

# INDIA

Human Rights Report  
2008



**ASIAN CENTRE FOR HUMAN RIGHTS**

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## **India Human Rights Report 2008**

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*Cover photo:* A Bihari migrant labourer fleeing from Assam following attacks by armed opposition groups.

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# Preface

**A**s this report goes for print, serious intelligence failures to prevent or act against the appalling Mumbai attacks are emerging. But in addition to external terror groups, India faces an extraordinary and deepening security threat from internal conflict.

The findings of the ACHR's *India Human Rights Report 2008* serve as a warning of deepening internal conflict. The report underlines that human rights violations by the State, combined with the failure of State institutions to address these violations, are fuelling internal conflict.

If this was not bad enough the report exposes the extraordinary low level of State and non state monitoring of human rights violations in India. Both failures can be attributed to a mixture of State inaction and in some cases a deliberate policy.

Similar mistakes that led to the external terror attacks on Mumbai can be seen in India's approach to internal conflict. Policy makers are not getting the human rights information they need to make informed decisions. And again like Mumbai, what is more worrying is that decision makers are failing to act even when the information is provided.

## **ACHR's Annual India Human Rights Report**

Monitoring human rights in India is an enormously difficult task. India has over a billion people and conflict in many States. Given the scale of the task, this report is not exhaustive. It aims to chronicle patterns and examine the implications. But as the only report to examine the problem on a nationwide scale, it gives a unique overview of the human rights challenges in India. Its conclusions are worrying.

## **Human Rights and Insurgency**

The report reveals that India has serious human rights problems that go far beyond

individual cases. It strongly suggests that human rights violations are getting worse. The report clearly demonstrates that the widespread use of human rights violations by the State are feeding internal conflicts and playing into the hands of those that seek to undermine the State through terror.

The report documents widespread acts of violence and terror by armed opposition groups. It also documents the widespread use of human rights violations by Indian security forces to counter insurgency; the actions of the State involve high levels of human rights violations against the civilian population.

The report reveals that vulnerable groups are suffering disproportionately: minorities, indigenous peoples, tribal groups, Dalits, women and children are most likely to suffer at the hands of the State. The State not only violates the rights of these groups but is complicit in crimes committed by upper caste groups and the powerful against these vulnerable groups.

## **Fuelling Conflict**

The close relationship between human rights violations by the State and growing conflict is not difficult to identify. In 2007, 29,596 cases on alienation and restoration of tribal lands were heard by the courts in Madhya Pradesh. Not a single case was ruled in favour of the tribal groups.<sup>1</sup> This in part explains why Maoists from Chhattisgarh are winning ever greater support in the tribal belt of Madhya Pradesh.

Another example is the inaction of the Orissa State authorities to compensate people for repeated 'land grabs' by commercial companies. This failure to provide a legal means to realize justice led to violent protest in 2007. The State responded with excessive force leading to the death of many protestors including the massacre of 14 tribal people in Kalingangar on January 2, 2006. The State failed to prosecute any of those guilty.

## Gross Under-reporting

The report reveals that India's human rights problems are grossly under-reported. In addition, the methods of information collection are also denying decision makers the right information to intervene.

## No statistics on human rights violations by the Army

Even the most hawkish observers of the Army's counter insurgency strategy would concede that 'mistakes' happen. Yet, stunningly, the ACHR report reveals that there are no official crime statistics involving the Army in tackling insurgency. The National Crime Records Bureau (NCRB) of the Ministry of Home Affairs is responsible for collecting crime statistics. Yet, it has no mandate to collate Army related crimes. The same is true with regard to the National Human Rights Commission.

The Army is not a self interested institution as in many neighbouring countries. It is deployed for and on behalf of the people. It belongs to the people. And it should be accountable to the people.

## Flawed NCRB figures

The figures currently collected by the NCRB are flawed and outdated. For example, 'custodial death' is the term applied to anyone who has died in custody. It is a term to effectively describe someone who may have died of natural causes while in custody. But it is a wholly inadequate term to describe the many cases of extrajudicial execution or a death resulting from torture carried out by the security forces in custody. A death from natural causes is an unfortunate event. Death from torture is an extremely grave crime.

In 2007 the NCRB reported that 139 people died in police custody. 23 people died during production, process of the courts and the journey connected with investigation; 38 of them died during their hospitalization and treatment; 9 died in mob attacks/riots; 2 were killed by other criminals; 31 committed suicide; 7 escaped and 29 died from illness/

natural causes.<sup>2</sup> Effectively this is an official denial of any death resulting from human rights violations.

If these statistics are used to examine the need for reform then there is clearly no need for reform. But these statistics sit uneasily with the findings of the Supreme Court of India that has pointed out that the police '*more often than not seek to pervert the truth*'.<sup>3</sup> These figures also sit uneasily with the direction of the National Human Rights Commission on custodial death which expressed concern over:<sup>4</sup>

*"(...) reported attempts to suppress or present a different picture of these incidents".*

Again in 2005, in a directive issued to State Chief Ministers on post-mortem examination of custodial deaths the NHRC stated that there was:

*"a systematic attempt is being made to suppress the truth and the [post mortem] report is merely the police version of the incident".*

## Flawed NHRC figures

The *India Human Rights Report 2008* of ACHR reveals the widespread use of torture in custody; torture that unsurprisingly regularly leads to deaths in custody. Yet torture does not even exist as a statistical term. Shockingly, even the NHRC uses the term 'other police excess' to describe and effectively devalue what is a very serious crime.

Suicide is another term of concern. This report reveals that suicide is regularly used by the police as a euphemism to cover up extrajudicial execution. There are sufficient numbers of cases in this report alone to raise concern.

"Encounter killing" is yet another euphemism used to hide extrajudicial executions. It presupposes an armed encounter. The fact that out of 301 complaints of "encounter deaths" between 1 April 2006 to 31 March 2007, over 66% (201 cases) were received by NHRC from Uttar Pradesh alone – which has no armed conflict - is extremely disturbing. Uttar Pradesh is followed by Uttarakhand (19) and

Delhi (16) which have no armed conflicts either. Among India's conflict afflicted States only Andhra Pradesh had 15 complaints. Other conflict States, Jammu and Kashmir had one case of encounter killing, Asom had 6 cases, Chhattisgarh had one case. Manipur and Tripura had no reported "encounter-killings" despite regular reports of extra judicial executions from these States.<sup>5</sup>

### **Failure to support governmental institutions and outright cover up**

All allegations of human rights violations are, of course, not necessarily violations but they do reveal the need for action by the Government of India. In a country with a functioning rule of law the burden is on the State to provide the means, laws and mechanisms to protect all citizens, even those deprived of liberty, from abuse either by the State or other body or individual. Where these protections fail the State must initiate impartial investigation, establish the facts based on the available evidence and, should there be sufficient evidence, proceed to trial. India is failing to act in the vast majority of cases.

Even in cases where the Government's Central Bureau of Investigation has found compelling evidence of human rights violations by the security forces, prosecutions are rare. It reveals a dangerous weakness in India's system of justice: a pervasive regime of impunity.

Impunity creates a dangerous perception among the security forces that they are above the law. It means a wider change than ratification and legislative reform. Impunity results in grave violations during operations. But the implications of impunity for the health of India's democracy and its rule of law go much wider than individual abuse.

Checks and balances in any democracy are neither static nor guaranteed. If not defended, protections weaken over time particularly when challenged by the demands of internal conflict. This is why the individual emblematic cases in this report are so important. They are indicators – emblems

- of a wider institutional malaise but at the same time represent opportunities to restore the rule of law.

The failure of the State to investigate and act is, in itself, a violation of human rights. But where the state does not provide legal means for victims to seek and access justice we should not be surprised over the link between human rights violations and conflicts.

The State is failing to provide a sufficient institutional framework to check human rights violations in India.

On 17 January 2007, Chairperson of Manipur State Women's Commission, Dr Ch Jamini stated that "*The state women commission is constituted by dumping three old women in a room at a deserted office with no infrastructure. It is equivalent to announcing a death sentence for the women commission.*"<sup>6</sup>

The fact that many of the annual reports of the National Institutions relating to Scheduled Castes, Scheduled Tribes, Women and their State Commissions are not brought before the Parliament or State Assemblies despite submission to the relevant Ministries shows that the executive even does not inform the legislature about the state of affairs.

The National Commission for Scheduled Castes states: "The erstwhile National Commission for Scheduled Castes had submitted its 7th Report (2001-2002) to his Excellency, the President of India on 19.2.2004 till the same is placed with the houses of the Parliament by the Ministry of Social Justice & Empowerment, it cannot be made public or its copy provided on demand". Not a single report of the NCST has been placed before the parliament since 2002. The reports of the West Bengal State Human Rights Commission have not been brought before the State Assembly since 2002. Across India, legislators are denied information about the appalling human rights situation in their States.

West Bengal has consistently hidden human rights violations against Scheduled Tribes and Scheduled Castes (7 cases in 2006) by reportedly instructing the officials not

to register the cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

## The Judiciary

The Courts are a bright spot in this report. They have proven a powerful tool against violations of human rights but are hampered by lack of specific legislation, immunities offered in the criminal procedure code and national security laws as well as the more general problem of judicial delay.

## Low levels of Non-Governmental Activity

Any democracy requires strong civil society. Yet human rights monitoring is almost non-existent in many States. The report reveals the dearth of independent human rights monitoring in India - an extraordinary low level for a democracy.

Many States, (which elsewhere would constitute medium sized countries) do not only lack State institutions to protect human rights, but incredibly, have no credible independent human rights organizations monitoring human rights violations.

A major contributory factor to this situation is the emergency-era law, the Foreign Contribution Regulation Act of 1976. The law effectively chokes off support to human rights monitoring. This is counter-productive.

ACHR accepts that there are responsible and irresponsible sources of funding just as there are responsible and irresponsible civil society actors. But a healthy democracy requires serious questions to be asked and to have vibrant debate requires a range of views. The point of NGOs is that they ask the difficult questions that no-one else is prepared to. Debate and dissent are an essential part of a healthy democracy.

## Time for Reform

The appalling terror attacks in Mumbai have revealed atrocious failures in intelligence gathering and/or failure to act on intelligence.

India also faces an internal security challenge. This report demonstrates that respect for human rights are an essential part of that fight. Human rights violations are the early warning of conflicts ahead.

The current institutional set up functions poorly at best, and in some cases designed to cover up. As stated above, policy makers are not getting the human rights information they need to make informed decisions. They also fail to act when such information provided. The current system is setting India up for further failure. It must be reformed.

## India should consider

- A revision of crime statistics collection (and this should include all branches of the security forces);
- The NHRC should begin to compile statistics in conformity with international human rights practices;
- Increased support to the Judiciary and Quasi Judicial Institutions;
- The establishment of State branches of all National Human Rights Institutions in all States of India with independence, adequate powers and resources; and
- An immediate removal of the FCRA.

Suhas Chakma  
Director

## Endnotes

1. Annual Report 2007, Ministry of Rural Development of Government of India
2. 2007 Annual Report, National Crime Record Bureau, Ministry of Home Affairs, Government of India Information provided under the Right to Information Act, 2005
3. Supreme Court of India, M.P. v. Shyamsunder Trivedi (State of Madhya Pradesh v. Shyam Sunder Trivedi and Ors. 1995 (4) SCC 262)
4. letter No. No. 66/SG/NHRC/93
5. Information provided under the Right to Information Act, 2005
6. <http://hmar.net/?p=1143>

# Andhra Pradesh

## I. Overview

**R**uled by the Indian National Congress, on 1 August 2007 the State government of Andhra Pradesh extended the ban on the Communist Party of India (Maoists) and its alleged six front organisations - Radical Youth League, Rythu Coolie Sangham, Radical Student Union, Singareni Karmika Samkhya, Viplava Karmika Samkhya and the All India Revolutionary Students Federation by one more year. On 8 September 2007, Andhra Pradesh Chief Minister Y S Rajasekhara Reddy stated in Hyderabad that his government was willing to hold talks with the Maoists if they “shun violence”.<sup>1</sup> It did not evoke any response from the Maoists.

In order to counter the Maoists, in August 2007, the Andhra Pradesh government announced cash rewards ranging from Rs 20,000 to Rs 12 lakh for killing Naxalites. A total of Rs 16 crore was put on the heads of 1,133 Maoists. The cash reward is as follows: Rs 12 lakh each for killing 13 top Maoist leaders of the Central Committee, including Ganapathi and Ramakrishna, Rs 10 lakh each for killing 27 leaders of the State Special Zonal Committees, including Dandakaranya Special Zonal Committee and Andhra- Orissa Border Committee, Rs 8 lakh each for members of State Committees, Rs 6 lakh each for Regional Committee members, Rs 5 lakhs for District Committee and Division Committee secretaries, military platoon commanders and members of the struggle and publicity committees, Rs 3 lakh each for deputy commanders and action team commanders, Rs 2 lakh each for Area Committee and “dalam” (squad) commanders, Rs 1 lakh each for local squad members and military platoon section deputy commanders and Rs 20,000 to Rs 50,000 for killing lower level Maoist cadres.<sup>2</sup>

Andhra Pradesh also witnessed unprecedented increase of suicides of farmers who have been forced to take drastic steps due to failure of crops and inability to repay loans. According National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, almost 150,000 farmers committed suicide between 1997 and 2005. Out of these, over 89,000 occurred in just four States: Maharashtra, Andhra Pradesh, Karnataka, and Madhya Pradesh (including Chhattisgarh). Andhra Pradesh registered the highest increase in farm suicides with 127 per cent during 1997-2005 while Maharashtra saw an increase of 105 per cent.<sup>3</sup>

## II. Human rights violations by the security forces

The security forces were responsible for violation of the right to life including through extrajudicial executions and custodial deaths. The NCRB had recorded killings of 72 civilians in police firing in 2006.<sup>4</sup> Many were killed in arbitrary use of fire arms. On 28 July 2007, seven persons were killed when the police opened fire at a mob who turned violent during a strike called by the Left parties at Mudigonda village in Khammam district.<sup>5</sup>

### a. Violations of the right to life

#### i. Custodial killings

The National Crime Records Bureau (NCRB) of the Ministry of Home Affairs had recorded 28 deaths in police custody in Andhra Pradesh in 2006. Cases were registered into all these custodial deaths but no magisterial or judicial inquiry was ordered into any of them. The police claimed that out of 28 persons who died in police custody, six committed suicide, 19 died due to illness and three persons died

while escaping from custody. No policeman was chargesheeted by the end of 2006.<sup>6</sup>

According to the figures obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received five cases of deaths in police custody in Andhra Pradesh during the period of 1 April 2006 to 31 March 2007. ACHR has also documented some cases of deaths in police custody which took place after March 2007. The police often claimed that the deceased had committed suicide in their custody.

On 26 June 2007, B. Parameswar Reddy died inside the lock-up of the Nalla Chervu police station in Anantapur district, a day after he was arrested for his alleged role in a murder case. While the police claimed that the deceased had committed suicide by hanging himself with a piece of cloth, his family members alleged that Sub-Inspector Devanand and Circle Inspector of Kadiri, Lakshmi Narayan had beaten Parameswar to death in police custody.<sup>7</sup>

On 3 August 2007, Jujjuri Satyanarayana of Tirumalakunta of Ashwaraopet mandal in Khammam district died in the Nakrekal police station under Nalgonda district. The police claimed that he hanged himself in the toilet of the police station with his trousers.<sup>8</sup>

On 19 October 2007, Pamujula Ramanaiah of Indukurpeta died at the Kovur police station in Nellore district. He was arrested on 18 October 2007 in connection with a dowry case filed by his daughter-in-law Pamujula Sakunthala. The police claimed that the deceased suddenly fainted at the police station and was taken to the government hospital in Kovur but he died during treatment.<sup>9</sup>

In a rare case on 17 August 2007, six persons including Sub Inspector Ms Jyothi Rayudu, women constables Santoshamma, P.V. Ragini and K. Raghavarani and two drivers of the Vijayawada Municipal Corporation were sentenced to life imprisonment by Mahila Sessions Court Judge V. Appa Rao for the

custodial death of Ms Kona Krishna Kumari in a women's police station in Vijayawada in Krishna district on 5 May 1999.<sup>10</sup>

## ii. Extra-judicial executions

The security forces were responsible for alleged extrajudicial killings. According to information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received 15 cases of encounter deaths from Andhra Pradesh during the period of 1 April 2006 to 31 March 2007. However, according to the data maintained by the ACHR, at least 36 alleged Naxalites have been killed by the security forces in alleged encounters in Andhra Pradesh during January-September 2007 alone.<sup>11</sup>

On 15 March 2007, Inspector D. Kishan Singh of Patancheru police station and his wife Ms Padma were arrested on the charges of allegedly killing a surrendered female Naxal cadre identified as P. Nagamani alais Swarupa on 9 February 2007 in Prasanthnagar, Vanasthalipuram in Hyderabad.<sup>12</sup>

There have been allegations of extrajudicial executions of the Maoists in "fake encounters". The security forces seldom admit to having killed civilians. Those killed by the security forces were often identified as "Naxalites". Many of these killings have been controversial.

On 1 July 2007, a senior Maoist leader Chettiraja Papaiah alias Somanna, Secretariat member of the North Telangana Special Zonal Committee (NTSZC), was killed in an alleged encounter with the police in Medaram forest area in Tadvai Mandal of Warangal district. The police claimed to have recovered one AK 47 rifle, a carbine, a pistol and four kitbags from the encounter site.<sup>13</sup> However, in a statement released to the media on 2 July 2007, the Maoists alleged that police arrested Somanna on 30 June 2007 and killed him the next day.<sup>14</sup> Revolutionary poet P Vara Vara Rao alleged that the police had violated the National Human Rights Commission's

guidelines by conducting the postmortem on the body of Somanna in a hurried manner, without the presence of forensic experts at Eturnagaram Primary Health Centre on the morning of 2 July 2007. Following a petition filed by Mr Vara Vara Rao, on 2 July 2007 the First Additional District Judge K V Kishan Rao ordered another postmortem of Somanna's body at MGM Hospital in Warangal.<sup>15</sup> The post mortem was conducted at the MGM Hospital on 3 July 2007 by a group of forensic experts in the presence of the deceased's relatives, Mr Varavara Rao and the Fifth Additional Judge P. Mohan Rao. The entire process was videod.<sup>16</sup>

On 10 July 2007, five alleged Maoists identified as member of Karnataka State Committee of the CPI-Maoists, Gowtham (35), Paramesh (30), Subramanya (25), Rame Gowda (50) and Gowda's wife Kaveri (40) were killed in an alleged encounter with the combined team of the State police and the Anti-Naxalite Force near Menasinahadya village under Narasimharajapura police station in Chikmagalur district of Karnataka. The villagers of Menasinahadya however claimed that those killed in the alleged encounter were illegally killed. They did not allow the police to take the bodies away for post mortem.<sup>17</sup>

On 16 July 2007, representatives of various political parties and civil society groups such as Congress, Communist Party of India, the Dalit Sangarsh Samiti, Karnataka Rajya Raitha Sangha, All India Trade Union Congress and Indian National Trade Union Congress demanded a judicial probe into the encounter that they believed to be fake.<sup>18</sup>

On 26 September 2007, four alleged Maoists, including three women were killed by the police in an alleged encounter at Amidala village in Visakhapatnam district of Andhra Pradesh. The police claimed to have recovered two 303 rifles, one DBBL gun, and five kit bags from the encounter site.<sup>19</sup> The deceased were identified as Swetha of Maddigaruvu, Chanti Babu of Tulam village

and Vijaya of Deddilawaka village in East Godavari and Mandapa Nagaratnam alias Shakeela. But the villagers of Amidala alleged that the encounter was "fake". According to the villagers, six Naxalites came to the village on the morning of 26 September 2007. A police party surrounded them. While Swetha was shot, two Naxalites managed to escape and other three Naxalites surrendered to the police when the police assured them that they would not be harmed. But the police personnel allegedly tied their hands and took them to the nearby forest and killed them in fake encounter.<sup>20</sup>

The courts also awarded compensations in some cases of extrajudicial killings.

On 3 August 2007, a court in Nizamabad district ordered the state government of Andhra Pradesh to pay compensation of Rs 1 lakh each to three families of L Narasaiah, Narsa Goud and Shaikh Mahmood who were killed by the police after they were picked up in a fake encounter in July 1991.<sup>21</sup>

On 31 October 2007, Senior Civil Judge C. Shyam Sundar directed the state government of Andhra Pradesh to pay Rs. 1.5 lakh with 12 per cent interest from the date of suit until payment to Banala Namona, wife of an encounter victim Banala Kotaiah of Dubbaka village who was killed in 5 October 1998. The court held that it was a clear case of custodial death.<sup>22</sup>

### **iii. Illegal arrest, unlawful detention and torture**

The police were responsible for illegal arrest, unlawful detention and torture. Torture in police custody in Andhra Pradesh is believed to be a very widespread practice. According to the figures obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received eight complaints of illegal arrest and three cases of unlawful detention in Andhra Pradesh during the period of 1 April 2006 to 31 March 2007.

On 9 July 2007, a youth identified as U. Anjaiah reportedly committed suicide after being tortured by Cyberabad Police while being detained at Miyapur police station in Hyderabad.<sup>23</sup>

On 20 September 2007, the Andhra Pradesh High Court directed the Cyberabad Police to admit S. Ashok Reddy in Osmania General Hospital and submit a medical examination report. The victim was allegedly unlawfully detained and tortured by the police at Central Crime Station, Cyberabad from 8 to 16 August 2007, resulting in a fracture to his right hand.<sup>24</sup>

On 28 November 2007, the police arrested 11 tribals who were demanding their rights on their lands forcibly alienated by the non-tribals at Lankalapalli in Jeelugumilli mandal in West Godavari district of Andhra Pradesh.<sup>25</sup>

### III. Violations of International Humanitarian Law by the AOGs

The Maoists continued to be responsible for gross violations of Common Article 3 of the Geneva Conventions and perpetrated violations of the right to life, extortion, abduction, hostage taking, torture and awarding 'people's justice' through its so called Peoples' Court, *Jana Adalat*.

#### a. Violations of the right to life

According to the estimate of Asian Centre for Human Rights, the Maoists killed at least 23 persons in Andhra Pradesh during January – September 2007 alone. Of them, 21 were civilians.<sup>26</sup>

The Maoists killed many civilians for being "police informers". Those killed for allegedly reporting to the police about the Maoists' activities included:

Gorle Ramesh of Pathakota village under Y Rayavaram mandal in East Godavari district on 20 January 2007;<sup>27</sup>

Gemeli Venkat Rao of Boddamanupakalu in Visakapatnam district on 1 February 2007;<sup>28</sup>

Jangam Narayan of Komatlagudem village in Warangal district on 11 February 2007;<sup>29</sup>

T Appa Rao whose dead body was recovered on 24 February 2007 after being kidnapped from the market in GK Veedhi Agency Mandal in Visakhapatnam district;<sup>30</sup>

Kesmudi Venkatesh, a resident of Gandagatta, was tortured to death in Sringeri Police Station limits on 3 June 2007;<sup>31</sup>

Nomula Mariadas, a surrendered Maoist, at Kallagunta village in Veldurthi mandal in Guntur district on the night of 24 July 2007;<sup>32</sup> and

Jinkala Shankar at Yelimonigudem in Nalgonda district on 6 December 2007.<sup>33</sup>

The Maoists also targeted leaders and activists of various political parties. Some of the political party activists/ leaders killed by the Maoists included:

- Boyapati Chinna Ramaiah, a leader of Telugu Desam Party who was shot dead at his house at Yachavaram in Prakasam district on 19 January 2007;<sup>34</sup>
- Lakkireddy Rangareddy, a leader of the youth wing of the Congress party, who was killed on 23 January 2007 at Lakshmipuram village in Prakasam district of Andhra Pradesh;<sup>35</sup>
- Erava Tirupal Reddy, a leader of Telugu Desam Party who was shot dead at Erlupalli village in Prakasam district on 23 February 2007;<sup>36</sup>
- Komati Prakash, a Mandal Parishad member of the Congress party at

Marikal village in Mahbubnagar district who was killed on 5 March 2007;<sup>37</sup>

- Korra Rama Rao of Congress party and Sarpanch (village head) of Balapam panchayat under Chintapalli Agency mandal in Visakhapatnam district who was killed on the night of 10 April 2007;<sup>38</sup>
- Samidi Ravi Shankar, Vice-Chairman of Zilla Parishad of Visakapatnam of Hukumpeta village in Visakapatnam who was killed on the night of 28 May 2007;<sup>39</sup> and
- K. Satyam, a Congress leader, who was killed at Chinnamidisaleru village in Khammam district on 5 June 2007;<sup>40</sup> Mandava Ram Reddy, a Congress leader, who was killed at Banjaragudem village in Khammam district on 12 July 2007.<sup>41</sup>

#### **IV. Judiciary and administration of justice**

The judiciary was undermined by backlog. There were a total of 1,47,537 cases pending before the High Court of Andhra Pradesh and 943686 cases were pending before the District and Sub-ordinate Courts as on 30 September 2007.<sup>42</sup>

Yet, as of 1 January 2008, there were 19 vacancies of judges in the Andhra Pradesh High Court, while there were 175 vacancies of judges in the District and Subordinate Courts as on 30 September 2007.<sup>43</sup> The lack of adequate judges in the courts, among others, contributed to judicial delay.

#### **V. The status of the SHRC**

The Andhra Pradesh State Human Rights Commission took up 3,621 cases as of 14 August 2007. Of these, the Commission passed verdict on 1,127 cases and about 2,494 cases were at different stages of progress. Some 23 per cent of the cases were related to police harassment.<sup>44</sup>

On 21 September 2007, S.R. Nayak, Chairman of Andhra Pradesh State Human Rights Commission stated it could not function properly due to inadequate office space, shortage of funds and staff. When it was launched in July 2007, the commission functioned from Mr. Nayak's residence. Later the office was shifted to Balabrooc Guesthouse and then to Vikasa Soudha before being given some space on the 4th Floor of the M.S. Buildings 5th Phase. However, the 1,600 sq ft space was not adequate for the commission to house three court halls, chambers for the chairman, members, secretary and officials and office space. Mr Nayak said the panel needed at least 10,000 sq ft space. Although it was the duty of the state government to frame rules and regulations for the functioning of the commission; define the tenure and working conditions of chairman and members and frame rules for the employees, it did nothing. The SHRC itself drafted the required rules and regulations, besides working out the staff strength.<sup>45</sup>

#### **VI. Freedom of the press**

In 2007 Andhra Pradesh government sought to restrict freedom of the press and expression by introducing government order (GO No. 938) dated 20 February 2007 which authorised commissioner, information and public relations, to launch criminal proceedings against newspapers and editors if he felt that the reports/telecast were false, baseless and defamatory in nature. Following protest, the order had to be withdrawn on 22 February 2008.<sup>46</sup> In December 2007, the state government also claimed that it had evidence to prove that more than 75 senior journalists had links with banned Maoists organizations.<sup>47</sup>

A number of journalists were arrested under terror laws.

On 4 April 2007, police arrested national council of Indian Journalist Union (IJU)

and former president of Warangal Working Journalist Union Pendyala Venkata Kondal Rao on the charge of being a Maoist sympathizer. Kondal Rao's mother alleged that he was being targeted by the police as he was the nephew of revolutionary writer Vara Vara Rao.<sup>48</sup>

On 4 December 2007, Pittala Srisailam, editor of the online television station Musi TV was arrested by the police from Hyderabad and accused of being a "courier" for the Maoists. Srisailam was going to interview one of the Maoist leaders when he was arrested. He was reportedly interrogated for nearly 30 hours before being formally placed under arrest. He alleged that he was tortured in custody.<sup>49</sup> He was charged under Andhra Pradesh Public Security Act, 1992 for abetting and helping the banned CPI (Maoist) but he denied any link with the Maoists.<sup>50</sup> On 21 December 2007, he was released on bail.<sup>51</sup>

Journalists were also assaulted. In February 2007, Lakshmi Sujata, a newsreader of a television channel was found dead with 19 stab injuries and slashed wrist at a lodge at Vijayawada in Hyderabad.<sup>52</sup> On the night of 20 May 2007, Ambresh Mishra, correspondent of *India Today*, was allegedly attacked with rods by policemen and antisocial elements in Hyderabad.<sup>53</sup>

## VII. Suppression of human rights activists

The state launched a concerted attack on human rights activists.

On 4 April 2007, police arrested Andhra Pradesh Civil Liberties Committee (APCLC) leader Chikkudu Prabhakar in Warangal.<sup>54</sup> The police also targeted his family members. Two days after Prabhakar's arrest, the police detained his son Chaitanya from their Hyderabad house and mistreated other family members during the raid.<sup>55</sup>

On 22 July 2007, Joint Secretary of APCLC S.Sugunadham was reportedly arrested

at Minimuluru in G.Madugula mandal in Visakhapatnam district for alleged links with Maoists.<sup>56</sup>

## VIII. Violations of the rights of indigenous peoples

### a. Atrocities

In 2006, Andhra Pradesh ranked third in the atrocities against tribals. According to the NCRB, 793 cases of crimes committed against the tribals were reported from Andhra Pradesh, representing 13.7% of total such cases in India. These included eight cases killings, 60 cases of rape, four cases of abduction, two cases of arson, 12 cases registered under the Protection of Civil Rights Act of 1955 and 298 cases registered under SC/ST Prevention of Atrocities Act of 1989, among others.<sup>57</sup>

The rate for filing charge-sheets for crimes committed against the tribals was 95.1% during 2006<sup>58</sup> but the conviction rate was merely 13.4% during the same year. Out of total 314 cases in which trials were completed, only in 42 cases the accused were convicted. Trial in 800 cases of crimes committed against the tribals was pending in the courts at the end of 2006.<sup>59</sup>

Many villages in Andhra Pradesh have not been recognized as tribal areas for the inclusion in the Fifth Schedule to the Constitution of India despite being tribal-majority villages. Due to the non-inclusion of tribal dominated villages under the Fifth Schedule, nearly 200,000 Adivasis spread over 805 villages in nine districts of Andhra Pradesh do not enjoy the Constitutional protection.<sup>60</sup>

The security forces deployed in the Naxalite-affected areas were accused of torture, illegal arrest and harassment of the tribals. Tribal women were raped by the security personnel engaged in counter-insurgency operations. On the morning of 20 August 2007, 11 tribal women were allegedly gang raped by Greyhound policemen during anti-Naxalite operations at Vakapalli village under Nurmatai

panchayat in Visakhapatnam district of Andhra Pradesh. According to the victims, 21 Greyhound policemen entered the village around 6 a.m. and raided their houses on charges of association with Naxalites. While some of the women were raped in their homes, some others were raped in the fields.<sup>61</sup> Ten of the victims were between 20-30 years and one was 45 years old. The police allegedly tried to cover up the incident. They failed to conduct an identification parade of the suspects, although the victims have claimed that they could identify the rapists. On 30 August 2007, the National Human Rights Commission took suo motu cognizance of the incident and sent notice to the Senior Superintendent of Police, Vishakhapatnam district and the Director General of Police, Andhra Pradesh to submit a factual report within four weeks. But to date, no action has been taken to identify and prosecute the rapists.

On 28 November 2007, the police arrested 11 tribals who were demanding their rights on their lands forcibly alienated by the non-tribals at Lankalapalli in Jeelugumilli mandal in West Godavari district of Andhra Pradesh. The tribal landowners accused the police of protecting the non-tribals for harvesting paddy in 90 acres of disputed land.<sup>62</sup>

As of October 2007, about 137 Chenchu tribal families comprising 468 persons had to flee their homes at Palutla, Nekkanti, Pannalabailu, Guttalachenu and Alatom villages to Venkatadripalem village under Prakasam district in Andhra Pradesh. They were forced to flee to escape from police attacks that stemmed from charges that they were providing food and water to the Maoists. As is the case in many like incidents Maoists harassed and threaten local people if they did not provide them food and other assistance.<sup>63</sup>

## **b. Land alienation**

Despite having stringent provisions under the Andhra Pradesh Schedule Areas Land

Transfer Regulation of 1959 to protect the lands of the tribals in the Scheduled Areas, the tribals face alienation of their lands.

The rate of alienation of tribal land is alarming in Andhra Pradesh. Non-tribals presently hold as much as 48 per cent of the land in Scheduled Areas of the state. Since the Andhra Pradesh Scheduled Areas Land Transfer Regulation came into effect in 1959, 72,001 cases of land alienation have been filed involving 3,21,685 acres of land in the state. The tribals are losing their legal fight to recover their lands. Of the 72,001 cases registered under the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 70,183 cases were disposed of and 33,319 cases (47.47 per cent) were decided against tribals involving 1,62,989 acres of land. As of January 2007, about 300 cases were pending in Andhra Pradesh High Court involving about 2,500 acres of land under the Andhra Pradesh Scheduled Areas Land Transfer Regulation.<sup>64</sup>

## **IX. Violations of the rights of the Dalits**

In 2006, the Andhra Pradesh ranked 4th in violation of human rights of the Dalits according to the National Crime Records Bureau of the Ministry of Home Affairs. The NCRB recorded 3,891 cases of crimes committed against dalits in Andhra Pradesh, which was 14.4% of total cases of crimes committed against the dalit community in India. These included 52 cases of killing, 97 cases of rape, 12 cases of abduction, 13 cases of arson, 93 cases registered under Protection of Civil Rights Act of 1955 and 1,514 cases registered under SC/ST Prevention of Atrocities Act of 1989, among others.<sup>65</sup>

The rate for filing charge-sheets for crimes committed against the dalits in Andhra Pradesh was 86.7% during 2006<sup>66</sup> but the conviction rate was 15.9% during the same year. Out of total 1,425 cases in which trials were completed, only in 226 cases was the

accused convicted. Trial in 4,369 cases of crimes committed against dalits was pending in the courts at the end of 2006.<sup>67</sup>

Dalits continued to face discriminations and violations of their rights. The Chairman of Andhra Pradesh State SC/ST Commission, Acharya Nagarjuna stated on 19 July 2007 that atrocities against the SC/STs were on the rise in Andhra Pradesh. He pointed out atrocities such as untouchability, ill treatment and social boycott of Dalits and also use of two-tumbler system (one tumbler for the Dalits and another for the upper castes) were prevalent in the state. He also stated that the practice of Jogin, child temple prostitutes, system and killing Dalits in the name of witchcraft was continuing in Telangana and Rayalaseema regions.<sup>68</sup> In several schools, upper caste students allegedly refused to eat meals provided under the Mid-Day Meal scheme if it was cooked by Dalits.<sup>69</sup>

Dalit women remained vulnerable to sexual abuses. On 2 April 2007, a Dalit Anganwadi teacher was allegedly raped by two upper caste persons at Godakondla in Chintapally mandal in Nalgonda district. However, the police did not arrest the accused as they were believed to be relatives of a dominant caste politician.<sup>70</sup>

On 31 July 2007, a special court under the SC and ST (Prevention of Atrocities) Act in Guntur sentenced 21 persons to life imprisonment while 35 others were sentenced to one year each in the Chundur Dalit massacre case in which eight Dalits of Chundur village of Guntur district were killed in August 1991.<sup>71</sup>

## X. Violence against women

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Government of India, Andhra Pradesh topped the list of crimes against women with 21,484 cases, accounting for 13% of total incidents during 2006. These included 1,049 cases of rape, 1,329 cases of kidnapping and

abduction, 519 cases of dowry deaths, 9,164 cases of cruelty by husband and relatives and 4,534 cases of molestation, among others.<sup>72</sup> The NCRB also reported one case of custodial rape in police custody during 2006.<sup>73</sup>

According to the police record in Visakhapatnam region alone, dowry deaths cases increased from 12 in 2006 to 14 in 2007 rape cases increased from 20 in 2006 to 23 in 2007; women harassment cases increased from 392 cases in 2006 to 528 cases in 2007; and molestation cases increased from 68 in 2006 to 96 in 2007.<sup>74</sup>

On 18 January 2007, police registered a rape case against a Home Guard identified as Rajaram who was posted at Osmania University police station for allegedly raping a 20-year-old woman in Hyderabad.<sup>75</sup>

Women were also targeted as alleged “witches” or users of black magic in rural Andhra Pradesh. On 3 May 2007, a woman identified as Pochamma (60) and her husband Pandla Chinmna Sailu (70) were burnt alive by villagers of Ullitimayipalli under Chegunta mandal of Medak district on suspicion of practicing black magic. They alleged that the couple was killing their cattle with black magic.<sup>76</sup>

## XI. Violence against children

During 2006, the NCRB recorded a total of 1,386 cases of crimes against children, accounting for 7.3% of total incidents in India. These included 61 cases of murder, 412 cases of rape, 498 cases of kidnapping and abduction, 5 cases of buying of girls for prostitution, 6 cases of selling of girls for prostitution and 17 cases of child marriage, among others.<sup>77</sup>

During 2006, the Andhra Pradesh police had filed charge-sheet in 96.3% of the cases of crimes against children<sup>78</sup> but the conviction rate by courts was 22.1%. Of 1,001 cases in which trials were completed, convictions were made only in 221 cases.<sup>79</sup>

Child labour continued. Andhra Pradesh had 1.36 million child labourers, the second largest in the country, as per the 2001 census. In 2007 as of mid-November, around 9,329 children were reportedly rescued. 40 rescued children were engaged in hazardous work.<sup>80</sup>

Conditions in Juvenile Homes were appalling. On 19 February 2007, Kadapa District Judge M. Vijayalakshmi and District Collector M.T. Krishna Babu paid a surprise visit to Government Juvenile Home for Boys in Kadapa and found the Home in miserable conditions. They found that the boys were forced to eat unhygienic food. All the 160 inmates were shabbily dressed and they complained that they were not provided with enough soup to wash. The toilets were extremely dirty. The rooms in which the inmates slept had no lights; there was only one fan.<sup>81</sup>

## **XII. Violations of the prisoners' rights**

According to the information received by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received 118 cases of deaths in judicial custody in Andhra Pradesh during the period of 1 April 2006 to 31 March 2007.

Many prisoners were allegedly tortured in judicial custody.

Following the twin terrorist attacks in Hyderabad on 25 August 2007 which killed 43 people, many Muslim youths were arrested by the police. They were tortured in custody including severe beatings and electric shocks at private parts to extract confessions about their involvement in the blasts. A three-member fact finding committee consisting of civil society activists Nirmala Gopalakrishnan, K Anuradha and Mohammed Afzal, mandated by the Andhra Pradesh State Minority Commission, confirmed illegal detention and torture of at least 20 Muslims and demanded a judicial probe. In its report,

the committee stated it “sees communal bias in the pattern of detentions/arrests made after the twin bomb blasts. There is sufficient evidence to believe that Muslim young men were picked up at random because they belonged to a particular religion.” An official forensics expert Dr Mahender Reddy, who accompanied the committee members in its fact-finding mission, confirmed after examining signs of torture on the detainees that they were subjected to third-degree methods. The fact-finding committee report stated that there were allegations of beating on soles of feet by leather or rubber objects; there were noticeable small scars of 1-cm diameter noted on external ears; there were noticeable 1- mm to 2-mm scars noted around nipples indicative of electricity or needle entry; medical records confirmed that suspect Hafez Mohammed Bilal Muftahee (26) was tortured. Another suspect Abdul Kareem (24) told the committee that during interrogations he was beaten severely, electric shocks applied, including to his genitalia, he was hung upside down, kicked in the face; another suspect Ibrahim Ali Junaid (25) said he was picked up on 3 September 2007 and produced before a magistrate only five days later. During interrogation at an undisclosed location, the interrogators took off all his clothes, tied his feet together and with a belt beat him on the sole of his feet and other parts of his body and that electric shocks were administered on his penis, ears, waist and ankles to coerce him to admit about his involvement in the blasts.<sup>82</sup>

Yet, on 27 October 2007, a representative of the Andhra Pradesh State Minorities Commission, Advocate Commissioner Ravi Chander, was refused permission by the state authorities to meet the detainees at Charlapally Prison. He was sent by the state minority panel to visit the jail following the report of the three-member committee alleging torture and ill-treatment of prisoners arrested in connection with the 25th August Hyderabad twin blasts.<sup>83</sup>

On 2 September 2007, undertrial prisoner identified as Banoth Ananta Rao (38) allegedly died of torture by jail officials at the Nizamabad district prison. But the jail authorities claimed that the deceased committed suicide by hanging himself with a towel.<sup>84</sup>

On 29 July 2007, under-trial prisoner identified as Gollu Kanna Rao (40) died at Government General Hospital in Vijayawada in Andhra Pradesh. He was arrested on 26 July 2007 in a theft case and was remanded to judicial custody at the district jail in Gandhi Nagar.<sup>85</sup>

In a report titled “Cherlapally prisoner dies in hospital” published in *The Hindu* daily on 27 October 2007 it was claimed that at least 10 prisoners had died at the Cherlapally Jail in Hyderabad in 2007. While nine of them died undergoing treatment for various illness, at least one prisoner identified as D. Bhaskar (32), a life convict, was allegedly beaten to death by the jail staff. On the night of 25 October 2007, an under-trial

prisoner identified as Sanjeeva (24) from Bachupally village in Ranga Reddy district died at the Osmania General Hospital in Hyderabad while undergoing treatment for fever. Earlier on 23 October 2007, another under-trial prisoner identified as Laxman from Nalgonda district died at the Gandhi Hospital in Hyderabad one hour after he was admitted there for abdominal pain. The fact that the prisoners died from easily preventable diseases like fever and abdominal pain provides strong grounds for concern that they had not been provided timely access to proper medical facilities. The Cherlapally Jail has nearly 2000 prisoners but the jail hospital has only 50 beds and two doctors, which is highly inadequate.

The conditions of all the 10 sub-jails in Anantapur district were appalling. The sub-jails are overcrowded and lack basic facilities. The state government failed to take steps to solve the problem. For instance, in the sub-jail of Dharmavaram, 59 prisoners were lodged against the sanctioned number of 19 as of 11 August 2007.<sup>86</sup> ■

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# Arunachal Pradesh

## I. Overview

**R**uled by Indian National Congress, Arunachal Pradesh does not have armed opposition groups (AOGs) of its own but continued to be affected by conflict in neighbouring States. The United Liberation Front of Asom (ULFA), National Socialist Council of Nagalim-IM (NSCN-IM), National Socialist Council of Nagalim-K (NSCN-K), People's Liberation Army (PLA) and United National Liberation Front (UNLF) have been reportedly active.<sup>1</sup> According to the Ministry of Home Affairs (MHA), 12 civilians were killed in security related incidents during 2007.<sup>2</sup> On 23 December 2007, former Member of Parliament Wangcha Rajkumar was shot dead by suspected cadres of NSCN (I-M) at Deomali under Tirap district.<sup>3</sup>

The construction of dams in Arunachal Pradesh was the subject of debate in 2007. In June 2007, the Gauhati High Court issued notices following a PIL moved by the Environment Protection & Sustainable Society (EPSS) to 10 respondents, including the Central Government and the State governments of Arunachal Pradesh and Asom, regarding the allocation of hydro-power projects.<sup>4</sup>

According to the crime statistics of Arunachal Pradesh Police, a total of 2,266 incidents of crime were recorded during 2007. These included 68 cases of murder, 28 cases of attempt to murder, 67 cases of abduction and murder and 49 cases of rape, among others.<sup>5</sup>

There were 39 vacancies and a total of 5,257 cases were pending in the District and Subordinates Courts in Arunachal Pradesh as on 30 September 2007.<sup>6</sup>

Chakma and Hajong migrants continued to be denied enrollment into electoral rolls.

## II. Human rights violations by the security forces

According to the information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received one case of death in police custody and one case of death in judicial custody in Arunachal Pradesh during the period of 1 April 2006 to 31 March 2007.

As more and more AOGs set up bases in Arunachal Pradesh, civilians are increasingly subjected to human rights violation perpetrated by security forces during counter insurgency operations. In April 2007, army personnel abused villagers of Namgo area in Lohit district after an Improvised Explosive Device (IED) blast by suspected ULFA killed two personnel. The personnel allegedly entered houses, destroyed household items and kept the villagers confined overnight without food or water for harbouring militants.<sup>7</sup>

Incidents of sexual violence by the law enforcement personnel have also been reported. On the night of 29 March 2007, Subhash Chandra Adhikari, a Senior Superintendent of Police posted in Itanagar, was arrested on charges of raping his domestic help. The victim alleged that the accused locked her up in his official residence and raped her for 15 days.<sup>8</sup>

In July 2007, Narayan Singh Bisht, a jawan of 23 Assam Rifles, was arrested on charges of molestation a woman at Longding in Tirap district.<sup>9</sup>

On the night of 20 October 2007, two personnel of the Indo-Tibetan Border Police (ITBP) allegedly attempted to rape two tribal school girls at Kimin in Papumpare district.<sup>10</sup>

### III. Denial of voting rights to the Chakmas and Hajongs

In June 2007, the State government of Arunachal Pradesh headed by Chief Minister Dorjee Khandu formed a high powered committee to find out an amicable solution to the Chakma-Hajong issue. The high powered committee headed by Speaker of the Arunachal Pradesh Legislative Assembly, Setong Sena and includes, among others, all four Members of Legislative Assembly of the Chakma-Hajong inhabited Assembly Constituencies as members.

Both the All Arunachal Pradesh Students' Union (AAPSU) and the Committee for Citizenship Rights of the Chakmas and Hajongs of Arunachal Pradesh (CCRCHAP) welcomed the establishment of the Committee.

At the same time, over 12,000 Chakma and Hajong eligible voters continued to be denied enrollment into electoral rolls. Electoral activities in the four Chakma-Hajong inhabited Assembly Constituencies of 14-Doimukh, 46-Chowkham, 49-Bordumsa-Diyun and 50-Miao remained suspended as a result of complaints of bias on the part of the local electoral officials.

On 6 September 2007, the Election Commission of India revoked the suspension and ordered the conduct of Special Summary Revision of electoral rolls. The Election Commission issued specific guidelines as to how to conduct the revision of electoral rolls in the Chakma and Hajong areas. As earlier, the local electoral officials who are also employees of the State Government of Arunachal Pradesh did not comply with the guidelines and instead they imposed their own directions to ensure that even the 1,497 previously enrolled voters were deleted. As many as 36 out of 326 enrolled voters were deleted from 14-Chowkham Assembly Constituency even before beginning of the Special Summary Revision 2007.

In 49-Bordumsa-Diyun and 50-Miao Assembly Constituencies several Chakma villages were not even officially informed about the revision process and were informed only after the Election Commission of India issued specific instructions following complaints from the Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh. The Chakma and Hajong claimants were subjected to harassment, humiliation and were openly discriminated by electoral officers led by the Deputy Commissioner of Changlang district Hage Batt, who has been designated as Electoral Registration Officer of 49-Bordumsa-Diyun and 50-Miao Assembly Constituencies. Instead of conducting the hearing of claims and objections at Diyun, Mr Batt sat at Bordumsa, which is 60 kilometers away from Diyun. As there were no means of transportation between Bordumsa and Diyun, none out of 7,311 Chakma and Hajong claimants from Diyun Circle could appear for hearing. The hearings were re-held at Diyun only after the Election Commission intervened on complaints from the Committee for Citizenship Rights of the Chakmas and Hajongs of Arunachal Pradesh (CCRCHAP).

Taking cognizance of these violations of its guidelines by the local electoral officials, the Election Commission of India deputed two teams to the four Chakma-Hajong inhabited Assembly Constituencies. But justice continues to elude the Chakma and Hajong citizens as the Election Commission has again failed them. In February 2008, the Election Commission ordered the publication of final rolls in three of the four Assembly Constituencies (14-Doimukh, 46-Chowkham, and 50-Miao). 49-Bordumsa-Diyun remained in abeyance until further orders. Out of about one thousand eligible voters, the names of only 201 claimants were included in the electoral rolls in 14-Doimukh while in 46-Chowkham, out of more than 1400 new claimants the names of only 14 were enrolled and names of 44 previously enrolled voters deleted. Similarly in 50-Miao,

only 1 out of about 4500 new claimants was included in the electoral roll.

The Election Commission of India assured the CCRCHAP that it would send 2 more teams to Itanagar to examine claimants' documentation from 49-Bordumsa-Diyun. At the end of the year, the Election Commission of India had failed to enforce its guidelines.

#### IV. Imminent displacement by development projects

The state government of Arunachal Pradesh signed 39 Memoranda of Understanding (MoU) with both public and private sector developers to produce 24,471 MW as of September 2007. Some of the companies included National Hydroelectric Power Corporation (NHPC), North Eastern Electric Power Corporation (NEEPCO), Reliance Energy, Jayprakash Associates and GMR Energy.<sup>11</sup>

These dams will reportedly cause displacement of large number of indigenous/tribal peoples apart from destroying the biodiversity of the state. Environmental and social impact studies of these projects are reportedly inadequate. Officials argue that Arunachal Pradesh is sparsely populated and displacement will be minimal.

The 2000 MW Subansiri Lower project in West Siang district is supposed to displace only 38 families from two villages. Yet the impact will be much greater as the project will adversely affect the natural resource base on which the people in the area depend for agriculture, fishing, and other goods and services.<sup>12</sup>

In June 2007, the Guwahati High Court issued notices to the central government, the state governments of Arunachal Pradesh and Asom and seven other government organisations, asking them to respond to the allegations raised by the Environment Protection and Sustainable Society (EPSS), a non-governmental organization working

on environmental issues. The EPSS moved the court to stop 13 proposed large dams in Arunachal Pradesh which pose a risk to the future of Arunachal Pradesh and neighbouring Asom.<sup>13</sup>

#### V. Violations of the prisoners' rights

The rights of the prisoners continued to be violated in Arunachal Pradesh. Undertrials were kept in police lock-ups for months until chargesheeted. The only jail with a capacity to house 100 inmates was completed a few years back. But it could not be made functional due to lack of able wardens as of 25 October 2007.<sup>14</sup> ■

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# Asom

## I. Overview

**R**uled by the Indian National Congress party, Asom witnessed more violence during 2007. The peace process between the Government of India and United Liberation Front of Asom (ULFA) which ended in despair in 2006 could not resumed. However, the ceasefire agreements with the National Democratic Front of Bodoland (NDFB) and the Dima Halam Daogah (DHD)<sup>1</sup> continued.

According to the figures received by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received eight cases of deaths in police custody in Asom during the period of 1 April 2006 to 31 March 2007. ACHR has also documented other cases of deaths in police custody during 2007.

The common people were victims of blatant human rights violations at the hands of the security forces, both the State Police and Central armed forces, in the name of “counter-insurgency operations”.

The armed opposition groups (AOGs) in Assam were responsible for maximum cases of violations of international humanitarian law including violation of the right to life, torture and abduction. The killings of the Bihari labourers, abduction and murder of kidnapping of Food Corporation of India’s (FCI) Executive Director and head of North-Eastern region, P C Ram and the killings of and Purnendu Langthasa and Nilendu Langthasa—both sons of veteran Congressmen and former minister G.C. Langthasa clearly establish that the armed groups were responsible for more human rights violations.

## II. Human rights violations by the security forces

The security forces were responsible for serious human rights violations including arbitrary arrest, detention, torture, rape and extrajudicial killings. According to the 2006 Annual Report of NCRB, a total of 19 complaints were received against the police personnel in Asom during 2006. Departmental inquiry was ordered into 19 cases and judicial inquiry was ordered into 1 case. Six police personnel were sent for trial during the year. Only in one case trial was completed.<sup>2</sup>

### a. Disappearance

During 2007, no new disappearances were reported from Asom. However, the disappearance of six leaders of the United Liberation Front of Asom (ULFA) viz Ashanta Baghphukon, Robin Neog, Bening Rabha, Nilu Chakraborty, Ponaram Dihingia, Naba Changmai<sup>3</sup> who have been missing since ‘Operation All Clear’ launched by Royal Bhutan Army in December 2003, continued to remain a concern. On 21 March 2007, the wives of these missing ULFA leaders began an indefinite hunger strike demanding that the State Government divulge the whereabouts of their husbands and the resumption of direct talks between the Government of India and ULFA.<sup>4</sup> As their health deteriorated, the Assam police arrested all of them on 30 March 2007 on charges of “attempt to commit suicide” and admitted them at the Gauhati Medical College Hospital where they were given nasal feed.<sup>5</sup>

Meanwhile, the habeas corpus petition filed in January 2005 by Shyamali Gogoi with

regard to the above disappearances continued before the Gauhati High Court. The Ministry of Defence, Government of India submitted a list of captured and missing ULFA militants in June 2006 after more than a year after the direction of the High Court in May 2005 and again almost a year later i.e. on 30 March 2007, the High Court directed the Defence Ministry to file further affidavits by 12 April 2007 clarifying the apparent discrepancies between the RBA list of persons handed over to the Indian Army and the list submitted to the Court.<sup>6</sup>

On 12 April 2007, the Assistant Solicitor General representing the Defence Ministry sought more time to file a further affidavit on the 'original list' of captured militants and the hearing adjourned to 14 June 2007.<sup>7</sup> But the last hearing held on 14 June 2007 also remain inconclusive as the affidavit filed by the Union Government says, the Bhutan Government did not provide a written list of the persons of the Indian origin arrested during the Operation All Clear.<sup>8</sup>

The courts also directed the Army to pay compensation to families of disappearance victims. On 19 December 2007, a division bench of the Gauhati High Court comprising Chief Justice J Chelameswar and Justice Hrishikesh Roy directed the Army authorities to pay Rs 3 lakh as compensation to the family of one Muleswar Moran of Tinsukia district who disappeared from the custody of Army on 28 July 2003.<sup>9</sup>

## **b. Violations of the right to life**

### **i. Custodial killings**

According to the figures received by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received eight cases of deaths in police custody in Asom during the period of 1 April 2006 to 31 March 2007. ACHR has also documented other cases of deaths in police custody during 2007.

On 12 May 2007, one Anil Boraik was allegedly tortured at the Khoomtai police outpost after he was arrested in connection with a theft case. He was detained at the outpost for two days. His mother Swagmoni Boraik alleged that Officer-in-Charge of Khoomtai police outpost, Narendra Nath Gogoi demanded Rs 20,000 in return for her son's release. When the money was not paid, Anil was allegedly tortured in police custody. Later, the victim was sent to jail where again he was allegedly tortured and denied medical treatment leading to his death.<sup>10</sup>

On 16 July 2007, Longki Ingti (35), son of Kasang Ingti of Dikhaw Ingti village was allegedly tortured to death at Dokmoka police outpost in Karbi Anglong district.<sup>11</sup>

On 22 September 2007, Sathilal Singh alias Bhola died after allegedly being tortured by the police during his detention at the Tinsukia police station in Tinsukia district.<sup>12</sup>

On 26 October 2007, Rajen Das, headmaster of Ulubari LP School, was allegedly tortured to death in the police lock-up at Mushalpur police station in Nalbari district.<sup>13</sup>

### **ii. Extrajudicial executions**

According to the information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received six cases of encounter deaths in Asom during the period of 1 April 2006 to 31 March 2007.

On 12 November 2007, the state government of Asom informed the State Assembly that the security forces killed 2,110 members of AOGs, and 226 security personnel and 146 civilians had also died in counter insurgency operations since 1990.<sup>14</sup>

In 2007, Asian Centre for Human Rights documented several other cases of extra-judicial killings. The victims included:

- traders Nilikesh Gogoi (30 years) and Dulu Gogoi (36 years) who were

shot dead by personnel of the Central Industrial Security Forces patrol team at Geleki Aathkhel in Sibsagar district on 24 January 2007;<sup>15</sup>

- Moniram Gogoi of Asomiya Gaon who was shot dead by the personnel of 44 Field Regiment at Tipamghat in Dibrugarh district on the night of 29 January 2007;<sup>16</sup>
- Congress party worker and finance agent Brojen Das of Ghasi Bebejia Dakhinpat under Roha police station of Nagaon district who was killed by Assam police on the night of 11 March 2007 at Vetmola village under Chabua police station;<sup>17</sup>
- Tea garden employee Budheswar Moran who was killed by jawans of the 6 Jammu and Kashmir Rifles at Doomdooma in Tinsukia district on 6 May 2006;<sup>18</sup>
- killing of a resident of Kakripara bazaar viz, Ashraful Hussain in firing by the 21st BSF at Kakripara on the Indo-Bangladesh border in Mancachar sector of Assam's Dhubri district on the night of 29 June 2007;<sup>19</sup>
- Death of 60-year-old woman identified as Sabitri Rajbongshi after being hit by rifle butts by the Central Reserve Police Force (CRPF) personnel at Noamati village at Nalbari town on the night of 8 September 2007;<sup>20</sup> and
- tea worker Sadananda Tantabai who was shot dead by the personnel of 316 Field Regiment at Desangpani under Kakotibari police station in Sibsagar district by mistaken him as member of ULFA on the night of 25 November 2007.<sup>21</sup>

The security forces have been responsible for killing civilians in fake encounters. On 15 December 2007, civilian Lal Lumsiem was shot dead by the 5<sup>th</sup> Bihar Regiment

in an alleged encounter at Hmar Veng in Karbi Anglong district.<sup>22</sup> On 19 August 2007, Sing Timung, a Class 12th student of Diphu Government College, was extra-judicially killed by team of police and Central Reserve Police Force in a fake encounter near Borlangpher in Karbi Anglong district.<sup>23</sup>

The Gauhati High Court ordered payment of compensation in numerous instances of extra-judicial killings. In June 2007, the Army was made to pay compensation, ranging from Rs 1 lakh to Rs 3.5 lakh to the next of kin of those killed at the hands of the Army personnel. The Army has paid compensation of over Rs 20 lakhs to the next of kin of the victims in 14 cases of extra-judicial killings.<sup>24</sup>

In November 2007, the Guwahati High Court intervened to direct the state government to place the KN Saikia Commission report probing the "secret killing" which took place between 1999 and 2001. On 15 November 2007, the report of the KN Saikia Commission was given to the State Assembly. The Commission indicted the former Chief Minister Prafulla Kumar Mahanta, the then police hierarchy and the Home Ministry for the "extra-constitutional killings".<sup>25</sup> Besides, the report of the earlier J.N. Sarma Commission was also placed before the Assembly. The Sarma commission's report was rejected in August 2005 because it allegedly contained "glaring discrepancies" and did not identify responsibility for the killings.<sup>26</sup>

The NCRB also recorded killing of four civilians in police firing during 2006.<sup>27</sup>

### **c. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest, illegal arrest and torture were common. According to the figures received by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received 26 cases of other police excesses in Asom during the period of 1 April 2006 to 31 March 2007. The NHRC received no complaints of illegal arrest,

unlawful detention during the same period. However, the Asian Centre for Human Rights documented several cases of arbitrary arrest, illegal detention and torture by the security forces in 2007.

Innocent people continued to be the victims. Many were tortured on the suspicion of being members or having links with AOGs.

On 17 October 2007, a group of eight personnel of the Kumaon Regiment stationed at Sarbhog, had gone to the house of 82-year-old Rajen Choudhury at Sukanjani village under Sarbhog police station and tortured the members of the family for more than five hours and ransacked the house. The Army personnel then took Rajen Choudhury's son Koushik Choudhury to their camp. He was released after being allegedly tortured by giving electric shocks applied to the body. Similarly, another team of army personnel went to the house of one Sonit Das at Bairapur village under Sarbhog police station in Barpeta district and tortured Das and his family. Das was also taken to the army camp where he was allegedly tortured and electric shocks were applied to different parts of the body before he was released. Both the families lodged complaints to the Assam State Human Rights Commission.<sup>28</sup>

Some other cases of arbitrary arrest, illegal detention and torture included:

- torture of family members of artiste Krishnamani Chutia by some Army personnel on the night of 10 January 2007;<sup>29</sup>
- arbitrary arrest of Tapeswar Hazarika, an employee of Goreswar HS School and two others identified as Madan Boro (17) and Banajit Basumatary (20) at Ramcha village under Goreswar Police station in Baksa district on 6 February 2007;<sup>30</sup>
- arbitrary arrest and detention of some members of the Peoples Committee for Peace Initiatives in Assam;<sup>31</sup>

- arbitrary arrest of more than fifty youths from Nalbari by police in Guwahati on charges of alleged links with the ULFA on 26 May 2007;<sup>32</sup>
- illegal detention of advocate Abhimanyu Baruah by the army at their camp at Paltanbazar in Guwahati after barging into his residence on 4 June 2007;<sup>33</sup>
- two activists of the Asom Jatiyatabadi Yuba Chatra Parishad, Biplob Gogoi and Jayanta Das who were picked up by army personnel and allegedly tortured for having links with the ULFA in Dibrugarh district on 13 December 2007;<sup>34</sup> and
- Debokanta Gogoi, Phani Gogoi and Samel Aind who were picked up by the personnel belonging to the 268 Field Regiment and tortured during interrogation leaving scar marks on their body at Tingkhong in Dibrugarh district on 14 December 2007.<sup>35</sup>

### III. Violations of International Humanitarian Law by the AOGs

Armed opposition groups (AOGs) were responsible for violations of international humanitarian law including violation of the right to life, torture and abduction.

According to the State Government of Asom, nine armed opposition groups - United Liberation Front of Asom (ULFA), Karbi Longri North Cachar Hills Liberation Front (KLNLF), Dima Haram Daogah (Jewel Garlosa) or Black Widow, United Liberation Front of Barak Valley, All Adivasi National Liberation Army, Kuki Revolutionary Army, Hmar People's Convention (Democratic), Muslim United Liberation Tigers Front of Assam, Harkat-ul-Mujahideen - remained active in the State. While five armed opposition groups - United People's Democratic Solidarity (UPDS), Dima Haram Daogah (DHD), National Democratic Front of Bodoland (NDFB), Adivasi Cobra

Militants of Assam and Birs Commando Force - entered into ceasefire agreement with the Government.<sup>36</sup>

### a. Violations of the right to life

On 12 November 2007, the state government of Asom informed the State Assembly that 3,395 civilians and 843 security personnel were killed by different armed opposition groups in Asom since 1990.<sup>37</sup>

The armed opposition groups were responsible for indiscriminate killings of civilians especially through improvised explosive devices. On 30 September 2007, at least five persons were killed and 30 other injured when suspected ULFA cadres triggered three powerful explosions in Tinsukia district.<sup>38</sup>

AOGs continued to target Hindi speaking people during 2007. According to a reply by Forest Minister Rockybul Hussain in the State Assembly in January 2007, as many as 201 Hindi speakers persons were killed by ULFA cadres since 2000.<sup>39</sup>

During 2007, attacks on the Hindi speaking person increased. Some of the instances were:

- 16 persons who were killed in separate incidents in Tinsukia and Dibrugarh districts who were killed by suspected members of the United Liberation Front of Asom (ULFA) on 5 January 2007;<sup>40</sup>
- 13 persons who were killed by suspected members of ULFA at Ghoramora Chapori under Sadiya police station on 5 January 2007;<sup>41</sup>
- seven person who were killed at Borali Bari near Mahmara in Sibsagar district on 7 January 2007;
- 6 Hindi speaking persons who were killed at Chokolia near Dimow and a brick kiln labourer at Sepon Chagolia in Moran area in Dibrugarh district on 7 January 2007;<sup>42</sup>

- 5 persons who were shot dead at Kathalonipur Belbari village under Tengakhat police station in Dibrugarh district in May 2007<sup>43</sup> and
- 9 persons who were shot dead by suspected ULFA and KLNLF cadres at Howraghat in Karbi Anglong district on 8 August 2007.<sup>44</sup>

While the ULFA also allegedly targeted the functionaries of the ruling Indian National Congress Party, other armed groups also killed political opponents. The victims killed in 2007 included

- Khagen Charengia, a 55-year-old primary member of the Congress who was shot dead on the night of 28 January 2007 at Hingpara Gaon under Moranhat Police station in Sibsagar district;<sup>45</sup>
- Abdul Baser, 55, a grassroots-level Congress worker who was shot dead at Kacharipam village under Dergaon police station in Golaghat district at around 8 a.m. on 1 February 2007;<sup>46</sup>
- Purnendu Langthasa and Nilendu Langthasa-both sons of veteran Congressmen and former minister G.C. Langthasa who were shot dead by suspected Dima Halom Daoga cadres on 4 June 2007 at Umrangshu in North Cachar Hill district;<sup>47</sup>
- Congress leader Darbitham Hmar who was killed by suspected cadres of the Dima Halam Daogah (DHD) in North Cachar Hills district on 3 November 2007;<sup>48</sup> and
- Bharatiya Janata Party leader Munindra Singh Lahkar who was shot dead by unidentified gunmen at Rangiya in Guwahati on 13 December 2007.<sup>49</sup>

Many civilians were also killed. The victims included:

- 3 farmers identified as Birka Rai, Jeevan Thapa and Sanjay Marapasi who were shot dead by suspected Black Widow militants at Scent Bagan village under Umrangso police in North Cachar Hills district on the evening of 5 March 2007;<sup>50</sup>
- Dima Halon Doaga (DHD) leader Dijon Haflongbar at Manderdisa NC Hills in indiscriminate firing by the Black Widow Jewel Gorlosa group on 26 March 2007;<sup>51</sup>
- a former member of the ULFA, identified as Ratneswar Barman who was shot dead by suspected Ulfa members at a village near Tamulpur in Chirang district under Bodoland Territorial Autonomous District Council (BTADC) on 11 April 2007;<sup>52</sup>
- ex-Executive Member of Bodoland Territorial Council and Santhali leader Badan Hazda who was killed on 1 May 2007 by suspected Adivasi Cobra Militant of Aom cadres;<sup>53</sup>
- Mantu Daimari, an ex-BLT cadre of Narayanpur and Jalen Basumatary of Karaibari Gangaram Basumatary of Doomruguri in Baksa district and Rajen Narzary of Bogijuli, Sonitpur district who were shot dead at Mushalpur in Baksa district on 19 May 2007 suspected NDFB cadres;<sup>54</sup>
- Grifer Dimasa of the Dilip Nunisa led DHD who was shot dead by a two-member squad of suspected DHD (Jewel Gorlosa faction) in his house, 4 km from Umrangsu town in North Cachar Hill district in the morning of 25 May 2007;<sup>55</sup>
- All Koch Rajbangshi Students' Union (AKRSU) worker Madan Mohan Roy alias Lalchand Roy by unidentified militants at Borghopa Upendrapur under Gossaigaon police station in Kokrajhar district on 9 July 2007;<sup>56</sup>
- Ashok Das (30), Santosh Mahato (40), Bidhu Das (30) and Manna Deb (25) who were shot dead reportedly by Dima Haram Daogah of Jewel group (DHD J) on the night of 7 August 2007 at Harinagar under Joypur police station in Cachar district;<sup>57</sup>
- eight saw mill workers who were killed by suspected cadres of Black Widow (anti-talk faction of Dima Haram Daogah) at Umranighu in North Cachar Hill district on 27 November 2007;<sup>58</sup> and
- four labourers who were beaten to death by suspected cadres of Gorlosa faction of the Dima Haram Daogah (DHD) at Lanku under Umrangsu police station in North Cachar Hills district on 14 December 2007.<sup>59</sup>

## b. Abductions

The AOGs carried out several kidnappings of civilians often demanding ransom. Failure to meet their demands resulted in killing of the hostages. During 2007, Asom witnessed large numbers of kidnappings. In the month of July 2007 alone, over 12 people were abducted from different parts of the state, including 11 people in Karbi Anglong district alone. According to data of the Asom Crime Investigation Department, in 2006, a total of 303 adult males and 460 adult females were abducted of which 274 males and 384 females were recovered. In addition, 365 male children and 690 female children were kidnapped during the same period. Out of them 337 male and 648 female children were recovered. The figures in reality could however be higher, because many abduction cases involving women and girl children go unreported.<sup>60</sup>

A particularly prominent case was the kidnapping of Food Corporation of India's (FCI) Executive Director and head of North-Eastern region, P C Ram by ULFA. He was kidnapped along with his driver by ULFA

cadres on 17 April 2007 from Ulubari area of Guwahati.<sup>61</sup> Ulfa initially asked for Rs 21 crore in ransom but later, it demanded the release of its two jailed leaders, Mrinal Hazarika, the “commanding officer” of the 28th Battalion, and Pallav Saikia, “commanding officer” of the 27th Battalion from jail in exchange of Ram’s release.<sup>62</sup>

Others who have been abducted during 2007 included Sourav Bhoumik, a class III student of Borsing Memorial English School who was kidnapped by suspected members of the Adivasi National Liberation Army on 11 January 2007 from Sarupathar in Golaghat district; three others identified as Bilthon Hara, a schoolteacher, Keshob Sahu, the general secretary of the students’ union of Sarupathar College, and Anil Keketa, a farmer from Nagajori Janjan village in Golaghat district who were also allegedly kidnapped by the same armed group in January 2007<sup>63</sup>; Nabaranja Barman, an affluent trader belonging to Dimasa community who was kidnapped on the evening of 6 February 2007 by Hmar Peoples Convention Democratic (HPC-D) from his house at Kumacherra village under Lakhipur Subdivision of Cachar district<sup>64</sup>; Anil Agrawalla, a young businessman of Naharbari in Golaghat who was abducted 22 February 2007 by Assam National Liberation Army (ANLA)<sup>65</sup>; the manager and the assistant manager of the Symraipur Tea garden in Golaghat district who were kidnapped on 27 February 2007 by the ANLA members<sup>66</sup>; and a 12-year-old schoolboy, Rajat Agarwalla who was kidnapped on 7 June 2007 from near Sonari town in Sivasagar district by suspted ULFA members.<sup>67</sup>

#### IV. Judiciary and administration of justice

As on 1 January 2008, there were 3 vacancies against the sanctioned strength of 26 in the Gauhati High Court. While there were 35 vacancies against the sanctioned strength of 289 in the district and subordinate courts

as on 30 September 2007. There were a total of 59,339 cases pending with the Guwahati High Court and a total of 2,10,232 cases were pending with the district and subordinate courts as on 30 September 2007.<sup>68</sup> In July 2007, the Gauhati High Court launched the E-Court Project to expedite cases.<sup>69</sup>

#### V. Status of the SHRC

The Assam State Human Rights Commission (AHRC) continued to be ineffective and its recommendations were ignored by the State Government. While inaugurating an awareness campaign about human rights heralded by Barak Human Rights Protection Committee (BHRPC) in July 2007 at Banskandi near Silchar, member of National Human Rights Commission Dr Shyam Bhadra Medhi admitted that since AHRC was constituted and controlled by the State, it could not work independently or live up to people’s expectations.<sup>70</sup>

However, the AHRC made some significant interventions during the year. It took *suo motu* cognisance of newspaper reports of human rights violations. In a few cases the AHRC directed the State Government to pay compensation to the victim or to their next of kin. In August 2007, AHRC directed the Home and Political Department of the Asom Government to pay a compensation of Rs 30,000 to Hitendra Kumar Neog, a resident of Rangdoi Da-gaon, Jorhat, who was grievously injured when a team of police and Army personnel barged into his house and shot him over a mistaken identity on 21 January 2006.<sup>71</sup>

#### VI. Freedom of the press

Media came under attack both from the armed opposition groups and the State.

On 31 January 2007, the ULFA asked two senior newspaper editors - Kanakasen Deka of *Dainik Agradoot* and DN Chakravarty of *Dainik Asam*<sup>72</sup> - to give up journalism for

publishing a story accusing it (ULFA) of taking money from the State Government to allow the 33rd National Games to take place without violence.<sup>73</sup> Threats were again issued by Ulfa chairman Arbinda Rajkhowa and Commander-in-Chief Paresh Baruah to D.N. Chakravarty in June 2007 for opposing Ulfa's violence.<sup>74</sup>

The NE TV company came under attack from both ULFA and the State government. On 1 February 2007, ULFA served a 'quit Assam' notice on Guwahati-based satellite news channel NE TV<sup>75</sup> for airing a news story alleging that ULFA had taken money from the State Government for letting the National Games pass off peacefully.<sup>76</sup> On 4 February 2007, ULFA renewed its warning to the news channel to prove its allegation or else close.<sup>77</sup> The Assam Olympic Association (AOA) whose president is Chief Minister Tarun Gogoi had withdrawn the press accreditation to NETV to cover the 33rd National Games after a public spat between Chief Minister Tarun Gogoi and chairperson of NE Television Networks Private Limited, Manoranjana Singh over the news channel's airing of the State's involvement in the allegations. Press accreditation was restored only after the Supreme Court directed the Assam Olympic Association to do so on 9 February 2007.<sup>78</sup>

On 20 June 2007, Asom police arrested Kakopthar-based local correspondent of *Asomiya Pratidin*, Robin Dhekial Phukon along with another youth on charges maintaining close links and working on behalf of the banned United Liberation Front of Asom (ULFA).<sup>79</sup>

On 8 August 2007, a police officer C S Chetri abused Samarendra Sharma, a staff photographer *The Assam Tribune* near Dighalipukhuri in Guwahati city when he was about to cross a police check point at around 6 p.m. Despite Mr. Sarma disclosing his identity, the police officer yelled at him in foul language and tossed his camera on the road damaging it. Sarma was detained for

almost an hour before he was released after senior Government officials intervened.<sup>80</sup>

On 3 October 2007, Anubhab Kumar, Changsari correspondent of *Asomiya Khabar* was arrested by police on the charge of having links to ULFA.<sup>81</sup>

The media persons faced increased attacks from police and other government servants for exposing corruption. On 31 March 2007, a group of 20 security guards at the Guwahati Medical College Hospital (GMCH) beat up journalist Afrida Hussain and cameraman Nitul Deka of NE TV when they had gone to the hospital to file a report. It is alleged that instead of protecting the journalists, the police personnel present at the GMCH outpost ordered the assault.<sup>82</sup>

On 24 April 2007, Rajen Deka, a correspondent of the *Dainik Asam* at Mukalmua in Nalbari district was beaten up by Gafur Ali, Rafique Ali, Chafur Ali, Mrintu Ahmed and Barkshetri Child Development Project Officer (CDPO) Balen Barman for exposing corruption by the CDPO. The police failed to protect Mr. Deka as he was being beaten up by the attackers inside Mukalmua police station campus where he ran for help but also failed to take actions against the attackers.<sup>83</sup>

On 13 August 2007, a female correspondent of *Asomiya Pratidin* in Silapathar, Tultul Phukan was assaulted by contractors Padma Deori of Sripani Kapatali Deorigaon, Horen Chutia of Atkai Hatighar, Kamal Duwara of Naharani Atkai and Manik Duwora of Balijan Naharani at Atkai for exposing corruption in the process of building the Gainadiguiabund.<sup>84</sup>

On the night of 2 December 2007, Bipul Kr Das of *Asomiya Pratidin*, was injured after being attacked by a mob at Mirza in Kamrup district.<sup>85</sup>

## VII. Violations of the rights of indigenous peoples

According to the National Crime Records Bureau (NCRB) of the Ministry of Home

Affair, Government of India, a total of 244 cases of crimes against Scheduled Tribes (STs) and a total of 282 cases of crime against Scheduled Castes (SCs) were reported in Asom during 2006. These included 26 murder cases, 24 cases of rape, 24 cases of kidnapping and abduction, among others against the STs, while 5 murder cases, 11 cases of rape, 27 cases of kidnapping and abduction, among others against the SCs respectively.<sup>86</sup>

### **a. Land alienation and displacement**

Tribal and indigenous peoples of Asom continued to face encroachment of their lands by non-tribals. The All Assam Tribal Sangha (AATS) and other tribal organisations of the State have alleged widespread violation of land transfer rules and regulations in the existing 9 tribal belts and 28 blocks in the State. Cases of transferring of land to non-tribals or non-bonafide people were on the rise.<sup>87</sup>

Non-tribal and non-bonafide people had bought plots of land individually or in the name of private school, societies, trust etc and they later used the plots for commercial purpose.<sup>88</sup>

The tribal peoples and their organization blame the State Government and its agencies, most particularly the Circle Revenue offices for massive alienation of tribal lands to non-tribals and persons of doubtful nationality in complete violation of the Assam Land Revenue Regulation Act 1886.

In May 2007, it was reported that a section of politicians and the local Revenue officials had allotted 22.5 bighas of fertile land under tribal belts and blocks in Parbotjhora subdivision of Bodo Territorial Council to as many as 34 minority families. The Assistant Settlement Officer of Bagribari revenue circle had sent a proposal to the Deputy Commissioner of Dubri district to the effect that 22.5 bighas of land should be allotted to these families. Lands in the tribal belts had already been allotted for a burial ground as well as to 13

families of religious minorities in Bagaribari revenue circle.<sup>89</sup>

### **b. Non-implementation of affirmative action in employment**

The state government of Asom failed to implement the job reservations policies for the Scheduled Tribes and Scheduled Castes in the State. According to estimates of the All Assam Scheduled Caste and Tribes Unemployed Association, Assam the backlog posts in various categories reportedly went up to 55,000 in the state as in March 2007.<sup>90</sup> On 28 February 2007, Minister for Welfare of Backward Classes and Plains Tribes (WBPT) Pramila Rani Brahma stated in the State Assembly that there were 17,404 backlogs against the reserved posts for the Scheduled Castes and Scheduled Tribes in the State Government offices despite filling up a vacancy of 1,000 backlog post in 2006. She informed the House that the State Government intended to fill 5,000 backlog posts in 2007.<sup>91</sup>

The All Assam Tribal Sangha also accused the state government of Assam of not following the 100-point Roster Programme as provided in the Reservation of Vacancies in Services and Posts (RVSP) Act, 1978 and the Rules 1983.<sup>92</sup>

Funds meant for the tribals were not utilised fully. In December 2007, Makhan Chandra Doley, secretary general of the Coordination Committee of ST and SC revealed that the state government of Asom failed to utilize Rs 705.861 million out of a total of Rs 33,66.326 million released by the Ministry of Tribal Affairs from 1999-2000 to 2006-2007 as on 31 August 2006.<sup>93</sup>

## **VIII. Violence against women**

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Government of India, a total of 6,801 crimes were reported in Asom, accounting for 4.1% of total incidents in India during

2006. These included 1,244 cases of rape, 1,544 cases of kidnapping and abduction, 105 cases of dowry deaths, 2,548 cases of cruelty by husband and relatives, 1,290 cases of molestation, 29 cases under Immoral Trafficking (Prevention) Act of 1956, among others.<sup>94</sup>

The majority of the cases go unreported.

### **Violations by the security forces:**

Security forces were responsible for serious violations against women. On the night of 1 February 2007, Utpal Nath, a sub-inspector of Gossaigaon police station in Kokrajhar district barged into the house of one Anup Shau, at Bodiaguri village and repeatedly raped Shau's wife Sabitri Shau in front of her husband and three children till 3 a.m. The policeman allegedly physically assaulted Anup, a handicapped man and his 10-year-old son Raju when they tried to resist.<sup>95</sup>

On the night of 23 March 2007, a CRPF jawan named Pranjal Das barged into the house of a woman in the Rowriah area under Rowriah police outpost in Jorhat district and tried to rape her. The three-year-old daughter of the victimized woman who had been witness to the ordeal suffered shock and died at the Jorhat civil hospital the next day.<sup>96</sup>

On 15 July 2007, a joint team of the army and CRPF allegedly raped two women and molested 11 others during a search operation at Lezai Baruagaon under Dibrugarh west revenue circle in Dibrugarh district. Following a complaint lodged by the state committee of the All India Youth Federation, the Assam Human Rights Commission has reportedly asked the district administration to submit a report on the incident.<sup>97</sup> On 24 July 2007, the Dibrugarh Deputy Commissioner also announced a magisterial probe into the matter.<sup>98</sup>

On the night of 27 August 2007, two jawans of the Bihar Regiment entered the house of one Longsing Bey at Mansingh Bey

Village under Howrahghat police station in Karbi Anglong district. The jawans tied his hands, blindfolded and made him sit in his veranda at gunpoint. They initially tried to molest Longsing Bey's two daughters, but they managed to flee. Later, one of the jawans raped his middle-aged sister who could not escape. On 31 August 2007, the Deputy Commissioner of Karbi Anglong M. Angamuthu ordered Extra Assistant Commissioner Lalita Rangpipi to carry out an inquiry and submit the report within 15 days. Earlier on 29 August 2007, the victim was medically examined.<sup>99</sup>

## **IX. Violations of the rights of the child**

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Government of India, a total of 252 cases of crimes against children were reported in Asom, accounting for 1.3% of total incidents in India during 2006. These included 11 cases of murder, 61 cases of rape and 25 cases of kidnapping and abduction.<sup>100</sup>

Asom faces a serious challenge of eradication of child labour. As per the 2001 Census, there are 3,51,416 child labours in the state. In 1991, the figure was 3,27,598.<sup>101</sup>

### **Child trafficking**

Asom continued to be the major source and transit point for trafficking of women and children for the purpose of sexual and other forms of exploitation. As many as over 8,000 persons have gone missing in different parts of Asom from 2001 to 2005. Of these, 3,673 minors while 3,141 adults. However, only 1,386 minors and 1,301 adults could be located to date.<sup>102</sup> The Inspector General of Police (Crime Investigation Department) Dilip Borah stated that at least 500 women and children disappear every year in Assam and there is a need to create a separate force to deal with cases of human trafficking.<sup>103</sup>

A study conducted in March 2007 by the Global Organisation for Life Development found that 48 per cent of the sex workers in brothels at Siliguri in West Bengal are from Assam and 70 per cent of them are below 20 years of age. In April 2007, the Assam police rescued some girls working as call-girls around Delhi or used as “sex slaves” by wealthy landlords in states like Punjab and Haryana. Most of them are found to be hailing from camps of internally displaced people in Assam, particularly the Kokrajhar district. A survey by the Assam police revealed an organised racket of “recruiters” lured good women with job offers outside the state. While some of these recruiters were arrested it did not stop the trade.<sup>104</sup>

Earlier, a survey by Domestic Workers’ Forum in 2005 revealed that more than 50,000 girls Assam were engaged in New Delhi as “domestic help” and their present number is roughly estimated to be around 65,000. In Assam, the most affected areas are places like Tongla, Sonitpur and Dekhijuli, where almost every second house has one of their wards working in large cities.<sup>105</sup>

In mid-May 2007, three girls namely Kohinur Khatun (18), Fatema Khatun (19), and Alowara Khatun (18) of village Kaimari, Part II, under Geolakganj PS in Dhubri district went missing and police arrested one Khabir Ali (28) of Alamganj Part-VI on 6 June 2007 in connection with their disappearance.<sup>106</sup> It was suspected that the three girls had been trafficked out of Assam.

In June 2007, a police team from Orang police station in Udalguri district rescued 19 Adivasi children from Dimapur in Nagaland with the help of one of the trafficked Adivasi boys Niresh Mahato from No. 2 Saikiaburi while dozens of others remain untraced. The children were lured to Dimapur from different places in Udalguri district by one Bikash Bagh with the promise of free schooling and jobs.<sup>107</sup> Similarly in July 2007, *The Assam Tribune* reported that one Sarffuddin Ahmed, a contractor was threatening 11 teenage boys

of a nearby tea garden of dire consequences if they do not immediately report back to him. The boys who have been identified as Sylvester Hembrom (17), Bijila Tanti (15), Sanju Suri (15), Ramesh Ekka (14), Ganga Ruri (14), Ratan Paswan (17), Ratan Paswan (17), Uttam Paswan (17), Sanjib Paswan (16), Lengra Gosh (16) and Baba Patar (16) were lured by the contractor to Dibrugarh for jobs but all of them later escaped after having been starved.<sup>108</sup>

According to a report titled “Human Trafficking and HIV: Exploring Vulnerabilities and Responses in South Asia” of the United Nations Development Fund (UNDP), girls and women from West Bengal and Assam are being increasingly trafficked to States like Punjab and Haryana where they are sexually exploited and forced to give birth to a male child.<sup>109</sup>

## X. Status of internally displaced persons

A study carried out by the North Eastern Social Research Centre (NESRC) in 24 districts of Assam found that, around 19 lakh people have been displaced or been adversely affected and 14,01,186 acres taken over for ‘development activities’ between 1947 and 2000 in the State.<sup>110</sup> Another report conducted by the Calcutta Research Group (CRG) claimed that a total of 23,000 families who were designated as ‘encroachers’ of forest lands out of a total of 37,677 IDP families were unable to get rehabilitation and were living in makeshift camps<sup>111</sup> as in April 2007.<sup>112</sup> Of these, 5,127 IDP families belonging to religious minorities were staying in 9 relief camps in Kokrajhar and Bongaigaon districts<sup>113</sup> and 2,200 IDPs belonging to the Santhal and Oraon tribes at Bishmuri Relief Camps in Kokrajhar district as in July 2007.<sup>114</sup>

The NESRC claimed only 5 per cent of around 1.9 millions displaced or affected have been rehabilitated as the Assam State Government’s

official estimates put the number of displaced or affected at 451,252 persons only and the quantity of land acquired at 391,773 acres only.<sup>115</sup> As on 13 August 2007, as many as 82 genuine land families including 7 families of Kebaranga block, 14 families of Bhalukaguri block, 10 families of No-2 Garmara block, 16 families of No-1 Garmara block and 20 families of Uchnara block in Dhemaji district whose lands were acquired for construction of Bogibeel bridge project on the northern bank of river Brahmaputra in Dhemaji district have been deprived of compensation.<sup>116</sup>

The plight of the IDPs in Bongaigaon and Kokrajhar districts remain deplorable. The scheme for rehabilitation has been suspended as local people of Solabeel near Bijini town in Bongaigaon district resisted IDP rehabilitation in their area. Despite protection from Central Reserve Police Forces (CRPF), local people reportedly set fire to makeshift houses of 45 IDP families on the night of 22 January 2007. Some of the local residents have also challenged the scheme of the IDP rehabilitation at Solabeel area in Gauhati High Court.<sup>117</sup> On 27 March 2007, following disruptions of proceedings in the State Assembly over the rehabilitation of riot affected IDPs, the Minister in charge of relief and rehabilitation, Dr Bhumidhar Barman informed the House that a four-phase action plan was planned for the rehabilitation of those affected by the ethnic riots and that the first and second phases of the plan had already been implemented and the third phase was on schedule. The Minister however, stated that non-availability of land was creating problems for the Government in implementing the fourth phase, as the people who sought to be rehabilitated in the last phase were forest encroachers.<sup>118</sup>

The conditions of displaced persons remained miserable in Asom. On 15 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 highly inadequate and medical facilities for the camp inmates was poor.<sup>119</sup>

## **XI. Violations of the prisoners' rights**

According to information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received 17 cases of deaths in judicial custody in Asom during the period of 1 April 2006 to 31 March 2007.

The conditions of the jails remained poor. Till 31 January 2007, there were 8,038 male prisoners and 265 female prisoners in 27 jails of the state. There were 34 minors – 15 boys and 19 girls - with their mothers.<sup>120</sup>

Of the 27 jails, including 6 Central Jails, the condition of the Hailakandi District Jail was the worst. As many as 139 prisoners, 77 of them serving life terms, are crammed into a semi-permanent structure that is meant to accommodate only 55 convicts. The jail was supposed to be shifted to a 20-bigha plot 17 years ago.<sup>121</sup>

Torture in prisons continued to be reported from Asom. Basic services, especially medical were found to be unsatisfactory and erratic in most of the state jails.

On 5 June 2007, an undertrial prisoner identified as Anil Boraik from Senduriting Tea Estate of Dergaon, was allegedly tortured at Golaghat jail and denied medical treatment resulting in his death.<sup>122</sup>

Similarly, another undertrial prisoner Debo Toppo (19), son of Elias Toppo of Satyanarayan tea estate, Naharkatia died of diarrhoea at Dibrugarh jail in the first week of July 2007.<sup>123</sup>

On 21 December 2007, a team of National Human Rights Commission (NHRC) visited the Central Jail in Jorhat following allegations of rights violation of the prisoners.<sup>124</sup> ■

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# Bihar

## I. Overview

**B**ihar remained the most lawless State in India. According to police records, a total of 2516 cases were registered in Gopalganj district alone in 2007. These included 48 murder cases, 9 rape cases, 25 dowry death cases and 38 cases under Scheduled Caste/Scheduled Tribe Prevention of Atrocity Act among others.<sup>1</sup>

During 2007, Bihar witnessed increasing mob violence. In September 2007, the Bihar government decided to impose a fine on an entire village if its residents take the law in their own hands while dealing with criminal offenders. On 13 September 2007, 10 suspected thieves were beaten to death with sticks and iron rods by hundreds of villagers at Dhelapurwa village in Vaishali district.<sup>2</sup>

The State government of Bihar had reportedly been preparing a three-pronged strategy to deal with the Naxalites: increased security action against the Naxalites, strengthening the intelligence network and effective implementation of the development schemes. In the wake of the Naxal attack on two police stations in Rohtas district that killed nine persons including five policemen, Bihar demanded 10 companies of paramilitary forces from the Centre to fight the Naxalites. The government of Bihar has reportedly been negotiating with insurance companies including General Insurance Corporation, National Insurance Corporation and Life Insurance Corporation to provide insurance cover of Rs 10 lakh to police personnel deployed in the Naxal affected areas.<sup>3</sup> After the meeting of the National Security Council on 2 August 2007, the Central government selected two districts in Bihar to launch “strong anti-Naxalite action”.

Kidnapping for ransom remained a flourishing business in Bihar. Lawyers, doctors, contractors and businessmen and school students were prime targets. According to official estimates, more than 900 persons were abducted across the state in the first three months of 2007 alone. Over 2,000 persons were kidnapped in 2006.<sup>4</sup> But these figures were only a fraction of the reality. Most cases go unreported.

## II. Human rights violations by the security forces

### a. Violations of the right to life

The Bihar Police were responsible for gross human rights violations including torture and violations of the right to life.

According to information obtained by Asian Centre for Human Rights under the the Right to Information (RTI) Act, NHRC received two cases of deaths in police custody in Bihar during the period of 1 April 2006 to 31 March 2007.

In 2007, ACHR documented a number of deaths in police custody.

On 22 January 2007, Prabhas Singh was allegedly tortured to death in the custody of the police of Alamnagar police station in Madhepura district. He was arrested in connection with a dowry case filed by his wife. Sub-Inspector Shiv Shankar Chowdhury allegedly demanded bribe from Singh for withdrawal of the case and was beaten to death when he refused to pay. Doctors at the local Sadar Hospital said he was brought dead and blood was oozing out of the mouth, nose and ears.<sup>5</sup>

On 5 October 2007, Ashok Shah, a political leader associated with CPI (ML), died due to

alleged police torture after he was arrested on charges of attempt to rape in Runi Saidpur under Sitamarhi district of Bihar.<sup>6</sup>

The police also resorted to indiscriminate firing at civilians. On 16 March 2007, two persons were killed and at least six others injured when police opened fire at people protesting irregularities in preparation of the below poverty line list in Matihani block in Begusarai district.<sup>7</sup> On 3 August 2007, Darshan Thakur was killed and three other injured when constable Aditya Narayan Singh opened fire at flood victims in Madhubani district.<sup>8</sup>

However, there were reports of civilians being killed in fake encounters. On 14 May 2007, three policemen were suspended for their involvement in a fake encounter, in which a woman and her daughter were killed at Ranjitpur village in Sitamarhi during an anti-Naxal operation.<sup>9</sup> Similarly, on 19 May 2007, two Sub-Inspectors, Kaisar Alam and Utttam Singh were arrested on the charge of killing a youth identified as Mohd Gufran in a fake encounter in Samastipur district in 2002.<sup>10</sup>

#### **b. Arbitrary arrest, illegal detention and torture**

According to the figures received by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received only one case of illegal arrest, three cases of unlawful detention and 334 other cases of police excesses in Bihar during the period of 1 April 2006 to 31 March 2007. Besides, the police failed to take action in 410 cases during the same period.

During 2007, Bihar witnessed increased number of mob violence. The police were themselves accused of taking part in the mob.

On 28 August 2007, Mohd Aurangajeb alias Salim, an alleged thief, was reportedly tied behind a motorcycle by Assistant Sub-Inspector LB Singh and Constable

Ramchandra Singh and dragged on the roads of Nathanagar locality in Bhagalpur. However on 30 October 2007, an inquiry committee, constituted by the state government to probe the role of the policemen, cleared the policemen of all charges claiming that they were actually trying to save Salim from the mob.<sup>11</sup>

### **III. Violations of International Humanitarian Law by the AOGs**

The Naxalites were responsible for gross violations of international humanitarian law including killing, abduction, torture, summary executions after trial by its so-called Peoples' Court, Jana Adalat etc.

#### **a. Violations of the right to life**

According to the estimate of Asian Centre for Human Rights, the Maoists killed at least 28 persons in Bihar during January – September 2007 alone. Of them, 13 were civilians.<sup>12</sup>

Some of the victims included:

- Laxmi Narayan Kunwar and Nandu Singh who were killed at Maniapur village in East Champaran district in May 2007;<sup>13</sup>
- Ramchandra Yadav, a Janata Dal (U) activist, and Anil Yadav who were killed with their throats slashed at Satgharwa village in Munger district on 29 May 2007;<sup>14</sup> and
- Arun Kumar, Kapildev and Abhay Kant who were killed at Sukki village under Patepur block in Vaishali district on 10 December 2007.<sup>15</sup>

In most cases the victims were accused of being police informers.

The Naxalites also continued to deliver kangaroo justice through so-called Jana Adalats, Peoples' Courts. Trials were arbitrary and those found guilty were awarded capital punishment. On 1 July 2007, Shambhu Shah and Meghu Ram were beaten to

death by the Naxalites in the presence of the villagers after the “Jan Adalat” (People’s Court) sentenced them to death on the charge of being police informers at Sisahani village under Pakri Dayal police station of East Champaran district of Bihar. Another villager Laxmi Shah was critically injured and was admitted at Motihari Sadar Hospital.<sup>16</sup>

### **b. Destruction of public properties**

The Naxalites also destroyed of infrastructure.

On 10 April 2007, the Maoists blew up buildings of two adjacent schools which were being housed a CRPF picket earlier Munger district.<sup>17</sup>

In October 2007, the Maoists blew up a railway track near Tiltrath railway station in Begusarai district during bandh called by them.<sup>18</sup>

On the night of 11 November 2007, the Maoists blew up the Kesath block office in Buxar district.<sup>19</sup>

On 2 December 2007, the Maoists blew up the railway track at Rajapatti station in Chapra district to protest the arrest of one of their leaders.<sup>20</sup>

## **IV. Judiciary and administration of justice**

Judicial delay was further compounded due to large number of vacancies in the judiciary. There were 14 vacancies of judges against the sanctioned strength of 43 in the Patna High Court as on 1 January 2008. In the District and Subordinate Courts, 541 posts of judges were vacant as of 30<sup>th</sup> September 2007. A total of 1,02,165 cases were pending before the Patna High Court and a total of 13,49,510 cases were pending before the District and Subordinate Courts as on 30<sup>th</sup> September 2007.

On 7 July 2007, a Bhagalpur Court awarded life imprisonment to fourteen persons in the Bhagalpur massacre in which 116 members of a minority community were killed in 1989.<sup>21</sup> On 5 September 2007, a fast track court in Nawada awarded death penalty to four persons in connection with the massacre of five persons at a temple in Dola village on 11 August 2005.<sup>22</sup>

However, there was lack of security to judges/lawyers especially those who were involved in speedy trials. On 8 November 2007, Ram Naresh Sharma, public prosecutor in the Begusarai civil court, was shot dead by unidentified gunmen at his residence in Begusarai town. He was representing prosecution in speedy trial of all the criminal cases involving don-turned MP Surajbhan Singh.<sup>23</sup>

## **V. Freedom of the press**

The media was at receiving ends in Bihar. On 1 November 2007, two journalists of the NDTV news channel Prakash Singh and Habib Ali were reportedly taken hostage and assaulted by ruling JD (U) MLA Anant Kumar Singh and his men when they went to his residence at Mall Road in Patna to seek his comment in a case of alleged rape and murder of a woman. NDTV’s cameraman Habib Ali received internal injuries in the chest and had to be admitted in an ICU. Several other journalists were also assaulted including ANI cameraman Ajay Kumar who was seriously injured.<sup>24</sup>

## **VI. Mob violence**

During 2007, Bihar witnessed increased number of mob violence.

In September 2007, the Bihar government decided to impose a fine on the entire village if its residents take the law in their own hands while dealing with criminal offenders. On 13 September 2007, 10 suspected thieves were beaten to death with sticks and iron rods by hundreds of villagers at Dhelapurva village

in Vaishali district. On 10 September 2007, a mob had reportedly gouged out the eyes of three persons for snatching a motorcycle in Nawada district. Similarly, on 28 August 2007, a youth, who had snatched a gold chain from a woman, was badly beaten up by a mob at Nathnagar in Bhagalpur.<sup>25</sup>

On the night of 24 September 2007, Bikrama Ram, an alleged thief, was beaten to death at Lokhara village under Majhagarh police station in Gopalganj district.<sup>26</sup>

Passengers from the North east India traveling through Bihar faced threats to life due to killings of migrant workers in Asom by the AOGs. On 25 January 2007, Daimalu Daimary, son of Binoy Daimary of Bagaribari village under Mazbat police station in Udalguri district of Asom, was tortured and killed at Danapur railway station on his way to Asom from New Delhi.<sup>27</sup>

## VII. Violations of the rights of the Dalits

Caste-based violence and discrimination against the Dalits were common in the State.

According to official figures, there was rise in cases of atrocities against the Scheduled Castes (SCs) and the Scheduled Tribes (STs) in Bihar. A total of 1932 cases of atrocities against SCs and STs were registered during 2007 against 1729 in 2006. Out of the cases registered during 2007, one related to murder, 11 to rape, 8 arson, and 67 under the SC/ST Atrocities Prevention Act of 1989 and the Indian Penal Code.<sup>28</sup> However, the official figures did not reflect the actual figure. Many cases go unreported due to fear of reprisal and in many cases police did not registers the complaints.

### a. Denial of access to public places

The Dalits continued to face systematic discrimination and untouchability. On 15 August 2007, the head of Dumari panchayat, Ram Sinhasan Ram was assaulted when he

dared to hoist the national flag at Durgavati in Sasaram because he was a Dalit. Similarly, deputy mukhiya (village headman) Subodh Kumar Paswan, another Dalit, was barred from hoisting the tricolour at Arajpur panchayat at Madhepura.<sup>29</sup>

Mid-day meals for schools cooked by Dalits were refused. In June 2007, Muslim students of a Government-run Urdu school in Rohtas district refused to eat the mid-day meal cooked by a Dalit woman.<sup>30</sup>

### b. Physical attacks against the Dalits

The police were themselves the perpetrators of crimes against Dalits.

On 22 August 2007, two minor Dalit girls identified as Kamli, 10, and Chandni, 8, of Manipur village in Samastipur district were drowned and died after they were allegedly thrown into floodwater by Lalal Singh, a Bihar Military Police constable, for collecting firewood from his orchard.<sup>31</sup>

In November 2007, the National Human Rights Commission (NHRC) issued a notice to the Bihar government on the alleged crimes against Dalits by a police inspector in Buxar district. The police inspector reportedly picked up 18 Dalits from Bannarpur village and severely beaten and forced them to lick spit after being kept in the lockup for about 24 hours. Later, he called their wives to the station and asked to beat them with their slippers which they refused.<sup>32</sup>

Politicians were also involved in violence based on discrimination. On 14 June 2007, state Agriculture Minister Narendra Singh allegedly beat up a widow who had gone to meet him seeking an employment for her son in Bhagalpur.<sup>33</sup>

On 18 August 2007, Dalit student Navin Kumar Paswan, a Class IV student of a government school, lost his eye after being beaten up by Headmaster Rajendra Jaiswal and teacher Shekhar Bharti for demanding

more food during a mid-day meal of Aujapouchha village in Purnea district.<sup>34</sup>

### c. Violence against Dalit women

Dalit women continued to be vulnerable. There were reports of killing, rape and torture of Dalit women.

On 18 May 2007, a Dalit woman identified as Kari Devi (45) was beaten to death by former village head Saroj Singh of Dhansir village in Gaya district on suspicion that she stole a cow.<sup>35</sup>

On 31 August 2007, steaming dal was poured on a Dalit woman identified as Gyanti Devi and her six-month-old daughter by Ramavatar Yadav and his three sons in Patna in Bihar. Gyanti Devi was targeted because she had protested when her other children were being roughed up by Ramavatar for allowing the children to play in the premises of a temple.<sup>36</sup>

In January 2007, Ranju Kumari, a Dalit woman of Ahiyari village under Kamtaul police station, was kidnapped and repeatedly raped for more than a month by two influential men Kailash Yadav and Manoj Yadav. She was taken to Patna and then to Amritsar in Punjab. Later, she was rescued by the Pingalwala Charitable Trust in Amritsar.<sup>37</sup>

On 6 February 2007, a 14-year-old Dalit girl was gang-raped and then killed by three youths to avoid identification at Korandih village in Bhojpur district.<sup>38</sup>

## VIII. Violations of the rights of the child

Children continued to face violence and the Juvenile Justice (Care and Protection of Children) Act of 2000 was routinely violated.

In March 2007, a 17-year old minor identified as Arvind Kumar was forced to write his Class XII examinations in handcuffs at Dehri-on-Sone in Sasaram district. The

juvenile, a student of Navodaya Vidyalay in Aurangabad district of Bihar, was arrested on 31 January 2007 on the charge of murdering his classmate and sent to jail. The Aurangabad court granted him permission to appear for his examinations but he was forced to take his examinations in handcuffs in clear violations of the Supreme Court directive not to handcuff minor offenders. His pleadings for removal of the handcuffs during the examination were turned down by the police.<sup>39</sup>

On 24 June 2007, two minors identified as Rakesh (8 years old) and Rahul (6 years old) were illegally detained by the police at the Shastri Nagar Police Station in Patna for six hours without food and water for allegedly stealing berries from a local market. The minor boys alleged that they were beaten-up and locked-up in the jail along with several other convicts. It was only when the local residents and media teams arrived at the police station that both the minors were released.<sup>40</sup>

In June 2007, arrest warrant was issued against a three-year-old boy identified as Raj Kumar Jha alias Raju Jha, son of Raj Narayan Jha along with six other persons on the charges of rioting and attacking policemen during a clash between two communities in a village under Manihari police station of Katihar district. The boy was charged under sections 147, 148, 149, and 359 of the Indian Penal Code and the Arms Act.<sup>41</sup>

On 25 September 2007, two minor sisters Rinku (3) and Sangita Kumari (7) appeared with their parents in district and sessions judge court for bail under various sections of IPC in Darbhanga district. Rinku was charged with forcibly taking away a flowerpot, while Sangita was charged with grievously assaulting one Bhageshwari Devi.<sup>42</sup>

## IX. Violations of the prisoners' rights

Overcrowding remains a problem in Bihar jails. In April 2007, there were more than

42,000 people lodged in various jails of Bihar against a capacity of about 20,000.<sup>43</sup> There were constant reports of deaths of prisoners in judicial custody.

According to information received by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received 193 cases of deaths in judicial custody in Bihar during the period of 1 April 2006 to 31 March 2007.

ACHR also documented a number of cases of deaths in judicial custody during 2007.

On 10 September 2007, an under-trial prisoner identified as Nagina Singh died in Gaya Central jail. While the jail officials claimed that he had committed “suicide” by jumping from the stairs, which lead to the second floor of the three-storied central

jail, the jail inmates alleged that a jail official pushed him off the stairs.<sup>44</sup>

Torture of prisoners continued to be reported. In January 2007, a Dalit prisoner identified as Arun Das, serving a sentence in a narcotic law-related case and lodged at Purnia jail, was allegedly tortured by prison officials for his failure to pay a bribe. The victim’s body allegedly bore burn marks inflicted by cigarette butts and his genitalia were also injured as the prison officials attempted to slash them with blades.<sup>45</sup>

Prisoners were not provided timely medical assistance. In November 2007, an inmate identified as Bhuttu Chowdhary, lodged at the Beur Jail in Patna, reportedly died due to the negligence of the jail officials in providing timely medical assistance. The prisoner was said to be suffering from diarrhea.<sup>46</sup> ■

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# Chhattisgarh

## I. Overview

**R**uled by the Bharatiya Janata Party, Chhattisgarh continued to be the epicentre of the Naxalite conflict in India during 2007. The *Salwa judum*, a counter insurgency operation launched by the state government Chhattisgarh to tackle the Naxalites in 2005, has caused massive displacement and heavy loss of lives. According to the estimate of Asian Centre for Human Rights (ACHR), 208 persons including 46 civilians, 134 security personnel and 28 alleged Naxalites were killed in Chhattisgarh in the Naxalite conflict from January to September 2007 alone.<sup>1</sup>

On 12 April 2007, Chhattisgarh government extended the ban on the Communist Party of India (Maoist) and five of its front organizations – Dandakaranya Adivasi Kisan Mazdoor Sangh, Krantikari Adivasi Mahila Sangh, Krantikari Adivasi Balak Sangh, Krantikari Kisan Committee and Mahila Mukti Manch under Section 3 (1) of Chhattisgarh Special Public Safety Act, 2006 for a period of one year. The government had brought a Bill, banning separatist organisations, including the CPI (Maoist), in April 2006 following a rise in violence in the State.<sup>2</sup>

As the conflict intensifies, civilians increasingly become the target. There were about 43,740 displaced Adivasis living in the anti-Naxalite *Salwa Judum* camps in Dantewada district. Their conditions remained deplorable in the absence of adequate assistance from the government. Further, on the night of 25 August 2007, alleged Naxalites stormed into the unguarded Patarpara relief camp at Bhairamgarh block in Bijapur district and killed two villagers identified as Hapma Badaldeo and Jaggu Kursa and injured 18 others.<sup>3</sup>

All the prisons were overcrowded and administration of justice was clogged. There were 12 vacancies out of the sanctioned strength of 18 judges in the Chhattisgarh High Court as on 1 January 2008 and 18 vacancies in the District and Subordinate Courts against sanctioned strength of 241 as on 30 September 2007. There were a total of 74,701 cases pending with the Chhattisgarh High Court and a total of 2,63,980 cases were pending with the District and Subordinate Courts as on 30 September 2007.<sup>4</sup>

The State government continued to use the Chhattisgarh Special Public Security Act against the human rights defenders.

Children too have been severely affected by the Naxalite conflict. Despite a clear violation of humanitarian law there were repeated reports of security forces being stationed in the school buildings.<sup>5</sup> Around 250 school buildings were blown up by the Maoists over the past two years.<sup>6</sup>

## II. Human rights violations by the security forces

According to the 2006 Annual Report of National Crime Records Bureau, a total of 1,444 complaints were received against police personnel in Chhattisgarh during 2006. Of these, departmental inquiry was ordered into 355 cases and magisterial inquiry was ordered into 1 case. 13 police personnel were sent to trial during the year. Of the 4 police personnel whose trials were completed, 1 was convicted and 3 acquitted. The NCRB does not report human rights violations committed by the army and the paramilitary forces.<sup>7</sup>

### a. Violations of the right to life

The security forces were responsible for extrajudicial executions, custodial deaths and killings of indiscriminate police firings.

According to the information obtained by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received three cases of deaths in police custody and one case of encounter death in Chhattisgarh during the period of 1 April 2006 to 31 March 2007. The National Crime Records Bureau of the Ministry of Home Affairs had recorded one death in police custody and killing of 138 civilians in police firing during 2006.<sup>8</sup>

The Asian Centre for Human Rights documented the killing of at least 35 persons including 28 alleged Naxalites and seven civilians by the security forces in the Naxalite conflict in Chhattisgarh during January - September 2007.<sup>9</sup> However, the figure of civilians killed by the security forces could be much higher as the security forces often classify those killed as “Naxalites”.

On 31 March 2007, seven tribals, including Madiyam Fagu, Madiyam Lakhma, Kudiyan Musa, Markam Sanko and Marvi Mangu from Ponjer village and Kudiuyam Bojha, a former Special Police Officer (SPO) from Santoshpur village were allegedly picked up by Chhattisgarh Armed Police and *Salwa Judum* members and then killed at Santoshpur village near Bijapur. The police claimed that they were *Sangham* members (Naxalite sympathizers) and were killed in encounter. But the villagers of Ponjer village claimed that the tribals were picked up and taken to nearby Santoshpur where they were killed. At least four of the victims were allegedly hacked to death using axes and machetes and the rest were shot dead. Two other tribal villagers identified as Kodia Mura and Podia had been missing since the incident and it is feared that they have also been killed. On 7 May 2007, bodies of four victims - Madiyam Fagu, Madiyam Lakhma, Kudiyan Musa and Markam Sanko were exhumed from Ponjer village by doctors of Dantewara district hospital in the presence of family members of the victims and senior administrative and police officials. The post-mortem report

prepared by doctors from Dantewada District Hospital, R L Gangesh, B R Pujari and Sanjay Baghel reportedly found gunshot wounds and deep gashes caused by sharp-edged weapons like axes or machetes.<sup>10</sup>

On 13 March 2007, 11 minor children and man belonging to tribal community were allegedly shot dead by the members of Indian Reserve Battalion (IRB) from Nagaland posted in Chhattisgarh and members of the *Salwa Judum* in Nendra village of Dantewada district during a search operation against the Naxalites. Seeing the children, the IRB personnel reportedly without any provocation opened fire at the children hitting them point blank and killing them all instantaneously. Later, on their way they also shot dead Mr. Soyam Nareya (20) of the same village who was returning from his work. The deceased children were identified as Soyam Rama (16), Soyam Raju, (2), Vajam Rama (11), Madakam Ramily (5), Madakam Buddaraiyah (14), Midiyam Nagaiah (5), Sodi Irma (12), Podium Adama (7), Vetti Raju (9), Madakam (13) and Soyam Raju (12).<sup>11</sup>

## **b. Arbitrary arrest, illegal detention and torture**

According to the information obtained by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received one case of illegal arrest, four cases of unlawful detention, 38 cases of other police excesses and 90 cases of failure in taking action in Chhattisgarh during the period of 1 April 2006 to 31 March 2007.

The police were accused of illegally detaining innocent civilians on frivolous charges under pressure to crack down on the Naxalites.

On 3 January 2007, 79 Maoists surrendered at the police headquarters in Raipur.<sup>12</sup> However, ten days after the ‘Naxal surrender’ ceremony, the police reportedly quietly released 19 of the 79 because the charges against them were found to be “frivolous”. The police allegedly

tried to pump up “surrender” figures by detaining 19 villagers on charges of pasting posters, collecting firewood and cooking food for Maoists.<sup>13</sup>

The police also used disproportionate force to control protests. On 24 May 2007, an aged man was punched, kicked, his hair pulled and brought to the ground as the police rained *lathis*, sticks, on him when the police resorted to lathi charge and fired in the air in Sarguja district to quell protests by villagers which turned violent leaving 59 persons including 35 police injured.<sup>14</sup>

### III. Violations of International Humanitarian Law by the AOGs

Naxalites 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 Peoples’ Court, Jana Adalat.

#### a. Violations of the right to life

Chhattisgarh has been the epicenter of the Naxalite conflict. According to the estimates of Asian Centre for Human Rights, the Naxalites killed 134 security forces and 37 civilians in Chhattisgarh from January to September 2007.<sup>15</sup>

The Maoists extensively used explosive devices to target security forces and civilians.

On 8 February 2007, a civilian driver identified as Dinesh Baharia was killed along with five security personnel when a bom planted by alleged Maoists exploded while being defused at Bhairamgarh in Dantewada district.<sup>16</sup>

On 5 June 2007, three employees of the Chhattisgarh State Electricity Board were killed in a landmine blasts triggered by the Maoists at a cement-laden truck in Narayanpur district of Bastar region.<sup>17</sup>

On 26 May 2007, a truck conductor was killed by alleged Maoists-triggered explosion on Pakhanjore-Bhanupratappur road, 13 kms away from Pakhanjore in Kanker district.<sup>18</sup>

On 5 June 2007, three labourers of State Electricity Board were killed in a landmine blast by Naxalites near Kapsi area of Narayanpur district in the Bastar region.<sup>19</sup>

The Naxalites continued to kill innocent people accusing them of being “police informers”, members of anti-Maoist civilian militias *Salwa Judum* and for not obeying their diktats. Innocent tribal civilians were killed for participating in the anti-Naxalite *Salwa Judum* campaign, irrespective of whether they had participated voluntarily or by force.

In July 2007, the Maoists banned farming in Bastar region of “to protest against the exploitation of the state’s natural resources by the Government”.<sup>20</sup> According to the police, at least 11 tribal farmers were murdered by the Maoists for working in their fields in July 2007 in Bijapur police district alone.<sup>21</sup> Most of the victims were killed after brutal torture. For instance, on the night of 8 July 2007, two farmers identified as Kalmu Dulla and Marwi Mura were abducted from Chintagufa village in Bijapur police district, beaten up and then hacked to death.<sup>22</sup> On 17 July 2007, four farmers identified as Sukdas, Hemla Lachhu, Hemla Somu and Hemla Somlu were caught while farming their fields at Mallapara village near Gangalur in Bijapur police district and tortured them to death.<sup>23</sup> Again on 25 July 2007, two tribal farmers, identified as Kudhi Mangru of Chareli village and Potai Mangu of Bedka village were tortured to death in Bijapur district for the same reason.<sup>24</sup>

On 1 April 2007, alleged Naxalites killed two farmers identified as Amit and Hungaram by slitting their throats. They were killed for having handed over their land to Essar Steel who were setting up a steel plant in Bhansi village in Dantewada district.<sup>25</sup>

The Naxalites also continued to kill alleged police informers. On 12 March 2007, two tribal youths were reportedly killed with sharp-edged weapons by Naxalites in Kanker district.<sup>26</sup>

The Naxalites continued to organise *Jana Adalats*, Peoples Court, to impose ‘justice’.

On the intervening night of 7 and 8 January 2007, the Naxalites allegedly killed a villager identified as Alam Sannu, son of Bhuja of Koitpal under Bijapur police district, after dragging him out from his house. He was interrogated in front of other villagers about the *Salwa Judum* campaign and the movement/operational strategies of the police. Later, the Maoists slit his throat with a knife in full public view.<sup>27</sup>

Some other victims who were killed in *Jana Adalats* included:

- Suklu Korsu who was beaten to death at Ghumra village under Bijapur police district for supporting the *Salwa Judum* on the night of 16 February 2007;<sup>28</sup>
- Sarhuram of Chindbhata and Kogeram of Temrupani who were beaten to death at Temrupani under Durgakondal police station in Kanker district on the night of 28 February 2007;<sup>29</sup> and
- Sarpanch Mahadev who was killed by slitting his throat at Kadenar village under Narayanpur police district on 13 March 2007.<sup>30</sup>

The Maoists also targeted political activists during 2007. On 19 November 2007, Congress leader, Buddharam Rana and his son Kamlesh were killed by the Maoists at Musalur village in Bijapur district.<sup>31</sup>

#### **b. Destruction of public properties**

The Maoists continued to be major obstacle to development. On 27 May 2007, alleged Naxalite activists blew up a railway bridge and track and burnt properties of Essar Steel

in Dantewada district as a part of a bandh triggered two landmine blasts.<sup>32</sup>

On 31 May 2007, alleged Naxalites blew up three high tension 220 KV Bhilai-Barsur electricity transmission towers between Chhotepalli and Kapsi near Pakhanjore in Narayanpur district.<sup>33</sup>

On 10 June 2007, alleged Maoists attacked the National Mineral Development Corporation (NMDC) and burnt over 100 metres of a conveyor belt in Dantewada district.<sup>34</sup> On 24 June 2007, Maoists blew up a 33 KV power transmission line near Bodli village in Bijapur district.<sup>35</sup>

#### **IV. Repression on human rights defenders**

Civil society organizations and human rights defenders operating in the state faced repression of the State.

On 14 May 2007, 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 and the Unlawful Activities (Prevention) Act, 1967) as amended in 2004 on the charges of having links with the Naxalites.<sup>36</sup> He was not released by the end of 2007.

On 24 May 2007, Rajendra Sayal, president of Chhattisgarh unit of People’s Union for Civil Liberties (PUCL) was arrested by the police in Raipur in connection with a contempt of court case. However, PUCL alleged that the arrest was part of the state government’s attempt to thwart a civil rights demonstration scheduled for 31 May 2007.<sup>37</sup>

In August 2007, the state government of Chhattisgarh allegedly sought to expel the *Medicines Sans Frontiers* (Doctors Without Borders) from Dantewada district. ACHR strongly condemned the move and warned that it will be “counter-productive measure that can only help the Naxalites”. The State

Government of Chhattisgarh was forced to take a U-turn and clarified that “the State government has not even contemplated on barring the NGO from working in any part of the State. The Government is sensitive to the humanitarian medical aid that has been provided by the *Medicines Sans Frontiers* across the Globe and in India”.

## V. Violations of the rights of indigenous peoples and Dalits

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Government of India, a total of 583 cases of crimes against Scheduled Tribes (STs) and a total of 444 cases of crime against Scheduled Castes (SCs) were reported in Chhattisgarh during 2006. These included 27 murder cases, 97 cases of rape, 3 cases of kidnapping and abduction, 161 cases under SC/ST (Prevention of Atrocity) Act of 1989, among others, against the STs, while 10 murder cases, 49 cases of rape, 1 case of kidnapping and abduction, 120 cases under SC/ST (Prevention of Atrocity) Act of 1989, among others against the SCs respectively.<sup>38</sup>

Hundreds of tribals have been arrested under false charges when they tried to access minor forest produce. In April 2007, the government of Chhattisgarh decided to drop criminal charges against 2,20,613 persons including 1,08,890 Scheduled Tribes and 36,298 Scheduled Castes registered under various forest and wildlife protection laws.<sup>39</sup>

The conditions of the tribals remained deplorable due to lack of development. The Chhattisgarh Human Development report, commissioned by the United Nations Development Programme and published in 2005, revealed that little has changed for the inhabitants of the state’s tribal districts who continue to be engaged in traditional employment. The report revealed that 78 per cent of the rural households were farmers. Of them, only 1.5 per cent were familiar with modern agricultural practices like use

equipment, chemical fertilisers and high yield value seeds. The report also revealed that the tribal districts of the state also witnessed an alarmingly high number of infant mortalities due to poor health services and facilities. While the state infant mortality rate per 1,000 live births was recorded at 73 in 2003, in the tribal-dominated districts of Bastar recorded 104, Koraput recorded 103, Rajnandgaon recorded 112, Kabirdham recorded 96 and Kanker recorded 86.<sup>40</sup>

## VI. Violence against women

According to the National Crime Records Bureau, a total of 3,757 cases of crimes against women were reported in Chhattisgarh, accounting for 2.3% of total incidents in India during 2006. These included 995 cases of rape, 103 cases of dowry deaths, 178 cases of kidnapping and abduction, 1,689 cases of cruelty by husband and relatives, 1,598 cases of molestation, 13 cases under Immoral Trafficking (Prevention) Act of 1956, among others.<sup>41</sup>

The security forces engaged in the Naxal conflict are the subject of accusation of sexual violence. On 13 February 2007, a tribal woman filed a complaint alleging gang rape by some personnel of the India Reserve Battalion of Mizoram in Dantewada district. The Mizo Battalion, composed of mostly tribals, was deployed to fight the Naxalites in Chhattisgarh.<sup>42</sup>

Women continued to be victims of witch-hunting. On 4 May 2007, Yashoda along with her husband Gajanan Narayan Bramhankar were reportedly axed to death by one Shirkrishna Bhaiyyalal Chute suspecting them to be practicing witchcraft on a buffalo at Malitola Anjora village in Amgaon tehsil.<sup>43</sup>

## VII. Violations of the rights of the child

According to the National Crime Records Bureau, a total of 1,238 cases of crimes against

children were reported in Chhattisgarh, accounting for 6.5% of total incidents in India during 2006. These included 40 cases of murder, 448 cases of rape, 113 cases of kidnapping and abduction, 5 cases under Child Marriage Restraint Act of 1978, among others.<sup>44</sup>

The Naxal-conflict had badly affected the child education especially in districts falling under Bastar region. Despite a clear violation of humanitarian law there were repeated reports of security forces being stationed in the school buildings.<sup>45</sup>

The Maoists were also accused of blowing up school buildings. Around 250 school buildings were blown up by the Maoists over the past two years. The state government blamed the Maoists for the parlous state of the education system.<sup>46</sup> Both sides bare a responsibility for the falling education indicators.

Chhattisgarh has a job scheme for children of its dead police personnel. Minor children were recruited as child police officers in Chhattisgarh. There were at least 75 child police officers in Chhattisgarh as of January 2007. These children were asked to do filing and chores like bringing tea and water for seniors. They were paid about Rs 2,500 a month for the job.<sup>47</sup>

## VIII. Violations of the prisoners' rights

According to the information obtained by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received 50 cases of deaths in judicial custody in Chhattisgarh during the period of 1 April 2006 to 31 March 2007.

On 21 August 2007, Balram Sharma, a convict, was found dead under mysterious circumstances at the Raipur Central Prison. Jail authorities reportedly recovered a suicide note.<sup>48</sup>

Chhattisgarh jails remained overcrowded. For instance, there were as many as 139 inmates in Katghora Sub-Jail as against the sanctioned capacity 50 as on 10 April 2007.<sup>49</sup>

The prisoners were not provided adequate security while moving out of jails. On 5 April 2007, undertrial Harish Patel, detained at Ambikapur jail, was allegedly shot dead by his elder brother at his house in Babupara after he had come out of the jail for going to hospital along with two other inmates. It remained unclear how he managed to reach his house where he was murdered.<sup>50</sup> ■

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# Delhi

## I. Overview

**R**uled by the Indian National Congress party, the National Capital Territory of Delhi continued to witness serious human rights violations including extrajudicial killings, custodial rape, torture, etc. In 2006, a total of 5,360 complaints were received against the police personnel in Delhi.<sup>1</sup>

There were reports of discrimination against the Scheduled Castes. Moreover, the state government refused to allocate the funds meant for the scheduled castes.

Women remain extremely vulnerable with 581 cases of rape and 835 cases of molestation registered in 2007.<sup>2</sup>

According to the National Crime Records Bureau, a total of 2,160 cases of crime against children, accounting for 11.4% of the total cases in India, were reported in 2006. These included 62 cases of murder, 448 cases of rape and 1,114 cases of molestation, among others.<sup>3</sup>

Both the juvenile detainees and prisoners were subjected to torture. According to the information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received 25 cases of deaths in judicial custody in Delhi during the period of 1 April 2006 to 31 March 2007. In June 2007 alone, at least nine prisoners died in the Tihar jail due to the torture and heat which aggravated due to overcrowding conditions. Post mortem reports in at least three of the deaths confirmed that they died due to torture.<sup>4</sup>

Judicial delay continued to plague Delhi. While there were a total of 76,674 cases pending with the High Court of Delhi, a total of 7,93,759 cases were pending in the District and Subordinate Courts as on 30

September 2007. There were 16 vacancies of judges in the Delhi High Court as of end December 2007 and 93 vacancies in the District and Subordinate Courts as of 30 September 2007.

## II. Human rights violations by the security forces

According to the 2006 Annual Report of National Crime Records Bureau (NCRB), a total of 5,360 complaints were received against the police personnel in Delhi during 2006. Of them, departmental inquiry was ordered into 579 cases. However, the NCRB failed to report the number of police personnel who were sent for trial and the number of personnel convicted.<sup>5</sup>

The Delhi Police personnel were responsible for human rights violations including extrajudicial killings, custodial rape, torture, etc.

### a. Violations of the right to life

According to the information obtained by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received three cases of deaths in police custody and 16 cases of encounter in Delhi during the period of 1 April 2006 to 31 March 2007. The NHRC also received one case of custodial rape during the same period.

The National Crime Records Bureau recorded one death in police custody and killing of 7 civilians in police firing during 2006.<sup>6</sup>

In 2007, Asian Centre for Human Rights documented number of cases of deaths at the hands of Delhi Police during 2007.

On 24 April 2007, Kamaluddin was allegedly beaten to death by policemen in the Prem

Nagar area of Suntanpuri in North-West Delhi. However, the police denied the charge and claimed that Kamaluddin was mentally deranged and was thrashed by local residents resulting in his death.<sup>7</sup>

On 19 June 2007, 30-year-old Jawahar, a physically challenged truck driver, succumbed to his injuries after being severely beaten up by Traffic Police Sub Inspector (SI) for allegedly jumping the traffic signal at Man Sarover Garden near Uttam Nagar in West Delhi on 9 June 2007. According to a relative, SI had asked for the bribe as they normally do from truck drivers. Jawahar refused. The medical report revealed that Jawahar had multiple injuries.<sup>8</sup>

In some cases of custodial deaths, the court awarded punishment.

On 24 January 2007, Additional Sessions Judge Rajender Kumar sentenced H. P. Singh, who was then the Station House Officer of the Geeta Colony police station in Delhi, to seven years rigorous imprisonment for the custodial death of Subhash Chand who died on 3 February 1990 on the charge of culpable homicide not amounting to murder.<sup>9</sup>

On 6 February 2007, Additional Sessions Judge SP Garg sentenced three policemen identified as Head Constable Rajbir Singh and Constables Ramesh Hooda and Bachchu Singh to seven-year rigorous imprisonment for the custodial death of Indal Singh at Mehrauli police station in South Delhi on 3 January 1996.<sup>10</sup>

There were 15 cases of custodial deaths which were under trial in various Sessions Courts across Delhi as of February 2007.<sup>11</sup>

#### **b. Arbitrary arrest, illegal detention and torture**

According to the information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received seven cases of illegal arrest, 122 cases

of unlawful detention, 825 cases of failure in taking action, one disappearance and 913 cases of other police excesses in Delhi during the period of 1 April 2006 to 31 March 2007.

On the night of 22 June 2007, three persons identified as Raj Kumar, Om Prakash and Kalu Kumar were allegedly beaten up by Sub-Inspector Rajbir Singh posted at the Janakpuri police station after the trio got involved in a brawl with a parking attendant outside Janakpuri District Centre. All the victims sustained bruises and cuts on their bodies.<sup>12</sup>

On 16 June 2007, Mustakin and Jatin were allegedly severely beaten up by police officers after their arrest at Keshav Puram police station in North-West Delhi. Medical reports of Mustakin and Jatin revealed bruises and swelling on their internal organs. In July 2007, Metropolitan Magistrate Devender Kumar Jangala ordered registration of FIR against the accused police officers.<sup>13</sup>

On 31 August 2007, four teenagers identified as Harman, Ruban Thomas (17), Zubin (17), students of Summerville School in Vasundhara Enclave and Dushant, a BBA student, were brutally beaten up by two policemen for playing cricket in a park in Pocket F in Mayur Vihar East Delhi. The policemen also allegedly targeted the genitalia of Harman and he was unable to move following the attack.<sup>14</sup>

### **III. Violations of the rights of Dalits**

According to the National Crime Records Bureau, 21 cases of crime against the Scheduled Castes (SCs) were reported in 2006.<sup>15</sup>

Discrimination against Dalit and tribal students was omnipresent in Delhi.

The Scheduled Caste and Scheduled Tribe students at the All-India Institute of Medical Sciences (AIIMS) face the worst forms of

discrimination. These students were allegedly physically tortured, segregated and subjected to other forms of discrimination in the hostels, mess and classrooms. "Give 10 good reasons why you should be given reservation" was reportedly one of the humiliating questions put to them during ragging.<sup>16</sup>

In July 2007, even the National Commission of Scheduled Caste (NCSC) had found instances of "gross injustice" and "systematic violation" against Scheduled Caste doctors and students in the All India Institute of Medical Sciences (AIIMS). The Commission, probing allegations of discrimination against SC students and doctors, stated that the institute had been following an "illegal reservation policy" and sought its amendment.<sup>17</sup>

The state government of Delhi reportedly siphoned off Rs 965.5 crore meant for the welfare of the Scheduled Castes and Scheduled Tribes of Delhi during 2006-2007. This was revealed to the public through the Right to Information Act filed by Rashtriya Shoshit Parishad, a council for the welfare of Scheduled Castes and Scheduled Tribe.<sup>18</sup>

The Social Welfare Department of Delhi did not spend any money on several welfare schemes during January-July 2007. The department failed to identify the intended beneficiaries. As a result, fund for schemes for physically challenged, destitute women and children, the elderly, and several educational programmes remained unutilized.

According to documents obtained by *Hindustan Times*, the Social Welfare Department of Delhi failed to provide scholarship to any disabled person out of sanctioned scholarship for 800 disabled persons per year and siphoned off funds meant for providing employment to 2,380 disabled persons. The Social Welfare Department of Delhi also failed to provide financial assistance to any widow from socially backward communities including tribals although funds had been sanctioned for 3,750 widows; and funds of Rs 4.5 crore sanctioned for establishment of

old age homes remained unutilized during January-July 2007. Other instances of gross failure of the department included failure to set up even a single juvenile shelter home out of the proposed 10 homes, failure to build a primary school for the deaf at Nehru Vihar, failure of development programmes for the mentally challenged, failure of the national programme for the rehabilitation of persons with disabilities, failure to establish a halfway home for the improved mental patients discharged from IHBAS at Shahdara, among others.<sup>19</sup>

#### IV. Violence against women

The National Capital Territory of Delhi has the dubious distinction of being the rape capital of the country. According to official figures, 581 cases of rape and 835 cases of molestation were registered in Delhi in 2007.<sup>20</sup> The National Crime Records Bureau recorded 623 cases of rape and 718 cases of molestation during 2006.<sup>21</sup> However, these figures are in no way the true representation of the extent of the crime. Most of the crimes go un-reported.

In 2006, the National Crime Records Bureau recorded a total of 4,544 cases of crime against women in Delhi. These included, among others, 137 cases of dowry deaths, 1,066 cases of kidnapping and abduction, 1,728 cases of cruelty by husband and relatives, 112 cases under Immoral Trafficking (Prevention) Act of 1956.<sup>22</sup>

Dowry deaths continued to be reported during 2007. 132 cases of dowry deaths were reported up to 30 November in 2007.<sup>23</sup>

#### V. Violations of the rights of the child

According to the National Crime Records Bureau, a total of 2,160 cases of crime against children, accounting for 11.4% of the total cases in India, were reported in 2006. These included 62 cases of murder, 448 cases of

rape and 1,114 cases of molestation, among others.<sup>24</sup>

### a. Child labour

Child labour continued to be widespread in Delhi despite a ban on child labour since 2006. According to the Bachpan Bachao Aandolan, an NGO working against child labour, there were more than 20 lakh child labourers working in restaurants and dhabas (small restaurants) in Delhi. However, the government had identified only 55 child labourers.<sup>25</sup>

On 1 November 2007, as many as 75 children were rescued from atrocious working conditions from *zari* embroidery sweatshops in Delhi. These children were working as bonded labourers.<sup>26</sup> Earlier on 19 May 2007, 93 bonded labourers, mostly children between 9-18 years, were rescued in raids conducted on 25 jewellery manufacturing units in Karol Bagh area of Central Delhi.<sup>27</sup>

There was lack of seriousness in rehabilitation of the rescued child labourers. While the Government was supposed to open 40 transition education centres (TECs) for rescued child labourers, not a single centre was opened as of early January 2007. A survey conducted by the Rehabilitation Council of India and the Human Resource Development Ministry, stated that even though the Ministry had identified inclusive education as a priority under the Tenth Five Year Plan, Delhi Government schools had failed to accommodate children with special needs. Out of 1,100 Delhi Government schools, only 800 admit children with special needs.<sup>28</sup>

### b. Juvenile justice

The provisions of the Juvenile Justice (Care and Protection of Children), 2000 continued to be violated.

On 16 January 2007, the Delhi High Court sought the response of the Delhi government and two Delhi-based juvenile homes at

Majnu Ka Tila (housing boys) and Nirmal Chaya (housing girls) to a PIL alleging rampant sexual abuse and ill-treatment of minors lodged in these juvenile homes. The PIL alleged that drug addiction was common among the inmates and excessive violence is used in disciplining the children in these overcrowded homes. Each home had the capacity of only 100 inmates but over 300 children are lodged in these homes. The inmates were not being provided clean food, water, sanitary facilities and other amenities. Boys of all age were lodged in the same cell and often older boys and the officials of the home sexually abused and assaulted them. The home officials remain mute spectators.<sup>29</sup>

Overage children continued to languish in juvenile homes in Delhi as they were not released by the concerned authorities. The maximum custodial sentence period for the children was three years but they had been in custody for up to seven years in these homes. There were reportedly 14,000 cases against children lodged in juvenile homes pending with the juvenile justice board as of May 2007. The Delhi High Court directed the social welfare department to constitute more juvenile justice boards to settle their cases speedily but no measures were taken.<sup>30</sup>

The juveniles were allegedly abused regularly in the Juvenile Homes. The Juvenile Homes had electrified fences to prevent the children from fleeing from the homes caused grievous injuries to them. In a letter to the Chief Minister of Delhi Sheila Dikshit on 18 October 2007, Union Minister for Women and Child Development, Renuka Chowdhury stated that the juveniles were severely abused at the Observation Home for Boys, Delhi Gate, and the Children's Home for Boys, Kasturba Niketan, Lajpat Nagar II and sought the intervention of Ms Dikshit.<sup>31</sup>

On 20 January 2007, 17-year-old Raju (named changed) was allegedly beaten up and then sodomised by Head constable Rajender inside Shakarpur police station in West Delhi. One month later when the boy filed an

FIR against the policeman, he was threatened by policemen inside the courtroom and made to change his statement to protect the accused.<sup>32</sup>

Juveniles were not provided timely medical attention. On 12 February 2007, the Delhi High Court summoned the Secretary and Director of the Social Welfare department of the Delhi government to be present in court on 26 February 2007 for allegedly not providing an ambulance to a 14-year-old inmate of the Juvenile Home in Narela in North-West Delhi, who died due to lack of medical attention.<sup>33</sup>

## VI. Violations of the prisoners' rights

The condition of the Tihar Jail continued to be deplorable due to overcrowding. There were about 12,300 prisoners against the sanctioned capacity of 6,200 prisoners in the Tihar Jail as on 18 November 2007.<sup>34</sup> Of these, more than 83% of Tihar Jail's population are undertrial prisoners.<sup>35</sup> On 18 June 2007, the Delhi High Court ordered the immediate release of 600 inmates on bail to decongest the Tihar Jail.<sup>36</sup>

Basic facilities were not adequate. Most cells were in poor condition. Infrastructure and medical facilities had not been upgraded. There were lack of doctors, stretcher and wheelchair. Some basic life-saving drugs were also not available in adequate quantities.<sup>37</sup> An NHRC team which visited the jail following a spate of inmate deaths reported in May and June 2007 observed that the overcrowded cells not only lacked adequate health facilities but also faced water shortage, aggravating the poor conditions. There was hardly any ventilation in the cells and most of the cells did not even have exhaust fans.<sup>38</sup>

Besides, there was shortage of prison staff. More than 25 per cent posts of prison staff remain unfilled as on 20 March 2007. As per the law, the staff strength of the prison is to be reviewed each year. Prison officials say

they have written to the Staff Selection Board (SSB) of Delhi government informing them of the shortfall but no new recruitment took place.<sup>39</sup>

Several prisoners died due to different reasons in the Tihar jail during 2007.

According to the information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received 25 cases of deaths in judicial custody in Delhi during the period of 1 April 2006 to 31 March 2007. ACHR has also documented other cases of prisoner deaths during 2007.

On 23 October 2007, woman under-trial Alka (23) was found hanging from a ceiling fan in Tihar Central Jail. The jail official claimed that she committed suicide.<sup>40</sup>

On 15 November 2007, an undertrial Ashok Kumar allegedly committed suicide by hanging himself with his *lungi* on the ceiling fan in the Tihar jail.<sup>41</sup>

On 12 April 2007, prisoner Raj Singh died under mysteriously circumstances after he allegedly fell ill inside the premises of Tihar jail.<sup>42</sup>

Beating and other form of torture was common in Tihar jail.

In June 2007 alone, at least nine prisoners died in the Tihar jail due to the torture and heat which aggravated due to overcrowding conditions. Post mortem reports in at least three of the deaths confirmed that they died due to torture. In one case concerning the death of one Harish (31), the Metropolitan Magistrate said in his order that Harish, who died on 10 June 2007, succumbed to injuries from physical assault.<sup>43</sup> On 18 June 2007, the Delhi High Court criticized the Tihar jail officials over the "extremely harsh" conditions under which inmates were forced to live. Regarding poor health facilities in the jails, the Delhi High Court stated that medical treatment was not being provided to the ill inmates "till they are in the death-bed".<sup>44</sup>

On 13 February 2007, undertrial prisoner Naqibullah Ali (30), a native of Afghanistan, reportedly died under mysterious circumstances inside Tihar Jail in Delhi. The interim post-mortem report revealed that the cause of the death was smothering. The deceased's body had injuries over the neck, lips, legs, and back of head, which were ante mortem and were fresh injuries prior to the death.<sup>45</sup>

Terror suspects were particularly vulnerable to torture. On 30 May 2007, *The Asian Age*, a popular daily in India, revealed that the daily received numerous letters from the inmates of Tihar especially belonging to Jammu and Kashmir, alleging "terrible atrocities" being inflicted by the jail authorities. According to the inmates' letters, the excesses included "methodical torture, physical and

psychological pestering and enforced labour of even under-trials, like cleaning latrines and drains".<sup>46</sup>

There were also complaints of extortion and harassment against jail officials of Tihar jail.

In April 2007, Tihar Jail's Deputy Superintendent K S Meena, Assistant Superintendent Dhananjay Rawat and Chakkar Chief Mange Ram were jailed by a court on the complaint of a 51-year-old convict, Christopher James, who was allegedly beaten up and critically injured by the trio when he tried to expose their extortion-cum-smuggling racket in Jail No. 7 of Tihar Jail on 24 September 2006. He was also deprived of medical attention for two days despite the fact that he was a diabetic.<sup>47</sup> ■

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# Gujarat

## I. Overview

**R**uled by Bharatiya Janata Party, Gujarat witnessed serious human rights violations. As many as seven cases of deaths in police custody have been registered with the NHRC during 1 April 2006 - 31 March 2007.<sup>1</sup> The admission of the state government to the extrajudicial killing of Sohrabuddin Sheikh and his wife Kausar Bi in fake encounters brought to the fore the role of police in killing innocent people in the name of killing the “terrorists”.

The NHRC received 54 cases of deaths in judicial custody in the state during 1 April 2006 - 31 March 2007. Judicial delay continued to plague the system with 1,10,639 cases pending with the Gujarat High Court and 2,54,4360 cases pending with the District and Subordinate Courts as of 30 September 2007. Yet, there were 11 vacancies of judges in the Gujarat High Court as of 1 January 2008 and 161 vacancies of judges in the District and Subordinate Courts as of 30 September 2007.<sup>2</sup>

The conditions of the Dalits, indigenous peoples, women, children and religious minorities continued to remain grim during 2007. The incentives provided by Chief Minister Narendra Modi to the tribals including Rs 15,000-crore “Vanbandhu Kalyan Yojana” for upliftment of the tribals and providing of land ownership rights to the tribals were seen as attempts to woo them prior to the December 2007 Assembly Elections.

The plights of the displaced continued to be miserable. In June 2007, a Supreme Court-appointed committee headed by N.C. Saxena found that 4,545 Muslim families comprising around 30,000 persons who were displaced by the post-Godhra communal riots were

still living in miserable conditions in 81 relief colonies in Gujarat.<sup>3</sup>

As many as 489 farmers have committed suicide in the state since 2003. Junagadh district topped the list with 85 suicides, followed by Rajkot (62), Jamnagar (50) and Mehsana (48).<sup>4</sup> Yet, both the state government and the Central government have paid little attention to the farmers’ plight. The Parliamentary Standing Committee on Agriculture in its 23rd report for 2006-07 criticised the Central government for not providing relief packages to the farmers of Gujarat, Rajasthan and Orissa who needed urgent assistance.<sup>5</sup>

## II. Human rights violations by the security forces

According to the 2006 Annual Report of National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, a total of 893 complaints were received against the police in Gujarat during 2006. Of them, a departmental inquiry was ordered into 639 cases and magisterial inquiry was ordered into one case. 232 police personnel were sent up for trial during 2006. Of the seven police personnel whose cases/trials completed, three were convicted and four acquitted.<sup>6</sup>

According to the figures received by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received four cases of illegal arrest, six cases of unlawful detention, 142 cases where police failed to take action, two cases of disappearance and 79 other police excesses in Gujarat during the period of 1 April 2006 to 31 March 2007.

The security forces continued to be responsible for human rights violations including custodial killings.

The NCRB recorded eight deaths in police custody in 2006. The police claimed that three died during hospitalization/ treatment, three while escaping from custody, one due to illness/natural death and one committed suicide. A Magisterial inquiry was ordered into five deaths and a judicial inquiry was ordered into three others.<sup>7</sup>

According to information obtained by Asian Centre for Human Rights the NHRC received seven cases of deaths in police custody in Gujarat during the period of 1 April 2006 to 31 March 2007.

In 2007, ACHR documented a number of cases of deaths in police custody. In the majority cases, the police claimed that the deceased had committed suicide.

On 16 April 2007, one Kannu Swain allegedly committed suicide by tying his shirt to iron rods at Pandesara police station in Surat district after he was arrested on a theft charge. Similarly, on the same day, one Meghraj Patil allegedly committed suicide outside the police lock-up in Kadodara police chowky of Palsana police station in Surat district after he surrendered to the police. However, Kadodara police did not show his arrest on record.<sup>8</sup>

The extrajudicial killing of Sohrabuddin Sheikh and his wife Kausar Bi in fake encounters brought to the fore the role of police in killing innocent people in the name of killing “terrorists”. On 23 March 2007, the Gujarat Government admitted in the Supreme Court that the state police had killed Sohrabuddin Sheikh in a “false encounter” in Ahmedabad in 2005 for wrongly accusing him of plotting to kill chief minister Narendra Modi.<sup>9</sup> On 24 April 2007, three senior Indian Police Service officials – Inspector General (border range) D G Vanzara, Superintendent of Police Rajkumar Pandayan of the state intelligence wing of Gujarat and M N Dinesh, Superintendent of Police of Alwar district of Rajasthan were arrested by Gujarat Police on a charge of murder of Sohrabuddin Sheikh.<sup>10</sup>

On 30 April 2007, the Gujarat government also admitted before the Supreme Court that Kausar Bi, wife of Sohrabuddin Sheikh, was also killed by the state police and her body was burnt.<sup>11</sup>

### III. Judiciary and administration of justice

Judicial delay remained a major problem. A total of 1,10,639 cases were pending with the Gujarat High Court and a total of 2,54,4360 cases were pending with the District and Subordinate Courts as on 30 September 2007.<sup>12</sup>

As on 1 January 2008, there were 11 vacancies against the sanctioned strength of 42 in the Gujarat High Court. There were 161 vacancies against the sanctioned strength of 952 in the District and Subordinate Courts as on 30 September 2007.

### IV. Violations of the rights of Dalits

The National Crime Records Bureau (NCRB) recorded 995 cases of crime against Scheduled Castes (SCs) including 20 cases of murder, 19 cases of rape and 359 cases under SC/ST (Prevention of Atrocities) Act of 1989 in Gujarat during 2006.<sup>13</sup> The charge-sheeting rate for the crimes against the dalits in Gujarat during 2006 was 97.7% but the conviction rate was only 5.2% which was one of the lowest in India. Out of total 813 cases in which trials were completed during 2006 only in 42 cases the accused were convicted<sup>14</sup>

According to Navsarjan, a Dalit organization, at least 225 cases of atrocities against Dalits were reported in Gujarat during April - December 2007, including six rape cases, four murders and four cases of social boycott.<sup>15</sup>

### V. Violations of the rights of indigenous peoples

The National Crime Records Bureau recorded a total of 164 cases of crime against

the Scheduled Tribes (STs) in Gujarat which included six cases of murder, 23 cases of rape, eight cases of abduction, 53 cases registered under SC/ST (Prevention of Atrocities) Act of 1989, among others during 2006. While the charge-sheeting rate for crimes against the STs in Gujarat was 99.4%, the conviction rate was only 3.3% which was one of the lowest in India during 2006. Out of total 152 cases in which trials were completed during 2006 only in five cases the accused were convicted.<sup>16</sup>

On 26 March 2007, Gujarat Chief Minister Narendra Modi launched “Vanbandhu Kalyan Yojana” project for the development of the tribals. The Rs 15,0000 million scheme to be implemented in five years would provide houses to all homeless tribal families, safe drinking water and tap water, job-oriented programmes in agriculture, animal husbandry and dairying, quality education. Tribal habitations having up to 250 population would be linked with better roads and a village development action plan would be planned for each tribal village, among others.<sup>17</sup>

However, basic facilities such as medical continued to elude the tribals. In July 2007, a tribal woman was forced to give birth in the open after she was denied health care as the Government-run Community Health Centre was locked while a trust-run private hospital, specially designated to treat pregnant women who belong to the Below Poverty Line families under the Government’s much hyped Chiranjivi scheme, refused to admit her at Nakhatrana town in Kutch district. Earlier in March 2007, Chief Minister Narendra Modi had made a fervent appeal to poor expectant mothers “to drop a postcard to him case they had any problem” at a Mahila Sammelan in Kutch district.<sup>18</sup>

On 2 October 2007, Chief Minister Narendra Modi handed over land ownership rights to 30 tribals and declared that such land titles

would be given to another 2,204 tribals in the state. Gujarat did not obtain the approval of the Central government ruled by rival Congress-led United Progressive Alliance under the 1980 Forest Act.<sup>19</sup> Mr Modi’s pro-tribal actions were seen as an attempt to woo the tribals ahead of the Assembly Elections which was held in December 2007 in which the BJP secured near two-third majority. On 5 October 2007, the Supreme Court of India restrained the Gujarat government from issuing new land titles to tribals. A “Forest Bench” of the apex court comprising Chief Justice K.G. Balakrishnan and Justices Arijit Pasayat and S.H. Kapadia passed the order after *amicus curiae* Harish Salve filed an application that ownership rights over forest land were handed over to 30 tribals by Chief Minister Narendra Modi on 2 October 2007. The Bench issued notice to the Gujarat government seeking its response to the application.<sup>20</sup>

Ironically, the state government failed to check alienation of tribal lands. According to the Annual Report 2007-08 of the Ministry of Rural Development, Government of India, a total of 20,704 cases alleging alienation of 75,966 acres of land have been filed in the court in Gujarat. 19,819 cases have been disposed of by the court, of which 19,322 cases have been disposed of in favor of tribals but it was only in 376 cases (involving 1942 acres of land) in which alienated land was restored to tribals. 885 cases were pending in the court.<sup>21</sup>

## VI. Violence against women and children

According to the National Crime Records Bureau, a total of 7,279 cases of violations against women were reported in Gujarat during 2006. These included 354 cases of rape, 50 cases of dowry deaths, 945 cases of kidnapping and abduction, 4,977 cases of cruelty by husband and relatives, 736 cases of molestation, 78 cases under Immoral

Trafficking (Prevention) Act of 1956, among others.<sup>22</sup> The NCRB also recorded a total of 977 cases of crimes against children in 2006. These included 87 cases of murder, 112 cases of rape, 360 cases of kidnapping, 12 cases under Child Marriage Restraint Act of 1978, among others.<sup>23</sup>

According to Navsarjan, an NGO, 53,395 cases of violence against women were reported from 12 districts of Gujarat from 1995 to 31 October 2007. These included 640 dowry death cases, 1,443 rape cases, 14,998 cases of cruelty by husband and in laws, 4,030 cases of attempted rapes, 3,006 cases of abduction of women, among others. The data was obtained through filing applications under the RTI Act. However, the data collected were from just 12 districts of Gujarat. Most of the cases of violence against women go unreported.<sup>24</sup>

Minors were continued to be targeted for sexual violence. In May 2007, two minor girls were raped by two persons during a religious trip to Datar Hills in Saurashtra. Later, one of the girls was killed. The police failed to arrest the accused by the end of 2007.<sup>25</sup>

Child labour is rampant in Gujarat. A study conducted by the Rajathan Mazdoor Union (RMU), which was released in November 2007, revealed that 33 per cent of the about two lakh workers employed in the Bt cotton fields were children below 14 years of age. They faced sexual harassment and physical abuse. According to the study, 36 per cent of the children working in the farmlands complained of verbal abuse while 12 per cent faced physical abuse. There was no protective clothing. Many of the children have health problems related to pesticide exposure.<sup>26</sup>

There were also reports of death of children in factories. In December 2007, the National Commission for Protection of Child Rights (NCPCR) asked the Gujarat Government to submit a detailed report on the death of two children, aged 10 and 16, at a plastic factory in Gujarat.<sup>27</sup>

## VII. Status of internally displaced persons

The plights of the displaced continued to be miserable.

In June 2007, a Supreme Court-appointed committee headed by N.C. Saxena found that 4,545 Muslim families comprising around 30,000 persons who were displaced by the post-Godhra communal riots were still living in miserable conditions in 81 relief colonies in Gujarat. They faced acute scarcity of food and security. None of the 81 relief colonies were set up or assisted by the state government. Only five of the 81 colonies had government or government recognised schools, and only four served mid-day meals to children. Only three colonies had fare price shops, and only 725 out of the 4,545 families were recognised as below poverty line.<sup>28</sup>

## VIII. Violations of the prisoners' rights

Frustrated over delay in trials, two under-trial prisoners reportedly threw their footwear on judges in a court in Surat in January<sup>29</sup> and February 2007.<sup>30</sup>

According to the information received by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received 54 cases of deaths in judicial custody in Gujarat during the period of 1 April 2006 to 31 March 2007.

## IX. Violations of the rights of minorities

Justice continued to elude the victims of the communal riots of 2002 while Christian religious minorities came under attacks from Hindu fundamentalists.

On 30 October 2007, a local court in Godhra awarded life imprisonment to eight accused, including a taluk-level BJP chief, and rigorous imprisonment to three others in the Eral

massacre and gang rape case which took place during the 2002 post-Godhra riots.<sup>31</sup>

In September 2007, the Union Home Ministry released Rs 705 million as additional compensation to the victims of 2002 Gujarat riots. The funds were released by the Union Home Ministry in accordance with a decision taken by the Union Cabinet in March 2007.<sup>32</sup>

Earlier, in 22 March 2007, the Central Government announced a relief package for the victims of the communal riots. The package included Rs 3.5 lakhs each for the kin of the 1,169 persons killed and Rs 1.25 lakhs for each of the 2,548 injured. According to Union Minister for Information and broadcasting P.R. Das Munshi, 1,169 deaths were reported during the riot. The Government also approved a proposal to give preference to children/family members of those who died in the riots of 2002 in paramilitary forces, Indian Reserve Battalions, state police forces, public sector undertakings and other state and Central government departments by giving the benefit of increasing the age requirement.<sup>33</sup>

On 19 December 2007, four Christian missionaries from the Don Bosco High School were attacked allegedly by activists of Vishwa Hindu Parishad (VHP) while they were conducting “a social awareness programme” in Badia village of Kwant taluka in Vadodara district. Four of the injured had to be admitted to a hospital and one of them identified as Brother Ramesh had to amputate two fingers.<sup>34</sup>

## X. Special focus: Farmers suicide

Farmers have been dying in Gujarat too due to agrarian crisis. Yet, both the state government and the Central government have paid little attention to the farmers’ plight.

According to the data of Gujarat Government obtained by social activist Bharat Jhala under the Right to Information Act, as many as 489

farmers have committed suicide in the state since 2003. Junagadh district topped the list with 85 suicides, followed by Rajkot (62), Jamnagar (50) and Mehsana (48). The apathy of the state government was clear as instead of providing relief to the families of the farmers, it had tried to suppress information on their deaths. The figure could be higher as the state government failed to provide information on six districts.<sup>35</sup>

On 29 March 2007, the Gujarat government admitted in the State Assembly that at least 148 farmers had committed suicide in the state during January 2005- January 2007. Of these, 28 victims were tribal farmers. The government did not pay any compensation to the families of the farmers who had committed suicide.<sup>36</sup> However, according to Bharatiya Kisan Sangh (BKS), the farmers’ wing of the ruling Bharatiya Janata Party stated that farmers’ suicides were either unreported or wrongly reported. According to BKS, around 300 farmers committed suicide in 2006 alone but the police have been refusing to register FIRs.<sup>37</sup>

The farmers’ conditions failed to draw the attention of Central Government. The Parliamentary Standing Committee on Agriculture in its 23rd report for 2006-07 presented to the 14<sup>th</sup> Lok Sabha on 20 March 2007 rightly pointed out that “*The Committee note that the Government has announced a package for 30 districts in 4 States namely Maharashtra, Karnataka, Kerala and Andhra Pradesh which will address the farmers’ credit, insurance, irrigation, subsidy and income needs through Dairy, poultry and horticulture. The Committee are informed that the criteria for selection of the districts has been the severity of suicides and the State Governments have conducted some studies in this regard. The Committee opine that one of the main reasons for crop failures, which in turn compel farmers to commit suicides, is adverse climatic conditions and droughts in many parts of the country. Rajasthan, Gujarat and Orissa are mainly drought-affected States but why*

*none of their districts is included in the list of 30 districts. In Punjab and other States also a number of farmers have committed suicide. The Committee wonder whether the Government is waiting for farmers of these States to commit suicide in large numbers before announcing any package for them. The Committee, therefore, recommend that while identifying the districts for suicide affected areas, ground realities should be taken into consideration and the*

*rehabilitation package for these States should also be drawn in order to save the farmers and their families well before they commit suicide. The Committee further recommend that instead of severity of suicide by the farmers of a particular district of the State, their economic condition to repay the loans, crop failure, drought conditions and natural calamity should be the criteria for giving special package for their rehabilitation.”<sup>38</sup>* ■

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# Haryana

## I. Overview

**R**uled by the Indian National Congress, Haryana remained a lawless State especially with regard to the Dalits. Their rights continued to be violated by upper caste. There is substantial evidence suggesting that the abuse takes place with the complicity of the police.

The law enforcement personnel continued to be responsible for custodial deaths and illegal arrest and detention while judicial plagues the administration of justice.

Women continued to be victims of rape, honour killing etc while the police often violate the provisions of the Juvenile Justice (Care and Protection of Children) 2000.

Haryana also witnessed a high number of cases of death in prison custody.

## II. Human rights violations by the security forces

The Haryana Police continued to be responsible for serious human rights violations such as custodial deaths, illegal detention, torture and rape.

According to the 2006 Annual Report of National Crime Records Bureau, a total of 1,233 complaints were received against the police personnel in Haryana during 2006. Departmental inquiries were ordered into 615 cases. 11 police personnel were sent up for trial during the year. The NCRB failed to report the number of police personnel whose trials were completed and the number of police personnel convicted.<sup>1</sup>

### a. Violations of the right to life

According to the information obtained by Asian Centre for Human Rights through

the Right to Information (RTI) Act, the NHRC received two cases of deaths in police custody and two cases of encounter deaths in Haryana during the period of 1 April 2006 to 31 March 2007.

The National Crime Records Bureau recorded one death in police custody in 2006. The police claimed the death as suicide.<sup>2</sup>

In 2007, ACHR documented a number of deaths in police custody. In the majority of cases, the police claimed that the deceased had committed suicide.

On 17 April 2007, Rohtas Singh, son of Pratap Singh of Banchari village of Hodal subdivision in Faridabad district, was tortured to death at Hodal Police Station within few hours after his arrest. ACHR conducted an on-the-spot investigation and found strong evidence to suggest that the victim died as a result of torture and his dead body was hung from the top most cross bar of the ceiling of the lock up room to make it appear to be a case of suicide. Eyewitnesses interviewed by ACHR's team claimed that the deceased's feet were hanging at a height of only one or one-and-half inch above the ground and there were signs of injuries on various parts of body of the deceased, more particularly, on the chest and legs. There was bleeding from the ear and nose. In addition, the victim's mouth was closed, which is unusual in cases of death by hanging. The Post Mortem Report (PMR) recorded ante-mortem injuries "*caused by blunt force*". Though the PMR recorded "death by hanging", it failed to indicate whether it was a case of suicide or homicide.<sup>3</sup> On the basis of the investigation report, ACHR filed a complaint with the NHRC on 13 June 2007.

On 11 June 2007, 65-year-old Chandgi Ram allegedly committed suicide by hanging himself with a towel in the lock-up at Pataudi

police station in Gurgaon. He was arrested on the charge of rape on 7 June 2007.<sup>4</sup>

On 17 December 2007, one Jogi, a resident of Shahbad Markanda in Kurukshetra, was allegedly tortured to death at Shahbad police station in Panchkula district. He was arrested by the Criminal Investigation Agency (CIA) police from his residence on 8 December 2007 in connection with a case of theft. The family members of Jogi were not allowed to meet him and the police allegedly demanded Rs 2 lakh for his release and the police tortured him to death when the money was not paid.<sup>5</sup>

### **b. Arbitrary arrest, illegal detention and torture**

The Haryana Police continued to be responsible for illegal detention and torture.

According to the information received by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received 19 cases of illegal arrest, 30 cases of unlawful detention, 1 case of disappearance and 298 cases of other police excesses in Haryana during the period of 1 April 2006 to 31 March 2007. The NHRC also received 816 complaints of failure to take action by the police during the same period.

On the night of 11 April 2007, Vijay Kumar (32), resident of Silla Khera village, and Jora Singh, son of Rai Singh of Sind tehsil, were allegedly beaten up by a police person at Sadar police station in Kaithal district. They were kept in the police lock-up for the whole night and tortured.<sup>6</sup>

### **III. Judiciary and administration of justice**

There were 68 vacancies against the sanctioned strength of 308 judges in the District and Subordinate Courts in Haryana as on 30 September 2007. Besides, a total of 5,45,925 cases were pending with the District and Subordinate Courts as on 30 September 2007.<sup>7</sup>

### **IV. Violations of the rights of the Dalits**

Dalits continued to be targeted for their caste during 2007. Killing, rape, loot and arson were common in Haryana. The National Crime Records Bureau recorded a total of 283 incidents of crime against the Scheduled Castes in 2006. These included 7 cases of murder, 31 cases of rapes, 15 cases of kidnapping and abductions, 86 cases under the SC/ST (Prevention of Atrocity) Act of 1989, among others.<sup>8</sup>

On 27 August 2007, a Dalit youth identified as Rakesh was killed at Gohana in Sonapat district.<sup>9</sup>

On 1 March 2007, a group of Rajput youths allegedly ransacked and burnt 16 houses belonging to Dalits in Salwan village in Karnal district in an alleged attempt to take revenge of the killing of an upper caste landlord.<sup>10</sup>

On 1 January 2007, a 25-year-old Dalit woman was allegedly gang raped by three persons in Kansapur. Later the police had reportedly forced her to reach a compromise and she was paid Rs 30,000.<sup>11</sup>

Dalits are also targeted for inter-caste marriage. In June 2007, Manoj, a Dalit from Nooh village and Rimpay, a girl from the influential Saini community, were given death sentence by the village panchayat.<sup>12</sup>

### **V. Violence against women**

Women continued to be victims of rape, honour killing etc. According to the National Crime Records Bureau, a total of 4,617 crimes against women were reported in 2006. These included 608 cases of rape, 431 cases of kidnapping and abduction, 255 cases of dowry death, 2,254 cases of cruelty by husband and relatives, 486 cases of molestation, 85 cases under Immoral Trafficking (Prevention) Act of 1956, among others.<sup>13</sup>

The police were responsible for committing acts of rape. On 11 August 2007, a woman was allegedly raped by Pawan Kumar, Head Constable of Gurgaon police when she had gone to the Sector 10A police station in Gurgaon to lodge a complaint about her lost mobile phone. Later, Kumar allegedly raped the girl repeatedly in different locations.<sup>14</sup>

There were reports of honour killing. On 15 June 2007, Manoj and Babli of Kaithal district were killed allegedly by the girl's family because they had gone against tradition and married in the same *gotra*, caste.<sup>15</sup>

Similarly, on 16 August 2007, Saroj (27) was reportedly killed by her brother and cousin a day she had returned home at Barota village in Sonapat district after she had eloped with her lover seven years ago.<sup>16</sup>

## VI. Violations of the rights of the child

According to the National Crime Records Bureau, a total of 462 crimes against children were reported in 2006. These included 19 cases of murder, 176 cases of rape, 158 kidnapping and abduction, 7 cases under Child Marriage Restraint Act of 1978, among others.<sup>17</sup>

The police often violate the provisions of the Juvenile Justice (Care and Protection of Children), 2000.

On 14 August 2007, 13-year-old Mukhtayar and his 15-year-old brother, residents of Bhupgarg village in Faridabad, were taken into custody by police and tortured before being

released on 16 August 2007. Mukhtayar was an eyewitness of the murder of his mother which took place on 29 July 2007 and alleged that he was being pressurised to “change the name of murderers in his statement before the police”. The boys were not presented before the Juvenile Justice Board at any time or charged with any offence.<sup>18</sup>

## VII. Violations of the prisoners' rights

According to the information obtained by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received 51 cases of deaths in judicial custody in Haryana during the period of 1 April 2006 to 31 March 2007.

ACHR has also documented other cases of deaths in judicial custody during 2007.

On the night of 15 April 2007, under-trial Ajit (47) reportedly committed suicide by hanging himself from a ventilator grill in the Jind jail.<sup>19</sup>

On the night of 2 September 2007, a convict identified as Virender (22) of Karbarchha village allegedly committed suicide by hanging in the bathroom of Jind jail. The jail authorities claimed that he committed suicide by hanging himself in the bathroom. However, the family members of the deceased alleged that he was hanged inside the jail and then showed it as a case of suicide by the jail officials.<sup>20</sup>

On 10 November 2007, Balwan reportedly committed suicide in a prison in Bhiwani district.<sup>21</sup> ■

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# Himachal Pradesh

## I. Overview

**R**uled by Indian National Congress party, Himachal Pradesh has not been free from serious human rights violations.

## II. Human rights violations by the security forces

The security forces continued to be responsible for human rights violations including torture. The National Human Rights Commission recorded three cases of death in judicial custody, two cases of unlawful detention, seven cases of false implication of innocent civilians and six cases of other police excesses from Himachal Pradesh during the period of 1 April 2006 to 31 March 2007.<sup>1</sup>

According to the National Crime Records Bureau, 2,702 complaints were registered against police personnel in Himachal Pradesh during 2006. As many as 1,805 police personnel were sent up for trials during the year.<sup>2</sup>

On 20 April 2007, mother-son duo identified as Ratna Devi and Jagdish, residents of Khagyas village, were reportedly abused and beaten up by a jawan of the Indian Reserve Battalion (IRB) in Chamba district following an altercation.<sup>3</sup>

On the night 2 August 2007, 14 persons, residents of Baldoa village under Haripur police station in Kangra district, were allegedly tortured and stripped by police personnel headed by the Station House Officer, Haripur in police custody at the Dhera police station. The victims alleged that they were tortured in order to withdraw a dowry death case. All the victims received injuries and one of them had an eardrum punctured. The medical examination, following the court

direction, was consistent with the allegations of violation.<sup>4</sup>

As on 1 January 2008, there were two vacancies of judges in the Himachal Pradesh High Court. There were 11 vacancies in the District and Subordinate Courts as of 30 September 2007. A total of 26,781 cases were pending in the Himachal Pradesh High Court and 1,45,059 cases were pending with the District and Subordinate Courts as of 30 September 2007.<sup>5</sup>

## III. The status of SHRC

The Himachal Pradesh State Human Rights Commission is not function, as the Commission itself stated: “The Commission is not functioning at present due to the reason that the post of Chairperson is vacant”.<sup>6</sup> The post of the commission chairman has been vacant since 16 July 2005 after Justice N.K. Jain resigned from the post on 15 July 2005 after his appointment as Chairperson of Rajasthan State Human Rights Commission. On 16 January 2006, Smt. Chandra Prabha Negi, Member of SHRC resigned. As a result, the SHRC was left with only two members - Shri B.S. Chauhan, Retd. District and Session Judge and Shri I.D. Bali, Senior Advocate, Himachal Pradesh High Court.

## IV. Violations of the rights of Dalits and tribals

There were reports of atrocities against the Scheduled Castes (SCs) and Scheduled Tribes (STs) in Himachal Pradesh. According to the Himachal Pradesh Police, a total of 101 cases were registered in 2007. These included 38 cases under SC/ST Prevention of Atrocities Act and seven rape cases.<sup>7</sup> The National Crime Records Bureau recorded 92 cases and 17 cases of atrocity against the Dalits and the tribals respectively in 2006.

Conviction rate in cases of atrocities against scheduled castes (SCs) and scheduled tribes (STs) was 20 per cent in the State. In tribal areas cases of atrocities were registered under the Indian Penal Code only and not under the Prevention of Atrocities Act.<sup>8</sup>

In May 2007, a Dalit woman Sangeeta Devi, resident of Drabala Sanghthar near Rajgarh tehsil, was allegedly beaten up by a group of about 20 villagers in the absence of her husband.<sup>9</sup>

## V. Violence Against Women

According to Himachal Pradesh Police, a total of 1132 cases of crime against women were reported in 2007. Of these, 30 were murder cases, 159 rape cases, 7 dowry deaths, 153 kidnapping, 324 molestations and 343 cruelty to women. In the rape cases, most of the victims were minors. 87 cases or 54.71 percent of the total case were minors. Seven cases of dowry death were also reported during the year.<sup>10</sup>

## VI. Status of internally displaced persons

Dam surveys were not conducted properly. In May 2007, Renuka Dam Oustees Sangharsh Samiti demanded a fresh survey of oustees

on the basis of the panchayat record and not the revenue record. According to Yogender Kapila, chairman of the Samiti, nearly 1,000 families would lose their homes and land due to construction of the Renuka Dam on the Giri River at Renuka (Dadahu) in Sirmour. However, as per the record prepared by the dam authorities, only 211 families were shown to be displaced. The survey was reportedly conducted around 20 years ago.<sup>11</sup>

## VII. Violations of the prisoners' rights

Prisons were overcrowded in the State. In September 2007, 50 prisoners were shifted from Nahan Model Central Jail to Kanda jail in Shimla due to overcrowding. There were 360 inmates still lodged at the Nahan Model Central Jail against the sanctioned capacity of 198 inmates as on 12 September 2007.<sup>12</sup>

Police officials often abuse prisoners. In March 2007, acting on a complaint by under trial inmates of the Mandi sub jail regarding police officials' alleged abuse, the Mandi Sessions judge, ordered an inquiry into the matter by the additional district magistrate. As many as 43 inmates facing trial for various offences had sent a written complaint to the Sessions judge.<sup>13</sup> ■

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# Jammu and Kashmir

## I. Overview

**R**uled 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.<sup>1</sup>

According to estimates of the State government 42,147 persons have been killed in the violence in Jammu and Kashmir up to the period February 2007. These included 20,647 militants, 5,024 security personnel and 11,221 civilians.<sup>2</sup>

Human rights and civil society groups however put the figures at more than 80,000 killed since 1989. As per the fact-sheet, 18,600 persons have been arrested during anti-militant operations but the majority have been released on court orders, recommendations of screening committees or human rights cells. As of March 2007, about 365 people were still in judicial custody. In addition, 497 people were detained under the Public Safety Act. While 413 were in state jails, 84 were under detention in jails outside the state.<sup>3</sup>

The government claimed that it had ordered investigation into 79 cases of human rights abuse perpetrated by security forces in the period 1990 to March 2007. Out of these only 35 enquiry committees had submitted their reports. 44 were pending. The findings of these inquiries too were not made public. Even the few cases that were investigated by the State Human Rights Commission rely on official reports and made little visible impact as the directions of the Commission are not implemented by the authorities.<sup>4</sup>

AOGs were responsible for Violations of International Humanitarian Law including torture, kidnapping and killings.

Women and children remained extremely vulnerable to violence, rape and molestation by both sides.<sup>5</sup>

Jammu and Kashmir was subject to judicial delay. As of 1 January 2008, there were five vacancies of judges in the Jammu and Kashmir High Court. There were also 26 vacancies of judges in the state's district and subordinate courts as of 30 September 2007. A total of 45,374 cases were pending in the High Court while 1,62,741 cases were pending in the district and subordinate courts as of 30 September 2007.<sup>6</sup>

## II. Human rights violations by the security forces

Jammu and Kashmir continued to witness serious human rights violations. The Jammu and Kashmir Liberation Front (JKLF) led by Yasin Malik claimed that the human rights situation deteriorated in Jammu and Kashmir and that as many as 677 civilians have been killed, including 44 persons in security forces custody from December 2006 to November 2007. It also claimed that about 70 women raped and molested by the armed forces.<sup>7</sup> The claims could not be independently verified.

According to the Ministry of Home Affairs, 1,158 complaints of human rights violations were received against Army personnel and the Central Para Military Forces from January 1994 to December 2007. 1,118 were investigated and 1,085 have been found to be false. In 33 cases penalties were imposed on 62 personnel of the Army and the Central Para Military Forces. In 6 cases compensation was awarded.<sup>8</sup> However, the names of those punished have not been made public. The

figures lack transparency and this seriously weakens their credibility.

Justice MY Kawoosa, Chairman of the State Human Rights Commission stated that it had received at least 3,600 cases and 2,500 cases were disposed off.<sup>9</sup>

### **a. Enforced disappearances**

Hundreds of people have disappeared in Jammu and Kashmir since the internal armed conflict began in 1990. On 25 March 2003, the Minister for Law and Finance of Jammu and Kashmir, Mr Muzaffar Hussain Beig stated in the State Assembly that a total of 3,744 persons had disappeared in the State from 1990 to December 2002 and 135 of them had been declared dead up to June 2002.<sup>10</sup> However, the Association of Parents of Disappeared Persons (APDP) put the number of missing persons in Kashmir at over 10,000.<sup>11</sup>

Many of those disappeared have been killed in security force custody. The National Human Rights Commission registered only one case of death in the custody of Defence and Paramilitary Forces in Jammu and Kashmir during 1 April 2006 - 31 March 2007.<sup>12</sup>

## **b. Violations of the right to life**

### **i. Custodial killings**

Security forces were responsible for custodial killings. The State Human Rights Commission (SHRC) registered 19 custodial deaths from May to July 2007; 42 custodial disappearances from April to July 2007 and 29 cases of harassment by security forces from April to July 2007. These records pertain only to Kashmir division and that too from the areas where people have access and are willing to risk documenting a case with the SHRC office; these figures must be seen against a context where the SHRC has failed to demonstrate an ability to realize justice.<sup>13</sup>

On 14 February 2007, Shoukat Ali was allegedly tortured to death in Rajouri police station. He was arrested on charges of theft on 13 February 2007. Shoukat Ahmad, Station House Officer (SHO) of the police station, and head constable Gain Chand were suspended in connection with the case.<sup>14</sup>

On 20 February 2007, the Jammu and Kashmir State Human Rights Commission ordered a probe into the custodial killing of a youth named Tarsem Lal of Mandal Phalian village under Satwari police station, near Jammu on 17 February 2007 and asked the Inspector-General of Police, Jammu Range, and the Deputy Commissioner to submit the report in four weeks. Four police personnel have been suspended and arrested. The state government also announced compensation of Rs 1,00,000 for the family deceased and a magisterial inquiry.<sup>15</sup>

On 2 April 2007, Ladakh Scout Jawan, Havildar Tsering Tondup, resident of Liker village, was found hanging at Housing Colony police lock up in Leh, Jammu and Kashmir. However, the Ladakh Buddhist Association alleged that the death was not suicide as claimed by police.<sup>16</sup>

On 24 April 2007, Rishi Kumar, son of Fallail Singh of Dhoki Charala died in custody at Karara police post under the jurisdiction of Thathri police station in Doda district. Singh was arrested along with five other persons - his sister Ujala Devi and his father Fallail Singh, Indira Devi, wife of Madan Lal, Partap Singh, son of Sansar Chand and Sandeep Kumar, son of Thakur Lal in connection with the murder of Madan Lal, who was Rishi Kumar's step brother. During interrogation Rishi Kumar was severely beaten. He was transferred to Thathri hospital on 21 April 2007 and then referred to Government Medical College Hospital in Jammu on 22 April 2007. He died in the hospital 23 April 2007. The deceased's sister Ujala Devi was also raped by Sub Inspector Irfan Wani, in-charge of Karara police post. Following a complaint by the victim, Mr Wani was suspended and two

separate inquiries have been ordered against him: a magisterial inquiry into the killing of Rishi Kumar and a departmental inquiry into rape charges.<sup>17</sup>

On 8 May 2007, Abdul Rasheed, son of Abdul Rehman of Morah Daraj, allegedly committed suicide by slitting his throat at Buddal police station in Rajouri after being arrested on the charge of murder. However, protestors alleged that Rehman was killed in police custody.<sup>18</sup>

On 9 June 2007, Gurnam Singh (25), resident of Jandrah village on the India-Pakistan border in Ramgarh area, allegedly committed suicide by hanging himself from a ceiling fan in Ramgarh police station near Jammu.<sup>19</sup>

On 29 January 2007, a local court in Jammu framed charges against four police personnel identified as Assistant Sub Inspector Gulzar Ahmed and constables Roshan Dutta, Harbans Lal and Pishori Lal for their involvement in the custodial death of a youth named Rakesh Kumar in Jammu city in 1997. The deceased was arrested on 10 June 1997. He was transferred to Sainik Colony police post for interrogation. Later he died in District Hospital, Gandhi Nagar. The post-mortem report revealed that he had multiple injuries almost all over his body.<sup>20</sup>

## ii. Extrajudicial executions

The security forces were responsible for killing of civilians in fake encounters.

On 25 January 2007, labourer Mohammad Yaqoob Mir (21), resident of Abi Nowpora, was allegedly killed by members of the 52<sup>nd</sup> Rashtriya Rifles at Kralapora-Pattan after being picked up on 21 January 2007. The security forces claimed that he was a militant and that some arms and ammunition were recovered from him.<sup>21</sup>

On 20 April 2007, Ms Fazi (65), widow of Abdul Razaq Magray, was allegedly killed

by security forces personnel while she was collecting firewood at Kandi in Kupwara district. The army claimed that the elderly woman was killed during a gunfight between militants and security forces.<sup>22</sup>

On 19 October 2007, a teacher identified as Abdul Rashid Mir, son of Ghulam Ahmad Mir of Rawalthpora, was tortured and later shot dead in army custody of the 46<sup>th</sup> AD Regiment at Marsari Chowkibal in Kupwara district. The post-mortem report confirmed the death due to torture and bullet injuries.<sup>23</sup>

On 17 November 2007, Riyaz Ahmed Sofi (28), a civilian, was allegedly killed by personnel of 9<sup>th</sup> Rashtriya Rifles while he and his brothers were on way to their shop at Damhal Hanjipora village in Kulgam district. The army claimed that he was killed in a cross-fire with the militants.<sup>24</sup>

In addition to alleged fake encounters, many civilians were killed in indiscriminate shootings by the police and army.

On 15 December 2007, a labourer identified as Ghulam Mohammad Lone (18), resident of Sonmullah, was killed when SOG personnel opened fire on civilians at Kukroosa in Kupwara district.<sup>25</sup>

Allegations of the use of civilians as human shields by the security forces in encounters continued. In February 2007, one Nazir Ahmad Shah was allegedly used as a human shield and was killed in an encounter in Shopian in South Kashmir. The security forces stated that the deceased was killed during an encounter with an armed opposition group.<sup>26</sup>

## c. Arbitrary arrest, illegal detention and torture

Civilians were often killed by security forces as retribution for killings of security forces. On 23 January 2007, CRPF personnel reportedly torched three houses at Panzgam village near Awantipora in Pulwama district

following an Improvised Explosive Device blast on a vehicle, carrying CRPF personnel which killed three personnel and injured five others.<sup>27</sup>

On 23 February 2007, watchman Kewal Ram (42), resident of Lane number 11 Gurah Keran on Barnai-Bantalab road and working as Chowkidar of Jammu & Kashmir Co-operative Housing Corporation at Mishriwalla in the outskirts of Jammu, allegedly died of injuries after being beaten up by police including Assistant Sub Inspector (ASI) Lal Chand of Police Station Gharota for not obeying him.<sup>28</sup>

On the night of 6 March 2007, three innocent villagers identified as Mohammad Sadiq, son of Noor Mohammad, Mushtaq Ahmed, son of Ghulam Hassan and Abdul Aziz, son of Mohammad Shafi, all residents of Bufliaz Surankot, were allegedly illegally detained and beaten throughout the night after being picked up by the Special Operation Group (SOG) team headed by Sub Inspector Paramjeet Singh from their relative's house at Kasotie Gursai at Harni in Medhar.<sup>29</sup>

On 14 May 2007, Tabassum Noor of Paner-Jageer Tral, a class X student of Government High School Mandoora Tral, was seriously injured after allegedly ruthlessly beaten up on the head and on back with their rifle butts by CRPF troops while she was on way to school in Mandoora Tral.<sup>30</sup>

#### **d. Impunity**

The Jammu and Kashmir Disturbed Areas Act; and Armed Forces (Jammu and Kashmir) Special Powers Act of 1990 provide impunity to the security forces. Under Section 6 of the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990, no legal proceeding can be brought against any member of the armed forces without the permission from Central Government.

Following increasing protest against fake encounter killings of civilians, in April

2007, the Jammu and Kashmir government appointed a one-member commission of inquiry consisting of Justice M.L. Koul, a retired judge of the Jammu and Kashmir High Court, to probe fake encounters. The terms of reference of the commission included determining responsibility for such killings and to recommend measures to prevent further. The commission has been asked to submit its report within three months.<sup>31</sup>

Recommendations by earlier commissions set up by the government to investigate similar extrajudicial killings have not been implemented. For example, no action was taken in the case of killing of Abdul Majeed, a resident of Tangmarg, by an army major identified as K. Bhattacharya in January 2001. Despite the submission of the status report of the Deputy Inspector General (DIG) of Police, North Kashmir Range, M. S Lone before the High Court that Major K. Bhattacharya had killed Abdul Majeed, no step was taken to bring the accused officer to trial.

The status report described the sequence of events. It stated that on 9 January 2001 a written complaint was lodged by Haneefa Begum Wife of Late Ghulam Mohammad Khan, resident of Khaipora, Tangmarg at Police Station Tangmarg against the officers / officials of the army posted at Sagree-Batapora. In her complaint, Haneefa alleged that the army personnel then camped at Sagree Batapora detained Abdul Majeed Khan, from her residence for questioning on 8 January 2001. The next day his body was found in a canal. The complainant alleged that the body of the deceased bore wounds consistent with torture and that he was killed during interrogation. The status report quoted the autopsy report that stated that the death of the deceased was caused by excessive internal bleeding in the abdomen and splenic rupture.<sup>32</sup>

Similarly, an investigation into the custodial killing of Sonallah Malik, son of Ghulam Qadir Malik, resident of Zilndfaran at Zum-

Zumpora in Baramulla, revealed that he was innocent and extra judicially killed in 1995. According to State Human Rights Commission report, a full investigation of the case was conducted and it concluded that this was a clear custodial killing perpetrated by Major Chinapa, Major Acharya and CHM Mohammed Aslam of 28 RR. The SHRC had not received an appropriate response within the time frame of this report.<sup>33</sup>

### III. The status of SHRC

The Jammu and Kashmir State Human Rights Commission (SHRC) remained ineffective, largely as a failure of due to state government's apathy.

The state government claimed to have implemented 390 out of total 650 recommendations made by the State Human Rights Commission while another 260 were under consideration during 2007. A Cabinet sub-committee was formed to monitor implementation.<sup>34</sup> On 29 November 2007, the Cabinet Sub Committee stated that not all recommendations received by the government were related to cases of human rights violations. Some recommendations pertained to purely administrative nature.<sup>35</sup>

In a letter dated 26 November 2007 to the SHRC, the state government also claimed that more than 59 per cent of the Commission's recommendations from 1997 to September 2007 have been fulfilled and many more were in the process of implementation.<sup>36</sup>

However, in its Annual Report 2005-2006, the SHRC pointed out that the government first forwarded the Commission's recommendations to the concerned District Commissioner for verification which effectively made the Commission's findings redundant. The government's action on cases was effectively to subject the case to further inappropriate scrutiny. The SHRC enjoys quasi judicial powers and its recommendation can only be subject to judicial review.

The government also failed to submit Action Taken Report to the Commission under subsection 5 of section 19 of the Jammu and Kashmir Protection of Human Rights Act, 1997. In addition the SHRC also suffered from inadequate staffing, office space building and financial independence.<sup>37</sup>

### IV. Violations of the rights of indigenous peoples

In August 2007, the J&K High Court asked the Government of India to consider the case of Pahari speaking people of the state, who have demanded to be granted Scheduled Tribe (ST) status. The court gave the directions on a writ petition filed by Noor Mohammad Quereshi of Karnah in 2001.<sup>38</sup>

On 30 July 2007, at the 31st meeting of the State Advisory Board for Development of Gujjar and Bakerwals, Chief Minister Ghulam Nabi Azad approved the creation of a separate directorate for tribal affairs in Jammu & Kashmir. He also announced up-grading of 100 primary schools located in Gujjar and Bakerwal populated areas in the state. This follows persistent demand of members of the Board for establishment of a separate tribal directorate in the state to monitor works taken up under Tribal Sub-Plan, special central assistance and Article 275 (i) of the Indian Constitution under which special assistance for tribals is received by the state.<sup>39</sup>

### V. Violence against women

The Jammu and Kashmir State Commission for Women constituted in 1999 has been without a chairperson and two members since 2003. The commission enjoys powers of civil court. But the state government failed to enact legislation in accordance to the Central Commission for Women Act.<sup>40</sup>

The security forces operating in Kashmir valley subjected to regular rape and molestation allegations. According to

official statistics, the annual rate of rape was 250 in Jammu and Kashmir. On average there were 950 molestation cases every year in J& K.<sup>41</sup>

On the night of 13 February 2007, a girl was allegedly gang raped by constable Imtiyaz along with his friends in a hotel in Poonch district.<sup>42</sup>

In March 2007, a woman identified as Sammena Akhtar, wife of Mohammad Amin, was allegedly molested by a soldier identified as Constable Bhoom Kumar who was on patrol duty at Aadorah Nelo in Budgam.<sup>43</sup>

On the night of 15 April 2007, three army jawans identified as Mukesh Kumar of 40 Rajputan Rifles and Khursheed and Mohammad Shakeel of 156 Territorial Army reportedly attempted to molest a woman and her daughter inside their house in Rajouri. Mukesh Kumar was arrested after being caught by the locals while the two others managed to escape.<sup>44</sup>

On 23 May 2007, a 24-year-old girl, daughter of Ghulam Muhammad Sheik was allegedly molested by soldiers of 21 Rastriya Rifles who entered her house while carrying out searches at Takibal Chougal village in Handwara.<sup>45</sup>

On 26 June 2007, two jawans identified as Major Joginder Singh and Naik Daljeet Singh posing as militants forcibly entered the house of Mohammad Rafiq Gujjar and allegedly attempted to rape his 17-year-old daughter Zarina at Kunan-Gujjarpati in Bandipora district. Both the accused were caught by the villagers and smeared with black paint on their faces and paraded naked.<sup>46</sup>

On 20 July 2007, a woman was allegedly raped by two Constables identified as Mohammad Shabir of Darhal and Mohammad Awaas of Thannamandi and was repeatedly raped over night in a room of one of the constables at Ward number 4 in Rajouri district.<sup>47</sup>

On 19 August 2007, a 17-year-old girl was allegedly raped by Jawan Ajay Kumar of 27<sup>th</sup>

Rastriya Rifles in Daskal village in Akhnoor tehsil of Jammu district.<sup>48</sup>

On 21 July 2007, the State chief minister Ghulam Nabi Azad claimed in the state assembly that security forces were involved in only 4 percent of rape cases and 3- 4 percent of molestation cases in the state.<sup>49</sup>

On 13 April 2007, a woman, sister of custodial death victim Rishi Kumar, was allegedly kept in illegal police custody for three days and raped by the police when she had gone to the police post to enquire about his brother.<sup>50</sup>

There have been some interventions in the cases of violence against women.

In June 2007, Jammu and Kashmir State Human Rights Commission ordered a probe and recommended Rs 75,000 relief to a deaf and dumb woman allegedly gang raped by security personnel in Kupwara district 14 years ago.<sup>51</sup>

On 5 November 2007, the Army claimed to have court-martialed and awarded punishment including reduction of rank to two jawans for the molestation of a girl of Kunan Baba Gund village in Bandipore district on 26 June 2007.<sup>52</sup>

On the of 7 June 2007, wife of Qadeer, was allegedly raped twice by Suram Singh, Deputy Superintendent of Police (DSP) of Poonch after gagging her in his room at the police station while she was being detained with her husband for interrogation. The woman was allegedly raped by a friend of the DSP who was also present.<sup>53</sup>

## VI. Violations of the rights of the child

The Tribal Research and Cultural Foundation stated that 74 % per cent of Gujjar children between the ages of 7 to 15 were engaged in physical labour and were being exploited in Jammu and Kashmir. The national literacy mission launched by the government in 1988

with the objective of all-round development of poor children in India had failed to touch the Gujjar tribe.<sup>54</sup>

## VII. Status of internally displaced persons and refugees

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. According to the 2007-2008 Annual Report of the Ministry of Home Affairs (MHA), there are still 55,456 Kashmiri Pandit families who had been displaced by the conflict. Of these, 34,878 families are in Jammu, 19,338 families are in Delhi and 1,240 families are in other States and Union Territories.

According to information obtained by Asian Centre for Human Rights, the State Governments of Jammu and Kashmir and Delhi have been providing basic dry rations to the Kashmiri Pandits and cash relief of Rs 1,000/- per head per month (subject to a maximum of Rs 4,000/- per family per month) in both the Jammu and Delhi relief camps.

According to official sources, 6000 Pandits are still living in valley. They had been living in shanty cluster colonies.<sup>55</sup>

While the case of displaced Kashmiri Pandits is widely debated, the case of 1600 Muslim and 1656 Sikh registered families who had to migrate from the Kashmir valley in 1990s due to insecurity has been ignored. The Muslim migrants felt threatened on account of their political beliefs.<sup>56</sup>

On 31 January 2007, the Jammu and Kashmir Government stated in the Legislative Council that the migrants uprooted from the Doda, Rajouri, Poonch and Udhampur border areas of Jammu division would be treated on a par with Kashmiri Pandits. Nearly 20,000 families were displaced from these areas due to cross border military action. However, no action was taken.<sup>57</sup>

In addition, there are over 1.2 million refugees who had crossed over to India during the partition in 1947 from Pakistan Administered Kashmir have been denied rights and citizenship as they were not from Jammu and Kashmir. They have been living in miserable conditions in refugees' settlements in and around Jammu including in over 34 camps in Jammu and RS Pura tehsils in Jammu district and in border areas of Kathua-Jammu border belt. For the first time, Chief Minister Mr Ghulam Nabi Azad set up a committee to look into the grievances of these refugees but no action was taken.<sup>58</sup>

## VIII. Violations of the prisoners' rights

The International Committee of the Red Cross (ICRC) is given access only in Jammu and Kashmir. The ICRC carries out visits to persons held in relation to the situation in Jammu and Kashmir and submits confidential reports on its findings to the Indian authorities on the basis of a Memorandum of Understanding signed in 1995. In mid-2007, ICRC raised the issue of the living conditions and the treatment of Kashmiri prisoners lodged in various jails across the country with the Central government.<sup>59</sup>

There were hundreds of prisoners detained in jails denied legal representation. Some of them have been detained for the last 17 years. Those detained for two years under the detention laws were rearrested and detained again within the jail premises before they were set free. There were regular instances where the authorities have defied court orders.<sup>60</sup>

Even Supreme Court directives have been defied. In March 2007, the Supreme Court summoned the Home Secretaries of twelve states including Jammu and Kashmir on 24 April 2007 to explain the non-compliance of its earlier order seeking replies regarding thousands of prisoners in jails without trial.<sup>61</sup>

In May 2007, Ghulam Mohiuddin, resident of Tangmarg in Baramulla district, had allegedly gone missing from Udhampur jail. On 29 June 2007, the State Human Rights Commission directed the Director General of Prisons to file a detailed factual report on the whereabouts of Mohiuddin. On 5 May 2007, the Jammu and Kashmir High Court ordered his release from jail.<sup>62</sup>

## IX. Violations of International Humanitarian Law by the AOGs

Armed opposition groups (AOGs) were responsible for Violations of International Humanitarian Law, including killings, kidnapping etc. The AOGs were also responsible for “selective killings” of non-Kashmiris or members of the minority communities. Political party workers were specifically targeted.

On 1 April 2007, Congress leader Azhar Mohammad alias Jan Mohammad Kakroo was shot dead and his security guard seriously injured by unidentified gunmen in Baramulla town in North Kashmir. A militant outfit “Shohda Brigade (Martyr’s Brigade) claimed responsibility for the attack.<sup>63</sup>

In July 2007, one Devraj and his 9-year-old daughter Manjoo Devi were killed when suspected AOG members entered the house of Village Defence Committee member Mukesh Kumar’s house and opened fire on Dalhal village in Doda district.<sup>64</sup>

On 14 November 2007, Ghulam Nabi Wani, National Conference Councilor, was shot dead by suspected Lashkar-e-Al Fajr cadres outside Khanyar shrine in Srinagar.<sup>65</sup>

AOGs were responsible for indiscriminate use of explosive devices. On 29 July 2007, six persons including four tourists from Gujarat and two local women were killed and 19 others were injured in an alleged AOG-triggered blast inside a bus near the Shalimar Gardens in Srinagar.<sup>66</sup>

AOGs often issued threats to villagers who have members of their family in the security forces. They warn civilians not to participate in the Independence Day celebrations.

On 16 August 2007, alleged members Hizbul Mujahideen reportedly kidnapped Mahammad Rasheed, brother of Territorial Army soldier Muhammad Rafiq, and later killed him by slitting his throat at Pangaber Dhok in Kotranka block in Rajouri district.<sup>67</sup>

On 18 August 2007, Muhammad Afsar (70), father of police constable Muhammad Hanief, was reportedly killed by unidentified members of AOGs at Dakhan Wali Dhok in the Kandi area in Rajouri district.<sup>68</sup>

Minorities were specifically targeted by the AOGs. On 29 March 2007, five Hindu labourers were killed and four others injured when two suspected members of AOG attacked a shelter at Mathiani village in Rajouri district. The labourers were allegedly segregated based on their religion. After rounding up 11 Hindu labourers, the attackers opened fire, killing five of them.<sup>69</sup> The deceased were identified as Sanjay Kumar (21), Chaman Lal (32), Mohinder Kumar (28), Baldeve Kumar (38) and Rachpaul Singh (26).<sup>70</sup> ■

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# Jharkhand

## I. Overview

**R**uled by the Indian National Congress led alliance, Jharkhand continued to face increased Naxalite violence. The Naxalites, also known as the Maoists, were reportedly active in 16 out of the 22 districts. According to the estimates of Asian Centre for Human Rights (ACHR), 44 persons including 28 civilians, 7 security forces and 9 alleged Naxalites were killed in the Naxalite conflict in the State from January to September 2007.

Both the Naxalites and the security forces were responsible for serious human rights violations including extrajudicial killings and torture.<sup>1</sup> The Maoists targeted political activists. On 4 March 2007, Mr Sunil Mahato, General Secretary of Jharkhand Mukti Morcha and Member of Parliament in the Lok Sabha was killed by the Maoists at Bakuria village in East Singhbhum district.<sup>2</sup>

The NHRC revealed in July 2007 that there were as many as 84,000 cases of human rights violations under consideration of the NHRC out of which 3,000 were from Jharkhand.<sup>3</sup> However, Jharkhand government failed to establish a State Human Rights Commission.

The Adivasis continued to face serious human rights abuses. According to the National Crime Records Bureau, a total of 332 cases of crimes against Scheduled Tribes were reported in Jharkhand during 2006.<sup>4</sup>

Tribals have been arrested under false charges when they tried to access minor forest produce in Jharkhand. About 12,000 cases have been filed by the state's Forest Department against tribals as of 12 August 2007 for claiming land rights by tribals guaranteed under the

Scheduled Tribes (Recognition of Forest Rights) Act.<sup>5</sup> In a positive development, in August 2007, the government of Jharkhand ordered the release of all tribals who had been lodged in various jails in the state in connection with cases registered by the Forest Department and to pay compensation to all the villagers who had lost their paddy fields and vegetable farms due to forcible plantation undertaken by the state's Forest Department.<sup>6</sup>

## II. Human rights violations by the security forces

### a. Violations of the right to life

According to information obtained by the Asian Centre for Human Rights under the Right to Information Act of 2005, the NHRC received three cases of police custody death in Jharkhand during the period of 1 April 2006 to 31 March 2007. It also reported two cases of 'encounter deaths' during the same period. The National Crime Records Bureau did not report death in police custody in 2006.

The Asian Centre for Human Rights documented other cases of extrajudicial killing including alleged fake encounters by the security forces in Jharkhand during 2007.

On the night of 1 February 2007, Lalku Mahto was shot dead by a Central Reserve Police Force officer identified as Ratan Singh. The victim was shot when he answered the door at Kole village under Keredari block during an anti-Naxalites search operation.<sup>7</sup>

In June 2007, Dalit student identified as Dadan Kumar Ram was allegedly killed in a fake encounter by the Jharkhand Police at Ara in Hazaribag district.<sup>8</sup>

## **b. Arbitrary arrest, illegal detention and torture**

According to the information received by the Asian Centre for Human Rights under the RTI Act, the NHRC received two cases of illegal arrest, two cases of unlawful detention, one case of disappearance and 128 cases of other police excesses in Jharkhand during the period of 1 April to 31 March 2007. The police failed to take action in 144 cases.

The police often tortured the accused persons during interrogation. On 19 December 2007, Ganesh Barnawal, a Public Call Office operator, was picked up from Kunda on the charges of killing journalist Promod Kumar Munna. He was tortured by the police to extract a confession statement from him during interrogation. According to the victim, two policemen tied two live wires around his neck and subjected him to electric shocks until he lost consciousness. The police reportedly brought him home unconscious on the night of the following day. The victim was admitted to Deoghar sadar hospital in serious condition on the morning of 21 December 2007.<sup>9</sup>

## **III. Violations of International Humanitarian Law by the AOGs**

The Maoists were responsible for gross violations of international humanitarian law. According to a report prepared by the Jharkhand Police, 70 per cent of the people killed by Maoists belong to tribal and Dalit communities.<sup>10</sup>

### **a. Violations of the right to life**

According to the estimates of Asian Centre for Human Rights, 28 civilians were killed by the Maoists during January to September 2007.<sup>11</sup> Political leaders and police informers were specifically targeted.

Political leaders killed in 2007 included Mr Sunil Mahato, General Secretary of Jharkhand Mukti Morcha and Member of Parliament in

the Lok Sabha killed at Bakuria village in East Singhbhum district on 4 March 2007,<sup>12</sup> Mr Bishamber Singh of Bharatiya Janata Party (BJP) killed on 7 June 2007 in Simdega district,<sup>13</sup> and Nand Kishore Singh, leader of Rashtriya Janata Dal, at Mokama village in Chatra district on the night of 22 November 2007.<sup>14</sup>

On 6 September 2007, the Maoists shot dead two persons identified as Nimai Murmu Dalpati and Badal Pramanik during a raid at Digha village under Ghatshila police station in East Singhbhum district. They were killed for taking part in the Jamshedpur Lok Sabha by-elections held on 29 August 2007.<sup>15</sup> The Maoists also chopped off the ear of a villager identified as Hansda during the raid. The Maoists had boycotted the by-elections.<sup>16</sup>

The Maoists continued to kill alleged police informers. Some of those who were killed in 2007 included Ashok Saw at Dhawadih village under Lesliganj block in Palamu district on 18 February 2007,<sup>17</sup> four villagers at Boda village in Latehar district on 28 October 2007<sup>18</sup> and Chhkauri Ganjhu was beaten to death by the Maoists after being accused of working as an informer of Jharkhand Prastuti Committee at Bendi village in Hazaribagh district on 25 November 2007.<sup>19</sup>

The Naxalites continued to organise *Jana Adalats*, Peoples Court, to impose Maoist 'justice'. On the night of 28 March 2007, two villagers identified as Teklal Mahto and Bhola Mahto were reportedly beaten to death by the Maoists following their trial in a *Jana Adalat* held at Sohrai forest in Giridih district. The deceased were among nine villagers whom the Maoists abducted from Badgawah and charged them with collecting levies while posing as Maoists. The *Jana Adalat* found four villagers guilty and released the others. The status of the two other victims was not known.<sup>20</sup>

On 8 August 2007, Kamruddin of Chatra district was killed by the Maoists after trying him in a Maoist 'court' in front of

the villagers. The court pronounced that the punishment should be slitting the victim's throat and cutting off his limbs. But when the victim pleaded for mercy, the Maoists revised the sentence and ordered that he be let off with a beating. His relatives rushed him to Hazaribagh, which is 75 km away, but he was declared dead on arrival at the Sadar hospital.<sup>21</sup>

On 24 September 2007, Maoists killed two activists of Jharkhand Prastuti Committee (JPC) identified as Moinuddin Khan and Ram Kishun Bhuiyan at Lawalong village under Simeria police station in Chatra district. The deceased were abducted on 23 September 2007 and sentenced to death by a *Jana Adalat* on the charges of working against the Naxalites.<sup>22</sup>

### **b. Destruction of public properties**

The Naxalites continued to destroy of public property.

On the night of 17 July 2007, the Maoists blew up the double-storeyed office of the Block Development Officer of Gomia in Bokaro district.<sup>23</sup>

On the night of 31 July 2007, the Maoists detonated bombs in Bendi and Demu railway stations in Latehar district during their 24-hour Jharkhand bandh that began on 31 July 2007.<sup>24</sup>

On 23 September 2007, Maoists blew up a railway station in Palamu district and railway tracks in two other districts.<sup>25</sup>

On 7 October 2007, the Maoists set fire to the tower of Airtel, a private telecom company, in Dhotawa area of Katkamsandi in Hazaribagh district.<sup>26</sup>

On 25 October 2007, the Maoists blew up a school building which was used as rest house for the security personnel during nights at Sobaranpur in Giridih district.<sup>27</sup>

## **IV. Judiciary and administration of justice**

The judiciary continued to be limited by judicial delay in Jharkhand. Yet, there were 11 vacancies out of the sanctioned strength of 20 judges in the Jharkhand High Court as on 1 January 2008. There were 66 vacancies out of the sanctioned strength of 503 vacancies in the District and Subordinate Courts as on 30 September 2007. Besides, there were a total of 49,276 cases pending with the Jharkhand High Court and a total of 2,63,901 cases were pending with the District and Subordinate Courts as of 30 September 2007.<sup>28</sup>

Due to judicial delay, the Jharkhand High Court urged the State government to create 80 additional posts of judicial magistrates to cope with arrears in April 2007.<sup>29</sup>

There has been lack of tribal representation in the judiciary of Jharkhand. Though the tribals constitute about one third (nearly 80 lakh) of the total population of the state, as of 18 May 2007, there was not a single tribal representative as a high court judge or district judge. There were about 300 lawyers from the Scheduled Caste and Scheduled Tribes, minorities and women out of the 1,836 practitioners registered with the Advocates Association of Jharkhand High Court. The state judicial service officers' strength was about 430. Significantly, the law officers, appointed by the state government, to argue its cases in various courts, including the high court, did not have a tribal member either.<sup>30</sup>

## **V. Violations of the rights of indigenous peoples**

The National Crime Records Bureau of the government of India reported a total of 332 cases of crimes against the Scheduled Tribes in Jharkhand during 2006. These included 13 cases of murder, 21 cases of rape, 13 cases of kidnapping and abduction, 91 cases under the SC/ST (Prevention of Atrocity) Act of 1989, among others.<sup>31</sup>

The conditions of the tribals were deplorable due to government's apathy in Jharkhand. The Sabar tribes, one of the oldest in the Chotanagpur Plateau, were on the verge of extinction due to government's apathy. In Darisai village, once dominated by over 200 Sabar families, was left with a mere 11 families consisting of only 47 people as on February 2007.<sup>32</sup>

### a. Land alienation and displacement

In Jharkhand, cases of alienation of tribal land have risen despite two laws - Chotanagpur Tenancy Act and Santhal Parangan Tenancy Act to prevent sale of tribal land to non-tribals in the state. A total of 2,608 cases have been filed by tribals with the Special Area Regulation Court in 2003-2004, which increased to 2,657 cases in 2004-2005 and further to 3,230 cases in 2005-2006. As of January 2007, 3,789 cases have been filed with the Special Area Regulation Court in 2007.<sup>33</sup>

Lack of lawyers to take up land-related cases of the tribals further delayed adjudication. Around 5,500 land-related cases of tribals were pending in various district courts in Jharkhand as of March 2007. The government of Jharkhand had an annual budget of Rs 50 lakh to provide legal assistance to poor tribals to pursue their land-related cases. However, less than 10 per cent of the total allocated budget was spent over the last six years. Lawyers were unwilling to fight cases on behalf of tribals seeking government assistance. The offer of Rs 5,000 per case was cited as one of the main reasons for pendency of land-related cases in courts.<sup>34</sup>

In February 2007, the Supreme Court allowed a tribal petitioner to file a fresh petition before the Jharkhand High Court for recovery of his land from a mining company. In its order, the Supreme Court held that the Jharkhand High Court was wrong to dismiss the petition of Surendra Dehri, a tribal who alleged that over 10,000 acres of "notified tribal land"

had been usurped by mining contractors in connivance with the government officials. The High Court had dismissed his petition saying that it involved only "private interest". But a bench of Supreme Court comprising Justices B.N. Agarwal and P.P. Naolekar stated that a clear violation of constitutional guarantees given to the tribals could not be held to be related to "private interest".<sup>35</sup>

The tribals of Jharkhand have also been protesting against the implementation of Koel Karo hydroelectric project by National Hydroelectric Corporation over the Koel and Karo rivers. The project, if implemented, would submerge as many as 256 villages involving 50,000 acres of forest area, 40,000 acres of agricultural land and 300 forest groves (considered sacred by the tribals), 175 churches and 120 Hindu temples.<sup>36</sup>

### b. Repression under the forest laws

The tribals have been intimidation and abuse including arrest for accessing minor forest produce. About 12,000 cases have been filed by the state's Forest Department against the tribals as of 12 August 2007. Most of these cases related to the claims of land rights by the tribals guaranteed under the Scheduled Tribes (Recognition of Forest Rights) Act.<sup>37</sup>

On 12 August 2007, the government of Jharkhand ordered the release of all tribals who had been lodged in various jails in the state in connection with cases registered by the Forest Department and to pay compensation to all the villagers who had lost their paddy fields and vegetable farms due to forcible plantation undertaken by the state's Forest Department.<sup>38</sup>

On 17 June 2007, 35-year-old Jeevan Munda was allegedly beaten to death by forest officials on the charge of cutting a tree to make a bed in the Hazaribagh National Park in Jharkhand. Mr Munda's body was found from a field with injury marks all over his body.<sup>39</sup>

## VI. Violence against women

Violence against women including rape and dowry deaths continued to be reported. According to the National Crime Records Bureau, a total of 2,979 cases of crimes against women were reported in Jharkhand during 2006. These included 799 cases of rape, 410 cases of kidnapping and abduction, 281 cases of dowry death, 668 cases of cruelty by husband and relatives, 414 cases of molestation, 11 cases under Immoral Trafficking (Prevention) Act of 1956, among others.<sup>40</sup>

The security forces were responsible for violence against women and children. Tribal women were especially targeted for sexual violence.

On 9 January 2007, the police arrested three Paharia tribal women along with several tribal men on the charge of killing of one Deba Paharia and detained them at Sundarpahari police station in Godda district. While the men were detained in the police lock up, the women were illegally detained in the residential quarter of the Officer-In-Charge (OC) of Sundarpahari police station, Dipnarayan Mandal. They were allegedly tortured and raped by Mr Mandal and the Assistant Sub Inspector Mahadev Oraon.<sup>41</sup>

On 3 May 2007, Mohammed Alam, Assistant Sub-Inspector of Doranda police station was arrested on charges of repeatedly raping a 16-year-old since the first week of March 2007.<sup>42</sup>

On 27 June 2007, a 15-year-old minor tribal girl, daughter of Mihilal, resident of Jarwatola village was allegedly gang raped by three police personnel of Nawadih Police Station including Officer-In-Charge Pramod Kumar during so-called anti-Naxal operation at Jarwatola village in Bokaro district of Jharkhand on 27 June 2007. Prior to raping the minor tribal girl, the police personnel had stripped naked and beat up her father Mihilal when denied having any knowledge about the Maoists.<sup>43</sup>

## VII. Violations of the rights of the child

According to the National Crime Records Bureau, a total of 112 cases of crimes against the children were reported in Jharkhand during 2006. These included 9 cases of murder, 28 cases of rape, 11 cases of kidnapping and abduction, among others.<sup>44</sup>

The provisions of the Juvenile Justice (Care and Protection of Children), 2000 continued to be violated. Children were often tortured in homes/orphanages.

In August 2007, 10 tribal boys, aged between 8 and 13, fled the Uma Anathalaya (orphanage) at Koriya village in Dumka district due to inhuman torture. The boys were allegedly denied proper food and medicine, beaten regularly and forced to do hard work like bringing firewood and cleaning the entire campus. On 14 August 2007, Narayan Soren (8) allegedly died after the orphanage staff did not provide him food and medicine despite suffering from many diseases.<sup>45</sup>

The security forces continued to occupy schools for military purposes, thereby making the schools targets of the Naxalites. As of mid-April 2007, 25 schools were converted into police camps. Many schools remained closed over the last five years. Estimates put the number of affected students at 12,000.<sup>46</sup> A few schools such as Chatrapur Middle school of Daltanganj had been closed since 1990. Many schools have not been totally closed but the security personnel live in the school buildings. Often, children were forced to learn their lessons in the open sky, apart from living under the fear of the attacks by Maoists.<sup>47</sup>

## VIII. Violations of the prisoners' rights

According to information obtained by Asian Centre for Human Rights under the RTI Act, the NHRC received 59 cases of death

in judicial custody in Jharkhand during the period of 1 April to 31 March 2007.

In November 2007, an under-trial prisoner identified as Amarnath Singh was allegedly tortured after he was taken on a two-day

police remand during interrogation at the Mango police station in East Singhbhum district. The victim alleged that he was unable to stand straight following the police torture.<sup>48</sup> ■

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# Karnataka

## I. Overview

In 2007, Karnataka witnessed serious human rights violations against members of tribal groups. Between August and September 2007, the State Human Rights Commission (SHRC) received 100 complaints as of 21 September 2007 and called for reports from the authorities in 40 cases.<sup>1</sup> The National Human Rights Commission (NHRC) received eight cases of deaths in police custody and six cases of encounter deaths between 1 April 2006 to 31 March 2007.<sup>2</sup>

The Karnataka State Human Rights Commission opened on 25 July 2007 after appointment of Justice S R Nayak as its first Chairperson.<sup>3</sup> Though the SHRC was established in 2005, it could not function due to lack of members, resources, office space, funds and staff.<sup>4</sup> In June 2005, before the commission came into being, the government had sanctioned 53 posts but only six persons reported for duty as of 21 September 2007. On 6 September 2007, Justice S R Nayak appealed to the state government to provide a separate building for the commission and more staff. He stated that the commission needed 160 staff members, including 42 personal staff, 58 administrative staff, 59 legal staff and 101 staff for the investigation wing.<sup>5</sup>

The Judiciary was also hampered by delay. A total of 1,04,237 cases were pending with the Karnataka High Court and another 10,95,705 cases were pending with the District and Subordinate Courts in the state as on 30 September 2007.<sup>6</sup> As on 1 January 2008, there were six vacancies of judges in the Karnataka High Court. There were 217 vacancies of judges in the District and Subordinate Courts in his state as on 30 September 2007.

Human rights defenders faced harassment. On 8 March 2007, Dalit activist Mr Vasanth was arrested when he went to the Madikeri Town police station in Karnataka to seek information regarding a case of torture. He was assaulted by five policemen in custody in Madikeri Town police station and then shifted to Madikeri District jail. He was released on bail.<sup>7</sup>

## II. Human rights violations by the security forces

Apart from receiving complaints of eight cases of deaths in police custody and six cases of encounter deaths during 1 April 2006 – 31 March 2007,<sup>8</sup> the NHRC also registered seven cases of illegal arrest, two cases of unlawful detention, nine cases of false implication of innocent persons, and 92 cases of “other police excesses” in Karnataka during 2006-2007.<sup>9</sup>

On 6 March 2007, Yamanappa Devappa Jalhalli was allegedly tortured in custody by Surpur Circle Inspector S B Kattimni, Sub-Inspector Malappa Bidari and Constable T Ramulu at Surpur town in Gulbarga district. The policemen reportedly burnt Yamanappa’s genitals, back and chest.<sup>10</sup> Jalhalli was taken into custody by the police after receiving a complaint that he was drunk and disorderly.<sup>11</sup>

On 16 December 2007, Maqsood Shareef, a resident of Kondappa Badavane under Yelahanka police station in Bangalore, was allegedly tortured to death in the custody of Kengeri police station in Bangalore. He died at Jayadeva Hospital, Bangalore a few hours after he was taken into custody by the police.<sup>12</sup>

In a few cases, the judiciary intervened. In July 2007, the Karnataka High Court asked

the state government to pay compensation in two custodial death cases. On 3 July 2007, the Court directed the state government to pay Rs. 300,000 as compensation for the custodial death of Basappa Kuri in Dharwad in 2002. Again on 11 July 2007, the Court asked the state government to pay compensation of Rs. 250,000 for the custodial death of one Dhananjaya of Bangalore at the Gnanabharati police station in 2004.<sup>13</sup>

### III. Violations of the rights of indigenous peoples

According to the National Crime Records Bureau of the Ministry of Home Affairs of Government of India, 214 cases of atrocities against tribals were reported from Karnataka in 2006. These included four cases of killing, seven cases of rape and 117 cases registered under SC/ST Prevention of Atrocities Act of 1989, among others.<sup>14</sup>

The rate of filing charge-sheet for crimes committed against tribals was 95.7% during 2006<sup>15</sup> but the conviction rate was only 4%. Out of total 259 cases in which trials were completed, only in 10 cases the accused were convicted and in other 240 cases the accused were acquitted.<sup>16</sup>

The conditions of displaced tribals who now live in forest areas are deplorable. In August 2007, the Adivasi Mulabhuta Hakkugala Horata Samiti alleged that the Forest Department officials were making the lives of the tribals living in the “hadis” (tribal settlements) inside the Nagarhole National Park in Karnataka miserable by restricting their movement and lodging of false cases against them.<sup>17</sup> The tribals were repeatedly booked for growing paddy, ginger, vegetables and coffee in and around their habitations in the forests and transporting them outside the forests to sell them to earn their livelihood.<sup>18</sup>

In December 2006, nearly 78 tribal families were evicted from the Saragodu Reserve Forest in Chikmagalur district on the direction of the Supreme Court who termed the tribals

as “encroachers”. After their eviction, the tribal IDPs were asked by the government to fend for themselves. The State government promised to provide to each family two acres of land, Rs 50,000 for a girl who had attained marriageable age and money for construction of house but as of 19 February 2007 the evicted tribals were given nothing.<sup>19</sup> Earlier in January 2006, the tribal people petitioned to the National Human Rights Commission and the National Commission for the Scheduled Tribes against the eviction notice. The tribals rejected the government’s resettlement package as it did not include the names of several families who were in the voters’ list as well as in school documents. The tribals demanded that the resettlement package be converted into a development package and the lands being cultivated by tribals in the Saragodu Reserve Forests should be regularised.<sup>20</sup>

The state government failed to prevent further alienation of the lands of tribal people. According to the Annual Report 2007-08 of the Ministry of Rural Development, Government of India, a total of 42,582 cases alleging alienation of 130,373 acres of land have been filed in the court in Karnataka. The courts disposed off 38,521 cases out of which 21,834 cases involving 67,862 acres of land have been decided in favor of tribals and 16,687 cases involving 47,159 acre of land have been rejected. About 4,061 cases were pending in the court.<sup>21</sup>

### IV. Violations of the rights of Dalits

According to the National Crime Records Bureau of the Ministry of Home Affairs, 1,730 cases of atrocities were reported against Scheduled Castes in 2006 in Karnataka. These included 28 cases of killing, 27 cases of rape, four cases of abduction/kidnapping, 25 cases registered under the Protection of Civil Rights Act and 1,051 cases registered under the SC/ST Prevention of Atrocities Act of 1989.<sup>22</sup>

The rate of filing charge-sheets for crimes committed against the Dalits was 92.3% during 2006<sup>23</sup> but the conviction rate was only 2.3%. Out of total 1519 cases in which trials were completed, only in 35 cases the accused were convicted and in other 1484 cases the accused were acquitted.<sup>24</sup> Mr Nehru C. Olekar, the chairperson of the Karnataka State Commission for the Scheduled Castes and the Scheduled Tribes stated on 3 July 2007 that the accused in 98% of cases involving violations of human rights of the Dalits were allowed to go free as witnesses in most cases did not turn up for fear of being attacked by the upper castes.<sup>25</sup>

Dalits were targeted for accessing public places. On 13 April 2007, upper caste Hindus attacked Dalits at K. Shettahalli in Mandya district. At least 20 Dalits including women were injured in the attack launched by members of dominant Vokkaliga community. The upper caste Hindus attacked the Dalits after a few Dalit youths swam in the Lokapavani River. Leaders of both the communities tried to resolve the differences at a meeting. However, more than 20 armed men belonging to Vokkaliga community attacked the Dalits within minutes of the completion of meeting.<sup>26</sup>

## V. Violence against women

According to the 2006 Annual Report of the NCRB, a total of 6,084 cases of violence against women were reported in 2006. Of these, 400 were rape cases, 328 kidnapping and abduction cases, 244 dowry death cases, 786 cases under Immoral Trafficking (Prevention) Act of 1956, among others.

Crimes against women were committed by the police. The NHRC registered one case of custodial rape in Karnataka during 1 April 2006 – 31 March 2007.<sup>27</sup>

In October 2007, the SHRC intervened after an undertrial prisoner Asha (name changed), lodged at the Central prison at Parapanna Agrahara, alleged that she was raped by

police constable CC Basavaraj of Koramangal police station while in judicial custody. The victim along with her husband were illegally detained at the Koramangala police station for almost a week and tortured by the police.<sup>28</sup>

## VI. Violations of the rights of the child

The NCRB recorded 276 cases of crime against children in Karnataka during 2006. These included 54 cases of murder, 84 cases of rape 62 cases of kidnapping and abduction, 6 cases under the Child Marriage Restraint Act of 1978.

Child labour remained a problem. In 2003, the State government of Karnataka had claimed to have put in place an action plan that would end child labour in the state in the next four years i.e. by 2007. In 2002, it had conducted a survey and identified 7,112 children employed in hazardous jobs and 32,118 in non-hazardous jobs.<sup>29</sup> But a study conducted in 2006 by the Institute for Social and Economic Change for the International Labour Organisation's "Karnataka Child Labour Project" found that there were nearly 60,000 child labourers (age group 4-14 years) in Bidar and Chamarajanagar districts alone. The study showed that 34 per cent of child labourers in Bidar and 30 per cent of child labourers in Chamarajanagar worked between 5 and 8 hours every day. Around 40 per cent of the child labourers in both districts were employed in hazardous jobs.<sup>30</sup>

In July 2007, the National Human Rights Commission issued notice to the Karnataka government on the large number of out-of-school children. According to the Sarva Shiksha Abhiyan, at least 80,863 children were out of school in Karnataka of whom at least 60,516 (age group 7-14) were drop-outs while 20,347 had never been to school.<sup>31</sup>

Juvenile justice remained deplorable. Juveniles were kept in the Observation Home from seven months to more than one year without being chargesheeted. There were over 70

per cent of the children in the Observation Home in Madivala who had long crossed the remand limit of six months under the Juvenile Justice Act Rule. Under the JJ Act Rule, the enquiry against a child apprehended by police for an offence should be completed within six months.<sup>32</sup> In March 2007, NHRC issued notice to Karnataka government on the issue.<sup>33</sup>

## VII. Violations of the prisoners' rights

Prison conditions remained deplorable. According to NHRC, 56 cases of deaths in judicial custody were registered in Karnataka during 1 April 2006 – 31 March 2007.<sup>34</sup>

Karnataka has 98 jails with sanctioned capacity for 11,799 prisoners. But as of 15<sup>th</sup> February 2007, there were a total of 12,732 prisoners, including 480 females. Majority of them (8,575) were under-trial prisoners.<sup>35</sup>

In addition, there were also 31 children below the age of six years, including 15 girls, living in the jails along with their mothers. There is no separate jail for female prisoners in Karnataka. They are kept in separate enclosures in the jails guarded by female staff.<sup>36</sup>

From 2002-03 to 2006-07, the State government was allotted Rs.53.90 crore (inclusive of Central and State share of allocation) for modernizing prisons but the state government spent only Rs.44.19 crore as of 31 December 2006.<sup>37</sup> Out of the total allocation of Rs.53.90 crore during 2002-03 to 2006-07, 21.51 crore was for construction of new prisons, 16.32 crore for expansion and renovation of existing prisons, 0.91 crore for improvement of sanitation and water supply, and 15.16 crore for construction of staff quarters.<sup>38</sup>

In 2007, several prisoners died, some of them due to alleged denial of medical care.

On 9 February 2007, an under-trial prisoner identified as Mahadeve Gowda of Berambadi

in Gundlupet taluk allegedly died as he could not get sufficient medical treatment at the sub-jail in Nanjangud in Mysore district.<sup>39</sup>

On 1 July 2007, under-trial prisoner, Tippeswamy, resident of Pavagada taluk of Tumkur district, died under circumstances of concern in the Chitradurga district jail. According to jail authorities, he died of injuries after he was allegedly attacked by members of the Korangu gang inside the jail.<sup>40</sup>

On 17 December 2007, an under-trial prisoner identified as Krishna Naik (30) allegedly died of torture in the K.R. Nagar Sub-Jail in Mysore. On 10 December 2007, the deceased was arrested in a forest related case and detained at K.R. Nagar Sub-Jail.<sup>41</sup>

The jails in the state did not have proper facilities to allow prisoners to meet and discuss legal matters with their lawyers. In October 2007, the Karnataka State Human Rights Commission directed the Director-General of Police (Prisons) of Karnataka "to provide a suitable and conducive place where advocates and other visitors meet the prisoners" following a complaint that about 35 to 40 under-trial prisoners meet their advocates in a small room and the time allowed for meeting was not sufficient to facilitate legal access.<sup>42</sup>

## VIII. Special focus: farmers suicides

As many as 20,093 farmers committed suicide in Karnataka during 1997-2005 as a result of crop failures.<sup>43</sup> In February 2007, the Karnataka Rajya Raitha Sangha, a farmers' association, alleged that over 12,000 farmers had committed suicide in the state in the last three years.<sup>44</sup>

On 29 September 2006, the Union Cabinet approved a Rs.16,978.69-crore rehabilitation package for farmers in 31 districts of Andhra Pradesh (16 districts), Karnataka (6 districts), Kerala (3 districts) and Maharashtra (6 districts of Vidarbha region). The package comprised

loan rescheduling and interest waiver, and specific schemes for watershed development, seed replacement, horticulture and extension services, and for subsidiary income through livestock, dairying and fisheries. Under the package which would be implemented in a period of three years, Karnataka's share was Rs. 2,689.64 crore which included an interest waiver of Rs. 209.81 crore.<sup>45</sup>

Under Special Livestock Package, Rs 16.05 crore was sanctioned to Karnataka by the Centre during 2006-07 for the farmers. But as of 8 June 2007, no funds had been utilised by the state government. This has been certified by Karnataka's Animal Husbandry and Veterinary Services Commissioner on 8 June 2007. The relief operations in the state were hampered by political considerations. Despite clear notification from the Central government that Karnataka Livestock Development Agency would be the implementing agency of relief to farmers, the state cabinet of Karnataka in January 2007 handed over relief implementation to the Karnataka Milk Federation (KMF) whose chairman was Energy Minister H D Revanna, brother of then Chief Minister H D Kumaraswamy.<sup>46</sup>

On 26 December 2007, a fact finding team comprising of Peoples Union for Civil Liberties, P.D.F., Agricultural Labours Association, Samata Vedike, Revolutionary Youth Association and Pedestrian Pictures conducted an on-the-spot investigation into the suicide of two farmers - Manjunath and Siddaraju of Hosapura village in Mysore district and Harave village of Chamaraj Nagar district of Karnataka respectively. The two farmers had taken loans from ICICI Bank (a private bank) to buy a tractor. The team observed that "*Capital has become scarce*

*in rural economy. Farmers, who are already in a debt trap, courtesy private money lending, are hankering for loans from Banks and other government institutions. In this situation the Banks, especially private one, are resorting violent methods to recover dues from the farmers which has driven the farmers to suicides. Globalization policies have forced the farmers to approach private Banks for finance, as Nationalised banks and Co operative banks are shirking from their responsibilities in implementing welfare schemes.*"<sup>47</sup>

## IX. Special focus: The Maoists conflict

The Maoists insurgency is slowly expanding in Karnataka and the Maoists are reportedly active in Bidar, Gulbarga, Bellary, Raichur, Shimoga, Chikmagalur, Udupi, Dakshina Kannada, Hassan, Kodagu, Tumkur and Kolar areas.<sup>48</sup>

The police killed innocent civilians in the name of anti-Naxalite operations. On 10 July 2007, five tribals were killed by police in an alleged encounter near Menisinhadya in Koppa taluk of Chikmagalur district. The police claimed that the deceased were "Naxalites".<sup>49</sup>

The Naxalites executed alleged police informers. On 3 June 2007, the Naxalites shot dead Venkatesh, a shopkeeper, in front of his wife and son at Gandaghatti village near Sringeri in Chikmagalur district for "being a "police informer".<sup>50</sup>

Naxalites destroyed public property. On 1 July 2007, alleged Naxalites burned down a Karnataka State Transport bus after forcing the passengers, driver and the conductor to get down at Hosagadde in Shimoga district.<sup>51</sup> ■

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# Kerala

## I. Overview

**K**erala is governed by the Communist Party of India (Marxist). While Kerala is one of a diminishing number of States without armed insurgency, the State police have an appalling record on human rights violations including custodial deaths.

On 26 July 2007, the State government announced it would re-investigate four 2006 custodial deaths cases after the report of the Justice Rajendra Babu Commission, which examined 15 custodial deaths, was brought before the State Assembly.<sup>1</sup>

The Kerala High Court has jurisdiction over Kerala and the Union Territory of Lakshadweep. It continued to be hampered by delay. There were vacancies of 12 judges against the sanctioned strength of 38 in the Kerala High Court as on 1<sup>st</sup> January 2008. In the district and subordinate courts, there were vacancies of 18 judges as on 30<sup>th</sup> September 2007. The failure to appoint adequate judges further contributed to the failure of the High Court and the lower courts to dispose of all the cases. As of 30<sup>th</sup> September 2007, there were 1,15,750 cases pending in Kerala High Court and 9,37,789 cases pending in the district and subordinate courts of Kerala.<sup>2</sup>

Political party activists continued to use violence to attain political ends. On 12 December 2007, activists belonging to the Communist Party of India (Marxist) attacked journalists at the Malappuram Press Club covering the party conference in Malappuram district.<sup>3</sup>

On 14 October 2007 at 2.30 am, Pastor TC Joseph (57) and his wife Ammini (50) were attacked by alleged Hindu fundamentalists at their residence at Mananthavady under Thiruvalli police station in Wayanad district.

The couple had to be admitted in hospital with severe injuries. The pastor was associated with New India Bible Church and has been working among tribal people for the last 15 years.<sup>4</sup>

Tribals were subjected to violations by the ruling Communist Party of India (Marxist) activists. The State government failed to regularise 'pattayams' (land deeds) issued to 500 tribal families by the then Chief Minister E.K. Nayanar in 1999 in lieu of 10,000 acres that was alienated from them in Attappady.<sup>5</sup> Cadres of the ruling CPI(M) cadres forcibly took over lands earmarked for distribution to Adivasis who were displaced following the killings of the Adivasi protestors at Muthanga in 2003.<sup>6</sup> On 26 November 2007, the CPI-M cadres forced 200 Adivasi families to flee in Munnar, destroyed their huts and put up CPI(M) party flags to symbolise their victory.<sup>7</sup>

## II. Human rights violations by the security forces

On 26 July 2007, the State government announced it would re-investigate four 2006 custodial deaths cases after the report of Justice Rajendra Babu Commission was placed in the State Assembly. Justice Babu inquired into 15 cases of custodial deaths reported since the Left Democratic Front government had come to power.<sup>8</sup>

The NHRC stated that it recorded three cases of deaths in police custody in Kerala during 1 April 2006 – 31 March 2007.<sup>9</sup>

The reports of custodial death continue to rise:

On 11 July 2007, one Manoj of Kadmankuzhy near Theodickal died in the custody of Perumpetty Police Station in Malappally

taluk in Pathanamthitta district due to alleged torture. The deceased was illegally picked up by the police on the morning of 11 July 2007 after he was found in suspicious circumstances at a waiting shed near Kottanad. According to the police, Manoj complained of stomach ache and was taken to the Kottanad Primary Health Centre. He was referred to District Hospital in Kozhencherry when he complained of chest pain. He died at the District Hospital at 10.40 a.m. on 11 July 2007.<sup>10</sup>

In September 2007, the Kerala High Court ordered further investigation by the Central Bureau of Investigation (CBI) into the custodial death of Udayakumar at the Fort Police station, Thiruvananthapuram.<sup>11</sup>

According to the Kerala Police, there were 856 officers in the police department with criminal cases against them as of 10 February 2007. The majority of these officers were reportedly facing departmental-level inquiries.<sup>12</sup>

### III. Violations of the rights of indigenous peoples

The National Crime Records Bureau of the government of India reported 75 cases of crime against tribals during 2006. These included 23 cases of rape and 2 cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989.

#### a. Atrocities

In Kadapa district of Kerala, 21 villages have been declared as prone for atrocities against SCs/STs. For example, 128 cases were registered under the SCs/STs (Prevention of Atrocities) Act in Kadapa district of Kerala alone from January to 27 September 2007. Of these, 44 were pending disposal, charge sheets were filed in six cases, three were found to be false and two cases were pending in court. In the remaining 33 cases, 20 cases were disposed off and 13 were pending for want of land records and caste certificates.<sup>13</sup>

Many tribals groups struggle to survive because of a denial of medical facilities. On 10 August 2007, the National Human Rights Commission (NHRC) issued notice to the Kerala Government on allegations that Korga tribals in Kasaragod district were facing a serious threat to their survival due to malnourishment, poverty and disease.<sup>14</sup>

The aboriginal tribes of Attappady were on verge of extinction due to major health problems like infertility, sickle cell anaemia, tuberculosis and thrombo angiitis obliterans. According to a survey conducted by the Health Department in January-February 2007, 30 to 40 per cent of tribal couples of reproductive age were facing infertility problems.<sup>15</sup>

#### b. Land alienation and displacement

The State government failed to act on alienation of the lands of tribal peoples or to compensate those who have been forcibly displaced. About 500 tribal families were given 'pattayams' (land deeds) by the then Chief Minister E.K. Nayanar in 1999 in lieu of 10,000 acres that was alienated from them in Attappady. The state government of Kerala had failed to allot any land to landless tribals of Attappady by December 2007.<sup>16</sup>

In November 2007, Communist Party of India (Marxists) cadres forcibly took over lands earmarked for distribution to Adivasis, indigenous peoples in Munnar. In 2003, following killings of the Adivasi protestors at Muthanga, the State government allotted an acre of land each in Chinnakanal to more than 700 tribal families. However after four years, only 540 families have received land. Some 200 tribal families have built makeshift huts on government land in Munnar in protest.<sup>17</sup> But on 26 November 2007, they were attacked by CPI-M cadres. Over 2,000 CPI-M cadres captured a 1,500-acre stretch of government land in Munnar's Chinnakkanal area and forced the 200 Adivasi families to flee. The CPI-M cadres destroyed the huts of the Adivasis and put up party flags to symbolize their victory. They fenced off the

area and began constructing their own huts there.<sup>18</sup>

On 20 February 2007, K.P. Rajendran, Minister for Revenue of Kerala Government stated that there were 22,000 tribal families in the State without land.<sup>19</sup>

#### **IV. Violations of the rights of Dalits**

The NCRB recorded 264 cases of crimes against the Dalits during 2006. These included 3 cases of killing, 62 cases of rape and 70 cases under the SC/ST (Prevention of Atrocity) Act of 1989.

Dalit converts to Christianity were targeted. On 19 October 2007, a Dalit Christian woman identified as Chellarian Rita (36), the wife of Jose Madakkudiyan of Ezhomkavumchal, was killed after being raped. Christian groups have alleged that it was a case of persecution of Dalit Christians.<sup>20</sup>

#### **V. Violence against women and children**

The NCRB, 7,554 cases of violence against women were recorded in 2006. Of these, 601 were rapes, 25 dowry deaths, 202 kidnappings and abduction, and 189 cases under the Immoral Trafficking (Prevention) Act of 1956.

The NCRB also recorded 553 cases of violence against children during 2006. These included 50 cases of killing, 219 cases of rape, 73 cases of kidnapping and abduction and 6 cases under Child Marriage Restraint Act of 1978, among others.

On 7 October 2007, a mob of about 100 persons attacked a 40-year-old pregnant Tamil woman and her two children on the alleged charge of theft from a textile showroom at Edappal in the district. She was forcefully disrobed, dragged down the asphalted road and beaten, punched and kicked all over her body for about 45 minutes.<sup>21</sup>

#### **VI. Violations of the prisoners' rights**

The NHRC recorded 37 cases of deaths in judicial custody were registered in Kerala during 1 April 2006 – 31 March 2007.<sup>22</sup>

Several under-trial prisoners were detained in jail for periods exceeding the sentence they would have faced had they been convicted of the charges under which they had been detained. On 4 September 2007, the state government of Kerala informed the Kerala High Court that it had paid compensation to 74 under-trial prisoners who had been detained in jails for the maximum period of imprisonment provided for the offences with which they were charged. These under-trial prisoners were released on the order of the High Court.<sup>23</sup>

On 22 January 2007, one Shaji (aged above 35 years), son of Keshavan, a resident of Koyikal Nikarthil house in Cherthala, Alapuzha district of Kerala died due to alleged torture at Viyoor Central Jail in Thrissur district.

He was initially detained at Kombara Sub Jail in Ernakulam district but on 20 January 2007, he was transferred from Kombara Sub Jail to Viyoor Central Jail along with 17 other prisoners citing lack of space in Kombara jail. On arrival at the Viyoor Central Prison, the detainees were allegedly assaulted by Yohannan, an officer in the prison. Shaji was assaulted when he said he would complain to the court about the assault. On 22 January 2007, when Shaji was produced before the Additional Chief Judicial Magistrate Court, Ernakulam, he lodged a formal complaint with the magistrate court and the court ordered that he be medically examined. But the doctor on duty at the District Hospital in Ernakulam did not examine Shaji properly. After Shaji was brought back to Viyoor jail, he was allegedly tortured again. He had to be taken to the Medical College Hospital at night in a prison ambulance and the victim died in the hospital at around 10:00 pm.<sup>24</sup> ■

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# Madhya Pradesh

## I. Overview

Governed by the Bharatiya Janata Party, Madhya Pradesh continued to witness serious human rights violations against women, Dalits, tribals and religious minorities. Dalit and tribal women were specifically targeted and those who sought justice faced physical intimidation and violence including killings.

The human rights situation remained grim. The NHRC registered 10 deaths in police custody, six alleged encounter deaths, three disappearances, 59 deaths in judicial custody, six illegal arrests, eight unlawful detentions, 108 false implication of innocent persons, and 194 cases of “other police excesses” in Madhya Pradesh during 1 April 2006 – 31 March 2007.<sup>1</sup> The National Crime Records Bureau recorded killing of nine civilians in police firing in 2006.<sup>2</sup>

Tribals and Dalits faced ongoing widespread and serious violations of human rights. According to the Ministry of Rural Development of Government of India, Madhya Pradesh’s courts had ruled on 29,596 cases on alienation and restoration of tribal lands in 2007. Not a single case was ruled in favour of any tribal.

Another 24,210 cases on alienation and restoration of tribal lands were pending in the court. A total of 53,806 cases involving 158,398 acres of land were filed in the court in the Madhya Pradesh.<sup>3</sup>

The Judiciary faced significant case backlogs. A total of 1,87,677 cases were pending with the Madhya Pradesh High Court and 1,02,3939 cases were pending with the District and Subordinate Courts as of 30 September 2007.<sup>4</sup> The courts had inadequate numbers of staff including stenographers for the trial court judges.<sup>5</sup> On 1 January 2008,

there were 2 vacancies against the sanctioned strength of 43 in the Madhya Pradesh High Court while there were 310 vacancies against the sanctioned strength of 1,221 in the District and Subordinate Courts as on 30 September 2007.

According to the National Crime Records Bureau, a total of 3,939 cases of crimes against children were reported in 2006. These included 117 cases of murder, 829 cases of rape, 237 cases of kidnapping and abduction, among others.<sup>6</sup> On 12 March 2007, State Labour Minister Jagdish Deora informed the State Assembly that there were 10,65,259 child labourers in Madhya Pradesh as per the 2001 census. The government had reportedly freed 8,826 children employed in hazardous industries.<sup>7</sup>

Finally dam-affected villagers of Madhya Pradesh were left out during the survey of submergence areas. In November 2007, the Narmada Bachao Andolan (NBA) handed over evidence of 2,200 houses in 46 villages in Khandwa and Dewas districts to the Grievances Redressal Authority that were apparently deliberately left out during a survey of submergence area of the Indira Sagar Dam.<sup>8</sup>

## II. Human rights violations by the security forces

Police were responsible for serious human rights violations. According to the 2006 Annual Report of National Crime Records Bureau, a total of 22,224 complaints were received against the police personnel in Madhya Pradesh during 2006. Of them, a departmental inquiry was ordered into 4,787 cases and magisterial inquiry was ordered into 348 cases. 18 police personnel were sent up for trial during the year. Of the 6 police personnel whose trials were completed, 2 were convicted and 4 acquitted.<sup>9</sup>

## a. Violations of the right to life

### i. Custodial killings

The NHRC recorded 10 police custody deaths in Madhya Pradesh during 1 April 2006 – 31 March 2007.<sup>10</sup> The National Crime Records Bureau of the Ministry of Home Affairs recorded two deaths in police custody in 2006. The police claimed that one of them had committed suicide while the other died a natural death.<sup>11</sup>

Asian Centre for Human Rights documented several custodial deaths in Madhya Pradesh during 2007.

On 1 March 2007, Chandrabhan, son of Babulal, died due to alleged torture in the custody of Pipri police station in Gwalior. The deceased was arrested after he had eloped with his girlfriend Ramshri Bai Lodhi.<sup>12</sup>

On 2 April 2007, 50-year-old Ram Lal Sahu allegedly committed suicide in the Bandri police station in Sagar district following his arrest on 1 April 2007. The concerns over the case were confirmed when assistant Sub Inspector Purushottam Tiwari and constable Arun Kumar were suspended in the case.<sup>13</sup>

On 9 April 2007, Santosh Jadon, resident of Raja Ka Tor village, died due to alleged torture in the custody of the Sabalgarh police station in Morena district. He was arrested from Kharela village under Sabalgarh police station on 8 April 2007 in connection with theft. On 9 April 2007, he was admitted to Jayarogya Hospital in a critical condition where he died. Police claimed that he was very drunk at the time of arrest and died as a result of alcohol poisoning. The deceased's family members alleged that he died due to torture in custody.<sup>14</sup>

On 21 May 2007, a woman identified as Geeta Devi (30) committed suicide by consuming poison alleging police torture shortly after she was released from police custody of Gourihar police station under Chhattarpur district in Madhya Pradesh. She

was interrogated in connection with the theft of a motorcycle.<sup>15</sup>

On the night of 19 October 2007, Ghanshyam Choudhary, son of Nanuram Choudhary of Khatipura, was allegedly tortured to death in police custody at Heera Nagar Police Station in Indore of Madhya Pradesh after he was picked up in connection with a theft case. Heera Nagar police station in-charge, D P Ahirwar and other police personnel, who were drunk, allegedly tied the deceased to a tree and beat him. His condition deteriorated in the police lock-up. Subsequently, he was taken to Bapat hospital from where he was taken to Maharaja Yashwantrao hospital, Indore where he died.<sup>16</sup>

### ii. Extrajudicial executions

According to the National Crime Records Bureau, nine civilians were killed in police shooting incidents in Madhya Pradesh during 2006.<sup>17</sup> The NHRC received six cases of alleged encounter deaths in the state during 1 April 2006 – 31 March 2007.<sup>18</sup>

In 2007, there were many reports of extrajudicial executions.

On 2 July 2007, a tribal identified as Ramesh Vasunia of Jhaida village in Jhabua district was allegedly shot dead by police personnel. When he was shot the victim was accompanied by one Kamlesh Jain and four other persons and his wife and was returning to his village from Meghnagar. The police allegedly conducted the post-mortem hurriedly during the night and cremated the body the same night. The victim's wife was also allegedly forced to sign on a First Information Report fabricated by the police.<sup>19</sup>

On 21 July 2007, Asish Gohil, son of a deputy ranger, was shot dead by the police in an alleged encounter in Indore. The deceased allegedly fired at the police having been asked to stop.<sup>20</sup>

On 22 September 2007, as Rajendra Singh Patel of Bihar village was killed when a

factory guard opened fire on a demonstration by unemployed youth before the J.P. Cement factory at Rewa.<sup>21</sup>

On 23 November 2007, a farmer identified as Ganesh Sahu was shot dead by the police after mistaking him for a dacoit in the forests at Udaipur village of Satna district. Initially the police claimed that Ganesh Sahu was killed by dacoits.<sup>22</sup>

### III. Violations of the rights of indigenous peoples

Tribals face serious repression in Madhya Pradesh and denial of rights. According to the National Crime Records Bureau, a total of 1,498 cases of crime against the Scheduled Tribes (STs) were reported in 2006. These included 45 cases of murder, 284 cases of rape, 14 cases of kidnapping and abduction, 218 cases under SC/ST (Prevention of Atrocities) Act of 1989. The rate of filing charge-sheeting for crimes against tribals was 99.2% against conviction rate of 34.9% in 2006.<sup>23</sup>

According to Ministry of Rural Development of Government of India, Madhya Pradesh has the distinction of not deciding a single case in favour of the tribals after adjudication of 29,596 cases decided by 2007. Another 24,210 cases were pending in the court. A total of 53,806 cases involving 158,398 acres of land were filed in the court in the Madhya Pradesh.<sup>24</sup>

The government of Madhya Pradesh 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 19 April 2007, several tribal forest dwellers, including women and children, were injured when the police opened fire on them after they resisted eviction at Gateha village of Teonthar tehsil in Rewa district.<sup>25</sup>

In December 2007, forest dwellers from Neapanagar in Burhanpur district were beaten up and forcefully evicted from their villages by the State Forest department authorities after they were treated as encroachers on forest lands.<sup>26</sup>

The Madhya Pradesh government refused to issue Scheduled Tribes certificates to the tribal children of Barela, Bhil, Bhillala, Patelia and Nagwanshi tribal communities living in 13 villages in Buxwaha block in Chhattarpur district and three villages under Batiagarh block in Damoh district although they are recognized as Scheduled Tribes in the state of Madhya Pradesh. A survey conducted by Asian Indigenous and Tribal Peoples Network (AITPN) in 2007 found that majority of these tribals possessed legal documents such as ration cards, voter identity cards, land patta issued by the Madhya Pradesh government, educational certificates, and some even possess court documents to prove their lands to establish beyond doubt that they are genuine residents of Madhya Pradesh. Yet, the state government of Madhya Pradesh turned down several pleas made by these tribal communities to issue ST certificates. Due to non-issuance of tribal certificates, they have been denied rights and welfare schemes to which they are otherwise entitled to under the Constitution as well as relevant laws such as education, scholarships, employment, land rights, etc. Finally when human rights violations are committed against tribals, the police do not register cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989.

### IV. Violations of the rights of the Dalits

According to the National Crime Records Bureau, a total of 4,214 cases of crime against Scheduled Castes (SCs) including 76 cases of murder, 335 cases of rape, 37 cases of kidnapping and abduction 338 cases under

SC/ST (Prevention of Atrocities) Act of 1989 in Madhya Pradesh during 2006.<sup>27</sup>

On 13 August 2007, Dalit farmer Khilan Singh Ahirwar was burnt alive by four people of the Yadav community following a land dispute at Dhurhara village near Vidisha.<sup>28</sup>

On 25 September 2007, a Dalit labourer identified as Lalsingh Jatav was tortured by two upper caste persons named Kadamsingh Kushwaha and Ball Singh for refusing to work in their fields at Murdav village in Morena district of Madhya Pradesh. The victim was tied to a tractor and dragged on the village street. He sustained serious injuries.<sup>29</sup>

On 11 November 2007, Dalit Kailash was burnt alive by upper castes after he dared to beat away a few animals of high caste people which had strayed into his house at Kharoda village in Dhar district of Madhya Pradesh.<sup>30</sup>

In March 2007, a one-member Judicial Inquiry Commission headed by Justice Meena Bhatt inquiring the death of a Dalit in police firing at Gaisabad town in Damoh district had given a clean chit to the police and administration. The report, submitted to the State Assembly stated that Dalit Tulsiram Ahirwar was killed and four others injured when constable Khilan Singh opened fire in self-defence to control a violent mob on 13 February 2000. The Commission stated that no person or official could be held responsible under the circumstances.<sup>31</sup>

## V. Violence against women

The National Crime Records Bureau recorded a total of 14,321 cases of crime against women in 2006. These included 2,900 cases of rape, 617 cases of kidnapping and abduction, 764 cases of dowry death, 2,989 cases of cruelty by husband and relatives, 6,243 cases of molestation, 12 cases of Immoral Trafficking (Prevention) Act of 1956, among others, in Madhya Pradesh during 2006.<sup>32</sup>

On the night of 24 May 2007, a 16-year-old tribal girl was raped by two upper caste Home Guards in the Harda district Collector's office premises. The victim was working as a labourer at the District Collector's office. The accused identified as Jitendra and Pankaj have been arrested.<sup>33</sup>

On 17 June 2007, Dalit woman Sarpanch (Village Chief), Indira Kushwaha of Mahoikala village in Chattarpur district was beaten up, stripped and paraded naked by upper caste men Lakhan Shukla and Santosh Shukla for not paying them Rs 50,000 from the village development fund.<sup>34</sup>

On 21 November 2007, a Dalit woman identified as Urmila Bai reportedly committed suicide in public in frustration over police inaction after she was raped twice by a Sarpanch's son, Kale for daring to raise her voice against the corrupt sarpanch in Betul district. Earlier, on 9 October 2007, she told the police that she would take the extreme steps if they failed to act against her rapist.<sup>35</sup>

## VI. Violations of the prisoners' rights

Prison conditions remain deplorable. The NHRC recorded a total of 59 cases of deaths in judicial custody in Madhya Pradesh during 1 April 2006 – 31 March 2007.<sup>36</sup>

On 17 April 2007, under-trial prisoner Makhan Singh Kushwaha died under circumstances of concern at Jaura Sub Jail in Morena district. According to the jailor of Jaura Sub Jail, Poonam Singh Baredia, the deceased suffered from epileptic fit and died on the way to hospital. On the other hand, the family members of the deceased claimed that the deceased was tortured to death in the jail.<sup>37</sup>

On 9 April 2007, under-trial prisoner Devendra Singh, lodged in the sub-jail of Vidisha, reportedly died during treatment after he was taken to hospital following complaint of chest pain.<sup>38</sup> ■

**Endnotes**

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# Maharashtra

## I. Overview

**R**uled by a coalition of the Indian National Congress and the Nationalist Congress Party, Maharashtra continued to record a high incidence of custodial deaths and extrajudicial executions. The National Human Rights Commission received complaints of a total of 21 deaths in police custody, and 15 cases of encounter killings in Maharashtra during 1 April 2006 - 31 March 2007.<sup>1</sup> A total of 130 prisoners died in judicial custody in Maharashtra during 1 April 2006 – 31 May 2007.<sup>2</sup>

The Scheduled Tribes (STs) continued to face widespread violence. There was an increase of 19.20% in crime against tribals during 2006 as compared to 2005. According to “Crime in Maharashtra-2006” of the Maharashtra Crime Investigation Department, one crime was committed against tribals every day in 2006.<sup>3</sup> The National Crimes Records Bureau of the government of India recorded 267 cases (4.6% of the total crimes against STs in India) of atrocities committed against Scheduled Tribes in Maharashtra in 2006. These included 56 rape cases, three abduction cases, eight arson cases and 58 cases registered under the SC/ST (Prevention of Atrocities) Act of 1989, among others.<sup>4</sup>

Crimes against Scheduled Castes or Dalits increased. In 2006, the NCRB recorded 1,053 cases of violations against Dalits in Maharashtra, compared to 865 cases during 2005 signifying an increase of 21.73 %. The 1,053 cases included 21 killings, 87 rape cases, five abduction cases, nine cases of arson, 36 cases registered under Protection of Civil Rights Act, 1955 and 350 cases registered under SC/ST (Prevention of Atrocities) Act, 1989.<sup>5</sup> According to “Crime in Maharashtra-2006”, two crimes were committed against

Dalits every day in 2006. There was an increase of 21.73% in crime against dalits during 2006 as compared to 2005.<sup>6</sup>

The Vidarbha region also recorded a very high incidence of suicide. According to the Vidarbha Jan Andolan Samiti (VJAS) 1,168 farmers committed suicide in Vidarbha region in 2007.<sup>7</sup> In 2006, at least 1,060 farmers committed suicide in Vidarbha region.<sup>8</sup> The Parliamentary Standing Committee on Agriculture in its 23rd report for 2006-07 presented to the 14<sup>th</sup> Lok Sabha on 20 March 2007 termed the Prime Minister’s package for Vidarbha region as “*a glaring example of the inefficiency of the Government in ameliorating the conditions of the farmers.*”<sup>9</sup>

According to the Maharashtra Crime Investigation Department, two crimes against women took place in every hour in the state in 2006. It also stated that Maharashtra recorded one case of dowry death a day, one rape case every six hours, one molestation case every three hours, one case of cruelty by husband and relatives in every two hours and one sexual harassment case every 10 hours.<sup>10</sup> The NCRB recorded a total of 14,452 cases of crimes committed against women in Maharashtra in 2006, including 1,500 rape cases, 921 kidnapping cases, 387 cases of dowry deaths, 6,738 cases of cruelty by husband and relatives, 3,479 cases of molestation.<sup>11</sup>

Children remained extremely vulnerable. According to the Maharashtra Criminal Investigation Department, a crime was committed against children every four hours. The report stated that a total of 2,841 crimes were committed against children in the state during 2006, which is an increase of 23.25% compared to 2005 (2305 cases). It stated that a total of 207 cases of murder of children took

place in 2006, 192 in 2005, 187 in 2004, 206 in 2003 and 248 in 2002; a total of 655 child rape cases took place in 2006, 634 in 2005, 634 in 2005, 605 in 2003 and 491 in 2002; a total of 552 cases of kidnapping were registered in 2006, 420 in 2005, 380 in 2004, 337 in 2003 and 275 in 2002; a total of 24 cases of selling and buying of girls for prostitution were registered in 2006, 7 in 2005, 14 in 2004, 8 in 2003 and 9 in 2002; a total of 15 cases of child marriage were registered under Child Marriage Restraint Act in 2006, 22 cases in 2005, 14 in 2004, 16 in 2003 and 18 in 2002, among others.<sup>12</sup> There was an increase of 3.31% in child rape cases during 2006 (655 cases) as compared to 2005 (634 cases) and further that 42.63% of the total rape victims in the state during 2006 were minors.<sup>13</sup>

## II. Human rights violations by the security forces

Maharashtra continued to record high rates of custodial deaths and extrajudicial executions. The NHRC received complaints of a total of 21 deaths in police custody, and 15 cases of encounter killings in Maharashtra during 1 April 2006 - 31 March 2007.<sup>14</sup>

During 2006, the National Crime Records Bureau, Ministry of Home Affairs, recorded 18 deaths in police custody in the state. Of them, the state government claimed that eight committed suicide in police custody, four died during hospitalization/treatment, one died in accident, two died by mob attack/riot and three died due to illness/natural death. Two custodial rape cases were also registered.<sup>15</sup>

According to the Maharashtra Criminal Investigation Department (CID), a total of 5,159 complaints were received against the state police personnel and enquiries were initiated in 1,049 cases including judicial inquiry ordered in 71 cases, magisterial inquiry in 10 cases and regular departmental inquiry in 968 cases during 2006. After

inquiry, 3805 cases were found to be false. While departmental inquiry was initiated in 332 cases and accused were charge sheeted or sent for trial in 233 cases.<sup>16</sup>

On 16 January 2007, Ramdas Gaekwad was allegedly tortured to death in the lock-up in Andheri police station in Mumbai. He was arrested after a case of theft was filed against him and another person by his employer, Mukesh Sharma on 9 January 2007. The accused were remanded to police custody till 17 January 2007. According to Bipin Bihari, Additional Commissioner of Police, West Zone, Ramdas Gaekwad had a "chest pain" in the night after which he was taken to Cooper Hospital at 1.15 pm but died on the way to hospital. The deceased's relatives blamed the police for his death. The case has been handed over to the Crime Branch for investigation.<sup>17</sup>

On 18 February 2007, Vinod Chandorkar was picked up by the police of Wadala police station in Mumbai on the basis of a complaint filed by his wife alleging domestic violence. By 7.35 pm of the same day, he had died. The police said he committed suicide in the toilet room but the relatives of the deceased claimed that he was tortured to death. After the opposition parties raised the issue of Vinod Chandorkar's custodial death in the State Assembly, the Deputy Chief Minister and Home Minister of Maharashtra, Mr R R Patil ordered an investigation by the Criminal Investigation Department.<sup>18</sup>

On 16 May 2007, Suman Kale, a woman belonging to a denotified tribe, died in police custody at Ahmednagar, 120 km from Pune. According to the Superintendent of Police of Ahmednagar, Sunil Ramanand, Kale was summoned on 12 May 2007 on suspicion of being in possession of stolen jewellery and harbouring dacoits. She was kept at the local crime branch, where her health deteriorated suddenly. The Superintendent of Police claimed that she had consumed poison but failed to explain how she could have access

to poison in custody. She died at a private hospital on Savedi road in Ahmednagar where she was admitted on 14 May 2007. Maharashtra Bhatkya Vimukta Jamati president Kisan Chavan alleged that the deceased was tortured by the police which resulted in her death. Kale's son Saheba also alleged torture. He stated that he was not allowed to meet his mother (the victim) when she was held in custody.<sup>19</sup>

There were frequent reports of alleged encounter killings. According to the NHRC, as many as 15 encounter deaths were reported from Maharashtra during the period 1 April 2006 to 31 March 2007.<sup>20</sup>

On 18 December 2007, Mr. Subhash Shivappa Bhosle, a member of Scheduled Tribe/Denotified Tribe of Mangalvedha Town under Solapur district was allegedly killed by the police at Arvali village under Mohol taluka in Solapur district. According to Akhabai, the wife of the deceased, over 200 people gathered to perform a *pooja* (worship) to Goddess Kalobai at Arvali village on 18 December 2007 evening by sacrificing four goats. A group of nearly 100 policemen raided the village and began beating them. Mr. Subhash Shivappa Bhosle was beaten to death during the events. When women from the village tried to stop the beating, the police began to beat the women.<sup>21</sup>

Arbitrary arrests were also reported. The Anti Terror Squad of the Maharashtra police arrested Shridhar Srinivasan alias Vishnu, Vernon Gonsalves alias Vikram and K D Rao, an advocate from Mumbai, on the suspicion that they were Maoists on 19 and 20 August 2007.<sup>22</sup> They were allegedly tortured in the custody.<sup>23</sup>

The courts intervened in a number of cases of gross human rights violations.

On 22 March 2007, Mumbai High Court sentenced three police officials identified as Subhash Panhale, Ananda Bhosale and Sunil

Jadhav to life imprisonment for killing one Arun Pandav of Shahupuri in the custody of Kolhapur police station in December 1985.<sup>24</sup>

In December 2007, after the Bombay High Court's 15-day ultimatum to the Maharashtra Government on 21 November 2007, the state government provided the permission or the prosecution of police officers allegedly involved in the custodial death Khwaja Yunus in January 2003. Yunus was arrested as an accused in the powerful blast ripped apart a bus in Ghatkopar in northern Mumbai on 29 July 2003 in which four persons were killed and 32 injured. An investigation by the Criminal Investigation Department found 14 police personnel responsible for the death of Yunus. The CID forwarded the proposal to the Maharashtra government to give the sanction for the prosecution of these 14 police personnel.<sup>25</sup>

In December 2007, the Nagpur Bench of the High Court convicted nine policemen of the custodial death in 1993 of Joinus Adam Elamatti arrested on mistaken identity. The court sentenced them to three years of rigorous imprisonment (RI) each, while acquitting the tenth accused policemen for lack of evidence. The nine policemen convicted were identified as police inspector Yashwant Kanade, police sub inspectors Zahiruddin Deshmukh and Ram Kadu, and constables Bhaskar Narule, Nilkanth Chorpagar, Namdeo Ganeshkar, Ramesh Bhoyar, Ashok Shukla and Sudhakar Thakre. The bench, however, acquitted driver Raghunath Bhakte.<sup>26</sup>

### III. Judiciary and administration of justice

The judiciary was hampered by a significant backlog of cases. There were a total of 3,67,409 cases pending before the Bombay High Court and 40,32,194 cases were pending before the District and Sub-ordinate Courts in Maharashtra as on 30 September 2007.<sup>27</sup>

Yet, as of 1 January 2008, there were 24 vacancies of judges in the Bombay High Court, while there were 206 vacancies of judges in the District and Subordinate Courts in Maharashtra as on 30 September 2007.<sup>28</sup> The lack of adequate judges in the courts, among others, led to judicial delay in disposing of the cases.

#### IV. Violations of the rights of indigenous peoples

According to 2001 census of India, the total population of Maharashtra was 96,878,627 out of which 8,577,276 (8.9 per cent) were Scheduled Tribes (STs). There are 47 tribal groups in the state of which Katkaria (Kathodi), Maria Gond and Kolam are recognized as so called 'Primitive Tribal Groups'. Although tribals are scattered throughout the state, about 54% of them are concentrated in six districts, namely Thane, Nashik, Nandurbar, Yavatmal, Nagpur and Dhule.<sup>29</sup> About 87.3 per cent of the ST population of Maharashtra lives in rural areas.

The Scheduled Areas notified by the Government of India are 5,809 villages and 16 towns in 12 districts namely Thane, Pune, Nashik, Dhule, Nandurbar, Jalgaon, Ahmednagar, Nanded, Amravati, Yeotmal, Gadchiroli and Chandrapur. The Tribal Sub-Plan (TSP) covers the Scheduled Area. In addition, the State Government designated 773 villages in the districts of Raigad, Bhandara, Gondia, Chandrapur, Yeotmal and Pune as Additional Tribal Sub-Plan (ATSP) areas. Other villages having substantial tribal populations have also been included under Modified Area Development Approach (MADA) and Mini-MADA.

According to the state government of Maharashtra, 49 % of the tribals live in Scheduled Areas (main TSP area), 2.6% in ATSP areas, 6.8% in MADA and Mini-MADA areas. The remaining 41.6% of the tribals live outside all these areas.<sup>30</sup> Effectively, 41.6% of the tribals have been denied the

special benefits meant for the development of the tribal areas.

Literacy is low among tribals. According to 2001 Census, 55.2 per cent of tribals are literate against 76.9 per cent state average. The female literacy rate of 43.1 per cent among ST population compares to 67.0 per cent among the average of the state. Of those literate 45 per cent of those not attained primary level education. Only 2.1 per cent of literates are graduate or above.<sup>31</sup>

##### a. Atrocities

Crime against tribals in Maharashtra is the highest in India. According to "Crime in Maharashtra-2006" report of the Maharashtra Crime Investigation Department, one crime was committed against the tribals every day in 2006. There was an increase of 19.20% in crime against the tribals during 2006 as compared to 2005.<sup>32</sup> The NCRB recorded 267 cases (4.6% of the total crimes against STs in India) of atrocities committed against the Scheduled Tribes in Maharashtra in 2006. These included 56 rape cases, three abduction cases, eight arson cases and 58 cases registered under the SC/ST (Prevention of Atrocities) Act of 1989, among others.<sup>33</sup>

On 11 November 2007, a 17-year-old tribal girl was allegedly gang raped by seven persons in Warud tehsil in Amravati district.<sup>34</sup>

##### b. Land alienation

Maharashtra has a number of laws, such as 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 6<sup>th</sup> July, 1974.<sup>35</sup>

The government of Maharashtra itself admitted that permissions 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.”<sup>36</sup>

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).<sup>37</sup>

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 the 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 have been disposed of by the court, of which 19,943 cases (44.7%) involving 99,486 acres of land have been disposed of in favor of tribals and 24,681 cases (55.3%) against tribals. 1,010 cases were pending in the court.<sup>38</sup>

## V. Violations of the rights of the Dalits

Crimes against the Scheduled Castes or Dalits were high in Maharashtra. In 2006, the NCRB recorded 1,053 cases of violations against Dalits in Maharashtra, compared to

865 cases during 2005 signifying an increase of 21.73 %. Of the 1,053 cases included 21 killings, 87 rape cases, five abduction cases, nine cases of arson, 36 cases registered under Protection of Civil Rights Act, 1955 and 350 cases registered under SC/ST (Prevention of Atrocities) Act, 1989.<sup>39</sup> According to “Crime in Maharashtra-2006”, two crimes were committed against Dalits on average every day in 2006. There was an increase of 21.73% in crime against Dalits during 2006 compared to 2005.<sup>40</sup>

The conviction rate for crimes committed against Dalits has been very low in Maharashtra. According to information obtained through the Right to Information Act by the National Campaign for Dalit Human Rights, 4,864 cases were filed under the SC/ST (Prevention of Atrocity) Act of 1989 between 2000 and 2006 in the State. However, there were less than 200 convictions during the same period.<sup>41</sup> According to the National Crime Records Bureau, the rate of filing charge-sheet for crimes committed against Dalits in Maharashtra was 96.3% during 2006<sup>42</sup> but the conviction rate in court was merely 3.6% during the same year. Out of total 1208 cases in which trials were completed, only in 44 cases the accused were convicted. Trial in 6,181 cases of crimes committed against Dalits was pending in the courts at the end of 2006.<sup>43</sup>

On 4 April 2007, a school headmaster identified as Sharad Kaitade, a member of Other Backward Classes community, allegedly sprinkled cow urine on Scheduled Caste students to purify them at Surewadi village in Bhandara district. A teacher of the school Madhavi Raut publicly stated that the school was rid of a “curse” following the transfer of the Dalit headmistress Tilottama Tembhurkar. Mr Kaitade, who was appointed headmaster of the school got a bottle of cow’s urine and asked Ms Raut to sprinkle it on the Dalit students in the classroom. Following a complaint from the parents of the students, Mr Kaitade was arrested on 17 April 2007

under Section 7 (1) (d) of the Protection of Civil Rights Act. But he was released on bail the same day.<sup>44</sup>

On 7 April 2007, a Dalit woman identified as Indubhai Tandekar was allegedly set on fire by an upper caste man identified as Babulal Bhagat at Pachgaon village under Mohadi tehsil in Bhandara district. The victim died on 8 April 2007 due to burn injuries. The accused had reportedly demanded a loan from Indubhai Tandekar but when she refused to lend him money, he poured kerosene on her and set her on fire.<sup>45</sup>

In the last week of April 2007, a Dalit identified as Madhukar Ghatge, a farmer, was killed with axes and iron rods by upper castes for digging a well on his own land at Kulakjai village under Man taluka in Satara district. The upper caste villagers did not want him to dig a well which would have been the first well in Kulakjai village on land owned by a Dalit. Ghatge had prior permission from the District Council and Village Council to dig a well. Ten people were arrested under the SC/ST (Prevention of Atrocities) Act in connection with the murder.<sup>46</sup>

## VI. Attacks on the press freedom and minorities

The media houses and journalists and religious minorities in Maharashtra came under attacks from Hindu fundamentalists.

On 16 April 2007, the office of *Star TV* located near Mahalaxmi station in south central Mumbai was attacked by a mob of about 50 persons allegedly associated with Hindu Rashtra Sena who were protesting a news story about inter-caste marriage. News Editor Chandramohan Puppala was injured in the attack.<sup>47</sup>

On 14 August 2007, members of the Shiv Sena, a Hindu nationalist political party, ransacked the office of *Outlook* magazine at Nariman Point in Mumbai after the magazine included Shiv Sena chief Bal Thackeray in

the list of “villains” in a special issue to mark India’s 60th independence anniversary. A cartoon showing him dressed like Adolf Hitler accompanied the article. About a dozen Shiv Sena activists entered the office smashing windows and damaging computers.<sup>48</sup>

On 7 May 2007, two Christian priests identified as Ajit Billawi and Ramesh Kagargole from Ichlakaranji in Kolapur district were severely beaten up and paraded through the streets allegedly by Bajrang Dal and VHP activists for allegedly converting Hindus to Christianity.<sup>49</sup>

On 13 May 2007, a group of Hindu extremists allegedly beat up a Christian missionary identified as Shrikant Chandekar of the Maharashtra Village Ministries at Joadmoha in Yavatmal district. The incident reportedly happened when a group of villagers numbering around 30 came to stop a prayer meeting of Christians held at Shrikant Chandekar’s residence and beat up Shrikant when he refused to stop the prayer meeting.<sup>50</sup>

## VII. Violations of International Humanitarian Law by the AOGs

The Naxalites who are active in Gadchiroli district were responsible for serious violations of international humanitarian law including the killing of alleged police informers.

On the night of 28 February 2007, Patali Pandu Zore was killed by the Naxalites at Tamba village under Etapalli taluka in Gadchiroli.<sup>51</sup>

On the night of 16 May 2007, a tribal woman identified as Samsubai Muraji Uike was shot dead by Naxalites at Dabri under Bedgaon police station in Gadchiroli district on the suspicion of being police informer.<sup>52</sup>

On the night of 11 June 2007, a tribal identified as Doge Mura Naroti (30) was killed by slitting his throat with a sharp weapon on the charge of being police informer at Hedri

village under Etapalli tehsil in Gadchiroli district.<sup>53</sup>

On 14 October 2007, two tribal youths identified as Santosh Navdi (19) and Ranjit Holi (18) were killed in a forest at Jambia-Gatta under Etapalli tehsil in Gadchiroli district on the charge of being police informers.<sup>54</sup>

On 6 November 2007, a tribal youth identified as Fagusoma Tofa (25) was shot dead by Naxalites at Tavegaon village in Gadchiroli district on the charge of being police informer.<sup>55</sup>

The Naxalites were also responsible for kidnapping and destruction of public property.

On 19 July 2007, the Naxalites kidnapped two engineers of Lloyds Metals from Surjagarh hills area in Etapalli tehsil in Gadchiroli district.<sup>56</sup>

On the night of 18 January 2007, the Naxalites set ablaze a tower of Bharat Sanchar Nigam Ltd (BSNL) at Yelchil village under Aheri tehsil in Gadchiroli district.<sup>57</sup>

On 8 April 2007, Naxalites belonging to Dippagarh Dalam burnt down the Dhanora tehsil office in Gadchiroli district.<sup>58</sup>

On 10 April 2007, the Naxalites burnt down the panchayat office of Chokhewada village at Etapalli tehsil in Gadchiroli district.<sup>59</sup>

On 2 December 2007, Naxalites blew up a telephone tower of Vodafone at Virola under Dhanora tehsil in Gadchiroli district.<sup>60</sup>

## VIII. Special focus: farmers suicides

29,000 farmers have committed suicide in the state between 1997 and 2005, according to a study of data issued by the Ministry of Home Affairs and the National Crime Records Bureau. Maharashtra saw an increase of 105 per cent in farm suicides during 1997

– 2005 and more than 19,000 of those farmer suicides occurred from 2001 onwards. Out of the 1,50,000 farmer suicides in India between 1997 and 2005, over 89,000 occurred in just four States: Maharashtra, Andhra Pradesh, Karnataka, and Madhya Pradesh (including Chhattisgarh).

Maharashtra accounts for a third of all farm suicides within these States. The six districts - Akola, Arnravati, Buldhana, Washim, Yavatmal and Wardha – of the impoverished Vidarbha region were the worst affected.<sup>61</sup>

According to the Vidarbha Jan Andolan Samiti (VJAS), 1,168 farmers committed suicide in Vidarbha region in 2007 as on December 14<sup>th</sup>. Of them, 99 died in January, 107 in February, 113 in March, 97 in April, 102 in May, 82 in June, 75 in July, 95 in August, 113 in September, 109 in October, 106 in November and 68 as on 14<sup>th</sup> December 2007.<sup>62</sup> In 2006, at least 1,060 farmers committed suicide in Vidarbha region.<sup>63</sup>

In order to address the farmers' problems, on 29 September 2006, the government of India approved a Rs.1,69,78.69 crore (1 crore = 10 million) rehabilitation package for farmers in 31 districts of Andhra Pradesh (16 districts), Karnataka (6 districts), Kerala (3 districts) and Maharashtra (6 districts of Vidarbha region). The package comprised loan rescheduling and interest waiver, and specific schemes for watershed development, seed replacement, horticulture and extension services, and for subsidiary income through livestock, dairying and fisheries. Under the package which would be implemented in a period of three years, Andhra Pradesh got Rs. 9,650.55 crore (including a waiver of interest on loans to the tune of Rs. 1,436.44 crore), Karnataka got Rs. 2,689.64 crore, including an interest waiver of Rs. 209.81 crore, Kerala's package was Rs.765.24 crore, including interest waiver of Rs. 360 crore, and Vidharbha region of Maharashtra was allotted Rs. 3,873.26 crore, including an interest waiver of Rs.712 crore.<sup>64</sup>

In March 2007, Union Agriculture Minister Sharad Pawar in his reply to the Rajya Sabha stated that the Centre had released Rs 1,530 crore or 39.5% of the Rs 3,873 crore package announced by the Prime Minister for relief to farmers in six districts of the Vidarbha region. The amount released included Rs 784 crore for waiver of interest on loans taken by farmers and about Rs 700 crore for irrigation projects.<sup>65</sup>

However, the Prime Minister's relief package failed to reach the farmers. The state government undermined the scheme. The farmers were given very small sums as compensation. It has been reported that farmers in Vidarbha were given compensation money ranging from Rs 13 to Rs 20 for crop losses.<sup>66</sup> What is more grotesque is that the cheques often have often bounced. In November 2007, the Nagpur bench of Bombay High Court took note of the situation with regard to a cheque for Rs 10,000 for Vandana Shende whose husband had committed suicide. The cheque was issued by Yavatmal district administration but the district central cooperative bank dishonoured the cheque because of lack of funds in the district administration account. Kishore Tiwari of Vidarbha Jana Andolan Samiti filed a Public Interest Litigation.<sup>67</sup> Widespread reports in the media prompted the Prime Minister's Office to issue a clarification on 7 July 2007 stating that Rs 3 crores was dispersed to six districts of Vidarbha in July 2006 itself, and there was

no delay in releasing the funds. In addition to Rs 3 crores for Vidarbha, funds to the remaining 25 districts of Andhra Pradesh, Karnataka and Kerala were released without delay, amounting to Rs 12.5 crores from Prime Minister's National Relief Fund.<sup>68</sup>

The Parliamentary Standing Committee on Agriculture in its 23rd report for 2006-07 presented to the 14<sup>th</sup> Lok Sabha on 20 March 2007 termed the Prime Minister's package for Vidarbha region as "*a glaring example of the inefficiency of the Government in ameliorating the conditions of the farmers.*"<sup>69</sup>

The government also tried to mislead the Parliamentary Standing Committee on Agriculture by providing lower figures of suicides by farmers. The Committee stated, "*The Committee further note that as per the information provided by the Department (Department of Agriculture and Cooperation), number of suicide cases in the country during last 5 years (2000 onwards) is 11782 but the figure does not seem to be correct for example in Maharashtra the number of cases projected by Department are 142 in 2005 whereas the Committee are aware that only in Vidarbha region of Maharashtra 435 farmers have committed suicide since June 2005*". The Committee recommended the Government to straighten their records and asked the State Governments to project the factual position so that the Government and the people of the country are aware of the actual position and act accordingly.<sup>70</sup> ■

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# Manipur

## I. Overview

Manipur continued to witness serious human rights violations during 2007. The claim of maintaining a “zero tolerance policy” on human rights violations by the security was not fulfilled. The armed forces carried out arbitrary arrest, torture and extrajudicial killings with impunity. The Central Government failed to implement the recommendations of the Committee to Review the Armed Forces Special Powers Act of 1958.

According to the 2007-2008 Annual Report of the Ministry of Home Affairs, 130 civilians and 39 security forces were killed in 2007 against the killing of 96 civilians and 28 security forces in 2006.

Armed opposition groups (AOGs) were responsible for gross violations of international humanitarian law, including killing and torture. AOGs targeted migrant labourers in 2007.

The press was under immense pressure from both the government and armed opposition groups. On 2 August 2007, Manipur government imposed restrictions on reporting of certain militancy-related activities. The order was issued under the provisions of Section 95 of the Criminal Procedure Code (Power to declare certain publications forfeited and to issue search warrants for the same).<sup>1</sup>

Judicial delay continued to plague the system in Manipur. There were 4 vacancies out of the sanctioned strength of 14 judges in the District and Subordinate Courts by the year's end. While a total of 6609 were pending during the same period of time.<sup>2</sup>

## II. Human rights violations by the security forces

The security forces were responsible for alleged extrajudicial killings of innocent civilians. However, the National Human Rights Commission (NHRC) received no complaints of custodial deaths from Manipur during the year 2006-2007.

### a. Alleged extrajudicial killings

Both the State and Central security forces were responsible for the violation of the right to life. Those who were allegedly executed extrajudicially included:

- Nongmaithem Tomba alias Chinung (37) (son of Late N. Bashikhong Singh) of Kumbi Kangjeibung Mapal under Kumbi Nagar Panchayat Ward No. 4 in Bishnupur district was killed by the Assam Rifles on 24 April 2007;<sup>3</sup>

- Athokpam Manja (47) (son of Late A. Nodiyachand) of Bashikhong Torbam Leikai under Iriblung Police Station in Imphal East district was killed by Rapid Action Police Forces of the Manipur Police Commando at Langol in Imphal West district after being kidnapped from his house on 29 April 2007;<sup>4</sup>

- Mohammed Ali Saha (28) of Keirang Awang Leikai under Heingang Police Station in Imphal East district was killed by the 4<sup>th</sup> Assam Rifles stationed at Koirengei in Imphal East on 23 June 2007;<sup>5</sup>

- Md. Ramesh (18) (son of Md. Shamirudin) of Keirang Mamang Leikai, and Nasir Hussain alias Isir (33) of Khomidok Jama Masajit Maning under Heingang police station in Imphal East district was killed by the 4<sup>th</sup>

Assam Rifles stationed at Mantripukhri on 11 August 2007;<sup>6</sup>

- Md Ayub Khan (about 29 years) (son of Md. Abdul Karimuddin) of Keirang Muslim Litan Makhong under Heingang Police Station in Imphal East district died in the custody of 19<sup>th</sup> Assam Rifles stationed at Litan in Ukhrul district on 30 August 2007;<sup>7</sup>
- Md Razak Khan (15) of Lilong Leihakhong was killed by the combined forces of Manipur Commandos and the personnel of the 32<sup>nd</sup> Assam Rifles at Leihakhong Maru under Lilong Police Station in Thoubal district on 13 September 2007;<sup>8</sup>
- Md Sabir Ahamad (16) (son of Md Salimuddin) of Irong Chesaba Idigha Leirak under Mayang Imphal in Thoubal district and a student of Class XI of The Little Master English Higher Secondary School, Shamurou was killed by the 22<sup>nd</sup> Maratha Light Infantry stationed at Mayang Imphal Chabung Company on the night of 14 October 2007;<sup>9</sup>
- Khagenbam Ajao alias Ibungo (18) (son of Kumar) of Thoubal Athokpam was killed by 34<sup>th</sup> Assam Rifles near Leirongthel under Yairipok police station in Thoubal district on 22 January 2007;<sup>10</sup>
- Henkhohao Singsit was killed by the 38<sup>th</sup> Assam Rifles at Khoken village under Saparmeina police station in Senapati district on 31 January 2007;<sup>11</sup>
- Asangabm Shyamchand (27) was killed by Manipur Police commandos at Lamai Bazar in Imphal East district on 8 February 2007;<sup>12</sup>
- three youths identified as Sapam Brojen, Taorem Boba and Thangkhenmung were killed by Manipur Police commandos at Kwakeithel Heinoukhongnembi Leikai

in Imphal West district on 6 April 2007;<sup>13</sup> and

- Angom Brajamani Singh, resident of Phayeng in Imphal West district, was killed by Manipur Police personnel at Khoyathong on 18 November 2007.<sup>14</sup>

In a rare case, the Imphal Bench of Gauhati High Court on 11 July 2007 directed the 8<sup>th</sup> Assam Rifles to pay Rs 3.5 lakh to the family of Athokpam Purnima Singh of Kha Naorem Leikai in Imphal East district of Manipur who was killed in the custody of the 8<sup>th</sup> Assam Rifles on 1 September 2001.<sup>15</sup>

#### **b. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest, illegal arrest and torture were common in Manipur. Yet, the National Human Rights Commission (NHRC) received only 1 case of illegal arrest, 1 case of unlawful detention and 1 case of other police excesses in Manipur during the period of 1 April 2006 to 31 March 2007.<sup>16</sup>

However, Asian Centre for Human Rights documented several cases of arbitrary arrest, illegal detention and torture by the security forces in 2007.

Soraisham Gopeshor Singh (about 42 years) (son of late Soraisham Hera Singh) of Kodompokpi Maning Leikai under Namboi police station in Imphal West district was tortured in the custody of 22<sup>nd</sup> Maratha Light Infantry and 57<sup>th</sup> Mountain Division.

The house of the victim (a teacher at Suranjoy English Academy at Mekola Bazaar in Imphal West district) was raided by 22<sup>nd</sup> Maratha Light Infantry stationed at Patsoi on the night of 16 August 2007. They suspected him to be “M.C. Luwang”, an alleged member of the banned United National Liberation Front (UNLF). When the victim’s brother Mr Soraisham Sanajaoba Singh, a retired member of the Manipur Rifles, pleaded on behalf of the victim, the army officer did not

arrest the victim but asked him to produce himself to their camp the next morning.

On the morning of 17 August 2007, the victim along with others met the Commanding Officer at the Head Quarters of the 22 Maratha Light Infantry stationed at the Tulihal Airport. Again on 18 August 2007, the victim along with the local Member of Legislative Assembly, Mr RK Anand Suranjoy and English Academy School Principal Mr Heisnam Nungshibabu went to the 22<sup>nd</sup> Maratha Light Infantry camp stationed at Patsoi and met the Captain.

The victim also submitted a written representation to the Superintendent of Police, Imphal West clarifying his credentials. He informed the local Meira Paibis (women's organization) as well as the local media that he "is not M.C. Luwang of UNLF".

On 1 September 2007 at around 11 pm, six army personnel from 57<sup>th</sup> Mountain Division came to his house and dragged him from the bed.. He was blindfolded and handcuffed. He was tortured in the army custody. He was later handed over to the Nambol Police Station and finally released at about 11.30 am after signing a P.R. Bond. He was admitted for medical treatment at the Nambol Community Health Centre.<sup>17</sup>

On 25 May 2007 at around 3.30 p.m, Moirangthem Budha Singh, a goldsmith, was arrested by the police. Mr Singh was unlawfully detained at the lock up of Moirang police station for 5 days without producing him before the Court. During the illegal detention, he was allegedly coerced to sign a paper. Later, he was taken to Sajiwa Jail and detained there for another 5 days. On 5 June 2007, he was produced before the Chief Judicial Magistrate, Bishunupur and released on bail.<sup>18</sup>

On 29 November 2007, Elangbam Sanayaima (about 25 years) (son of Elangbam Inaocha) of Hiyanglam Warakhong in Thoubal district was arrested by personnel of the 21<sup>st</sup> Assam

Rifles stationed at Keirak on false charge of being a member of the banned United National Liberation Front (UNLF).

He was taken to Keirak camp. He was blindfolded and his hands tied. The Assam Rifles personnel alleged that he was one Sanayaima, a member of the banned UNLF. He denied the accusation. He was then tortured to coerce him to admit that he was a member of the UNLF. According to the victim, the torture lasted for about three hours. Thereafter, he was taken in an army vehicle to the Kakctling police station. On the way to the police station the Assam Rifles personnel threatened him saying that they would kill him in a fake encounter if he did not confess. Out of fear he admitted before the Officer-in-Charge of Kakctling police station that he was Sanayaima. He was detained at the police lock-up after a medical check up at the local Kakching Hospital. He was later released from the police custody. The charges against him have not been dropped.<sup>19</sup>

Maibam Ratankumar Singh is a lecturer in the Department of History in S. Kula Women's College, Nambol Kongkham in West Imphal. On the intervening night of 29-30 July 2007, Maibam Ratankumar Singh (about 40 years) of Kwakeithel Dewan Leikai under Singjamei Police Station in Imphal was picked up from his house by personnel of the Jammu and Kashmir Light Infantry stationed at Khwairapan pump house in Bishnupur district. He was questioned and taken away. No arrest memo was issued. When the victim's wife, Maibam Ongbi Nanda Devi tried to prevent the He was blindfolded. After 30 minutes the vehicle stopped. The officer asked him to "speak the truth. One of the army personnel threatened to kill him. Then he was taken to the army camp. His legs were tied together with a rope and his hands were tied at the back. They interrogated him further. He once again insisted that he had no connections with the under ground outfits. He was tortured. In the morning of 30 July 2007, an officer apologized and said that

they had been mistaken and that he would be released soon. He was allowed to make a call to his wife.. The victim was released after they signed the paper. The victim had to be admitted to Jawaharlal Nehru Hospital, Imphal.<sup>20</sup>

On the midnight of 23 August 2007, Wahengbam Binoy alias Roshan (22) (son of W. Iboishak) of Khuman Maning Leikai under Wangoi police station in Bishnupur district was picked up by the personnel of 22<sup>nd</sup> Maratha Light Infantry of 9 Sector under HQ IGAR (S) without any arrest memo. The victim was a farmer. He was tortured at the army camp by Manipuri speaking personnel. On the morning of 24 August 2007, he was again tortured by 7 to 8 police commandos at the same camp. He was forced to sign a blank paper. In the afternoon of 24 August 2007, he was handed over to Nambol police station. Later in the same day, he was shifted to the lock up of Wangoi police station. Yet, on 24 August 2007, the army authorities issued a press statement stating that a cadre of the banned Kanglei Yaol Kanna Lup (KYKL) was apprehended by 22<sup>nd</sup> Maratha Light Infantry of 9 Sector under HQ IGAR (S) from Khuman. On the morning of 25 August 2007, the victim was produced before the Chief Judicial Magistrate at Lamphel and remanded 7 days in police custody. He was released on bail on 31 August 2007.<sup>21</sup>

On 12 August 2007, Md. Siraj Ahamed (55) of Lilong Tairen Makhong in Thoubal district was picked up by personnel of 32<sup>nd</sup> Assam Rifles stationed at Lilong. The victim is a Grade IV employee of the Irrigation and Flood Control Department, Government of Manipur posted at Division No. 6 at Lamphel. On 12 August 2007 at around 11.30 am, some Assam Rifles personnel came to his house at Lilong Tairen Makhong in Thoubal district and asked him to produce drugs and tablets (referring to substance abused by drug addicts). When the victim denied having any knowledge about drugs, he was hit at the back of his waist. He requested the Assam Rifles

personnel not to hit at the waist as he had just undergone a major surgery. But the beating continued. When the victim's wife Haliman Begum demanded to know the reason for the beating, the Assam Rifles personnel also threatened her.<sup>22</sup>

On 4 May 2007, Potshangbam Shantikumar Singh (39) (son of P. Kullachandra Singh) of Bhamdiyar Maning Leikai in Imphal West district was arrested by the personnel of 4<sup>th</sup> Assam Rifles stationed at Chingmeirong in Imphal on the charges of having links with the banned Kanglei Yaol Kanna Lup (KYKL).

During detention, the Assam Rifles personnel allegedly asked him to run by holding their gun. But he refused to run away thinking that he would be shot from behind. Then, he was blindfolded and kicked on his chest and taken to the army camp at Chingmeirong. Shantikumar was again tortured at the Chingmeirong camp in order to force him to confess that he had connections with KYKL. He was allegedly stripped naked; water was poured on his head, given electric shocks and was beaten up. He was not given food and was forced to sleep on the wet floor. On the morning of 5 May 2007, the Assam Rifles took his signature on a blank paper and then photographed him with a board at his chest. He was then handed over to Imphal West police station at around 10.00 pm on 5 May 2007. On 9 May 2007, Shantikumar was released on bail. He filed a complaint with the Superintendent of Police of Imphal West alleging torture at the hands of the Assam Rifles on 17 May 2007, but no action was taken. On 5 July 2007 at around 2.30 am, Santikumar was again arrested along with another person identified as Boinao from Ningthoukhong by 2nd Maratha Light Infantry stationed at Patsoi. In the custody, Shantikumar was allegedly stripped naked and tortured. He was charged with being a member of KYKL. At around 3 pm on 5 July 2007, both Shantikumar and Boinao were handed over to Patsoi police station. On 6 July 2007, Shantikumar was handed over to

Nambol Police station and produced before the magistrate. He was remanded for three days in police custody. On 9 July 2007, he was produced before the Judicial Magistrate First Class Bishnupur Court and sent to jail. On 25 July 2007, he was released on bail.<sup>23</sup>

Children are subjected to illegal detention and torture.

On the night of 27 June 2007, personnel of the 22<sup>nd</sup> Maratha Light Infantry while arresting one Md Manao (38) (son of late Talibula) allegedly tortured three minor girls named (name withheld) (17) (daughter of Md Abdul Chessam), her 15-year-old sister (name withheld) and (name withheld) (13-year-old) at Sekmaiin Makha Phoubakchao in Imphal. The victims had demanded production of the arrest memo by the security personnel in order to arrest Md Manao. All the three victims suffered injuries and had to be admitted to Regional Institute of Medical Sciences (RIMS), Imphal.<sup>24</sup>

On 11 July 2007, (Name withheld) (17 years) (son of Ksh. Amuthoi) of Kongba Uchekcon Khunou in Imphal East district was detained by the personnel of Indian Reserve Battalion (IRB) at Kongba Bazar near Meitei Mayek High School when he was returning home after attaining private tuition. The security personnel suddenly accused him of taking alcohol or drugs. When the young boy denied the charges, the IRB personnel allegedly slapped him several times and asked him to lie down on the ground. He was illegally detained for about one and half hours and mentally and physically tortured. Following torture, the parents of the victim had to admit Kshetrimayum Roshan Singh to the Jawaharlal Nehru Hospital, Porompat, Imphal East at around mid night on 11 July 2007.<sup>25</sup>

On 29 August 2007, seven youths identified as (Names withheld) were allegedly dragged out from a house and beaten up with wooden logs and hit with rifle butts by the India Reserve Battalion personnel in Senapati district.<sup>26</sup>

On 21 December 2007, personnel of the 24<sup>th</sup> Assam Rifles allegedly beat up three innocent civilians including two minor girls identified as (names withheld) (17 years) and (15 years) in Moreh town near the Indo-Myanmar border. The 24<sup>th</sup> Assam Rifles stationed at Moreh raided a house in Moreh where the Muslim community members were celebrating “Eduh Zuha” festival.

Assam Rifles personnel arrested Md. Nasir Khan. When demanded an arrest memo to be issued the Assam Rifles personnel started beating some of them. (name withheld) (17 years) was fell unconscious from the attack. The victims were admitted at the Moreh Hospital. As the conditions of the minors worsened, they were shifted to the Regional Institute of Medical Sciences at Imphal and admitted to Emergency Ward.<sup>27</sup>

### III. Freedom of the press

Journalists worked under immense threats. The threats came from both the government and AOGs. On 2 August 2007, Manipur government imposed restrictions on reporting of certain militancy-related activities. The order was issued under the provisions of Section 95 of the Criminal Procedure Code (Power to declare certain publications forfeited and to issue search warrants for the same).<sup>28</sup>

The security forces were responsible for torture, illegal detention and harassment of the journalists. On 14 March 2007, a team of reporters including cameraman Gagan from the *ISTV*, and Brojen from the *Ireibak*, were beaten up and detained for nearly two hours by personnel of the 38<sup>th</sup> Assam Rifles posted at Kotlien on NH-53 under Senapati district while covering a case of alleged sexual assault of a girl by a Assam Rifles personnel.<sup>29</sup>

The journalists also faced the wrath of the student activists. On 20 March 2007, four journalists including reporter Nikesh of *Ireibak* and *ISTV* cameraman Gagan were detained and their cameras and other materials seized

by Kuki Students Union (KSO) and Hills Tribal Council (HTC) for not complying with bandh (strike) called by the KSO.<sup>30</sup>

AOGs employed torture and threats as means to silence media criticism. On the night of 4 November 2007, journalist AK Sanaton Singh was beaten up by unidentified persons, believed to be cadres of armed groups, at his house at Singjamei Wangma Kshtri Leikai in Imphal East district.<sup>31</sup>

On 31 July 2007, suspected cadres of the People's Revolutionary Party of Kangleipak (PREPAK) delivered a grenade packed in a box to the editor of *The Sangai Express* in Imphal to intimidate the editor.<sup>32</sup>

#### IV. Violence against women and children

The 2006 Annual Report of National Crime Records Bureau of India (NCRB) recorded 171 cases of violence against women in Manipur during 2006. Of these, 40 were cases of rape, 79 were kidnapping and abduction cases, among others. While the NCRB recorded 54 cases of violence against children including six cases of killing and 15 cases of rape during the same period.

On 13 March 2007, an 18-year old girl identified as Nengneikim Haokip (daughter of Themang Haokip) of Beitun Khullen in Senapati district, was allegedly raped by a personnel identified as Nungthui Gangmei belonging to the 38<sup>th</sup> Assam Rifles posted at Kotlien. The victim also suffered head injuries after the alleged rapist bashed her head against a stone while struggling with her.<sup>33</sup>

On 9 July 2007, a 20-year old woman was allegedly raped by three gunmen suspected to be cadres of an AOG in presence of her two minor children at T-Phaijoi village in Churachandpur district.<sup>34</sup>

Children were also targeted. According to statistics of Manipur Police, at least five cases of rape of minor girls were reported in 2006.

On 26 January 2007, a 10-year old girl was raped by a 60-year old man identified as Paokholung Golmei at Deulahlund in Imphal. In yet another case, an eight-year-old girl was raped in Thoubal district on 27 January 2007.<sup>35</sup>

The Manipur State Commission for Women (MSCW), which came into existence in November 2006, was ineffective. It lacked office infrastructure and adequate funds. The Commission functions in a single room at the State Bal Bhavan office at Khuman Lampak. The tiny office fails to accommodate the visitors who turn up every day and had to hear complaints outdoors. The state government initially sanctioned Rs 10 lakhs for the Commission which was later reduced to Rs 5 lakhs.<sup>36</sup> On 17 January 2007, Chairperson of Manipur State Women's Commission, Dr Ch Jamini herself stated that "*The state women commission is constituted by dumping three old women in a room at a deserted office with no infrastructure. It is equivalent to announcing a death sentence for the women commission.*"<sup>37</sup>

#### V. Violations of International Humanitarian Law by AOGs

AOGs were responsible for violation of the international humanitarian law.

##### a. Killings

AOGs carried out extrajudicial killings. Often the identity of the killers remained unknown.

AOGs targeted government officials, NGO activists, community leaders, political leaders, migrant workers, alleged police informers and laymen suspected of carrying out activities against AOGs.

On 14 November 2007, 50-year-old Y. Raseshwori Devi, Project Officer at Social Welfare Department, was shot dead by alleged cadres of Kangleipak Communist Party (Military Council) inside her office at Moirang in Bishnupur district. The deceased was accused of corruption.<sup>38</sup>

Others who were killed by alleged members of armed opposition groups included

- Chingsubam Akaba, adviser of the Manipur Peoples Party (MPP), was shot dead by two unidentified gunmen at his house at Khurai Soibamn Leikai in Imphal East district on 1 January 2007;<sup>39</sup>
- Mangasatabam Bharatngamba who was shot dead by unidentified gunmen at Tera Sadokpam Leikai in Imphal West district on 7 January 2007;<sup>40</sup>
- Y Gopen, an activist of Congress party, who was shot dead by unidentified gunmen at Mayang Langjing in Imphal West district on the night of 23 January 2007;<sup>41</sup>
- Yamthang Haokip, a Kuki tribal leader, who was shot dead by unidentified gunmen at Siakul in Imphal district on 9 March 2007;<sup>42</sup>
- Chingsubam Onil who was shot dead by unidentified gunmen after abduction from his residence at Thangmeiband Yumnam Leikai in Imphal West district on 1 April 2007;<sup>43</sup>
- Sanasam Jugeshwar Singh (53) who was shot dead by unidentified gunmen at Langol Laimanai under Lamphel police station in Imphal West district on 29 May 2007;<sup>44</sup>
- Yumnam Roshan, an auto-rickshaw driver who was shot dead by unidentified gunmen at Moreh town in Chandel district on 3 June 2007;<sup>45</sup>
- Angom Ingocha (son of Angom Gouramani) who was shot dead by unidentified gunmen at Moreh town in Chandel district on 4 August 2007;<sup>46</sup>
- three youths - Santham Dhanajit, Yumnam Inao Meitei and Huidrom Manaoton Meitei who were abducted

and killed by unidentified gunmen at Keibi Kumuda under Lamlai police station in Imphal East district on the night of 17 October 2007;<sup>47</sup>

- two youths - Ningthoujam Mangolsana and Yaikhom Angam, both residents of Yorbung Mamang Leikai who were shot dead by unidentified gunmen at Yorbung village in Imphal East district on the night of 21 October 2007;<sup>48</sup> and
- Akoijam Yaima alias Romen, a shopkeeper of Mongsangei Boro Makhong under Singjamei police station who was shot dead by alleged cadres of PREPAK in Imphal West district on 28 September 2007.<sup>49</sup>

AOGs also targeted migrant labourers. On the night of 8 March 2007, five Bengali migrant labourers were shot dead after abduction by unidentified gunmen at Ningthoukhong Bazar in Bishenpur district.<sup>50</sup>

The AOGs killed women on suspicion of being “police informers” or working against AOGs.

On 16 October 2007, Tongbram Bimola (35), mother of four children, was shot dead by alleged cadres of UNLF near her home at Kwakeithel Akham Leikai. The deceased was suspected of being a police informer.<sup>51</sup>

On 27 September 2007, Ningombam Komlatombi (46) was shot dead by cadres of AOGs at her home at Soibam Leikai while having dinner with her daughter and niece.<sup>52</sup>

On 24 February 2007, a woman identified as Kangujam Maimu Devi (wife of K Ranjit Singh) died after being abducted by suspected activists of an armed group for her alleged involvement in anti-party activities. She was abducted on 20 February 2007. Family members of the deceased alleged that she died as a result of torture.<sup>53</sup>

## b. Abduction and torture

AOGs in Manipur, in particular Kanglei Yawol Kanba Lup (KYKL), were responsible for torture which they inflicted often by shooting at the legs of those allegedly involved in corruption or other malpractices. They abducted and then shot the victims at their legs to create fear among the public.

On 12 February 2007, a presiding officer for elections to the Manipur Assembly identified as L Hemochandra (50) was abducted by armed cadres in Imphal West district. He was released after being shot in the leg for allegedly distributing money to people on behalf of a Congress candidate.<sup>54</sup>

On the night of 6 April 2007, Dr. S Iboton Singh, principal of the Central Academy School, Mantripukhri and another teacher identified as Md Janabuddin were shot in their legs at Canchipur by suspected KYKL cadres for allegedly running National Open School which had been banned by the outfit KYKL. Various bruise marks were also seen on their bodies.<sup>55</sup>

On 28 August 2007, former Joint Director of Board of Secondary Education Manipur, Ph Nandakumar Sharma was shot in the knee by alleged members of KYKL on charges

of corruption. Sharma had been suspended by the State Government for his alleged involvement in the illegal appointment of government school teachers.<sup>56</sup>

On 21 December 2007, Soubam Dhanbir, Executive Engineer of Irrigation and Flood Control Department, was shot in the legs by an unidentified AOG at his Thangmeiband Sinam Leikai residence in Imphal West district.<sup>57</sup>

## c. Extortion

Extortion by the AOGs was reportedly widespread in the state.

On 12 October 2007, three engineers identified as Laishram Ibomcha Singh, Okram Meino Singh and Ningombam Upendro of the Manipur Public Health Engineering (PHE) Department were abducted by the Kuki Revolutionary Army from Nongren area in Imphal East district. The group allegedly demanded Rs 1 crore for their safe release.<sup>58</sup>

Earlier on 14 May 2007, four subsidiaries of the Government-owned General Insurance Corporation ceased operations in Manipur following extortion demands from armed opposition groups. The AOGs allegedly demanded around Rs 45 lakhs.<sup>59</sup> ■

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# Meghalaya

## I. Overview

Governed by the Congress-led Meghalaya Democratic Alliance, Meghalaya continued to witness human rights violations both by the security forces and Armed Opposition Groups (AOGs). The NHRC received one allegation of death in police custody and one allegation of death in judicial custody in Meghalaya during the period of 1 April 2006 to 31 March 2007.

On 19 April 2007, Inquiry reports into two police shooting incidents in Tura and Williannagar in which 10 persons were killed in 2006 were tabled in the State Assembly of Meghalaya. On the Tura incident, Justice D N Chaudhuri criticised the administration and police for use of ‘excess’ force leading to the death of four innocent people in Tura.

However, Justice (retd) DN Baruah, who examined the Williannagar incident where five people were killed and scores injured, felt that the measures taken by the administration were “just and adequate” and the force used by the police was appropriate and not excessive.<sup>1</sup> Terming the report of Justice (retd) DN Baruah Commission on the incident as biased and unacceptable, a fresh inquiry was demanded by the civil society organisations.<sup>2</sup>

According to police estimates, a total of 2,187 incidents of crime were recorded during 2007 in the State. These included 114 cases of murder, 77 cases of rape, 3 cases of dowry death, 50 cases of kidnapping and abduction, among others.<sup>3</sup>

The Meghalaya Police recorded 76 cases of rape, 45 cases of molestation, 20 cases of kidnapping and abduction of girls and women, among others, in 2007;<sup>4</sup> while the

NCRB had recorded 176 incidents of crime against women during 2006. The security personnel were themselves responsible for many cases of rape in 2007.

With regard to administration of justice, there were 4 vacancies and a total of 10,795 cases were pending with the District and Subordinate Courts of Meghalaya as on 30 September 2007.<sup>5</sup>

## II. Human rights violations by the security forces

Asian Centre for Human Rights documented a number of custodial killings and alleged extrajudicial executions in 2007.

On 29 November 2007, Luding Sangma (30) died in the police lock-up of Shahlang Police Out Post in West Khasi Hills district.<sup>6</sup>

On the morning of 22 August 2007, Peter Marak, commander-in-chief of AOG Liberation of Achik Elite Force (LAEF) was allegedly extrajudicially executed by the police at Kalak in East Garo Hills district.

According to the police, Mr Marak had confessed that at least ten cadres of the AOGs were hiding in the jungle near Kalak village. Marak was taken there by the police. While approaching the location, members of LAEF open fire on the police. The police retaliated. Mr Marak was injured by weapons fired by the members of LAEF during the crossfire and died later. No police personnel suffered any injuries in the alleged crossfire.<sup>7</sup>

The security forces also resorted to use of disproportionate force while controlling protests

On 15 December 2007, one Md. Shah Alam was killed when personnel of the Border

Security Force (BSF) opened fire on villagers and businessmen who were taking cattle from Tikrikilla to Garobadha under Tura Police Station in the West Garo Hills district. The BSF personnel opened fire to disperse the crowd after they resisted the attempt of the BSF to seize the cattle.<sup>8</sup>

In December 2007, a woman identified as S. Wanniang and five others suffered serious injuries after a cane-charge by the Central Reserve Police Forces during an eviction drive at Motphran Wanniang in Shillong.<sup>9</sup>

### III. Violations of International Humanitarian Law by the AOGs

The AOGs were responsible for violations of international humanitarian law.

On the night of 22 June 2007, one person was killed and 13 others injured in serial grenade attacks carried out by alleged members of Liberation of Achik Elite Force in three districts of Garo Hills.<sup>10</sup>

On 2 December 2007, Shri Tonanth Sangma was killed following abduction by four suspected cadres allegedly of A'chik National Liberation Front Army at Dagal Simram village in East Garo Hills district.<sup>11</sup>

### IV. Violence against women

Despite Meghalaya having matrilineal societies, violence against women were extensively reported. Majority of the victims were minors. The Meghalaya Police recorded 76 cases of rape, 45 cases of molestation, 20 cases of kidnapping and abduction of girls and women, among others, in 2007.<sup>12</sup> The NCRB had recorded 176 incidents of crime against women during 2006.

The security personnel were themselves responsible for sexual violence.

On 16 April 2007, Ramkrishna Dey, Border Security Force (BSF) personnel of BSF Camp at Danakgre in Tura, outraged the modesty of Smt. Veronica B. Marak at her house at 8<sup>th</sup> Mile in Danakgre in Tura. The accused was arrested.<sup>13</sup>

On 3 July 2007, Smt. Keriya Marak was raped by Constable Ramu D. Sangma of 3rd Meghalaya Police Battalion (3rd MLPBn) in her quarter at Jowai Police Station Complex in Jhantia Hills district.<sup>14</sup>

On 26 July 2007, a member of the military identified as Malsawm Tluanga was arrested by the police on charges of repeated rape of a girl on 9 July 2007 in a hotel at Police Bazaar in Shillong.<sup>15</sup>

On November 2007, a nine-years-old girl (name withheld) was raped by Donbor Syngkli, a Constable of 3rd Meghalaya Police Battalion (MLP Bn) at Mihmyntdu village in Jhantia Hills district.<sup>16</sup>

### V. Violations of the prisoners' rights

Overcrowding of jails continued to be a problem in Meghalaya. In the Shillong jail 291 prisoners were lodged as against its sanctioned capacity of 150 as of March 2007. Of these, 282 were male and nine were female inmates. Most of the inmates were under trials. Out of the total, 230 male and seven female were under trial prisoners while the number of convicts in the jail was 40 male and seven female.<sup>17</sup>

Prisoners were ill treated and denied medical facilities. On 24 April 2007, former JACC chairman, Mr Shanpru, who was lodged at Tura district jail, was allegedly denied treatment while he was suffering seriously from dysentery despite doctors at Tura Civil Hospital advising the jail authorities to admit him to a hospital.<sup>18</sup> ■

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# Mizoram

## I. Overview

**R**uled by the Mizo National Front, the State government of Mizoram failed to take appropriate measures to address the serious human rights problems in the State. Not a single Bru internally displaced persons (IDPs) who moved to Tripura since their expulsion from Mizoram in 1997 returned. A survey found that 94.22% of the Bru IDPs had documentation to prove the bonafide residence in Mizoram.

35,438 persons representing about 40% of the total Chakma population in Mizoram) were displaced due to the building of the fence along the 318 km-long international border with Bangladesh.

The State Government failed to curb vigilante violence. Members of Young Mizo Association (YMA) continued to take the law into their own hands. On 8 May 2007, one Mr Lalbiakliana was allegedly tortured to death by activists of Young Mizo Association after he was 'arrested' by a YMA anti-drug and alcohol squad for allegedly possessing ganja in Mizoram.<sup>1</sup>

Though women generally enjoyed freedom in the society, there has been a steady rise of crime against women and children in Mizoram.

## II. Human rights violations by the security forces

The security forces were responsible for torture and custodial death. The National Human Rights Commission did not receive any reports of custodial death by the security forces from Mizoram during the period 1 April 2006 – 31 March 2007.

On the night of 23 January 2007, 30-year-old Mr Hrangchhingpuia, resident of Hourang village in Lunglei district was allegedly tortured to death in the custody of excise police after he was arrested for selling local made liquor. However, the excise officials claimed that he hanged himself in the lock up.<sup>2</sup>

On the night of 28 March 2007, two persons identified as P Vanlallawma and Lalchamlia were allegedly beaten up Border Security Force (BSF) personnel at Tlabung in Lunglei district. They were detained while returning home after looking for work.<sup>3</sup>

## III. The Bru crisis

### a. Failure to repatriate the Brus

By the end of 2007, the government of Mizoram failed to repatriate the Brus from the relief camps in Tripura. The Bru indigenous peoples had fled to Tripura in 1997 following organized attacks against them by the Mizos.

The state government of Mizoram has refused to repatriate the Brus on the ground that not all of them were genuine residents of Mizoram and due to the opposition from the influential Mizo NGOs including Young Mizo Association (YMA) and Mizo Zirlai Pawl (Mizo students union, MZP). Although the Brus themselves claim that there are 29,000 persons in the relief camps in Tripura, the government of Mizoram claims that only 543 Bru families (3,189 persons) fled the state in 1997.<sup>4</sup>

On 26 April 2005, a Memorandum of Understanding (MoU) was signed between the Government of Mizoram and the Bru National Liberation front (BNLF), an insurgent group. In the MoU, the state of

Mizoram admitted its obligation/duty to repatriate and resettle the Reangs/Brus, but again questioned the “genuineness” and/or bonafide inhabitation of the Reangs/Brus. The MoU was signed without the consent of the Brus living in relief camps.

About 1,000 members of the Bru National Liberation Front (BNLF) have so far laid down their arms after the signing of the MoU with the government of Mizoram in April 2005 and the government has provided them with rehabilitation in Mizoram.<sup>5</sup> Yet, in March 2007, the state government of Mizoram entrusted three Mizo non-governmental organizations - the Young Mizo Association, Mizo Hmeichhe Insuihkhawm Pawl (the apex body of the Mizo women) and Mizo Zirlai Pawl (Mizo students union) to verify the credentials of the former Bru rebels. All of the groups are well known for their anti minority stands. The NGOs reportedly identified 40 former Bru rebels as non-residents of Mizoram.<sup>6</sup>

The contention of the state of Mizoram is false. In October-November 2007, the Mizoram Bru Displaced Peoples Forum (MBDPF) conducted an on-the-spot survey of 5,328 families residing in the six relief camps at Kanchanpur sub-division of Tripura. According to the survey of the MBDPF, 94.22% of the Reangs/Brus in the relief camps have at least one document each, issued by the State of Mizoram, its local authorities as well as constitutional bodies, namely, the Election Commission of India to prove that their bonafide/natural place of inhabitation is Mizoram.

Since April 2007, the state government of Mizoram held a series of talks with the MBDPF, the last round of discussion being held on 21 November 2007, but no result emerged. In order to prevent the Brus and the Asian Indigenous and Tribal Peoples Network (AITPN), an NGO working for the rights of the tribal and indigenous peoples,

from filing a writ petition before the Supreme Court of India for its intervention for early repatriation of the Brus to Mizoram, the Home Secretary, Government of Mizoram, who was the Chairman of the meeting warned the Bru leaders against going to the Supreme Court. The Home Secretary, Government of Mizoram warned the Bru representatives “not to file petition in the Supreme Court as it can create serious repercussion among the general public which may lead to further delay in the process of repatriation...”<sup>7</sup>

## **b. Miserable camp conditions**

Presently, a total of 29,545 Brus are living in six relief camps in Tripura. Their camp-wise population is as follows: Kashirampur – 15,499 persons; Longtraikami - 5,137 persons; Hazachara - 2,593 persons; Kashau A & B - 3,305 persons; Khakchang - 1,243 persons and Hamsapara - 1,768 persons.

They conditions in the camps are poor. Since 2001, babies are included only in the census but not in the relief cards denying them access to food. Those who have become adult in the last six years continue to be given rations as minor. The ration quota is so inadequate that the Brus do not even report deaths as it will mean a further reduction of rations being provided.

Presently, a Bru adult gets cash of Rs 2.90 per day and a minor gets Rs 1.45 per day. 450 grams of rice is being provided to per adult Bru per day while 225 gram rice is being provided to per minor per day. This ration is highly inadequate. Yet, on 15 October 2007, the Food, Civil Supplies and Consumer Affairs Department, Government of Tripura reduced the monthly rice allocation being provided to the relief camps under the Public Distribution System (PDS), inter alia, on the ground that there is no separate allocation of rice from the Government of India for them.

Medical facilities are almost non-existent. Only when health conditions seriously

deteriorate do doctors visit the camps. The conditions of children and pregnant women are the worst. As there are no primary health care centers, pregnant women are forced to deliver their babies at the relief camps. Maternal mortality is high. and as are also the common diseases.

Most tube wells are out of order. The Brus are forced to drink water from streams and ponds resulting in high levels of water-borne diseases. Sanitation facilities are non-existent.

The Tripura government has denied educational facilities to children in the camps. Only primary education under the Sarva Siksha Abhiyan (Education for All) programme has provided limited education. There is no scope for higher education. Effectively, over 5,000 minors have been denied the right to education and an entire generation of the Brus have become illiterate in the last ten years.

The MBDPF in its letters dated 26 June 2007 and 20 July 2007 addressed to the Ministry of Human Resource Development, Government of India and Sub-Divisional Magistrate, Kanchanpur, Tripura (N) rpointed out the lack of basic amenities. But to date the government has failed to act.

In addition, there is no security for the camp inmates. It has come to light that about 35 Bru children (aged between five and 15 years) went missing from the refugee camps during the last five years. The state government of Tripura has ordered an inquiry into the incident.<sup>8</sup>

#### **IV. The status of minorities**

The enjoyment of rights by religious, linguistic or ethnic minority communities continued to be poor.

The Chakmas are the second largest community in Mizoram with 8.5% population against

the Mizos who constituted 77%. The socio-economic conditions of the Chakmas are poor. Although Mizoram's overall literacy is 88.49%, the rate of illiteracy of the Chakmas is very high. According to Census of India 2001, the Chakmas are the most illiterate community in Mizoram. They have a literacy rate of only 45.3 per cent, way behind their Mizo counterparts at 95.6 per cent. The gap is huge between males and females amongst the Chakmas: while 56.2% of the men are literate, the literacy rate of women is only 33.6%. In case of the Mizo tribes, male and female literacy stand at 96.8% and 94.4% respectively.

Minorities are discriminated in employment. The state's Recruitment Rules of several departments require the candidates to be compulsorily educated in Mizo language up to Middle School level. Since most Chakmas do not study Mizo as a subject in school, they are not qualified to appointment, however talented they may be.

The Chakmas living along the Indo-Bangladesh border were also the victims of the border fencing in Mizoram. A total of 5,790 Chakma tribal families (35,438 persons from 49 villages or 40% of the total Chakma population in Mizoram) have been displaced due to erection the 318 km-long international border fence. Apart from their houses, the people have lost already wet rice cultivation lands, horticulture gardens, gardens for growing vegetables and other cash crops, tree plantations of high commercial values like teak etc, community/ government assets like schools, health sub-centres, community halls, market places, places of worship, play grounds, cemetery/ grave yards, water ponds, water supply, and other government/ council office buildings, etc.

Four companies viz. National Building Construction Corporation Ltd. (NBCC), Border Roads Organization (BRO), Engineering Projects India Limited (EPIL)

and National Projects Construction Corporation Ltd (NPCC) have been given contracts for construction of the fencing.

The companies did not follow the guidelines for acquisition of the lands set by the Ministry of Home Affairs prior to construction of the fencing for mandatory consultation with BSF (Border Security Forces) & DM (District Magistrate). They started acquiring land without consultation with the tribal inhabitants or the local authorities, including the District Magistrate and the Border Security Force.

There was inordinate delay in releasing compensation to the affected families. Even nearly one year after completion of verification of the affected families, the NBCC failed to provide any compensation. From 13-18 January 2008, hundreds of Chakmas including women and children protested at Marpara village near India-Bangladesh border in Lunglei district against the denial of compensation and halted construction work of the NBCC. The protest was temporarily withdrawn only when the Project Manager of NBCC, Mizoram sector, signed an agreement with them on 18 January 2008 to release compensation by 31 January 2008. However, as the NBCC failed to keep its promise, the protests resumed.

## V. Violations of the rights of the child

There has been a steady rise of crime against women and children in Mizoram. According to the records of the Mizoram police, 61 incidents of rape were registered between January and August 2007 as against 46 during the same period in 2006. 39 out of 61 rape victims were girls below 18 years of age - 17 victims were between 10 to 14 years of age and 16 were below 10 years while six of them were between 14 to 18 years.<sup>9</sup>

The 2006 Annual Report of the National Crime Records Bureau (NCRB) recorded 125 cases of violence against women including 75 cases of rape during 2006. NCRB also recorded 35 cases of violence against children including 35 cases of rape during the same period.

According to a study, about 84.64 per cent children were physically abused in the state. Of these, 35 per cent belonged to 15-18 age group. About 16.20 per cent were cases of severe forms of sexual abuse.<sup>10</sup>

On 1 April 2007, a 17-year-old girl was allegedly molested by a Central Reserve Police Force constable when she was alone in her house at Bairabi village in Kolasib district.<sup>11</sup> ■

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# Nagaland

The peace process between the government of India and the Naga armed opposition groups which started in 1997 failed to make any breakthrough. The ceasefire with the National Socialist Council of Nagaland (I-M) was extended indefinitely from 1 August 2007 subject to progress in talks<sup>1</sup> while the ceasefire with NSCN (K) was also extended up to 27 April 2008.

On 23 November 2007, a third faction known as National Socialist Council of Nagaland (Unification) was formed when the NSCN (IM) and NSK (K) signed a historic joint declaration “to bring an end to the fratricidal killings” at Niuland near Dimapur.<sup>2</sup> But the NSCN (I-M) rejected the unification declaration. On 26 November 2007, Chairman of the NSCN (I-M), Isak Chisi Swu described the Niuland Declaration of 23<sup>rd</sup> November as “controversial unification initiatives” and that “any independent unity move, deliberately done through the back door, shall not be acceptable” to NSCN-IM. Mr Swu however maintained that his group supported “reconciliation, unity and peace of all the Nagas”.<sup>3</sup>

Violence was for the most part confined to inter-factional fighting between NSCN (I-M) and NSCN (K). According to the Ministry of Home Affairs, in 2007 the killing of civilians in Nagaland recorded the highest number of deaths (44 deaths) since 2003. 29 civilians were killed in 2006, 28 in 2005, 42 in 2004 and 13 in 2003. The MHA also stated that one security personnel died in 2007 while 211 cadres of AOGs were killed/arrested/surrendered.<sup>4</sup>

On 3 October 2007, four persons, three civilians and an alleged cadre of NSCN-IM of Chakhesang community from Kikruma village in Phek district were killed by alleged cadres of NSCN (K) in an ambush in Kohima.<sup>5</sup>

In October 2007, a truck driver reportedly died from injuries after he was beaten up by the Nagaland Police at Lalmati area in Kohima.<sup>6</sup>

On 28 January 2007, the NSCN (Kapleng) issued ‘Final Quit Notice’ to the the Tangkhul community to leave Nagaland by 5 February 2007.<sup>7</sup> ■

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# Orissa

## I. Overview

Governed by Biju Janata Dal, Orissa remained a highly lawless State with high incidence of human rights violations against Adivasis and religious minorities. Displacement and conflict has been a hallmark of Orissa for many years.

The inaction of the Orissa authorities to compensate people for repeated 'land grabs' by commercial companies with the acquiescence of the State led to violent protest. The state resorted to the use of excessive force that led to the deaths of protestors. At Kalinganagar, 14 tribal people were killed by the police on January 2, 2006.

The State failed to prosecute those guilty of human rights violations. The Supreme Court annulled the Inquiry Commission into the Kalinganagar massacre on the grounds that it was headed by a sitting judge of a High Court in April 2007.<sup>1</sup> The state government failed to appoint a retired judge to conduct the inquiry.

The State failed to prevent repeated attacks on Christian minorities by Hindu religious fundamentalists throughout the year. The State did nothing to bring the accused to justice.

The violence culminated in a Hindu fundamentalist attack on 24 and 25 December 2007- the dates are clearly not coincidental - six Christians were killed, 600 houses belonging to the Christian were burnt, 70 churches/institutions were attacked and torched and 5,000 Christians were displaced in Bamunigam village under Daringibadi Block in Kandhamal district. To date the State failed to act and the further deterioration since that time will be discussed in next year's annual report.

There was little evidence that provisions made for development of tribal communities were reaching the poorest. There were even reports of deaths by starvation. There were continued widespread allegations that these funds were diverted into corruption.

Judicial and quasi-judicial institutions were plagued by delays. As of 30<sup>th</sup> September 2007, there were 2,27,752 cases pending in the Orissa High Court and 10,09,284 cases pending in the district and subordinate courts of Orissa. There were 5 vacancies in the Orissa High Court as on 1<sup>st</sup> January 2008 and 90 vacancies in the district and subordinate courts as on 30<sup>th</sup> September 2007.<sup>2</sup>

As of 10 September 2007, the State Human Rights Commission (SHRC) had received 5,619 cases including 5,185 complaints and *suo motu* interventions in 434 cases. Of these, 1,388 cases were filed against the police. 3,029 cases were pending with the cases at various stages of investigation due to the lack of manpower to investigate the ever-increasing number of human rights violations.<sup>3</sup>

Reports of violence against women including rape rose in Orissa in 2007. A total of 985 rape cases were reported in 2006 as against 799 in 2005 and 770 in 2004.<sup>4</sup> Many women were also killed as a result of being accused of witchcraft.

The victims included Tia Singh (40), Budhini Singh (42), Somabari Singh (42) who were beheaded by a group of villagers for allegedly practicing witchcraft at Pratapur village under Nilagiri police station on 26 August 2007<sup>5</sup> and Singha Majhi (62) and Sambari Munda (55) who were allegedly burnt alive at Jhaunrisahi in Mayurbhanj district on 7 November 2008.<sup>6</sup>

Ongoing human rights violations and the continued denial of justice and development explain in large part the increased insurgent action from Naxalites.

## II. Human rights violations by the security forces

The NHRC received complaints of two deaths in police custody in Orissa during 1 April 2006 – 31 March 2007.<sup>7</sup> In 2007, Asian Centre for Human Rights documented a number of custodial deaths.

On 16 May 2007, Chunilal Kissan allegedly committed suicide by hanging himself with a towel inside the bathroom at the Brahmanitaranga police station in Sundargarh district of Orissa. He was arrested in connection with a theft on the same day.<sup>8</sup> The circumstances of the death raise significant concern.

On 22 May 2007, Samir Martha of Sadheigada village under Khurda police station was allegedly tortured to death at Khurda police station in Khurda district.<sup>9</sup>

On the night of 14 June 2007, 20-year-old Bhaskar Behera, son of Rohit Behera, was beaten to death by a police team headed by Assistant Sub-Inspector NK Das at Rajnagar village under Athgarh police station in Cuttack district.<sup>10</sup>

There were also reports of arbitrary arrest, illegal detention and torture. On 14 April 2007, Suresh Chandra Rout, a businessman, was allegedly tortured in police custody by Mohanty, the in-charge of Dhamra outpost in Bhadrak district of Orissa. The victim was picked up while returning from Kontai in West Bengal to Dhamra.<sup>11</sup>

The security forces continued to perpetrate violations on innocent villagers during anti-Naxal operations. On 26 January 2007, about 20 persons, including women and physically-challenged persons, were injured, four seriously, after they were beaten up by

the personnel of Central Reserve Police Force during an anti-Naxal operation in Kalimela area in Malkangiri district.<sup>12</sup>

## III. Violations of International Humanitarian Law by the AOGs

The Maoists were responsible for violations of the right to life.

On 1 February 2007, Maoists shot dead three forest officials identified as Ghanashyam Behera, Nilamani Mallick and Kumud Sama in Dhenkanal district.<sup>13</sup>

On 9 May 2007, Maoists killed forest official Rabindranath Patra at Sadagada in Mayurbhanj district.<sup>14</sup>

The Maoists also killed alleged police informers. Some of the victims included

- Harischandra Nayak and Bhubaneswar Nayak of Ranigola village Mahi Pradhan of Telikusum village in Deogarh district on the charges of police informers on the night of 22 June 2007;<sup>15</sup>
- Mukund Madhi of Bandiguda and Babu of MV120 village under the Korkonda block in Malkangiri district on the night of 4 August 2007;<sup>16</sup>
- Arjun Dehuri who was killed at Talab village in Sambhalpur district on 11 August 2007;<sup>17</sup> and
- Jiti Jagaranga, a leader of Shanti Sena, who was killed at lahaguma village under Gudari police station limits in Rayagada district.<sup>18</sup>

## IV. Violations of the rights of indigenous peoples

### a. Atrocities and lack of access to justice

The National Crime Records Bureau of the government of India stated that a total of

349 cases of crimes were committed against the Scheduled Tribes in Orissa, including six cases of killing, 30 cases of rape, and 162 cases registered under the SC/ST (Prevention of Atrocities) Act, among others in 2006.<sup>19</sup> While the rate for filing charge-sheet during 2006 was 98.5%, the conviction rate for crimes against tribals was only 27.5%.<sup>20</sup>

Tribals have little access to justice.

On 8 March 2007, a tribal woman identified as Binapani Mukhi was illegally arrested and detained at Balasore district jail for allegedly selling illicit liquor. She was given a sentence of two years rigorous imprisonment by a local court. On 28 September 2007, Orissa High Court while hearing a Public Interest Litigation quashed the order of the local court and directed the state government to immediately release the victim. The State Government informed the High Court that she was indeed arrested “wrongfully” by the police due to “mistaken identity”.<sup>21</sup>

On 7 May 2007, Orissa High Court directed the registrar of a civil court in Phulbani to explain the circumstances under which Pratap Naik, a tribal youth, was detained in jail for over eight years even after being acquitted in a murder case.<sup>22</sup>

#### **b. Lack of access to economic programmes**

The Juang tribe in Keonjhar district is on the verge of extinction. Both the central government and the state government failed to lift the socio-economic standard of Jaung tribe.<sup>23</sup>

The Bhuyan tribals living mostly in Keonjhar and Mayurbhanj districts had their livelihood threatened as a result of increased mining activities. A study revealed that many water sources coming from the hills had dried up because of mineral exploration, large-scale vehicular traffic and the establishment of iron plants. Most of the Bhuyan villages lack

healthcare facilities. The Bhuyan children are denied free education system.<sup>24</sup>

Similarly, there was no sign of tangible development in the tribal blocks of Dhenkanal district. Most part of the sanctioned development activity in tribal areas was allegedly misappropriated by officials, politicians and contractors.<sup>25</sup>

A survey by the Delhi-based Centre for Environment and Food Security (CEFS) in 2007 revealed that out of the Rs 733 crore released to Orissa under the National Rural Employment Guarantee Scheme, more than Rs 500 crore was siphoned off by government officials. Many poor tribals were cheated. The CEFS found that one Rupa Majhi, a poor tribal of Palsipada village in Kalahandi district of Orissa, was actually given 21 days of employment against assured 100 days employment and was paid only Rs 600 as wages during 2006-07. But, his job card had a faked entry of 336 work days. Similarly, another tribal Chandra Majhi of Palsipada village had not received any employment under the rural job scheme but, in his job card had a faked entry of 126 days.<sup>26</sup>

There were reports of alleged deaths resulting from starvation in Orissa. This was despite the launch of Social and Food Security measures by the State Government. Between 10 and 15 June 2007, three persons identified as Makari Mukhi, Suni Munda and Dama Munda allegedly died of starvation in Keonjhar district. However, the state government was quick to refute the claims.<sup>27</sup>

#### **c. Displacement and land alienation**

About 2.6 million people were displaced between 1950 and 1991. Not even 25 per cent of these displaced were rehabilitated.<sup>28</sup> The displaced persons from 10 villages under Kuliana block in Mayurbhanj district who were forced to give away their land for the Subarnarekah irrigation project in 1967 have been living in temporary houses on government land.<sup>29</sup>

More than 2,000 families displaced by the multi purpose Hirakund dam project in Sambalpur district of Orissa had still not been compensated.<sup>30</sup> The Jindal Stainless Limited (JSL) at Kalinga Nagar failed to fulfill its promise to provide jobs to 60 displaced persons of Bainsipur, Hudisahi and Gadhapur villages as of early September 2007. Earlier, the company reportedly agreed to provide jobs before August 2007.<sup>31</sup> In November 2007, the Supreme Court of India barred the UK Company Vedanta Resources Plc from mining bauxite in the sacred Niyamgiri hills in Orissa but later on the project was allowed to continue.<sup>32</sup>

The majority of the victims of displacement are tribals. The failure to provide compensation for displacement from lands 'grabbed' by commercial companies led to violent protest. On 2 January 2006, 14 tribal villagers were massacred by the Orissa Police at Kalinga Nagar in Jajpur district while protesting against their displacement by the Tatas. In 2006, the State government of Orissa set up a one-man Commission of Inquiry headed by Justice A.S. Naidu, a sitting judge in the Orissa High Court. On 9 April 2007, the Supreme Court annulled the Commission on the ground that it was headed by a sitting judge of a High Court.<sup>33</sup> On 10 April 2007, Orissa Chief Minister Naveen Patnaik stated that a new commission headed by a retired judge would start the investigation. By the end of 2007, the state government failed to appoint any person. The action is a powerful symbol of the levels of impunity in Orissa.

There has been massive alienation of tribal lands in Orissa. According to the Annual Report 2007-08 of the Ministry of Rural Development, Government of India, a total of 105,491 cases alleging alienation of 104,742 acres of land have been filed in the court in Orissa. An estimated 104,644 cases were disposed of by the court. Out of these 61,431 cases were disposed of in favor of tribals and 56,854 acres of land was restored to tribals.<sup>34</sup>

## V. Violations of the rights of the Dalits

According to NCRB a total of 1,153 crimes against the Dalits including 12 cases of murder, 52 cases of rape and 621 cases under the POA were registered in Orissa in 2006.

In June 2007, a Dalit woman identified as Rashmita Seth and her family was barred for three days from using the community tube well in Khandagiri Bari area on the outskirts of Bhubaneswar after she lodged a first information report (FIR) against two persons who assaulted and threatened to rape her younger sister Kalpana.<sup>35</sup>

In August 2007, seven Dalits identified as Bideshi Nayak, Ramachandra, Sudama, Nilakantha, Sakhi, Sanju and Puspallata Nayak were reportedly ostracised from Goruala village near Puri for refusing to beat drums in a temple - a caste practice that their caste was expected to carry out.<sup>36</sup>

## VI. Violations of the prisoners' rights

There were 70 jails of different categories with a total capacity of 9,125 in Orissa. However, more than 15,500 prisoners were detained in jails by the end August 2007.<sup>37</sup>

The NHRC received information about death of 53 persons in judicial custody in Orissa during 1 April 2006 – 31 March 2007.<sup>38</sup>

In March 2007, undertrial prisoner Sarat Biswal was allegedly tortured to death but the jail authorities claimed that he had committed suicide in the Jharpara special jail in Orissa. However, media reports suggested grounds for concern as the corpse had bleeding wounds inconsistent with suicide. Concern was further compounded by the jail authorities failure to allow media personnel to take pictures of the dead body.<sup>39</sup>

On 28 August 2007, an under-trial prisoner identified as Mukhtikanta Muduli (40) of

Simulipatna in Soro police station limits was tortured to death in Balasore Jail in Orissa. He was allegedly tied to the railings in the jail and tortured by four jail officials.<sup>40</sup>

On 13 September 2007, an under-trial prisoner identified as Rabinarayan Bhoi was allegedly tortured to death in the Allipingal jail in Jagatsinghpur district of Orissa. The Superintendent of Allipingal jail, Bijaya Kumar Paikray claimed that the deceased suddenly complained of 'uneasiness' on 12 September 2007 and died on 13 September 2007 while being taken to the hospital.<sup>41</sup>

In October 2007, under-trial prisoner Arsul Pradhan (62) allegedly committed suicide by hanging himself at the medical centre inside the Berhampur circle jail premises.<sup>42</sup>

The plight of women prisoners was deplorable due to poor hygienic conditions. Female prisoners were not provided sanitary napkins in jails of Orissa. There were 494 women prisoners in various jails as in mid-March 2007 according to prison directorate.<sup>43</sup>

In August 2007, the Orissa High Court issued directions to take measures to reduce overcrowding.<sup>44</sup> Due to overcrowding prisoners had to live in sub-human conditions. Many prisoners reportedly suffer from serious ailments. Many prisoners died due to lack of medical care. The state government failed to provide adequate nutrition and medical care.<sup>45</sup>

## **VII. Violations of the rights of minorities**

Christian minorities were subject to systematic attack from Hindu religious fundamentalists. The state failed to take appropriate action to stop the attacks or to bring the accused to justice.

On the morning of 24 December 2007, Christians were attacked by the Hindu fundamentalists who opposed celebration of Christmas at Bamunigam village under

Daringibadi Block in Kandhamal district. The fundamentalists destroyed and looted shops of Christians and beat them up. On 25 December 2007, a huge Hindu mob again attacked Christians in Bamunigam area, entering into Christian villages burning down houses, churches and looting properties.

A fact finding team led by Dr. John Dayal, member of National Integration Council visited the affected areas on 29 December 2007 found that six Christians were killed, 600 houses belonging to the Christian were burnt, 70 churches/institutions were attacked and torched, and the attacks affected 5,000 Christians. The worst affected districts were Kandhamal and Gajapati. In the Kandhamal district, the worst affected villages were Barakhama, Podingia, Balliguda, Bamunigam, Sankharkhole, Sirtiguda, Dalagam, Irpiguda, Tikabali, Godapur and Daringibadi. Hundreds of villagers took shelter in the forests without food and water due to fear of further attacks from the Hindu mob. Those who could not flee, (in particular the old and infirm) were forced to renounce their Christian faith and convert to Hinduism. Hindu fundamentalists who also allegedly forced Christians to drink cow dung water, shaved their heads and forced them to bow to idols. The majority of the Christian victims were tribals.<sup>46</sup>

However, this was not an isolated case of Christian persecution in Orissa.

On 26 August 2007, a Catholic church was attacked by a mob in Raikia town, about 72 km from Phulbani. About 300 people forcibly broke into the church and smashed the doors and window panes. They also smashed the statues inside the Church and set fire to a truck parked outside the church.<sup>47</sup>

On 28 July 2007, two nuns staying at girls hostel of St Ann's School at Bariapada where arrested on the charges of alleged of illegal conversion to Christianity. They were charged under Section 4 of Freedom of Religion Act, and sent to jail.<sup>48</sup>

On 2 June 2007, two pastors including Kanstantino Pariccha were attacked and allegedly beaten by Hindu extremists when they were preparing to hold a prayer meeting at Jamaguda in Gajapati district. They had to be admitted to Chelligada Government Hospital with serious internal injuries.<sup>49</sup>

On 28 February 2007, hundreds of alleged Hindu activists attacked the Believers Church Bible College and its office located in Brajarajnagar in Jharsuguda district. The staff and students of the college were beaten up. When the police were informed, only five policemen arrived but they apparently failed to act to stop the mob as they attacked and destroyed the properties.<sup>50</sup> ■

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# Punjab

## I. Overview

Punjab is governed by the Akali Dal and Bharatiya Janata Party Alliance. The Punjab Police continued to be responsible for serious human rights violations. According to the 2006 Annual Report of National Crime Records Bureau, a total of 4,796 complaints were received against the police personnel in Punjab during 2006. Out of the 17 police personnel whose trial was completed, four were convicted and the rest acquitted.<sup>1</sup>

The Punjab State Human Rights Commission reported up to the month of October 2006, the police notified deaths of only 40 persons in custody but the PSHRC registered 47 custodial deaths in Punjab.<sup>2</sup>

Dalits remained vulnerable to atrocities. The NCRB recorded a total of 184 cases of atrocities committed against the Scheduled Castes in Punjab in 2006. These included three cases of murder, 11 cases of rape and 99 cases registered under the SC/ST (Prevention of Atrocity) Act of 1989.<sup>3</sup> While the rate of filing charge-sheet for the crimes against Dalits was 85% in Punjab during 2006 the conviction rate was only 13.3%<sup>4</sup>

A total of 2,242 crimes against women were recorded in Punjab in 2006. These included 442 cases of rape, 418 cases of kidnapping and abduction, 130 cases of dowry death, 801 cases of cruelty by husband and relatives, 314 cases of molestation, 67 cases under Immoral Trafficking (Prevention) Act of 1956 were recorded by the NCRB in 2006.<sup>5</sup>

Torture was widespread in jails. According to the information obtained by Asian Centre for Human Rights under the Right to Information Act of 2005, the NHRC received 87 cases of death in judicial custody

in Punjab during the period of 1 April 2006 to 31 March 2007.<sup>6</sup>

According to the National Crime Records Bureau, a total of 329 crimes against children were recorded in 2006. These included 22 cases of murder, 58 cases of rape, 169 cases of kidnapping and abduction, 9 cases under Child Marriage Restraint Act of 1978, among others.<sup>7</sup> The condition of the Observation Home in Faridkot was dismal. The Home lacked basic amenities.<sup>8</sup>

The Judiciary was hampered by judicial delay. A total of 25,5696 cases were pending with the Punjab and Haryana High Court and a total of 58,2483 cases were pending with the District and Subordinate Courts as on 30 September 2007.<sup>9</sup> As on 1 January 2008, there were 26 vacancies out of the sanctioned strength of 68 judges in the Punjab and Haryana High Court. There were 58 vacancies against the sanctioned strength of 328 in the District and Subordinate Courts as on 30 September 2007.

## II. Human rights violations by the security forces

According to the 2006 Annual Report of National Crime Records Bureau, a total of 4,796 complaints were received against police personnel in Punjab during 2006. Departmental inquiries were ordered into 2,893 cases, magisterial inquiries were ordered into 6 cases and a judicial inquiry was ordered in 1 case. 52 police personnel were sent for trial during the year. Of the 17 police personnel whose trial were completed, 4 four were convicted and the rest acquitted.<sup>10</sup>

### a. Violations of the right to life

Security personnel were responsible for gross human rights violations including custodial deaths and extrajudicial executions.

According to the information obtained by Asian Centre for Human Rights under the Right to Information (RTI) Act, the National Human Rights Commission received one case of death in police custody and two encounter deaths in Punjab during the period of 1 April 2006 to 31 March 2007.<sup>11</sup>

The number of custodial deaths was under-reported by the police. On 2 May 2007, N. K. Arora, member of the Punjab State Human Rights Commission (PSHRC) stated that the custodial deaths were not being properly reported by the police to the PSHRC. Up to October 2006, the police notified deaths of only 40 persons in police custody. The PSHRC registered 47 custodial deaths in Punjab.<sup>12</sup> These are contrasted by statistics of the National Crime Records Bureau (NRCB) of the Ministry of Home Affairs which recorded one case of death in police custody in the state during 2006.<sup>13</sup>

On 2 May 2007, N. K. Arora, member of the Punjab State Human Rights Commission (PSHRC) also stated that use of third degree methods of torture during interrogation by police was one of the main reasons behind custodial deaths in Punjab. The police often denied the use of torture and attributed other reasons to explain the deaths. The police explanations lack credibility. For example, in 2004 there were 53 custodial deaths in Punjab but the police maintained that 32 of them died “natural deaths” despite the fact that most of the victims were aged 30-40; another 17 deaths were attributed to negligence and four were termed as “suicide”.<sup>14</sup>

On 19 August 2007, Mandip Kumar (26) of Ward No. 4 of Dasuya town in Hoshiarpur district was allegedly tortured to death in the custody of Dasuya police station in Hoshiarpur district. He was arrested on the charge of theft on 17 August 2007. The police claimed that he committed suicide by touching naked electric wire.<sup>15</sup>

In June 2007, a Dalit labourer identified as Tara Singh, his wife and four-year-daughter

allegedly committed suicide by jumping in front of a train at Beer Pind village in Jalandhar district after alleged torture and humiliation of Tara Singh by the police in what appears to be trumped up charges against him.<sup>16</sup>

The court sentenced a number of police personnel for custodial killings. On 7 December 2007, Additional Sessions Judge Kuldip Singh of Patiala sentenced Deputy Superintendent of Police Rajinder Pal Singh Anand, Assistant Sub Inspector Rajpal Singh and three constables Mohinder Singh, Vinod Kumar and Darshan Singh to life imprisonment in the Balbir Singh custodial death of 1995.<sup>17</sup>

On the night of 18 May 2007, four personnel of Border Security Forces (BSF) went to the house of Shinghara Singh, a farmer at Thakarpura village in Gurdaspur district. The police were apparently drunk. They shot dead Shinghara Singh and his 15-years-old son, Daljit Singh. The four accused BSF personnel have been identified as head constable Karan Chakarborty and constables Mohammad Latif, Shatrughan and Shivu Dey. They were later arrested.<sup>18</sup>

## **b. Arbitrary arrest, illegal detention and torture**

Unlawful detention and torture were widespread in Punjab. According to the information obtained by the Asian Centre for Human Rights under the Right to Information (RTI) Act, 2005 the NHRC received eight cases of unlawful detention, 95 “other police excesses”. The Punjab Police failed to take action in 88 cases during the period 1 April 2006 to 31 March 2007.<sup>19</sup>

The use of torture by the Punjab Police to extract confessions continued to be widespread.

On the 19 April 2007, a warrant officer appointed by the Punjab and Haryana High Court rescued two brothers - Mohan Kumar and Shalinder Kumar from illegal custody of

Sardulgarh police station in Mansa district. They were picked up by the local police on 17 April 2007 on the pretext that a complaint. No arrest entry was made in the custody record of the police station. No charges were proffered. One of the brothers of the victims filed a writ petition with the Punjab and Haryana High Court and the court appointed a warrant officer. The warrant officer raided the local police station and removed the victims from the illegal custody of the police. Both the victims were allegedly tortured by the police. A few days earlier, a warrant officer appointed by the Punjab and Haryana High Court rescued three persons from the illegal custody of the police at Bhagta Bhai Ka town in Bathinda district. The three victims were kept in illegal custody for days together and tortured.<sup>20</sup>

On the night of 23 March 2007, Mr Chhote Lal was picked up by local police in Zirakpur in Mohali district in connection with a land dispute. He was allegedly subjected to torture including electric shocks. On 24 March 2007, the police asked his family members to take him when his condition became critical.<sup>21</sup>

During the night of 4 April 2007, a Home Guard identified as Chand Singh was allegedly tortured at the Sadar police station in Nabha by the Station House Officer of the police station, Bindu Bala, Assistant Sub Inspector Ajaib Singh, Kuldeep Singh and Lakha Singh.<sup>22</sup>

On 18 May 2007, Fumman Singh, resident of Kotu Wala village in Ferozepore district of Punjab, was allegedly tortured in police custody after he was arrested by the local police on charges of theft. The police allegedly took off his clothes in front of other suspects in the police lock up and humiliated him. Then, he was allegedly tied with ropes and beaten up. Four police personnel allegedly stood on his legs while he was being beaten up who forced him to confess to the crime which he said he did not commit.<sup>23</sup>

On 22 August 2007, Ravinder Kumar,

resident of Bahadurpur Mohalla, was tortured by the Station House Officer Parveen Kumar Kanda of the Criminal Investigation Agency in Hoshiarpur. Ravinder Kumar was booked for alleged theft in a garments showroom. On 24 August 2007, Senior Superintendent of Police of Hoshiarpur, Anita Punj stated that the preliminary inquiry conducted by the police confirmed Mr Kanda allegation of torture, and ordered a department inquiry.<sup>24</sup>

### III. Violations of the prisoners' rights

Prison conditions were deplorable and prisons were overcrowded in the Punjab. The authorised capacity of prisons is 10,854 males and 888 females. However, there were 14,860 male and 859 female inmates across the jails as of 18 December 2007. The Amritsar Central Jail was the most overcrowded jail with 2,137 male prisoners against a capacity of 1455 male inmates, followed by Bathinda jail, where there were 1,325 male inmates against capacity of 485, Jalandhar jail, where there were 1,365 male inmates against capacity of 475. The Ropar jail had 439 inmates against its capacity of 30 inmates only.<sup>25</sup>

On 22 December 2007, Justice RL Anand of Punjab State Human Rights Commission (PSHRC) paid a surprise visit to Central Jail, Ferozepur to inspect the living conditions of inmates there. Following the visit, Mr Anand said that though he found the general condition of the jail hospital satisfactory, "But, I was shocked to know that in a central jail like Ferozepur, where more than 1,000 inmates are living in custody, no doctor has been posted despite sanction of two posts of doctors - a senior medical officer and a medical officer".<sup>26</sup>

An investigation by *The Tribune* into the plight of women prisoners in the jails in Punjab revealed that they were denied even minimum requirements. The condition of women prisoners living in the dilapidated

women's cell of the Jalandhar Central Jail was miserable. There were 86 women inmates living in two small, dingy rooms whose actual capacity was only for 25 inmates. The floor of the cells was rutted and the roof was giving way. They were forced to share four doorless toilets/bath-rooms attached to the rooms. There was no privacy.<sup>27</sup> There were about 50 children living with their mothers in various jails of Punjab. They have been denied the fundamental right to education. The mothers were too underfed to properly tend to their infants.<sup>28</sup> On 3 July 2007, the Punjab and Haryana High Court took *suo motu* notice of The Tribune's investigative reports and issued notices to the Chief Secretary, the Director General of Police (Prisons) and the Home Secretary of Punjab.<sup>29</sup>

Torture was widespread in the jails. According to the information obtained by Asian Centre for Human Rights under the Right to Information Act of 2005, the NHRC received 87 cases of death in judicial custody in Punjab during the period of 1 April 2006 to 31 March 2007.<sup>30</sup>

On 1 November 2007, the Punjab and Haryana High Court directed the police to register a case in the custodial death of Kewal Singh in Central Jail, Ferozepore in Punjab on 20 April 2007. The court took cognizance of the post mortem report which found as many as 13 injuries on the deceased's body.<sup>31</sup>

On 27 March 2007, Raj Singh, an undertrial prisoner allegedly committed suicide by hanging himself in the Central Jail in Patiala.<sup>32</sup>

On 12 June 2007, another undertrial prisoner Gurdev Singh of Ferozepur Central Jail died under mysterious circumstances within minutes after being shifted to a hospital.<sup>33</sup>

On 1 September 2007, undertrial Jawala Singh, lodged in the Central Jail in Bathinda, allegedly committed suicide by hanging himself from a water pipe.<sup>34</sup>

On 19 November 2007, undertrial Paramjit Singh, lodged in the Jalandhar Central Jail, died after he complained of chest pain.<sup>35</sup> ■

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# Rajasthan

## I. Overview

**R**uled by the Bharatiya Janata Party (BJP), the Rajasthan Police has repeatedly resorted to disproportionate force against protestors. The 2007 protests by Gujjars demanding Scheduled Tribal status and the killing of 21 persons by the police was the most serious human rights violation by the State.<sup>1</sup>

Dalits faced serious ongoing discrimination and violations for attempting to enter public buildings and places. The National Crime Records Bureau recorded a total of 3910 cases of crimes against the Dalits in Rajasthan during 2006. Dalit women were particularly vulnerable to violence. The NCRB recorded a total of 12,934 cases of violence against women in 2006.

The NCRB also recorded 951 cases of crime against children including 71 cases of killing 311 cases of rape during the same time. According to official estimates, 1,029 children were reported missing in Rajasthan since 2001. On an average, 170 children go missing in Rajasthan every year or one child every two days.<sup>2</sup>

The failure to appoint adequate judges contributed to the increased backlog of cases in the courts. As of 30<sup>th</sup> September 2007, there were 2,12,451 cases pending in the Rajasthan High Court and 11,02,918 cases pending in the district and subordinate courts of Rajasthan.<sup>3</sup> There were vacancies of 5 judges in the Rajasthan High Court as on 1<sup>st</sup> January 2008 and 136 judges in the district and subordinate courts as on 30<sup>th</sup> September 2007.

## II. Human rights violations by the security forces

The Rajasthan Police were responsible for serious human rights violations. The National Human Rights Commission (NHRC) received two cases of encounter deaths and three cases of custodial deaths in police custody from Rajasthan during 1 April 2006 – 31 March 2007. In addition, the NHRC also registered one case of custodial violence, one case of illegal arrest, 14 cases of unlawful detention, 270 cases of failure on the part of the state administration in taking action, 107 cases of false implication, and 238 cases of “other police excesses” during the same period.<sup>4</sup>

On 29 May 2007, the Gujjars launched protests demanding Scheduled Tribe status in Rajasthan. The security forces responded with indiscriminate use of force. During a weeklong protest which ended on 4 June 2007, at least 26 persons were killed, of which 21 persons who were killed by the police.<sup>5</sup>

On 23 December 2007, one person was killed when police opened fire on a group of villagers at Kapasan in Chittaurgarh district.<sup>6</sup>

On 27 September 2007, Hazrat Ali (25), s/o Samsad Seikh and Jinnat Ali (32), s/o Maharuddin Seikh, residents of Murshidabad in West Bengal, were arrested by the police of Jotbara police station from Kachi Basti area in Rajasthan after they had gone to Rajasthan to look for a job. They were taken to the Jotbara Police Station where they were beaten up by the police in the lock-up. Later, they were shifted to Muralipur police station and Boishalinagar Police Station where they

were tortured. The police registered a case under Foreigners Act and Arms Act against the victims.<sup>7</sup>

### III. Violations of the rights of indigenous peoples

The NCRB recorded 967 cases of violations of the rights of the tribal peoples in Rajasthan during 2006. These included 20 cases of killing, 32 cases of rape and 26 cases under SC/ST (Prevention of Atrocities) Act.<sup>8</sup> In Rajasthan, the charge-sheeting rate for the crimes committed against the tribals during 2006 was 99.6.

In February 2007, a tribal identified as Ram Lal was killed in police firing in Rishhabdev town in Udaipur district. The family members of the deceased were paid only Rs 1 lakh as compensation.<sup>9</sup>

The state government failed to check alienation of tribal lands. According to the Annual Report 2007-08 of the Ministry of Rural Development, Government of India, and a total of 2,084 cases of land alienation involving 6,615 acres of land have been filed in the court in Rajasthan. 1,257 cases have been disposed of by the court, of which only 187 cases (involving 587 acres of land) have been disposed of in favor of tribals while 53 cases involving 187 acres were rejected.<sup>10</sup>

### IV. Violations of the rights of the Dalits

Dalits continue to face serious violation. According to the NCRB a total of 3910 cases of crimes were recorded against the Dalits in Rajasthan during 2006. Of these, 60 cases were killing, 132 rape cases, and 119 cases under the SC/ST (Prevention of Atrocity) Act, 1989.

Apart from atrocities, Dalits are denied access to public places and prevented from performing official duties in public places.

On 17 June 2007, Dalit, Ramlal reportedly sustained three fractures in his hands after a mob beat him up with sticks and iron rods for touching a community water pump at Takholi village in Tonk district.<sup>11</sup>

On 15 August 2007, Dhanvanti Devi Meghwal, Pradhan of Shergarh panchayat Samiti in Jodhpur district, was prevented from hoisting the national flag on the Independence Day function. She alleged that the local Member of Legislative Assembly humiliated her in public.<sup>12</sup>

On 25 October 2007, a Dalit social worker associated with the NGO Prayas was allegedly not allowed to enter Lake Palace, a five-star hotel in Udaipur, because he was a Dalit.<sup>13</sup>

The cases of rape, untouchability, beating and insult of Dalit women at public places were regularly reported in Rajasthan. Crimes against Dalit women were often hushed up under pressure from higher castes.

On 9 April 2007, a 12-year-old Dalit girl reportedly committed suicide by setting fire to herself at Dugari village in Bundi district after she was allegedly raped by one Geetram in broad daylight after her parents went to Jaipur to work.<sup>14</sup>

On 6 July 2007, Dalit Banna Bairwa was shot dead by Bhanwarlal Gujjar at Bilia village in Bhilwara district on his wife's refusal to withdraw a rape case against the accused.<sup>15</sup>

### V. Violations of the prisoners' rights

Prison conditions were deplorable. The NHRC received 54 cases of deaths in judicial

custody from Rajasthan during 1 April 2006 – 31 March 2007.<sup>16</sup>

On 29 June 2007, a fast track court in Bikaner sentenced four persons, including a jail superintendent, jailer and two prisoners, to life imprisonment for their involvement in the custodial death of a prisoner identified as Lakhvinder Singh at the Bikaner central jail on 17 June 1993.<sup>17</sup>

In July 2007, a fact-finding committee appointed by the Rajasthan High Court to look into the condition of prisoners lodged in Jaipur Central Jail reported violation of the rights of jail inmates. During its visit to the jail, the Committee found that prisoners who could not pay money ranging from Rs 500 to Rs 5,000 were beaten and forced to do manual labour for cleaning the drainage and washing utensils. Most of the under-trials did not know about the free legal aid and the jail authorities took no interest in helping them.<sup>18</sup>

## VI. Special focus: The Gujjar protests for Scheduled Tribe status

On 29 May 2007, people from the Gujjars tribe launched protests demanding Scheduled Tribe status in Rajasthan. The security forces responded with indiscriminate force. During a weeklong protest which ended on 4 June 2007, at least 26 persons were killed, of which 21 persons who were killed by the police. The Gujjar leaders agreed to withdraw their protest after the state government agreed to set up a three-member Committee to examine the community's demand for ST status.<sup>19</sup>

The Committee headed by Justice Jasraj Chopra, retired judge of the Rajasthan High Court, submitted its report to the State Government on 17 December 2007<sup>20</sup>. It rejected the Gujjars' demand for ST status as they did not meet the criteria. However, the Committee recommended a special package of benefits.<sup>21</sup>

On the basis of the recommendations of the Justice Chopra Committee, the state government on 18 December 2007 decided to set up a four-member high level Committee headed by Ramdas Agarwal to prepare the package of benefits.<sup>22</sup>

The Gujjars resorted to violence and damaged properties. On 5 June 2007, the Supreme Court while taking *suo motu* cognizance of the large scale destruction of properties during Gujjar demonstrations, directed the police chiefs of Rajasthan, Haryana, Uttar Pradesh and Delhi to account (within 10 days) for the action they had taken or proposed to take against those who damaged property during the week-long Gujjar agitation.<sup>23</sup>

On 18 June 2007, the Supreme Court appointed two committees to examine the damage to public property in the Gujjar violence. The Apex Court said: *"We are not concerned with this one incident, all over the country massacre of human life and damage to property are being done. People have started feeling that there is no rule of law."* Stating that it was a national issue the apex court issued notice to all states and Union Territories asking them to respond on how many cases have been filed against damage to property and how many have been convicted within three weeks.<sup>24</sup> ■

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# Tamil Nadu

## I. Overview

**R**uled by the Dravida Munnetra Kazhagam (DMK), Tamil Nadu was virtually free from violence by armed opposition groups but a number of such groups including the Liberation Tigers of Tamil Eelam (LTTE) of Sri Lanka, Students Islamic Movement of India (SIMI), Tamil National Retrieval Troops (TNRT), Tamil Nadu Liberation Army (TNLA), Tamilar Viduthalai Iyakkam, and Communist Party of India (Maoists) remained banned under the Unlawful Activities Prevention Act.[1]

The Tamil Nadu government allotted Rs. 7 crore for the socio-economic Development of 35 Naxal-prone villages in Dharmapuri district for the year 2007.<sup>1</sup> There were no reports of Naxal related violence during the year. However, the police arrested 17 CPI (Maoist) cadres in 2007. Of these, four were detained under NSA.<sup>2</sup>

The Tamil Nadu Police were responsible for gross human rights violations which included violation of the right to life and the use of excessive force including indiscriminate use of weapons. At least five persons were killed in custody including four in police custody and one in judicial custody.

In July 2007, 11 evening courts - four in Chennai, two each in Coimbatore and Tirunelveli and one each in Salem, Madurai and Tirucharapalli on experimental basis, were launched to address the judicial delay.<sup>3</sup> As on 1 January 2008, there were four vacancies for judges in the Madras High Court. There were 93 vacancies of judges in the District and Subordinate Courts in the state as on 30 September 2007. A total of 4,26,347 cases were pending with the Madras High Court and another 9,16,470 cases were pending

with the District and Subordinate Courts as on 30 September 2007.<sup>4</sup>

## II. Human rights violations by the security forces

The Tamil Nadu Police were responsible for gross human rights violations including violation of the right to life and in indiscriminate firing. The National Crime Records Bureau of the Ministry of Home Affairs stated that 12 complaints were registered against police personnel in Tamil Nadu during 2006. Departmental inquiries were ordered into 44 cases, magisterial inquiries were ordered into 22 cases and judicial inquiries were ordered into 54 cases. As many as 65 police personnel were sent to trial during the year. Of the six police personnel whose trials were completed, two were convicted and four acquitted.<sup>5</sup>

According to the Tamil Nadu Police, there were four deaths in police custody and four civilians were killed when police used fire-arms during 2007.<sup>6</sup> The National Crime Records Bureau recorded six deaths in police custody in the state during 2006. The police claimed that out of the six cases, three committed suicide and three died during hospitalisation/treatment. The NCRB also recorded killing of seven civilians killed by police weapons fire during 2006.<sup>7</sup>

The National Human Rights Commission recorded 15 cases of death in police custody, 103 cases of death in judicial custody and 4 cases of encounter death from Tamil Nadu during the period of 1 April 2006 to 31 March 2007.<sup>8</sup>

Asian Centre for Human Rights recorded a number of custodial deaths in 2007.

On 20 November 2007, Ramalingam, a Pattali Makkal Katchi (PMK) member, allegedly died following torture in police custody at Kullanchavady in Cuddalore district. He was taken to the police station following an altercation with a bus crew on the night of 19 November 2007. Ramalingam's body was found outside the police station. On 23 November 2007, Tamil Nadu Chief Minister M Karunanidhi announced immediate assistance of Rs one lakh to the family of the deceased. The state government also ordered a judicial inquiry into the custodial death.<sup>9</sup>

In December 2007, Syed Ali, a tea shop owner and a resident of Kerala, was allegedly tortured to death at the Vadapalani police station in Chennai. He was arrested following complaints that he was selling illegal lottery tickets. The police claimed that he suddenly fainted and was then taken to a hospital. He was declared dead on arrival. However, the relatives of the deceased alleged the he died due to torture during interrogation. Following protests, Inspector Aathimoolam and constables Thiruvengadam and Subhash attached to the Vadapalani station were suspended.<sup>10</sup>

Illegal arrest, torture, false allegations by the police etc were also reported. In the year 2006-2007, the NHRC registered 18 cases of illegal arrest, 10 cases of unlawful detention, 47 cases of false implication of innocent persons and 167 cases of "other police excesses" in Tamil Nadu.<sup>11</sup>

On 15 January 2007, the National Human Rights Commission (NHRC) announced interim relief of Rs 2.8 crore to 89 victims of atrocities, including women, by the joint Special Task Force during operations against forest brigand Veerappan. In 1999, the Commission had ordered setting up of a two-member inquiry panel, headed by Justice A Sadasiva (Retd) to look into the allegations of human rights violations by the STF.<sup>12</sup>

### III. Violations of the rights of indigenous peoples

There are 36 Scheduled Tribe communities in Tamil Nadu. As per the 2001 census, the Scheduled Tribe population in Tamil Nadu was 6.51 lakhs. Out of the 36 Scheduled Tribe communities, 6 Tribal Communities namely Toda, Kota, Kurumbas, Irular, Paniyan and Kattunayakan have been identified as so called 'Primitive Tribal Groups'. The other Tribals living in scattered areas were classified as Dispersed Tribes. The area where the population of Scheduled Tribes exceeds 50% of the total population was declared as Integrated Tribal Development programme area. A separate Directorate, Directorate of Tribal Welfare, has been functioning for the Welfare of the Tribals since 1 April 2000.<sup>13</sup>

In some of the tribal villages in the State, the closest Public Health Centre is nine Km away and tribal schools have no teachers. Sick cell anaemia and malnutrition were the most common health problems among tribals.<sup>14</sup>

There were also pending backlog vacancies in the state. There were an estimated 595 vacancies for SCs/STs in 1998. 100 of them were filled by December 1998. The rest of the posts were still vacant as of July 2007.<sup>15</sup>

The Tamil Nadu Government sanctioned Rs. 61.96 lakh, including Rs. 34.4 lakh allotted on 3 November 2007, to compensate victims of 'Vachathi violence'. The violence relates to an event in which forest officials, police and revenue department officials attacked the tribal hamlet of Vachathi in June 1992. However, out of 475 persons, the government had identified only 349 persons as eligible to claim compensation.<sup>16</sup>

The provisions of the Scheduled Tribe and Forest Dwellers Act (Recognition of Forest Rights), 2006, stipulate that nobody who has been living on forest lands prior to December 13, 2005, can be evicted. Yet, in October 2007, forest officials harassed and evicted the dwellers of Suriyur village in Salem

district on the pretext that the village was in the jurisdiction of the reserve forests. The National Human Rights Commission also sent its senior member Tsering Samphal to the village on 17 October 2007. The officials had even allegedly filed legal cases against villagers. The villagers had been living in the village for generations, tilling lands and raising crops.<sup>17</sup>

#### **IV. Violations of the rights of the Dalits**

The NCRB recorded 991 crimes during 2006. These included 26 murders, 21 rapes, 84 cases under the Protection of the Civil Rights Act, 1955 and 468 cases under SC/ST (Prevention of Atrocities) Act, 1989.<sup>18</sup>

The Tamil Nadu Police stated that 1,359 cases for violence against the Dalits under the SCs/STs (Prevention of Atrocities) Act and 10 cases under the PCR Act were registered during 2007. In 72 cases, conviction was realised under the SCs/STs (POA) Act. Of these, in 6 cases, the accused were sentenced to life imprisonment. Rs.16.9 million was sanctioned to 1,160 SC/ST victims of atrocities in 656 cases as compensation under the SCs/STs (POA) Act.<sup>19</sup>

The Dalits remained vulnerable to atrocities.

On 29 April 2007, one Dalit was killed and 52 others, including women and children, were injured, when police fired in the air and lathi charges during a clash between two castes in Amachiarapuram colony near Srivilliputtur.<sup>20</sup>

On 19 October 2007, a Dalit woman identified as A. Ponnammal (34) was injured after being hit on the head with a crowbar by the tahsildar, officer of the lowest administrative unit, identified as Motilal when she tried to prevent officials from demolishing a toilet built on her premises at Prumalmai near Kodaikanal in Dindigul district. She was also stripped naked by the village panchayat president Selvaraj. The police rejected Ms.

Ponnammal's complaint and forced her to sign a written statement in the hospital.<sup>21</sup>

Acts of caste discrimination were widespread. According to one study, the practice of keeping two tumblers - one for Dalits and another for other castes in tea shops - continued in 33 reserved village panchayats in Salem and Erode districts. While in 40 reserved panchayats, Dalits are banned from entering temples. In 48 panchayats, they are being forced to beat drums to announce the death of caste Hindus and remove the carcasses of dead animals. Discrimination was noted in Primary and Sub Health Centres, fair price shops and schools. Women are prevented from using sanitary complexes in 11 panchayats and in few other panchayats hair dressers refuse to allow Dalit customers.<sup>22</sup>

Dalit women were not allowed to work as cooks in schools. In October 2007, the Madurai Bench of the Madras High Court directed the secretary of a government-aided private primary school at Muthusamiapuram in Tirunelveli district to allow a Dalit woman to work as an assistant in a noon-meal centre.<sup>23</sup>

#### **V. Violence against women and children**

Violence against women continued to be reported. According to police records, a total of 523 rape cases, 208 dowry deaths cases, 1,558 molestation cases, 875 sexual harassment cases, 1,976 cruelty by husband/relatives cases, and 1,097 cases of kidnapping and abduction were reported in 2007.<sup>24</sup>

The National Crime Records Bureau recorded a total of 6,489 incidents of crime against women in 2006. These included 457 cases of rape, 718 cases of kidnapping and abduction, 187 cases of dowry death, 1,248 cases of cruelty by husband and relatives, 1,732 cases under Immoral Trafficking (Prevention) Act of 1956, among others. The NCRB also recorded a total of 353 crimes against the children including 59 murders, 125 rapes

and 118 kidnapping and abduction during 2006.<sup>25</sup>

There were reports of girls being allegedly exploited by textile units who force them to work as bonded labour under the 'Sumangali' or 'Subhamangala' scheme. An adolescent girl was paid about Rs. 30,000 after working in a cotton mill for three years. During the period, she was provided with food, clothing and shelter. The worker forfeited the amount in the event of leaving the job in between.<sup>26</sup> The girls were made to work over time and night shifts were compulsory. These conditions often led to mental and physical fatigue, health problems and malnutrition.<sup>27</sup>

## VI. Violations of the prisoners' rights

The National Human Rights Commission registered 103 cases of deaths in judicial custody in Tamil Nadu during the period of 1 April 2006 – 31 March 2007.<sup>28</sup>

Allegations of torture of prisoners were reported. On 31 March 2007, remand prisoner K. Chandrabalan of Sirkazhi allegedly died in circumstances of concern in Cuddalore Central Prison. According to some prisoners, Chandrabalan's followed a beating from a warder.<sup>29</sup>

There are 135 prisons in Tamil Nadu. Of these, 9 are central prisons, 3 special prisons for women and 103 sub jails for men, 10 sub jails for women, 4 special sub jails for men, and 3 special sub jails for women apart from a borstal school, an open air prison and a farm jail.<sup>30</sup>

On 24 September 2007, the jail authorities submitted to the Madras High Court that as many as 662 under-trial prisoners were detained and had not been produced in court for remand extension. The court was informed that the Central Prison at Puzhal housed 123 people whose detention had been extended without a court order; Vellore had 158 cases, Cuddalore 90, Tiruchi 33, Coimbatore 68, Madurai 152; Palayamkottai 21; and the Special Prisons for Women in Vellore, Tiruchi and Puzhal had two, one and 14 such cases respectively. The jail authorities further told the Court that under-trial prisoners could not be produce in the Courts due to various reasons such as non-availability of escort police and the prisoner having more than one case coming up simultaneously in different Courts. The High Court ordered the Home Secretary, judicial authorities and the Additional Director-General for Prisons to regularise the remand of under-trial prisoners within two days.<sup>31</sup> ■

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# Tripura

## I. Overview

**R**uled by the Communist Party of India (Marxist), Tripura continued to suffer widespread human rights violations perpetrated both by the security forces and the armed opposition groups.

According to the Tripura Police, a total of 4,448 crimes including 4,273 under the Indian Penal Code were committed in 2007 as against 4,146 in 2006. An estimated 13 civilians were killed and 59 persons kidnapped by armed opposition groups in 113 insurgency related incidents during 2007.<sup>1</sup>

The indigenous peoples who constitute 31.1 per cent (993,426 persons) of the total population (3,199,203) in Tripura (2001 census)<sup>2</sup> continued to suffer from lack of access to any development including health care. They are also disproportionate victims of human rights violations.

Judicial delay continued to hamper delivery of justice. There were 21 vacancies and 33,263 cases pending in the District and Subordinate Courts as of 30 September 2007.<sup>3</sup>

The border fencing along the Indo-Bangladesh border in Tripura has displaced many persons. Tripura has an 856 km long border with Bangladesh. In May 2007, the Tripura government demanded Rs 93 crore from the Union government to compensate people who were made homeless by the fence along the Indo-Bangladesh border. According to state government figures, about 10,000 families of bordering areas were displaced so far. 13,000 acres of land had already been fenced out. The fence is planned to go through 20 major habitations leaving 70,000 people jobless.<sup>4</sup>

There are 11 jails in Tripura. According to the information received by Asian Centre

for Human Rights under the Right to Information (RTI) Act, the NHRC received five cases of death in judicial custody in Tripura during the period of 1 April 2006 to 31 March 2007.<sup>5</sup>

## II. Human rights violations by the security forces

The security forces were responsible for human rights violations including violation of the right to life, rape, torture, etc.

According to the 2006 Annual Report of National Crime Records Bureau, a total of 58 complaints were received against police personnel in Tripura during 2006. Of these, a magisterial inquiry was ordered into 2 cases and judicial inquiry ordered into 14 cases. 12 police personnel were sent for trial during the year. Of the 2 police personnel whose trials were completed, 1 was convicted and another acquitted.<sup>6</sup>

According to the information obtained by Asian Centre for Human Rights through the Right to Information (RTI) Act, the NHRC received one case of death in police custody in Tripura during the period of 1 April 2006 to 31 March 2007.<sup>7</sup> The National Crime Records Bureau also recorded one death in police custody and the killing of one civilian in police arm fire incidents in 2006.<sup>8</sup>

As counter-insurgency operations have intensified in Tripura, tribal youths have become targets for security personnel seeking a quick promotion and career advancement.<sup>9</sup> Many civilians have been extra-judicially killed in what are believed to be fake encounters.

On 16 May 2007, Indigenous Nationalist Party of Tripura (INPT) claimed that at least 103 innocent tribal youth have been killed by

the police in fake encounters in Tripura since 1993. Many complaints have been lodged against such killings but the government failed to halt the killings.<sup>10</sup> The government admitted to 28 fake encounters in the state assembly.<sup>11</sup>

On 7 April 2007, two tribal youths identified as Arpan Debbarma and Manas Debbarma were allegedly killed by a group of Tripura State Rifles (TSR) jawans led by assistant commandant Pinaki Samanta at Badlabari area under Champahaor police station.<sup>12</sup>

In July 2007, two jawans of the TSR were suspended for reportedly injuring a tribal woman who was hit by a bullet while she was sleeping during a special anti-insurgency operation in Brindajoypara village in Dhalai district.<sup>13</sup>

In October 2007, a tribal woman identified as Saswati Tripura (63) was killed in an encounter between Border Security Force personnel and an unknown armed opposition group at Thalcherra under Chawmanu police station in Dhalai district.<sup>14</sup>

Torture continued to be reported in the State. On the night of 31 July 2007, Kamal Acharjee, resident of Kalir Bazar village in Sabroom subdivision of South Tripura, was picked up by police and tortured at Manu Bazar police lock-up. He was tortured by Sabroom Sub-Divisional Police Officer Aamarjit Debbarma to extract a confession related to the death of a CPM activist Haricharan Tripura. Acharjee was allegedly hung upside down, beaten with bottles containing hot water and sticks, safety pins were thrust into his nails and hot chilly dust were inserted into his nose and penis. He was later transferred to Manu Bazar rural hospital in a serious condition.<sup>15</sup>

Security Forces used excessive force while controlling protesting crowds. On 17 November 2007, Ramju Mia was killed and another injured when personnel of the 24 Battalion of the Border Security Force (BSF) opened fire on protesters at Tilla Bazar under

Kailasahar subdivision of North Tripura district.<sup>16</sup>

### III. Violations of International Humanitarian Law by the AOGs

Armed opposition groups (AOGs) were responsible for violations of international humanitarian law. They killed, abducted and tortured civilians.

On 5 February 2007, suspected NLFT (BM) members reportedly shot dead Ram Sen Tripura and injured Dupenjoy Tripura at Sarada Roajapara under Raishyabari police station in Dhalai district.<sup>17</sup>

On the night of 25 March 2007, alleged members of National Liberation Front of Tripura reportedly shot dead a labourer and injured two others at Khangtlung of Tripura's north district.<sup>18</sup>

On the night of 7 January 2007, alleged NLFT members reportedly shot dead 13-year-old tribal student identified as Ramdhan, son of Mangaldhan Tripura after having failed to find his father who was suspected of being a police informer at his home at Dinarampara village under Raisyabari police station in Dhalai district.<sup>19</sup>

The AOGs also targeted political activists.

On 7 February 2007, CPM tribal leader Ratansen Tripura was reportedly shot dead by alleged members of National Liberation Front of Tripura at his home in Ratan Nagar village under Gandacherra Subdivision.<sup>20</sup>

On 13 July 2007, alleged members of banned National Liberation Front of Tripura killed senior CPM leader Manya Kumar Tripura within hours of his abduction from Naisaram Roajapara in Dhalai district.<sup>21</sup>

On 14 July 2007, CPM leader Haricharan Tripura was abducted and killed by unidentified assailants near his house in Kalir Bazar under Manu Bankul police station in South Tripura.<sup>22</sup>

The AOGs continued to abduct during 2007. According to Tripura Police, as many as 59 persons were kidnapped, 25 were released and two killed after kidnapping in 2007.<sup>23</sup>

On 4 February 2007, Bishswar Debbarma was kidnapped at gunpoint by unidentified gunmen from his house of Tuisakatang under Salema police station.<sup>24</sup>

On 2 June 2007, six labourers identified as Nikunja Nath (35) of Padmabill in Khowai, Vidhyarai (27), Hussain Miah (50), Fakar Miah (52), Gian Miah (23) and Khalai Miah (25) of Assam were abducted by a group allegedly belonging to the National Liberation Front of Tripura (NLFT-BM) from Govindabari under Manikpur police station in Dhalai district.<sup>25</sup>

On 29 June 2007, three tribal youths identified as Manikya Reang, Kunjamohan Reang and Jaysing Reang were abducted by alleged members of National Liberation Front of Tripura (NLFT) while collecting firewood from a reserve forest near Bagaicherra village under Ambassa police station in Dhalai district.<sup>26</sup>

On the night of 2 July 2007, three members of the Village Committee identified as Ranjan Debbarma, Falendra Debbarma and Amalya Debbarma were kidnapped by suspected members of banned All Tripura Tiger Force (ATTF) from a work-site near Dinakobra School in Khowai sub division. They were released on the following day.<sup>27</sup>

On 10 July 2007, three persons including a truck driver were kidnapped at gunpoint by unidentified members of AOGs from Manu-Manpui road under Kanchanpur police station in North Tripura district.<sup>28</sup>

On 4 December 2007, Shakti Rishidas (36) and Brajendra Das (60) were abducted at gunpoint by alleged cadres of National Liberation Front of Tripura (NLFT) in Dhalai district.<sup>29</sup>

On the night of 15 December 2007, a tribal identified as Damodhar Chakma (19) was abducted at gunpoint by alleged cadres of Borok National Council of Tripura (BNCT) from Upanbalipara under Longthorai Valley subdivision in North Tripura district.<sup>30</sup>

On 10 December 2007, suspected cadres of Borok National Council of Tripura (BNCT) abducted four workers of the NPCC engaged in erection of barbed wire fencing along the Indo-Bangla border at Tlangsang under Vangmun police station in North Tripura district. The abducted persons were identified as Sanjit Debbarma, K Govinda, Jyotish Roy and Hiten Roy.<sup>31</sup>

Those who failed to comply with the orders of AOGs were tortured. On 22 October 2007, 10 persons were seriously injured after being beaten up with rifle butts by suspected All Tripura Tiger Force (ATTF) cadres at Rambabau Bazar in West Tripura for demanding a Tripura State Rifles camp in the village.<sup>32</sup>

#### **IV. Violence against women and children**

According to the National Crime Records Bureau of the Ministry of Home Affairs, a total of 964 cases of crimes against women were reported in Tripura during 2006. These included 189 cases of rape, 35 cases of dowry deaths, 62 cases of kidnapping and abduction, 471 cases of cruelty by husband and relatives and 207 cases of molestation. The NCRB also recorded a total of 41 cases of crimes committed against children, including three murders and 37 rapes, during the same period.<sup>33</sup>

Women continued to be target of sexual abuse. The police were themselves responsible for many of the crimes.

On the night of 11 December 2007, a minor tribal girl, daughter of Rajaram Debbarma of Gopal Nagar village in West Tripura was

allegedly raped by Sub-Inspector Nandan Baidya (30) in the custody of the Bislamganj police station in West Tripura.<sup>34</sup>

On 12 May 2007, eight tribal girls belonging to Reang ethnic tribe were allegedly gang raped by a group of 14 Jamatia community youths at Dhalak village under Amarpur Subdivision in South Tripura district when

they were returning home from a village fair.<sup>35</sup>

On 13 March 2007, Indigenous Nationalist Party of Tripura leader Rabindra Debbarma (junior) was arrested and sent to judicial custody on charges of rape and sexual abuse. He was accused of raping the daughter of a party worker.<sup>36</sup> ■

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# Uttarakhand

## I. Overview

**R**uled by Bhartiya Janata Party (BJP) Uttarakhand, a total of 7,525 crimes under the Indian penal Code (IPC) were recorded in Uttarakhand in 2007. These included 184 cases of murder, 44 cases of dowry death and 74 cases of rape, among others. This was an increase over 2006 (6,570).<sup>1</sup>

There was no report of Maoists violence in Uttarakhand during 2007. However on 15 December 2007, journalist Prashant Rahi was arrested by the Uttarakhand Police on the charge of having alleged links with the banned Maoist movement.

For three days, he was held at a Provincial Armed Constabulary Camp at Hardwar, where he was allegedly kept blindfolded, confined to a small room and reportedly tortured with daily beatings lasting for three to four hours at a stretch, after which a doctor came to examine him. Similarly, he was allegedly tortured for two more days at another unknown location in Udham Singh Nagar before being taken to the Khatima magistrate court on 23 December 2007. The police claimed that he was arrested from the forests of Hanspur Khatta only on 21 December 2007 and charged him with being the regional commander of the CPI (Maoist).<sup>2</sup>

## II. Human rights violations by the security forces

The National Crime Records Bureau received a total of 967 complaints against police personnel in Uttarakhand during 2006. Three police personnel were sent for trial but none of the trials were completed by the year's end.

According to the information received by Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received one case of death in police custody and seven cases of deaths in judicial custody, one case of custodial rape and 19 cases of encounter death in Uttarakhand during the period of 1 April 2006 to 31 March 2007.<sup>3</sup>

The NHRC also received 25 cases of illegal arrest, 45 cases of illegal detention, one case of disappearance, 64 cases of false implication of innocent persons, 358 other police excesses, among others, during the same period. The National Crime Records Bureau recorded killing of eight civilians in police firing during 2006.

On 15 September 2007, one Roshan Lal was allegedly severely beaten up and forced to chew pebbles by the police at the Lakhbagh police station in Dehradun. He was picked up by the police led by Sub-Inspector GD Bhatt from his home. The victim alleged that he was tortured for three consecutive days and was not charged.<sup>4</sup>

Of all the High Courts in India, only the High Court of Uttaranchal has full working strength (9) as of 1 January 2008. District and Subordinate Courts had 134 vacancies out of the sanctioned strength of 266 judges as of 30 September 2007. There were a total of 22,807 cases pending with the High Court of Uttaranchal and a total of 1,35,063 cases were pending with the District and Subordinate Courts as of 30 September 2007.<sup>5</sup>

## III. Violations of the rights of the Dalits

The National Crime Records Bureau of the Ministry of Home Affairs recorded 68

incidents of crime against the Scheduled Castes in Uttarakhand during 2006.

Dalits continued to remain vulnerable.

On 27 March 2007, a 20-year-old scheduled caste girl of the Bhimnagar area of Kashipur town in Udham Singh Nagar district of Uttarakhand, was allegedly raped by SI R.K. Saklani with two other policemen when the victim had gone to ITI police post at the

Chaiti Mela camp to lodge an FIR after she was gang-raped by three youths on 24 March 2007. The police registered a case of looting against the victim and her lawyer Sanjay Rohilla.<sup>6</sup>

On the night of 4 June 2007, a Dalit youth was allegedly beaten and tonsured by a group of drunken youths including an army soldier at the Khatik Mohalla locality of Dehradun.<sup>7</sup> ■

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# Uttar Pradesh

## I. Overview

In 2007, Uttar Pradesh was the worst violator of human rights in India. Home Minister Shivraj Patil informed the Lok Sabha on 27 November 2007 that a total of 31,096 human rights violations were reported in India during 2006-2007 and Uttar Pradesh accounted for 21,899 or nearly 66% of all cases in India.<sup>1</sup> On 1 December 2007, then Chairperson of National Human Rights Commission (NHRC), Shivaraj Patil stated that the majority of the 82,000 complaints received by NHRC in 2007 were from Uttar Pradesh, followed by Bihar and Delhi.<sup>2</sup>

Asian Centre for Human Rights recorded a number of custodial deaths. The NHRC registered seven cases of deaths in police custody in Uttar Pradesh during the period from 1 April 2006 – 31 March 2007.<sup>3</sup>

Uttar Pradesh had highest number of 'encounter killings'. The NHRC registered 201 cases of encounter deaths in Uttar Pradesh during the period from 1 April 2006 – 31 March 2007.<sup>4</sup> In a number of cases, the courts intervened and ordered investigation.

The condition of Dalits remained deplorable. Apart from killings, rapes and caste-based discrimination, Dalits in the state were subjected to particularly unusual barbarity including the cutting off of tongues and gouging out of eyes. Dalit women continued to be subjected to high levels caste violence.

The National Crimes Record Bureau of the Ministry of Home Affairs recorded a total of 4,960 cases against the Dalits in Uttar Pradesh during 2006 including 318 were cases of killing and 229 cases of rape.

## II. Human rights violations by the security forces

The security forces were responsible for violations of the right to life including custodial death and killing in disproportionate use of force including the use of firearms. The National Crime Records Bureau recorded 103 civilian deaths related to police opening fire on civilians in 2006.

### a. Violations of the right to life

#### i. Custodial killings

Custodial killings were common in UP. The NHRC registered seven cases of deaths in police custody in Uttar Pradesh during the period from 1 April 2006 – 31 March 2007.<sup>5</sup>

The Asian Centre for Human Rights recorded a number of custodial deaths in 2007.

On 11 July 2007, Rajesh (18), a resident of Khair in Aligarh district, was allegedly tortured to death in police custody at Nithauli Kalan Police Station in Etah in Uttar Pradesh. He was arrested on 10 July 2007 on charges of abduction and rape. After torturing him on the night of 10 July 2007, the police produced him before a court in Etah on the morning of 11 July 2007. He was visibly ill during the proceedings. He collapsed on the verandah of the court and died.<sup>6</sup>

On the night of 21 November 2007, one Mr Sahiram, a resident of Kheda Islampur village, was arrested on charges of murdering his brother Ramdeen over a land dispute. Sahiram was lodged in Baghpat Kotwali police station. He died on the night of 22 November 2007. The police claimed that the deceased committed suicide by hanging himself in the police station, Sahiram's family

alleged that he died due to torture. The police station in-charge, Vijay Prakash Singh, Sub Inspectors Ram Kishen Rathi and Mateen Ahmad were suspended in connection with the custodial death.<sup>7</sup>

On 23 December 2007, one Mr Anis was arrested following a scuffle in Bazari Khera village. On the morning of 25 December 2007, Anis's mother Hira Devi found her son unconscious inside the lockup of Malihabad police station when she went to visit him. He was rushed to a government hospital, which referred him to the trauma centre, where he was declared dead on arrival. Following protests by locals, a magisterial inquiry was ordered and Malihabad Station House Officer P Singh was suspended.<sup>8</sup>

## ii. Extrajudicial executions

Uttar Pradesh has highest number of fake encounters in the country. The NHRC registered 201 cases of encounter deaths in Uttar Pradesh during the period from 1 April 2006 – 31 March 2007.<sup>9</sup>

While ordering an investigation by the Central Bureau of Investigation (CBI) into the alleged fake encounter killing of one Suraj Singh in Sultanpur in Uttar Pradesh, the National Human Rights Commission stated on 26 July 2007 that *“the job of the police is to apprehend criminals and bring them to book. If the police transgresses its limits and takes the law in its own hands, the security of the citizen is seriously jeopardized. Merely because a person is perceived to be a dreaded criminal and threat to society, the Police can have no justification to deprive him of his life otherwise than in accordance with the procedure established by law”*.<sup>10</sup>

On 12 February 2007, Suraj Singh was picked up by a team of Special Operation Group (SOG) of the Uttar Pradesh police at Sultanpur. The victim was killed in custody on the same day. At around 5 pm of 12 February 2007, the victim's brother Chandan

Singh sent a fax message to NHRC about the encounter killing. But it was only on 14 February 2007 that the NHRC received two separate messages - one from Senior Superintendent of Police, Lucknow and the other from Special Task Force of UP Police. Both the communications stated that Suraj Singh had been killed in an encounter with the police at Lucknow- Rai Bareilly Road on 13 February 2007 at 7: 35 am. Both the messages also said that Suraj Singh was involved in a train robbery in which two constables were killed. The NHRC became suspicious as it had received the message from the deceased's brother before the alleged time of encounter (13 February 2007 at 7.35 am, as claimed by the police). Under NHRC's directions a team of officials of the Investigation Division headed by DIG (NHRC) conducted an investigation at Lucknow, Sultanpur and Faizabad from 26 Feb to 2 Mar 2007. NHRC sent its own team for an on the spot inquiry. The investigation team of the Commission in its report said that Suraj Singh was killed in a stage-managed encounter. This led the NHRC to order the state government of Uttar Pradesh to order an investigation into the case by the Central Bureau of Investigation (CBI) on 26 July 2007.<sup>11</sup>

On 15 August 2007 a news channel aired live footage of a man identified as Pintu Mishra being shot dead by the police in a crowded street in Allahabad on 18<sup>th</sup> September 2006. The police described the victim as a petty criminal. The footage showed Mishra was willing to surrender and raised his hands but the police shot him.

Uttar Pradesh Chief Minister Mayawati has ordered an investigation into the incident.<sup>12</sup> The original report of the Senior Superintendent of Police, Allahabad submitted to the NHRC on 21 September 2006 claimed that the deceased had tried to run away after throwing a bomb killing the Head Constable, Ashok Pandey on 18<sup>th</sup> September 2006. He was chased and surrounded by the police

Mishra again threw a bomb causing injuries to a Sub-Inspector and a Constable. He was then by the police “in self defence”.

The NHRC on 18<sup>th</sup> October 2006, 19<sup>th</sup> Jan 2007 and 16<sup>th</sup> April 2007 asked the state government to submit a report in connection with the killing including the magisterial inquiry, postmortem and inquest reports. The state authorities failed to comply with the orders of the NHRC. On 29 August 2007, the NHRC summoned the Deputy Magistrate of Allahabad with magisterial enquiry report and the Senior Superintendent of Police of Allahabad with post-mortem and inquest reports to appear in person before the Commission on 24 October 2007.<sup>13</sup>

On 12 September 2007, a court in Etawah sentenced 15 police personnel to life imprisonment for killing physically challenged Raj Narain in a fake encounter at Dadra village under Chakarnagar police station in Etawah district.<sup>14</sup>

On 9 September 2007, three Gujjar youths identified as Praveen, Anit and Yadendra of Nangli village of Saharanpur district were allegedly killed by police led by SHO of Kharkhauda police station in an alleged fake encounter.<sup>15</sup> The authorities did not inform the NHRC about the killing of these youths as required under the guidelines of the NHRC. On 17 September 2007, the NHRC took suo-motu cognizance of the incident and sought a report from the state government of Uttar Pradesh.<sup>16</sup>

In April 2007, a local court in Meerut ordered that a case of abduction and murder be filed against 19 police personnel in connection with two fake encounters – one in Loni and another in Meerut in which two innocent persons were killed.<sup>17</sup>

On the night of 12 March 2007, a labourer identified as Bachcha Singh was killed in police firing in a case of mistaken identity after he was taken to be a criminal in the Miranpur area of Musaffarnagar.<sup>18</sup>

## **b. Arbitrary arrest, illegal detention and torture**

The security forces were responsible for torture, inhuman or degrading treatment or punishment.

According to the information obtained from the National Human Rights Commission, the NHRC received a total of three cases custodial violence, 603 cases of illegal arrest, 995 cases of unlawful detention, 44 cases of disappearance, 2389 cases of false implication and 862 cases of “other police excesses” in Uttar Pradesh during the year 2006-2007.<sup>19</sup>

The Asian Centre for Human Rights documented several cases of torture, inhuman and degrading treatment or punishment in Uttar Pradesh during 2007. On the night of 16 August 2007, Ashok, a 25-year-old physically challenged painter, was allegedly beaten up by a drunk constable when he had gone to lodge a complaint at the Nasirpur police post of the Sihani Gate police station in Ghaziabad district. Doctors had to amputate half of two fingers of his right hand allegedly crushed by a rifle butt wound.<sup>20</sup>

On 15 August 2007, a 17-year-old Dalit girl (name withheld), resident of Jagadishpur village, was arrested after she was found wandering near the Gaur Police Station in Basti district of Uttar Pradesh. The police detained her overnight at the police station. The victim was allegedly tortured. She was released from the Gaur Police Station on 16 August 2007 without charge. She died a few hours after her release.<sup>21</sup>

Similarly, on the night of 4 September 2007, an eight-year-old girl, (name withheld), was seriously injured and lost her voice after a Sub-Inspector searching for a criminal in a house beat her up in Mau district.<sup>22</sup>

## **III. Judiciary and administration of justice**

The Judiciary was hampered by a shortage of judges and judicial delay. As of 1<sup>st</sup> January

2008, there were 89 vacancies of judges in the Allahabad High Court, while there were 513 vacancies of judges in the state's District and Subordinate Courts as on 30 September 2007. A total of 808226 cases were pending with the Allahabad High Court and 4817554 cases were pending with the District and Subordinate Courts as of 30<sup>th</sup> September 2007.<sup>23</sup>

Due to inordinate judicial delay and gross negligence by the administration, several prisoners were detained in jails for years. On 13 February 2007, the Supreme Court directed the registrar generals of all High Courts to submit reports within six weeks giving details of all the undertrials whose cases had not been posted for hearing for years and also of those who had been sent to a mental asylum.

The apex court took *suo motu cognisance* of a news report that one Ramjeevan Yadav has been in a jail in Uttar Pradesh for 38 long years without trial.<sup>24</sup>

#### IV. Violations of the rights of the Dalits

The treatment Dalits remained deplorable. Dalits women continued to be highly prone to violence perpetrated by upper caste people. Apart from killings, rapes and caste-based discrimination, Dalits were meted out barbaric treatment such as the chopping off of tongues and eyes gouged out.

The National Crimes Record Bureau of the Ministry of Home Affairs recorded a total of 4,960 cases against the Dalits in Uttar Pradesh during 2006. Of these, 318 were cases of killing, 229 rape cases, 113 kidnapping and abduction cases, among others.

In 2007, ACHR recorded a number of violations against the Dalits.

On 1 August 2007, Dalit student Chakrasen Gautam (22), resident of Bhadevra village in Pratapgarh district, was killed by upper

caste men because he was admitted to an engineering college. The deceased was reportedly tied up, stabbed with a screwdriver and beaten with sticks.<sup>25</sup>

On 13 September 2007, two Dalit children identified as Neeraj (9) and Akshay (7) were killed. Their eyes were gouged out and their tongues chopped off at Bajrahapurva village under Chaubeypur police station near Kanpur.<sup>26</sup>

On 21 September 2007, a Dalit woman, whose son was accused of eloping with a girl of another caste, was burnt to death while her family members were held hostage in. Krishnanagar area under Sirsaganj police station near Agra.<sup>27</sup>

On 12 November 2007, a Dalit youth identified as Guddu Jatav, a rickshaw puller, was beaten and buried alive by three upper caste men in Kanpur in Uttar Pradesh over a trivial dispute.<sup>28</sup>

#### Violence against Dalit women:

Dalit women continued to be victims of killing and sexual violence. Between January and July 2007, 3,782 cases of crimes committed against Dalits were recorded in the state. Of these, 158 were cases of rape of Dalit women.<sup>29</sup>

In 2007, ACHR recorded a number of crimes against the Dalits.

On 14 July 2007, two Dalit girls were reportedly gang raped by four persons identified as Zahir, Nizamuddin, Ikramuddin and Faimuddin at Upeda village under Babugarh police area in Ghaziabad district.<sup>30</sup>

On 20 December 2007, a 55-year-old Dalit died while trying to save his two daughters-in-law from being raped by upper caste men in Unnao district. Similarly, on 27 December 2007, a Dalit youth was killed while trying to save his wife from being raped by two upper caste youths at Purwa in Unnao district.<sup>31</sup>

Often the police connive with the upper castes in committing the crimes. In March 2007, 15-year-old Dalit girl of Nirpura village in Bagpet under Dogat police station was gang raped and killed by some persons who had reportedly came along with some police in a police jeep. The police including a Sub-Inspector allegedly watched the incident mutely.<sup>32</sup>

In December 2007, Dalit woman Phool Kumari Rawat lost her job as a cook for mid-day meal scheme after students at the Bibipur Primary and Junior High School near Lucknow boycotted the mid-day meals cooked by her.<sup>33</sup>

## V. Violence against women

Between January and July 2007, 11,453 cases of crimes against women were reported in Uttar Pradesh.<sup>34</sup> The National Crime Records Bureau of the Ministry of Home Affairs recorded 16,375 cases of violence against women during 2006. These included 1314 rape cases, 2551 kidnapping and abduction cases, 1798 dowry death cases, among others.

The police were responsible for committing rapes. On 4 February 2007, Constable Jaswant Singh was arrested for allegedly raping a 21-year-old woman in Gorakhpur district. On 29 January 2007, the accused constable entered the house of the victim after hearing cries for help but raped the girl finding her alone.<sup>35</sup>

In March 2007, a woman was allegedly gang raped by seven police personnel including the Station House Officer of Sheshamau and Inspector Yadunath Singh after forcefully entering her house in Kanpur. The police refused to register her complaint. On 13 July 2007, a local court in Kanpur ordered the police to register a case against the accused policemen.<sup>36</sup>

Poor migrant women were also targeted for sexual violence. On the night of 21 February

2007, 17 tribal women including minors from Jharkhand were allegedly gang raped by about 25 youths at a brick kiln at Sirohideeh village in Ballia district.<sup>37</sup>

## VI. Violations of the prisoners' rights

The NHRC registered 241 cases of deaths in judicial custody in Uttar Pradesh during the period from 1 April 2006 – 31 March 2007.<sup>38</sup>

The conditions of prisons remained deplorable due to overcrowding. According to the findings of an inquiry conducted by the police and administration, 3,112 prisoners were lodged against a sanctioned capacity of 670 in the Dasna jail in Ghaziabad district as of mid-April 2007. The report also revealed that there were no watchtower, no metal detectors, no public address system, no wireless sets, no generator, no helmets or tear gas or a jail superintendent. Even the walls were below the official norms and standards.<sup>39</sup>

The biggest jail in Uttar Pradesh, Naini Central Jail was overcrowded. There were 3,926 prisoners living in this jail against the actual capacity of only 2,060 prisoners as of 14 July 2007. There were around 1,729 general convicts with 1,695 males, 13 women and 21 minors. There were 2166 undertrials including 46 women and 111 adolescents. Four persons are in Jail under National Security Act. The Jail had a hospital with four doctors. But the post of one doctor was lying vacant.<sup>40</sup>

On 21 September 2007, the National Human Rights Commission sent notice to the Director General of Police (Prisons) of Uttar Pradesh on conditions of the female prisoners in Mirzapur jail. The Commission took *suo-motu* cognizance of a report published in the Hindi daily "Jansatta" on 17<sup>th</sup> September 2007. The daily carried the statement of a human rights activist, Roma, who was detained at Mirzapur jail. Ms Roma following

her release alleged that the jail lacked medical facilities and women prisoners gave birth to children without medical assistance. There were 29 women prisoners including some minor girls. At least six women prisoners were living along with their babies in the jail. The minors were detained as there was no one to pursue their case.<sup>41</sup>

Clashes between prisoners and jail officials were reported on regular intervals. On 25 June 2007, five persons – two jail wardens and three prisoners were killed in a clash inside Sultanpur district jail.<sup>42</sup>

Unlawful items such as mobile phones, luxury items could be easily smuggled inside the jails. The high-profile inmates enjoy various privileges in violation of the jail manual.<sup>43</sup>

## VII. Violations of the rights of minorities

Religious minorities such as the Muslims and the Christians were targeted in Uttar Pradesh. Christian religious leaders were specifically targeted.

On 16 September 2007, Pastor Virendra Singh and his wife were beaten up by some persons including VHP activists at Barauli village under Madiyon police station near

Lucknow. The couple was accused of forced conversions in the area.<sup>44</sup>

On 17 August 2007, Dr Raju Abraham, chief surgeon of Kachhwa Mission Hospital and Pastor Joy were beaten up by activists allegedly belonging to Rashtriya Swayamsevak Sangh and Bajrang Dal during a programme organised for Dalit children at Kachhwa in Mirzapur district. Earlier, Hindu extremist had threatened the organisers with dire consequences if they went ahead with programme.<sup>45</sup>

On 25 March 2007, Pastor Rajender Chauhan was conducting a prayer meeting at Jaunpur which was attended by more than 13,000 persons. Suddenly two police jeeps and a van arrived at the scene and the police dragged Pastor Rajender Chauhan to the police vehicle without explanation. The crowd prevented the police from taking the Pastor away. The police claimed that they wanted to discuss a few things with the pastor regarding the upcoming elections in the state. The crowd allowed the police to detain the Pastor. However the Pastor was detained beaten up all night. He was accused of conversion. The next day, he was produced before the Chief Judicial Magistrate and was remanded for 14 days. At the court premises, activists of Viswa Hindu Parishad allegedly dragged and kicked the pastor in public.<sup>46</sup> ■

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# West Bengal

## I. Overview

**R**uled by the Communist Party of India (Marxist), West Bengal suffered the most serious human rights violations in India.

The security forces were responsible for gross human rights violations. The National Crime Record Bureau (NCRB) recorded eight deaths in police custody in West Bengal during 2006.<sup>1</sup> The National Human Rights Commission (NHRC) received seven cases of deaths in police custody and 69 cases of deaths in judicial custody and one encounter death in West Bengal during the period of 1 April 2006 to 31 March 2007.<sup>2</sup> The Asian Centre for Human Rights recorded several cases of custodial death in 2007. The Border Security Force personnel and Police were responsible for a number of extrajudicial killings.

The killing of 14 protesters demonstrating for land rights on 14 March 2007 by members of the ruling party and the shocking justification of the West Bengal Chief Minister Buddhadeb Bhattacharjee who said that the poor people attacked and killed by Party cadres had been 'paid back in the same coin' underline the attitude of West Bengal towards the rights of its citizens.

The Judiciary continued to be hampered by delay. There were 17 vacancies out of 58 judges in the Calcutta High Court as of 1 January 2008. The District and Subordinate Courts had 150 vacancies as of 30 September 2007. There were a total of 2,79,318 cases pending with the Calcutta High Court and a total of 21,84,058 cases were pending with the District and Subordinate Courts as of 30 September 2007.<sup>3</sup>

The State Human Rights Commission remained crippled. However, the state government of West Bengal failed to establish human rights courts outside the state capital Kolkata. The State Human Rights Commission had also submitted its annual reports between 2002-2006 but the State government had failed to place the same before the State Assembly.<sup>4</sup>

Human rights defenders continued to be targeted. On 8 February 2007, Mr. Gopen Chandra Sharma, District Human Rights Officer of People's Watch's "National Project on Prevention of Torture in India" (NPPT) in the Murshidabad district of West Bengal and member of Manabadhikar Suraksha Mancha (MASUM) was arrested by police officers while visiting the Kaharpara Border Out Post of the Border Security Force (BSF) camp in order to collect information on three human rights violations that were committed by the BSF. On 20 March 2007, Mr. Sharma was released on bail. However, he remains in jail under what appear to be trumped up charges of Sections 420 ("cheating and dishonestly inducing delivery of property"), 468 ("forgery for purpose of cheating") and 471 ("using as genuine a forged document") of the Indian Penal Code filed against him at the Jalangi police station by Mr. Shanti Ranjan Mondal who alleged that Mr. Gopen Sharma cheated him of Rupees 6,000.<sup>5</sup>

## II. Human rights violations by the security forces

According to the National Crime Records Bureau of the Ministry of Home Affairs, a total of only 28 complaints were received against the police personnel in West Bengal during 2006. Of these, a departmental inquiry was ordered into 19 cases and judicial

inquiry was ordered into 9 cases. 10 police personnel were sent to trial during the year. Of the 2 police personnel whose trials were completed, both were acquitted.

The NCRB does not report human rights violations committed by the army and the paramilitary forces.<sup>6</sup> The Border Security Forces (BSF) personnel were accused of perpetrating serious human rights violations.

## **a. Violations of the right to life**

### **i. Custodial killings**

The security forces were responsible for custodial deaths.

The NCRB had recorded eight deaths in police custody in West Bengal during 2006. The police claimed that out of the eight who died in police custody, four died during treatment /hospitalization.<sup>7</sup> According to the information obtained by the Asian Centre for Human Rights under the Right to Information (RTI) Act, the NHRC received seven cases of deaths in police custody and 69 cases of deaths in judicial custody and one encounter death in West Bengal during the period of 1 April 2006 to 31 March 2007.<sup>8</sup>

Asian Centre for Human Rights recorded several cases of custodial death in 2007.

On 9 February 2007, Krishnapada Das, son of Vanu Das of Purba Dwarikapur village under Pathor Pratima police station in South 24 Parganas district was arrested by some officers of Pathor Pratima Police Station for allegedly torturing his wife. He was allegedly found hanging from the rod of the window of the lock up with a knotted napkin on his neck at midnight on 10 February 2007. Several eyewitnesses from the village stated that they saw several injuries on the deceased. The police did not find any injury during their investigation. After examination of the dead body of Krishnapada Das, Kaliprasad Mukhopadhyay, Block Medical Officer

(Health) of Pathorpratima Block Health Center also stated that he found no injury except marks on the throat.<sup>9</sup>

On 29 March 2007, Hayat Seikh, son of Saidul Seikh of village Beldanga Par House, died at a hospital after he was subjected to torture by police including Office-in-Charge Sandip Sen and Sub-Inspector Durgaprasad Mazumdar at the Beldanga police station in Murshidabad district. The deceased was arrested from his house for interrogation in a murder case on 17 March 2007. The deceased was illegally detained in the police lock up from 17 March 2007 to 23 March 2007. He was not produced before any court during this period. He was subjected to torture during his illegal detention. However, the post-mortem report of the deceased suggested that that he had died of jaundice.<sup>10</sup>

On 16 May 2007, Ektar Seikh (42), son of Late Harun Rasid Seikh of Dadpur under Doulatabad police station in Murshidabad district of West Bengal, was arrested by the police of Doulatabad Police Station. He was detained in connection with abduction. On 17 May 2007 he was remanded to police custody for five days by Chief Judicial Magistrate of Baharampur. In police custody, he was allegedly tortured by Sub Inspector Dulal Sarkar, Sub Inspector Abdur Rahaman, Assistant sub Inspector Nitish Mondal and Assistant Sub Inspector Asraf Ali. His health deteriorated and as a result he was produced before court before the expiry of the remand period. The Judge ordered an explanation from the Investigating officer, Mr. Abdur Rahaman and to submit report immediately. Ektar was sent to Berhampore Central Jail where he was denied proper medical treatment. On 11 July 2007, Ektar died in Berhampore Hospital.<sup>11</sup>

On 20 September 2007, Ajoy Bagdi, s/o Pankhi Bagdi, a resident of Bichhur village under Barua police station in Murshidabad district of West Bengal was arrested by the police. He was detained in Nowda Police Station. He was charged under the Arms Act

and produced before Court of Chief Judicial Magistrate, Kandi on 21 September 2007. He was sent to police remand for seven days. In police custody he was allegedly tortured. Later, he was sent to Berhampore Central Correctional Home. On 22 November 2007, Ajoy Bagdi allegedly hanged himself from a tree inside the jail.<sup>12</sup>

On 14 November 2007, Goutam Ravidas was allegedly tortured to death in the custody of the police at Gajole Police Station in Malda district. He was arrested on 12 November 2007 on charges of torturing his wife for a dowry. He was illegally detained for two days without being produced in court and allegedly tortured.<sup>13</sup>

## ii. Extrajudicial executions

The security forces were responsible for extrajudicial killings.

On 26 February 2007, school teacher and Congress worker, Tuhin Samata was shot dead allegedly by Officer-in-charge Debojyoti Saha of Katwan during a clash between the Congress (I) and the CPM over the election of the governing body of the Chanduli higher secondary school at Katwa in Bardhaman district.<sup>14</sup>

The Border Security Forces (BSF) operating along the India-Bangladesh international border in West Bengal continued to perpetrate serious human rights violations.

On 4 March 2007, 19-year-old Masud Rana Sarkar succumbed to his injuries in a hospital after being severely beaten up by allegedly by personnel of the Border Security Forces (BSF) at Daudpur village in South Dinajpur district. The victim's parents and sister were also severely beaten up.<sup>15</sup>

On the night of 4 April 2007, Monika Soren, wife of Kushal Hembram, was shot dead by BSF personnel at Kokradaho under Goalpokhar police station on the Indo-Bangla

border after she allegedly refused to stop at the border. However, villager claimed that the BSF opened fire without reason.<sup>16</sup>

On 7 April 2007, a 19-year-old youth was shot dead by a BSF jawan while he was allegedly trying to smuggle cattle across the Bangladesh border near Kaharpara border at Banipur in Murshidabad district.<sup>17</sup>

On the night of 9 June 2007, Mizanur Rahman (17) was shot dead by BSF jawans while he was returning from a marriage party at Gopalnagar under Tapan police station.<sup>18</sup>

On 18 December 2007, a porter identified as Bikash Ghosh was shot dead allegedly by a drunk BSF jawan at the Mahadipur international check-post in Malda district.<sup>19</sup>

There were also reports of killing of civilians shot by police. The NCRB recorded the killing of four civilians by the police during 2006.<sup>20</sup>

In October 2007, at least three persons identified as Ayub Sheikh<sup>21</sup>, Dhenupada Das<sup>22</sup> and Subhash Patwari<sup>23</sup> were killed by the police when they opened fire and firing and baton charged a group of protestors who were protesting against corrupt ration dealers in Birbhum, Burdwan and Cooch Behar district.

On 14 March 2007, 14 persons were killed in when police opened fire at Nandigram in Purbo Medinipur district as explained below in the report.<sup>24</sup>

## b. Arbitrary arrest, illegal detention and torture

The NHRC received eight cases of unlawful detention, 79 cases of other police excesses and in 95 cases the police failed to take action in West Bengal during the period of 1 April 2006 to 31 March 2007.<sup>25</sup>

People were subjected to torture after arrest. On 15 May 2007, Jinnat Ali Molla (34), son

of Habi Molla of village Kumarpur under Jalangi Police Station in Murshidabad district, was tortured by Sub Inspector (SI) Rajat Das at Raninagar Police Station in Murshidabad district after he was arrested by the SI from a bus. The police allegedly recovered a country made pistol from the bus.<sup>26</sup>

On 2 August 2007, Giasuddin Mondal (28) was arrested and tortured in police custody at Deganga Police Station in North 24 Parganas district. The victim was detained illegally for two days. The police claimed that he was arrested on 4 August 2007 in connection with dacoity and two other cases and produced to Barasat court on 4 August 2007. He alleged severe torture including by Julfikar Ali Mollaha, the officer in charge of the police station who sprayed acid on his rectum during interrogation.<sup>27</sup>

On 29 August 2007, Kartick Das (22), a Scheduled Caste, son of Gour Das and resident of village Bakpara Doulatabad in South 24 Paraganas, was tortured by police at the Bishnupur police station after he was taken to the police station by three police personnel on a complaint by one Tapan Mondal. Before taking him to the police station, the policemen beat him up with batons. When the victim's mother try to protect him, the policemen also beat her up.<sup>28</sup>

On 10 September 2007, Chandan, a tailor and son of Ashwini Roy was picked up from their home by the personnel of Eastern Frontier Rifles at Banchukamari in Alipurduar under Jalpaiguri district. Chandan was allegedly beaten up, stripped and then forced to walk out of the army camp naked.<sup>29</sup>

On 21 October 2007, a butcher identified as Baren Roy was beaten up with a stick allegedly by Assitant Sub-Inspector Pankaj Biswas at a police camp at Jatishwar at Falakata in Jalpaiguri district.<sup>30</sup>

On 5 December 2007, Kamal Sarkar, a tea stall owner, was detained and tortured at Kushumandi police station in South

Dinajpur district. Following his release he had to be admitted to Kushumandi Hospital for treatment of multiple injuries.<sup>31</sup>

On 28 January 2007, 50-year-old Chanubala Mondal, wife of Ajit Mondal of village Basnabad under Raninagar police station in Murshidabad district in West Bengal, was seriously injured after being beaten up with sticks by a officer of the Border Security Force (BSF) at 3 Number O.P. Point Camp of BSF Post in Murshidabad district. The victim was returning from her cropland when the officer stopped her for questioning. The victim complained to Raninagar police station but the police failed to take further action.<sup>32</sup>

Court orders were flouted by the police. Between 14 and 15 February 2007, Ajay Kumar Yadav (30), son of Ramrekha Yadav of Debi Mandir Lane under Liluah police station in Howrah district, was allegedly tortured by the Inspector-in-Charge (SI) Asit Saw and Investigation Officer (IO) Sourabh Banerjee at the Bally police station in Howrah after a court remanded him into police custody. The court expressly warned the police not to subject Yadav to any kind of physical and mental torture. The medical report of the victim was consistent with the allegations made by Yadav.

Many innocent civilians were subjected to torture by the Border Security Forces.

On the night of 15 December 2007, eighteen persons including women were injured after they were beaten up by BSF personnel on the suspicion of stealing border fencing wire during a raid at Amudia village in Swarupnagar in North 24 Parganas district.<sup>33</sup>

On 26 December 2007, three persons including a woman were injured, one seriously, after being allegedly beaten with rifle butts by a BSF jawan at the Veluguchh Border Outpost under Islampur police station in North Dinajpur district after an altercation.<sup>34</sup>

### III. Violations of International Humanitarian Law by the AOGs

The Naxalites were responsible for Violations of International Humanitarian Law. The Naxalites continued to target activists of the ruling Communist Party of India - Marxist (CPI-M). On 13 August 2007, Jharkhand, Orissa and West Bengal formed a Joint Co-ordination Committee (JCC) to curb the Naxalites in the border areas. The mechanisms of the JCC included launching joint operations against the Naxalites and information sharing.<sup>35</sup>

#### a. Killing of political activists

On 6 December 2007, suspected Maoists shot dead Gopal Singh, former CPM activist, at Shyamnagar under Belpahari police station in West Midnapore district on suspicion of being a police informer.<sup>36</sup>

Some other cases documented by Asian Centre for Human Rights included:

- CPI (M) leader Palaram Tudu who was killed at Jamjhulka village under Belpahari police station in West Midnapur district on 9 January 2007;<sup>37</sup>
- two CPI (M) leaders identified as Parikshit Singh and Rampada Singh who were killed at Bhelpahari in West Midnapore district on 30 March 2007;<sup>38</sup>
- CPM activist Rohit Roy who was killed at Lalgah in West Midnapore district On 10 July 2007;<sup>39</sup>
- CPI (M) leader Bhagirath Karmakar at barabazar in Purulia district on 1 November 2007;<sup>40</sup> and
- Sufal Mandi, CPM activist, who was killed at Ghatbera village in Purulia district on the night of 19 November 2007.<sup>41</sup>

Apart from killing, the Naxalites also abducted CPI (M) activists. On 30 March

2007, suspected Maoists abducted four CPI (M) leaders identified Mr Khitish Singh, Mr Abani Sardar, Mr Sankar Nayak and an unidentified leader from Bhelpahari in West Midnapore district.<sup>42</sup>

#### b. Destruction of public properties

The Naxalites continued to attack public property.

On 27 June 2007, Maoists blew up railway tracks and burned down the station master's office at Biramdih station in Purulia district.<sup>43</sup>

On 19 November 2007, Maoists blew up the railway tracks in Sainthia-Andal in Bhimgarh district.<sup>44</sup>

### IV. 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.<sup>45</sup> However, the Sara Bharat Adivasis Mahapatra, a CPI- affiliated organization, alleged that they were being neglected by the State government. They were denied caste certificates which deprive them of government jobs. Only two-thirds of the population was reportedly given caste certificates.<sup>46</sup>

The NCRB recorded a total of seven incidences of crimes against Scheduled Tribes (STs) including one rape and one case under the SC/ST (Prevention of Atrocities) Act of 1989 in West Bengal during 2006.<sup>47</sup> The police do not register cases under the Prevention of Atrocities Act as a means to demonstrate that there are no atrocities against the tribals.

Tribal women remained vulnerable to sexual violence. On 24 January 2007, two tribal girls were reportedly gang raped by a group of five persons after holding the victims family

at gunpoint at Saoradanga village under Nabagram police station in Murshidabad district.<sup>48</sup>

## V. Violence against women

According to the NCRB a total of 12,785 cases of crimes against women were reported in West Bengal during 2006. These included 1,731 cases of rape, 445 cases of dowry deaths, 1,199 cases of kidnapping and abduction, 7,414 cases of cruelty by husband and relatives, 1,837 cases of molestation, 66 cases under Immoral Trafficking (Prevention) Act of 1956, among others.<sup>49</sup>

The security forces were responsible for violence against women including rape, torture and illegal detention.

On 5 March 2007, Mrs. Kabita Mondal, Mrs. Bithika Mondal, Mr. Abinash Mondal, Asima Mondal and Srikanta Mondal of Murshidabad district were beaten up by four personnel of BSF including the Company Commandant Jirendar Singh of Char Raja Nagar Camp of the district. Mrs. Kabita Mondal, who was eight months pregnant, fell unconscious. The personnel reportedly entered into the house and asked those present to catch a cow for them. When the women declined they were beaten.

On 8 July 2007 at around 10.30 p.m., seven alleged sex workers identified as Mrs. Sima Adhikary, w/o Pradip Adhikary, Mrs. Sandhya Sarkar, w/o Kanchan Pal, Mrs. Rupa Singh, w/o Dipak Singh, Mrs. Sathi Mondal, w/o Mukhtar Mondal, Mrs. Lakshmi Jar, w/o Govinda Jar, Mrs. Swapna Biswas, w/o Manik Biswas and Mrs. Sikha Dey, w/o Lalu Dey were arrested by the police near Bahadurpur railway crossing under Dhubulia Police Station in Nadia district. The victims alleged that they were denied food while detained at the police station. On 9 July 2007, Mr. Biman Mridha, the Officer in Charge of Dhubulia Police Station, and a lady constable identified as Smt. Sabita allegedly beat them.

They were illegally detained for two days and produced before the Krishnanagar Chief Judicial Magistrate Court on 10 July 2007. They were released on bail. A fact finding by local NGO, Manab Adhikar Suraksha Manch MASU confirmed that its fact finding team witnessed the injuries of one of the victims, Sathi Mondal, consistent with the allegations.<sup>50</sup>

On 18 December 2007, a 29-year-old widow was illegally detained and tortured by Border Security Force (BSF) personnel at Kaliani in Bongaon in North 24 Parganas district. The BSF personnel accused her of sheltering illegal Bangladeshi immigrants at her house at Kalini village. She was taken to the BSF camp and was allegedly forced to strip and was then beaten up. The victim was reportedly released only after the intervention of the chief of the *Gram Panchayat* of Chaighoria, Mr Santosh Pradhan.<sup>51</sup>

Several women were reportedly raped by the police and the activists of the CPI (M) in Nandigram conflict as explained below.

The rape committed by police was confirmed by Superintendent of Police of East Midnapore district, G A Srinivas in his report to the State Headquarters. In his report, G A Srinivas admitted that two police personnel had raped a woman during the clashes in Nandigram on 14 March 2007.<sup>52</sup>

On 23 July 2007, Lance Naik Kishori Lal of Sashastra Seema Bal (SSB) was arrested on charges of raping a 13-year-old girl in a jungle adjacent to Lankapara tea estate under Birpara police station in Jalpaiguri district.<sup>53</sup>

The CPI (M) was also responsible for perpetrating rape during the Nandigram clashes. On 14 March 2007, a mother and her two daughters were allegedly raped by CPI (M) leaders along with his supporters for two days in Nandigram. The alleged perpetrators then laid siege to the house and demanded money from the victims.<sup>54</sup>

Women continued to be victims of cultural cruel practices in West Bengal. On 27 March 2007, a 65-year-old woman identified as Tala Marmu, was sacrificed on the alter of a temple at Kendua village under Habibpur police station in Malda district after she was held responsible for the death of a person.<sup>55</sup>

Similarly, on 13 July 2007, another woman identified as Shanti Kheria (45) was beaten to death at her home by tea workers on the suspicion of being a witch at Dima tea garden under Kalchini Block in Jalpaiguri district.<sup>56</sup>

## VI. Violations of the rights of the child

According to the NCRB, a total of 432 cases of crimes against children were reported in West Bengal during 2006. These included 3 cases of murder, 20 cases of rape, 156 cases of kidnapping and abduction, 77 cases of procuring minor girls, 114 cases of Selling of girls for prostitution, among others.<sup>57</sup>

Children were subjected to illegal detention and torture by the security forces in clear violation of the Juvenile Justice (Care and Protection) Act, 2000. Under the Act, the police have no authority to deal with juveniles.

Between 6 and 9 April 2007, a 14-year old girl identified as Nuresha Khatoon and a 15 year-old boy identified as Pintu Shekh were illegally detained by Mr. Somnath Banerjee, the Officer-in-Charge (OC) of the Jalangi police station and Sub Inspector Mr. Tuhin Biswas in the police lock-up at the Jalangi police station in Murshidabad district. The minors were detained after the girl's father informed the Jalangi police station that his daughter was missing and he suspected that she had been abducted. When Pintu's father Mr. Saider Shekh found out he took both the children to the Jalangi police station as proof that there was no abduction. However, the said police officials asked Mr. Saider Shekh to leave and locked up the two minors.<sup>58</sup>

On 6 August 2007, two tribal children identified as Bhutan Khalko (6) and Bhuto Khalko (4), residents of tribal colony near the Barasat Municipality, were picked up by the police on the charges of stealing. They were illegally detained at Barasat police station in North 24 Parganas district for three days from 6-8 August 2007. They were released without any charges.<sup>59</sup>

On 6 February 2007, Banashree Malik, a minor girl of six years, d/o Pasupati Mondal of Gopalnagar Paschim village in Singur, Hooghly district was beaten by police as they suggested that her father had been involved with Krishi Jami Bachao Committee; a group resisting land acquisition by the state government for the TATA company. Some local people rescued her and took her to Singur Rural Hospital.<sup>60</sup>

On 1 April 2007, two minor boys identified as Asif Iqbal (13), son of Asmat Sk. and Sahin Sk (15), son of Jalil Skilled, both resident of village Ramnagar Para under Raninagar police station in Murshidabad district were allegedly shot by Border Security Force personnel of the 140<sup>th</sup> Battalion. They were shot at the Kaharpara BOP (Border Outpost) while moving two cows from India to Bangladesh.<sup>61</sup>

## VII. Violations of the prisoners' rights

The NHRC registered 69 cases of deaths in judicial custody in West Bengal during the period from 1 April 2006 – 31 March 2007.<sup>62</sup>

The conditions of prisons continued to be deplorable. The jails (renamed 'Correctional Homes) remained overcrowded and lack basic services including sanitation.

The Krishnagar District Correctional holds 1,072 prisoners as against the sanctioned 498 prisoners as of July 2007. Most of the inmates were undertrials.<sup>63</sup> While the Jalpaiguri District Correctional Home had 846 under

trial prisoners as against 551 inmates as of 21 May 2007.<sup>64</sup>

Torture of prisoners was common. On 31 July 2007, an undertrial prisoner Abedali Molla (21) was found hanging in Diamond Harbour Correctional Home, South 24 Pargana district. He was arrested following a complaint by a woman named Taslima Khatun of Alipara village in Kulpi in South 24 Parganas district. She alleged that Abedali had promised to marry her and cohabited with her. According to Abedali's cousin, Abdul Rahaman, the family members of Taslima Khatun hired people in prison to murder Abedali. Abedali's brother was present when the body was taken to Medical College & Hospital Morgue (Kolkata Morgue) on 2 August 2007. He saw a blister on the left side of the upper back and legs.

According to advocates Muktikam Das and Pronil Roy, there is a criminal gang operating in the prison who pressure on the families of the under trial prisoners for money. If they fail to pay, then the prisoners are tortured mentally, physically and served with low quality food and denied access to their family. They alleged that Abedali died due to torture in the jail. They allege that the victim was first killed and his body was later hanged to suggest suicide.<sup>65</sup>

On 31 July 2007, an under-trial prisoner identified as Bimal Roy was allegedly tortured to death in Jalpaiguri Central jail in West Bengal.

On 2 November 2007, Adol Basumata, son of Nagen died in Alipurduar jail in Jalpaiguri district of West Bengal on 2 November 2007. The deceased was arrested on charges of assaulting a forest official and sent to judicial custody. His father Nagen alleged that he was beaten to death in jail custody.<sup>66</sup>

On 14 December 2007, undertrial prisoner identified as Ashoke Ghosh (66), son of Kalidas Ghosh of 20/A at Garcha First Lake under police station Gariahat in Kolkata

district, was allegedly tortured to death at the Alipur Correctional Home. The police claimed that he died of an illness. However, the inquest report revealed injuries on the deceased body, consistent with the allegations of torture.<sup>67</sup>

Prisoners were denied medical care, resulting in deaths. On the night of 22 April 2007, undertrial Kshiten Barman from Cooch Behar District Correctional Home reportedly died in Cooch Behar allegedly due to lack of medical treatment.<sup>68</sup>

On the night of 18 July 2007, 70-year-old undertrial Narayan Dey died in jail custody in Cooch Behar district correctional home due to lack of medical attention. The family of the deceased alleged that the police and the jail authority did little to extend proper medical care despite the victim's acute asthma condition.<sup>69</sup>

## VIII. Human Rights Violations at Nandigram

Nandigram of West Bengal became synonymous of the conflicts with the Special Economic Zones (SEZs) that provide attractive economic packages, tax concession, exemptions from environmental clearance to companies setting up factories and businesses.

Nandigram - identified by Salem group of Indonesia for establishment of its Chemical factories - turned into a conflict between armed cadres of the ruling Communist Party of India-Marxist (CPI-M) and the anti-land acquisition *Bhumi Uchhed Pratirodh Committee* (Land Eviction Resistance Committee, BUPC), made up of the poor who do not want to sell their lands, and are allegedly backed by the opposition Trinamool Congress. Gross human rights violations have been committed with absolute impunity as the State government either perpetrated or remained complicit with the violence of the ruling party cadres.

On 14 March 2007, 14 BUPC protesters were shot dead by the State police. An inquiry by the Central Bureau of Investigation was ordered. On 16 November 2007, the Calcutta High Court declared the police killings as “unconstitutional”, unjustified” and awarded compensations of Rs 500,000 (US\$ 12,690) each to those killed, Rs 200,000 (US\$ 5,076) to each of the rape victims and Rs 100,000 (US\$ 2,538) to each injured person. The State government has since challenged the order before the Supreme Court.

On 28 March 2007, the chemical hub project at Nandigram was declared abandoned by West Bengal Chief Minister Buddhadeb Bhattacharjee. But the conflict continued.

As the CPI-M cadres “recaptured” the areas in Nandigram from 6 November 2007, an unknown number of supporters of the BUPC

were killed, women raped and displaced from their homes. Shockingly West Bengal Chief Minister Buddhadeb Bhattacharjee justified the actions of the CPI-M cadres saying that the victims were “paid back in the same coin”. Given the view of the head of the State government it was hardly surprising that West Bengal Police did nothing to prevent the violence. Central security forces were called but the Central Reserve Police Force (CRPF) personnel who are required to operate under the command of the State Police allegedly received insufficient instructions and support from the local police to bring the situation under control.

On 5<sup>th</sup> December 2007, the CRPF personnel dug up five graves at Bamanchak village. On 10 December 2007, the CRPF personnel found another grave at Parulia village in Nandigram. Many other burial sites remain undiscovered. ■

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