



# India Torture Update: Rajasthan



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## 1. Focus: Linkage between corruption and torture

The UN Special Rapporteur on Torture in a report in 2014 recognized that “*corrupt and malfunctioning criminal justice systems are a root cause of torture and ill-treatment of detainees*”.<sup>1</sup> In 2014, the UN Sub-Committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment highlighted the correlation between corruption and torture or ill-treatment in places of detention and concluded that the fight against torture and ill-treatment demands appropriate measures to eradicate corruption, underpinned by robust democratic principles.<sup>2</sup>

In its resolution 37/19, the UN Human Rights Council recognized the importance of understanding the interrelation between corruption and torture or ill-treatment and invited the UN Special Rapporteur on Torture and other relevant special procedures to take this question into account in their future work.

The UN Special Rapporteur on Torture in his report to the 40th Session of the UN Human Rights Council (25 February 2019 to 22 March 2019) examined the issue and specifically highlighted the importance of external oversight in combating corruption and torture. In the context of policing, the report stated that the practice of corruption and of torture or ill-treatment typically goes beyond individual officers and extends to their units or even entire police departments, often exacerbated by collusion at worst or acquiescence at best on the part of the judiciary and open or implicit complacency on the part of policymakers. Overall, the resort by individual officials to corruption or to torture and ill-treatment is more often the result of their professional environment than of their personal character.<sup>3</sup>

That corruption is one of the reasons for widespread prevalence of torture in India is well established. Many are tortured to death for the failure to pay bribe and in most of these cases, the victims are tortured in front of the relatives and falsely implicated in crimes. Those who were killed in custody for being unable to pay bribes during 2018 were Sandeep, a Dalit aged 25 years, who died on 16 August 2018 due to alleged torture at Rampura Police Outpost in Rudrapur under Udham Singh Nagar district of Uttarakhand allegedly for not paying Rs 50,000 demanded by the police;<sup>4</sup> and Umesh Solanki, aged 33 years, who was tortured to death for

allegedly not paying Rs 70,000 to the policemen at Kagdapith Police Station in Ahmedabad, Gujarat on 5 December 2018.<sup>5</sup>

In order to extract bribes, victims were tortured in front of their relatives during 2018 were Manoj Soni who died on 15 March 2018 after he was allegedly tortured in front of his wife Neelu Soni at the Rahatgarh Police Station in Sagar district of Madhya Pradesh;<sup>6</sup> Sukhraj Singh, aged 56 years, who died on 25 July 2018 after he was allegedly tortured in front of his family members at the time of arrest from his home at Indira Colony in Chandigarh;<sup>7</sup> Maskur Nabi, aged 60 years, who died due to alleged torture in front of his family members by the police personnel from Bisauli Police Station on 8 August 2018 at Sangrampur village under Badaun district of Uttar Pradesh;<sup>8</sup> Arun, aged 29 years, who was allegedly beaten by the police in front of his wife Rinku on 12 August 2018 at New Anaj Mandi, Salarpur road under Kurukshetra district of Haryana;<sup>9</sup> and Vaidhnath Choudhary, aged 40 years, who died

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of torture allegedly in front of his son Rakesh at the Karni Vihar Police Station in Jaipur, Rajasthan on 22 October 2018.<sup>10</sup>

For extracting bribes, many victims were falsely implicated and tortured to death. The victims included Narendra Kumar, aged 34 years, who died at Mawana Police Station in Meerut district of Uttar Pradesh on 24 April 2018;<sup>11</sup> Jogendra Das, aged 40 years, who died in the custody of Astaranga Police Station in Puri district of Odisha on 28 November 2018.<sup>12</sup>

Unless there is genuine oversight of the places of detention by independent authorities which is absolutely absent at present, torture to extract bribe is unlikely to be addressed. The NHRC should take measures to implement the recommendations of the UN Special Rapporteur on Torture.

## 2. Special Report: The State of Torture in Rajasthan

Torture is regularly reported in police and judicial custody from Rajasthan. In a number of cases, the NHRC awarded compensation and recommended departmental action against the erring police personnel.

### 2.1 Torture in police custody

The National Human Rights Commission recorded 40 deaths in police custody during 2009-2010 to 2018-19 (as on 20.11.2018) in Rajasthan. These included 4 in 2009-10; 2 in 2010-11; 3 in 2011-12; 4 in 2012-13; 3 in 2013-14; 4 in 2014-15; 5 in 2015-16, 6 in 2016-17; 3 in 2017-18; and 6 in 2018-19 (as on 20.11.2018).<sup>13</sup> The following emblematic cases establish the patterns of torture in the state.

#### Case 1: Illegal detention and torture of two Dalit brothers at Govindgarh police station, Jaipur district

On 13 February 2019, two Dalit brothers identified as Deepak, aged 23 years, and Dashrath were taken to Govindgarh police station in Jaipur district, Rajasthan in an alleged trump up case of damaging the statues in a temple. The two were illegally kept in detention for four days at the police station and tortured to obtain confessions in the false case. Deepak was beaten with wooden sticks and had sustained severe injuries on his buttocks. The victims' other family members including their mother were also beaten up by plainclothes police personnel who came to take them in custody. A team of three government doctors also conducted a medical examination of the two youths. Deepak, who sustained serious injuries, was referred to a hospital on 25 February.<sup>14</sup>

#### Case 2: Death of Dinesh due to alleged torture at Ratangarh police station, Churu district

On 6 February 2019, Dinesh Kumar, aged 26 years, s/o Bhagwati Prasad allegedly committed suicide at Ratangarh police station in Churu district of Rajasthan. The deceased was taken to the police station for interrogation in a case of theft. Police claimed that the deceased committed suicide by

hanging himself in the toilet of the police station. However, the deceased's family members alleging foul play protested against the custodial death. Four police personnel identified as Head Constable Dashrath Singh, Constables Lekh Ram, Virendra Kumar and Birbal Ram were suspended following the custodial death. The case is pending with the NHRC.<sup>15</sup>

#### Case 3: Illegal detention and torture of three minor boys at Kotra police station, Udaipur district

On 19-21 November 2018, three minor boys were allegedly tortured during three days of illegal detention at Kotra police station in Udaipur district of Rajasthan. The minor victims were detained illegally in connection with a case of theft of a bike. The victims had sustained injuries and a video, which went viral on social media, showed bruises on their bodies.<sup>16</sup>

#### Case 4: Illegal detention and torture of three youth at Kotwali police station, Banswara district

On 20 August 2018, three youths identified as Akshay, Suresh and Ashish were allegedly tortured at Kotwali police station in Banswara district of Rajasthan. Police claimed the three youths were arrested on 20 August in connection with different cases and refuted the allegations of custodial torture. The victims were kept in a barrack at the police station. The victims claimed that they were innocent and were kept in illegal custody for more than three days, and subjected to torture in order to extract confessions. Unable to bear the third degree torture one of the youth, Akshay allegedly tried to commit suicide while in custody. Medical experts who examined the victims found several injuries on their bodies and marks caused by sharp objects.<sup>17</sup>

#### Case 5: Torture of minor Dalit girl at Bhadsoda police station, Chittorgarh district

On 15 July 2018, a 14-year-old Dalit girl was allegedly tortured by the police to extract a confession at Bhadsoda police station in Chittorgarh district, Rajasthan. The minor, a Class VIII student of a government school, was detained after she allegedly received a pair of stolen gold earrings from a suspect in a theft case. The victim was mercilessly beaten by the Station House Officer and a constable. When the victim was taken to a government-run health centre, a medical officer refused to admit her calling it a police case. The minor was later admitted at another government hospital only after the intervention of the court. The minor's father who had filed a complaint against the SHO, who was a lady officer, and the constable, stated that the victim was kept in a dark room for around five hours and tortured, following which she sustained fracture on her left wrist and was badly bruised.<sup>18</sup>

#### Case 6: Death of an alleged drug addict at Chipabarode police station, Baran district

On the night of 9 July 2018, Jitendra Saini alias Jittu, aged 28 years died due to alleged torture at Chipabarode police station in Baran district, Rajasthan. The deceased, an alleged drug addict, was picked up by the police for interrogation in

connection with a theft case. Police claimed that Jittu was released after half an hour of interrogation as they did not find him involved in the crime. His body was found near his home in the early morning. The family members of the deceased alleged that Jittu was subjected to custodial torture by two constables identified as Kapil and Sunil Meghwal and his body was dumped near his home. The NHRC intervened into the case and directed the state government to submit an explanation as to why the custodial death was not reported to it.<sup>19</sup>

**Case 7: Death of a tribal due to alleged torture at Sadar police station, Bundi district**

On 27 August 2018, a tribal identified as Pappu Bheel, aged 30 years, s/o Bhawar Lal died due to alleged torture at Sadar police station in Bundi district, Rajasthan. The deceased, a resident of Namana village in the district, was arrested a day earlier in connection with theft of a motorcycle. Police claimed the deceased suddenly broke the glass of the window during interrogation in a room and hit himself with the broken glass on his stomach, resulting in his intestines to come out. He was taken to the district hospital in critical condition, but was referred to another hospital. He died while on the way. Rejecting the police claim, the family members of the deceased alleged that Pappu Bheel died due to custodial torture. Currently, the case is pending with the NHRC.<sup>20</sup>

**Case 8: Death of retired army man due to alleged torture at Kumher police station, Bharatpur district**

On 22 August 2018, Prahlad Singh, aged 60 years, a retired army personnel, died due to alleged torture at Kumher police station under Bharatpur district, Rajasthan. The deceased Prahlad Singh was detained by the police for allegedly creating nuisance after consuming alcohol. He was kept in the lockup at the police station. Police claimed the deceased committed suicide by tearing the blanket provided and hanging from one of the bars of the lockup gate in the early morning.<sup>21</sup> The family members of the deceased alleged that the Prahlad died due to custodial torture.<sup>22</sup>

**Case 9: Death of Rama due to alleged torture at Railmagra police station, Rajsamand district**

On 30 August 2018, Rama, aged 36 years, died under mysterious circumstances at Railmagra police station under Rajsamand district in Rajasthan. The deceased, a resident of Chittaurgarh district, was taken into police custody for interrogation in connection with the robbery that took place on 22 August 2018 in a temple. The wife of the deceased stated that she went to the police station in the evening of 30 August 2018 but the police refused to share information about her husband. It was also alleged that the deceased died due to torture.<sup>23</sup>

**Case 10: Death of Vaidyanath Chaudhary due to alleged torture at Karni Vihar police station, Jaipur district**

On 22 October 2018, Vaidyanath Chaudhary, aged 40 years, died due to alleged torture at Karni Vihar police station in Jaipur city of Rajasthan. The deceased died after he was

allegedly beaten up by the police at Karni Vihar police station in Jaipur when he had gone to get back his son's bike which was seized by the police. He was allegedly beaten up by the policemen at the station when he objected to their slapping of his son. The police personnel also refused to let the deceased go out of the police station when he complained of chest pain and uneasiness. The deceased's son Rakesh whose bike was seized by the police and was present at the police station said the police heckled the father son duo and roughed up his father leading to deterioration of his health immediately. He said his father wanted to go to a doctor but the police did not let him go and by the time he was allowed it was too late. The case is pending with the NHRC.<sup>24</sup>

**Case 11: Death of Ramcharan Gurjan at Kudgaon police station, Karauli district**

On 30 August 2018, Ramcharan Gurjar, s/o Gujargal died under mysterious circumstances at Kudgaon police station in Karauli district, Rajasthan. As required, the information of the custodial death was submitted to the NHRC by the Superintendent of Police, Karauli district. The NHRC has called for detained report and the case is currently pending for adjudication.<sup>25</sup>

**Case 12: Death of Rakbar in police custody at Ramgarh police station, Alwar district**

On 21 July 2018, Rakbar alias Akbar died in police custody at Ramgarh Police Station in Alwar district, Rajasthan. The deceased, a resident of Mewat district, Haryana, along with a friend identified as Aslam Khan, were allegedly caught transporting cows on foot by local residents and attacked them suspecting them to be cow smugglers. While Aslam managed to escape, Rakbar was allegedly beaten up by the cow vigilantes. Police took the deceased into custody at around 1.50 AM on 21 July 2018 but the deceased died without any medical care despite the fact that the Ramgarh Community Health Centre (CHC) is only about 4 km from Lalawandi village from where police picked up the deceased. However, even the cow vigilantes alleged that Rakbar died in police custody. According to them, they saw a police constable beat up Rakbar while taking him to the police station. It was also alleged that police took him to the police station instead of being taken to hospital. Later, when he was taken to hospital it was too late. He was declared brought dead in the hospital.<sup>26</sup>

## 2.2 Torture and deaths in judicial custody

Rajasthan has 126 jails including 9 central jails, 24 district jails, 60 sub jails, 2 women jails, 29 open jails, 1 special jail and 1 borstal school.<sup>27</sup> As per data of the National Human Rights Commission, at least 749 prisoners died in jails of Rajasthan during 2008-2018. These included 56 deaths in 2008-09; 79 in 2009-10; 83 in 2010-11; 70 in 2011-12; 82 in 2012-13; 65 in 2013-14; 59 in 2014-15; 82 in 2015-16, 82 in 2016-17 and 91 in 2017-18.<sup>28</sup>



The death of Pakistani national, Shakarullah alias Mohd Hanif, aged 45 years, after he was attacked by four other prisoners at Central Jail, Jaipur on 20 February 2019 exposed the lack of security in the jails across the country. Following the death of Mohd Hanif, the National Human Rights Commission, which took suo motu cognizance of the death, held that the authorities are expected to take immediate precautionary measures in the jails, where Pakistani nationals are lodged. The NHRC also directed its Registry to send a copy of the proceeding in this matter to the Chief Secretaries of all the States and UTs across the country for strict compliance and taking necessary action in their respective States.<sup>29</sup>

Cases of unnatural deaths of prisoners, including due to torture and lack of proper medical treatment, continued to be reported in the State.

On 18 February 2019, Nikhil Singh Rajawat alias Bhawani, aged 25 years, a convict, died under suspicious circumstances at Central Jail, Kota. The deceased was serving life imprisonment since July 2016 in connection with an attempt to murder case. Jail officials claimed that the health of the deceased suddenly deteriorated, after which he was rushed to the hospital, where he was declared dead. However, the deceased's father, Doulat Singh alleged that his son was tortured to death by the jail officials for failing to pay bribe of Rs. 100,000 demanded by them. Doulat Singh further alleged that his son had some stitches marks on the head, indicating torture.<sup>30</sup>

On 27 October 2018, undertrial Dulhe Singh, aged 40 years, died under mysterious circumstances at District Jail, Jhalawar. The jail officials claimed the deceased complained of stomach pain and died in hospital. Currently, the case is pending for final adjudication with the NHRC.<sup>31</sup>

On 25 September 2018, Ramchandra Gujjar, aged 33 years, died at Sangod city Sub-Jail in Kota district of Rajasthan. The deceased was arrested by the police and sent to judicial custody on 9 August 2018 in connection with a case under the Arms Act. Jail authorities claimed that Ramchandra died due to illness while undergoing treatment at the hospital.<sup>32</sup> The NHRC, which intervened into the matter, summoned the District Collector, Kota to appear before it on 25 April 2019 vide its proceedings dated 6 March 2019 for delay in submitting reports.<sup>33</sup>

On 19 September 2018, Satyanarayan, an undertrial prisoner, died under mysterious circumstances at Central Jail, Kota in Rajasthan. The deceased was arrested by the police and sent to judicial custody some six months ago under Narcotic Drugs and Psychotropic Substances Act, 1985. The family members of the deceased alleged that Satyanarayan died due to torture by the jail authorities. The family members refused to take the dead body back and demanded strict actions against the accused jail officials.<sup>34</sup>

On 5 September 2018, Ayub alias Yakub, aged 19 years, an undertrial prisoner, died under mysterious circumstances at District Jail, Hanumangarh in Rajasthan. The jail officials

claimed that Ayub was under depression and committed suicide inside the jail premises in the early morning of the day. The deceased allegedly made a rope from his trouser and hung himself. He was rushed to the hospital where the doctors declared him brought dead.<sup>35</sup>

On 14 July 2018, Deepak Gujjar alias Kalu, aged 30 years, an undertrial prisoner, died under mysterious circumstances at Central Jail, Kota, Rajasthan. The deceased was in the jail since 11 July. The jail officials claimed that Deepak Gujjar complained of chest pain and was rushed to the hospital, where he died during treatment. The family members, however, alleged that the deceased died due to torture by the jail officials in judicial custody.<sup>36</sup>

On 27 January 2018, two prisoners identified as Brandwan Dhakar, aged 25 years, and Wahid Ahmed Qureshi, aged 66 years, died under mysterious circumstances at Central Jail, Jaipur in Rajasthan. Dhakar, a resident of Morena in Madhya Pradesh, was arrested by police in 2017 under Protection of Children from Sexual Offences Act. The jail officials claimed that the undertrial prisoner committed suicide by hanging himself at the jail's dispensary where he was admitted on the same day. The deceased family members, however, stated that Dhakar was innocent and falsely implicated in the case.<sup>37</sup> On the other hand, jail officials claimed the death of Qureshi died in a hospital was natural but family of the deceased alleged foul play and claimed presence of injuries on his legs.<sup>38</sup>

As per the guidelines laid down by the NHRC, every death in police or judicial custody is to be reported within 24 hours of the occurrence. From January 2018 to March 2019, the following deaths were reported to the NHRC from the jails of Rajasthan:

#### **Central Jail, Kota**

The deaths reported to NHRC from Central Jail, Kota included Nikhil @ Bhawani, s/o Doulat Singh on 18 February 2019; Bajrang Lal, s/o Panna Lal on 23 November 2018; Shakil Ahamad, s/o Zamil Ahamad on 18 November 2018; Cheen Singh, s/o Bapulal on 6 May 2018; Nawab @ Banti, s/o Ahmad Pathan on 31 March 2018; and Dhanraj, s/o Gopilal on 25 March 2018.<sup>39</sup>

#### **Central Jail, Ajmer**

The deaths reported to NHRC from Central Jail, Ajmer included Shrivallabh, s/o Ramniwas on 9 January 2019; Panna, s/o Hiralal on 19 April 2018; Naushad, s/o Siraj on 18 April 2018; and Sumer s/o Hari Ram on 24 April 2018.<sup>40</sup>

#### **Central Jail, Alwar**

The deaths reported to NHRC from Central Jail, Alwar included Narendra Singh, s/o Mahendra Singh on 6 February 2019; Jamil @ Durki, s/o Mangal on 8 July 2018; and Gopesh @ Gopi, s/o Vishram on 14 April 2018.<sup>41</sup>

#### **Central Jail Bikaner**

The deaths reported to NHRC from Central Jail, Bikaner included Nandkishore @ Nandiya, s/o Rishal Singh on 12

January 2019; Surjaram, s/o Sadularam on 31 August 2018; Rameshwar Lal, s/o Kumbharam on 23 July 2018; Pal Singh, s/o Deva Singh on 13 July 2018; Vijay Kumar @ Bittu s/o Brijlal on 13 April 2018; Hawa Singh s/o Jashraam on 25 April 2018; Chotelal, s/o Amarlal on 16 March 2018; Kishore Singh, s/o Heer Singh on 16 January 2018; and Ratiram, s/o Purna Ram on 3 January 2018.<sup>42</sup>

#### Central Jail, Jaipur

The deaths reported to NHRC from Central Jail, Jaipur included Shafiq Mohammad, s/o Rafiq Mohammad on 5 February 2019; Barjender Singh, s/o Harman Singh on 15 January 2019; Domadar Kalani, s/o Ganpat Lal Kalani on 16 November 2018; Ahmad Ali, s/o Nanhe Kha on 21 October 2018; Shambhu Lal, s/o Chanda Lal on 8 October 2018; Pooran Prajapat @ Banaji, s/o Mangalram on 19 September 2018; Chimmam Singh, s/o Choga Singh on 1 September 2018; Naresh Kumar, s/o Bhamburam on 21 August 2018; Ratan Lal, s/o Kalla on 9 July 2018; Amar Singh, s/o Dharam Singh on 15 June 2018; Laxminarayan, s/o Anandi Lal on 19 May 2018; Gopal Singh, s/o Laxminarayan on 25 April 2018; Ramavtar, s/o Amer Singh on 2 May 2018; Ramgopal, s/o Shivsahai on 15 April 2018; Santosh Kumar, s/o Kishan Dev Das on 29 March 2018; Deepak Bhatee, s/o Chotemal Bhatee on 19 February 2018; Daulat, s/o Ghure on 20 February 2018; Rohit Khusai Das Waswami, s/o Moolchand Waswani on 18 February 2018; and Sanjay Singh @ Parkash Singh on 7 February 2018.<sup>43</sup>

#### Central Jail, Jodhpur

The deaths reported to NHRC from Central Jail, Jodhpur included Vikram Sankhla, s/o Munilal Sankhla on 8 March 2019; Pratap Singh, s/o Shir Tanwar Singh, s/o Tawar Singh on 15 December 2018; Mangilal, s/o Kheta Ram on 8 December 2018; Kanaram, s/o Mangilal on 17 November 2018; Kachuram, s/o Padmaram on 12 September 2018; Kunaram, s/o Manganaram on 28 June 2018; Hanumanram, s/o Ranaram on 12 June 2018; Vishnu, s/o Binjaram on 31 May 2018; Fuaram, s/o Meghaji on 5 May 2018; Bhiyaram @ Bhappa Rams, s/o Meeraram on 26 April 2018; Bhagirath, s/o Babulal on 11 April 2018; Ganga Singh, s/o Aamb Singh on 11 March 2018; Nirmal Kumar, s/o Mohanlal on 25 February 2018; Tulcharam, s/o Ruparam on 3 February 2018.<sup>44</sup>

#### Central Jail, Sri Ganganagar

The deaths reported to NHRC from Central Jail, Sri Ganganagar included Mahendra @ Dharmendra, s/o Shivdutt on 22 May 2018; and Omprakash, s/o Khetaram on 22 February 2018.<sup>45</sup>

#### Central Jail, Udaipur

The deaths reported to NHRC from Central Jail, Udaipur included Jagdish Lal, s/o Shankar Lal on 2 December 2018; Ramiya @ Ramesh, s/o Kamura on 17 November 2018; Phularam, s/o Lalaam on 30 September 2018; Nivas @ Nivasiya, s/o Mangilal on 2 September 2018; Bansilal, s/o

Haja on 12 August 2018; and Ratna s/o Hara on 8 March 2018.<sup>46</sup>

#### Central Jail, Bharatpur

The deaths reported to NHRC from Central Jail, Bharatpur included Bhura @ Mahavir, s/o Brijendra Singh on 24 July 2018; Valla s/o Samanta on 13 January 2018; and Sudesh, w/o Mahendra on 5 January 2018.<sup>47</sup>

### 2.3 Emblematic cases of custodial violence and award of compensation by the NHRC during 2018

#### Case 1: Torture of Moinuddin Qureshi

With respect to physical assault, brutal custodial torture, unlawful arrest of Moinuddin Qureshi and inhuman treatment by police of Police Station Jyoti Nagar, Jaipur, Rajasthan on 21.06.2016, the NHRC (Case No. 1528/20/14/2016) had recommended compensation of Rs.25,000/- as interim relief to be paid to the victim besides departmental action against delinquent police personnel. The Government of Rajasthan complied with the direction and deposited Rs.25,000/- in the bank account of victim Moinuddin Qureshi on 17.4.2018. While closing the case on 3 October 2018, the NHRC further directed the authorities to take appropriate action against the delinquent police personnel and their supervisory officers, who were allegedly involved in beatings, intimidating and unlawfully detaining the victim and covered up and further that investigation of the criminal case being investigated further by the State Criminal Investigation Department/ Crime Branch (CID/CB) be monitored and reviewed at an appropriate level by the Additional Director General, CID/CB.

#### Case 2: Torture of Aparna @ Paru

Acting on a complaint of torture inflicted on a woman by Jharkhand police officials where the victim Aparna @ Paru was allegedly tied to a rope like an animal and taken to Jharkhand from Alwar, Rajasthan on 21 June 2016, the NHRC( Case No. 1532/20/2/2016-WC) has vide its Proceedings dated 27 March 2018, directed the Government of Jharkhand to pay Rs. 1,00,000/- (Rupees One Lakh only) as compensation to the victim and also directed the Chief Secretary, Government of Jharkhand to send within six weeks the compliance report along with the proof of payment. The Government of Jharkhand, instead of making payment, sent another report claiming that the woman was not victimized as alleged. After considering the report, the Commission vide its Proceedings dated 29 November 2018, reiterated its recommendation to the Government of Jharkhand to pay Rs.1,00,000/- as compensation to the victim Aparana alias Parul. It also directed the Chief Secretary, Government of Jharkhand to send, within six weeks, compliance report along with proof of payment. As the compliance report and proof of payment are still awaited, the Commission has On 21 February 2019, issued a reminder to the Chief Secretary,

Government of Jharkhand, asking him to send, within six weeks, the compliance report along with proof of payment. The action due date is 16.04.2019.<sup>48</sup>

### **Case 3: Torture of Ramji Lal Mehavar**

In a matter relating to picking up of victim complainant Ramji Lal Mehavar by police of Ramgarh Panchwara Police Station, Dausa, Rajasthan on 7.7.2015 at Nayavas village without any reasons, and tortured and assaulted by the police officials, the NHRC (Case No. 1748/20/11/2015) had recommended an amount of Rs.50,000/- as interim relief to be paid to the victim and departmental action against the errant police personnel by 03.10. 2018. The Additional District Magistrate in the office of Collector & District Magistrate, Dausa, Rajasthan vide communication dated 31.8.2018 submitted the compliance report and informed the Commission that both the delinquent police personnel have been dealt with and punished departmentally. While closing the case, the Commission on 03.10. 2018 considered the records received from the state authorities and observed that since the previous orders have been complied with, no further action is called for.<sup>49</sup>

### **Case 4: Custodial death of undertrial prisoner Roopa Ram**

In a matter relating to death of an undertrial prisoner Roopa Ram s/o Sawaram on 23.2.2015 in the custody of Sub-Jail Bali, District Pali, Rajasthan, due to medical negligence on the part of jail authorities, the NHRC (Case No. 411/20/23/2015-JCD[0]) had recommended an amount of Rs.3,00,000/- as interim relief to be paid to next of kin of the deceased prisoner. In response, Deputy Secretary, Home (HR) Department, Government of Rajasthan, Jaipur vide communication dated 31.8.2018 has submitted the compliance report. Perusal of the same revealed that an amount of Rs.3,00,000/- was paid to Smt. Meera Devi, wife of the deceased prisoner on 7.5.2018. Proof of payment has also been annexed. The Commission on 3.10.2018 considered the status of action taken and observed that the amount of interim relief of Rs.3,00,000/- as recommended by the Commission has been paid to the wife of the deceased prisoner. While closing the case, the Commission stated that no further action on the part of the Commission is called for.<sup>50</sup>

### **Case 5: Casteist remarks and brutal assault of Nand**

#### **Kishore Berwa**

In response to a complaint received about a victim Nand Kishore Berwa, a resident of Surya Nagar Gopalpura Bypass, Jaipur belonging to the SC community who was allegedly insulted with casteist remarks, brutally beaten up and was even threatened of being ousted from the village on 02.06.2016, the NHRC (Case No. 2546/20/14/2016) in its proceedings on 01.11.2016 has issued notice to the Commissioner of Police, Rajasthan to submit a report within four weeks. In response, Police Commissioner, Jaipur submitted a report dated 10.02.2017 stating that medical examination of the victim recorded all the injuries to be of

simple nature and one injury to be grievous. The report further stated that commission of offence is made out against two of the accused persons and a charge sheet no. 165/16 has already been filed in the Jaipur Court.

While hearing the matter on 18.04.2017, the Commission stated that since a chargesheet has already been filed in the matter, no further intervention of the Commission is necessary, and therefore the matter was closed.<sup>51</sup>

### **Case 6: Custodial death of undertrial prisoner Bhanwari Devi**

In a matter relating to death of a female undertrial prisoner Bhanwari Devi, wife of Madan Lal (aged 55 years) on 5.1.2013 in the custody of Central Jail, Ajmer, Rajasthan, due to medical negligence on the part of jail administration, the NHRC (Case No. 50/20/1/2013-JCD) had on 3.10.2018 recommended an amount of Rs.3,00,000/- as interim relief to be paid to next of kin of the deceased. In response, the District Magistrate, Ajmer, Rajasthan and Deputy Secretary, Home (HR) Department, Government of Rajasthan, vide communications dated 24.10.2018 and 2.11.2018 have submitted the compliance report. The Commission perused the matter on 18.12.2018 and while closing the case, it recorded that an amount of Rs.3,00,000/- as recommended by the Commission has been deposited in the bank A/c No.61261649135 of Pradip Kumar, son of Madan Lal on 15.10.2018 and proof of payment has also been submitted.<sup>52</sup>

### **Case 7: Custodial death of undertrial prisoner Chander Shekar alias Pappu**

In a case relating to the death of an undertrial prisoner Chander Shekar alias Pappu, aged 44 years, in the custody of Central Jail Kota, Rajasthan, on 21.04.2015, the NHRC (Case No. 851/20/21/2015-JCD) on 22 March 2018 issued a notice under Section 18 of the Protection of Human Rights Act, 1993 to the Government of Rajasthan, through its Chief Secretary, requiring it to show cause within six weeks as to why the Commission should not recommend payment of Rs.100000/- as compensation to the next-of-kin of the deceased. The victim's wife alleged medical negligence. In response, the Under Secretary to the Government of Rajasthan, Department of Home (HR) has sent his report dated 06 Aug 2018 wherein the report denied the allegations of medical negligence in providing medical treatment while in jail. Considering the report, the Commission observed that the report does not deal with the non-availability of treatment record from 13 to 19 Apr 2015 for a period of one week before the death which is suggestive of inadequate patient care and therefore the Commission found no merit in the report. Consequently, the Commission on 05.10.2018 recommended to the Government of Rajasthan, to pay Rs. 1,00,000/- as compensation to the next of kin of the deceased and also directed the Chief Secretary, Government of Rajasthan to send within six weeks, a compliance report along with proof of payment.<sup>53</sup> The action due date was 01.12.2018.



### Case 8: Death of Damodar Lal Verma

In a case (Case No. 29/20/21/2016-JCD ) relating to the death of Damodar Lal Verma who died at Kota, Rajasthan on 10th October, 2016, the NHRC had earlier on 26.11.018 recommended payment of compensation of Rs. 1,00,000/- to the NOK of the deceased and the Chief Secretary, Government of Rajasthan was directed to submit the Compliance Report along with proof of payment within six weeks. As the proof of payment was submitted, the Commission closed the case on 28.03.2019.<sup>54</sup>

### Case 9: Torture of Guddu @ Gulsher

In this case (Case No. 1004/20/14/2015-JCD), despite sufficient time and opportunity having been given by the NHRC, the requisite reports have not been sent to the Commission. The Commission therefore during its proceedings of 12.02.2019 issued summons for the personal appearance of the concerned State Authorities before the Commission on 10.04.2019 at 11:00 A.M along with the requisite reports and also an explanation for delay in submission of the reports. It also warned that in the absence of the explanation as called for, the Commission may recommend appropriate action against them to the State Government, and that if the reports are received on or before 03.04.2019, the personal appearance of the said authorities shall stand dispensed with. The action due date is 03.04.2019.<sup>55</sup>

### Case 10: Custodial Death of Niyaju

In the case pertaining to the death of a youth Niyaju, in the custody of Police PS Jurehera, District Bharatpur, Rajasthan on 13.09.2011, the NHRC (Case No. 92497/20/5/2011-AD) vide order dated 17.01.2019 had observed that though the amount of compensation recommended by the Commission Rs.2,00,000/- has been sanctioned by the Government of Rajasthan, but the Collector, Bharatpur, Rajasthan, has not sent compliance report along with proof of payment. The Commission, therefore, directed the Chief Secretary, Government of Rajasthan to submit within six weeks, compliance report along with proof of payment of compensation to the next of kin of deceased. In response, the Addl. District Magistrate, Bharatpur, Rajasthan vide his letter dated 29.01.2019 has reported that an amount of Rs. two lakh has been deposited in the account of the NOK of the deceased prisoner Niyaju and the statement has been enclosed as proof of payment. Taking these into record, the Commission has closed the case on 18.02.2019.<sup>56</sup>

### Case 11: Custodial death of Vikesh @ Vikki

In a case related to the death of Vikesh @ Vikki in the custody of Makrana Police Station in Rajasthan, the NHRC(Cse No 2868/20/22/2015-PCD) has on 8.8.2018 recommended for payment of Rs.Five Lakhs as monetary compensation to the NoK of the deceased. Deputy Secretary (HR) Department, Govt. of Rajasthan vide letter dated 28.9.2018 has objected for grant of any monetary

compensation to the NoK of the deceased on the ground that no police officials were found guilty in the death of the deceased in the FR filed in CBI Court Jodhpur. The Commission, however, observed that it has become trite law that the Commission while recommending compensation to the victim for violation of his human rights, there is nothing required to establish strict proof about culpability of the public servant in case of custodial death and that since once a person is in the custody of the authority, life and safety is the obligation of the said authority. While rejecting the report of the state government as devoid of merit, the Commission reiterated its earlier recommendation and directed Chief Secretary, Govt. of Rajasthan to submit compliance report along with proof of payment within four weeks. The action due date is 29.04.2019.

### Case 12: Assault and torture of school girls

In a case relating to alleged assault and torture of victim girls by the Police on 29.09.2015 at Aligarh Road, Uniara Town in Rajasthan, the NHRC(Case No. 2611/20/28/2015) vide its proceedings dated 18.04.18 recommended the Chief Secretary, Govt. of Rajasthan to pay an amount of Rs. 25,000/- to each of the seven school girls namely Manraji, Sukhbai, Mukeshi, Priyanka, Dhanraji, Kalawati and Rameshi and directed him to submit proof of payment within six weeks. In response, Deputy Secretary(Home), Govt. of Rajasthan vide communications dated 31.05.18 and 19.06.18 has informed that as per the report received from the Superintendent of Police, Tonk, the victim girls were neither assaulted nor tortured by the Police and they suffered injuries during the stampede. While rejecting the contentions made by the state authorities, the Commission has on 27/07/2018, the Commission reiterated its earlier recommendation and directed the Chief Secretary, Govt. of Rajasthan to pay a sum of Rs. 25,000/- each as monetary relief to the seven school girls who sustained injuries due to lathi charge by the Police. It directed the authorities submit the compliance report along with proof of payment within six weeks. The action due date was 28/09/2018.<sup>57</sup>

### Case No 13: Harassment of senior citizen woman Hari Bai

The matter relates to the harassment of a senior citizen woman Hari Bai on 18.11.2014 in the name of witchcraft within the jurisdiction of Chauhano P.S. Raipur in Rajasthan and alleged police inaction. Earlier on 07.08.2018, the NHRC (Case No. 634/20/6/2015-WC) had recommended an amount of Rs.50,000/- as interim relief to be paid to the victim and departmental action against delinquent police personnel. In response, the District Magistrate, Bheelwada, Rajasthan vide his communication dated 07.09.2018 has submitted the compliance report. A similar report dated 28.09.2018 was received from the Deputy Secretary, Home(HR) Department, Government of Rajasthan, Jaipur stating that interim relief of Rs.50,000/- as recommended by the Commission was paid to the victim. The Commission was

also informed that the delinquent police personnel have already been dealt with and punished departmentally and criminal case registered in the matter is pending trial in the court. Noting that no further intervention on the part of the Commission is needed, the Commission closed the case on 26.10.2018.<sup>58</sup>

#### **Case No. 14: Dowry harassment and atrocities of Gulli Devi**

In this matter relating to dowry harassment and atrocities on a dalit woman, namely, Gulli Devi and inaction by police of Jodhpur Rural District in Rajasthan, the NHRC (Case No. 500/20/4/2016-WC) had recommended an amount of Rs.25,000/- as interim relief to be paid to the victim and departmental action against delinquent police personnel. In response, the Deputy Secretary, Home (HR) Department, Government of Rajasthan and District Collector, Jodhpur, Rajasthan vide communications dated 1.11.2018 and 25.10.2018 submitted the compliance report. Perusal of the same revealed that an amount of Rs.25,000/- as recommended by the Commission has been deposited in the bank A/c of victim Gulli Devi on 18.10.2018. Proof of payment has also been annexed. While closing the case on 19.12.2018, the Commission observed that the interim relief has been paid to the victim and Departmental action has already been taken against the delinquent police personnel and therefore no further action is called for.<sup>59</sup>

#### **Case No 15: Torture of Bhairo lal Begham**

In its proceedings of 18.09.2018, the NHRC (Case No. 1190/20/9/2014) recommended to the Government of Rajasthan to pay Rs. 50,000/- as compensation to the boy Bhairulal, a student of Government Higher Primary School, Navin Begu, District Chittorgarh, in addition to Rs. 12,000/- already paid by the teacher concerned. The Chief Secretary Government of Rajasthan was also directed to send, within six weeks, compliance report, along with proof of payment. However, the proof of payment and compliance report have not been received in the Commission till 22/01/2019 and therefore the Commission issued a reminder to the Chief Secretary, Govt. of Rajasthan to send within 6 weeks the compliance report alongwith proof of payment failing which the Commission may invoke sec. 13 of the PHR Act, 1993. The action due date is 23.03.2019.<sup>60</sup>

#### **Case No 16: Custodial death of undertrial prisoner Ganesh Ram**

The matter relates to death of undertrial prisoner Ganesh Ram, s/o Kishna Ram who died on 28.6.2015 in the custody of District Jail, Jaisalmer, Rajasthan allegedly due to negligence on the part of prison personnel. The NHRC (Case No. 1413/20/15/2015-JCD) had recommended an amount of Rs.2,00,000/- as interim relief to be paid to next of kin of the deceased. In response, the Deputy Secretary, Home (HR) Department, Government of Rajasthan vide communication dated 10.1.2019 submitted the compliance report along with

the proof of payment. Perusal of the same revealed that an amount of Rs. 1,20,000/- was paid to Smt. Keku (mother of the deceased) and Rs. 80,000/- to Smt. Sushila (wife of the deceased) on 8.12.2018. As the proof of payment was submitted the Commission on 14.02.2019 closed the case.<sup>61</sup>

#### **Case No 17: Death of Madan lal**

In its proceeding on 14 Nov 2018, the NHRC (Case No. 1558/20/30/2016) had directed the Chief Secretary, Govt. of Rajasthan to pay a compensation of Rs. 1 lakh to the NOK of the deceased Madan Lal and submit the compliance report along with proof of payment within four weeks. As no compliance report was received, the Commission issued a final reminder to the Chief Secretary. In response, the Deputy Secretary, Energy Department, Government of Rajasthan informed the Commission that the compensation amount of Rs. 1,00,000 was paid to NOK of the deceased through cheque and submitted proof of payment. As the recommendation was complied with, the Commission closed the case on 28 March 2019.<sup>62</sup>

#### **Case No 18: Custodial death of Basta ram**

On 17 September 2018, the NHRC had recommended payment of Rs 3,00,000 to the next of kin of the deceased Basta Ram, s/o Kaja Ram who died at Sub-jail, Bhinmal on 17 November 2013. The Commission also recommended to the authorities to take sed undertrial prisoner and departmental action against errant Medical Officer. However, despite notice being issued, neither a compliance report nor proof of payment of payment has been communicated to the Commission. The Commission on 30.01.2019 issued a notice to the Deputy Secretary, Home (HR) Department, Government of Rajasthan, Director, Medical & Health Services, Government of Rajasthan and District Magistrate, Jalore, Rajasthan, calling upon them to submit the proof of payment of Rs.3,00,000/- to the next of kin of the deceased undertrial prisoner Vastaram and outcome of the departmental action taken against the remaining delinquent public servant Dr. Vibha Ram Chowdhary in the matter within six weeks, failing which the Commission shall issue Summons requiring them to appear before the Commission in person and to explain delay in submission of the report.<sup>63</sup>

#### **Case No 19: Illegal detention of Tulsi Ram**

In a matter relating to illegal detention and ill-treatment of Tulsi Ram by Dausa Police on 24.01.2015, the NHRC (Case No. 592/20/11/2015) had recommended payment of Rs. 10,000 as interim relief to the victim and departmental action against the delinquent police personnel. In response, the District Magistrate, Dausa, Rajasthan and the Deputy Secretary, Home(HR) Department, Government of Rajasthan vide their communication dated 07.09.2018 and 18.09.2018 respectively submitted the compliance reports together with proof of payment. The Commission was also informed that the case filed against the delinquent police personnel was pending adjudication before the court. In



consideration of these reports, the Commission in its proceedings on 26 January observed that no further intervention on the part of the Commission was necessary and closed the case.<sup>64</sup>

#### **Case No 20: Physical assault of Peeyush**

In this case relating to alleged physical assaulted of victim Peeyush by police on the intervening night of 7-8 April 2015 at Sadar Kotwali Police Station in Rajasthan, the NHRC (Case No. 883/20/19/2015) vide its proceedings dated 21.7.2016 had issued notice to the Government of Rajasthan through its Chief Secretary to Show Cause within six weeks as to why an amount of Rs. 25,000 (Rupees Twenty Five Thousand) as interim relief may not be recommended to be paid to the victim. The Commission further directed the Chief Secretary and the Director General of Police, Rajasthan to ensure that the case FIR No. 51/2015 at Police Station Sadar Bazar, Jodhpur, which was being investigated by the State CID/CB, be investigated by an officer not below the rank of Deputy Commissioner of Police. The Commission also directed the Chief Secretary and the DGP to submit the details of departmental action taken against the delinquent police personnel. The Superintendent of Police, CID (HR), Rajasthan, Jaipur vide his communications dated 20.2.2017 and 10.4.2017 had submitted the reports but the Chief Secretary, Government of Rajasthan failed to submit any report. The Commission observed that it appeared that the Chief Secretary had nothing to say in the matter and the Commission recommended an amount of Rs.25,000/- as interim relief to be paid to the petitioner victim and directed the Chief Secretary to submit the proof of payment within a period of six weeks. The Chief Secretary, Government of Rajasthan, Additional Director General of Police, Vigilance and Additional Director General of Police, Crime, Rajasthan were also directed to submit a complete report in the light of aforesaid observation together with the details of departmental action taken against the delinquent police personnel, supervisory officers and status of the case within a period of six weeks, failing which they shall be required to appear before the Commission in person at 1200 hours on 27.2.2018.

In response, the Additional Director General of Police, Vigilance, Rajasthan, vide his communications dated 5.2.2018, 8.2.2018 and 21.2.2018 submitted that 3 police personnel namely ASI Nathu Singh and Constables Dev Raj Singh and Gopal Meena were found guilty of torturing the petitioner. ASI Nathu Singh has since retired and therefore departmental proceedings were dropped against him. The departmental proceedings against 2 Constables were initiated by the DCP, East, Jodhpur. It was further submitted that 2 police officers namely Sub-Inspector Sumer Singh and ASI Bhanwar Lal were found guilty for not conducting proper investigation of the case registered against the delinquent police personnel. Departmental action against both of them was not proposed as they have also retired from service.

The DCP, East, Jodhpur vide communication dated 22.2.2018 submitted that the delinquent three police personnel had been chargesheeted for the offences punishable u/s 323, 325 IPC but Sub-Inspector, Jogender Singh who was also Investigating Officer of the case was not found guilty as he merely concluded the investigation based on earlier findings of the Investigating Officer.

The Deputy Secretary, Home (HR) Department, Government of Rajasthan vide her communication dated 23.2.2018 submitted that an amount of Rs.25,000/- as recommended by the Commission was paid to the petitioner victim on 23.2.2018. Proof of payment was also annexed. The Commission further considered the matter on 17.5.2018, when it observed that in the entire matter, only 2 Constables were being dealt with departmentally and the rests have been let off though the Commission vide its proceedings dated 20.7.2015 had directed for taking departmental action against the delinquent police officers. The Commission therefore directed the Chief Secretary, Government of Rajasthan and Director General of Police, Rajasthan to submit further report in the light of aforesaid observations within a period of six weeks, without fail. In response, the Superintendent of Police, CID (HR), Rajasthan and Deputy Secretary, Home (HR) Department, Government of Rajasthan vide their communications dated 15.11.2018 and 12.12.2018 respectively have submitted the reports. The contents of both the reports are identical to the contents of earlier reports, which have already been considered by the Commission. The reports were also completely silent on the role of the supervisory officers in the matter. The NHRC after considering these reports on 10.01.2019 directed the Chief Secretary, Government of Rajasthan and Director General of Police, Rajasthan to submit fresh report in the light of directions of the Commission vide proceedings dated 17.5.2018 and submit the report on departmental action taken in the matter against the delinquent police personnel including the supervisory officers within a period of six weeks.<sup>65</sup>

### **3. Torture in India during March 2019**

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

#### **3.1 Emblematic cases of torture in police custody**

##### **Case 1: Death of a police constable due to alleged custodial torture, Manipur**

On 30 March 2019, a suspended Manipur Police constable identified as Md Manjur Ahamad, aged 34 years, s/o Bashir of Yairipok Ningthourel in Thoubal district, Manipur, died in police custody at the Joint Interrogation Cell (JIC) in Imphal, Imphal West district. Md Manjur was suspended after an undertial prisoner fled from custody while being treated at a

hospital on 26 March 2019. The deceased, deployed at the hospital to look after the escaped individual, was arrested for interrogation on 27 March and remanded to police custody 1 April. The family members of the deceased alleged that Md Manjur died to torture during interrogation at the JIC.<sup>66</sup>

**Case 2: Tortured to death of Rizwan Asad Pandit, Jammu & Kashmir**

On 19 March 2019, Rizwan Asad Pandit, aged 29 years, a school principal, died due to alleged torture in police custody in Pulwama district, Jammu & Kashmir. The deceased, a resident of Awantipora, was picked up for interrogation by security agencies in connection with a terror case registered at Panthachowk police station on 15 March. According to the initial post-mortem findings, Rizwan died because of “extravasation of blood”, the leakage of blood from a vessel into the surrounding tissues caused by multiple injuries. An official involved in the findings stated that he had cuts and injuries all over his body and had a haematoma, a solid swelling of clotted blood within the tissues, in his left arm and eye. The official also indicated that a roller may have been applied over his legs, causing the veins and arteries to ruptures. Rizwan’s family members alleged that there were torture marks all over his body. According to them, Rizwan’s left eye had turned black, the left side of his face was swollen, cut marks and deep burn marks were visible on his thighs and there were stitches on his head. A magisterial inquiry was ordered into the death.<sup>67</sup>

**Case 3: Torture of Mohd Ibrahim, Delhi**

On 14 March 2019, a shopkeeper identified as Mohd Ibrahim, aged 44 years, was subjected to beating by three police officials at Sarita Vihar in South east Delhi. The torture came to light after a video emerged. The video shows the shopkeeper being held by two officers and beaten up with a stick by a third. One of the police officer was identified as SHO of Sarita Vihar police station, Ajab Singh. The victim was allegedly beaten up for refusing to shut his shop. The Delhi Police had ordered an enquiry into the incident.<sup>68</sup>

**Case 4: Tortured to death of Gufran Alam and Taslim Ansari at Dumra police station, Bihar**

On 7 March 2019, Gufran Alam, aged 30 years, and Taslim Ansari, aged 32 years, died due to alleged torture at Dumra police station in Sitamarhi district, Bihar. Both the deceased were picked up by police on 6 March from Ramdiha village in East Champaran district in connection with a case of robbery and murder. Gufran’s father Munnavar Ali stated that five police jeeps from the local Chakiya police station stopped at his house when they were all asleep and asked for Gufran. The police said they wanted to question Gufran in connection with a case. Before we could ask anything, they took him away and later also picked up fellow villager Taslim Ansari. When the families reached Dumra police station, they were told to visit Sadar hospital. At the hospital, they were told that both were dead and their postmortem had been conducted. But

they were not allowed to see the bodies, which were handed over to them next morning. When the bodies were being washed for the burial, relatives said they discovered the injuries and the extent of torture. According to the families, the injury marks were caused by iron nails being hammered in. The nails were hammered into their thighs, soles and wrists. The legs of both victims were severely injured.<sup>69</sup>

**Case 5: Death of 60-year-old man following torture, Uttar Pradesh**

On 6 March 2019, Madanpal Singh, aged 60 years, died due to alleged torture by police at Makhali village in Muzaffarnagar district of Uttar Pradesh. In the late night of 6 March, a police team from Nai Mandi police station had gone to Makhali village to arrest the deceased’s son Monu in connection with a case. Omwati Devi, the deceased’s wife stated that the police personnel entered their house by jumping the boundary wall and started beating the family members including herself, Monu, and deceased Madanpal Singh. The police also threatened to kill Monu, an alleged gangster, in an encounter. Following the torture, harassment and threat to kill his son, Madanpal Singh suffered a heart attack and died while on way to hospital.<sup>70</sup>

**Case 6: Tortured to death of Muneshwar at Churkhi police station, Uttar Pradesh**

On 3 March 2019, Muneshwar, aged 35 years, died due to alleged torture at Churkhi police station in Jalaun district, Uttar Pradesh. The deceased was picked up by the police for interrogation in connection with a theft case from his house on 27 February 2019. The deceased was taken to the Churkhi police station and put in the lockup room. He was found dead in the lock-up in the morning of 3 March. Police claimed that the deceased had attempted suicide inside the lockup bathroom and died during treatment after he was admitted to hospital. However, the deceased’s father Vakil Singh alleged that his son was tortured to death by the police while in custody.<sup>71</sup>

**Case 7: Custodial torture forced youth to commit suicide in Kerala**

On 6 March 2019, Rajesh, aged 30 years, committed suicide unable to bear the torture meted out to him by the police at Melukavu police station in Kottayam district, Kerala. The deceased took the extreme step after he was released on bail on 28 February 2019 following his arrest in a chain snatching case registered at the police station. Before committing suicide, the deceased had filmed a video on the social media wherein he held Sub Inspector Sandeep and two other constables of Melukavu police station solely responsible for his death. He stated that before sending him to judicial custody he was tortured by the police to extract confessions at the police station.<sup>72</sup>

**Case 8: Police officer suspended for custodial torture of woman at Regali police station, Odisha**

On 6 March 2019, Assistant Sub-Inspector Dronacharya Sahu was suspended for the torture of a woman at Regali

police station in Sabbalpur district, Odisha. The action against the accused police officer was taken after a video of the incident, which took place in September 2018, went viral social media. The police attached to the police station had picked up the woman without any reason. The accused police officer subjected her to brutal beating when she enquired about the purpose of bringing her to the police station.<sup>73</sup>

#### **Case 9: Torture of three persons at Chetganj police station, Uttar Pradesh**

On 5 March 2019, three persons identified as Prabhunath Yadav, Babu Ahmad and Anand Kumar, were allegedly tortured at Chetganj police station in Varanasi district, Uttar Pradesh. The victims were picked up for questioning by police after a complaint of theft was lodged by the owner of an automobile shop where they work on 4 March. During interrogation the victims were allegedly subjected to torture to extract confessions. Following the torture, the victims were unable to stand or sit properly and had to be admitted to the hospital.<sup>74</sup>

#### **Case 10: Death of rickshaw puller following alleged torture in Uttar Pradesh**

On 5 March 2019, Saleem Ahmed, aged 35 years, a rickshaw puller, died of heart attack after police allegedly beat him up at Civil Lines area in Bijnor district, Uttar Pradesh. Saleem was trying to pacify two groups of shopkeepers who were fighting over money. Police were called but they beat up Saleem and asked him to appear before the police station. When Saleem reached home he complained of chest pain. He was immediately rushed to the hospital but doctors declared him brought dead. The family members of Saleem alleged he died following the torture. Police, however, denied the torture charge.<sup>75</sup>

### **3.2 Torturous prison conditions and deaths in judicial custody**

Conditions of prisons remain torturous across the country.

On 2-4 March 2019, the Assam Human Rights Commission (AHRC) conducted inspection of three jails in Karimganj and Hailakandi districts of Assam. The AHRC expressed serious concern over the dilapidated condition of the jails in the two districts. The team found the jails overcrowded, lack of hygiene with poor drainage system and no healthcare facility for the prisoners. The team found that there were no separate places for convicts, undertrials and doubtful voters.<sup>76</sup>

Deaths of prisoners as a result of torture, ill treatment, lack of medical facilities, etc in the jails continued to be reported.

On 26 March 2019, Deb Majhi, aged 40 years, an undertrial prisoner, died at Sub-jail, Umerkote in Nabarangpur district, Odisha. The deceased, an accused in a murder case had been lodged in the sub-jail since December 2018. The jail officials claimed that Majhi had been ill for some days and was admitted at Nabarangpur District

Headquarters Hospital (DHH) on 25 March and died during treatment the next day. But the deceased's family members alleged that the deceased died due to medical negligence.<sup>77</sup>

On 25 March 2019, Govind Chhagan Rathore, aged 50 years, an undertrial prisoner, lodged at Central Jail, Lalpore in Surat district, Gujarat, died under mysterious circumstances. The deceased was arrested and sent to judicial custody in 2013 in connection with a loot and murder case. Jail officials claimed that on 25 March the health of the deceased suddenly deteriorated, after which he was admitted to the hospital, where he died during the treatment.<sup>78</sup>

On 21 March 2019, M.J. Jacob, an undertrial prisoner lodged at Sub-jail Mavelikara in Alappuzha district of Kerala, died under mysterious circumstances. The deceased was arrested and sent to judicial custody on 20 March 2019 in connection with a cheating case registered at the Thirilla police station. Jail officials claimed that the deceased committed suicide by swallowing a handkerchief.<sup>79</sup>

On 20 March 2019, Heera Lal, a convict lodged District Jail, Pilibhit, Uttar Pradesh, died under mysterious circumstances. The deceased, a resident of Pandari village in Pilibhit district, was sentenced to life imprisonment in connection with a murder case that took place in 1984. Jail officials claimed the health of the deceased suddenly deteriorated, after which he was admitted to the hospital, where he was declared brought dead.<sup>80</sup>

On 19 March 2019, Ramhet, a convict, died under mysterious circumstances at Central Jail, Gwalior in Madhya Pradesh. The deceased, a resident of Bhind district, was serving life imprisonment for the last 12 years in connection with a murder case. Jail officials claimed the deceased suddenly fell down while he was doing Surya Namaskar (yoga) exercise. Thereafter, he was taken to the Jayarogya Hospital, Gwalior, where he died. However, the family members of the deceased alleged that Ramhet died due to torture inside the jail and that he was already dead before arrival in hospital. Further, the family members claimed they saw signs of torture in the deceased's body.<sup>81</sup>

On 19 March 2019, an undertrial prisoner identified as Mo. Danish, aged 24 years, s/o Mobin died under mysterious circumstances at Haldwani Sub-Jail, Nainital in Uttarakhand. The deceased, a resident of Uttar Pradesh, was arrested and sent to judicial custody on 10 March 2019 in connection with a theft case. Jail officials claimed the health of the deceased, who was suffering from epilepsy and was addicted to drugs, suddenly deteriorated on 16 March, after which he was admitted to the Dr. Susheela Tiwari Government Hospital, Gwalior. He died in the hospital during treatment.<sup>82</sup>

On 18 March 2019, Mobin Ansari, aged 35 years, an undertrial prisoner, died at the Divisional Jail, Lohardaga in Jharkhand. On 12 December 2018, the deceased was sent to judicial custody in connection with a case of domestic violence. Jail officials claimed that on 18 March 2019, the



health of the deceased suddenly deteriorated and he was taken to the district hospital, Lohardaga, where he was declared dead. However, the family members of the deceased alleged that Mobin Ansari died due to custodial torture. The family members alleged that the deceased had informed them many times that he was being tortured in the jail. Family members also stated that they were not informed about the death of Mobin Ansari.<sup>83</sup>

On 16 March 2019, a convict identified as Kandu alias Kanhaiya, aged 50 years, s/o Nandu, died under mysterious circumstances at District Jail, Chitrakoot in Uttar Pradesh. The deceased, a resident of Mahoba district, was sentenced to seven years of imprisonment in connection with an attempt to murder case in December 2018. Jail officials claimed the health of the deceased suddenly deteriorated and he was taken to the district hospital, but he died on the way. However, the family members of the deceased stated Kandu had no prior disease/medical complications and that he was absolutely in good health when his wife and son visited him in the jail about one month ago.<sup>84</sup>

On 13 March 2019, an undertrial prisoner identified as Firoz, aged 32 years, s/o Nasibuddin died due to alleged torture at District Jail, Dehradun in Uttarakhand. The deceased was arrested and sent to judicial custody for 14 days on 10 March 2019 in connection with an alleged drug smuggling case. Jail officials claimed the health of the deceased suddenly deteriorated on 12 March 2019 and he was admitted to the jail hospital. On 13 March, he was referred to the Government Doon Medical College, Dehradun, where he died during the treatment. The family members of the deceased and villagers, however, alleged that Firoz died due to custodial torture.<sup>85</sup>

On 9 March 2019, Subhranshu Das, aged 35 years, a convict, died due to alleged torture in the custody of Choudwar Circle Jail in Cuttack district, Odisha. The deceased was serving life imprisonment in connection with a murder case in 2013. Jail officials claimed the deceased complained of breathlessness and chest pain after which he was taken to SCB Medical College and Hospital, Cuttack where the doctors declared him dead on the same day. However, the family members of the deceased alleged that the deceased was tortured to death at the Choudwar Circle Jail.<sup>86</sup>

On 9 March 2019, Vijay Rana alias Vijay Kumar, aged 40 years, a convict, died under suspicious circumstances at Tihar Jail in Barrack number 4 in New Delhi. The deceased, an auto driver by profession and resident of Ghaziabad (Uttar Pradesh) was convicted in a case of road accident four months ago. Jail officials claimed the deceased did not wake up from sleep, following which he was taken to the hospital where he was declared dead. However, the family members of Vijay Rana alleged that his health was perfectly normal when they spoke to him two days prior to his death, and accused the jail officials of killing him. The family members further alleged

that they were not allowed to see the body of the deceased by the jail administration.<sup>87</sup>

On 9 March 2019, an undertrial prisoner named Vinod, aged 25 years, s/o Hulasiram, died under suspicious circumstances at Kasganj district jail of Uttar Pradesh. The deceased was arrested and sent to judicial custody on 7 January 2019 in connection with an alleged murder case. Jail officials claimed the deceased was found hanging by a towel at the jail barrack. However, the family members of the deceased accused the jail administration of killing Vinod.<sup>88</sup>

On 3 March 2019, Seikh Akbar Mehmood, an undertrial prisoner, died under mysterious circumstances at District Jail Puri in Odisha. The deceased, a resident of Saradhapur in Khurda district, was arrested and sent to judicial custody in connection with a gang rape case. Jail officials claimed the deceased committed suicide by hanging himself with his towel inside the prison toilet. However, the family members of the deceased alleged foul play and demanded a proper investigation.<sup>89</sup>

On 3 March 2019, an undertrial prisoner identified as Suraj, aged 27 years, s/o Tekram Marwari, died under suspicious circumstances at Haldwani sub jail, Nainital district in Uttarakhand. The deceased, a resident of Uttar Pradesh, was arrested and sent to Haldwani sub jail on 8 September 2018 in connection with a murder case. Jail officials claimed that on 2 March 2019 the deceased complained of pain in his stomach and was given an injection by the doctors. When his health deteriorated he was taken to the Dr. Susheela Tiwari Government Hospital, Haldwani the next morning (3 March), where he died.<sup>90</sup>

On 2 March 2019, Mohammed Azam, aged 45 years, a convict, died after he was allegedly assaulted by a fellow prisoner at District Jail, Saharanpur in Uttar Pradesh. The deceased was undergoing life imprisonment since July 2009 in connection with murder of his wife. Jail officials claimed there was a fight between the deceased and another prisoner over the use of toilet. During the fight, Anwar fatally injured Azam, who later died in the hospital.<sup>91</sup>

On 2 March 2019, Paramjit Singh, aged 35 years, an undertrial prisoner, died under mysterious circumstances at the Central Jail, Ferozepur in Punjab. The deceased was arrested and sent to judicial custody on 11 January 2019 in connection with murder of his wife and two children. The jail officials claimed the deceased committed suicide by hanging himself inside the bathroom of the prison.<sup>92</sup>

### 3.3 Judiciary's action against torture during March 2019

The judiciary regularly adjudicates cases of illegal, unjustified and unwarranted arrests, extracting confession from innocent persons for offences which they have never committed, by way of custodial violence.

The emblematic cases are given below.

### **Case 1: Delhi court sentenced five Uttar Pradesh police personnel to 10 years imprisonment for custodial death**

On 20 March 2019, a court in Delhi sentenced five personnel of Uttar Pradesh Police to 10-year rigorous imprisonment each for torturing a man to death at Sector 20 police station in Noida in Gautam Buddh district, Uttar Pradesh. Additional Sessions Judge Sanjeev Kumar Malhotra awarded the sentence to Sub-Inspectors Hindveer Singh and Mahesh Mishra and Constables Pradeep Kumar, Pushpender Kumar and Haripal Singh for abducting the victim, Sonu, making incorrect entries in the general diary to mislead evidence and torturing him which led to his death in 2006. Kunwar Pal, a property dealer and an accused in the case, was awarded imprisonment for three years by the court on kidnapping charge. The court also ordered the accused persons to pay cumulatively Rs. 17 lakh compensation to the father of the deceased. The court held the accused guilty on 18 March 2019. Following the death of Sonu, his father had filed a complaint and a case was registered. The case was previously tried by a court in Uttar Pradesh but the Supreme Court later transferred it to the Delhi court stating that “free and fair trial of the case will not be possible within the State of Uttar Pradesh as the accused were members of the State’s police force”.<sup>93</sup>

### **Case 2: Madras High Court transferred custodial death of a minor to CB-CID**

On 26 March 2019, the Madurai Bench of the Madras High Court transferred the custodial death case of a 17-year-old boy in Madurai district, Tamil Nadu to the Crime Branch-Crime Investigation Department (CB-CID). Hearing the petition, filed by M Jeya, mother of the victim, who sought a CB-CID investigation, the High Court observed that there are many lapses in the case and it will be investigated under Section 302 of the IPC by the CB-CID.<sup>94</sup> Earlier on 20 March 2019, the High Court directed the Dean of the Government Rajaji Hospital to submit clear reports on the death of the minor, who died in the custody of S.S. Colony police station in Madurai district on 24 January 2019. In her petition, M Jeya alleged that her son was subjected to custodial torture, leading to his death. Taking serious note of the shoddy conduct of the authorities in the alleged case of custodial torture and resultant death of the victim, the court questioned why the Government Rajaji Hospital had not conducted the post mortem in the first place, despite injury marks on the deceased and wondering if there was any nexus between the authorities in the case. Earlier, the court had sought reports from the Commissioner of Police, Madurai, and Juvenile Justice Board. The petitioner claimed that her son was first picked up by the police on 7 January 2019 for an inquiry in a case of jewel theft and subsequently released. But, a week later, the police had informed her that they suspected her son’s involvement in the theft and again picked him up for inquiry. She said that her son was kept in illegal custody for three days

and subjected to torture. The minor was produced before the Juvenile Justice Board and a complaint was raised over his alleged torture by the police. Following the complaint, the minor was admitted to the hospital where he succumbed to injuries on 24 January 2019.<sup>95</sup>

### **Case 3: Punjab & Haryana High Court orders SIT against custodial death of woman**

On 18 March 2019, the Punjab and Haryana High Court directed the Punjab Police to constitute a Special Investigation Team (SIT) to be headed by an additional director of police to investigate into the custodial death of a woman identified as Ramandeep Kaur in 2017. The 29-year-old woman, who was picked up by the police in connection with an ATM fraud case on 5 August 2017, was found dead at Dugri police station in Ludhiana district. As per the court direction, the SIT will have to conduct the inquiry and submit the report within a period of three months. The order was passed by Justice Arvind Sangwan while disposing a petition filed by the fiancé of the deceased. The petitioner had sought directions to investigate or hold an inquiry after registering an FIR against police officials of Ludhiana. According to the petitioner, on the night of 4 August 2017, they were both apprehended and tortured throughout the night and Ramandeep died in police custody at the police station. Later, the police made up a case that Ramandeep had committed suicide in the police station and cremated the body on 5 August 2017 without waiting for the arrival of her parents and relatives. While the State government informed the court that both the petitioner and the deceased were facing several criminal cases registered in Ludhiana related to cheating and forgery and claimed that nothing had been found against the police in the inquiry carried after the incident.<sup>96</sup>

### **Case 4: Madhya Pradesh High Court gave last opportunity to State Government to submit inquiry report in a custodial death case**

On 11 March 2019, the Madhya Pradesh High court granted a final extension of 15 days to the police to file report of investigation into custodial death case of Pankaj Vaishnav, a court employee who had died at MIG police station in Indore district, Madhya Pradesh in December 2016. Taking a strong note of the delay in the police investigation, the court directed the counsel for state government to ensure presence of Director General of Police in court on the next date of hearing on 4 April 2019 - if chargesheet or the final report is not filed within 15 days. Earlier, the court had granted extension multiple times to police department to conclude investigation against police officials. The court also questioned the action taken by the police in the past one year and commented that public had lost trust on the police machinery.<sup>97</sup>

### **Case 5: Seven personnel of Haryana Police booked for torture against Dalit on court’s order**

On 8 March 2019, seven personnel of Crime Investigation Agency (CIA) of Haryana Police, including an Inspector, were

booked for allegedly abducting Sachin Kumar (26), a Dalit, and subjecting him to torture in Kurukshetra, Haryana in August 2018. On the directions of Judicial Magistrate Chetesh Gupta, a case was registered against Inspector Deepender Singh, Sub-Inspector Subhash Chand, Head Constables Lalit Kumar and Nirmaljit Singh, and Constables Naveen, Arvind and Sandeep. They were booked under Sections 364 (abducting in order to murder), 167 (framing an incorrect document to cause injury), 452 (trespass) of the IPC, besides relevant sections of the SC/ST (Prevention of Atrocities) Act. According to the victim, he was forcibly taken away by a CIA team on 8 August 2018 after the police team barged into his house, claiming that he was in possession of a countrymade weapon. He was taken to the CIA office in Kurukshetra where he was allegedly subjected to torture before he was released after his family and villagers approached the police.<sup>98</sup>

#### **Case 6: Court sentenced two police head constables to two years imprisonment in Punjab**

On 8 March 2019, the Court of Judicial Magistrate (CJM), Faridkot in Punjab sentenced two police head constables to two years imprisonment for custodial torture of Sunil Kumar at Kotkapura police station in Faridkot district in May 2014. The two head constables identified as Jang Singh and Surjit Singh had trespassed into the house of the victim at Prem Nagar, Kotkapura on 27 May 2014, kidnapped him and illegally detained him at the police station for the purpose of extorting money. The victim was threatened and sustained injuries following the torture. The Court held that the accused did not deserve to be released on probation of good conduct and behaviour. The victim was forced to move the court after the police had failed to take any action against the accused on a complaint lodged by him. In his complaint in the court filed in July 2014, Sunil Kumar had alleged that his face was wrapped with cloth and water was put in his nose due to which his breath was stopped and there were attempts to kill him in the police lock-up. He also stated that he was tortured for two days at Kotkapura and Jaito police stations as the police wanted to extort money and procure his signature on some papers.<sup>99</sup>

#### **Case 7: Gujarat High Court compensates woman for arrest after sunset**

On 5 March 2019, the Gujarat High Court directed the State government to pay a compensation of Rs 2,500 to a woman, who was arrested after sunset in violation of law in 2012. The high court had asked the woman to institute civil proceedings against the concerned police inspector, if she wished to claim more damages from him for the violation of law. The woman, Varshaben Patel had been fighting a legal battle for over seven years after her arrest on the night of 5 November 2012 from her home. She was arrested along with her husband on charges of cheating and forgery over a property dispute. After her arrest, the victim complained before the Magisterial Court in Vadodara that her arrest at

night was in violation of provisions of Section 46(4) of the Code of Criminal Procedure, which prohibits arrest of a woman after sunset except in extraordinary circumstances and with prior permission from a judicial magistrate. However, the magisterial court let off the accused police officer with a strict warning. Aggrieved, she moved the high court for action against the police officer.<sup>100</sup>

### **3.4 Interventions by the NHRC/SHRCs during March 2019**

The National Human Rights Commission (NHRC) and the State Human Rights Commissions (SHRCs) are mandated to address human rights violations and continue to intervene in cases of torture. As per latest data available, the National Human Rights Commission registered a total of 7,169 fresh cases, including 10 relating to death in police custody and 104 relates to deaths in judicial custody, while it disposed of a total of 7,783 cases (Fresh + Old), including 13 cases of death in police custody and 235 cases of death in judicial custody, during February 2019. A total of 20,203 cases (Fresh + Old), including 380 cases of death in police custody and 3,452 cases of death in judicial custody, were under consideration of the commission as of February 2019.<sup>101</sup>

In February 2019, the NHRC has awarded a total of Rs 1,57,55,000 in 57 cases of human rights violations, including 12 cases of death in police custody, 11 cases of death in judicial; one case of death in custody of defence forces; three cases of failure in taking lawful action, two cases of abuse of power, one case of illegal arrest, among others.<sup>102</sup>

Some of the emblematic cases of interventions during March 2019 are given below.

#### **Case 1: Haryana SHRC directs State government to compensate two custodial torture victims**

On 27 March 2019, the Haryana State Human Rights Commission directed the State government of Haryana to pay compensation of Rs. 15,000 each to two persons who were stripped and tortured in police custody in Sonapat in 2015. The victims identified as Suresh and Balraj were taken to preventive custody by Inspector Satyender Kumar, then station house officer (SHO) of Gohana city police station on 8 February 2015 when they approached him to register an FIR. The SHO instead of registering the FIR, took the victims into preventive custody, stripped and tortured them in the police lock-up. Passing a 15-page order, the Commission said that the State government was “liable for the wrongs committed by its officers” and observed that the “act of the police was totally illegal and clearly in violation of human rights of the citizens”.<sup>103</sup>

#### **Case 2: TNSHRC recommends prosecution against police officials for fake encounter**

On 14 March 2019, the Tamil Nadu State Human Rights Commission (TNSHRC) recommended the prosecution for culpable homicide, apart from disciplinary action against four



police personnel involved in a fake encounter case in Virudhunagar district in 2009. The TNSHRC also recommended the State government to pay a compensation of Rs 10 lakh to the wife of the deceased Sundaramurthy. The police claimed the deceased had tried to escape from custody and posed a threat to them and was shot in self-defence. However, the TNSHRC held that the police officials, the then Inspector of Police Radhakrishnan and then Police Constables Kamaraj, Siva and Karunakaran, had determined to kill him in the pretext of self-defence and shot him.<sup>104</sup>

### **Case 3: NHRC summons District Collector & Magistrate, Jaipur in a case of custodial death**

On 12 March 2019, the National Human Rights Commission summoned the District Collector and Magistrate of Jaipur district of Rajasthan for failure to submit reports in the custodial death of Waheed, s/o Mohd Munna Khan, a prisoner lodged at District Jail, Jaipur. The Prisoner had died on 27 January 2018. The Collector failed to submit the health screening report of the deceased at the time of admission in the jail, post-mortem report, viscera/HP examination report with final cause of death, inquest report, complete treatment record and CD of the post-mortem examination despite issuance of several reminders. Taking serious view of the delay, the NHRC directed the Collector to appear before it along with the reports on 19 April 2019.<sup>105</sup>

### **Case 4: TNSHRC directs State government to compensate law student for custodial torture**

On 11 March 2019, the Tamil Nadu State Human Rights Commission (TNSHRC) directed the State government of Tamil Nadu to pay a compensation of Rs 2 lakh to P Manokaran, a law student who was allegedly stripped and tortured by three police personnel at A Mukkulam police station in Virudhunagar district in 2012. The TNSHRC held the police personnel guilty of human rights violation of the student and asked the government to recover the compensation from Special Sub-Inspector (SSI) A Anburaj and constables Rajasekhar and Prabu. The SSI was asked to pay Rs 100,000, and the two constables 50,000 each. The victim had gone to the police station with his maternal uncle in connection with a civil dispute case on 2 January 2012. The student had asked the police not to interfere in the civil dispute between his maternal uncles. But the police constables and the SSI got angry by the advice and stripped and tortured him. The victim sustained injuries for which he had to be hospitalised for nine days.<sup>106</sup>

## **4. International Action against Torture during March 2019**

### **4.1 UN Human Rights Committee urged Viet Nam to end torture and ill-treatment**

On 11-12 March 2019, the UN Human Rights Committee in its concluding observations expressed

concern about reports of widespread use of torture and ill-treatment, in particular during pre-trial detention, sometimes resulting in death in custody, including of members of ethnic and religious minorities. It also noted that families face reprisals for questioning the cause of death.<sup>107</sup>

The Committee also stated that there were consistent reports of poor conditions of detention, including overcrowding, use of prolonged solitary confinement, shackling, abuses by other prisoners at the instigation of prison officials, and non-separation of healthy prisoners from those with contagious diseases, intentional exposure of prisoners to HIV infection, denial of medical care; and punitive transfer of prisoners.<sup>108</sup>

The Committee also expressed concern at reports of increased security crackdowns on human rights defenders and civil society actors, who face threats, intimidation, and physical attacks to discourage them from carrying out their legitimate activities, including for engaging with the United Nations.<sup>109</sup>

In its recommendations, the Committee urged Viet Nam to take vigorous measures to eradicate torture and ill-treatment, including to ensure that all allegations of torture and ill-treatment and deaths in custody are promptly and thoroughly investigated by an independent and impartial body, that perpetrators are prosecuted and, if convicted, are punished with sanctions consistent with the gravity of the crime, and that victims and, where appropriate, their families are provided with full reparation, including rehabilitation and adequate compensation. It also urged Viet Nam to improve conditions of detention in accordance with the Covenant and the UN Standard Minimum Rules for the Treatment of Prisoners. The country was also asked to ensure human rights defenders and other civil society actors are protected against threats, intimidation and physical attacks, and to allow them to carry out their activities, including engaging with the UN, without fear of restrictions or reprisal.<sup>110</sup>

## **4.2 UN Subcommittee on Torture**

### **I. Subcommittee concerned at prison overcrowding in Costa Rica**

On 15 March 2019, the UN Subcommittee on Prevention of Torture expressed concern over overcrowding in some places of detention in Costa Rica which it observed during its first visit to the country from 3-14 March 2019. After visiting 23 places of detention in different parts of the country, the Sub-Committee stated that public policies aimed at reducing overcrowding should not focus on building new prisons, but on making new criminal policies to reduce imprisonment.<sup>111</sup>

### **II. Subcommittee to visit Sri Lanka next month**

On 29 March 2019, the UN Subcommittee on Prevention of Torture announced that it carry out its first visit to Sri Lanka from 2 to 12 April 2019 to examine the treatment of people deprived of their liberty and the safeguards in place for their protection against torture and ill-treatment.<sup>112</sup>

### III. Subcommittee welcomes establishment of a national preventive mechanism against torture by Panama

In a press statement on 8 March 2019, the Subcommittee on Prevention of Torture stated that it removed Panama from its list of States significantly overdue in establishing a national preventive mechanism against torture after Panama recently established a National Preventive Mechanism against torture.<sup>113</sup>

### 4.3 Reports presented by Special Rapporteur on Torture to 40th Session of HRC

#### I. Annual Report highlights importance of combating corruption and torture

The Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nils Melzer presented his latest annual report during the 40th Session of the Human Rights Council in Geneva held from 25 February 2019 to 22 March 2019 focusing on the linkage between corruption and torture or ill-treatment.<sup>114</sup>

In the context of policing, the SR stated that the practice of corruption and of torture or ill-treatment typically goes beyond individual officers and extends to their units or even entire police departments, often exacerbated by collusion at worst or acquiescence at best on the part of the judiciary and open or implicit complacency on the part of policymakers. Overall, the resort by individual officials to corruption or to torture and ill-treatment is more often the result of their professional environment than of their personal character.<sup>115</sup>

The report made several key recommendations, among others, to adopt and/or ratify, without reservations, the United Nations Convention Against Corruption, the Convention against Torture and its Optional Protocol and establishment and maintain accessible, well-resourced and fully independent monitoring, oversight and accountability mechanisms for the prevention of corruption and of torture or ill-treatment.<sup>116</sup>

#### II. Report on visit to Serbia and Kosovo

The UN Special Rapporteur on Torture, Nils Melzer presented the report of his country visit to Serbia and Kosovo during the 40th Session of the Human Rights Council.<sup>117</sup>

The Rapporteur informed the HRC that the regular prison systems in both Serbia and Kosovo appeared to be largely free from torture with great investments made towards improving the conditions of detention. However, he lamented that numerous allegations of inefficient legal proceedings and excessive pre-trial detention and of frequent ill-treatment during police interrogation had been received.<sup>118</sup>

In his report, the Special Rapporteur observed that the allegations of torture and ill-treatment received by him from Serbia and Kosovo are not isolated incidents, but suggest the existence of pattern of abuse that is well entrenched in the predominant police culture.<sup>119</sup>

The Special Rapporteur made a number of recommendations to the Government of Serbia including to amend the definition of the crime of torture under article 137

of the Criminal Code so as to criminalize the full spectrum of acts covered by articles 1 and 16 of the Convention against Torture; and establishment of accessible, fully independent, expedient and effective complaints, oversight and investigative mechanisms for the prevention, investigation and prosecution of abuse, not only by police and prison staff, but by officials from all branches and services of government.<sup>120</sup>

The Special Rapporteur also urged the authorities of Kosovo, *inter alia*, to criminalize other cruel, inhuman or degrading treatment or punishment in the same comprehensive terms as torture and strengthening the National Preventive Mechanism, particularly in terms of independent and adequate funding and staffing.

In its statement during the interactive session, Serbia stated that it was determined to be free of any type of cruel, inhuman or degrading treatment or punishment within its penitentiary institutions through three strategies: improving the conditions in prisons to solve the issue of overcrowding, implementing re-socialization programmes to successfully reinsert prisoners into society, and developing special programmes for vulnerable categories of convicts. Serbia stated that it had improved the accommodation and health care capacities of its institutions and had put in place various measures, including training policies for their employees, regular supervision, and informing convicts of their rights and the existing mechanisms to protect those rights. Serbia did not have the mandate to monitor the situation in Kosovo and encouraged those who did to continue to do that work diligently.<sup>121</sup>

#### III. Report on visit to Argentina

The report on the visit to Argentina from 9 to 20 April 2018 by the Special Rapporteur with his team was presented for discussion during the 40th Session of the Human Rights Council.<sup>122</sup>

The Special Rapporteur noted that significant progress had been made with regard to legislative and institutional reform. At the same time, torture and ill-treatment at the hands of police forces still seemed to be a regular occurrence.<sup>123</sup>

According to the report, a large number of persons were detained in police stations for prolonged periods of time due to the lack of capacity in regular detention facilities. Many of these detainees reported that law enforcement officials frequently used violence and threats to harass, provoke or intimidate them and, in some cases, to force them to confess an alleged crime or to denounce others. The Special Rapporteur also received several allegations concerning the use of suffocation techniques, most notably the so-called “submarine” treatment, both “wet” (submerging the head in liquid) and “dry” (covering the head with a plastic bag), the latter method being applied particularly during transfers in police vehicles to police stations after arrest.<sup>124</sup>

The Special Rapporteur received numerous and consistent complaints from detainees about the perceived excessive

length of their pretrial detention and the prolonged absence of any meaningful investigative or judicial action taken on the part of the prosecuting or adjudicating authorities, for periods of up to five years. Based on the information provided to the Special Rapporteur, an average of 60 per cent of persons deprived of their liberty in prisons and police stations are in pretrial detention.<sup>125</sup>

The report, among others, recommended to the Government of Argentina to comprehensively reform the administration of the justice system with a view to moving away from the current focus on punitive retribution and towards the rehabilitation and reintegration of offenders.<sup>126</sup>

During the interactive session, Argentina expressed commitment to further strengthen national human rights mechanisms, particularly the National Mechanism against Torture.<sup>127</sup>

#### IV. Report on visit to Ukraine

From 28 May to 8 June 2018, the Special Rapporteur conducted an official visit to Ukraine and the report on his visit was presented during the 40th Session of the Human Rights Council.<sup>128</sup>

The Special Rapporteur informed the Human Rights Council that the regular prison system seemed to be largely free from torture, and significant progress had been made in reducing formal police custody in Ukraine. However, there were still numerous allegations of torture by the national police and the State Security Service. In the territories controlled by armed groups in Donetsk and Luhansk, only three places of detention were visited, all of which had been pre-selected, and the Special Rapporteur was not permitted to speak to inmates without the presence of guards.<sup>129</sup>

The Special Rapporteur received numerous allegations of torture and ill-treatment at the hands of the police, including against juveniles as young as 14, almost always occurring at the time of apprehension and interrogation. Numerous inmates also reported having been electrocuted and, in some cases, subjected to mock executions. Several detainees showed signs of depression and post-traumatic stress disorder, and some still displayed visible marks of ill-treatment and torture. Others reported having been subjected to techniques of torture specifically designed to leave no marks including, inter alia, beatings with a thick book or on the soles of the feet and suffocation techniques, such as water submersion.<sup>130</sup>

Several allegations were also received of excessive use of force at the time of or immediately following apprehension, of unduly tight handcuffing during transportation, of death threats and of threats to inflict pain or use violence (including rape with objects) during questioning.<sup>131</sup>

The Special Rapporteur received allegations of conflict-related torture and ill-treatment in the context of detention by the Security Service. Detainees accused of crimes linked to the armed conflict in eastern Ukraine reported having been tortured in order to extract information regarding their

involvement, perceived or actual, in separatist activities or to identify armed groups' military positions. The methods reportedly used included suffocation with gas masks, dislocation of joints, electric shocks and mock executions.<sup>132</sup>

The Special Rapporteur observed that formal investigations into the numerous allegations of torture and ill-treatment appear to be rare on both sides of the conflict line.<sup>133</sup>

Some of the key recommendations made by the Special Rapporteur to Ukraine included amendment of the Criminal Code of Ukraine to align it with international standards and practice and to ensure accountability for acts of torture and other cruel, inhuman or degrading treatment or punishment.<sup>134</sup>

In its reply to the report of the Special Rapporteur during the 40th Session, Ukraine, speaking as a concerned country, said that constructive findings of the Special Rapporteur would contribute to addressing all shortcomings in law enforcement and prison systems in Ukraine. With respect to the delay on granting access to the delegation to the psycho-neurological facility for women in Kyiv, it said disciplinary sanctions had been imposed on responsible officials. Ukraine, however, said it was astonished that the Special Rapporteur thanked armed groups and de facto authorities in Donetsk and Luhansk for their cooperation and the Government of Ukraine saw this as unacceptable. It also said that a number of recommendations were welcomed, and many were in the process of implementation, including the draft law on amending certain legislative acts to ensure the harmonization of criminal legislation with international law. While Ukrainian Parliament Commissioner on Human Rights drew particular attention to the cruel treatment of Ukrainian Citizens in Donetsk and Crimea including detainees who were subjected to beatings, torture and inhumane living conditions and did not have access to medical treatment.<sup>135</sup>

### 4.4 Interventions by UN Experts

#### I. UN rights chief concerned at use of torture in Sri Lanka and Venezuela

On 20 March 2019, UN High Commissioner for Human Rights Michelle Bachelet presented reports on the situation in nine countries, including Sri Lanka and Venezuela as mandated by the UN Human Rights Council. On Sri Lanka, the High Commissioner, among others, highlighted the continuing allegations of torture and other human rights violations by security forces, including sexual violence, and called for an end to surveillance and reprisals targeting human rights defenders, and victims. On Venezuela, she expressed concern about the continued criminalisation of peaceful protest and dissent, citing reports of numerous violations and abuses by security forces and pro-Government armed groups, including excessive use of force, killings, arbitrary detentions, torture and ill-treatment in detention, and threats and intimidation.<sup>136</sup>



## II. UN experts urges China to investigate custodial death of human rights defender Cao Shunli

On 14 March 2019, a group of UN human rights experts including Special Rapporteur on Torture, Nils Melzer urged China to conduct a comprehensive and independent investigation into the custodial death of human rights defender, Cao Shunli on 14 March 2014. Cao Shunli was arrested on 14 September 2013 at Beijing International Airport while attempting to travel to Geneva to attend an NGO event on cooperation with UN human rights mechanisms during the Human Rights Council session. Her whereabouts remained unknown for five weeks, until she resurfaced in custody, charged with “provocation”. During her incarceration, Cao Shunli’s health seriously deteriorated, allegedly due to torture, ill-treatment, and authorities’ failure to provide her access to medical care. She was admitted to hospital in a critical condition on 19 February 2014, and died on 14 March 2014.<sup>137</sup>

### 4.5 EU’s action against torture

From 12 to 22 March 2019, a delegation of the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to Italy to examine the situation of prisoners placed under high and maximum security regime (the so-called “41-bis regime”) as well as various “isolation” and segregation measures (such as court-imposed isolation to life-sentenced prisoners).<sup>138</sup>

On 19 March 2019, the CPT published the report on its visit to Romania carried out from 7-19 February 2018 which raised concerns over abuse of prisoners by staff, inter-prisoner violence and allegations of police ill-treatment corroborated by medical evidence, cases of severe beatings and sexual abuse by prisoners in their cells, notably among young adult prisoners at Bacău Prison.<sup>139</sup>

On 11 March 2019, the CPT issued a public statement urging the Russian authorities to take decisive action to eradicate the phenomenon of ill-treatment by law enforcement officials in the Chechen Republic and the Northern Caucasian region of the Russian Federation.<sup>140</sup>

## Endnotes :

1. Manfred Nowak, in his capacity as Special Rapporteur, addressing the Commission on Crime Prevention and Criminal Justice on 24 April 2009.
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4. Undertrial dies in Haldwani jail, family alleges ‘torture’ by cops, The Times of India, 18 August 2018
5. Dalit man in hospital after ‘cops thrash him all night’, The Ahmadabad Mirror, 8 November 2018
6. Magisterial inquiry ordered into Sagar ‘custody’ death, The Times of India,

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7. Chandigarh: Family alleges police torture, SSP orders probe into death of power board staffer, The Indian Express, 27 July 2018
8. Three cops booked for culpable homicide, The Times of India, 10 August 2018
9. NHRC Case No.1984/7/11/2018
10. Man ‘beaten up’ by cops inside Karni Vihar Police Station, dies, Times of India, 24 October 2018
11. Uttar Pradesh: Man held for cow slaughter dies in custody; Gujjars threaten protests, The Indian Express, 30 April 2018
12. Man dies after ‘police torture’, The Orissa Post, 29 November 2018
13. See Annual Reports of the National Human Rights Commission from 2008-2009 to 2015-2016, & Lok Sabha Unstarred Question No.218 answered by Minister of State for Home Affairs, Hansraj Gangaram Ahir on 11 December 2018
14. Police probe torture of two Dalit youths in custody after NGO report, The Times of India, 26 February 2019
15. Man dies in police custody, four suspended; 26 shifted, The Times of India, 8 February 2019
16. Udaipur police detain, torture minors for 3 days, The Times of India, 22 November 2018
17. 3 youths ‘tortured’ in police custody, The Times of India, 22 August 2018
18. Dalit minor girl tortured by Chittorgarh police, The Times of India, 18 July 2018
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