication and threat to life, a prayer was made by him before the Commission for intervention and relief.

**13.28** On perusal of reports submitted by the authorities, the Commission inferred that Nand Lal Shukla was intimidated and harassed by the Additional Superintendent of Police (Intelligence), Ruchita Chaudhary on the pretext of a pseudonymous complaint because he exposed police malpractices. The Commission issued a show cause notice as to why monetary relief may not be provided to the victim and also directed the Chief Secretary to initiate punitive action against Ruchita Chaudhary.

**13.29** In response to the show cause notice, the Secretary (Home), Human Rights Department, Uttar Pradesh, submitted that there was no justification for grant of monetary relief to the victim. Nand Lal Shukla further prayed for an independent investigation and justice.

**13.30** The Commission thereafter directed Gyaneshwar Tiwari, Superintendent of Police, Banda and Ruchita Chaudhary, Additional Superintendent of Police (Intelligence) to appear before the Commission with the entire record of the case. .

**13.31** The case is under consideration of the Commission.

**7. *Illegal Arrest of Fact Finding Team by Tamil Nadu Police***  
**(Case No.896/22/37/2010)**

**13.32** Devika Prasad, Secretary, Working Group on Human Rights, New Delhi vide his e-mail dated 17 August 2010 forwarded a copy of complaint dated 17 August 2010 from Miloon Kothari, Convenor, Working Group on Human Rights. In the complaint, Miloon Kothari alleged that Gnana Diraviam, Anandan, Bharathi Pillai, Niharga Priya and Sudha the members of a Fact Finding Team were arrested illegally on the night of 15 August 2010 by Veeravanallur Police Station in Tirunelveli District of Tamil Nadu, where they had gone to conduct an enquiry in a torture case against a police officer. It was further alleged that the arrest was carried out in violation of the law, criminal procedure, and D. K. Basu guidelines.

**13.33** On inquiry by the Investigation team of NHRC it was found that the team members were implicated in a false case by the police due to their enquiry with regard to allegations of torture on one Suresh. The allegations of torture on Suresh were found to be true.

**13.34** The Commission considered the above report on 25 June 2012 when it *inter alia* directed to send a gist of the report prepared by the NHRC Team to the Director General of Police, Tamil Nadu with a request to place it before the Public Prosecutor appearing in MP(MD) No.1 of 2010 in Crl. OP(MD) No.10130 of 2010 before the High Court of Madras at Madurai Bench.

**13.35** The Commission also directed the NHRC to engage a Counsel in Crl. O.P.(MD) No.11303 of 2010 filed u/s 482 of the Cr.P.C. in Crime No.161/2010 by Gnana Diraviyam & others vs. State of Tamil Nadu through its Directorate Counsel to place the matter before the High Court in these proceedings.

**13.36** Pursuant to the approval by the Commission, the report along with intervention application has been sent to the Advocate, Madras High Court, Madurai Bench, Tamil Nadu, for taking further action.

**13.37** The Commission while considering the matter on 21 January 2013 *inter alia* directed to await the orders, if any, passed by the High Court, as the report at the instance of the NHRC has already been placed before the Hon'ble Madras High Court, Madurai Bench, Tamil Nadu. The requisite orders of the Court are awaited.

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## INTERNATIONAL COOPERATION

**14.1** NHRC is a member of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), and a Founder Member of the Asia Pacific Forum of National Human Rights Institutions (APF). The Commission participated in the following meetings of ICC and APF during the period under review :

### **A. Eleventh International Conference of the ICC**

**14.2** As mentioned in chapter 9 of this Annual Report, Justice Shri K.G. Balakrishnan, Chairperson, NHRC-India and Shri Satyabrata Pal, Member participated in the 11th International Conference of National Human Rights Institutions that was held in Amman, Jordan from 5 to 7 November 2012. The theme of the conference was 'The Human Rights of Women and Girls, Promoting Gender Equality : The Role of National Human Rights Institutions'. It was divided into two sub-themes - 'Violence against Women', and 'Women's Empowerment: Economic and social rights and the right to participation'. The outcome was a final Declaration and Programme of Action and the adoption of Regional Plans of Action by all the four regional groups of APF.

**14.3** The Conference was hosted by the Jordan National Centre for Human Rights in cooperation with the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights, the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Asia Pacific Forum of National Human Rights Institutions. As per the established practice, an NGO Forum was held parallel to the Conference with a view to consolidate the knowledge and experiences of Civil Society organizations with that of National Human Rights Institutions, thus strengthening mutual cooperation. The participants of the Conference thanked His Majesty Abdullah II bin Al-Hussein for his patronage towards the conference, which was inaugurated by His Excellency, the Prime Minister of Jordan. They further welcomed the statements of the Deputy High Commissioner for Human Rights, the President of the Human Rights Council and keynote speakers including the Member of the Committee on the Elimination of Discrimination against Women (CEDAW) and the Chairperson of the UN Working Group on Discrimination against Women in Law and Practice and fruitful contributions made by NHRIs from all regions. The participating UN agencies, including the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), and the UN Entity for Gender Equality and the Empowerment of Women (UN Women) were also welcomed.

**14.4** The ICC Bureau Meeting preceded the Conference on 4 November 2012 in Amman, Jordan. There was a post-conference event on 'Women, Business and Human Rights' on 8 November 2012, which was organized by Canada, as the Chair of the ICC Working Group on Business and Human Rights set-up after the Edinburg Conference in 2010. The Chairperson and Member, NHRC-India participated in all these events.

**14.5** The APF Councillors Meeting was held on 5 November 2012. In this meeting, the following activities were of vital consideration :

- APF Members were asked to report about the work they were doing on human rights education and on their investigative practice.
- Myanmar was given 'associate' status by the APF Secretariat.
- India offered itself as the host for the 2014 APF Business Meeting.
- Launch of ANNI's 2012 Annual Report on "The Performance and Establishment of National Human Rights Institutions in Asia". The chapter on India was entitled 'Glimmers of Hope - Yet a Long Way to Go'. NHRC-India's comments on the same are posted on its website ([www.nhrc.nic](http://www.nhrc.nic)).

**14.6** On the whole, NHRC-India's participation was central to the work of this conference and it facilitated in shaping its final outcome. A copy of the Amman Declaration and Programme of Action and the APF Action Plan on the Human Rights of Women and Girls : Promoting Gender Equality are annexed to chapter 9 of this Annual Report as **Annexures 10 and 11**.

## **B. Second Universal Periodic Review**

**14.7** The second cycle of the Universal Periodic Review commenced in 2012. The Working Group on the UPR, established in accordance with Human Rights Council Resolution 5/1 of 18 June 2007, held its 13th Session from 21 May to 4 June 2012. The review of India was held on 24 May 2012. In its meeting held on 30 May 2012, the Working Group adopted the report presented by the Government of India. The report adopted by the Working Group (A/HRC/21/10) may be seen on the UN website ([www.un.org.in](http://www.un.org.in)).

**14.8** The final outcome of Government of India's report was adopted in the Plenary Meeting of the Council at its 21st Session held on 20 September 2012. The list of 67 recommendations accepted by the Government of India is at **Annexure-16**.

**14.9** Shri J. S. Kochher, Joint Secretary (Training) and Dr. Savita Bhakhry, Deputy Secretary (Research), NHRC-India participated in the Plenary Session of United Nations Human Rights Council in Geneva, Switzerland on 20 & 21 September 2012 in which the Human Rights Council adopted the final outcome of the universal periodic review on India consisting mainly of the Working Group Report on India and list of recommendations

accepted by the Government of India. Shri Kochher also made an oral statement on behalf of NHRC-India in the plenary on 21 September 2012. A copy of the oral statement made by him is at **Annexure-17**.

**14.10** In order to take follow up action on the recommendations accepted by the Government of India, the Commission organized several meetings with concerned stakeholders during the reporting period with the aim of developing a framework to monitor the implementation by the Government of India of the recommendations it accepted at the second universal periodic review. In addition, the Chairperson of the Commission made a request to the Central Ministries of the Government of India to take action on the UPR recommendations concerning them and inform the progress made towards the implementation of those recommendations. These Ministries were Rural Development, Women & Child Development, Human Resource Development, Law & Justice, Health & Family Welfare, Minority Affairs, Labour & Employment, Social Justice & Empowerment, External Affairs, Consumer Affairs, Food & Public Distribution System, Drinking Water & Sanitation, Information & Broadcasting, Housing & Urban Poverty Alleviation, Finance and Tribal Affairs. The Commission is looking forward to the responses from the aforementioned Ministries.

## **C. 57<sup>th</sup> Session of Commission on Status of Women at United Nations**

**14.11** The fifty-seventh session of the Commission on the Status of Women (CSW) took place at the United Nations Headquarters in New York from 4 to 15 March 2013.

**14.12** The main issue for NHRIs relating to CSW is that NHRIs do not currently have independent participation status at the CSW, the primary inter-governmental mechanism on women's empowerment and gender equality. In effect, this means that to attend CSW, NHRIs must be invited by its Government to join the Government delegation, or if an invitation is not forthcoming, NHRIs may consider registering with an ECOSOC-accredited NGO (which have much more limited access than Government representatives). Neither option appropriately reflects the independent status of NHRIs, yet they are currently the only two available options.

**14.13** NHRIs have independent participation status with other UN human rights bodies, including all human rights treaty bodies and the Human Rights Council. It is also important to note that in June 2012, the Human Rights Council adopted resolution (A/HRC/RES/20/14) on NHRIs that also referred to CSW. This resolution, for the first time, specifically referred to the NHRI contribution to CSW and encouraged the advocacy for independent participation rights at that body. As the CSW continues to be an important body for NHRIs to engage with in relation to the global discussions, policy development and standard setting relating to women and girls' human rights and gender equality, the broader campaign for independent participation rights continues. NHRC-India, on its part, is continuously pursuing with the Ministries of External Affairs (MEA) and Women & Child Development

(MWCD) that in consonance with the Paris Principles, A-status NHRIs like NHRC-India should be allowed to participate in the CSW as an independent institution. This year too, the above request was reiterated by it in a letter addressed to the Foreign Secretary and its endorsement to the Secretary, MWCD.

**14.14** Over the past five years that is from 2008 onwards the Asia Pacific Forum of National Human Rights Institutions (APF) has led the CSW initiative on behalf of the ICC. 2013 marks the final year that the APF will be leading/coordinating NHRIs at CSW.

**14.15** This year's NHRI delegation consisted of seven NHRIs, including India represented by Dr. Ashok Sahu, Secretary General. The NHRI delegation was coordinated by Ms. Pip Dargan, Deputy Director and Gender Focal Point, APF. NHRIs and Ms. Dargan were present for the first week of the two-week CSW Session from 4 to 8 March 2013.

**14.16** The priority theme for the 57th Session of CSW was 'Elimination and Prevention of All Forms of Violence against Women and Girls' as a follow-up to the Fourth World Conference on Women and to the 23rd Special Session of the General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the 21st Century". The agreed conclusions and country statements on the elimination and prevention of all forms of violence against women and girls are available at <http://www.un.org/womenwatch/daw/csw/57sess.htm#ac>.

## **D. NHRC-India Participation in International meetings, Seminars and Workshops**

**14.17** Shri Sanjay Kumar, Under Secretary (General Administration) participated in the South Asia Regional Workshop on Human Rights, People Rights to Land and Food held at Dhaka, Bangladesh on 4 and 5 April 2012.

**14.18** Dr. Rajiv Sharma, Secretary General attended the annual roundtable meeting of senior executive officers of NHRIs convened by the Asia Pacific Forum of National Human Rights Institutions in Sydney, Australia on 24 and 25 May 2012.

**14.19** Shri J.S. Kochher, Joint Secretary (Trg.) attended a regional workshop on pilot training of trainers blended learning course held at Manila in Philippines from 18 to 22 June 2012.

**14.20** Shri Sanjeev Sharma, Senior System Analyst attended RWI/NANHRI Sub-Regional Workshop for NHRIs on instituting an effective complaints handling system at Mombasa, Kenya from 9 to 13 July 2012.

**14.21** Shri J. S. Kochher, Joint Secretary (Training) and Dr. Savita Bhakhry, Deputy Secretary (Research), participated in the Plenary Session of the United Nations Human Rights Council in Geneva, Switzerland on 20 & 21 September 2012.



**14.22** Justice K. G. Balakrishnan, Chairperson attended a symposium on 'Human Rights - Universality & Indivisibility' on 2 & 3 October 2012 in Rabat, Morocco.

**14.23** Justice Shri K.G. Balakrishnan, Chairperson and Shri Satyabrata Pal, Member participated in the 11th International Conference of National Human Rights Institutions that was held in Amman, Jordan from 5 to 7 November 2012.

**14.24** Shri B. S. Nagar, Under Secretary (Coordination) participated in the training course on the Rights of Migrant Workers organized by the Diplomacy Training Program and Migrant Forum Asia, with the support of APF at Doha, Qatar from 14 to 18 October 2012.

**14.25** Justice Shri K. G. Balakrishnan, Chairperson and Justice Shri G. P. Mathur, Member participated in a two-day International Conference on Cooperation between National Human Rights Institutions for the Promotion and Protection of the Rights of the Migrant Workers in the Asia Pacific Region in Kathmandu, Nepal on 26 and 27 November 2012.

**14.26** Shri D. M. Tripathy, Section Officer (GA) and Shri M. S. Gill, Deputy Superintendent of Police (Investigation) participated in a Regional Blended Learning Course for NHRIs in the Asia Pacific Region at Bangkok from 26 November to 5 December 2012.

**14.27** Justice Shri K. G. Balakrishnan, Chairperson, NHRC attended the Fourth Regional Forum on Prevention of Genocide as an Expert at Phnom Penh, Cambodia from 28 February to 1 March 2013.

**14.28** Dr. Ashok Sahu, Secretary General attended the 57th Session of the Commission on the Status of Women at the UN Headquarters in New York from 3 to 8 March 2013.

## **E. Interaction with Foreign Delegates in the Commission**

**14.29** The following individuals and delegations visited NHRC-India during 2012-2013:

**14.30** A five member delegation from Afghanistan Independent Human Rights Commission visited NHRC-India from 4 to 8 May 2012 for developing an action plan as part of the MOU signed between the AIHRC, NHRC-India and the UNDP Afghanistan.

**14.31** A delegation from Myanmar Human Rights Commission led by its Chairman, Mr. Win Mra visited NHRC-India from 22-24 May 2012.

**14.32** An eighteen-member delegation from International Development Law Organization, Centre for Legal Aid & Rights, India HIV/AIDS Alliance, UNDP and few NGOs visited NHRC on 26 June 2012 in connection with a Regional NHRI Project - 'Inclusion, the Right to Health and Role of NHRIs with regard to Sexual Orientation and Gender Identity'.

**14.33** Mr. Oleksandr Shevchenko, Ambassador of Ukraine to the Republic of India called on the Chairperson of NHRC on 14 August 2012 and held discussions on issues of protection of rights and interest of the Ukrainian nationals who stay in India.

**14.34** A four member delegation headed by Ms. Shushila Sirpati, Chairperson of National Dalit Commission of Nepal called on Chairperson, Secretary General and senior officers on 12 December 2012 and discussed issues related to Dalits in Nepal vis-à-vis the situation in India.

**14.35** A delegation led by H.E. Mr. Ogmundur Jonasson, Minister of Interior Justice and Transport, Iceland visited NHRC-India on 19 February 2013.

**14.36** A two-member delegation from National Human Rights Commission of Nepal comprising of Shri Yagya Prasad Adhikari, Regional Director and Ms. Durga Khadka, Deputy Director (Investigation & Monitoring) came on a study tour to the Commission from 4 to 8 March 2013.

**14.37** As a part of the follow up action on the MOU signed by the Afghanistan Independent Human Rights Commission (AIHRC) with the National Human Rights Commission of India and the National Institution Building Project (NIBP) of the United Nations Development Programme (UNDP), Afghanistan, a five member delegation of AIHRC led by Mrs. Nafisa Nezam, Operations Manager visited NHRC from 11 to 22 March 2013 for study of the investigation skills, complaint handling mechanism, use of technology for complaints handling and the public hearing process.

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## STATE HUMAN RIGHTS COMMISSIONS

**15.1** Section 21 of the Protection of Human Rights Act, 1993 provides for constitution of State Human Rights Commissions (SHRCs) in the States as well. The existence and functioning of strong SHRCs will go a long way in 'better' protection and promotion of human rights. It is an accepted reality that good governance and human rights go hand in hand. As such, the SHRCs should play a crucial role in the effective implementation of human rights standards. The State Governments, too, need to appreciate that the State Commissions are facilitators and are assisting the States concerned in fulfilling their constitutional obligations and responsibilities of protecting and promoting human rights of the citizens - an absolutely essential element for good governance. It is the duty of the State Governments to take effective steps to make such Commissions fully functional at the earliest. While doing so, it should ensure that SHRCs are structurally and financially independent in conformity with the principles relating to the status of national institutions (the "Paris Principles") which were endorsed by the UN General Assembly Resolution 48/134 of 20 December 1993.

**15.2** All State Governments should take suitable steps to strengthen their respective SHRCs. Merely setting up of SHRCs would not serve any desired purpose if they are not provided with adequate manpower, finance and infrastructure to facilitate their functioning. There is also an innate need to foster close interaction between the NHRC and SHRCs so that joint strategies could be evolved to achieve the common objective of protection and promotion of human rights.

**15.3** As per the latest information received from the State Governments, 23 States have set-up their own SHRCs. The names of these States are Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Jammu & Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand, Goa and West Bengal. It was reported in the Annual Report of 2011-2012 that in Himachal Pradesh, no appointments have been made for the post of Chairperson and Members. These posts remained vacant during 2012-2013 as well along with the post of the Secretary.

**15.4** The need for protection and promotion of human rights is felt in every part of the country. It is in the interest of citizens that SHRCs are set-up in a speedy manner in the remaining States. The Chairperson, NHRC has written to the Chief Ministers of all those States, who have so far not set-up their respective SHRCs, to set-up a Commission and

along with take immediate steps for appointment of Chairperson, Members, other secretarial staff, finance and infrastructure, so that they are able to function independently and efficiently. The Chairperson, NHRC has also brought to the notice of the Chief Ministers, the provision existing in Section 21(6) of the PHRA, 1993 whereby two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Members consents to such appointment. This provision may be useful in case an adjoining State which is without an SHRC and would be interested in sharing the Chairperson/Members with the SHRC of a State for want of suitable manpower/expertise in their own State.

**15.5** The NHRC holds regular interactive meetings with the SHRCs for strengthening the relationship and cooperation between NHRC and SHRCs. The last such meeting was held on 27 July 2012. During these meetings, the issues raised by SHRCs usually relate to inadequacy of funds, manpower and infrastructure. The NHRC, as such, constituted a Committee under the chairmanship of one of its Member and based on the suggestions received from various SHRCs, has made some useful recommendations. These recommendations along with the comments of the SHRCs were forwarded to the Chief Ministers of all States on 18 December 2012 for consideration and necessary action. The Prime Minister of India has also been requested to take up this issue with the State Governments so that the SHRCs are able to fulfill the mandate given to them under the Protection of Human Rights Act, 1993.

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## OTHER MECHANISMS

### A. Special Rapporteurs

**16.1** The system of having Special Rapporteurs is to facilitate the NHRC in discharging responsibilities mandated to it. This continued during the period under report. Special Rapporteurs, as mentioned in Chapter 3 of the Annual Report are senior officers who, prior to their retirement, have served as Secretaries to the Government of India or Directors General of Police or have done exemplary service in a human rights related field. They are either assigned specific subjects to deal with, such as bonded labour, child labour, custodial justice, disability, etc., or a zone comprising of a group of States/Union Territories to look into human rights concern and violations. The details of the work and visits undertaken by them have been given in preceding chapters of the Annual Report under the related human rights issue. These details can also be seen on the Commission's website - [www.nhrc.nic.in](http://www.nhrc.nic.in) under the head 'Reports'.

### B. Core Group of NGOs

**16.2** 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 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.

**16.3** 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 last meeting of the Core Group was held on 22 March 2013 in the Commission. Several issues relating to various aspects of human rights and awareness as suggested by Members of the Core Group were discussed such as, continued hunger strike by Ms Irom Chanu Sharmila in Manipur, enactment of Prevention of Torture Bill, 2010, maintaining/uploading of proceedings of NHRC, denial of access to file mercy petitions to the President of India, children living with mothers in Jail and visits to jail and legal aid to weaker sections, negligence in prevention of violation of human rights by a public servant, intervention in legal proceedings with the approval of Court, illegal eviction of 5000 people at EWS Quarters, Bangalore, follow-up of National

Conference on Human Rights Education held on 14 December 2012, amendments in Criminal Law, rescue and rehabilitation of missing children, and progress on declaration of District Courts as Human Rights Courts.

### **C. Statutory Full Commission**

**16.4** As per Section 3(3) of the Protection of Human Rights Act, 1993, the Chairperson of the National Commission for Minorities, National Commission for Scheduled Castes, National Commission for Scheduled Tribes and National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of Section 12 of the Protection of Human Rights Act, 1993 and the programmes and projects taken up in the discharge of these functions. Chairperson, National Commission for Protection of Child Rights is a special invitee in the Statutory Full Commission meetings.

**16.5** The Statutory Full Commission meetings are convened on a quarterly basis. However, it was agreed that depending upon the number of items and seriousness of the issues to be placed before the Commission, the frequency could be changed as deemed necessary by the Chairperson, NHRC and meetings could be held even more frequently.

**16.6** The last meeting of the Statutory Full Commission meeting was held on 7 December 2012 in the Commission. The agenda items, such as, Inter-linking the CMIS of NHRC with National Commissions, report on prevention of atrocities against Scheduled Castes submitted by Shri K. B. Saxena, former Secretary to Govt. of India, Amendment to Child Labour Act to bring it in consonance with the Right to Education Act, Witness Protection Programme to cover all segments of society, preventing and combating Human Trafficking in India, education as a catalyst in gender and caste sensitization, separate Chapter in the IPC to deal with violence against Women, joint collaboration of the National Commissions on important issues of common interest and concern, reporting obligation to CEDAW, reporting guidelines for media and acid attacks against girls and women were discussed in the meeting.

### **D. Camp Sitzings/Open Hearing of the Commission**

**16.7** The National Human Rights Commission has been holding Camp Commission sittings in the States to ensure speedy disposal of cases targeting towards better protection and promotion of human rights.

**16.8** The meeting provides a good opportunity to the Commission as well as the State Government to understand the points of view of each other. It also provides the Commission an occasion to take stock of the action taken by the State on important issues.

**16.8** During the Camp Sitzings, besides hearing on pending complaints, the Commission also discusses important human rights issues relating to the State concerned officers. These includes issues of bonded labour, child labour, mental health, juvenile justice, old age pension, human rights awareness programme, etc.



**16.9** An interaction meeting with the local NGOs and press, print and electronic media for the press briefing are also arranged.

**16.10** The Commission has so far held the following Camp Sitzings in various places:

- i) Lucknow, Uttar Pradesh from 18 to 20 January 2007
- ii) Patna, Bihar from 17 to 19 May 2007
- iii) Bengaluru, Karnataka from 15 to 16 September 2010
- iv) Gujarat at Ahmedabad on 11 November 2011
- v) Bhubaneswar, Orissa from 18 to 19 January 2011
- vi) Guwahati, Assam from 28 to 29 May 2012
- vii) Shillong, Meghalaya on 30 May 2012

**16.11** During the year, the Commission has also started organizing open hearings on atrocities on Scheduled Castes in various states of the country. During the open hearings, there were meetings with local NGOs; meeting with Chief Secretary, DGP, Senior Civil, Police and Jail Officials; and press briefing. The Open Hearing and meetings have been successful in resolving complaints on atrocities on Scheduled Castes and other important pending human rights issues relating to the members of Scheduled Caste population in the State. So far, as mentioned in Chapter 8 of this Annual Report, the Commission has held Open Hearings in the following places:

1. Bhubaneswar, Odisha from 9 to 12 April 2012
2. Ahmedabad, Gujarat from 14 to 15 May 2012
3. Madurai, Tamil Nadu from 7 to 9 August 2012
4. Jaipur, Rajasthan from 3 to 14 September 2012
5. Nagpur from 28 to 30 January 2013 and Mumbai on 31 January 2013.

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## ADMINISTRATION AND LOGISTIC SUPPORT

### A. Staff

**17.1** As on 31 March 2013, 309 employees were in position against the total sanctioned strength of 343 comprising all ranks. NHRC over the years has taken recourse to several methods for selection of personnel and for developing and building a cadre of its own. These methods include direct recruitment, re-employment, deputation and contractual appointment.

### B. Use of Official Language

**17.2** The Official Language Section of the Commission assumes the work of translation of the monthly newsletter, Annual Report, budget report, budget documents, RTI applications, publications of the Commission apart from circulars and notices issued in the NHRC. In addition, the Official Language Section of the Commission undertakes several other activities for raising awareness on human rights issues by taking recourse to Hindi as a medium of communication.

**17.3** In its efforts towards creating awareness about human rights among the masses in Hindi, the Section organizes National Seminars in different parts of the country. In continuation of this tradition, during 2012-2013, it organized three National Seminars on different themes. The first two-day National Seminar was organized in collaboration with the University of Pune on 'Tradition, Culture and Human Rights' on 6 and 7 September 2012 in the University campus. The overall endeavour of the seminar was to spread awareness on protection and promotion of human rights among students. The seminar was inaugurated by Justice Shri K. G. Balakrishnan, Chairperson, NHRC. Prominent resource persons who deliberated on different themes of the seminar included Prof. W. N. Gade, Vice-Chancellor, University of Pune; Shri Achyutananda Mishra, a noted litterateur and former Secretary, Sahitya Akademi and Prof. Indra Nath Choudhuri, Registrar, University of Pune. Shri J. S. Kochher, Joint Secretary, NHRC and other officers of NHRC also participated in the seminar and addressed the students.

**17.4** The second two-day National Seminar organized by it was in collaboration with Mohanlal Sukhadia University in Udaipur, Rajasthan on 'Globalization, Poverty and Human Rights' on 22 and 23 November 2012. The Seminar was inaugurated by Justice Shri Balakrishnan, Chairperson of NHRC. Justice Shri N. N. Mathur, Vice-Chancellor, National

Law University, Jodhpur delivered the keynote address. Others who participated in the seminar were Prof. I. V. Trivedi, Vice-Chancellor, Mohanlal Sukhadia University, Udaipur and Shri J. S. Kochher, Joint Secretary (Training), NHRC.

**17.5** The third National Seminar on 'Human Rights and Ecological Balance: A Dialogue' was organized in collaboration with Saurashtra University, Rajkot on 4 and 5 March 2013. Prof. Nand Kishore Acharaya from International Institute of Information Technology, Hyderabad delivered the keynote address in the seminar. Other eminent persons who spoke on different sub-themes in the two-day seminar were Justice Shri K. G. Balakrishnan, Chairperson, NHRC, Dr. M. K. Padalia, Vice Chancellor, University of Saurashtra and Shri A. K. Shrivastava, Joint Secretary, NHRC.

**17.6** In order to promote the use of Hindi language in the Commission in its day-to-day functioning, the Section organized an Annual Hindi Fortnight from 14 to 28 September 2012. The officers and staff of the Commission actively participated in the debate, quiz, essay competition and other programmes organized during the fortnight for the promotion of Hindi language.

**17.7** The Section has also introduced the scheme of 'Biennial Award on Human Rights in Hindi'. The main objective of the scheme is to encourage original writing in Hindi on various subjects of Human Rights. The ninth edition of Nai Dishayain the annual Hindi Journal prepared by the concerned Section was released on 10 December 2012.

## **C. NHRC Library**

**17.8** The Library of the Commission was established in the year 1994 for research and reference purpose primarily for the Members and the staff of the Commission. The Commission has upgraded NHRC Library to NHRC Documentation Centre (E-Library) which will enhance and retrieve library services through computer and Internet facility. Database of Books / Documents and Articles is available on INTERNET/ INTRANET for the wider use of readers. At present it is also being used by the Interns, Research Scholars of Universities and others readers working in the field of human rights.

**17.9** The library has about 22,861 books/back volumes of journals. It has also a collection of 341 CD/DVD/Cassettes. It subscribes to 54 journals, Indian and foreign, 106 Serial Publications, 33 magazines and 24 National & regional 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 1831 new books pertaining to human rights and related subjects were added to the collection of library.

**17.10** The Library is also equipped with SCC Online (Supreme Court Case Finder CD-ROM), AIR Infotech containing AIR Supreme Court 1950-2012; AIR High Courts 1950-2012, Criminal Law Journal 1950-2012 and Software Package (E-Granthalaya) developed by National Informatics Centre (NIC), New Delhi.

**17.11** E-Granthalaya Open Public Access Cataloguing has been specially developed to locate any book/document available, in the library through a retrieval system of indices such as Author, Title, Subject, Keyword and Publisher. Articles are arranged under broad subject headings and keywords used in the text of articles and also Author and Title suitable for retrieval. It helps the Members, Senior Officers and Researchers to know about the nascent literature being published in Social Sciences and related academic disciplines of Human Rights.

**17.12** The library is an 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 to access and borrow the books/documents and journals.

**17.13** Bibliographic service was also introduced recently covering International Covenants/Instruments, Centre/State Legislation, Judicial Cases (Supreme Court and High Courts), National Human Rights Commission Cases and Guidelines, Books and Articles on the subject. Bibliography on Bonded Labour, Child Labour, Torture, AIDS/HIV, Disability and Mental Health, Juvenile Delinquency, Migrant Workers, Manual Scavenging, Older Persons/Ageing/Elderly People, Prisons/Prisoners, Refugees, Reproductive Rights, Right to Food, Right to Development, Terrorism, Torture, Trafficking in Women & Children, Tribes/Indigenous persons and Transplantation of Human Organs were prepared and released at the Webpage of the Commission.

## **D. Right to Information**

**17.14** The National Human Rights Commission has institutional arrangement for answering RTI queries since the implementation of the Right to Information Act in the year 2005. The Information and Public Relations Officer of the Commission is the Public Information Officer and the Joint Secretary (P&A) is the 1st Appellate Authority under the RTI Act.

**17.15** Details of applications and appeals received under the RTI Act during the period 1 April 2012 to 31 March 2013 are indicated below:

1.	No. of applications received	2,446
2.	No. of applications disposed off within 30 days	2302
3.	No. of applications pending but disposed of beyond one month	----
4.	No. of applications pending but are within one month	22
5.	No. of applications transferred to other Ministries/Departments /Organizations	118

**Details of 1st Appeals**

1.	No. of appeals received by the Appellate Authority	102
2.	No. of such appeals disposed off within one month	102
3.	No. of appeals pending	--

**Details of 2nd Appeals with C.I.C.**

1.	No. of notices received from C.I.C.	14
2.	No. of hearings attended by C.P.I.O./Appellate Authority	14
3.	No. of hearings in respect of which compliance report submitted to C.I.C.	02
4.	No. of hearings in respect of which compliance report not submitted to C.I.C.	Nil

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# SUMMARY OF PRINCIPAL RECOMMENDATIONS AND OBSERVATIONS

**18.1** The Annual Reports of the Commission, apart from presenting the reports about the overall activities undertaken by NHRC each year, also serves as a principal source of information on the human rights situation in the country. Besides these, the present Annual Report too gives an account of the actions taken by the Commission on a range of human rights issues including individual complaints, its other core concerns and achievements (**para 1.6**).

**18.2** In a society as diverse as ours, the indivisibility and interrelated nature of human rights, whether civil and political or economic, social and cultural, is self-evident. Nowhere is this linkage more visible than in respect of people belonging to Scheduled Caste and Scheduled Tribe communities. This aspect is also well recognized in the Constitution of India. The same is true with women, children and other vulnerable groups. The problems and concerns of each of these groups were given due attention by the Commission during the period under review (**para 1.7**).

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

## Number and Nature of Complaints

**18.4** With regard to the number and nature of complaints, the Commission continued to receive complaints from different parts of the country on a wide range of issues. These complaints included allegations of custodial deaths, torture, fake encounters, police high-handedness, starvation deaths, sexual harassment at work place, delay in payment of retirement benefits, delay in providing medical care in hospitals, irregularities in government

hospitals/public health centres, environment pollution, inaction by the Central Government/State Government officers, violations by security forces, conditions prevailing in prisons, atrocities committed on women, children and other vulnerable groups, bonded and child labour, negligence by public authorities, etc. The Commission also took *suo motu* cognizance of many incidents based on reports in print and electronic media including cases reported during visits undertaken by its Chairperson, Members, Special Rapporteurs and officers. The Commission further took cognizance of the intimations received from the concerned authorities, pursuant to the guidelines issued by it with regard to custodial deaths, custodial rapes, deaths in encounters, etc. (para 2.12).

## Human Rights Violation Cases

**18.5** A total of 1,07,655 cases were registered in the Commission during 2012-2013 (Annexure-1). The Commission disposed off 99,756 cases which included cases carried forward from previous years. Out of the total number of cases disposed off by the Commission during the year under report, 57,388 were dismissed in *limini* while 25,295 were disposed off with directions to the appropriate authorities for remedial measures. A total of 9,165 cases were transferred to the State Human Rights Commission for disposal in accordance with the provisions of the PHRA. The details of State/Union Territory-wise cases disposed off by the NHRC are given in Annexure-2. At the end of the reporting period, i.e. on 31 March 2013, the total number of cases pending with the Commission was 23,072 which included 1,525 cases awaiting preliminary consideration and 21,547 cases in respect of which reports were either awaited from the authorities concerned or the reports had been received but were pending further consideration of the Commission (Annexure-3) (para 2.13).

## Preventing Custodial Violence

**18.6** The NHRC received 1,557 intimations about deaths in judicial custody, 146 intimations regarding deaths in police custody and two intimations regarding deaths in para-military/defence forces custody during the period under review. It disposed off 1,170 cases of custodial deaths - comprising 1,057 cases of deaths in judicial custody, 110 cases of deaths in police custody and one case of death in the custody of para-military forces and one case of death in the custody of defence forces. These figures also include cases of previous years (para 2.15).

## Inspection of Jails and Correctional Homes

**18.7** Three Special Rapporteurs of the Commission visited Alipore Central Correctional Home in Kolkata (West Bengal); District Jails in Latehar & Garwa and Daltonganj Central Jail in Palamu (Jharkhand); District Jail in Dantewada & Raipur Central Jail (Chhattisgarh); Jagdalpur District Jail in Bastar (Chhattisgarh), Bhatinda Central Jail and Sangrur District Jail in Punjab; Central Prison, Juvenile Homes and Observation Home in Visakhapatnam

(Andhra Pradesh) and Gaya Central Jail and District Jails in Jamui & Jehanabad (Bihar). The main objective of these visits was to inspect the functioning of these institutions and study the living conditions and other aspects of human rights situation of the inmates therein (para 2.16).

## Spot Investigations

**18.8** During the period, the Commission directed its Investigation Division to conduct spot investigations in 32 cases of alleged violations of civil and political rights and social & cultural rights. These cases were mainly related to custodial deaths; fake encounters; custodial torture; false implication; illegal detention; bonded and child labour; atrocities on scheduled castes, scheduled tribes, and other disadvantaged groups; medical negligence and lack of proper medical facilities in Government hospitals; death due to negligence of State authorities; inhuman conditions in jails and homes for children (para 2.17).

## Recommendations of NHRC for Monetary Relief and its Compliance

**18.9** During the period from 1 April 2012 to 31 March 2013, the NHRC recommended ₹ 10,78,75,000 as payment of monetary relief to the victims/next of kin of the deceased in 356 cases. Compliance reports were received in 108 cases and a total amount of ₹2,94,30,000 was disbursed to the victims/next of kin of the deceased. The State/Union Territory-wise details of these cases are at **Annexure-4 (para 2.38)**.

**18.10** The NHRC is awaiting compliance report in 248 cases wherein monetary relief amounting to ₹ 7,84,45,000 has been recommended (**Annexure-5 (para 2.39)**).

**18.11** As regards, compliance reports' relating to cases pertaining to previous years, intimation has not been received in 95 cases (Annexures - 6 & 7). The details of these cases have been reported in the earlier Annual Reports of the NHRC (**para 2.40**).

## Custodial Violence and Torture

**18.12** Custodial violence and torture is used by the forces as if it is a legitimate tool. However, it represents one of the worst forms of human rights violations by public servants who are entrusted with the duty of enforcing the rule of law. The Commission regards crimes like rape, molestation, torture, fake encounters in police custody as manifestations of a systemic failure to protect human rights of the vulnerable and voiceless 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 geared up towards bringing to an end the environment in which human rights violations are committed with impunity under the shield of "uniform" and "authority" within the four walls of police station, lock-up and prison, where the victims are totally helpless (**para 4.5**).

**18.13** The Commission has issued various guidelines in this regard. One such guideline is that a death in custody has to be reported to the Commission within 24 hours. Yet, some such custodial deaths are reported after considerable delay. Though all custodial deaths may not be crimes or the outcome of custodial violence or medical negligence, it is important that no assumption is made without a thorough inquiry and analysis of reports like inquest, postmortem, initial health screening, magisterial enquiry, etc. Compliance of Commission's guidelines by the State authorities, therefore, plays a crucial role in providing full justice in cases relating to custodial death. Nonetheless, in many cases, reports are forwarded to the Commission only after issuance of conditional summons to the authorities concerned (**para 4.6**).

**18.14** During the period 1 April 2012 to 31 March 2013, the Investigation Division of NHRC received reports of 147 cases of death in police custody and 1,610 cases of death in judicial custody. The Investigation Division examined 203 cases of death in police custody and 2,669 cases of death in judicial custody during the period under review. Expert opinion of empanelled forensic experts was taken in 143 cases of custodial deaths. Besides, 1,403 fact finding cases (FFC) and 108 advice cases were examined by the Investigation Division. Furthermore, it conducted spot investigation in 32 cases of alleged violations of civil, political, economic, social and cultural rights (**para 4.7**).

## **Follow up Action on Recommendations of National Seminar on Prison Reforms**

**18.15** The Commission's concern about the state of prisons was reflected in the National Seminar on Prison Reforms which it organized in 2011. Several recommendations were made in the Seminar which have been detailed out in the Commission's Annual Report 2011-2012. With regard to follow up action taken on the recommendations, the Commission during the period under report received responses from twenty States and four Union Territories only. These are Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Manipur, Meghalaya, Mizoram, Odisha, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Andaman & Nicobar Islands, Chandigarh, Daman & Diu and Dadra & Nagar Haveli. The Commission trusts that the remaining States/Union Territories who have so far not responded to the recommendations of the Commission on prison reforms will take necessary action and report back to the Commission about the steps taken by them (**para 4.210**).

## **Silicosis**

**18.16** The Commission had reported in its earlier Annual Report of 2011-2012 that it had prepared a Special Report on Silicosis and forwarded it to the Ministry of Home Affairs, Government of India for laying it in the Parliament. The Commission is yet to hear from the Ministry of Home Affairs. It will be pertinent to mention that the Commission had

recommended to the Government of Gujarat to award compensation of ₹ 3,00,000 each to the next of kins of the 238 deceased as per the list submitted by the District Collectors of Jhabua and Alirajpur. The victims who died were from the State of Madhya Pradesh who had gone to Gujarat for work. It also recommended that 304 persons, who are suffering from silicosis and were staying in the State of Madhya Pradesh, be given a rehabilitation package by the State Government. But, till date the Commission has not received the compliance report from the two State Governments. The Commission once again reiterates to the Governments of Gujarat and Madhya Pradesh to comply with the directions of the Commission (para 5.7).

### **Plight of Mentally Ill Persons Languishing in Chamatkari Hanumanji Temple in Chhindwara District of Madhya Pradesh**

**18.17** The Commission is deeply concerned about the rights of persons with mental illness, especially those kept in chains and confined in a restricted space in religious places. The attention of the Commission was drawn towards the plight of mentally ill persons languishing in Chamatkari Hanumanji temple in Chhindwara District of Madhya Pradesh by an NGO, namely, Sane and Enthusiast Volunteers' Association of Calcutta (SEVAC). In order to understand the gravity of the problem, the Commission, entrusted a pilot project to SEVAC for protecting the human rights of mentally ill persons languishing in the temple. The main objective of the project was to create awareness among the family members of mentally ill patients languishing in the temple and in the process bring them under the purview of psychiatric treatment. Its other objective was to carry out the groundwork for setting-up a psychiatric camp in the temple premises for diagnosis and counselling (paras 5.13 & 5.15).

**18.18** Further, the Union Ministry of Health and Family Welfare at the request of the Commission directed the National Institute of Mental Health and Neuro-sciences (NIMHANS), Bangalore to send its team to visit the Hanuman Temple and the Civil Hospital in Chhindwara District. The NIMHANS team suggested that an action plan be evolved to protect the rights of mentally ill persons languishing in the temple area. It also suggested a multi-pronged approach, consisting of medical consultation and free medicines, free hygienic accommodation, half-way homes, hospitalization and treatment of patients at the Taluk hospital. Besides, it recommended awareness generation among the people in the area through relevant IEC material. The report submitted by NIMHANS was forwarded by the Commission to the Government of Madhya Pradesh (para 5.17).

**18.19** On 26 October 2012, the Commission organized a meeting of all stakeholders to review the implementation status of the suggestions made by NIMHANS. This meeting was attended by the representatives of the Government of Madhya Pradesh, Union Ministry of Health and Family Welfare and NGOs working in the area. In this meeting, it was decided that the Government of Madhya Pradesh will post a Psychiatrist in the District who will be

visiting the Civil Hospital at Sausar; the State Government will provide free medicines to the patients attending the psychiatric clinic run by SEVAC at the Civil Hospital in Sausar; the State Government will further take steps to include these medicines in the State List of free medicines; the Doctors at the Hospital will be given adequate training for dealing with mentally ill patients; the Director, Health Services, Government of Madhya Pradesh will visit the Temple and the Hospital to monitor the sanitary and health conditions of mentally ill patients; the '108' emergency ambulance service will be extended to Chhindwara District; necessary cooperation will be extended by the District Administration to the team of SEVAC for providing psychiatric treatment to the mentally ill patients languishing in the temple; and the Union Ministry of Health and Family Welfare will take steps to include Chhindwara District under the 'District Mental Health Programme' and the establishment of a Psychiatric Clinic in Sausar Hospital under the National Rural Health Mission. The Commission will continue to monitor the implementation of all these recommendations so that relief is provided to the mentally ill patients and their families languishing in the temple and its vicinity (para 5.18).

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

**18.20** The Commission is monitoring the functioning of Government run mental health institutions in Agra, Gwalior and Ranchi under a mandate given to it by the Supreme Court of India in 1997. With the passage of time, the Commission began to monitor other government mental hospitals/institutions situated in different parts of the country. The periodic visits to these institutions are made by the Chairperson, Members, Special Rapporteurs and senior officers of the Commission. After each visit, suitable suggestions/recommendations are made to the concerned State Governments for bringing about an improvement in their overall functioning. During the year under report, the following mental health institutions were visited by the Special Rapporteurs of the Commission:

#### ***Ranchi Institute of Neuro-Psychiatry and Allied Sciences***

**18.21** Smt. S. Jalaja, Special Rapporteur, NHRC visited the Ranchi Institute of Neuro-Psychiatry and Allied Sciences (RINPAS) on 28 August 2012 to review the implementation of Supreme Court directions and action taken by the State Government on the suggestions/recommendations made by the Commission for improving the functioning of RINPAS. After the review visit, Smt. S. Jalaja, submitted a report to the Commission, the details of which are given in chapter 5 of this Annual Report. As directed by the Commission, a letter has been addressed to the Director, RINPAS to comment on the observations and the recommendations made by the Special Rapporteur in her report. On receipt of comments from RINPAS, the Commission directed that a letter be addressed to the State Government. The Commission will continue to follow-up the matter with the concerned authorities till the required action is taken on it (paras 5.24, 5.25 & 5.26).



## ***Institute of Psychiatry and Human Behaviour, Bambolim, Goa***

**18.22** Dr. L. Mishra, former Special Rapporteur of NHRC had visited the Institute of Psychiatry and Human Behaviour (IPHB) situated in Bambolim, Goa from 6 to 9 December 2010. The Commission directed that the suggestions/recommendations made by him should be conveyed to the State Government and should be complied with. However, when the Action Taken Report (ATR) from the State Government was received, it was observed that there were still some issues on which no action was taken. Consequently, Shri Ajay Kumar, the Special Rapporteur appointed in place of Dr. L. Mishra was requested to visit IPHB and review the status of issues on which action was required. He visited Goa from 24 to 28 September 2012. As directed by the Commission, the report and observations of both Dr. L. Mishra and Shri Ajay Kumar were forwarded to the Chief Secretary, Government of Goa and to the Secretary, Ministry of Health and Family Welfare for their comments and action taken report. The Commission will continue to follow-up the issue with the concerned authorities till the required action is taken on it (**paras 5.27 & 5.29**).

## **National Conference on Right to Food**

**18.23** A one-day National Conference on Right to Food was organized by the National Human Rights Commission (NHRC) on 4 January 2013 at India International Centre, New Delhi. On the basis of extensive deliberations held in the conference, 19 recommendations were made and sent to all concerned for information and necessary action. The Commission believes that all its recommendations have been complied with States and Union Territories (**paras 6.10 & 6.21**).

## **Action Taken on Recommendations Made in Report on Prevention of Atrocities against Scheduled Castes**

**18.24** The Commission in the year 2000 had requested Shri K. B. Saxena, IAS (Retd.) to prepare a status report on atrocities committed on scheduled castes and based on the actual ground situation the initiatives that NHRC could take to curb and prevent them. Accordingly, a study was undertaken by Shri Saxena and a detailed report entitled "Prevention of Atrocities against Scheduled Castes" was prepared and submitted to the Commission. The report makes altogether 150 recommendations under broad heads for follow-up action on the part of various Ministries of Central Government, State Governments, National Commissions, including NHRC. These recommendations were subsequently forwarded by the Commission to all the stakeholders for taking necessary action as stated therein with a request to forward the action taken report to NHRC. The NHRC, so far, has received action taken reports from the Ministries of Finance, Human Resource Development, Home Affairs, Labour & Employment, Railways, Rural Development and Women & Child Development. It has also received action taken reports from various States and Union Territories, namely, Arunachal Pradesh, Chhattisgarh, Goa, Haryana,

Karnataka, Kerala, Meghalaya, Mizoram, Rajasthan, Uttar Pradesh, West Bengal, Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Lakshadweep and NCT of Delhi. The details of the action taken reports received from the Ministries, States and Union Territories are posted on NHRC's website <http://nhrc.nic.in>. The Commission is taking follow up action to obtain feedback from States and Union Territories who have not reported so far (para 8.6).

### ***Visit to Scheduled Caste Prone Districts by Special Rapporteurs***

**18.25** Another recommendation (Number 33) made in the report entitled "Prevention of Atrocities against Scheduled Castes" is as follows:

*"Special Rapporteurs located in each State, in addition to the existing work entrusted to them may be utilized for **gathering feedback** on the ..... implementation of SCs and STs (Prevention of Atrocities) Act, 1989 in the State ....." (para 8.34).*

**18.26** In view of the above recommendation, Shri S. K. Tewari, Special Rapporteur, NHRC, made a field visit to Banda District in Uttar Pradesh from 23-28 April 2012 and submitted a detailed report on the basis of personal interviews conducted and information collected from other sources. Banda District is one of the 20 'sensitive' Districts in the State identified by the Government of Uttar Pradesh (para 8.35).

**18.27** As per information provided to the Special Rapporteur by the District Administration of Banda, from 1 January 2011 to 31 March 2012, a total of 249 crimes against SCs were committed. It was further reported by the Special Rapporteur that in Banda the District Police did not register any case under the Protection of Civil Rights Act, 1955. As regards cases filed under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, required data was not provided to the Special Rapporteur. However, the Superintendent of Police of District Banda vide his endorsement dated 12 September 2012 informed the Commission that in 2011 a total of 215 cases were registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, out of which chargesheet was issued in 150 cases and final report submitted in 65 cases (paras 8.36 & 8.37).

**18.28** The Special Rapporteur's report containing suggestions for action was forwarded to the concerned State authorities on the directions of the Commission. The action taken report from the Government of Uttar Pradesh is awaited (para 8.38).

### **SC/ST Protection Cells in States/Union Territories**

**18.29** Rule 8 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, requires the State Government to set up SC/ST Protection Cell, at the State Headquarters, under the charge of a Director General of Police/Inspector General of Police (para 8.39).

**18.30** SC/ST Protection Cells have been set up in 23 States/Union Territories, namely, Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Dadra & Nagar Haveli, NCT of Delhi and Puducherry (**para 8.40**).

**18.31** Accordingly, the Commission made a request to all those States/Union Territories where such Cells have not been constituted to set-up the same. In response, the Governments of Sikkim, Meghalaya and Andaman Nicobar Islands have informed that the SC/ST Cell was established by them. The Government of Mizoram has, however, informed that SCs living in the State are non-indigenous permanent residents and are presumably employees of Central Government or private sector currently deployed/stationed/posted. In view of this and the fact that the STs themselves are at the helm of all affairs, the State Government is of the opinion that there is no need to set-up a SC/ST Cell in the State. The Commission on its part continues to monitor the setting-up of SC/ST Cells in the remaining States/Union Territories (**para 8.41**).

### **Human Rights Awareness and Facilitating Assessment and Enforcement of Human Rights Programme in Selected 28 Districts of India**

**18.32** The above programme was undertaken by the Commission in 2007-2008, wherein it selected 28 Districts, one from each State, from the list of identified Districts availing the Backward Regions Grant Fund of the Ministry of Panchayati Raj, Government of India and is endorsed by the Planning Commission of India (**para 8.45**).

**18.33** The District of Wayanad in Kerala was visited in September 2009, wherein the Commission made extensive recommendations for improving the overall plight of Scheduled Tribes and Scheduled Castes with regard to their land and housing, conditions and availability of work, right to health, right to food, right to education and custodial justice. In order to re-assess the situation in the light of action taken reports received from the Government of Kerala, it made a review visit to Wayanad District in Kerala from 26 February to 1 March 2013. The Commission has forwarded its recommendations to the Chief Secretary, Government of Kerala, with a request that an action taken report be sent to the Commission at the earliest (**paras 8.48 & 8.49**).

### **Action Taken Report on Recommendations of National Workshop on Manual Scavenging and Sanitation**

**18.34** The National Human Rights Commission had organized a one-day National Workshop on Manual Scavenging and Sanitation on 11 March 2011 in New Delhi. On the basis of deliberations held in the workshop, 16 recommendations were made which were forwarded to all the concerned in the Centre and States/Union Territories for taking required action. The Commission has so far received responses from 11 States and four Union

Territories only, namely, Assam, Bihar, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Meghalaya, Mizoram, Tripura, Uttar Pradesh, West Bengal, Andaman & Nicobar Island, Chandigarh, Lakshadweep and NCT of Delhi (**paras 8.50 & 8.51**).

**18.35** The Commission once again reiterates all the States/Union Territories to implement all the sixteen recommendations of the National Workshop on Manual Scavenging and Sanitation with earnest sincerity; if at all the practice of manual scavenging is to be eliminated in all its forms (**para 8.55**).

### **Research and Review to Strengthen Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation across Key States: Follow-up of Recommendations**

**18.36** On the basis of key findings, the research has made number of recommendations. These recommendations were forwarded to all the States/Union Territories for information, taking necessary action and keeping the Commission apprised about the same. Since the responses received from few of the States were found to be of vague nature, the Commission devised a reporting format to facilitate all the States/Union Territories to send their action taken reports (**paras 9.9 & 9.10**).

**18.37** During the period under report, the Commission received responses from 18 States/Union Territories i.e. from the States of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, NCT of Delhi, Daman & Diu and Dadra & Nagar Haveli. Except for the States of Andhra Pradesh, Haryana, Punjab, Rajasthan, Uttar Pradesh, West Bengal and Union Territory of Chandigarh, none of the other States/Union Territories have provided complete information. The Commission would once again reiterate to all these States/Union Territories as well as those who have not replied so far to take required action on the recommendations and forward their action taken reports at the earliest (**paras 9.11 & 9.12**).

### **The Human Rights of Women and Girls, Gender Equality : The Role of National Human Rights Institutions**

**18.38** The conference on "The Human Rights of Women and Girls, Promoting Gender Equality: The Role of National Human Rights Institutions" was organized as part of the Eleventh International Conference of the International Coordinating Committee of the National Institutions for the Promotion and Protection of Human Rights (ICC) in Amman, Jordan from 5 to 7 November 2012. It was hosted by the Jordan National Centre for Human Rights in cooperation with the Office of the High Commissioner for Human Rights and the Asia Pacific Forum of National Human Rights Institutions (**para 9.30**).

**18.39** The conference adopted the Amman Declaration and Programme of Action. It is to be supported by an Action Plan on Human Rights of Women and Girls: Promoting Gender Equality. The texts of the Amman Declaration and Programme of Action along with the APF Action Plan were circulated to the National Commission for Women, National Commission for the Protection of Child Rights, the corresponding State Commissions, to the existing State Human Rights Commissions and to the Ministry of Women and Child Development for taking necessary action. The Commission is confident that the above would be taken note of and reflected in the programmes undertaken by all the aforementioned stakeholders (paras 9.31, 9.34 & 9.35).

## Country Report on Rights of Persons with Disabilities

**18.40** In accordance with paragraph 1 of Article 35 of UNCRPD, each State Party need to follow the reporting process. Keeping this in view, the Government of India was required to submit its country report before the Committee by 2009. As reported in the Annual Report of 2011-2012, the Commission requested the Union Ministry of Social Justice and Empowerment, Government of India to submit India's report to the Committee on time. Due to its continuous efforts, a draft copy of the country report was prepared by NALSAR Law University, Hyderabad on behalf of the Union Ministry, which was also forwarded to the Commission for comments. On examination of the draft country report, the Commission forwarded its observations, especially the initiatives taken by it, to the Government of India (paras 11.8 & 11.12).

**18.41** Based on the inputs given by different stakeholders, a revised draft of the country report was prepared by NALSAR. A copy of the revised draft was also forwarded to the Commission for comments/suggestions. The Commission communicated its observations to the Ministry of Social Justice and Empowerment as well as to the Ministry of Home Affairs in May 2012. It is hoped by the Commission that the Government of India has finally submitted the revised country report to the UNCRPD Committee (para 11.14).

## National Conference on Leprosy

**18.42** In order to look into concerns related to persons affected by leprosy, in particular, employment, stigma and discrimination, discriminatory laws, hygiene, sanitation and their living conditions in colonies where they are residing as well as make an assessment about the implementation of existing programmes and policies for persons affected by leprosy, the Commission organized a one-day National Conference on Leprosy in New Delhi on 18 September 2012. On the basis of extensive deliberations held in the conference, 17 recommendations were made and sent to all the stakeholders for compliance. The Commission is hopeful that its recommendations are being complied with all the States and Union Territories (paras 11.18, 11.19 & 11.20).



## Protection of Human Rights Defenders

**18.43** NHRC-India has initiated and taken many steps to promote and protect the rights of HRDs and also to mitigate the risks taken by them while defending human rights. During its Camp sittings and Open hearings, it has interacted with the representatives of NGOs and HRDs and has taken prompt action on the feedback provided by them. Cases of HRDs were given top priority and necessary relief, on merits, too was given. A Focal Point for Human Rights Defenders has been set-up in the NHRC to deal with complaints alleging harassment of human rights defenders by or at the instance of public authorities. The 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 (**paras 13.7 & 13.8**).

## Second Universal Periodic Review

**18.44** The second cycle of the Universal Periodic Review commenced in 2012. The Working Group on the UPR, established in accordance with Human Rights Council Resolution 5/1 of 18 June 2007, held its 13th Session from 21 May to 4 June 2012. The review of India was held on 24 May 2012. In its meeting held on 30 May 2012, the Working Group adopted the report presented by the Government of India. The report adopted by the Working Group (A/HRC/21/10) may be seen on the UN website ([www.un.org.in](http://www.un.org.in)). The final outcome of the Government of India's report was adopted in the Plenary Meeting of the Council at its 21st Session held on 20 September 2012 wherein 67 recommendations were accepted by the Government of India (**paras 14.7 & 14.8**).

**18.45** In order to take follow up action on the recommendations accepted by the Government of India, the Commission organized several meetings with concerned stakeholders during the reporting period with the aim of developing a framework to monitor the implementation by the Government of India of the recommendations it accepted at the second universal periodic review. In addition, the Chairperson of the Commission made a request to the Central Ministries of the Government of India to take action on the UPR recommendations concerning them and inform the progress made towards the implementation of those recommendations. These Ministries were Rural Development, Women & Child Development, Human Resource Development, Law & Justice, Health & Family Welfare, Minority Affairs, Labour & Employment, Social Justice & Empowerment, External Affairs, Consumer Affairs, Food & Public Distribution System, Drinking Water & Sanitation, Information & Broadcasting, Housing & Urban Poverty Alleviation, Finance and Tribal Affairs. The Commission is looking forward to the responses from the aforementioned Ministries (**para 14.10**).

## 57th Session of Commission on Status of Women at United Nations

**18.46** The fifty-seventh session of the Commission on the Status of Women (CSW) took



place at the United Nations Headquarters in New York from 4 to 15 March 2013. The main issue for NHRIs relating to CSW is that NHRIs do not currently have independent participation status at the CSW, the primary inter-governmental mechanism on women's empowerment and gender equality. In effect, this means that to attend CSW, NHRIs must be invited by its Government to join the Government delegation, or if an invitation is not forthcoming, NHRIs may consider registering with an ECOSOC-accredited NGO (which have much more limited access than Government representatives). Neither option appropriately reflects the independent status of NHRIs, yet they are currently the only two available options (**paras 14.11 & 14.12**).

**18.47** NHRIs have independent participation status with other UN human rights bodies, including all human rights treaty bodies and the Human Rights Council. It is also important to note that in June 2012, the Human Rights Council adopted resolution (A/HRC/RES/20/14) on NHRIs that also referred to CSW. This resolution, for the first time, specifically referred to the NHRI contribution to CSW and encouraged the advocacy for independent participation rights at that body. As the CSW continues to be an important body for NHRIs to engage with in relation to the global discussions, policy development and standard setting relating to women and girls' human rights and gender equality, the broader campaign for independent participation rights continues. NHRC-India, on its part, is continuously pursuing with the Ministries of External Affairs (MEA) and Women & Child Development (MWCD) that in consonance with the Paris Principles, A-status NHRIs like NHRC-India should be allowed to participate in the CSW as an independent institution. This year too, the above request was reiterated by it in a letter addressed to the Foreign Secretary and its endorsement to the Secretary, MWCD. Over the past five years that is from 2008 onwards the Asia Pacific Forum of National Human Rights Institutions (APF) has led the CSW initiative on behalf of the ICC. 2013 marks the final year that the APF will be leading/coordinating NHRIs at CSW (**paras 14.13 & 14.14**).

## State Human Rights Commissions

**18.48** Section 21 of the Protection of Human Rights Act, 1993 provides for constitution of State Human Rights Commissions (SHRCs) in the States as well. The existence and functioning of strong SHRCs will go a long way in 'better' protection and promotion of human rights. It is an accepted reality that good governance and human rights go hand in hand. As such, the SHRCs should play a crucial role in the effective implementation of human rights standards. The State Governments, too, need to appreciate that the State Commissions are facilitators and are assisting the States concerned in fulfilling their constitutional obligations and responsibilities of protecting and promoting human rights of the citizens - an absolutely essential element for good governance. It is the duty of the State Governments to take effective steps to make such Commissions fully functional at the earliest. While doing so, it should ensure that SHRCs are structurally and financially independent in conformity with the principles relating to the status of national institutions (the "Paris Principles") which were endorsed by the UN General Assembly Resolution 48/134 of 20 December 1993 (**para 15.1**).

**18.49** All State Governments should take suitable steps to strengthen their respective SHRCs. Merely setting up of SHRCs would not serve any desired purpose if they are not provided with adequate manpower, finance and infrastructure to facilitate their functioning. There is also an innate need to foster close interaction between the NHRC and SHRCs so that joint strategies could be evolved to achieve the common objective of protection and promotion of human rights (**para 15.2**).

**18.50** As per the latest information received from the State Governments, 23 States have set-up their own SHRCs. It is in the interest of citizens that SHRCs are set up in a speedy manner in the remaining States. The Chairperson, NHRC has written to the Chief Ministers of all those States, who have so far not set-up their respective SHRCs, to set-up a Commission and along with take immediate steps for appointment of Chairperson, Members, other secretarial staff, finance and infrastructure, so that they are able to function independently and efficiently. The Chairperson, NHRC has also brought to the notice of the Chief Ministers, the provision existing in Section 21(6) of the PHRA, 1993 whereby two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Members consents to such appointment. This provision may be useful in case an adjoining State which is without an SHRC and would be interested in sharing the Chairperson/Members with the SHRC of a State for want of suitable manpower/expertise in their own State (**paras 15.3 & 15.4**).

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# **ANNEXURES**



## Annexure-1

## Para 2.13

## STATEMENT SHOWING NUMBER OF CASES REGISTERED FROM 01/04/2012 TO 31/03/2013

Name of the State/Union Territory	Complaints	Suo-Motu Cognizance	Intimation Received about Custodial Deaths/Rapes			Intimation Received about Encounter Deaths	Total
			Police Custodial Deaths/Rapes	Judicial Custodial Deaths/Rapes	Para-Military/ Defence Cutody Deaths/Rapes		
All India	364	0	0	0	0	0	364
Andhra Pradesh	1462	4	17	86	0	5	1574
Arunachal Pradesh	34	0	2	1	0	2	39
Assam	387	1	9	21	0	55	473
Bihar	4632	4	2	112	0	2	4752
Goa	59	0	1	2	0	0	62
Gujarat	1967	1	22	51	0	0	2041
Haryana	9366	6	4	62	0	2	9440
Himachal Pradesh	292	2	0	6	0	0	300
Jammu & Kashmir	405	1	0	5	0	0	411
Karnataka	893	3	4	5	0	3	908
Kerala	896	0	6	45	0	0	947
Madhya Pradesh	2526	6	3	104	0	10	2649
Maharashtra	4359	8	20	96	0	5	4488
Manipur	92	1	1	1	0	15	110
Meghalaya	30	0	0	1	0	17	48
Mizoram	18	0	0	2	0	0	20
Nagaland	12	0	1	3	0	0	16
Odisha	5781	6	5	47	0	8	5847
Punjab	2273	3	3	117	0	1	2397
Rajasthan	3210	0	4	82	0	3	3299
Sikkim	5	0	0	0	0	0	5
Tamil Nadu	3243	6	10	67	0	3	3329
Tripura	744	0	0	3	0	1	748
Uttar Pradesh	47339	33	11	377	1	8	47769
West Bengal	1732	6	9	93	1	7	1848
Andaman & Nicobar	33	0	0	1	0	0	34
Chandigarh	235	1	0	2	0	0	238
Dadra & Nagar Haveli	18	0	0	0	0	0	18
Daman & Diu	17	0	0	0	0	0	17
Delhi	8227	12	2	20	0	3	8264
Lakshadweep	5	0	0	0	0	0	5
Pudducherry	75	0	0	2	0	0	77
Chhattisgarh	707	4	5	76	0	19	811
Jharkhand	1566	1	5	52	0	12	1636
Uttaralhand	2354	1	0	15	0	0	2370
Foreign Countries	301	0	0	0	0	0	301
<b>Grand Total</b>	<b>105659</b>	<b>110</b>	<b>146</b>	<b>1557</b>	<b>2</b>	<b>181</b>	<b>107655</b>



## Annexure-2

## Para 2.13

## STATEMENT SHOWING DISPOSAL OF CASES DURING 2012-2013

Name of the State/Union Territory	Dismissed with Limine	Disposed with Directions	Transferred to SHRC	Concluded after Receipts of Reports			Total
				Complaints Sou-Motu Cases	Custodial Deaths/ Rapes	Intimation Received about Encounter Deaths	
All India	333	32	0	4	0	0	369
Andhra Pradesh	869	260	200	86	69	9	1493
Arunachal Pradesh	22	6	0	6	2	0	36
Assam	180	60	30	61	20	43	394
Bihar	2289	1547	520	227	87	5	4675
Goa	36	13	1	4	2	0	56
Gujarat	1361	263	169	116	66	1	1976
Haryana	6248	2087	130	606	36	1	9108
Himachal Pradesh	187	62	7	19	6	0	281
Jammu & Kashmir	265	75	32	67	5	0	444
Karnataka	506	197	103	52	18	4	880
Kerala	211	70	19	30	28	0	358
Madhya Pradesh	1474	437	370	164	56	5	2506
Maharashtra	2506	667	403	398	102	6	4082
Manipur	43	15	2	33	0	1	94
Meghalaya	13	7	0	19	0	2	41
Mizoram	8	6	0	4	3	0	21
Nagaland	7	1	0	4	3	0	15
Odisha	833	480	169	322	39	3	1846
Punjab	1319	489	208	86	107	0	2209
Rajasthan	1686	622	503	308	63	1	3183
Sikkim	4	1	0	0	0	0	5
Tamil Nadu	1604	699	393	398	69	3	3166
Tripura	30	681	0	10	5	0	726
Uttar Pradesh	25597	13490	5242	2131	195	84	46739
West Bengal	869	280	387	150	61	5	1752
Andaman & Nicobar	22	8	0	12	2	0	44
Chandigarh	152	53	0	22	0	0	227
Dadra & Nagar Haveli	14	3	0	0	0	0	17
Daman & Diu	9	4	0	0	0	0	13
Delhi	5394	1718	0	818	21	2	7953
Lakshadweep	4	0	0	1	0	0	5
Puducherry	39	21	0	10	0	0	70
Chhattisgarh	427	90	95	62	45	1	720
Jharkhand	975	276	165	129	48	6	1599
Uttaralhand	1626	525	17	163	12	9	2352
Foreign Countries	226	50	0	25	0	0	301
<b>Grand Total</b>	<b>57388</b>	<b>25295</b>	<b>9165</b>	<b>6547</b>	<b>1170</b>	<b>191</b>	<b>99756</b>



## Annexure-3

## Para 2.13

## STATEMENT SHOWING NUMBER OF CASES PENDING AS ON 31/03/2013

Name of the State/Union Territory	Cases Awaiting Preliminary Consideration				Cases awaiting reports or consideration of reports.				Grand Total
	Complaints Suo-Motu	Custodial Rapes/Deaths	Encounter Deaths	Total	Complaints Suo-Motu	Custodial Rapes/Death	Encounter Deaths	Total	
All Over India	5	0	0	5	7	0	0	7	12
Andaman & Nicobar	0	0	0	0	15	3	1	19	19
Andhra Pradesh	16	0	0	16	243	179	23	445	461
Arunachal Pradesh	2	0	0	2	14	6	4	24	26
Assam	2	0	2	4	213	40	168	421	425
Bihar	32	2	0	34	735	178	9	922	956
Chandigarh	4	0	0	4	47	7	0	54	58
Chhattisgarh	10	0	0	10	235	90	24	349	359
Dadar & Nagar Haveli	0	0	0	0	2	0	0	2	2
Daman & Diu	1	0	0	1	3	1	0	4	5
Delhi	77	0	0	77	1320	54	17	1391	1468
Foreign Countries	10	0	0	10	28	0	0	28	38
Goa	0	0	0	0	23	5	0	28	28
Gujarat	22	0	0	22	322	118	3	443	465
Haryana	93	0	0	93	957	98	8	1063	1156
Himachal Pradesh	1	0	0	1	50	12	0	62	63
Jammu & Kashmir	8	0	0	8	194	8	1	203	211
Jharkhand	16	0	0	16	343	87	26	456	472
Karnataka	9	1	0	10	151	26	14	191	201
Kerala	3	0	0	3	712	75	1	788	791
Lakshwadeep	1	0	0	1	0	0	0	0	1
Madhya Pradesh	32	0	0	32	464	169	19	652	684
Maharashtra	43	0	0	43	625	251	44	920	963
Manipur	2	0	0	2	142	6	39	187	189
Meghalaya	1	0	0	1	19	2	26	47	48
Mizoram	0	0	0	0	12	2	0	14	14
Nagaland	0	0	0	0	7	3	0	10	10
Odisha	30	0	0	30	4931	47	19	4997	5027
Puducherry	2	0	0	2	22	6	0	28	30
Punjab	144	0	0	144	232	86	2	320	464
Rajasthan	28	0	0	28	454	126	9	589	617
Sikkim	0	0	0	0	4	0	0	4	4
Tamil Nadu	18	0	0	18	448	126	12	586	604
Tripur	23	0	0	23	38	5	3	46	69
Uttar Pradesh	816	5	0	821	4676	588	156	5420	6241
Uttarakhand	41	1	0	42	212	29	5	246	288
West Bengal	21	1	0	22	461	101	19	581	603
<b>Total</b>	<b>1513</b>	<b>10</b>	<b>2</b>	<b>1525</b>	<b>18361</b>	<b>2534</b>	<b>652</b>	<b>21547</b>	<b>23072</b>

## TOTAL NUMBER OF CASES WHERE NHRC RECOMMENDED MONETARY RELIEF ACTION DURING 2012-2013

Sl. No.	Name of the State/UT	No. of cases in which recommendations were made	Amount recommended for Victims/ Next	No. of cases in where recommendations have been complied with	Amount paid (₹)	No. of cases pending for compliance	Amount recommended in the cases pending for compliance
1	Andhra Pradesh	15	3130000	2	400000	13	2730000
2	Assam	21	11320000	12	5900000	9	5420000
3	Bihar	24	6805000	9	1560000	15	5245000
4	Chhattisgarh	10	5950000	7	2900000	3	3050000
5	Delhi	19	3800000	4	395000	15	3405000
6	Goa	1	3685000	0	0	1	3685000
7	Gujarat	12	1735000	1	100000	11	1635000
8	Haryana	13	10850000	3	1800000	10	9050000
9	Himachal Pradesh	1	100000	0	0	1	100000
10	Jammu & Kashmir	1	100000	0	0	1	100000
11	Jharkhand	17	2925000	4	700000	13	2225000
12	Karnataka	4	1900000	1	100000	3	1800000
13	Kerala	5	900000	2	200000	3	700000
14	Madhya Pradesh	22	4230000	4	1200000	18	3030000
15	Maharashtra	26	6300000	8	1200000	18	5100000
16	Manipur	4	3110000	0	0	4	3110000
17	Meghalaya	1	300000	1	300000	0	0
18	Mizoram	2	1000000	1	100000	1	900000
19	Odisha	7	3300000	1	500000	6	2800000
20	Punjab	6	2025000	1	800000	5	1225000
21	Rajasthan	8	1650000	1	100000	7	1550000
22	Tamil Nadu	15	3055000	3	700000	12	2355000
23	Tripura	2	820000	0	0	2	820000
24	Uttar Pradesh	104	25415000	40	9855000	64	15560000
25	Uttarakhand	5	1020000	2	520000	3	500000
26	West Bengal	11	2450000	1	100000	10	2350000
	<b>Grand Total</b>	<b>356</b>	<b>107875000</b>	<b>108</b>	<b>29430000</b>	<b>248</b>	<b>78445000</b>

## Annexure-5

## Para 2.36

### DETAILS OF CASAES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING 2012-2013 FOR PAYMENT OF MONETARY RELIEF

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
1	Andhra Pradesh	102/1/23/2011-PCD	807	Custodial Death (Police)	100000	07/02/2013
2	Andhra Pradesh	1078/1/11/2011-JCD	301	Custodial Death (Judicial)	300000	16/01/2013
3	Andhra Pradesh	1093/1/2/07-08-PCD	807	Custodial Death (Police)	100000	18/04/2012
4	Andhra Pradesh	1381/1/7/07-08-JCD	301	Custodial Death (Judicial)	300000	11/10/2012
5	Andhra Pradesh	250/1/16/2012-JCD	301	Custodial Death (Judicial)	100000	18/02/2013
6	Andhra Pradesh	256//3/2011	817	Unlawful Detention	200000	31/03/2013
7	Andhra Pradesh	257/1/7/09-10-JCD	301	Custodial Death (Judicial)	300000	04/05/2012
8	Andhra Pradesh	296/1/7/09-10-JCD	301	Custodial Death (Judicial)	300000	11/03/2013
9	Andhra Pradesh	586/1/11/08-09-AD	309	Alleged Custodial Deaths In Judicial Custody	30000	17/01/2013
10	Andhra Pradesh	595/1/9/2010	800	Police	100000	04/10/2012
11	Andhra Pradesh	6/1/14/2012-PCD	807	Custodial Death (Police)	100000	18/10/2012
12	Andhra Pradesh	64/1/2/09-10-JCD	301	Custodial Death (Judicial)	300000	15/03/2013
13	Andhra Pradesh	781/1/14/07-08	812	Death In Police Encounter	500000	05/12/2012
14	Assam	115/3/2004-2005-AF	1609	Death In Army Firing	500000	06/03/2013
15	Assam	142/3/15/2010-ED	812	Death In Police Encounter	500000	20/12/2012
16	Assam	188/3/5/07-08-AF	1607	Custodial Torture	20000	08/03/2013
17	Assam	273/3/13/2010-ED	812	Death In Police Encounter	1500000	24/01/2013
18	Assam	39/3/2/2012	1505	Inaction By The State Government/ Central Govt.Officials	1700000	28/05/2012
19	Assam	42/3/3/2012-PCD	807	Custodial Death (Police)	300000	05/11/2012
20	Assam	48/3/5/2011-JCD	301	Custodial Death (Judicial)	300000	07/03/2013
21	Assam	53/3/8/2011-JCD	301	Custodial Death (Judicial)	100000	16/04/2012
22	Assam	64/3/2/2011-PCD	807	Custodial Death (Police)	500000	27/08/2012
23	Bihar	102/4/32/09-10-JCD	301	Custodial Death (Judicial)	100000	26/04/2012
24	Bihar	1063/4/11/2011-JCD	301	Custodial Death (Judicial)	200000	26/02/2013
25	Bihar	1588/4/39/2011	804	Abuse Of Power	25000	16/07/2012
26	Bihar	164/4/5/09-10-JCD	301	Custodial Death (Judicial)	300000	09/05/2012
27	Bihar	1794/4/24/2010-JCD	301	Custodial Death (Judicial)	100000	03/09/2012
28	Bihar	1817/4/32/2011	1505	Inaction By The State Government/ Central Govt.Officials	1400000	19/11/2012

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
29	Bihar	1818/4/1/2011	1505	Inaction By The State Government/ Central Govt.Officials	400000	30/08/2012
30	Bihar	1952/4/23/09-10-JCD	301	Custodial Death (Judicial)	300000	05/10/2012
31	Bihar	2152/4/38/2011	804	Abuse Of Power	20000	21/01/2013
32	Bihar	2663/4/30/2010	1901	Atrocities On Sc/St/Obc	150000	20/06/2012
33	Bihar	2730/4/3/2011-JCD	301	Custodial Death (Judicial)	300000	01/11/2012
34	Bihar	3449/4/23/07-08	812	Death In Police Encounter	1500000	13/12/2012
35	Bihar	524/4/4/2011	804	Abuse Of Power	50000	19/11/2012
36	Bihar	642/4/30/08-09-JCD	301	Custodial Death (Judicial)	300000	30/08/2012
37	Bihar	703/4/23/07-08-JCD	301	Custodial Death (Judicial)	100000	11/04/2012
38	Chhattisgarh	307/33/7/2011	1505	Inaction By The State Government/ Central Govt.Officials	450000	19/04/2012
39	Chhattisgarh	350/33/1/2012-JCD	301	Custodial Death (Judicial)	300000	12/02/2013
40	Chhattisgarh	533/33/5/2011	204	Irregularities In Govt.Hospitals/ Primary Health Centres	2300000	18/05/2012
41	Delhi	1233/30/7/2012-PCD	804	Abuse Of Power	300000	14/03/2013
42	Delhi	1244/30/2/2010	1500	Miscellaneous	150000	27/06/2012
43	Delhi	1366/30/3/2012	106	Sexual Harassment	500000	15/11/2012
44	Delhi	1523/30/0/2011-JCD	301	Custodial Death (Judicial)	300000	17/12/2012
45	Delhi	1713/30/0/2010-JCD	301	Custodial Death (Judicial)	100000	21/12/2012
46	Delhi	182/30/1/2012-JCD	301	Custodial Death (Judicial)	100000	26/11/2012
47	Delhi	3113/30/2/2011	814	Failure In Taking Lawful Action	50000	23/10/2012
48	Delhi	325/30/3/2011	1202	Non-Payment Of Pension/ Compensation	35000	11/06/2012
49	Delhi	5042/30/3/2011	804	Abuse Of Power	40000	08/03/2013
50	Delhi	5494/30/0/2010	1505	Inaction By The State Government/ Central Govt.Officials	900000	15/10/2012
51	Delhi	5646/30/8/2011	821	Victimisation	180000	10/05/2012
52	Delhi	5976/30/0/2011	821	Victimisation	50000	31/12/2012
53	Delhi	6458/30/9/2011-JCD	301	Custodial Death (Judicial)	300000	17/12/2012
54	Delhi	6901/30/9/2011-JCD	301	Custodial Death (Judicial)	300000	25/03/2013
55	Delhi	979/30/2/2012	100	Children	100000	31/10/2012
56	Goa	19/5/0/2011	804	Abuse Of Power	3685000	10/09/2012
57	Gujarat	1049/6/21/2011-PCD	807	Custodial Death (Police)	100000	27/02/2013
58	Gujarat	1110/6/11/2010-AD	309	Alleged Custodial Deaths In Judicial Custody	100000	17/01/2013
59	Gujarat	112/6/2006-2007-CD	301	Custodial Death (Judicial)	500000	11/03/2013
60	Gujarat	1160/6/2003-2004	801	Arbitrary Use Of Power	25000	14/02/2013
61	Gujarat	145/6/2005-2006-CD	807	Custodial Death (Police)	100000	14/06/2012

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
62	Gujarat	1473/6/1/08-09-PCD	807	Custodial Death (Police)	100000	11/03/2013
63	Gujarat	305/6/21/2011	305	Harassment Of Prisoners	10000	20/02/2013
64	Gujarat	369/6/2003-2004-CD	807	Custodial Death (Police)	100000	02/05/2012
65	Gujarat	395/6/3/08-09-PCD	807	Custodial Death (Police)	100000	14/06/2012
66	Gujarat	580/6/14/2010-WC	803	Abduction/Rape	400000	04/09/2012
67	Gujarat	966/6/1/2011-PCD	807	Custodial Death (Police)	100000	18/02/2013
68	Haryana	1393/7/5/07-08-JCD	301	Custodial Death (Judicial)	300000	21/11/2012
69	Haryana	155/7/16/2010-WC	1307	Gang Rape	50000	24/08/2012
70	Haryana	1552/7/5/2010-JCD	301	Custodial Death (Judicial)	100000	31/05/2012
71	Haryana	1866/7/11/2011	200	Health	7200000	11/04/2012
72	Haryana	2218/7/17/2011-JCD	301	Custodial Death (Judicial)	500000	04/02/2013
73	Haryana	2311/7/5/2011-JCD	301	Custodial Death (Judicial)	100000	24/01/2013
74	Haryana	2865/7/19/2010	814	Failure In Taking Lawful Action	100000	03/09/2012
75	Haryana	2896/7/2/2010	814	Failure In Taking Lawful Action	100000	15/10/2012
76	Haryana	365/7/3/07-08	813	Alleged Fake Encounters	500000	25/10/2012
77	Haryana	3688/7/17/2011	814	Failure In Taking Lawful Action	100000	26/03/2013
78	Himachal Pradesh	163/8/9/2011-AD	822	Alleged Custodial Deaths In Police Custody	100000	26/11/2012
79	Jammu & Kashmir	42/9/0/2012	203	Malfunctioning Of Medical Professionals	100000	13/02/2013
80	Jharkhand	1014/34/3/2010-WC	1312	Sexual Harassment (General)	50000	23/04/2012
81	Jharkhand	108/34/2005-2006	813	Alleged Fake Encounters	500000	22/11/2012
82	Jharkhand	1242/34/20/2011	809	Custodial Torture	50000	12/06/2012
83	Jharkhand	1264/34/2004-2005-CD	807	Custodial Death (Police)	100000	10/05/2012
84	Jharkhand	1311/34/18/2012-WC	1314	Sexual Harassment By Army/ Paramilitary Personnel	50000	14/02/2013
85	Jharkhand	1518/34/14/2011-WC	1301	Abduction, Rape And Murder	50000	15/02/2013
86	Jharkhand	1620/34/16/2011-JCD	301	Custodial Death (Judicial)	500000	12/11/2012
87	Jharkhand	190/34/4/2012-JCD	301	Custodial Death (Judicial)	500000	21/01/2013
88	Jharkhand	304/34/11/2011-PCD	807	Custodial Death (Police)	100000	06/03/2013
89	Jharkhand	337/34/22/2012	1505	Inaction By The State Government/ Central Govt.Officials	100000	16/11/2012
90	Jharkhand	6/34/16/2012-JCD	301	Custodial Death (Judicial)	100000	13/12/2012
91	Jharkhand	628/34/16/2010-JCD	301	Custodial Death (Judicial)	100000	04/09/2012
92	Jharkhand	742/34/11/2011	1202	Non-Payment Of Pension/ Compensation	25000	21/12/2012
93	Karnataka	405/10/2006-2007-CD	807	Custodial Death (Police)	500000	26/07/2012
94	Karnataka	683/10/19/07-08	811	Death In Police Firing	1000000	14/06/2012
95	Karnataka	993/10/7/07-08-JCD	301	Custodial Death (Judicial)	300000	31/12/2012

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96	Kerala	120/11/4/2011-JCD	301	Custodial Death (Judicial)	100000	21/08/2012
97	Kerala	379/11/7/2011-JCD	301	Custodial Death (Judicial)	300000	13/07/2012
98	Kerala	395/11/3/2011-JCD	301	Custodial Death (Judicial)	300000	24/09/2012
99	Madhya Pradesh	1006/12/32/2011	1508	Atrocities by Custom /Excise/ /Enforcement /forest /Income-Tax Deptt., etc. of Central/ State Govts.	100000	26/03/2013
100	Madhya Pradesh	1153/12/22/09-10	1202	Non-Payment Of Pension/ Compensation	100000	20/09/2012
101	Madhya Pradesh	1279/12/31/2011-JCD	301	Custodial Death (Judicial)	300000	18/10/2012
102	Madhya Pradesh	1308/12/38/09-10-JCD	301	Custodial Death (Judicial)	300000	09/07/2012
103	Madhya Pradesh	1738/12/5/2011-WC	1307	Gang Rape	200000	01/10/2012
104	Madhya Pradesh	1812/12/21/2011-WC	1309	Indignity Of Women	20000	22/10/2012
105	Madhya Pradesh	1892/12/40/2011-JCD	301	Custodial Death (Judicial)	300000	26/10/2012
106	Madhya Pradesh	195/12/30/09-10-PCD	807	Custodial Death (Police)	100000	12/04/2012
107	Madhya Pradesh	2172/12/46/2011-PCD	807	Custodial Death (Police)	100000	21/12/2012
108	Madhya Pradesh	2200/12/11/2011-JCD	301	Custodial Death (Judicial)	100000	07/02/2013
109	Madhya Pradesh	283/12/47/2011-PCD	807	Custodial Death (Police)	100000	07/02/2013
110	Madhya Pradesh	447/12/18/2012	1505	Inaction By The State Government/ Central Govt.Officials	300000	18/12/2012
111	Madhya Pradesh	513/12/23/2012	1505	Inaction By The State Government/ Central Govt.Officials	70000	11/01/2013
112	Madhya Pradesh	54/12/32/2010-JCD	301	Custodial Death (Judicial)	100000	30/04/2012
113	Madhya Pradesh	547/12/32/2011-JCD	301	Custodial Death (Judicial)	300000	25/09/2012
114	Madhya Pradesh	6/12/22/2012-JCD	301	Custodial Death (Judicial)	300000	18/02/2013
115	Madhya Pradesh	670/12/28/07-08	814	Failure In Taking Lawful Action	140000	25/06/2012
116	Madhya Pradesh	868/12/22/2011-JCD	301	Custodial Death (Judicial)	100000	26/11/2012
117	Maharashtra	1290/13/2006-2007	812	Death In Police Encounter	500000	19/07/2012
118	Maharashtra	1655/13/2006-2007-CD	807	Custodial Death (Police)	100000	09/05/2012
119	Maharashtra	1737/13/2003-2004	814	Failure In Taking Lawful Action	500000	09/05/2012
120	Maharashtra	188/13/2005-2006-CD	807	Custodial Death (Police)	200000	13/06/2012
121	Maharashtra	1943/13/2002-2003-WC	1312	Sexual Harassment (General)	100000	29/06/2012
122	Maharashtra	2163/13/23/2010-JCD	301	Custodial Death (Judicial)	100000	02/02/2013
123	Maharashtra	2622/13/16/07-08-PCD	807	Custodial Death (Police)	500000	19/09/2012
124	Maharashtra	266/13/23/2010-JCD	301	Custodial Death (Judicial)	300000	05/10/2012
125	Maharashtra	393/13/19/2011-JCD	301	Custodial Death (Judicial)	300000	31/12/2012
126	Maharashtra	399/13/2005-2006-CD	301	Custodial Death (Judicial)	100000	31/05/2012
127	Maharashtra	538/13/21/07-08	811	Death In Police Firing	500000	13/02/2013
128	Maharashtra	551/13/16/08-09-JCD	301	Custodial Death (Judicial)	100000	29/06/2012
129	Maharashtra	645/13/16/2010-PCD	807	Custodial Death (Police)	100000	19/06/2012



Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
130	Maharashtra	658/13/30/2010-ED	812	Death In Police Encounter	500000	03/05/2012
131	Maharashtra	659/13/18/2011-JCD	301	Custodial Death (Judicial)	100000	13/12/2012
132	Maharashtra	664/13/11/2010-ED	812	Death In Police Encounter	500000	19/12/2012
133	Maharashtra	771/13/28/2010-PCD	807	Custodial Death (Police)	100000	19/07/2012
134	Maharashtra	813/13/27/07-08	812	Death In Police Encounter	500000	03/05/2012
135	Manipur	41/14/4/07-08-PF	1711	Alleged Fake Encounter (P-M Forces)	1500000	24/01/2013
136	Manipur	43/14/2004-2005-AD	1616	Alleged Custodial Death	500000	19/04/2012
137	Manipur	8/14/2004-2005-AF	1605	Custodial Death (Defence)	1000000	26/07/2012
138	Manipur	90/14/4/2011	1505	Inaction By The State Government/ Central Govt.Officials	110000	11/01/2013
139	Mizoram	8/16/0/2011	1505	Inaction By The State Government/ Central Govt.Officials	900000	23/07/2012
140	Odisha	1186/18/6/2011	1505	Inaction By The State Government/ Central Govt.Officials	500000	27/09/2012
141	Odisha	1485/18/14/2010-ED	812	Death In Police Encounter	500000	10/01/2013
142	Odisha	157/18/24/09-10	1508	Atrocities By Custom/Excise/ Enforcement/Forest/Income-Tax Deptt., Etc.Of Central/State Govts.	400000	27/12/2012
143	Odisha	180/18/14/2011	203	Malfunctioning Of Medical Professionals	100000	17/09/2012
144	Odisha	408/18/32/2011-WC	1903	Rape Of Sc/St/Obc	1200000	31/08/2012
145	Odisha	423/18/32/2012-JCD	301	Custodial Death (Judicial)	100000	13/02/2013
146	Punjab	270/19/15/2012	204	Irregularities In Govt.Hospitals/ Primary Health Centres	25000	27/02/2013
147	Punjab	278/19/10/09-10-JCD	301	Custodial Death (Judicial)	100000	20/06/2012
148	Punjab	377/19/8/09-10-JCD	301	Custodial Death (Judicial)	100000	30/11/2012
149	Punjab	506/19/15/2011	1500	Miscellaneous	900000	14/08/2012
150	Punjab	519/19/8/09-10-JCD	301	Custodial Death (Judicial)	100000	11/04/2012
151	Rajasthan	1300/20/14/2011-JCD	301	Custodial Death (Judicial)	500000	06/09/2012
152	Rajasthan	1449/20/19/2011-AD	309	Alleged Custodial Deaths In Judicial Custody	100000	22/06/2012
153	Rajasthan	2585/20/2/2011-WC	1312	Sexual Harassment (General)	100000	27/06/2012
154	Rajasthan	378/20/14/2012-PCD	807	Custodial Death (Police)	100000	19/02/2013
155	Rajasthan	762/20/1/2011	809	Custodial Torture	50000	27/11/2012
156	Rajasthan	815/20/6/2010	1505	Inaction By The State Government/ Central Govt.Officials	600000	22/02/2013
157	Rajasthan	945/20/24/2010-PCD	807	Custodial Death (Police)	100000	17/01/2013
158	Tamil Nadu	1014/22/36/08-09-JCD	301	Custodial Death (Judicial)	500000	09/05/2012
159	Tamil Nadu	106/22/13/2010	816	Illegal Arrest	20000	26/04/2012
160	Tamil Nadu	1220/22/36/07-08	300	Jail	200000	25/03/2013

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
161	Tamil Nadu	1339/22/13/08-09-PCD	807	Custodial Death (Police)	100000	02/05/2012
162	Tamil Nadu	1559/22/35/2012	1901	Atrocities On Sc/St/Obc	10000	30/10/2012
163	Tamil Nadu	1631/22/36/2011-JCD	301	Custodial Death (Judicial)	300000	17/12/2012
164	Tamil Nadu	1703/22/5/2012	814	Failure In Taking Lawful Action	25000	13/12/2012
165	Tamil Nadu	270/22/46/2011-JCD	301	Custodial Death (Judicial)	400000	13/03/2013
166	Tamil Nadu	47/22/5/2012-JCD	301	Custodial Death (Judicial)	100000	17/01/2013
167	Tamil Nadu	699/22/13/09-10-AD	822	Alleged Custodial Deaths In Police Custody	300000	13/02/2013
168	Tamil Nadu	729/22/2005-2006-CD	301	Custodial Death (Judicial)	300000	23/05/2012
169	Tamil Nadu	844/22/15/2011-AD	822	Alleged Custodial Deaths In Police Custody	100000	27/02/2013
170	Tripura	22/23/2/2011	809	Custodial Torture	20000	21/01/2013
171	Tripura	47/23/3/2010-PF	1715	Victimisation	800000	13/02/2013
172	Uttar Pradesh	10868/24/7/2012-JCD	301	Custodial Death (Judicial)	50000	15/02/2013
173	Uttar Pradesh	11000/24/34/2011-JCD	301	Custodial Death (Judicial)	100000	26/11/2012
174	Uttar Pradesh	11116/24/57/2011	816	Illegal Arrest	40000	21/12/2012
175	Uttar Pradesh	11284/24/2005-2006	812	Death In Police Encounter	500000	29/11/2012
176	Uttar Pradesh	1233/24/2006-2007	812	Death In Police Encounter	500000	19/12/2012
177	Uttar Pradesh	1234/24/2006-2007	812	Death In Police Encounter	500000	29/11/2012
178	Uttar Pradesh	14442/24/48/2010-ED	812	Death In Police Encounter	700000	26/07/2012
179	Uttar Pradesh	14530/24/57/09-10-PCD	807	Custodial Death (Police)	500000	02/05/2012
180	Uttar Pradesh	1608/24/10/07-08	817	Unlawful Detention	500000	10/05/2012
181	Uttar Pradesh	16095/24/48/09-10-JCD	301	Custodial Death (Judicial)	100000	12/03/2013
182	Uttar Pradesh	17622/24/2006-2007	812	Death In Police Encounter	1000000	24/01/2013
183	Uttar Pradesh	18481/24/2005-2006	812	Death In Police Encounter	500000	13/02/2013
184	Uttar Pradesh	19603/24/57/2010	809	Custodial Torture	30000	24/08/2012
185	Uttar Pradesh	20864/24/24/2011-PCD	807	Custodial Death (Police)	200000	18/09/2012
186	Uttar Pradesh	20869/24/4/2011-JCD	301	Custodial Death (Judicial)	100000	23/07/2012
187	Uttar Pradesh	20961/24/48/2010-WC	1311	Rape	500000	21/11/2012
188	Uttar Pradesh	21604/24/4/07-08	814	Failure In Taking Lawful Action	300000	12/12/2012
189	Uttar Pradesh	21828/24/46/2011-WC	803	Abduction/Rape	500000	04/12/2012
190	Uttar Pradesh	22316/24/73/2010-JCD	301	Custodial Death (Judicial)	300000	31/12/2012
191	Uttar Pradesh	22474/24/18/07-08	813	Alleged Fake Encounters	500000	12/12/2012
192	Uttar Pradesh	23879/24/48/2011	821	Victimisation	25000	03/12/2012
193	Uttar Pradesh	26370/24/4/07-08-JCD	301	Custodial Death (Judicial)	300000	12/07/2012
194	Uttar Pradesh	26586/24/2006-2007	812	Death In Police Encounter	500000	12/04/2012
195	Uttar Pradesh	26648/24/4/09-10-JCD	301	Custodial Death (Judicial)	300000	31/12/2012
196	Uttar Pradesh	27000/24/7/2011-WC	1301	Abduction, Rape And Murder	20000	26/03/2013

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
197	Uttar Pradesh	28329/24/45/09-10	817	Unlawful Detention	10000	15/11/2012
198	Uttar Pradesh	28675/24/7/2010	814	Failure In Taking Lawful Action	10000	27/11/2012
199	Uttar Pradesh	28810/24/1/2011-JCD	301	Custodial Death (Judicial)	100000	18/02/2013
200	Uttar Pradesh	28894/24/54/2011	816	Illegal Arrest	40000	23/07/2012
201	Uttar Pradesh	29751/24/21/2011-AD	309	Alleged Custodial Deaths In Judicial Custody	300000	08/02/2013
202	Uttar Pradesh	31558/24/56/2010-WC	1309	Indignity Of Women	50000	22/05/2012
203	Uttar Pradesh	34605/24/57/09-10	816	Illegal Arrest	20000	08/06/2012
204	Uttar Pradesh	35679/24/72/2011	106	Sexual Harassment	300000	12/07/2012
205	Uttar Pradesh	36256/24/61/2010	203	Malfunctioning Of Medical Professionals	300000	10/12/2012
206	Uttar Pradesh	36299/24/1/09-10	817	Unlawful Detention	5000	14/02/2013
207	Uttar Pradesh	37451/24/48/09-10-JCD	301	Custodial Death (Judicial)	100000	15/02/2013
208	Uttar Pradesh	38871/24/2006-2007	812	Death In Police Encounter	500000	25/10/2012
209	Uttar Pradesh	39414/24/52/2011	817	Unlawful Detention	10000	13/12/2012
210	Uttar Pradesh	40001/24/48/2011	1500	Miscellaneous	50000	08/06/2012
211	Uttar Pradesh	40150/24/2006-2007	817	Unlawful Detention	30000	07/06/2012
212	Uttar Pradesh	40406/24/38/2011-JCD	301	Custodial Death (Judicial)	100000	17/12/2012
213	Uttar Pradesh	40465/24/26/2011-JCD	301	Custodial Death (Judicial)	100000	27/11/2012
214	Uttar Pradesh	41459/24/1/2010	814	Failure In Taking Lawful Action	100000	28/03/2013
215	Uttar Pradesh	42103/24/48/2011-JCD	301	Custodial Death (Judicial)	300000	06/03/2013
216	Uttar Pradesh	42164/24/34/2011	1505	Inaction By The State Government/ Central Govt.Officials	325000	14/01/2013
217	Uttar Pradesh	44192/24/24/2011	1202	Non-Payment Of Pension/ Compensation	25000	29/10/2012
218	Uttar Pradesh	45214/24/20/2011	814	Failure In Taking Lawful Action	100000	19/02/2013
219	Uttar Pradesh	48388/24/72/07-08	1505	Inaction By The State Government/ Central Govt.Officials	300000	23/11/2012
220	Uttar Pradesh	48849/24/4/2011	312	Lack Of Medical Facilities	50000	29/11/2012
221	Uttar Pradesh	50381/24/2006-2007	812	Death In Police Encounter	500000	17/10/2012
222	Uttar Pradesh	50941/24/63/07-08	812	Death In Police Encounter	500000	18/10/2012
223	Uttar Pradesh	51237/24/10/08-09-AFE	813	Alleged Fake Encounters	500000	03/05/2012
224	Uttar Pradesh	52388/24/54/08-09-WC	1301	Abduction, Rape And Murder	20000	15/11/2012
225	Uttar Pradesh	5379/24/70/2011-AD	309	Alleged Custodial Deaths In Judicial Custody	100000	21/08/2012
226	Uttar Pradesh	56/24/3/07-08	814	Failure In Taking Lawful Action	500000	03/05/2012
227	Uttar Pradesh	5910/24/64/2010	804	Abuse Of Power	10000	23/10/2012
228	Uttar Pradesh	6655/24/30/2012	109	Disappearance / Missing	10000	15/11/2012
229	Uttar Pradesh	8097/24/4/2012	809	Custodial Torture	30000	22/10/2012

Sl. No.	Name of the State/UT	Case No.	Incident Code	Nature of Complaint for Victims/ Next of Kins	Amount Recommended	Date of recommendation
230	Uttar Pradesh	8509/24/31/08-09-JCD	301	Custodial Death (Judicial)	100000	24/01/2013
231	Uttar Pradesh	8634/24/57/2012	814	Failure In Taking Lawful Action	200000	18/02/2013
232	Uttar Pradesh	9217/24/48/07-08-JCD	301	Custodial Death (Judicial)	300000	23/11/2012
233	Uttar Pradesh	9590/24/2006-2007	812	Death In Police Encounter	500000	20/09/2012
234	Uttar Pradesh	9703/24/51/2011	1505	Inaction By The State Government/ Central Govt.Officials	400000	17/12/2012
235	Uttar Pradesh	9839/24/2006-2007-CD	301	Custodial Death (Judicial)	100000	11/05/2012
236	Uttarakhand	668/35/5/2010	1505	Inaction By The State Government/ Central Govt.Officials	300000	31/08/2012
237	Uttarakhand	797/35/13/2012-AD	822	Alleged Custodial Deaths In Police Custody	100000	27/02/2013
238	Uttarakhand	891/35/7/09-10	814	Failure In Taking Lawful Action	100000	12/04/2012
239	West Bengal	1128/25/11/2010-AD	822	Alleged Custodial Deaths In Police Custody	100000	18/02/2013
240	West Bengal	1207/25/18/2011	809	Custodial Torture	500000	14/03/2013
241	West Bengal	125/25/13/2011-AF	1611	Alleged Fake Encounter(Defence)	1000000	18/02/2013
242	West Bengal	157/25/13/2011-PF	1711	Alleged Fake Encounter(P-M Forces)	500000	04/03/2013
243	West Bengal	197/25/4/2012-WC	1309	Indignity Of Women	50000	11/02/2013
244	West Bengal	422/25/5/2011-JCD	301	Custodial Death (Judicial)	100000	26/02/2013
245	West Bengal	457/25/8/2011	1202	Non-Payment Of Pension/ Compensation	25000	17/12/2012
246	West Bengal	626/25/15/09-10-PF	1707	Custodial Torture	20000	14/01/2013
247	West Bengal	868/25/13/2010-AF	1615	Victimisation	25000	08/10/2012
248	West Bengal	991/25/16/2011-PF	1715	Victimisation	30000	16/11/2012

## Annexure-6

## Para 2.40

## DETAILS OF CASES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING 2011-2012 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended	Date of recommendation	Remarks
1.	Assam	144/3/16/2010-ED	Death In Police Encounter	5,00,000.00	11-01-2012	Proof of payment awaited
2.	Assam	270/3/19/2010-ED	Death In Police Encounter	5,00,000.00	01-03-2012	Proof of payment awaited
3.	Bihar	166/4/2001-2002	Death In Police Encounter	10,00,000.00	08-02-2012	Proof of payment awaited
4.	Bihar	1683/4/8/2010	Children	2,00,000.00	24-03-2012	Proof of payment awaited
5.	Bihar	3637/4/2002-2003	Failure In Taking Lawful Action	10,00,000.00	11-01-2012	Proof of payment awaited
6.	Bihar	651/4/2006-2007-CD	Custodial Death (Judicial)	3,00,000.00	20-04-2011	Proof of payment awaited
7.	Chandigarh	25/27/0/09-10-AD	Alleged Custodial Deaths In Police Custody	1,00,000.00	10-08-2011	Proof of payment awaited
8.	Chandigarh	43/27/0/2010	Irregularities In Govt.Hospitals/ Primary Health Centres	50,000.00	19-03-2012	Proof of payment awaited
9.	Delhi	2843/30/1/2010	Inaction By The State Government/ Central Govt. Officials	1,00,000.00	20-01-2012	Proof of payment awaited
10.	Delhi	4951/30/8/2010	Labour	3,00,000.00	01-09-2011	Proof of payment awaited
11.	Gujarat	40/6/2005-2006-CD	Custodial Death (Police)	5,00,000.00	18-01-2012	Proof of payment awaited
12.	Gujarat	411/6/21/08-09-PCD	Custodial Death (Police)	1,00,000.00	08-12-2011	Proof of payment awaited
13.	Haryana	2336/7/17/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	14-03-2012	Proof of payment awaited
14.	Himachal Pradesh	39/8/12/09-10-PCD	Custodial Death (Police)	1,00,000.00	03-08-2011	Proof of payment awaited
15.	Jammu & Kashmir	25/9/4/07-08-PCD	Custodial Death (Police)	5,00,000.00	27-07-2011	Proof of payment awaited
16.	Jammu & Kashmir	5/9/0/08-09-PF	Death In Firing	1,00,000.00	18-07-2011	Proof of payment awaited
17.	Jharkhand	540/34/12/2011	Unlawful Detention	15,000.00	29-02-2012	Proof of payment awaited
18.	Kerala	4/11/2005-2006-CD	Custodial Death (Police)	4,00,000.00	02-06-2011	Proof of payment awaited
19.	Kerala	50/11/2006-2007-CD	Custodial Death (Judicial)	2,70,000.00	02-03-2012	Proof of payment awaited
20.	Kerala	84/11/8/2010-JCD	Custodial Death (Judicial)	1,00,000.00	02-02-2012	Proof of payment awaited
21.	Madhya Pradesh	441/12/2003-2004-CD	Custodial Death (Police)	5,00,000.00	07-09-2011	Proof of payment awaited
22.	Madhya Pradesh	921/12/2/09-10	Malfunctioning Of Medical Professionals	13,25,000.00	05-07-2011	Proof of payment awaited
23.	Madhya Pradesh	923/12/22/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	03-11-2011	Proof of payment awaited
24.	Maharashtra	1110/13/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	26-04-2011	Proof of payment awaited
25.	Maharashtra	1120/13/2005-2006	Death In Police Encounter	5,00,000.00	02-02-2012	Proof of payment awaited
26.	Maharashtra	1386/13/17/09-10-PCD	Custodial Death (Police)	1,00,000.00	20-06-2011	Proof of payment awaited
27.	Maharashtra	1734/13/4/2010-PCD	Custodial Death (Police)	5,00,000.00	06-03-2012	Proof of payment awaited

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended	Date of recommendation	Remarks
28.	Maharashtra	1806/13/21/08-09-PCD	Custodial Death (Police)	1,00,000.00	08-12-2011	Proof of payment awaited
29.	Maharashtra	1882/13/3/08-09-PCD	Custodial Death (Police)	1,00,000.00	22-06-2011	Proof of payment awaited
30.	Maharashtra	1953/13/16/08-09-PCD	Custodial Death (Police)	5,00,000.00	02-02-2012	Proof of payment awaited
31.	Maharashtra	2139/13/23/08-09-JCD	Custodial Death (Judicial)	3,00,000.00	23-02-2012	Proof of payment awaited
32.	Maharashtra	2155/13/30/2010	Custodial Torture	10,000.00	30-01-2012	Proof of payment awaited
33.	Maharashtra	244/13/1/07-08-PCD	Custodial Death (Police)	5,00,000.00	29-06-2011	Proof of payment awaited
34.	Maharashtra	352/13/2/08-09-PCD	Custodial Death (Police)	5,00,000.00	29-09-2011	Proof of payment awaited
35.	Maharashtra	374/13/2/08-09-WC	Immoral Trafficking On Women	1,00,000.00	09-01-2012	Proof of payment awaited
36.	Maharashtra	436/13/30/08-09-ED	Death In Police Encounter	5,00,000.00	22-03-2012	Proof of payment awaited
37.	Maharashtra	913/13/16/08-09-ED	Death In Police Encounter	5,00,000.00	16-11-2011	Proof of payment awaited
38.	Manipur	2/14/2001-2002-PF	Victimisation	5,00,000.00	13-02-2012	Proof of payment awaited
39.	Manipur	2/14/4/08-09-ED	Death In Police Encounter	6,00,000.00	09-02-2012	Proof of payment awaited
40.	Nagaland	9/17/3/09-10-PCD	Custodial Death (Police)	1,00,000.00	28-07-2011	Proof of payment awaited
41.	Odisha	135/18/2005-2006	Failure In Taking Lawful Action	5,00,000.00	15-02-2012	Proof of payment awaited
42.	Odisha	176/18/6/2011	Inaction By The State Govt. /Central Govt.Officials	3,00,000.00	05-01-2012	Proof of payment awaited
43.	Punjab	363/19/2/08-09-PCD	Custodial Death (Police)	5,00,000.00	04-01-2012	Proof of payment awaited
44.	Punjab	648/19/2005-2006-CD	Custodial Death (Judicial)	1,00,000.00	08-07-2011	Proof of payment awaited
45.	Punjab	982/19/9/08-09-JCD	Custodial Death (Judicial)	1,00,000.00	10-05-2011	Proof of payment awaited
46.	Rajasthan	1014/20/14/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	13-05-2011	Proof of payment awaited
47.	Rajasthan	2159/20/18/08-09-PCD	Custodial Death (Police)	1,00,000.00	07-04-2011	Proof of payment awaited
48.	Rajasthan	457/20/11/09-10	Failure In Taking Lawful Action	2,00,000.00	14-12-2011	Proof of payment awaited
49.	Rajasthan	865/20/24/2011-WC	Abduction, Rape And Murder	3,00,000.00	23-02-2012	Proof of payment awaited
50.	Tamil Nadu	2349/22/36/08-09-AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	16-11-2011	Proof of payment awaited
51.	Tamil Nadu	2594/22/13/08-09	Police	5,00,000.00	11-08-2011	Proof of payment awaited
52.	Tamil Nadu	534/22/37/07-08	Unlawful Detention	50,000.00	10-05-2011	Proof of payment awaited
53.	Uttar Pradesh	15141/24/2005-2006	Death In Police Encounter	5,00,000.00	01-09-2011	Proof of payment awaited
54.	Uttar Pradesh	15143/24/66/07-08-WC	Rape Of Minorities Woman	5,25,000.00	07-10-2011	Proof of payment awaited
55.	Uttar Pradesh	18627/24/46/08-09-WC	Gang Rape	50,000.00	12-01-2012	Proof of payment awaited
56.	Uttar Pradesh	19842/24/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	26-03-2012	Proof of payment awaited
57.	Uttar Pradesh	19885/24/2005-2006-DH	Death In Judicial Custody	50,000.00	31-01-2012	Proof of payment awaited
58.	Uttar Pradesh	20645/24/40/09-10-JCD	Custodial Death (Judicial)	1,00,000.00	26-08-2011	Proof of payment awaited
59.	Uttar Pradesh	30962/24/36/09-10-AD	Alleged Custodial Deaths In Police Custody	5,00,000.00	24-10-2011	Proof of payment awaited
60.	Uttar Pradesh	3583/24/2002-2003	Lack Of Proper Medical Facilities In The State	44,20,000.00	28-09-2011	Proof of payment awaited
61.	Uttar Pradesh	3915/24/1/2011	Illegal Arrest	10,000.00	01-02-2012	Proof of payment awaited
62.	Uttar Pradesh	4381/24/72/2010-JCD	Custodial Death (Judicial)	3,00,000.00	13-03-2012	Proof of payment awaited
63.	Uttar Pradesh	6153/24/56/2011-PF	Abuse Of Power	25,000.00	23-01-2012	Proof of payment awaited
64.	Uttar Pradesh	6916/24/2005-2006	Alleged Fake Encounters	5,00,000.00	04-01-2012	Proof of payment awaited
65.	Uttar Pradesh	9668/24/2006-2007-CD	Custodial Death (Judicial)	1,00,000.00	28-04-2011	Proof of payment awaited
66.	West Bengal	1011/25/5/07-08-JCD	Custodial Death (Judicial)	3,00,000.00	11-01-2012	Proof of payment awaited
67.	West Bengal	511/25/13/09-10-JCD	Custodial Death (Judicial)	3,00,000.00	11-10-2011	Proof of payment awaited



## Annexure-7

## Para 2.40

### DETAILS OF CASES PENDING COMPLIANCE OF NHRC'S RECOMMENDATIONS DURING 1993-1994 TO 2010-2011 FOR PAYMENT OF MONETARY RELIEF/DISCIPLINARY ACTION/PROSECUTION

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended	Date of recommendation	Remarks
1.	Jammu & Kashmir	55/9/2003-2004-ad	Alleged death in the custody of Jammu Police (Complaint)	500000	19.08.2009	The State Govt. has challenged the recommendation of the Commission in the J & K High Court.
2.	Jammu & Kashmir	206/9/2003-2004 M-4	Damage of House by the Govt. (Complaint)	200000	23.11.09	The State Govt. has challenged the recommendation of the Commission in the J & K High Court.
3.	Kerala	235/11/98-99 FC	Alleged false implication	10000	14.03.01	The State Govt. has preferred writ Appeals against the recommendations of the Co, which is pending consideration
4.	Kerala	95/11/1999-2000 FC	Death of a head constable while on duty, for a want of timely medical care	50000	29.08.2007	Compliance report not received due to challenge in the High Court of Kerala on the grounds of non-compliance with the provisions of protection of Human Rights Act, 1993. Orde3rs of WP No.36890/07 awaited from High Court of Kerala.
5.	Kerala	43/11/2002-2003-cd	Death in judicial custody	150000	12.09.08	The Government of Kerala filed a Writ Petition No. 21305/09 in the High Court of Kerala against the recommendation made by the Commission and the High Court. Outcome of the writ petition is awaited
6.	Orissa	123/18/1999-2000	Alleged physical torture & illegal detention by police	Disciplinary action		The State Govt. has preferred writ petition No. O.J.C.No. 8776/2000 in the High Court of Orissa, against the recommendations of the Commission, which is pending consideration.

Sl. No.	Name of the State/UT	Case No.	Nature of Complaint	Amount Recommended Next of Kins	Date of recommendation	Remarks
7.	Uttar Pradesh	30217/24/2002-2003-cd	Death in judicial custody	10000 (intimation)	20.02.08	Compliance report is awaited.
8.	Uttar Pradesh	12969/24/2002-2003 (FC)	Death in police encounter (Complaint)	300000	27.05.2009	Proof of payment awaited
9.	Uttar Pradesh	39058/24/2003-2004 (FC)	Killing of by police in Fake Encounter (Complaint)	600000 (3,00,000/- each 2 persons)	27.07.2009	Proof of payment awaited
10.	Uttar Pradesh	37802/24/2006-2007 M-5	Alleged torture by police (Complaint)	25000	24.08.2009	Proof of payment awaited
11.	Uttar Pradesh	38166/24/2006-2007-cd M-5	Death in Judicial Custody (Intimation)	100000	31.10.2009	Proof of payment awaited
12.	Uttar Pradesh	14303/24/2006-2007 M-5	Victimization and harassment of a press reporter by police on behalf of then S.P. Lakhimpur Khiri, against whom he had reported in the press (Complaint)	500000	04.02.10	Proof of payment awaited
13.	Delhi	102/30/2005-2006 FC	Severe health problems suffered by a girl due to supply of wrong medicine by CGHS Dispensary (Complaint)	100000	30.07.07	Compliance report not received due to challenge in the High Court of Delhi on the grounds of denial of medicines by the complainant; denial of opportunity to the petitioner to explain his stand; and condition of patient had worsened by administration of wrong medicine Orders of W.P. No.9776/07 pending in the High Court of Delhi.
14.	Andhra Pradesh	444/1/2006-2007-CD	Death in Judicial Custody (Intimation)	100000	09/12/2010	Proof of payment awaited
15.	Arunachal Pradesh	3/2/14/08-09-PCD	Death in Police Custody (Intimation)	100000	12/11/2010	Proof of payment awaited
16.	Bihar	2491/4/7/08-09-CD	Death in Judicial Custody (Intimation)	100000	31/03/2011	Proof of payment awaited
17.	Kerala	49/11/2006-2007-CD	Death in Judicial Custody (Intimation)	300000	27/09/2010	Proof of payment awaited
18.	Madhya Pradesh	130/12/13/2010-PCD	Custodial Death (Police)	200000	09/03/2011	Proof of payment awaited
19.	Madhya Pradesh	2138/12/38/07-08	Alleged Fake Encounters	200000	14/07/2010	Proof of payment awaited
20.	Maharashtra	1122/13/2005-2006-CD	Death in Judicial Custody (Intimation)	300000	05/01/2011	Proof of payment awaited
21.	Maharashtra	511/13/2003-2004	Failure in Taking Lawful Action	1430000	06/01/2011	Proof of payment awaited
22.	Orissa	256/18/2/09-10	Atrocities By Custom/Excise/Enforcement/Forest/Income-Tax Deptt., Etc. Of Central/State Govts.	700000	31/03/2011	Proof of payment awaited
23.	Orissa	613/18/2002-2003-AF	Victimisation	2400000	19/10/2010	Proof of payment awaited
24.	Tripura	28/23/2004-2005-CD	Death in Judicial Custody (Intimation)	300000	21/06/2010	Proof of payment awaited
25.	Uttar Pradesh	21872/24/2006-2007-CD	Death in judicial custody (intimation)	1,00,000	08/09/2010	Proof of payment awaited
26.	Uttar Pradesh	42474/24/2006-2007	Unlawful Detention	50000	25/05/2010	Proof of payment awaited
27.	Uttar Pradesh	6384/24/2003-2004	Death in Police Encounter	500000	05/05/2010	Proof of payment awaited

## Para 8.49

## Annexure-8

## RECOMMENDATIONS OF THE REVIEW VISIT OF NHRC TO WAYANAD DISTRICT IN KERALA

**[26 February - 1 March 2013]**

### A. RIGHTS OF SCHEDULED TRIBES AND SCHEDULED CASTES

#### Land and Housing

1. 6,812 tribal families in the District are still landless. The process of identification and allotment of land to these landless tribal families in the District needs to be expedited and completed within six months, before December 2013. A monthly report on allotment should be sent to the Commission. The District Administration also needs to give wider publicity to various schemes as well as the Forest Rights Act, under which land is being allotted to landless tribal families.

**Action: District Collector / Dept. of Tribal & Revenue, Govt. of Kerala**

2. The District Administration needs to ensure and monitor that on allotment of land, non-alienable possession certificates and tax receipts are promptly issued to the tribals in a time-bound manner by the Revenue Department. This would enable them to get loans and the land allotted will thus become a productive asset. As already communicated via our earlier recommendation, the Tribal & Panchayat Departments should monitor the tribal use of their land and report regularly to the District Collector.

**Action: District Collector / Respective Panchayats / Revenue & Tribal Depts.**

3. Out of 8,288 homeless tribal families in the District, houses have been provided only to 5,868 tribal families so far. There are still 2,420 homeless tribal families in the District, who need to be urgently housed. Most of the tribal families who have been provided houses under various housing schemes of the State Government are incomplete. Many of these houses have no electricity, though the necessary infrastructure is there. These houses need to be listed and completed immediately under the overall supervision and monitoring of the District Collector, who should ensure that each house has a chulha, a toilet, potable water and electricity. The District Collector should also send a monthly progress report to the Commission.

**Action: District Collector / Tribal Dept./ Housing Dept.**

#### Food

4. The District Administration should apprise the Commission about the criteria of inclusion and exclusion of APL/BPL/AAY families. However, it is reiterated that ST/SC

beneficiaries should only be issued BPL or AAY ration cards and it should be ensured that they draw their rations regularly.

**Action: District Collector / Tribal Dept./ SC Dept./ Food & Civil Supplies Dept.**

### **Health**

5. There is a need to organize focused family awareness camps/campaigns in all tribal colonies with the help of Departments of Health, Social Welfare, Panchayati Raj, Tribal Welfare and NGOs, wherein the attention of the tribals should be drawn towards health hazards of alcoholism and other kinds of addiction. The Excise Department and Police, with the support of the Panchayats, should also ensure that spurious liquor is neither brewed nor sold.

**Action: District Collector / Departments of Health, Social Welfare, Panchayati Raj, Tribal Welfare, Excise / Police**

6. It should be ensured that all tribals are covered under the Rashtriya Swasthya Bima Yojana and when they avail of the scheme, they should get all the prescribed medicines and other concessions to which they are entitled.

**Action: District Collector / Departments of Health, Social Welfare, Panchayati Raj & Tribal Welfare**

7. The tribals were burying the dead bodies in close vicinity of their houses or Anganwadi Centres or schools, which posed a health problem. A common burial ground should be provided to the tribals in their colonies.

**Action: District Collector / Tribal, Health and Land Depts./Panchayats**

### **Conditions & Availability of Work**

8. Gram Panchayats need to be sensitized along with tribals about the NREGA scheme and its latest operational guidelines. The Gram Panchayats have to be pro-active in motivating the tribals to work. They also need to issue cards to tribals who have registered as well as renew cards after a period of five years. Entries pertaining to employment and wages should be updated in the job card from time to time and in any case not later than 7 days of the corresponding event date or else it would indicate that the accounts are being fudged.

8 (a) The District Administration/State Government needs to take up the issue of delayed payment of wages along with the demand of tribals for enhancement of wages given under NREGA.

**Action: District Collector / Gram Panchayats**

9. Tribals from the Pania community and other tribal communities continued to be lured by agents, middlemen and rich farmers as migrant labour into the neighbouring Districts of Kodagu and Chikmagalur in Karnataka for purposes of cultivation. There are allegations that they end up working as bonded labourers. These bonded labourers need to be identified, released and rehabilitated by the initiatives of the concerned District Collector. The police, media and elected bodies have an equally important role to play in protecting the rights of tribals.

9 (a) Tribal Promoters in various tribal colonies need to counsel tribals to take up work under NREGA and thus dissuade them for taking up work outside the State.

**Action: District Collector / Gram Panchayats /Tribal Dept./ Sr. Supdt. of Police**

10. As employment opportunities for tribal youth were still found to be grim, it is reiterated that the District Administration should appoint Counsellors in senior secondary schools and colleges to provide guidance and spread awareness among tribal students/youth about different vocations they could opt for. This would facilitate them in getting appropriate employment. Simultaneously, there is need to introduce different vocational courses in well located schools and colleges in the District.

**Action: District Collector / Gram Panchayats /Tribal Dept./ Education Dept.**

11. The District Administration should ensure the implementation of various developmental schemes for betterment of vulnerable tribal communities, in particular, Kattunayakans in the District.

**Action: District Collector / Gram Panchayats /Tribal & Social Welfare Depts.**

### **Children & Education**

12. In view of the escalating costs of board and lodging provided in 5 Model Residential Schools (MRS), there is a need to enhance the overall grant given to them. Besides, there is a need to build more number of similar MRS.

**Action: District Collector / Tribal & Education Depts.**

13. It needs to be reiterated that there are still no hostels for post-matric students. The SC and ST Development and Education Departments should consider opening some post-matric hostels.

**Action: District Collector / Tribal & Education Depts.**

14. Science batch has been started in two MRS at Nalloornadu and Noolpuzha. Steps need to be taken for provision of requisite infrastructure in the remaining three MRS, for introducing the science stream.

**Action: District Collector / Tribal & Education Depts.**

15. It is reiterated that the District Administration should immediately open residential/ local coaching centers for facilitating SC/ST children to prepare for admissions to different professional courses.

**Action: District Collector / Tribal & Education Depts.**

16. Till date no details have been provided with regard to enhancing the percentage of reservation prescribed for ST for seeking admission in colleges, which seems to be only 2% at present. Suitable steps need to be taken by the concerned Departments of the District Administration immediately, so that more number of ST school-leavers are able to get admission in colleges.

**Action: District Collector / Tribal & Education Depts.**

17. An update needs to be given to the Commission with regard to the usage of corpus fund provided by the Tribal Department for improving the overall standard of education.

**Action: District Collector / Tribal Dept.**

### **Coordination**

18. The District Administration till date has not provided an update about the steps taken by the concerned departments for upliftment of the tribals. The same should be provided immediately to NHRC.

**Action: District Collector**

19. The District Administration needs to ensure that AWWs, Supervisors and CDPOs need to be properly trained with regard to plotting of new WHO growth charts. Besides, all children in 0-6 age groups under the band of concern need to be examined thoroughly by the Doctors. Individual cards of children visiting AWCs, which are under print, need to be expedited. This would facilitate proper monitoring of children.

(a) Further, the Doctor visiting the AWCs prescribed medicines but no record was being kept in the AWCs. Roofs of asbestos sheets in AWCs need to be replaced with proper roofing immediately as these are carcinogenic. All AWCs should be provided with colourful picture-books for children.

(b) Roofs made up of asbestos sheets in schools also need to be replaced immediately. The District Administration should request the MHRD to enhance the funds provided under MDMS in view of the growing inflation. The MHRD should release the required funds immediately as funds from mid-November 2012 have not been released so far to the Department of Education, Wayanad and many of these schools were taking loans/advance for feeding children.

(c) The District Administration should take up the matter of upgradation of all the 13 Government Upper Primary Schools to that of High Schools under the Central Government



Scheme (Rashtriya Madhyamik Shiksha Abhiyan) with the MHRD and MoMA (Ministry of Minority Affairs). NHRC, too, will follow it up with both the Ministries.

(d) It was reported by the AWWs that the honorarium given to them under the ICDS Scheme is meager and it required to be enhanced. Similarly, there is a need to enhance the honorarium of AWWs responsible for running of mini-AWCs. Currently the honorarium given to them was equivalent to that of a Helper. The location of the place to run an AWC should be the responsibility of the Panchayat/District Social Welfare Officer or CDPO or Supervisor and not that of an AWW.

**Action: District Collector / Women & Child Dev. and Education Depts./Panchayat**

20. The District Administration is required to update the Commission immediately with regard to existing level of coordination between all the Development Departments at the Panchayat level.

**Action: District Collector**

21. The District Administration, till date, has not provided an update about the separate package recommended for the overall development of Paniya and Kattunayakan communities, who are the most backward among the tribals. An update on this should be provided immediately to NHRC by the District Collector. The District Administration should also publicize the overall development package, if any, among the Paniya and Kattunayakan communities.

**Action: District Collector**

22. It came to notice of the Commission during its recent visit that crimes against tribals were rampant and police intervention was not forthcoming. The SP needs to look into this issue and provide a write-up on the appointment and functioning of Tribal Intelligence Officers.

**Action: District Collector / SP / Depts. of Home & Law & ST Devp.**

### **Outreach**

23. The District Administration should provide a write-up detailing out the steps taken by them to reach out to the tribals, starting at the Panchayat level. It also needs to train and energize the Tribal Promoters and Panchayat Members.

**Action: District Collector / Tribal Dept. / Panchayats**

## **B. RIGHT TO HEALTH**

### **Infrastructure and Staffing**

24. While 10 new health care centers have come up in the District under Multi-Sectoral Development Programme and are ready for functioning, there is still an immediate need

for construction of a super-specialty hospital in Wayanad so that in case of emergency, the patients can avail of treatment in the District itself rather than rush to the Calicut Medical College Hospital.

**Action: District Collector / Health Dept. / District Medical Officer**

25. It needs to be ensured that there is proper control and coordination between the Doctors and the pharmacy staff in the Kalpetta Taluk Government General Hospital and other Government Hospitals in the District. The sanctioned posts therein need to be filled up immediately. The available infrastructure within the Hospitals should be made functional. The x-ray machine and other equipments should be repaired without delay and their maintenance should be ensured.

**Action: District Collector / Health Dept. / District Medical Officer**

26. The Commission so far has not been informed about the steps taken by the District Medical Officer to solve the shortage of Psychiatrists. The District Medical Officer is advised to avail the services of Psychiatrists on contractual basis in view of emerging trends.

**Action: District Collector / Health Dept. / District Medical Officer**

### **Surveys and Interventions**

27. Sickle-cell anemia continues to be a serious problem among the tribals. It was earlier recommended by NHRC that a survey should be quickly undertaken in 2009-10 to identify those affected, medical interventions and counselling should follow. During the recent visit, it was told that the disease was found among certain tribes like, Panyas, Kurumas, Adiyas and Chettis of Wayanad. These patients were shy in coming to Hospitals or attending social functions, thus suffering from self-imposed stigma. The DMO should inform the Commission about the status of the survey recommended by NHRC and steps taken by the Health Department for its treatment and prevention.

**Action: District Collector / Health Dept. / District Medical Officer**

28. The Commission had earlier recommended that a study be undertaken by the Health Department of the State Government to find out whether excessive use of pesticides has led to rise in the incidence of cancer. However, till date the Commission has no information about this.

(a) It had also brought to the knowledge of the District Administration that heavy use of fertilizers and pesticides led to contamination of drinking water. As a result the Pollution Control Board must monitor the water quality, create awareness and prescribe corrective actions through the Krishi Bhawans in the Panchayats and through farmers' organizations. An action taken report on the issue needs to be provided to the NHRC and a study on the

excessive use of pesticides and its impact on water quality should be undertaken so that the fears of the people are dispelled.

**Action: District Collector / Health Dept. / District Medical Officer**

29. Child marriage was reported to be prevalent in some parts of Wayanad District. It needs to be examined whether under the garb of child marriage trafficking is taking place. A report needs to be submitted on this issue.

**Action : District Collector/ Department of Women & Child**

### **Outreach to Tribals**

30. The Commission restates its previous recommendation that the mobile medical units visiting the tribal colonies should give advance intimation so that their services are optimally utilized. The Tribal Promoters and the Panchayats should be closely involved. It would be ideal if mobile medical units visit the tribal colonies on alternate days.

**Action: District Collector / Health & Panchayat Depts. / DMO/Panchayats**

31. As recommended by the Commission earlier, it needs to be updated with regard to sensitization training programmes held for medical and para-medical staff under the NRHM including the number of such programmes organized during 2009-10, 2010-11 and 2011 - 12.

**Action : District Medical Officer, Wayanad**

### **Waste Disposal**

32. The Commission once again reiterates its prior recommendation that the disposal of solid waste at the Panchayat and Municipal levels must be in accordance with the norms prescribed by the Pollution Control Board, Kerala. The Board and the Panchayats must monitor this regularly.

**Action: All Panchayats/Kalpetta Municipality/Asstt. Environmental Engineer, Kalpetta**

## **C. RIGHT TO FOOD**

### **Countering Deprivation**

33. Once again, the Commission reiterates its earlier recommendation that every effort must be made by the Tribal Department, the Panchayat Department and the District Administration at the ward and panchayat levels to ensure that no one suffers starvation because of a lack of purchasing power or of employment. Further, the District Administration must ensure that every tribal family is provided job under NREGA and adequate rations under TDPS as per their entitlement.

**Action : All Panchayats/ S. Welfare & Tribal Deptts./D.C.**

34. It was reported during NHRC's recent visit that suicides of farmers in debt continued despite the implementation of the crop insurance scheme by the State. The District Administration should provide the correct statistics of farmers' suicide in Wayanad along with the details of compensation paid to each family during the last five financial years. Besides, it should provide a write-up on problems faced by the farmers and their views on resolving the issue. It would be useful to extend the NREGA scheme to small farmers as well.

**Action: Deptt. Of Agriculture/Nationalized Banks/D.C.**

35. As recommended by NHRC earlier, the District Administration should provide up-to-date information about the steps taken by the concerned Departments for ensuring food security among the Paniyas, Kattunayakans and Ooralis, who are very malnourished and anemic, through the ICDS, MDMS, AAY, PDS programmes or any other special scheme of the State Government.

**Action: Depts. of S.Welfare, Food & Civil Supplies, Edu./ICDS**

### **Food Quality**

36. As communicated earlier, the Food Inspector should ensure the quality of mutton and fish through inspections on periodical basis. Regular reports should be sent to the respective Panchayats and corrective action taken.

**Action: All Panchayats, Municipality Food Inspector(s), Dept of Health**

### **Cropping Patterns**

37. The NHRC in its earlier recommendation had stated that the water level is going down. The State Government should encourage paddy cultivation by extending the support price system for paddy procurement and other measures. The cultivation of paddy would raise both the water table and local employment. An action taken report on the issue needs to be provided to the NHRC immediately.

**Action: Depts. of Agriculture & Civil Supplies/D.C.**

38. An action taken report should be submitted to the Commission instantly relating to cultivation of crops traditionally used by the tribals, particularly tubers, jackfruit and mango, etc. as it would reduce malnutrition.

**Action: Agriculture, Tribal and Forest Depts./Panchayats**

## **D. RIGHT TO EDUCATION**

39. 'Gothra Sarathi' project to provide free transportation facility to the tribal children being implemented in three Panchayats, namely, Vellamunda, Nenmeni and Noolpuzha is praiseworthy and needs to be extended to all the Panchayats and also sustained by them.

This will certainly reduce drop-out rates and enhance overall educational standards.

**Action: Depts. Of Edu., S. Justice, S.T.& S.C. Dev./Panchayats**

40. There is an urgent need to open more number of Model Residential Schools and Pre-matric Hostels in Wayanad so that children who are forced to walk long distances are accommodated in hostels and the upgrading of schools in Panchayats must be given priority.

**Action: Depts. of Education, S. Justice, S.T. & S.C. Dev./Panchayats**

41. The District Collector should expedite preparing a report relating to the steps it proposes to take to meet the challenge of maintaining the overall standards in alternative schools from class I to IV functioning in tribal settlements as well as the smooth transfer of tribal children studying in these schools to regular schools in class V. The Deputy Director, Education, also needs to be more pro-active.

**Action: Education, S. Justice, S.T. & S.C. Dev. Depts./Panchayats/D.C./ Dy.Dir(Edu.)**

42. As mentioned in 2009, it would be worthwhile for the District Administration to undertake a study of the local needs, so that suitable professional institutions for higher education are set-up. A Medical College, however, needs to be constructed at Sultan Bathery.

**Action: D.C./ Higher Edu. Dept**

43. As pointed out in 2009, the State Government should consider exclusive reservation through an executive order for Paniyas, Kattunaikans and Ooralis who are the most backward among tribals and have so far been unable to get the benefits of reservation of education or employment. This would give them an opportunity to assimilate into the mainstream of society.

**Action: Edu., S. Justice, S.T. Dev. Depts./Panchayats/DC**

44. The District Administration should make a survey of all educational institutions to assess the availability and requirement of separate toilets for males and females. Accordingly, it should ensure the construction of required number of toilets and this task must be given priority.

**Action : Panchayats/Edu. and Public Works Dept.**

45. As communicated earlier, the District Administration should ensure that educational institutions disburse scholarships in the beginning of the academic session itself, so that students remain motivated and the scholarships act as an incentive. An action taken report for the current academic session, i.e. 2013 -14 should be forwarded to the Commission latest by August end this year.

45 (a) There is inordinate delay in release of Government funds to aided schools, which

affected a large number of students and its teachers. This needs to be examined and remedial measures ought to be taken by the District Administration.

**Action: Panchayats/Edu. Dept./D.C.**

46. In order to reduce the drop-out rate, ensure total enrolment and eliminate malnutrition problems among tribal students, the ST and SC Development Dept. has started the Breakfast Scheme ST and SC children in all schools. The Breakfast Programme extended is currently limited to 100 days. It needs to be given on all working days of the school and should cover other backward communities as well. Other than this, the breakfast cost per child per day needs to be suitably enhanced in view of the escalating prices of all essential commodities.

**Action: Education, S.T. & S.C. Dev. Depts. /Panchayats/D.C.**

## **E. CUSTODIAL JUSTICE**

47. Prompt action must be taken by the Police with regard to atrocities against women. The Police should give women a greater sense of security. An up-to-date status of cases related to two tribal girls who were reported to be missing since 2008 and the recent case of a tribal woman who was raped by a mobile shop owner along with other cases of violence against women in Wayanad should be instantly provided to the Commission.

**Action: Supdt. of Police/Law and Justice Dept./D.C.**

48. As recommended in 2009, fair trial and a right to bail are part of custodial justice, but many tribals do not have land tax receipts and are thus unable to get bail. Therefore, as mentioned at Serial No. 2 above, the Revenue Department should in a time-bound manner issue possession certificates of land and tax receipts so that the tribals have access to fair trial and a right to bail.

**Action: Revenue Dept./DC/Home, Law, Tribal & ST Dev. Depts./Panchayats**

49. As recommended in 2009, the District Legal Service Authority should monitor cases of tribals languishing in jail and help them in speedy trial. Leading NGOs might also be asked to help.

(a) During the recent visit of NHRC to sub-jail in Mananthavady Taluk, it was found that there was no information in respect of measures taken up by the District Legal Services Committee for bail and speedy trial of undertrials. This needs to be examined.

**Action: Wayanad Dist. Legal Service Authority/DC/ Home, Law&ST Dev. Depts.**

50. NHRC should be apprised about the decision of the High Court with regard to arrest of 6 tribals by Palghat Police without informing the Wayanad Police.

**Action: Supdt. of Police/ Home Dept.**



51. It was recently reported to the NHRC team by a Zila Panchayat Member and a representative of an NGO that the conviction rate under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Wayanad was reported to be 6% only. The Superintendent of Police should ensure that the provisions of the aforementioned Act are judiciously used and the local Police is sensitized about various provisions of the Act.

**Action : SP, Public Prosecutor/ District Collector/ Home Dept.**

52. There was a complaint from Kottangada villagers, Noolpuzha Panchayat, Wayanad stating that 24 tribal families were shifted for which compensation was given but the money did not reach the affected tribals. Today they have no home for staying nor land for cultivation. Their plight is deplorable and they need to be rehabilitated. This needs to be urgently investigated.

**Action: District Collector/Revenue, Land, Panchayat Dept.**

53. A complaint was handed by P. K. Sulekha, wife of late K. Kunhammed, P.O. Vyithiri stating that she was getting family pension from Government of Kerala through Canara Bank from 19.08.1999. But from November 2012 the Canara Bank had stopped the pension due to education loan taken by her son. The District Administration needs to get the matter examined.

**Action - District Collector**

54. There was a complaint that funds granted for 2012 to ward no. 5 Cheeyambam 73, Kaattunayaka Colony, Poothadi Panchayat were not disbursed to the beneficiaries. The District Administration needs to take appropriate action.

**Action - District Collector**

55. In a recent incidence at Ward No. 7, Uramkunnu, Paniya Colony of Vengapalli Gram Panchayat, a mother by the name of Ajitha delivered a child, who died instantly and the mother died after 7-8 days. One Tribal Promoter was suspended for a day and later reinstated. The District Administration should examine the matter afresh and report the action taken to the Commission.

**Action - District Collector**

56. Another Scheduled Tribe complainant, namely, Radhakrishnan, who belongs to Nenmeni Gram Panchayat, in Wayanad applied for land as he did not have his own home. He was allotted four cents of land but the allotted land was not handed over to him nor was any financial help rendered for construction of house. The District Administration should look into the matter with the concerned Departments. Cases of these kinds were reported by Raghavan and Malu, from Kodangara, Naykkatti P.O.; A. Chanthunni, Chairman of Kerala Adivasi Forum, Wayanad; and many others.

**Action: District Collector/ Department of ST Development**

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## Para 8.55

## Annexure-9

## Recommendations of the National Workshop on Manual Scavenging and Sanitation

1. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 should be implemented in letter and spirit at the fastest pace and the abolition of the practice of scavenging should be taken up as a national mission.
2. The States need to ensure that the data provided by them on the abolition of dry latrines and rehabilitation of manual scavengers commensurate with the data of the Ministry of Social Justice and Empowerment. In case of any discrepancy, the State Governments should take up the matter with the Ministry, to get the data rectified.
3. On synchronizing of their data with the Ministry of Social Justice and Empowerment with regard to abolition of manual scavenging, each State/Union Territory should issue a declaration/notification with a copy to NHRC that their area is free from manual scavenging and dry latrines.
4. Till date, there is no single window to address the problems of manual scavengers. A single window should be created in every District with a Nodal Officer, where manual scavengers have been identified, to facilitate and fast track the process of rehabilitation. A Nodal Agency on manual scavenging should also be created at the State level.
5. The cleaning of septic tanks may be mechanized to abolish manual cleaning. The concerned authorities need to adopt technology/mechanized system for manhole operations with adequate safety measure and skilled training.
6. Railways should develop a state of art technology of sanitation facilities to minimize manual interventions within a fixed time frame.
7. The guidelines for cleaning work/manhole operation by the Supreme Court/High Court (Gujarat) should be implemented by the concerned agencies/employers so that the Safai Karamcharis are protected from health hazards.
8. The employers must provide necessary safeguard equipments, uniform, and other safeguard measures to the manhole workers/scavengers to avoid fatal accidents. The structure of wages should be same for Safai Karamcharis all over the country.
9. Special health check-ups through mobile vans should be carried out in the residential areas of all Safai Karamcharis whether permanent, part-time and contractual and in all Harijan Bastis followed with medical aids.

10. In case of death or disability of Safai Karamchari, the dependent should be provided with immediate employment in accordance with their qualifications. Further, compensation of at least Rs. 3 lakhs should be given to the family of the deceased person.
11. Schemes like Self-Employment of Manual Scavengers (SRMS), Sarva Shiksha Abhiyan (SSA), National Rural Employment Guarantee Scheme - 2005 (NREGS), etc. must be inclusive of this segment of population. The success of these schemes must be evaluated only in terms of change they bring about in the quality of life of manual scavengers and Safai Karamcharis.
12. To encourage and facilitate the schooling of children of this class, residential good quality schools should be established where they should be provided with free education and study material, boarding and lodging, etc. The financial component for the children of manual scavengers needs to be enhanced substantially as they have been lagging far behind. They need to be provided regular assistance for their higher education as well.
13. There have been instances wherein those appointed to do the cleaning work have sublet their task to other manual scavengers or some other Safai Karamcharis. The exploitation therefore continues, albeit indirectly. The trend should be discouraged. This should be made an offence and those responsible for doing it should be given severe punishment.
14. To address the gender component of the issue, comprehensive measures should be taken to address their specific needs like safety, health and education issues.
15. The rehabilitated manual scavenger should be issued a BPL card along with scholarships to their children and pension should be given to the widows of manual scavengers.
16. The existing scheme for rehabilitation of manual scavengers should be revised in order to make it more practical and viable.

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## Para 9.34

## Annexure-10

**AMMAN DECLARATION AND PROGRAMME OF ACTION****AMMAN DECLARATION**

The participants affirmed that women's and girls' rights are human rights, which are guaranteed in all human rights treaties. These human rights include political, civil, economic, social and cultural rights. Despite these commitments, the human rights of billions of women and girls are violated and denied.

The participants stressed the indivisibility and interrelatedness of human rights and recognized the interlinkages between a variety of violations of women's human rights, as well as the distinct situation, needs and rights of girls. Poverty and inequality are significant factors that increase vulnerability to discrimination, hunger and gender-based violence. Patriarchal structures, systems and macro-economic choices devalue the lives and the contributions of women, who also suffer disproportionately from the ensuing militarization, war, violence, unemployment and precarious employment. These choices impact negatively on women's and girls' time, health and safety and women and girls bear the brunt of austerity measures including through budget cuts on public services, such as health, education and social security. The worst impacts of the global and national financial crises are felt by those who are poor, the majority of whom are women and girls.

In accordance with their obligation to protect the human rights of women and girls as in the UN Guiding Principles on Business and Human Rights, States and multi-lateral bodies have an obligation to hold corporations that violate human rights accountable.

The participants recognized that still too many women suffer from multiple and intersecting forms of discrimination, and that some women are particularly vulnerable including : women belonging to minority groups, indigenous women, Afro-descendants, refugee and internally displaced women, migrant women, women living in rural or remote communities, women living in extreme poverty, women in institutions or in detention, women with disabilities, elderly women, widows, women in situations of armed conflict and post-conflict, women who are otherwise discriminated against, including on the basis of HIV status, domestic and family violence, sex workers, women of diverse sex, sexuality, and/or gender, women who inject drugs or are otherwise dependent on drugs, and women victims of trafficking.

The human rights of women and girls are well articulated in a wide array of international treaties, declarations and political commitments at international, regional and national levels. NHRIs stressed that it is essential for Governments to fully

and without delay implement the commitments and obligations which they have accepted.

**The NHRIs assembled agreed to the following broad principles and areas of work:**

1. Prioritize and mainstream the human rights of women and girls and gender equality throughout all their strategic planning, processes, policies, programmes and activities with a view to establishing sustainable interventions to achieve gender equality. This would also include developing and implementing training for NHRI members and staff on gender equality and reviewing their internal structures with a view to achieving gender equality at all levels and in all aspects of their work, including ensuring that NHRI workplaces are free of sexual harassment, violence and bullying. When required, NHRIs should seek technical assistance from specialist UN agencies, ICC, Regional Coordinating Committees or other institutions to support these efforts;
2. Strengthen coordination between NHRI women's and children's rights departments where they exist, or as relevant, cooperate with specialized institutions at the national level dealing with these issues and engage with organizations and stakeholders at the national, regional and international levels, including trade unions, UN agencies, non-State actors, civil society organizations, and regional- and inter-governmental organizations to promote and protect women's and girl's human rights and gender equality;
3. Monitor the States' fulfilment of their human rights obligations and, where the NHRI mandate permits, non-State actors' compliance with human rights standards, including those relating to the human rights of women and girls and gender equality. NHRIs should support efforts to ensure women's right of de jure and de facto or substantive equality with men, recognizing this may require special measures and differential treatment. These efforts can include integration of the human rights of women and girls and gender equality in Human Rights National Action Plans and other relevant laws and policies. The Beijing Platform for Action and its twelve areas of critical concern should serve as the guiding framework for assessing State action to ensure women's and girls' human rights;
4. Respond to, conduct inquiries into and investigate allegations of violations of women's and girls' human rights, including all forms of discrimination against women and girls, gender-based violence, violations of economic, social and cultural rights, violations of reproductive rights and discrimination in public and political life, and identify systemic issues which may perpetuate these violations. These investigations and reports should result in recommendations

- to the State to meet their obligations to ensure women's and girls' human rights, and to combat impunity;
5. Facilitate women's and girls' access to justice, including judicial and non-judicial remedies, in accordance with their mandate;
  6. Where NHRIs have quasi-judicial powers, exercise them fully to provide relief to the women and girl victims and press for administrative action against or the criminal prosecution of offenders;
  7. Promote the realization of the human rights of women and girls, including as found in CEDAW, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and other human rights norms and standards, into national law and policies;
  8. Encourage the withdrawal of reservations to such treaties with a view to strengthening the implementation of all human rights treaties;
  9. Monitor and encourage the implementation of the recommendations of treaty bodies and special procedures, resolutions of UN intergovernmental bodies, including the General Assembly, Human Rights Council, Commission on the Status of Women (UN CSW) and the Commission on Population and Development; and recommendations accepted by States in the context of the Universal Periodic Review (UPR);
  10. Work with women human rights defenders, and devote particular attention to the gender-specific violations that women human rights defenders suffer for being women or because of the gender-specific causes that they defend, and promote their access to remedies in case of violations;
  11. Forge strategic partnerships with UN agencies such as UN Women, UNDP, UNICEF, UNFPA, and OHCHR to strengthen cooperation with, and the capacities of, NHRIs to more effectively promote and protect women's and girls' human rights;
  12. Undertake education, promotion and awareness-raising activities on the human rights of women and girls, gender equality and relevant international standards. Particular attention should be paid to eliminating prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. NHRIs will work to eliminate stigma attached to women and girls who come forward when their rights are violated;



13. Develop guidelines, where applicable, relating to the human rights of women and girls and monitor State compliance with such guidelines;
14. Monitor and work with individuals and entities in the private sector and non-governmental sphere to ensure that they do not discriminate against women and girls;
15. Monitor the activities of businesses, from local to global, and report on any adverse impacts on women's and girls' enjoyment of their human rights;
16. Prioritize and promote the human rights of women and girls and gender equality through their engagement with all international and regional human rights mechanisms, and in their engagement with global processes such as the post-2015 development agenda, the ICPD Beyond 2014 Global Review, the Beijing Platform of Action, and the Vienna Programme of Action;
17. Urge States to prioritize human rights, including those of women and girls, in their engagement with international financial and trade institutions, and in the negotiation of international agreements in these areas.

### **AMMAN PROGRAMME OF ACTION**

The Preparatory Committee of the Conference selected themes for discussion, which represented issues particularly relevant to the work of NHRIs in all regions. The Conference agreed to the following action points on these themes, to which NHRIs will give priority over the next decade, and beyond:

#### **NHRIs and Women's Political and Public Participation**

1. Advocate for the removal of any discriminatory laws which inhibit women's ability to participate in public and political life;
2. Promote measures, including through education and the adoption of laws and practices, to eliminate traditions and social and cultural barriers and stereotypes that discourage or prevent women from exercising their right to vote or from otherwise participating in public, peace and political processes;
3. Provide assistance or support to women who face social and economic barriers to public and political participation, such as illiteracy, language, poverty, and impediments to women's freedom of movement, in order that these barriers may be overcome;
4. Encourage the adoption of temporary special measures to ensure that women are sufficiently represented in elected as well as appointed positions within the executive, legislative and judicial arms of Government, and work with

political parties to adopt affirmative measures to support more women candidates;

5. Promote mechanisms to ensure that girls' voices are heard in matters affecting their well being;

### **NHRIs and Women's Economic and Social Rights**

6. Monitor and report on States' compliance with their obligations to respect, protect and fulfil women's economic, social and cultural rights, and to guarantee non-discrimination in the exercise of these rights. Particular attention should be paid to ensuring women's enjoyment of economic, social and cultural rights in the context of austerity measures and other responses to the financial crises;
7. Support efforts to analyze whether States are spending the maximum of available resources on the progressive realization of women's economic, social and cultural rights through encouraging Government use of a gender perspective in their planning processes, and human rights and gender budgeting tools. NHRIs should share their findings with Parliaments as a contribution to decision making on budgeting and promote the use of human rights budgeting and gender budgeting tools by Parliaments;
8. Monitor and evaluate laws, public policies and budgets, including macroeconomic and trade policies, as well as poverty reduction strategies, population strategies and other strategies aimed at the achievement of the Millennium Declaration and Goals, and engage with relevant sectors, with a view to promoting the removal of provisions which are discriminatory against or have a discriminatory effect on women, and promoting corrective action, if and as appropriate;
9. Facilitate training of lawyers, prosecutors, judges, parliamentarians, and government officials on women's economic, social and cultural rights;
10. Support and facilitate access to remedies for women who have suffered violations of their economic, social and cultural rights, and advocate for the justiciability of economic, social and cultural rights in countries where necessary;
11. Undertake awareness raising activities with women to educate them about their rights and mechanisms at their disposal for claiming their economic, social and cultural rights;

12. Support efforts to monitor development assistance programmes to ensure that they do not discriminate against or disadvantage women and that they prioritize the achievement of gender equality and women's and girls' human rights;
13. Monitor or support efforts to monitor women's rights to decent work, including equal remuneration and equal access to education, training and professional development, as well as ensuring women's health, safety and well-being in all workplaces;
14. Monitor or support efforts to monitor women's unpaid work and provide recommendations for support to women who have caring responsibilities, such as ensuring adequate child care, paid parental leave and flexible working arrangements among other measures, while promoting equal division of labour in the home;

#### **NHRIs and Violence against Women and Girls**

15. Encourage and aid the compilation of an evidence base (e.g., data, inquiries, research) on the nature, extent, causes and effects of all forms of gender-based violence, and on the effectiveness of measures to prevent and address gender-based violence;
16. Promote and support the adoption of laws against domestic and family violence, sexual assault and all other forms of gender-based violence, in accordance with international human rights standards;
17. Support the adoption of National Action Plans to address violence against women that include provision for the National Action Plans to be independently monitored and evaluated;
18. Where their mandate permits, conduct training of judicial and law enforcement officers, medical professionals, and other public officials on responding to violence against women, gender equality and women's human rights;
19. Promote measures, including penal provisions, preventive and rehabilitation measures to protect women and girls subject to trafficking and other forms of sexual exploitation;
20. Assist women and girl victims in accessing complaints procedures and remedies, including compensation and ensure the use of NHRIs' quasi-judicial powers to address complaints of violence against women and girls;

21. Develop programmes to prevent and combat sexual harassment, and measures to protect women from sexual harassment and other forms of gender-based violence in the workplace, schools, or in other institutions such as places of detention;
22. Establish or support adequately resourced critical services for victims of domestic and family violence, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation, counselling and legal services, and ensure these services are accessible to particularly disadvantaged groups of women;
23. Promote implementation of the updated Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, as well as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);
24. Establish and support measures to address human rights violations experienced by women in situations of armed conflict, especially sexual violence, and to hold perpetrators of these violations accountable;

### **NHRIs and Women's Health and Reproductive Rights**

25. Protect and promote reproductive rights without any discrimination, recognizing reproductive rights include the right to the highest attainable standard of sexual and reproductive health, the right of all to decide freely and responsibly the number, spacing and timing of their children, and on matters related to their sexuality, and to have the information and means to do so free from discrimination, violence or coercion, as laid out in the Beijing Platform for Action and the Programme of Action of the International Conference on Population and Development.
26. Encourage and aid the compilation of an evidence base (e.g., data, inquiries, research) concerning the exercise of reproductive rights and the right to sexual and reproductive health, including but not limited to cases of de jure and de facto discrimination in access to sexual and reproductive health care information and services, forced sterilization, forced abortion, child marriage, forced marriage, female genital mutilation/cutting, biased sex selection and other harmful practices;
27. Review national laws and administrative regulations relating to reproductive rights such as those governing family, sexual and reproductive health, including laws which are discriminatory or criminalize access to sexual and

reproductive health services, and propose recommendations to assist States in meeting their human rights obligations;

28. Promote measures to ensure access to comprehensive sexual and reproductive health information and services and to remove barriers which hinder such access, and support the establishment of accountability mechanisms for the effective application of the laws and the provision of remedies when obligations have been breached;

**The Conference also agreed that the ICC should:**

29. Dedicate a session to the role of NHRIs in promoting and protecting women's rights in its annual general meetings;
30. Promote a pluralistic composition of NHRIs as required by the Paris Principles, as one that considers the context of gender, ethnicity or minority status, including within its sub-committee on accreditation. This includes, for example, ensuring the equal representation and participation of women in the NHRI;
31. Continue its advocacy for the independent participation of A-status NHRIs at the UN CSW, as encouraged by UN Human Rights Council Resolution 20/14, and encourage the ICC, its regional NHRI coordinating committees, and NHRIs to engage, together with their respective governments where appropriate, at the 57th session of CSW (4 to 15 March 2013) focused on the 'Elimination and prevention of all forms of violence against women and girls;

**NHRIs may also take the following actions:**

32. Implement the regional NHRI action plans on promoting and protecting the human rights of women and girls, using the Amman Declaration and Programme of Action as a framework, and supplementing it with specific regional initiatives and actions that will be reported on at regional NHRI network meetings and at ICC Conferences;
33. Translate this Declaration and Programme of Action into local languages and distribute it widely through press releases, websites, social media, civil society networks and other mechanisms to ensure broad national community awareness of the Declaration;
34. Organise national consultations that include all relevant stakeholders and partners to discuss the outcomes of the Conference and steps for the implementation of the Amman Programme of Action at the national level.

**ANNEX 1****CENTRAL INSTRUMENTS RELATED TO WOMEN'S AND GIRLS' HUMAN RIGHTS****International treaties**

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of all forms of Discrimination Against Women
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- Rome Statute on the International Criminal Court
- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

**Regional human rights treaties**

- African Charter on Human and Peoples' Rights, and the Protocol on the Rights of Women in Africa (Maputo Protocol)
- American Convention on Human Rights, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women
- Arab Charter on Human Rights
- European Convention on Human Rights, and the Council of Europe Convention on preventing and combatting violence against women and domestic violence

**ILO Conventions**

- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Workers with Family Responsibilities Convention, 1981 (No. 156)
- Indigenous and Tribal Peoples Convention, 1989 (No. 169)
- Convention concerning Part-time work (No 175)



- Maternity Protection Convention, 2000 (No. 183)
- Domestic Workers Convention, 2011 (No. 189)

#### **International Declarations and Political Commitments**

- Vienna Declaration and Programme of Action
- Cairo Declaration and Programme of Action
- Beijing Declaration and Platform for Action
- Millennium Declaration

#### **Security Council resolutions**

- 1325 on women, peace and security
- 1820, 1888 and 1960 on sexual violence in conflict
- 1889 on women's role in post-conflict and reconstruction

## Para 9.34

## Annexure-11

## **APF Action Plan on the Human Rights of Women and Girls: Promoting Gender Equality**

**The APF reaffirms its:**

Commitments made at APF 16 in 2011 to mainstream gender equality into APF objectives and work; and

Commitments towards the implementation of the Advisory Council of Jurists recommendations in relation to gender.

**APF member institutions agree to:**

1. continue advocacy for independent participation rights for A-status NHRIs at the UN Commission on the Status of Women and the General Assembly;
2. monitor the State Party's implementation of CEDAW and its Optional Protocol and engage in the periodic examinations, reporting processes and development of general recommendations under the treaty, as well as engage in the communication and inquiries process under the Optional Protocol, where appropriate;
3. engage with the UPR and monitor the State's implementation of the recommendations on women and girl's rights that have been accepted in the UPR;
4. mainstream women's and children's issues in engagement with all Treaty Bodies and Special Procedure Mandate Holders to promote the human rights of women and girls and follow up the State's implementation of recommendations relating to women and girl's human rights;
5. engage with regional intergovernmental bodies such as the ASEAN Intergovernmental Commission on Human Rights (AICHR), the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), the League of Arab States (LAS), Pacific Island Forum Secretariat (PIFS), the South Asian Association for Regional Cooperation (SAARC) on issues relating to human rights of women and girls;
6. monitor the promotion and protection of the full range of women's human rights at the national level;

7. work closely with specialized commissions for women and children, where they exist, ensuring that their work on the promotion and protection of the rights of women and girls is complementary and mutually supportive;
8. work in cooperation with non-governmental organizations and other civil society organizations to promote and protect women's and girl's human rights;
9. give particular attention to the needs and problems of women who are human rights defenders or who suffer discrimination because of the human rights issues they raise;
10. encourage States to adopt and implement a national human rights action plan, which should mainstream and prioritize the rights of women and girls;
11. promote the implementation of international treaty commitments into domestic legislation, policy and practice;
12. monitor the promotion and protection of the full range of women's economic, social, cultural, civil and political rights at the national level using benchmarks such as the Millennium Development Goals and the UNDP's Gender Empowerment Index to assess the progress made by States;
13. strengthen APF member institutions' capacities (particularly to support them in undertaking points 4 to 6) by developing and implementing a blended learning training programme on the human rights of women and girls and the role of NHRIs;
14. provide good practice case studies on the promotion and protection of women and girl's human rights to the APF for a possible compilation;
15. strive for gender equality across all levels of governance, leadership and staff positions in NHRIs and ensuring that NHRI workplaces are free of sexual harassment, violence and bullying; and
16. report on these actions and developments at APF annual meetings starting from 2013.

Adopted at the 11th International Conference of the International Coordinating Committee of National Institutions on the Promotion of Human Rights on the theme of Human Rights of Women and Girls: Promoting Gender Equality: The Role of National Human Rights Institutions held in, Amman, Jordan, 5th to 7th November 2012.

## Para 9.45

## Annexure-12

## RECOMMENDATIONS OF THE CONSULTATION ON VIOLENCE AGAINST WOMEN

### LEGISLATIVE REFORMS

#### Comments on Criminal Law Amendment Bill, 2012

1. The definition of penetrative sexual assault u/s 375 IPC should be broad and beyond the peno-vaginal rape. Further, the offence of sexual assault should be kept gender specific with only men being accused of sexual assault rather than making it gender neutral.
2. The present definition of consent u/s 375 IPC works against the interest of justice for women. Accordingly, appropriate changes will have to be made in the process of investigation. Further, the age of consent for sexual intercourse should be retained at 16 years and not increased to 18 years.
3. Recognizing the structural and graded nature of sexual violence based on concepts of hurt, harm and injury, stalking, stripping and parading naked in public etc., there is need to codify these sexual crimes as new offences of sexual violence against women and girls. All these need to be suitably defined and procedural laws need to be made accordingly.
4. Punishment under Section 354 of IPC may be enhanced upto five years depending upon the seriousness of the offence.
5. In the 2012 Bill, the amendments proposed in Sections 154 and 161 Cr.P.C. are a step in the right direction. However, as far as possible, the statement of women victims should be recorded in the presence of woman police officer.
6. There is need to look into the deteriorating standards of public prosecutors which leads to low conviction rate for which there is no accountability on them. In order to address this problem, there is need to explore how the victim may engage her own private lawyer.
7. In an appeal preferred by the convict in the High court, other than the State, victim or nearest next of kin of deceased victim also be made party. Notice of any proceeding initiated by the accused in the High Court should also be issued

to the next of kin of deceased victim or victim as the case may be, and opportunity of hearing should be afforded.

### **Comments on Code of Criminal Procedure, 1973**

8. Death penalty in every rape case, as a punishment is not desirable.
9. Need to examine the severity of punishment to be imposed with regard to rape and other kinds of sexual assault/offence/crime.

### **JUDICIAL REFORMS**

10. There is need to have more courts and other infrastructure to cope with the burden of cases faced by the judiciary. At the same time, more Judges/Judicial Officers are needed. This will go a long way to ensure speedy justice.
11. Fast-Track Courts must be set up immediately to speed up trial where victims are women. There is also need for quick disposal as per section 309 of Cr.PC.
12. A national protocol needs to be developed for medical examination of victims of sexual assault and giving dignified treatment to them.
13. Orientation and sensitization of Judicial Officers, Public Prosecutors and Lawyers on issues and jurisprudence relating to sexual violence against women and girls.
14. A database of cases of violence against women should be maintained to track the implementation and performance of the law, and to identify its weaknesses for future reforms.

### **POLICE REFORMS**

15. Non-registration of FIR by the police is a serious problem. There is need to follow Supreme Court guidelines/directions on police reforms so that police has functional autonomy. This will assist in better registration of FIRs by the police.
16. Protocols need to be evolved to guide the police with regard to receipt of any kind of complaints of sexual violence against women and girls and its investigation in a gender sensitive manner.
17. Need to establish 'Violence Against Women Assistance Cells', which should be made responsible for providing immediate access to free medical attention, psychological counselling, legal aid and other support services as may be

required by the victim. These Cells should be uniformly available in tribal, rural and urban areas and in areas of conflict.

18. Proforma used for recording medical examination needs to be as per Sections 53 & 53A of Cr.P.C. for the accused and as per Section 164 A Cr.P.C. for the victim and this should be followed strictly.
19. Forensic tests to include DNA test. In order to reduce time lag, there is need for expanding infrastructural facilities of forensic labs to carry out such tests efficiently so that concrete evidence is available in a timely manner for immediate disposal of cases.
20. There is a need to increase the percentage of women in police force.

## OTHER COMMENTS

21. Medical professionals apart from police officers and judicial officers also need to be sensitized about important aspects of sexual violence against women and girls.
22. Need to bring about a change in the public transport system, including plying and regulation of private buses, autos and taxi/car services.
23. Indecent portrayal of women in the media should be avoided. Sensationalism of crime in films and television needs to be avoided.
24. There is a need to issue guidelines for the media. The NHRC Guidebook for the Media on Sexual Violence Against Children should be used and modified/developed for this purpose.
25. Moral and ethical education needs to be prescribed in schools.
26. By way of prevention, there is need for societal change which necessitates massive awareness generation through educational and civil society interventions, NGOs and the media.



## Para 12.3

## Annexure-13

## STATUS OF THE TRAINING PROGRAMMES CONDUCTED DURING FINANCIAL YEAR 2012-2013

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
1.	Rajiv Gandhi National University of Law, Punjab, Patiala.	One 3-days Trg. Prog. on Human Rights One 2-days Adv. Trg. Prog.	Rajiv Gandhi National University of Law, Patiala	1st-3rd Sept. 2012  6th-7th Oct. 2012 50 participants
2.	Bareilly College, Bareilly	One 2-days Adv. Trg. Prog.	Auditorium, Bareilly College, Bareilly.	3rd-4th Dec. 2012
3.	BSR Government Arts College, Alwar, Rajasthan	One day Basic Trg. Prog.	Conference Hall Shobharam Govt. Arts College, Alwar.	5th Oct. 2012
4.	Centre for the Study of Social Exclusion and Inclusive Policy, University of Mysore.	One day Basic Trg. Prog.	EMMRC Auditorium University of Mysore	25th Nov. 2012  100 participants
5.	The SUN, Andhra Pradesh	Two (1- Day) Basic Training Programmes on Human Rights	Rajavomangi  Rampachodavaram	3rd Oct. 2012  10th Nov. 2012
6.	Crescent Educational Academy, Anantapur, AP	One 3-days Trg. Prog.	Lepakshi, Anantapur Dist., Andhra Pradesh	22nd-24th Oct. 2012
7.	Shri Mokshagundam V. Cultural Society, Anantapur, Andhra Pradesh	One day Basic Trg. Prog.	Dharmavaram, Anantapur Dist., Andhra Pradesh	25th Oct. 2012
8.	I.I.P.A. Budaun Branch	One (3 days) ToT Prog.	Haridwar, Uttarakhand	15th - 17th Feb. 2013
9.	UGC Academic Staff College, Kumaun University, Nainital.	One day Basic Trg. Prog. Kumaun University	Dr. S.Radhakrishnan Hall, The Hermitage	13th Oct. 2012
10.	West Bengal Human Rights Commission, Bhabani Bhawan Alipore, Kolkata (W.B.)	One day Basic Trg. Prog.	Bhasha Bhavan Conference Hall, The National Library, Opposite Alipore Zoo, Kolkata	19th Jan. 2013
11.	Chhattisgarh Academy of Administration, Indrawati Khand, Mantralaya D.K. Bhawan, Raipur, Chhattisgarh	Three (1) day Basic Trg. Prog.	Bastar Korba & Sarguja	13th , 16th & 28th Dec. 2012
12.	Symbiosis International University, Lavale Village, Taluka: Mulshi, District: Pune, Maharashtra	Two (1) day Basic Trg. Prog.	Symbiosis Centre for Management Studies (SCMS-UG), Viman Nagar Campus Symbiosis Law School, Pune, Senapati Bapat Road Campus	11th & 20th Dec. 2012

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
13.	National Law School of India University, Nagarbhavi, Post Bag No.7201, Bangalore, Karnataka	One day Basic Trg. Prog.	International Trg. Centre, NLSIU, Bangalore	9th Oct. 2012
14.	Tripura University (A Central University), Suryamaninagar, Tripura	One day Basic Trg. Prog.	Tripura University	2nd Dec. 2012
15.	Department of Political Science, Mizoram University, Post Box No.190, Tanhril, Aizawl Mizoram	One day Workshop on Human Rights	Social Science Hall, SS Block, Mizoram University	12th Oct. 2012
16.	Department of Economics, Mizoram University, Post Box No.191, Tanhril, Aizawl, Mizoram	One day Workshop on Human Rights	Mizoram University	25th March 2013 112 participants
17.	Kumari Vidyavati Anand, Dav College For Women, Karnal	One day Workshop on Human Rights	Sankalp - College Auditorium	7th Dec. 2012 91 participants
18.	Sree Narayana College Chempazhanthi, (Affiliated to the University of Kerala) & Accredited By Nacc, Thiruvananthapuram, Kerala	One day Basic Trg. Prog.	Seminar Hall	4th Oct. 2012 108 participants
19.	Guru Nanak Girls College, (Affiliated to Kurukshetra University) Santpura Yamuna Nagar Haryana	One day Seminar on Human Rights	Auditorium Guru Nanak Girls College	1st March 2013 300 participants
20.	Heera College of Engineering & Technology, Panavoor P.O., Nedumangad, Thiruvananthapuram-695 568 (Kerala)	One day Basic Trg. Prog.	HCET Campus	15th Dec. 2012
21.	Shree Dharmasthala Manjunatheshwara College of Education, Ujire, Belthangady Taluk, D.K. District-574 240 (Karnataka)	One day State Level Seminar on Human Rights	Samyakdarshan Seminar Hall, S.D.M. College, Ujire	07th Dec. 2012
22.	Government First Grade College, Kaup, Udupi, Karnataka	One day State Level Seminar on Human Rights	College	31st Dec. 2012
23.	Government Aizawl North College, P.O. Ramhlun, Aizawl -796012, Mizoram	One day Seminar on Human Rights	At Engineers Club, Babutlang, Aizawl	30th Nov. 2012 100 participants
24.	M.D.S.D. Girls College, Ambala City -134002 (Haryana)	One day Seminar on Rights of Disabled persons in Society	College Auditorium	16th March 2013 105 participants
25.	Department of Political Science, Chaudhary Charan Singh University, Meerut, Uttar Pradesh	One day Seminar on Human Rights	Seminar Hall, Department of Political Science, CCS University, Meerut.	15th Dec. 2012

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
26.	Amity Law School, Centre-II, Amity University, Sector-125, Noida, Uttar Pradesh	One day Seminar on Human Rights	Moot Court Hall, Amity University	1st Nov. 2012 100 participants
27.	Research Center and Post Graduate Dept. Of Economics, Govt. College, Attingal, Kerala	One day Seminar on Human Rights	Economics Seminar Hall	16th Nov. 2012 106 participants
28.	Centre For Human Rights & Duties Education, Manipur University, Canchipur, Imphal, Manipur	One day Basic Trg. Prog.	Moreh, Chandel Dist. Manipur	29th Sept. 2012 100 participants
29.	University College, Thiruvananthapuram (Kerala)	One day Workshop on Human Rights	Government Guest House Thycad, Thiruvananthapuram, Kerala.	30th Nov. 2012 100 participants
30.	West Bengal Human Rights Commission, Alipore, Kolkata, West Bengal	Five (1 Day) Basic Trg. Prog.	Paschim Medinipur Dist.  Pather Dabi Meeting Hall, Hawrah  Zila Parishad Hall, Jalpaiguri  Old Circuit House, Malda  Prulia Zilla Parishad, Purulia	4th Dec. 2012 95 participants 12th Dec. 2012 70 participants 17th Dec. 2012 81 participants 18th Dec. 2012 30 participants 18th Dec. 2012 103 participants
31.	Uttar Pradesh Human Rights Commission, 'Manav Adhikar Bhawan' TC 34 V-1, Vibhuti Khand, Gomti Nagar, Lucknow	Two (1 Day) Basic Trg. Prog.	Gorakhpur Dist.  Kanpur	21st Nov. 2012 102 participants 10th Dec. 2012 137 participants
32.	Human Rights Front, 298, Ganga Nagar, Unit-VI, Bhubaneswar-3, Odisha	Two (2 days) Adv. Level Trg. Progs.	CYSD, Bhubaneswar, Odisha	8th - 9th Dec. 2012 96 participants 23rd-24th Jan. 2013 108 participants
33.	West District NGOs Federation, Rinchenpong, P.O. Rinchenpong Bazaar, Police Station-Kaluk, West Sikkim, Sikkim	One day Basic Trg. Prog.	Kaluk, Sr. Sec. School Conference Hall	19th March 2013 465 participants
34.	Academy of Prisons and Correctional Administration, Thorapadi, Vellore, Tamil Nadu	One day Basic Trg. Prog. One (2 days) Advance Trg. Prog.	Academy of Prisons and Correctional Administration, Vellore	7th Nov. 2012 52 participants 8th -9th Nov. 2012 52 participants
35.	Rajiv Gandhi Chair In Contemporary Studies, 4th Block, II Floor, Indira Gandhi Social Science Complex, Senate House Campus, University Of Allahabad, Allahabad, U.P.	One day Basic Trg. Prog.	Seminar Hall, Department of Political Science, University of Allahabad, Allahabad	10th Dec. 2012

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
36.	Hidayatullah National Law University, HNLU New Campus, Uparwara, P.O. Abhanpur, New Raipur, Chhattisgarh	One day National Seminar on	Conference Hall, H.N.L.U., Raipur	19th Jan. 2013
37.	Sree Narayana College, Neduvaramcodu P.O., Chengannur, Alappuzha, Kerala	One day Seminar on Human Rights	Seminar Hall, S.N. College, Chengannur	18th Dec. 2012 180 participants
38.	N.S.S. College, Pandalam, Pathanamthitta, Kerala	One day Trg. Prog. on Women in the informal Sector	College Campus	18th Dec. 2012 135 participants
39.	St. Joseph's College For Women, Alappuzha, Kerala	One day Basic Trg. Prog.	St. Joseph's College For Women	18th Dec. 2012
40.	Good News Welfare Society's Arts and Commerce First Grade College, Kalaghatgi, District: Dharwad, Karnataka	One day Basic Trg. Prog. on Human Right Awareness & Education	Auditorium, Good News Welfare Society, Kalaghatgi	5th Jan. 2013 100 participants
41.	Government First Grade College, Kavoor, Mangalore, Karnataka	One day State Level Seminar on Human Rights	College Campus	10Th Dec. 2012 102 participants
42.	Shri Dharmasthala Manjunatheshwara College of Business Management, Mangalore, Dakshina Kannada, Karnataka	One day National Seminar on "Human Rights Advocacy"	Conference Hall of College	19th Dec. 2012 78 participants
43.	Sri Venkatramana Swamy College, Post Box No.01, Bantwal, Dakshina Kannada, Karnataka	One day Seminar on Human Rights	Academy Hall, Sri V.S. College	12th Jan. 2013 100 participants
44.	Institute of Home Economics, University of Delhi, F-4, Hauz Khas Enclave, New Delhi	One day Seminar on Human Rights	Institute of Home Economics	11th March 2013
45.	Equal Opportunity Cell, Tezpur University, Napaam, Tezpur, Assam	One day Basic Trg. Prog.	Council Hall, Tezpur University	23rd March 2013 114 participants
46.	Jaypee University of Information Technology, (Department of Humanities & Social Sciences) Wagnaghat, P.O. Distt. Solan, Himachal Pradesh	One day Seminar on Human Rights Issues	JUIT, Solan, Himachal Pradesh	5th November 2012 150 participants
47.	V. K. Krishna Menon College of Commerce and Economics and Sharad Shankar Dighe College of Science, Bhandup (East) Mumbai, Maharashtra	One day Workshop on Human Rights	V. K. Krishna Menon College	10th Sept. 2012
48.	Banglar Manabadhikar Suraksha Mancha (MASUM) 40A, Barabagan Lane, Balaji Place (4th Floor), Shibtala, Srirampur, Hooghly-712 203, West Bengal	One (One-Day) Training Programme on Human Rights	Seva Kendra, Kolkata	08th February'2013 40 participants

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
49.	People's Watch No.6, Vallabai Road, Chokkikulam Madurai-625 002, (Tamil Nadu)	Seven (One-Day) Training Programmes on Human Rights	Tirunelveli Madurai Chennai Coimbatore Salem Trichy Vellore	4th Feb. 2013 149 participants 6th Feb. 2013 156 participants 9th Feb. 2013 153 participants 11th Feb. 2013 151 participants 13th Feb. 2013 212 participants 18th Feb. 2013 207 participants 22nd Feb. 2013 148 participants
50.	Department of Social Work Visva-Bharati P.O. Sriniketan-731 235 Birbhum, (West Bengal)	One (One-Day) Training Programme on Rights of the Unrecognized Sector and their problems	Department of Social Work, Visva Bharti, Sriniketan.	29th Jan. 2013 118 participants
51.	Dr. M.V. Shetty College of Social Work, Vidyanagar Mangalore-575 013 (Karnataka)	One (One-Day) Seminar on Human Rights- Promotion and Protection	College Auditorium	19th Feb. 2013 200 participants
52.	Govt. First Grade College Vamadapadavu Bantwal-574 324 Dakshina Kannada (Karnataka)	One (One-Day) Training Programme on Women Rights: Women in the main stream of society	College Premises	21st Jan. 2013 103 participants
53.	Govt. First Grade College Haleyangadi Mangalore-574 146 Dakshina Kannada (Karnataka)	One (One-Day) State Level Seminar on "Human Rights, Indian Constitution and Globalization: An Interface"	College campus	1st Feb. 2013 100 participants
54.	Govt. Saitual College Saitual-796 261 (Mizoram)	One-Day Seminar on "Human Rights: Contemporary issues in NE India with Spl. Ref. to Mizoram"	Block Resource Centre, Saitual, Mizoram	15th Feb. 2013 150 participants
55.	Kukke Sri Subrahmanyeshwara College, Subrahmanya, Sullia Taluk, Dakshina Kannada District-574 238 (Karnataka)	One (One-Day) National Workshop on "Human Rights Literacy"	College Auditorium	16th Feb. 2013 145 participants
56.	Law Centre-I, Faculty of Law University of Delhi (North Campus) Chhatra Margaret, Delhi-110 007	All Delhi (NCR) Moot Court Competition	Auditorium Faculty of Law, Delhi University	08th-10th March 2013 166 participants
57.	Mahasatee Arts, Commerce & Science College, Ulga, Karwar-581 328 (Karnataka)	One (One-Day) Training Programme on Human Rights	Auditorium Mahasatee Arts, Commerce & Science College	28th Jan. 2013 108 participants

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
58.	KIIT School of Law, KIIT University Camapus-16, Bhubaneswar-751 024 (Odisha)	One (One-Day) Training Programme on Human Rights	KIIT University Bhubaneswar	23rd Feb. 2013 105 participants
59.	Shri Durgaparameshwari Temple First Grade College Kateel-574 148, Mangalore Taluk, (D.K.) (Karnataka)	One (One-Day) Seminar on Human Rights	College Auditorium	16th Jan. 2013 300 participants
60.	St. Agnes College (Autonomous) P.B. No.513, Bendore Mangalore-575 002 (Karnataka)	One (One-Day) Training Programme on Women and Human Rights	College Auditorium 100 participants	19th Jan. 2013
61.	St. Teresa's Institute of Education S.V. Road, Santa Cruz (West) Mumbai-400 054 (Maharashtra)	One (One-Day) Training Programme on Human Rights	St. Teresa's Institute of Education	24th Jan. 2013 100 participants
62.	The Institute of Science 15, Madam Cama Road Mumbai-400 032 (Maharashtra)	One (One-Day) Seminar on Human Rights in India: Problems & Perspectives	Seminar Hall, Institute of Science	8th Feb. 2013 110 participants
63.	Yashwantrao Chavan Institute of Social Sciences & Research Erandawane, Pune, Maharashtra	One (One-Day) Training Programme on Human Rights	YCISSR, Pune	12th March 2013 108 participants
64.	College of Education & Research, Acharya Donde Nagar, Gokhale Society Lane, Parel, Mumbai-400012 (Maharashtra)	One-Day Trg Programme on Human Rights	Balkrishna Shetty Hall, Patel, Mumbai	5th March 2013 100 participants
65.	ILS Law College, Law College Road, Pune (Maharashtra)	One Day Basic Training Workshop on Human Rights	College Auditorium	2nd March 2013 More than 100 participants
66.	Govt. P.G. College Lansdowne, (Jaiharikhal) Pauri Garhwal, Uttarakhand-246193	One-Day Trg Programme on Human Rights	Nagarjuna Sangosthi Hall, Faculty of Arts, Govt. P.G. College	20th March 2013 150 participants
67.	CSI College of Education, LMS Compound, Parassala, Thiruvananthapuram, Kerala	One-Day Trg Programme on Human Rights	Multipurpose Hall (College Auditorium).	6th March 2013 111 participants
68.	Anchalika Degree Mahavidyalaya, Puranabaripada, Mayurbhanj-757 003 Odisha	One-Day Seminar on Human Rights: Grounds of violation & Protection of human rights	Anchalika Degree Mahavidyalaya	30th March, 2013 100 Participants
69.	Government of Aizawl College, Sikulpuikawn, Mizoram, P.O. Box No. 53 Aizawl 796 001 (Mizoram)	One Day Basic Training Workshop on Human Rights	I&PR Auditorium, Aizawl	12th March 2013 100 participants
70.	Sree Narayana College, Kollam, Kerala	One-Day Basic Training Programme on Protection and Promotion of Human Rights- The Basic Issues	College Seminar Hall	22nd Feb. 2013 132 participants



Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
71.	Gobi Arts & Science College, Gobichettipalayam- 683 453 Erode Distt. (Tamil Nadu)	One-Day Training Programme for Awareness of Human Rights among college students	KAM Hall	9th March 2013 100 participants
72.	Government First Grade College, HSR Layout, Agara, Bangalore-560 102	One Day Basic Training Programme on Human Rights	Government First Grade College	6th March 2013 152 participants
73.	Mother Teresa Memorial Mahila Bal Utthan Samiti, 71, Prem Nagar, Gwalior (Madhya Pradesh)	One Day Trg. Prog. on Human Rights	Tulsi Manas Pratisthan, Manas Bhavan, Phool Bagh, Gwalior	9th March 2013 110 participants
74.	RYTHU Sangham, H. No. I-128, B. Settypalli Village & Post, Chilamathur Mandal, Anantapur Dist. AP-515241	One Day Trg. Prog. on Human Rights	Paritala Ravindra Bhawan, Pavagada Road, Ramagiri Post & Mandal, Anantapur Dist., Andhra Pradesh	9th March 2013 100 participants
75.	Sri Rajeshwari Mahila Mandali, Opp. Raghavendra Swamy Matt, 21st Ward, N.V. Gopal Building, Bagepalli Post & Taluk, Chickballapur District, Karnataka.	One Day Trg. Prog. on Violation of Civil Rights & Atrocities against Dalit's	Lal Bahadur Shastri Town Hall Chickballapur Dist. Karnataka	6th March 2013 100 participants
76.	Rajasthan Human Rights Commission Jaipur - 302005, Rajasthan	One Day Trg. Prog. on Human Rights	Jaipur	10th Dec. 2012 400 participants
77.	Bhaskaracharya College of Applied Sciences, University of Delhi , Sector-2, Phase-I, Dwarka, New Delhi-110075	One-Day Training Programme on Human Rights	College Premises	28th March 2013 100 participants
78.	Gitarattan International Business School, PSP 2A & 2B- Complex-II Madhuban Chowk, Rohini New Delhi-110 085	One-Day Training Programme on Human Rights	G.I.B.S. Rohini, New Delhi	25th March 2013 191 Participants
79.	New Arts, Commerce and Science College, Parner-414 302, Dist. Ahmednagar Maharashtra	One-Day Training Programme on Human Rights	New Arts, Commerce and Science College	25th March 2013 100 participants
80.	Smt. Kapila Khandvala College of Education, Juhu Road, Santacruz (West), Mumbai-400 054 Maharashtra	One-Day Training Programme on Child Rights and Rights of Women	K.K.C.E. Hall	28th March 2013 106 participants
81.	Institute of Human Rights Advocacy No.24, Shivanand Nagar, Navanagar Hubli-580 025, Karnataka Mandara, Dharwad	One-Day Training Programme on Human Rights	Samskrutika Samucchaya Bhawan, Nr. Hotel	17th March 2013 121 participants
82.	Praja Seva Samaj Thariyur-572 127, Kodigenahalli Hobli Madhugiri Taluk, Tumkur District Karnataka	One-Day Training Programme on Human Rights	Lalitha Kala Parishad, Madhugiri Tumkur Dist., Karnataka	21st March 2013 100 participants

Sl No.	Name of the Institution/ Organization	No. of Programmes Conducted	Venue	Programme Date & No. of Participants
83.	Sahajeevan Rural Development Gundugallu -572 127, Kodigenahalli Hobli, Madhugiri Taluk, Tumkur District, Karnataka	One-Day Training Programme on Human Rights	Kanakadasa Conf. Hall, Sira, Tumkur Dist., Karnataka	20th March 2013 100 participants
84.	Sigma Development Society Moula Bag, Arrah, Bhojpur-802 301, Bihar	One-Day Training Programme on Human Rights	Ramna Maidan, Babu Veer Kunwar Singh Stadium, Arrah Dist, Bhojpur, Bihar	21st March 2013 100 participants
85.	Society for Socio, Economic and Educational Development Dibburahalli-562 104, Sidlaghatta Taluk, Chickballapura Dist., Karnataka	One-Day Training Programme on Human Rights	Chennaamma Memorial Hall Maluru Post & Taluk, Kolar Dist.	23rd March 2013 100 participants
86.	Society for Upliftment of Rural Poor Giddangivaripalli Village & Post Vempally Mandal, Kadapa District Andhra Pradesh	One-Day Training Programme on Human Rights	SLV Function Hall, Kadapa Dist., Andhra Pradesh	18th March 2013 100 participants
87.	Bihar Human Rights Commission 9, Bailey Road, Patna-800015 (Bihar)	Two (One-Day) Basic Training Programmes on Human Rights	Purnia & Munger, Bihar	22 December 2012 12 January 2013

## TRAINING PROGRAMMES CONDUCTED DURING 2012-13 (APPROVED IN THE FINANCIAL YEAR 2011-12)

88.	MASUM & (B.S.F.)	One (One-Day) Training Programme on Human Rights	Agartala	10th April'2012
89.	Human Rights Front, Odhisa Human Rights for Human Rights	One (One-Day) Training Programmes on	Nabakrushna Choudhry Centre for Development Studies, Bhubaneswar	06th May'2012 60 participants
90.	Assam Human Rights Commission, GMC Road, Bhangagarh,, Guwahati.	Three (one-day) Basic Trg. Prog.	Swahid Krishak Bhavan, Rangiya Margherita Development Block Moran Development Block	11th April 2012 26th April 2012 27th April 2012
91.	SEVAC Mental Health & Human Rights Resource Centre, 135 A, Vivekananda Sarani Thakurpukur, Kolkata	Two (2 Days) Training Prog. on Mental Health Education	Kolkata, West-Bengal Bhubaneswar, Orissa	16th-17th July 2012 50 participants 30th-31st July 2012 60 participants
92.	All India Disaster Mitigation Institute (AIDMI), Ahmedabad	Two (One day) Training Prog. on "Rights Protection, Accountability & Disaster Risk Reduction" Port Blair, Andaman & Nicobar	Convention Hall Collector Office Cuddalore, Tamilnadu	12th March 2013 109 participants 14th March 2013 89 participants

Programmes conducted in 2012-13 = 112

Number of institutes = 91

## Para 12.27

## Annexure-14

## Recommendations National Conference on Human Rights Education

### Group - I : Human Rights Education at School Level

- (i) Human rights education should be an integral part of the right to education and there is a need to widen the scope of promoting human rights education at the school level. It should be so designed that it provides the child with life skills and also strengthens the capacity of the child whereby s/he is able to enjoy the full range of human rights and in the process promote a culture which is infused by appropriate human rights values.
- (ii) In view of the above, it is not sufficient to introduce a stand-alone chapter on human rights or give information about human rights in small sections in any one of the text books, like social studies or civics. In particular, there is a need to review and examine the contents depicting existing prejudices related to caste, class, gender, religion, region, etc. that are embedded in various subjects in the existing school curriculum.
- (iii) There is need to teach human rights education at all levels of the school system. Only then, human rights education would lead to promotion of rights based education in the schools. This would ensure respecting the human rights of all. There is also a need too look into the pedagogy adopted in schools for teaching of human rights.
- (iv) Holding of mock courts on violation of human rights, mock Parliament sessions and enacting out other real-life situations in schools should be arranged regularly to allow children to participate in them actively. Other interesting methods could be working on projects in the neighbourhood and community.
- (v) Teachers, too, need to be trained and sensitized to human rights education through pre and in-service training, with the necessary knowledge, understanding, skills and competencies to facilitate the learning and practice of human rights in schools.
- (vi) It would be ideal to train all teachers on human rights issues irrespective of the subjects being taught by them in schools along with school administrators, school management committees and other staff.

- (vii) The experiment initiated by the Government of Kerala of inviting children from different schools across the State to showcase their best practices with regard to human rights education on State-run television channel, can be considered for replication in other States as well.
- (viii) All efforts towards human rights education in the school system should aim at providing a platform for systemic improvement in all schools across the country and promote citizenship and values education along with social and emotional development of the child.
- (ix) There is need to provide guidelines/list of do's and don'ts on key components of human rights issues like 'no to corporal punishment, eve-teasing, ragging', etc. These must be prominently displayed in schools on notice boards. Likewise, a scheme of incentives should be developed to motivate students so that they can become responsible citizens.
- (x) One complete month from 11 November [National Education Day] to 10 December [Human Rights Day] should be observed for 'Human Rights Education and Training'.

#### **Group - II : Human Rights Education at the University and College Level**

- (i) Human Rights Education at the university and college level should not be limited only to a formal degree in 'Human Rights' at the Bachelor's, Master's, M.Phil. or Ph.D. level having a specific syllabus, course work, examination, evaluation, etc. This kind of an approach will only produce scholars in the field of human rights. The idea is to disseminate information on human rights issues and entrench a human rights culture whereby everybody is encouraged to respect self and others.
- (ii) It would be appropriate to offer introductory courses on human rights for students of all disciplines at the college level. At the university level, advanced courses addressing human rights issues could be developed in different disciplines of study.
- (iii) It would be worthwhile to develop strategies for infusing human rights as a cross-cutting issue into all the disciplines taught at the university and college level. In no way, it should be restricted to law or social sciences but also disciplines in the technical and scientific fields, for instance management and engineering as they relate to development, environment, housing; medicine as it relates to child care, public health, women's reproductive rights, HIV/AIDS, disability; biotechnology and architecture as they relate to food, housing and environment, etc.

- (iv) The conventional approach for teaching human rights education whereby students are familiarized to important human rights concepts, related declarations and treaties, plans of actions, etc. should be done away with. Instead there is a need to adopt a holistic approach towards teaching and learning of human rights education at the university and college level by integrating it in programme objectives, content, resources, methodologies, assessment and evaluation. The idea is to look beyond the classroom and interact with the outside world.
- (v) It should be ensured that human rights education material for higher education should be based on human rights principles as embedded in the relevant cultural contexts, as well as historical and social developments. It would be practical to use material provided by the United Nations, ILO, and their subsidiary offices located in the country/region.
- (vi) Similarly, the pedagogy used for imparting HRE should comprise audio-visuals, documentaries, movie clippings, short films, etc. Apart from reliance on textual literature, posters, cartoons, news items, etc. should also be interwoven in teaching of HRE to make it more interesting and effective. Besides, it would be useful to make use of experiential learning methodologies that enable students to understand and apply human rights concepts to their lives and experiences, including their area of work. They should also be involved in activities like legal aid, lok adalats, community service, filing of PILs, examination of Bills/Laws, etc.
- (vii) The full potential of media needs to be harnessed. Radio, television, video conferencing and e-learning should be used extensively for teaching of HRE. Likewise, there is need to develop website resources, facilitate online learning programmes, e-forums, and distance learning programmes.
- (viii) Along with students, there is a need to train and sensitize professors, academicians and administrators about the importance of HRE.
- (ix) There is a need to encourage awards/scholarships/fellowships to the best faculty, best student, best student paper/project reports as a means to promote human rights education and training in the college and university system.
- (x) Research on HRE needs to be encouraged and promoted. The integration of research and teaching should also be stressed upon in HRE. For a truly vibrant HRE, an interface between teaching/academics and research is very much desirable. Scholars on HRE need to be identified and encouraged. Adequate budget should also be kept for this initiative.

- (xi) The Ministry of Communication and Information Technology could be tapped to supplement efforts in spreading HRE. The Ministry has around 100 CEC Centers in different States/UTs where services like e-learning, radio-talk are implemented. HRE could then be disseminated in rural and tribal population.
- (xii) It is imperative that HRE should include opinions, perspectives of eminent persons and speakers. Seminars and conferences should be regularly organized in which members of the NHRC, SHRCs, judiciary and academicians should be invited so that students are benefited from their experience. Students must also be taught to assist victims of human rights. Ragging, eve-teasing, gender discrimination, etc. are common in educational institutions and students should be part of the redressal forum to combat these issues.
- (xiii) The HRE should also draw attention to the implementation of international human rights standards in the domestic framework. The non-ratification of treaties, reservations of the Government of India to various human rights covenants like the Convention for Elimination of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC) needs to be taken up with the Government. The role of the Indian courts, constitutional provisions as well as contribution of institutions like NHRC should find a prominent place in the syllabus of HRE taught in colleges and universities.
- (xiv) Similarly, internal disturbances, wars and armed conflicts and the ensuing repercussions on human rights norms should form part of the curriculum along with conflict resolution, peace education and human rights, and cultural relativism.
- (xv) It is imperative that the curriculum of HRE should include a comparative, analytical and critical perspective. It should further incorporate best practices from all over the world like the Asian and African discourses on HRE. It is also imperative to sensitize the faculty on newer human rights concerns.
- (xvi) Issues raised in the Plan of Action for the Second Phase of the World Programme for Human Rights Education (2010-2014) concerning higher education needs to be taken into account by all stakeholders.
- (xvii) The NHRC should support teaching of HRE at the college and university level by publishing adequate materials in the form of dossiers, know your rights series, posters, and other publications, including short films on relevant themes.

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## Para 12.28

## Annexure-15

## Recommendations of the Workshop on Human Rights Training in Police and Para-Military Organizations

### Training Needs of Police

- Human Rights Training should be made integral to policing. But already as per the recently evolved syllabus from NPA for all cadres of police personnel there are ample inputs in human rights. What is needed is change of mind-set among all ranks of police personnel by giving appropriate training.
- There is a need to develop a proper policy for training of all police personnel with regard to the in-service training with special inputs in human rights.
- There is also a need to undertake training needs analysis for facilitating knowledge and skills that need to be imparted and thus reduce the performance gap of the police.
- A systematic approach in the methodology of imparting training such as role play, brain storming including audio-visual aids to train police constables, inspectors and deputy superintendents of police needs to be undertaken.
- Currently, most of the training institutes do not have the requisite training infrastructure for training of large number of constabulary. Hence appropriate number of trainers and adequate capacity has to be provided to the training schools. Adequate capacity has to be provided for training.
- Training being a continuous activity, it has to happen in a distributive environment wherein SP should take the responsibility of training his personnel.
- In W.B. training is conducted at three levels - entry level, pre-promotion level and in-service. This should be replicated in those States where it does not exist.
- There should be two panels of reputed, well-educated experts in the field of human rights to act as instructors to impart training at the level of constabulary and also at the level of senior officers.

- Weightage needs to be given to trainees who have undergone human rights training in terms of their promotion, etc. Likewise, incentives need to be given to Trainers/Instructors/Directors who head Police Training Schools/Academies.
- Behavioural science should be an essential component of all training programmes of police personnel. There is a need to introduce a system of giving training to our constables in soft skills and management training to our senior level officers.
- Punitive actions against the police personnel who fail to protect human rights will definitely act as a deterrent.
- Training should emphasize the use of latest technology in police working.

### **Training Needs of Para-Military Organizations**

- Infrastructure for police should be upgraded by allocation of adequate funds.
- National award for good policing and upholding Human Rights could be instituted by NHRC.
- Actual creation of model police station, police commander etc. whom one could emulate.
- Designating Officers as Human Rights officer who would sensitise the troops in a battalion.
- Induction training as well as de-induction training required to be introduced.
- Familiarisation with local tradition, custom, language etc. through involvement of local community.
- Appointment of Officers in training institutions as recognition of their aptitude, impeccable record/ integrity and not as a punishment posting; incentives to be given for training assignments.
- Use of electronic media for better publicity of NHRC material/ publications.
- More competition like debate competition. Frequency could be increased.
- More CDs/ DVDs copies of the basic course prepared by NHRC for Constables/ SIs would be made available for use in training establishments.

- Need for soft skill training - attitudinal change required particularly on Police-Community relationship.
- Impact studies should be carried out.
- Performance auditing of training institutions.
- Sensitisation to the role of human rights defenders.
- NHRC to develop training material on human rights for paramilitary forces for both basic and in-service courses.
- There should be no compromise on quality of training including by ensuring that the norms prepared by BPR&D.
- Sharing of best practices among the training institutions of police and paramilitary organisations.
- Need for periodic assessment of the impact of stress on the conduct of personnel in police and paramilitary organisations which could affect their conduct.

## Para 14.8

## Annexure-16

## UPR-II : List of Recommendations Accepted by the Government of India

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### Recommendations

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Continue to strengthen its poverty alleviation strategies, as well as its child protection strategies, particularly against the exploitation of children.

*(South Africa)*

Continue with action to include human rights education in the school curricula.

*(Sri Lanka)*

Take effective measures to dissuade child marriage to protect the fundamental rights of the children.

*(Switzerland)*

Further promote equal access to justice for all , including by reducing backlog and delays in the administration of cases in court, providing more legal aids to the poor and marginalized.

*(Thailand)*

Continue to promote its many initiatives for the eradication of all forms of discrimination against women.

*(Trinidad and Tobago)*

Reinforce efforts to protect and rehabilitate the victims of trafficking.

*(Ukraine)*

Implement monitoring mechanisms to stop people trafficking.

*(Holy See)*

Accelerate efforts on combating human trafficking.

*(Iran)*

Provide every possible support and assistance to the national project for rural health to raise the standard of nutrition and improve public health and to strengthen the relationship between health and indicators such as sanitation and personal hygiene.

*(United Arab Emirates)*

## Recommendations

Continue consolidating programmes and socio-economic measures essential to achieve poverty reduction and social exclusion to the utmost well-being of its people.

*(Venezuela)*

Continue incorporating the gender perspective in programmes and development plans with positive measures to the effective promotion and protection of women's rights.

*(Venezuela)*

Provide more resources for the enjoyment of economic and social rights, especially in favour of vulnerable groups like women, children, poor people and minorities.

*(Viet Nam)*

Continue the implementation of the National Child Labour Project (NCLP) aiming at the rehabilitation of child labourers.

*(Angola)*

Study the possibility of eliminating any criminalisation of same sex relations.

*(Argentina)*

Prioritise efforts to ensure that children with disabilities are afforded the same right to education as all children.

*(Australia)*

Take further practical steps to reduce the high level of maternal and child mortality, inter alia, through better access to maternal health services.

*(Austria)*

Redouble efforts on ensuring gender equality and take measures to prevent gender discrimination.

*(Bahrain)*

Take more efforts to prevent children from sexual exploitation and separation from families and give them the opportunity and assistance to grow up in an environment of freedom and dignity.

*(Bahrain)*

Continue cooperating with Special Procedures and accept, in particular, requests for visits from Special Rapporteurs.

*(Belgium)*

Address the inequities based on rural-urban divide and gender imbalance.

*(Botswana)*

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## Recommendations

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Finalise the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

*(Spain, Sweden, Switzerland, Timor-Leste, UK and Northern Ireland, USA, Australia, Austria, Botswana, Brazil, Czech Republic, Indonesia, Iraq, Italy, Maldives, Portugal, Republic of Korea)*

Make efforts to eliminate the large gap that exists between the rich and the poor.

*(Chad)*

Continue to strengthen/develop programmes and initiatives geared towards guaranteeing the rights to health and education.

*(Cuba)*

Continue encouraging socio-economic development and poverty eradication.

*(Cuba)*

Continue implementing a non-discriminatory and inclusive policy and guarantee quality education to all girls and boys in the country.

*(Ecuador)*

Further efforts towards addressing the challenge of maternal and child mortality.

*(Egypt)*

Further coordination among relevant national authorities and human rights institutions.

*(Egypt)*

Continue following-up on steps taken to eliminate discrimination against women, including through awareness-raising and continuous strengthening of the relevant legal and institutional frameworks.

*(Egypt)*

Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the Scheduled Castes and Scheduled Tribes and Minorities are well achieved.

*(Ghana)*

Continue its efforts to further spread in the country the model of rural growth in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

*(Greece)*

Further promote children's right to education.

*(Greece)*



## Recommendations

Strengthen the Federal Government's efforts to guarantee freedom of religion to everyone in this world's largest democracy.

*(Holy See)*

Take effective measures to fully implement National Rural Health Mission (NRHM).

*(Honduras)*

Enhance the coordination of both [the central and state governments] in an effective manner in order to guarantee the smooth implementation of the 2010 Right of Children to Free and Compulsory Education Act.

*(Indonesia)*

Continue legal efforts in the protection of women as well as children's rights as well as improve measures to prevent violence against women and girls, and members of religious minorities.

*(Iran)*

Carry on efforts with respect to environmental and health policies, and continue efforts and undertake measures to adopt the bill on food security and strengthen the Public Distribution System (PDS).

*(Iran)*

Continue measures to increase opportunities for consultations on child rights issues with relevant stakeholders.

*(Iran)*

Continue efforts and actions in the promotion of social security and labour policy.

*(Iran)*

Improve training on human rights on addressing law enforcement especially by police officers.

*(Iraq)*

Intensify efforts in providing capacity-building and training programmes on human rights for its law enforcement officials as well as judicial and legal officials in the rural areas.

*(Malaysia)*

Continue efforts to eradicate poverty and better living conditions as well as increase job opportunities.

*(Kuwait)*

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## Recommendations

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Improve women empowerment and emancipation, and provide them with a bigger role to play in the society.

*(Kuwait)*

Continue cooperating with the UN and other International Organisations and share good experiences and practices with other countries in order to overcome the remaining challenges.

*(Lao PDR)*

Introduce legislation to prohibit corporal punishment of children.

*(Liechtenstein)*

Allocate more resources in sectors that provide basic services such as health, education and employment opportunities.

*(Malaysia)*

Re-examine the budgets and social laws taking into account gender issues.

*(Morocco)*

Further strengthen the efforts in poverty eradication, paying special attention to the rural population.

*(Myanmar)*

Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas.

*(Myanmar)*

Continue working on the welfare of children and women.

*(Nepal)*

Continue including civil society participation in the UPR process.

*(Nicaragua)*

A fully integrated gender perspective in the follow up of this UPR.

*(Norway)*

Continue its efforts with regard to education for children and take the necessary measures to allow women to participate on an equal footing with men in all developmental efforts.

*(Qatar)*

Introduce a strategy to promote food security.

## Recommendations

*(Saudi Arabia)*

Redouble its efforts in the field of education and health.

*(Senegal)*

Ensure better protection for persons with disabilities and the elderly.

*(Senegal)*

Continue to advance the progress already underway on poverty eradication and improve the enjoyment of the most basic human rights of the people, especially women and children.

*(Singapore)*

Reinforce efforts in provision of free and compulsory primary education.

*(Slovakia)*

Take the necessary legislative, civil and criminal measures to provide the appropriate protection to women, and children that are victims of sexual abuse.

*(Mexico)*

Continue to promote the right to equal opportunity for work and at work.

*(Holy See)*

Continue to promote the rights of women in their choice of marriage and their equality of treatment independent of caste and tribe or other considerations.

*(Holy See)*

Ensure a safe working environment for journalists.

*(Austria)*

Continue efforts aimed at improving the level of public health in the country to attain better results in the area of health and access to health.

*(Saudi Arabia)*

Strengthen its efforts to improve maternal health and act to effectively balance the skewed sex-ratio among children, including by combating female foeticide.

*(Norway)*

Take further measures to ensure that all women without any discrimination have access to adequate obstetric delivery services and sexual and reproductive health services, including safe abortion and gender-sensitive comprehensive contraceptive services.

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## Recommendations

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*(Finland)*

Intensify its efforts to sensitize and train medical professionals on the criminal nature of pre-natal sex selection with a view to ensuring stringent enforcement of the legal prohibition of such practice.

*(Liechtenstein)*

Strengthen legislations to combat sexual offences against minors.

*(Algeria)*

Intensify efforts towards the MDG 5 by ensuring access to information and counseling on SRHR as set out in the National Population Policy.

*(Sweden)*

## Para 14.9

## Annexure-17

## Oral Statement by NHRC-India in the Plenary Session of United Nations HRC

Madam President,

Thank you,

As our Commission had noted in its submission for this review, the challenges of protecting and promoting human rights in a country of India's size and diversity are unique. It is not easy for others to grasp them or to make relevant recommendations, but many members of this Council have made the effort.

The Commission has studied the recommendations they have made, and it has just heard which of these the Government of India is prepared to accept. As the Council expects it to, the Commission will now help to disseminate the outcome of this review in India, directly and through the State Human Rights Commissions and civil society.

It will also monitor the implementation by government of the recommendations it has accepted. Its record on the first cycle was not particularly good. The Commission trusts there will be an improvement this time around and will work with the government and with civil society towards this end.

The Commission will also examine the recommendations which the government has not accepted. On those which the Commission considers important, it will try to see if, through its own work and through discussions with government, progress can be made.

Several sets of recommendations are specific to the problems faced by children, women and disadvantaged sections of society. Since there are National Commissions for the protection of the rights of children, of women, of the scheduled castes and of the scheduled tribes, whose Chairs are deemed members of the National Human Rights Commission, we will bring these sectoral recommendations to their attention.

Laws and budgets are not the problem in India; implementation is. The excellent laws to which the government has drawn attention are routinely flouted, often terra incognita to officials expected to uphold them. Huge percentages of the billions of dollars budgeted for social welfare programmes for the most vulnerable do not reach the beneficiaries. The Commission will work with all state-holders to try for marked improvements before the third review.

Thank you, Madam President.

# CHARTS & GRAPHS

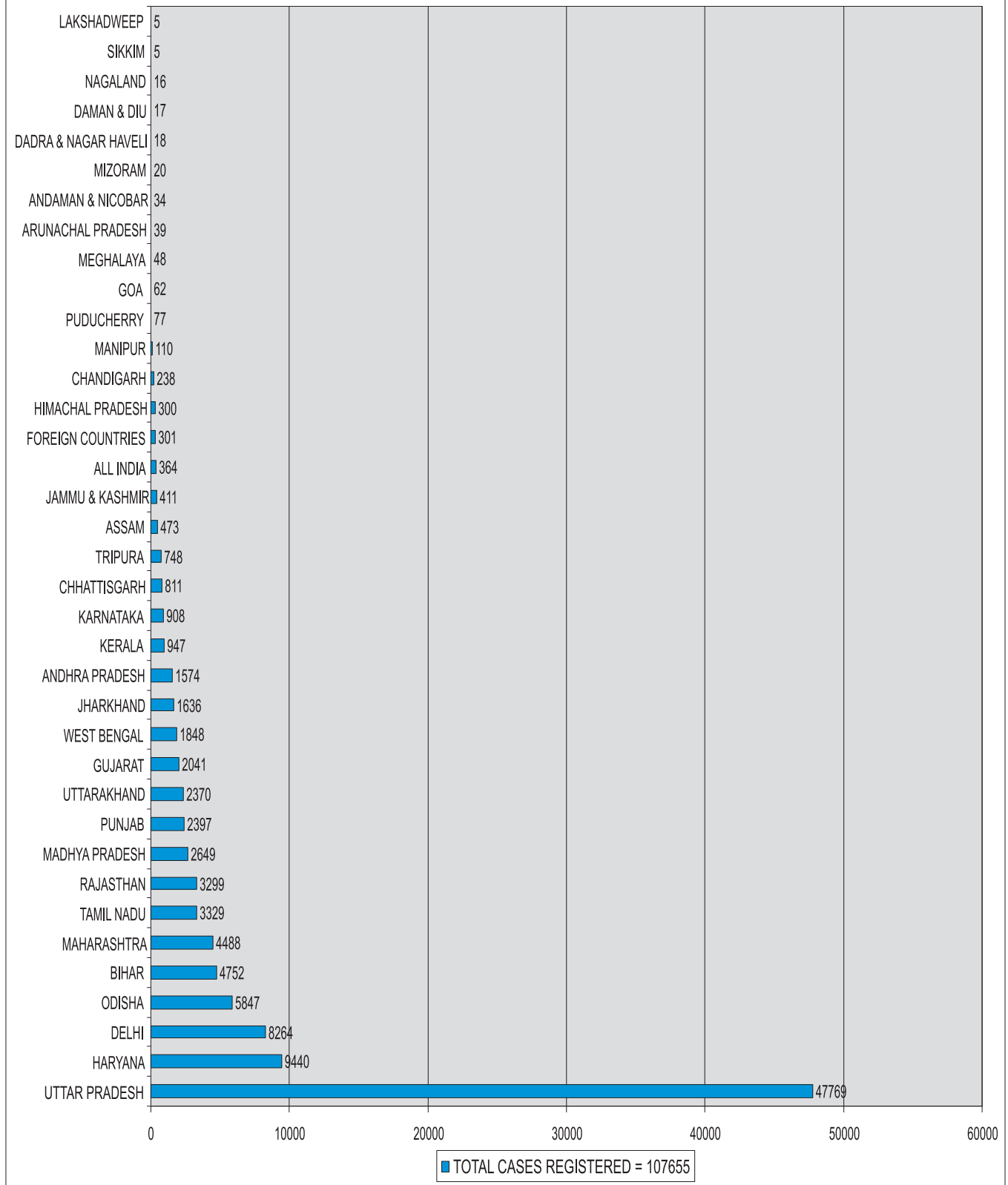






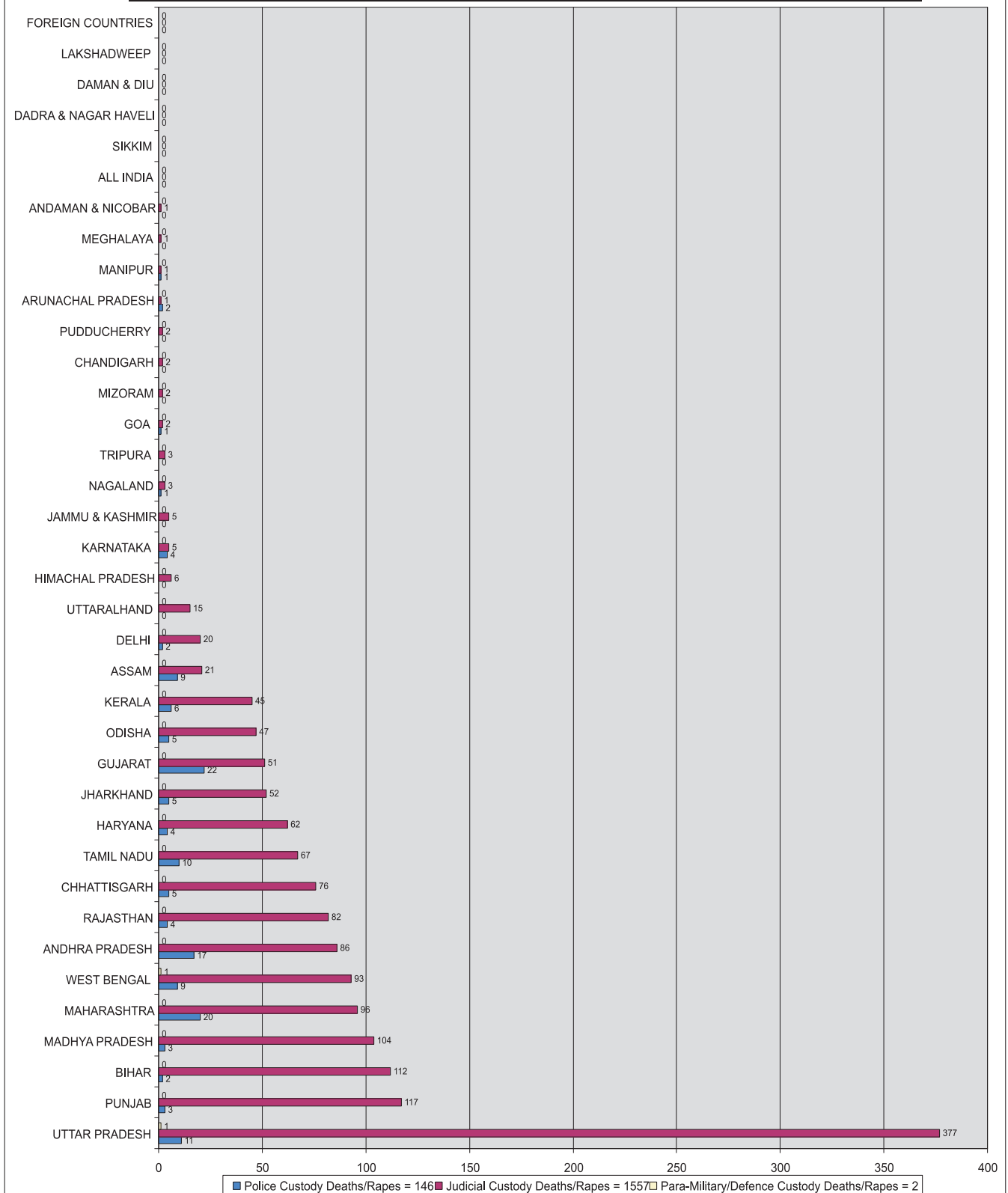
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## STATE/UT-WISE NUMBER OF CASES REGISTERED IN NHRC DURING 2012-2013



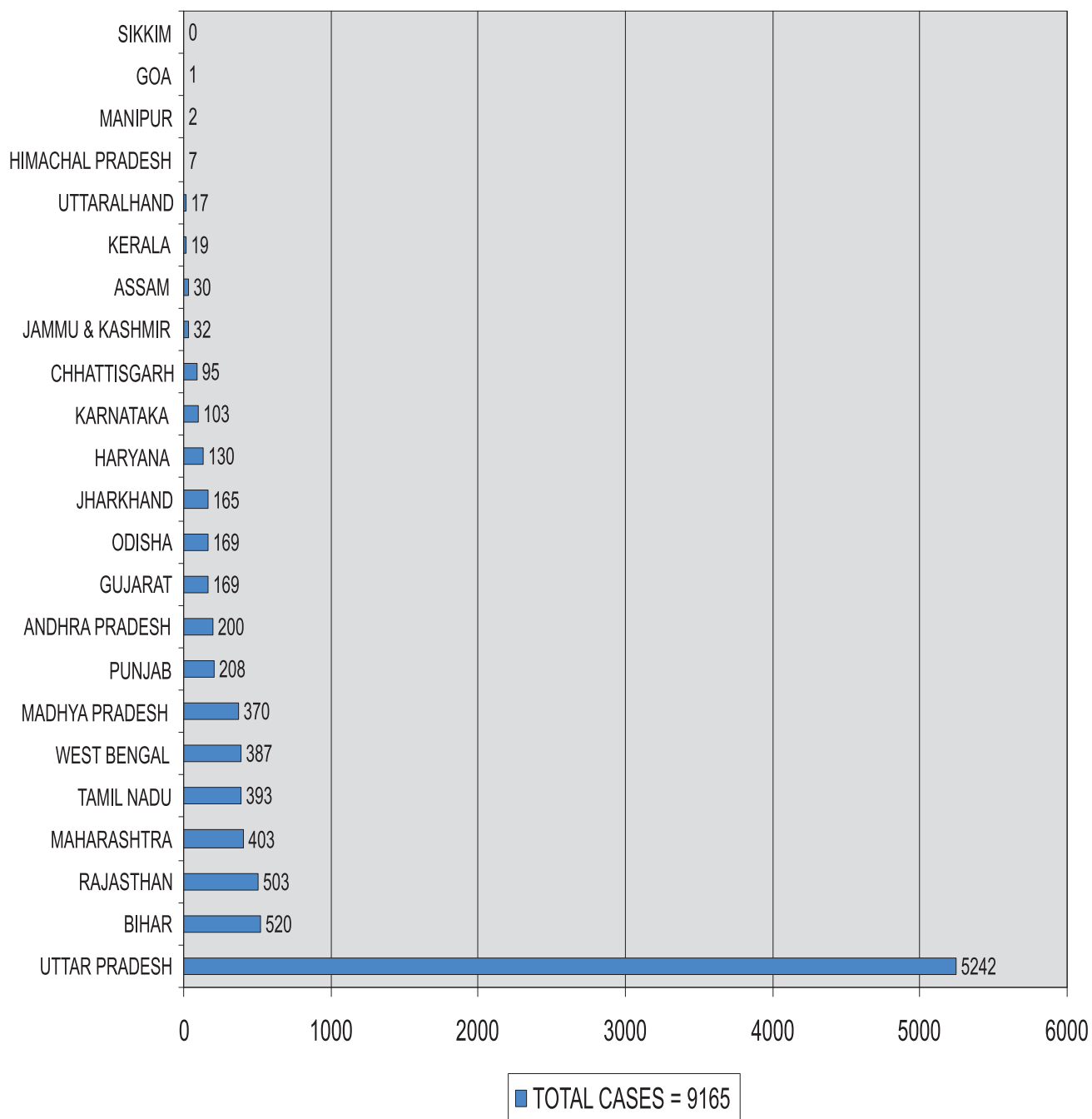
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## STATE/UT INTIMATIONS REGISTERED IN NHRC RELATING TO CUSTODIAL DEATHS DURING 2012-2013 TOTAL CASES = 1705



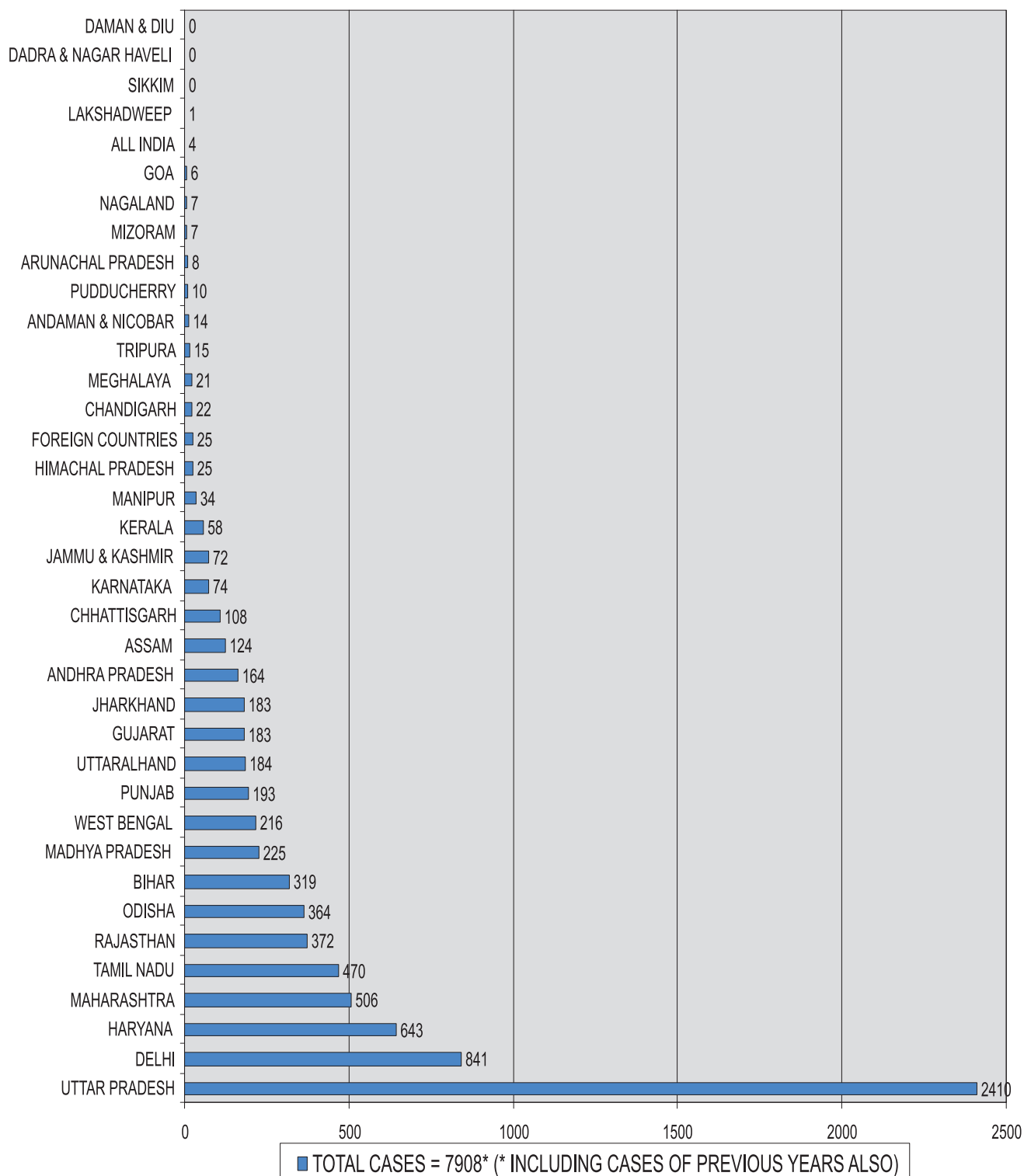
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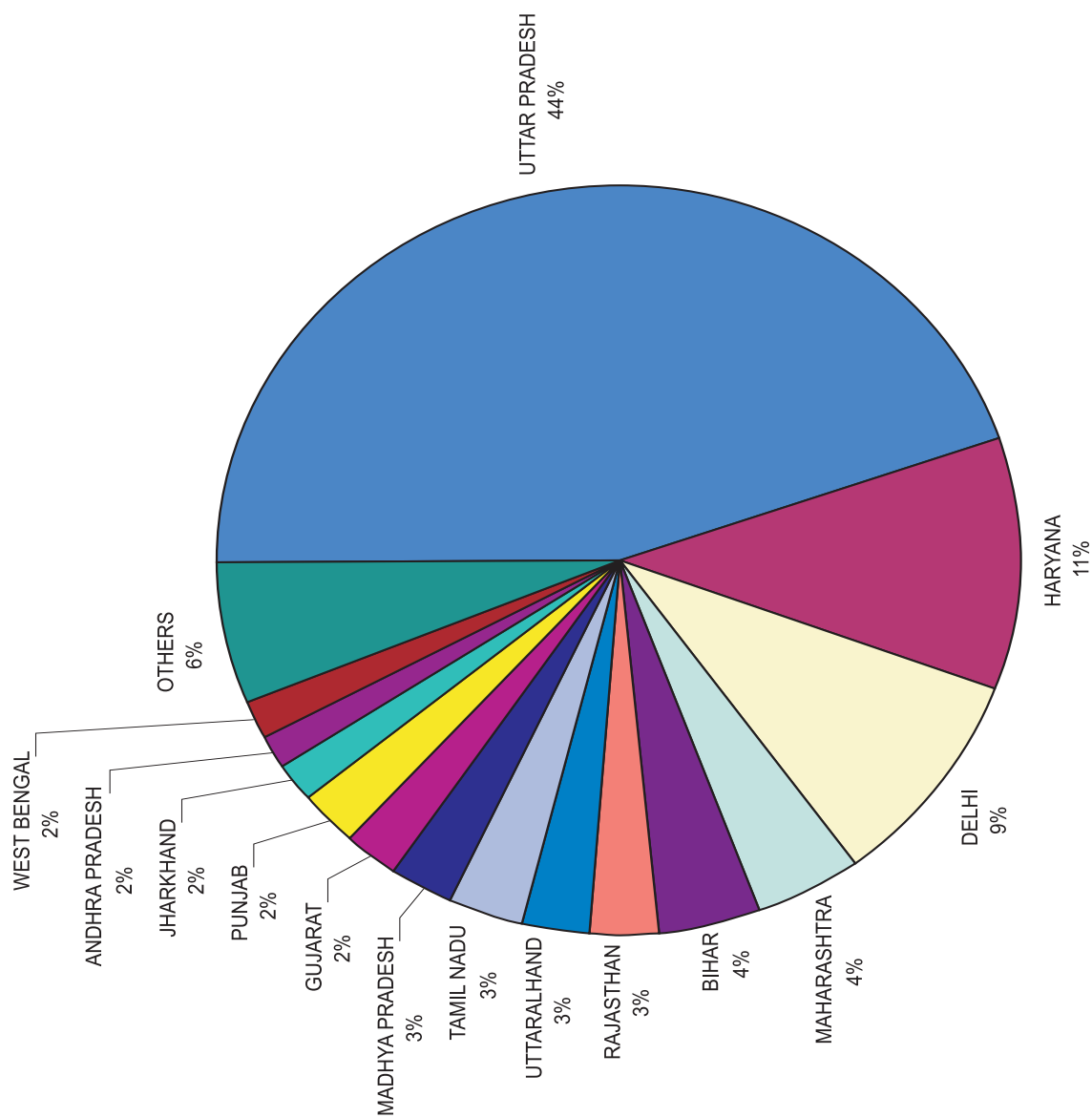


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### NATURE & CATEGORIZATION OF REPORT CASES\* DISPOSED OF BY THE NHRC DURING 2012-2013

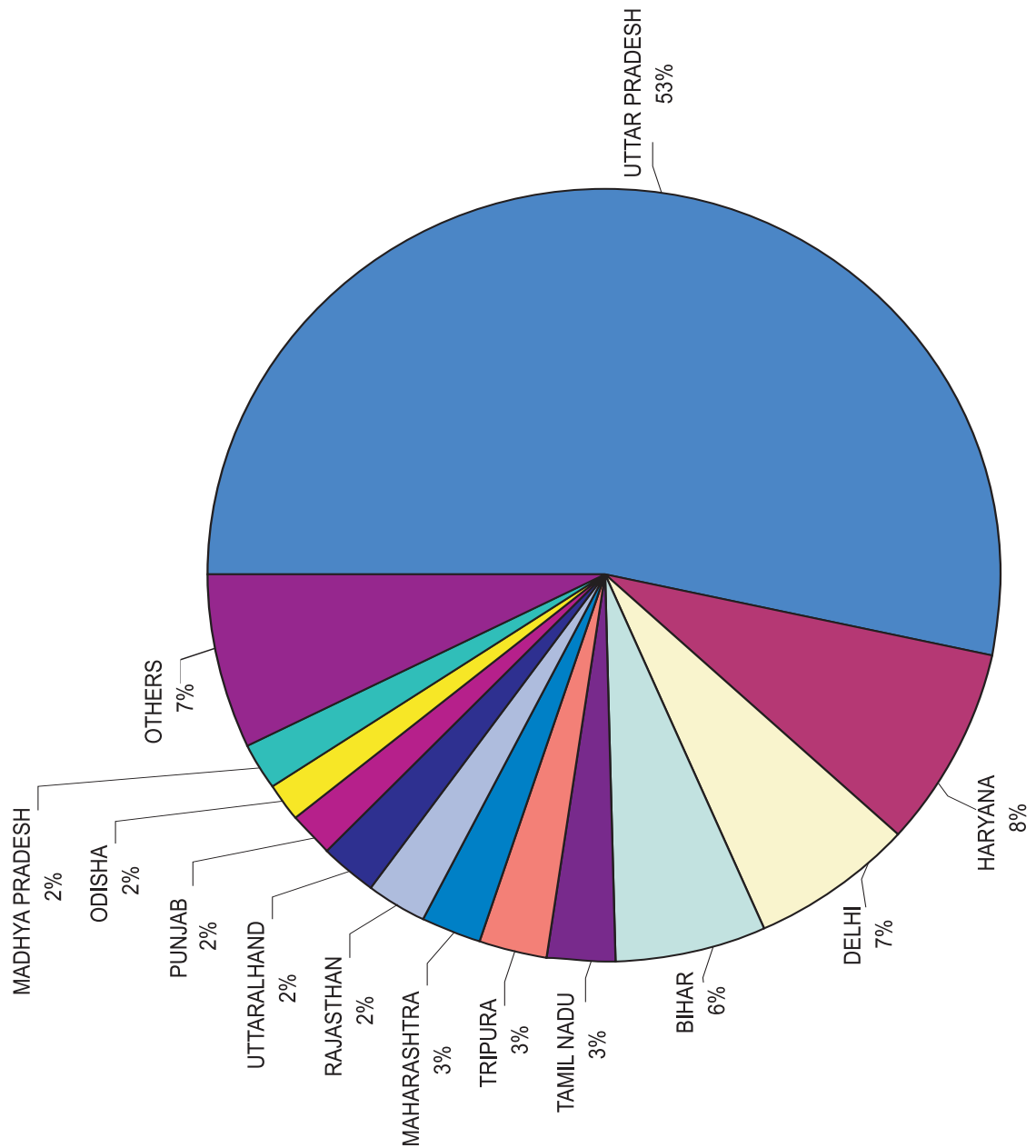


## 5 CASES DISMISSED 'IN LIMINI' BY NHRC DURING 2012-2013 IN STATES/UTs WITH A DISMISSAL RATE OF MORE THAN 2%

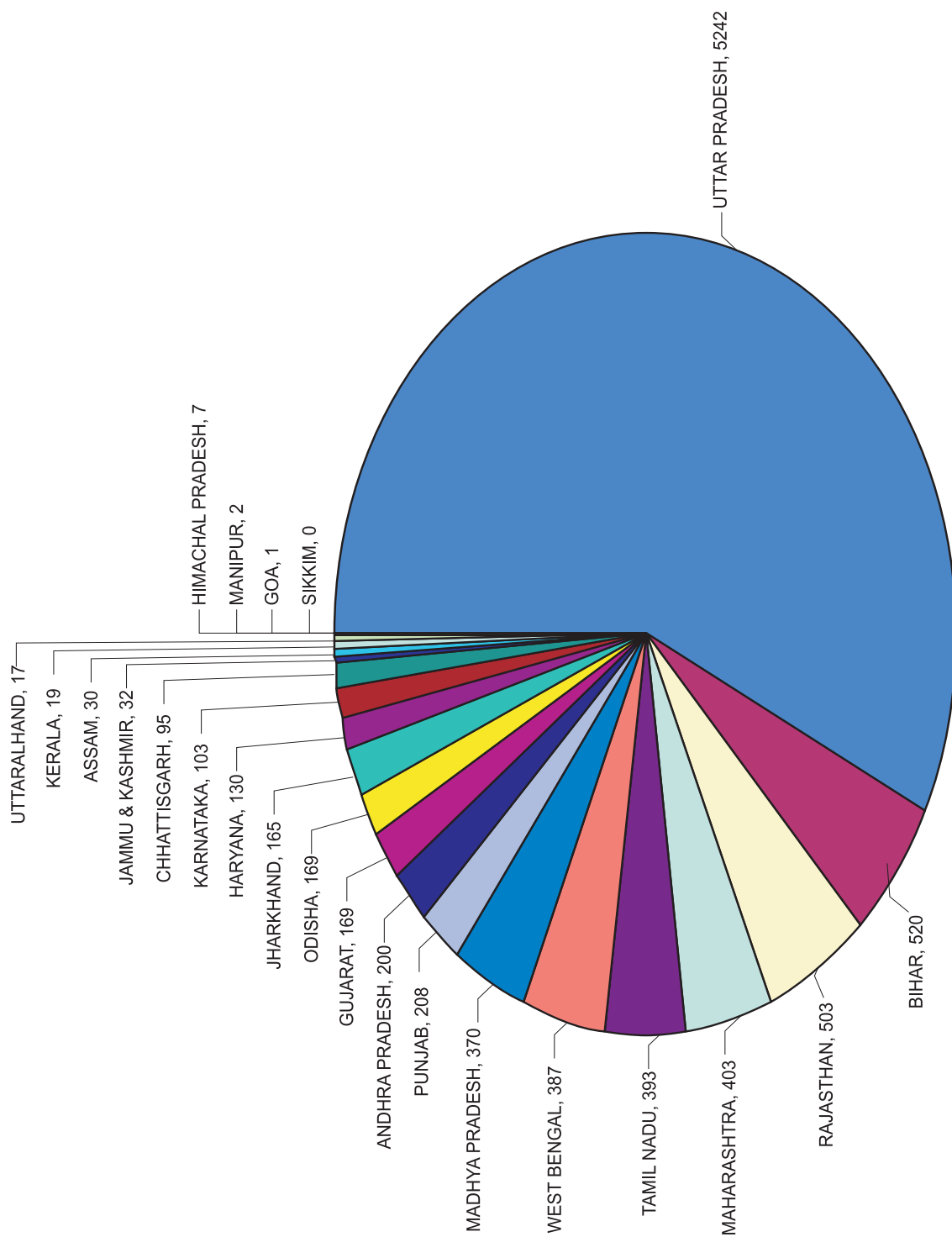




**CASES DISPOSED OF WITH DIRECTIONS BY NHRC DURING 2012-2013 IN STATES/UTs WITH A DISPOSAL RATE OF MORE THAN 2%**

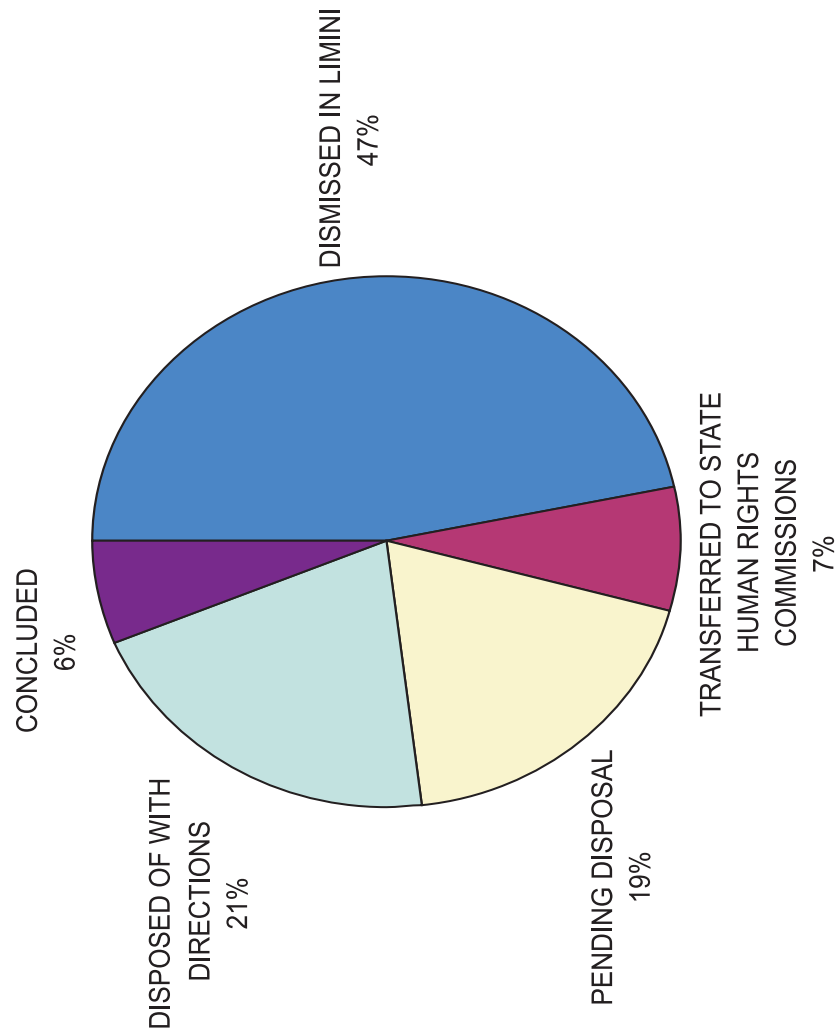


**CASES TRANSFERRED TO SHRCs BY NHRC DURING 2012-2013**  
**TOTAL CASES = 9165**



## CASES DISPOSED OF/PENDING DISPOSAL BY NHRC DURING

2012-2013



## ABBREVIATIONS

ADGP	Additional Director General of Police
Admn.	Administration
APF	Asia Pacific Forum
ASI	Assistant Sub-Inspector
BPL	Below Poverty Line
CB-CID	Crime Branch-Criminal Investigation Department
CID	Central Investigation Department
Cr. P.C.	Criminal Procedure Code
CPIO	Central Public Information Officer
CRPF	Central Reserve Police Force
DCP	Deputy Commissioner of Police
DG(I)	Director General (Investigation)
DGP	Director General of Police
DIG	Deputy Inspector General
Distt.	District
DM	District Magistrate
FIR	First Information Report
GoI	Government of India
Hb	Haemoglobin
HR	Human Rights
I/c	In-charge



ICC	International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights
IO	Investigating Officer
IPC	Indian Penal Code
MER	Magisterial Enquiry Report
M/s	Messrs
NCT	National Capital Territory
NGO	Non-Governmental Organization
NHRIs	National Human Rights Institutions
NOK	Next of Kin
PCS	Provincial Civil Services
PHRA	Protection of Human Rights Act, 1993, as amended by the Protection of Human Rights (Amendment) Act, 2006
PMR	Postmortem Report
P.S.	Police Station
r/o	resident of
r/w	read with
SI	Sub-Inspector
SHO	Station House Officer
s/o	son of
SP	Superintendent of Police
SSP	Senior Superintendent of Police
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
u/s	under section
UTP	Undertrial Prisoner



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