

2009 INDIA HUMAN RIGHTS REPORT



ASIAN CENTRE FOR HUMAN RIGHTS

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India Human Rights Report 2009

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C O N T E N T S

Preface

Address the Naxal Crisis and Impunity

The Asian Centre for Human Rights (ACHR) publishes its 2009 Annual Report on Human Rights in India as the Congress led United Progressive Alliance government assumes its second term following the elections.

The findings of the report are a clear challenge to the new government. ACHR argues that the new government must find new answers to the growing security problem arising out of the Naxalism. Current security-driven responses are not working; indeed they may even be counter-productive.

The report suggests that the root causes of Naxal violence, discrimination, marginalisation and exclusion must be addressed. There is an imperative need for the government to address security concerns. However, security responses of the government, whether state or central, have been resulting in human rights violations against local populations; this state violence has been feeding support for Naxalism.

State failure to address discrimination and exclusion

The report documents very high levels of societal violence and discrimination faced by religious and ethnic minorities, indigenous and tribal peoples and members of the Dalit community.

The report reveals the failure of the Central government and state level authorities to address these violations. The abuses include the failure of the state to address economic and social grievances. The government has regularly failed to provide adequate public security for these groups and failed to

prevent non-state actors from taking the law into their own hands and allowed the space for armed opposition groups to proliferate.

State failure to address human rights violations including torture and extrajudicial executions by the security forces

The 2009 ACHR annual report reveals that widespread human rights violations continue to take place across India. These are particularly serious in conflict afflicted areas, and often result in crimes against the civilian population. The report documents the ongoing use of torture and death following torture of detainees by members of the security forces.

As with other years, there were persistent claims by the security forces that insurgents had been shot in encounters. Some of these undoubtedly happened. But some of them did not. The courts have repeatedly challenged many of these claims and ruled that, contrary to Indian law, people were detained and then summarily executed by the security forces.

But despite repeated exposure the security forces continue to make these claims. Such is usage of the technique that it even has its own vocabulary: fake encounters.

Killing civilians in this manner is a serious crime and should be punished as any other crime. But the consequences go wider. 'Faking' encounters undermines all other actions of the security forces. One 'mistake' means that all actions by the security forces are treated with suspicion by local populations. No matter how genuine an encounter may

have been the ‘mistake’ provides the forces opposed to the state the opportunity to whip up discontent amongst local people. If the state is fighting to preserve the rule of law it should set the example, not break its own laws.

Growing insecurity and abuses by the AOGs

The failure of security responses can be measured by the growth of Naxalism. Naxals are now active in more than 13 states. As the report notes, five years ago there were only three active Naxal groups in Jharkhand. Today there are six.

The 2009 general elections have been dominated by Naxal violence as never before. Earlier in April 2006, Prime Minister Manmohan Singh stated that the Maoists represent India’s biggest internal security threat. But the Naxal violence continues to grow. “*The Maoist violence is a grave challenge before the country*” - stated Ashwini Kumar, spokesman for the Congress Party, after attacks by the Naxals killed seventeen people on 24 April 2009.

Further, according to the Ministry of Home Affairs of the government of India, a total of 920 persons including 490 civilians, 231 security forces and 199 Naxalites were killed in the Naxal violence during 2008. In the past four years (2005-2008), more security forces and civilians were killed in Naxal violence than in Jammu and Kashmir or North East. While the number of security forces killed decreased from 189 in 2005 to 75 in 2008 in Jammu and Kashmir, the number of security forces killed in the North East decreased from 71 in 2005 to 46 in 2008. During the same period, the number of security forces killed in the Naxalite conflict increased from 153 in 2005 to 231 in 2008. Similarly, the number of civilians killed during 2005 to 2008 were 1,965

persons in Naxal conflict in comparison to 1,666 in North East and 1,195 in Jammu and Kashmir.

The methods of the Naxal movement include violence of extraordinary brutality, including the gouging out of eyes, bludgeoning to death and slitting of throats of those suspected of colluding with the State. The purpose is to strike fear into local populations. Naxals’ killing and torture of civilians contravenes international humanitarian law. ACHR condemns Naxal violence unreservedly.

Apathy amongst the main political parties

India’s political parties appear unwilling to examine and address root causes of Naxalism.

The political parties propose much in the way of new powers to be given to the security forces. They offer little in the way of accountability.

An approach that stresses only security denies, against all the available evidence, the relationship between human rights violations and the deteriorating security environment and insurgency.

Lessons from elsewhere: Nepal

For the long term consequences India needs only to look at Nepal. Like India the Maoist movement there was born largely out of economic and social injustice and violence. Like India, Nepal ignored the causes and relied on a security driven policy.

There is little disagreement among analysts that the Nepal Army’s perpetration of grave violations of human rights, and the State’s failure to address impunity for these violations, played a fundamental part in the success of the Maoist insurgency. And there is widespread agreement that the Nepal

Army's behaviour was a significant factor in Maoist success at the ballot box.

Lessons from elsewhere: America

In tackling insurgency there is a general consensus in India that the failure of America in Iraq and Afghanistan can, in part, be attributed to the abuses committed against detainees and deaths of civilians. President Barack Obama agrees. He has begun to address the damaging legacy of torture within American security forces and has sought to change tactics in Afghanistan. Indians, for the most part, agree.

It is unclear why Indians do not apply the same logic to India's 'war on terror'. More powers with the same lack of accountability and the same shortsighted operations are, like Nepal, likely to result in increased support for the Naxal movement.

ACHR is not arguing that the Indian Army or the Police as an institution will lose their legitimacy in the manner of the Nepal Army but if the government fails to move away from the failing strategy then the prospects for counter insurgency success will diminish significantly.

Recommendations

ACHR's report suggests that reforms of the security sector are needed to halt Naxal violence. India needs an informed debate on the security response. Similarly both the Centre and State governments must take

more concerted action against discrimination and marginalization.

India needs to move beyond the uninformed knee jerk views like the ones expressed by many Bollywood actors following the 26/11 attacks on Mumbai. India must take steps to defend its security but equally it must ensure that the security response does not provide a steady stream of new Naxal recruits. Any security strategy must include a significant rule of law and human rights dimension.

The Asian Centre for Human Rights urges the newly formed government to take the following measures:

- Organise a Parliamentary review of the security response to the Naxalite movement in India;
- Review all the laws/Acts that provide for prior permission of the government to prosecute the government officials/ security personnel to ensure that no prior permission shall be required for corruption and human rights violations;
- Place the draft Prevention of Torture Bill 2008 after necessary modifications in consultation with the stakeholders for adoption by the parliament; and
- Ratify the UN Convention Against Torture and its optional protocol.

Andhra Pradesh

I. Overview

The human rights situation in Andhra Pradesh remained of concern in 2008. Both the security forces and the Maoists were responsible for gross human rights violations. During the period January to May 2008, the Andhra Pradesh State Human Rights Commission (SHRC) received 439 cases of human rights violations against the police. SHRC chairperson Justice B. Subhashan Reddy stated that the SHRC received 5,392 rights violation cases, including 89 cases of custodial torture, during 2007. Of them, 860 cases (15.9%) were filed against the police.¹

In 2008 ACHR documented a number of police custody deaths in the state. These included the custodial death of Abdul Nabi at Chennur police station in Kadapa district on the night of 3 January 2008;² of Narsimhulu alias Anji Reddy in Devarakonda in Nalgonda district on 23 March 2008;³ of Nagaraju in Hindupur on 27 April 2008;⁴ of Tamanaboni Ramulu in Devarakonda in Nalgonda district on 22 May 2008;⁵ of Nagula Ravinder Goud in the custody of the Excise Police in Husnabad in Karimnagar district on 11 August 2008;⁶ and of Meka Sankara Rao at Lalapet police station in Guntur district on 29 September 2008.⁷

On 23 December 2008, Union Minister of State for Home Affairs, Shakeel Ahmed informed the Lok Sabha (Lower House of Indian Parliament) that Rs 800,000 had been recommended for payment as compensation in eight cases of custodial deaths in Andhra Pradesh in 2008.⁸

In addition to arbitrary arrests, unlawful detention and torture, there were substantial

allegations of “fake encounter” killings. On 22 May 2008, an alleged criminal Golla Rammohan was killed by the police in an alleged encounter in Anantapur district. However, a fact finding committee of the Andhra Pradesh Civil Liberties Committee (APCLC) and the Organisation for Protection of Democratic Rights (OPDR) found that Rammohan had been extra-judicially executed in “fake encounter”. According to the report, the police shot the victim from behind as he was attempting to flee. The police then allegedly planted a weapon next to the body.⁹

Maoist Abuses

The Maoists continued to conduct summary trials in the so-called *Jan Adalat* (Peoples’ Court) and killed people on the suspicion of passing information to the police. They abducted people and tortured them. The Maoists also targeted political activists. On the night of 17 January 2008, a Congress party worker named Payam Lakhmaiah (38 years) was killed by the Maoists at Sampathnagar village of Tekulapalli *Mandal* (administrative circle) in Khammam district.¹⁰

Freedom of the Press

The state of Andhra Pradesh attacked the freedom of the press. In a case of abuse of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, the police took cognizance of a complaint filed by Madiga Reservation Porata Samiti (MRPS) leader Manda Krishna Madiga and arrested K. Srinivas, editor of *Andhra Jyothi*, a Telugu daily and two other reporters in Hyderabad on 24 June 2008. The arrests were made after the *Andhra Jyothi* staffers had trashed the effigy of the MRPS leader in

a protest against the attack on their office by the MRPS supporters.¹¹

Land Alienation

The incidence of alienation of tribal lands was worrying in the state. According to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 65,875 cases alleging land alienation have been filed in the Courts in Andhra Pradesh involving an area of 287,776 acres. 58,212 cases were disposed of by the Courts out of which 26,475 cases were disposed of in favor of tribals and 94,312 acres of land was restored to tribals.¹² Hundreds of tribals were forcibly evicted from “forest land” by the forest officials in violation of the Forest Rights Act 2006.

Caste Discrimination

Low castes faced discrimination, social boycott and attacks from the upper castes. On 21 June 2008, upper caste villagers attacked Dalits at Pottilanka village in Kadiyam mandal in East Godavari district, killing a Dalit identified as Palli Veerapandu. A fact-finding committee of Human Rights Forum (HRF) alleged that although the Dalits specifically named 50 of the upper caste attackers, the police arrested only 29 persons.¹³

Gender Violence

In 2007, Andhra Pradesh had the poorest record of safeguarding the rights of the women. In its latest report “Crime in India 2007” the National Crime Records Bureau (NCRB) under the Union Ministry of Home Affairs stated “*Andhra Pradesh, accounting for nearly 7.2% of the country’s population, has accounted for 13.3% of total incidents of crime against women in the country by reporting 24,738 cases.*” Hyderabad was the second most insecure city for women in the country after Delhi.¹⁴ Despite this the Andhra Pradesh Women’s Commission could not function as the state government failed to appoint a Chairperson after the resignation

of its Chairperson Ms Renuka Reddy in September 2007.¹⁵

Prison Conditions

The prisoners’ conditions in Andhra Pradesh in 2008 remained poor. In addition to overcrowding, jails lacked doctors and basic medical facilities which led to rise in the prisoners deaths from 80 in 2001-02 to 129 in 2005-06.¹⁶ The killing of Julakanti Srinivas alias Moddu Seenu, a convict by another prisoner Om Prakash (remand prisoner) in Anantapur jail on 9 November 2008¹⁷ exposed serious negligence on the part of the jail staff, and neglect of norms by the jail authorities to segregate convict prisoners from remand prisoners.

II. Human rights violations by the security forces

The police were responsible for gross violations of human rights including violations of the right to life, illegal arrest, unlawful detention and torture. During January-26 May 2008, the Andhra Pradesh State Human Rights Commission (SHRC) received 439 cases of human rights violations committed by the police. SHRC chairperson Justice B. Subhashan Reddy stated that the SHRC received 5,392 rights violation cases, including 89 cases of custodial torture, during 2007. Of them, 860 cases (15.9%) were filed against the police.¹⁸

The government agency, National Crime Records Bureau (NCRB) stated that it recorded 327 complaints against the police personnel in Andhra Pradesh during 2007. 209 departmental inquiries, 10 magisterial inquiries and 25 judicial enquiries were instituted to probe the allegations. During 2007, 45 police personnel were dismissed from service, 206 were awarded major punishment and 1,335 minor punishment.¹⁹ The NCRB does not document human rights violations by the armed forces.

a. Violations of the right to life

i. Custodial killings

The government agency NCRB recorded twenty three custodial deaths in Andhra Pradesh in 2007. Cases were registered into all these custodial deaths but magisterial inquiry was conducted only in seven cases. The police claimed that eighteen of the victims died during hospitalization/ treatment, four died due to illness/natural death and one while trying to escape from custody. Two police personnel were charge-sheeted but none of them were convicted by the end of 2007.² On 23 December 2008, Union Minister of State for Home Affairs, Shakeel Ahmed informed the Lok Sabha (Lower House of Indian Parliament) that Rs 800,000 had been recommended for payment as compensation in eight cases of custodial deaths in Andhra Pradesh in 2008.²⁰

On 26 June 2008, an Additional Sessions Court in Hindupur in Anantapur district convicted retired Sub Inspector of Police, Nissar Ahmed and Late Ramana (a Head Constable who died three years back) for the custodial death of M. Venkatesh (of Valluru village of Karnataka's Shimoga district). The deceased was arrested on the charge of theft and detained at Amarapuram police station in Anantapur district in 1995 where he was tortured to death. Retired Sub Inspector Nissar Ahmed was sentenced to seven years of imprisonment.²¹

ACHR documented the following cases of custodial deaths in Andhra Pradesh during 2008:

On the night of 3 January 2008, one Abdul Nabi (about 55 years) died in the police lock-up hours after he was arrested and detained at Chennur police station in Kadapa district. The victim was arrested on the charges of organizing "*matka*" (a form of gambling). The relatives of the deceased protested

outside the police station alleging that torture led to the death. A magisterial inquiry was ordered.²²

On 23 March 2008, Narsimhulu alias Anji Reddy (aged about 55 years) of Kilarigudem in Praksam district died in police custody at Devarakonda in Nalgonda district. The deceased and one Kaira Laxmi were summoned to the police station on the night of 22 March 2008 for questioning about a sex racket in Hyderabad. The police claimed that after interrogation they were asked to go home but chose to remain at the police station. The following morning Narsimhulu was found dead in the police lock-up.²³

On 27 April 2008, Nagaraju of Pulakunta village in Hindupur in Anantapur district, arrested on the charges of killing his wife, was found dead in the bathroom of the police station in Hindupur. The police claimed that he had committed suicide but his relatives blamed the police for the death.²⁴

On 22 May 2008, Tamanaboni Ramulu (aged about 31 years) died allegedly due to police torture in custody in Devarakonda in Nalgonda district. The deceased's father Muthaiah alleged that on the night of 21 May 2008 the police took a statement from Ramulu under duress. Muthaiah accused the police of beating his son to death. However, the police officials claimed that the deceased died due to ill-health in the hospital.²⁵

On 11 August 2008, Nagula Ravinder Goud (27) of Eradapalli village in Karimnagar district died in the custody of the Excise Police in Husnabad in Karimnagar district. On the evening of 10 August 2008 Goud was arrested on the charges of illegal transportation of liquor. The Excise Police claimed that he committed suicide by hanging. The relatives of the deceased alleged that Goud was tortured to death.²⁶

On 29 September 2008, the police arrested four persons including Meka Sankara Rao (aged about 40 years), a resident of Gandhi Nagar Colony under Lalapet police station in Guntur district, in connection with gambling. Meka Sankara Rao died in Lalapet police station on the same day following alleged torture by Sub Inspector K. Srinivasa Rao.²⁷

ii. Extra-judicial executions

In addition to custodial deaths, the police were also accused of “fake encounter” killings.

On 2 April 2008, the police claimed to have killed a Central Committee member of the Communist Party of India (Maoist) identified as Gajerla Saraiah alias Azad and his wife B. Aruna alias Rama in an encounter near Kanthanpalli in the Rampur forest area in Warangal district. The police officials also claimed to have recovered a pistol, a revolver, one 30 mm carbine and three kitbags from the encounter site. Following a petition filed by the deceased’s son, Gajerla Naveen, the District Human Rights Court, Warangal directed the police to constitute a three-member medical team and conduct the post-mortem in the presence of the Chief Judicial Magistrate.²⁸ Pro-Maoist poet Vara Vara Rao also alleged that the deceased couple was first taken into custody by the police on 1 April 2008 at Kolhapur in Maharashtra and were then extra-judicially executed. He stated that he had received information from Azad’s brother Ganesh, another top Maoist leader, about the detention of Azad and his wife in Maharashtra on 1 April 2008. He further noted that Azad had injuries on the hands suggesting he was tortured before being killed.²⁹

On 22 May 2008, a wanted criminal Golla Rammohan was killed by the police in an alleged encounter in Anantapur district.³⁰ However, a fact finding committee instituted by the Andhra Pradesh Civil

Liberties Committee (APCLC) and the Organisation for Protection of Democratic Rights (OPDR) found that Rammohan was actually extra-judicially executed in a “fake encounter”. The fact-finding committee found that Rammohan had taken shelter in a house opposite to ‘Praja Vaidyashala’ in Sangameshnagar for three days before he was killed. He was recovering from a leg injury. Two policemen approached Rammohan’s house at around 6 p.m. on May 22. They spoke to Rammohan and then to senior police officials on a cell phone. A few minutes later a large contingent of police surrounded the house. Rammohan wanted to surrender but he was fired at from behind as he was apparently attempting to run away. The police again fired at Rammohan as he lay on the ground. The police claimed that Rammohan fired at them with a revolver and threw bombs. Eyewitnesses told the fact finding committee that Rammohan was not armed but the police placed a firearm next to the body once Rammohan was dead. They also alleged that a person, who may have been a policeman, apparently stood outside the house and threw bombs around and placed a bucket with bombs in the area.³¹

b. Illegal arrest, unlawful detention and torture

On 19 April 2008, police officers of APTransco’s anti-theft squad allegedly beat up farmers and detained their children over non-payment of dues and allegedly stealing from power lines in Aziznagar of Moinabad Mandal in Ranga Reddy district. Eighteen farmers from Aziznagar were brought to Hyderabad and detained in the vigilance wing police station at Buddha Bhavan near Tank Bund. The farmers alleged that the police mistreated them and denied them bathroom facilities. Two Sub Inspectors, Mr Sankar Reddy and Mr Yadagiri allegedly beat up T. Yadi Reddy in the police station causing serious injury.³²

On 27 August 2008, Tota Swapna Priya filed a petition in the District Legal Services Authority (DLSA) in Guntur alleging that police illegally detained her husband Tota Bhanu Prasad and were torturing him. Tota Bhanu Prasad was arrested on the suspicion that he had killed his father, Tota Janardhana Rao. The petitioner's Advocate, Chandrasekhar alleged that the victim was not produced before the Court within 24 hours after arrest and hence the detention was illegal.³³

On the morning of 23 September 2008, the police picked up one Shaik Ghouse (aged 19 years), a student of New Era Junior College and a resident of Chandrayangutta in Hyderabad, on the allegation of theft. He was detained at the Saroornagar Police Station, Hyderabad and allegedly tortured during interrogation. The victim alleged that on two occasions he fainted but the police woke him by pouring water on him. The police also allegedly forced Mr Ghouse to drink water and thus forcing him break his fast during the holy month of Ramzan. The victim was later admitted to the Chanchalguda Nursing Home. He filed a complaint with the SHRC demanding an investigation into the incident and action against the police.³⁴

III. Violations of International Humanitarian Law by the AOGs

The Maoists continued to be responsible for violations of Common Article 3 of the Geneva Convention and perpetrated violations of the right to life, extortion, abduction, hostage taking, torture and awarding 'people's justice' through its so-called *Jan Adalat* (People's Court).

a. Violations of the right to life

The Maoists killed numerous civilians on the charges that they passed information to the police about the Maoists' activities and

movements. Those killed by the Maoists included:

- Samireddy Ganesh, a tribal resident of Bhiram village under G. Madugula Mandal in Visakhapatnam district who was abducted and killed on 17 January 2008;³⁵
- Markendeya Chowdhury of Nagulabeda village under Narayanapatnam police station in Koraput district, on the night of 29 January 2008;³⁶
- 38-year-old tribal woman identified as K. Sharada was tortured to death at Muthapur village in Govindraopet mandal of Warangal district on the night of 3 February 2008;³⁷
- Thati Bhaskar, an autorickshaw driver, who was killed at Pusuguppa in Khammam district on 5 June 2008;³⁸
- two tribals identified as Madivi Bandi (village head of Bandigumpu in Khammam district) and Bhuka Venkanna (a resident of Dongala Jaggaram village in Khammam district) were kidnapped and killed on 13 October 2008;³⁹
- two tribals identified as Vantala Rama Rao and Killo Sanadu who were abducted from Ramaraopalem village in Visakhapatnam district and killed on 1 December 2008⁴⁰

The Maoists also targeted political activists. On the night of 17 January 2008, a Congress party worker identified as Payam Lakhmaiah (38) was killed by the Maoists at Sampathnagar village of Tekulapalli Mandal in Khammam district.⁴¹

b. Abductions

The Maoists were also involved in abductions of civilians. On 7 June 2008, a tribal farmer identified as Soyam Kannaiah was abducted from Pedamidisaleru village in Charla mandal in Khammam district.⁴²

On 21 October 2008, a tribal leader and *Sarpanch* (Headman) of Kurnavelli Gram Panchayat (Village Council), Kaniti Narsaiah was abducted for refusing to follow the Maoists' diktat to quit from his *sarpanch* post.⁴³

IV. Judiciary and administration of justice

The judiciary in Andhra Pradesh had an enormous backlog of cases. There were a total of 1,63,002 cases pending before the High Court of Andhra Pradesh and 9,57,822 cases were pending before the District and Sub-ordinate Courts as of 30 June 2008.⁴⁴

The Courts faced problems clearing the backlog because of staff shortages. As of 1 October 2008, only 30 judges out of sanctioned strength of 49 were appointed resulting in 19 vacancies in the Andhra Pradesh High Court. Similarly, 199 judge posts remained vacant in the District and Subordinate Courts in the state as of 30 June 2008.⁴⁵

V. Status of the SHRC

The Andhra Pradesh State Human Rights Commission (SHRC) received 5,392 cases of human rights violations during 2007. Of these 860 cases were filed against the police. During January - 26 May 2008, the SHRC also received 439 cases of human rights violations against the police.⁴⁶

The SHRC had to depend on the reports of the local police while investigating any case of human rights violations even in cases where police personnel were involved because the SHRC did not have its own investigation team. In November 2006, the State Home Department had issued a Government Order (GO) sanctioning 14 police personnel including one Inspector General, one Superintendent

of Police, two Deputy Superintendents of Police, two circle inspectors, two sub-inspectors and six constables to set up an investigation team under the SHRC. The GO noted that the team would work under the direction and control of the SHRC Chairperson. But the state government failed to implement the GO.⁴⁷

VI. Freedom of the press

In 2008 Andhra Pradesh government sought to restrict the freedom of the press by arresting journalists. In what appeared to be a clear abuse of the law, on 24 June 2008, police arrested K. Srinivas, editor of *Andhra Jyothi*, a Telugu-language daily, and two other reporters in Hyderabad under the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act of 1989. The case was filed by the Madiga Reservation Porata Samiti (MRPS) leader Manda Krishna Madiga following alleged use of shoes to damage his effigy by *Andhra Jyothi* staffers. The complainant alleged that the action of the *Andhra Jyothi* staff broke the provisions of the SC/ST (Prevention of Atrocities) Act. The newspaper employees had apparently used their shoes to damage the effigy as a protest against the attack on their office by MRPS activists on 26 May 2008. This followed the newspaper describing unnamed leaders belonging to the backward classes as "saleable commodities". *Andhra Jyothi* is known for its criticism of the state's incumbent Congress government.⁴⁸

The media fraternity protested against harassment of journalists by the state. But Home Minister K. Jana Reddy defended the arrest claiming that "arrests under the SC/ST (Prevention of Atrocities) Act can be made at anytime."⁴⁹ On 26 June 2008, the *Andhra Jyothi* Editor, K. Srinivas and reporters, M. Vamshi Krishna and T. Srinivas were granted bail by the Sixth Additional Metropolitan

Sessions-cum-Special Court judge, B.A. Prakasa Rao on a personal bond of Rs. 10,000 each. While Mr. Srinivas was granted unconditional bail, the two reporters were ordered to appear before the Jubilee Hills police Inspector every Monday between 8 a.m. and 10 a.m.⁵⁰

VII. Violations of the rights of indigenous peoples

a. Atrocities

In 2007, Andhra Pradesh ranked third worst in atrocities against tribals. According to the NCRB, 753 cases of crimes committed against the tribals were reported from Andhra Pradesh, representing 13.6% of total such cases in India. These included 11 cases killings, 44 cases of rape, 10 cases of abduction, four cases of arson, 3 cases registered under the Protection of Civil Rights Act of 1955 and 303 cases registered under SC/ST (Prevention of Atrocities Act) of 1989, among others.⁵¹

b. Land alienation

There was significant alienation of tribal lands in Andhra Pradesh. According to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 65,875 cases alleging land alienation had been filed in the Courts in Andhra Pradesh involving an area of 287,776 acres. 58,212 cases were disposed of by the Courts out of which 26,475 cases were disposed of in favor of tribals and 94,312 acres of land was restored to tribals.⁵²

On 2 September 2008, the Andhra Pradesh High Court admitted a writ petition filed by a tribal woman, Karam Devudamma of Chinnabhimpalli of East Godavari district who alleged that the Revenue Divisional Officer (RDO) purchased tribal lands, including the land of the petitioner, from non-tribal residents for the purpose of constructing Polavaram irrigation project. The tribal lands were illegally occupied by

the non-tribals even as Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation 1 of 1970 prohibited sale and transfer of tribal lands to non-tribals in “scheduled areas”.⁵³

c. Repression under forest laws

Hundreds of tribals were forcibly evicted from “forest land” by the forest officials in violation of the Forest Rights Act 2006 which was notified on 31 December 2007. On 19 March 2008, Andhra Pradesh’s Minister for Forest and Environment, S. Vijayarama Raju announced, while replying to a debate in the State Assembly, that the state government had decided to evict tribals from all the 32 existing habitations in the Rajiv Gandhi Tiger Reserve that lies between Nagarjunasagar and Srisaillam to save the tiger population. He stated that the displaced tribals would be allotted houses and provided compensation of Rs 1,000,000 to each of the displaced families.⁵⁴

VIII. Violations of the rights of the Dalits

In 2007, Andhra Pradesh ranked fourth worst in atrocities against Dalits. According to the NCRB, 3383 cases of crimes committed against Dalits were reported from Andhra Pradesh, representing 11.3% of total such cases in India. These included 46 cases of killings, 105 cases of rape, 25 cases of abduction, 17 cases of arson, 122 cases registered under the Protection of Civil Rights Act of 1955 and 1200 cases registered under SC/ST (Prevention of Atrocities) Act of 1989, among others.⁵⁵

Dalits faced discrimination, social boycott and attacks from the upper castes. On 21 June 2008, upper caste villagers attacked Dalits at Pottilanka village in Kadiyam mandal in East Godavari district, killing a Dalit identified as Palli Veerapandu. A fact-finding committee of Human Rights Forum (HRF) stated that

a Dalit youth Ambadi Rajaratnam was beaten up by Kapus (upper caste community) for allegedly having an affair with a Kapu girl near a hotel on the highway on 20 June 2008. On the following morning, when the youth went to the same hotel for breakfast, he was again beaten up. The HRF report stated that “Suspecting the dalits would retaliate, the upper castes raided the area where the dalits lived with lethal weapons, pelted stones and beat up whoever they came across. Palli Veerapandu died with his skull broken while Vemula Yesu was seriously injured and is still in Kakinada general hospital fighting for life.” The HRF further stated that Dalits of the village specifically named 50 of the attackers but the police arrested only 29 persons. While former Mandal Parishad Territorial Constituency (MPTC) member Kothapalli Satyanarayana alias Chantibabu was named as having played a key role in the attack, police did not arrest him.⁵⁶

On the night of 21 August 2008, upper caste people attacked the Dalits at Kodavalapuri village in Kotavuratla mandal in Visakhapatnam district. The attacks were in retaliation to the boycott of the Dalits to perform the age-old ritual of pulling the “village goddess” chariot. The problem started after the upper caste villagers protested against serving of liquor to them in the same glasses used by Dalits. When the Dalits protested against discrimination and untouchability, upper caste people attacked them. During the attacks, the Dalits were dragged out from their homes and assaulted. The attackers attacked indiscriminately attacking pregnant women, old people and children. Despite this the police first filed a case against the Dalits following a complaint filed by the village vice-headman P. Govinda Rao. But following media coverage of the incident, on 24 August 2008 the police registered a case under the SCs/STs (Prevention of Atrocities) Act against a number of upper caste people.⁵⁷

On 8 September 2008, Dalits staged protests against discrimination by upper caste villagers at Nelagonda village in Guntakal mandal in Anantapur district. The Dalits alleged that the upper caste villagers did not allow them to take out a procession as part of “Vinayaka Chaviti” celebrations. Following this, the upper caste people prevented Dalit students from attending the village school.⁵⁸

In September 2008, as many as 11 Dalits belonging to three families sought the state government’s intervention against social boycott by the upper caste for the last three months at Kazigudem village under Pedapadu mandal in West Godavari district. The children from these three families were not allowed to go to the local government school and the local shopkeeper refused to sell goods to them. In July 2007 many villagers suffered losses due to floods. The district administration supplied relief material to 30 families who were affected. However, village elders issued an order saying that the relief material given by the government should be shared among all families in the village, whether or not they were affected by the floods. However, the family members of Mekathoti Naraiiah, Kalaparathi Mariadas and Dasari Issac (all Dalits) did not accept the decision of the village elders. And on 1 July 2008, the village elders imposed a fine of Rs 1,000 each on the three Dalit families. When the Dalit families failed to pay the fine, they were socially boycotted.⁵⁹

IX. Violations of the rights of women

In 2007, Andhra Pradesh was the worst state in India for recorded crimes against women. In its latest report “Crime in India 2007”, the NCRB stated “*Andhra Pradesh, accounting for nearly 7.2% of the country’s population, has accounted for 13.3% of total incidents of crime against women in the country by reporting*

24,738 cases.” The NCRB recorded 24,738 cases of crimes committed against women including 1,070 cases of rape, 1,564 cases of kidnapping and abduction, 613 cases of dowry deaths, 11,335 cases of domestic violence and 4,406 cases of molestation, among others. In terms of crimes against women, Hyderabad with 1,931 cases was the second most unsafe city in India, next to Delhi (4,331 cases).⁶⁰

The Andhra Pradesh Women Commission (APWC) had been without a Chairperson since the resignation of its Chairperson Ms Renuka Reddy in September 2007 after she was caught on camera by a Telugu television channel allegedly demanding a bribe of Rs 50,000 to help a woman victim.⁶¹ Earlier in July 2007, Chief Minister Dr Y. S. Rajasekhara Reddy asked the then chairperson, Ms Mary Ravindranath, and member, Ms Padmaja Reddy, to step down from their posts because of their open fighting.⁶² On 12 March 2008, all the three remaining members - M. Saraswathi, Shanta Srivatsava and Shabana of the APWC were removed by the state government with a view to revamping the body and inducting new members.⁶³

In 2007, the APWC registered 1,082 cases of violence against women in the state. It also registered 250 cases in 2008 up to 30 October 2008. As many as 1,227 cases were pending disposal as of November 2008.⁶⁴

X. Violations of the rights of children

In 2007, Andhra Pradesh was ranked fifth worst in the crimes against children by the NCRB. The government agency recorded 1,499 cases of crimes against children from Andhra Pradesh, accounting for 7.3% of total crimes against children in India during 2007. These included 363 cases of rape, 609 cases of kidnapping and abduction, 21 cases under Child Marriage Restraint Act, 1978 among others.⁶⁵

Child labour was rampant. In Visakhapatnam alone, the labour office booked 346 hazardous and 2,349 non-hazardous cases of child labour in 2007 and 371 hazardous and 1,089 non-hazardous cases in 2008 as of 16th September 2008. The authorities collected fines of Rs 14.8 lakh in 2007 and Rs 14.4 lakh in 2008 from erring employers.⁶⁶

XI. Status of internally displaced persons

In 2008 tribals of Chhattisgarh continued to flee their villages as a result of the government and Maoist violence as part of the ongoing Naxalite conflict. Media reports stated that about 120,000 Gutti Koya tribals of Chhattisgarh fled to the bordering villages of Khammam district in Andhra Pradesh during January-June 2008 to escape the violence of the *Salwa Judum*⁶⁷ cadres and the Maoists.⁶⁸ The displaced persons lived in poor condition, without basic amenities including food, water, shelter, medical services, sanitation, and livelihood opportunities.

From 17 to 19 December 2007, a fact finding team of the National Commission for Protection of Child Rights (NCPCR) visited Dantewada district in Chhattisgarh and Khammam district in Andhra Pradesh to assess the conditions of the IDPs in particular their children. The NCPCR expressed concerns about the health, nutrition and education of the displaced children. In addition to Khammam district, the displaced tribals of Chhattisgarh were also sheltered in Adilabad, Warangal and East Godavari districts in Andhra Pradesh.⁶⁹ Initially, the state government of Andhra Pradesh provided benefits of various schemes including ration cards, jobs under the National Rural Employment Guarantee Scheme etc to these displaced tribals. But following the killing of more than 30 Greyhound police commandos by the Maoists in an ambush at Chitrakonda

reservoir in Orissa, close to the Andhra Pradesh border on 29 June 2008⁷⁰, the state government of Andhra Pradesh stopped these provisions under the NREGS and declared that Gutti Koya tribals would not be eligible for land and forest rights in Andhra Pradesh as the police accused them of being “Maoist supporters”.⁷¹ The IDP tribal children from Chattisgarh were also denied admission to schools in Andhra Pradesh because they did not have school-leaving certificates and they could not understand Telugu, the language of instruction in Andhra Pradesh schools.⁷²

As of February 2008, compensation reportedly had not been paid to the 27 tribal families from whom 52 acres of land had been acquired for canal works related to Bugga irrigation tank at Gatrapalli village in Kasipet in Adilabad district. The lands were acquired three years ago but compensation has not been paid to the tribal victims. On 18 February 2008, Y.S. Jagan Yuva Sena and Akhil Bharatiya Adivasi Vikas Parishad threatened to launch an indefinite hunger strike unless compensation was paid to the tribal families.⁷³

XII. Violations of the prisoners’ rights

Prison conditions in Andhra Pradesh remained deplorable. Prisons were overcrowded. There were seven central prisons, ten district jails, two open jails, two women’s prisons, one “borstal” school and one hundred and twenty one sub jails in Andhra Pradesh in which 14,000 prisoners were held as of November 2008. Though the total number of prisoners was 10 per cent less than the total capacity of these jails, distribution of prisoners resulted in severe overcrowding.⁷⁴ For example, the Central Prison in Rajahmundry, built in 1864, was overcrowded. This Central jail housed 2,000 prisoners against the sanctioned capacity of 1,409. The inmates reportedly

suffered from a variety of diseases, including HIV/AIDS. As many as 45 inmates, including 25 lifers, 11 non-lifers and eight undertrials, were HIV positive but the prison failed to provide basic treatment. Between May 2007 and June 2008, as many as 20 inmates of the prison reportedly died of different ailments, including AIDS.⁷⁵

The healthcare system in the state’s jails was poor. As of 14 July 2007, there were only 23 doctors to attend to medical needs of the prisoners (about 15,664 prisoners at that time). Deaths in prisons increased over the last few years due to medical staff shortages and lack of medical facilities. From 80 deaths in 2001-02, the number rose to 129 in 2005-06.⁷⁶ More vulnerable sectors of society were at higher risk in prison. Of the 129 prisoners who died in custody in 2005-06, 34 were from Scheduled Castes (dalits), 21 from Scheduled Tribes (tribals), 58 from backward castes/classes and eight from upper castes.⁷⁷

Prisoners continued to die of preventable diseases in 2008 due to want of medical facilities. On the night of 17 January 2008, Kathan, a life convict, died due to alleged cardiac arrest, in the Coimbatore Central Jail. He was taken to the Coimbatore Medical College Hospital but died on the way.⁷⁸ Another prisoner, Shaik Nawaz, an inmate of Kadapa Central Prison died at RIMS hospital in Kadapa district on 22 January 2008 and the state government has ordered a magisterial inquiry into his death.⁷⁹ On 18 August 2008, under-trial prisoner identified as Narahari died of heart attack at Nandikotkur in Kurnool district. He complained of chest pain and died on the way to hospital.⁸⁰

Again on 11 November 2008, an under-trial prisoner identified as Matakala Srinivasa Rao, died at Jaggaiahpet sub-jail in Krishna district. He was arrested on 3 November 2008 along with 10 Telugu Desam activists

for involvement in an altercation with the Congress activists in his village of Tirumalagiri. According to the Superintendent E. Anil Babu of the Jaggaiahpet sub-jail, the deceased was admitted to the government hospital in Jaggaiahpet after he complained of chest pain and vomiting at around 3 am on 11 November 2008. As his condition deteriorated he was referred to Vijayawada general hospital. But he died before being transferred to Vijayawada general hospital.⁸¹

The killing of Julakanti Srinivas alias Moddu Seenu, a convict by another prisoner Om Prakash (remand prisoner) in Anantapur jail exposed serious negligence on the part of the jail staff. It exposed neglect of norms to segregate convicted prisoners from those on remand. On 9 November 2008, the prime accused in the murder of Telugu Desam

MLA Paritala Ravindra, Julakanti Srinivas alias Moddu Seenu was allegedly killed by Om Prakash with a dumb-bell.⁸²

On 14 November 2008, the SHRC held the jail officials responsible for gross negligence in protecting the life of Moddu Seenu and ordered the authorities to pay Rs five lakh as compensation to his widow, Lakshmi Rajyam. The SHRC's order was passed following the admission by the Director General of Prisons of negligence on the part of the jail staff in allowing the dumb-bells with which Moddu Seenu was killed. The jail staff also did not follow the norm to segregate convict prisoners from remand prisoner. It was also revealed that Om Prakash (remand prisoner) and Moddu Seenu (convict) were quarrelling with each other for a few days prior to the killing but the jail officials failed to act.⁸³

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Arunachal Pradesh

I. Overview

Ruled by the Indian National Congress, Arunachal Pradesh continued to be affected by conflict as armed opposition groups (AOGs) like the United Liberation Front of Asom (ULFA), National Socialist Council of Nagalim (Isak-Muivah) (NSCN-IM), and National Socialist Council of Nagalim (Kaplang) (NSCN-K) were active in a few districts. Both factions of the NSCN carried out abductions in Arunachal Pradesh. According to Union Minister of State for Home Affairs of the Government of India, V Radhika Selvi, 52 youths were abducted by NSCN (K) cadre from Tirap district on three different occasions during January 2008 alone.¹ In November 2008, NSCN (IM) reportedly abducted at least 14 youths from Ninu Village in Tirap district.²

The Arunachal Pradesh Police and the Indian Reserve Battalion (IRB) perpetrated violations of human rights, including the right to life. At least two persons namely, Bajibo Chakma³ and Gusar⁴ were allegedly tortured to death in the custody of the police in 2008. Dozens of civilians were injured when IRB personnel opened fire and baton charged demonstrators at Daporijo in Upper Subansiri district on 12 June 2008 and one of injured later died in hospital.⁵

As of 7 January 2008, state government of Arunachal Pradesh signed 42 Memorandum of Agreements (MoAs) with 14 various power developers. However, protests against large scale Hydro power projects continued. Prospective victims of the 3,000-MW Dibang power project continued to protest demanding withdrawal of the Dibang Multipurpose Project⁶ and the 1,000-MW

Siyom hydel project at Reying in Payum Circle of West Siang district.⁷

There were 39 vacancies of judges and a total of 4,704 cases were pending in the District and Subordinates Courts in Arunachal Pradesh as of 30 June 2008.⁸ Interestingly, there was no jail in the state. The prisoners were either accommodated in State's unhygienic police lock-ups or sent to the jails in neighbouring state of Asom.

Chakma and Hajong citizens continued to be denied enrollment into electoral rolls. In October 2008, the Election Commission of India (ECI) ordered for the conduct of Special Summary Revision of electoral rolls throughout Arunachal Pradesh but in the last four years, no revision of electoral rolls for the Chakmas and Hajongs could be completed as the state government continued to violate the guidelines/directions of the ECI with impunity. The ECI failed to enforce its guidelines.

II. Human rights violations by the security forces

a. Violations of the right to life

i. Custodial killings

The police were responsible for violation of human rights including the right to life.

On 18 April 2008, Bajibo Chakma (son of Gyana Ranjan Chakma of Shanitpur village under Diyun police station in Changlang district) was allegedly tortured to death in the lock-up of Miao police station under Miao Sub-division in Changlang district. The deceased had eloped with his girlfriend. However, the girl's family lodged a complaint

with the Miao Police station (case no. 02/08) accusing the deceased of kidnapping her. Later, villagers handed over the deceased to the police on 18 April 2008 at about 10.30 am. The deceased was allegedly tortured in police custody leading to his death after 4-5 hours of detention. On 19 April 2008, after the post mortem was conducted, Sub Inspector N.W. Wingham of Maio police station allegedly tried to hand over the dead body to the deceased's relatives but they refused to accept the body. The police then allegedly secretly buried the body.⁹

On 6 December 2008, All Taging Students' Union accused the Officers-in-Charge (OCs) of Daporijo and Dumporijo police stations of torturing to death a youth identified as Gusar. According to the student body, three youth including the deceased were coming from Dumporijo on a bike. The bike skidded off the road after one of its tyres burst and one of the three suffered minor head injury. Three of them were arrested by a police team led by OC of Daporijo police station and taken to the hospital. The student body further alleged that the police beat all three detainees before handing them over to the OC of Dumporijo police station. The trio was again beaten up at Dumporijo police station. Only when the condition of the three detainees deteriorated, they were taken to the hospital. Gusar succumbed to his injuries in the hospital.¹⁰

ii. Use of disproportionate force and firearms

The security forces were responsible for use of disproportionate force and firearms against unarmed civilians. On 12 June 2008, dozens of civilians, seven of them critically, were injured when the Indian Reserve Battalion (IRB) (an armed police battalion of the state) opened fire and baton charged demonstrators at Daporijo in Upper Subansiri district.¹¹ Tensions erupted after the IRB personnel deployed for *Panchayat* (local

council) elections duty allegedly manhandled a few civilians without any provocation.¹² On 17 June 2008, one of the injured victims succumbed to his injuries in a hospital in Guwahati in Asom.¹³ The state government of Arunachal Pradesh ordered a magisterial inquiry into the incident.

III. Violations of International Humanitarian Law by the AOGs

Arunachal Pradesh did not have armed opposition groups (AOGs) of its own but continued to be affected by activities of AOGs from neighbouring states. The United Liberation Front of Asom (ULFA), National Socialist Council of Nagalim- (Isak-Muivah) (NSCN-IM), National Socialist Council of Nagalim (Kapleng) (NSCN-K), People's Liberation Army (PLA) and United National Liberation Front (UNLF) were reportedly active in some parts of Arunachal Pradesh.¹⁴

In 2008 both factions of the NSCN carried out abductions in Arunachal Pradesh. On 9 January 2008, NSCN (K) cadre reportedly abducted 22 schoolchildren at gunpoint from their houses at Wakka and Chingkhov villages under Ponchu police station in Tirap district. On 23 January 2008, NSCN (K) cadre again reportedly abducted 17 schoolchildren from Khasa, Jagan, Konnu and Konsa villages under Longding police station in Tirap district.¹⁵ In a written reply in the Lok Sabha (Lower House of the Parliament) on 18 January 2008, Union Minister of State for Home Affairs of the Government of India, V Radhika Selvi stated that 52 youths were abducted by NSCN (K) from Tirap district on three different occasions during January 2008. He also stated that 30 youths had been released and two others escaped from the custody but 20 others were still in the custody of the NSCN (K).¹⁶ Again on 26 July 2008, another six persons, including a Village Chief and two Panchayat leaders,

were abducted allegedly by the NSCN (K) from Zedua in Tirap district.¹⁷

In November 2008, NSCN (IM) allegedly abducted at least 14 youths from Ninu Village under Wakka circle of Tirap district.¹⁸

The AOGs also carried out extortions in Arunachal Pradesh. On 1 September 2008, the police arrested four persons, including a self-styled “Major” of the NSCN (IM) in connection with alleged extortion from the local people. Those arrested were identified as Nokngam Wangsa (36), alleged “Major” of NSCN (IM), Wangnam Nokte (50), a former personnel of Assam Regiment, Janlung Wangpan (25), and Oyar Panor (30), a peon at the Civil Secretariat in Itanagar.¹⁹

IV. Freedom of the press

On 16 June 2008, the police led by Head Constable S K Singh allegedly mistreated a media team who were shooting a documentary film under North East Doordarshan Kendra, Guwahati (Asom) at Yazali in Lower Subansiri district. Mr Singh along with 25 police personnel allegedly snatched cash amounting to Rs 21,000, a Nokia mobile handset (N90), two cassettes (film on Idu Mishmi culture and documentary on Nyishi rituals) and damaged the media team’s camera. Later, the media team members were allegedly detained in a room for the night and were threatened with dire consequences if they dared to file a complaint in connection with the incident.²⁰

V. Violations of the rights of women

According to police statistics, a total of 115 cases of crime including 42 rape cases against women were recorded in the state during 2008.²¹ The National Crime Records Bureau (NCRB) of the Ministry of Home Affairs,

Government of India, had recorded 185 cases of crimes against women in Arunachal Pradesh during 2007. These included 48 cases of rape, 44 cases of kidnapping and abduction and 20 cases of domestic violence.²²

The Arunachal Pradesh State Commission for Women (APSCW) which is mandated to protect and promote the rights of women continued to be ineffective. In a letter to Chief Minister Dorjee Khandu, Arunachal Pradesh Women’s Welfare Society, an NGO, pointed out some of the defects in the APSCW. The NGO stated that Section 5 of the Arunachal Pradesh State Commission for Women Act, 2002 as amended in 2005 provides that there shall be 10 members including the Chairperson, Vice Chairperson and Member Secretary in the commission, but the newly constituted body had only seven members in total. The NGO further stated that the APSCW Act has given power to the preceding commission to prepare the panel of candidates for the subsequent commission but this had allegedly not been followed while appointing the members of the commission.²³

VI. Displacement by development projects

Amidst protest against construction of a number of Hydro Power projects in Arunachal Pradesh by numerous civil society organizations, on 12 August 2008 Chief Minister Dorjee Khandu threatened to pull out of the Memorandum of Agreements (MoAs) signed with various power developers if they failed to execute the works on hydro power projects allotted to them in the state.²⁴

However, protests against large Hydro power projects continued. In a memorandum submitted to Chief Minister Dorjee Khandu, various civil society organizations protested against the proposed 3000-Megawatt Dibang Multi-Purpose Project (DMP) near

Roing in Lower Dibang Valley district. They stated that they opposed the dam because the project-affected people did not have full access to all information related to the dam. Public documents such as Environmental Impact Assessment and Detailed Project Reports had not been made available to the affected people. Relevant documentation had not been made available in local languages for wider dissemination. In addition, there were allegedly no provision for land-for-land compensation and no mention of compensation for loss of community land and resources.²⁵

In Payum Circle of West Siang district residents demanded the scrapping of the 1,000-MW Siyom hydel project at Reying. In a memorandum submitted to the Deputy Commissioner of West Siang district in November 2008, the representatives of the affected people demanded that the project be scrapped.²⁶

As of 7 January 2008, the Government of Arunachal Pradesh signed 42 Memorandum of Agreements (MoAs) with 14 various power developers. These included - 14 in West Kameng district with total installed capacity of 2,370 MW, eight in West Siang (3,504 MW), six in East Kameng (927 MW), five in Tawang (1,790 MW), two each in Dibang Valley (4,500 MW), Anjaw (2,700 MW) and Papum Pare (200 MW), while one each in Lower Dibang Valley (3,000 MW), East Siang (1,600 MW) and Lohit (3,000 MW). Apart from these, the State government also identified another 115 hydro projects in the state with total potential of 56,151 mega watts.²⁷

These power projects would cause displacement of a large number of indigenous/tribal peoples and destroy the bio-diversity of the state. Environmental and social impact studies of these projects were allegedly

inadequate. On the other hand, officials argued that Arunachal Pradesh being sparsely populated, the displacement caused by the dams would be minimal.²⁸

VII. Denial of rights to the Chakma and Hajong citizens

In February 2008, the High Power Committee on Chakmas and Hajongs headed by Speaker of the Arunachal Pradesh Legislative Assembly, Setong Sena submitted its report to the Government of Arunachal Pradesh. The report however was not made public by the end of 2008.

In the absence of a permanent political settlement of the Chakma and Hajong issue, the Chakma and Hajong community continue to be deprived from fundamental rights, including the right to vote. There were about 15,000 Chakma and Hajong eligible voters who continued to be denied enrolment in the electoral rolls.

During 2005-2008, the Election Commission of India (ECI) held four summary revisions and one Intensive Revision of electoral rolls in Arunachal Pradesh. In the last four years, no revision of the Chakmas and Hajongs could be completed as the State Government continued to violate the guidelines/directions of the ECI.

Instead, the number of Chakma and Hajong voters consistently reduced. For example, in 46-Chowkham Assembly Constituency the Chakma-Hajong voters fell from 323 in 2004 to 291 in 2008; in 49-Bordumsa-Diyun Assembly Constituency, the total of 1164 voters in 2004 came down to 1134 in 2008. In 50-Miao Assembly Constituency names of only four new Chakma voters out of some 3500 claimants were included in the last five years. Numerous complaints have been filed by the Committee for the Citizenship

Rights of the Chakmas and Hajongs of Arunachal Pradesh (CCRCHAP) alleging specific willful violations/non-compliance of the ECI's guidelines/ directions by the local electoral officials. The ECI did not act on these complaints as well as on the findings of its own investigation teams. A two-member team led by Mr. K. R. Prasad (Secretary) which visited the three Chakma and Hajong inhabited constituencies during 8-10 February 2008 stated:

“The position regarding the method of disposal of claims and objections in all the above three assembly constituencies is the same. The grounds taken for rejection of claims of Chakmas are also the same. None of the three EROs has accepted the birth certificates submitted by the Chakmas though the said certificates have been issued by a competent Government officer under the DCs office and barring some cases these were issued under due signature and seal of the issuing authority. It is also worth noting that on the basis of the same document a number of Chakmas

were included in the last electoral roll. The present EROs have taken care to obtain certificates from the present Registrars/Sub-Registrars to the effect that due procedure was not followed by the Registrar/Sub-Registrar at the time.

Though the EROs have informed that all the Commission's directions have been scrupulously followed but it is more than clear that they have not only decided not to enroll any new Chakma but they also intend to delete names of those Chakmas who were included in the last roll. We asked as to how they can ignore a certificate issued by a government department under the same district administration and why should a person be penalized for the mistake somebody else has done, the EROs stated that they were functioning their duties strictly within their statutory jurisdiction. Some of them even suggested that the Commission might consider taking action against the officials who were responsible for the lapse.

The ECI failed to take action on such findings.

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Asom

I. Overview

Ruled by the Indian National Congress party, Asom (formerly Assam) witnessed further militancy-related violence during 2008. In June 2008, the 'A' and 'C' Companies of the 28th Battalion of the United Liberation Front of Asom (ULFA) agreed to enter into ceasefire agreements with the Government.¹ The ceasefire agreements with the National Democratic Front of Bodoland (NDFB)² and the Dima Halam Daogah (DHD-Dilip Nunisa) also continued.³

Violations of human rights, including the right to life by security forces were widespread. The police continued to use firearms indiscriminately against civilians resulting in civilian deaths. The central security forces were also responsible for numerous killings of civilians. There were numerous violations perpetrated by both the State Police and Central armed forces, in the name of "counter-insurgency operations".

Armed opposition groups (AOGs) in Asom were responsible for large numbers of violations of international humanitarian law including violation of the right to life, torture and abduction. As of August 2008, 282 incidents of violence by AOGs were reported in the state.⁴ The DHD-Jewel faction alone was responsible for killing of at least 50 persons in the North Cachar Hills district during January to May 2008.⁵

Both the Judiciary and the State government took positive action in favour of tackling human rights violations in the state. Military authorities in the state appeared to be moving toward implicit acceptance of the need to act on violations of human rights by its personnel

and initiated trials for the use of torture and other violations of human rights. As yet punishments equate to demotion and do not yet appear to reflect the gravity of the crimes perpetrated.

It remains to be seen whether these initiatives can lead to serious prosecution and whether the scale of the actions will be sufficient to deter further human rights violations in the state and impact positively on the conflict. It is clear that much greater action is required: the levels of conflict mean that the state is failing in its obligations to provide sufficient public security for people living in Asom and failing to provide an environment in which the media and other key groups can carry out their functions. .

II. Human rights violations by the security forces

According to the latest figures released by the government agency, National Crime Records Bureau (NCRB), 31 complaints were recorded against the police personnel in Asom during 2007. 22 departmental inquiries, two magisterial inquiries and seven judicial enquiries were instituted to probe the allegations. During 2007, two police personnel were dismissed from service and 87 were awarded minor punishment.⁶ The NCRB does not document human rights violations by the armed forces.

a. Violations of the right to life

In 2008 Asian Centre for Human Rights documented two cases of deaths in police custody. The victims included Arun Rai, a worker of Dholai tea estate, who was killed in custody of Katlicherra police station in

Cachar district on 18 April 2008⁷; and 45-year-old Maifar Raja, who died while being transferred to hospital by police in a critical condition in Hailakandi district on 10 June 2008.⁸

The police continued to use firearms indiscriminately against civilians. Many civilians were killed while exercising their fundamental right to peaceful protest. The incidents included eight people who were killed when police opened fire at Lakhipur under Lakhipur police station in Goalpara district on 2 January 2008⁹; four persons - Gita Narzary, Baburam Narzary, Munin Borgoyary and Birjon Narzary - who were shot dead by police at Bengtol in Chirang district on 13 March 2008¹⁰; Roshan Ali who was shot by police at Krishnai in Goalpara district on 25 May 2008¹¹; and Johar Singh (23) and Ram Singh Chauhan who were shot dead by police near Mailo police outpost under Hamren division in Karbi Anglong district on 16 August 2008.¹²

Other victims of alleged extra-judicial executions included – 22-year-old Chandan Baishya of Bhetapara of Guwahati who was shot dead by a team of Assam Police and Central Reserve Police Force on 1 January 2008¹³; Naba Saikia who was killed by police in Tezpur on 30 January 2008¹⁴; Neilongbe Jeme who was shot dead at Haflong in North Cachar district on 10 April 2008¹⁵; Aditya Naidu, an alleged cadre of the ULFA, who was allegedly tortured and shot dead by the Army on 10 June 2008¹⁶; Jayjit Haflongbar of Kaporcherra part II village and Prajit Langthasa of Miyungkro village under Harangajao police station in North Cachar Hills district, who were allegedly tortured to death by the Army in August 2008¹⁷; Rajkumar Harijan, who was shot dead by police on the night of 28 September 2008 at Lengsekjan under Bakaliaghat police station in Karbi Anglong

district;¹⁸ and Nityalal Kemprai, an auto-rickshaw driver, who was allegedly killed by 8th Sikh Regiment of the Army at Halflong on 29 December 2008.¹⁹

Political leaders were also victims of police highhandedness. State Committee member and secretary of the Communist Party of India's Morigaon district unit Manoj Deka was beaten up on 1 July 2008 by police constable Rafiqul Islam, a personal security officer of the Officer-in-Charge of Morigaon police station. Mr Deka who had sustained head injuries died on 4 July 2008.²⁰

However, State's judiciary responded proactively in human rights violations cases. On 14 March 2008, the Court of Chief Judicial Magistrate Cachar, Satyajit Khound, rejected the bail petition of Sub-Inspector Narayan Tamuli, Assistant Sub-Inspector Probodh Ranjan Nath and Constable Ramjan Hossain of Kalain police patrol post and remanded them to jail. On 21 September 2007, Sub-Inspector Narayan Tamuli and Assistant Sub-Inspector Probodh Ranjan Nath beat to death Mohatir Ali of Brahmangram village under Kathigorah police station in Cachar district.²¹

On 1 April 2008, Justice HN Sarma of the Gauhati High Court ordered the District Judge, Kokrajhar, to initiate an inquiry into the death of four youths in an alleged encounter between the Army and the militants at South Tukribasti on the night of 21 May 2003. A writ petition was filed by one Hasa Basumatary, father of Mankeshwar Basumatary, one of the deceased youth.²² On 11 December 2008, Justice BD Agarwal of the Gauhati High Court directed the Government of India to pay an amount of Rs. 2,50,000 as a compensation to Monika Nath, wife of Late Baloram Nath who was killed by the Army personnel while in their custody on 25 February 2001.²³

The State Government of Asom also constituted a Commission to investigate allegations of killings by security personnel. In June 2008, State Government of Asom constituted a Commission of Enquiry headed by Justice SN Phukan, a retired judge of Supreme Court, to investigate the circumstances leading to the killing of one Dulen Baruah of Himpora village.²⁴ On 13 April 2008, 55-years-old Dulen Baruah of Himpora village under Moranhat police station was killed by a team of Assam police and 149th Battalion of the Central Reserve Police Force during a raid on his house.²⁵

On 21 June 2008, the State Government set up a one-man commission under Upper Asom Commissioner Lakhinath Tamuli to investigate the circumstances leading to the death of Md Sattar Ansari and Aditya Bhagat of village Bhubankhal of Dhola in Tinsukia district on the night of 16 June 2008.²⁶

On the recommendation of the KN Saikia Commission which was probing the “secret killings” that took place between 1999 and 2001, the State Government of Asom instructed the State Director General of Police to reopen 20 of the 34 cases that were handed over to the Commission. Earlier, the Asom Government had already formed an expert committee to monitor the actions to be taken against those who were indicted by the KN Saikia Commission.

b. Illegal arrest, unlawful detention and torture

The use of arbitrary arrest, illegal detention and torture are routine in Asom. In 2008, ACHR documented a number of cases of arbitrary arrest, illegal detention and torture by police and central security forces.

The victims include Devakanta Gogoi, Saneel Aind and Phoni Gogoi who were arrested from a village under Tingkhong police

station in Dibrugarh district and tortured in the first week of January 2008;²⁷ Chakra Narzary, office bearer of Bodoland Peoples’ Progressive Front of Kokrajhar district who was assaulted by police on 28 August 2008;²⁸ eight members of the family of Lohit Das who were beaten up by a team of police led by Additional Superintendent of Police, Manobendra Dev Roy after entering the victims’ residence Saraguwa under Demow Police Station of Sibsagar district on the night of 8 September 2008.²⁹

The Assam State Human Rights Commission (SHRC) recommended to the Asom Government to initiate disciplinary proceedings against Superintendent of Police, Border, Dilip Kumar Dey, the then Superintendent of Police of Nalbari district, Debash Ranjan Das, Additional Superintendent of Police (HQ), Nalbari and Sujit Kumar Saikia, police inspector, Nalbari and take necessary action against them for custodial torture of one Dulal Nath of Nalbari in 2006. The SHRC also recommended to the State Government to pay an amount of Rs 30,000 as compensation to the victim.³⁰

Central security forces often used torture. The victims included Majab Ali, Head Master in charge of Dhula High School of Mangaldai who was assaulted by a group of army personnel on 17 January 2008³¹; Duku Narzary (60), Sumitra Mandal (55) and Maneswar Madna (70) of village Tinkianguri who were assaulted by personnel of the Sashastra Suraksha Bal (SSB) and six youths of the same village under Chiran district who were illegally arrested by personnel of the SSB in August³² and 13 civilians, including women, who were injured after being assaulted by a group of about 30 personnel of the Central Reserve Police Forces at Mathghoria in the Noonmati area of Guwahati on the night of 15 November 2008.³³

Responding to the large number of complaints of human rights violations from individuals or organisations like the NHRC and SHRC and other sources, the State Government of Assam constituted the Assam Police Accountability Commission (APAC). According to APAC chairman Justice (Retired) DN Choudhury, over 60 complaints were received by the APAC against various police personnel as of 16 October 2008. The APAC was constituted on 17 December 2007 to investigate allegations of ‘serious misconduct’ which reportedly included death in police custody, grievous hurt, molestation or rape, unauthorised detention or arrest, forceful deprivation of rightful ownership or possession of property of someone, blackmail or extortion and non-registration of FIR.³⁴

Military authorities appeared to be moving toward implicit acceptance of violations of human rights by its personnel. Two officers and four other ranks were tried upon by a Summary General Court Martial for torture of Nipul Saikia on 9 October 2006. In another case, a Major along with four other ranks of the Army was punished with loss of seniority for promotion and pension after they were found guilty of violating human rights.³⁵

III. Violations of International Humanitarian Law by the AOGs

a. Violations of the right to life

AOGs in Assam resorted to repeated violations of the right to life of civilians. The victims included:

- 32-year-old Trolin Lamare and 40-year-old Suresh Koch, both security guards of Kopili powerhouse, 13-year-old Anamika and Junumai, daughter and wife respectively of Suresh Koch, Sahadeb Nath, a beggar and small-time contractor. All the above were were

killed when the Jewel Gorlosa faction of the Dima Halam Daogah [DHD-(J)] shot near Kopili powerhouse in North Cachar Hills on 14 January 2008;³⁶

- two dumper drivers Ram Bahadur Sonar and Unab Pradhan, two miners Kumar Lama and Dilip Singh at Vinay Cement Ltd were shot by the Gorlosa faction of the Dima Halam Daogah in North Cachar Hill district on 19 February 2008;³⁷
- Keshav Malakar (45) and Mosa Palaya (41), Northeast Frontier Railway (NFR) employees, and Ali Hussain (25, resident of Hailakandi) who were shot dead at Harangajao railway station allegedly by DHD-(J) cadres on 24 March 2008;³⁸
- eight railway construction labourers who were shot dead by suspected members of DHD (J) near Phaiding Railway Station under Mahur Police Station in North Cachar Hills district on 11 May 2008;³⁹
- eleven persons, including a railway engine driver who were killed by suspected DHD (J) cadres in North Cachar Hill district on 15 May 2008;⁴⁰
- Khagen Chandra Deka (55), a gaonbura (village headman), who was shot dead by suspected cadres of ULFA at Dolonghat village under Kalaigaon police station in Udalguri district on 2 June 2008;⁴¹
- three women identified as Milee Boro (38), Sharmila Murmu (40), Gaphuli Narzary (40) and a man named Robin Soren who were killed and 69 others who were injured in a powerful Improvised Explosive Device blast at Kumarikata weekly market in Nalbari district on 29 June 2008;⁴²
- Himangshu Das, gaonbura (village headman) of Kamargaon village under

- Sorbhog police station in Barpeta district, who was shot dead by suspected ULFA cadres on 29 July 2008;⁴³
- Mridul Borpatra (19), Birbal Dohutia (22), Anil Gohain (20) and Suraj Moran (22)⁴⁴ who were killed by 28 Battalion of the ULFA⁴⁵ near Kakopathar in Tinsukia district between 27 and 28 September 2008⁴⁶
 - Charbanu Begum (25) and her two-year-old son Chiraj Ali who were killed allegedly by four cadres of National Democratic Front of Bodoland at Adhaibari near Nagrijuli in Baska district on 6 October 2008;⁴⁷
 - Kamal Singh Teron, Mani Debnath and a seven-year-old boy Raj Debnath who were killed in a bomb explosion in the Lumding-Tinsukia passenger train at Diphu railway station on 2 December 2008;⁴⁸
 - two Hindi-speaking person, Ram Kumar Sonar and 16-year-old Ruma Sonar who were shot dead by Karbi Longri National Liberation Front (KLNLF) at Dolamora village in Karbi Anglong district;⁴⁹ and
 - Gautam Kotoki, deputy manager of the Coramoor tea estate in Udalguri district, who was shot dead by unidentified militants in December 2008.⁵⁰

b. Abductions

Abductions by AOGs was common in Asom. The AOGs carried out abductions for diverse reasons, most particularly to compel the Government to fulfil their demands and to extort ransoms from hostages' families. Failure to meet their demands often resulted in the killing of the hostage.

Two persons identified as Hossain Ahmed Laskar, son of Congress candidate from Baldabaldi village panchayat, Abdul Khalik Laskar, and party supporter Abdur Noor were abducted by members of United Liberation

Front of Barak Valley while campaigning in the Barak Valley district in early January 2008 reportedly to pressurize the state government to consider its plea for a surrender package. The demands include grant of amnesty to nearly 100 cadres of the outfit, their rehabilitation in jobs and self-employed professions and a one-time monetary grant to them, ranging from Rs 25,000 to Rs 1 lakh.⁵¹

On 12 March 2008, suspected DHD (J) cadres reportedly abducted the project manager Umesh Suresh Verma, deputy project manager Juga Prasad Deka and senior technical engineer Dhruva Jyoti Choudhury of Valecha Engineering Ltd along with driver Babul Bora and Assam Police constable Tapan Singh Timung from a site between Mandardisa and Hatikhali under Langting police station in North Cachar Hills district.⁵²

Children were kidnapped for ransom. Eight-year-old Jatin Agarwala was kidnapped by suspected militants near his school, Tangla English Medium High School at Tangla in Udalguri district on 25 August 2008.⁵³

Rahul Roy (six years old) was kidnapped from his school in Diphu on 25 August 2008. A day after after the kidnapping police rescued the boy from Samor Ali village under Mourajar police station along the Karbi Anglong district.⁵⁴

c. Extortions

The AOGs also were responsible for extortion. In January 2008, the ULFA served extortion notices to junior engineers posted in Lower Asom districts to pay Rs 5 lakhs to Rs 25 lakhs.⁵⁵

On 19 July 2008, ULFA militant, Ramen Baruah, was arrested by the Delhi police from the official residence of Anowar Hussain, Member of Parliament from Dubri, while trying to extort a sum of Rs.25 lakhs.⁵⁶

In September 2008, a number of tea garden owners in upper Asom reportedly received extortion notices from ULFA demanding an amount between Rs 10 lakhs to Rs 20 lakhs.⁵⁷

IV. Ethnic conflict

Since 14 August 2008, five districts of Asom namely Udalguri, Darrang, Chirang, Baska and Sonitpur witnessed ethnic and religious violence between the indigenous peoples and what the local communities believed were immigrant Muslim settlers. Ethnic clashes broke out between the two communities at Routa in Udalguri district on 14 August 2008 following the killing of a Bodo youth by supporters of a bandh (strike) called by the Muslim Students Association, Asom in protest against the harassment of Indian citizens in the name of tackling illegal Bangladeshi migrants. The ethnic violence later spread to adjoining Darrang and Sonitpur districts, claiming 17 lives. The incident led to violence in different parts of the three northern Asom districts where many homes were burnt. A total of 14,279 people sought shelter in nine relief camps. There was a spillover effect in Lower Asom's Chirang district where a Muslim couple was shot dead.⁵⁸

Ethnic clashes again erupted sporadically since early October 2008. On 3 October 2008, as many as 55 persons have died: 31 in Udalguri district, 21 in Darrang district, one in Chirang district and two in Baska district. Of these, 39 were immigrant Muslim settlers, 10 Bodo tribals, two Garo tribals, one Bengali Hindu, one Assamese, and two unidentified persons. Over two lakhs people were displaced due to the clashes in Udalguri and Darrang districts. Some fled when their homes were burned down, while others were forced to take refuge in relief camps due to fear of attack.⁵⁹

V. Judiciary and administration of justice

The Gauhati High Court has the jurisdiction of all the seven North Eastern states – Asom, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagland and Tripura. As of 30 June 2008, 60,256 cases were pending in the Gauhati High Court. There were 4 vacancies of judges in the Gauhati High Court as of 1 October 2008.⁶⁰

As of 30 June 2008, there were 35 vacancies in the District and Subordinate Courts in Asom. This is despite the fact that 2,39,527 cases were pending in the District and Subordinate courts in the state as of 30 June 2008.⁶¹

According to media reports, about 34,000 cases of murder, kidnapping, burglary and theft cases remain pending for the last ten years in various police stations of Asom as of December 2008. In 90 per cent of the cases, investigation was yet to start. Investigation of only 60 of the 34,000 cases were completed.⁶² On 7 July 2008, Chief Minister Tarun Gogoi held a review meeting with officials from the home, police and law departments and called for a detailed report on pending criminal cases and their status. The reasons cited for the increase in the number of pending cases ranged from inadequate manpower to non-cooperation between various wings of the police department and apparent lack of initiative in some cases.⁶³

VI. Status of the SHRC

The Assam State Human Rights Commission (SHRC) continued to be ineffective. The SHRC had a range of problems from shortage of staff to insufficient infrastructure. But its functioning worsened after Chairperson Mr Justice Sujit Barman Roy assumed office in April 2007. Mr Justice Barman Roy's attendance had been reportedly infrequent and sporadic. As neither of the two members

is authorised to function as the acting chairperson during Chairperson's absence as provided under the Protection of Human Rights Act, 1993 disposal of the cases was hampered. Under the Protection of Human Rights Act, 1993, the SHRC required three members (including the chair) to take decisions.⁶⁴

A host of other factors that had an adverse impact on the functioning of the SHRC were the poor infrastructure and lack of amenities for the employees. The morale of the SHRC's staff was reportedly low due to the lack of service rules, separate salary head and facilities like General Provident Fund/Central Provident Fund (GPF/CPF), group insurance, etc.⁶⁵

VII. Freedom of the press

The press came under attacks from state and non-state actors alike. Press and media persons were often attacked, particularly by the central security forces.

On 15 January 2008, Central Reserve Police Forces (CRPF) personnel assaulted Numol Chetia, a local correspondent of the *Dainik Janambhumi* and hit his car with rifle butts at a mobile check point on the NH-37 near the MES Tiniali in Tinsukia town.⁶⁶

On 17 August 2008, CRPF personnel led by D-sector commander assaulted the Merapani Correspondent of vernacular daily *Dainik Asam*, Hiranya Gogoi along with one Dwipen Bora at Merapani town in Golaghat district.⁶⁷

Police often misused national security laws to detain journalists and press persons. On 20 March 2008, the Division Bench of the Gauhati High Court comprising Chief Justice J Chelameswar and Justice Hrishikesh Roy set aside the detention of Rabin Dhekiel

Phukan under National Security Act, 1960 and ordered his release. Mr. Phukan, the Kakopathar correspondent of an Assamese vernacular daily, was arrested in connection with Doomdooma PS case (No 141/07) on 20 June 2007 for his alleged links with ULFA. On 13 December 2007, District Magistrate, Tinsukia ordered Mr. Phukan's detention under National Security Act, 1960.⁶⁸

Freedom of press continued to be attacked with impunity by AOGs. In the past 20 years since the murder of Kundarmal Agarwal, a district correspondent of *The Assam Tribune* at Kampur in Nagaon district by ULFA, as many as 17 journalists were killed. ULFA was responsible for a number of these killings. The police had failed to provide sufficient public security for journalists or solve cases relating to murders of media persons.⁶⁹

In 2008, at least one journalist was killed. On 2 April 2008, Muslimuddin, a correspondent of a leading Assamese daily, *Asomiya Pratidin*, was attacked with weapons by unidentified persons. He was apparently targeted for a series of reports that he had filed about anti-social and criminal activities in the Morajhar area of Hojai sub-division in Nagaon district. Muslimuddin succumbed to his injuries the next day.⁷⁰

There were frequent violent attacks on journalists in 2008.

On 10 February 2008, unidentified gunmen in a car fired at the North East TV managing director Manoranjana Singh near a police check point at Rehabari in Guwahati city.⁷¹

On 6 June 2008, land mafias attacked Tanka Dutta, working president, North Lakhimpur Press Club and correspondent of News Live Television channel and cameraman while they were covering an encroachment story at Nokari in Lakhimpur district.⁷²

On 22 November 2008, unidentified assailant shot dead Jagjit Saikia, a reporter of Assamese daily *Amar Asom* in Kokrajhar town.⁷³

Newspapers were subjected to a ban on distribution by allies of the ruling Congress party. On 24 and 25 February 2008, the Bodo Peoples' Front (BPF), an ally of the Congress party in the Asom Government, imposed a 'ban' on the circulation of an Assamese daily, *Asomiya Pratidin* in the Bodo-dominated Kokrajhar district and three other districts for carrying a report about the extravagant wedding of Hagrama Mohilary, the chief executive of the Bodoland Territorial Council (BTC). Supporters of Mohilary stole and burnt newspaper packets at Kokrajhar and several other places and a newspaper van was set on fire.⁷⁴

On 11 December 2008, the All Bodo Women's Welfare Federation (ABWWF), Kokrajhar District Committee, Bodo Peoples Front (Women wing) and leader of Alayaron Anath Ashram, stole large numbers of copies of the *Asomiya Pratidin* and burnt them. A day earlier, the Assamese daily had carried a news item exposing alleged illegal possession of land by Alayaron Anath Ashram at Bedlangmari in Kokrajhar district.⁷⁵

VIII. Suppression of human rights defenders

At least two human rights activists - Lachit Bordoloi and Hiranya Sakia - were arrested and detained by Asom police on charges of having alleged links with ULFA. Both of them were members of the Peace Consultative Group (PCG), an organisation set up to initiate peace discussions between the Indian Government and ULFA. While Mr. Bordoloi, who was a journalist and adviser of Manab Adhikar Sangram Samiti (MASS), an organisation working to defend

civil and human rights in Asom, was arrested on 11 February 2008 at Moran in Dibrugarh district,⁷⁶ Mr. Saikia was arrested from his shop at Christian Basti, Guwahati on 22 June 2008 on charges of his alleged link with ULFA.⁷⁷

On 25 June 2008, a division bench of the Gauhati High Court comprising Justice AH Saikia and Justice Hareswar Baruah set aside the order of detention of Lachit Bordoloi passed by the district magistrate, Kamrup (M), Guwahati under National Security Act, 1980 on 28 March 2008. The High Court directed that Mr. Bordoloi be released forthwith.⁷⁸

IX. Violations of the rights of indigenous peoples

The statistics of the NCRB indicated a sharp decline in incidence of crimes against Scheduled Tribes (STs) in 2007 over 2006. According to figures available with the NCRB, a total of 49 cases of crimes against STs were registered during 2007 as compared to a total of 244 cases during 2006 in Asom. These included four murder cases, three cases of rape, 10 cases of kidnapping and abduction, among others.⁷⁹

The Asom Government continued to delay in filling vacant posts reserved for Scheduled Tribes candidates. The All Assam Tribal Unemployed Association (AATUA) claimed that there were about 29,000 backlog posts in various Government departments and only 1,000 posts were filled up as in September 2008. Besides, the Government promised to fill an additional 4,000 post with candidates from the ST category.⁸⁰

Tribals continued to be victims of alienation of their lands by non-tribals. In an action taken report submitted in early 2008 to the Assembly committee following its 38th report

recommending that stern action be taken against the officials involved in illegal transfer of tribal lands to non-tribals, the Government stated that the deputy commissioners concerned had already framed charges against officials. The report also stated that the Government would hand over the cases to the Personnel Department for action against officials. The action taken report further stated that the the process of cancellation of illegally-transferred lands to non-tribals had an impact.⁸¹

However, the action taken report failed to accurately reflect the reality of the situation: alienation and illegal transfer of tribal lands to non-tribals continued unabated in tribal belts and blocks. Repeated assurances from Chief Minister Tarun Gogoi in the State Assembly and elsewhere appeared to have had no effect. A survey report by the Greater Dimoria Bhumi Suraksha Samiti in September 2008 revealed that about 325 bighas of land from Sonapur tribal belts had already been illegally occupied or transferred to non-tribals. The survey report further revealed that from Sonapur to Byrnihat in Sonapur tribal belt, a number of non-tribals were either illegally occupied or had tribal lands transferred into their names.⁸²

The Assam Legislative Assembly's Committee for Welfare of SC and ST issued a statement raising questions about the sincerity of the government with regard to the eviction of non-tribals from tribal land.⁸³ ACHR shares these concerns.

X. Violations of the rights of women

While replying to a question in the Asom Legislative Assembly on 14 July 2008 on behalf of the state government, Forest Minister Rockybul Hussain stated that during the period January-May 2008, a total

of 505 incidents of rape, 85 cases of murder of women and 429 cases of molestation were reported. Dowry-related cases including death stood at 990, while cases of trafficking were eight. According to the Mr. Hussain, in 2007, there were 1,311 cases of rape, 113 murder cases, 970 molestation cases and 3,063 dowry-related incidents including deaths while the number of trafficking cases was 23.⁸⁴

According to the NCRB, a total of 6,844 crimes were reported in Asom, accounting for 3.7% of total incidents in India during 2007. These included 1,437 cases of rape, 1,471 cases of kidnapping and abduction, 100 cases of dowry deaths, 3,000 cases of cruelty by husband and relatives, among others.⁸⁵ Numerous cases, however, go unreported.

Violence by the security forces

Security forces perpetrated violence against women in Asom.

On 16 March 2008, an investigation officer sub-inspector L. Ali allegedly stripped and sexually abused two minor girls (names withheld) inside Bharalumukh police station in Guwahati during interrogation.⁸⁶ The two girls, who were students of Class VI standard, were allegedly abducted by one of their neighbours and raped them at his residence along with two others on 12 March 2008. When the two girls were released, the investigation officer of the case asked them to come to Bharalumukh police station to record their statements.⁸⁷

On the night of 30 May 2008, five Assam Rifles personnel namely Devender Singh (26), Rajnish Kumar (31), Amrit Kumar (25), Harpal Singh (23) and Suresh Raita (28) kidnapped a girl from Dohabara Chuk in Jorhat while she was returning from a *Bihu* function at Garmur along with two

other women and a male companion. The accused security personnel kidnapped the girl and took her away in a white Maruti Gypsy with no registration plate. All of them were arrested and booked for kidnapping and molestation.⁸⁸

On 20 August 2008, Lt Col Parminder Singh Rathod of Jat Regiment's Territorial Army, accompanied by two others, allegedly molested two teenaged girls administering polio drops to children at the railway station, Guwahati. When a homeguard posted at the railway station tried to rescue the girls, the Army officer and his accomplices beat him up. Furious onlookers beat up the Army officer and handed him over to the Government Railway Police personnel.⁸⁹

Witch Hunting

The widespread practice of "witch hunting" continued in 2008. On the night of 9 June 2008, villagers murdered four members of a family (Lakshman Majhi (62), Suman Majhi (60), Durga Majhi (45), and Sabitri Majhi (35)) holding them responsible for the death of two members of the same family through witchcraft in Koilajuli-Milanpur area, a remote rural area located near Assam-Arunachal border area under Biswanath Chariali police station in Sonitpur district.⁹⁰

On 29 July 2008, a 65-year-old woman, Lanu Panna, was killed by her neighbours in Subhaijhar village under Bengtal police station in Chirang district. She was accused of practicing witchcraft.⁹¹

In September 2008, neighbours beat up one Anima Basumatary (26) to death at her residence in No. 3 Thekeralaga village, a remote rural area located on Asom-Arunachal border under Chardwar police outpost of Sonitpur district. The victim was suspected of witchcraft.⁹²

On 17 October 2008, two persons identified as Umesh and Shayam Rajak, hacked to death Ghasi Saotal (51), his wife Kiran Saotal (45) and their son Bilu Saotal (10) at their residence at Buragaon village inside Adabari Tea Estate under Chariduar police station of Sonitpur district. They were killed on the suspicion of practicing witchcraft.⁹³

On 15 October 2008, fellow villagers expelled a family from No. 2 Dahghoria village under Jamuguri gaon panchayat area of Bihpuria in Lakimpur district on charges of witchcraft.⁹⁴

XI. Violations of the rights of children

Children continued to be victims of violence, trafficking, child labour. Children living in IDP camps suffered particularly. The NCRB recorded 167 cases of crime against children in Asom during 2007 which included, among others, two murder cases and 34 rape cases.⁹⁵

a. Physical violence

On 8 and 9 June 2008, Guwahati chapter of Childline, an NGO rescued two girls, aged 10 and 12 years (names withheld) from their employers in Guwahati. Both girls were beaten by their employers and bore bruises on their bodies.⁹⁶

On 17 November 2008, an Assistant Sub-inspector of police, Abdul Faruki, posted at Manja police station in Karbi Anglong district was suspended for allegedly molesting a minor girl after her family lodged a complaint. According to the victim, Faruki abused her for a period of six months.

b. Child trafficking / sexual abuse

Human trafficking remained a serious concern. On 1 April 2008, the Asom government informed the State Assembly

that it would crack down on organised trafficking.⁹⁷ In July 2008, at least seven ethnic women from lower Asom were rescued while being trafficked to Delhi and six girls were rescued from Kokrajhar railway station while being trafficked to Gujarat. Again in August 2008, six ethnic women were rescued from a train at Kokrajhar railway station while being trafficked to Gujarat.⁹⁸

c. Conditions of IDP children

In September 2008, a five-member team of the National Commission for Protection of Child Rights (NCPDR) visited relief camps of internally displaced peoples in the districts of Kokrajhar, Chirang and Bongaigaon. Nearly 230,000 tribals and Bengali Muslims live in the relief camps as a result of the long running ethnic conflict. The NCPDR team found that children in these camps have been living in appalling conditions without access to health care, nutrition and education. Most children in these camps remained vulnerable to further abuse including trafficking. The children were malnourished and most children in the camps had not received appropriate immunisation. Water supplies were very limited and located close to toilets (open sewers). Only some 20 per cent of the handpumps in the camps were working.⁹⁹

On 10 September 2008, the NCPDR team met Chief Minister Tarun Gogoi and submitted a report to him expressing the NCPDR's concern.¹⁰⁰

XII. Status of internally displaced persons

As many as 65,369 displaced persons out of a total of 2,47,177 IDPs were living in relief camps in the two districts of Kokrajhar and Bongaigaon as of 4 March 2008. According to Asom Revenue Minister Dr Bhumidhar Barman the majority of them have been

resettled. Those who remained faced delays as a result of the lack of available land.¹⁰¹ In December 2008 the Gossaigaon Indigenous Peoples Welfare Society expressed concern over the inadequacy of rehabilitation efforts and the inadequacy of current social support.

Earlier in November 2007, a delegation of the National Human Rights Commission (NHRC) expressed concern over provisions for victims of ethnic violence sheltered in relief camps in Kokrajhar district of Asom. NHRC members KHC Rao and Kuldeep Lohani stated that during their visit to different relief camps in Kokrajhar district they had found that the ration supplies provided to 15 relief camps for ten days to 7,504 families was inadequate and medical facilities for the camp inmates were poor.¹⁰²

Over two lakhs people were displaced due to the clashes in Udalguri and Darrang districts since 14 August 2008. Some fled when their homes were burned down, while others were forced to take shelter in relief camps due to fear of attacks. Villages on either side of National Highway 52, which passes through the two districts, were hit by violence like arson and attacks. Ethnic clashes erupted subsequently again since 3 October 2008. As many as 55 persons died with 31 in Udalguri district, 21 in Darrang district, one in Chirang district and two in Baska district.¹⁰³

XIII. Violations of the prisoners' rights

The conditions of jails remained poor. According to an assessment carried out by the Union Ministry of Home Affairs, Asom made little progress on prison reform.¹⁰⁴

Overcrowding was particularly of concern. All Asom's 27 jails were overcrowded.¹⁰⁵ As of March 2008, there were as many as

900 inmates in the Central Jail in Guwahati against sanctioned capacity of around 700 inmates.

To address overcrowding Guwahati Central Jail begun temporary release of the low-profile inmates through the use of Personal Bail. From December 2007-February 2008, around 100 under-trial prisoners (UTP) of the central jail were released. Under this initiative, the accused petitioner was asked to furnish a personal bail bond and an assurance in writing that he or she would cooperate with the investigating agency, whenever required. He or she was then released on bail.¹⁰⁶

On 29 September 2008, the Division Bench of the Gauhati High Court comprising Chief Justice J Chelameswar and Justice BK Sarma directed that all undertrials held in the five north east States – Asom, Meghalaya, Nagaland, Manipur and Arunachal Pradesh, who have completed 90 days or 60 days (as the case may be) were to be released on personal bonds in case where the chargesheet was not filed within the correct time. The directions were passed during the hearing of a writ petition WP(C) No. 4299/06 which was registered suo motu on the basis of an order dated 2 August 2006 passed by the Assam Human Rights Commission regarding violation of human rights of the prisoners in various jails of the State on the ground of non-availability of bailers. The court further directed that those convicts who had completed the sentence as per their charges should also be released forthwith. The court also directed that those who were arrested under Section 41 Cr PC should also be released forthwith unless specific charges are brought against them. Direction was also given that those prisoners, who had completed half of the total sentence provided for the offence, were to be released on personal bond with

or without surety under Section 436A Cr PC.¹⁰⁷

XIV. Special Focus: lack of health care and starvation

Deaths due to diarrhoe, gastroenteritis and malaria were widespread in Asom. In April 2008, 13 persons reportedly died of diarrhoe and gastroenteritis at Naginijan Tea Estate under Assam Tea Corporation Limited, Rajoi under Tata Tea, Lahing and Umabari tea estates in Jorhat district of Asom.¹⁰⁸ As of 1 June 2008, 27 deaths due to malaria were reported from different parts of Asom.¹⁰⁹ As of 18 July 2008, the death toll due to malaria reached to 68.¹¹⁰ In 2007, 141 persons died of malaria throughout the state.

Starvation and lack of relief from the administration further deteriorated the situation. The condition of workers in the tea garden was particularly deplorable. At least three women labourers reportedly died of starvation in a privately owned tea estate viz. Jalalnagar Tea Estate in Karimgan district in August 2008.¹¹¹

The failure of the Central Government and some tea-growing States to improve the living conditions of the tea workers including in Asom was the subject matter of a Public Interest Litigation (PIL) filed through a writ petition by International Union of Food and Agriculture (IUFA) in the Supreme Court in 2006. The State of Asom reportedly conceded that there was a serious problem relating to payment of wage arrears in almost all the 30 sick tea gardens and that 99 tea garden workers died due to lack of healthcare facilities. The petitioner alleged that the Central Government's Rs 4,000-crore revival package for the sick tea industry did not help the workers and instead only enriching the tea garden owners. The arrears of wage in 55

sick tea gardens, 30 of which are in Asom had not been paid.¹¹²

In April 2008, around 16,000 tea garden worker employed in 15 government-owned Assam Tea Corporation Ltd gardens across Asom faced starvation like situation because of stoppage of wages and ration.¹¹³ Similarly pathetic was the condition of the workers of Arunabond Tea Estate in Cachar district after its lock-out by the management since 25 March 2008.¹¹⁴

Yet, the Government of Asom allegedly diverted huge amounts of funds given by the Central Government under Supplementary Nutrition Programme (SNP) for children. This was revealed in the latest report of the Comptroller and Auditor General (CAG) of

India in 2008. According to the CAG report, the Asom Government reportedly diverted a whopping Rs 135.86 crore central fund under the Supplementary Nutrition Programme (SNP) for children below three years of age during 2002-03 and 2004-05. The CAG report also revealed that Asom Government provided only a sum of Rs 236.73 crore for the programme against a requirement of Rs 1345.30 crore for providing supplementary nutrition to children in the age group of 0-6 years is concerned besides pregnant and nursing mothers during 2002-03 and 2006-07. The budget estimates was prepared for over 54.37 lakh children besides pregnant and nursing mothers during the 2005-06 and 2006-07 but only about 47 per cent of the total targeted eligible beneficiaries were actually covered during implementation.¹¹⁵

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Bihar

I. Overview

Ruled by National Democratic Alliance (NDA) led by Chief Minister Nitish Kumar, Bihar remained a lawless state. The increasing popularity of “mob justice” for dispensation of justice to the accused is example of the state’s lawlessness.

In some cases, police simply stood silent spectators to the lynching of the alleged suspects. Bihar witnessed an increase in crimes during 2008. According to police statistics, a total of 130,693 crimes were recorded during 2008. These included 3,029 murder cases, 1,041 rape cases, 14,143 kidnapping cases, 66 cases of kidnapping for ransom, among others. While a total of 118,176 cases of crime were recorded in 2007.¹

The police were responsible for gross violation of human rights. Asian Centre for Human Rights (ACHR) documented two cases of death in police custody in the state in 2008. In May 2008, Fenkan Pandit, Kiratpur Panchayat ward councilor in Vaishali district, was allegedly tortured to death in police custody in Patna. The deceased was arrested for his alleged involvement in a number of criminal cases.²

The Naxalites (also known as Maoists) continued to try civilians in so-called “*Jan Adalat*” (Peoples’ Court) and executed them after summary trial. Alleged “police informers” were often targeted and killed. On the night of 26 June 2008, Ashok Das, a village headman, and Mohammad Mustafa were executed by the Naxalites after a *Jan Adalat* found them guilty of helping the police at Babuli village in Jamui district.³

Journalists were not safe in Bihar. On 25 November 2008, Vikas Ranjan (32), correspondent of Hindi-language daily *Hindustan*, was shot dead by unidentified gunmen outside his office at Rosera in Samastipur district. He was investigating local drug trafficking.⁴

Atrocities against the Dalits and Tribals were on the rise since 2005. A total of 1,572 cases of atrocities against them were registered in 2005 which increased to 1,729 cases in 2006, 1,932 cases in 2007, and 2,006 cases (including seven cases of murder, 20 cases of rape, 22 of grievous injury and 14 of arson, and 110 cases under the Atrocities on Scheduled Castes/ Scheduled Tribes (Prevention of Atrocities) Act, 1989) were lodged in 2008 (up to the month of September). As of September 2008, 2,766 cases of atrocities against Dalits and Tribals were pending disposal in different courts.⁵

In August 2007, Chief Minister Nitish Kumar instituted the first ever commission to study the condition of the *Mahadalits*, the most backward among the Dalits but on 7 October 2008, the National Commission for Scheduled Castes (NCSC) termed the Mahadalit Commission as “unconstitutional”.⁶

The condition of women was of concern. They remained prone to sexual violence. The Bihar Police recorded 1,041 cases of rape in 2008.⁷ Bihar also led in domestic violence against women. According to National Family Health survey commissioned by the Union Health and Family Affairs Ministry, 59 per cent of married women suffered domestic violence in Bihar, which was the highest in India.⁸

Children faced violence, including rape, from the police and the public servants. On the night of 17 May 2008, a minor girl was allegedly gang-raped by four persons including Circle Officer Tarkeshwar Sah and Circle Inspector Ajay Kumar Jha of Vijaypur block of Gopalganj district.⁹

The health of children was also a cause of concern. According to UNICEF, over 58 per cent children below three years of age in Bihar were malnourished and 4% of them were classified under Severe Acute Malnutrition.¹⁰

Prison conditions remained poor and torturous. At least 56 prisoners died in the first four months of 2008, while 180 prisoners died in 2007.¹¹

II. Human rights violations by the security forces

According to the latest figures released by the government agency, National Crime Records Bureau (NCRB), 2,011 complaints were received against the police personnel in Bihar during 2007. 27 departmental inquiries and two judicial enquiries were instituted to probe the allegations. During 2007, 53 police personnel were dismissed from service, 506 were awarded major punishment and 288 minor punishment.¹²

Often the NCRB figures cannot be said to be accurate. For example, the NCRB recorded no deaths in police custody during 2007 in Bihar,¹³ which meant that the state police failed to inform the NCRB about the custodial deaths. ACHR recorded deaths of two persons due to alleged torture in police custody in Bihar in 2007.¹⁴

Custodial deaths in 2008:

ACHR also documented two cases of custodial deaths in police custody from Bihar in 2008.

In May 2008, Fenkan Pandit, Kiratpur Panchayat ward councilor in Vaishali district, was allegedly tortured to death in police custody in Patna. The deceased was arrested for his alleged involvement in a number of criminal cases.¹⁵

On the night of 15 November 2008, one Gaurav Verma of Piprakutti village died in police custody at Balmiki Nagar police station in West Champaran district. He was arrested by the para-military Shashastra Seema Bal (SSB) for his involvement in smuggling of wood and possessing illegal cartridges. Later, he was handed over to the Balmiki Nagar police station for interrogation. Police stated that he consumed some “poisonous substance” while in police custody following which he was admitted to Balmiki Nagar hospital, from where he was being shifted to Sub-Divisional hospital when he died on the way. But the relatives of the deceased alleged that he was tortured by police which led to his death. The police also failed to explain how the “poisonous substance” came to the deceased’s possession in police custody.¹⁶

Use of disproportionate force and firearms:

Use of unnecessary and disproportionate force and firearms is strictly prohibited under the international law. Article 3 of the United Nations Code of Conduct for Law Enforcement Officials states that “*Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.*”

The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials also states -

“4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and

firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.”

But the police in Bihar continued to be responsible for blatant use of disproportionate force and firearms against civilians.

On 18-19 January 2008, at least three persons were killed in police firing on protesters demanding continuous power supply at Kahalgaon town in Bhagalpur district. On 18 January 2008, a student identified as Sumit Kumar was killed in police firing while an injured person succumbed during treatment on 19 January 2008. On 19 January 2008, one Mohd. Khairo (18 years) was killed and another person identified as Mohd. Aslam was injured when the police opened fire on a crowd in the Pathanpura locality of Kahalgaon town.¹⁷ According to Forum for Fact-finding Documentation and Advocacy (FFDA), hundreds of local people were protesting outside the National Thermal Power Corporation (NTPC) plant in Kahalgaon against acute power shortages when “[s]uddenly a group of police men reached, lathi charged and opened fire against the peaceful

protesters. It was impossible to run from the place as police surrounded them. The local people alleged that they were protesting peacefully against power shortage. They stated that police opened fire without any notice/warning and denied the police claim as they fired after a section of the protesters attacked them.” Many of the relatives of the victims who went to see the injured were allegedly arrested from the hospitals although they had not participated in the protest.¹⁸ On 19 January 2008, Chief Minister Nitish Kumar ordered a judicial probe into the firing at Kahalgaon and suspended Sub Divisional Officer S. N. Srivastava and Deputy Superintendent of Police B. N. Jha.¹⁹

On 15 December 2008, one Raju Mishra was killed and two others were seriously injured when police opened fire to disperse a mob protesting against the killing of a trader by criminals at Sitamarhi town in Patna district.²⁰

III. Violations of International Humanitarian Law by the AOGs

Under Article 3 of the Geneva Convention, all parties in an armed conflict are inter alia prohibited the following “(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) Taking of hostages; (c) Outrages upon personal dignity, in particular, humiliating and degrading treatment; (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.”

Bihar faced armed conflict from the Naxalites or the Maoists who continued to be responsible for gross violations of international humanitarian law. The Naxalites continued to kill, abduct, torture, mutilate and carry out executions pronounced by so-

called *Jan Adalat* (Peoples' Court) in villages and jungles, often in front of villagers to create chilling fears.

Killing of police informers:

Often the alleged “police informers” were targeted and killed with their throats slit.

On the night of 26 June 2008, Ashok Das, a village headman, and Mohammad Mustafa were executed by the Naxalites after a *Jan Adalat* found them guilty of helping the police at Babuli village in Jamui district. The Naxalites, following the pronouncement of the verdict, slit the throats of the deceased.²¹

The other victims who were executed on the charges of being “police informers” included – Vishnudev Sao, a trader, and Sukhdev Sao, a teacher at Chandramandi in Jamui district on 28 January 2008;²² six Dalits identified as Amit alias Fahendra Bhuinyan, Kuldip Paswan, Panjabi alias Gurujee, Dablu, Shambhu Yadav and Sheo Kumar Yadav in Samastipur district on the night of 9 April 2008;²³ and Lala Yadav and Lallu Yadav at Enma village in Jehanabad district on 22 August 2008.²⁴

Killing for not paying “taxes”:

The Naxalites also killed civilians for not paying so-called “taxes”.

In March 2008, the Naxalites killed three persons (names unknown) and injured another for refusing to pay “tax” in Munger district.²⁵

On the night of 16 November 2008, the Naxalites allegedly shot dead four members of a farmer’s family for failing to pay “protection money” to them at Kohbarba Rasulpur village in East Champaran district.²⁶

IV. Judiciary and administration of justice

As of September 2008, 16 posts of judges were lying vacant in the Patna High Court (whose total sanctioned strength was 43) while as of June 2008, 243 posts of judges were also lying vacant in the District and Subordinate Courts in Bihar.²⁷

The judiciary was hamstrung by lack of adequate number of judges which resulted in judicial delay. As of June 2008, there were a total of 119,896 cases pending before Patna High Court and a total of 14,04,041 cases pending before the District and Subordinate Courts.²⁸

In October 2008, the Bihar Cabinet gave its approval to the “four rules” framed by the Patna High Court for expeditious disposal of pending cases in the state. These four rules were Bihar Civil Procedure (Alternative Dispute Resolution) Rule, 2008, Bihar Civil Procedure (Mediation) Rule, Bihar (Case flow management in High Court) Rule and Bihar (case flow management in Subordinate Court) Rule, 2008. These rules were framed in accordance with the directives of the Supreme Court issued to all the High Courts to evolve modalities and frame or amend rules so that the pending cases were disposed off expeditiously. The first two rules were intended to find alternate ways to settle the cases amicably, so that the burden on the judiciary was lessened to some extent.²⁹

V. Violations of the rights of the Dalits

Dalits constituted nearly 15 percent of Bihar’s population of 83 million. They were among the poorest and most undeveloped in the state.

According to the latest figures released by government agency NCRB, at least 2,786

cases of crime against the Dalits were registered in Bihar during 2007. Of these, 17 were cases of killing, 32 were rape cases and 1,933 were registered under the SC/ST (Prevention of Atrocities) Act of 1989, among others.³⁰

Physical violence:

According to the police records, the atrocities against the Dalits and Tribals were on the rise since 2005, the year present Chief Minister Nitish Kumar assumed power. A total of 1,572 cases of atrocities against the Dalits and Tribals were registered in 2005 which increased to 1,729 cases in 2006, 1,932 cases in 2007, and 2,006 cases (including seven of murder, 20 cases of rape, 22 of grievous injury and 14 of arson, and 110 cases under the Atrocities on SC/ST (Prevention of Atrocities) Act, 1989) were lodged in 2008 (up to the month of September).³¹

A total of 2,766 cases of atrocities against Dalits and Tribals were pending disposal in different Courts in the state as of September 2008.³²

The chairman of Mahadalit Commission, Vishwanath Rishi suggested that the police instead of registering cases of criminal offences against Dalits under various sections of Indian Penal Code, should register cases under SC/ST (Prevention of Atrocities) Act, 1989 so that “the victims are able to get adequate compensation and the accused harsher punishment.”³³

Cases of physical violence:

On 25 March 2008, Bharat Dom, a Dalit, was beaten to death in Daulatganj area of Chapra town by a mob on suspicion of having stolen a cow from the house of one Amarnath Pandey, an upper caste. The police said the deceased was beaten to death with bricks and bamboo sticks. A murder case was lodged, but no suspect was identified.³⁴

On 5 April 2008, a Dalit identified as Dhananjay (18, son of Ram Dayal) was beaten up by upper castes when he objected to a reference to his caste at Babakpur village under Danapur block in Patna. The victim’s aunt and two sisters were also attacked and their house was burned down by the accused.³⁵

On 10 May 2008, a 13-year-old Dalit boy identified as Raj Kumar Sah was beaten to death by by Lakhna Mishra, an upper caste, after the deceased was allegedly caught plucking litchis from Mishra’s garden at Dwarikanagar village in Muzaffarpur district. According to the complaint filed by Bikram Sah, the deceased’s father, Raj Kumar Sah was grazing cattle when he plucked a few litchis from Mishra’s garden. Mishra allegedly killed him and then threw the body into a pond, from where the body was fished out on 11 May 2008.³⁶

On 9 June 2008, two Dalits identified as Dharmendra Nat and Pradip Dom were allegedly beaten with sticks and hit with bricks by a mob in Anantkamtol village in Muzaffarpur district on charges of theft. Dharmendra Nat died of the beating and Pradip Dom was taken to a primary health care centre in a critical condition. After killing Dharmendra Nat, the mob took out a procession and paraded the victim’s body. They told the police that they did not regret the killing since he was a thief. The police registered a case but they did not name any suspect in the complaint.³⁷

On the night of 16 November 2008, the house of a Dalit, Ramanuj Manjhi, was burned down allegedly by a few influential men at Neora Mushari Toli under Bihta police station in Patna district. According to the police, Sonu Kahar and Satya Yadav had a verbal duel with Sanju Manjhi and Karim Manjhi leading to the incident. While the

Dalits claimed that Sonu and Satya had set the house on fire, the accused alleged that Manjhi himself had burnt his own house.³⁸

Violence against Dalit women:

Dalit women were specifically targeted. The following cases highlights the atrocities faced by the Dalit women from the upper castes.

On 27 March 2008, Dalit woman identified as Lalpari Devi was beaten up by a mob on the charge of being a witch at Dumaria village under Maner police station in Patna district. The victim was tied to a tree, her hair cut-off, face smeared with limestone and later paraded while tied to a rope and people kept beating her with a broom.³⁹

On the night of 8 September 2008, two Dalit women were allegedly gang raped and their house set on fire by upper castes in a land grab bid at Patiawan village under Shakoarabad police station in Jehanabad district. The accused, Munilal Yadav and four others, allegedly looted valuables and raped two women before setting on fire the house of Tileshwar Manjhi. Tileshwar Manjhi lodged a First Information Report with Shakoarabad police station on 9 September 2008.⁴⁰

Caste-based discrimination: Denial of access to basic facilities

The Dalits continued to face caste-based discrimination in all forms. Any form of resistance against such discrimination was not tolerated by the upper castes.

a. No freedom of religion and access to temples:

The Dalits continued to face physical violence from the upper caste which restricted their fundamental rights and freedoms. The Dalits did not have freedom to access temples. On 10 October 2008, Karu Paswan, a Dalit, was shot dead allegedly by upper caste land owners when he tried to pray to goddess

Durga during the Dussehra festival prior to the upper castes at Jiar-Pindpar village in Nalanda district. Apart from him, three Dalit men were seriously injured and were admitted in hospital. The Dalits alleged that they received constant threats from the upper castes to withdraw the case registered against seven accused. Police arrested two of the accused.⁴¹

Dalits were not allowed to share water from the public wells. These were reportedly “reserved” for the upper caste villagers. For example, Dalits in Kulhara village in Vaishali district had separate well for the Dalits. There were six drinking water wells in this village and they are divided on the basis of caste. And in the scorching summer, Janpatia Devi’s family doesn’t have a drop to drink. English news channel *CNN-IBN* reported in May 2008 that the only well meant for the Dalit villagers went dry and the upper caste villagers did not allow the Dalits to draw water from other wells. Hence, the Dalit women had to walk half-kilometre distance to fetch water from nearby villages.⁴²

b. No freedom of work:

The Dalits also had no freedom of choice of work. They were forced by the upper caste to do certain types of labour.

On 25 July 2008, Deonand Manjhi, a Dalit resident of Adlipur Neura Mushara Toli under Bihta police station in Patna district, was killed by two upper caste landlords identified as Naresh Singh and Babloo Singh for refusing to work for the accused. The victim was allegedly forced to drink acid by the landlords.⁴³

In May 2008, Suresh Manjhi, a poor landless labourer from the Moosahar caste (Dalit) was allegedly held captive and thrashed for six days after he refused to work for Abhay Singh and three others belonging to the upper caste

Bhoomihar at Ghostawan village of Nalanda district. The victim's wife and minor daughter were forced to work in his place. The victim stated that he had refused to work in the fields of the upper caste accused because they were giving just one kilogram of food grain in return for 10 to 12 hours of work. Manjhi alleged that he was brutally thrashed, abused and threatened with death by Singh and three accomplices. The beatings led to a fracture in one arm and serious injuries in the other. The police of Silao police station allegedly refused to register a complaint against the accused filed by the victim's family forcing the victim's family to approach the special police station for the Scheduled Castes in Biharsharif.⁴⁴

c. Discrimination in accessing relief to flood affected victims:

There were reports about Dalits facing discrimination in access to relief meant for the victims affected by the massive floods caused by Kosi river in August 2008. The Dalits were not allowed to enter or settle in relief camps. During rescue operations, those marooned in the flood, if they were Dalits, were allegedly not allowed to avail boat facilities to escape the flood waters. For instance, Mrs Neelam Devi (30) belonging to the Musahar community had to wade through 3 feet deep floodwaters for two days with her husband and three children to reach a safe site in Sonbarsa the village. However, the *Sarpanch* (headman) of the village did not allow them to enter a relief camp run by an NGO.

The family had to beg for food for survival. Similarly, Suraj Rishidev, Aruna Devi and Pramod Sada belonging to the Musahar community had to remain in their village until floodwaters came up to the level of neck. But, when they decided to flee the village they were not allowed to board a rescue boat by the village headman. They had to take refuge terrace of village school for three days.⁴⁵ However, the allegations could not be

independently verified by Asian Centre for Human Rights.

Socio-economic backwardness:

Denial of the right to development is a gross violation of human rights. The Dalits despite of constitutional guarantees and affirmative action programmes have remained the most backward sections of the society today. This clearly indicates the failure of the government policies and programmes for the Dalits.

In August 2007, Nitish Kumar government constituted the Mahadalit Commission headed by Vishwanath Rishi to study the status of 18 Mahadalits, the poorest of Dalits out of total 22 sub-groups of Dalit category.⁴⁶ Four sub-castes which were not included in Mahadalit category were Paswan, Cobblers, Washermen and Pasi and they together constitute 69% of the total Dalit population in the state.⁴⁷

The 18 Mahadalits included in the Mahadalit Commission were Bantar, Bauri, Bhogta, Bhuiyan, Chaupal, Dabgar, Dom, Ghasi, Halalkhor, Hadi, Kanjar, Kuraria, Lalbegi, Mushar, Nat, Pan, Rajwar and Turi. They together constituted 31% of the total Dalit population of the state.⁴⁸

In November 2007, the Mahadalit Commission submitted its interim report and recommendations to chief minister Nitish Kumar. The Commission recommended special polling stations for Mahadalits, reservation for them in Panchayat and local bodies and exclusive reservation in grade IV jobs. It also recommended that all Mahadalit families be covered under Below Poverty Line (BPL), grain bank scheme be started to provide grain on loan, boiled rice instead of wheat be supplied to them under rural development schemes, employment guarantee of 200 days in a year, bank financing on priority basis, special loan mela by banks

for them, priority in allotting Indira Awas units, schools be opened in their areas with free books, scholarship, uniform, food and teachers possibly belonging to Maha Dalit castes, among others.⁴⁹

The Mahadalit Commission's report found that there were no high school teachers or senior officials from these castes in the state despite reservations in government jobs for them. In educational institutions, the children of these Dalits were discriminated against and a majority of them dropped out of school. As a result, the literacy level among those castes was abysmally low. The literacy rate among the Mehtar sub-caste was only nine percent, while it was six percent among the Musahar and less than one percent among the Nat. Most of the men and women belonging to these castes worked as bonded labourers.⁵⁰

In April 2008, Chief Minister Nitish Kumar announced a special package of Rs.3 billion for the socio-economic development of the so-called "Mahadalits".⁵¹ But on 7 October 2008, the National Commission for Scheduled Castes (NCSC) termed the Mahadalit Commission as "unconstitutional" for excluding some already existing Dalit sub-groups from the Commission's purview and not consulting the NCSC.⁵²

VI. Violations of the rights of women

According to police statistics, a total of 958 cases of rape were recorded in Bihar from January-November 2008.⁵³ The NCRB recorded 7,548 cases of crime against women in Bihar during 2007. Of these, 1,555 were rape cases, 1,172 were dowry death cases and 1,260 were kidnapping and abduction cases, among others.⁵⁴

Bihar has a dominant patriarchal society and biased against women is deep-rooted. Bihar

led the states in domestic violence against women in India. According to National Family Health survey commissioned by the Union Health and Family Affairs Ministry, 59 per cent of married women suffered domestic violence in Bihar, which was the highest in India.⁵⁵

Cases of physical violence:

Women faced physical violence, including torture. The following cases demonstrate the situation of women in Bihar.

On 3 April 2008, a widow identified as Kalawati, belonging to a backward community, was stripped and paraded naked on the streets as punishment for entering a temple at Ranwatand village in Dhanbad district. The punishment was awarded after the villagers held a "people's court".⁵⁶

On 14 June 2008, Badami Devi (60 years) was allegedly beaten up and forced to eat human excreta by two persons identified as Sone Lal Prasad and Rambabu Prasad on charges of practicing witchcraft at Janerawa village in East Champaran district.⁵⁷

On 11 July 2008, a woman was reportedly dragged out of a train at Kiule railway station and raped by some miscreants. She was taken to a house and raped. The victim lived in Narkeldanga of North Kolkata, West Bengal.⁵⁸

VII. Violations of the rights of children

The NCRB recorded 675 incidents of crime against children including 110 cases of rape and 87 cases of killing in Bihar in 2007.⁵⁹ According to official figure as reported in the press, a total of 2,068 children were kidnapped for ransom in the state between 2003 and 2007.⁶⁰

By police:

The law enforcement personnel were responsible for violation of the rights of the child.

On 1 December 2008, two minors brothers – Shahbaaz (12) and Husnabaaz (5) were booked by police on the charge of extortion following a complaint in Purnia district. The minors had allegedly threatened the complainant with dire consequences if he failed to meet the extortion demand.⁶¹

The Forum for Fact-finding Documentation and Advocacy, a human rights NGO, alleged that the police forcibly married off minors in Bihar. On 15 April 2008, two minors - Saroj Kumar Hembram (age 14) and Sunita Hembra (age 13) were allegedly married under police threats and supervision at Bishanpore village. Dukhiya Hembram, the mother of the groom, reportedly stated that her son went missing and was illegally confined by police and Chatur Soren, the father of the bride. When Dukhiya Hembram tried to file a missing person report, the police allegedly threatened to keep her son in custody unless she approved the marriage. She further alleged that she was forced by the police to give her signature to approve the marriage. Afterwards, the minors were taken by the police officials and married by a priest at a nearby temple.⁶²

On the night of 13 January 2008, nine-year-old Raju was thrown out by two Railway Protection Force (RPF) personnel from a moving train near the Hajipur railway station. Raju, who used to sell *gutka* at the railway station, had refused to give three sachets of *gutka* free of cost to them. As a result, the minor boy lost his leg below the knee.⁶³

Rape of minor girls:

On the night of 17 May 2008, a minor girl was allegedly gang-raped by four persons

including Circle Officer Tarkeshwar Sah and Circle Inspector Ajay Kumar Jha of Vijaypur block of Gopalganj district. The minor girl was allegedly lured by the Circle Officer Tarkeshwar Sah and Circle Inspector Ajay Kumar Jha who took her away to Deoria in Uttar Pradesh and raped her.⁶⁴

Health

According to UNICEF, 46.3 per cent of all children under the age of three in India were malnourished but in Bihar the figure was as high as 58 per cent, with 4% of the children being classified under Severe Acute Malnutrition.⁶⁵

In May 2008, Citizens' Alliance against Malnutrition, a group comprising of young Parliamentarians from different political parties, visited Saraiya block in Muzaffarpur district and Bidupur in Vaishali district to take stock of malnutrition in rural Bihar. The team found that 8.33 percent of 58 percent malnourished children (under three years) were "virtually on the verge of death if immediate measures not taken to save them". The Parliamentarians' group recommended that children between 0-2 years should be given adequate attention under the government's Integrated Child Development Scheme (ICDS) programme which essentially focused on children between 3-6 years to contain malnutrition.⁶⁶

VIII. Violations of the prisoners' rights**Torturous living conditions**

There were 54 jails including six central jails, 33 district jails and 15 sub-jails in Bihar. However, the conditions of these jails were deplorable and torturous. The prisoners were forced to stay in overcrowded cells which lacked basic facilities like toilets, drinking water and health care. According to official figures, 180 prisoners died across Bihar in

2007. At least 56 prisoners died in the first four months of 2008. The jail authorities attributed these deaths mainly to old age, congestion and lack of proper civic amenities which resulted in the poor health of the prisoners.⁶⁷

As of June 2008, over 44,000 prisoners were lodged against the capacity of 24,500 prisoners in the 54 jails of the state. Majority of prisoner were suffering from various diseases due to congestion and lack of proper civic amenities. Yet, there was an acute shortage of doctors and para-medical staff. The sanctioned strength of doctors was 65 for the entire prison population but there were only 45 doctors as of June 2008.⁶⁸

Torture by jail officials

There were reports of prisoners being subjected to torture by the jail officials. Many prisoners died due to alleged torture.

On 28 March 2008, under-trial prisoner Devendra Paswan (60), resident of Adda Par village under Soh Sarai police station in Nalanda district, died while being detained in Nalanda jail.⁶⁹

On 10 April 2008, prisoner Sanjit Sahu was allegedly tortured to death by two jail officials at Beur Jail in Patna. The jail officials had claimed that the deceased died of cardiac arrest. However, the postmortem report stated the death due to injury followed by strangulation.⁷⁰

On 11 June 2008, under-trial prisoner identified as Ramvilas Rishidev (40) allegedly committed suicide by hanging himself with a

towel in Purinia Divisional Jail. The deceased was lodged in the prison for the last one year in connection with a murder case.⁷¹

IX. Mob justice

In 2008 several cases of ‘mob justice’ were reported from Bihar. The state government’s decision in September 2007 to impose a fine on an entire village if its residents took the law in their own hands while dealing with criminal offenders⁷² had no impact. Some of the cases documented by Asian Centre for Human Rights during 2008 are given below.

- On 23 February 2008, Ravi Kumar, a murder accused, was dragged out of the Hajipur Sadar Hospital and beaten up by a irate mob in Vaishali district. The five police personnel present there were silent spectators.⁷³
- In April 2008, two suspected thieves identified as Mahant Nat and Butan Nat were beaten to death with bricks, stone and sticks at Pokhra vllage in Siwan district. One of the eyes of Mahant Nat was gouged before being killed.⁷⁴
- In April 2008, Ashok Sahni, who belonged to a backward caste, was beaten to death for falling in love with a girl from a different community.⁷⁵
- On 4 May 2008, a Dalit identified as Pappu Paswan was tied to an electric pole and beaten to death with bricks and bamboo sticks by a mob for allegedly stealing a water pump at Mallikpura village in Vaishali district.⁷⁶
- On 9 May 2008, four bank robbers (name unknown) were beaten to death by a mob at Chausa village in Buxar district.⁷⁷

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Chhattisgarh

I. Overview

Chhattisgarh remained the most conflict affected state during 2008. According to the state government's statistics, Maoists killed 241 people, including security personnel, in the state between 1 January 2008 and 12 January 2009. The state government further claimed the police killed 82 Maoists and arrested 164 Maoist cadres and 431 Maoist supporters (*Sangham* members) during the same period. The state government paid compensation of over Rs.8.82 crore (Rs. 88.2 million) during this period to families whose relatives were killed in the Maoist violence.¹

The security forces and the state sponsored civilian militia *Salwa Judum* cadres were responsible for gross human rights violations in the name of counter insurgency operations.

On 31 March 2008, while hearing two petitions - Writ Petition (Civil) No.250/07 (*Nandini Sundar and Others Vs. State of Chhattisgarh*) and Writ petition (Criminal) No.119/07 (*Kartam Joga and Others Vs. State of Chhattisgarh*) – seeking to disband the *Salwa Judum*, the Supreme Court noted that it was illegal to “give arms to somebody and allow him to kill” and that this could make the state an “abettor of the offence under Section 302 of the Indian Penal Code.”² On 16 April 2008, the Supreme Court asked the National Human Rights Commission (NHRC) to investigate into the allegations of human rights violations by the *Salwa Judum* and the Maoists. The tribals had to face violent retribution for deposing before the visiting NHRC investigation team. According to a fact-finding team comprising of civil society groups Narmada Bachao Andolan, Bhopal

Gas Peedit Mahila Udyog Sangathan and Madhya Pradesh Mahila Manch, the *Salwa Judum* members burnt down 11 tribal houses at Nendra village in Konta block in Dantewada district in reprisal for depositions by the villagers before the NHRC investigation team on 10 June 2008.³

On the other hand, in violation of International Humanitarian Law (IHL), Maoist insurgents (also called Naxalites) killed numerous members of the *Salwa Judum*, persons accused of collaborating with the police and democratic political activists. In a further violation of IHL, Maoists deliberately blocked access to humanitarian assistance to relief camps of internally displaced people.

The state government continued to detain Dr Binayak Sen, General Secretary of the Chhattisgarh unit of the People's Union for Civil Liberties (PUCL). Dr Sen was arrested on 15 May 2007 under the Chhattisgarh State Public Security Act 2006 on trumped up charges that he supported the Naxalites.

The number of conflict-induced internally displaced people (IDPs) continued to grow. According to media reports, nearly 120,000 Gutti Koya tribals of Bastar and Bijapur districts of Chhattisgarh fled to neighbouring state of Andhra Pradesh during January-June 2008 to escape violence by the Maoists and the *Salwa Judum* activists.⁴ The state government of Andhra Pradesh failed to provide adequate provisions for IDPs who were forced to survive without sufficient basic amenities including food, water, shelter, medical services, sanitation, and livelihood opportunities.

II. Human rights violations by the security forces

According to the latest figures released by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, government of India, 1,965 complaints were received against the police personnel in Chhattisgarh during 2007. 548 departmental inquiries and two magisterial inquiries were instituted to probe the allegations. During 2007, six police personnel were convicted, 16 were dismissed from service, 21 were awarded major punishment and 26 minor punishment.⁵ The NCRB does not document human rights violations by the armed forces.

a. Violations of the right to life

On the night of 22 May 2008, personnel of the 188th Central Reserve Police Force (CRPF) guarding a tribal relief camp allegedly opened fire killing two camp inmates including a child Raju (2) and Rambai (25) at Cherpai relief camp in Bijapur district. A six-year-old boy and a woman were also critically injured. It was unclear what prompted the shootings but security officials claimed that they received information that the camp had been infiltrated by Maoists in disguise. The CRPF personnel were verifying the identities of the camp inmates when, according to them, one person tried to flee. The CRPF personnel opened fire in which the woman and the minor boy were killed. The police later detained a CRPF personnel identified as Tirupati Rao in connection with the firing incident. A magisterial enquiry was ordered.⁶

b. Illegal arrest, unlawful detention and torture

On 28 May 2008, a group of 16 men and women from Bastar region alleged they were tortured by the police after they were accused of assisting Maoists. The victims were brought by a human rights group, Forum for Fact finding Documentation and Advocacy

to the state capital Raipur to highlight alleged police violations.⁷

In March 2008, CRPF personnel detained two minor girls (names withheld) of Class VI and Class VII along with several villagers for four days on suspicion of being Maoist cadres in Maoist-dominated Kanker district. One of the minor girls alleged that she and her parents were picked up by CRPF personnel from her home on 24 March 2008. When her parents protested the constables started beating them. Both the girls were freed on 27 March 2008 after they pleaded for their release to be able to take exams. The police claimed that the girls were detained as they were members of the “Chhattisgarh Natya Mandali” formed by the Maoists to influence school students and youths through street theatre.⁸

III. Human rights violations by the Salwa Judum activists

The cadres of the *Salwa Judum* – an anti-Maoist civilian vigilante group sponsored by the state government – were responsible for serious human rights violations. In May 2008 the Planning Commission of India described the *Salwa Judum* as “an abdication of the state itself” and called for its immediate scrapping.⁹ On 31 March 2008, while hearing two petitions - Writ Petition (Civil) No.250/07 (*Nandini Sundar and Others Vs. State of Chhattisgarh*) and Writ petition (Criminal) No.119/07 (*Kartam Joga and Others Vs. State of Chhattisgarh*) – seeking to disband *Salwa Judum*, the Supreme Court noted that it was illegal to “give arms to somebody and allow him to kill” and that this could make the state an “abettor of the offence under Section 302 of the Indian Penal Code.”¹⁰ On 16 April 2008, the Supreme Court asked the National Human Rights Commission (NHRC) to investigate into the allegations of human rights violations by the *Salwa Judum* and the Maoists.

The NHRC squarely blamed the Naxalites for gross human rights violations including “selectively” killing of *Salwa Judum* leaders and supporters, innocent tribals and security personnel (para 6.26 of the report). The NHRC said “allegations levelled in the petition against Salwa Judum are prima facie true to the extent of burning of houses and looting of property” (para 6.25 of the report). However, in some instances, the security forces and Special Police Officers (SPOs) were prima facie responsible for “extra judicial killings” but the allegations of rapes levelled against the SPOs and security forces could not be substantiated during the enquiry. The NHRC almost justified the *Salwa Judum* campaign saying that “*The tribals cannot be denied the right to defend themselves against the atrocities perpetrated by the Naxalites, especially when the law enforcers are themselves ineffective or not present.*”¹¹

The NHRC, *inter alia*, provided the following recommendations: the authorities should provide adequate security in the relief camps, and create conditions for the safe return of all the displaced families and rehabilitate the displaced families “under the accepted national and international norms”; the State Government should ensure registration of FIRs; launch impartial investigation into all cases of atrocities by the security forces, the Special Police Officers and the Salwa Judum activists; provide compensation to those who have lost their houses/belongings in arson/looting, irrespective of the perpetrators; the state government should prepare a village-wise list of all missing persons; School/Ashram buildings must not be used to house security forces; the security force personnel who are deployed in the area, especially for the protection of Camps, should be sensitized about human rights; uniform policies should be adopted with regard to distribution of rations and provision of other facilities in the relief camps in both Dantewada and Bijapur

districts. About a possible solution to the problem, the NHRC stated that this problem is “complicated” and had its roots in socio-economic deprivation, including lack of job opportunities. The NHRC recommended that a “multi-pronged strategy” should be adopted in stead of a “security-centric approach”.¹²

On 19 September 2008, the Supreme Court asked the Chhattisgarh government to implement the recommendations of the NHRC.¹³

The tribals had to face violent retribution for deposing before the visiting NHRC investigation team. On 26 June 2008, an independent fact-finding team of people’s groups from Madhya Pradesh including the Narmada Bachao Andolan, Bhopal Gas Peedit Mahila Udyog Sangathan, and Madhya Pradesh Mahila Manch which visited Nendra village in Konta block in Dantewada district found that 11 houses belonging to the *Advasis* (tribals) of this village were burnt down by the *Salwa Judum* members in reprisal for depositions by the villagers before the NHRC investigation team on 10 June 2008. According to the residents of Nendra village, a group of more than 100 persons came from *Salwa Judum* relief camp at Erabor at about 8.30 am on 15 June 2008. The group was armed and some of them were in uniform. On seeing the advancing group, the tribals fled. However two persons who could not flee were caught and beaten up. The attackers then proceeded to burn down 11 houses in the village. The victims whose houses were burnt were identified as Madka Unga Bima, Madvi Madka, son of Joga, Madvi Ganga, son of Poja, Madvi Joga Budra, Madvi Ganga Mooka, Madvi Raja Kosa, Madvi Joga Masa, Madvi Adma Inga, Sodi Irma Bima, Madkam Kosa Dewa, and Madkam Ganga Adma. The independent fact finding

team also learnt that during 2005- 2008, 16 men and women and at least nine children of Nendra village were killed by the members of the *Salwa Judum* and the security personnel and at least four women were raped. Over 150 houses were burnt down by the *Salwa Judum* members.¹⁴

IV. Violations of International Humanitarian Law by the AOGs

The Maoists were responsible for gross violations of international humanitarian law in including using explosive devices, abduction, hostage taking, torture, hacking to death, shooting from point blank range and executions after trial by its so called *Jan Adalat* (Peoples' Court). On 20 March 2008, the Maoists killed three tribal villagers, who were members of the *Salwa Judum* after abducting them from a relief camp in Mathwara village in Bijapur district. The Maoists killed them by slitting their throats.¹⁵

The Maoists reportedly chopped off a hand of a constable identified as Piyang belonging to the India Reserve Battalion (Mizoram Battalion) at Gadiras weekly market in Dantewara district on 22 June 2008.¹⁶

The Maoists executed several persons on the suspicion of being police informers.

On 31 January 2008, Maoists killed a *sarpanch* (village head) identified as R K Sonu at Jaigurh village in Bijapur district on the charge of being a “police informer”. The police said sharp-edged weapons were used to kill the *sarpanch*.¹⁷

On the night of 26 April 2008, the Maoists tortured to death one villager identified as Uttebadaga on the charge of being a “police informer” at Karemarka village under Pharsegarh police station in Bijapur district.¹⁸

On 6 May 2008, armed Maoists kidnapped four tribals from Yampuram village under Pamedu police station in Bijapur district of Chhattisgarh. Three of them were reportedly killed by the Maoists and their bodies later dumped on the village outskirts. The Maoists reportedly held the tribal youths responsible for the Pamedu encounter in which 17 Maoists were killed in a joint operation by the Chhattisgarh Police and elite police commandos Greyhounds of Andhra Pradesh in March 2008.¹⁹

On the night of 16 June 2008, the Maoists stormed a marriage function and killed the bridegroom identified as Laxman Parlupal by slitting his throat in front of guests at Koder village in Bijapur district. It was believed that Mr Parlupal was killed because of his links to security forces at the Cherpal relief camp.²⁰

On 30 June 2008, suspected Maoists abducted and killed three persons Burka Samaiyah, a *Salwa Judum* leader and also member of Bijapur zila panchayat; B Gajendra, member of Usur Janpad panchayat and Durgam Janardhan, member of Musunda gram panchayat. Their bodies were found near a village on the Amapalli-Ilmchi road in Bijapur district.²¹

On 18 July 2008, the Maoists shot dead a *Salwa Judum* leader identified as Jilaram (aged about 56 years) at his field some 500 metres from Jangla police station in Bijapur district.²²

On 27 July 2008, Maoists killed a former *sarpanch* (village head) identified as Niram Singh Dhruv at Amagaon under Mainpur police station on accusations of being a “police informer”. According to the police, Niram Singh Dhruv was taken away from his house by Maoists, tied to an electricity pole in the village and shot in the chest.²³

On 12 September 2008, Maoists killed two villagers identified as Panjam Podia and Hemla Nanda of Palamargu village in Dantewada district on the charge of being “police informers”. On 4 September 2008, the Maoists raided Palamargu village and abducted eight villagers. Of them six villagers were released. Police later recovered the badly mutilated bodies of the two villagers.²⁴

Killing of political leaders:

The Maoists also killed a number of political party leaders. On the night of 19 July 2008, the Maoists killed a BJP leader and village panchayat *sarpanch* identified as Sarpanch Gangruram Kashyap (48) at Bastar in Bastar district. The Maoists raided his house and then shot the victim.²⁵

On 9 November 2008, the Maoists killed two BJP leaders at Badegotra village under the Kuakonda police station in Dantewada district. The deceased identified as Dantewada district BJP vice-president Ramesh Singh Rathore and Shiv Pratap had gone to the village as part of election campaigning during the State Assembly elections. They were killed by a group of some 15 armed Maoists.²⁶

On 13 November 2008, the Maoists killed a Block President of the Congress party identified as Trilok Singh Thakur in Dantewada district. The deceased was kidnapped along with another Congress party leader Vinay Nag while canvassing at Gadapal village under the Kuakonda police station in Dantewada district. While Mr Nag was released, the Maoists killed Trilok Singh Thakur.²⁷

V. Judiciary and administration of justice

There were a total of 75,608 cases pending before the High Court of Chhattisgarh and 2,65,440 cases were pending before the

District and Sub-ordinate Courts as of 30 June 2008.²⁸ As of 1 October 2008, there were 12 vacancies of judges in the Chhattisgarh High Court, while there were 43 vacancies of judges in the District and Subordinate Courts as on 30 June 2008.²⁹ The lack of adequate judges in the courts, among others, contributed to judicial delay.

VI. Freedom of the press

On 22 January 2008, a journalist Praful Jha was arrested in the Dangania suburb of Raipur city on charge of having alleged links with the Maoists. Police claimed to have recovered nine pistols, five country-made guns, 511,000 INR (US \$12,275) in cash and telecommunication equipment from his possession. He was charged under Sections 120 and 121 of the Indian Penal Code and Section 25 of the Arms Act.³⁰

VII. Suppression of human rights defenders

Dr Binayak Sen, General Secretary of the Chhattisgarh unit of the People’s Union for Civil Liberties (PUCL) was arrested and detained under the Chhattisgarh Special Public Security Act, 2006 on 14 May 2007 on trumped up charges of having links with the outlawed Maoists. He continued to remain in detention by the end of 2008. Widespread democratic protests by civil society activists and an appeal by 22 Nobel laureates from around the world in May 2008³¹ failed to secure Dr Sen’s release. There were serious concerns with regard to his trial. As Dr. Abhay Shukla, Member, Core Group of NGOs of National Human Rights Commission who was an external observer of the trial of Dr Binayak Sen at Raipur district jail on 30 July 2008, stated “blatant and shocking attempt (was made) by the police to plant false incriminating evidence against Binayak (Sen)”³²

The police presented to the Court a sealed packet of the documents seized from Dr Sen's house in May 2007. Surprisingly, in addition to the nine documents which were listed in the seizure memo and charge sheet, the police also produced a letter "from Central Committee, CPI (Maoist) to Dr. Binayak Sen", without any name or signature of person sending the letter, from the "sealed" packet. The letter was not mentioned in the police charge sheet nor did it have Dr Sen's signature on it, unlike all the other seized documents. It appeared that the letter was planted by the police afterwards.³³ On 2 December 2008, the Chhattisgarh High Court dismissed the bail application of Dr. Binayak Sen.

On 4 August 2008, noted human rights activist and filmmaker Ajay TG was granted bail three months after his arrest under the Chhattisgarh Special Public Security Act for "having links with the outlawed Communist Party of India (Maoist)". A Judicial Magistrate Court (First Class) in Durg district granted him bail after the police failed to file a chargesheet against him within the mandatory 90 days under the anti-terror law.³⁴ Ajay TG was finally released on 5 August 2008. But the police did not close the case against Ajay TG. The bail order placed conditions on Ajay TG which required him to present a personal bond of Rs 50,000, two sureties of Rs. 25,000 each, submit an affidavit of a list of his property, appear at the local police station on the 2nd Monday of every month and denied him the right to travel outside India without Court approval.³⁵

VIII. Violations of the rights of indigenous peoples and Dalits

According to the latest figures released by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, 511 cases of crimes against the Dalits including 11 cases of murder, 57 cases of rape, three

cases of abduction, 150 cases under SC/ST (Prevention of Atrocities) Act, among others were reported from Chhattisgarh during 2007. In the same year, 615 cases of crimes against the tribals including 13 cases of murder, 81 cases of rape, seven cases of abduction, four cases of arson, 143 cases under SC/ST (Prevention of Atrocities) Act, among others were reported from the state.³⁶

IX. Violations of the rights of women and children

According to NCRB, a total of 3775 cases of crimes were committed against women in Chhattisgarh in 2007. These included 982 cases of rape, 181 cases of abduction, 100 cases of dowry deaths, 824 cases of domestic violence, among others. The NCRB also recorded a total of 1024 cases of crimes committed against children in Chhattisgarh in 2007. These included 8 cases of infanticide, 37 cases of murder, 368 cases of rape, and 103 cases of kidnapping, among others.³⁷

In June 2008, the police detained three Special Police Officers (SPOs) identified as Rakesh, Dhamru and Rakesh for allegedly abducting and raping three tribal women at gunpoint near Kirandul in Dantewada district. The three women were apparently abducted by the police officers at gunpoint. They were then taken to the nearby forests and raped.³⁸

On 10 July 2008, police arrested two minor tribals boys aged 14 years and 16 years (names withheld) of Nendra village in Dantewada district when they were returning from the weekly market. The police first shot at the first minor and then arrested him and the other boy. On 13 July 2008, the 14-year-old minor admitted at Jagdalpur hospital for treatment of a bullet injury in his thigh. Later, both the minors were sent to Dantewada jail and charged

with an “attack on police with bows and arrows”.³⁹ This was in blatant violation of the Juvenile Justice (Care and Protection of Children) Act, 2000 which states that children in conflict with law should be kept only in Juvenile Homes and not jails.

X. Status of internally displaced persons

On 3 March 2008, Chhattisgarh Home Minister Ramvihar Netam stated in the State Assembly that there were 36,991 people from 201 villages in Dantewada district and 10,949 people from 275 villages in Bijapur district living in 23 government-run makeshift relief camps.⁴⁰ Most of the relief camp inmates were tribals.

According to media reports, nearly 120,000 Gutti Koya tribals fled from Bastar and Bijpur districts of Chhattisgarh to Andhra Pradesh’s border district of Khammam during January-June 2008 to escape violence by the Maoists and the *Salwa Judum* activists.⁴¹ They were living in miserable conditions.

In May-June 2008, the NHRC conducted an on-the-spot inquiry following an order from the Supreme Court to investigate the allegations of human rights violations by the *Salwa Judum*. The NHRC concluded that overall conditions in camps were “satisfactory” but at the same time noted that the relief camps lacked jobs, sanitation, health, education, and rations. The NHRC noted, “The health sector is neglected in the entire area. Barring in a few camps, the medical facilities exist only on papers. The health workers do not visit the camps regularly and the supply of medicines is also scarce.” The camp inmates across Bijapur district were discriminated in distribution of Below Poverty Line ration cards. The NHRC findings noted that “*Whereas in district Dantewada the camp inmates are getting free*

rations from the Government, the inmates of the camps in Bijapur District are not. Here the inmates having ‘BPL cards’ can get rice @ Rs. 3/ kg and each family can get 35 kg rice in a month, irrespective of the number of family members.”⁴²

In gross violation of the international humanitarian law, the Maoists reportedly blocked supply of humanitarian aid to the relief camps in Chhattisgarh. In January 2008, the Maoists blocked aids to Dantewada’s Jagargunda area. The Maoists also sought to block aid to the relief camp in Maraiguda which forced the authorities to send relief materials to the Maraiguda relief camp through an adjoining route from Andhra Pradesh.⁴³

XI. Violations of the prisoners’ rights

Overcrowding was an issue of serious concern in the state. On 3 March 2008, state’s Home Minister Ramvihar Netam stated there were 10,437 prisoners against a capacity of 5,219 prisoners in the state’s 37 jails. Raipur Central Jail was the most crowded with 2,248 inmates as against a capacity of 1,130.⁴⁴ The living conditions of the inmates were reportedly very poor.

There were repeated allegations of unholy links between jail staff and inmates in Chhattisgarh penal institutions. On 7 April 2008, the Superintendent of Raipur Central Jail, S.K. Mishra was suspended for his alleged role in providing alcohol, mobile phones and other facilities to prisoners. On 2 April 2008, a crime branch squad raided the jail premises and recovered alcohol, drugs, mobile phones and knives from inmates.⁴⁵

On 13 March 2008, Khemlal alias Khemu Gendlal Sahu (41), a convict serving life term on murder charges in Raipur Central Jail,

died following a suspected cardiac arrest. The jail authority stated that he was found dead in his barrack at around 6.15 am and that the jail doctors confirmed Khemlal's death

at around 9.15 am. The deceased was lodged in the Central Jail on 27 June 2007. The jail administration ordered a magisterial enquiry into the death of convict Khemlal.⁴⁶

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Delhi

I. Overview

Delhi witnessed a series of bomb blasts on 13 September 2008 at Gaffar market, Barakhamba road metro station, and Greater Kailash market, killing over 30 people. In a controversial encounter on 19 September 2008, the Delhi Police shot dead two alleged “terrorists” and arrested another one – who were allegedly involved in the serial blasts – at Batla House in Jamia Nagar in South Delhi. Though Inspector Mohan Chand Sharma, who led the operation, was killed, the encounter remained highly controversial.¹ On 26 September 2008, the National Human Rights Commission (NHRC) issued notice to the Delhi Police over the Batla House encounter following a complaint filed by an NGO.²

The authorities failed to take appropriate action to address human rights violations by the Delhi Police as a part of institutional practice. There were continued and persistent allegations of torture and custodial deaths. While the courts awarded compensation for violation in a number of cases, the absence of regular prosecution of abusing officials provides no deterrent.

Despite a decrease in the number of crimes against women, Delhi remained a serious concern in terms of public security for women. According to statistics of the Delhi Police, there was a 22 percent decline of reported rape cases in 2008. A total of 453 rape cases were registered in 2008 against 581 in 2007.³ It is unclear if this marks real progress or rather the failure of the police to tackle the crime and a resultant decline in reports.

Reporting of rape is unlikely to be assisted by the involvement of police in the perpetration of rape. On 24 April 2008, a 12-year-old girl was raped inside a moving car by a Delhi Police Traffic constable Sanjeev Kumar (26) and his friend at Swaroop Nagar in outer Delhi. The victim was pulled inside the car while standing outside a temple waiting for her family to join her after prayers. The medical report confirmed rape of the victim.⁴

The authorities failed to address longstanding concerns over judicial delay. As of 30 June 2008, the Delhi High Court had a total of 73,770 civil and criminal cases pending while there were 952,137 cases pending in District and Subordinate Courts.⁵ According to Chief Justice A P Shah of the Delhi High Court, at present rate of disposal, it would take 466 years for the High Court to clear the backlog!⁶ The Delhi High Court had a sanctioned strength of 48 judges but only 39 were appointed as of 1 October 2008. 340 judges were appointed against the sanctioned strength of 431 in the District and Subordinate Courts in Delhi as of 30 June 2008.⁷

The authorities continued to fail to address the longstanding poor socio-economic conditions of Dalits and minorities despite having funds to do so. The Department of Welfare of SC/ST/OBC/ Minorities of the Delhi government reportedly spent only 56% of Rs 264 crore received over the past 10 years for a range of schemes including scholarships, employment training, loans, and financial assistance, among others.⁸

Tihar jail conditions remained poor. The authorities failed to address overcrowding

and longstanding reports of use of torture and ill-treatment in detention.

II. Human rights violations by the security forces

According to the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, government of India, 5,786 complaints were registered against police personnel in Delhi during 2007. 513 departmental inquiries were instituted but no police personnel was convicted during 2007.⁹

a. Violations of the right to life

The authorities failed to take appropriate steps to address human rights violations by the police. The Delhi Police personnel were responsible for human rights violations including killings, rape and torture.

i. Custodial killings

On 3 July 2008, the Delhi High Court asked the Delhi government to pay Rs.500,000 as compensation to the widow of Mahender Singh who died in police custody in October 1999. The deceased Mahender Singh was arrested by the police for carrying Rs 130,000 in cash which he was carrying for his sister's cancer treatment. During the interrogation, Mahender Singh was beaten to death.¹⁰

In 2008 ACHR documented a number of cases of death due to alleged torture.

On 12 March 2008, Vicky (19), a caddie at the Army Golf Course and resident of Jharera village in Delhi Cantonment in South West Delhi, was allegedly tortured to death in custody of the Special Staff of the Delhi Police. The deceased was arrested on the charges of alleged chain snatching cases. The police claimed that the victim died on way to a hospital after complaining of a stomach-ache.¹¹ On 19 April 2008, the Metropolitan

Magistrate Kuldip Narayan issued summons against three doctors identified as Ajay Kumar, Arvind Theogaonker and Alexander F. Khakha of the Safdarjung Hospital in Delhi to provide a credible explanation of the death. The Court had expressed displeasure over the post-mortem examination report which had failed to mention the cause of death.¹²

On 12 June 2008, Nirmal Singh (45), a resident of Tilak Nagar in West Delhi, died allegedly due to torture for refusing to bribe the police. A police team had reportedly gone to the victim's house to execute a non-bailable warrant issued against him by a court for a financial misdemeanor. The police claimed that the victim locked himself in the bathroom when the police came to his house. He was allegedly found unconscious when the door was broke open. He died in hospital.¹³

On 17 July 2008, Umesh Kumar (18) allegedly died of torture hours after he was picked by the police at the Ibrahimpur police post in Swaroop Nagar in outer Delhi. The victim was picked up along with four others – Abdul, Atul, Pramod and Jitendra - for questioning in connection with a case of theft. According to witness statements there were allegedly several injury marks on the victim's body.¹⁴

On 3 August 2008, Anthrew (30), a resident of Nagaland, died under mysterious circumstances at the R K Puram police station in South-West Delhi. The police claimed that the deceased, who was allegedly under the influence of liquor, was brought to the police station by an auto-rickshaw driver and fell from one of the police station buildings and died.¹⁵

b. Illegal arrest, unlawful detention and torture

On 25 February 2008, the Delhi High Court directed the Delhi Police Commissioner to

initiate departmental proceedings against errant police officers for detaining Keshav Kumar, the petitioner, illegally and sending him to Tihar Jail. The Court also ordered the Delhi government to pay a compensation of Rs 50,000. The Court observed that the petitioner was taken into custody without legal charge.¹⁶

On 27 September 2008, a truck driver identified as Mohammed Jabbar from Mewat in Rajasthan was allegedly beaten up by traffic policemen in Bawana area in north west Delhi for refusing to pay bribe after he had jumped a traffic signal. Jabbar was declared dead by doctors at Babu Jagjiven Ram Hospital on 28 September 2008.¹⁷

On 2 October 2008, two persons identified as Azmat Khan and Akram Khan were beaten up by three policemen after they attempted to stop the police from beating up a child in the Seelampur area of northeast Delhi. As a result of the beating both the victims suffered physical and psychological trauma. Mr Akram Khan's knee had to be operated on leading to his mobility problems.¹⁸

On 16 October 2008, Kumar Gaur (34) lost his right eye after being badly beaten up by a drunken Delhi Police constable Neeraj Kumar at the Samaipur Badli railway crossing in north-east Delhi. The constable thought that Gaur's car had hit his motorcycle. The victim was beaten up in the presence of two other police personnel.¹⁹

III. Judiciary and administration of justice

Judicial delay continued to plague Delhi. As of 30 June 2008, the Delhi High Court had a total of 73,770 civil and criminal cases pending while there were 952,137 pending cases in the District and Subordinate Courts in Delhi.²⁰

The magnitude of the problem was highlighted in the 2007-2008 Annual Report of the Delhi High Court. A total of 3,32,141 cases were disposed of during 2007-08 and each case barely received five minutes of hearing. Each minute of Court time cost a Rs 6,327 to the exchequer. According to Chief Justice A P Shah of the Delhi High Court, at present rate of disposal, it would take 466 years for the High Court to clear its backlog of cases.²¹

The Courts had problems clearing the backlog because the actual number of judges appointed is less than that sanctioned. The Delhi High Court had a sanctioned strength of 48 judges but only 39 were appointed as of 1 October 2008. Similarly only 340 judges were appointed against the sanctioned strength of 431 in the District and Subordinate Courts in Delhi as of 30 June 2008.²²

IV. Violations of the rights of the Dalits

The authorities failed to address the longstanding issues of discrimination. Dalits continued to face discrimination in all sphere of life in Delhi. The Delhi government runs several schemes for the welfare of Dalits. The Department of Welfare of SC/ST/OBC/ Minorities of the Delhi government received about Rs 264 crore in the past 10 years for a range of schemes including scholarships, training for employment, loans, financial assistance for needy, among others.

However, out of the total funds allocated for the welfare of the Dalits, only about 56% was actually spent by the government. The total expenditure on the welfare of Dalits and other weaker sections represents 0.4% of the total money spent by the Delhi government.²³

On 16 March 2008, a Dalit doctor identified as Vinay Kumar was allegedly

beaten up and verbally abused by relatives of a patient while he was on duty at All India Institute of Medical Sciences. The victim had suffered from anxiety, panic and sleeplessness and was admitted for psychiatric treatment. However, the Institute administration tried to hush-up the matter when the family of the victim decided to approach the National Commission for Scheduled Castes.²⁴

V. Violations of the rights of women

Despite a decrease in the number of crimes against women, Delhi remained a serious concern in terms of public security for women. According to official statistics of the Delhi Police, there was a 22 percent decline of reported rape cases in 2008. A total of 453 rape cases were registered in 2008 against 581 in 2007.²⁵ It is unclear if this marks real progress or rather the failure of the police to tackle the crime and a resultant decline in reports.

Reporting of rape is unlikely to be assisted by the involvement of police in the perpetration of rape. On 24 April 2008, a 12-year-old girl was raped inside a moving car by a Delhi Police Traffic constable Sanjeev Kumar (26) and his friend at Swaroop Nagar in outer Delhi. The victim was pulled inside the car while standing outside a temple waiting for her family to join her after prayers. The medical report had confirmed the rape.²⁶

VI. Violations of the rights of children

The National Crime Records Bureau recorded 2,019 incidents of crime against children in Delhi during 2007. These included 398 rape cases, 56 cases of killing, and 1,161 cases of kidnapping and abduction, among others. Girl child were targeted for sexual violence.

In April 2008 alone, out of the 14 women raped eight were minors.²⁷

The police were themselves responsible for sexual violence against children as documented above. In addition, on 25 December 2008, a 17-year-old boy was sodomized by a Home Guard Rajesh Kumar near Kashmiri Gate in North Delhi.²⁸

a. Child labour

Child labour was a particular concern in Delhi. There were about 100,000 child labourers in embroidery and *zari* units in Delhi. They worked in appalling conditions for about 16 hours a day with no breaks, physical abuse from the employer at the slightest mistake or complaint of tiredness.²⁹

Many children were rescued during 2008. In April 2008, 14 children were rescued by the Labour Department along with an NGO from nine different *zari* units in Nand Nagari in northeast Delhi.³⁰

In June 2008, 62 bonded child labourers were rescued from *zari* units in Ghonda Chowk area at Bhajanpura in northeast Delhi.³¹ Again, on 23 October 2008, 34 children working as bonded labourers were rescued from a *zari* factory in North Gonda Chowk in Seelampur area in Delhi.³²

b. Juvenile justice

The Juvenile Justice (Care and Protection) Act of 2000 continued to be violated. The Act provides that once a juvenile is detained, he has to be brought to the attention of a member of the Juvenile Justice Board. The Act further states that no juvenile can be arrested but can only be taken into custodial care and the parents/guardians have to be informed.

In October 2008, the Delhi Commission for Child Rights issued a notice to the Delhi

Police for picking up four juveniles for interrogation from Jamia Nagar after the 19 September 2008 shootout and detained for hours.³³

VII. Violations of the prisoners' rights

The condition of Tihar jail remained poor. According to Tihar prison data, there were 11,835 prisoners - 11,350 males and 485 females - against a capacity of 6,250 prisoners as of 30 November 2008. Majority of them were under-trial prisoners with 9,804 – 9,375 males and 429 females.³⁴

Terror suspects, especially belonging to Jammu and Kashmir, continued to alleged torture and ill-treatment. Mohammad Rafiq Shah, a regular student in the Islamic Studies Department of the Kashmir University, had been held in Tihar Jail without trial following his arrest by Delhi Police in Srinagar in 2006 on the charges of involvement in the Delhi bombing on 29 October 2005. In a letter, Rafiq Shah alleged that he was forced to drink his own urine, forced to perform fellatio on his co-detainees and kept with a pig in his cell. In March 2008, the Jammu and Kashmir State Human Rights Commission (SHRC) took *suo-moto* cognizance of the alleged violations perpetrated upon Rafiq Shah in Tihar Jail and asked the security and the administrative authorities under the state government to

provide a report to the Commission on or before 16 April 2008.³⁵

The women inmates continued to be vulnerable to ill-treatment and sexual violence.

On 26 March 2008, a woman under-trial identified as Vidya (34) was allegedly beaten up by jail officials Jhumman Singh, Sanjay, Abdul and Paramjeet on the ground that she had helped another inmate in drafting a complaint against the jail officials. The victim was allegedly stripped and filmed by a photographer.³⁶

Tihar jail housed the largest number of women prisoners in India with over 480 in detention (end September 2008). A study conducted by a team of cardiologists from Escorts Heart Institute and Research Centre found that 45 per cent of women inmates in Tihar jail suffer from stress-induced hypertension. Yet, the jail had no psychologist.³⁷

Prisoners continued to die due to lack of adequate medical care. In October 2008, a court ordered judicial inquiry into the death of two jail inmates. Medical reports stated that they died due to negligence in treatment. On 3 October 2008, Sohan Singh (45) died due to multiple wounds in his liver. He was admitted to a hospital after one month. In another case, Sohan Kaur (55) died on 1 October 2008 due to swelling up of her liver and lungs.³⁸

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Gujarat

I. Overview

Ruled by Bharatiya Janata Party, Gujarat failed to live up to its marketing as “vibrant Gujarat” when it came to enjoyment of human rights.

The authorities failed to address longstanding practices of abuse within the Gujarat Police. The police were responsible for arbitrary arrest, illegal detention and torture. Asian Centre for Human Rights (ACHR) documented four deaths in police custody due to alleged torture in 2008.

The authorities failed to address understaffing in the judiciary and resultant backlog and delay in caseloads. As of September 2008, there were 12 vacancies of judges in the Gujarat High Court and as of June 2008, there were 190 vacancies of judges in the District and Subordinate Courts in the state. A total of 118,065 cases were pending with the Gujarat High Court and a staggering total of 23,07,490 cases were pending in the District and Subordinate Courts as of June 2008.¹

The authorities attacked the media on a number of occasions in Gujarat in 2008. On 1 June 2008, Ahmedabad City Police Commissioner, O.P. Mathur, filed a case of “sedition and treason” against the Ahmedabad edition of *The Times of India*, its Resident Editor Bharat Desai, and its crime reporter Prashant Dayal for publishing a series of articles scrutinizing the controversial appointment of the Police Commissioner.²

The government failed to act to address the longstanding violations of the rights of

vulnerable groups including the religious minorities, Dalits, tribals, women and children.

Despite the Forest Rights Act of 2006 coming into force, tribals faced constant violations of their basic rights to land and forest resources from the police and the officials of the Forest Department. On 13 February 2008, two tribals were killed when police opened fire on the tribals protesting forcible evictions from forest land by the Forest Department officials in Antarsumba under Vijaynagar taluka of Sabarkantha district in north Gujarat.³

The state government failed to take appropriate action to provide justice for the victims of the 2002 post-Godhra pogrom. There were some 900 victims of the 2002 riots who had not received compensation as of 9 March 2008. About 41,000 riot victims were yet to return to their native places where they had been displaced.⁴ Chief Minister Narendra Modi-appointed Judicial Inquiry Commission (headed by Justice G.T. Nanavati) to probe the burning of the Sabarmati Express train in Godhra in 2002, exonerated Mr Modi, his ministers and the state police of any role in the post-Godhra riots against Muslims.⁵

The authorities failed to address poor prison conditions in the state. According to the Gujarat State Human Rights Commission (SHRC) overcrowding in the state’s jails was 113.40 per cent with 12,134 persons in the jails, of whom 11,509 were convicts and 625 under-trials.⁶ On 18 December 2008, under trial prisoner identified as Anwarkhan Pathan (48) was allegedly tortured to death by the jail officials at the Sabarmati Central Jail.⁷

II. Human rights violations by the security forces

According to the latest figures released by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, government of India, 686 complaints were received against the police personnel in Gujarat during 2007. 540 departmental inquiries, two magisterial inquiries and 29 judicial inquiries were instituted to probe the allegations. During 2007, 5 police personnel were convicted, 47 were dismissed from service, 270 awarded major punishment and 743 minor punishment.⁸

a. Violations of the right to life

i. Custodial killings

The NCRB recorded 17 deaths in police custody during 2007, including three persons after the Court remanded them to police custody. As for reasons of death, the NCRB only provided reasons for the death of 15 detainees: four died during hospitalization/treatment, five by suicide, one while escaping from custody and five due to illness/natural death.⁹ For the death of other two detainees, the government agency simply put them under the broad heading of “Deaths in police custody at the time of production/proceedings in Court/Journey connected with investigation during 2007”¹⁰

The Gujarat State Human Rights Commission (SHRC), in its first Annual Report which was placed before the State Assembly on 26 September 2008 stated that two cases of custodial death occurred in Gujarat in 2008.¹¹ These numbers sit uneasily with ACHR documentation of at least four custodial deaths due to alleged torture in Gujarat in 2008.

On 12 February 2008, a tribal identified as Balka Vasava, accused in a murder case, died in the lockup of Garudeshwar police station in Dediapada in Narmada district. The police

claimed that Vasava had committed suicide by hanging himself in the lock-up cell. The postmortem report by a three-doctor panel in Rajpipla Civil Hospital also confirmed that Vasava died due to asphyxiation after hanging. But the deceased’s father Trikam and son Movariya, who were also in the lockup and accused in the same case, claimed that he died after being beaten up by the police. On 13 February 2008, the deceased’s brother Shankar approached the Chief Judicial Magistrate (CJM) Court in Rajpipla demanding another postmortem witnessed by the family’s representatives. The Chief Judicial Magistrate of Rajpipla ordered another postmortem in the SSG Hospital in Vadodara. The lower court’s order also stated that the postmortem would be conducted by a panel of doctors and a senior expert in forensic science and medicines, Dr Vijay Shah. On 15 February 2008, the state government of Gujarat moved the Gujarat High Court against the order of the lower court.¹²

On 22 March 2008, a Dalit identified as Dhanjibhai Ramjibhai Patadia died in the custody of the police at Jorawarnagar Police Station in Surendranagar district. The day before, the deceased was arrested along with his son Vijay over a boundary dispute with their neighbour. At the time of arrest, the police personnel beat up both the father and the son. At the police station, they were subjected to further torture. The policemen allegedly kicked and beat them with sticks on their legs, feet, hands, head, chest and private parts. On the morning of 22 March 2008, Dhanjibhai Ramjibhai Patadia was “brought dead” to the Surendranagar Civil Hospital. Thereafter, police allegedly refused to register any First Information Report (FIR) against the custodial death of Dhanjibhai. It was only after the intervention of higher police authorities that on 23 March 2008 the police recorded Vijay’s statement and a case (No. 138/08) was registered against four unnamed

police officers on the night of 23 March 2008 at the Jorawarnagar Police Station.¹³ On 23 March 2008, Inspector General of Police (Rajkot range) V.V. Rabari ordered an investigation into the custodial death to be conducted by a Deputy Superintendent of Police.¹⁴

On 4 May 2008, a Dalit identified as Ratan Attu Maheshwari (25) was allegedly tortured to death at Bhuj City police station in Kutch district. The deceased was arrested by two constables - Dharmendara and Firoz Qureshi - on the charges of theft. The police claimed that the deceased was a drug addict and died due to an overdose of Valium-10. However, his family members alleged that he was beaten up in custody which resulted in his death. The two constables allegedly coerced the victim's brother Devaraj to sign a statement admitting that the deceased was a drug addict.¹⁵

On 16 July 2008, Mahesh Singh Rajput, a 53-year-old employee of state-owned Bharat Sanchar Nigam Limited (BSNL) telecommunications company, died as a result of torture in the lockup of the Sarkhej police station in Ahmedabad. The deceased was arrested on the charge of kidnapping on 14 July 2008. The police claimed that the deceased had committed suicide using a handkerchief in the lockup.¹⁶ The circumstances leading to the suicide were a cause of concern and the case was challenged by ACHR. The National Human Rights Commission (NHRC) directed the Director General (Investigation) to submit the requisite report/information in the case following ACHR's complaint.¹⁷

b. Illegal arrest, unlawful detention and torture

The police were responsible for arbitrary arrest, illegal detention and torture.

On 6 July 2008, Bipin Thakur (27) was seriously injured after he was beaten up by

three inebriated policemen in Madhavpura. As a result of the torture, the victim's right ear was reportedly sheared and he also suffered injuries in some fingers, head, hands, neck and in other parts of the body. He received 375 stitches. In his complaint registered with the Madhavprua police station, the victim stated that he was returning home at about 3 am on 6 July 2008 from his friend's house when he was stopped by three drunken police constables who were in a police jeep. The police first asked for his identity proof. When he failed to produce one, they asked him to accompany them. Later they demanded money from him. When he denied having any money, they body searched him and found Rs. 9,200. He was then beaten with *lathis* (sticks) and belt. After torture, he was abandoned on the main road in a state of unconsciousness.¹⁸

On 7 October 2008, a tribal identified as Kana Gesapara (40) was allegedly tortured by Beat Head Constable Janaksinh Rana and Constable Indu Rana – who belonged to the upper castes - at Nanikati village in Surendranagar district in Gujarat. The police constables came looking for the victim after his wife filed a complaint against him in the local police station. The police dragged the victim to the Panchayat office in the village and stripped and tortured in full public view. Further the victim alleged that the police pushed a stick wrapped with petrol-soaked cloth up the victim's rectum before putting the stick in his mouth. Thereafter, they took him to the Ramji Temple in the village and forced him to lie down and beaten up with sticks. Later, he was forced to wear a *ghaghra* (a kind of lady wear) and walk carrying his pants and shoes on his head till the panchayat office, where he was also forced to dance. Finally, the accused policemen took him to the Panitol police station and detained him for a night with hands being tied behind. Medical investigation concluded that the

injuries sustained were consistent with the allegation.¹⁹

III. Judiciary and administration of justice

As of September 2008, there were 12 vacancies of judges out of the sanctioned strength of 42 in the Gujarat High Court and as of June 2008, there were 190 vacancies out of the sanctioned strength of 970 judges in the District and Subordinate Courts in the state.²⁰

As of June 2008, a total of 118,065 cases were pending with the Gujarat High Court and a staggering total of 23,07,490 cases were pending in the District and Subordinate Courts.²¹

IV. Freedom of the press

The media faced attacks from the state in 2008.

On 1 June 2008, Ahmedabad City Police Commissioner, O.P. Mathur, filed a case of “sedition and treason” against the Ahmedabad edition of *The Times of India*, its Resident Editor Bharat Desai, and its crime reporter Prashant Dayal. The FIR was lodged with the Navrangpura police station against the newspaper for publishing a series of articles scrutinizing the controversial appointment of Mr Mathur as the Ahmedabad City Police Commissioner. In the articles written by Mr. Dayal, Mr. Mathur was described as an agent of the former underworld criminal, Abdul Latif, who was killed in an encounter in 1998, and through him, connected with Dawood Ibrahim and the Inter Services Intelligence.²²

The Editors Guild of India strongly condemned the action of Mr Mathur saying – “*Sedition is a charge which was slapped on the*

Indian media by the colonial rulers during the freedom struggle. Abuse of the sedition provision against the media negates the freedom granted to the citizens by the Constitution”.²³

On 1 July 2008, the Supreme Court restrained the Gujarat government from arresting political analyst Ashish Nandy based on a case filed by V.K. Saxena, president of an NGO, National Council for Civil Liberties. The case was filed against Mr Nandy for writing an article, “Blame the middle class,” in a national newspaper. Mr. Nandy said his article was his personal view and analysis of the 2007 Gujarat election. The Delhi High Court earlier refused to provide him interim protection against arrest. A vacation Bench consisting of Justices Altamas Kabir and G.S. Singhvi of the Supreme Court also cancelled the summons issued by the Satellite Police Station, Ahmedabad seeking his appearance for interrogation on 8 July 2008. Justice Altamas Kabir told counsel for Gujarat government, Hemantika Wahi: “*There is no ground for harassing a journalist. Let him live in peace. You [Gujarat] are prosecuting this man for his article. These are worst things happening in this country. If a journalist cannot write then who else will? I have read the article and I find nothing is objectionable. They look for a soft target to catch but not even a single politician or small municipal councillors are caught. He [petitioner] is 71-years-old and is a soft target for you.*” Justice Singhvi further stated: “*People coming from the land of Mahatma Gandhiji have become so intolerant that they can’t even tolerate an article.*”²⁴

On 19 January 2008, NDTV’s office in Ahmedabad was ransacked and two staffers were beaten up by a little-known right wing Hindu organization protesting the news channel’s SMS poll that included the name of painter M F Husain as a contender for the Bharat Ratna.²⁵

V. Violations of the rights of the indigenous peoples

There were about 61.12 lakhs (about 6.11 million) tribals constituting 14.92% of the total population in Gujarat. Majority of the tribals are found in eight districts - Dangs, Valsad, Surat, Bharuch, Adodara, Narmada, Pandhmahals, Sabarkantha and Banaskantha having a population of 50.80 lakhs out of the total tribal population in the state.

The rights of the tribals were often violated in the State. The NCRB recorded 156 cases of crime against the tribals, including 13 cases of killing, 12 cases of rape and 44 cases under the SC/ST (Prevention of Atrocities) Act, 1989, in the State during 2007.

a. Atrocities by forest officials

Tribals faced harassment, arbitrary arrest and violation of the right to life in their struggle to have access to land and forest rights.

On 13 February 2008, two tribals were killed when police opened fire on the tribals protesting forcible evictions from forest land by the Forest Department officials in Antarsumba under Vijaynagar taluka of Sabarkantha district in north Gujarat.²⁶ One of the tribals killed by the police on 13 February 2008 was identified as Sajabhai Bodat. According to his family members, early on the morning of February 13, the police stormed Sajabhai's house and arrested him. Later, his corpse was found in hospital with a bullet in his chest. The police claimed that they did not arrest Sajabhai. M.J. Parmar, the District Forest Officer (DFO) stated that Sajabhai was part of a huge armed crowd of Adivasis who stormed into Dholwani Range Forest Office at Antarsumba Ashram soon after the arrest of six people for trying to occupy the land illegally. But Sajabhai's relatives alleged that he was killed in police custody.²⁷

On 14 October 2008, forest guards allegedly completely destroyed the standing crops of 16 tribal families in Dabhas village under Ahwa sub-division in Dang district. The forest guards also allegedly destroyed the standing crops of seven tribal villagers at Bhapkal village and set fire to the hut belonging to one Mangalbai Amirbhai at Mokhamal village in Dang district. Mangalbai Amirbhai was the president of the local Forest Rights Committee and about 80 files containing claims of the tribals for land formed under the Forest Rights Act of 2006 were reportedly burnt in the fire in addition to other properties of the family.²⁸

b. Sexual violence against tribal women

On 2 February 2008, a 15-year-old tribal girl, student of Xth standard, was gang raped by 14 persons in Bharuch district. The accused had raped the victim after tying up her boyfriend with a rope. In October 2008, a court sentenced all the 14 accused to life imprisonment.²⁹

VI. Violations of the rights of the Dalits

The Dalits remained vulnerable in Gujarat. The NCRB recorded 1,040 incidents of crime against Dalit during 2007. These included 17 cases of killing, 30 cases of rapes and 328 cases registered under SC/ST (Prevention of Atrocities) Act, 1989, among others.

a. Attacks by upper castes and displacement

As of 7 May 2008, over 100 Dalits from 19 families had been living in makeshift camp outside the District Collector's office in Palanpur in Banaskantha district for last eight months after being driven out of their village by upper castes. They fled their homes in Bukan village in Vavtaluka of Banaskantha after the upper castes killed a Dalit who won a court case against a Rajput family who

tried to bring down his house to get to their fields. The administration in September 2007 declared these people as forced migrants. Initially, they were given Rs 15 per person per day but even that was stopped in March 2008.³⁰

b. Sexual violence against Dalit women

On 4 February 2008, six teachers identified as Atul Patel, Kiran Patel, Manish Parmar, Mahendra Prajapati, Ashwin Parmar and Suresh Patel of the Primary Teacher's Training College in Patan district were arrested following a complaint by a Dalit female student of repeated sexual abuse. In her complaint, the victim stated that she was repeatedly sexually assaulted over a period of four months from 11 September 2007 to 25 January 2008. Following her complaint, 58 other students also complained of sexual harassment by the six accused over the past several years. The accused teachers reportedly threatened to give low marks in the internal examination to those who complained against their misconduct.³¹

On 21 June 2008, 30-year-old Dalit woman of Indira Nagar area was gang raped by two persons identified as Lalubhai and Yogesh Bharwad after she was taken to a house on the pretext of lending money at Ramol village in Ahmedabad district. The victim had sought money from one of the accused.³²

VII. Violations of the rights of women and children

The NCRB recorded 8,260 incidents of crime against women in Gujarat during 2007. Of these, 316 were rape cases, 42 dowry death cases and 1,089 abduction cases, among others. The government agency also recorded 1,110 incidents of crime against children, including 98 cases of rape and 76 cases of killing during the same period.³³

On 5 September 2008, two women - Gilloben Khristi alias Dilluben (40) and Santokben Bhil (50), both residents of Ambedkar Nagar, Sahibpurana Chhapra in Sabarmati area of Ahmedabad - were arrested by the police after they resisted officials from the electricity department who came to cut off electricity connection in their houses. For the whole night, the women were detained at the Sabarmati police station that did not have a woman police officer. One of the victims, Santokben Bhil was a tribal. The male police personnel allegedly used abusive language against the women.³⁴

Honour killing:

The practice of honour killing was prevalent in Gujarat.

On 19 June 2008, 19-year-old girl identified as Hetal, belonging to upper caste Koli community, was killed by her father Jotha Rathod for marrying a Dalit boy at Khodiyar Rajapara village in Bhavnagar district.³⁵

On 12 May 2008, 20-year-old Vandana was killed by her father Dhairvirsinh Bhedoriya, a retired army personnel, for marrying against his wishes in the Makarpura area in Vadodara district.³⁶

Child rights:

The rights of the children were violated by the police. On 28 April 2008, three minors, aged 13, 12, and 10 years, were tortured by three policemen at the Sulabatpura police station in Surat district. They were arrested for alleged theft of Rs. 28,000 from a vegetable shop in the Surat agricultural market. The police allegedly handcuffed and tied them to a table and administered electric shocks to extract confessions. The three accused policemen of the Salabatpura police station were suspended following a notice by the Gujarat State Human Rights Commission.³⁷

VIII. Violations of the prisoners' rights

The Gujarat SHRC in its first annual report tabled in the State Assembly on 26 September 2008 stated that the state's jails "overcrowding is to the tune of 113.40 per cent" with 12,134 persons in the jails, of whom 11,509 are convicts and 625 detainees. Only "very few jails are not overcrowded" and these include the open jails of Ahmedabad, Amreli and Chhotaudepur, and the sub-jails of Rajpipla and Himmatnagar. The SHRC received just 10 complaints of ill-treatment in jails in 2008, which it said was "lower than other states".³⁸

On 18 December 2008, under trial prisoner identified as Anwarkhan Pathan (48) was allegedly tortured to death by the jail officials at the Sabarmati Central Jail. There were allegedly several bruises all over his body including back, arms and legs.³⁹

IX. Violations of the rights of minorities

In May 2008, the government of India announced an \$80 million relief package for the victims of 2002 riots. The package is expected to benefit the families of 1,169 people who were killed in the riots and over 2,500 people who were injured. Under the compensation package, the families of those who died in the riots will get Rs 350,000 (\$8,333) and each of the 2,540 wounded will receive Rs 150,000.⁴⁰

Justice continued to remain elusive for many victims of the 2002 post-Godhra pogrom.

About 41,000 riot victims were yet to be rehabilitated in their native places from where they have been displaced as of 9 March 2008. The minorities were allegedly facing "marginalisation" and problems in getting employment and admission to educational institutions post-Godhra violence.⁴¹

The Justice G.T. Nanavati Commission, appointed by Chief Minister Narendra Modi to probe the burning of Sabarmati Express train in Godhra in 2002, stated that the burning of the train was a "pre-planned conspiracy" and exonerated Mr Modi, his ministers and the state police of any role in the post-Godhra riots against Muslims. The report which was tabled in Gujarat Assembly on 25 September 2008 stated: "*There is absolutely no evidence to show that either the chief minister or any other ministers in his council of ministers or police had played any role in the Godhra incident or that there was any lapse on their part in the matter of providing protection, relief and rehabilitation to the victims of communal riots.*". The report was rejected by the opposition party and the riot victims as an "eyewash".⁴²

On 21 January 2008, a special CBI court in Mumbai sentenced 11 persons to life imprisonment and three-year imprisonment to a policeman in the Bilkis Bano case. In March 2002, five-month pregnant Bilkis Bano, was gang-raped, her baby daughter and 13 of her relatives were killed during the Gujarat riots. The case was shifted to Mumbai following threats and intimidation to witnesses.⁴³

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Haryana

I. Overview

Ruled by the Indian National Congress, Haryana's human rights record remained very poor. The state continued to fail to take sufficient action to tackle longstanding practices of human rights violations by law enforcement personnel who resorted to extrajudicial killing, arbitrary arrest, illegal detention and torture and violence against women and children in the course of their duties.

The state's lack of *de facto* commitment to tackling the problem has been demonstrated by the statistics of the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, on atrocities committed by the police. The NCRB stated that 1,246 complaints were received against the police personnel in Haryana during 2007. 12 police personnel were sent for trial during the year but none of these trials were completed by the end of 2007. However, departmental inquiries were ordered in 583 cases and six police personnel were dismissed from service, 18 were awarded major punishment and another 18 were awarded minor punishment.¹

Judicial processes demonstrated some level of progress. In May 2008, the Punjab and Haryana High Court sentenced two police officers identified as Sub Inspector Bhagwan Dass and Assistant Sub Inspector Magan Singh to two years imprisonment in the case of illegal detention and torture of one Bishamber in October 1992. The victim was arrested by Haryana Police, illegally detained for three days and tortured. During his three days illegal detention, he was castrated; his ring finger was crushed and was subjected to electric shocks.²

A sentence of two years clearly does not reflect the gravity of the crime in particular when committed by agents of the state who are appointed to defend and uphold the rule of law. The punishment would not appear to offer a sufficient deterrent for what is a serious problem within the Haryana Police.

More powerful deterrents will be required if the State wishes to address its very serious problem of the deaths of detainees following torture in police custody. The manner in which crime statistics are compiled assists in covering up the severity of the problem. The NCRB continued to record such deaths as "custody death". The definition offers no indication whether or not a crime has been committed or the extraordinary gravity of the particular crime of torture. The extent and use of death resulting from torture in custody in Haryana is a matter of deep concern.

Haryana government consistently failed in its obligation to safeguarding the human rights of Dalits.

The state government failed to take action sufficient to stop regular acts of violation of the rights of women and children by the police. If reporting of such crimes was low it is hardly surprising given state officials' involvement in the crimes and the refusal of the state to punish the perpetrators. On 13 September 2008, a minor girl was allegedly raped by a Central Industrial Security Force Personnel, Rajesh Kumar at Manesar in Gurgaon district.³ On 9 June 2008, a rape victim identified as Sarita (25), a resident of Saini Anandpura locality of Rohtak district, committed suicide in front of the office of Additional Director General of Police (law

and order), V.B. Singh to protest the lack of justice and action against her alleged rapists, Head Constable Balraj and Constable Silak Ram who raped her at the Crime Investigating Agency (CIA) police station in Rohtak on 10 April 2008.⁴

The state government continued to fail to address the use of torture by penal authorities. For example, on 26 December 2008, a prisoner identified as Daljit died due to alleged torture while being detained in the Kurukshetra District Jail. The deceased had bruises marks on the hands and feet with his ear bleeding, indicating torture. However, the jail officials claimed that the deceased died due to chest pain at a hospital.⁵ Many prisoners also died due to lack of proper medical care.

There were 21 vacancies of judges in the Punjab and Haryana High Court as of 1 October 2008 and 86 vacancies in the District and Subordinate Courts in Haryana as of 30 June 2008. Lack of adequate number of judges resulted in huge case backlogs. As of 30 June 2008, there were a total of 262,267 cases pending before the High Court and 563,337 cases were pending before the District and Subordinate Courts in the state.⁶

Despite the gravity of Haryana's human rights problems, the state government gave no indication that it was thinking of establishing a State Human Rights Commission. In 2006 the state government announced that it had no intention of doing so and the position did not appear to have changed.

II. Human rights violations by the security forces

The state government continued to fail to take sufficient action to tackle longstanding practices amongst law enforcement personnel who resorted to extrajudicial killing, arbitrary

arrest, illegal detention and torture and violence against women and children in the course of their duties.

According to the latest figures released by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, government of India, 1,246 complaints were received against the police personnel in Haryana during 2007. 12 police personnel were sent for trial during the year but none of these trials were completed by the end of 2007. However, departmental inquiries were ordered in 583 cases and six police personnel were dismissed from service, 18 were awarded major punishment and another 18 were awarded minor punishment.⁷

a. Violations of the right to life

i. Custodial killings

There were credible and persistent allegations that the police were responsible for summary execution and these were covered under the guise of 'encounter' killings. On 18 June 2008, Mahender Kumar of Garanpura village under Tosham Sub-division in Bhiwani district was shot dead by the Haryana Police at Miran village in Bhiwani district. Mahender Kumar was apparently mistaken for a criminal after he allegedly did not stop at police check post.⁸ The police described the killing as an encounter killing.

The extent of use of torture in custody in Haryana continued to be a matter of deep concern.

On 5 January 2008, Sunil Kumar, a resident of Lehragaga in Sangrur district of Punjab, was arrested by police from his house by the Haryana Police. He was brought to Tohana police station in Haryana and allegedly tortured. The police released him when his health deteriorated but Mr. Kumar died a few hours after his release.⁹

On 10 May 2008, Gogi alias Sushil (23) allegedly committed suicide in the lockup of Kishangarh police post in Kurukshetra district. He allegedly tore the blanket and hanged himself with a grill in the lockup. He was arrested in a criminal case on 9 May 2008.¹⁰ There were grounds to suggest that the manner of death was not suicide.

On 24 June 2008, Uday Singh (45) of Panihar Chak village in Hissar district died in police custody within hours after he was arrested by Criminal Investigation Agency (CIA) of Haryana Police on the charge of possessing a country made pistol. He was allegedly tortured during interrogation. The police claimed that Uday Singh consumed poison when he had gone to the toilet.¹¹ There were grounds to suggest that the manner in which the deceased died was not suicide.

On 27 September 2008, Rahul (24), a resident of Delhi, was found dead in the lock-up of the Civil Lines police station in Rohtak. The deceased was an accused in a theft case.¹² There were grounds to suggest that the manner of death was not suicide.

On 7 December 2008, Rajpal Bawaria (55), a resident of Garhi Harsaru town in Gurgaon district, was allegedly tortured to death in police custody during interrogation. The victim was picked up by the CIA personnel from Rewari district on the charge of theft. The police claimed that the deceased complained of severe abdominal pain and taken to a hospital where he died.¹³

ii. Use of disproportionate force and firearms

The police continued to use disproportionate force during public protests. This resulted in the death of people while exercising their right to association and protest.

On 7 September 2008, a woman teacher identified as Raj Rani, resident of Jind district, was shot dead by police when they opened fire on a group of protestors in Rohtak district.¹⁴

On 18 December 2008, two persons identified as Virender Singh and Sandeep Kumar were killed when police opened fire on a group of protestors at Kharak village in Biwani district.¹⁵ The police justified the firing as an attempt to disperse the crowd.

b. Illegal arrest, unlawful detention and torture

In May 2008, the Punjab and Haryana High Court sentenced two police officers identified as Sub Inspector Bhagwan Dass and Assistant Sub Inspector Magan Singh to two years imprisonment in the case of illegal detention and torture of Bishamber in October 1992. The victim was arrested by Haryana Police, illegally detained for three days and tortured. During his three days illegal detention, he was castrated, his ring finger was crushed and was subjected to electric shock.

On 7 November 2008, Nirmal Singh (35), resident of Ludhiana in Punjab, was taken into custody by the CIA staff of the Haryana Police in a dacoity case in Ambala district. He was produced in court and remanded to police custody on 8 November 2008. He was allegedly tortured by the police during interrogation. He sustained injuries in the hip bone. The family only became aware on 15 November 2008 following the expiry of the police remand. The police informed the court that Nirmal Singh was admitted to hospital after slipping in the bathroom.¹⁷

The police were also accused of implicating innocent persons in false cases. On 17 June 2008, Ravinder Kumar (28), a resident of a village near Kurukshetra town, committed suicide in Kurukshetra district claiming that he was being falsely implicated by the police

in a criminal case. The deceased Ravinder Kumar and two others were blamed by the police for being involved in the disappearance of a girl from their village.¹⁸ In another case in December 2008, Nepal Singh (son of Asa Ram) was allegedly implicated by police attached to Hodal police station in Faridabad district in a false case after the main accused was allegedly let off. Following court order a case against two police officials of the police station was registered.¹⁹

III. Judiciary and administration of justice

There were 21 vacancies of judges in the Punjab and Haryana High Court as of 1 October 2008 and 86 vacancies in the District and Subordinate Courts in Haryana as of 30 June 2008.²⁰ The Punjab and Haryana High Court has under its jurisdiction two states, namely, Punjab and Haryana.

Lack of adequate number of judges led to huge number of backlog cases both in the Punjab and Haryana High Court and the District and Subordinate Courts in Haryana. As of 30 June 2008, there were a total of 2,62,267 cases pending before the High Court and 5,63,337 cases were pending before the District and Subordinate Courts in the state.²¹

IV. Violations of the rights of Dalits

Dalits comprised about 19.5 per cent of Haryana's population. Haryana consistently failed in its obligation to safeguarding the human rights of Dalits. Due to lack of protection, Dalits continued to face violence from upper castes while Dalit women remained specific targets of sexual abuse.

Apart from physical violence and attacks, discrimination and 'social ostracisation' for

trying to access public properties or services, denial of the fundamental right to vote, discrimination against elected representatives of the Dalits and arbitrary removal or suspension from posts in *panchayati raj* (local self government) institutions were common forms of human rights violations suffered by the low caste community.

The NCRB recorded 227 cases of violence against the Dalits during 2007. Of these, 75 cases were registered under the SC/ST (Prevention of Atrocities) Act, 1989. The low levels of documented crimes did not appear to reflect the reality and may rather reflect the regular involvement of the state in perpetration of violations against the low caste community.

Dalits were beaten up for riding horse during weddings in Haryana – a custom the high castes believed only they are entitled to. On 22 February 2008, a Dalit wedding party was attacked by upper caste persons. Many people were beaten up with rods and sticks. The attack was apparently in response to the groom's riding a horse-driven carriage at Ballabhgarh in Faridabad district.²²

On 13 April 2008, over 12 Dalits were seriously injured after being beaten up with sticks and rods by Gujjars, an intermediary caste, over a dispute in Faridabad district. The police present there failed to prevent or stop the attack.²³

Dalit women were targeted for sexual violence. On 17 July 2008, a 17-year-old Dalit girl, a Class X student, was raped inside a moving car at Charkhi Dadri. The victim was forcefully bundled inside the car by four persons outside her school and rape by one of them. Death threats were made to the victim if she disclosed the incident to anyone.²⁴

In June 2008, the State government of Haryana provided financial incentives to couples to encourage inter-caste marriages. Under the scheme, a couple – either girl or boy belonging to Scheduled Caste, opting for inter-caste marriage will be given Rs.50,000. The scheme seeks to reduce caste barriers.²⁵

Inter-caste marriages were often resisted in the form of threats, forcible separations and even killing, normally called as ‘honour killing’ in the State. In January 2008, 21-year-old Poonam was pushed into a canal for marrying a Dalit boy in Sirsa district. A dalit boy identified as Hoshiar Singh was murdered for marrying a girl belonging to Jat community, which is considered higher in social status than Dalits.²⁶

V. Violations of the rights of women and children

According to the NCRB 4,645 incidents of crime were recorded in Haryana during 2007. Of these, 488 were cases of rape, 554 cases of kidnapping and abduction, and 269 cases of dowry deaths, among others.

Violence by police:

The police were responsible for violence against women and girl child.

On 9 June 2008, Ms Sarita (25), a resident of Saini Anandpura of Rohtak district, committed suicide in front of the office of Additional Director General of Police (law and order), V.B. Singh after consuming poison. In her suicide note, she stated that she was forced to commit suicide as no action was taken against the accused police personnel - head constable Balraj and constable Silak Ram who had raped her at the Crime Investigating Agency (CIA) police station in Rohtak on 10 April 2008. On 9 April 2008, the CIA police had picked up Sarita’s husband Subhash in a theft case. The next day, the police called

Sarita to the police station on the pretext of signing papers for Subhash’s release and she was raped by the two accused at the police station. On 26 April 2008, Sarita filed a complaint of rape against the two accused police personnel, but the police did not register any case against them. Instead, the accused threatened the victims’ family with dire consequences. It was only after Sarita appeared in the “open darbar” of Director General of Police, Ranjiv Dalal in Panchkula on 5 June 2008 that a complaint was lodged against the accused. But the police did not arrest the accused which forced the deceased to commit suicide.²⁷

On 26 June 2008, a Dalit woman identified as Pooja (20) of Bibi Jatanpur village of Indri, was allegedly raped by Inspector Jai Singh, Station House Officer (SHO) of Nishing police station after she was taken to the official residence at the police station complex in Karnal district. The victim had got married to an upper caste boy six months back against the wishes of her family members. The couple had to move Punjab and Haryana High Court seeking police protection. Later on, the family of the girl accepted the marriage. But for security reasons, the victim used to meet her parents at the Nishing police station. The accused SHO was suspended and arrested on rape charges.²⁸

On 13 September 2008, a minor girl was allegedly raped by a Central Industrial Security Force Personnel, Rajesh Kumar at Manesar in Gurgaon district of Haryana.²⁹

On 10 October 2008, 10-year-old girl was allegedly gang-raped by three persons including a police constable identified as Anil Kumar at Surbura village under Narwana subdivision in Jind district. The victim was raped when she had gone to attend nature’s call near her house. All the three accused were arrested.³⁰

VI. Violations of the prisoners' rights

There were 19 jails, including two central jails in Ambala and Hisar, 13 district jails and four sub-jails, in Haryana.³¹

There were allegations of torture in the jails of Haryana.

On 26 December 2008, a prisoner identified as Daljit allegedly died due to torture while detained in the Kurukshetra District Jail. The deceased had bruises marks on the hands and feet as well as blood in the ears indicating torture. However, the jail officials claimed the deceased died as a result of a medical condition in hospital.³²

On 29 August 2008, undertrial prisoner, Janta Singh (son of Kartar Singh of Pakka Shahidanwal village under Kalawali police station in Sirsa district) allegedly committed suicide by hanging himself with a cloth from a water tap in the toilet of his barrack in the Sirsa district jail.³³ There were reasons to suggest the causes were not suicide.

Torture of women prisoners was also evident when in August 2008, woman undertrial Madhu (28) was tied up with iron chains

in the prisoner ward of the Civil Hospital in Ambala district reportedly for security reasons. The prisoner was reportedly three-and-a-half-months pregnant. Normally, criminals are only handcuffed with the court permission. Madhu was arrested for a minor offence and there was no Court assent to the handcuffs.³⁴

Prisoners were denied medical attention. As in mid-July 2008, 18 prisoners of Bhondsi jail in Gurgaon district died allegedly as a result of lack of medical care. On 26 April 2008, a prisoner identified as Bijender Singh died after he was denied medical care. An investigation by the jail department confirmed the death due to denial of medical care. The investigation was conducted after another prisoner identified as Yogender Singh wrote to the Chief Justice of India in May 2008. In his complaint, Yogender Singh stated that he called out for jail staff after Bijender Singh's condition deteriorated at 3 am in the morning. But, the jail staff ignored his request. Finally, he was taken to the jail doctor at 10 am only when he started gasping for breath. He died at 11 am. In April 2008, a judge recorded that no doctors were available in the jail following an inspection.³⁵

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Himachal Pradesh

I. Overview

Ruled by Bhartiya Janata Party, Himachal Pradesh witnessed an increase in crimes in 2008. A total of 18,043 cases, including 13,976 cases under the Indian Penal Code (IPC) and 48 cases under Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989, were registered by the police during 2008 as against 17,887 cases in 2007. Among the cases registered under the IPC during 2008 included 129 cases of murder, 157 cases of rape, 151 cases of kidnapping and abduction, among others.¹

The authorities failed to prevent the continued human rights violations by security personnel including illegal detention, torture and arbitrary use of force. A powerful indicator of the state's intent was demonstrated by the failure to address the ongoing dysfunction of the state's human rights commission. The Himachal Pradesh State Human Rights Commission (SHRC) continued to be in limbo. The State government failed to appoint a new chairperson since July 2005 when Justice NK Jain quit office to take over as the chairperson of the Rajasthan State Human Rights Commission. Commission member Mr I D Bali resigned in 2006 in protest against the failure of the government to make the institution functional. Its only other member B.S. Chauhan also completed his term in September 2008. Since its inception, the commission lacked staff, infrastructure and a regular office. As of 10 December 2008, more than 400 complaints had been pending disposal.²

The judiciary was hampered due to backlog of cases. There were 27,891 cases pending in the High Court and 140,910 cases were pending

in the District and Subordinate Courts by the end of June 2008. Yet, vacant judges' posts were not filled up which remained one of the reasons for pending of cases. Although, there was only one vacancy out of the sanctioned 11 judges in the State's High Court at the end of September 2008, nine posts of judges were vacant in the District and Subordinate Courts as of June 2008.³

On 8 April 2008, the State government passed the Himachal Pradesh Panchayati Raj (Amendment) Act, 2008 raising reservation for women to 50 per cent from one-third in all Panchayati Raj Institutions and Urban Local Bodies.⁴

II. Human rights violations by the security forces

According to the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, 217 complaints were registered against police personnel in Himachal Pradesh during 2007. During the same year, five police personnel were convicted, 18 were awarded major punishment and 31 minor punishment following departmental actions.⁵

The authorities failed to prevent the continued human rights violations by security personnel including illegal detention, torture and arbitrary use of force.

On the night of 29 November 2008, advocate Gitanand Thakur was arrested, illegally detained and beaten up by police at the Mandi Sadar police station in Mandi district. The victim was returning from a wedding. The victim alleged that the police did not allow him to talk to his relatives when he was arrested. On 4 December 2008, a court directed the

police to register a First Information Report (FIR) against four police officials.⁶ Medical examination revealed 30% damage to the victim's ear and injuries to his eyes.⁷

Mr Roshan Lal, a resident of Alampur, was illegally detained at the Lamabagaon police station in Kangra district when he had gone to the police station to lodge an FIR on 21 April 2008. He went to the police station after he sustained serious injuries after being beaten up by two persons. However, instead of investigating the case, police illegally detained him at the lock-up and registered a case against him. Later, a few villagers went to the police station and asked the Station House Officer to register Mr Lal's complaint and release him. But, policemen on duty allegedly abused the villagers and threatened them. They all were forced to leave the police station.⁸

In June 2008, Amarjeet Singh (24) of Mashobra was killed and four others - Ashok, Pankaj, Sunil, and Ravikant – were seriously injured when security guards opened fire following a clash with workers at Virgo Metallic Appliances Pvt Ltd, a company making shaving blades, at Shoghi in Shimla.⁹

III. Status of the SHRC

A powerful indicator of the state's intent was demonstrated by the failure to address the ongoing dysfunction of the state's human rights commission. The Himachal Pradesh State Human Rights Commission (SHRC) continued to be in limbo. The State government failed to appoint a new chairperson since July 2005 when Justice NK Jain quit office to take over as the chairperson of the Rajasthan State Human Rights Commission. Commission member I D Bali resigned in 2006 in protest against the failure of the government to make the institution functional. Its only other member

B.S. Chauhan also completed his term in September 2008. Since its inception, the commission lacked staff, infrastructure and a regular office. As of 10 December 2008, more than 400 complaints had been pending disposal.¹⁰

IV. Violations of the rights of the Dalits

The Himachal Pradesh Police recorded 71 cases, including 48 cases under SC/ST (Prevention of Atrocities) Act, of atrocities against weaker sections in 2008.¹¹ The NCRB recorded 91 cases of atrocities, including 81 cases under SC/ST (POA) Act, against the Dalits in 2007.¹²

On 1 July 2008, Surjeet Kumar, a Dalit student, was beaten to death by an upper caste teacher for writing a verse in praise of his classmate in Nangal Kalan village in Una district.¹³

V. Violations of the rights of women

On 8 April 2008, the State government passed the Himachal Pradesh Panchayati Raj (Amendment) Act, 2008 raising reservation for women to 50 per cent from one-third in all Panchayati Raj Institutions and Urban Local Bodies.¹⁴

However, crime against women continued to be reported. According to the police statistics, 1,106 cases of violence against women were registered in Himachal Pradesh in 2008. These included 36 cases of murder, 157 cases of rape, 137 cases of kidnapping and abduction, 295 cases of molestation, among others.¹⁵ The NCRB recorded a total of 1,018 cases of crime against women in the state during 2007.¹⁶

On 15 June 2008, a woman identified as Vimla was allegedly beaten up and paraded

with her face blackened and shoes hung around her neck by 17 persons including the *Upa-*

pradhan (Vice President) of the Haran Village Panchayat (Council) in Mandi district.¹⁷

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Jammu and Kashmir

I. Overview

Governed by the Indian National Congress-People's Democratic Party coalition, Jammu and Kashmir continued to be afflicted by armed conflict and human rights violations by both the security forces and armed opposition groups (AOGs). According to Union Home Ministry, at least 33 AOGs were operating in Jammu and Kashmir.¹ According to Jammu and Kashmir's Director General of Police, Kuldeep Khoda, 800 militants were still active in the state although violence had shown a remarkable decline by 40 per cent in 2008.²

According to government estimates over 47,000 people have been killed in militancy related incidents in the past two decades in Jammu and Kashmir as of November 2008.³ These included 20,647 militants⁴, 7,000 police officers and special police officers and 20,000 civilians.⁵

In 2007 there were widespread protests across Jammu and Kashmir over the official admission that security forces had staged fake encounters and killed civilians so that security force personnel could secure promotion and increase in salary. On 2 April 2007, the Jammu and Kashmir government constituted a Commission to investigate these killings and bring an end to such incidents.

The Commission was asked to complete its inquiries and submit its report by November 2007. However, by the time its term expired the Commission had made only preliminary inquiries. Justice Makhan Lal Koul requested a six month extension. The State took over six months to approve the extension and the Commission was unable to work during the hiatus.

However there were persistent reports of the continuance of these practices. The security forces continued to be responsible for grave human rights violations including extrajudicial killings and torture in the State. In addition, a large number of civilians have also been killed in firing by security forces on unarmed demonstrators. Women and children remained extremely vulnerable to violence, mostly sexual violence by security forces.

The State government claimed that it had successfully prosecuted as many as 223 security personnel, including members of the army, para-military personnel and policemen who were found guilty of human rights violations during the last five years. These included 90 army personnel, 82 para-military personnel and 51 policemen.⁶ The State provided little other details. ACHR cannot assess the credibility of the action given the paucity of information. However the failure to provide the information in a transparent or accountable manner does not appear to contribute to ending the suffering of the victims and their families nor does it appear to serve the interests of the rule of law.

AOGs were responsible for violations of international humanitarian laws including torture, kidnapping and killings.

Like other states, Jammu and Kashmir continued to suffer from judicial delay. The State Human Rights Commission (SHRC) continued to operate without a permanent chairperson. It continued to be ineffective. The State Government and its agencies failed to respond to its orders and recommendations.

II. Human rights violations by the security forces

The security forces were responsible for serious human rights violations including extrajudicial killings and torture in the State.

a. Violations of the right to life

i. Custodial killings

In 2008, Asian Centre for Human Rights documented a number cases of custody killings.

On 1 May 2008, the Jammu and Kashmir State Human Rights Commission took *suo motu* cognizance of newspaper reports of the custodial killing of a 15-year-old boy (name withheld) of Shalla Dooru in Handwara district in the custody of troops of the 6th Rashtriya Rifles.⁷

On 7 June 2008, (name withheld) (17) of Dehroti village in Doda district was allegedly tortured to death by Special Task Force personnel after he was picked up from his village on the direction of Doda District Senior Superintendent of Police, Manohar Singh.⁸

Ghulam Hassan Malla resident of Chottipora village under Shopian police station, was allegedly tortured to death during interrogation while in the custody of 62 Rashtriya Rifles (RR) in Shopian district on 28 November 2008. The victim was arrested on 26 November 2008 when he allegedly objected to the unacceptable behavior of the security personnel.⁹

Senior police officers continued to be accused of providing protection to their subordinate officials accused of committing custodial killings. In June 2008, the family of three youths – Nazir Ahmad Gilkar, Javed Ahmad Shah and Ghulam Rasool Matoo (allegedly killed on 23 June 2003 in the custody of Soura police station) expressed

shock over the acquittal of the police officials, including Sub-Divisional Police Officer Abdul (SDPO) Rashid Billa on 2 February 2008 by a TADA court.

The family alleged that the main accused SDPO Billa was given protection and shelter by former Inspector General of Police (IGP) Kashmir, K.P.S Gill.¹⁰

However, in a number of cases of custodial killings Jammu & Kashmir State Human Rights Commission directed the state government to prosecute accused security personnel. In June 2008, Jammu and Kashmir State Human Rights Commission directed the state government to prosecute police officials for the custodial killing of a youth Qazi Mohammad Afza in October 2005. The Commission also directed the authorities to pay monetary compensation to the family.¹¹

In March 2008, the Commission recommended the Jammu and Kashmir State government to “expeditiously prosecute the challan against the accused Major and his four associates.” The case relates to the killing of one Bashir Ahmed Shah of Dangiawachi Rafiabab in Baramulla district in the custody of 28 Rashtriya Rifles in July 1997.¹²

In May 2008, the Commission directed the State Government to investigate the custodial death of a class 10th student (name withheld) of Ramnagar tehsil in Udhampur district and prosecute police officials. The Commission also asked the government to pay compensation to the victim’s family. The victim’s father Umer Uddin had complained to the Commission that two special police officers Manzoor and Uresh Paul took away his son from his house during a security operation on 5 November 2000 and later killed him. The army claim he was killed in an encounter.¹³

On 9 July 2008 the State Human Rights Commission (SHRC) Habibullah Bhat asked the State government to register a murder against a Station House Officer (SHO), a police investigation officer and two police constables. 27-year-old Showkat Ali, son of Haji Mohammad Lateef Mughal, a resident of Rajouri, was arrested by police from his home on 13 February 2007 in connection with theft. He was detained in a police station in Rajouri. He apparently collapsed during torture. The Commission also awarded compensation to the victim's family.¹⁴

ii. Extra-judicial executions

The security forces continued to carry out extrajudicial killings. ACHR documented a number in 2008. These included:

- Gamia Gujjar of Machama village who was allegedly killed by 42nd Rashtriya Rifles personnel at Branpathrinagbal village, Tral town on 1 April 2008. The army while admitting the victim was an unarmed civilian suggested that the killing was a "clear case of mistaken identity";¹⁵
- Shamas Din (36, son of Feroz Din of Muthi Khana village) who was shot dead by 10th Rashtriya Rifles personnel at Lal Pani area of Marmat in Doda district on 22 May 2008. The victim was reportedly on his way to collect some food from the Lal Pani area when 10th Rashtriya Rifles personnel opened fire on him;¹⁶
- Mohammad Ashraf Sheikh (30, resident of Pehlipora-Drawey in Kokernag of Anantnag district) who was allegedly shot dead by 3 Jammu and Kashmir Light Infantry (JAKLI) personnel near Brar village in Bandipora district on 3 June 2008.¹⁷ Rifleman Tahir Pathan and an army informer Riyaz Ahmad Chichi arrested in connection with murder of the victim alleged in the Court that army officers

were directly involved in the killing of the victim;¹⁸

- Ghulam Mohi-din Parah (40, resident of Riram village of Tangmarg area in Baramulla district) who was allegedly shot dead by 2 Rajputana Rifles personnel when he had gone to work during the night of 8 July 2008. The police registered a case of murder against the army on 9 July 2008;¹⁹ and
- Mohammad Aslam Malik, (a shopkeeper and resident of Gandoh area in Doda district) who was allegedly killed by 26 Rajputana Rifles personnel after he was picked up in Chilli area on 16 September 2008.²⁰

On 2 April 2008, the Court of Principal District and Sessions Judge Hasnain Masoodi issued a non-bailable warrant against five Army personnel Colonel Vikram Singh of 13 Rashtriya Rifles, his second in command V K Sharma, Major Rishi, Junior Commissioned Officer Puran Singh and Naik Satya Lal for their refusal to appear in the Court despite repeated summons. They were accused of conspiring to kill Showkat Ahmad Kataria, a religious leader at a Srinagar mosque, on 4 October 2006.²¹

On 11 September 2008, the court of Chief Judicial Magistrate directed the police to register a case against SSP Prabhat Singh in connection with the death of Sanjeev Singh and Sunny Pandha when the police opened fire in Samba during the Amarnath land agitation of 24 August 2008.²²

In April 2008, taking *suo moto* cognisance of media reports on 1,000 graves in Bigalsur and Lolab in Kupwara district and several villages in Uri area of Baramulla district in north Kashmir, the State Human Rights Commission (SHRC) recommended the state government to explore a mechanism to address the issue.²³

On 13 October 2008, the State Human Rights Commission (SHRC) ordered an enquiry into the killing of Mehraj-ud-din Sheikh and Shafat Ahmad Dar when security force personnel opened fire at Nowhatta in Sringar on 10 October 2008.²⁴

Other victims who killed when security force personnel opened fire during protests included:

- Firoz Ahmad Rah who was killed when Central Reserve Police Personnel (CRPF) opened fire upon demonstrators at Nowhatta in Srinagar on 23 June 2008;²⁵
- Farooq Ahmad Rather, a class XII student who was killed in Manzhama in Budgam district on 25 June 2008;²⁶
- Sameer Ahmad of Karfali Mohalla who was injured and later died when the CRPF opened fire at Nowhatta in Srinagar 23 June 2008;²⁷
- Sanjeev Singh and Sunny Padha who were killed in Samba in Jammu district on 24 August 2008;²⁸
- Narinder Sharma who was killed in Kathua of Jammu on 5 August 2008;²⁹
- Ghulam Qadir who was killed in Srinagar on 24 August 2008;³⁰
- Mohammad Rafiq Bhat, a 9th class student who was killed during a protest march towards Lal Chowk on 25 August 2008;³¹
- Hilal Ahmad Mir and another unidentified youth who were killed on 27 August 2008 in Soibugh area of Budgam district;³²
- 23-year-old Javed Ahmad Bhat, a driver, who was killed at a demonstration at Nowhatta Chowk in Srinagar on 6 September 2008;³³ and
- Imtiyaz Ahmed Ganai and Manzoor Ahmad Sheikh who were killed by police in Shopian and Baramulla respectively on 12 September 2008;³⁴

- Muzaffar Ahmad Ganie who was killed by security forces during a protest against the last Jammu and Kashmir elections in Pulwama on 13 December 2008.³⁵

b. Illegal arrest, unlawful detention and torture

Arbitrary arrest, illegal detention and torture remained common. On 12 June 2008, the NHRC directed Jammu and Kashmir government to pay compensation to the family of Banarasi Das Sharma of Pir Mitha of Jammu district. Sharma was tortured by police during his unlawful detention at Police Station Pacca Danga in May 2000. Following his release he died as a result of the injuries he received while in detention.³⁶

On 30 January 2008, Officer-in-charge of Chatha Police Post in Jammu allegedly picked up a shopkeeper Tarsem Lal to identify someone who had taken part in an assault case. When he failed to identify the 'right person' during an identification parade the police beat him up.³⁷

On 3 September 2008, a large number of Central Reserve Police Force (CRPF) personnel arrived in the Main Chowk of Samba town. They damaged parked vehicles and beat up bystanders seriously wounding two of them. They had come to avenge the beating of one of their drunken colleagues by the residents of Samba. Apparently the CRPF colleague attempted to kill a meat vendor who had asked for money for selling him meat.³⁸

On 28 August 2008, the CRPF personnel in Batamaloo in Srinagar district picked up a 5-year-old boy for defying curfew and beat him up.³⁹

Other victims of arbitrary arrest, illegal detention and torture included:

- Lal Din and Abdul Aziz of Laloor Dessa in Doda district who were allegedly picked up and tortured by the 10th Rashtriya Rifle's Territorial Army and intelligence personnel on 8 April 2008;⁴⁰
- Akhter Malik, (son of Qutab Din Malik of Doda district) who was picked up and beaten up by policemen from Bhalla Police Post;⁴¹
- Arshad Hussain (son of Mahammdoo Mir of village Ludna) and Bashir Ahmad (physically handicapped and resident of Satlal village in Doda district) who were picked up and tortured by 8th Rashtriya Rifles personnel on 27 April 2008;⁴²
- 24 villagers, including elderly men and women, from Loha Chak village in Thathri Tehsil of Doda district who were injured after being allegedly beaten up by the army on 12 July 2008;⁴³ and
- Harish Sharma (24, mentally challenged youth) who was allegedly beaten up for standing outside his house by policemen enforcing curfew in Jammu town on 27 July 2008.⁴⁴

c. Impunity

As many as 223 security personnel, including army men, para-military personnel and policemen were apparently punished in cases relating to violation of human rights during the last five years. These included 90 army personnel, 82 para-military personnel and 51 policemen.⁴⁵ However the failure of the State to publish information on the cases deprives the action of credibility.

Impunity continues to be served by Section 197 of the Code of Criminal Procedure of 1973 and the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990. Under these two laws, no legal proceeding can be brought against any member of the armed forces without the permission from Central Government.

During the hearing of a writ petition *Ghulam Nabi Magrey versus Union of India* the Jammu and Kashmir government submitted to the Jammu and Kashmir High Court that from 1990 to 2007 it had sent at least 458 cases to the Central Government to allow prosecution against army personnel indicted by police in different incidents and other human rights violations. In October 2008, Principal Secretary, Home Department of Jammu and Kashmir submitted before the court that sanction for prosecution had been received in 270 cases while Union of India rejected the request for sanction of prosecution of four troops. Another 122 cases were reportedly pending with Director General of Police, Crime Branch, for clarification at the State level.⁴⁶

In 2007 there were widespread protests across Jammu and Kashmir over the official admission that security forces had staged fake encounters and killed civilians so that security force personnel could secure promotion. On 2 April 2007 the Jammu and Kashmir government constituted a Commission to investigate these killings and bring an end to such incidents. The State appointed Justice Makhan Lal Koul, a retired judge of Punjab and Haryana high court as its chairman. The Commission was asked to complete its inquiries and submit its report by November 2007. However, by the time its term expired the Commission had made only preliminary inquiries. Justice Makhan Lal Koul requested a six month extension. The State took over six months to approve the extension request, which hampered the work of the Commission.⁴⁷

In case of killing of four boys by personnel of the 33 Rashtriya Rifles on 22 February 2006 at Chak Doodipora- Handwara the police could not file charge sheet because of failure of the Tariq Naqasbandi Commission to submit the inquiry report to the State

government. After recording the statements of 21 people of the village, on 25 November 2006 Tariq Naqasbandi, principal and sessions judge observed that there was prima facie evidence suggesting the involvement of a 33 Rashtriya Rifles Captain and his associates from the Doodipora camp in the shooting of four boys who were playing cricket. The officer asked the accused army personnel to appear either in person or through their lawyer to explain their conduct. He also directed the Army to furnish nominal rolls giving full details of the soldiers blamed for the incident. But the Army neither provided the nominal rolls nor produced the accused personnel before the Inquiry Commission. The Army wrote to the Inquiry Commission that it held a court of inquiry into the incident which absolved the soldiers of the charges. The Army's court of inquiry came to the conclusion that "there was no negligence or any complicity on the part of soldiers."⁴⁸

III. Violations of International Humanitarian Law by the AOGs

Armed opposition groups (AOGs) were responsible for violations of international humanitarian law including widespread use of torture, kidnapping and killing.

AOGs deployed torture to intimidate the communities. For example, on 10 September 2008, a group of three militants belonging to the Hizbul Mujahideen entered the house of Manzoor Ahmed at Dessa in Doda District. They demanded his mobile phone and SIM card. When Manzoor Ahmed told them he was poor and did not own a phone, the militants cut off his nose and then his arm. He fell unconscious, and the militants left him presuming him to be dead.⁴⁹

Similarly, a group of four militants approached a woman identified as Maqfooda Begum while

she was working in a field with her husband in August 2008. The militants demanded that she should cook food for them. When she refused, they cut off her ear and beat her accusing her of being a police informant. She later died from the injuries sustained.⁵⁰

On 6 March 2008, three members of a family were killed and four others injured in an attack on the house of a village defence committee (VDC) member in a remote village of Reasi district by a group of militants.⁵¹

On 13 June 2008, five personnel of the Border Road Organisation, including Officer Commanding and an Assistant Executive Engineer were killed in an attack by militants on their vehicle at Watsar in Chhatroo tehsil of Kishtwar district.⁵²

In the last week of August 2008, five persons identified as - Shehnaza Bano, Javed Iqbal, Ghulam Ali Bhat, Hadayatullah Bhat and Jameela Begum - of Kund, Deota Marmat in Doda were beaten up by armed members of an AOG. All of them had to be admitted to hospital.⁵³

On 25 September 2008, members of an AOG shot dead Ghulam Muhammad Mir, Zonal President of the People's Democratic Party at Dangiwachhi in north Kashmir's Baramulla district.⁵⁴

IV. Judiciary and administration of justice

A total of 46996 cases (45197 civil cases and 1799 criminal cases) in the Jammu and Kashmir High Court and a total of 167798 in the District and Subordinate courts were pending as of 30 June 2008.⁵⁵ As of 1 October 2008, there were 4 vacancies of Judges in the Jammu and Kashmir High Court and 31 vacancies in the District and Subordinate courts.⁵⁶

During a hearing of a petition filed by Jammu and Kashmir National Panthers Party chief Prof. Bhim Singh in November 2008, a Supreme Court bench comprising Justice BN Agarwal and Justice GS Sanghvi directed the Jammu and Kashmir government to ensure disposal of pending cases against all the detainees detained in various jails across the state under Jammu and Kashmir Public Safety Act within one year.⁵⁷

V. Status of the SHRC

The Jammu and Kashmir State Human Rights Commission (SHRC) remained ineffective, primarily because the State Government and its agencies failed to respond to the directives of the SHRC.

Under the Protection of Human Rights of 1993 and other relevant laws, the orders and directions of the State Human Rights Commission are not binding. The SHRC does not have sufficient autonomy. It does not have an independent investigating agency. The SHRC has to rely on reports of the police in cases of complaints against security forces. Central security forces do not come under the purview of the SHRC.⁵⁸

As of June 2008, the post of the SHRC Chairman was vacant. The government failed to appoint a chairman of SHRC after the retirement of Justice M.Y.Kawoosa in November 2007.⁵⁹

Acting chairperson of Habibullah Bhat has publicly admitted that the police not only refused to register cases of human rights violations but also disregarded the recommendations of the SHRC in most of the cases.⁶⁰

In July 2006 the then Chairman of SHRC Justice A M Mir who succeeded justice A Q Parry resigned in protest against what he

termed “growing human rights violations in the state and non-implementation of commission’s recommendations.” In his resignation letter to the Governor, Lt Gen (Retd) S K Sinha, Justice Mir stated that SHRC was an “eyewash to befool the world community”. He wrote - *“During my tenure, not a single recommendation made by the commission was implemented. SHRC has not been able to accomplish the object for which it was established. I waited for long in the hope that my efforts might yield some results.”*⁶¹

Earlier in December 2003, one year after the Peoples’ Democratic Party (PDP) and Indian National Congress (INC) coalition Government was in power, the then chairman of SHRC justice A Q Parry publicly admitted that the SHRC had proved to be powerless.

VI. Freedom of the press

The security forces were responsible for repeated violations of rights of media representatives.

On 9 July 2008, a correspondent of the Dainik Jagran and stinger of IBN7 was seriously injured after being allegedly beaten up by the CRPF jawan on Kishtwar-Paddar road near Padhyarna Camp.⁶²

Other journalists who have been victims of human rights violations included - Ankur Sethi, a lensman from national daily Amar Ujala and Dheeraj Sethi, a cameraman from a local channel who were injured in police lathicharge in Jammu on 24 July 2008⁶³;

thirteen journalists, including Bilal Bhat, John Mohammad (Sahara News), Manoj Kaul, Jehangir (ETV), Aijaz Ahmad (News X) and Amin War (The Tribune) who were injured in lathicharge by CRPF personnel at different places in Srinagar on 24 August 2008⁶⁴;

six journalists, including UNI photo journalist Sheikh Fayaz Ahmad and Omar Ganaie who were beaten up by CRPF personnel on 25 August 2008⁶⁵;

six journalists including photographer Habibullah Naqash of Deccan Chronicle, cameramen Mukhtar Ahmed Khan of Associated Press and Tauseef Mustafa of AFP who were beaten up by policemen while they were covering an anti-election protest at Aarampora in the heart of Sopore town on 7 December 2008.⁶⁶

On 3 August 2008, Jammu and Kashmir Government sealed the offices of the JK Channel and Take 1 cable TV networks resulting in a total blackout in Jammu, Kathua and Samba districts. The two networks were accused of “running provocative” programmes and fuelling the Amarnath land row agitation.⁶⁷

On 7 November 2008, police seized all copies of a leading English daily Greater Kashmir and Urdu daily Kashmir Uzma in Srinagar.⁶⁸

On 27 August 2008, counter intelligence wing of police raided the residence of Shujaat Bukhari, Bureau Chief of The Hindu, at Srinagar.⁶⁹

VII. Violations of the rights of indigenous peoples

The conditions of the indigenous and tribal people in Jammu and Kashmir remained of deep concern. Eighty percent of tribal population in Upper Brang and adjoining areas in Anantnag district live below the poverty line.⁷⁰

However, the Jammu and Kashmir government failed to take effective measures to address these conditions. In November 2008, hundreds of unemployed tribal

youth under the banner of ‘unemployed youth union’ held a protest rally against the government’s failure to provide employment opportunities. The Pahari-Gujjar unemployed youths alleged that the successive governments have deprived them of various employment opportunities under self employment, Khadi village and industries and other schemes and that in the past five years no government official had ever visited these areas.⁷¹

VIII. Violations of the rights of women and children

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Government of India, a total of 2521 crimes were reported in Jammu and Kashmir in 2007. These included 288 cases of rape, 707 cases of kidnapping and abduction, 9 cases of dowry deaths, 176 cases of cruelty by husband and relatives, among others.⁷² A total 2432 crimes against women were reported during the year 2006 as compared to 2144 in 2005.⁷³

Similarly, the NCRB recorded a total of 26 crimes against children in Jammu and Kashmir during 2007.⁷⁴ Of these, about fifty were rapes.⁷⁵

Security forces were involved in a number of cases of sexual violence in 2008.

On 1 June 2008, a 17-year-old minor girl was raped by three persons including a police constable in police residential quarters at Gulshan Ground area under the jurisdiction of police station Gandhi Nagar in Jammu town. The victim was allegedly kidnapped from Nowshera on 31 May 2008 when she was going to school.⁷⁶

On 7 June 2008, a CRPF personnel Suadkakra Rao was suspended for allegedly

molesting an employee of JetLite airline at Srinagar airport.⁷⁷

On the same day, four Air Force personnel molested a woman in Iqbal Park in Srinagar. The accused attacked the police when they intervened.⁷⁸

On the night of 3 December 2008, a group of troopers of 36 Rashtriya Rifles of the army entered the house of Muhammad Abdullah Khatana at Dandhipora village in Kokernag area of Anantnag district and allegedly raped his 13-year-old minor daughter.⁷⁹

On 19 December 2008, a Border Security Force personnel was arrested for molesting and attempting to rape 13-year-old minor girl in Kulgam district.⁸⁰

The courts and the State Human Rights Commission were responsive to cases of sexual violence by security forces. On 21 February 2008, army personnel constable Bal Krishan and Rakesh Kumar of Jammu and Kashmir Light Infantry division (JAKLI) accused of kidnapping and subsequent rape of a woman from Sopore were sent to central jail on judicial remand.⁸¹

On 3 April 2008, the SHRC directed the police to reopen a case of alleged rape of a woman by security forces in Kathua district in 2003.⁸²

IX. Status of internally displaced persons

In June 2008, Prime Minister Manmohan Singh announced another package of Rs 1,600-crore for the return of Kashmiri Pandits to the Kashmir Valley. Among others, the package include Rs.750,000 thousand cash assistance for construction/renovation of house, transit accommodation for six months, relief for two years after

return to those registered under relief category, Rs. 750 per month scholarship for schoolgoing children, employment package, cash assistance of Rs 500,000 for those wanting to set up income generating units, aid for re-cultivation of land, and waiver of interest to those who had loan outstanding as of 1 January 1990.⁸³ The government of India and the State government of Jammu and Kashmir regularly announced schemes to encourage the return of the displaced Kashmiri Pandits but the majority remained concerned by security.

Yet, comparatively the other migrants in Jammu and Kashmir have not received the same attention as the Kashmiri Pandits. The condition of over 2,200 migrant families, both Hindus and Sikhs who had migrated from areas close to the Line of Control (LoC) and other highly troubled regions of the Jammu region was deplorable. The camp inmates were on the verge of starvation with the state simply refusing to provide subsistence allowance or ration for “want of funds”.

Following a July 2006 Supreme Court directive to treat migrants from all regions of the state at par with Kashmiri Pandit migrants from the Kashmir valley, the Jammu and Kashmir Government announced that it would give each individual in Talwara camp 9 kg atta, two kg rice and 10 litre of kerosene oil in addition to Rs 1,600 in cash per family. Initially camp inmates received some rations and money sporadically, but as of February 2008, none in the migrant camp at Talwara has received relief assistance.⁸⁴

The conditions of more than 15 lakh refugees of the 1947, 1965 and 1971 India Pakistan conflict are equally of concern. The refugees are discriminated against in terms of resources for relief and rehabilitation. In April 2008, Prime Minister Manmohan Singh announced

a relief package of Rs 1,600-crore for 300,000 displaced Kashmiri Pandit migrants⁸⁵ while he announced a relief package of only Rs.50 crore for 1.5 million refugees⁸⁶. This population is 500 times the Kashmiri Pandits migrants. On 3 June 2008, the Jammu and Kashmir Refugee Front sat on hunger strike against the discrimination.⁸⁷

X. Violations of the rights of minorities

Minority Hindus continued to be victims of communal attacks by majority Muslims. In August 2008, nearly a dozen Hindu

families from Bainch village and three families from Dalera village have moved to Poonch town after attacks on their houses and shops.⁸⁸

According to a report published by Jammu and Kashmir police in May 2008, a total 209 Kashmiri Pandits have been killed by militants since 1989.⁸⁹The report further revealed that chargesheets have been filed in 24 cases while perpetrators in 115 cases remain unidentified or untraced and the police have booked 31 local militants for the killings in 24 cases in which the chargesheets have been filed.⁹⁰

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Jharkhand

I. Overview

The ruling coalition led by Indian National Congress failed to tackle the very poor human rights picture in Jharkhand. Despite the poor human rights record, the state government failed to set up a State Human Rights Commission.

Jharkhand's conflict continued to deteriorate. The Maoists were reportedly active in 18 of 24 districts. According to police estimates, 405 Maoist-related incidents were recorded in the state in 2008 against 278 in 2007. A total of 148 civilians, 39 security personnel and 99 Maoists were killed in 2008. New Maoist groups proliferated in the State. Five years ago, only three groups were active. Presently, there are six groups with the Communist Party of India-Maoist (CPI-Maoist), Peoples Liberation Front of India (PLFI), Jharkhand Prastuti Committee (JPC) and the Tiritiya Prastuti Committee (TPC) being the most prominent.¹

The security forces were responsible for human rights violations including extrajudicial killing and torture. In clear violation of international humanitarian law schools continue to be used as military bases. According to information obtained by the People's Union for Civil Liberties (PUCL) through Right to Information (RTI) Act, around 40 schools were occupied as paramilitary camps in rural Jharkhand. Several of these schools had been occupied for the last 20 years.

The police originally denied the PUCL's request saying that the information would "hamper the state's security". The schools were being occupied without the permission from the Department of Human Resources,

Jharkhand.² On 20 November 2008, the Jharkhand High Court directed the State government to ensure that paramilitary forces vacated all government school premises without delay.³ Part of the reason that IHL forbids the use of schools to be used for military purposes is that it places children at risk. On 30 November 2008, suspected Maoists blew up a school building in Paki block of Palamau district. The rebels left a pamphlet at the spot, which said the building was destroyed to prevent security forces from using it in the future.⁴

The conditions of the Scheduled Tribes or the tribals remained poor. Apart from land alienation, they continued to be made victims of development in their areas. Development funds and welfare schemes failed to reach the tribals.

Women, particularly those from tribal communities, were subject to sexual violence. Witch-hunting was widespread despite a law banning the practice. The State Women's Commission remained ineffective resulting from inadequate powers.

Prisoners' rights continued to be violated with prisons being overcrowded and lacking basic facilities.

II. Human rights violations by the security forces

The security forces were responsible for human rights violations including extrajudicial killing and torture.

a. Violations of the right to life

On 16 May 2008, Ali Akbar Ansari, a begger, allegedly died in custody at Jharia police

station in Dhanbad district. He was picked up with two other persons on suspicion of theft. The police claimed that the victim was released soon after his detention. However, reports suggest that the police tried to dispose of the body.⁵

On 7 July 2008, Rajesh Roy, who was in his 20s, allegedly committed suicide by hanging himself from the ceiling of a toilet at the Nimaighat police station in Giridih district. The deceased was detained on 6 July 2008 from the national highway connecting Giridih and Dhanbad districts. The police claimed that the deceased hanged himself as he was shocked by the charges against him. However, the police did not record the arrest of the youth.⁶ There were grounds to suggest that Mr Roy may not have committed suicide.

The security forces resorted to indiscriminate use of firearms to control protests.

On 26 August 2008, two persons identified as Imtiyaz Ansari (18) and Behaw Ansari (15) were killed and three others sustained bullet wounds when the Central Industrial Security Force (CISF) opened fire indiscriminately on protesters near the Rajmahal coal field project in Godda district. The demonstrators were reportedly protesting police harassment.⁷

On 6 December 2008, Sibram Soren of Saraikhani was killed when police opened fire to control activists from the Jharkhand Ulgulan Manch, a land rights organization, who were protesting against the detention of activists in Dumka district.⁸

There were attempts to stop independent inquiries into allegations of human rights violations. On 17 April 2008, a team of PUCL (a human rights organization) was reportedly attacked by activists belonging to Nagarik Suraksha Samiti (NSS), an anti-

Maoist vigilante group. The PUCL team was apparently attacked when the team was going to Bhitaramnda village to investigate the killing of eight Maoists in an alleged police “encounter” on 14 February 2008. The NSS activists threatened to kill the PUCL activists if they went to the village. Later, the team lodged an FIR against the attackers at Dumaria police station but the police failed to arrest any one. Surprisingly, the Officer-in-Charge of Dumaria police station, Manoj Thakur allegedly told that there was nothing to inquire as the “reaction of the villagers was expected as the activists turn up only to probe into a rebel’s death in police encounter.” This compelled the PUCL to file a case against the NSS activists with the court of Assistant Chief Judicial Magistrate in Ghatshila.⁹

b. Illegal arrest, unlawful detention and torture

On 25 March 2008, a youth identified as Kawaljeet was beaten up by police personnel after he allegedly assaulted a police officer in Ranchi. The victim was reportedly stopped by the police officer, Mohmmad Nehal near a check post. He allegedly hit one of the police personnel on duty and was therefore taken to the police station where he was again beaten up.¹⁰

On 26 November 2008, Munni Hansdak, Charan Kumar, Hopna Baski and Rajcharan Murmu, members of the Jharkhand Ulgulan Manch were arrested and detained on alleged falsified charges in Kathikund police station in Dumka district.¹¹

III. Violations of International Humanitarian Law by the AOGs

The Maoists continued to violate international humanitarian law in Jharkhand. Security forces personnel, alleged police informers,

political activists and those involved in anti-Maoists activities were the primary targets.

On 9 July 2008, Ramesh Singh Munda, a Member of Legislative Assembly, was shot dead by suspected Maoists while attending a programme at a school near State capital Ranchi. A 17-year-old student and two of his bodyguards were also killed in the shooting.¹²

Those who were killed by the Maoists on the charges of being police informers included:

- three persons, one identified as Rasika Bhuinya, who were killed in two separate incidents at Tukudiri village in West Singhbhum district and Lohardaga district on 7 April 2008;¹³
- Pankaj Singh and Bhuneswar Ganju who were killed by having their throats slit after being abducted from their villages in Chatra district on the night of 23 June 2008;¹⁴
- Ghulam Mustafa, Matin Ansari, Mansoor Ansari and Keshav Mahto who were shot dead after their hands were tied behind their backs in Giridih district on 12 December 2008;¹⁵
- Sunder Manjhi (57) and Bagga Majhi (37) who were killed at Pirtand in Giridih district on 23 December 2008;¹⁶ and
- a woman identified as Etwaria (38) who was beaten to death in public at Daldalia village in Hazaribagh district on the night of 25 December 2008.¹⁷

The Maoists continued to organise *Jan Adalat* (Peoples' Court) to punish the suspects.

On 18 March 2008, Mr Jai Ram Mahto was dragged, with his hands and feet tied, to a Maoists' *Jan Adalat* at Narayanpur village in Bokaro district. After the summary trial, the Maoists slit the throat of the victim. He was found guilty of acting as an informer to the police.¹⁸

On the night of 18 May 2008, a Maoist *Jan Adalat* sentenced two persons - Md Mumtaj Ali (50), a village head, and Md Murshid (35) - to be stoned to death in Giridih district after declaring that they were police informers. Md Murshid survived after he fainted due to the beating and was left behind believing to be dead.¹⁹

The Maoists targeted those associated with anti-Maoists activities.

On 8 April 2008, Bhado Singh along with his seven family members including three women, belonging to anti-Maoist group, *Shanti Sena* (Peace Force), were shot dead by suspected Moists at Semra village in Gumla district. The other deceased were identified as Ranthu Manjhi, Nakul Singh, Lalka, Janki Devi, Sumitra Devi, Fulmani and Ghanshyam Singh²⁰

On 20 December 2008, Sobhan Tuddu (34), a para-teacher, was shot dead by the Maoists on the charge of being associated with the anti-Maoist group *Nagrik Suraksha Samiti* (Citizens' Defence Committee) at Kashiabera village under Ghurabandha police station in East Singhbhum district.²¹

Others killed by the Maoists included:

- two school teachers - Kailash Pandey and Kedar Prasad – who were killed at Sikri village in Chatra district for refusing to pay “tax” on 2 January 2008;²²
- Ashok Lohra, Hari Lohra, Mahadeo and Bhagwan Kumhar, (all residents of West Bengal) who were shot dead at Arki-Tamar border area under Khunti district on 1 April 2008;²³
- Najmul (25) and Ajmul (16), and Mahesh Mahto who were shot dead at Kottam village in Gumla district on 21 May 2008;²⁴
- Preetam Jee *alias* Malia, Birsa Munda

and Narsingh Munda who were beheaded for reportedly collecting taxes posing as Maoists at Pandha Sarna Tola of Parasi village in Ranchi district on the night of 1 June 2008;²⁵

- two persons, one identified as Sajjid, were beaten to death on the charge of carrying out extortion in the guise of Maoists at Kumri village in Gumla district on 25 June 2008;²⁶
- Poliram who was killed after being abducted from his house at Konsasimertoli village in Gumla district on 10 December 2008;²⁷ and
- Shahdev Manjhi (32) who was beaten to death with heavy sticks on the charge of being a criminal at Bharati Chalkhari village under Pirtandh police station in Giridih district on the night of 15 December 2008.²⁸

IV. Judiciary and administration of justice

As of 30 June 2008, a total of 51,157 cases were pending in the High Court of Jharkhand and a total of 267,008 cases were pending in the District and Subordinate Courts in the state.²⁹

Backlogs were exacerbated by lack of judges. As of 1 October 2008, Jharkhand High had 10 vacancies. Similarly, in the District and Subordinate Courts in the state there were 99 vacancies as of 30 June 2008.³⁰

V. Repression on human rights defenders and press freedom

Both human rights activists and the media were targeted during 2008.

On 14 May 2008, Lalit Mehta, a 36-year-old member of the Right to Food and Right to Work campaign in Jharkhand, was killed by unidentified persons in Chatarpur

block in Palamau district.³¹ Jagdish Mehta, Lalit's father said he was killed because he knew too much about the corruption of officials implementing the National Rural Employment Guarantee Scheme (NREGS) in Chatarpur block.³²

On 14 December 2008, the office of Hindi daily, *Dainik Jagran* was attacked and ransacked by unknown persons at Friyalal in Ranchi. The attack was in retaliation to a report which was apparently not liked.³³

VI. Violations of the rights of indigenous peoples

According to the NCRB, 268 cases of crimes committed against Scheduled Tribes were recorded in Jharkhand during 2007. These included 20 cases of murder, 22 cases of rape and 63 cases filed under the SC/ST (Prevention of Atrocity) Act of 1989, among others.³⁴

a. Land alienation

In Jharkhand, tribals continued to be made victims of land alienation. This is despite laws to prevent land alienation including the Chotanagpur Tenancy Act and Santhal Paragan Tenancy Act - preventing land alienation in the State.

According to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 5,382 cases of land alienation were filed in the Courts in Jharkhand involving an area of 4,002 acres. 1,362 cases were disposed of by the Courts out of which 1,079 cases were disposed of in favor of tribals.³⁵

However, the tribals, who are poor and disadvantaged, find it difficult if not impossible to fight legal battles in the Courts for restoration of their lands which have been alienated by non-tribals in Jharkhand. The following case is demonstrative:

In 1974, a non-tribal Hemlata Chaturvedi allegedly grabbed 1.55 acres of land belonging to a tribal farmer Raghu Munda of Tatisilwai village about 14km from the state capital of Ranchi. Thirty-four years had passed and the original petitioner and respondent have both died. In 1974, Munda filed a case (No. SAR 931/1974) with the Scheduled Area Regulatory Court in Jharkhand. The Scheduled Area Regulatory Court ruled in favour of Munda on 17 July 1976. But Hemlata Chaturvedi appealed before the Court of the Deputy Commissioner and then the Court of the Divisional Commissioner. The appeal was dismissed but Hemlata moved the High Court, which ordered her to file an appeal for hearing in the Scheduled Area Regulatory Court within two months. But Hemlata Chaturvedi did not file. Both the original petitioner Raghu Munda and respondent Hemlata Chaturvedi subsequently died. In 2005, the Scheduled Area Regulatory Court again ordered land restoration but Rajendra Chaturvedi, son of Hemlata Chaturvedi, moved the Court of the Deputy Commissioner (case number 9/2006-07). This time, the Deputy Commissioner's Court set aside the lower court's order. As of January 2008, the case was being heard for the second time by the Court of the Divisional Commissioner.³⁶

The world's largest steel maker, ArcelorMittal had been the subject of land rights issues in the Torpa-Kamdara region of Jharkhand. ArcelorMittal needed around 11,000 acres of land, of which 8,800 acres is required to set up a 12-million-tonne steel plant and 2,400 acres for establishing a township.³⁷ The tribals claimed that the land identified by Arcelor Mittal for the steel project was agricultural tribal land and non transferable to non-tribals.

b. Lack of development

Development funds and welfare schemes failed to reach tribal communities. The State

government failed to deploy Central funds meant for the development of the tribals. A report by the Comptroller & Auditor General of India, tabled in the Jharkhand State Assembly in March 2008, found that the Jharkhand government used only Rs 85.55 crore of the Rs 183.84 crore it had received from the Centre during 2003-2007 under the Integrated Tribal Development Project. The unused funds were kept in banks and the interest it earned was used to repair official buildings.³⁸

In October 2008, at least 20 people including three children died of starvation from the Birhor and Pahariya tribes in several districts including Chhatra district of Jharkhand.³⁹ Government schemes such as Antodaya Yojana, Integrated Child Development Scheme (ICDS), Janani Suraksha Yojna, National Rural Employment Guarantee Act (NREGA) failed to reach these tribals. A team headed by Balram, the Jharkhand Adviser to the Commissioner of Food Security (appointed by the Supreme Court under the Right to Food Campaign) visited the area and found that the people had starved to death. The team found that only one of the victim Birhor families had some maize grains and the rest had no food grains. The team claimed that the victims had been going through "fourth grade" hunger (acute malnutrition). The team also stated that the rest of the Birhor families in the village were malnourished and going through acute food shortage, and might die any time if the administration failed to help them soon. However, the Deputy Commissioner Abu Kakr Siddique stated that the deaths had occurred due to food poisoning.⁴⁰

VII. Violations of the rights of women

The NCRB recorded 3,317 incidents of crime against women in Jharkhand during

2007. These included 855 cases of rape, 534 cases of abduction, 303 cases of dowry death, among others.⁴¹ The Jharkhand State Women's Commission remained ineffective.

On the night of 10 September 2008, a 14-year-old tribal girl was gang raped after being abducted by four persons at Dhobi Ghat in Sector IV of the HEC Township under the Jagannathpur police station in Ranchi.⁴²

On 24 January 2008, a 10-year-old girl was raped by a policeman identified as Arvind Kumar Das attached to Mufassil police station during an anti-Maoists operation at Chandli in Giridih district.⁴³

On 28 January 2008, 25-year-old tribal woman identified as Rina Kumari (name changed) was gangraped by four persons and acid was thrown on her genitalia under the Pithoria police station in Ranchi.⁴⁴

Women continued to be targeted for witchcraft. The Witchcraft Prohibition Act, 2001, designed to outlaw the practice remained unimplemented. According to estimates, at least 620 people, including women, were maimed or killed on the suspicion of practicing witchcraft in the State since 2001. Many cases go unreported.⁴⁵

On 20 April 2008, Renti Hansda was beheaded by one Jairam Hansda on the suspicion of practicing witchcraft at Ghatsila in East Singhbhum district. The victim was held responsible for the death of the accused's brother.⁴⁶

On 5 April 2008, two Dalit women identified as Rashmi Devi (60) and Samri Devi (65) were forced to eat human excreta by the villager of Manaydih village in Dhanbad district. The villagers believed the women were practicing witchcraft and spreading chicken pox in the area.⁴⁷

VIII. Violations of the rights of children

The National Crime Records Bureau recorded a total of 74 cases of crimes against children in Jharkhand during 2007. These included 23 cases of rape. Child trafficking was also on the rise in the State. Gumla, Simdega, Pakur, Sahebganj, Lohardaga, Giridih, Chatra and Khunti are more prone to human trafficking.

The security forces were responsible for sexual violence on children. On 24 January 2008, a 10-year old tribal girl was allegedly raped by police constable Arvind Kumar Das at Chandli village in Giridih district. The accused constable was arrested and suspended following a complaint lodged by the victim's family.⁴⁸

In clear violation of international humanitarian law schools were being used as military bases. According to information obtained by the People's Union for Civil Liberties (PUCL) through Right to Information (RTI), around 40 schools were occupied paramilitary camps in rural Jharkhand. Several of these schools had been occupied for the last 20 years.

The police originally denied the PUCL's request saying that the information would "hamper the state's security". The schools were being occupied without the permission from the Department of Human Resources, Jharkhand.⁴⁹ On 20 November 2008, the Jharkhand High Court directed the State government to ensure that paramilitary forces vacated all government school premises without delay.⁵⁰ Part of the reason that IHL forbids the use of schools to be used for military purposes is that it places children at risk. On 30 November 2008, the suspected Maoists blew up a school building in Paki block of Palamau district. The rebels left a pamphlet at the spot, which said the building was destroyed to prevent security forces from using it in the future.⁵¹

The Maoists were also responsible for violating the rights of the children. Children were allegedly being recruited by the Maoists in their propaganda war against the government and security forces. According to the police, at least 300 children were being trained by the Maoists and provided training in small arms. The children were in the age group between 12 and 18 years.⁵²

The provisions of the Juvenile Justice (Care and Protection of Children), 2000 continued to be violated. Juveniles Homes were not functional and cases involving juveniles were not taken up in the State. On 3 March 2008, the Jharkhand High Court ordered that Juvenile Observation Homes in Gumla, Simdega and Bokaro and Child Welfare Committees be made operational. The Court also ordered that 500 cases pending for extended periods be taken up in *Bal* or *Lok Adalats*.⁵³

As in mid-September 2008, as many as 12 posts had been lying vacant in the Karandih Hemand Home in Jamshedpur for the last three years. Those detained were not supplied with sufficient food. The food provided was of poor quality.⁵⁴

On 24 November 2008, the Jharkhand High Court directed the Deoghar district judge to investigate whether police barracks were being constructed on the premises of the Deoghar remand home. The directive came following a Public Interest Litigation filed by an NGO, Bal Sakha, for implementation of the provisions of the Juvenile Justice (Care and Protection) Act. The petitioner stated that the government was constructing police barracks on the premises of remand homes.⁵⁵

IX. Violations of the prisoners' rights

The condition of jails continued to be deplorable in Jharkhand. The jails were overcrowded and lack basic facilities.

For instance, the Sakchi jail was overcrowded with 741 prisoners being lodged against its capacity of 250 as in May 2008.⁵⁶ Yet, many prisoners continued to be imprisoned despite completing jail terms. In June 2008, the All India Human Rights Association (AIHRA) following a visit to the Birsa Munda Central Jail found that 31 prisoners in the jail had completed their terms but had not been released.⁵⁷

A report on the plight of women prisoners compiled by a team of lawyers and activists, who visited Ranchi, Hazaribagh and Chaibasa jails from 18-20 January 2008 revealed that the doors of the toilets in Ranchi Jail were half open, while the toilets in Hazaribagh jail had no doors at all. The report further found that water, which was meant to be used by the women prisoners both for drinking and washing, was kept in pitchers out in the open in Hazaribagh jail.⁵⁸

On 7 April 2008, a prisoner identified as Murli Prasad Verma (32), lodged at the Central Jail, Giridih, died under mysterious circumstances in hospital. The father of the deceased alleged that his son was beaten and he was forced to sign an affidavit that his son died from an illness.⁵⁹

In December 2008, about 12 prisoners of the Daltonganj divisional jail were allegedly beaten up by the jail officials for taking part in a hunger strike demanding better facilities in the jail. The official allegedly did not provide medical treatment to the injured prisoners.⁶⁰

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Karnataka

I. Overview

The ruling Bhartiya Janata Party government failed to take appropriate action in 2008 to address Karnataka's poor human rights record. The police were responsible for systematic violation of human rights including custodial killing, unlawful detention without showing the arrest of the suspects, torture, and keeping women in custody.¹ The institutional use of human rights violations was confirmed when on 23 February 2008 the Chairperson of Karnataka State Human Rights Commission (SHRC), S.R. Nayak stated the police personnel violated human rights in order to get "quick results".² The state failed to take sufficient action to ensure that those guilty of human rights violations were punished.

The National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, Government of India, recorded 154 complaints against police personnel in Karnataka during 2007. 154 departmental inquiries, 10 judicial inquiries and one magisterial inquiry were ordered. 71 police personnel were sent for trial. Seven trials reached a verdict and not a single person was convicted.³

The ultra-left Maoists continued to be active in the State. But there were no major reports of violence by the Maoists. On 11 January 2008, the Union Ministry of Rural Development cleared a special package amounting to Rs. 524.40 crore in four Maoist-afflicted districts – Chakmagalur, Shimoga, Udipi and Tumkur. The special package was meant to contain Maoist activities and accelerate economic development at local level.⁴

The government failed to take steps to address judicial delay. There were 107,264 cases pending with the Karnataka High Court and a staggering 1137639 cases were pending in the District and Subordinate Courts by the end of June 2008. Vacancy rates for judges continued to hamper clearance of the cases. Although, there was only one vacancy of judges out of the sanctioned strength of 41 in the Karnataka High Court as in September 2008 as many as 237 posts of judges out of 873 were vacant in the District and Subordinate Courts as of 30 June 2008.⁵

The government failed to address the ongoing violation of the rights of Dalits, indigenous peoples, women, children and religious minorities. Religious intolerance was on the rise in Karnataka. In September 2008, series of attacks on Christians and their religious institutions were launched by Hindu fundamentalist groups, particularly Bajrang Dal. Between August-September 2008, at least 28 attacks of varying intensity were carried out on churches across eight districts of Karnataka.

The National Commission for Minorities following a fact-finding visit to the affected areas, held the State government of Karnataka responsible for inaction and allowing violence against Christians to proliferate.

The Karnataka SHRC continued to function but was hampered by lack of adequate infrastructure and personnel.⁶ On 10 December 2008, SHRC chairperson S.R. Nayak said the Commission was "tired of telling the government and writing to them repeatedly" requesting for allocation of more infrastructure facilities and personnel.⁷

II. Human rights violations by the security forces

The police were responsible for gross violation of human rights including custodial killing, illegal detention and torture.⁸ On 23 February 2008, SHRC Chairperson, S.R. Nayak stated that complaints against the police of illegal custody and custodial violence had fallen in comparison to 2007. Mr Nayak, however, said “while discharging their duties, police personnel knowingly or unknowingly violated human rights in order to get quick results”.⁹

The government agency, NCRB recorded 154 complaints against police personnel in Karnataka during 2007. 154 departmental inquiries, 10 judicial inquiries and one magisterial inquiry were ordered to probe the allegations. 71 police personnel were sent for trial. Seven trials reached a verdict but not a single person was convicted. These verdicts sit uneasily with the statement of the SHRC Chairperson. However, five police personnel were dismissed from service, 32 were awarded major punishment and 646 were awarded minor punishment during 2007.¹⁰

a. Violations of the right to life

Custodial deaths continued to be reported from the State. Asian Centre for Human Rights documented four cases of alleged deaths in police custody during 2008.

On 25 April 2008, Srinivas (25) was allegedly tortured to death in the custody of the Kolar rural police station in Kolar district. The deceased, who was reportedly the mediator between two lovers, was handed over to the police after he was caught by the family of the girl helping the couple to elope on the night of 24 April 2008. The police claimed that while in detention he complained of stomach ache and was admitted to SNR hospital. The police claimed that he then escaped from the hospital and died in an accident.¹¹

On 27 May 2008, M. Kanagarathinam (47) allegedly died in Bangalore City Police custody. The deceased was arrested in connection with theft on 26 May 2008. An inquiry was ordered following a complaint filed by the deceased’s son.¹²

On 10 June 2008, 40-year-old Dorai Raj of Magadi Road died in HAL police station custody in Bangalore following his arrest for theft. The police claimed that the deceased suffered an asthma attack and died on the way to hospital.

The victim’s family claimed that he had no asthma problem.¹³

On 25 December 2008, Bhaskar (30), a detainee allegedly committed suicide by hanging himself with his shirt inside a lock-up at the Hanumanthanagar police station in Bangalore. When he was admitted he had been beaten up by local people for theft. Instead of admitting him to a hospital the police detained him at the police station.¹⁴ On 26 December 2008, the SHRC Chairperson Justice S R Nayak visited the police station to investigate the matter. He observed discrepancies in statements of the police officials and also found some instruments used to torture victims in the station.¹⁵

The NCRB recorded killing of one person and injuries to four others in police shootings during 2007. On 11 June 2008, Siddalingappa Choori (34) was killed when police opened fire to disperse protesting farmers in Haveri district.¹⁶

b. Illegal arrest, unlawful detention and torture

The police were responsible for arbitrary arrest, illegal detention and torture during the year. The State Human Rights Commission raided police stations following complaints of illegal detention and torture during the year.

In February 2008, three children, sons of an autorickshaw driver, were beaten up by policemen at the Hanumanthnagar police station in Bangalore. They were allegedly subjected to electric shocks by the policemen. The victims stated that the policemen had arrested them on the charges of theft and had demanded Rs 15,000 from their father for their release. They were tortured when their father refused to pay any bribe.¹⁷

On 30 April 2008, Bhavanesh (21) and Saravana (20), both employees of a bakery, were allegedly beaten up during interrogation by police at Tilaknagar in Bangalore. They were picked up by the police while returning home from work.¹⁸

On the night of 23 August 2008, Rakesh, a businessman, was beaten up with sticks for about 45 minutes by four policemen. Head constables, Mohammed and Honamuthiaya and constables Kumar and Guru Raja attached to the Banashankari police station apparently attacked Mr Rakesh without reason at 8th Cross on K R Road in Bangalore. While detained the policemen also allegedly did not provide him with water when he was thirsty. All the accused police personnel were suspended.¹⁹

On 29 November 2008, Varalakshmi (48) and her husband Janardhan (56) were illegally detained by police at the Indiranagar police station for a crime allegedly committed by their son in Bangalore. They were held in illegal detention till 3 December 2008.²⁰

On 11 November 2008, two workers identified as Manjunath and Jagdish were arrested by police and detained at the Nonavinakere police station in Tumkur district in connection with a case registered against them. On the same day, they were handcuffed and produced before court.

Again on 21 November 2008, Manjunath was allegedly beaten up by the police and seriously injured. Two of his fingers were fractured. Later, they were taken to the police station and made to sit all night, handcuffed and naked.²¹

On 20 November 2008, the SHRC conducted a raid at the RT Nagar police station in Bangalore following complaints from the South India Cell for Human Rights Education and Monitoring (SICHREM), an NGO, that some persons were being illegally detained at the police station. According to SICHREM, people had been picked up randomly from a slum near Tannery Road bordering Pulakeshinagar on charges of theft. Some of them were beaten, some were detained for many days and some were charged with theft. Others were apparently released after they paid bribes.²²

The police also targeted advocates and human rights activists. On 9 August 2008, two advocates identified as Wilfred Oswald D'Mello and Uday Kumar were allegedly beaten up by the police at Sirimane near Kigga in Shringeri taluk in Chikmagalur district. They had to be hospitalized.²³

On 27 October 2008, human rights activist, Kabeer Ullal of People's Union for Civil Liberties (PUCL) was allegedly tortured by police Sub Inspector Shivaprakash at the Ullal police station in Dakshina Kannada district. The accused police officer had gone to his house, beaten him up and took him to the police station where he was allegedly stripped and humiliated. Mr Ullal alleged that he was tortured and threatened for filing a case with the Chief Judicial Magistrate against Sub Inspector Shivaprakash and then Circle Inspector Jayanth Shetty on 8 September 2008.²⁴

III. Violations of International Humanitarian Law by the AOGs

The Maoists (Maoists) were reportedly active in Bidar, Gulbarga, Bellary, Raichur, Shimoga, Chikmagalur, Udupi, Dakshina Kannada, Hassan, Kodagu, Tumkur and Kolar areas of the State. On 11 January 2008, the Union Ministry of Rural Development cleared a special package amounting to Rs. 524.40 crore in four Maoist-afflicted districts – Chikmagalur, Shimoga, Udupi and Tumkur. The special package was meant to contain the Maoist activities and accelerate economic development in the villages in these districts.²⁵

The Maoists targeted alleged police informers in 2008.

On 7 December 2008, Keshava Yadiyala (63), a Bhartiya Janata Party activist, was pulled out of his house, tied to a tree and shot dead by suspected Maoists on the charge of being a police informer at Aksharapalu under Kundapura town in Udupi district.²⁶

In November 2008, suspected Maoists kidnapped eight persons including BJP leader identified Ranganath at Sringeri Taluk in Chikmagalur District. They were taken to a jungle and released after a few hours.²⁷

IV. Status of the SHRC

The Karnataka State Human Rights Commission (SHRC) functioned despite inadequate infrastructure and personnel. As of 23 December 2008, the SHRC registered 5,500 cases of rights violation including over 1,000 *suo motu* cases registered by it based on reports in newspapers and electronic media. Of these, 2,500 cases had been disposed of by the Commission.²⁸

The state government failed to act on the requests from SHRC for more resources.

The Commission needed 287 personnel, including an Inspector-General of Police (IGP), 12 Deputy Superintendents of Police (DSPs) and 24 Inspectors. But it had only one IGP and a DSP as of 19 September 2008. Most of its 48 staff were hired on a contract basis.²⁹ The Commission had “less than enough (office) space”. In the investigation wing, the Commission had only an Inspector-General of Police, a Deputy Superintendent of Police and three police constables which was not sufficient to carry out proper investigation and surprise visits.³⁰ On 10 December 2008, SHRC chairperson S.R. Nayak said the Commission was “tired of telling the government and writing to them repeatedly” requesting for allocation of more infrastructure facilities and personnel. Mr Nayak also stated that the state government had failed to consult the Commission before posting high-ranking officers to the Commission. As stated above, most of the officials of the SHRC were appointed on contract basis and the state government transferred them in and out of the commission too frequently without giving them time to settle down and learn the nature of the institution and its work.³¹

V. Violations of the rights of indigenous peoples

According to the 2001 census, Scheduled Tribes (tribals) constituted 6.55 per cent of the State’s population. The NCRB recorded 205 incidents of crime against tribals in Karnataka during 2007. These included 110 cases under the SC/ST (Prevention of Atrocities) Act, 1989.

Tribals were victims of land alienation in Karnataka. According to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 42,582 cases of

land alienation were filed in the Courts in Karnataka involving an area of 130,373 acres. 38,521 cases were disposed of by the Courts out of which 21,834 cases ruled in favour of tribals involving 67,862 acres of land.³²

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 remained largely unimplemented in Karnataka. This was admitted by Karnataka's Social Welfare Minister, D Sudhakar, in a review meeting on 27 June 2008.³³ The Forest Rights Act, 2006 provided the rights to the tribals over their lands, habitats, and access to minor forest produce. The non-implementation of the Forest Rights Act, 2006 meant that the tribals were being denied the rights over their lands, faced threats of eviction from their habitats, and denied access to minor forest produce for livelihood.

The State government failed to resettle the tribals evicted from the Nagarhole National Park. There were about 1,550 families in an estimated 54 tribal hamlets in the Nagarhole National Park. Out of these, 340 families were relocated at Nagapura and other areas under a rehabilitation scheme.³⁴ These evicted tribal families were promised five acres of land during their resettlement to Nagapura Rehabilitation Centre. However, the state's Forest Department failed to allot five acres of land to each tribal family as had been promised. The tribals alleged that the majority of them were given only two to three acres of land and that the Forest Department had transferred land meant for them to build private resorts. On 7 July 2008, about 250 tribal people from the Nagapura Rehabilitation Centre prevented tourists from going into the Nagarhole National Park to protest against the failure of the Forest Department to keep the promises.³⁵

VI. Violations of the rights of the Dalits

Dalits of Karnataka continued to suffer caste based discrimination and violence from the upper castes.

The NCRB recorded 1,844 incidents of crime against the dalits (Scheduled Castes) in the State during 2007. These included 15 cases of murder, 20 cases of rape, 165 cases of hurt, 1016 cases under SC/ST (Prevention of Atrocities) Act, of 1989.³⁶

On 20 October 2008, 24-year-old Dalit woman, Gangamma allegedly committed suicide in Lakkasandra village in Magadi taluk under Bangalore rural district following caste discrimination. She had faced humiliation by the upper castes after she had drawn water from the village water tank. The upper castes accused her of polluting 'their' water. She was fined Rs 101 by the upper caste village elders and threatened against going to the police.³⁷

In March 2008, about 20 Dalit students of Thenginamane Higher Primary School were allegedly prevented from entering Durgadakallu Temple in Koppa taluk during a school trip. The rest of the students were allowed into the temple by the temple administration.³⁸

The apathy of the state government towards the dalits further excluded the dalits from development. According to the 2001 census, the dalits constituted 16.2 per cent of the State's population. The state government allegedly failed to allocate adequate funds for their development. On 28 February 2008, the Chairman of the Karnataka State Commission for the Scheduled Castes and Scheduled Tribes, Nehru C. Olekar confirmed he had written a letter to state's Governor Rameshwar Thakur urging for funds proportionate to the population of

SC/STs in Karnataka. He further stated that many Dalit colonies in the State lacked basic amenities such as roads, electricity, and drinking water.³⁹

VII. Violations of the rights of women and children

The NCRB recorded a total of 6569 incidents of crime against women in Karnataka during 2007. These included 463 rapes, 390 kidnapping and abduction, 251 dowry deaths, among others. The NCRB recorded 266 crimes against children, including 50 cases of murder and 84 cases of rape, during the same period.⁴⁰

Police were responsible for violence against women. In March 2008, two women identified as Muniyamma (a fruit vendor) and her daughter Jagadeeshwari (also the president of Kolar district unit of All India Democratic Women's Association) were allegedly beaten up by Circle Inspector of Police K.N. Ramesh at Chintamani in Chickballapur district. The accused had asked the victim to remove her pushcart from the road but even before she could do so he began throwing the fruits onto the road. When she objected she was beaten up. When her daughter intervened she was beaten up as well.⁴¹

The rights of the children in conflict with the law were regularly violated in Karnataka. The juveniles were being housed with adult prisoners in the jails. On 1 April 2008, the SHRC registered a case and issued notices to the Home Secretary, Additional Director-General of Police and Inspector-General of Prisons and Deputy Inspector-General of the Bangalore Central Prison following reports of 20 juveniles being lodged in the Bangalore Central Prison at Parappana Agrahra. The SHRC's investigation wing reportedly found that all the 20 juveniles were minors, i.e. below the age of 18 years.⁴²

On 3 December 2008, the SHRC reportedly found 19 juveniles lodged in the Bangalore Central Prison. The SHRC team visited the prison following a complaint by a human rights NGO, the South India Cell for Human Rights Education and Monitoring.⁴³

Child marriage was reported to be common in Karnataka. According to a survey by the Child Rights Trust, two of five girls were married off before the age of 18 years in the State. North Karnataka led in the percentage of such child marriages with Raichur District at 59.4 per cent followed by Koppal 51.4 per cent and Bijapur 50.1 per cent.⁴⁴

VIII. Violations of the prisoners' rights

Karnataka had 98 jails with capacity for 11,799 prisoners. Prisoner's rights continued to be violated. On 14 August 2008, several under-trial prisoners staged a hunger strike to protest against the poor food quality at the Central Prisons at Parappana Agrahara.⁴⁵

On 23 January 2008, 30-year-old under-trial prisoner identified as Nanda, resident of Waynad district in Kerala, died while being detained in K.R. Nagar Sub Jail near Mysore. The deceased was arrested by the Forest Department on 5 January 2008 on charges of felling trees illegally.⁴⁶

On 20 May 2008, undertrial, Suresh (28 years) died under mysterious circumstances while detained at the Mysore Central Prison. He was rushed to hospital following bleeding from the nose.⁴⁷

IX. Violations of the rights of minorities

Religious intolerance was on the rise in Karnataka. In September 2008, series of attacks on Christians and their

religious institutions were launched by Hindu fundamentalist groups, particularly Bajrang Dal. On 14 September 2008, 12 Christian churches and prayer halls were attacked allegedly by Hindu fundamentalists in Dakshina Kannada, Udupi and Chikmagalur districts. In Dakshina Kannada district alone, eight prayer halls were attacked including three prayer halls in Mangalore.⁴⁸

The Bajrang Dal claimed responsibility for the attacks on Christian churches. On 19

September 2008, State Bajrang Dal convener Mahendra Kumar was arrested.⁴⁹ The state government also ordered a judicial probe headed by a former High Court judge B.K. Somashekara into the attacks.⁵⁰

In its report, the National Commission for Minorities, which conducted a fact-finding investigation, held the State government of Karnataka responsible for inaction and allowing violence against Christians to proliferate. The State government rejected the report.⁵¹

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Kerala

I. Overview

The ruling Communist Party of India (Marxist) government failed to address the disturbing human rights record of the state police in Kerala.

The state failed to fill up vacancies of judges allowing backlog of cases to deepen. There were 12 vacancies for judges against the sanctioned strength of 38 in the Kerala High Court as of 20 October 2008. In the District and Subordinate Courts, there were 30 vacancies of judges as of 30 June 2008. As of 30 June 2008, there were 112,135 cases pending in Kerala High Court and 964,342 cases pending in the District and Subordinate Courts in the state.¹

On 27 December 2008, a special court of Additional Session Judge Babu Mathew P Joseph convicted 63 out of a total 139 accused in a case relating to the May 2003 religious attack at Marad beach near Kozhikode. 76 others were acquitted for lack of evidence.² On 2 May 2003, nine persons including eight Hindus and one Muslim were killed in communal attacks at the coastal village of Marad under Kozhikode city police limits³

The Kerala State Human Rights Commission (SHRC) did little visible human rights work beyond awareness raising. The government failed to rehabilitate many families evicted by the proposed International Container Transhipment Terminal, Vallarpadam.

II. Human rights violations by the security forces

According to the latest figures released by the

National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, government of India, 3,684 complaints were received against the police personnel in Kerala during 2007. 49 police personnel were sent up for trials and one was convicted while four were acquitted out of the five cases in which the Court delivered verdict during 2007. During the same year, 2278 departmental inquiries and two magisterial inquiries were instituted to probe the allegations and the following departmental actions were taken: seven police personnel were dismissed from service, 97 were awarded major punishment and 253 were awarded minor punishment.⁴

On 13 February 2008, the Kerala High Court ordered the state government to pay compensation of Rs.500,000 to the next of kin of Mohanan who died in police custody in 1999. The High Court also ordered an inquiry by the Central Bureau of Investigation (CBI) into the death of Mohanan after he was taken into custody by the Keezhvaipur police in Pathanamthitta district. The deceased's wife Sreedevi Mohanan filed a writ petition seeking CBI inquiry into the custodial death of Mohanan.⁵

In June 2008, the Chief Judicial Magistrate's court convicted the then Circle Inspector of Cherthala police station, Srikanadan Nair and Sub-Inspector Prabhakaran – both of whom had retired as Deputy Superintendent of Police – of illegally detaining one Gopi (son of Thankappan) and sentenced them to one year rigorous imprisonment. Gopi died in the police custody on 18 October 1988. The police claimed that Gopi had committed suicide by stabbing himself with a fluorescent tube. In 1999, the Kerala High Court ordered an inquiry into the role of the

then Circle Inspector of Cherthala police station Srikanadan Nair and Sub-Inspector Prabhakaran. After 20 years, the perpetrators were charged with illegal detention and convicted.⁶

Human rights violations in 2008

The Kerala Police continued to be responsible for violations of human rights, in particular custodial violence during 2008.

On 18 January 2008, a youth (name unknown) was allegedly stripped and beaten up by the police attached to Thiruvananthapuram Fort police station in full public view at the East Fort KSRTC bus station in Thiruvananthapuram. The police started to interrogate the victim following a complaint of theft of a mobile phone. When the victim protested, the policemen stripped him and made him stand for three minutes. Later on, the victim was allegedly forced to sign a confessional letter absolving the police men of any wrong doing.⁷

On 28 February 2008, one Binish (19 years), a hearing impaired Dalit youth, was taken into custody and detained at Pattanakadu police station and allegedly tortured during interrogation. The victim was tortured in order to extract a confession from him. The police allegedly burned Binish's palms. The victim was released on 29 February 2008 at about 3 pm without any charge registered against him.⁸

On 23 April 2008, Kuttan was allegedly tortured by a police officer from the Cherpu Police Station in Thrissur district. The victim was allegedly repeatedly kicked and beaten with a baton. After he lost consciousness, the police allegedly dumped him on the road. Kuttan was taken to the Cherpu Government Hospital and the medical officer referred him to the District Government Hospital

for further treatment. He was later admitted at the Mulankunathukavu Medical College Hospital. At the hospital, the medical report found that his injuries were consistent with the alleged beating.⁹

On 30 May 2008, at least six activists of the Youth Congress were injured when the police attacked them during a protest. The Congress party alleged the police beat up the demonstrators with electric batons and *lathis* (sticks) that was "brutal, vicious and unprovoked".¹⁰

Shinoj (26), son of Janardaran, resident of Kottiyam in Kollam district was summoned to the Kottiyam police station in connection with a case of river-sand smuggling. He went to the police station early in the morning of 6 August 2008 but the police recorded his arrest only at 4-30 pm of that day. He was allegedly beaten by the police and released at about 9.00 pm of the same day. According to the victim's father, there were marks of torture on the body of Shinoj when he had come back from the police station. Unable to bear the humiliation, the victim committed suicide at home.¹¹

III. Status of the SHRC

The Kerala State Human Rights Commission (SHRC) was set up in December 1998 under Section 21 of the Protection of Human Rights Act, 1993 vide G.O.(P)No.523/98/Law dated 11th December 1998.¹² The existing Commission consisted of Mr. Justice. V.P.Mohan Kumar as Chairman, Prof. S. Varghese, Member and Mrs. Justice. A. Laksmikutty, Member.

The performance of the SHRC remained unsatisfactory. Except for awareness raising the commission remained ineffective. A five-member jury of "a people's tribunal on police torture" comprising former judge of

the Mumbai High Court H. Suresh, former acting chairman of Kerala State Human Rights Commission, S. Balaraman, former pro-vice chancellor of Kerala State university, N A Karim, among others stated that the Kerala SHRC had failed to initiate action in most cases of police torture brought to its attention.¹³

The SHRC also reportedly attempted to block access to rights to information. The Information Officer of SHRC denied information to Jomon Puthenpurackal, social activist who had sought certain information under the Right to Information Act, 2005. The information was provided only after the Chief Information Commissioner of Kerala ruled in the favour of the applicant on appeal.¹⁴

IV. Freedom of the press

The non-state actors attacked journalists. On 25 June 2008, activists of the Students Federation of India allegedly beat up Pradeep Joseph of *Manorama News*; Arun John of *Malayala Manorama*; and a photographer Nishad Kurien in Kottayam. All of them sustained injuries and had to be admitted at the Government Medical College Hospital.¹⁵

V. Violations of the rights of indigenous peoples

The government agency, NCRB reported 88 cases of crime against tribals in Kerala during 2007. These included 16 cases of rape and two cases of murder.¹⁶

Police continued to violate human rights of the tribals with impunity in 2008.

In September 2008, police led by Inspector A Rocky reportedly stripped, chained and tortured Maruthan, an Irula tribal, for 37 days during interrogation in connection

with alleged rape and murder of a tribal woman in Kerala. His only fault was that he was the first to see body of the woman near a rivulet in September 2007 in Attappadi and informed other community members.¹⁷ On 1 October 2008, a tribal rights NGO, Asian Indigenous and Tribal Peoples Network (AITPN) filed a complaint with the National Commission for Scheduled Tribes. Pursuant to the notice of the NCST, the Director General of Police, Kerala, submitted report to the NCST denying the allegation of torture of Maruthan by the police. The DGP, Kerala also sent the inquiry report of the Deputy Superintendent of Police, Special Mobile Squad & Agali, Palakkad district dated 25 October 2008. AITPN stated that it found several inconsistencies in the reports submitted by the concerned authorities. According to the medical records submitted by the police, the victim was shown admitted simultaneously in two different hospitals – Government Tribal Speciality Hospital, Kottathara, P.O. Attappady, Palakkad district where the victim was admitted and treated for six days from 6.40 pm of 31.7. 2008 to 6 pm of 5.8.2008 and at Primary Health Centre, Sholayoor in Attapady under Palakkad district where the victim was treated for six days during 31.7. 2008 - 5.8.2008. AITPN further observed that- *“It is not possible that the same victim can be admitted and treated at the same time in two different hospitals. The fact that the victim had to be treated for six days and from the prescription given by the doctors it is clear that the victim’s condition was serious. It also appeared that the alleged signature of Dr. Prem Sulaja Latha appearing on his alleged written statement dated 21.10.08 does not match with his alleged signature appearing on the prescription slip dated 31.7.2008. More than half of the 21 witnesses interviewed by the investigation officer (i.e. the Deputy Superintendent of Police, Special Mobile Squad & Agali, Palakkad district) were police personnel who were junior to the prime*

accused Inspector A.A. Rokey. Hence, their submissions cannot be said to be independent and impartial".¹⁸

In a case of forced labour and exploitation of the hapless tribal women, the Kerala State Women's Commission (KSWC) in July 2008 rescued a tribal woman from forced labour at a house in Varkala where she had been working as a domestic maid. The victim who was speech and hearing impaired alleged that she had been sexually exploited. The KSWC rescued the victim after receiving a complaint from an NGO, the Human Rights Protection Forum about the plight of the victim.¹⁹

VI. Violations of the rights of women

According to the latest figure available with the NCRB, 7837 crimes against women were registered in Kerala during 2007.²⁰ Of these, 512 were cases of rapes; 177 cases of kidnapping and abduction; 27 cases of dowry deaths and 3,999 cases of domestic violence.²¹

In March 2008, Kerala government released the draft Kerala State Women's Policy aimed to check atrocities against women. As part of the policy, the state government in November 2008 formed a "gender board", which included heads of 18 departments and a representative each from the State Planning Board, State Women's Commission and five other nominated members. Under the policy, the state government planned to set up a few model villages where women would be free from atrocities and the plan would be replicate in other villages. The policy proposed to strengthen the *Jagrata Samithis*

(vigilance committees) already functioning in several villages.²²

VII. Status of internally displaced persons

The state government failed to rehabilitate many families who had been forcibly evicted to make way for the proposed International Container Transshipment Terminal, Vallarpadam. According to the Coordination Committee for the evicted persons, lack of rehabilitation forced several displaced persons to live on the street.²³

On 5 October 2008, former judge of the Supreme Court, Justice V.R. Krishna Iyer appealed to the Kerala Chief Minister V. S. Achuthanandan to withdraw the notification for eviction of large number of people for the International Transshipment Terminal project at Vizhinjam. According to Justice Iyer, a total of 1,098 hectares land had been notified for acquisition and about 6,000 families would face eviction.²⁴ However, Chief Minister V. S. Achuthanandan claimed that only 227 families were to be evicted.²⁵

VIII. Violations of the prisoners' rights

Condition of jails remained poor in Kerala. Overcrowding was again a problem. All the 19 jails in North Kerala were beyond capacity.²⁶

There were also acute staff shortages at the Kannur Central Prison with vacancies for 40 warders out of total sanctioned strength of 105 warder staff. The shortage of warders adversely impacted conditions for inmates.²⁷

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Madhya Pradesh

I. Overview

The ruling Bharatiya Janata Party government failed to address Madhya Pradesh's grim human rights record. The police personnel were responsible for repeated violation of the right to life, rape, torture and illegal detention. There were persistent police claims of "suicide" in cases of custodial deaths where the cause of death was in fact torture. For example, on 7 April 2008, Ram Singh (son of Daihare of Saalainabee village) was allegedly tortured to death in police custody at Bhandar police station in Gwalior district. He was arrested for questioning in a murder case. The next day, the deceased was found hanging from a tree in a forest. The police claimed that Ram Singh committed suicide.¹

The state failed in its obligations to prevent human rights violations and uphold the rule of law. In 2007, Madhya Pradesh accounted for 35.8% (18,526 cases out of total 51,767 cases) of cases registered against police personnel, according to the latest figure released by the National Crime Records Bureau, Ministry of Home Affairs.² This was the highest rate in India. However of these only two police personnel were actually sentenced during 2007.³ These low rates of conviction of the perpetrators do not appear to reflect the gravity of the human rights situation in the state nor provide any kind of disincentive to errant officers. They do however send a powerful signal of state's commitment to the rule of law.

This commitment is underlined by the failure of the authorities in fulfilling their obligations to provide effective justice. There were two vacancies for judges in Madhya Pradesh High Court as of 1 October 2008 and 292 vacancies

in the District and Subordinate Courts as of 30 June 2008. Unsurprisingly backlogs were high with 1,85,805 cases pending in the High Court and 10,65,789 pending in the District and Subordinate Courts as of 30 June 2008.⁴

Madhya Pradesh authorities continued to fail in its obligation to provide adequate security to its tribal communities. Madhya Pradesh recorded the highest number of crimes against tribals in India in 2007. According to NCRB, "Madhya Pradesh has reported 27.1% (1,501) of the total cases in the country."⁵

Madhya Pradesh authorities continued to fail to ensure non-discrimination in access to public services. They equally failed to protect low caste people from the attacks of upper castes. Dalits were repeatedly denied access to basic social services such as water. On 4 June 2008, Dalit woman identified as Prembai (55 years) was burnt alive allegedly by three members of an upper caste community for drawing water from a hand pump at Knatada village in Harda district.⁶

The government failed in providing access to food. Malnutrition among children continued to be widespread in Madhya Pradesh. Some 159 children died as a result of malnutrition in four districts – Shivpuri, Sheopur, Satna and Khandwa – between 8 May and 10 September 2008.

The authorities failed in their responsibility to provide sufficient living conditions in state prisons. Prisons remained seriously overcrowded and there were serious concerns about substandard health and food provision. There were also persistent allegations of torture of prisoners.

On 4 September 2008, the Madhya Pradesh High Court directed all the District and Sessions Judges across the State to inspect the Central Jails under their jurisdiction. The Court also directed them to examine the implementation of the guidelines and directions issued by the Jail Department's Principal Secretary and Director General of Jail and furnish their reports on the facilities and shortcomings faced by the jail inmates before the court.⁷

II. Human rights violations by the security forces

The government failed to address the persistent problem of gross human rights violations in Madhya Pradesh.

In 2007, Madhya Pradesh accounted for 35.8% (18,526 cases out of total 51,767 cases) of cases registered against police personnel, according to the latest figure released by the National Crime Records Bureau, Ministry of Home Affairs. Madhya Pradesh also recorded the highest number of complaints per 100 Policemen (24.1) followed by Delhi (9.9), Kerala (8.4), Punjab (8.0) and Chhattisgarh (6.6) against the National average of 3.6 during 2007.⁸ In the same year, 40 accused police personnel were sent up for trial but only two were convicted out of five police personnel whose trials were completed by the end of 2007. Nonetheless, 3216 departmental inquiries, five magisterial inquiries and four judicial inquiries were instituted to probe the allegations and the following departmental actions were taken against the accused police personnel: 10 were dismissed from service, 106 awarded major punishment and 131 minor punishment.⁹

a. Violations of the right to life

i. Custodial deaths

According to the latest figures released by the NCRB, 22 deaths occurred in police custody

in Madhya Pradesh during 2007, including three persons after the Court remanded them to police custody. As for reasons of death, the NCRB provided reasons for the death of only 12 detainees: one died during hospitalization/treatment, one killed by other criminals, six committed suicide, one died while escaping from custody and three due to illness/natural death. The NCRB categorized other deaths under the broad heading of "Deaths in police custody at the time of production/proceedings in Court/Journey connected with investigation during 2007" but failed to specify whether they died due to torture.¹⁰

In May 2008, the National Human Rights Commission (NHRC) ordered the Madhya Pradesh government to pay Rs 200,000 as compensation to the next of kin of Shanker Mali who died in police custody in January 2000. Shanker Mali's body was found in a pond near Bajaranj Garh Police station in Guna District on 23 January 2000. The police claimed that he was not in their custody at the time of death. The magistrate who inquired into the circumstances of the death supported the police version but the report was unable to credibly explain the post-mortem report that underlined marks consistent with torture on the deceased's body.¹¹

In 2008 ACHR documented a number of custodial deaths that did not appear consistent with the police claim of "suicide".

On 7 April 2008, Ram Singh (son of Daihare of Saalainabee village) was allegedly tortured to death in police custody at Bhandar police station in Gwalior district. He was arrested for questioning in a murder case. The next day, the deceased was found hanging from a tree in a forest. The police claimed that Ram Singh committed suicide.¹²

On 28 July 2008, tribal youth identified as Papu Thakur was allegedly tortured to death

while in custody at Silwani Police Station in Raisen district. The police however claimed that he committed suicide by hanging himself from the window of the bathroom of the police station.¹³

On 26 August 2008, 28-year-old Izrayel Khan of Bhadbhada area died in the custody at Sukhi Sevaniya police station in Bhopal. The police claimed that he committed suicide by hanging himself from a window in the lock-up cell.¹⁴

ii. Use of disproportionate force or firearms

The police were responsible for use of disproportionate force. In 2007, eight persons were shot death by the police in Madhya Pradesh, according to the National Crime Records Bureau.

On 4 July 2008, Rizwan Rehman (19) and Zeeshan (20) were killed when police opened fire at Joona Rishala area in Indore during riots following a *bandh* (strike) called by the Vishwa Hindu Parishad (VHP), a Hindu fundamentalist group, on 3 July 2008. The police claimed that they shot the protestors in self-defence.¹⁵

On 10 October 2008, three persons (names not known) were killed when police opened fire to control a mob which turned violent in Burhanpur district.¹⁶

b. Illegal arrest, unlawful detention and torture

On 14 February 2008, Dinesh Dutt Chaturvedi, Director of the Central Law Institute, was illegally detained and allegedly tortured by A S Baghel, Station House Officer of Government Railway Police station near the Katni railway station. Following a complaint by the victim, the Madhya Pradesh Human Rights Commission directed the State government

to pay Rs 10,000 as interim compensation to the victim.¹⁷

III. Judiciary and administration of justice

There were two vacancies of judges in the Madhya Pradesh High Court as of 1 October 2008 while 292 posts of judges were vacant in the District and Subordinate Courts as of 30 June 2008.¹⁸

A total of 1,85,805 cases were pending in the High Court and a total of 10,65,789 cases were pending in the District and Subordinate Courts as of 30 June 2008.¹⁹

IV. Violations of the rights of tribals

According to 2001 census, tribals' population was 122.33 lakhs (10 lakhs = 1 million) constituting 20.27% of the total population of Madhya Pradesh (603.85 Lakh). There were 46 recognized Scheduled Tribes and three of them - Saharia, Baiga and Bharia are identified as "Special Primitive Tribal Groups" in the state. 33.6% of total geographical area was notified as "scheduled area" and 40.63% of total geographical area was under "Tribal Sub-Plan", special area designated for development of the tribals.

a. Atrocities against tribals

Madhya Pradesh recorded the highest number of crimes against tribals in India in 2007. According to NCRB - "*Madhya Pradesh has reported 27.1% (1,501) of the total cases in the country.*" Of the 1,501 cases, 206 cases were registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989.²⁰

The police personnel were responsible for violence against tribal women. On 3 July 2008, a 14-year-old tribal girl was allegedly

raped by Head Constable Zakir Khan posted at Bisthan Police post in Khargone district. The accused forcefully entered the victim's house when she was alone and raped her. The victim had to be admitted to the Khargone district hospital in a critical condition. A case against the accused Head Constable was registered and chargesheet was submitted in the Court. He was suspended and the victim was paid a compensation of Rs 50,000/-.²¹

Tribal communities were subjected to discrimination and violence from non tribal communities. In January 2008, two tribals identified as Dhannu and Mainu Aadiwasi were forced to eat human excreta in public by six persons including the husband of the village sarpanch for demanding job cards under the National Rural Employment Guarantee Scheme (NREGS) in a village in Betul district.²²

In July 2008, a tribal school teacher identified as Champalal Akhande was allegedly beaten up by the men of a contractor for supporting the tribals agitation against the contractor at Pipalbarra village in Chicholi block of Betul district. The tribals had been protesting against illegal excavation.²³

b. Repression under the forest laws

On 17 July 2008, the Jabalpur High Court in a landmark judgment passed orders allowing tribals to continue cultivating land under their possession until verification process under the Forest Right Act 2006 is completed in Betul and Harda districts. The Court also ordered compensation of Rs 10,000 each to be awarded to tribals who were handcuffed by police during the eviction drive in 2004. On 17 July 2004, a petition was filed before the Court, which alleged that armed forest and police personnel entered the Ghorpadmal village in the name of removing encroachment. They sexually harassed tribal

women during the eviction drive. Later, the police charged 13 tribals for dacoity and attempted murder. Two tribals identified as Hanoo (60) and Shyamlal (20) were jailed for more than four months.²⁴

In August 2008, the State government ordered the withdrawal of minor forest crimes registered against tribals before 13 December 2005 as per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006. The State government also decided to stop recovery of dues of royalty compensation pending against tribals. Prior to this decision many cases of minor forest crimes were registered against the tribals under the Indian Forest Act, 1927, Madhya Pradesh Van Upaj Vyapar Viniyaman Adhiniyam, 1969 and Wildlife Protection Act, 1972.²⁵

The tribals continued to face forcible eviction, ransacking and burning and looting of their homes by forest officials. In January 2008, at least 125 houses were reportedly burned down by forest officials at Peepal Khotha and Juniwadi villages in Burhanpur district. The forest officials hired over 100 labourers to attack the villages and looted more than 25 (100 kg each) sacks of grain, about 150 chickens, 60-70 goats, money, silver, utensils and clothes. The victims had reportedly been cultivating their lands since 1979.²⁶

V. Violations of the rights of the Dalits

Madhya Pradesh had the third worst record in India for crimes against Dalits in 2007. The NCRB recorded a total of 4,106 incidents of crime against Dalits in 2007. Of these, 348 cases were registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989. The NCRB recorded 343 cases of rape against the dalit women in 2007.

a. Physical violence

The government failed to provide sufficient security to Dalits who continued to face violence from the upper caste Hindus. On 3 May 2008, a Dalit family was not allowed to have a marriage procession. The bridegroom was forced to get down of the horse by upper caste villagers at Sheragadpawdi village in Mandsaur district.²⁷

On the night of 15 December 2008, Dalit houses were attacked by members of an upper caste community at Douralvali village in Morena district. The attacks were because the Dalit community did not vote for a particular community in the State Assembly elections. The attackers also stole four buffaloes.²⁸

b. Caste-based discrimination

The Dalits were denied access to basic social services such as water.

In March 2008, a Dalit woman identified as Lochan Sethi (25) (wife of Sunil Kumar Sethi) was beaten up by upper caste people for drawing water from the village tubewell at Iribisa village under Japa Gram Panchayat in Kendrapara district.²⁹

On 4 June 2008, Dalit woman identified as Prembai (55) was burnt alive allegedly by three members of an upper caste community, for drawing water from a hand pump at Knatada village in Harda district.³⁰

In September 2008, a Dalit labourer identified as Dhan Singh Patwa was stripped and beaten up by upper caste persons for demanding his unpaid wages at Diguan village in Datia district.³¹

VI. Violations of the rights of women and children

According to the NCRB, Madhya Pradesh topped the list of states in violence against

children with 4,290 cases and came fourth worst in violence against women with 15,370 cases in 2007.³²

Rape was the dominant crime with both women and children being the target. As many as 4,053 incidents of rape were recorded against both women (3,010) and children (1,043).

On 12 August 2008, the State government announced a new policy (2008-2012) on women in the state. The policy seeks to ensure total and dignified participation of women in the development process and integrating them with the mainstream of development besides curbing violence against them and providing protection to women in every field, their empowerment and ensuring result-oriented implementation of the various policies, programmes and schemes for their welfare.

Rights of children:

As stated above, Madhya Pradesh topped the list of states in violations of the rights of the child in 2007. The NCRB stated – “*Madhya Pradesh (4,290), Maharashtra (2,707), Uttar Pradesh (2,248) and Delhi (2,019) have accounted for 21.0%, 13.3%, 11.0% and 9.9% of total crimes respectively against children at the National level*”.³³

According to the National Commission for Protection of Child Rights (NCPCR) a total of about 13,000 children were reported missing from various parts of the country since 2006. Madhya Pradesh topped the list with a total of 2,625 missing children, including 1,507 girls.³⁴

Madhya Pradesh failed to fully implement the Juvenile Justice (Care and Protection of Children) Act, 2000. Many posts of the Juvenile Homes remained vacant. In August 2008, the Madhya Pradesh Human Rights

Commission (MPHRC) recommended filling of vacant posts at juvenile homes and reconstituting child welfare committees. The MPHRC directed to recruit probationary officials, full-time superintendents, clerks and peons in the Juvenile Homes. There were 16 Juvenile Justice Boards and 14 Children Welfare Committees in Madhya Pradesh as in August 2008.³⁵

VII. Status of internally displaced persons

The Madhya Pradesh government decided to give money instead of land to persons being affected by the Narmada Dam project. In May 2008, the State government amended the Special Relief Package, 2001 so that farmers can take the money meant to buy new land. They must declare that they no longer depend on land for their livelihood. This violates the land-for-land principle of the Rehabilitation Policy of 1979 which was also upheld by the Supreme Court. In 2001, the State government shifted the onus of buying land to the displaced instead of making land allotments. In March 2008, the Narmada Valley Development Authority, which was responsible for rehabilitation 38,000 displaced families in Madhya Pradesh, claimed that the rehabilitation process was complete. The Narmada Bachao Andolan filed a case before the Jabalpur High Court seeking a central investigation into the corruption and action against officials found guilty. The State government probed 2,800 cases and found officials had registered 750 fictitious sales. The State government of Madhya Pradesh was accused of trying to legitimize the fictitious sales. While the police had filed more than 300 cases against farmers in past months, no officials or brokers were prosecuted. There were allegations of same piece of land being sold several times, fictitious landowners or non-existent land used to invent a sale.³⁶

VIII. Violations of the prisoners' rights

The authorities failed to address prison overcrowding placing prisoners at serious risk. There are 120 jails in Madhya Pradesh with the sanctioned capacity of 20,448 prisoners. However, 32,019 more prisoners were housed as in 13 May 2008.³⁷

Prisoners were served unhygienic and poor quality food. On 4 September 2008, the Madhya Pradesh High Court directed all the District and Sessions Judges across the State to inspect the Central Jails under their jurisdiction. The Court also directed them to examine the implementation of the guidelines and directions issued by the Jail Department's Principal Secretary and Director General of Jail and furnish their reports on the facilities and shortcomings faced by the jail inmates before the court.³⁸

Earlier in March 2008, the Madhya Pradesh High Court issued notices to the State government, District Collector and Superintendent of Netaji Subhash Chandra Bose Central Jail for irregularities and poor quality food being served in the jail.³⁹

There was also allegation of torture of prisoners in the jails. In August 2008, Dalit prisoner identified as Badri Saket was allegedly tortured to death by the jail officials in the Sidhi District Jail. The jail authorities allegedly attempted to hospitalise the deceased after his death. When the doctors refused to allow entry, the jail employees left the body outside the hospital and left.⁴⁰

IX. Special Focus: Malnutrition

The government failed to address the issue of malnutrition in the state. On 23 September 2008, the Madhya Pradesh government admitted that there were some 48,000 malnourished children in the state but PWD

Minister Kailash Vijaywargiya, who is also the government spokesperson, in defiance of all medical evidence, denied that any child had died as a result of malnutrition.

The PWD minister was reported as saying - "Malnutrition never causes death. It results in low immunity in the child". He attributed the deaths of 93 children in Khandwa and Satna districts in the past four months to various diseases including high viral fever, dehydration and diarrhoea. The tribals - Korku in Khandwa district and Kol in Satna district - were most affected by malnutrition. But PWD Minister Kailash Vijaywargiya blamed the tribals themselves: "*But the government alone can't be blamed for it. There are certain tribes in the state, who due to low level of literacy, do not believe in doctor's treatment but have more faith in Ojhas (witch doctors).*"⁴¹

The State government with the assistance of United Nations Children's Fund (Unicef) and the World Food Programme (WFP) initiated several special schemes like the Bal Shakti Yojana, the Shaktimaan and the Bal Sanjeevani Abhiyan. The state government's budget for the development of women and children was also increased to Rs.5.9 billion in 2008. Rs 3 billion was earmarked for

providing nutritious food to undernourished women and children. This was Rs.1.9 billion more than 2007. However, these schemes failed to reach the targeted groups. A report of the Comptroller Auditor General (CAG) of India revealed that the schemes did not reach 52-62 per cent of children and 46-59 percent of pregnant and lactating mothers in the State. The percentage of underweight children in Madhya Pradesh increased from 54 per cent in 1998-99 to 60.3 per cent presently.⁴²

Malnutrition deaths continued to be reported from the State. Many non-governmental organisation (NGOs) reported malnutrition deaths during 2008.

According to a petition filed by an NGO, *Right to Food Campaign*, 159 children died due to malnutrition in four districts – Shivpuri, Sheopur, Satna and Khandwa – between 8 May and 10 September 2008.⁴³

A study of a fact-finding team conducted by a group of NGOs revealed that seven children aged between 1½ years and 6 years died due to malnutrition in a single village in Sheopur district in a span of 10 days between 15-25 October 2008.⁴⁴

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Maharashtra

I. Overview

Ruled by the coalition government of Indian National Congress and Nationalist Congress Party, Maharashtra witnessed the worst ever terror attack on Indian soil in 2008. At least 183 people were killed in the Mumbai attacks.

The authorities failed to address the use of torture by the police. Numerous people died in police custody as a result of torture. On 23 August 2008, 30-year-old Anil Suryawanshi, an auto-rickshaw driver, was allegedly tortured to death in police custody at Nandgaon Khandeshwar village in Amravati district in the Vidharbha region. He was arrested with two others in connection with a gambling case on the night of 22 August 2008.¹

The Maoist violence was prevalent in Gadchiroli district. In an attempt to contain the Maoist conflict the state government on 17 July 2008 approved Rs 5.16 crore proposal to grant incentives to those villages in Gadchiroli and Gondia districts that deny entry to Maoists.

As per the proposal, 170 villages in Gadchiroli district and two villages in Gondia district would receive Rs 300,000 each for undertaking developmental works.² This clearly violates international humanitarian law as it draws civilians into conflict with one of the armed parties to the conflict.

Additional Director General of Police, Anti-Maoists Operation, Mr Pankaj Gupta was reported as saying that as many as 41 Maoists were killed by the police during 2005 - 2008 including 11 Maoists killed in 2008. Six

policemen were killed in 2008 against 25 in 2005, four in 2006 and three in 2007 in encounters with Maoists. The police arrested 302 Maoists in 2005, 93 in 2006, 138 in 2007 and 123 in 2008.³ The Maoists were also responsible for killing alleged “police informers” and surrendered Maoists.

The Maoists themselves were responsible for serious violations of international humanitarian law including the killing of alleged “police informers” and surrendered Maoists.

The government failed to control the activities of the Maharashtra Navnirman Sena (MNS), a political party whose cadres targeted North Indians. The MNS instigated a week-long violent campaign against North Indians in February 2008 and again the MNS attacked candidates from North Indian states who had come to Mumbai to take a railway examination in November 2008.

The government failed to act against its own forest officials to protect tribal communities from widespread human rights violations land alienation, forcible eviction and burning down of their homes. According to official data, a total of 45,634 cases had been filed in the court in the state. 44,624 cases of land alienation were disposed of by the court, of which 19,943 cases (44.7%) involving 99,486 acres of land were disposed of in favor of tribals and 24,681 cases (55.3%) against tribals. 1,010 cases were pending in the court.⁴

The government failed to protect Dalits from violations and crimes committed by upper caste communities. On 16 June 2008, Sahebrao Jondhale, a Dalit driver,

was reportedly burnt alive by upper castes at Karanjala village in Hingoli district.⁵

The government failed in its responsibilities to ensure the health of its children. Malnutrition remained a serious problem. During April - November 2008, as many as 337 children reportedly died of malnutrition in the tribal belt of Amravati region. Of these, 230 children were from 0-1 age group while 80 were from 1-3 years and 27 were from 3-6 years age group.⁶

The government failed to protect Christian minorities from the attacks of extremist Hindu groups. On 15 November 2008, a church was attacked and Pastor Philip Fernandes was allegedly stripped and beaten up by alleged Vishwa Hindu Parishad (VHP) activists at Bhayander under Navghar police station in Thane district on suspicion that he was engaged in religious conversion.⁷

II. Human rights violations by the security forces

According to the latest figures released by the National Crime Records Bureau (NCRB) under the Union Ministry of Home Affairs, 3,838 complaints were received against police personnel in Maharashtra during 2007. 1,170 departmental enquiries and 39 judicial enquiries were instituted to probe the allegations. During 2007, nine police personnel were convicted, six were dismissed from service, 18 were awarded major punishment and 91 were awarded minor punishment.⁸

Custodial deaths

According to the NCRB, 31 persons died in police custody in Maharashtra during 2007, including 18 persons who were sent to police remand by the Court. As for reasons of death, the NCRB provided

reasons for the death of only 26 detainees: four died during hospitalization/treatment, nine committed suicide, three died while escaping from custody and 10 due to illness/natural death.⁹ The NCRB categorized other five deaths under the broad heading of "Deaths in police custody at the time of production/proceedings in Court/Journey connected with investigation during 2007" but failed to specify whether they died due to torture.¹⁰

In 2008 ACHR documented a number of deaths due to alleged torture by the police.

On 7 August 2008, Sunil Laxmanrao Dhotre (35) was allegedly beaten to death by police during a raid on a gambling den at Umerkhed town in Yavatmal district.¹¹

On 23 August 2008, 30-year-old Anil Suryawanshi, an auto-rickshaw driver, was allegedly tortured to death in police custody at Nandgaon Khandeshwar village in Amravati district in the Vidharbha region. He was arrested with two others in connection with a gambling case on the night of 22 August 2008.¹²

On 15 October 2008, Waqar Abdul Wahab (60) died under circumstances of concern at the Sahar police station in Mumbai. He was brought to the Andheri police station where he was detained following his arrest in a passport forgery case on 11 October 2008. The police claimed that the deceased died due to a heart attack.¹³

III. Violations of International Humanitarian Law by the AOGs

Additional Director General of Police, Anti-Maoists Operation, Pankaj Gupta was reported as saying that as many as 41 Maoists were killed by the police during 2005 - 2008 including 11 Maoists killed in

2008. Six policemen were killed in 2008 against 25 in 2005, four in 2006 and three in 2007 in encounters with the Maoists. The police arrested 302 Maoists in 2005, 93 in 2006, 138 in 2007 and 123 in 2008.¹⁴ Mr Gupta further stated that about 320 Maoists surrendered since 29 August 2005 when the Maoists Surrender Policy was initiated. In 2008, 145 Maoists surrendered, 93 in 2005, 67 in 2006 and 39 in 2007. The state government extended financial assistance to the surrendered Maoist cadres depending on their rank.¹⁵

The Maoists were responsible for serious violations of international humanitarian law including the killing of alleged “police informers” and surrendered Maoists.

Killing of alleged “police informers”

On 5 July 2008, Maharu Fagu Dhurve (37) was killed on charges of being a “police informer” at Murumbaon village under Dhanora tehsil in Gadchiroli district. At around 8 am while Maharu was sitting in front of his house, three Maoists came on bicycles and shot him with pistols from close range. Maharu Fagu Dhurve was seriously injured and later died at Gadchiroli hospital.¹⁶

On 23 August 2008, Lulla Chuklu Pungati (33) was killed on the charges of being a police informer at Burgi (Kandoli) village under Etapalli Sub Division in Gadchiroli district.¹⁷

Killing of surrendered Maoists members

Angered by mass surrenders by their cadres and supporters in Gadchiroli, Maoists killed a number of surrendered Maoist cadres.

On 17 March 2008, the Maoists killed two surrendered cadres from Kondawahi village, under the Jaravandi police station in Gadchiroli district.

On 19 March 2008, a surrendered Maoist was shot dead in the area of Jaravandi police station in Gadchiroli district. A chit was found near his body which said he had encouraged the people to surrender.¹⁸

On 14 June 2008, surrendered Maoists identified as Anandrao Koram (23) was killed in public at Murgaon village under Dhanora tehsil in Gadchiroli district.¹⁹

IV. Judiciary and administration of justice

The authorities failed to fill up judicial vacancies and the result was backlog in the judicial system. As of 1 October 2008, there were 13 vacancies of judges in the Bombay High Court and as many as 378 judges’ posts were vacant in the District and Subordinate Courts as of 30 June 2008.²⁰

As of 30 June 2008, a total of total of 361,043 cases were pending in the Bombay High Court and 40,839,86 cases pending in the District and Subordinate Courts.

V. Freedom of the press

The government failed to prevent Hindu fundamentalist groups from attacking the press and freedom of speech.

On 5 June 2008, alleged Shiv Sangram activists attacked the residence of Kumar Ketkar, editor of Marathi daily *Loksatta*, in Thane. Kumar Ketkar had criticized the state government on the issue of installing a statue of Maratha King Chhatrapati Shivaji in the Arabian Sea.²¹

On 29 October 2008, journalist Deena Nath Tiwari (45), a resident of Uttar Pradesh, was beaten up with sticks and rods allegedly by activists of Maharashtra Navanirman Sena (MNS) outside the Karur police station in

Mumbai. He had gone to the police station to collect information regarding an attack on another resident of Uttar Pradesh by the MNS.²²

VI. Violations of the rights of indigenous peoples

According to the 2001 Census, the tribal population was 85.77 lakh (10 lakh = 1 million) constituting 8.9 per cent of the total population of Maharashtra.

The NCRB recorded 239 crimes (4.3% of the total crimes against STs in India) committed against Scheduled Tribes in Maharashtra in 2007. These included 43 rape cases, eight cases of murder, eight cases of abduction cases and 54 cases registered under the SC/ST (Prevention of Atrocities) Act of 1989, among others.

The state failed to prevent widespread human rights violations including land alienation, forcible eviction and burning down of tribal huts by forest officials.

a. Land alienation

Maharashtra has a number of laws, including the Maharashtra Land Revenue Code, 1966, that prohibit the transfer of tribal land without prior permission of the District Collector. As the Maharashtra Land Revenue Code, 1966 failed, the government of Maharashtra enacted Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974 which provided that no tribal can transfer his land to a non-tribal, by way of sale (including sales in execution of a decree of a Civil Court or an award or order of any Tribunal or authority), gift, exchange, mortgage, lease or otherwise transfer without the previous sanction (a) of the Collector, in the case of mortgage or lease for a period not exceeding five years, and (b) of the Collector, with previous approval of

Government, in other cases with effect from 6th July, 1974.²³

The government of Maharashtra itself admitted that permission by the District Collectors “appear to have been given as a matter of routine. The tribals were also induced to sell their lands because of indebtedness and poverty.”²⁴

In order to restore the alienated lands of the tribals, the state government enacted the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. This Act provides for restoration to a tribal his/her land transferred to a non-tribal during the period from 1 April 1957 to 6 July 1974 as a result of validly effected transfers (including, exchanges).²⁵

But both the land protection law - Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974 and the land restoration law - Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 have failed to check further alienation of tribal land or restore alienated lands. According to the Annual Report 2007-08 of the Ministry of Rural Development, Government of India, a total of 45,634 cases have been filed in the court in the state. 44,624 cases were disposed of by the court, of which 19,943 cases (44.7%) involving 99,486 acres of land were disposed of in favor of tribals and 24,681 cases (55.3%) against tribals. 1,010 cases were pending in the court.²⁶

b. Repression by forest officials

The government of Maharashtra failed to implement the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Tribal peoples faced evictions from their forest dwellings although they have lived there for generations.

On 2 July 2008, Jalgaon Khandesh Forest Department officials and personnel of State Reserve Police Force burnt down 125 huts and forcibly evicted over 400 Pardhi tribals from forest land near Wadoda village under Jalgaon Jamod taluka in Buldhana district. These tribals were also beaten up with sticks by the non-tribal villagers.²⁷

c. Violence against tribal women

On 28 May 2008, a newly-married tribal woman (name unknown) was gang-raped for 10 days after being kidnapped by three persons including one Pramod Waman Tadose from Maldugi village under Kurkheda police station in Gadchiroli district. She was left unconscious at Kurkheda on 6 June 2008. The police took her to Kurkheda police station and detained her overnight without admitting her to a hospital.²⁸

VII. Violations of the rights of the Dalits

Crimes against Scheduled Castes or Dalits had increased. In 2007, the NCRB recorded 1,166 incidents of crime against the Dalits in the State, compared with 1,053 incidents recorded in 2006. Of the 1,166 cases, 16 were murder cases, 80 rape cases, 13 abduction cases, 19 cases of arson, 20 cases registered under Protection of Civil Rights Act, 1955 and 370 cases registered under SC/ST (Prevention of Atrocities) Act, 1989.

On 24 September 2008, the Bhandara District and Sessions Court sentenced six persons to death and two to life imprisonment in the Khairlanji Dalit massacre case. In 2006, four members of a Dalit family, including a woman and her three children, were killed by a mob in Khairlanji village in Bhandara district.²⁹

On the night of 5 January 2008, Dalit Chandrakant Gaikwad was beaten up and his eyes gouged out by the upper caste persons

for eloping with his upper caste girlfriend at Sategaon village near Nanded district.³⁰

On the night of 16 June 2008, Dalit Sahebrao Jondhale (42), a driver by profession, was allegedly burnt alive by upper castes at Karanjala village in Hingoli district. The deceased was returning home when his vehicle was stopped after which he was gagged and tied and burnt alive.³¹

VIII. Violations of the rights of women and children

The NCRB recorded a total of 14,924 incidents of crime against women in 2007. Out of these, 1,451 were rape cases, 967 kidnapping and abduction, 436 cases of dowry death and 322 cases under Immoral Trafficking (Prevention) Act, 1956, among others. The NCRB also recorded 2,707 incidents of crime against children during 2007. Of these, 211 were killings, 615 rape cases, 590 kidnapping and abduction cases, among others.

Violence by police:

The police themselves were responsible for committing violence against children. On 31 May 2008, a 17-year-old girl was seriously injured after being beaten up and hit on her head with a baton by two police personnel at the Turbhe police station in Thane district. She had gone to the police station to give food to her brother who was arrested for robbery.³²

Malnutrition among children:

Children, especially those from tribal communities, remained vulnerable to malnutrition. Despite claims by various State government agencies, deaths from malnutrition continued to be reported from tribal belt of Melghat in Amravati region. According to the data available with the Zilla Parishad health department, about 337 children died of malnutrition between

April and November 2008. Out of 337 malnutrition deaths, 230 children were from 0-1 age group while 80 from 1-3 years and 27 from 3-6 years age group. This was despite 11 primary health centres (PHCs) in Melghat, various schemes like Child Development Centres, Day Care Unit, Matrutva Anudan scheme, Pada volunteers scheme focusing on the overall health of the tribals. Melghat had a child population of 34,888. Out of these, 14,131 children were in stage one of malnutrition, 6,750 children in stage two, 417 in stage three while 50 children were suffering from extreme malnutrition.³³

Deplorable conditions of remand homes:

Conditions in Remand Homes which were meant to shelter juvenile offenders, orphans, and children who are destitute, abandoned, or rescued remained unacceptable and a violation of the rights of the child.

For instance, the five Children's Observation Homes in Mankhurd in Mumbai were overcrowded and lack basic facilities. The popular English daily, *The Times of India* found open sewers in the grounds of the homes with a layer of garbage floating on the stagnant water. There was foul stench even before one enter the gate. The girl inmates had to wash the dishes after lunch in front of the stinking drain. Most of the toilets in the homes were poorly maintained with some having no doors and most lacking water facilities. Many were clogged with excreta. As a result, many boy inmates were forced to urinate outside the toilets of the homes. Medical care was almost non-existent. There was not a single resident medical officer for several years in the homes. A home for girls which can accommodate 100 housed about 180. There was no programme in place for those inmates who became adults.³⁴

IX. Violations of the prisoners' rights

The state failed to address conditions of jails which were deplorable with overcrowding and lack of medical facilities. The poor condition placed the inmates at risk.

In Mumbai, Arthur Road jail and Byculla jail housed 300% to 400% against their actual capacity. There were 3,000 prisoners against the sanctioned capacity of 800 prisoners in the Arthur Road jail and 800 prisoners against the capacity of 365 (200 male and 165 females) in the Byculla Jail as on 24 November 2008.³⁵

In the Kalyan Adharwadi Jail, there were over 1,500 prisoners lodged against the sanctioned capacity of 500 as in June 2008.³⁶

Besides overcrowding, jails were understaffed and lack medical facilities. For instance, out of the 216 posts sanctioned for staff for the 3,000 inmates at the Arthur Road jail, only 190 posts were filled as on 24 November 2008. There was also shortage of doctors at both Arthur Road and Byculla jails.³⁷

Prisoners were also denied medical treatment outside the jails. On 17 August 2008, under-trial prisoner Shankar Ghume died after he was denied medical treatment by jail officials at the Wardha Jail. The deceased being a heart patient requested the jail authorities to shift him to a hospital but his appeal was rejected.³⁸

X. Special focus: Farmer suicides

According to the NCRB there were 16,632 cases of suicides by farmers, including 2,369 women were reported across the country in 2007. Maharashtra accounted for the most at 4,238 cases. 1,139 farmers committed

suicide in six districts of Akola, Amravati, Buldhana, Washim, Yavatmal and Wardha in the impoverished Vidarbha region in 2008.³⁹

Earlier, in November 2007, the State government set up the Jadhav Committee to analyze the implementation of its Rs 1,075-crore package announced by the state government in December 2005 and Rs 3,750-crore package declared by the Prime Minister in 2006. However, the Committee which submitted its report to the government on 6 August 2008 stated that the schemes were ineffective due to the failure of government implementation. The Committee underlined that farmer suicides had decreased only by 200 in 2007 over 2006.⁴⁰

XI. Violations of the rights of minorities

The government failed to stop Hindu extremist attacks on Christian communities.

On 15 March 2008, nuns from St Mary's School were attacked by a mob who alleged that they were converting the tribals to Christianity at Sangoti village near Alibaug in Raigad district. One of the victims was identified as Sister Merciana Tuscano.⁴¹

On 15 November 2008, a church was attacked and its Pastor Philip Fernandes was reportedly stripped and beaten up by alleged Vishwa Hindu Parishad (VHP) activists at Bhayander under Navghar police station in Thane district on the alleged charge of converting people to Christianity.⁴²

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Manipur

I. Overview

The state government of Manipur failed to address the persistent grave human rights violations committed by security forces during 2008.

The state government and Central government failed to take appropriate action to tackle the human rights dimension of the conflict. The Manipur State Human Rights Commission (SHRC) continued to be ineffective and was largely a result of the failure of the State Government to provide adequate funds and infrastructure to the Commission to function properly. This failure is a powerful demonstration of the lack of commitment of the state to tackle its serious problem of human rights violations.

The security forces carried out numerous arbitrary arrest, torture and extrajudicial killings. There were very large numbers of credible allegations of extrajudicial killing during the year. These killings were matched by persistent claims by the security forces that these persons were members of the Armed Opposition Groups (AOGs) killed in encounters.

The credibility of the security forces was threatened by their continued insistence that these people were being killed in encounters. The courts repeatedly exposed “encounter killings” as “fake”. Put differently these represent a systematic attempt to cover up extra-judicial executions as underlined by the repeated decisions of the court which repeatedly rule in favour of compensation to the victims. For example on 19 May 2008, the Imphal Bench of Gauhati High Court ordered

the Assam Rifles to pay Rs 300,000 as compensation in the extrajudicial killing of Thangjam Binoy Singh on 7 March 2004.

ACHR accepts that encounters with AOGs will of course happen, but insists that to protect the victim’s family, the credibility of the security forces and the government’s counter insurgency efforts, each incident must be independently investigated. However compensation for the victim is welcome and needed but these incidents will not stop until those guilty of perpetrating extra-judicial killings are prosecuted and the authorities take appropriate steps to prevent the cover up that follows. This should be a concern for both the central government and the security forces.

ACHR underlines that use of extrajudicial execution of civilians is facilitated by the Armed Forces Special Powers Act (AFSPA) of 1958. The Act provides complete impunity for armed forces. It prevents prosecutions and in turn denies the law a deterrent effect; allowing the practice of extra-judicial killing of civilians to continue.

AFSPA is counter productive to the efforts of the state to end the conflicts in the region. AFSPA provides a powerful political symbol of oppression in the region. In denying victims a peaceful means to obtain justice it feeds the resentments that fuel the conflicts in the region.

AFSPA should be withdrawn in line with the recommendations of the Committee to Review the AFSPA. Withdrawing AFSPA would deny those who seek violent solutions to the problems of the region a powerful political tool.

Demands to withdraw the AFSPA gained momentum with activist Irom Sharmila's hunger strike entering its ninth year. In November 2008, the State government extended the 'disturbed area' status under the AFSPA for another year across Manipur except Imphal.

AOGs were responsible for widespread abuses of human rights and violations of international humanitarian law (IHL) including the killing of innocent civilians, forced recruitment of children, torture and extortion, etc. 2008 saw the surge in AOG activities. On 17 July 2008, following increasing reports of children going missing, the state government made it mandatory for all children between 10 and 16 years to be accompanied by parents or relatives. Parents stopped sending their children to school due to fear of abduction by AOGs. On 29 July 2008, a survey by All Manipur Elementary School Teachers' Association revealed that attendance in schools in Manipur dropped by 40 per cent ever since students started disappearing across Imphal valley.¹

The AOGs resorted to extensive use of improvised explosive devices (IED) and indiscriminate killings. IED are by their nature indiscriminate and violate IHL. The state government was unable to respond and in the absence of public security civilian groups demanded to be armed.

The state government responded by recruiting about 300 Special Police Officers (SPOs). ACHR expresses its deep concern over this development. The appointment of these SPOs blurs the distinction between combatants and non-combatants, resulting in an increased number of civilian casualties. In retaliation AOGs targeted civilians and imposed bans on civilian movement. The government was unable to adequately respond further exposing civilians to the conflict.

The failure of the state to provide security was underlined by the attack on 1 September 2008 at Chief Minister Okram Ibobi Singh's residence by suspected members of the People's Revolutionary Party of Kangleipak (PREPAK).

On 21 October 2008, at least 17 persons were killed and 34 others injured in a bombing allegedly carried out by the Kangleipak Communist Party (KCP) at Ragailong to prevent people celebrating the Diwali festival in Manipur.

Press freedom came under attack from the state and AOGs. In June 2008, the Chief Minister instructed the cancellation of registration numbers of newspapers for publishing the statements/appeals of banned organizations that violated the guidelines prescribed by the Press Council of India.² AOGs made repeated threats against a variety of media for not publishing the statements by AOGs. On 17 November 2008, the Sub-editor of Imphal Free Press Konsam Rishikanta Singh was killed by unidentified persons, believed to be members of AOGs in Imphal West district.

Development projects were the subject of protest in the State and the police sought to suppress these demonstrations violently.

The government failed to tackle poor prison conditions. Prisons lacked adequate and trained staff to handle violent AOG inmates. According to the Director-General of Prisons A.K. Parashar, there had been no recruitment of jail staff in the last 20 years. The Sajiwa jail and Imphal Central jail were shortstaffed by 625 people on 25 May 2008. There were at least two violent riots in the Sajiwa prison in 2008 resulting in serious injuries to inmates.

II. Human rights violations by the security forces

There were persistent allegations of extrajudicial killings of civilians. Both the State and Central security forces were responsible for violation of the right to life.

a. Alleged extra-judicial killings

Manipur witnessed frequent allegations of extra-judicial killings by the security forces during 2008.

ACHR documented a number of extrajudicial killings by security forces. In majority of the cases, the security forces resorted to claiming that these were ‘encounter killings’ with members of AOGs.

On 29 March 2008 at around 3.30 pm, Longjam Uttamkumar Singh (34, son of Mr Longjam Shanti Singh) was allegedly extrajudicially executed by the personnel of Manipur Police Commando at Keishamthong Longjam Leirak under Imphal West district. The deceased’s mother, Mrs Longjam Ongbi Meena Devi stated that police personnel fired shots in the air to make the sounds of an encounter and a pistol was placed beside the dead body. The Manipur Police Commando claimed the deceased was killed in an encounter and that they had recovered arms and ammunition. The police registered a case filed by the Manipur Police Commando (Case No. 97(3)2008 IPS U/S 307 IPC and 25(1-B) Arms Act). However, the police refused to register the complaint filed by the deceased’s father.³

Other cases included:

- two youths identified as Nameirakpam Mocha alias Omarchand (son of Kheda of Ithai Dam Maya) and Huidron Otel (son of late Samungou of Thanga Heisnam Leikai) who were allegedly killed by the Manipur Police commandos in an alleged fake encounter at Lamdeng

Haoching under Lamshang police station in Imphal West district on 17 January 2008;⁴

- Henkholen Haokip (son of of Khupthong Haokip) who was killed by Manipur Police commandos on the suspicion of being a “militant” at the Khuman Lampak Sport Complex in Imphal on 18 January 2008;⁵
- Sandham Raju who was allegedly killed by the Assam Rifles in an alleged fake encounter at Salem Veng in Churachandpur district on 21 January 2008;⁶
- Md Qudus Ali alias Bobocha (son of Hayet Ali of Urup village in Imphal East) who was allegedly killed in the custody of the Manipur Police commandos at Thambalkhong in Imphal East district on 7 February 2008.⁷
- Soram Rojit, a class XII student, who was allegedly killed by the police in an alleged fake encounter at Hatta Golapati in Imphal East district on 15 February 2008;⁸
- Pebam Ojit alias Inao (son of late Pakchao of Kwakeithel Lamdong in Imphal West district) who was allegedly killed by Manipur Police commandos in an alleged fake encounter at Keishamthong Longjam Leikai in Imphal West district on 20 February 2008;⁹
- Yengkhom Dhamen Singh, a shopkeeper, and his salesman Thongam Suranjoy who were allegedly killed by Manipur Police commandos after being picked up at Kongba Nongmaithem Leikai Crossing in Imphal East district on 25 February 2008;¹⁰
- Md Abdul Wahid (son of Md Barik of Porompat Thawanthaba Leikai in Imphal East district) who was allegedly killed by the Manipur Police commandos in an alleged fake encounter at Keirao Manjor Leikai under Irilbung police station on 25 May 2008;¹¹

- Langpoklakpam Bimolchandra, resident of Haobam Marak in Imphal West district, who was allegedly killed by a joint force of Manipur Police commandos and 21st Maratha Regiment in an alleged fake encounter at Changangei near the Imphal airport on 4 July 2008;¹²
 - Limlben alias Bertneo Hangsing (a football player) and Thangtinsei Kipgen, a law student, who were allegedly killed by a joint team of 115th Border Security Forces (BSF) and the Manipur Police commandos in an alleged fake encounter at the Tinsid road under Porompat police station near Imphal on 11 July 2008;¹³
 - Moirangmayum Ibomcha Singh (resident of Ingourok Awang Leikai) who was allegedly killed by personnel of Manipur Police commandos in an alleged fake encounter at Wangbal in Thoubal district on 11 July 2008;¹⁴
 - Mutum Herojit and Mutum Rajen (both residents of Keishampat Mutum Leirak in Imphal West district) who were allegedly killed in an alleged fake encounter by personnel of Manipur Police commandos at Lambui Road in Imphal East district on 14 October 2008;¹⁵
 - Khangenbam Priyokumar (son of late Ibocha of Wanjing village in Thoubal district) and Sorokkhaibam Nehru (resident of Charangpat Mayai Leikai) who were allegedly tortured to death in the custody of combined force of Manipur Police commandos and the Maratha Light Infantry. The security forces claimed that they were killed in an encounter at Ishok Chingphu in Bishnupur district on 4 December 2008;¹⁶
 - Md. Islamuddin (son of Naship Ali of Lilong Chingjao Manning) and Md. Ajad alias Sanayai (son of Md Abdul Hei of Lilong Heinoukhong under the Lilong Police Station) who were killed in an alleged fake encounter by Manipur Police commandos at Nongthan Ban village under Seimai police station in Imphal on 20 December 2008;¹⁷
 - Okram Ranjit Singh (son of O Kokil Singh of Lilong Arapati Maning Leikai) who was killed in an alleged fake encounter by a team of Manipur Police Commandos and 12th Marathas Light Infantry at Pathabi Loukon Heibi Makhong of Taobung Khok Makha Leikai under Patsoi Police Station of Imphal West district on 22 December 2008;¹⁸
 - Ningombam Gopal Singh, grade IV employee of the Imphal Bench of the Guwahati High Court, who was killed after being picked up by combined forces of Manipur Police commandos and 32nd Assam Rifles in Imphal West district on 23 December 2008;¹⁹
 - Salam Gurung *alias* Jingo (son of Mrs. Salam Memtombi Devi of Sagolband Meino Leirak Meisnam Nongthongbam Leikai) and Soubam Boucha *alias* Shachuinta (son of Mrs Soubam Radhe Devi of Sega Road Kwairakpam Leikai) who were allegedly tortured and killed after being picked up by the combined forces of Manipur Police commando and 23rd Assam Rifles at Leimakhong Mapal under Sagolband in Imphal West district on 28 December 2008;²⁰ and
 - Md. Taslimuddin alias Komol (resident of Lilong Chaobok Mairenkhum under the Lilong police station under Thoubal district) who was allegedly killed in an alleged fake encounter by the Manipur Police commandos and 32nd Assam Rifles at Liwa Road in Imphal in Manipur on 29 December 2008²¹
- The Court continued to order compensation in extrajudicial killing cases.

On 19 May 2008, the Imphal Bench of Gauhati High Court ordered the Assam Rifles to pay Rs 300,000 as compensation in the extrajudicial killing of Thangjam Binoy Singh on 7 March 2004. The deceased was arrested from his home at Laming Khumanthem Leikai in Thoubal district and killed in a fake encounter.²²

In a rare case, on 8 December 2008, the Home Department of Manipur issued an order giving sanction to the Central Bureau of Investigation (CBI) to prosecute the Assistant Commandant of 2nd Manipur Rifles, Abdul Latif for destroying evidence and conducting an improper inquiry into an alleged fake encounter in which one Tayeb Ali was killed by the personnel of the Assam Rifles on 25 July 1999. The Home Department gave the sanction after studying reports given by the CBI and District and Sessions Judge who conducted a joint inquiry. The state Home Department's Principal Secretary, D.S. Pooniah stated that the encounter was fake and that the investigating officer Abdul Latif had destroyed evidence including photographs of the deceased, his clothes etc.²³

b. Illegal arrest, unlawful detention and torture

Arbitrary arrest, illegal arrest and torture were common in Manipur.

The security forces often did not hand over detained persons to the police as is the legal obligation. On 27 January 2008, 18-year-old Abi Chiru was picked up by the personnel of 24th Assam Rifles posted at Moreh in Chandel district from Gate No. 2 of the international border in Moreh town while he was on a visit to the border town on the suspicion of being a member of a banned outfit. He was allegedly tortured and illegally detained for 23 days. On 20 February 2008, he was released with a warning not to talk about the detention.²⁴

On 7 May 2008, Sapamcha Kangleipal, president of Manipur Forward Youth Front was arrested reportedly after he criticised the State government's decision to open special police officer units at Heirok in Thoubal district.²⁵

On 14 September 2008, more than 20 passengers were reportedly beaten up by the personnel of Assam Rifles during a check at Tengnoupal Assam Rifles post under Sector 9 in Moreh district for failing to produce their personal identity cards. Two victims identified as Brajamayum Robin Sharma and RK Dhanajit Singh were beaten up with bludgeon and firewood respectively several times on their backs and knees in the interrogation room.²⁶

On 27 September 2008, Konthoujam Kanta Singhman (51, resident of Moreh ward-6 in Moreh district) was allegedly beaten up by the personnel of 31 Assam Rifles during a raid on his house on the alleged charge of harbouring militants. The victim was also forced to pose with a weapon for a photograph after they failed to find any suspects.²⁷

III. Violations of International Humanitarian Law by the AOGs

AOGs were responsible for violations of international humanitarian law including violation of the right to life, torture, forced recruitment, abduction and extortion.

AOGs have proliferated in Manipur making the conflicts ever more intractable. There are according to the Union Home Ministry estimates 39 armed organizations operating in Manipur.²⁸ Some of the major AOGs include: People's Liberation Army (PLA), United National Liberation Front (UNLF), People's Revolutionary Party of Kangleipak (PREPAK), Kangleipak Communist Party (KCP), Kanglei Yaol Kanba Lup (KYKL),

Manipur People's Liberation Front (MPLF) and Revolutionary People's Front (RPF).

a. Torture

AOGs employed torture in Manipur.

On 31 May 2008, five residents identified as S Moses Kom (41), Dr Thangneiring Kom (50), L Thangthang (60), L Thangkhomang (60) and L Ashong (50) of Kangathei village in Churachandpur district were tortured by suspected Kuki National Front's Military Council (KNF-MC) group for refusing to obey their orders in connection with the National Rural Employment Guarantee Scheme. Two victims had bruise marks all over their bodies, and the rest suffered fractures in the arms and fingertips.²⁹

In June 2008, the Kanglei Yawol Kann Lup (KYKL) and United National Liberation Front (UNLF) imposed a ban on movement on Heirok residents in Thoubal district after they supported the government's move to recruit special police officers (SPOs) from the village. The two groups also announced capital punishment to five persons whom they believe were responsible for obtaining arms and appointing SPOs.³⁰ The ban on movement was ongoing as this report went to publication.

On 19 June 2008, B. Kunjeshore Singh (58), executive engineer of the Manipur Public Works Department, was shot at by suspected PREPAK cadre at his left leg above the knee at Wangkhei Angom Leikai in Imphal East district.³¹

On 26 June 2008, at least 12 persons, including two minor girls, were injured when suspected cadres of the Peoples Revolutionary Party of Kangleipak (PREPAK) hurled a grenade on protestors at Ningthoukhong bazaar in Bishnupur district. They were protesting against extortion by the group.³²

On 15 September 2008, suspected UNLF cadres picked up 30-year-old Laishram Sachikumar Singh from his shop and shot at his thigh at Thangmeiband Thingen in Imphal for allegedly disregarding their order to return home to Heirok village.³³

On the night of 24 September 2008, three persons identified as N Yaima (47), N Salu (60) and L Ibomcha (30) were injured when an unidentified gunman opened fire on a bus in Imphal West district. The victims were returning after giving a memorandum to the Chief Minister demanding protection of the village following the ban on movement imposed by AOGs for the villagers' alleged support for the Special Police Officers.³⁴

b. Killings

AOGs targeted government officials, NGO activists, community leaders, political leaders, migrant workers, journalists, alleged police informers and laymen suspected of carrying out activities against AOGs.

On the night of 26 November 2008, five persons, engaged in dam construction work, identified as Yumnam Kumar Singh, Thounaojam Nongal, Loitongbam Naobi Singh, Md Manjur and Debendra Thapa were executed by an unidentified AOG at Maphou dam site in Nongdam Tangkhul near Imphal. Another dam worker identified as Heikrujam Inaobi survived the attack by pretending to be dead for two hours.³⁵

On 22 November 2008, two persons - Yumlembam Inaobi and Maibam Chaoba Singh - engaged in the dam project were found dead inside a car from Lamlai area in Imphal East district.³⁶

On the night of 24 March 2008, three persons identified as Ms Laishram Nirmala Devi (16), Ms Thokchom Promila Devi (18) and Mr Romesh were killed and another girl was

seriously injured when suspected PREPAK cadres opened fire during a traditional dance festival at Heirok part-II in Thoubal district.³⁷ Following the killing, the residents asked the State government to arm them to protect themselves.

Some others killed by AOGs during the year included:

- Md Fakiruddin (15) who was killed when suspected PULF cadres opened fire at at Sekmajin Khunou under Mayang Imphal police station on the night of 2 January 2008;³⁸
- Md Juma Khan (37), a driver, who was blindfolded and executed by unidentified gunmen at Kakching Mairenbam Maning Khongnang Makhong under Kakching police station on 13 February 2008;³⁹
- Takhellambam Mani *alias* Sanamani (37) who was abducted and executed by suspected PREPAK cadres on the charges of being informer of the security forces in Chandel district on 17 February 2008;⁴⁰
- Lairelakpam Angonao *alias* Anthony who was executed by unidentified gunmen on the suspicion of being a police informer at Kongba Nongthonbam Leikai in Imphal East district on the night of 5 June 2008;⁴¹
- Senjam Sunil (30) (son of Khambaton) who was killed by suspected cadres of the KCP –MC (Khuman group) allegedly for refusing to give his vehicle to them at Phoubakchao under Kakching police station in Thoubal district on 21 September 2008;⁴²
- Seram Shanti Devi, senior leader of *meira paibis* (women activists) who was shot dead by suspected Kangleipak Communist Party (Military Council) in front of her family at her house in Imphal East district on charges of being an informant to the security forces on

the night of 14 December 2008;⁴³ among others.

AOGs continued to kill Hindi-speaking migrant labourers in Manipur during 2008. Hindi-speaking Migrant workers were rounded up from different location and executed by firing squads. Some of the instances included:

- seven labourers from Bihar who were forced to stand in a line with their hands tied behind their backs and executed by unidentified AOG at Mayang Imphal Heiyen Hangul in Imphal West district on 17 March 2008;⁴⁴
- four Hindi-speaking labourers who were shot dead by unidentified gunmen in Imphal East and Imphal West districts respectively on 24 June 2008;⁴⁵ among others.

AOGs were also responsible for the use of improvised explosive devices to target civilians. On 8 March 2008, suspected cadres of People's Revolutionary Party of Kangleipak (PREPAK) exploded a hand grenade at the gate of the heavily guarded State Assembly Complex of Manipur.⁴⁶

On 21 October 2008, at least 17 people were killed and several others injured when an IED fitted to a two-wheeler exploded at Ragailong village in Imphal.⁴⁷

On 9 June 2008, farmer Sanasam Thoiba was killed in an IED blast while working at his field bordering a BSF camp at Wangjing in Thoubal district.⁴⁸

Political activists were also targeted during the year, but there were no reports of fatalities.

On 1 September 2008, the high-security official residence of Chief Minister Okram Ibobi Singh came under grenade attack by suspected members of the PREPAK.

On 4 August 2008, suspected PULF cadres attacked the house of Md Azad Ali, President of the Thoubal District Youth Congress with bombs and gunfire at Sangaiyumphak Terapur in Thoubal district.⁴⁹

On the night of 11 August 2008, alleged members of Kangleipak Communist Party threw four grenades at the residence of Manipur Agriculture Minister Loken Singh in Bishnupur district.⁵⁰

c. Extortion

Extortion by AOGs increased during the year. Shops, factories, schools, media, banks and hospitals were targeted. According to a report of the *Imphal Free Press*, AOGs in Manipur extort money totaling Rs 160 crore per year.⁵¹

On 8 January 2008, the United Bank of India was forced to close its branches in Manipur following an extortion demand of Rs 10 lakh coupled with threats by an armed group.⁵²

On 17 May 2008, the PREPAK demanded Rs 200,000 as “annual tax” from pharmaceutical shop owners in Thoubal district. PREPAK threatened to close down shops if they failed to pay “tax”.

On 19 June 2008, six teachers of the Manipur University were asked for Rs 100,000 each by the KCP (MC) Lanchanba group.⁵³ On 1 July 2008, the Jawahar Navodaya Vidyalaya at Umathel in Thoubal district decided to close the school due to extortion demands by other AOGs including the Kuki National Army (KNA) and Naga National Council (NNC).⁵⁴

In July 2008, an Imphal-based armed group demanded 10 per cent of the entire annual budget of the All India Radio and two per cent from the salaries of all staff. The group

threatened to target all staff of the AIR for failure to pay.⁵⁵

In December 2008, Y Suresh and Ng Robindro, engineers of the technical section of the Regional Institute of Medical Sciences (RIMS), were reportedly abducted by KCP (Ibungo Ngangom) group in connection with a ransom demand of Rs 3 crore to the RIMS authorities.⁵⁶ In September 2008, grenades were thrown at Kangleipak Para-Medical and Nursing Institute at Khurai in Imphal East district on three different occasions for failing to meet extortion demands.⁵⁷

IV. Judiciary and administration of justice

Twenty-eight courts spread over nine districts of Manipur were functioning under the two judicial divisions - Manipur East and Manipur West.⁵⁸ As of 30 June 2008, there were eight vacancies of judges out of 34 judges positions in the District and Subordinate Courts with 6,442 cases pending for disposal.⁵⁹

V. Status of the SHRC

The Manipur State Human Rights Commission (SHRC) continued to be ineffective. The State Government failed to provide adequate funds and infrastructure required for smooth functioning of the Commission. There was shortage of staff members.

At its 10th anniversary on 27 June 2008, W.A. Shishak, Chairperson of the Commission, stated that SHRC was just a “signboard panel.” The Chairperson stated that the Commission was suffering from acute shortage of infrastructure and manpower. The State government even did not release honorarium for the chairperson and members unless pursued.⁶⁰

VI. Freedom of the press

Journalists continued to work under immense threats both from the State and the AOGs. In June 2008, Manipur's Chief Secretary issued instructions to the Director General of Police (DGP) to collect the copies of newspapers published in the state which had published the statements/appeals of different banned organizations, and forward the same to the Press Council of India with a recommendation for cancellation of the licence of such newspapers.⁶¹

On the night of 26 September 2008, five media persons identified as Kheda (reporter of *Sanaleibak*), Jinendra Maibam (secretary in-charge of All Manipur Working Journalists' Union), Inoucha Salam (senior reporter of *Huiyen Lanpao*), W Rishikesh (reporter of *Huiyen Lanpao*) and Th Dinesh (DTP computer operator of *Sanaleibak*), were assaulted by two India Reserve Battalion personnel on duty while returning from work at Waheng Leikai in Imphal. They were assaulted even though they identified themselves as journalists.⁶²

In October 2008, the Director General of Police, Manipur, Y Joykumar Singh allegedly detained editors and members of the All Manipur Working Journalists' Union and forced them to reveal sources on reports of illegal activities of police personnel. This was apparently in reaction to news reports linking police personnel to illegal smuggling to Myanmar.⁶³

On the other hand, the media houses also faced the wrath of the various AOGs operating in the state who wanted to impose their diktat on the media.

In June 2008, all Imphal-based newspapers were forced to suspend publication following threats from the Lanheiba group of the Kangleipak Communist Party (Military

Council) over the publication of a statement issued by its rival faction. The group threatened the editors and reporters with dire consequences if their offices were kept open.⁶⁴

On 23 June 2008, local cable network ISTV was threatened by alleged members from PREPAK to suspend its news services after it did not carry a telephone statement of the group.⁶⁵

In August 2008, Kangleipak Communist Party-Military Council (KCP-MC) banned the *Poknapham*, the largest circulated vernacular daily, for not publishing a statement issued by them on the front page.⁶⁶

On 17 November 2008, Konsam Rishikanta Singh (25), Sub-editor of Imphal Free Press, an English Daily based in Imphal, was killed by unidentified persons in Imphal West district. The deceased's hands were tied behind and his mouth gagged with a piece of cloth and shot from close range.⁶⁷

VII. Violations of the rights of women

The government agency, NCRB recorded 188 cases of violence against women in Manipur during 2007. Of these, 20 were cases of rape, 83 were kidnapping and abduction cases, among others.⁶⁸

Violence against women increased during 2008. According to Women Action for Development, 153 cases, including 16 rape and 17 murder cases, were recorded in the State in 2008. This was highest compared to about 99 cases (2007) and 105 cases (2006).⁶⁹

Both the security forces and AOGs were responsible for violence against women including rape.

On 12 August 2008, the Imphal Bench of the Gauhati High Court directed the Central government and the army to pay compensation of Rs 2 lakh to a rape victim. The victim identified as Elangbam Ongbi Ahanjaobi was raped by two havildars of the 2nd Mahar Regiment identified as Apparao Mariba Waghmare and Vithal Domaji Kalane in front of her physically handicapped son at her home during an operation in the Takyel area in Imphal West district in 1996.⁷⁰

On 11 October 2008, two women – Adipou Pamei (39, daughter of Janglungpou Pamei of Namkaolung village of Khoupum valley) and Kachakthuina Rongmei (30, daughter of Kukhonpou Rongmei of Gaidimjang village, Khoupum valley) were beaten up by the personnel of 2nd Indian Reserve Battalion (IRB). The two victims were returning home after delivering food to a patient at Public Hospital and Research Centre at Hatta. They were passing by the residence of Mr P Kipgen, Chief Engineer of the Manipur State Rural Road Development Agency. Suddenly, there was a banging sound at the gate of Mr P Kipgen. The IRB personnel guarding the house rushed to the gate, caught the two victims and started beating them. Kachakthuina Rongmei was hit with rifle butts causing serious injuries in the face and head.⁷¹

On 7 October 2008, a 12 year old girl, daughter of Manipur Deputy Speaker, was allegedly raped by a member of the IRB after she was taken out to watch a religious festival.⁷²

In February 2008, a girl was allegedly raped at gunpoint by one Salam Biren alias Mangal, an alleged cadre of United National Liberation Front (UNLF) and Heikrujam Mono of another AOG at Yumnam Huidrom in Imphal West district. The UNLF reportedly awarded death penalty to both the perpetrators.⁷³

VIII. Violations of the rights of children

The AOGs targeted children for recruitment in their forces in 2008.

On 17 July 2008, following increasing reports of children going missing, the state government made it mandatory for all children between 10 and 16 years to be accompanied by parents or relatives.⁷⁴

From January to mid-July 2008, at least 45 cases of kidnappings by suspected armed opposition groups including 21 missing reports of children below the age of 18 years were lodged in different police station in Manipur. Of these, some children were released or escaped the custody. In some cases, the parents did not report to the police. According to the police, over 15 children were recruited by the armed groups as their cadres.⁷⁵

On 6 July 2008, two children, aged 13 years and 11 years, (name withheld) were kidnapped by suspected PREPAK group from Iroishemba village in Imphal West district. Later, they were released reportedly following protest by villagers.⁷⁶

In May 2008, two children, aged 12 and 15 years, (name withheld) were abducted by an armed group in Imphal West district. On 16 July 2008, they escaped but their mothers were kidnapped by the armed group who demanded the return of the children.⁷⁷

Parents did not send their children to schools due to fear of abduction by armed opposition groups. On 29 July 2008, a survey by All Manipur Elementary School Teachers' Association revealed that attendance in schools in Manipur dropped by 40 per cent ever since students started disappearing across Imphal valley.⁷⁸

IX. Status of internally displaced persons

Dam projects in the State were subject of controversy during the year. The dams will cause displacement of large number of tribal peoples and destroy the bio-diversity of the State. For instance, the Mapithel Dam (Thoubal Multipurpose Project), which was approved by the Planning Commission in 1980, is slated to fully and partially submerge as many as 17 tribal villages in upstream areas. The affected families claim that the Dam was approved without their prior and informed consent and without proper rehabilitation and resettlement arrangement.⁷⁹

On 3 November 2008, 45 women protestors were seriously injured after being beaten up by security forces while they were on their way to the Mapithel Dam site to protest the construction of the dam. One of the injured women identified as Mrs Lungmila (50) was critically injured after she was hit by a tear gas canister on her temple, damaging her skull. She went into a coma and subsequently had to undergo two operations.⁸⁰

X. Violations of the prisoners' rights

Manipur jails lacked adequate staff. According to Director General of Prisons A.K. Parashar, there had been no recruitment of jail staff in the last 20 years. The Sajiwa jail and Imphal Central jail were short of 625 staff as of 25 May 2008. This in turn resulted in failure to control riots among the prisoners. In May 2008, a riot among prisoners broke out at Sajiwa Jail which left 39 prisoners injured. A room of the jail was also burnt during the riot.⁸¹

Again on 20 November 2008, four prisoners belonging to two rival armed opposition groups were seriously injured during a clash in the Sajiwa Jail.⁸²

The Sajiwa jail was overcrowded. There were more than 500 prisoners against the sanctioned strength of 400 inmates in the Sajiwa at end of 2008.⁸³

Endnotes

1. Abductions keep kids home - Manipur schools register 40% drop in attendance, The Telegraph, 30 July 2008
2. Media on trial, The Sangai Express, 18 June 2008
3. ACHR's Complaint to NHRC, 3 April 2008, [Reference No.: MN/24/2008](#)
4. Slain youths were innocent, claim families, The Kanglaonline, 18 January 2008
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Meghalaya

I. Overview

The ruling Meghalaya Progressive Alliance (MPA) government, failed to prevent human rights violations by the security forces.

The state failed to provide effective public security while the Armed Opposition Groups (AOGs) continued to perpetrate violations of international humanitarian law. The AOGs continued to be active in the state and carried out extortions and kidnappings. On 23 July 2008, the Central government extended the ceasefire with the Achik National Volunteers' Council (ANVC) for an indefinite period.¹

In August 2008, the state government decided to hand over the investigation into the 2005 shootings at Tura and Williamnagar in the Garo Hills to the Central Bureau of Investigation. In 2005, nine persons were shot dead by the police during demonstrations against proposal to shift the state education board headquarters from Tura to Shillong. Two separate judicial inquiry commissions were instituted in February 2006 but both failed to deliver justice to the victims.

Meghalaya despite having matrilineal society reported increase in violence against women. According to police statistics, a total of 2,115 incidents of crime were recorded during 2008 in the state. Of these, 194 cases related to violence against women (VAW) including 89 rape cases.² In 2007, 172 cases of VAW including 82 rape cases were registered by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs.³

The judiciary was hampered due to vacancies of judges adding to backlog of cases. There were six vacancies of judges out of the sanctioned strength of 10 in the District and Subordinate Courts with a total of 12,044 cases pending as of 30 June 2008.⁴

Prisoners' rights continued to be violated in the state. Many under-trials were detained without trial for years.

II. Human rights violations by the security forces

According to the latest figures released by the NCRB, 16 complaints were received against the police personnel in Meghalaya during 2007. 12 departmental enquiries were instituted to probe the allegations. Five police personnel were dismissed from service, 67 were awarded major punishment and 103 were awarded minor punishment during 2007.⁵

Custodial deaths:

The NCRB recorded two cases of deaths in police custody in the state during 2007. Of them, one died due to illness/natural death while another committed suicide, according to the official version.⁶

In 2008 at least one person died in police custody. On 4 August 2008, Dharmen Hajong, an alleged leader of the United Liberation Front of Asom (ULFA), died in the lock-up at Tura police station in Garo Hills district. The police claimed that he committed suicide by hanging himself with a blanket in the toilet of the police station. The state government ordered a magisterial probe into the death.⁷

Illegal arrest, unlawful detention and torture:

The police personnel were responsible for illegal arrest, unlawful detention and torture. On 20 March 2008, David Laitflang, reporter of *Aaj Tak* News channel, his wife Venetia Mawlong and his cameraman Edilberth Kharnaor, were allegedly beaten up by police personnel in Shillong.⁸

On 23 December 2008, Alex M. Laloo (22 years) was allegedly tortured by S. Thapa of Meghalaya Police at Jhalupara in Shillong. The victim sustained injuries and had to be admitted to a hospital for treatment.⁹

The Border Security Force (BSF) was also responsible for torture of civilians. In March 2008, Momel Bora, a village headman, was allegedly tortured at a personnel of Border Security Forces (BSF) at Bholaganj village in East Khasi Hills district. The victim was taken to the BSF camp following a fight with a BSF personnel and tortured.¹⁰

On 28 October 2008, the Headmaster of St. George School and some members of Ryngku Puja Committee (a religious committee) were allegedly tortured by the Company Commander and another personnel of the BSF (attached to the BSF camp posted at Sonatala in East Khasi Hills) at Ryngku in East Khasi Hills district.¹¹

On 13 December 2008, Mr Robi Boro was injured after being beaten up by BSF personnel of Bholaganj Border Out Post at Bholaganj in East Kashi Hills district.¹²

The Court ordered compensation to victims of illegal detention. On 13 June 2008, a bench headed by Justice J Chelamshwar and Justice Anima Hazarika of the Guwahati High Court directed the State government of Meghalaya to pay compensation of Rs 100,000 each to three persons - Rambahadur

Chetri, Deependra Limbu and Tarabahadur Gurung - who were illegally detained for over eight months. The victims, residents of Langpiph area, were picked up by police on 14 May 2004 and detained for over eight months. After their release, the victims moved the High Court alleging that they were detained for allegedly "residing in Meghalaya illegally". The Court found the detentions illegal and violation of Article 21 (Protection of Life and Personal Liberty) of the Indian Constitution.¹³

III. Violations of international humanitarian law by the AOGs

The Armed Opposition Groups (AOGs) were responsible for violations of international humanitarian law.

Various AOGs carried out extortions and kidnappings. The Hynniewtrep National Liberation Council (HNLC) conducted extortion drives especially in the coal-rich areas of Jaintia Hills.¹⁴ On 15 April 2008, HNLC allegedly demanded Rs 1 crore (10 million) from M/s Hills Cement Factory at Mynkre in Jowai in Jaintia Hills district and threatened the factory owner with dire consequences if the demand was not met.¹⁵

On 10 November 2008, the police arrested a member of Liberation of A'chik Elite Front (LAEF) while he was allegedly extorting money from businessmen at Nangalbibra bazar in South Garo Hills district.¹⁶ Earlier, on 7 October 2008, alleged cadres of LAEF kidnapped one Opingstone Momin from Dainadubi in East Garo Hills district.¹⁷

Another civilian identified as Sengrak M. Sangma was reportedly abducted allegedly by cadres of Meghalaya People's Liberation Front (MPLF) from Kharkutta village in East Garo Hills district on 18 September 2008.¹⁸

IV. Violations of the rights of women and children

Violence against women especially sexual abuse rose in Meghalaya which has matrilineal society. The police recorded 194 cases against women including 89 cases of rape in 2008.¹⁹ According to the NCRB a total of 172 incidents of crime, including 82 cases of rape, against women were recorded in the state during 2007. The NCRB also recorded 71 incidents of crime against children, including 41 cases of rape, during the same period.²⁰

Sexual violence

The security personnel were responsible for sexual violence.

On 18 February 2008, two personnel of Assam Rifles identified as Jabbar Singh and Pankaj attempted to rape two minor girls (name withheld) in Shillong. The victims were rescued by the local residents.²¹

On 11 October 2008, three police personnel identified as I.C. Marak, Poster Myrsing and Rejoy Marak attempted to rape Mrs Anjali Sharma at the residence of one of the accused at Tikrikilla in West Garo Hills district. The victim sustained injuries in the attack.²²

On 20 December 2008, constable Shyamlal Sharma of 21st BSF allegedly sexually harassed a women constable (name protected) of 2nd Meghalaya Police at Tura in West Garo Hills district.²³

In addition, other public officials were also responsible for rape of minors. On the night of 9 March 2008, a 16-year-old girl was allegedly raped by Forest Officer Chui Bareth in Jaintia Hills district.²⁴

V. Violations of the prisoners' rights

Many under-trial prisoners were detained in jails without trial in Meghalaya. In April 2008, the state government directed all the concerned authorities to furnish reports of the number of pending cases and position of the trial of the prisoners in two weeks. There were more than 600 prisoners being lodged in the Meghalaya's jails. Of these, about 70 per cent were undertrials with cases pending for years.²⁵

On 1 July 2008, undertrial prisoner identified as Sunil Dutta (21) allegedly committed suicide by hanging himself from the roof of the toilet in the Shillong District Jail.²⁶

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Mizoram

I. Overview

The ruling Mizo National Front (MNF) government failed to adequately address very high levels of human rights violations against the state's minorities including religious, ethnic and linguistic communities. Ethnic minorities faced systematic discrimination in employment, accessing basic healthcare, education and development.

The Ministry of Home Affairs provided significant development assistance to Mizoram under the Border Area Development Programme to develop the areas near the international borders. ACHR visited the target areas and there is, at best, very limited development along the Mizoram-Bangladesh international border areas inhabited by the Chakma tribals who are minorities in the state.

The state government failed to provide a rehabilitation plan for the over 35,000 Chakma tribals facing imminent displacement from 49 villages due to the ongoing India-Bangladesh border fencing project. The Mizoram government took a bizarre stance on the issue stating that it did not consider people who were fenced onto the Bangladesh side to be "displaced".

On 1 October 2007, Rev Chanchinmawia, former moderator of the Presbyterian Church Synod of Mizoram, was found dead. His body, with injuries caused by sharp and pointed weapons, was found at his Khatla Pastor's official residence, Aizawl. However, a Special Investigation Team (SIT) of the state police concluded that he had committed suicide.¹ While demanding a re-investigation, a human rights watchdog

People's Right to Information and Development Implementing Society of Mizoram (PRISM) on 27 May 2008 alleged that "*The fact that Revd Chanchinmawia had received death threat mails several times due to his outright criticism of the Government, the circumstances of his death, the manner of the police investigation and the missing of the weapon of crime (found near the pastor's body) indicated that his murder had been meticulously planned*".² Public outcry forced the state government to hand over the case to the Central Bureau of Investigation (CBI) in August 2008.

There were some positive steps taken by the state government. On 1 June 2008 the state Cabinet approved the government's plan of separation of judiciary from the executive.³ In February 2008, Mizoram's Director General of Police, Lalrokhuma Pachuau claimed that the state had the highest crime detection rate in the country. Mizoram's crime detection rate increased from 93% in 2006 to 96.55% in 2007.⁴

II. Violations of International Humanitarian Law by the AOGs

Insurgency related violence continued albeit at lower levels than in other North Eastern states.

On 2 September 2008, four Mizoram Armed Police (MAP) personnel including a Sub Inspector were killed in an ambush by the AOG, Hmar People's Convention (Democratic) near Saipum in Kolasib district. The security personnel were carrying monthly salaries and rations for their colleagues guarding the Serlui hydel power complex when they came under attack. Four

policemen died on the spot and three were injured. While claiming responsibility for the attack the Hmar People's Convention (Democratic) warned of more attacks in the future.⁵

III. Judiciary and administration of justice

In his budget speech for 2008-09 in the State Assembly on 13 March 2008, Chief Minister Zoramthanga announced that *"We have completed the process of separation of Judiciary from the Executive by absorption and induction of the existing Judicial Officers into the Mizoram Judicial Service. Excluding the Autonomous District Council areas, Civil Courts have been established during the current year. It is the commitment of my Government that efficient functioning of the Judiciary for smooth administration of justice will always be ensured"*.⁶

On 1 June 2008, the State cabinet approved the separation of judiciary from the executive. The Cabinet's decision followed a dialogue between Mizoram Chief Minister Zoramthanga and Justice J Chalmeshwar, Chief Justice of the Gauhati High Court in Aizawl on 17 May 2008. The Cabinet also approved the Mizoram Judicial Service (Amendment) Rules. The separation of judiciary would also apply to the three Autonomous District Councils - Lai, Mara and Chakma which have some degree of autonomy under the Sixth Schedule to the Constitution of India.⁷

IV. Violations of the rights of women and children

On 20 March 2008, the government of Mizoram re-constituted the Mizoram State Commission for Women for a period of three years with the Chairpersonship of Mrs Rozami, President of the Mizo Hmeichhe

Insuihkhawm Pawl (MHIP), the apex body of the Mizo women in the state.⁸

In 2007, 151 cases of crimes against women were reported from Mizoram, according to the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs. These included 83 cases of rape, 66 cases of molestation and two cases of cruelty by husband and relatives.⁹

The NCRB also reported 64 cases of crimes against children in 2007. These included 60 cases of rape, three cases of murder, and one case of "other crime".¹⁰ Mizoram's child mortality increased during 2007-08.

At least 608 children died during 2007-08 as compared to 258 during the previous year, according to Health and Family Welfare Department, government of Mizoram.¹¹ Yet, many other cases went unrecorded, including in the Chakma-dominated areas along the Mizoram-Bangladesh borders.

In capital Aizawl alone, the National Domestic Workers Movement Welfare Trust (NDWMWT) identified 1,832 domestic workers from 2005 to 2007 where Myanmar migrants constitute 35.2 per cent. The Chin League of Women claimed that there were more than 3,000 Myanmar migrant girls working as domestic helps in Aizawl.¹²

Domestic helps were subjected to sexual and other forms of abuse. On 3 June 2008, the police arrested an employer following a complaint lodged by Mizoram unit of the NDWMWT with the Bawngkawn police station in Aizawl on behalf of a 16-year-old Myanmar migrant girl, who was allegedly molested by her employer on 30 May 2008.¹³

V. The Bru crisis

The state government failed to repatriate a single Bru internally displaced person (IDP) from Tripura by the end of 2008. The State failed to address the appalling conditions of the tribal Bru people living in relief camps in Tripura. Following a complaint filed by Asian Indigenous and Tribal Peoples Network (AITPN), a tribal rights NGO, against the non-inclusion of 7,204 Bru internally displaced children in Tripura, the National Commission for Protection of Child Rights (NCPCR) on 8-9 September 2008 visited the relief camps in Tripura. The members of the NCPCR *“were appalled by the sub human conditions under which the families had to survive.... There was none or little, if any, registration of births and deaths, marginal immunisation, no health facilities or primary health centres, no functional schools, no safe drinking water, poor sanitation and inadequate rations”*. At least 30 Bru children died in the relief camps due to malnutrition and disease in August 2008 alone. The NCPCR made several recommendations to improve the conditions of the internally displaced children including the Brus sheltered in Tripura state.¹⁴

A joint survey by AITPN and Mizoram Bru Displaced Peoples Forum reportedly found that 7,204 Bru tribal children had not been included in the relief ration cards which made them ineligible for basic relief like 225 gm rice, *dal*, and cash of Rs 1.45 per day, clothes and other facilities given by the Ministry of Home Affairs, government of India through the Food, Civil Supplies and Consumer Affairs Department, government of Tripura. The adult Brus had to share the food quota and other facilities with their children.¹⁵

Only 8,061 Bru IDPs were enlisted in the Mizoram voters' list. Of them 6,479 persons who had been issued electoral photo identity cards (EPICs) were able to cast their votes in

the last State Assembly elections held on 2 December 2008 through postal ballot.¹⁶

VI. The status of minorities

The state government of Mizoram failed to address systematic discrimination against minorities – ethnic, linguistic and religious who constituted 27% of the state's populations. Minorities complained of systematic discrimination in employment, accessing healthcare, education and development.

The Mizoram Accord of 1986 guarantees that *“The rights and privileges of the minorities in Mizoram as envisaged in the constitution shall continue to be preserved and protected and their social and economic advancement shall be ensured.”* The state government failed to honor these commitments.

In 1972, Chakmas, Maras and Lais were granted an Autonomous District Council (ADC) each in southern part of Mizoram. On 13 February 2008, during a visit to the state Mani Shankar Aiyar, Minister for Development of the North Eastern Region said he was shocked at the conditions in these ADCs. He told a gathering in Aizawl - *“It appears that only a very small proportion of funds have reached these people who constitute 15 per cent of the state's population. I can now understand why the minorities are demanding Union Territory status. Mizoram should remain one, but it can remain united only when all the sections of the people feel that they are equally treated”*.¹⁷

Minorities excluded from the Autonomous District Councils (ADCs) had to face more discrimination and neglect. In April 2008, ACHR visited the Mizoram-Bangladesh border areas in Mamit and Lunglei districts which are predominantly inhabited by Chakma tribals. These areas are supposed to benefit from the

very large sums of development assistance provided by Central government. The state government received Central funds under the Border Area Development Programme (BADP) for the development and welfare of the people living near the international borders (with Bangladesh and Myanmar). The main objective of the programme is to meet the special developmental needs of the people living in remote and inaccessible areas situated near the International border. The schemes/ works under BADP include construction/maintenance of roads, water supply, education, sports, filling gaps in infrastructure, security, organisation of early childhood care and education centre, education for physically handicapped and backward sections, etc. Preference is given to the villages/habitations which are closer to the border line. The Ministry of Home Affairs released Rs 1556 lakhs (10 lakhs = 1 million) during 2004-05, Rs 903.48 lakhs during 2005-06, Rs 2262 lakhs during 2006-07 and Rs 2086 lakhs during 2007-08 to Mizoram under BADP. While Mizoram utilized all the funds released during 2004-05 to 2005-06, it failed to utilize Rs 991.83 lakhs during 2006-07.¹⁸

During its mission ACHR found very limited evidence of development activities. The state government failed to provide Chakmas access to basic healthcare facilities. Most villages had no health care at all. In the absence of state provision villagers were forced to live at the mercy of “ojhas” (traditional herbal doctors) as they could not afford to go to hospitals in towns (like Aizawl or Lunglei) for treatment.

Child mortality rates were very high but these went unreported or undocumented. A government registrar of Births and Deaths in a Chakma village told ACHR that in a year only two or three death certificates were issued, although the infant mortality rate was

quite high in the border areas. The villagers said over 100 Chakma children died every year in the border villages but these were not documented given the absence of proper mechanism.

Most villages inhabited by Chakmas along the Mizoram-Bangladesh border had no education provision. The Sarva Shiksha Abiyan (SSA) provided no benefit to Chakmas except raising the enrolment rate. Non-local Mizo teachers were appointed in SSA schools in Chakma areas which created problems. These non-local teachers did not stay in the Chakma villages and were unable to teach the Chakma children who did not understand the Mizo language.

Chakmas also faced discrimination in employment. The state’s Recruitment Rules of various government departments have made it necessary for a candidate (including a linguistic minority) to have studied (and passed) Mizo subject up to Middle School level to be eligible for government jobs. This is clearly in contravention to Article 16 (1) of the Indian Constitution which provides for “equality of opportunity” in matters of employment or appointment. The Mizoram government also failed to introduce the Mizo language subject in the schools in Chakma inhabited areas. Since Chakmas often did not study Mizo subject in schools, they faced regular discrimination in getting government jobs under state government. As a result, Chakmas’ representation in government services in Mizoram remained very negligible.

VII. Status of internally displaced persons

A total of 35,438 Chakma tribals from 5,790 families in 49 villages in western and south-western part of Mizoram faced imminent displacement due to the ongoing India-

Bangladesh fencing project. Many of the victims had not been paid compensation. By the end of 2008 neither the Central government nor the state government of Mizoram had made public any resettlement and rehabilitation package for the fencing victims.

On 10 March 2008, Asian Indigenous and Tribal Peoples Network (AITPN) filed a complaint with the NHRC against denial of timely compensation to the affected people. As expected, the state government of Mizoram submitted a standard reply: it denied that there was any delay in disbursement of compensation.¹⁹

What was more worrying was the fact that the government of Mizoram refused to acknowledge the victims as “displaced” although their homes and lands have fallen outside the fencing line. But the state government stated that they were not displaced as the “the Fencing Line is not the boundary of Indo-Bangladesh Border”. The state government further stated that the villagers were to choose whether to stay outside the fencing line or to shift into India’s side of territory. This policy is fatally flawed. The border fencing is primarily being erected for national security and hence, if the victims are allowed to stay outside the fencing, they would be living at the mercy of the Bangladeshis and anti-India forces. Even the then Mizoram Chief Secretary Haukhum Hauzel stated in April 2008 that the Mizoram villagers who fell outside the fencing line feared for their security. He further stated that in Bindiasora village, about 80 families fell outside the border and the villagers were prevented by the Bangladesh Rifles (BDR) from getting sand from the river which used to be their main source of income.²⁰

In another case of displacement, the 12-MW

Serlui B Hydrel project was being constructed across the Serlui river near Bilkhawthlir village in Kolasib district. Upon completion of the project, Builum village would be submerged losing about 53 kms of cultivable land and 79 houses. Many villagers were shifted to Bawktlang village under Kolasib district but some 30 families refused to vacate their houses until the Mizoram government paid full compensation.²¹ The state government claimed that “adequate compensation and rehabilitation schemes have been provided” to the displaced people.²²

VIII. Status of refugees

There were more than 60,000 Myanmarese nationals living in Mizoram as “illegal migrants” because the government did not recognize them as “refugees”.²³ On 1 April 2008, Mizoram Home Minister Tawnluia stated in the State Assembly that 43 Myanmarese nationals and 22 Bangladeshis who entered the state illegally were arrested and deported to their respective countries during 2007-2008.²⁴

Following a brawl between the local Mizos and Myanmarese refugees at Tanhril village, about 20 km north of Aizawl, the Myanmarese refugees were served a “quit notice” asking them to leave the village by 4 October 2008. The brawl reportedly took place after some Myanmarese refugees allegedly teased some Mizo girls from the village while they were taking bath.²⁵ But instead of taking action against the specific accused as per law, all the refugees were asked to leave. The decision was reportedly taken in a joint meeting of Young Mizo Association (YMA), Tanhril village council, Mizo Hmeichhe Insuihkhawm Pawl (women organisation) and Mizo Upa Pawl (elders’ organization). At least 40 Myanmarese refugees reportedly left Tanhril village due to fear of attacks by the locals following the “quit notice”.²⁶

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Nagaland

1. Overview

The Nagaland People's Front (NPF) coalition government led by Chief Minister Neiphu Rio failed to make progress on the inter-factional conflicts among the Armed Opposition Groups (AOGs) in the state. On 9 September 2008, state's Home Minister Imkong L Imchen informed the State Assembly that a total of 144 persons were killed in insurgency-related incidents and 21 persons were arrested under the National Security Act in the state from 1 January to 15 August 2008. Of the 144 persons who were killed, 110 were cadres of various AOGs, 31 civilians and three security personnel.¹

The overall crime rate in Nagaland declined in 2008 but cases of extortions, kidnappings and riots rose. Official crime statistics of 2008 up to November 30 indicated that the overall crime rate declined with a total of 852 cases registered during the period as against 1,127 cases registered in 2007. But in 2008 the state recorded 35 cases of abduction and kidnapping against 19 cases in 2007, 65 cases of extortions against 59 in 2007, 12 cases of riots against 8 in 2007, 152 cases of theft against 34 in 2007 and 82 cases under Arms Act against 33 in 2007.² On 24 December 2008, state's Home minister Imkong Imchen described the incidents of extortion, robbery, kidnapping in Dimapur as "normal crimes".³ On 23 September 2008, village heads of Nagaland decided to stop collecting "taxes" for the AOGs.⁴

In July 2008, the state government constituted a five-member committee headed by retired Indian Administrative Service (IAS) officer K Kevichusa to study the backwardness of nine tribes in the state

- Chang, Khamniungan, Konyak, Sangtam, Phom, Yimchunger, Chakhesang, Pochury and Zeliang. The committee was empowered to make recommendations on affirmative actions for development of these tribal communities including reservation in job and education.⁵

2. Inter factional killings

During 2008, both the National Socialist Council of Nagalim (Isak-Muivah) (NSCN-IM) and National Socialist Council of Nagalim (Kaplant) (NSCN-K) were in ceasefire with the government of India. While the NSCN (IM) had been observing ceasefire since 1 August 1997, the NSCN (K) had been in ceasefire since 28 April 2001.

But both the NSCN factions continued to engage in violent clashes – especially to control over Dimapur, the commercial hub of Nagaland.

On 16 May 2008, at least 14 cadres of the NSCN (Unification) were killed in clashes with the NSCN (IM) cadres on the outskirts of Dimapur town. Heavily armed cadres of the NSCN (IM) reportedly attacked a hideout of the rival NSCN (Unification) faction at Seithekhema near Burma colony in Dimapur.⁶ The incident led to the attack of the NSCN (IM)'s Cease Fire Monitoring Cell office by a mob.

On 4 June 2008, at least 15 cadres of the NSCN factions died in clashes in two separate incidents. In the first incident, at least 12 NSCN (Unification) cadres were killed by NSCN (IM) near the Patkai College area, 14 kms away from Dimapur town. In the second incident, three NSCN (IM) cadres were killed

by the NSCN (Unification) cadres at Signal Bosti in Dimapur.⁷

On 20 August 2008, NSCN (K) cadres stormed the house of David Tangkhul a member of the NSCN (I-M), who was second in command of Kohima town, and shot him dead at Razhu Point. Mr Tangkhul was killed in front of his wife and two small children.⁸

On 21 December 2008, the NSCN (I-M) issued a statement alleging that its rival faction NSCN (K) had kidnapped two senior functionaries of its women's wing along with the driver from Dimapur on 21 December 2008, and two other seniors were abducted from Dimapur on 16 December 2008. However, the NSCN (K) stated that "The four persons, including two women, were arrested not because of their individual crimes, but because they represented an institution which was responsible for the loss of many lives."⁹

3. Violations of international humanitarian law by the AOGs

The AOGs were responsible for violations of the international humanitarian law including killing, abduction, and extortion.

The *gaomburas* (village chiefs) and *dobashis* (chiefs of Naga customary courts) tried to restore peace between the Naga warring factions but the peace move suffered a jolt after the killing of two prominent Naga village chiefs by the NSCN factions.

On 29 June 2008, the NSCN (IM) abducted a prominent village chief - Khezheto Chishi, village chief of Yesholuto village under Zunheboto district, from a hotel room in Kohima. He was later killed for his alleged links with the rival NSCN (K) faction.¹⁰

On 20 August 2008, another powerful village chief, P.P. Zeliang, village chief of West Yard Colony and member of Dobashis Joint Forum, was shot dead by unidentified assailants, alleged to belong to a NSCN faction, at his residence in Dimapur.¹¹

The state government failed to provide security to the non-Naga businessmen. In 2008, more than 20 businessmen/ traders were killed and over 100 non-Naga traders abducted and released after paying the ransom.¹² On 19 October 2008, police recovered the body of Prasenjit Dhar, a businessman from Bor Lengri, Karbi Anglong in Assam, with his throat slit. Dhar was abducted from his home at Lomthi colony in Dimapur by five armed men who demanded Rs 50,00,000 (five million) ransom.

On 20 October 2008, hundreds of businessmen staged a protest march in Dimapur against the ongoing abduction and killing of non-Naga businessmen in Dimapur.¹³ On 13 December 2008, traders in Dimapur threatened to close their shops indefinitely if two businessmen abducted on 13 December 2008 from GS Road were not released.¹⁴

On 11 July 2008, one civilian was killed in NSCN factional clashes in Dimapur. The NSCN (I-M) allegedly attacked the hideouts of NSCN (K) at Lhotovi village on the outskirts of Dimapur.¹⁵

4. Violations of the rights of women

On 25 August 2008, the Nagaland State Commission for Women (NWC) urged the state government to immediately set up women police cells in all the 11 district headquarters to look into cases of crimes and injustice against women. NWC chairperson, Sano Vamuzo stated that barring Kohima

and Dimapur districts, other districts had no women police cells.¹⁶

On 27 August 2008, four college students abducted a pregnant woman from Showuba village near Dimapur and gang raped her. After committing the crime, the youths dumped her at the spot from where they had abducted her. The next day, the four

rapists identified as Tohovi Ayemi and Akito Zhimomi of Vihokhu village and Mughaka Yephthomi and William Awomi of Kehokhu village were arrested after the victim filed an FIR at the local police station. The Showuba Village Council/Court released the four accused after fining them 15 rupees each. Hundreds of women protested in Dimapur.¹⁷

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Orissa

I. Overview

The ruling Biju Janata Dal - Bharatiya Janata Party coalition government led by Chief Minister Naveen Patnaik failed to address very serious human rights situation in the state. The failure contributed to feed the ongoing conflict with the Maoists. On 21 October 2008, Union Minister of State for Home Affairs, Mr Shakeel Ahmad, told the Lok Sabha (Lower House of Indian Parliament) that Orissa recorded the highest number of cases of communal violence in the country in 2008. Of 695 recorded cases of inter-religious conflict up to September 2008, Orissa accounted for nearly a quarter (159 cases) which resulted in killing of 41 persons and injuring of 76 others.¹ These numbers are likely to be highly under-reported given the appalling behaviour of Orissa government while dealing with the anti-minority riots.²

The police were responsible for systematic torture. Those who filed complaints against the police were threatened, tortured and often killed. On 18 November 2008 a woman identified as Kamini Sahu was burnt alive by unidentified persons after she had refused to withdraw her complaint filed in court against the torture by police. The police had made death threats if she did not withdraw her case. After she was killed police refused to register a First Information Report (FIR) lodged by her husband Nirmal Chandra Sahu. Later, the FIR was lodged through a lawyer.³

The conflict in the state continued to deteriorate. In 29 June 2008, the Maoists killed over 35 people of the elite 'anti-Maoist' Greyhound force from Andhra Pradesh in an attack on their vessel in Balimela reservoir

near Alampetta village in Malkangiri district. The Greyhounds were deployed in a joint anti-Maoist operation with the Orissa police.⁴

The Maoists were responsible for numerous killings of civilians on suspicion of being "police informers". In April 2008 alone, the Maoists killed at least three village heads - Raba Sudha of Urbali village under Motu police station in Malkangiri district, Madkami Kanha of Peta village under Motu police station, Jagabandhu Sunam, another village head.⁵ The killings were often carried out in front of local people, they were often killed in a manner to maximize suffering. The killings appeared designed to build fear amongst local communities.

Very limited human rights activism in the state – itself an issue of concern – was suppressed by the state. Between 2 July and 11 July 2008, three human rights activists of Keonjhar Integrated Rural Development and Training Institute (KIRDTI) - Ravi Majhi, Madhu Munda and Kanderam Hemram were arrested on the charges of having links with the Maoists.⁶ On 7 April 2008, the Supreme Court stayed an order of the District Magistrate of Kandhamal that prohibited NGOs and charitable institutions from carrying out relief work in the district, following inter-religious violence in December 2007.⁷

The state government attacked press freedom. On 7 December 2008, Lenin Kumar, editor of *Nishan* magazine, was arrested and charged with inciting communal violence through a booklet on the Kandhamal riots against Christians.⁸

The state failed to halt the longstanding human rights violations against tribal

communities who represent 22.13 percent of Orissa's population. They faced repeated land alienation and forcible displacement. The state failed to address discrimination and violence against Dalits.

The expressly religious attack on Christians in Kandhamal district was the single largest attack on any religious group in the world in 2008. As many as 118 persons, mostly Christians, were killed.⁹ At least 4,215 houses and 252 churches/ prayers halls were damaged¹⁰ in the attacks against Christians by the Hindu fundamentalists following the killing of Swami Laxmanananda Saraswati, a leader of Vishwa Hindu Parishad (VHP), on 23 August 2008. The attacks led to the displacement of over 30,000 Christians. Those who returned home faced forcible conversion by VHP and Rashtriya Swayamsevak Sangh (RSS).¹¹

Orissa's flood control project, Salandi-Nalia river Sanskar project displaced over 10,000 villagers from their homes in Bhadrak district without any compensation or rehabilitation. On 29 June 2008, the NHRC sent its Special Rapporteur Damodar Sarangi to investigate the case.¹²

The jails were overcrowded. A total of 15,235 prisoners were housed in 70 jails having capacity to accommodate only 10,609 inmates as of 22 February 2008.¹³ Many jails did not have doctors that led to several preventable deaths of prisoners.

II. Human rights violations by the security forces

a. Violation of the right to life

On 13 August 2008, the Orissa State Human Rights Commission (SHRC) recommended the state government to pay compensation of Rs 100,000 to Mrs Mali Paleka whose husband Siri Majhi was killed in a fake

encounter by the police and the Central Reserve Police Force (CRPF) at Birubahi village under Rayagada district on 7 July 2006. The police claimed that he was a Maoist. But the SHRC rejected the police claim that it was a genuine encounter. The SHRC observed that there was no injury on any police personnel or mark of violence at the spot and there was also no material to suggest that the deceased belonged to any Maoist group.¹⁴ On 10 November 2008, the state government complied with the recommendation of the SHRC.¹⁵

On the night of 22 November 2008, a tribal villager identified as Junesh Rait was shot dead and another villager Karnel Badarait was seriously injured by the police and paramilitary CRPF during an anti-Maoists operation near Kutuniganda village under Adaba police station in Gajapati district.¹⁶ The villagers claimed the victims were innocent. Injured victim Karnel Badarait stated that they were shot at by the security personnel when they were searching for their cattle in the jungle. The officer-in-charge of Adaba police station, D.Cheiro claimed that the security forces were defending themselves from an attack by a group of suspected Maoists.¹⁷ Junesh Rait was the only employed person in the family. They have filed a petition in the Orissa SHRC seeking appropriate compensation and justice.¹⁸

On 2 October 2008, a railway police constable Pabitra Naik was arrested in connection with the death of a vegetable vendor who was allegedly thrown out of a moving train. On 30 September 2008, Rajiv Singh (20) was allegedly pushed off the Saranda Passenger train by two GRP personnel while travelling from Jaraikhela to Rourkela.¹⁹

b. Illegal arrest, unlawful detention and torture

In 2008 the law enforcement personnel

were responsible for arbitrary arrest, illegal detention and torture.

On 8 September 2008, police personnel entered the house of a woman identified as Kamini Sahu in the absence of her husband at Nuahada village under Banrpal police station in Angul district. The police forcibly carried out search operations in connection with a theft case. Kamini Sahu was assaulted when she protested. The next day, she lodged a complaint against the police in the local court. Some days later, the police again entered the house and assaulted her and threatened of dire consequences if the case was not withdrawn. But Kamini went on to file another complaint against the police in the local court the following day. Subsequently, two more complaints were filed by her following similar incursions into her house and alleged police atrocities. On 18 November 2008, unidentified persons entered her house and doused her with petrol and set her on fire. She succumbed to her burn injuries at SCB Medical College Hospital in Cuttack on 24 November 2008. However, the police refused to lodge an FIR on the murder when the deceased's husband Nirmal Chandra Sahu approached the police. The FIR was later lodged through a lawyer.²⁰

On the night of 23 December 2008, Akhaya Kumar Mohanty, Section Officer in the Soil Conservation Department, was picked up, stripped and beaten up by Inspector-in-Charge Pradipto Kumar Jena and Assistant Superintendent of Police Niranjan Sabar at the Athagarh town police station in Cuttack district. The two officers went to the Soil Conservation office in search of a watchman against whom they had received a complaint of misbehaviour from a woman. The victim was present at the office but refused to accompany the two officers to the watchman's quarters. This led to his being

picked up by the police officers. The incident led to the suspension of the Inspector-in-Charge of Athagarh town police station, Pradipto Kumar Jena.²¹

III. Violations of International Humanitarian Law by the AOGs

a. Violation of the right to life

The Maoists killed numerous security personnel. This included the killing of over 35 personnel of elite anti-Maoist force Greyhounds of Andhra Pradesh in an attack on their vessel in Balimela reservoir near Alampetta village in Malkangiri district on 29 June 2008;²² and over 20 personnel of Special Operations Group (SOG) who were killed in a landmine blast in Malkangiri district on 16 July 2008.²³

Killing of civilians

The Maoists killed several civilians on the charges of passing information to the police about the Maoists.

On 17 January 2008, suspected Maoists stabbed a local trader Bijay Kumar Degul to death in front of his father Dinabandhu at Sanpalmanda village in Kabiribedi *panchayat* of Bandhugaon block in Koraput district. A group of six Maoists, including two women allegedly tied both of them to two adjacent trees on the outskirts of the village before stabbing Bijay Kumar Degul to death on the charge of being a "police informer".²⁴

On 30 April 2008, one Bhaskar from Warangal district in Andhra Pradesh was killed by the Maoists near MV70 village under Kalimela police station in Malkangiri district on the charges of being a "police informer".²⁵

On the night of 1 May 2008, suspected Maoists killed a liquor trader Nala Brundaban

(45) by slitting his throat at Karli village in Koraput district. The villagers found a hand written letter near the body saying the Maoists had killed him for being a “police informer”.²⁶

On 27 May 2008, suspected Maoists shot dead Biju Janata Dal’s Malkangiri district Secretary, Prabir Kumar Mohanty under MV-79 police station in Malkangiri district. Mr Mohanty was abducted by the Maoists when he was on his way to the market on the night of 26 May 2008.²⁷

The Maoists killed numerous Village Heads (*Sarpanch*). They included the following:

- Jaga Madhi, village head of Malavaram village Malkangiri district, who was killed on 27 March 2008;²⁸
- Madkami Kanha, village head of Peta village under Motu police station in Malkangiri district who was shot dead on 9 April 2008,²⁹
- Raba Sudha, village head of Urbali village under Motu police station in Malkangiri district, who was shot dead on 12 April 2008;³⁰ and
- Ponda Reddy, village head of Peta under Motu police station in Malkangiri district, who was shot dead on 17 November 2008.³¹

b. Torture, inhuman, degrading treatment or punishment

On 1 March 2008, Maoists reportedly abducted six villagers, including a *Sarpanch* (Village Head), from Janatapai village under Paparmetla *gram panchayat* (Village Council) near Malkangiri. They were tried in a so-called *Jan Adalat* (Peoples’ Court) on charges of being “police informers” and the *Jan Adalat* found all the six guilty. As punishment, they were tortured by the Maoist cadres. However, on 2 March 2008 they were released with a warning not to inform the police about the incident.³²

On the night of 30 June 2008, around 40 armed Maoist cadres attacked the house of Kumbha Mahanta at Rebana village in Keonjhar district. Two members of Kumbha’s family were seriously injured in the attack. They were rushed to the district headquarter hospital. Before leaving the village, the Maoists warned the villagers not to grab land from tribal communities.³³

IV. Judiciary and administration of justice

The judiciary in Orissa had significant backlogs. There were 2,36,792 cases pending before the High Court of Orissa and 10,33,812 cases were pending before the District and Sub-ordinate Courts as of 30 June 2008.³⁴

Yet, as of 1 October 2008, there were three vacancies of judges in the Orissa High Court, while there were 123 vacancies of judges in the District and Subordinate Courts as of 30 June 2008.³⁵

V. Status of the SHRC

On 22 October 2008, Orissa government decided to appoint a senior IAS officer and Development Commissioner, R. N. Bohidar as member of the Orissa State Human Rights Commission (SHRC) despite opposition from the Leader of the Opposition J. B. Patnaik. The selection committee comprised of the Chief Minister, the Speaker of the State Assembly and the Leader of Opposition in the State Assembly. Mr J B Patnaik wrote a dissenting note to the Governor M C Bhandare on the selection of R N Bohidar.³⁶

VI. Repression on human rights defenders

The human rights defenders and the civil

society organizations were unable to carry out activities unobstructed. Between 2 July and 11 July 2008, three human rights activists of Keonjhar Integrated Rural Development and Training Institute (KIRDTI) - Ravi Majhi, Madhu Munda and Kanderam Hemram were arrested on the charges of having links with the Maoists. They have been charged under Sections 294, 392, 397, 427, 435, 436, 458, 506 of the Indian Penal Code (IPC) and Sections 25 and 27 of the Indian Arms Act. Another tribal activist Mamina Munda was also arrested but was released two days later. On 11 July 2008, four other activists of KIRDTI - Duskar Barik, Mamata Barik, Jayanti Sathy and Ranjan Patnaik had to flee Keonjhar district to escape arrest by the police on false charges. KIRDTI is an organization working for the tribals' land rights, ecological protection from mining and illegal felling of woods in Harichandanpur and Banspal Block of Keonjhar district in Orissa. The activists of KIRDTI have been targeted by the police for defending human rights.³⁷

On 17 August 2008, a conglomerate of social activists, journalists and writers expressed serious concern about targeting of human rights defenders by the police after branding them as Maoists. They assembled in state capital Bhubaneswar to protest against a statement made by Jagatsinghpur district Superintendent of Police who said at a press conference that "Nishan", a literary magazine, was a Maoist publication.³⁸

On the night of 10 June 2008, at least four persons were injured when a group of suspected Maoists attacked the premises of a non-government organisation Viswa Ganachetana, working for environment protection, at Anlapada village in Keonjhar district. The attackers burned the official records of the organisation and asked the staff to stop their operations and leave the area.³⁹

Humanitarian NGOs were also restricted in the work. On 2 July 2008, the District Collector of Balasore district, Dr Alekh Chandra Padhiary was forced to retract a directive which imposed restrictions to the NGOs delivering relief to the flood victims. The directive had restricted NGOs from going to the flood affected areas and asked NGOs to deposit their relief material with the Red Cross.⁴⁰

On 7 April 2008, the Supreme Court stayed an order of the District Magistrate of Kandhamal that prohibited NGOs and charitable institutions from carrying out relief work in the district, following the communal violence in December 2007. In its order of 1 January 2008 the District Magistrate stated that "no charitable or religious bodies or NGOs be allowed to carry out any relief work and that action will be initiated against those violating this direction." The Archbishop of Cuttack challenged the order of the District Magistrate before the High Court. But the High Court, clearly acting in support of the Executive, upheld the order on 8 January 2008.⁴¹

VII. Freedom of the press

The state government attacked press freedom. On 7 December 2008, Lenin Kumar, editor of *Nishan* magazine, was arrested and the police seized belongings including a CD and pen drive from his house. The police also seized booklets published by Mr Kumar on the Kandhamal riots. According to Mr Kumar's wife, Mrs Sumita Kundu the police refused to give a reason for his arrest.⁴² Mr Kumar was charged with inciting violence and fanning communal sentiments through a booklet on the Kandhamal communal violence against Christians and charged under Sections 153A and 295A of the Indian Penal Code.⁴³

On the night of 28 June 2008, Purna Chandra

Panda, a journalist working with Oriya daily *Pragativadi*, was assaulted by unidentified assailants when he was returning home at a hotel near the Town police station in Balangir. Panda was rushed to the district headquarters hospital with multiple injuries.⁴⁴

VIII. Violations of the rights of indigenous peoples

Tribal communities represent 22.13 percent of Orissa's population. On 19 March 2008, Parliamentary Affairs Minister Raghunath Mohanty announced in the State Assembly that the state government withdrew 9,093 cases against tribals relating to forest produce and timber theft.⁴⁵

Tribals have protested numerous projects in the state. On 8 August 2008, the Supreme Court ruled in favour South Korean steel giant Pohang Steel Company (POSCO) to use 2,900 acres of forests in Jagatsinghpur to build a Rs 51,000-crore steel plant and Sterlite India Limited, a subsidiary of Britain's Vedanta Resources Plc, to mine bauxite in Niyamgiri hills in Kalahandi held sacred by Dongria Kondh tribe.⁴⁶ The Supreme Court's order encouraged further acquisition of lands of the vulnerable sectors, mainly indigenous and tribal peoples.

Tribal communities working together under *POSCO Pratirodh Sangram Samiti* (Committee for the Resistance Against POSCO) had been resisting POSCO's proposed steel plant at Paradeep in Jagatsinghpur district. It is expected to displace about 4,000 tribal families.⁴⁷

On 20 June 2008, an anti-POSCO activist identified as Dula Mandal (35) died in attack by pro-POSCO villagers near Gobindpur.⁴⁸ As many as 26 people were arrested in connection with the killing.⁴⁹ In July 2008, the NHRC launched a preliminary

probe into alleged human rights violations of people living within the proposed Posco steel plant site. The NHRC visited the Jagatsinghpur district on 2 July 2008 and met officials and villagers.⁵⁰

In April 2008, hundreds of tribals armed with bows and arrows gathered at Upper Kranti village in Similiguda block in Koraput district to protest against proposed land acquisition for a mining project being undertaken by a private firm in the Deomali range. People living in 40 villages would be affected by the project.⁵¹

On 1 December 2008, hundreds of tribals of Jamadarpali village assembled in front of the District Collector Mr Pradipta Kumar Patnaik in Sambalpur to protest forceful occupation of their land by the Sambalpur Municipality. The Municipality was dumping solid waste on the land after forcible occupation.⁵²

In another step which shall have long term serious consequences on the Kui tribals, the Orissa government reportedly decided to take them off from the official Scheduled Tribe (ST) list. The action was prompted after the Kui Samaj called a *bandh* (strike) on 25 December 2007 in Kandhamal district to protest issuing ST (or tribal) certificates to non-tribals particularly Scheduled Castes who had converted to Christianity. The allegation was that several non-tribals, particularly from Scheduled Caste communities, acquired tribal certificates claiming that they were Kui tribals as they spoke Kui dialect. The state government acted by instructing the Kandhamal district administration not to issue fresh tribal certificates to Kui-speaking persons and ordered an inquiry.⁵³ But after failing to resolve the problem, the state government proposed to delete Kui tribe from the ST list. The decision was pending implementation by the end of 2008.⁵⁴

IX. Violations of the rights of the Dalits

The Dalits constituted 16.53% of Orissa's population. They continued to face discrimination and other human rights violations.

On 1 August 2008, a Dalit woman identified as Uma Jagat was forced to eat human excreta at Polenbasa village under Boden police station in Nawapara district. According to the police, a group of tribals beat her up and made her eat human excreta. The police arrested six persons.⁵⁵

In October 2008, members of five Dalit families were allegedly beaten up by upper caste people at Nathpur village under the Lingaraj police station on the outskirts of capital Bhubaneswar. The altercation began after the upper caste people objected to Dalits' attempt to fell a tree which they (Dalits) had planted. Tension had been rising since the Dalits had refused to perform their "traditional duty" of inviting the upper caste people to attend their community meetings.⁵⁶

In May-June 2008, member of 10 Dalit families of Osakana village under Naugaon polices station in Jagatsinghpur district were denied water from the public tube well, barred from attending the community religious function performed at Trinath temple and were denied employment in upper caste lands.⁵⁷

X. Violations of the rights of women and children

On 19 August 2008, the Officer-in-Charge of Khammar police station allegedly attempted to rape a woman, wife of Niranjan Behera of Sankhamore village under Khamar police station in Angul district, when she went to the police station to lodge a First Information Report (FIR) against her husband over a domestic dispute.⁵⁸

On 2 July 2008, a 13-year-old boy (name withheld) lost his right hand and right leg after he was allegedly pushed out of a moving train by a Travelling Ticket Examiner (TTE) because he had refused to give him a 50-rupee note found by him in a train. The victim, a resident of the Veda Vyas slum colony, earned his livelihood by sweeping the floor of trains. The police said the boy found a 50-rupee note while sweeping a second class compartment of the Mumbai-Howarah Geetanjali Express at Rourkela railway station and he was thrown out of the running train by the TTE after the boy refused to give him the money.⁵⁹

XI. Status of internally displaced persons

On 29 June 2008, the NHRC deputed its Special Rapporteur Damodar Sarangi to probe allegations that the Orissa government had forcibly evicted over 10,000 villagers from their homes in Bhadrak district to make way for a massive flood-control project – the Salandi-Nalia river Sanskar project.

The Rs 100-crore project involved widening and deepening of two rivers - Salandi and its tributary Nalia - to control annual floods in the area. On 12 May 2008, the NHRC had asked the state government to reply within four weeks about the allegation of large-scale human rights violations in 50 villages in and around the river Salandi and its tributary Nalia. The state failed to reply.

The state government did not serve any land acquisition notice nor had it taken any step to rehabilitate the displaced villagers. The villagers had been forcibly evicted from their agricultural lands.⁶⁰ According to the affected villagers, anti-social elements had been hired by contractors to attack people who protested against the land acquisition.⁶¹

On 18 April 2008, hundreds of villagers under *Bhumihara Krushak Mancha* demonstrated in front of the office of the Additional District Magistrate, Paradip in Jagatsinghpur district, demanding compensation and rehabilitation packages from Deepak Fertilizer Ltd. The company needs 80 acres of land and had already acquired 65 acres of private land at the cost of Rs 15 lakh per acre. But locals alleged that the company had held no public meeting to discuss compensation and rehabilitation packages.⁶²

On 23 June 2008, hundreds of displaced villagers from four panchayats of Kujang tahsil in Jagatsinghpur district protested in front of the Paradeep Phosphate Ltd demanding jobs and enhanced compensation for land acquired by the company in the 1984. The protestors demanded adequate compensation, jobs, health care services and subsidised fertilisers to local farmers. The Paradeep Phosphate Ltd purchased private land in 1984 at a rate of Rs 10,000 per acre. Since that time the former land holders of Bagadia, Kothi, Siju, Paradipgarh, Jhimani, Mangrajpur, Rahitshai had been demanding more compensation.⁶³

Nearly 900 families would be displaced by the Essar's proposed steel plant in Jagatsinghpur.⁶⁴ The company had identified nearly 1,925 acre land for a proposed steel plant of which 1,663 acres are owned by local people and 262 acres by the government.⁶⁵ The government had already given 103 acres to the company.

The locals alleged that the 103 acres given to the Essar Steel Company were acquired by the Commerce and Transport department of the government of Orissa to set up the Paradip Port Trust in 1962-1963. The department acquired the land at a cost of Rs 300 per acre but sold the land to Essar Company at the rate of Rs 3 to 4 lakh per acre.⁶⁶ The Essar Steel Company had already completed dredging

and sand filling in 103 acre of acquired land at the Mahanadi river mouth and the dredging resulted in inundation of more than 400 acre of paddy land. The district administration notified the company but no compensation was paid to the farmers. In July 2008 the affected families demanded compensation for the inundation of their agricultural land.⁶⁷

In 1995 the government of Orissa signed a Memorandum of Understanding with the Tata Steel to establish a large steel plant near Gopalpur in Ganjam district. For this, the Tata Steel acquired 2,295.95 acres of private land and 792.65 acres of government land near Gopalpur and around 1500 families were displaced. Highly fertile irrigated land was acquired by the company. The proposed steel plant was never established and the company has a technical training centre over 10.2 acres of land. The rest land has been lying vacant since 1997. In 2007, the State Industrial Development Corporation, government of Orissa, handed over another 300 acres of land to the company. Since the Tata Steel failed to set up any steel plant at the acquired land, the displaced villagers have demanded the return of their land.⁶⁸ The Tata Steel promised jobs from displaced families but so far the company employed only 47 persons out of around 604 eligible persons.⁶⁹

XII. Violations of the prisoners' rights

The state government failed to tackle overcrowding in jails. 15,235 prisoners were housed in 70 jails having capacity to accommodate only 10,609 inmates as of 22 February 2008.⁷⁰ In November 2008, the state government sought allocation of Rs 250 crores (1 crore = 10 million) from the Centre for the second phase of jail reforms programme. In the first phase the state received Rs 107 crores which was used for improvement of infrastructure. The second

phase would aim to provide better health care facilities, recreational activities and vocational training.⁷¹

Many jails did not have doctors. On 15 April 2008, Kata Bhagirathi of Jimidipeta village was found unconscious in his cell at Rayagada jail. Since the jail did not have a doctor, he was taken to the district hospital where he was declared dead.⁷²

On 10 June 2008, Krushna Chandra Behera, a life convict housed in Choudwar jail, died of stab injuries. He was allegedly stabbed by another convict Pratap Chandra Khatei inside the jail the previous night. Krushna was shifted to SCB Medical College and Hospital, Cuttack where he died.⁷³

On 19 July 2008, a life convict Rajkumar Mahakud died in Rourkela jail due to an illness. Rajkumar from Sundargarh district “suddenly” fell ill and was sent to the Rourkela Government hospital, where he was declared dead. However, jail officials stated that the deceased had been suffering from tuberculosis and he had undergone treatment in VSS Medical College Hospital, Burla.⁷⁴

On 16 August 2008, an under-trial prisoner, Srikant Sahani died at the Phulbani district jail in Kandhamal district. According to jail officials, he complained of severe dizziness and other ailments in the morning. He was immediately taken to Phulbani district hospital where he died. Doctors said he died of cardiac arrest. But the family members of the deceased alleged that Sahani had died due to negligence of the doctors and jail officials.⁷⁵

During a visit to the Dhenkanal district jail by a team headed by Prof. Biraja Tripathy on 6 November 2008, found that the jail lacked basic health care facilities and hygiene.

The prisoners were not even provided with mosquito nets.⁷⁶

On 21 November 2008, a four-year-old girl (named withheld) was released after being incarcerated for 50 days in a jail at Pattamundai in Kendrapada district along with her father and grandparents who have been charged with the murder of her mother.⁷⁷

XIII. Violations of the rights of minorities

In 2008 Christians were targeted, including killings and widespread destruction of churches and properties of Christians following the killing of Swami Lakhmananda Saraswati, leader of Vishwa Hindu Parishad (VHP) and three others by unidentified gunmen at the VHP *Ashram* in Jalespata of Kandhamal district on 23 August 2008. The VHP blamed the Christians for the killing.

The attacks on the Christians in Kandhamal district was the single largest attack on any religious group in the world in 2008. According to the All India Christian Council (AICC), at least 118 persons, mostly Christian tribals and Dalits died in attacks.⁷⁸ On 1 December 2008, Chief Minister Naveen Patnaik stated in the State Assembly that 4,215 houses were either damaged or burnt and at least 252 churches/prayers halls were damaged following the killing of Swami Laxmanananda Saraswati. He also stated that about 10,000 people have been named in 746 cases registered in Kandhamal violence and 598 accused have been arrested.⁷⁹

One of the rape victims was a 28-year-old Catholic nun who was publicly raped in front of the armed policemen at K. Nuagaon, 12 km from the Baliguda subdivision in Kandhamal district. Father Thomas Chellan, a priest, was also dragged out and badly beaten when he tried to save the nun.⁸⁰

On 25 August 2008, Rajani Majhi, a Hindu woman, was burnt alive by suspected VHP activists at the church-run orphanage at Khuntipali in Padampur in Bargarh district.⁸¹ Later, it was alleged that she was gang-raped before being burnt alive by the mob.⁸²

On 22 October 2008, the Supreme Court asked the government of Orissa to provide compensation to rebuild the damaged churches in Kandhamal. Earlier, the state government had refused to grant compensation to the Churches saying its secular policy prevented it from doing so but agreed to pay Rs 2 lakh to every school, college, orphanage and hospital damaged in the violence.⁸³

Over 30,000 Christians fled their homes. But only 14,500 of them took shelter in the government relief camps. The rest were hiding in the forests due to fear of attacks. The

government relief camps were not safe. On 3 September 2008, over 2,000 armed persons attacked the government High School relief camp in the Tikabali block which housed about 800 Christians.⁸⁴

Those who returned home faced forcible conversion by the Hindu fundamentalists.⁸⁵ On 2 October 2008 alone, as many as 22 Christian families of Ladapadar village under Phiringia Block of Kandhamal district reportedly “converted” to Hinduism. The conversion ceremony was allegedly conducted in the forest adjacent to Ladapadar by some local representatives of VHP and Rashtriya Swayamsevak Sangh (RSS).⁸⁶

After its initial failure to promptly act to protect the Christian minority in Orissa, the NHRC on 13 November 2008 sent a seven-member delegation to probe into the Kandhamal violence.⁸⁷

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Punjab

I. Overview

The ruling coalition government of Akali Dal and Bharatiya Janata Party failed to address Punjab's poor record on human rights. According to the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, a total of 5,750 complaints were received against police personnel in Punjab during 2007 as against 4,796 complaints in 2006. There were persistent credible allegations of the use of torture that, in many cases, led to death of the detainees.

The state government demonstrated little commitment to address the problems. It failed to appoint the members of the Punjab State Human Rights Commission (SHRC).

The state government failed to fill up the vacancies of judges. There were 21 vacancies of judges in the Punjab and Haryana High Court as of 1 October 2008 while 40 posts of judges were vacant in the District and Subordinate Courts as of 30 June 2008.¹ 262,267 cases were pending in the High Court and 589,599 cases were pending in the District and Subordinate Courts as of 30 June 2008.²

The state government also failed to safeguard the human rights of the women. In a number of cases, the police personnel were themselves the perpetrators of crime against women. On 11 April 2008, a 16-year-old girl from Uttar Pradesh was raped by three police personnel identified as Assistant Sub-inspector Inderjit Singh and two class IV employees, Hari Ram and Gurmail Singh in a park in the Civil Lines area in Ludhiana district. The medical examination of the victim confirmed rape. The accused were arrested and dismissed from service.³

The state failed to improve the conditions of the jail facilities. Most of the jails were overcrowded. As of September 2008, about 16,000 prisoners were housed against the capacity of about 12,000 inmates in jails. The majority of detainees were under-trials.⁴ In 2008, the SHRC took up over 60 complaints of deaths in judicial custody.⁵

II. Human rights violations by the security forces

The police continued to perpetrate gross human rights violations in Punjab. This was reflected in the increase of complaints against police personnel. According to the NCRB, a total of 5,750 complaints were received against police personnel in Punjab during 2007 in comparison to 4,796 complaints were received in 2006. 61 police personnel were sent for trial during 2007. Out of the 21 police personnel whose trial were completed, seven were convicted and 14 acquitted. 1,173 departmental inquiries and 35 magisterial inquiries were instituted to probe the allegations which resulted in dismissal from service of 133 police personnel, major departmental punishment against 556 and minor departmental punishment against 3,528 police personnel.⁶

a. Custodial killings

On 16 December 2008, the Punjab and Haryana High Court ordered a probe and payment of Rs 500,000 as interim compensation in the custodial death case of Gurtej Singh. Gurtej Singh died while in police custody in connection with First Information Report registered on 11 December 1999. Earlier, the Court had stated that the case was apparently being handled in a "lackadaisical manner". The police claimed the death as

suicide and forwarded an untraced report against the police officials allegedly involved in the case.⁷

In 2008, ACHR documented two custodial death cases.

On 17 April 2008, Anish Kumar (25 years) (son of Shamsher Singh of Kangra) died in the custody of the Focal Point police station in Ludhiana district. The police claimed he had committed suicide by using his shirt to hang himself from the iron bars of the ventilator of the lock-up cell. The deceased was arrested on the charge of stealing a motorcycle of one Munish Kumar on the evening of 16 April 2008.⁸

On 25 April 2008, 20-year-old Jagtar Singh was allegedly tortured to death in the Chowk Mehta police lock-up in Amritsar district. The deceased was arrested based on a complaint lodged by one Raman Kumar that his minor daughter was kidnapped by four persons including Jagtar Singh. The deceased was found hanging from the roof of the lock-up with a torn blanket.⁹ The state government announced Rs 500,000 compensation to the victim's family.¹⁰

b. Illegal arrest, unlawful detention and torture

The police were responsible for illegal arrest and torture. On 13 May 2008, Congress worker identified as Naib Singh (65) was allegedly beaten to death by a police team led by Yadwinder Singh Bajwa, Station House Officer (SHO) of Dharamkot police station, at Kokri Vehniwal village in Moga district. According to the deceased's nephew, Harinder Singh Ruby's statement, the police team led by the SHO raided his house to arrest him but he fled. The police team went to his uncle's house to enquire about his whereabouts but attacked Mr Naib Singh with sticks. He fell unconscious and died.¹¹

On 8 January 2008, a nine-year-old (name withheld) boy and his five-year-old sister (name withheld) were beaten up by police after they were allegedly caught stealing the purse of a Canadian Member of Parliament Ruby Dhalla at Pohid village in Ludhiana district.¹²

On 13 September 2008, 16-year-old (name withheld) a resident of Nepal, was tortured at the Kotwali police station in Nabha in Patiala district. The minor was taken into custody after he was reportedly caught red-handed by a resident of Nabha while stealing some wires on the same day. The police allegedly tortured the victim in order to recover the stolen material. The Station House Officer, Gurinder Bal denied torture but admitted his staff had been negligent.¹³

On 31 August 2008, 12-year-old Dalit girl (name withheld) (daughter of Sukhdev Singh) was allegedly taken to the Islamabad police station in Amritsar district on the alleged charge of theft. The victim was working as a domestic maid at the house of one Resham Singh who accused her of stealing gold ornaments. They handed her over to the police after being beaten up. The police filed a theft case against the minor girl and allegedly tortured her to obtain a confession during interrogation. Failing to get a confession from her, the police took her to Kot Khalsa police chowki, where she was returned to her parents.¹⁴

III. Judiciary and administration of justice

There were 21 vacancies of judges in the Punjab and Haryana High Court as of 1 October 2008 while 40 posts of judges were also vacant in the District and Subordinate Courts as of 30 June 2008.¹⁵ 262,267 cases were pending in the High Court and 589,599 cases were pending in the District and Subordinate Courts as of 30 June 2008.¹⁶

On 20 April 2008, Chief Justice Mr. Justice Vijender Jain of Punjab and Haryana High Court called for categorisation of cases, quick availability of documents to the litigants and lawyers, support of Court staff and its registry to speed up the justice delivery system and effective court management. Mr. Justice Jain also emphasized the need for an efficient and transparent legal system.¹⁷

IV. Status of the SHRC

The Punjab State Human Rights Commission (SHRC) was set up by the State Government on 17 March 1997 and the Commission started functioning on 16 July 1997. The SHRC could not function effectively. It failed to publish its Annual Report since 1997-1998.¹⁸

In 2008, the SHRC was further hamstrung due to lack of adequate number of members in the Commission. The SHRC reportedly received around 15,700 complaints in 2007 and approximately 70-80 cases were listed in the Commission every day.¹⁹ The SHRC had registered over 10,000 complaints till September 2008. Of these, more than 6,000 were against the police. In 2008, the SHRC took up over 60 complaints of alleged deaths in judicial custody.²⁰

But the SHRC had been functioning with only two out of the five members when two of its members, Justice R L Anand (Retd) and B C Rajput completed their tenure. A minimum of two members to the division bench (DB) is required for conducting preliminary hearings. Likewise, only a DB or a larger bench can send any recommendations to the government to take action in cases related to violation of human rights. The Commission ceased to function after member K K Bhatnagar, went on leave. Following a Public Interest Litigation filed by Advocate H C Arora, to fill vacant posts,

the Punjab and Haryana High Court in August 2008 issued a notice to the Punjab government.²¹

The Punjab and Haryana High Court sent notice to the state government to explain what steps were being taken to fill the vacant posts. But when the cases came up for hearing on 3 October 2008, Additional Advocate-General of Punjab government, Amol Rattan Sidhu informed the High Court that the government had initiated a proposal before the Cabinet to reduce the number of members to three. On 3 October 2008, the Punjab and Haryana High Court ordered the State's Home Secretary to appear in person before the Court if the state government did not appoint the members of SHRC.²²

V. Violations of the rights of women

Women's rights continued to be violated in Punjab. According to the NCRB a total of 2,694 incidents of crime against women were recorded in Punjab during 2007. Of these, 519 were rape cases.²³

Yet, the Punjab State Women Commission continued to be ineffective to address violations of the rights of the women. The Commission was lying virtually defunct due to non-appointment of its chairperson and members. The 10-member Commission was without the chairperson for more than one year. On 31 December 2008, the State government appointed Ms Gurdev Kaur Sangha as the new chairperson of the Punjab State Women commission. The State government also announced two other women as members of the commission.²⁴

In a number of cases, the police were themselves responsible for violence against women, including rape and torture.

In February 2008, Mukhtiar Kaur (wife of Nachhattar Singh of Sainsi Mohalla, Khuddi Road, Barnala) filed a complaint with the Punjab SHRC accusing Head Constable Parminder Singh of illegal detention, sexual harassment and extortion. In her complaint Mukhtiar Kaur stated that she and her sister, Nathi were returning home when they were detained by the accused Parminder Singh and one Assistant Sub Inspector. They were illegally detained at Sadar Police Station in Sangrur district for two days from 1-2 February 2008. Head Constable Singh allegedly demanded Rs.50,000 in lieu of their release. Head Constable Singh further allegedly sexually harassed the victims and finally the victims were released after they arranged and paid Rs.30,000 to the accused police officials.²⁵

On 11 April 2008, a 16-year-old girl, a resident of Uttar Pradesh, was raped by three police personnel identified as Assistant Sub-inspector Inderjit Singh and two class IV employees, Hari Ram and Gurmail Singh in a park in posh Civil Lines area in Ludhiana district. The accused raped her after overpowering her boyfriend. The medical examination of the victim confirmed rape. The accused were arrested and dismissed from service.²⁶

On the night of 28 July 2008, a deaf and dumb girl was allegedly raped by two police personnel in Moga district. The accused were identified as Head Constable Paramjit Singh and Constable Balbir Singh. The medical examination of the girl confirmed rape.²⁷

In September 2008, five-month pregnant woman, Swapanjit Kaur (wife of Angrej Singh of Gill village in Ferozepur district) was allegedly beaten up and punched in her lower abdomen by police at a police station in Faridkot district. The victim was picked

up from her house in connection with a missing woman. As a result of the torture doctors were forced to abort her foetus to save her life.²⁸

VI. Violations of the prisoners' rights

Punjab had seven central jails at Patiala, Bathinda, Ferozepur, Amritsar, Gurdaspur, Jalandhar and Ludhiana; five district jails at Nabha, Sangrur, Faridkot, Kapurthala, Hoshiarpur; two open-air jails at Nabha and Kapurthala; one women's jail at Ludhiana; one borstal jail at Ludhiana and 10 sub-jails at Fazilka, Moga, Muktsar, Patti, Ropar, Barnala, Malerkotla, Phagwara, Dasuya and Pathankot.

Most of the jails were overcrowded and prisoners live in poor conditions. The State government is proposing to construct three more jails to reduce overcrowding. As on September 2008, about 16,000 prisoners were housed against the capacity of about 12,000 inmates in jails. The majority of detainees were undertrials.²⁹

The condition of the prisoners in the Jalandhar Central Jail was reportedly deplorable. In June 2007, a team from the "Tribune" newspaper visited the prison to assess living conditions of the prisoners. The team reportedly found that there were 1,179 prisoners against the sanctioned capacity of 500. Of these, only 307 were convicts. The team revealed that prisoners lived in very small cells with no access to sunlight. There were no open spaces, no library and sports facility and just five toilets. In January 2008, the prison population had increased to 1,391, of which 331 were convicts. The Punjab and Haryana High Court took *suo moto* notice of the press report and directed the state government to provide it a list of facilities available in the jail.

On 23 April 2008, a Division Bench of the Punjab and Haryana High Court also issued a notice to Punjab government regarding overcrowding and lack of medical facilities at the Ropar sub-jail. There were about 416 prisoners against the sanctioned capacity of 250 prisoners.³⁰

There have been reports of deaths of prisoners. Torture and denial of medical treatment were common. In 2008, the SHRC took up over 60 complaints of deaths in judicial custody.³¹

In March 2008, an undertrial prisoner identified as Jaspal (40) of Adampur allegedly

died after he was not provided timely medical treatment.³²

On 20 April 2008, undertrial prisoner identified as Paramjit Singh, resident of Lakhanpal village in Jalandhar district, died after he was admitted to a hospital following alleged torture by jail officials of Jalandhar Central Jail. The jail officials stated that he was admitted to the hospital after he complained of chest pain on 18 April 2008.³³

On 5 June 2008, undertrial prisoner identified as Gurtej Singh allegedly committed suicide by hanging from a water pipe in Central Jail, Bathinda.³⁴

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Rajasthan

I. Overview

On 13 May 2008, Jaipur witnessed a series of bombings that killed at least 68 persons and injured more than 100 others. Apart from the terrorist attacks, the demands of the Gujjars to be classified as ‘Scheduled Tribes’ dominated political debate in Rajasthan. The Gujjars make up to 5-6 percent of the state’s 56 million population. At least 38 people were killed in police firing during protests by the Gujjars during 2008.¹

On 18 June 2008, the Gujjars called off their agitation after the state government assured them of five percent special reservation in education and government employment in the state.² On 16 July 2008, the State Assembly passed the Reservation Bill, 2008 providing five per cent special reservations for the Gujjars and 14 per cent reservation for the Economically Backward Classes (EBC) from upper castes.³

The State Assembly also passed the anti-conversion bill, “Rajasthan Dharma Swatantraya Bill, 2008” on 20 March 2008. The bill prohibited religious conversion by use of force, allurement or fraudulent means.⁴

Dalits and tribals remained vulnerable to discrimination and physical violence. Rajasthan was one among the worst states for recorded violence against Dalits during 2007.

The failure to appoint sufficient number of judges contributed to increase in the number of backlog cases. There were 218,219 cases pending before the Rajasthan High Court and 11,80,334 cases pending before the District and Subordinate Courts as of 1 July 2008. Prison conditions also remained poor.

II. Human rights violations by the security forces

According to the latest figures released by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, 1,237 complaints were registered against police personnel in the state in 2007. Of the 47 police personnel who were sent up for trials only six cases reached verdict in which two were convicted and four acquitted during 2007. During the same period, 248 departmental inquiries, six magisterial inquiries and two judicial inquiries were instituted to probe the allegations of human rights violations and these resulted in the following actions against the accused police personnel: 84 were dismissed from service, 431 were awarded major departmental punishment and 2608 were awarded minor departmental punishment.⁵

In 2007, NCRB documented death of two persons in police custody in Rajasthan. The police claimed that one committed suicide while the other died due to illness.⁶

In 2008 at least one person died in police custody. On 29 December 2008, Narayan Lal Soni (60) allegedly committed suicide by hanging himself with his *dhoti* (men’s traditional lower wear) inside the lock-up in Vallabh Nagar police station in Udaypur district. The deceased was arrested on 23 December 2008 in connection with looting and remanded to police custody by the Court.⁷

The police were accused of torture and illegal detention. On 19 June 2008, Amanullah Jamili (33), a doctor at the government Community Health Centre at Bagri Nagar

in Pali district, was arrested by the police in connection with the Jaipur blasts of 13 May 2008. He was detained unlawfully for four days without producing in Court as required by law. He was allegedly tortured during interrogation and released without charge on 22 June 2008.⁸

III. Violations of the rights of indigenous peoples

a. Atrocities

The NCRB recorded 1,110 incidents of crime against Scheduled Tribes in 2007. These included 17 cases of killing, 45 cases of rape and 25 cases registered under SC/ST (Prevention of Atrocities) Act, 1989, among others.⁹

On 6 October 2008, a tribal woman identified as Gujriya (wife of Hakma) was seriously injured after being tortured allegedly at the order of the *Village Panchayat* (village council) which found the victim guilty of being a “witch” at Khara village in Sirohi district. She was summoned to the *Village Panchayat* court on the charge of killing two persons by her witchcraft. The *Village Panchayat* allegedly directed the victim to undergo an “*Agnipareeksha*” (trial by fire) test by dipping her hands twice in a vessel filled with boiling oil to retrieve a silver coin to prove her innocence. If she could retrieve the coin, her innocence would be proved, otherwise she would be held guilty. When she refused to undergo the test, she was allegedly beaten up with hot iron rods.¹⁰

b. Land rights

The state government failed to address the problem of alienation of tribal lands. According to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 2,084 cases of land alienation were filed in the Courts involving an area of 6,615 acres by 2007. 1,257 cases were disposed of

by the Courts of which 187 cases involving 587 acres were decided in favour of the tribals, while 53 cases were rejected. Another 1,067 cases were pending in courts by the end of 2007.¹¹

The state government failed to properly implement the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

In tribal-dominated Udaipur district, the district administration allegedly issued a misleading circular which stated that the cut-off year for eligibility given in the Act was 1980 instead of 2005. This was allegedly intentionally done to deprive the tribals from their rights under the Forest Rights Act. On 21 September 2008, several tribals were injured and hospitalized after they were attacked by non-tribals at Jhala Pipla village under Jhadol tehsil in Udaipur district. The tribals were targeted after they filed their claims for land rights under the Forest Rights Act. Two of the tribals identified as Vera and Naro, sustained injuries in the attack.¹²

IV. Violations of the rights of the Dalits

The NCRB recorded 4,174 cases of atrocities against Dalits during 2007. These included 53 cases of killing, 153 cases of rape, 17 cases of kidnapping and abduction, 36 cases of arson, 102 cases registered under SC/ST (Prevention of Atrocities) Act, 1989, among others.¹³ These figures are in all likelihood false as the police appear to be involved in falsifying crimes against lower caste people.

a. Physical violence

Dalits remained vulnerable to attacks by the upper castes in Rajasthan. There were persistent and credible reports of the police compelling Dalit victims to reach a

compromise or change their statements in order to close the cases.¹⁴

On 9 July 2008, four Dalits identified as Rattu Lal, Nathi Lal, Ramswaroop and Jitendra (6) were shot dead by upper caste persons over a land dispute at Dhonde Ka Pura in Bari tehsil (administrative division) under Dholpur district. The deceased were on their way to work at a road project under the National Rural Employment Guarantee Scheme.¹⁵

On 25 October 2008, Dalit Ramphool Koli (35) was killed with a scimitar by a temple priest identified as Hanuman Das at Khartala Nayawas village in Dausa district for reportedly going to the toilet near a temple. The accused mutilated the victim's body and disfigured his face.¹⁶

On 30 September 2008, a group of about 150 people belonging to upper caste Jat community attacked a Dalit locality allegedly to grab their land at Keeron Ki Dhani in Jaipur. The houses and property were destroyed and looted, women and children were beaten up in the attack.¹⁷

b. Dalit women

The state failed to address the particularly intractable issue of the rights of Dalit women in Rajasthan. A fact-finding mission's report by Centre for Dalit Rights (CDR) and the Programme on Women's Economic, Social and Cultural Rights (PWESCR) on the status of Dalit women in Rajasthan released 23 June 2008 revealed the denial of rights to Dalit women on the basis of caste and gender. Dalit women were found have limited access to livelihood, food, water, sanitation and government's welfare programmes.¹⁸

Dalit women and children also faced physical violence including rape.

On 9 June 2008, 52-year-old Dalit woman identified as Dhuli Devi and her 15-year-old daughter were publicly stripped by Banalal Dhakad and Jasraj Dakad belonging to upper caste Jat community at Sayar village under Sarwar tehsil in Ajmer district. The accused came to Dhuli Devi's house to try to kidnap her daughter. When Dhuli Devi and her family members resisted, the accused dragged both the victims out of the house and stripped them in front of other villagers.¹⁹

In September 2008, a 29-year-old Dalit woman was allegedly gang-raped twice in one week by two influential persons - Suraj Karan and Raju - at Harmada village in Jaipur district. The accused first forcibly took the victim to the jungle and gang-raped her repeatedly on 15 September 2008. The victim's family members lodged a complaint with the police. A few days later, the victim was again gang-raped by the same people in front of her father-in-law to "teach her a lesson" because she dared to go to the police to lodge a complaint.²⁰

In May 2008, two minor Dalits, aged 12 and 10 respectively, (name withheld) were beaten up, their heads tonsured and paraded naked for allegedly killing birds at Byawar village in Ajmer district.²¹

V. Violations of the prisoners' rights

The state failed to address poor prison conditions. There was significant overcrowding in Rajasthan Jails. The quality of food was poor and detainees were forced to work as labourers. The State government failed to provide funds to improve the jail facilities despite repeated requests.²²

In July 2008, an undertrial identified as Majoh Sharma of Jhalawar jail allegedly died due to delay in shifting him to a hospital.²³

Undertrial prisoners were detained for very long periods without trial. In April 2008, an undertrial prisoner, Prabhunath was released from a jail in Sriganganagar district after

34 years without trial. He was arrested on charges of illegally trying to cross over to Pakistan in 1974. Had the case gone to trial it carries a maximum penalty of two years.²⁴

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Tamil Nadu

I. Overview

The ruling Dravida Munnetra Kazhagam (DMK) government failed to address the state's severe problems of violence and discrimination against the Dalits.

The Dalits continued to face caste-based discrimination in all spheres of life. For example, around 2,000 families of Dalits at Uthapuram village near Ezhumalai in Madurai district were subjected to high levels of discrimination. In 1990, a 600-metre long wall, symbolizing 'untouchability' was constructed by the caste Hindus to segregate the Dalits and to deny them access to public facilities in the village. In April 2008, the caste Hindus electrified the wall to prevent the Dalits from 'polluting' the other villagers.¹ On 6 May 2008, the state government demolished part of the wall to help Dalits access basic amenities.²

Caste Hindus prevented the Dalits from building their own bus shelter in Uthapuram village. The caste Hindus raised the height of a parapet near a bus stop to prevent the Dalits from sitting in front of them. The Dalits in Uthapuram village were not allowed to enter tea-shops owned by caste Hindus. They were not allowed to enter streets dominated by upper castes and were denied space in village squares and community halls and access to burial grounds.³

The state government failed to take action to help tribals and forest dwellers retain their land rights. The State government failed to implement the provisions of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006. Up to October 2008, not a single claim from

tribals under the Forest Rights Act had been received.⁴ Tribals continued to be evicted from their lands.

Violence by the police against the Dalit communities was widespread. The state government failed to take appropriate action to end the use of human rights violations, particularly torture, by the police. The Courts continued to order payment of compensation to victims of human rights violations by the police.

The state government also failed to prevent violence against the minority Christians. There were at least 11 attacks on churches during the period of September-October 2008.

On a positive note, the state government took action to reduce judicial delay: using 'evening courts' the state reduced the backlog of cases by 57,322.

II. Human rights violations by the security forces

Law enforcement personnel were responsible for human rights violations. According to the latest figures released by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, 369 complaints were received against the police personnel in Tamil Nadu during 2007. Of the 86 police personnel sent for trial during the year, cases involving six police personnel were completed. Two police personnel were convicted and four were acquitted. During 2007, the following departmental actions were also taken against the erring police personnel: 39 police personnel were dismissed from service, 370 were awarded major disciplinary punishment,

and 694 were awarded minor disciplinary punishment.⁵

a. Violation of the right to life

Custodial killing

The NCRB recorded two custodial deaths in 2007: one committed suicide and the other died during treatment/hospitalization. The NCRB failed to mention whether the victim was hospitalized due to torture.

On 2 December 2008, the Madras High Court directed all Chief Judicial Magistrates (CJMs) to report on the basic amenities available in the 1,452 police stations in the state. The High Court directed all CJMs to visit police stations in their jurisdiction and file a report on basic amenities.⁶

ACHR documented two deaths resulting from torture in Tamil Nadu in 2008.

In August 2008, Durai Singam (40) of Narikuravar Colony in Tirunelveli district, allegedly died in police custody due to torture at Vadaserry police station. Meeran Maideen, president of Minorities Human Rights Council, alleged that the deceased was picked up from a cinema theatre and beaten up at Vadaserry police station. The police took him to a private hospital, where he was declared dead. Following the allegation of torture an inquiry was ordered.⁷

On 13 December 2008, C. Prathasarthi, a two-wheeler mechanic, committed suicide by consuming poison following police torture at Rajapalayam in Virudhunagar district. The deceased's relatives alleged that he was taken to the Keelarajakulamaram police station twice during that night for interrogation in connection with a murder case. He was allegedly tortured.⁸

Killing in alleged fake encounter

There was an allegation of killing in fake

encounter during 2008. On 3 April 2008, Mithun Chakravarthy was allegedly extrajudicially killed by the police who claimed that it was an "encounter" in Thanjavur. The father of the deceased challenged the police in the Madras High Court. In December 2008, the Madras High Court ordered an investigation by the Crime Branch-Criminal Investigation Department (CB-CID). The High Court ordered fresh investigation by the CB-CID after observing that the enquiry earlier conducted by a Revenue Divisional Officer was conducted in a "perfunctory" manner and was "far from satisfactory". The report of the Revenue Divisional Officer had exonerated the accused policemen from all allegations.⁹

Use of disproportionate force and fire arms

The police continued to use disproportionate force and fire arms while controlling protests.

On 4 November 2008, a Dalit identified as K. Suresh (19 years) (son of Karuppiah) was killed when police opened fire at E. Kottaipatti near Uthapuram in Madurai district. The police allegedly did not issue any warning before firing.¹⁰

Earlier, on 9 March 2008, two persons identified as M. Periyanyagam (40) and Mahimai (30) were killed when police opened fire at Eraiyur near Elavanasurkottai in Ulundurpet block in Villupuram district. Reportedly, there was a friction between two sections of converted Christians over access to church services. The police resorted to firing to disperse a mob that had ransacked houses of Dalit Christians when they had complained of discrimination in offering worship at the Annai Sahaya Mary church at Eraiyur.¹¹

Court/SHRC ordered compensation

The Court and the Tamil Nadu State

Human Rights Commission (SHRC) delivered several judgments in favour of the victims during 2008.

On 27 June 2008, the Madras High Court directed the state government to pay Rs.100,000 as compensation to the legal heir of a vegetable vendor who died due to torture by four Head Constables (who were later suspended) of the Karur Town police station in 1999.¹²

In November 2008, the Madras High Court directed the state government to pay Rs 500,000 as compensation to the family of Rajamani, a Dalit, who died due to police torture in 1993. The deceased was picked up by police on 20 June 1993 for allegedly selling illicit liquor. Three days later, the police informed the deceased's wife that Rajamani had drowned after jumping into a well while trying to escape. However, the post-mortem report revealed that the deceased died of shock and haemorrhage and not due to drowning.¹³

In yet another case, the Madras High Court in November 2008 directed the state government to pay a compensation of Rs 332,000 with six per cent interest to the family of Balu, a construction worker, who died in police custody at Korattur police station on 14 November 1998. The deceased was arrested in connection with a theft case.¹⁴

During 2008, the Tamil Nadu SHRC also ordered compensation to victims in cases of human rights violations by the police.

In April 2008, the SHRC ordered two police officers identified as T. Muralidharan and D. Preethi Jayakumar of Viruthampattu police station in Vellore district to pay compensation of Rs.15,000 to a mentally challenged boy, Ravi, who was tortured at the police station

after arrest in April 2006. In his complaint, C. Arumugham (father of the victim) stated that a constable took his son Ravi and his friend Vijayan to the Viruthampattu police station where their clothes were removed and they were beaten up. Ravi's health deteriorated as a result of the beating.¹⁵

In June 2008, the SHRC ordered four police personnel including Sub-Inspector S. Anbuselvan of Vedaranyam police station in Naggapattinam district to pay compensation of Rs. 19,000 to V. Murugayyan who was beaten up and forcefully taken to the police station from his house in 2003.¹⁶

In September 2008, the SHRC directed the state government to pay Rs 100,000 to the parents of Nelson who committed suicide due to police harassment in 2006 at Puliyakumal in Coimbatore.¹⁷

In November 2008, the SHRC ordered the state government to pay Rs 20,000 as compensation to S. Selvaraj of Papanacherry in Ariyalur taluk in Perambalur district who was illegally detained and tortured in August 2008. The victim was taken to Perambalur Town police station by Inspector of Police Balaguru from his house in connection with a civil dispute with his brother Arulraj.¹⁸

b. Illegal arrest, unlawful detention and torture

From 6 to 13 January 2008, four Dalits were illegally detained by the Rajapalayam North police in Virudhunagar district. On 3 March 2008, the Madras High Court directed the Director General of Police to investigate the illegal detention of the Dalits.¹⁹

In July 2008, five persons identified as Jayanthi and three advocates, Manivannan, Chinnalagu and Shankar were illegally detained by police at Coimbatore. The

Madras High Court ordered a probe into the case following filing of a habeas corpus petition.²⁰

From 5 to 7 October 2008, a lorry driver identified as Sathyaraj (23) of Thagarapudur was illegally detained and subjected to torture by four policemen including Head Constable Thathan at the Thammampatti police station in Salem district. The police received a complaint against Sathyaraj in connection with a missing person case and asked him to appear before them for interrogation. On 5 October 2008, the victim went to the Thammampatti police station as directed by the police. There he was allegedly detained for three days. The victim was allegedly chained to the wall in the cell and sharp edges of pens and pencils were inserted inside the nails of his fingers.²¹

III. Judiciary and administration of justice

The State government constituted 56 “evening courts” in the State during 2007-08. These evening courts disposed of 57,322 cases in six months during 2007.²²

Yet, the number of backlog cases increased. A total of 443,593 cases were pending in the Madras High Court while 973,996 cases were pending in the lower courts as of June 2008. There were 15 vacancies of judges in the Madras High Court while there were 126 vacancies of judges in the District and Subordinate Courts by the end of June 2008.²³

IV. Violations of the rights of the tribals

There are 36 Scheduled Tribe (tribals) communities in Tamil Nadu. The 2001 census put the tribal population in the state at 651,000.

The NCRB recorded 17 incidents of crime against tribals in 2007. The State government failed to implement the provisions of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006. As of early October 2008, no claims under the Forest Rights Act in the State had been received.²⁴

Tribals continued to face eviction from their ancestral lands. On 22 December 2008, the Tamil Nadu State Human Rights Commission (SHRC) conducted an inquiry into the forceful eviction of residents of Suriyur Pallakadu village in Panamarathupatti block of Salem district. The Commission interviewed over 50 residents of the village and the residents claimed that the Forest Department had forcibly evicted them from their native lands. The Forest Department evicted the people despite the Madras High Court order to maintain status quo on the issue.²⁵

There were numerous reports of sexual violence.

On 6 May 2008, a tribal girl, belonging to Senthil Thoppu tribe, was gang-raped by three caste Hindus, one of them identified as R Ravi, in front of her family members at her village near Bodinayakanur in Theni district. The accused forced their way into her hut and dragged her into a nearby area. When the victim’s family members tried to intervene, they threatened to kill them. When the victim approached the Bodinayakanur police station, a woman constable discouraged the victim from pursuing the case.²⁶

On 28 May 2008, two tribal women identified as Kaliasammal (24) and her sister Panju (14) were raped by two persons - Palpandi and Murugesan – at a lodge in Batlagundu. The victims alleged that the local village heads at Koombur conducted an inquiry and offered

Rs. 2,000 to them as compensation for the act and advised them to settle the issue. The accused were not punished. The police filed cases against the accused following the help of Evidence, a non-governmental organisation.²⁷

V. Violations of the rights of the Dalits

The conditions of the Dalits remained poor in Tamil Nadu. The Dalits continued to be subjected to caste-based discrimination in all spheres of life.

According to the NCRB, 1,743 incidents of crime against the Dalits were recorded in Tamil Nadu during 2007. These included 39 cases of killing, 27 cases of rape, 198 cases of hurt, and 1,064 cases under the SC/ST (Prevention of Atrocity) Act, 1989, among others.

a. Caste-based discrimination

Caste-based discrimination was widely practised in Tamil Nadu. The Dalits were ostracized. They were not allowed to draw water from the village taps, to bury the dead, postmen did not deliver letters to the Dalits, barbers and washer-men refused the Dalits their services, they were denied entry into temples, and they were not allowed to collect ration from the common village public distribution shop. The 'double tumbler' system, the practice of serving tea to the Dalits in separate tumblers or coconut shells at teashops, was still prevalent.

According to a survey conducted in January 2008 by Tamil Nadu Untouchability Eradication Front, the Dalits faced discrimination in 20 districts of the state.²⁸

Around 2,000 families of the Dalits at Uthapuram village near Ezhumalai in Madurai district were subjected to high levels

of discrimination. In 1990, a 600-metre long wall, symbolizing 'untouchability' was constructed by the caste Hindus to segregate the Dalits and to deny them access to public facilities in the village. In April 2008, the caste Hindus electrified the wall to prevent Dalits from 'polluting' the other villagers.²⁹ On 6 May 2008, the State government demolished part of the wall to help Dalits have access basic amenities.³⁰

Caste Hindus prevented the Dalits from building their own bus shelter in Uthapuram village. The caste Hindus raised the height of a parapet near a bus stop to prevent the Dalits from sitting in front of them. The Dalits in Uthapuram village were not allowed to enter teashops owned by caste Hindus. They were not allowed to enter streets dominated by upper castes. They were denied space in village squares and community halls and access to burial grounds.³¹

Similarly, the Dalits faced discrimination in other districts. On 10 February 2008, one-and-half year-old son of Raji, a Dalit, was reportedly denied polio vaccine when she took the baby to the vaccination centre at Keelavilanchampatti village in Sivaganga district on the ground of their caste.³²

On 23 September 2008, Dalits were denied entry by caste Hindus to offer prayers at the Kannanallur Mariamman temple at Panthapuli near Sankarankovil. The temple was closed ten years ago due to conflict between Dalits and upper castes. Aggrieved, the Dalits approached the Court. The Court ordered the Village Administrative Officer and the Police Department to allow entry of the Dalits into the temple. Subsequently, a peace committee meeting was conducted on 17 September 2008 and decided to allow the Dalits access to the temple on 23 September 2008. However, the temple remained closed

and the temple priest, who keeps the key with him, could not be traced.³³ Finally, on 24 December 2008, the Dalits entered the temple under police protection.³⁴

b. Physical violence

The police were also responsible for violence against the Dalits including women and children.

From 6 to 13 January 2008, four Dalits were illegally detained by the Rajapalayam North Police as part of a murder inquiry in Virudhunagar district. On 3 March 2008, the Madras High Court directed the Director General of Police to investigate the illegal detention of the Dalit family.³⁵

On 28 January 2008, Muthukani, a class 12 Scheduled Caste (Dalit) student of Veerasikamani Government Higher Secondary School and resident of Vadanathampatti near Verasikamani (a Dalit hamlet) in Tirunneveli district was allegedly beaten up by a police inspector for writing on the shirt of a higher caste classmate. Two boys had written on each others shirt and got into a fight. The conflict was resolved by their teacher. The police were informed of the incident. Two constables from Chendamaram police station came to the school to investigate. The police took both the students to the police station despite the school administration stating that the matter was sorted out. At about 6.30 pm, Inspector Charles Kalaimani came to the station and allegedly started beating Muthukani with a stick after he said that he was from Vadanathampatti. The other student Paulraj was not questioned. Later, the victim was sent home with a warning.³⁶

On 7 April 2008, two Dalit boys - S Prabakaran (21) and V Kaviarasan (23), both from Nehru Nagar in Vadakkuvveli

- were reportedly first beaten up by caste Hindus following an altercation near Theradi in Thanjavur. Later, the police took them to the police station where both of them were tortured by four constables - Ravi, Panneer, Ramamurthy and Vedamurthy. Prabakaran was allegedly forced to lie on the floor and stripped. His underwear was torn off. They tied him to a coconut tree at the police station premises and he was beaten. Both victims had to be admitted to hospital.³⁷

On 9 April 2008, E. Vallithaai (33), Dalit woman and Village Panchayat (council) president of North Kaavalaakurichi village in Tirunneveli district, was tortured by police led by Sub Inspector of Police, Mr Pitchaiah and Inspector Mr Lakshmanan for trying to prevent a private company's repeated attempts to lay a road over an irrigation channel. The police called her by caste name and warned that a case would be registered against her. She was admitted to a hospital.³⁸

On 2 February 2008, a 16-year-old Dalit girl (daughter of Andisamy) was kidnapped from Kachirayanpatti village near Madurai and raped by an upper caste man. Although, the victim's father complained to police and a medical check up confirmed rape, the police failed to take action.³⁹

On 28 February 2008, three minor Dalit students - Perumalsamy (10), Nagalingam (15) and Rikki Kevin (14) - were allegedly beaten up with cane and *chappals* (sandal), kicked, tied with ropes and abused with their caste names by Kader Batcha and his son in the Jeyamangalam police limits in Theni district. The victims had gone to the garden of the accused after school to wash their faces where they accused of theft. The victims were stripped and made to run naked from the farm.⁴⁰

VI. Violations of the rights of the women and children

The police registered 6,524 cases of crime committed against women during 2008. These included 573 cases of rape, 207 cases of dowry death, 1,705 cases of molestation, 974 cases of sexual harassment, 1,648 cases of domestic violence, 1,155 cases of kidnapping and abduction of women and girls, among others.⁴¹

The NCRB recorded 441 incidents of crime against children in the State during 2007. Of these, 44 were cases of murder, 141 rape cases, and 197 cases of kidnapping and abduction, among others.

VII. Violations of the rights of minorities

During 2008, many churches were targeted in Tamil Nadu. At least 11 churches were attacked in September-October 2008.⁴²

On 7 October 2008, two churches were attacked in Coimbatore district. On 9 October 2008, a statue of Infant Jesus was desecrated at the St. Francis Assisi church at Athipalayam Pirivu near Ganapathy in Coimbatore district.⁴³ On 20 October 2008, two churches were attacked in Dindigul district.⁴⁴

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Tripura

I. Overview

Ruled by the Communist Party of India (Marxist), Tripura continued to be afflicted by insurgency in 2008. On 1 October 2008, at least two people were killed and more than 100 injured in serial blasts in capital Agartala.¹ According to the Union Home Ministry, there were 30 Armed Opposition Groups (AOGs) operating in Tripura.²

Both the security forces and the AOGs were responsible for human rights violations. There were persistent and credible reports that the security forces perpetrated extrajudicial killings of civilians in counter-insurgency operations and sexual violence. AOGs violated international humanitarian law including killing, torture and abduction.

Crime increased in Tripura during 2008. According to Tripura Police, 5,581 crimes including 155 murders and 146 kidnapping were committed as in November 2008. A total of 4,448 crimes were recorded in 2007.³

As of 7 December 2008, as many as 20,000 cases were pending in the lower courts in the state while about 5,000 cases were pending with the Agartala bench of the Guwahati High Court.

The state government failed to rehabilitate hundreds of people displaced by the barbed wire fencing along Tripura's 856-km-long border with Bangladesh.

Torture and ill-treatment of prisoners were reported during 2008.

II. Human rights violations by the security forces

The security forces were responsible for gross violation of the rights of the tribal people including arbitrary arrest, illegal detention, torture, custodial killing and extrajudicial killings in the name of "counter-terrorism" measures.

a. Alleged extrajudicial killings

On 7 January 2008, the para-military Tripura State Rifles (TSR) personnel shot dead Dhananjay Debbarma, a 17-year-old tribal school student, mistaking him for an insurgent during a counter-insurgency operation in Kunjaban under Kalyanpur police station of West Tripura district.⁴ Dhananjay had gone to the jungles to collect bamboo. The killing led to violent protests by the tribals.⁵

On 21 April 2008, three tribals identified as Choronjoy Reang (21), Pudirai Reang (23) and Sonaton Tripura were shot dead by the joint forces of 8th Battalion of TSR and Tripura Police of Longtorai Valley Police Station led by Officer-in-Charge Mr. Hemonta Debbarma during a counter-insurgency operation at Bijoy Master Para under Longtorai police station in Dhalai district. The deceased were *Jhum* (shifting cultivation) cultivators and had gone to their *Jhum* (shifting cultivation) field to work as usual in the Sakhon Sermun hill range also known as Bijoy Master Para. The deceased's family members lodged a complaint with the Longtorai police station. However, the police and TSR personnel allegedly threatened the deceased's families not to pursue the case.⁶

b. Illegal arrest, unlawful detention and torture

Civilians were subjected to arbitrary arrest, illegal detention and torture on the charges of providing support or food to AOGs.

On 13 January 2008, four tribals identified as Ms Sabita Tripura (20), Ms Bhagyabati Tripura (25), Mr Lalu Kumar Tripura (18) and Mr Binoy Debbarma (22) were arrested by TSR personnel while they were returning home after collecting fire-wood from a jungle on the suspicion of providing food to members of an AOG at Bowa Yong Khor Kami village under Salema police station in Dhalai district. They were allegedly detained at the police lock-up of the Salema police station and tortured during their five day police remand.⁷

On 14 March 2008, Mr. Ramtulonga Reang alias Raichurang, a businessman, was arrested by personnel of 14th Assam Rifles on the suspicion of providing assistance to an AOG from Naisingpara in North Tripura district. He was taken to the 14th Assam Rifles Headquarters at Kanchanpur and beaten up. He was handed over to the police on 15 March 2008. He was produced before court and sent to Kamalpur Sub-jail in Dhalai district.⁸

III. Violations of International Humanitarian Law by the AOGs

According to the Union Home Ministry, there were 30 armed opposition groups (AOGs) in Tripura.⁹ In November 2008, the state's Chief Secretary Shashi Prakash stated that insurgency in Tripura, though on a decline, could not be eradicated completely as the militants operated across the border in Bangladesh.¹⁰ Two main AOGs were National Liberation Front of Tripura (NLFT) and All Tripura Tiger Force (ATTF).

The AOGs violated international humanitarian law including killing, torture and abduction. According to the police, there were 74 insurgency-related incidents in 2008. The AOGs were responsible for killing of eight civilians and 32 others were kidnapped in 2008.¹¹

On the night of 30 March 2008, suspected ATTF cadres shot dead tribal political leader Sunil Debbarma (30) at Sidhai in West Tripura district. Debbarma was a critic of tribal militancy.¹²

On 26 April 2008, Dharendra Debnath (41), a railway labourer, was shot dead by suspected cadres of NLFT from the Atharomura railway tunnel site under Mungiakami police station in West Tripura district.¹³

The AOGs targeted those who failed to comply with their orders. In March 2008, at least 67 tribal families were allegedly driven from homes, hit with rifle butts, women were stripped and belongings looted by cadres believed to be from the NLFT during raids on Karnamuni and Tetia villages in Dhalai district. The victims were targeted and forced to leave their homes for not voting for the political candidate allegedly backed by the NLFT for the State Assembly elections on 7 February 2008.¹⁴

The AOGs also carried out abductions during 2008.

On the night of 1 January 2008, Madhu Tripura (35), a CPM worker, was kidnapped by cadres believed to be from the NLFT from his house at Dhananjay para village under Gandacherra in Dhalai district. The victim had reportedly refused to collect tax for the NLFT.¹⁵

On 26 April 2008, Debabrata Das (32), a railway engineer, was abducted by suspected

cadres of NLFT from the Atharomura railway tunnel site under Mungiakami police station in West Tripura district.¹⁶

On 21 October 2008, a minor tribal boy, Tapan Debbarma (17 years) (son of Malendra Debbarma) was abducted by suspected cadres of ATTF from his house at Musrai Para village under Champahowar police station in West Tripura district.¹⁷

IV. Violations of the rights of women and children

The NCRB recorded 1,067 incidents of crime against women during 2007. These included 157 rapes, 81 kidnapping and abductions, 36 dowry deaths, among others. 63 incidents of crime were recorded against children during the same period.¹⁸

Security forces were themselves responsible for sexual violence.

On 7 May 2008, Sandhya Reang (23) (daughter of Mr Molendro Reang) was allegedly raped by the personnel of 9th Battalion of Tripura State Rifles (TSR) at Bata Para village under Twidu police station in Amarpur sub-division in South Tripura district. The personnel of the TSR entered the victim's house and ordered the victim's father to collect local-made wine for them. After driving away the father, the TSR personnel allegedly raped the victim.¹⁹

On 12 March 2008, tribal woman identified as Aapaima Mog (21) (wife of Mr. Polo Mog) was allegedly raped and killed by Jagadish Shil (22), Special Police Officer (SPO) of District Armed Reserved (DAR) at Avangacherra village (Chefru Mog Para) under Baikhura police station in South district of Tripura. An investigation by the police confirmed that the SPO had killed the victim after rape.²⁰

On 12 May 2008, 15-year-old minor girl (name withheld) (daughter of Sailesh Nag) was allegedly raped by constable Sujit Das at the staff quarter of Nepaltilla police station under Kailasahar sub-division in North Tripura district. The accused had offered her help when she lost her way after boarding a wrong bus on her way to Assam.²¹

On 12 May 2008, an eight-year-old girl (name withheld) (daughter of Rabindra Das) was allegedly raped by Simul Dutta alias Maru, a CPI(M) activist at Santipally under Amarpur Notified Authority in South Tripura district. The accused was arrested.²²

V. Status of internally displaced persons

The State government failed to rehabilitate hundreds of people displaced by the barbed wire fencing along Tripura's 856-km-long border with Bangladesh. According to official estimates, more than 8,730 families were displaced by the fence.²³ The state government had sent a proposal of Rs 93 crore to the Centre to rehabilitate the displaced families. However, the Centre had reportedly provided only Rs 14 crore for rehabilitation which was inadequate.²⁴ The state government claimed 543 families were rehabilitated with central assistance as of 12 June 2008.²⁵

On 26 February 2008, 25 persons including 15 women were injured when TSR personnel resorted to lathi-charge (beat with sticks) upon the civilians during alleged forcible evicting of 450 tribal families from government land.²⁶

VI. Violations of the prisoners' rights

There were 11 jails in Tripura. Custodial torture continued to be reported during 2008.

On 24 April 2008, an undertrial prisoner identified as Mufkari Reang (26) (son of Mr Sorbojoy Reang) was allegedly tortured to death by jail officials including Mr. Jiban Debbarma and Mr. Sukumar Chhetri in the Agartala Central Jail. The deceased was reportedly offered local-made wine. When he got drunk, he was tortured which resulted in his death. Later, he was allegedly hanged by the Jail officials in the toilet of the jail. The deceased, who was accused of being a

militant, was caught during an encounter in 2007 and sent to jail.²⁷

In October 2008, a women prisoner identified as Dali Namodas was allegedly tortured by jail officials at the Agartala Central Jail. The victim was allegedly forced to work as a maid-servant by the sub-jailer, Bella Dutta in the jail. She was physically tortured when she refused to work. The Tripura State Commission for Women initiated an investigation into the case.²⁸

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Uttarakhand

I. Overview

There were continued reports of human rights violations committed by the police in Uttarakhand (formerly Uttaranchal) in 2008. In a positive development the Uttarakhand government set up a Police Complaint Authority headed by Justice Shambhu Nath Shrivastava on 10 September 2008. On 30 September 2008, Justice Shambhu Nath Shrivastava stated that the Police Complaint Authority received 14 complaints of police atrocities in the state.¹ The National Crime Records Bureau (NCRB) under the Ministry of Home Affairs received a total of 749 complaints against police personnel in Uttarakhand in 2007.

The rights of the tribals and Dalits continued to be violated. There were allegations of irregularities in the implementation of reservations and other benefits for Scheduled Castes and Scheduled Tribes in Uttarakhand.²

The judiciary continued to be hampered by judicial delay. As in June 2008, there were 18,959 cases pending before the Uttaranchal High Court and 157,270 cases were pending in the District and Subordinate Courts. The High Court had two vacancies out of the sanctioned strength of nine judges as of September 2008 while the lower courts had 143 vacancies out of the sanctioned strength of 269 judges as of June 2008.³

Jails were overcrowded and lacked basic facilities. Many prisoners were never produced in court.

The Christian minorities were targeted in the state during the year. There were instances where the Christian preachers were beaten up and prayers disrupted.

II. Human rights violations by the security forces

On 10 September 2008, the state government set up a Police Complaint Authority headed by Justice Shambhu Nath Shrivastava in compliance with Supreme Court directives on police reform. On 30 September 2008, Justice Shambhu Nath Shrivastava stated that the Police Complaint Authority received 14 complaints of police atrocities in the state.⁴ The National Crime Records Bureau (NCRB) received 749 complaints against police personnel in Uttarakhand during 2007. Five police personnel were sent to trial. None of these were completed by end of 2007.

The police continued to be responsible for human rights violations including custodial deaths and torture in 2008.

On 9 January 2008, Manoj (20) (son of Jawahar Singh) was allegedly tortured to death in police custody at Lal Kuan in Nainital district. The victim was arrested on 9 January in connection with theft. The police claimed that the victim died when an unidentified truck hit the auto-rickshaw while taking him to the police station.⁵

In March 2008, Dayal Tamta, a nephew of former State Minister Ram Prasad Tamta, was tortured to death in police custody by head constable Jagdish Tanwar in Bageshwar district. The accused was arrested and jailed.⁶

On 23 November 2008, three minors identified as Prajawal (son of Lalit Kishor Kukreti), Ashish (son of Nandlal Paswan) and Abhay (son of Rajendra Negi) were allegedly detained by retired Deputy Superintendent of Police, Gyan Chandra Yadav at his house at Ballupur in Dehradun district. The minors were allegedly beaten up with belts and seriously injured.⁷

III. Violations of the rights of indigenous peoples

The State government failed to implement the Scheduled Tribes and Other Traditional Forest Dwellers (Forest Rights Recognition) Act, 2006 as in October 2008. The Act was notified in January 2008.

The Forest Rights Act, 2006 states that a number of committees must be established as a pre-requisite for settling claims by tribals and other traditional forest dwellers under the Act. Individual claims are registered with the *Gram Sabhas* (Village level councils) and forwarded for verification to the subdivisional committees and then approved by district committees. However, according to the Ministry of Tribal Affairs, the nodal agency for the implementation of the Act, Uttarakhand failed to set up any of these mechanisms for implementation of the Forest Rights Act, 2006. Uttarakhand was among the states that made no progress in this regard.⁸

About 70 per cent of the State's population was directly dependent on forests. Many groups were affected by the failure to implement the Forest Rights Act, 2006. For instance, the Van Gujjars, a forest-dwelling tribal community living on the periphery of the Rajaji National Park, were denied their legal rights over their forest settlements.⁹ They were threatened with eviction, denied proper rehabilitation and were repeatedly

harassed by the officials of the Forest Department. An estimated 1,300 families of Van Gujjars tribals were threatened with eviction from the Rajaji National Park. On 12 May 2008, one Jahoor Hussain (40) was taken to a range forest office and allegedly beaten up. He was released only after filing a police complaint.¹⁰

IV. Violations of the rights of the Dalits

The National Crime Records Bureau recorded 71 incidents of crime against Scheduled Castes in Uttarakhand during 2007. Dalits continued to be vulnerable to sexual violence.

On 4 April 2008, a 19-year-old Dalit girl Kavita (name changed) was gang-raped allegedly by five persons including two Bhartiya Janata Party (BJP) leaders on the pretext of giving her a government job in Dehradun. On 23 June 2008, two accused were arrested.¹¹

V. Violations of the prisoners' rights

Jails were overcrowded and lacked basic facilities. Many prisoners were never produced in court. There were 141 prisoners detained against a capacity of only 71 prisoners in the Nainital jail as in July 2008.

This was revealed during a surprise inspection conducted by the Nainital District Magistrate (DM) in July 2008. Following the inspection, the DM directed the jailer to present those inmates who had never been produced in court and to provide the stipulated diet.¹²

On 5 July 2008, a prisoner identified as Sanjay allegedly died due to lack of medical facilities in Dehradun District Jail at Suddhowala. He had tuberculosis. The victim had died en route to hospital after bleeding profusely.¹³

VI. Violations of the rights of minorities

There were reports of Christian minority being targeted in 2008. On 22 June 2008, pastor Jonathan A Singh was beaten up and prayers disrupted by a group of about 15-20 persons at City Palace Hotel in Raipur, Dehradun. Earlier on 2 June 2008, a teacher, Benjamin Newton of Grace Academy in

Dehradun was beaten up also during a *bandh* (strike) in Dehradun.¹⁴

On 22 September 2008, two Christian missionaries identified as Father Samuel (60) and Sister Mercy (35) were found dead at their hermitage, Samarpanalaya at Chhota Rampur in Dehradun. Their bodies were reportedly found tied with ropes.¹⁵

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Uttar Pradesh

I. Overview

Ruled by the Bahujan Samaj Party (BSP), the human rights situation remained very poor in Uttar Pradesh in 2008. According to National Human Rights Commission (NHRC), an average of 115 cases of human rights violations were reported daily in the State.¹

The security forces were responsible for violations of the right to life including custodial deaths and killing related to disproportionate use of force. According to official statistics, 32 persons died in police custody in Uttar Pradesh in 2007-2008. This was a near tripling of deaths in custody on 2006-2007 (11 deaths).²

According to the state's Director General of Police, Vikram Singh, 2,386 complaints of human rights violations by the police were registered in the State from January-November 2008.³

The state police's credibility was again called into question over its claims of killings in 'encounter'. The courts continued to rule that these killings were extrajudicial and that the 'encounters' were wholly fake. This implies cover up on a significant scale. However despite the seriousness of the crimes, the institutional nature of the cover up and the clear signal from the courts, the state failed to take any action to end these practices.

Any statistics on crimes provided by the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs is likely to be inaccurate as a result of the low levels of public respect for the institution of the police as a result of their repeated involvement in

serious crimes and the lack of action by the state to end these practices.

The state government failed to address caste-based violence and discrimination against the Dalits. There were astonishing instances of violence that included the gouging out of eyes, killings and rapes. Uttar Pradesh recorded the highest number of crimes against vulnerable sections with a total of 6,942 incidents, including 333 rapes, in 2008. The state government also failed to implement development schemes meant for the Dalits.

Uttar Pradesh also reported the highest number of crimes against women during the year. 21,215 cases of violence against women were reported in the year. These included 2,066 cases of dowry death, 1,532 cases of rape, 3,819 kidnapping, among others. These rates are likely to be under reported as the police were responsible for crime against women including sexual violence.

Child labour was widespread in the State. There were as many as 1.93 million child labourers in Uttar Pradesh, the highest in India. On 20 October 2008, Minister of Labour and Employment Oscar Fernandes informed the Lok Sabha that 71,479 child labourers were rescued from work and enrolled in special schools under the National Child Labour Project (NCLP) during the year 2007-2008.⁴

Prisons were overcrowded and lacked basic facilities. Many prisoners reportedly died due to poor prison conditions. At least 17 prisoners died in the Naini Central Jail due to lack of proper medical facilities from January-May 2008. Prisoners were subjected to torture and ill-treatment.

II. Human rights violations by the security forces

The security forces continued to perpetrate gross human rights violations including violations of the right to life and sexual violence in Uttar Pradesh.

According to the Uttar Pradesh Director General of Police, Vikram Singh, 2,386 complaints of human rights violations by the police were registered in the State from January-November 2008.⁵ According to the NCRB's annual report "*Crime in India - 2007*", it recorded a total of 4,620 complaints against police personnel during 2007. During that period, 139 accused police personnel were sent for trial but no trial was completed.

a. Violations of the right to life

i. Custodial killing

Custodial killings are common in Uttar Pradesh. On 23 December 2008, Union Minister of State for Home Affairs, Shakeel Ahmed informed the Lok Sabha (Lower House of Indian Parliament) that 588 cases of death in police custody in India were reported to the National Human Rights Commission (NHRC) during 2005-2008 and the NHRC granted compensation in 75 cases amounting to over Rs 99 lakh. Uttar Pradesh was the worst violator of human rights where Rs 23.2 lakh compensation was paid in 16 custodial deaths cases during the period 2005-2008. Out of these, Rs 16 lakh compensation was recommended in nine cases in Uttar Pradesh during 2008.⁶

According to official statistics, 32 persons died in police custody in Uttar Pradesh in 2007-2008. This was a three-fold increase over 2006-2007 (11 deaths).⁷ Downplaying the custodial deaths, the state's Director General of Police, Vikram Singh claimed only three custodial deaths occurred in the State from January to November 2008.⁸

ACHR documented nine cases of death in police custody from Uttar Pradesh in 2008. These included:

- On 16 April 2008, 60-year-old Omvir died shortly after being released from police custody at the Sector 39 police station in Noida district. The police arrested the victim on the night of 15 April 2008. The victim was allegedly tortured throughout the night during interrogation. The police allegedly obtained his signature on a blank paper before being released.⁹
- On 28 May 2008, Naubat Singh (70) of Talwar village in Bulandshahr district was allegedly tortured to death at Debai police station. He was picked up by the police from his house for allegedly running a gambling racket.¹⁰
- On 12 June 2008, Dalit, Umakant Bauchar (18) of Kamalpur village in Narwal died after he was tortured by police at the Narwal police station in Kanpur district. He was arrested by Sub-Inspector Shesh Kumar Shukla and Constable Khet Kumar from his home on 11 June 2008 for helping his friend to elope. He was detained for nine hours and tortured during interrogation. As his condition deteriorated he was handed over to his family on the night of 11 June 2008. The post mortem report found a fracture in Umakant's neck bone.¹¹
- On 2 August 2008, Krishnaputra (35), a resident of Kondli in Greater Noida of Gautambudh Nagar district, was allegedly tortured to death in the police custody of the Kasna police station. The victim was arrested on the charge of stealing two ceiling fans from Galgotia Institute of Management. The victim was working as a gardener at the Galgotia Institute of Management. The police claimed that the victim had committed suicide by hanging himself with his T-shirt from the three-feet-high

latch of a store inside the lock-up of the police station.¹²

- On 14 September 2008, 18-year-old Maghai, a murder suspect, allegedly hanged himself with a towel in the Panchdevra police station in Hardoi district. The residents alleged that the victim was tortured after his arrest.¹³
- On 25 October 2008, a youth identified as Kaluva was tortured to death by four policemen in police custody in Mathura district. The victim was arrested on the night of 24 October 2008 after he clashed with some residents of Daulatpur village in the district over a land dispute. The policemen were suspended and a magisterial inquiry was ordered.¹⁴
- On the night of 1 December 2008, Mahendra, resident of Hardeoganj, allegedly died due to torture while in police custody in Mathura district. The police allegedly moved the body to a hospital without informing the victim's family.¹⁵
- On 12 December 2008, Yogesh Tyagi (44) was allegedly tortured to death during interrogation in police custody at Kavi Nagar police station in Ghaziabad district. The victim was arrested along with three others identified as Nikhil, Hemant and Dimple in connection with a murder inquiry on the night of 11 December 2008. There were injuries consistent with torture on the victim's body. Seven police personnel identified as Pramod Kumar, Station House Officer (SHO) of Kavi Nagar police station, Amrish Gautam, SHO of Vijay Nagar police station, constables - Surendra Singh, Krishna Kumar, Joginder Singh, Nitendra Vashishtha - and driver Ram Niwas were suspended following the filing of an First Information Report in the case.¹⁶
- On 15 December 2008, Harkishan (18, resident of Nagla Devi village) was

allegedly tortured to death at Barnahal police station in Mainpuri district. The victim was arrested in connection with a rape case on 15 December 2008. The police claimed that the victim committed suicide by hanging himself with his shirt from the ventilator rod of the toilet in the lock-up.¹⁷

ii. Extrajudicial executions

The police in Uttar Pradesh were responsible for disproportionate use of force and firearms against civilians. According to the NCRB, a total of 102 civilians were killed and 173 others injured when police opened fire on demonstrators in 2007. In 2008, the Uttar Pradesh Police continued to resort to disproportionate use of firearms resulting in several deaths. Some of the cases included:

- On 9 January 2008, Mukesh Kumar Yadav, a student of Chaudhary Charan Singh Post Graduate Degree at Haibra in Saifai under Etawah district, was killed when police opened fire on a group of agitating students. The police failed to properly investigate the incident. On 11 November 2008, the Allahabad High Court ordered a CBI inquiry.¹⁸
- In April 2008, two persons (name unknown) were killed when police opened fire to disperse a violent mob at Amrapur area in Kanpur district.¹⁹
- On 13 August 2008, at least four farmers (names unknown) were killed and 19 others injured when police opened fire on a group of farmers protesting against alleged land acquisition drive by the State government in Greater Noida district. However, the State government defended the killings claiming that the farmers were carrying stones and firearms and wanted to burn down the office of the development authority.²⁰

Uttar Pradesh Police have repeatedly claimed that criminals are killed in encounters. The

Courts have repeatedly ruled that encounter killings have in fact been extrajudicial killings and revealed that fake encounter was used to cover up a serious human rights crime. In 2008, the Courts intervened in a number of cases of fake encounters and ordered punishment and investigation.

In April 2008, a court in Ghaziabad ordered registration of a case of murder against nine policemen for the extrajudicial killing of a person identified as Salim in a fake encounter at the Hindon river bank on 5 September 2007. Salim, a resident of Meerut, was picked up from a bus stand after he had come to Ghaziabad in search of work. The accused policemen were identified as Mukesh Kumar Gautam, Station-in-Charge of Niwadi police station, Sub-Inspector Jatinder Singh, Nirmal Singh, In-charge of Nehru Nagar police post, Constables Ashok Kumar, Anup Singh, Omkar Singh, Brij Pal Singh, Jayveer Singh and Subash Yadav.²¹

On 18 June 2008, the District Court in Kanpur turned down the appeal of seven policemen against a lower court judgment that ordered registration of a case of murder against them in the extrajudicial killing of 26-year-old Sugreev in Faizabad district on 6 August 2007. The police claimed that the victim was killed in an encounter. The accused policemen were identified as Sub-Inspector Vikram Singh, Constables Sanjay Diwedi, Jagdamba Pandey, Anil, Manish, Vijay and Prakash. The victim brother, Ram Vilas Singh Yadav who is a police constable himself, approached the court after he failed to get response from the NHRC, Principal Secretary, Home and Home Secretary.²²

In August 2008, a fast track court sentenced 14 policemen, including the Mishrik police station in-charge Brijgopal Verma, to life imprisonment in connection with a fake

encounter in February 1981. Three innocent persons identified as Rameshwar, Chetrani and Girish Chandra Srivastava were shot dead by the police at Budhai Ka Baag. The police claimed that they were dacoits and killed in an encounter.²³

Police tortured a number of people to death. On the night of 20 January 2008, 12-year-old Santosh Singh (son of Uma Shankar) was allegedly hit with rifle butts by four police personnel after they failed to find his brother at his house in Dataganj in Baduan district. The police personnel had gone to victim's home in connection with a crime against his brother identified as Sunny. The victim died as a result of injuries inflicted by the police personnel. But the police personnel allegedly hanged the victim from a ceiling to make the death look like suicide.²⁴

In March 2008, Dayashankar Gupta was beaten to death by an inebriated constable Kamlesh Yadav of the Railway Protection Force (RPF) over a minor dispute at the Akbarpur railway station in Ambedkar Nagar district.²⁵

b. Illegal arrest, unlawful detention and torture

The police were accused of arbitrary arrest, illegal detention and torture in 2008. Some of the cases were given below.

On 25 March 2008 at about 4 pm, three persons identified as Shahji (44), Sonam (38) and Verghese (40) were arrested by the police of the Sector 20 police station in Noida on criminal charges. They were taken to the police station and subjected to torture and ill-treatment. The victims were allegedly forced to sit on the ground for about five hours. They were tied up and tortured for about three hours in order to coerce them to admit to a murder. The police denied them water and proper food. The victims were released

at about 12 pm on 27 March 2008. A person in plain clothes, who appeared to be a senior officer, warned them against reporting their treatment. All the victims had injuries consistent with their allegation of torture.²⁶

In August 2008, a truck driver identified as Rakesh Kumar (30) was allegedly beaten up with iron rods by police after he failed to pay bribe in Sector 125 Noida in Goutambudh Nagar district. The victim claimed that the police demanded a bribe for allowing the truck to enter Noida. The victim was later admitted to a nearby hospital where he received seven stitches.²⁷

The police arrested and tortured the wrong persons and falsely implicated them in crimes without proper investigation.

On 17 September 2008, Abdul Rahim alias Chand was arrested on charges of assault and robbery at Nirala Nagar in Lucknow. The police claimed that Chand was arrested on the basis of his confession. He was sent to jail for six days but was released on bail. Later, the stolen goods were found on another person.²⁸

On 18 November 2008, three-month-old pregnant woman identified as Priyanka was allegedly beaten up by police during interrogation on the whereabouts of her father at her home in Noida under Gautam Budh Nagar district. The police had gone to arrest the victim's father in connection with a criminal case.²⁹

On 7 December 2008, Chief Judicial Magistrate Renu Rao directed the police to register a case against six police personnel including Baljit Singh, Station House Officer, sub-inspector Pritam Singh and four constables of the Kotwali police station in Muzaffarnagar district for allegedly torturing two persons identified as Hasim Rana and

Suhail Rana for two days in custody and trying to implicate them in a murder case.³⁰

The police also targeted human rights activists in 2008.

On 27 October 2008, two human rights activists identified as Vinod Yadav and Sarfaraz of People's Union for Human Rights (PUHR) along with five others were arrested by police in an alleged case of fraud at Alambagh in Lucknow. However, the police failed to produce any evidence. On 20 November 2008, a civil court released them on bail.³¹

III. Judiciary and administration of justice

Uttar Pradesh has the highest number of pending cases and vacancies in the courts in India. The Allahabad High Court, biggest high court in the country, accounts for the highest number of vacancies in a single High Court with over 50 percent vacancies. There were only 76 judges as against the sanctioned 160 posts of judges as of 1st October 2008. Similarly, the lower courts had 540 vacancies of judges as of 30th June 2008. As of 30th June 2008, a total of 859,774 cases were pending in the Allahabad High Court and 4,988,743 cases were pending in the lower courts in the state.³²

IV. Violations of the rights of the Dalits

Scheduled Castes also known as Dalits constitute about 21 percent of the population of Uttar Pradesh (which was 166 million by the 2001 census). Despite the State being ruled by a Dalit Chief Minister, the enjoyment of rights failed to improve.

Uttar Pradesh had the worst record of caste based crimes against the Dalits. Police statistics showed that crimes against the Dalits and the

tribals increased by 4.74% in 2008 over 2007. A total of 6,942 incidents of crime against them were recorded in 2008 as against 6,628 in 2007. These included 229 cases of murder, 333 cases of rape and 2,390 cases under SC/ST (Prevention of Atrocities) Act, 1989.³³ Reporting is likely to be inaccurate as a result of the low levels of public respect for the institution of the police as a result of their repeated involvement in serious crimes. The 17-member State Commission for Scheduled Castes and Scheduled Tribes of Uttar Pradesh remained ineffective.

a. Caste based discrimination

Discrimination against the Dalits continued to be practiced in Uttar Pradesh. Dalits were denied entry into temples, barred from using public water facilities and faced discrimination in educational institutions.

Discrimination persists in educational institutions in the State. Mid-day meal cooked by Dalits in government schools were often boycotted by the upper caste students who received support from their parents in this act. This was despite government orders for appointment of Dalit cooks on priority basis. According to a survey, Dalit cooks were appointed in only 17 per cent of schools.

Dalit students were also maltreated by high caste teachers.³⁴ In February 2008, six teachers of a primary school were charged with discriminating against Dalit students in the mid-day meal scheme at Ambedkar village in Jalaun district. Teachers, including the principal, forced the Dalit children to sit separately on the floor on the veranda before food was served to them in the school. Three of them were sent to jail.³⁵ Similarly, in December 2008, a principal of a school identified as Madhuri Pandey, an upper caste, allegedly refused to eat the food cooked by Dalit students during an examination in Mau district.³⁶

In November 2008, a Dalit student of the Government Girls Inter College in Ferozabad district was allegedly made to do the job of a sweeper and sit separately from others by upper caste teachers because of her dark complexion and her caste.³⁷

In December 2008, a Dalit student was forcibly given a hair-cut by a college principal in Jaunpur district.³⁸

The Dalits faced restriction in accessing public places including temples. For instance, on 8 January 2008, Dalit Sudhir Kumar was denied entry into the Mahadev temple and beaten up by the upper caste Hindus including the temple priest identified as Shailendra Tiwari and two others identified as Rajan Dixit and Shiv Singh Yadav in Kanpur.³⁹

In April 2008, a six-year-old Dalit girl was pushed into burning ember by an upper caste for walking on a road reserved for the upper caste villagers in Mathura city. The girl was walking along the road along with her mother when the upper caste villagers stopped them. She was pushed off the road and fell into a pile of burning embers by the side of the road. She sustained serious burn injuries.⁴⁰

Dalits were denied access to community wells/water pumps. On 10 November 2008, an elderly Dalit woman was beaten up with sticks by upper caste people for using a hand pump installed in Mudaiya locality of Lacchu village in Auraiya district. The police refused to register her complaint when the victim approached the police.⁴¹

b. Physical attacks against the Dalits

Dalits continued to be vulnerable to physical attacks.

On 1 February 2008, Dalit, Satvir Dohare (28) died after he was pushed into a cauldron full of boiling oil by his employer at a

confectionery shop in Etawah district. Earlier, the victim's relatives had complained to the police officer about Dohare being threatened by his employer. But no action was taken. A police officer was suspended for dereliction of duty on 5 February 2008.⁴²

On 8 March 2008, Dalit labourer identified as Suresh Raidas (35) was allegedly tortured to death by his upper caste landlord Rakesh Katiyar and his brother for demanding his share of crop in Bilhaur village in Kanpur Dehat district. The eyes of the victim were gouged out.⁴³

On 17 April 2008, 15-year-old Dalit girl identified as Gudiya (daughter of Bihari Bind) was beaten to death at Mahadeva village in Kushinagar district after the panchayat ordered her to be beaten 50 times with lathis (sticks) as punishment for having a love affair with an upper caste man.⁴⁴

On 22 October 2008, 13-year-old Dalit Nandu (name changed), was beaten up with sticks and forcibly confined for several hours by upper caste persons at Basaura village under Shrinagar police station in Mahoba district. Later, the victim was chained to a tractor and dragged around the village where he lost consciousness. The victim was punished for having allegedly held hands with an upper caste girl. The victim sustained serious injury.⁴⁵

Most of the abuses perpetrated on Dalits relate to land rights. In September 2008, ACHR investigated a case of forcible land alienation of a Dalit identified as Mr Jokhan Ram and subsequent torture of his family members by four upper caste persons identified as Vinod Dubey, (village chief), Anil Pandey, Rajender and Mahender at Bahrakothi village under Ahraula police station in Azamgarh district since August 2008. ACHR sent its legal representative, Mr. Nitesh Kumar Singh,

Advocate, to Bahrakothi village on 23-24 September 2008. He found that Jokhan Ram owned some ancestral lands measuring 0.1730 Hectares vide Khasra No.186 at Bahrakothi village and the Village Headman Vinod Dubey had been trying to forcibly grab Jokhan Ram's lands since 2006, when his son Virender contested the Village Headman elections against him. In August 2008, Virender filed a complaint with the local police but the police failed to take any action against Vinod Dubey or any of his accomplices. Instead, the police began to coerce Virender and his family members to give away his land. On 18 August 2008, the police took Virender into custody and illegally detained him for two days at Ahraula Police Station. Virender was subjected to custodial torture. Based on the findings, ACHR filed complaints with the National Commission for Scheduled Castes and the National Human Rights Commission seeking immediate intervention in October 2008. However, the Commissions failed to act. As a result, threats against the Dalit victims increased. On 25 November 2008, Jhokan Ram's daughter-in-law Smt Shanti Devi (38) was beaten up by the upper caste accused in the village following which she had to be hospitalized for nearly 20 days. On 24 December 2008, ACHR sought the intervention of the Chief Minister of Uttar Pradesh in the case.

On 14 July 2008, a Dalit couple identified as Gurcharan and his wife Rajwati were killed with axes and knives by a group led by one Virendra Singh over a property dispute at Rasoolpur village in Rae Bareilly district.⁴⁶

On the night of 5 April 2008, Dalit woman identified as Raj Rani (65, wife of Cheda Lal) and her grand-daughter identified as Sunita (19, daughter of Ram Babu Kori) were allegedly killed by Bharatiya Janata Party (BJP) leader Vijay Sachan over a land dispute

at Sirsi village under the Ghatampur police station in Kanpur district.⁴⁷

c. Violence against Dalit women

Dalit women remained vulnerable to sexual violence. According to the police estimates, 333 women from vulnerable sectors were raped in 2008.⁴⁸

In March 2008, seven-year-old Dalit girl (daughter of Phoolchand) was killed after being raped allegedly by two security guards at Koilaha village in Kaushambi district. The body of the girl was found with one arm cut-off and one eye gouged out.⁴⁹

On 2 April 2008, 17-year-old Dalit girl Anita (name changed) was set on fire by a man from the upper caste at her home for resisting rape attempt at Bamampur village under Ekdil police station in Etawah district. The victim suffered 60 per cent burn injuries.⁵⁰

On 2 November 2008, a 14-year-old Dalit girl was raped by one Om Narayan in Banda district. The accused forcibly poured hair dye into the victim's mouth after he had criminally assaulted her. The victim later died in a hospital.⁵¹

On 16 November 2008, a 16-year-old Dalit girl was raped after being kidnapped by three persons identified as Puneet, Sunil and Naresh in Kanpur district.⁵²

On 25 November 2008, a 19-year-old dalit girl was gangraped by two persons identified as Sagir and Sonu in the Sahibabad police station area in Ghaziabad district. The victim was returning home after attending a computer training class.⁵³

d. Non-utilisation of fund for welfare schemes

The State government failed to implement the schemes meant for the welfare of the

Dalits. Thousands of crores meant to be spent on the Scheduled Castes remain unutilised. For example, in the State government's scheme for the welfare of the extremely backward communities (EBCs) among the Scheduled Castes, no money from the allocation of Rs 100 crore was spent until the end of January 2008. The same was the case with other schemes funded by the Centre. For example, for scholarships to Scheduled Caste students, the expenditure was Rs 74 crore against a budget provision of Rs 421 crore at the end of January 2008. Most of the schemes for the welfare of the Scheduled Castes are implemented by the Department of Social Welfare. In February 2008, Cabinet Secretary Shashank Shekhar Singh after conducting a review of schemes under Special Component plan (SCP) revealed that 27 government departments out of 30 had spent no funds from their allocation.⁵⁴

V. Violations of the rights of women

In 2008, Uttar Pradesh reported the highest reported crimes of violence against women. According to the police, crimes against women rose 2.34% in 2008. 21,215 cases of violence against women were reported in the year as against 20,730 in 2007. These included 2,066 cases of dowry death, 1,532 cases of rape, 3819 kidnapping, among others.⁵⁵

Law enforcement personnel were themselves responsible for crime against women including sexual violence.

On 28 October 2008, two women from Nepal were allegedly gang-raped by five police personnel identified as Manoj Patel (34), Harendra Singh (35) Binay Kumar Pathak, Rajesh Kumar Pandey and Binay Kumar Singh at Mallika Hotel near Gorakhpur railway station. Eight persons including six

women from Nepal were taken into custody for interrogation from the Gorakhpur railway station where they were supposed to board a train for Mumbai.

However, they were not taken to a police station and instead confined all of them in the hotel for about 48 hours and tortured including the gang rape of two women. Later, the policemen reportedly demanded Rs. 30,000 for the release of the women from the two persons accompanying the women and threatened to kill all of them if they make the incident public.⁵⁶

On 15 October 2008, Malti Devi (name changed), resident of Bijnor, was raped by Sub-Inspector Tej Pal Singh, posted at Tilhar police station, at his service quarters in Shahjahanpur district. The victim had come to a court in Tilhar tehsil of Shahjahanpur district in connection with a case.⁵⁷

On 10 October 2008, a 14-year-old girl, resident of Gangotri Vihar of Bhajanpura area in East Delhi, was raped by Shyampal Singh, Head Constable, posted at Sahibabad police station, at his room in Ghaziabad district. The medical examination confirmed rape. The accused was dismissed from service.⁵⁸

On 6 June 2008, a woman (name unknown), resident of Prithviganj Bhagesara at Pratapgarh, was allegedly raped by Shiv Singh, Deputy Superintendent of Police posted at Pratapgarh. The accused was arrested following a complaint by the victim.⁵⁹ Apart from sexual violence, women were victims of honour killings.

On 6 November 2008, two minor girls identified as Sonam (14) and Pinky (17) were allegedly shot dead by their cousin identified as Sonu for eloping with two men at Surajpur in Gautambodh Nagar district.⁶⁰

VI. Violations of the rights of children

The NCRB recorded a total of 2,248 incidents of crime against children during 2007. Of these, 471 were rape cases and 336 cases of killing, among others.

On 28 April 2008, two police personnel including Station House Officer of Haliapur in Sultanpur district were suspended after they were found guilty of registering a First Information Report (FIR) against 3-year-old Mukesh (son of Chandrika Prasad). The FIR was registered under the Goonda Act during a drive to register cases against criminals on 25 April 2008.⁶¹

On 13 April 2008, three-month-old girl Anjali died in the lock-up of Baruat police station in Baghpat district after being denied medical care by police. The victim's mother Suman along with her two daughters including Anjali was illegally detained at the police station since 12 April 2008. Suman requested the police to take her child to a doctor after she fell seriously ill. But the police neither allowed her to go nor did they call a doctor to attend the seriously ill infant. After the death of the child, the police hurriedly buried her in a nearby forest and allegedly threatened her mother with dire consequences if she reported the crime.⁶²

The Uttar Pradesh government failed to establish Juvenile Justice Boards (JJBs) in each district. As of 8 June 2008, only 17 out of 71 districts had JJBs to try juvenile delinquents. As per the the Juvenile Justice (Care and Protection of Children) Act, 2000, it is mandatory to have JJBs. There were also only eight child welfare committees in the entire state consisting of 71 districts.⁶³

Uttar Pradesh remained the worst state with regard to child labour in India. A

recent study, jointly prepared by the Ministry of Labour Department, Government of India, Department of Labour, Uttar Pradesh and Institute of Management Development, Uttar Pradesh revealed that there were 1.93 million child labourers in Uttar Pradesh. The State government proposed to set up an anti-child labour commission following the revelation.⁶⁴ On 20 October 2008, Minister of Labour and Employment Oscar Fernandes informed the Lok Sabha that 71,479 child labourers were rescued from work and enrolled in special schools under the National Child Labour Project (NCLP) during the year 2007-2008.⁶⁵

VII. Violations of the prisoners' rights

Prison conditions were poor. Overcrowding and lack of basic facilities such as medical care, clean drinking water and sanitation were common. Many prisoners died due to poor living conditions.

From January-May 2008, 17 prisoners in the high-security Naini Central Jail in Allahabad district died due to lack of proper medical facilities and lack of action on the part of the prison administration. The Naini Central Jail lacks clean drinking water and sanitation. Five tube wells on the prison premises lack chlorination facilities as a result of which the inmates were forced to take water unfit for consumption.

The jails also lacked adequate healthcare facilities. On 3 January 2008, two under-trial prisoners of the jail reportedly died following an outbreak of Meningitis. As many as 239 inmates were reportedly suffering from

various diseases including tuberculosis, scabies and water-borne diseases.⁶⁶

Prisoners were also not given adequate food and were not allowed to meet their relatives. In November 2008, prisoners in Fatehgarh Central Jail went on hunger strike demanding adequate food. The relatives of the prisoners had to bribe the jail staff to meet them.⁶⁷ Prisoners were often subjected to torture and ill-treatment.

On 1 January 2008, under-trial prisoner identified as Narendra (35) allegedly died after being beaten up by jail officials for failing to pay bribes to jail officials at the Kanpur district jail. The victim sustained head injuries and died in hospital.⁶⁸

In the Varanasi district jail, under-trials were allegedly being used to plough fields in place of bullocks. A magisterial inquiry was ordered following the allegations.⁶⁹

In a case of prolonged detention, on 3 September 2008, Sher Bahadur alais Shera (47) was released from Lucknow jail after 19 years. He was sent to jail in 1989 for opening fire on a police party. He was charged with 67 offences. None of the charges against him could be proved.⁷⁰

Thousands of women accused of committing crimes related to dowry were detained in Uttar Pradesh's jails. However, in about 90 per cent of the cases women were wrongly detained. Minor girls were also lodged in the jails.⁷¹ In March 2008, the NHRC directed the Uttar Pradesh government to submit a report on the conditions for women inmates and babies in state jails.⁷²

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West Bengal

I. Overview

The ruling Communist Party of India (Marxist) [CPI(M)] government failed to take adequate action to tackle West Bengal's poor human rights record. Of particular concern were the repeated and credible reports of the involvement of CPI(M) activists in human right violations and serious crimes.

The police and the Border Security Forces (BSF) personnel continued to perpetrate human rights violations including extrajudicial execution and torture. In fact on 10 December 2008 (International Human Rights Day), Anup Bhusan Vorah, the Director General of Police, West Bengal allegedly openly supported use of excessive force against civilians. In an interview to a Bengali daily, *Anandabazar Patrika*, Mr Vorah allegedly stated that the police could lathi-charge (beat with sticks) the demonstrators to the point of breaking bones of the victims. He also allegedly condoned police personnel firing at civilians to inflict "maximum damage".¹

The Maoists were responsible for violations of international humanitarian law. The Maoists continued to target political activists especially of the ruling Communist Party of India (Marxist). At least 10 political activists were killed by the Maoists in the State during the year.

Human rights activists and the press faced attack and repression. In June 2008, the police raided the offices of several human rights organizations based in Kolkata, including the office of Banglar Manabdhikar Suraksha Mancha (MASUM).

The police perpetrated human rights violations against tribal communities in the name of anti-Maoist operations. On the night of 3 November 2008, the police raided several villages under Lalgarth area in West Mindapore district following what was believed to be a Maoist bombing that targeted Chief Minister Buddhadeb Bhattacharya on 2 November 2008. According to the report the police allegedly tortured civilians from tribal communities including women. Many people including school children were picked up and illegally detained.²

The police often did not register cases under the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act of 1989. This measure prevented registration of a crime committed against SCs and STs and hence the low crime rate in no sense reflected the reality. The police were themselves responsible for perpetrating human rights violations on members of tribal communities.

Tribal communities were denied basic services. Development schemes were not properly implemented. On 26 November 2008, the Birbhum district administration admitted failure to implement development schemes and provide basic facilities to tribal villages.³

The prisons, renamed as 'Correctional Homes' in West Bengal, remained overcrowded and lacked basic services including medical care and sanitation. According to Jail Minister Biswanath Chowdhury, 97 custodial deaths occurred from 1 January 2007 to 31 March 2008. Of these, 86 deaths were due to illness and 14 deaths were 'unnatural deaths'.⁴ Prisoners were subjected to torture and degrading treatment.

Deaths from starvation continued to be reported from the State. The State government's record in ensuring 100 days' work for every rural household under the National Rural Employment Guarantee Scheme (NREGS) was among the worst in India. Yet, the officials often denied reports of starvation and passed any deaths off as a result of other health issues.

II. Human rights violations by the security forces

The security forces were responsible for gross human rights violations including extrajudicial killing and torture. In its annual report "*Crime in India 2007*", National Crime Records Bureau (NCRB) under the Ministry of Home Affairs stated that a total of 22 complaints were received against the police personnel in West Bengal during 2007. Eight police personnel were sent to trial during 2007. Of these, trial of only one police personnel was completed which ended with a conviction.

Apart from the police, the Border Security Force (BSF), operating along the India-Bangladesh international border in West Bengal, were accused of perpetrating serious human rights violations. However, the NCRB does not report human rights violations committed by the army and the paramilitary forces.

a. Violation of the right to life

i. Custodial killings

The NCRB recorded 10 deaths in police custody during 2007. The police claimed that out of these 10 custodial deaths, seven died during treatment /hospitalization, two committed suicide and one died of illness/natural death.

ACHR documented two cases of deaths in custody resulting from torture in 2008.

On 26 August 2008, 40-year-old Sanjit Haldar was allegedly tortured to death in police custody at Lakshmikantapur station in South 24 Parganas district. The victim was picked up along with his friend identified as Hannan Baidya (35) for drunken fighting from Lakshmikantapur station in South 24 Parganas district. The police claimed that the victim died while on way to a hospital.⁵

On 28 December 2008, one Kalu Mondal alias Krishna of Kunjapara in Howrah, died due to alleged torture in the custody at Liluah Police Station in Howrah district. The police had initially identified the deceased as Biswanath Das (son of late Tarak Das) at the time of arrest. A human rights body, Banglar Manabdhikar Suraksha Mancha (MASUM) which conducted a fact finding investigation stated that the deceased was brought to Liluah Police Station at about 4:30 a.m. on 28 December 2008. He was detained at Liluah Police Station without charge for five hours and finally referred to T. L. Jaiswal Hospital, Howrah at 9:40 a.m. where he was declared brought dead. MASUM found numerous injuries on the body of the deceased. A criminal charge (Case no. 271/2008) was registered under sections of 342/323/325/304/34 of Indian Penal Code only after the death of the victim. In the FIR, the police allegedly concocted a story that the deceased was beaten up by local people on suspicion of being a thief prior to his arrest by the police. MASUM also alleged that the post mortem examination of the deceased had not been conducted in a proper manner.⁶

ii. Extrajudicial executions

The Border Security Forces (BSF) operating along the India-Bangladesh international border in West Bengal continued to perpetrate serious human rights violations including extrajudicial killing and torture.

In May 2008, Mr. Dwijen Mondal (son of Mr. Hridoy Mondal) was tortured to death while under the BSF custody of Bamnabad Camp in Murshidabad district. The victim was picked up near the Padma River on 3 May 2008. He died the following morning. Before his death, the victim told his eldest son, Mr. Ranjit Mondal, who visited him in detention, that he had been hung from a tree and his hands were tied with a chain. Reportedly, the victim's body had injuries consistent with the allegations of torture.⁷

On 23 July 2008, 15-year-old (name withheld), was shot dead from close range by the BSF officer Mr. Islam, stationed at Ranjanagar Border Out Post Camp in Murshidabad district. Mr. Islam and other personnel were reportedly chasing a group of cross-border smugglers. They spotted the victim sitting in front of his hut. The officer approached the victim and asked whether he had seen anybody. The victim did not understand the language of the BSF officer and hence did not reply. But the BSF officer started assaulting him. When the boy started screaming local residents rushed to the scene and asked the officer to stop. The officer pushed the boy to the ground and after walking a few steps, lifted his rifle and shot him dead.⁸

On 21 July 2008, 10-year-old girl identified as Khaleda Khatun was killed when personnel of Border Security Forces (BSF) opened fire on villagers during a clash with the BSF at Lalbazar near Sitalkuchi in Cooch Behar district.⁹

In July 2008, Suman Chandra Das, a fisherman, was allegedly beaten to death by the BSF personnel near the India-Bangladesh border in Hili in South Dinajpur district. The victim was allegedly picked up on the suspicion of being a smuggler.¹⁰

On 19 November 2008, 17-year-old girl identified as Khukuli Khatun (daughter of Yunus Mondal and a student of Class Xth standard) was shot dead by an inebriated BSF personnel near a border post at Hatkhola in Nadia district. The victim was on her way home from her school when the BSF personnel stopped her and allegedly tried to molest her. When the victim protested, the accused personnel allegedly shot her in the stomach.¹¹

b. Arbitrary arrest, unlawful detention and torture

On the night of 22 November 2008, Danish Ali (40), an alleged smuggler and resident of Achintola under Kaliachak police station in Malda district, was tortured to death during a raid by the police personnel of Mothabari out post in Malda district. The villagers alleged that the police coerced the victim's family members into giving a false written statement that the victim died due to illness.¹²

In April 2008, two minors (names withheld) 15 and 14 years old were illegally detained and tortured by BSF personnel on charges of assisting cattle smugglers at the BSF outpost at Dinhat in Cooch Behar district. The victim's hands were bound and they were beaten up with the branch of a tree, blindfolded and kicked. The victims sustained injuries and had to be admitted to a hospital.¹³

On 10 July 2008, Debasish Das (38) was arrested by police in connection with a theft case near Kolkata. He was produced in court and remanded to police custody for four days. He was allegedly beaten up in police lock-up to obtain a confession. The victim was hospitalized as a result of the ill-treatment.¹⁴

c. Use of disproportionate force and fire arms

The police were responsible for use of disproportionate force and fire arms against

unarmed protestors. On 10 December 2008 (International Human Rights Day), Anup Bhusan Vorah, the Director General of Police, West Bengal allegedly openly sanctioned use of disproportionate force by the police. In an interview to a Bengali daily, *Anandabazar Patrika*, Mr Vorah allegedly stated that the police could lathi-charge (beat with sticks) the demonstrators to the point of breaking bones of the victims. He also allegedly condoned police personnel firing at civilians to inflict “maximum damage”.¹⁵ Such sanction by the highest police authority was of grave concern. In 2007, 17 civilians were killed in police firing, according to the NCRB.

On 5 February 2008, five persons, supporters of Forward Bloc, were killed when police opened fire at them when they were protesting against the inequity in distribution of below poverty line cards and non-implementation of National Rural Employment Guarantee Scheme at Dinahata in Cooch Behar district.¹⁶

III. Violations of International Humanitarian Law by the AOGs

The Maoists were responsible for violations of international humanitarian law. The Maoists continued to target political activists especially the ruling Communist Party of India - Marxist (CPI-M).

On 2 November 2008, Chief Minister Buddhadeb Bhattacharya and Union Steel Minister Ram Vilas Pawsan narrowly missed a Maoist-triggered landmine explosion in West Midnapore district.¹⁷

a. Violations of the right to life

Killing of political activists:

In early January 2008, suspected Maoists shot dead two CPM leaders identified as Ramprasad Mondal and Narayan Majhi in Nadia and Purulia districts respectively.¹⁸

ACHR documented a number of killings of political activists in West Bengal by the Maoists in 2008. These included:

- Karamchand Singh (45), a CPM leader and headmaster of a school, who was dragged off his chair, shot at and then his head was smashed with a stone in front of his students at Machkandna village in West Midnapore district on 22 February 2008;¹⁹
- Gandhi Mahato (32), CPM member, who was killed at Angarkuria in West Midnapore district on 12 March 2008;²⁰
- three CPM activists identified as Mukul Tiwari, Jugal Murmu and Nabakumar Murmu, who were killed in West Midnapore district on 13 April 2008;²¹
- CPM leader Sridam Das (48) who was killed in the Rajnagar area in Birbhum district on 22 April 2008;²²
- Serful Sheikh (35), a Revolutionary Socialist Party leader, who was killed at his house at Behrampore village in Murshidabad district on the night of 29 April 2008;²³ and
- CPM leader Ganapati Bhadra (45) who was shot dead at Bhomragarh village in Purulia district on 4 May 2008.²⁴

Targeting anti-Maoists activists:

Those who participated in anti-Maoists protest were targeted. On 11 December 2008, Maoists shot dead a tribal leader, Sudhir Mandi at Jordanga village in West Midnapore district. The victim had played a leading role in an anti-Maoist protest in Belpahari on 9 December 2008. The armed Maoists overpowered him when he was returning home with his wife on a cycle from the weekly bazaar. The Maoists shot him and slit his throat. Mr Mandi died on the spot.²⁵

Use of explosive devices:

The Maoists also used explosive devices to target civilians and political leaders.

On 22 October 2008, three persons identified as Dhaniram Mandi (46, doctor), Bharati Majhi (22, nurse) and Pranay Mishir (46, driver) were killed when suspected Maoists blew up their car in a landmine blast at Belpahari in West Midnapore district.²⁶

IV. Judiciary and administration of justice

The judiciary continued to be hampered by a shortage of judges which in turn contributed to a significant worsening of judicial delay. There were 18 vacancies of judges in the Calcutta High Court as of 1 October 2008 while the lower courts (comprising Union Territory of Andaman and Nicobar Island) had 128 vacancies of judges out of the sanctioned strength of 706 judges as of June 2008. 288,705 cases were pending in the Calcutta High Court while 23,21,846 cases were pending in lower courts as of 30 June 2008.

V. Freedom of the press

The media was subject to attack in 2008.

On the night of 16 September 2008, investigative journalist, Mr. Goutam Biswas (son of Mr. Shachindra Nath Biswas and resident of E- 40, Bagha Jatin, Kolkata) was severely beaten up by the police led by Inspector-In-Charge (IC) of Kasba Police Station in Kolkata. Mr Biswas had gone there to cover a protest related to forceful eviction of a family. Mr Biswas protested against the police beating women protestors. In response to his questions the IC pulled him by his hair and pinned him down on the road and started kicking him. Later, other police personnel present there joined in physically

assaulting him. He was dragged for 100 meters towards the police vehicle and taken to Kasba police station where again he was subjected to a beating. As a result, he lost consciousness. He was detained in the police station several hours. He was also threatened. He was released on a personal bond. Mr Biswas sustained serious injuries.²⁷

On 11 December 2008, Arghya Bhaduri, cameraman for a Bengali news channel, was seriously injured after being beaten up by three persons including a policeman identified as Sub-Inspector Rajib Chakraborti at Behala in Kolkata. Reporter Ms Soumita Ghosh who accompanied the cameraman to cover a road accident was also abused and manhandled.²⁸

VI. Repression on human rights defenders

Human rights activists were targeted by police for documenting human rights violations by the state in West Bengal in 2008.

In June 2008, the police raided the offices of several human rights organisations based in Kolkata.

In June 2008, police officers from the Detective Branch of West Bengal State Police led by the Assistant Commissioner of Police (ACP) Mr. Prabir Chatterge raided the office of Banglar Manabadhikar Suraksha Mancha (MASUM), a human rights NGO based in Kolkata. Neither the ACP nor his subordinate officers were in uniform. Some six to ten uniformed police constables armed with rifles waited outside MASUM's office. When the staff of MASUM asked why they were being searched the police officers refused to provide any reason except that they had a search warrant from the court. Throughout the search the police officers attempted to intimidate MASUM's staff. MASUM had coordinated the People's Tribunal on Torture

in Kolkata during which 1,200 victims and their families were present and 82 victims deposed before the Tribunal.²⁹ It is believed that this action may be related to the raid on the offices.

Similarly, the office of Nagarik Mancha was raided by the special branch officers in Kolkata. Ms Sutapa Chakraborty of the Human Rights Law Network stated that they were also facing police high-handedness.³⁰

VII. Violations of the rights of indigenous peoples

According to the 2001 Census, the total population of the Scheduled Tribes (STs) was 4,406,794 persons constituting 5.5 per cent of the total population of West Bengal. There were a total thirty eight (38) notified STs in the State.

a. Atrocities

Tribal communities faced atrocities (as defined by the law see below) by the police and forest officials during the year. The NCRB recorded only five crimes against Scheduled Tribes (STs) including one rape and two cases under the SC/ST (Prevention of Atrocities) Act of 1989 in West Bengal during 2007. These figures are not credible. The police do not register cases under the Prevention of Atrocities Act. This measure ‘prevents’ the registration of a crime and hence the low crime rate. The police are themselves responsible for perpetrating atrocities on the tribals.

On 2 November 2008, the Maoists tried to blow up West Bengal Chief Minister Buddhadeb Bhattacharjee’s convoy but missed it. In the name of search operations, the police swooped down upon the tribal villagers in Lalgarh in West Midnapore district. During the raids the police committed “excesses” against the tribal villagers including women and

children and arrested several tribals including school-children dubbing them as “Maoists”.³¹ In protest, the tribals felled hundreds of trees to block the roads and virtually declared the area as “a Republic”. On 7 December 2008, the tribals suspended their protests³² after Chief Minister Buddhadeb Bhattacharjee tendered an apology in the State Assembly,³³ withdrew some police camps from Lalgarh,³⁴ removed the inspector-in-charge of Lalgarh police station and dropped charges against eight arrested tribal villagers, including three schoolboys.³⁵ On 7 December 2008, a team led by Secretary of Tribal Welfare and Backward Classes R.D. Meena went to Midnapore to record statements of the tribal victims. A group of 10 women from Chhotopelia village in Lalgarh block came to Midnapore escorted by a leader of the People’s Committee Against Police Atrocities formed to protest the police atrocities in Lalgarh. Recounting the tale of horrors, a tribal woman Chhitamoni Murmu (40) said the police hit them with *lathis* (sticks) and rifle butts, and kicked them relentlessly on the night of 4 November 2008. Chhitamoni Murmu was hit on her left eye with rifle butt which almost damaged her vision. Another tribal woman Purnima Murmu (25) also alleged that she was “repeatedly hit” with rifle butts on the chest and stomach.³⁶ On 15 November 2008, the Criminal Investigation Department told the Chief Judicial Magistrate of West Midnapore that it did not find any evidence against seven tribals, including three schoolboys who were arrested in connection with the November 2 attack on Chief Minister’s convoy.³⁷

The tribals were forcibly evicted, their huts ransacked and gutted by the forest officials.

On 4 December 2008, forest officials allegedly set fire to 17 huts belonging to tribals near Malbazar in Jalpaiguri district. A team of forest guards entered Bir Birsa Munda

Colony, located close to Meenglass Tea Estate to monitor the movement of elephants. Around 70 tribal families live in the locality. The forest guards asked the tribals to produce the land ownership papers and when they refused, the forest guards ransacked their huts and set 17 huts on fire.³⁸

VIII. Violations of the rights of women

According to the NCRB, West Bengal recorded the third highest incidence of violence against women in India in 2007. A total of 16,544 incidents of crime were reported during the year. These included 2,106 cases of rape, 1590 cases of kidnapping, and 451 cases of dowry death, among others.

Violence against women was on the rise in West Bengal. The West Bengal Commission for Women received some 45 to 65 complaints of violence against women per day. The Commission received about 1,500 complaints by the end of November 2008. The figure was 2,000 in 2007.³⁹

The police were themselves responsible for violence against women. On 12 August 2008, a rape victim, who was three-month pregnant, was allegedly beaten up by a police officer at the Namkhana police station in South 24-Parganas district. The victim had gone to the police station to lodge a complaint. The officer had allegedly asked her to make an out-of-court settlement to which the victim did not agree to. She was then beaten up.⁴⁰

Women were targeted by ruling CPI(M) supporters. On the night of 18 April 2008, 45-year-old woman was allegedly beaten up and raped by alleged CPI (M) workers in Nandigram.⁴¹

On 5 May 2008, 28-year-old woman (wife of Debashish Jana) was allegedly stripped,

chased and beaten up by alleged CPI (M) workers in front of policemen at Keyakhali village in Nandigram for refusing to campaign for the party.⁴²

On 19 November 2008, tribal woman identified as Aloka Mandi was seriously injured after being beaten up by miscreants at her house at Rayan village in Burdwan district for lodging a complaint with the police. The victim was attacked after she filed a complaint of molestation and torture by alleged CPI (M) activists the previous day.⁴³

On 27 November 2008, a 26-year-old tribal woman was allegedly gang-raped by four alleged CPI (M) activists identified as Raju Santra, Tapan Roy, Kanu Santra and Bapi Santra at Baghason village in Burdwan district.⁴⁴

Women were also victimized after being branded as witches. On the night of 15 July 2008, Ms Sumitra Meher (55) was stabbed to death by her neighbor who suspected her to be a witch at Alipurduar in Jalpaiguri district.⁴⁵ Similarly, on 1 February 2008, Ms Raimat Tudu (66) was killed by the residents of Bodobari village in Malda district. The attackers severed her arms, legs and head.⁴⁶ Again on 3 September 2008, Ms Chandmoni and her husband Baneswar Murmu were beaten up and parts of their body burnt with hot iron spikes by residents of Damodarpar in West Midnapore district. The couple was held responsible for the death of one person by practicing witchcraft.⁴⁷

IX. Violations of the prisoners' rights

The state failed to address the deplorable conditions of prisons in West Bengal. Places of detention remained seriously overcrowded and there was a failure to provide even minimal services.

According to Jail Minister Biswanath Chowdhury, there were 97 custodial deaths in West Bengal from 1 January 2007 to 31 March 2008. Of these, 86 deaths were due to illness and 14 deaths were unnatural deaths.⁴⁸

Torture and degrading treatment of prisoner continued to be reported in the State's jails.

On 21 September 2008, an under trial prisoner identified as Md Zahangir allegedly died after being beaten up by jail officials at the Presidency Correctional Home. The victim was also allegedly denied proper medical treatment. The police stated that the victim was suffering from tuberculosis and died in the SSKM hospital following an injury sustained during a clash between guards and jail inmates.⁴⁹

On 26 July 2008, a woman under-trial prisoner identified as Lakshmi Mandal, detained at the Balurghat Correctional Home in South Dinaspur district, fell ill after she was forced to clean the toilet and urinal of the correctional home with acid. She was not provided medical care and failed to appear before the Balurghat court. On 31 July 2008, the Balurghat court ordered a probe into the matter after she stated about her ill-treatment.⁵⁰

X. Special Focus: Starvation deaths

The State government's record in ensuring 100 days' work for every rural household under the National Rural Employment Guarantee Scheme (NREGS) was among the worst in India. The State government

failed to properly implement the NREGS. As a result starvation deaths continued to be reported. However, the officials often deny reports of starvation deaths and suggested that the deaths were caused by poor health.

According to a government survey, about 500,000 people in West Bengal lived in 'starvation-like' condition without a proper meal or medical treatment. Most of them were over 60 years of age and from districts like Purulia, Bankura, West Midnapore, Birbhum, Cooch Behar, North Dinajpur, Malda, Murshidabad and Nadia. The panchayats in these districts often fail to provide assistance available under various central schemes.⁵¹

On 10 February 2008, Kalipada Majhi (45), resident of Beraberi Purbapara in Singur, allegedly died due to starvation. The victim was displaced following acquisition of land for the small car project of Tata Motors in Singur.⁵²

On 19 October 2008, Sabita Mondol died allegedly due to starvation at Gayeshpur in Malda district. The administration had failed to pay her pension of Rs 400 a month since April 2008. Officials denied that the victim died of starvation.⁵³

In Malda district, 536 villages were identified as poverty-stricken in 2006. However, assistance funds remained unutilized in the district. The district administration failed to monitor the implementation of NREGS and other poverty-alleviating projects. For instance, in the Kalichak III block in Malda district, only one fourth of the total fund of Rs 800,000 provided to the block under NREGS was utilized in 2007. The situation was the same across Malda district.⁵⁴

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