



India Torture Update

Special Focus : Bihar



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1. Prison reform: Can Justice (retd) Amitava Roy Committee reform India's shameful prisons?

Prisons in India are synonymous with deplorable conditions amounting to inhuman and degrading treatment and deaths of the prisoners from denial of basic medical facilities to torture. Prison reform is the least priority of the society and the State.

Would Justice (retd) Amitava Roy Committee therefore be able to reform the shameful prisons of India? The Supreme Court vide judgment on 25 September 2018 directed the Government of India to constitute a three member panel on prison reforms to be headed by Justice (Retd.) Roy as chairman and Inspector General of Police, Bureau of Police Research and Development (BPR&D) and Director General (Prisons) Tihar Jail, New Delhi as its Members.¹

The Supreme Court has given the Committee 17 Terms of Reference (ToRs) that holistically address the bodywork done on prison reforms which remain on paper. The ToRs include (1) review the implementation of the Guidelines contained in the Model Prison Manual 2016 by States and Union Territories (UT's); (2) review the implementation by the States and UTs of the recommendations made by the Parliamentary Committee on Empowerment of Women in its report tabled in the Parliament titled 'Women in Detention and Access to Justice,' and the advisory issued by the Ministry of Home Affairs (MHA) in this regard; (3) review the two training manuals for prison personnel prepared by Bureau of Police Research & Development, 'Training Manual of Basic Course for Prison Officers 2017' and 'Training Manual of Basic Course for Prison Warders 2017'; (4) review the recommendations made in the report of the Ministry of Women and Child Development in collaboration with the National Commission for Women and the National Law University Delhi on 'Women in Prisons'; (5) review the recommendations made in the report of the National Commission for Women on 'Inspection of Prisons/Jails/ Custodial Homes housing Women'; (6) review the implementation by States and UTs of the Guidelines contained in 'Living conditions in Institutions for Children in Conflict with Law' prepared by the Ministry of Women and Child Development (MWCD) and the Model Rules and Procedures prepared

by the MWCD under the Juvenile Justice (Care & Protection of Children) Act, 2015 and Juvenile Justice (Care and Protection of Children) Model Rules, 2016; (7) review the status of the implementation of the guidelines and advisories issued by MHA to the States and UTs; (8) give consolidated recommendations based on the above and suggest measures to improve the implementation of the aforementioned guidelines and advisories, subject to budgetary resources available with the States and the UTs; (9) examine the extent of overcrowding in prisons and correctional homes and recommend remedial measures, including an examination of the functioning of Under Trial Review Committees, availability of legal aid and advice, grant of remission, parole and furlough; (10) examine violence in prisons and correctional homes and recommend measures to prevent unnatural deaths and assess the availability of medical facilities in prisons and correctional homes and make recommendations in this regard; (11) assess the

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availability and inadequacy of staff in prisons and correctional homes and recommend remedial measures; (12) suggest training and educational modules for the staff in prisons and correctional homes with a view to implement the suggestions; (13) assess the feasibility of establishing Open Prisons, the possibility of and the potential for establishing Open Prisons in different parts of the country and give effect to the recommendations; (14) recommend steps for the psycho-social well-being of minor children of women prisoners, including their education and health; (15) examine and recommend measures for the health, education, development of skills, rehabilitation and social reintegration of children in Observation Homes, Places of Safety and Special Homes established under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015; (16) any other recommendation that the Committee may deem appropriate, fit and proper in furtherance of reforms in prisons and correctional homes; and (17) give its suggestions, recommendations changes or amendments to various guidelines contained in the Modern Prison Manual, 2016 and also various directives issued by the Government of India.”

The Supreme Court further advised the Committee to give its recommendations in respect of the first three Terms of References i.e. Sl. 1 to 3, preferably within a period of three months from the date on which the necessary facilities are provided by the Government of India for functioning of the Committee.

The directives of the Supreme Court is possibly the most comprehensive initiative for prison reforms since the recommendations of Justice Mulla Committee Report on Prison Reforms (1982-83) and Justice Krishna Iyer Committee on Women Prisoners (1986-87).

Prison conditions are appalling across the country. It has always been known and acknowledged but seldom the actions of the Government of India and various State governments moved beyond establishing commissions and committees and letting dust to gather on these reports.

Unless the Supreme Court continues to monitor the state of support provided for effective functioning of Justice Amitava Roy Committee and implementation of its recommendations, the Supreme Court appointed Committee may just be another Committee. The SC ought to ensure that its Committee is different from the Government appointed Committees.

2. Special focus: Custodial torture in Bihar

Custodial torture and custodial deaths have been rampant in Bihar. Tacit sanction by the police top brass and impunity has worsened the situation.

As per the data collated, the NHRC recorded 55 deaths in police custody and 1,025 deaths in prison custody during 2008-2018 as given below:

Table: Custodial deaths in Bihar from 2008-2018

<i>Year</i>	<i>Police custodial deaths</i>	<i>Judicial custodial deaths</i>
01/04/2008 to 31/03/2009 ²	5	133
01/04/2009 to 31/03/2010 ³	4	137
01/04/2010 to 31/03/2011 ⁴	6	130
01/04/2011 to 31/03/2012 ⁵	8	95
01/04/2012 to 31/03/2013 ⁶	2	112
01/04/2013 to 31/03/2014 ⁷	9	93
01/04/2014 to 31/03/2015 ⁸	6	117
01/04/2015 to 31/03/2016 ⁹	8	106
01/04/2016 to 31/03/2017	Not Available	Not Available
01/04/2017 to 28/02/2018 ¹⁰	7	102
Total	55	1025

2.1 Torture in Police custody

Torture is rampant in Bihar.

On 9 August 2018, a local businessman identified as Ramesh was allegedly tortured by policemen posted at Shakund police station in Bhagalpur district of Bihar. The victim alleged that he was tortured for the whole night after he had refused to pay a bribe of Rs 50,000 to the policemen in an old case. In his statement to the court, Ramesh stated that the Station House Officer (SHO) dragged him outside his shop and thrashed him mercilessly. Thereafter, two constables tore his clothes and put petrol in his private parts. The court ordered a medical test of the victim.¹¹

On 21 July 2015, Bhagalpur Chief Judicial Magistrate (CJM) Tribhuvan Yadav rejected the bail plea of three police officials accused in a torture case. The accused police officials were Kotwali police SHO Kumud Kumar, then Taterpur SHO Sanjay Biswas and then Adampur SHO Santosh Kumar. They were sent to judicial custody for 14 days in the case of torture of one Mohammad Rustam

(29). The victim alleged that he was arrested by the police on 19 August 2012 but sent to jail only on 9 September 2012, violating a requirement that an arrested person should be produced before a competent court within 24 hours of arrest. Rustam's lawyer Abhaykant Jha told the court that during the nearly month-long illegal detention, Rustam was tortured after he refused to become a witness against social worker Dipak Shaw in the Bishwanath Gupta murder case. The police allegedly poured petrol inside his rectum. The CJM court, Bhagalpur took cognisance of the case against the three policemen on 5 March 2013, after which it issued a non-bailable warrant against them on 14 February 2014. The court initiated proceedings against the accused under Section 82 of Indian Penal Code (IPC) on 2 July 2015 and asked all the accused to appear physically before the court on 21 July 2015.¹²

In June 2018, Bihar government paid Rs 3 lakh as compensation to the family of one Madan Yadav who died due to torture in custody at Barun Police Station in Aurangabad district on 7 June in 2012, a day after his arrest. After the intervention of the National Human Rights Commission (NHRC), a case was also registered against the police personnel under section 302 IPC at Barun Police Station. The SHO and five constables were suspended. The victim, a resident of Palamu district of Jharkhand, was arrested on 6 June 2012 for alleged links with Naxals. Police claimed that the victim was a 'sub-zonal commander' of banned CPI (Maoist) and was brought to Barun for interrogation.¹³

The NHRC found contradictions and discrepancies in the police statements about the place of Madan Yadav's arrest and other factors. During the course of investigation, the NHRC found several loopholes in police theory behind the death of the accused. It stated: *"Based on the material on record placed before the commission after a series of notices, it held that there was overwhelming evidence against the conduct of the police which could not satisfactorily explain the reason behind the injuries to the deceased."*¹⁴

2.2 Inhuman conditions of the prisons in Bihar

There are 58 prisons in Bihar including 5 Central Jails, 31 District Jails, 17 Sub Jails, one Women jail, one Open Jail, and one Special Jail.¹⁵

As per reply of Minister of State in the Ministry of Home Affairs Shri Hansraj Gangaram Ahir in Rajya Sabha on 21 March 2018, against available capacity of 37,809 inmates in the jails of Bihar, there were 33102 inmates lodged with occupancy rate of 87.6% as of 31.12.2016.¹⁶ The occupancy rate in 2015 was 75.2%.¹⁷ However, as per a report of *The Times of India* dated 3 January 2018, 27 out of the 57 jails in the state were overcrowded and most of the prisoners were forced to live in unhygienic and

inhuman conditions. The report stated that there were more than 25,000 prisoners in these 27 jails against their sanctioned capacity to accommodate around 16,880 inmates only.¹⁸

Prison conditions have always been deplorable.

In 2015, Justice V.N. Sinha, Judge of Patna High Court and Executive Chairman of the Bihar State Legal Services Authority (BSLSA) commissioned human rights activist, Smita Chakraburty to inspect all the 58 prisons of Bihar. During her six-month long study, Ms Chakraburty visited each of the prisons and her inspection reports revealed inhuman conditions of incarceration and custodial violence and torture. She compiled 58 interim reports on each of the prisons in the State and her final report, titled "Prisons of Bihar: Status Report-2015",¹⁹ was released on 15 November 2015 by the BSLSA.

The most appalling finding recorded in the report is the near complete absence of medical facilities in the prisons. The final report stated, *"The prisons do not have proper facility of storing medicine, medical store in the prison are ill equipped, medical equipments such as X-Ray machines are dysfunctional, refrigerator for storing medicines are not operational. Medical clinics are usually run by compounders who keep only basic medicines such as paracetamol and some B-Complex vitamins, required medical kits such as pregnancy kits, HIV kits to conduct medical test as mentioned in the Prisoner Health Screening Form is also not available in the prisons. There is a severe shortage of medical staff in prison. Also, lady doctors are only available in around 6 out of 58 prisons of the state"*. It further stated that due to non availability of resident doctors, compounders are incapable of recommending cases to the district hospital. The procedure of sending inmate for medical check-up or treatment, even in emergency cases, to District Hospital was extremely lengthy, leading to inordinate delay which often resulted in loss of life. Even major health conditions failed to receive the required medical attention. One such case was encountered in the Beur Central Prison, where the undertrial prisoner Upender Kumar was lying unconscious, was bleeding and had bedsores, yet the Patna Medical College Hospital did not admit him. There was no facility to treat him in Beur Hospital Ward. More shockingly, there was no arrangement to separate prisoners suffering from the human immunodeficiency virus (HIV) from those suffering from tuberculosis and they were kept in the same ward. If this was the condition of the Beur Jail, which is one of the best equipped prisons located in capital Patna, one can only shudder to imagine the kind of medical facilities provided in the other 57 prisons which did not have half the facilities provided in Beur Central Jail. She found 102 mentally ill, 26 terminally ill, 23 handicapped, 176 in need of other

medical help such as spectacles/hearing aids etc and 4 pregnant prisoners in the jails across the state.

Some of the prisons buildings are over a hundred years old. She stated that colonial era prisons had two problems. First, *“The prison architecture being from a colonial era reeks of repression, the objective is punishment of individuals through caging them, keeping them behind bars. The architecture of these old prisons is intimidating in character. Broadly describing most wards in these prisons resembles gigantic dark pits, huge wards, housing several inmates and very scarce entry of light. Tall lock up gates with thick bars, colossal locks, damp walls, these wards even though of different prisons, situated hundreds of kilometers apart have an identical frightfully depressing aura about them.”* Second, these British era prisons are in dilapidated state. Mulla Committee Report had suggested back in 1983 that all old prison buildings having outlived their utility should be demolished.²⁰

Though in Bihar, overcrowding was not a problem in majority of the prisons but some of them still remained frightfully crowded and inmates in these prisons lived under inhuman conditions. For example, Araria District Prison had a serious problem of overcrowding, especially in the woman ward. The report stated, *“The Woman Ward is a small ward with capacity of 2 inmates. However on the date of inspection 23 inmates, 2 children were lodged there. No crèche. Inmates did not have enough space to sit together in the ward leave apart laying down or sleeping. As a practical solution measure the woman ward is not locked up in the night, so the woman sleep in small corridor in front of the ward. What they do during monsoons or during winter remains unknown.”* She also pointed out the lack of drinking water facility in majority of the prisons and lack of ceiling fans whereas Bihar being a seismic zone, temperature rises to over 45 degree Celsius, coupled with extreme humid conditions. Most prison toilets outside wards were dysfunctional or were too less in number. Under trial prisoners were compulsorily forced to work in kitchens without any remuneration which amounted to “a contemporary form of slavery” and unfortunately it is found in full practice in the prisons of Bihar.

The report stated that of the 30,070 prisoners met during the time of inspection, at least 2,978 prisoners (i.e. 10% of the prisoners) did not have lawyers and were in need of legal aid. About 476 prisoners claimed themselves to be juvenile and out of these by conservative estimates over 250 children appeared to be under the age of 16 yrs. Ms. Chakraborty also documented cases of custodial torture and rape inside the prisons.

2.3 Deaths in judicial custody

Bihar has been infamous for torture in prisons. The Bhagalpur blinding of 1980 and 1981 during which police

officials poured acid into the eyes of 33 undertrials and convicts over a period of several months in a brutal show of extra-judicial punishment.²¹

During 2008-2018, a total of 1,025 prisoners have died in jails. This included 133 deaths in 2008-09, 137 deaths in 2009-10, 130 deaths in 2010-11, 95 deaths in 2011-12, 112 deaths in 2012-13, 93 deaths in 2013-14, 117 deaths in 2014-15, 106 deaths in 2015-16, and 102 deaths in 2017-18.

On 7 August 2018, one Sanjay Singh (70) died under mysterious circumstances at Hajipur Divisional Jail under Vaishali district. He was lodged in the jail in connection with a murder case for the last six years. The jails officials claimed that the deceased Sanjay Singh was not keeping good health and died on the intervening night of 7-8 August 2018.²²

On 4 August 2018, an undertrial prisoner identified as Mohd. Sattar Ansari (27) died under mysterious circumstances at Central Jail in Motihari town under Champaran district. He was arrested by the police on 22 April 2018 and sent to judicial custody in connection with murder of his wife. The jail officials claimed that on 4 August he had committed suicide by jumping from the third floor of ward No.19 and died on the spot. The jail officials claimed that the deceased was suffering from mental condition.²³

On 24 July 2018, an undertrial prisoner identified as Manager Mehto Yogapatty died due to alleged torture at District Jail (Mandal Karawaas) under Bettiah district. A resident of Khairatiya village under Nawalpur district, he was arrested by the police on 15 July 2018 in a case of a road rage with some people. The jail officials claimed that Yogapatty died due to heart attack in the jail. However, the family members alleged that Yogapatty called them from the jail for bail, half an hour before the jail officials informed about his death on 24 July 2018. The family members further alleged that Manager Mehto died due to custodial torture by the jails officials.²⁴

On 20 June 2018, an undertrial prisoner identified as Surendra Sah died due to alleged torture at Motihari Central Jail in East Champaran district. He was arrested on 17 June 2018 for allegedly consuming alcohol in violation of liquor prohibition law in Bihar. *“Sah was arrested at his village on June 17 for consuming alcohol and was kept in jail. He appeared to be addicted to alcohol and had been ill since his arrest. This morning (20 June), when his health deteriorated significantly, he was rushed to the Sadar hospital where he died shortly after being admitted,”* Inspector in-charge of Town police station Anant Kumar was quoted as saying. But angry relatives of the deceased resorted to vandalism at the Sadar hospital alleging that the death was caused by injuries sustained at the Motihari Central jail. The

hospital's deputy superintendent Manoj Kumar confirmed that the family members "got enraged when they saw injury marks which they blamed on alleged torture by police or prison authorities".²⁵

Some emblematic cases of deaths in judicial custody in Bihar adjudicated by the NHRC and/or the Bihar State Human Rights Commission during 2018 are illustrated below:

Case 1: Death of undertrial prisoner Mohd. Farooque at Saheed Khudiram Bose Central Jail, Muzaffarpur on 16.12.2015

On 16.12.2015, the body of an undertrial prisoner Mohd. Farooque, S/o Mohd. Nasim was found hanging to a tree inside Central Jail, Muzaffarpur, Bihar. The NHRC took cognisance of the matter by registering Case No. 3824/4/23/2015-JCD and vide proceeding dated 01/08/2017, the Commission concluded that the Jail Authorities had failed to protect the right to life of the deceased. Therefore the Commission had issued a show cause notice u/s 18 of the Protection of Human Rights Act (PHRA) of 1983 to the Chief Secretary, Govt. of Bihar, as to why not a monetary relief of Rs. 100000/- (Rs. One Lakh) be paid to the Next of Kin (NoK) of the deceased for the violation of human rights.

After consideration of the material placed on record, the NHRC observed that the jail staff of the Central Prison Muzaffarpur were absolutely not concerned about the well being of the prisoners and were not working as per the rules & regulations, causing thereby the death of the undertrial prisoner Mohd. Farooque on 16/12/2015.

In an order dated 15/06/2018, the NHRC directed the Chief Secretary of Bihar to send the report on the measures/action taken to avoid such incident in future and also to identify the officer, who was responsible for the violation of human rights of the deceased.

Case 2: Death of undertrial prisoner Uttim Lal Mandal at Supaul District Jail, Bihar on 25.11.2014

On 15.10.2014, a 60-year-old undertrial prisoner identified as Uttim Lal Mandal died in the custody of District Jail, Supaul, Bihar. The NHRC took cognizance of the incident and registered the incident under Case No. 3961/4/38/2014-JCD. After considering the reports submitted by the state authorities, the Commission, vide its proceedings on 22.11.2017, observed and directed as under: *"The deceased undertrial prisoner Uttim Lal Mandal was in the care and custody of State and the State was responsible for providing him with adequate and timely treatment. But due to negligence and carelessness of the Jail authorities in providing treatment to the deceased, he died. For this lapse, the State is vicariously liable to make reparations to the next-of-kin of the deceased undertrial prisoner Uttim Lal Mandal. In view of the above, issue a notice under Section 18 of the Protection of*

Human Rights Act, 1993 to the Government of Bihar, through its Chief Secretary, requiring it to show cause within six weeks as to why the Commission should not recommend payment of Rs. 1,00,000/- as compensation to the next-of-kin of the deceased undertrial prisoner Uttim Lal Mandal."

In response, the DIG, Prison and Correctional Services, Bihar, Patna, vide communication dated 25.01.2018, had forwarded a report dated 07.01.2018 of the Superintendent, District Jail, Supaul, Bihar. In that report, the jail Superintendent contended that the deceased UTP was provided proper medical treatment and medicines and that there was no negligence on the part of the jail administration in providing treatment to the deceased undertrial prisoner.

Based on the findings recorded in the Enquiry Report by the Magistrate that the undertrial prisoner died due to negligence in providing timely and adequate medical care, the Commission rejected the plea raised by the Superintendent, District Jail, Supaul. The Commission reiterated its decision of 22.11.2017 recommending payment of Rs. 1 lakh as compensation to the next-of-kin of the deceased. In an order dated 28.05.2018, the NHRC directed the Chief Secretary, Government of Bihar to send within six weeks a compliance report along with the proof of payment.

Case 3: Death of convict prisoner Doma Mahto at District Jail, Muzaffarpur on 9.10.2015

On 9.10.2015, an octogenarian convict prisoner identified as Doma Mahto on died 9.10.2015 under the custody of District Jail, Muzaffarpur, Bihar. The NHRC took cognisance of the matter by registering Case No. 3193/4/23/2015-JCR.

Having considered the health screening report, inquest report, post-mortem report, histopathological report, opinion regarding final cause of death of the deceased by the board of doctors, medical treatment record, Magisterial Enquiry report and other materials on record, the NHRC concluded that the District authorities failed in their primary responsibility of providing adequate and timely medical treatment to the jail inmate. The NHRC opined that the district authorities were careless and negligent and held that the State is vicariously liable for negligence of its officials for which the NOK of the deceased should be suitably compensated. Accordingly, a notice u/s 18 of the Protection of Human Rights Act, 1993 was issued to the Government of Bihar through its Chief Secretary to show-cause as to why the NHRC should not recommend payment of Rs 3 lakh as compensation to the NOK of the deceased.

Vide proceedings dated 5.12.2017 the NHRC concluded that the convict prisoner was deprived of adequate treatment for 02 months and 22 days and the district

authorities were careless and negligent. Thus, it held the State vicariously liable for negligence of its officials and directed the Chief Secretary, Government of Bihar to submit compliance report along with proof of payment. The case is still pending for compliance.

Case 4: Death of prisoner Rajesh Jat at District Jail, Madhubani on 12.08.2014

A 30-year-old convict prisoner Rajesh Jat died in the custody of District Jail, Madhubani, Bihar, on 12 August 2014. The NHRC took cognizance of his death by registering Case No. 3370/4/21/2014-AD.

After considering the reports, the NHRC, vide its proceedings of 15 November 2017, observed that the deceased died at Sadar Hospital, Madhubani, because he could not be sent to the IGIMS, Patna or SGPGI, Lucknow by the Jail administration despite being referred by the doctors at Sadar Hospital. The Commission noted that failure of the Jail administration to send the deceased to the IGIMS, Patna or SGPGI, Lucknow for adequate treatment in spite of lapse of 35 days was gross negligence on the part of the Jail administration. The Commission held that since the deceased prisoner was in judicial custody, the State is liable for his care and safety and since the prisoner died for want of proper treatment due to negligence on the part of the Jail authorities, the State is vicariously liable and the next-of-kin of the deceased should be compensated by the State.

The Commission issued a notice under Section 18 of the PHRA to the Government of Bihar, through its Chief Secretary, requiring it to show cause within six weeks as to why the Commission should not recommend payment of Rs. 3 lakh as compensation to the NoK of the deceased convict Rajesh Jat, son of Shri Lakshman Jat. In response to the above notice, the Deputy Inspector General, Prison and Correctional Services, Bihar, Patna, vide communication dated 25 January 2018, forwarded a report dated 30 December 2017 of the Superintendent, District Jail, Madhubani denying negligence. After considering the report of the Superintendent, District Jail, Madhubani, the Commission rejected it and reiterated its conclusion of 15 November 2017 that the deceased prisoner died due to gross negligence on the part of the Jail administration on account of failure to provide adequate and timely treatment. On 28 May 2018, the NHRC recommended to the Government of Bihar to pay Rs. 3 lakh as compensation to the next-of-kin of the deceased convict Rajesh Jat. The Chief Secretary, Government of Bihar, was directed to send, within six weeks, a compliance report along with the proof of payment.

Case 5: Death of undertrial prisoner Pundev V Choudhary at Sub-Jail, Masoudi, Patna on 06.07.2014

On 06.07.2014, undertrial prisoner Pundev V Choudhary son of late Ram Choudhary died at Sub-Jail, Masoudi, Patna, Bihar due to inadequate treatment and medical negligence by the Jail Administration. The NHRC took cognizance of his death and registered Case No. 2716/4/26/2014-JCD.

In its proceedings dated 28.11.2017, the Commission had recommended an amount of Rs 1 lakh as interim relief to be paid to the next of kin of the deceased prisoner. In response, the DIG, Prison and Correctional Services, Bihar, Patna, vide communication dated 12.1.2018 submitted the compliance report. As per the compliance report, an amount of Rs 2 lakhs has already been paid to Smt. Parvati Devi, wife of the deceased prisoner on the recommendation of the Bihar State Human Rights Commission. The report also stated that the delinquent prison personnel had also been dealt with and punished departmentally. In view of the compliance report, the NHRC closed the case on 16.02.2018.

Case 6: Death of undertrial prisoner Virender Kumar in the custody of District Jail, Bettiah, West Champaran on 27.06.2014

On 27.6.2014, undertrial prisoner Virender Kumar of District Jail, Bettiah, West Champaran died while undergoing treatment at MJK Hospital, Bettiah, West Champaran. The NHRC registered a case (2603/4/9/2014-JCD). In its proceeding dated 25.04.2018, the NHRC recorded the signs of injuries on the victim but the Magisterial Enquiry Report had not mentioned whether sign of injuries was prior to police custody or during police custody or after admission in the jail. The Magisterial Enquiry Report had also not identified the guilty. The NHRC had directed the Government of Bihar to pay Rs 5 lakh as compensation to the Nok of the deceased Virender Kumar. In its proceedings on 09.08.2018, the NHRC directed the District Magistrate, West Champaran Bettiah to submit compliance report regarding payment of the compensation amount to the NOK of the deceased UTP Virender Kumar.

Case 7: Death of UTP Bhanu Pratap at Beur Central Jail on 09.03.2014

On 09.03.2014, an undertrial prisoner identified as Bhanu Pratap alias Bhanu Prakash s/o late Sohrai Sav (aged 58 years) in the custody of Beur Central Jail, Bihar. Taking cognizance of the incident, the NHRC registered Case No. 1079/4/26/2014-JCD.

In its proceedings dated 11.9.2017, the NHRC held that the deceased died due to inadequate treatment and negligence of the administration of Beur Central Jail, Bihar. The NHRC had recommended an amount of Rs 1 lakh as interim relief to be paid to the next of kin of the deceased prisoner. In view of compliance of direction for payment of

compensation, the Commission closed the proceedings in the case on 22.02.2018.

Case 8: Death of undertrial prisoner Chandeshwar Bhagat at Motihari Central Jail, East Champaran district on 17.01.2014

On 17.01.2014, an undertrial prisoner Chandeshwar Bhagat died in the custody of Mohitari Central Jail in East Champaran district of Bihar. The NHRC took cognisance of the matter by registering Case No. 535/4/8/2014-JCD. The NHRC vide proceeding dated 29.11.2017 held that the deceased died due to inadequate treatment and negligence of the jail administration and had recommended an amount of Rs 3 lakh as interim relief to be paid to the next of kin of the deceased prisoner. In a communication dated 07.05.2018, the Assistant Inspector General (Zone), Prison and Correctional Services, Bihar, Patna, had submitted the compliance report along with the proof of payment.

Case 9: Death of Anil Malakar District Jail Bihar Shariff, Nalanda on 11.11.2013

On 11.11.2013, a convict prisoner identified as Anil Malakar s/o Jageshwar Malakar died in the custody of District Jail Bihar Shariff, Nalanda, Bihar. Taking cognisance of the incident, the NHRC registered Case No. 3964/4/26/2013-JCD.

The NHRC vide its proceedings dated 22.12.2017 held that the deceased prisoner died due to medical negligence on the part of authorities of the said jail and it recommended an amount of Rs 1 lakh as interim relief to be paid to next of kin of the deceased prisoner. In view of report of compliance submitted by the AIG, Prisons Administration & Correctional Services, Bihar, Patna, the NHRC closed the case on 27.07.2018.

Case 10: Death of prisoner Manoj Kumar Singh at Divisional Jail, Sitamarhi on 24.05.2013

On 24.05.2013, a convict prisoner identified as Manoj Kumar Singh s/o Ramchandra Singh died in the custody of Divisional Jail, Sitamarhi, Bihar. Taking cognisance of the incident, the NHRC registered Case No. 2056/4/23/2013-JCD.

Vide its proceedings dated 01.11.2017, the NHRC held that deceased prisoner died due to inadequate treatment and negligence of the administration of Divisional Jail, Sitamarhi, Bihar and it recommended an amount of Rs 1 lakh as interim relief to be paid to the next of kin of the deceased prisoner. In view of submission of compliance report by the DIG, Prison and Correctional Services, Bihar, Patna, vide communication dated 22.2.2018, the NHRC closed the proceeding of the case on 19.04.2018.

Case 11: Death of Vinod Shah in the custody of Central Jail, Gaya on 01.09.2012

On 01.09.2012, a 26-year-old prisoner identified as Vinod Sah died in the custody of Central Jail, Gaya, Bihar while

undergoing medical treatment at Anugarh Narayan Magadh Medical College (ANMMCH), Gaya. The NHRC took cognisance of his death by registering Case No. 2853/4/11/2012-JCD.

After considering the reports and opinion of the medical experts, the NHRC issued notice under Section 18 of PHRA to the Government of Bihar through its Chief Secretary, requiring it to show cause as to why the Commission should not recommend payment of Rs 1 lakh as compensation to the next-of-kin of the deceased prisoner Vinod Sah in view of the medical negligence. In response, the DIG, Prison and Correctional Services, Bihar, Patna, forwarded a reply of the Superintendent, Central Prison, Gaya, wherein it was stated that the prisoner was provided adequate available medical treatment while in custody of the Central Jail, Gaya and there was no negligence in providing treatment to the prisoner. After consideration of the reports, the Commission reiterated its views that there was medical negligence in not providing treatment to the prisoner and it recommended to the Government of Bihar to pay Rs 1 lakh as compensation to the next of the kin of the deceased prisoner Vinod Sah. However, due to non-availability of any next of kin of the deceased at the address of the deceased prisoner, the compensation amount could not be paid despite sanctioning of the same and the matter was intimated to the NHRC. Since none was available from the family of the deceased to receive the amount of compensation, the Commission closed the case on 10.01.2018.

Case 12: Death of Suresh Rai at Shaheed Khudiram Bose Central Jail, Muzaffarpur on 15.03.2011

On 12 July 2013, the Bihar Human Rights Commission asked the State government of Bihar to pay Rs 200,000 compensation to petitioner Chandrakala Devi, wife of Suresh Rai, who died in judicial custody on 15 March 2011 (File No BHRC/COMP. 950/11). Suresh Rai was sentenced to imprisonment for life and lodged in Shaheed Khudiram Bose Central Jail, Muzaffarpur as a convict-prisoner. According to the applicant, the deceased was tortured by the Superintendent and other jail officials and suffered serious head injuries on 13 March 2011 and died in hospital on 15 March 2011. The jail authority claimed that the deceased had a fall in the toilet and suffered injuries which proved fatal.

The Bihar Human Rights Commission stated, "It may be mentioned at this stage itself that as per the post mortem report – on dissection – underlying scalp tissues were found bruised and infiltrated with blood and blood clots were found in the vault, occipital, parietal and both temporal regions. The occipital bone was found fractured and there was extra-dural and sub-dural haemorrhage of abdominal and thoracic viscera were found pale. In the opinion of the

doctor, the injuries were “ante-mortem caused by hard and blunt object”. Having regard to the nature and extent of injuries found on the body of the deceased, the Commission is not persuaded to hold that the injuries could be caused by fall.”

The BHRC also stated, *“Another point argued on behalf of the applicant was that the deceased was not given proper treatment in the Sri Krishna Medical College Hospital. Reference was made to the bed-head ticket from which it appears that the deceased was unconscious from the very time of his admission in the hospital and he was advised C.T. scan among other things which was not done. The advice was reiterated but the authorities/doctors did not pay any heed even though condition of the deceased became serious, as noted in the bed-head ticket. He had to be taken to a private diagnostic, namely, Gautam Diagnostic Centre with the help of constable on 15.3.2011 but before any further treatment could be provided, he died.”* The Commission rejected the claim of the jail authority that the deceased suffered injuries due to the fall and held that the State was liable to pay compensation to the petitioner.²⁶

3. Torture in India during September 2018

Across India, cases of torture in police and judicial custody continue to be reported on regular basis.

3.1 Emblematic cases of torture in police custody

On 22 September 2018, two Punjab crime branch officials identified as Palwinder Singh and Ravinder Singh (both inspector rank) beaten up Jaswinder Kaur at her family house at Shehzada village under Majitha-3 Tehsil in Amritsar District after they did not find her husband Gurwinder Singh and father-in-law Balwinder Singh whom they came looking for in connection with an old case. Again on 25 September 2018, the said officials barged into her house looking for her husband and father-in-law and not finding them they dragged her out from the house and thrashed her badly. Thereafter, they forcibly made her sit on the roof top of their vehicle in front of the villagers and took a round through the village where the victim fell down at Chawinda Devi bypass in Majitha.²⁷

On 12 September 2018, a 22-year-old youth identified as Anuraj Rajput died under mysterious circumstances at Kareli police station under Narsinghpur district of Madhya Pradesh. The deceased was arrested on 11 September 2018 allegedly after heated argument with a man, who had lodged a police complaint against him over theft of a buffalo. The police claimed that the deceased died after consuming sulphas while in custody. The victim's father Bhupendra Rajput alleged that his son died of police excesses and he strongly refuted the police's claim. Five

personnel of Kareli police station were suspended in connection with the death. Narsinghpur SP Dharmendra Singh Bhadoria said Kareli police station in-charge inspector Arvind Choubey, sub inspector Jagdish Yadav, assistant sub inspector Basant Sharma, head constable Birju Thakur and constable Rajkumar have been placed under suspension in connection with the case and a judicial probe has been ordered.²⁸

On 11 September 2018, a Dalit man identified as Govind died in the custody of Rampur Kalan police station in Sitapur district of Uttar Pradesh. The deceased, a resident of Kodri village under Sitapur district was picked up by the police and brought to the police station for allegedly assaulting his wife Maya at his house over a household issue. Maya reportedly refused to file a FIR against Govind. Police claimed that later that day a shopkeeper found a man lying outside his shop, close to the police station who was identified as Govind. He was taken to a primary health centre where he passed away. Govind's family alleged that he died because of severe beating by police. The deceased's brother Raghunandan claimed that police had forced him to lodge FIR against Maya and her family member. Family members also alleged that the police did not take the injured deceased to the district hospital which resulted into his death.²⁹

On 6 September 2018, Subhan Mirza (62), a resident of Danilimda in Ahmedabad, was admitted to VS Hospital after he fell unconscious from alleged torture by police. In a complaint filed at Danilimda Police station, the victim accused two constables of Ahmedabad police of picking him up on a false tip-off about illegal firearms and then beating him mercilessly with belts when nothing was found on him. Mirza alleged that both he and his brother Mustaq were threatened by the police not to speak about the beating. Mirza alleged that two constables had come in a car and picked him up from near Teen Batti in Danilimda and took him to a police officer, where they allegedly beat him with belts because of which he fainted. Thereafter, the policemen called his younger brother Mustaq Mirza to take him home while on the way home, the victim fell unconscious and had to be rushed to VS Hospital.³⁰

On 5 September 2018, wife of a victim of custodial death and her in-laws have threatened self immolation in front of the Kendrapada district Collectorate on 7 September if the policemen responsible for death of Abinas Paital were not arrested.³¹ On 26 August, a 23-year-old youth identified as Abinas Paital was found hanging in a house located near the Mahakalpada police station in Kendrapada district of Odisha. The victim, a resident of Balana village within the limits of Mahakalpada police station was arrested in connection with mobile phone theft case on 25 August afternoon. Sarat, father of victim, alleged that his son was

severely beaten in custody which led to his death. He alleged that police hanged the deceased's body from the staircase of a vacant house near the police station to make it look like a case of suicide. The dead body bore injury marks. On 26 August, Odisha DGP suspended Mahakalapada police station Inspector in-charge Shyamaghan Behera and ordered a Crime Branch probe into the death of Abinas.³²

On 30 August 2018, Rama (36), a resident of Kapasan city in Rajasthan's Chittaurgarh district died at Railmagra police station under Rajsamand district on the same day after having been taken into custody. He was arrested for interrogation in connection with a robbery that happened on 22 August 2018 at a temple in the district. The deceased's wife said she went to the police station in the evening of 30 August 2018 but the police refused to share any information about her husband.³³

On 27 August 2017, a tribal youth identified as Pappu Bheel (30) died in the custody of Sadar Police station under Bundi district in Rajasthan. The deceased, a resident of Namana village of Garnara in Bundi district, was arrested on 26 August 2018 in connection with theft of a bike. On 27 August, the deceased was taken to the district hospital in critical condition. While being shifted to Kota, he died on the way. The family members of the deceased alleged that the deceased died due to custodial torture by the police and demanded judicial inquiry.³⁴

On 27 August 2018, Phulchand Nishad (38), resident of Jaspura in Uttar Pradesh's Banda district died while returning home from Jaspura Police station. The deceased's son Golu alleged that the police had beaten his father at the police station, due to which he died while returning back home. The police had called the deceased and his brother after the former had filed a complaint against his brother for beating his son and nephew.³⁵

On 23 August 2018, a 60-year-old retired Naik in the army identified as Prahlad Singh was picked up by the police in Rajasthan's Bharatpur district following an altercation. He was found dead in the lock-up inside Kumher police station the next day.³⁶ The police dubbed it a case of suicide. In a letter to the chief judicial magistrate, the police said the deceased tore a blanket and used it to hang himself from the iron door inside the lock-up. The Indian army contradicted the police claim and the army authorities at Bharatpur military station wrote to the district collector saying that Prahlad was subjected to "torture" and "severe beating". The army said there are enough reasons to believe this is a murky case. There were no injury marks on the neck and it's not possible for someone to hang himself in a lock up and for nobody to see it.³⁷ Following the Army's intervention into the case, a judicial probe has been ordered to find out the truth.³⁸

3.2 Emblematic cases of torture in judicial custody

Prisoners continued to be subjected to torture and ill treatment in the jails.

On 28 September 2018, a 47-year-old prisoner identified as Subhash died at District Jail, Jagadhri in Yamunanagar district of Haryana under mysterious circumstances. The deceased, a resident of Kalwad village of Yamunanagar district, was lodged in District Jail, Jagadhri since his conviction on 21 September 2018 under the Narcotic Drugs and Psychotropic Substances Act, 1985. The jail officials claimed that on 28 September 2018, the deceased felt uneasiness around 07.30 AM and was rushed to the Civil Hospital, Jagadhri where he died on the way.³⁹

On 26 September 2018, a 24-year-old undertrial prisoner identified as Kuldeep Kumar died under mysterious circumstances at the civil hospital in Gurugram during treatment. He had been lodged at Bhondsi jail under Gurugram district in Haryana since he was sent to judicial remand by the court in July 2018. The deceased, a resident of Vasant Vihar of Pataudi road, Gurugram, was arrested by the police. The Jail officials claimed that the deceased was suffering from fever and his condition deteriorated on 26 September 2018 night. However, family members of the deceased alleged foul play as Kuldeep Kumar had earlier received threats to his life from other prisoners involved in heinous crimes.⁴⁰

On 26 September 2018, a 52-year-old undertrial prisoner identified as Mukkappa Mukkannavar died at Bagalkot district Jail in Karnataka. The deceased, a leader of Bharatiya Janata Party, was arrested by the police and sent to judicial custody on 6 September 2018 in connection with a case of creating ruckus during the Primary Land Development Bank elections held on 6 September 2018.⁴¹

On 25 September 2018, a 33-year-old prisoner identified as Ramchandra Gujar died at Sangod town Sub-Jail in Kota district of Rajasthan. The deceased, a resident of Sangod town was arrested by the police and sent to judicial custody on 9 August 2018 in connection with a case under the Arms Act.⁴²

On 19 September 2018, an undertrial prisoner identified as Suraj Raghuvanshi died at Guna District Jail in Madhya Pradesh. The deceased, a resident of Dhangora village under Ashoknagar district, was arrested by the police and sent to judicial custody a few months earlier in connection with a case of theft. The jail authorities claimed that the deceased, who was a patient of HIV AIDS for a long time and had been receiving medical treatment died from the disease. However, family members of the deceased alleged that he deceased died due to lack of proper medical treatment because of negligence of the jail authorities.⁴³

On 19 September 2018, a prisoner identified as Satyanarayan died at Central Jail, Kota in Rajasthan under mysterious circumstances. The deceased, a resident of Nanta in Rajasthan's Kota district, was arrested by the police and sent to judicial custody some six months earlier under the Narcotic Drugs and Psychotropic Substances Act, 1985. The family members of the deceased alleged that Satyanarayan died due to brutal beatings by the jail authorities. They refused to take the dead body back and demanded strict actions against the accused jail officials. They further alleged that they were not informed about the reasons for the death of Satyanarayan.⁴⁴

On 14 September 2018, a prisoner identified as Yusuf died under mysterious circumstances at Bahraich District Jail in Uttar Pradesh. The deceased, a resident of Mundanizam Village in Mohammadi Block under Lakhimpur Kheri district of Uttar Pradesh, has been undergoing life imprisonment after conviction in a double murder case in 2014. The jail authorities claimed that on 14 September 2018 evening the condition of the deceased suddenly deteriorated and he was admitted to the District Hospital, Bahraich, where he died during the treatment. However, the brother-in-law of the deceased Shahid Ali alleged that Yusuf was brutally murdered by jail authorities and he demanded judicial enquiry. Ali further said that there are deep injury marks on the nose, forehead, and throat of the deceased, which indicated that he was murdered and did not die of heart attack.⁴⁵

On 9 September 2018, a prisoner identified as Shamsad died under mysterious circumstances at District Jail in Lalitpur district of Uttar Pradesh. The deceased, a resident of Badapura under Lalitpur district, was arrested by the police and sent to judicial custody on 21 August 2018 in an alleged case of bike theft. The jail authorities claimed that the deceased fell sick and his condition suddenly deteriorated. They claimed he was initially admitted to the District Joint Hospital, Lalitpur and was being shifted to Jhansi on 9 September 2018 since there was no improvement in his condition. However, he died on the way. Family members and relatives of the deceased alleged that local police falsely implicated Shamshad in a bike theft case and sent him to jail while the guards at the District Jail, Lalitpur tortured him leading to his death.⁴⁶

On 5 September 2018, an undertrial prisoner identified as Ayub alias Yakub (19) died under mysterious circumstances at Hanumangarh District Jail in Rajasthan. The deceased, a resident of Hanumangarh, was arrested by police on 19 August 2018 under the Arms Act and the court remanded him to judicial custody. He was lodged at Hanumangarh district jail. The jail officials claimed that Ayub alias Yakub was under depression and committed suicide inside the jail premises in the early morning of 5 September 2018. He

was taken to the hospital where the doctors declared him brought dead.⁴⁷

On 5 September 2018, another under-trial prisoner identified as Bhup Singh (55) died at District sub-Jail under Mahoba district of Uttar Pradesh. Karan Singh, son of the deceased, alleged that his father was killed by the jail officials. Karan Singh said that he had visited his father in the jail on 4 September 2018 and his health was perfectly alright. But on the morning of 5 September 2018, Karan Singh received a phone call from the jail stating that his father died at 8 AM. He said that he saw injuries marks on his father's body.⁴⁸

On 5 September 2018, undertrial prisoner identified as Ghanshayam Prusty (22) at Salepur sub-jail under Cuttack district of Odisha under mysterious circumstances. The deceased, a resident of Paika Sahi Mundasahi under Salepur police station area of Cuttack district, was arrested by police on 12 August 2018 in connection with selling of illegal liquor and the court sent him to Salepur sub-jail. The jail officials claimed that on 5 September 2018 morning Ghanshayam Prusty fell ill and started vomiting blood. They claim they have rushed the deceased to Community Health Center, Salepur, where the doctors declared him brought dead.⁴⁹

On 5 September 2018, under-trial prisoner identified as Sheraz Ahmed (63) died at the District Jail, Ghazipur in Uttar Pradesh. According to the jail officials, the deceased who was a resident of Kazi Tola village of Kotwali city under Ghazipur district, was admitted at the jail hospital on 26 June 2018. But as his condition did not improve, he was admitted to the district hospital on 28 August 2018 where he breathed his last on 5 September 2018.⁵⁰

On 3 September 2018, Punjab jails minister Sukhjinder Singh Randhawa ordered a probe into the incident of beating of an inmate of Patiala central jail after two videos went viral on social media. The minister directed the Additional Director General of Police (Prison) I P S Sahota to get the inquiry conducted by the district police instead of the jail officials to ensure free and fair probe.⁵¹ In one of the videos claimed to have been shot on 8 August 2018, a jail staffer was seen beating an inmate with a leather belt. The video-maker, who identified himself as a prisoner, alleged that anyone not paying 'protection' money to the jail staff was beaten up. He also claimed that the jail superintendent, Rajan Kapoor and another officer, Dhaliwal, were leaders of this ongoing torture and corruption in the jail.⁵²

Earlier in August 2018, another inmate identified as Vishal, who is undergoing imprisonment in a drug trafficking case, moved the Patiala sessions court, alleging that the jail staff was torturing him and others and forcing them to pay 'protection money'. Vishal had alleged that the

jail staffers had deliberately shifted a prisoner into a smaller cell with 'inhumane' living conditions and then demanded money to shift him back to better barracks. Vishal had also claimed that those who refused to pay money were tortured and beaten up mercilessly. His mother Amandeep Kaur, who had also appeared before the court, also alleged that jail staffers were demanding Rs 20,000 from her son to spare him. During the hearing, the Sessions Judge ordered the chief judicial magistrate to conduct an inquiry and submit a report.⁵³

On 1 September 2018, a convict prisoner identified as Ummed Singh (68) died at Central Jail, Gwalior in Madhya Pradesh. The deceased, a resident of Guna district of Madhya Pradesh, was serving life imprisonment in a murder case. The jail officials claimed that the deceased was suffering from fever for many days and died due to illness.⁵⁴

On 31 August 2018, a prisoner identified as Munawar Vishwal died at Nimapada Sub-Jail under Puri district in Odisha. A resident of Astaranga Balbhadrapur village of Puri district, he was undergoing life sentence for murder of his mother in 2015. Jail officials claimed that on 31 August 2018, the deceased suffered stomach pain and was taken to Nimapada Primary Health Center. When his condition did not improve, he was transferred to the Capital Hospital in Bhubaneswar where the prisoner died during treatment. The family members of the deceased alleged that they were not informed about the illness of Munawar Vishwal by the police or jail officials and suspected foul play.⁵⁵

On 30 August 2018, an under-trial prisoner identified as Jeet Singh @ Jagjeet Singh died of alleged heart attack in the custody of Central Jail Bathinda in Punjab. The deceased, a resident of Ramamandi village under Bathinda district, was arrested and sent to jail on 27 July 2018 in connection with a case of drug smuggling registered on 21 July 2018.⁵⁶

On 28 August 2018, an undertrial prisoner lodged in Jharsuguda sub-jail of Odisha died at the district headquarters hospital. The deceased, identified as Binod Kishan (34), had been behind bars since 18 June 2014, for alleged involvement in a murder case.⁵⁷

3.3 Torture and rape of women in custody

Despite numerous judgments of the Supreme Court on arrest and detention of women with the aim to eliminate torture and sexual offences including rape in custody, cases of torture and rape in custody are regularly reported. Police personnel also sexually exploit and abuse the female victims during the process of any investigation.

In September 2018, the Tamil Nadu State Human Rights Commission (SHRC) has recommended to the Tamil Nadu government to remove from service a head constable A. Senthamaraikannan accused of sexually harassing a woman

Sub-Inspector in 2010 when both were working at SIPCOT police station near Manamadurai in Sivaganga district.⁵⁸ SHRC member D. Jayachandran also recommended a compensation of Rs 5 lakh to be paid to the complainant. He ordered that the compensation amount should be recovered from Senthamaraikannan (Rs. 3 lakh) who allegedly harassed her, and the then Superintendent of Police (now Inspector General of Police) N. Rajasekaran (Rs. 2 lakh) for allegedly not taking action on her complaint. The Commission also recommended disciplinary action against Mr. Rajasekaran. Besides, it suggested considering the woman Sub-Inspector for a promotion.⁵⁹

According to the complainant, she was subjected to unnecessary torture by all male police officials, which affected her mentally. Despite her complaints to the then Superintendent of Police and Inspector General of Police, no action was taken.⁶⁰ Upholding allegations made by the complainant, the SHRC ruled that the complainant proved her case that the first respondent (then head constable) had sexually harassed the complainant and also gave mental torture to her.⁶¹

3.4 Judiciary's action against torture

On 5 September 2018, the Supreme Court upheld the conviction of eight personnel of Maharashtra Police in connection with the custodial death of a suspect, Joinus Adam Yellamati on 23 June 1993 in Nagpur. A bench of Justices N V Ramana and Mohan M Shantanagoudar found them guilty under Section 330 IPC (voluntarily causing hurt to extort confession, or to compel restoration of property), and increased their sentence from three years to seven years' rigorous imprisonment.⁶²

Enhancing the punishment, the apex Court observed: "*As the police in this case are the violators of law, who had the primary responsibility to protect and uphold law, thereby mandating the punishment for such violation to be proportionately stringent so as to have effective deterrent effect and instil confidence in society.*" It further stated: "*Those who are called upon to administer the criminal law must bear in mind that they have a duty not merely to the individual accused before them, but also to the State and to the community at large. Such incidents involving police usually tend to deplete the confidence in our criminal justice system much more than those incidents involving private individuals.*"⁶³

The eight convicted policemen are: Yashwant Mukaji Karade, Rambhau Kadu, Jahiruddin Deshmukh, Nilkanth Chaurpagar, Namdeo Ganeshkar, Ramesh Bhoyar, Ashok Shukla and Sudhakar Thakre.⁶⁴

3.5 Interventions by the NHRC/SHRCs

The NHRC continues to intervene against human rights violations. As per latest data available, the National Human

Rights Commission received a total of 8,437 fresh complaints while it disposed of a total of 9,684 cases (Fresh + Old) during August 2018. A total of 22,282 cases (Fresh + Old) were under consideration of the commission till end of the month.⁶⁵ A large number of complaints relate to torture.

Case 1: NHRC directs authorities to submit CDs of autopsy and histopathological reports in custodial death of Mahesh Mandal

The NHRC took cognisance of the custodial death of Mahesh Mandal, former nazir at the district welfare department on 22 August 2017. In its communication dated 23 March 2018 and 4 June 2018, the NHRC asked the Bhagalpur District Magistrate and Superintendent of Special Camp Jail to submit video CDs of Mandal's autopsy and histopathological reports. Mandal, the 57-year-old former nazir, was arrested by a special investigation team probing the Srijan scam on 15 August 2017. The SIT holds him responsible for fraudulent withdrawal of crores of government money from the Bhagalpur district welfare department.⁶⁶

Mandal's family members stated that he required dialysis regularly on every third day and without dialysis, he could not pass urine. After his arrest, Mandal had his dialysis conducted on 15 August at a private nursing home at Bhagalpur and the next dialysis was due on 17 August 2018. But, the same was not done and he died. His family member alleged police negligence in providing him timely dialysis.⁶⁷

Case 2: KSHRC awards compensation of Rs 1 lakh in custodial torture case

In September 2018, the Karnataka State Human Rights Commission (KSHRC) directed Karnataka DGP to initiate departmental inquiry and disciplinary action against five police officers for allegedly torturing Ravindra Raman who was taken into custody illegally and making him lick their boots. The KSHRC also directed the State government to pay a compensation of Rs 1 lakh to the victim. The delinquent officials posted at Rajajinagar police station — Inspector N Ramesh, Sub Inspectors HN Manju and MV Ramaiah, Assistant Sub Inspector DK Ramaiah and Head Constable L Ramesh — were accused of summoning and detaining Maruthinagar resident Ravindra Raman on 6 April this year even though there was no complaint against him. After allegedly locking him up at 4.30 pm, the cops tortured him for over two-and-half hours and forced him to lick their boots. Raman sustained severe injuries and was admitted to a hospital in Rajajinagar on 10 April. In his complaint filed before the KSHRC, Raman said two bones of his right arm and heel were fractured.⁶⁸

Framing charges of dereliction of duty and misconduct against the accused cops, the KSHRC directed the

Karnataka DGP to initiate departmental inquiry and disciplinary action against them. It also sought an action-taken report within six weeks from September 1, when the order was issued. The chief secretary was further directed to grant Rs 1 lakh compensation to Raman.

Case 3: TSHRC awards compensation of Rs 50,000 in a torture case

In September 2018, Tamil Nadu State Human Rights Commission (SHRC) recommended compensation of Rs. 50,000 to a one R. Arun who was allegedly tortured by the police in connection with a case. The victim, a resident of Palladam in Tirupur district, in a complaint before the SHRC alleged that he was tortured by the police, primarily by Inspector Thannasipandian, who was then attached to the Avinashi police station. The victim claimed on 19 December 2011, the police denied him food, stripped him and his hands were tied together.⁶⁹ The SHRC observed that the police did not follow the guidelines framed by the Supreme Court in the D.K. Basu case while registering FIRs and making arrests.⁷⁰

4. UN Action Against Torture in September 2018

4.1 UN Committee against Torture

On 10 September 2018, the UN Committee against Torture (CAT) ruled against the expulsion of an Eritrean national from Switzerland to Italy, saying it would deprive him of the necessary conditions for his rehabilitation as a torture survivor. The committee concluded that the expulsion would contravene the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). Eritrean national, identified by the name of A.N, was first tortured in multiple detention facilities before serving a five-year sentence on charges of helping a fellow Eritrean leave the country. His own effort to leave in June 2013 led to a further arrest, during which he was reportedly kept in a snake-infested, crumbling prison made of earth, suffering further beatings before being forced to serve in the army. A.N requested asylum in Switzerland in September 2015 but two years later following a failed appeal he was deported to Italy in line with the European Council's Dublin III regulation that stipulates asylum claims should be processed in the country where the asylum seeker first entered the European Union. He returned to Switzerland and filed a complaint before the UN Committee against Torture with the help of the Centre Suisse pour la Défense des Droits des Migrants (CSDM). *"The decision provides important guidance for national decision-makers in Europe on how to apply the Dublin Regulation in a manner consistent with the fundamental rights of the individuals concerned, thus*

avoiding unnecessary human tragedy,” the CSDM said in a statement after the Committee against Torture ruled against expulsion of asylum seeker, A.N.⁷¹

On 6 September 2018, it was reported that the UNCAT asked the Canadian government to explain why it still hasn't acted on an order of 2011 to compensate and rehabilitated a victim of torture named Régent Boily, a Canadian citizen who was tortured after his extradition to Mexico.⁷² On 7 July 2007, Boily had submitted a complaint before the CAT stating that his impending extradition to Mexico would constitute a violation by Canada of Article 3 of the UNCAT as he risked torture in Mexico. The complainant had already been tortured by the Mexican authorities when he was arrested on 9 March 1998 and sentenced to 14 years in prison for marijuana trafficking. On 9 March 1999, he organized an escape, during which one of the two guards assigned to him was killed. The complainant subsequently fled to Canada. But he was extradited to Mexico on 17 August 2007 and transferred to Zacatecas prison, the facility in which he was accused of having killed a guard. Between 17 and 20 August 2007, the complainant was tortured by prison guards and he was refused contact with the Canadian Embassy and his lawyer. In its decision on 14 November 2011, the Committee concluded that the extradition of the complainant to Mexico constituted a violation by the State party (Canada) of Article 3 of the Convention and directed the State party to compensate the complainant for violation of his rights under Article 3, provide rehabilitation including medical and psychological care, social services, and legal assistance, including reimbursement for past expenditures, future services, and legal expenses and review its system of diplomatic assurances with a view to avoiding similar violations in the future.⁷³

4.2 UN Subcommittee on Prevention of Torture

On 5 September 2018, the United Nations Sub-committee on Prevention of Torture (SPT) stated that it would make its second visit to Kyrgyzstan from 11 to 22 September to assess measures taken to protect persons deprived of their liberty against torture and ill-treatment, and look into progress made in implementing the recommendations made following its first visit in 2012. The SPT delegation would meet and hold discussions with the National Center on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which is the National Preventive Mechanism (NPM) of the country. Among the places the SPT delegation would visit are police stations, prisons, psychiatric institutions, pre-trial detention facilities as well as centres for juveniles and other places of deprivation of liberty in the various provinces of the country. The experts would meet Government officials,

the Parliament, the Prosecutor General as well as UN and civil society representatives. At the end of the visit, the SPT would present its confidential preliminary observations to the government of Kyrgyzstan as well as to the country's national preventive mechanism.⁷⁴

4.3 UN Special Rapporteur on Torture

On 17 September 2018, a group of UN human rights experts including Mr. Nils Melzer, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, urged the UN Human Rights Council to take action against Egypt for awarding death sentences to 75 protesters and life sentences to 47 others in an unfair trial. On 8 September, a Cairo Criminal Court confirmed the sentences delivered at a mass trial in July involving 739 people who were convicted on charges of illegal gathering, involvement in violence and incitement to break the law. The accused had participated in protests led by the Muslim-Brotherhood in 2013, which were severely repressed by the military, resulting in the deaths of hundreds. *“The heavy prison sentences adopted in this case are also in complete violation, not only of the fair trial rights but are grossly disproportionate and, therefore, may well amount to cruel, inhuman or degrading punishment”*, a statement issued by the UN experts said. *“We call on the Human Rights Council to take action on Egypt, and send a strong message to all States that they have a duty under international law to investigate arbitrary killings and prosecute those responsible as well as to apply due process and fair trial standards,”* further stated the UN experts.⁷⁵

4.4 Annual Report of UN SG António Guterres

On 13 September 2018, UN Secretary-General António Guterres submitted his ninth annual report titled “Cooperation with the United Nations, its representatives and mechanisms in the field of human rights” (A/HRC/39/41) public. The Secretary-General's report highlighted that human rights defenders face harsh reprisals and intimidation for cooperating with the United Nations on human rights across the world. The report documented cases of intimidation and reprisals from 38 countries including India, China, Russia, Israel, Maldives, Myanmar, Philippines, Saudi Arabia, Thailand, among others. Some of the States are current members of the Human Rights Council. Human rights defenders face reprisal for cooperating with the UN and the reprisals include killing, torture and ill-treatment, arbitrary arrests and detention, surveillance, criminalisation, and public stigmatisation campaigns targeting victims and human rights defenders. The report highlights a *“disturbing trend in the use of national security arguments and counter-terrorism strategies by States as justification for blocking access by communities and civil society*

organizations to the United Nations". It notes that a number of NGOs, human rights defenders, activists and experts have been labelled as "terrorists" by their Governments. *"The cases of reprisals and intimidation detailed in this report and its two annexes represent the tip of the iceberg, while many more are reported to us. We are also increasingly seeing legal, political and administrative hurdles used to intimidate – and silence – civil society,"* said UN Assistant Secretary-General for Human Rights Andrew Gilmour, the senior UN official designated to address the issue, who will present the report to the Human Rights Council on 19 September 2018.⁷⁶

5. EU's action to eradicate torture

The fight against torture is one of the long-standing policy priorities of the European Union (EU).

Ukraine:

On 6 September 2018, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its most recent visit to Ukraine from 8 to 21 December 2017.

The report stated that the delegation found no allegation of custodial torture but received a considerable number of recent and credible allegations from detained persons regarding the excessive use of force during apprehension by the police as well as allegations of physical ill-treatment after being brought under control, mainly consisting of kicks, punches and truncheon blows, as well as too tight and prolonged handcuffing. Such allegations were heard more frequently in capital Kyiv than in other regions visited. The Committee called upon the Ukrainian authorities to pursue a policy of "zero tolerance" of ill-treatment of persons detained by the police and other law enforcement agencies.

Another major finding of the CPT delegation was that the current funding for the National Preventive Mechanism (NPM) activities was just about sufficient to cover the operational expenses related with NPM visits to places of deprivation of liberty. However, due to a legal lacuna no funds were available for the remuneration of 203 monitors who were not employees of the Ombudsman's Office, i.e. those coming from the civil society (NGOs) and media. Therefore, these NGO and media monitors were obliged to seek donor assistance to reimburse their costs and obtain some remuneration for their NPM-related activities. Further, 13 out of the total of 32 posts were lying vacant. The Committee strongly encouraged the Ukrainian authorities to comply with the Guidelines on NPM adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November

2010, in particular by ensuring that the National Preventive Mechanism is allocated sufficient resources (both human and financial) to permit its effective functioning.⁷⁷

Hungary:

On 18 September 2018, the CPT also published the report on its most recent visit to Hungary from 20 to 26 October 2017, together with the response of the Hungarian authorities. The CPT noted that its delegation received no allegations of ill-treatment by staff in any of the establishments visited. However, a significant number of persons interviewed by the delegation alleged that they had been physically ill-treated (for example, kicked, punched or hit with a baton) by Hungarian police officers in the context of their 'push-backs' to Serbia; several of them displayed recent traumatic injuries which were consistent with their allegations. The CPT recommended that all police officers receive a clear and firm message, emanating from the highest political level, that any form of ill-treatment of detained persons is unacceptable and will be punished accordingly. The report also highlighted that in the context of 'push-backs', there was no procedure which would assess the risk of ill-treatment following the forcible removal, and the CPT recommends that the Hungarian authorities put an end to the practice of 'push-backs' to the Serbian side of the border.⁷⁸

Spain:

A delegation of the CPT also carried out an ad hoc visit to Spain from 6 to 13 September 2018, focusing on prison and police establishments in Catalonia. The purpose of the visit was to examine the situation in police and prison establishments in the autonomous community of Catalonia and to assess the progress made since the CPT's previous visits to this region in 2011 and 2012. To this end, the CPT's delegation visited Barcelona Women (Wad-Ras), Brians I, Mas D'Enric and Ponent Prisons focusing in particular on the situation of prisoners placed in special and closed regime departments (Departaments Especials de Règim Tancat) and on women prisoners. The CPT's delegation also visited several Mossos d'Esquadra stations where it looked into the effectiveness of legal safeguards afforded to detained persons as well as examining their treatment and the conditions of detention in which they were held. At the end of the visit, the delegation presented its preliminary findings to the competent authorities.⁷⁹

6. Lessons for India: Anti-torture law in the Philippines

For the last fifty years, Philippines has faced serious and active insurgency starting with the Communist Party of the Philippines (CPP) and its New People's Army (NPA)

which launched its armed struggle in 1968.⁸⁰ The southern Philippines has a long history of conflict, with armed groups including the Muslim separatists, who comprise of - the Moro National Liberation Front in 1972 and its two break-way factions, the Moro Islamic Liberation Front from 1977 and the Abu Sayyaf in 1991.

Yet, these events did not prevent Philippines from enacting laws prohibiting torture.

In fact, the contrast between India and Philippines could not be starker: Philippines ratified the UNCAT and its Optional Protocol while India consistently refused to ratify the UNCAT. Philippines submitted its report to the UN Human Rights Committee in 2012 but India's previous report to the UN Human Rights Committee was in 1997. India never allowed visit by the UNSR on Torture and while Philippines as a party to the OPCAT, invited the OPCAT in June 2015. Philippines enacted an anti-torture law in 2009 while India refuses to enact the same despite giving commitment to the parliament way back.

Philippines had been facing deadly insurgencies from the Communist Party of the Philippines (CPP) and various armed groups of Mindanao two decades before India faced insurgency in Jammu and Kashmir. The question that must be asked if Philippines can take domestic measures to criminalise torture and subject itself to international scrutiny what prevents India to do so.

Legal Framework of the prohibition of torture and ill treatment

Philippine's legal framework prohibits the crime of torture. The 1987 Philippines Constitution prohibits the use of "torture, force, violence, threat, intimidation" and "secret detention", and promises "penal and civil sanctions" for anyone who uses torture, along with compensation for victims.⁸¹

The country's Revised Penal Code (RPC) also criminalizes all acts of torture with corresponding penalties.

The Philippines ratified the UN Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1986, and its Optional Protocol in 2012, albeit with a declaration postponing visits by the Subcommittee on Prevention for three years. It has also been a state party to the International Covenant on Civil and Political Rights since 1986.

Both these treaties prohibit torture and other ill-treatment. In 2009, the Philippines recognized torture as a separate crime by enacting the standalone Anti-Torture Act.⁸² The law legally defines and penalizes torture, as well as provides remedies and redress for its victims.

With this enactment, the crime of torture is now treated separately and distinctly with other crimes provided in the country's Revised Penal Code (RPC), and thereby making its domestic legislation compatible with its obligations and

commitments as a state party to Convention against Torture.

Domestic law: Anti-Torture Act, 2009

The 2009 Anti-Torture Act sets out criminal penalties – including life imprisonment – for torture and other forms of ill-treatment. The Act is designed to "ensure that the human rights of all persons, including suspects, detainees and prisoners, are respected at all times; and that no person... shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation".⁸³

The anti-Torture law defines torture in line with Article 1 of the Convention against Torture, and penalises other forms of cruel, inhuman and degrading treatment or punishment. The Act also created an oversight body to periodically review its implementation.⁸⁴

Under Section 3 of the Anti-Torture Act, Torture is defined as "an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".⁸⁵

Section 6 of the Anti-Torture Act makes freedom from torture an absolute right. A state of war or a threat of war, internal political instability, or any other public emergency, or a document or any determination comprising an "order of battle" shall not and can never be invoked as a justification for torture or other cruel, inhuman and degrading treatment or punishment.⁸⁶

The Anti-Torture Act also provides that no person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to torture.⁸⁷

Legal safeguards and complaint mechanisms

The Anti-Torture Act prohibits "secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity". The law also requires the military and police to publicly disclose lists of all detention facilities and the names of the detainees, the dates they were arrested, and the charges against them, in addition to submitting such lists to the Commission on Human Rights and ensures that they are updated.⁸⁸

Section 12 of the Anti-Torture Act recognises the right of detainees to physical and medical examinations by independent and competent doctors of their own choice,

both before and after interrogations. If the detainee is unable to afford a doctor, the State is under an obligation to provide one, and preferably of the same sex if the detainee is a female. Furthermore, the State is required to “endeavour to provide the victim with psychological evaluation if available under the circumstances”.⁸⁹

The Anti-Torture Act specifically states that any person who has suffered torture shall have the right to claim for compensation as provided for under Republic Act No. 7309 provided that in no case shall compensation be any lower than 10,000 pesos. Victims of torture shall also have the right to claim for compensation from such other financial relief programmes that may be made available to them under existing laws, rules and regulations.⁹⁰

The filing of a complaint of torture is not subject to a time limitation⁹¹ and those convicted of torture are not allowed to benefit from a special amnesty law or similar measures exempting them from criminal proceedings and sanctions.⁹² The recognition of torture as a criminal act in Philippines is a positive step towards preventing torture and addressing impunity in compliance with international treaty obligations.

The absence of any time limitation for the filing of a complaint of torture, and prohibiting the grant of special amnesty to those convicted of torture sends a strong signal that the Philippines is serious in its commitment to eradicate the practice.

The prohibition on secret detention facilities and the requirement on the police, the military and other law enforcement agencies to submit an updated list of all detention centres and facilities with pertinent data on detainees or prisoners to the Commission on Human Rights (CHR), a list which is available to the public;⁹³

- * The exclusion of any confession, admission or statement obtained through torture as evidence in any proceedings, except if used against the perpetrators of torture;⁹⁴
- * Institutional protection to torture victims (through prompt and impartial investigation by government agencies and protection from harassment, threat or intimidation);⁹⁵
- * The availability of preliminary remedies such as petitions for the issuance of the writ of habeas corpus (to compel government agents to bring a person under detention in court and determine the legality of his/her detention),⁹⁶ the writ of amparo (to provide protection to a person whose life, liberty and security is violated or threatened and to compel government agents to specify actions to be taken to investigate, preserve evidence and apprehend those responsible for the death or disappearance of a person)⁹⁷ and the writ of habeas data (to compel government agents to produce, delete or

rectify whatever data they have gathered about a person)⁹⁸ to torture victims and their families;⁹⁹

- * Assistance from the Commission on Human Rights (CHR) and the Public Attorney’s Office (PAO) in filing a complaint;¹⁰⁰
- * The right to physical, medical and psychological examination before and after interrogation;¹⁰¹
- * The inclusion of superiors and immediate commanding officers in the investigation and prosecution of the crime of torture as principals equally liable with the perpetrators either through participation or wilful/negligent failure to prevent or investigate allegations of torture;¹⁰²
- * The grant of financial assistance to victims;¹⁰³
- * The formulation of a comprehensive rehabilitation programme for torture victims.¹⁰⁴

UN Special Rapporteur on Torture on the status of torture in Philippines

In its 4 March 2013 Report during the Twenty-second session of the Human Rights Council, Juan E. Méndez-Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment expressed regret that the Government of the Republic of Philippines has not responded to a communication dated 25 July 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged abduction, detainment, and torture of Ms. Melissa Roxas and the failure to prosecute suspected perpetrators once the judiciary confirmed the use of torture during Ms. Roxas’ detention.¹⁰⁵

The Special Rapporteur observed that the rights of Ms. Roxas under the UN Convention against Torture have been violated and called on the Government to undertake an impartial and prompt investigation, and prosecute and punish those responsible. The Special Rapporteur also called on the Government of the Republic of the Philippines to provide Ms. Roxas redress, award her fair and adequate compensation, and provide her appropriate social, psychological, medical and other relevant treatment.¹⁰⁶

UN Committee against Torture

On 3 June 2015, the UN’s torture prevention body has urged the Philippines to deal urgently with prison overcrowding and improve independent monitoring of places of detention as part of efforts to protect people deprived of their liberty against torture and cruel, inhuman or degrading treatment.¹⁰⁷ The call came at the end of the first visit to the Philippines by the Sub-Committee on the Prevention of Torture (SPT), when the six member delegation presented its confidential preliminary observations to the Filipino authorities.

And, in its concluding observations on the third periodic report of the Philippines adopted by the UN Committee against Torture at its fifty-seventh session (18 April-13 May 2016), the Committee has raised concern on impunity as a result of the ineffective implementation of legislation and made the following observations:

“While welcoming the adoption of national legislation criminalizing torture, the Committee is concerned that obstacles continue to exist for the effective implementation of the Anti-Torture Act. The Committee is concerned that impunity for acts of torture continues to prevail, as illustrated by the fact that although the number of cases of torture reported to the Commission on Human Rights of the Philippines has risen since the adoption of the Act, only one person has been convicted to date in 2016, more than six years since the Act was adopted. The Committee is also concerned that the committee created under section 20 of the Anti-Torture Act to oversee the implementation of the Act has not yet done so (arts. 2, 4, 12 and 13).”¹⁰⁸

Further, the UN Committee expressed concern that arrests are being carried out without warrants by police, military personnel and ordinary citizens. It also expressed concern about reports that some arrests are made by police officers in civilian clothes and that many detained suspects have reportedly been subjected to torture and ill-treatment with impunity.

UN Human Rights Committee

In November 2012, the Human Rights Committee, in its concluding observations on its review of the Philippines’ record under the ICCPR, stated its concern at the “continued allegations of torture and the lack of data on the incidence of torture, particularly on the number of investigations, prosecutions, convictions and sanctions imposed on perpetrators of torture...”¹⁰⁹

During the 36th session of the Human Rights Council in September 2017, 39 states supported a joint statement expressing concern over the thousands of killings associated with the Philippines’ so-called ‘war on drugs’ and calling on the Philippines “to cooperate with the international community to pursue appropriate investigations into these incidents, in keeping with the universal principles of democratic accountability and the rule of law.”¹¹⁰

Culture of impunity: Question mark over implementation of the anti-torture law

The enactment of the anti-Torture law is an affirmation of the Philippines’ commitment to its obligations to international law.

However, having a law is not a guarantee to protection unless one ensures its full implementation. The Philippines experience so far is a case in point.

Between 2010 and 2014, the Amnesty International has documented at least 50 cases of torture and other ill-treatment during arrest and detention.¹¹¹

On the eve of International Day in Support of Victims of Torture in 2017, Philippines based human rights group Karapatan stated that torture remains a means by government security forces to extract information from suspects.¹¹² As on May 31, 2017 Karapatan had documented 52 incidents of torture under the current administration, while in the six years of the Aquino regime, 248 cases of torture were reported to the organization.¹¹³

In January 2014, the Commission on Human Rights had revealed the discovery of a torture scheme in which police officers played a game “wheel of torture” at a secret detention facility near Manila as a way to extract information from suspects – and also to have fun in the process.¹¹⁴

Under this scheme of torture, the detainees- mostly suspected drug traffickers – were punched if the “torture wheel” stopped at “20 seconds Manny Pacman,” referring to a nickname of the Filipino boxer Manny Pacquiao, or hung upside down if it stopped at a punishment called “30-second bat”. Amnesty International termed the practice despicable.¹¹⁵

Despite the filing of many well-documented torture cases, it was only in April 2016 that the first conviction under the Anti-Torture Act of 2009 was recorded when police officer Jerick Dee Jimenez was sentenced to a maximum of two years and one month imprisonment by a court in Pampanga for the torture of Jerry Corne. The court demanded that the officer pay Jerry Corne damages amounting to 100,000 pesos (approximately USD \$2,173). Another police officer faces the same charges but remains at large.¹¹⁶ This case marked the first conviction under the 2009 Anti Torture statute.¹¹⁷

Philippine’s legislative framework is comprehensive in its criminalization of torture and ill-treatment. The safeguards that the anti-torture law provides are also broad and affirm the country’s commitments to international treaties prohibiting torture.. However, the effectiveness of the implementation of the Anti-Torture Law of 2009 is found wanting considering the widespread reports of use of torture in the country.

The observations of the various treaty monitoring bodies is also indicative of the country’s failure to fully implement the anti-torture law and comply with its international obligations.

A culture of impunity still persists nearly a decade after the anti-torture legislation has been enacted. Reports of alleged torture by law-enforcement officials and the military are routine.

The lack of effective investigation, lack of accountability and impunity are some of the reasons why torture still

prevails in the Philippines resulting in perpetrators going unpunished and leaving victims without appropriate redress or reparation despite a comprehensive anti-torture law being in existence for around a decade.

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