



1. Focus: Patterns and practices of torture in police custody in India during 2018

Asian Centre for Human Rights released “India: Annual Report on Torture 2018” to the media on the International Day in Support of Victims of Torture on 26 June 2019. The study highlighted that during 2018 a total of 1,966 custodial deaths were reported to the National Human Rights Commission (NHRC) of India including 147 deaths in police custody and 1,819 deaths in judicial custody. “These figures do not reflect the extent and actual incidents of custodial death and torture in the country”, warned the report.

About a decade ago i.e. during 2009-2010, the NHRC had received reports of 124 deaths in police custody;¹ and therefore, 147 deaths in police custody during 2018 implies 19% increase of deaths in police custody.

The pattern of custodial deaths remained similar.

First, most victims died within 24 hours of the victims being taken into custody. The police in large majority of the cases claimed that the victims died after developing sudden medical complications ranging from uneasiness to brain haemorrhage, soon after being taken into police custody especially during interrogation. During 2018, at least 27 persons died after developing sudden medical complications after being taken into custody by police as given below:

1. Hasan Ali, aged 37 years, allegedly fell sick suddenly at Dhula Police Station in Assam's Darrang district and died at the Guwahati Medical College and Hospital on the night of 9 January 2018;²
2. Ramakant whose health allegedly deteriorated suddenly in the custody of Bhitaha Police Station in West Champaran district of Bihar, and died at Padrauna hospital on 11 January 2018;³
3. Mariamma, aged 54 years, who allegedly complained of chest pain during interrogation at Kalpakkam Police

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- Station in Kanchipuram district of Tamil Nadu and died in hospital on 15 January 2018;⁴
4. Anant Verma, aged 57 years, who allegedly suffered cardiac arrest on his way to Habibganj Police Station, Bhopal, Madhya Pradesh and died at hospital on the night of 17 January 2018;⁵
 5. Sadiq Pasha, aged 40 years, who allegedly fell unconscious at the Tilaknagar police in Bangaluru in Karnataka and died in hospital on 20 January 2018;⁶
 6. Sewa Singh, aged 32 years, whose health allegedly deteriorated during interrogation at Verka Police Station in Amritsar district of Punjab and died in hospital on 27 January 2018;⁷
 7. Selvam alias Perachi Selvam, aged 27 years, who allegedly developed chest pain while being taken to Chennai for production before the Advisory Committee hearing detention under the Goondas Act on 30 January 2018 and died;⁸
 8. Subash Chander alias Kaka, aged 50 years, who allegedly died of cardiac arrest at Janipur Police Station in Jammu district of Jammu and Kashmir, on 7 February 2018;⁹
 9. Devtadeen, aged 40 years, a Dalit who died allegedly after falling ill in the lock up of Kheri Police Station in Lakhimpur Kheri district of Uttar Pradesh on 15 February 2018;¹⁰
 10. Thiruvanchikkulam Yogesh, aged 42 years, a Dalit youth of Kerala, who died in hospital after allegedly complaining of chest pain in the custody of Special Investigating Team of Tamil Nadu Police on 21 April 2018;¹¹
 11. Premchand, aged 29 years, who died allegedly due to stroke when the police took him to Yadgirigutta in Telangana to recover the stolen property on 30 May 2018;¹²
 12. Kumaraselvam, aged 50 years, who allegedly suffered chest pain at Madhukkur Police Station under Thanjavur district of Tamil Nadu and died in hospital on 19 July 2018;¹³
 13. Vidyadhar Kini, aged 46 years, who was declared brought death at hospital after he allegedly suffered a seizure at Arnala coastal Police Station in Palghar district of Maharashtra on 21 July 2018;¹⁴
 14. Pappu Bheel, aged 30 years, a tribal who was reportedly taken to hospital in critical condition and died while in the custody of Sadar Police Station in Bundi district of Rajasthan on 27 August 2018;¹⁵
 15. Shaik Babar Basha, aged 28 years, who died in hospital after allegedly complaining of chest pain while in police custody at Ulavapadu Police Station in Prakasam district of Andhra Pradesh on 6 October 2018;¹⁶
 16. A. Karthik, aged 36 years, who died in a hospital after allegedly complaining of chest pain while in custody of MKB Nagar Police Station in Chennai, Tamil Nadu on 14 October 2018;¹⁷
 17. Surubha Jhala, aged 35 years, who was declared death on arrival at a hospital after he allegedly complained of feeling uneasiness during interrogation at Bopal Police Station under Ahmedabad Rural district of Gujarat on 15 October 2018;¹⁸
 18. Ajit Pujari, aged 20 years, who was declared death on arrival at the hospital after he allegedly suddenly began vomiting during questioning at the Swargate Police Station in Pune, Maharashtra on 18 October 2018;¹⁹
 19. Swaminathan, aged 39 years, who allegedly complained of discomfort soon after arrest and died in hospital in Kozhikode, Kerala on 3 November 2018;²⁰
 20. Pradeep Kalyan Kute, aged 28 years, who was declared brought dead in hospital after he was allegedly found unconscious at the police outpost under Madha Police Station in Solarpur district of Maharashtra on 4 November 2018;²¹
 21. Krishnamurthy Naidu, aged 53 years, who was brought dead in the hospital after he allegedly complained of chest pain at Ramamurthynagar Police Station in Bengaluru, Karnataka on 2 December 2018;²²
 22. Bittu Shah, a Dalit, who died after allegedly falling ill at the Gate Hakima Police Station in Amritsar city, Punjab on 2 December 2018;²³
 23. Shamsuddin Shaikh who died after allegedly having convulsions at Vatva Police Station in Ahmedabad, Gujarat on 4 December 2018;²⁴
 24. Rajesh, aged 29 years, who allegedly suffered brain haemorrhage in the custody of Crime Investigation Agency (CIA) and died at the Post Graduate Institute of Medical Sciences, Rohtak, Haryana, on 14 December 2018;²⁵
 25. M Jayakumar, aged 21 years, who was declared brought death in hospital after he allegedly suffered seizure at Esplanade Police Station in Chennai, Tamil Nadu on 21 December 2018;²⁶
 26. Rahul Singla who died at the Civil Hospital at Yamunanagar in Haryana after allegedly falling sick during interrogation at the Women Police Station in Yamunanagar on 25 December 2018;²⁷ and
 27. Bal Kishan, aged 30 years, a Dalit who was declared death on arrival in hospital after allegedly falling ill at the Dhanaura Police Station in Amroha district of Uttar Pradesh on 26 December 2018.²⁸
- During 2018, those who died in police custody due to medical complications are in the age group of 21 years to 57 years. Often, those arrested were healthy and with no past record of medical complication. The victims were allegedly tortured to death and medical complications were cited as an alibi.
- Second, suicides were often claimed by the police as the reason for deaths in their custody. During 2018, the police claimed that suicide was committed mostly by hanging by piece of cloths, wire, belt, rope, etc. Police even made bizarre

claims like the deceased committing suicide by hanging with his innerwear!²⁹ A few also allegedly consumed poison while at least one person was stated to have banged his head against wall till he died! In most cases, the family members of the deceased rejected the claims of suicide and alleged torture to be the cause of death. In some cases, marks of torture was seen or established in post mortem reports. Most victims purportedly committed suicide within 24 hours of their detention, that is, before their production before the magistrate.

During 2018, at least 19 persons committed suicide in Police Stations, mostly as a result of alleged torture. The victims included (1) Deepak alias Pope who allegedly hanged by a gamcha (a piece of towel) in the Karawal Nagar Police Station in Delhi on 16 January 2018;³⁰ (2) Abinash Munda, a tribal, who allegedly hanged himself using a bedsheet at the Ainthapalli Police Station in Sambalpur district of Odisha on 8 February 2018;³¹ (3) Dalbir Singh who allegedly jumped from the second floor of the Naraina Police Station in Delhi on 21 February 2018;³² (4) Babban Sah who allegedly attempted suicide at Kaler Police Station in Arwal district of Bihar on 21 March 2018 and died of injuries;³³ (5) Parupalli Ramunaidu who allegedly hanged in the bathroom of Atchutapuram Police Station in Visakhapatnam district of Andhra Pradesh on 25 April 2018;³⁴ (6) Sitrarasu who allegedly hanged himself using his innerwear in a washroom at the Chunambedu Police Station in Kancheepuram district of Tamil Nadu on 2 May 2018;³⁵ (7) Soni, a Dalit woman, who allegedly hanged herself from ceiling fan at night in the police custody at Najibabad Police Station in Bijnor district of Uttar Pradesh on 28 May 2018;³⁶ (8) Sunil Kachhap who allegedly committed suicide by banging his head against the wall of the lock-up at Jagannathpur Police Station in Ranchi in Jharkhand on 17 June 2018;³⁷ (9) Murthy alias Thammaiah who allegedly hanged himself inside a bathroom of the Mandya West Police Station in Mandya in Karnataka on 13 July 2018;³⁸ (10) Anish who allegedly hanged himself in the toilet in the Medical College Hospital in Thiruvananthapuram, Kerala while under custody of the Excise officials on 25 July 2018;³⁹ (11) Sohaib Khan who allegedly hanged himself in the bathroom at the Bagh Police Station under Dhar district of Madhya Pradesh on 11 August 2018;⁴⁰ (12) Lubaram Uttamaram, a Dalit, who allegedly hanged himself with a rope at Dhanera Police Station under Banaskantha district of Gujarat on 19 August 2018 within 15 minutes of his detention on 19 August 2018;⁴¹ (13) Prahlad Singh who allegedly hanged himself by a piece of cloth obtained by tearing a blanket in the lock-up of Kumher Police Station in Bharatpur district of Rajasthan on 24 August 2018;⁴² (14) Dichkya alias Sonya Daulat Jadhav who allegedly hanged himself with a bedsheet inside the toilet of Sinnar Police Station under Nashik district in Maharashtra on 25 August 2018;⁴³ (15) Anuraj Rajput who allegedly consumed

poison at Kareli Police Station under Narsinghpur district of Madhya Pradesh on 12 September 2018;⁴⁴ (16) Rolongse alias Akum who allegedly hanged himself with a belt at Mon Police Station in Mon district of Nagaland on 4 October 2018;⁴⁵ (17) Balraj Singh alias Raja, a Dalit, who allegedly committed suicide by hanging himself at the Police Station lock-up of Gidderbaha Police Station under Muktsar district of Punjab on 31 October 2018;⁴⁶ (18) Rajesh Kumar, a Dalit, who allegedly hanged himself using a wire at the city Police Station in Jhajjar in Haryana on 27 November 2018;⁴⁷ and (19) Jai Lakra, a tribal who allegedly hanged himself inside the bathroom of Rajgangpur Police Station in Sundargarh district of Odisha on 5 December 2018.⁴⁸

Third, police also claimed the victims died after suffering injuries while trying to escape and later succumbed to the injuries. Those who were killed in custody under such circumstances were M Sahul Hameed, aged 21 years, who died on 28 January 2018 from head injuries after their motorcycle allegedly skidded while trying to allegedly escape from police in Coimbatore Rural district of Tamil Nadu on 22 January 2018;⁴⁹ Bobby, aged 35 years, who died on 25 February 2018 after allegedly jumping off the police van and ran over by a speeding truck in Jahangirpur area of Greater Noida, Uttar Pradesh;⁵⁰ N Murugesan, aged 28 years, who died at Tirunelveli Medical College and Hospital in Chennai 30 March 2018 after his motorcycle allegedly met an accident when he allegedly tried to flee from police custody;⁵¹ and Javed Malik, aged 38 years, who allegedly died after falling into a gorge while trying to escape from police custody in Kishtwar district in Jammu and Kashmir on 20 July 2018.⁵²

Fourth, police also claimed victims died in their custody after being beaten by unknown mob prior to their arrest/detention. Those who died in custody under such circumstances were Shankar Maniyar, aged 45 years, who died in police custody at Vadgam in Banaskantha district of Gujarat on 14 January 2018 after allegedly being beaten up by a mob the previous day;⁵³ and Raja, aged 24 years, who was allegedly injured in beating by the public prior to his detention at the Satyavedu Police Station in Andhra Pradesh and succumbed to injuries at the Government Hospital, Satyavedu on 9 June 2018.⁵⁴

Fifth, many were tortured to death for the failure to pay bribe to policemen. Those who were killed in custody for being unable to pay bribes 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;⁵⁵ 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 2018.⁵⁶ In order to extract bribes, victims were often tortured in front of their relatives, such as 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;⁵⁷ 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;⁵⁸ 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;⁵⁹ 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;⁶⁰ and Vaidhnath Choudhary, aged 40 years, who died of torture allegedly in front of his son Rakesh at the Karni Vihar Police Station in Jaipur, Rajasthan on 22 October 2018.⁶¹

For illegal gratification, 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;⁶² Jogendra Das, aged 40 years, who died in the custody of Astaranga Police Station in Puri district of Odisha on 28 November 2018.⁶³

Sixth, cases of torture to death to extract confessions were widely reported. Those killed in police custody to extract confessions during 2018 were Qamar Qureshi, aged 22 years, who died allegedly due to torture to extract confessions at Aashiana police in Lucknow, Uttar Pradesh on 28 April 2018;⁶⁴ M Manikandan, aged 25 years, who was allegedly tortured to death in the custody of Mudukulathur Police Station in Tamil Nadu to extract confessions on 2 August 2018;⁶⁵ and Raju Gupta, aged 30 years, died allegedly due to torture to extract confession in custody of Sikandra Police Station in Agra district, Uttar Pradesh on 22 November 2018.⁶⁶

Seventh, in many instances, after the death of the person in police custody, the body of the victim was dumped elsewhere. Those who were killed in such manner in 2018 included Harnek Singh, aged 70 years, who was allegedly tortured to death at Ghagga Police Station Patiala district of Punjab but his body was dumped near Kakrala village on 3 January 2018;⁶⁷ Suresh, a Dalit aged 40 years, who was arrested by the Special Force of the Tamil Nadu Police but his body was found near the Kil Ambi lake in Kancheepuram, Tamil Nadu on 14 February 2018;⁶⁸ Shivprasad Patel, aged 45 years, who was allegedly killed in police custody in Panagar area of Jabalpur district in Madhya Pradesh for not paying bribe and his body was dumped near Devri railway crossing on 22 February 2018;⁶⁹ Sukal Sai Paharia who was summoned to the Boden Police Station on 19 April 2018, as an alleged Maoist cadre and later his alleged skeletal remains were recovered from a place 15 kilometres away from the Boden Police Station on 9 June 2018;⁷⁰ Mouliswaran, aged 22 years, whose body was recovered from the railway track near

Ponneri in Chennai, Tamil Nadu on 25 August 2018 after he was allegedly picked up by the Railway Protection Force;⁷¹ Abinas Paital, aged 23 years, who was found hanging in an abandoned house located near the Mahakalpada Police Station in Kendrapada district of Odisha on 26 August 2018, a day after being allegedly picked up by the police in a case of mobile phone theft;⁷² and Govind, a Dalit shopkeeper aged 30 years, who was found lying unconscious outside his shop after he was allegedly detained at Rampur Kalan Police Station in Sitapur district of Uttar Pradesh on 11 September 2018.⁷³

Finally, it is often construed that once a detainee is produced before the magistrate, the victim shall not be tortured as the courts monitor the cases. The law provides that the victims must be produced before the judicial magistrate with 24 hours of detention.

However, a number of victims died in custody as a result of torture after production before the magistrate. On 7 August 2018, the dead body of Chandan Bharali, aged 23 years, who was arrested in Guwahati in Assam in a case of blackmailing and remanded to police custody for three days by the Chief Judicial Magistrate, Kamrup, Guwahati was allegedly found hanging from a tree, about 150 metres away from the Panikhaiti police outpost in Guwahati.⁷⁴ Other custodial deaths after production before the magistrate included Phurailatpam Rocket Sharma alias Inaocha alias Biswanath Sharma, aged 60 years, former vice president of Barak Valley Drivers' Union, who allegedly died in police custody in Silchar, Assam, before his release on bail on 14 January 2018;⁷⁵ and Mohammad Islam Qureshi, aged 30 years, who was allegedly tortured to death in police custody at Rampur District Collector's office in Rampur District of Uttar Pradesh on 13 August 2018, a day after he had surrendered before the Additional Chief Judicial Magistrate, Rampur District.⁷⁶

Impunity and absence of national anti-torture law perpetuates torture and other cruel, inhuman or degrading treatment or punishment. Government officials or members of the armed forces continued to enjoy impunity under Section 197 of the Code of Criminal Procedure (CrPC), Section 6 of the Armed Forces (Special Powers) Act, 1958 and its analogous provision, Section 7 of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.⁷⁷

India also has failed to ratify the UNCAT and enact a national law against torture.

As India refuses to criminalise torture, the increasing incidents of torture are no surprise.

2. Special focus: Custodial torture in Karnataka

On 25 June 2019, a day ahead of the International Day in Support of Victims of Torture, the Karnataka State Human Rights Commission (KSHRC) ordered the Criminal Investigation Department (CID) to investigate the custodial

death of undertrial prisoner Syed Fairoz, aged 21 years, at Parappana Agrahara Central Prison, Bengaluru on 24 January this year. The KSHRC also directed the State Government of Karnataka to pay interim compensation of Rs. 10,00,000 to the next of kin of the deceased, to be recovered from errant prison officials responsible for the death.⁷⁸ Fairoz was lodged at the Central Prison after he was arrested by the police in January 2018 after they allegedly found 300 gm of marijuana in his possession. His parents were no more and with no other family members around to pay for his bail surety, Fairoz was awaiting trial at the Central Prison. On 19 January 2019, Fairoz was rushed to the prison hospital after his right leg was bruised and swollen. According to Dr Pramila at the prison hospital's OPD, who treated Fairoz, he had "greenish bruises on his right leg". On 21 January, Fairoz's condition became critical and he was rushed to Victoria Hospital in Bengaluru. He died on 24 January morning. An autopsy was performed, which concluded the cause of death as assault. Prior to his death, Fairoz allegedly told his uncle Muzamil and the doctors at Victoria Hospital that the police at Parappana Agrahara Central Prison had beaten him mercilessly. An official with the forensic department at Victoria Hospital said that Fairoz had bruises all over his right leg. There were also blisters on his upper thigh and the skin on the side of his upper thigh had been scraped off. He also had an injury on his left temple which was caused by a blunt object. However, prison officials denied that Fairoz's injuries occurred inside the jail and instead blamed the police who arrested him one year ago. But doctors at Victoria hospital stated that Fairoz's injuries were not more than 10 days old when he was brought in for treatment.⁷⁹

In compliance with a 2017 landmark judgement of the Supreme Court, the High Court of Karnataka has also been monitoring the State's jails to prevent and compensate in cases of unnatural death of prisoners. In February 2018, the High Court had observed that 48 unnatural deaths of prisoners had taken place in the State since 2012.⁸⁰ On 19 June 2019, the High Court directed the State Government to submit a response on the status of central prisons and facilities provided to the inmates across the state. The High Court said the report should have the specific issues as pointed out by the Supreme Court such as steps taken to provide facilities to women inmates with children, providing adequate washrooms, quality of food, visitation facility and whether the Mental Health Act has been implemented.⁸¹

The High Court also asked the State Government to act on the report submitted by Karnataka State Human Rights Commission. KSHRC had submitted a report to the State Government after visiting prisons. The report had indicated the lack of sufficient doctors, insufficient beds in hospitals and overcrowding, among other human rights violations in Karnataka prisons.⁸²

The Karnataka SHRC also expressed serious concern over increasing cases of deaths in police custody and attitude

towards such cases by senior police officers in the State. In September 2018, a member of the SHRC stated that the police often violated the arrest procedures and tortured suspects in custody. According to the SHRC, methods of torture included severe kicking/beatings with boots and belts, and suspending the victims from their wrists. Autopsy reports examined by KSHRC officials have reportedly shown injuries with blunt force trauma. Rupak Kumar Dutta, a member of SHRC stated that senior police officers simply washed their hands off in cases of custodial deaths by suspending some low ranking officials like Sub Inspectors or constables.⁸³

Despite monitoring of the Karnataka High Court and State Human Rights Commission deaths in police and judicial custody continued to be reported in the State. Cases of torture are also regularly reported from police and judicial custody in Karnataka.

2.1 Torture in police custody

The National Human Rights Commission (NHRC) recorded 35 deaths in police custody during 2009-2010 to 2018-19 (as on 20.11.2018) in Karnataka. These included 3 in 2009-10; 5 in 2010-11; 2 in 2011-12; 4 in 2012-13; 0 in 2013-14; 4 in 2014-15; 4 in 2015-16, 4 in 2016-17; 4 in 2017-18; and 5 in 2018-19 (as on 20.11.2018).⁸⁴

The figures show that cases of custodial deaths and torture have remained constant over the years, save in 2013-14.

The following emblematic cases establish the patterns of torture in the state.

Case 1: Death of theft suspect due to alleged torture in police custody, Hassan district

On 26 April 2019, Avinash, aged 28 years, died due to alleged torture in police custody at Nuggehalli police station in Channarayapatna taluk in Hassan district. The deceased, a resident of Belaguli village in the district, was arrested on the same day from National Highway 75 along with another person identified as Pavan in connection with a theft case. The police claimed that Avinash suddenly fell unconscious in the police vehicle while being transported to the Nuggehalli police station and died. Police claimed the death was natural. However, the family members of the deceased alleged the deceased was tortured to death by the police in their custody. As evidence, the family members claimed that there were injury marks on the body of the deceased.⁸⁵

Case 2: Custodial torture of Mohammed Tanveer, Bengaluru district

On 9 April 2019, Mohammed Tanveer, aged 23 years, was allegedly tortured by Sub-Inspector Santosh and Constable Ayyappa at DJ Halli police station in Bengaluru, Karnataka. According to the victim's brother Mohammed Musaveer, the victim and his friend Danish were going to a drug store to buy medicines when they were stopped by Constable Ayyappa near Lavanya Bakery at M.M. Layout, Bengaluru, for talking on the mobile phone while driving motorcycle on the night of

9 April. The victim and his friend Danish were taken to the DJ Halli police station where the victim was stripped and tortured till he fell unconscious. Sub-Inspector Santosh and Constable Ayyappa allegedly beat him with lathis (sticks) for many hours before they were released on the next day. The family members stated that the kidneys of the victim were damaged due to the custodial torture and he was fighting for his life at a private hospital.⁸⁶

Case 3: Custodial death of Sunil, Chitradurga district

On 20 March 2019, Sunil, S/o of Sangappa Kanaka died in police custody at Holalkera police station in Chitradurga district. The NHRC took cognizance of the matter on 29 March and called for reports. However, the NHRC transferred the case to Karnataka State Human Rights Commission (KSHRC) following information that the latter had already taken cognizance of the case prior to the NHRC. Currently, the case is pending with KSHRC.⁸⁷

Case 4: Illegal detention and torture of a Dalit youth, Hassan district

On 10 February 2019, Pradeep K V (23), a member of Dalit community, was allegedly subjected to torture during his illegal detention at Konanur police station in Hassan district. The victim, a vegetable seller, was on the way to meet one of his customers at Konanur when he noticed a group youths fighting among themselves. As he stopped his bike, two constables reached the place, forcing the gathering to flee the place. Then the police caught him for no reason and beat him up severely. When the police learnt that the victim belonged to Dalit community, they hurled abuses on his caste, pushed him to the ground and stood on his chest. Later, the police took him to Konanur police station, where he was again tortured throughout the night. He was released on the evening of the next day. The victim also claimed that the police staff had a party in the police station, where they had food and liquor and in an inebriated state, tortured him throughout the night.⁸⁸

Case 5: Death of retired army man in police custody, Bengaluru

On 2 December 2018, Krishnamurthy Naidu, aged 53 years, a retired army personnel, died under mysterious circumstances in the custody of Ramamurthynagar police station in state's capital Bengaluru. The deceased, working as a lift operator with the Madras Engineering Group in Ulsoor, was arrested on the charge of killing his wife on 20 November 2018. According to the police, on 2 December while being taken to the place of occurrence for spot inspection Naidu complained of chest pain. He was rushed to a private hospital, where doctors declared him as brought dead.⁸⁹

Case 6: Death of Satish Kumar due to alleged torture, Bengaluru district

On 20 September 2018, Satish Kumar alias 'Sketch' Manja, aged 36 years, allegedly jumped from the second floor of Amruthahalli police station in Bengaluru district following alleged torture.⁹⁰ According to the police, Satish Kumar, a

habitual offender, allegedly jumped from the second floor of the police station during interrogation. He was brought to the police station at 9.30 am and four policemen were interrogating him over a recent burglary when Satish reportedly pushed one of them and jumped off the balcony. The KSHRC, which took *sou motu* cognizance of the death, questioned the police as to why they had no details of his family members if he was a habitual offender and had cases against him, stating that whenever an arrest is made it is the responsibility of the police to inform the family.⁹¹

Case 7: Alleged illegal detention and torture of Sariful and Feroz, Bengaluru district

On 9 August 2018, Sariful, aged 31 years, and Feroz, aged 32 years, both working as bus drivers attached to a reputed school at Kundanahalli Gate in Turbarahalli in Bengaluru district, were picked up by the police and allegedly illegally detained at Begur police station and tortured. Police had picked them up for allegedly selling ganja. However, in the complaint filed on 18 August 2018 with the Karnataka State Human Rights Commission, Anrull Mandal, brother of Sariful, refuted the police claims and said that the police implicated the two in a false case and asked for a bribe of Rs 200,000 to release them. According to the complainant, the victims, who both hail from West Bengal, were picked up by some people in civil dress who came in a car around 10 pm on 9 August while they were having dinner. No information was given as to why the two were being taken away. The families of the victim came to know about their detention only three days after the duo was picked up and detained at Begur police station. The police allegedly demanded Rs. 200,000 as bribe for their release, which the family refused to pay. Both Sariful and Feroz were allegedly badly beaten and injured.⁹²

Case 8: Alleged illegal detention and torture of Ashraf Salethur, Dakshina Kannada district

In August 2018, Ashraf Salethur, a supporter of the Democratic Youth Federation of India (DYFI), was allegedly illegally detained and tortured in police custody at Mangaluru North police station in Dakshina Kannada district. Ashraf was detained over a Facebook post, which the police claimed was provocative in nature. According to Ashraf, the City Crime Bureau police had called him to the police station and placed him under illegal detention. He was later handed over to police at the Mangaluru North police station where he spent the night. Following a complaint, ASI Chandrashekhar was suspended. However, the DYFI members alleged that the police who allegedly tortured Ashraf were not even questioned and made the ASI a scapegoat, who was not involved in the case.⁹³

Case 9: Death of Dalit man due to alleged torture, Mandya district

On 13 July 2018, a Dalit identified as Murthy, aged 45 years, died due to alleged torture at Mandya West police station in Mandya district. Murthy, a resident of Belthur

village in the district, was arrested by the police on 9 July 2018 for interrogation in connection with a theft case. The police claimed Murthy committed suicide in the lock-up room of the police station. However, the family members alleged Murthy was healthy when the police took him away for interrogation. They further alleged that the deceased was subjected to custodial torture, resulting in the death.⁹⁴

Case 10: Alleged torture of Vinod, Bengaluru district

On 29 June 2018, a painter identified as Vinod was subjected to alleged torture at D J Halli police station in Devara Jeevanahalli area in Bengaluru district. The victim, a resident of Arogyadas Nagar in the district, was arrested by police on the same day at around 10 pm when he was accompanying his relative Nanda Kumar to his house. Thereafter, the police took the victim to the D J Halli police station in an auto-rickshaw. The victim alleged that the police threatened and tortured him by implicating him in a false case in connection with a jewellery theft/loot case while he was in police custody. Following the torture, the police took the victim to Bowring and Lady Curzon Hospital in Bengaluru for treatment.⁹⁵

Case 11: Custodial death of Sadiq Pasha, Bengaluru district

On 20 January 2018, Sadiq Pasha, aged 40 years, died at Tilak Nagar police station in Bengaluru district. Sadiq, a native of Anjanapura in the district, was arrested along with his relative Amin Pasha by the police in a suspected case of stealing a two-wheeler on 19 January 2018. The police claimed that while the deceased and Amin Pasha were being taken to the police station, the deceased vomited and fell ill. He was rushed to Sai Ambika Hospital. The police further claimed that on the doctor's advice the police shifted the deceased to ICU at Jayadeva Hospital, where he had suffered a cardiac arrest and died.⁹⁶

Case 12: Death of Ramu Talawar due to alleged torture, Kalaburagi district

On 16 January 2018, Ramu Talawar, aged 24 years, died due to alleged torture at Jewargi police station in Kalaburagi district. Talawar, a resident of Jewargi town in the district, was booked for triple riding. Since then the accused police personnel identified as Head Constable Mallikarjun Bhasagi took the deceased to the police station on several occasions and tortured him in the name of interrogation. Following constant police torture, the 24-year-old allegedly committed suicide at his home by hanging himself. The deceased's father alleged that his son died due to torture by the police and demanded action against the accused police constable Mallikarjun Bhasagi.⁹⁷

2.2 Torture and deaths in judicial custody

Karnataka has 105 prisons, including nine central prisons, 21 district prisons, 30 taluk jails, 44 revenue taluk jails and one open air jail.⁹⁸ However, conditions of jails remain deplorable.

As per an affidavit filed by the Prisons department, Karnataka Government, in the Karnataka High Court, the total capacity of the prisons in the State is 13,800, but the inmate population is 14,206 as on 18 June 2018, constituting 3% overcrowding. But in at least 11 prisons the overcrowding varies from 44% to 98%. Among these 11 prisons, the least overcrowding is 44% in Bengaluru Central Prison and the highest 98% in Central Prison at Vijayapura, which is almost double the sanctioned capacity.⁹⁹ Apart from overcrowding, the jails faced acute shortage of staff. A government panel set up to probe preferential treatment given to a politician at Central Prison, Bengaluru found that the staff deficit stood at 54 per cent and the prison hospital had 45 per cent vacancies.¹⁰⁰

On 19 June 2019, the Karnataka High Court directed the State Government to submit a response on the status of central prisons and facilities provided to the inmates of central prisons across the state. The division bench of Chief Justice Abhay Shreenivas Oka and Justice H T Narendra Prasad asked the government advocate to submit a report during the hearing of PIL filed by the High Court Legal Services Committee seeking directions to the state to implement the directions issued by the Supreme Court. The High Court said the report should have the specific issues pointed out by the Supreme Court such as steps taken to provide facilities to women inmates with children, providing adequate washrooms, quality of food, visitation facility and whether the Mental Health Act has been implemented.¹⁰¹

The High Court also asked the State Government to act on the report submitted by the Karnataka State Human Rights Commission (KSHRC). KSHRC had submitted a report to the State government after visiting prisons. The report had indicated the lack of sufficient doctors, insufficient beds in hospitals and overcrowding, among other human rights violations.¹⁰²

In addition, deaths in judicial custody due to torture, lack of proper medical treatment etc continued to be reported at various jails across the State. As per NHRC data, a total of 175 prisoners died in jails of Karnataka during 2008-2018. This included 72 deaths in 2008-09; 32 in 2009-10; 15 in 2010-11; 13 in 2011-12; 5 in 2012-13; 2 in 2013-14; 8 in 2014-15; 11 in 2015-16, 6 in 2016-17 and 11 in 2017-18.¹⁰³

Based on the direction of the Supreme Court, the High Court of Karnataka observed that 48 unnatural deaths of prisoners had taken place in the State since 2012. The High Court had initiated a suo motu case on the issue of unnatural deaths, based on the directions of the apex court. The Supreme Court had directed all the High Courts to initiate suo motu PIL petitions and identify unnatural deaths of prisoners between 2012 and 2015, and award compensation to their families.¹⁰⁴

On 25 June 2019, the Karnataka State Human Rights Commission (KSHRC) ordered a Criminal Investigation

Department (CID) to investigate the custodial death of undertrial prisoner Syed Fairoz, aged 21 years, at Parappana Agrahara Central Prison, Bengaluru on 24 January 2019. The KSHRC also directed the State Government of Karnataka to pay interim compensation of Rs. 10,00,000 to the next of kin of the deceased, to be recovered from errant prison officials responsible for the death.¹⁰⁵ Fairoz was arrested by the police in January 2018 after they found 300 gm of marijuana in his possession, and was remanded to judicial custody. His parents were no more and with no other family members around to pay for his bail surety, Fairoz was awaiting trial at Parappana Agrahara Central Prison. On 19 January 2019, Fairoz was rushed to the prison hospital after his right leg was bruised and swollen. According to Dr Pramila at the prison hospital's OPD, who treated Fairoz, he had "greenish bruises on his right leg". On 21 January, Fairoz's condition became critical and he was rushed to Victoria Hospital in Bengaluru. Fairoz's uncle was informed that his condition was stable and that there was no threat to his life on the night of 23 January. However, on January 24 morning, Fairoz died. An autopsy was performed, which concluded the cause of death as assault. Fairoz allegedly told his uncle Muzamil and the doctors at Victoria hospital that the police at Parappana Agrahara Central Prison had beaten him mercilessly. An official with the forensic department at Victoria Hospital said that Fairoz had bruises all over his right leg. There were also blisters on his upper thigh and the skin on the side of his upper thigh had been scraped off. He also had an injury on his left temple caused by a blunt object. However, prison officials denied that Fairoz's injuries occurred inside the jail and instead blamed the police who arrested him one year ago. But doctors at Victoria hospital stated that Fairoz's injuries were not more than 10 days old when he was brought in for treatment.¹⁰⁶

On 16 May 2019, undertrial prisoner identified as Irfan, aged 30 years, died in the custody of Central Jail in Shimoga district. The deceased, a resident of Bhadravati in the district, was arrested and sent to judicial custody in 2018 under Protection of Children from Sexual Offences (POCSO) Act. Jail officials claimed that on 16 May the undertrial suddenly felt uneasiness, after which he was taken to the hospital, where he died after few of hours of admission. However, the family members alleged Irfan died due to negligence by the jail authorities, and staged a protest at the hospital demanding action against the accused jail officials.¹⁰⁷

On 4 April 2019, Masthi Kumar, aged 32 years, died under mysterious circumstances at Central Jail at Parappana Agrahara. Kumar was convicted in a dowry death case and had served 10 months of his sentence. According to jail officials, Kumar committed suicide by hanging himself inside the jail.¹⁰⁸

On 27 February 2019, M. Jaishankar was found dead in his cell at Central Jail Parappana Agrahara. According to officials, Jaishankar, a serial sexual offender, allegedly

committed suicide by slitting his throat with a shaving blade. Jaishankar was kept in an isolated cell, as prison authorities had observed aggressive behaviour on his part and deemed him a threat to other prisoners. On 10 March 2019, the NHRC issued a notice to the Prisons Department for alleged negligence on the part of officials.¹⁰⁹

On 3 February 2019, undertrial prisoner identified as Ahmed alias Amarnath, aged 32 years, died under suspicious circumstances at Udupi District Prison, Karnataka. The deceased, a resident of Kidiyur village in the district, was lodged at the jail since October 2018 in connection with a rape case. Jail officials claimed the deceased committed suicide by using a fan hook at Conference Hall in the prison.¹¹⁰

On 26 September 2018, undertrial prisoner identified as Mukkappa Mukkanavar, aged 52 years, died at Bagalkot district Jail in Karnataka. Mukkappa Mukkanavar, a leader of political party, was arrested by the police and sent to judicial custody on 6 September 2018 in connection with a case of creating ruckus during a local election held on the same day. On 23 September, the deceased was rushed to the district hospital, where he died three days later.¹¹¹

2.3. Custodial torture of women

Despite numerous Supreme Court judgements and enactment of the Criminal Law Amendment Act 2013 women continue to face torture and sexual violence at the hands of the law enforcement personnel.

On 14 February 2019, 40-year-old woman identified as Gangamma was allegedly tortured at Talaghattapura police station in Bengaluru, Karnataka. The woman was picked up by two plainclothes police personnel after her employer, where she work as domestic maid, filed a complaint accusing her of theft. In her complaint to the Karnataka State Human Rights Commission, the victim stated that she was picked up by the police from her house on the pretext of offering her a job but instead she was taken to the police station, where she was tortured for four hours. She alleged that there was no female police personnel and she was taken to a room where her hands were tied to a rod and beaten on chin, back and lower body. She fell unconscious due to the torture. The victim also accused the police of forcing her to sign an undertaking that the wounds were old ones.¹¹²

On 19 January 2019, Mrs Saraswati, aged 45 years, a resident of Chittoor in Andhra Pradesh, was allegedly tortured by police at Kumaraswamy Layout police station in Karnataka's capital Bengaluru. The police took the victim to the Kumaraswamy Layout police station from a hotel where her daughter Rakeswari works, to resolve a family dispute in respect of her daughter who fled the home of her husband in Chittoor. Saraswati wanted her daughter to return home but Rakeswari refused citing domestic violence by her husband and in-laws. Saraswati allegedly tried to force her daughter to accompany them to Chittoor. At this, Assistant Sub-Inspector

Renukaiah slapped, punched and pushed away Saraswati and her relatives out of the police station premises.¹¹³

On 25 October 2018, a woman identified as Salika, aged 44 years, was allegedly subjected to illegal detention and torture at Bajpe police station in Mangaluru city. The victim claimed that on 25 October 2018 Inspector Parashiva Murthy attached to Bajpe police station called her at the police station to discuss the whereabouts of her husband, who was absconding. The victim alleged that Inspector Parashiva Murthy tortured her mentally and physically including by hitting her with a plate on her head during interrogation. She sustained injuries and had received medical treatment at a local hospital for the same.¹¹⁴

2.4. Emblematic cases of custodial violence and award of compensation by NHRC

The curbing of custodial violence has been a major objective of the National Human Rights Commission ever since it was established. It has been awarding compensation to victims/relatives in numerous cases. The NHRC has awarded compensation in the following emblematic cases of custodial violence reported from Karnataka.

Case 1: Death of Mithun Vishvas in police custody

This case pertains to the death of Mithun Vishvas @ D.R. Vishvas on 21 February 2013 in police custody at police station Athani, Belgaum district. After a series of reminders issued by the National Human Rights Commission (Case No. 122/10/2/2013-PCD) calling for reports from the State Government, the District Magistrate (DM), Belgaum vide his letters dated 27 September 2014 and 6 December 2014, while narrating the causes for delay in submitting the requisite reports, forwarded copies of some documents namely (1) Inquest Panchanama, (2) Post Mortem Report with Case Diary of the deceased, (3) Site Plan and Spot Panchnama, (4) Certificate issued by the Regional Forensic Laboratory, Belgaum, (5) Medical report of the deceased issued by the Medical Officer, General Hospital, Athani and (6) FIR alongwith copies of the report of Tahsildar Athani, Assistant Commissioner, Chikkodi and Police Department. However, the DM informed that no Magisterial Enquiry was conducted.

Vide its proceedings dated 4 February 2015, the NHRC directed the Deputy Commissioner & District Magistrate, Belgaum to conduct magisterial enquiry in this case and send the report within eight weeks. The Superintendent of Police, Belgaum District was also directed to inform the Commission, within eight weeks, regarding outcome of investigation in UD Case No.07/2013 u/s.176 Cr.PC of Athani police station. In response, the Superintendent of Police, Belgaum, vide his letter dated 25.03.2015 reported that after completion of investigation final report No.37/2013 in UD case No.07/2013 u/s.176 Cr.PC of Athani PS was filed as 'suicide' on 14.07.2013.

As per the post-mortem report (PMR), the deceased Mithun Biswas was living in a rented house and running an Ayurvedic Clinic in Athani area. At night on 21 February 2013, he was found on the terrace of his neighbour's residence peeping through the window. When it was seen by the public, he went inside his room out of fear and locked his room from inside. However, at the instance of the neighbours, he opened the door and came out cleaning his mouth. They called police and at 2.30 a.m. on 21 February 2013 he was handed over to the police. Around 3.45 a.m., he complained of feeling uneasiness and he revealed that he consumed poison while at his home. He was taken to the hospital, where the doctors gave him anti-poison treatment and referred to another hospital for better treatment. But he died in the Ambulance, when he was being taken to Sangli or Miraj Hospital. As per the PMR, the death would have been averted had the duty police taken him to the hospital in time.

Vide its proceedings dated 11 July 2016, the NHRC observed that the death occurred due to the laches of the public servant, for which the State is vicariously liable. On 1 June 2017, the NHRC directed the State Government to pay a compensation of Rs.100,000 to the next of kin of the deceased within four weeks.

On 6 February 2019, the NHRC directed the State's Chief Secretary to submit the compliance report regarding payment of the compensation of Rs. 100,000 to next of kin of the deceased Mithun Vishvas along with proof of payment within four weeks positively. Currently, the case is pending for disposal.

Case 2: Death of Ravi @ Raveendra in judicial custody

This case relates to the death of undertrial prisoner, Ravi @ Raveendra, aged 52 years, S/o Venkatesh Medleri in judicial custody at District jail, Haveri on 24 September 2015. The undertrial was admitted in the jail on 2 April 2014. Vide its proceedings dated 22 November 2017, the NHRC (Case No. 1032/10/22/2015-JCD) examined all the relevant reports related to the death of the deceased as furnished by the state authorities. The inquest as well as PMR indicated that the prisoner committed suicide by hanging himself to the pipe in the lavatory of District prison with the help of his Lungi (a kind of cloth worn by male). The report did not notice any poison in the viscera of the deceased. The cause of death of the deceased as given by the Board of Doctors was asphyxia as a result of hanging.

The magisterial enquiry report prepared by the Judicial Magistrate First Class (JMFC), Haveri recorded the statements of the relevant witnesses who reported that the deceased committed suicide due to depression as nobody came to meet him in the jail. The enquiry magistrate concluded that the undertrial committed suicide by hanging himself to the pipe in the lavatory of the District prison with the help of Lungi.

After careful examination, the NHRC noted “From the aforesaid materials it was noticed that the enquiring magistrate did not find any suspicion of foul play behind the death of the deceased, but fact remained that the deceased committed suicide in broad day light inside a public toilet in the prison which was quite visible to the prison officials and others. Moreover, the prisoner was in the care and custody of the state, so it was the bounden duty of the prison authorities to ensure safety of the prison. But as seen in this case due to the negligence and lack of surveillance of the prison officials, the prisoner managed to commit suicide and ended his life. The conduct of the prison officials amounted to a negligence in the prevention of violation of human rights of the deceased.”

Accordingly, the NHRC directed the Chief Secretary, Karnataka to show cause as to why a compensation of Rs. 100,000 should not be recommended to be paid to the next of the kin of the deceased. In response, the Additional Director General of Police and Inspector General of Prisons, Karnataka had submitted his report dated 22 January 2018 informing that during the course of enquiry it was found that guarding staff had not closely watched the activities of the said prisoner and it is the duty of the staff to watch activities of prisoners and to check all the prisoners at the time of locking and unlocking in the barracks. Disciplinary proceedings had been initiated against the Warden who was on day duty for the gross dereliction of duties. It was also stated that the prisons are overcrowded with both undertrial and convicts, and as such it becomes extremely difficult to monitor the overcrowded prisons by inadequate guarding staff. It was further stated that the grant of Rs. 100,000 to the next of kin of deceased prisoner is extremely harsh keeping in view the overcrowding, lack of adequate staff and other prevailing conditions in prisons. While the Deputy Secretary to Government, Home Department, Law & Order, Karnataka had submitted his report dated 16 February 2018 stating that the undertrial prisoner Ravi had committed suicide by hanging himself in District jail, Haveri due to his mental state and not due to any lapse on the part of the jail authorities. It also requested the NHRC to drop the proceedings for award of compensation to the next of kin of the deceased prisoner.

However, the NHRC vide its proceedings dated 23 March 2018 observed “No health screening report is available with the jail authorities. Had the petitioner been screened by a psychologist, perhaps he might have been counselled properly and the incident would have been avoided. The Judicial Magistrate in his enquiry had concluded that the deceased had committed suicide by hanging himself to the pipe in the laboratory of the prison with the help of lungi/cloth. Although the Judicial Magistrate did not comment on negligence in the duty of the prison guards, it is available in the records that the deceased had committed suicide in a public toilet, a row of combined toilet and not the single toilet

of individual cell, at 12:10 hours in the broad daylight. It was easier to have a watch over the moment of the prisoners by the sentry on duty therefore, the negligence of the prison guard cannot be ruled out.”

The NHRC also noted contradiction in the reports of Additional Director General of Police and Inspector General of Prisons, Karnataka and Deputy Secretary to Government, Home Department, Law & Order, Karnataka. It said “In one report it is stated that the disciplinary proceedings have been initiated against the delinquent officer, while in another report it is denied that any lapse was on part of the jail authorities. Apparently, the State Government is not keen to award the interim relief of monetary compensation to the next of kin of the deceased prisoner. From the material available on the record of this case file, it is evident that there was negligence/ omission on part of the jail staff in discharge of their duties and the same has also been accepted by Additional Director General of Police & Inspector General of Prisons, Karnataka State in his report dated 22/01/2018. Therefore, the reply submitted by the State Authorities pursuant to the show cause notice is not acceptable.”

Accordingly, the NHRC directed the Chief Secretary to submit the compliance report alongwith proof of payment within four weeks without fail. On 6 August 2018, the NHRC closed the case on receipt of the compliance report and proof of payment of the compensation.

Case 3: Implication of Ravindra Dundappa Uttore in a false case

In this case, Ravindra Dundappa Uttore @ Nasipudi was handcuffed by Kumar Hattalamani of police station Sankeshwar in Belgaum district on 21 May 2016 and implicated in a false case under section 307 IPC etc. As per the victim, this was done for his failure to pay illegal gratification demanded by the police officer Kumar Hattalamani.

Vide proceedings dated 24 January 2018, the NHRC (Case No 887/10/2/2016) on the basis of report received directed, “Since human rights of the complainant have been seriously violated and disciplinary proceedings are initiated against the delinquent police officer after he was found guilty in enquiry, let a notice under section 18 of the PHR Act be issued to the Chief Secretary, Govt. of Karnataka to show cause as to why the Commission may not recommend payment of monetary compensation of Rs.25,000/- to the complainant for violation of his human rights by the said Police Officer by handcuffing him and implicating him in an apparently false case.”

In response, a reply dated 22 February 2018 was received from the Under Secretary to Government of Karnataka, Home Department (Police Services-A), which stated that the complainant was arrested in a case of bodily assault and attempt to murder of Smt. Shanta Kalagouda Yadagudar with a sharp weapon. At the time of arrest and being brought to the Sankeshwar Police Station, Ravindra Dundappa Uttore was in

a furious and agitated state and was uncontrollable. In order to restrain him from further injuring anyone present in the police station, he was handcuffed and kept in police station. The PSI, Sankeshwar Police Station has submitted an explanation that there was no physical abuse meted out to the petitioner and the handcuffing was done to ensure that the accused would not hurt the victim again or escape from the Police Station. It was further reported that the petitioner was handcuffed only as precautionary measure and hence there is no justification in recommending monetary relief to him.

While rejecting the contention of the State Government, the NHRC observed, “Handcuffing is banned by the Hon’ble Supreme Court in *Prem S.Shukla* (AIR 1980 SC 1535) as also reiterated in famous *D.K. Basu Vs. State of West Bengal*. Keeping a person handcuffed in the police station premises is a more serious offence. More so, when the complainant is a farmer who is fighting for the possession of his agricultural land and went upto the Supreme Court which decided it in his favour. Branding him and treating him as a hardcore criminal was never warranted and hence clear cut violation of his precious human rights has been done by the police officials.”

Accordingly, the Commission directed the Chief Secretary, Karnataka to make payment of monetary compensation of Rs. 25,000/- to the victim and to furnish proof of payment within six weeks positively. Vide proceedings dated 2 August 2018 the NHRC closed the case in view of compliance report and proof of payment. While departmental action had already been initiated against the erring officials and punishment of stoppage of increment for six months was awarded to the erring officials.

Case 4: Death of Madur Yusuf and Ganesh Shetty in judicial custody

In this case, two undertrial prisoners, Madur Yusuf and Ganesh Shetty died at District Sub-jail, Mangaluru on 2 November 2015. Jail officials claimed that the death of the undertrial prisoners was an outcome of a group rivalry inside the jail. The NHRC (Case No. 1134/10/28/2015-JCD) called for reports. On examination of the reports, vide its proceedings dated 27 November 2017, the NHRC noted, “It might be indicated that the UTPs were under the care and custody of the states. It was the bounden duty of the prison authorities to ensure safety and security of the prisoners. The very fact that criminal assembled inside the prison with armed with dangerous weapons who barged into another cell and attacked the victims who were unarmed. The fact itself reflected a poor security arrangement inside the prison. More so when such hardened criminals were lodged in the prison, the miscreants also went to the extent of attacking the jail Superintendent. In such a scenario a lackadaisical security arrangement clearly pointed towards the negligence of the jail official which resulted in the brutal murder of two inmates of the said jail. The negligence shown to the deceased by the jail officials amounted to a gross violation of their human rights.”

Accordingly, the NHRC issued notice to the Chief Secretary, Karnataka to show cause as to why a compensation of Rs. 3 Lakhs should not be recommended to be paid to the next of the kin of each the deceased. In response, the Principal Secretary, Home Department (PCAS) Government of Karnataka vide communication dated 20 February 2018 submitted report that the Government in principle had agreed for the payment of compensation of Rs. 3,00,000 each to the NoK of both the deceased prisoners. In view of the response, the NHRC vide proceedings dated 16 May 2018 recommended Rs.3,00,000 each to the NoK of both the deceased prisoners namely Madur Yusuf and Ganesh Shetty and the Chief Secretary was directed to submit compliance report alongwith proof of payment. Currently, the case is pending for disposal.

Case 5: Illegal detention and torture of Ms S. Malashree

In this case, a woman identified as S. Malashree, a resident of Mysore, was picked up by police of Nanjangud, in connivance with others on 26 August 2017, and subsequently she was subjected to custodial torture during illegal detention, and paraded named in a procession on 27 August 2017 in her locality. Thereafter, she was tortured again in police custody and when her condition deteriorated she was taken to hospital. She was allegedly threatened not to speak before the judge when she was produced before the Mysore Court which sent her to judicial custody.

The NHRC (Case No. 996/10/15/2017) called for reports. In response, the Superintendent of Police, Mysore District vide his communication dated 26 February 2018 submitted a report, denying the allegations. The NHRC noted that police report is mere narration of police records and no attempt was made to examine the victim on the specific allegations made. The NHRC also observed that the victim while describing the sequence of events and narrating her ordeal had alleged complicity of certain individual and named police personnel who allegedly took law in their own hands. Stating that the police report was sketchy and did not inspire confidence, the NHRC decided to depute its investigation team to conduct spot enquiry.

The NHRC team after conducting the spot enquiry, among others, came to the following conclusion:

(i) It is, prima facie, established that Smt. Malashree was picked up by the Police in the evening of 26.08.2017 from the house of Mahalinga N. @ Nayak in the presence of Pavithra at about 08.00 p.m. and she was kept in illegal detention of the Police throughout the night till she was formally shown arrested on 27.08.2017 at 06.00 a.m. in Case Crime No. 241/17 under Sections 147/148/149/384/304 IPC, PS South City, Mysore dated 25.08.2017.

(ii) It is established that an amount of Rs. 5,000/- was withdrawn from the Bank account of Ms. Malashree through her ATM card on 19.09.2017 by Constable Mahadevappa while she was in the Police Custody of PSI Jayaprakash.

Accordingly, the NHRC team, among others, recommended the following:

(a) Issuing a show-cause notice to the Chief Secretary, Government of Karnataka to grant compensation to the Complainant Smt. Malashree for her illegal detention in Case Crime No. 241/17 under Sections 147/148/149/384/304 IPC, PS South City, Mysore dated 25.08.2017.

(b) Directing the DGP, Karnataka, to initiate departmental/legal action against the PSI Jayaprakash for getting withdrawal of Rs. 5,000/- from the account of Smt. Malashree through her ATM card; and

(c) To submit the present status of departmental action initiated against Constable Mahadevappa under Rule 7 of the Karnataka Police Disciplinary Rules (explanation) for his statement given before the ASP Mandya during Police Enquiry regarding withdrawal of Rs. 5,000/- from Malashree's ATM on 19.09.2017.

Vide proceedings dated 1 November 2018 the NHRC considered the recommendations of its Enquiry Committee. The NHRC further issued show-cause notice to the State Government as to why monetary compensation of Rs. 100,000 not be paid to the victim, Smt. Malashree, for outraging her dignity by removing her upper clothes by PSI Jayaprakash at PS South City, Mysore and to initiate departmental/legal action against the PSI and Constable Mahadevappa.

Pursuant to directions of the Commission, Additional Chief Secretary, Department of Home, vide communication dated 15 February 2019 had forwarded a report. The report stated that payment of compensation would adversely affect the cases pending in court. No prima facie case was made out against the PSI Jai Prakash for getting Rs. 5000/- withdrawn from account of complainant through ATM or he removed upper clothes of the complainant. However, the report stated that departmental action was initiated against AHC 130 Sri B. Mahadeva and his annual increment was postponed for a period of one year.

Vide proceedings dated 15 April 2019, the Commission stated that the human rights of the victim were violated and found the explanation given in the report as meritless. Stating that State is vicariously liable for acts of its employees, the NHRC directed the Chief Secretary to pay an amount of Rs. 100,000 to the victim. The Director General of Police, Karnataka was also directed to submit action taken report against the guilty police officials. Currently, the case is pending for final adjudication.

Case 6: Misuse of power by police and assault on innocent people

The case pertains to abuse of power by police in connivance with land mafias, causing physical hurt and abusing by caste name to women in Bengaluru district in August 2016. It was alleged that Narendra Babu, then Police Sub Inspector (PSI) of Bannerughatta registered two false

FIRs based on the complaints made by Khoday's Company, and Narendra Babu, PSI and Balarme Gowda, then DSP, Bengaluru Sub-Division opened rowdy sheets on innocent people against whom there was no criminal record.

The NHRC (Case No. 733/10/1/2016) called for report on 31 August 2016. In response, the Superintendent of Police, Bengaluru submitted his report on 9 March 2018 stating therein that an enquiry was conducted and in course of enquiry it was found that Narendra Babu, PSI had erred in opening rowdy sheet and in conducting proper investigation in Cr. No. 336/2015. It was further reported that Muruli, PSI had also erred in conducting investigation and submitting false information about the case to the higher officers, so disciplinary action had been taken against Narendra Babu, PSI and Muruli, PSI.

Vide its proceedings dated 2 August 2018, the NHRC noted, "It is evident from the report that human rights of the complainant/victims have been violated. Hence, the State is vicariously liable to compensate the victims for violation of their human rights due to misconduct and negligence of its employees." Accordingly, it issued notice to the State Government to reply as to why monetary compensation should not be paid to the victims.

In its reply, the State Government reasoned that name of victims were not disclosed to anyone posted on notice board; no rowdy parade was done in public; and no preventive action cases were booked under Cr.P.C. However, the NHRC vide proceedings dated 3 April 2019 said that the explanation was meritless and ruled "opening of rowdy sheets of a person itself amounts to violation of human rights".

Accordingly, the NHRC directed the Chief Secretary to pay a sum of Rs. 50,000 (Rs. 10,000 each to the victims against whom rowdy sheets were opened by police) along with proof of payment. Currently, the case is pending.

3. Torture in India during June 2019

Across India, cases of torture in police and judicial custody continue to be reported on regular basis. During June 2019, the following emblematic cases were reported.

3.1 Emblematic cases of torture in police custody

Case 1: Custodial death of Krishna Sarathi, Chhattisgarh

On 26 June 2019, Krishna Sarathi, aged 30 years, died under mysterious circumstances at Chandoura police station in Surajpur district of Chhattisgarh. The deceased, a resident of Domhat village in Balrampur district, was arrested on the same day from his village after a complaint was filed against him by his father-in-law for allegedly beating up his wife. After arrest the deceased was kept in the lockup room at the Chandoura police station. The police claimed Krishna committed suicide from the gate of the lockup with a bedsheet given to him.¹¹⁵

Case 2: Death of Rajkumar due to alleged torture, Kerala

On 21 June 2019, Rajkumar, aged 49 years, died due to alleged torture in police custody at Nedumkandam police station in Idukki district of Kerala. He was arrested by the police on 12 June 2019 in connection with a case of cheating. He was lodged at the police station illegally for four days and subjected to brutal beating before he was produced before the court. Rajkumar's arrest was recorded on 15 June and he was produced before the court on 16 June. The court remanded him to judicial custody and he was lodged at Peermade sub-jail. He died at Peermade taluk hospital on 21 June 2019. The post-mortem report conducted at the Kottayam Medical College Hospital reportedly found as many as 32 injuries on the deceased's body. The family members of the deceased also alleged brutal torture in police custody which led to the death of the deceased.¹¹⁶

Case 3: Alleged torture to death of Shivam Mishra, Madhya Pradesh

On 18 June 2019, Shivam Mishra, aged 25 years, died due to alleged torture at Bairagarh police station in Bhopal district of Madhya Pradesh. The deceased, a resident of Bhopal, was detained along with his friend identified as Govind Sharma after their car had met with an accident in the bus rapid transit (BRT) corridor in Bairagarh area. According to the police, the condition of the deceased deteriorated at the Bairagarh police station and doctors of a nearby hospital declared him brought dead. However, the family members of the deceased alleged that the deceased died as a result of torture at the police station. Five police personnel were suspended over the custodial death.¹¹⁷

Case 4: Torture of Sarabjeet Singh and his minor son, Delhi

On 16 June 2019, Sarabjeet Singh, an auto driver, and his minor son were brutally beaten by Delhi Police personnel after their vehicle allegedly bumped into the police van in Mukherjee Nagar area in Northwest Delhi. The auto driver was beaten with a stick and was kicked in the face and dragged to the Mukherjee Nagar police station by a group of police personnel. The son pleaded with the police not to beat up his father, but the police personnel refused to listen. Following the accident, an argument between the driver and a police personnel turned violent. The police claimed that the auto driver chased a police officer and attacked him on the head with a sword. A video which went viral in social media showed at least 11 police personnel were involved in beating up the driver and his minor son.¹¹⁸ On 19 June, the Delhi High Court said that the assault on the driver and his minor son by Delhi Police was "evidence of police brutality". The court after perusing the videos observed "How can you justify assault of a 15-year-old boy? If this is not evidence of police brutality then what more do you need?" The court also said that if a uniformed force would act in this manner, it would "scare the citizens" who need to feel that police is there to ensure their safety.¹¹⁹

Case 5: Custodial torture and ill-treatment of journalist Amit Sharma, Uttar Pradesh

On 11 June 2019, a journalist identified as Amit Sharma, aged 38 years, was subjected to torture and ill-treatment by Station House Officer (SHO) Rakesh Kumar and constable Sanjay Pawar belonging to Government Railway Police in Shamli district of Uttar Pradesh. According to the victim, the incident took place at around 9 pm when he went to cover derailment of a goods train near Dhimanpur in Shamli. The victim alleged that SHO Rakesh Kumar and a constable Sanjay Pawar mercilessly beat him when he was covering the incident and locked him up at the local Government Railway Police station, Shamli. In the lock up, the victim was allegedly stripped and urinated on his mouth by the SHO Rakesh Kumar.¹²⁰

Case 6: Alleged tortured to death of Gobardhan Bindhani, Odisha

On 15 June 2019, Gobardhan Bindhani, aged 62 years, died due to alleged torture at Kodinga police station in Nabarangpur district of Odisha. Gobardhan was picked up by police from Khatiguda market over his alleged involvement in gambling. He was detained at Kodinga police station and later taken to the District Headquarters Hospital as his health condition deteriorated. According to the police, Gobardhan died while being shifted to Visakhapatnam from Nabarangpur for treatment. However, the family members of the deceased alleged Gobardhan died due to torture. The Inspector-in-Charge of the police station was suspended over the custodial death.¹²¹

Case 7: Illegal detention and torture of 12 labourers including women, Gujarat

On 12-13 June 2019, 12 daily wage labourers, including women, were allegedly illegally detained and tortured by the police at Sabarmati Riverfront (West) police station in Ahmedabad district, Gujarat. The victims were identified as Nayan Remsingh Bhuriya, aged 22 years; Dharu Mavi, aged 30 years; Rakesh Damor, aged 32 years; Anil Damor, aged 25 years; Dita Ninama, aged 40 years; Shambhu Mavi, aged 32 years; Sanjay Damor, aged 19 years; Usha, aged 20 years, w/o Sajay Damor; Manu Atila, aged 28 years; Surekha Atila aged 30 years, w/o Manu Atila; Dalpat Mudel, aged 32 years; and Shailesh Hajaria, aged 24 years, hailing from Dahod in Gujarat. The police tortured them to extract confessions in connection with a case of murder. All of the victims were beaten in the police custody. Some of the victims alleged that they were given electric shocks to their private parts with a hand-held battery device.¹²²

Case 8: Illegal detention and torture of Rahul Kubde, Maharashtra

On 10 June 2019, Rahul Kubde, aged 28 years, was allegedly illegally detained and tortured by police at Imamwada police station in Nagpur district of Maharashtra. The victim, a resident of Siraspeth in Nagpur, was asked by

the police to appear at the police station on 10 June in connection with a domestic issue with his wife. The victim claimed that he was kept in illegal detention and kept with criminals from 1.30 am to 4.45 pm at the police station without registering any case against him. The victim was allegedly subjected to third degree torture by Police Sub-Inspector (PSI) Patwadkar, including being beaten with a belt and slapped. The police also allegedly threatened him to file a false case against him. He was released on 11 June.¹²³

Case 9: Custodial torture of Karamjit Singh, Punjab

On 9 June 2019, Karamjit Singh, an accused in a murder case, alleged third-degree torture during interrogation by the CIA-1 staff in Bathinda district of Punjab. Karamjit was taken to the Civil Hospital after he complained of pain in the body. Karamjit alleged that besides internal injuries, he had sustained injuries on hand and head during police custody. However, a CIA official denied the torture charge. The doctor, who conducted medical tests of Karamjit, said there were some injuries and a fracture in the hand.¹²⁴

Case 10: Custodial torture of Rajesh, Kerala

On 9 June 2019, Rajesh, aged 30 years, an autorickshaw driver, was allegedly beaten up by police at Anchal police station in Kollam district, Kerala. Due to the custodial torture, the victim, who is affected by cancer, sustained injury to his shoulder bone. The victim was caught by a home guard at the RO Junction in Anchal who took him and his three-wheeler into custody. Thereafter, he was taken to the police station, where two police personnel handcuffed him and beat him up.¹²⁵

Case 11: Custodial death of Dilkhush Kumar, Bihar

On 9 June 2019, Dilkhush Kumar, aged 26 years, died under mysterious circumstances at Kahalgaon police station in Bhagalpur district of Bihar. The deceased, a resident of Kahalgaon in the district, was arrested by police on 8 June 2019 pursuant to a complaint filed by his mother for allegedly beating up his family members in an inebriated condition. After arrest the deceased was kept in the lockup room at the police station. The police claimed that the deceased was found hanging in the lock-up room at the police station.¹²⁶

Case 12: Custodial death of Deepak Barik, Odisha

On 7 June 2019, Deepak Barik, aged 25 years, died at Kaniha police station in Angul district of Odisha. The deceased, resident of Badgunduri village in the district, was asked to appear at Kaniha police station on the same day for questioning in connection with a domestic violence complaint filed by his wife. Police claimed that during interrogation the deceased complained of uneasiness and was taken to hospital at Kaniha and then referred to the District Headquarters Hospital, Angul where the doctors declared him dead on arrival. However, the family members of the deceased alleged that the deceased was tortured to death by the police in custody.¹²⁷

Case 13: Custodial death of Govinda, Delhi

On 6 June 2019, Govinda, a suspect in a smuggling case, died in police custody at Nand Nagri police station in North

East Delhi. Govinda was picked up along with another person identified as Nayeem in connection with the smuggling of illegal liquor. Police claimed Govinda was taken to a hospital after he fell ill, where the doctors declared him dead. Family members of the deceased alleged that he was tortured to death.¹²⁸

Case 14: Custodial death of Ashok Soni, Uttar Pradesh

On 5 June 2019, Ashok Soni, aged 40 years, died under mysterious circumstances in the custody of Hujurpur police station in Bahraich district of Uttar Pradesh. The deceased was detained at the police station on the night of 5 June 2019 for questioning regarding his involvement in a theft case which was reported against him almost 15 days back. Police claimed that Soni complained of feeling unwell and he was taken to a community health centre from where he was referred to Sadar (district) hospital. But he died on the way to the district hospital.¹²⁹

Case 15: Alleged torture to death of Sumit Massey, Delhi

On 4 June 2019, Sumit Massey, aged 25 years, died due to alleged torture at Delhi Cantonment police station in South-West Delhi. Sumit was picked up along with another person identified as Uma Shankar, aged 60 years from East Delhi for questioning in a cheating case. Police claimed Sumit complained of restlessness and he was rushed to a hospital where he was given CPR for 45 minutes but could not be revived after which he was declared dead. The family alleged custodial torture as reason for the death.¹³⁰

Case 16: Death of Omprakash Pandey due to alleged torture, Gujarat

On 1 June 2019, Omprakash Pandey succumbed to his injuries sustained due to alleged custodial torture at Khatodara police station in Surat district, Gujarat. Pandey was detained at the police station along with two others on suspicion of being involved in a burglary on 31 May 2019. All the three were allegedly tortured in custody, while Pandey suffered serious brain injuries and died at a private hospital. A case of murder was registered against eight accused police personnel, seven of them were identified as Inspector M B Khileri and detection staff personnel Hareshbhai, Kanaksinh, Pareshbhai, Ashish, Kalpeshbhai and Dilubhai.¹³¹

3.2 Torturous prison conditions and deaths in judicial custody

Conditions of prisons remain torturous across the country.

In its latest prison report of 2016, the National Crime Record Bureau (NCRB) revealed how prisons have fallen off the state governments' priority list as many jails remain over crowded, and understaffed. According to the report, out of 4,33,003 prisoners lodged in the 1,400 jails across the country as on 31 December 2016, there are 2,93,058 undertrials, 1,35,683 convicts and 3,089 detenues. In other words, the undertrials comprised more than 67% of the total prisoners.

Uttar Pradesh accounted for highest number of undertrials and convicts in jails.¹³²

As per the NCRB report, the top five states where maximum deaths of inmates in prison were reported in 2016 were Uttar Pradesh (429), Madhya Pradesh (146) Punjab (152), Maharashtra (121) and Rajasthan (97).¹³³

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

In some cases, innocent people have been deprived of their liberty for years for no reasons. The right to life and personal liberty is one of the fundamental rights guaranteed by the Indian Constitution. Article 21 of the Constitution states, “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR) provides that “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

On 27 June 2019, a 59-year-old woman identified as Madhubala Mondal was released from detention centre in Kokrajhar in Assam after she was held in illegal detention for three years from 2016 to 27 June 2019 as an alleged foreigner. In 2016, the victim, a widow, resident of No. 1 Bishnupur village in Chirang district, was arrested by the Border branch of Assam Police as a foreigner in a case of mistaken identity and declared a foreigner by the Foreigners’ Tribunal and detained at Kokrajhar detention centre since then. On 5 March 2016, a Foreigners’ Tribunal had issued a notice to one Madhubala Das, wife of Makhon Nomo Das, resident of No.1 Bishnupur village in Chirang district, on the basis of the report filed by the border branch of the Assam Police. The Assam Police went to arrest Madhubala Das but by that time both she and her husband Makhon Nomo Das had died and the police personnel picked up Madhubala Mondal instead. The widow was the sole breadwinner for her household which had a deaf-and-dumb daughter abandoned after marriage. Being illiterate and extremely poor, she could not prove her nationality before the Foreigners Tribunal and was declared a foreigner and lodged at the Kokrajhar detention centre for the last three years. It was only when a few social workers from Chirang district came to know about her detention that they brought the matter to the Assam government’s attention. The state government ordered an investigation which found the victim to be a genuine Indian citizen. She was eventually released by the Foreigners Tribunal on 27 June after spending three years in illegal detention.¹³⁴

The case of detention of the victim for three years in foreigners detention centre in a case of mistaken identity is a clear case of arbitrary arrest and deprivation of liberty and therefore constitutes a human rights violation.

Some cases of deaths in judicial custody reported from the country during the month are given below:

On 25 June 2019, an undertrial prisoner identified as Vinod Mukhiya, aged 32 years, died due to alleged torture in the custody of Madhubani district jail of Bihar. The deceased, a resident of Rampatti village in Madhubani district, was arrested and sent to judicial custody on 23 June 2019 in connection with a case of smuggling. Jail officials claimed that on 24 June the deceased suddenly fell unconscious in his ward, after which he was admitted in the jail hospital. Later, when his health deteriorated he was taken to Sadar Hospital, but he died on the way. However, the family members of the deceased alleged Vinod was beaten up inside the jail, which led to his death.¹³⁵

On 25 June 2019, a convict identified as Manoj Singh died in Ghaghidih Central Jail in East Singhbhum district of Jharkhand. The deceased was undergoing ten years sentence in connection with a dowry murder case. He was about to be released from jail in 15 days as his sentence was almost complete. Jail officials claimed that on 25 June a fight broke out between the deceased Manoj Singh and another prisoner Sumit Singh inside the jail, after which Manoj got critically injured and died. However, the deceased’s father Anurodh Singh held the jail administration responsible for the death of his son. He alleged that his son Manoj was also beaten up six months ago by the jail officials.¹³⁶

On 24 June 2019, an undertrial prisoner identified as Baldev Singh, aged 57 years, died under suspicious circumstances in the custody of Amritsar Central Jail in Amritsar of Punjab. The deceased, an auto driver, was arrested and sent to judicial custody some days ago under the Narcotic Drugs and Psychotropic Substances Act, 1985. Jail officials claimed the deceased was in poor health and he died in the hospital. However, the family members of the deceased alleged that he was murdered inside the jail and demanded independent investigation into the circumstances leading to the death.¹³⁷

On 20 June 2019, a prisoner identified as Prakashji Thakor, aged 34 years, died under mysterious circumstances in the custody of Sabarmati Central Jail in Ahmedabad district of Gujarat. The deceased, a resident of Mehsana district, was arrested and sent to judicial custody in connection with a case of murder. Jail officials claimed the prisoner committed suicide by jumping in front of a moving van, which delivers essential commodities to the jail. He was crushed by the van’s back tyre and sustained severe injuries, resulting in his death on the spot.¹³⁸

On 16 June 2019, an undertrial prisoner identified as Basant Lal, aged 58 years, died at Jaunpur district jail in Uttar Pradesh. According to jail officials, the deceased, a resident of Ishapur village in the district, was suffering from asthma. On 14 June 2019, the prisoner was admitted to the district hospital for treatment due to respiratory problems, from

where he was released. But on 16 June, the health of the deceased suddenly deteriorated and he died during treatment in the hospital.¹³⁹

On 15 June 2019, an undertrial prisoner identified as Vikas Pawar, aged 21 years, died under mysterious circumstances in the custody of Arthur Road Jail in Mumbai, Maharashtra. The deceased, a resident of Bhatwadi, Ghatkopar west in Mumbai, was arrested under Prevention of Children Sexual Offences (POCSO) Act and sent to judicial custody in December 2015. Police officials claimed that at around 3.30 pm on 15 June when the deceased was brought for hearing at the Dindoshi Sessions Court, he excused himself for drinking water, and on reaching the water purifier, he committed suicide by jumping off the 6th floor of the building.¹⁴⁰

On 15 June 2019, an undertrial prisoner identified as Mohammad Hasmat, aged 43 years, died in the custody of Begusarai district jail of Bihar. The deceased was arrested and sent to judicial custody four months earlier in connection with a rape case. Jail officials claimed the health of the deceased suddenly deteriorated, after which he was taken to the Sadar Hospital, Begusarai, where he died during treatment.¹⁴¹

On 14 June 2019, an undertrial prisoner identified as Satish, aged 35 years, died under suspicious circumstances in the custody of Etah district jail of Uttar Pradesh. The deceased, a resident of Noida district, was arrested and sent to judicial custody a year ago in connection with a case of attempt to murder. Jail officials claimed the deceased was addicted to drugs and in the night of 13 June 2019 his health suddenly deteriorated, after which he was admitted to the jail hospital where he died the next morning. However, the wife of the deceased alleged foul play.¹⁴²

On 12 June 2019, an undertrial prisoner identified as Sunil, aged 30 years, S/o Mahendra Pal died at Dasna jail in Ghaziabad district of Uttar Pradesh. The deceased was arrested and sent to judicial custody on 23 April 2019 for keeping illegal weapons. Jail officials claimed the deceased died due to pulmonary tuberculosis disease. According to them, on 12 June the health of the deceased suddenly deteriorated, after which he was taken to the MMG District Hospital, Ghaziabad, where he died during treatment on the same day.¹⁴³

On 11 June 2019, a convict identified as Rajaram Kushwaha, aged 35 years, S/o Sulochan Kushwaha died under suspicious circumstances at Satna Central Jail in Madhya Pradesh. The deceased, a resident of Bhanwar village in Satna district, was serving life imprisonment since 1 June 2008 in connection with a murder and kidnapping case. Jail officials claimed the deceased died due to illness. He allegedly collapsed suddenly on 11 June and later died in the hospital.¹⁴⁴

On 9 June 2019, an undertrial prisoner identified as Baijnath, aged 60 years, S/o Lal Tanwar died at Rajgarh district jail of Madhya Pradesh. The deceased was arrested and

sent to judicial custody few months before under Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Jail officials claimed that the deceased was undergoing treatment in hospital and on 8 June 2019, he was discharged from the hospital and brought back to the jail. Again, on 9 June 2019, the deceased's health suddenly deteriorated, after which he was taken to the hospital, but he died on the way and was declared brought dead by the doctors.¹⁴⁵

On 9 June 2019, a convict identified as Santosh Kumar, aged 35 years, died under mysterious circumstances in the custody of Hazaribagh Central Jail, Hazaribagh district of Jharkhand. The deceased, a resident of Swang Hazari village in Bokaro district, was sentenced to 20 years jail under Protection of Children from Sexual Offences Act. Jail officials claimed that on 3 June 2019, the deceased was admitted in Hazaribagh Sadar Hospital as he was suffering from gangrene (septic) in his right foot. Later, on 6 June 2019 he was admitted in Rajendra Institute of Medical Sciences (RISM) Hospital, Ranchi, where he died on 9 June 2019 during treatment.¹⁴⁶

On 8 June 2019, an undertrial prisoner identified as Satbir, aged 35 years, S/o Shivanarayan died under mysterious circumstances in the custody of Dulina jail under Jhajjar district in Haryana. The deceased, a resident of Kharhar village in the district, was arrested by the police and sent to judicial custody in 2018 in connection with a murder case. Jail officials claimed the prisoner committed suicide in the jail's bathroom by hanging with a shoe lace.¹⁴⁷

On 6 June 2019, an undertrial prisoner identified as Amrit Lal alias Amra, aged 40 years, died under mysterious circumstances at Jhadol sub-jail in Udaipur district of Rajasthan. The deceased was arrested and sent to judicial custody on 9 April 2019 in connection with a case of murder. Jail officials claimed the prisoner committed suicide inside the jail's cell by hanging himself with a plastic rope.¹⁴⁸

On 2 June 2019, a convict prisoner identified as Kullu, aged 45 years, S/o Satyanarayan died in the custody of Modern Jail in Kapurthala district of Punjab. The deceased, a resident of Unnao district of Uttar Pradesh, was serving 10 years jail term in connection with a rape case. Jail officials claimed the health of the convict suddenly deteriorated, after which he was taken to the Modern Jail hospital. Later, he was referred to the Civil Hospital, Kapurthala, where he died during treatment.¹⁴⁹

On 1 June 2019, Anil, a convict lodged at Satna Central Jail in Madhya Pradesh, died under mysterious circumstances. Jail officials claimed the prisoner, who was convicted for life in a murder case, was shifted from Panna jail to the Central jail, allegedly committed suicide by climbing on a stool and hanged himself. On 4 June, the Madhya Pradesh Human Rights Commission (MPHRC) took cognisance of the unnatural death and called for a report from the Superintendent of Satna jail.¹⁵⁰

3.3 Judiciary's action against torture

The judiciary regularly adjudicates cases of illegal, unjustified and unwarranted arrests, extracting confession from persons by way of custodial violence, which often results in death.

Some of the emblematic cases of judicial action against custodial deaths and torture during June 2019 are given below:

Case 1: Supreme Court to hear plea seeking impartial inquiry into Bihar custody death

On 28 June 2019, the Supreme Court decided to hear a petition seeking an impartial investigation into the death of Gufran Alam, aged 30 years, and Taslim Ansari, aged 32 years, who were tortured to death in police custody at Dumra police station in Sitamarhi district of Bihar four months ago on 6 March 2019. The court will hear the petition, filed by NGO Citizens Against Hate, on 2 July. The petitioner alleged that Bihar police and the doctors who conducted the post-mortem colluded to cover up the crime. According to the petition, the two victims were brutally beaten up in police custody - their hands and legs were broken, they had abrasions, nails were hammered into their bodies, and they seemed to have been given electric shocks too. Photographs and videos of the bodies being washed before the burial showed the marks of torture. On the intervening night of 5-6 March, police officials of Chakiya police station had picked up Gufran Alam and Taslim Ansari from their residences in Sitamarhi district in connection with a case of motorcycle theft. Later, the family members of the two were informed that the duo was taken to Dumra police station, almost 100 km away from Chakiya. On 6 March 2019, hours after being picked up by police, family members of the two were informed that they were dead and the post-mortem examinations were done. Faced with severe criticism over the incident, an FIR was filed and five policemen of Dumra police station were suspended. But apart from the then Station House Officer (SHO) Chandrabhushan Singh, no other police official was named in the FIR.¹⁵¹

Case 2: Gujarat court sentenced two police officials to life imprisonment for custodial death

On 20 June 2019, Sanjiv Bhatt, an Indian Police Service officer, and a retired police constable Pravinsinh Zala were sentenced to life imprisonment by the Jamnagar sessions court in Gujarat in a custodial death case in 1990. They were sentenced after both were found guilty of torturing and murdering a 40-year-old Prabhudas Vaishnani. Prabhudas was detained by police on 30 October 1990. After his release from detention, Vaishnani had died during treatment of severe kidney damage, on 18 November 1990. In his complaint, Amrut Vaishnani had alleged that his brother, Prabhudas was tortured in police custody, following which his kidney got damaged. Five other police personnel namely sub-inspectors Deepak Shah and Shailesh Pandya and constables Pravinsinh Jethva, Anopsinh Jethva, Keshubha Jadeja - were also found

guilty of custodial torture and given a two-year jail term along with Rs 10,000 fine.¹⁵²

Case 3: Karnataka High Court seeks report on custodial torture of accused in the journalist Gauri Lankesh murder case

On 12 June 2019, the Karnataka High Court had issued notices to the State government of Karnataka, State police chief and police officials concerned while hearing a petition alleging custodial torture of four accused in the case of murder of journalist Gauri Lankesh. The High Court also directed two magistrate courts to submit a report on allegations of custodial torture and non-compliance of judicial procedures noting that the allegations were "serious in nature". According to the affidavit, Amol Kale, one of the accused in the case, was allegedly beaten, slapped and punched on his cheek by police officers while in custody. While it also alleged that the magistrates failed to comply with procedures mandated by the Supreme Court regarding persons in police custody. Amol Kale, Sujith Kumar, Amit Ramachandra Degvekar and Manohar Edave were arrested in connection with the killing of the journalist in 2017.¹⁵³

Case 4: Kerala High Court orders inquiry in a custodial torture case

On 6 June 2019, the Kerala High Court ordered Additional Director General of Police (Intelligence) to conduct an inquiry in a case where a man who complained of custodial torture committed suicide after police threatened to implicate him in more cases if he gives evidence of torture. The High Court issued the directive while hearing a petition filed by Raju PS, the father of deceased. Rajesh had complained of torture by Melukavu Sub-Inspector (SI) KT Sandeep and other police personnel by detaining him for 48 hours when he and his father went to file a cheating complaint against one Sarath on the evening of 19 February 2019. In custody, the SI allegedly beat Rajesh by wrapping a coconut in cloth. Seeing the torture, Rajesh's mother filed a petition before JFCM-I of Erattupetta. When Rajesh was produced before the JFCM on 22 February 2019, he complained about custodial torture and the court posted the matter for taking evidence on 6 March 2019. Rajesh was released on bail on 28 February 2019, but police constables of Melukavu police station frequently summoned him to the station and allegedly threatened him not to give evidence of torture against them on 6 March. Rajesh committed suicide on 6 March, leaving behind a suicide note and a video that allegedly mentioned about the torture faced by him from Melukavu SI and his police team. Producing the suicide note and the video before the High Court, Rajesh's father said in his petition that he approached the High Court after a complaint to police for a proper investigation failed.¹⁵⁴

Case 5: Himachal Pradesh High Court issued notice to State Government over custodial death

On 12 June 2019, the Himachal Pradesh High Court issued notice seeking response in a case of custodial death in

October 2018. A bench of Acting Chief Justice Dharam Chand Chaudhary and Justice Jyotsna Rewal Dua passed the order taking cognizance of the case on a letter written to the Chief Justice by the wife of the deceased detailing the incident. The High Court treated the letter as a Public Interest Litigation (PIL) and issued notice to the state government. The petitioner alleged in the petition that the police had arrested her husband from Ghata village in Mandi district on 30 October 2018 and due to torture by the police, her husband died later in judicial custody. The petitioner also alleged that she took up the matter with the Mandi Deputy Commissioner and Superintendent of Police but no action was taken by the authorities.¹⁵⁵

Case 6: Telangana High Court reprimands police for non-registration of case of illegal detention and torture

On 14 June 2019, the Telangana High Court directed the police to file status report for not registering a case over a businessman's allegation of illegal detention and torture in 2015. Hearing a contempt of court petition filed by businessman P. Ravinder Reddy of Ranga Reddy district, the High Court sought to know why the High Court order to issue a First Information Report (FIR) on Reddy's complaint had not been complied with. Taking a serious note, the High Court directed the police to issue a FIR based on Reddy's complaint. The petitioner approached the High Court, alleging that the police of the then Cyberabad police commissionerate had illegally detained him in the police station in a civil dispute and tortured him in 2015. He informed the court that he had complained to the Cyberabad Police Commissioner against the then Station House Officer. However, the police higher-ups did not take any action against the inspector concerned, compelling Reddy to approach the High Court. The High Court also expressed concern over police inaction on the court order and the citizen's complaint and observed that the police should follow the guidelines issued by the Supreme Court in the Lalitha Kumari case in registration of cases.¹⁵⁶

3.4 Interventions by the NHRC/SHRCs

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 NHRC has registered a total of 5,776 fresh cases, including 9 cases relating to death in police custody and 160 cases relating to deaths in judicial custody, while it disposed of a total of 5,767 cases (Fresh + Old), including 8 cases of death in police custody and 248 cases of death in judicial custody, during May 2019. A total of 20,652 cases (Fresh + Old), including 374 cases of death in police custody and 3,260 cases of death in judicial custody, were under consideration of the Commission as in May 2019.¹⁵⁷

During the same period, the NHRC has awarded a total of Rs 1,01,10,000 in 32 cases of human rights violations, including 6 cases of death in judicial custody, 2 cases of death in police custody, 1 case of custodial torture, 4 cases of abuse of power, 5 cases of failure in taking lawful action, among others.¹⁵⁸

During June 2019, some of the interventions by are given below.

On 25 June 2019, the Karnataka State Human Rights Commission (KSHRC) ordered the Criminal Investigation Department (CID) to investigate the custodial death of undertrial prisoner Syed Fairoz, aged 21 years at Parappana Agrahara Central Prison, Bengaluru on 24 January 2019. The KSHRC also directed the State Government of Karnataka to pay interim compensation of Rs. 10,00,000 to the next of kin of the deceased, to be recovered from errant prison officials responsible for the death.¹⁵⁹ Fairoz was arrested by the police in January 2018 after they found 300 gm of marijuana in his possession, and was remanded to judicial custody. On 19 January 2019, Fairoz was rushed to the prison hospital after his right leg was bruised and swollen. According to Dr Pramila at the prison hospital's OPD, who treated Fairoz, he had "greenish bruises on his right leg". On 21 January, Fairoz's condition became critical and he was rushed to Victoria Hospital in Bengaluru. Fairoz's uncle was informed that his condition was stable and that there was no threat to his life on the night of 23 January. However, on January 24 morning, Fairoz died. An autopsy was performed, which concluded the cause of death as assault. Fairoz allegedly told his uncle Muzamil and the doctors at Victoria Hospital that the police at Parappana Agrahara Central Prison had beaten him mercilessly. An official with the forensic department at Victoria Hospital said that Fairoz had bruises all over his right leg. There were also blisters on his upper thigh and the skin on the side of his upper thigh had been scraped off. He also had an injury on his left temple caused by a blunt object. However, prison officials denied that Fairoz's injuries occurred inside the jail and instead blamed the police who arrested him one year ago. But doctors at Victoria hospital stated that Fairoz's injuries were not more than 10 days old when he was brought in for treatment.¹⁶⁰

On 20 June 2019, the Tamil Nadu State Human Rights Commission (TNSHRC) recommended to the State Government to pay a social activist Rs 100,000 compensation for custodial torture he underwent at hands of four police personnel at Anjugramam station in Kanniyakumari district in 2013. A Raghu, a social worker, alleged that Sub Inspector (SI) Muthukumaran, Special SIs Perumal and David Jayasekaran, and head constable Kalyanasundaram filed a case against him without proper enquiry and handcuffed him during transport. However, the policemen denied the allegations. Passing the order, the Commission observed that

police and jail authorities had no authority at all to handcuff a prisoner during transport.¹⁶¹

On 19 June 2019, TNSHRC directed the Tamil Nadu government to compensate a sum of Rs 25,000 to N Sadhish Kumar who was assaulted and abused by a Sub-Inspector (SI) at Ponneri police station in Tiruvallur district in March 2018. N Sadhish Kumar, who runs a job typing centre opposite to the sub-registrar office in Ponneri, stated in his complaint that sub-inspector Ganesan had assaulted him with a lathi and verbally abused him in front of the public. According to the complaint, the issue pertains to an anonymous letter to a woman. The residents of the neighbourhood, including the complainant, went to the police station to complain about the letter on March 24, 2018. After receiving the complaint, the SI assaulted the complainant without any reason and verbally abused him. Based on the oral and documentary evidence, the TNSHRC held that there was human rights violation and directed the State Government to pay Rs 25,000 to the complainant and recover the same from the sub-inspector.¹⁶²

On 4 June 2019, the TNSHRC ordered disciplinary action against police officer, S Velladurai on the charges of custodial torture that led to death of M Suresh in Madurai, Tamil Nadu in 2011. The SHRC also ordered Rs 500,000 compensation to the deceased's family and recovery of the amount from Velladurai and another police officer. Velladurai, serving in 2011 in Madurai as Assistant Commissioner, was accused of severely assaulting M Suresh, which led to his death in custody. The TNSHRC said it was proved that Velladurai's excesses had led to the death of Suresh, who the police said was a suspect in a bike theft case.¹⁶³

In June 2019, the TNSHRC directed the State government to pay Rs 25,000 as compensation to a man for excesses by a sub-inspector at Maduranthagam police station in Kancheepuram district in 2013. In his petition, K Ganapathy of Thandarai Puducherry village stated that he had been assaulted and threatened by the Sub Inspector, Venkatesan, when he had gone to the police station in connection with a property dispute case. The accused had denied the allegation of torture. However, after perusing the oral and documentary evidences submitted, the TNSHRC held that there was human rights violation and directed the State Government to pay Rs 25,000 as compensation to the petitioner.¹⁶⁴

In June 2019, the TNSHRC directed two police officials in Thoothukudi district to pay compensation of Rs 100,000 to a woman on a charge of sexually abusing her in the police station nine years ago in 2010. In her petition, the woman, Anthoniammal of Arumuganery, Thoothukudi district submitted that she was working as a teacher in a Government High School and living alone after separating from her husband. She filed a complaint with Arumuganeri police station against Lazarus and Balasingh, who were residing opposite her house, for misbehaving with her and constantly

using derogatory words against her. She alleged that Perumal, Sub Inspector threatened her to withdraw the case. When Parthiban, Inspector called her for an inquiry at the police station, he also misbehaved with her and asked her to sign some papers as if the inquiry was conducted in a proper way. However, she declined. Again on 31 March 2010, Lazarus and others entered into the house and assaulted her daughters. The police registered a false case against her and her husband even though her husband was living separately. The TNSHRC after considering the oral and documentary evidences found that Perumal and Parthiban had abused her and violated her human rights and Anthoniammal is entitled to receive compensation of Rs 100,000 from the duo.¹⁶⁵

4. International Action against Torture during June 2019

4.1 UN Subcommittee on Torture

On 17 June 2019, at its 38th session, the United Nations Subcommittee on Prevention of Torture (SPT) held an exchange of views with representatives of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). In addition, on 18 June, the CPT's representatives had a meeting with the SPT's Regional Team for Europe. The main objective of these consultations was to identify practical means of reinforcing complementarity and subsidiarity to reflect the SPT's and CPT's respective strengths and added values in the Council of Europe area, avoiding duplication and increasing synergies in accordance with the decisions taken by both treaty bodies in 2018.¹⁶⁶

The Subcommittee on Prevention of Torture completed its first visit to Ghana from the 26 May to 1 June 2019. The aims of the visit were to advise on the establishment of a National Preventive Mechanism against Torture (NPM) and, by visiting places of detention, examine the treatment of people deprived of their liberty and the safeguards in place for their protection against torture and ill-treatment. The four-member delegation visited police stations, prisons, a juvenile correctional facility, psychiatric hospitals, and medical services provided by prayer camps, conducting confidential interviews with both detainees and staff members. The Subcommittee will submit a report to the Government of Ghana, which will contain observations and recommendations arising from the visit. This report will remain confidential unless the Government of Ghana decides to make it public, and the subcommittee encourages it to do so.¹⁶⁷

4.2 UN General Assembly adopts resolution on torture-free trade

On 28 June 2019, the United Nations General Assembly adopted a resolution, which aims to establish common international standards for torture-free trade. The draft

resolution, introduced by Romania, was adopted with 81 votes in favor, 20 against and 44 abstentions. The resolution requested the Secretary-General to seek the views of member states on the feasibility and possible scope of a range of options to establish common international standards for the import, export and transfer of goods used for capital punishment and for torture or other cruel, inhuman or degrading treatment or punishment. It further asked the Secretary-General to submit a report on the subject to the General Assembly at its 2019-20 session. In addition, the resolution urged the Secretary-General to establish a group of governmental experts to examine, beginning in 2020, the feasibility and scope of the goods to be included, and draft parameters for a range of options to establish common international standards on the matter. It also asked for the transmission of the report of the group of experts to the General Assembly for consideration at its 2020-21 session. Before and after the vote, 20 countries voiced their opposition or reservations concerning the draft resolution. The concerns concentrated on the indicated linkage between torture and the death penalty, the ambiguity in language that may have impacts on trade, as well as the reported lack of consultations.¹⁶⁸

4.3 Interventions by UN Experts

I. UN anti-torture mechanisms say torture victims have a right to redress

On 25 June 2019, a day ahead of the International Day in Support of Victims of Torture (26 June), the UN anti-torture mechanisms stated that victims of torture have a right to redress, including compensation and rehabilitation. In his statement, Nils Melzer, the UN Special Rapporteur on Torture said timely identification and documentation of the physical and mental signs of torture is essential for securing the evidence necessary for investigation and prosecution and, ultimately, for obtaining justice in a court of law. Sir Malcom, Chairperson of the Subcommittee on the Prevention of Torture also emphasised on ensuring that torture is identified and properly documented is essential if appropriate preventive measures are to be put in place.¹⁶⁹

II. OHCHR calls for independent inquiry into custodial death of ex-Egyptian President

On 18 June 2019, UN Office of the High Commissioner of Human Rights called for an independent investigation after former President of Egypt Mohammed Morsi collapsed and died during a court appearance on 17 June. A spokesperson for the OHCHR stated that there must be a thorough independent inquiry into the circumstances of Mr. Morsi's death, including the conditions of his detention. Morsi, Egypt's first democratically elected president, had been in custody since his removal in a 2013 military coup.¹⁷⁰

III. Situation of migrants in Australia's offshore detention centres

On 18 June 2019, a group of UN experts including Special Rapporteur on Torture Nils Melzer urged Australia to immediately provide appropriate health care to more than 800 asylum seekers and other migrants who have been held in the country's offshore facilities for the past five years without durable solutions. The independent experts also called on the Australian Government to transfer those identified as requiring urgent medical attention to Australia. The UN experts expressed deep concern about multiple reports of self-harm and suicide attempts, with an increase since 19 May 2019 after the Australian federal elections. These individuals are subject to years of effective confinement in Australia's custody, based solely on their migration status. According to the experts, the situation of their indefinite and prolonged confinement, exacerbated by the lack of appropriate medical care, amounts to cruel, inhuman and degrading treatment according to international standards.¹⁷¹

4.4 EU's action against torture

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) continued with its efforts for prevention of torture in Europe. In June 2019, the CPT carried out three visits and published two reports as under:

I. Norway's response to CPT's 2018 visit report

On 28 June 2019, the CPT published the response of the Norwegian authorities to the report on the Committee's periodic visit to Norway, carried out in May/June 2018. Earlier, the CPT's report was published in January 2019. In the report, the CPT, among others, had recommended the Norwegian authorities to ensure unrestricted access to medical files in all types of establishments where persons may be deprived of their liberty to CPT delegations; to take the necessary steps to ensure that detained persons always have unrestricted access to a doctor from the outset of their deprivation of liberty; and to carry out a complete overhaul of the existing information sheets for persons deprived of their liberty under criminal or police legislation.¹⁷²

II. Report on Lithuania

On 25 June 2019, the CPT published the report on its ad hoc visit to Lithuania, which took place from 20 to 27 April 2018, together with the response of the Lithuanian Government. The aim of the 2018 ad hoc visit was for the CPT to assess the implementation of its long-standing recommendations concerning the Lithuanian prison system. A number of recommendations were made to the Lithuanian Government in the report.¹⁷³

III. Report on Slovak Republic

On 19 June 2019, the CPT published the report on its March 2018 periodic visit to the Slovak Republic. The main objective of the visit was to examine the measures taken by the Slovak authorities to implement various recommendations made by the Committee after previous visits. In this context,

particular attention was paid to the treatment and safeguards afforded to persons deprived of their liberty by the police, the conditions of detention in prisons as well as the situation of persons held in psychiatric and social welfare establishments.¹⁷⁴

IV. Periodic visit to Bosnia and Herzegovina

From 11 to 21 June 2019, a CPT delegation carried out a periodic visit to Bosnia and Herzegovina. This was the CPT's eighth visit to that country. During the visit, the delegation assessed the treatment and safeguards afforded to persons deprived of their liberty by the police and examined the situation of prisoners in three prisons. Further, it visited two psychiatric establishments and a social care home. Particular attention was paid during the visit to the measures taken by the authorities to implement the recommendations made by the Committee after previous visits.¹⁷⁵

V. High level talks with UK

On 4 and 5 June 2019, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) held high-level talks with Justice Ministers, representatives of Parliament and senior officials in London on 4 and 5 June 2019. The objective was to discuss, at the highest political level, the findings of the CPT's recent visit to the United Kingdom from 13 to 23 May 2019, notably on issues concerning violence, segregation, the use of force and means of restraint in local male prisons and juvenile detention establishments.¹⁷⁶

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